

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



# Th19c

Filed: December 12, 2008  
49th Day: January 30, 2009  
180th Day: June 10, 2009  
Staff: Liliana Roman-LB  
Staff Report: January 15, 2009  
Hearing Date: February 4-6, 2009  
Commission Action:

## **STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-05-314

**APPLICANTS:** Brad and Wendy Rambo

**PROJECT LOCATION:** 506 Avenida de la Riviera, San Clemente, Orange County

**PROJECT DESCRIPTION:** Request for follow-up approval of emergency working consisting of repair and replacement of a surficial slope failure on a coastal canyon to pre-slide profile with compacted engineered fill and geo-grid, drainage improvements and jute netting to prevent erosion including; 'after-the-fact' request for approval of landscaping on the canyon slope; and construction of a new pool/spa and landscape improvements adjacent to the top of canyon.

**LOCAL APPROVALS RECEIVED:** City of San Clemente Planning Division approval-in-concept dated 10/02/08, City of San Clemente Engineering Division, Grading Permit # ENG0509-029 issued 9/13/05

**SUBSTANTIVE FILE DOCUMENTS:** City of San Clemente Certified Land Use Plan (LUP); *Limited Geotechnical Evaluation of Surficial Slope Failure within Backyard Descending Slope of 506 Avenida de la Riviera, San Clemente, Project No. 051116-01 prepared by LGC dated 8/31/05*; Summary Sheet San Clemente Geotechnical Review by Borella Geology Inc., dated 11/11/05; *Geotechnical Summary of Repair of Surficial Slope Failure within the Descending Backyard Slope of 506 Avenida de la Riviera, San Clemente, Project No. 051116-01 dated 12/7/05*; *Geotechnical Review of Proposed Swimming Pool and Hardscape Plans for the Rambo Residence, 506 Avenida de la Riviera, San Clemente, Project No. 051116-01 prepared by LGC dated 3/17/08.*

---

### **SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends **APPROVAL** of the proposed project with **7 special conditions**, which require 1) submittal of revised final project, grading, drainage and runoff control plans indicating conformance with geotechnical recommendations; 2) conformance with proposed landscaping plan; 3) Orange County Fire Authority approval; 4) storage of construction materials, mechanized equipment and removal of construction debris; 5) future improvements come back to the Commission for review; 6) assumption of risk, waiver of liability and indemnity; and 7) pool protection program.

The proposed project includes development within and adjacent to Montalvo Canyon, one of seven coastal canyons in San Clemente identified as containing environmentally sensitive habitat. Primary issues associated with this development include assurance that the proposed development is consistent with the geologic hazard policies of the Coastal Act, as well as assuring that the development is consistent with protection of environmentally sensitive habitat areas (ESHA).

---

**LIST OF EXHIBITS:**

1. Location Map
2. Assessors Parcel Map
3. Coastal Access Points
4. Coastal Canyon Map
5. Project Plans
6. Landscape Plan
7. Slope Repair Plans
8. Site Photographs

**PROCEDURAL STAFF NOTE:**

An Emergency Permit 5-05-314-G was issued on September 2, 2005, per 14 Cal. Admin. Code Section 13009 for the site for an unexpected surficial slope failure resulting from over-saturation of the canyon slope that required immediate action to prevent or mitigate loss or damage to life, health, or property. As conditioned, the emergency work proposed would be consistent with the requirements of the Coastal Act. However, the applicant failed to comply with Special Condition 4 of the Emergency Permit which requires the applicant apply for a follow-up regular Coastal Development Permit within 60 days of the issuance of the Emergency Permit in order to have the emergency work considered permanent development. Furthermore, additional development not approved under the Emergency Permit took place in the canyon in the form of landscaping, a decomposed granite path, timber steps and pole and rope railing.

At this time, the applicant is requesting approval for the work approved under the Emergency Permit 5-05-314-G, 'after-the-fact' approval for canyon slope landscaping and for new development consisting of construction of a pool/spa and other landscaping improvements on the top of slope. The applicant is not seeking a permit for other existing unpermitted development in the canyon.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

**MOTION:**

*I move that the Commission approve CDP No. 5-05-314 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

**RESOLUTION:**

## **I. APPROVAL WITH CONDITIONS**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **II. STANDARD CONDITIONS:**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **III. SPECIAL CONDITIONS:**

1. Submittal of Revised Final Plans
  - A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, two (2) sets of final site grading plans, drainage and run-off control plans and building plans that substantially conform with the project plans by DMLA Landscape Architecture dated 12/11/08, but shall be revised to include the following:
    - (a) The decomposed granite pad/walkway along the canyon wall shall be shaded and clearly marked *“this element not permitted by any coastal development permit”* on each set of plans;

- (b) The timber steps descending the canyon wall shall be shaded and clearly marked *“this element not permitted by any coastal development permit”* on each set of plans;
  - (c) The two decomposed granite pads (one with bench/patio furniture and another with an open beam structure and large trampoline) within the canyon shall be shaded and clearly marked *“this element not permitted by any coastal development permit”* on each set of plans;
  - (d) The applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate certified engineering geologist has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the geologic evaluation approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake the development authorized by the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
2. Landscaping – Drought Tolerant, Non-Invasive Plans
- Except for a turf area containing a drought tolerant non invasive turf plant species on the flat area outside the canyon adjacent to the residence, vegetated landscaped areas within the canyon and on the side of the residence adjacent to the canyon shall only consist of native drought tolerant plants, which are non-invasive. Vegetated landscaped areas on the street-side of the residence are encouraged to use native plant species, however, non-native drought tolerant non-invasive plant species may also be used in that area. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).
3. Orange County Fire Authority Approval
- PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall provide to the Executive Director a copy of a permit issued by the Orange County Fire Authority (OCFA) or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the OCFA and/or any inconsistencies with the conditions of approval contained herein. Changes required by OCFA shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
4. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittees shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- (d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-05-314. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance activities identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a) - (b), shall require an amendment to Permit No. 5-05-314 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicants acknowledges and agrees (i) that the site may be subject to geologic hazards; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. Pool Protection Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for review and approval of the Executive Director, two (2) full size sets of a pool protection plan prepared by an appropriately licensed professional that incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pool. The pool protection plan shall incorporate and identify on the plans the follow measures, at a minimum: 1) installation of a pool leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool which is separate from the water meter for the house to allow for the monitoring of water usage for the pool, and 2) use of materials and pool design features, such as but not limited

to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible 3) installation of a sub drain or other equivalent drainage system under the pool that conveys any water leakage to an appropriate drainage outlet. The applicants shall comply with the final pool plan approved by the Executive Director.

#### **IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

##### **A. PROJECT LOCATION AND DESCRIPTION**

The proposed project site is located at 506 Avenida de la Riviera in the City of San Clemente, Orange County (Exhibits 1 & 2). The 36,000 square foot lot contains a flat area adjacent to a canyon and slopes south and southeast to the bottom of Montalvo Canyon at the ocean most extent of the canyon (Exhibit 4). Surrounding development consists of single-family and multi-family residences. The nearest public access to the beach is available across the canyon at the Montalvo Access Point identified in the City of San Clemente certified Land Use Plan (Exhibit 3). The access point is taken from Avenida Montalvo along the eastern side of the Sea Point Villa condominium development it is approximately 75 yards on the opposite side of the canyon from the subject site. The site is designated as Residential Medium Density in the certified Land Use Plan, and the proposed project is consistent with this land use designation.

This application is, in part, the follow-up Coastal Development Permit for Emergency Coastal Development Permit 5-05-134-G (Rambo) issued on September 2, 2005 for repair and replacement of a surficial slope failure on a coastal canyon to pre-slide profile with compacted engineered fill and geogrid. The applicant also seeks approval for 'after-the-fact' landscaping of the canyon slope and approval to construct a new pool/spa, new.hardscape and landscape improvements on the flat area outside the canyon that is adjacent to the existing single-family residence. Project plans for the proposed new development are included as Exhibit 5 and Exhibit 6 and project plans for the slope repair work conducted in 2005 are included as Exhibit 7.

##### **Prior Permit History**

In 2005, the Commission approved Emergency Permit 5-05-314-G (Rambo) for the repair and replacement of a surficial slope failure on a coastal canyon to pre-slide profile with compacted engineered fill and geogrid; installation of a v-ditch at the top of the reconstructed slope and placement of an above ground flexible drainpipe running from the v-ditch to the canyon bottom; and jute netting will be placed on the slope to prevent erosion.

##### **Project Description – Approved Under Emergency Permit**

This application includes the follow-up Coastal Development Permit for an Emergency Permit 5-05-134-G (Rambo) issued on September 2, 2005 for repair and replacement of a surficial slope failure on a coastal canyon to pre-slide profile with compacted engineered fill and geogrid. The cause of the emergency work was the failure of the slope resulting from oversaturation of the canyon slope. The approved emergency project description is as follows:

*“Repair and replacement of a surficial slope failure on a coastal canyon to pre-slide profile with compacted engineered fill and geogrid. Emergency work also includes drainage improvements to prevent infiltration of water into the slope, including the installation of a v-ditch at the top of the*

*reconstructed slope and the placement of an above ground flexible drainpipe running from the v-ditch to the canyon bottom. Jute netting will be placed on the slope to prevent erosion.”*

At the time, the applicant provided slope repair geotechnical recommendations prepared by Lawson & Associates Geotechnical Consulting (LGC) in a document titled, “*Limited Geotechnical Evaluation of Surficial Slope Failure within Backyard Descending Slope of 506 Avenida de la Riviera, San Clemente, Project No. 051116-01*” dated August 31, 2005. The Commission's staff Geologist reviewed and concurred with the proposed recommendations for reconstruction of the failed area of the slope back to the pre-existing condition and the proposed recommendations for drainage improvements to limit future water infiltration into soils above and adjacent to the slope failure.

#### As Built Project

The slope repair and slope drainage improvements were conducted per geotechnical recommendations. A follow-up report of the emergency work was provided by the consultant LGC in the document “*Geotechnical Summary of Repair of Surficial Slope Failure within the Descending Backyard Slope of 506 Avenida de la Riviera, San Clemente, Project No. 051116-01*” dated December 7, 2005. The summary documents the work conducted as follows:

*The excavated keyway had approximate dimensions of 40’ length and 15’ width located at the base of the slope failure. A 4” perforated subdrain surround in 3/4” rock and wrapped in filter fabric was installed at the heel of the keyway at the bedrock contact and outlet through the slope face in two locations. The failure was removed and replaced by continuous up slope benching into firm competent material from the keyway elevation. Thin, 6-8” lifts of fill were placed and compacted to finish grade. Periodic probing of the fill in conjunction with field density tests indicated a minimum of 90% relative compaction at test locations. Debris flow material transported down-slope during the initial slope failure was removed, exposing the original slope face below the elevation of the keyway. Jute netting was applied to the entire slope face, above and below the keyway elevation, and groundcover was planted at the completion of construction.*

#### Unpermitted Development

However, it appears that additional development occurred on the canyon slope as part of the slope repair project consisting of: landscaping of the canyon slope; a decomposed granite pad/walkway along the canyon slope; timber steps descending the canyon slope; and two decomposed granite pads, a smaller pad with a bench/patio furniture and a larger pad with an open beam structure and trampoline further down in the canyon.

The Emergency Permit only authorized jute netting for erosion control; at the time of application submittal for the follow-up Coastal Development Permit, the permittee was conditioned to provide a landscaping and irrigation plan to re-vegetate areas disturbed by the emergency work and a drainage plan. Furthermore, the Emergency Permit did not authorize timber steps descending the canyon slope or placement of structures or decomposed granite in the canyon.

This is considered “unpermitted development” as it was not part of the approved emergency permit or any other coastal development permit. The applicant is only requesting approval for the unpermitted landscaping on the canyon slope and is not seeking approval for other unpermitted development in the canyon.

#### **B. ENVIRONMENTALLY SENSITIVE HABITAT AREA (ESHA)**

Section 30240 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

San Clemente's certified Land Use Plan (LUP) discusses the importance of coastal canyons and states:

*In most cases, coastal canyons are designated for natural open space, which limits potential development and helps to ensure preservation.*

Policy VII.12 of the certified LUP states:

*Encourage activities which improve the natural biological value, integrity and corridor function of the coastal canyons through vegetation restoration, control of alien plants and animals, and landscape buffering.*

Policy XV.13 of the certified LUP states:

*The removal of native vegetation and the introduction of non-native vegetation in the canyons shall be minimized. The use of native plant species in and adjacent to the canyons shall be encouraged.*

The proposed development is located within and adjacent to Montalvo Canyon, one of seven coastal canyons designated as environmentally sensitive habitat area (ESHA) in the certified LUP. The applicant's property extends to the canyon bottom. No portion of the applicant's development area contains resources that rise to the level of ESHA. Nevertheless, preservation and enhancement of the City's coastal canyons is a goal supported by both the environmental protection policies of the Coastal Act, and the certified LUP. Encroachment into the canyon by development increases the potential for the introduction of non-native plant species, and predation of native species by domestic animals, and destabilization of the canyon from excess irrigation. Encroaching development also threatens the visual quality of the canyons. The above-cited policies of the LUP were designed for habitat protection and enhancement; to minimize visual impacts and landform alteration; to avoid cumulative adverse impacts of development encroachment into the canyon; and as a means to limit brush management necessary for fire protection.

### Landscaping

San Clemente's certified LUP advocates the preservation of native vegetation and discourages the introduction of non-native vegetation in coastal canyons. While no rare or endangered species have been reported to exist within the coastal canyon habitat of San Clemente, the City has designated all coastal canyons, including Montalvo Canyon, as environmentally sensitive habitat areas (ESHA), as depicted in Exhibit 4. The coastal canyons act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the canyons.



Furthermore, to decrease the potential for canyon instability, deep-rooted, low water use, plants, preferably native to coastal Orange County should be selected for general landscaping purposes in order to minimize irrigation requirements and saturation of underlying soils. Low water use, drought tolerant, native plants require less water than other types of vegetation, thereby minimizing the amount of water introduced into the canyon slope. Drought resistant plantings and minimal irrigation encourage root penetration that increases slope stability. The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" (a.k.a. WUCOLS) prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

Additionally, since the proposed development is adjacent to a coastal canyon where the protection and enhancement of habitat values is sought, the placement of vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org>) and California Native Plant Society ([www.CNPS.org/](http://www.CNPS.org/)) in their publications. The Commission typically requires that applicants utilize native plant species, particularly along coastal canyons. In the areas on the canyon ward side of the lot, landscaping should consist of plant species native to coastal Orange County only. Elsewhere on the site, while the use of native plants is still encouraged, non-native plant species that are drought-tolerant and non-invasive may be used.

The applicant has submitted a landscape plan which indicates that the canyon slope was replanted with a palette of low water use, drought tolerant, native plants such as toyon, lemonade berry, ceanothus, sages and agaves. The landscaping plan also indicates a low water use, drought tolerant plant palette for the proposed new landscaping for the front yard (street side) and the backyard (canyonward) portions of the lot. Landscaping in the back yard patio will be in raised planter beds and a 'turf' area adjacent to the canyon edge planted with Dymondia, a drought tolerant turf alternative. **Special Condition 2** requires the applicant adhere to the proposed drought tolerant, non-invasive landscaping plan.

Additionally, because the proposed landscaping site is located adjacent to a canyon, the applicant must contact the Orange County Fire Authority (OCFA) to determine if their review is required. **Special Condition 3** requires the applicant to provide written evidence of OCFA approval of a fuel modification plan, or that no fuel modification plan is required.

The special conditions of this staff report are designed to protect and enhance Montalvo Canyon as an environmentally sensitive habitat area. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30240(b) of the Coastal Act and the policies of the certified LUP.

## **C. GEOLOGIC STABILITY**

### Coastal Act Policies

Section 30253, parts a and b, of the Coastal Act states:

*New development shall do all of the following:*

*(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

### Geotechnical Report – Slope Repair

The applicant submitted a follow-up report of the emergency work by the consultant LGC in the document “*Geotechnical Summary of Repair of Surficial Slope Failure within the Descending Backyard Slope of 506 Avenida de la Riviera, San Clemente, Project No. 051116-01*” dated December 7, 2005. The geotechnical report provided a summary of the work conducted and concluded that “It is our opinion that the repaired slope is acceptable from a geotechnical viewpoint; provided that the following recommendations are properly implemented: 1) vegetation should be maintained on the slope face to increase surficial slope stability and decrease potential erosion that may be caused by rain and/or irrigation water, 2) irrigation water applied to the slopes should be closely monitored and decreased to the least amount allowable for healthy plant growth, and 3) the area should be routinely monitored for potential irrigation line breaks.”

Section 30253(2) of the Coastal Act states that new development shall assure stability and structural integrity and shall not contribute to erosion, geologic instability or destruction of the site or require the construction of protective devices which would substantially alter natural landforms.

The geotechnical report provides recommendations for the “as-built” repaired slope regarding drainage.

### Geotechnical Report – Pool/Spa and Hardscape

The applicant submitted a “*Geotechnical Review of Proposed Swimming Pool and Hardscape Plans for the Rambo Residence, 506 Avenida de la Riviera, San Clemente, Project No. 051116-01*” prepared by LGC dated March 17, 2008 which concludes that the conceptual landscape design is geotechnically acceptable and is considered suitable for the intended use, provided that the recommendations contained in the report and referenced reports are implemented.

Due to the undulating canyon edge (approximately the 92 contour line as depicted on the plans), at the closest point the proposed pool would be approximately 7 feet from the canyon edge and the farthest point would be approximately 20 feet from the canyon edge. No canyon disturbance will occur during pool grading activities.

### Pool/Spa Protections

The proposed project includes construction of a new pool/spa on the canyon ward portion of the lot. If water from the proposed pool is not properly controlled there is a potential for slope failure due to the infiltration of water into the slope. For this reason, the potential for water infiltration into the slope should be minimized. This can be achieved by various methods, including having the

pool double lined and installing a pool leak detection system to prevent the infiltration of water into the slope due to any possible pool or spa problems. Prior to permit issuance, a pool protection plan must be submitted for review and approval by the Executive Director. The plan must incorporate mitigation of the potential for geologic instability caused by leakage from the proposed pool. Therefore, the Commission imposes **Special Condition 7**, which requires the applicants to submit a pool protection plan.

#### Site Drainage

As submitted, the pool and hardscape plans (Exhibit 5) include notes indicating that roof drainage and gutter downspouts and subdrains for all new landscape and hardscape areas are to be collected on site and directed in underground pipe system to the existing City drain system or street. However, a drainage plan for the patio hardscape indicating the location of area drains leading to the street was not submitted. Runoff and storm water should be directed away from the canyon consistent with the geotechnical report recommendation of “Positive drainage should be provided to direct surface water away from improvements and towards either the street or other suitable drainage devices.”

Since the recommendations provided by the geotechnical consultant include measures to mitigate any adverse geologic effects, the Commission finds that **Special Condition 1** requiring submittal of final revised plans and requires that the consulting geotechnical expert reviews the final plans to verify conformance with their geotechnical recommendations. As such, these special conditions guarantee that the final development plans are consistent with Section 30253 of the Coastal Act.

#### Future Development

In order to ensure that development on the site does not occur which could potentially adversely impact the geologic stability and/or environmentally sensitive habitat area concerns expressed in this staff report, the Commission imposes **Special Condition 5**. This condition informs the applicant that future development at the site requires an amendment to this permit (5-05-314) or a new coastal development permit. Future development includes, but is not limited to, structural additions, landscaping and fencing.

### **D. WATER QUALITY**

Section 30230 of the Coastal Act states, in pertinent part:

*Marine resources shall be maintained, enhanced, and where feasible, restored...*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

During construction, the applicant will be required to implement best management practices (BMPs) designed to minimize erosion and prevent debris from entering the adjacent canyon or

storm drain system. The Commission imposes **Special Condition 4** imposes regulations regarding the storage of construction materials, mechanized equipment and removal of construction debris for the protection of coastal waters.

After construction of the proposed top of canyon improvements (i.e., pool/spa, hardscape, landscape planters) site runoff is proposed to be directed to area drains and piped to directly to existing City storm drain at the street for the patio portion of the house. **Special Condition 1** requires submittal of final revised plans including submittal of a detailed Drainage and Runoff Control Plan prior to permit issuance.

Drainage improvements were included in the slope repair work consisting of a 4" perforated subdrain surrounded in 3/4" rock and wrapped in filter fabric installed at the heel of the keyway at the bedrock contact which outlets through the slope face in two locations. Combined with the use of non-invasive drought tolerant vegetation to reduce the runoff discharged from the canyon slope, the project will minimize the project's adverse impact on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity or coastal water quality.

Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and to protect human health.

#### **E. UNPERMITTED DEVELOPMENT**

Development has occurred on the subject site without benefit of the required coastal development permit, including landscaping, grading and construction of a decomposed granite pad/pathway, installation of timber steps leading to two landings maintained with decomposed granite pads. All work occurred on the canyon face. The work that was undertaken is considered "unpermitted development" as it constitutes development that requires a coastal development permit application by virtue of its location on the canyon slope.

**Special Condition 1** requires the applicant submit revised project and landscaping plans showing the existing decomposed granite pad/pathway, timber steps, and the two decomposed granite pad landings in the canyon shaded and clearly marked "this element not permitted by any coastal development permit" as they haven't received Commission approval.

Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. The certified San Clemente Land Use Plan was used as guidance by the Commission in reaching its decision. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

The Commission's enforcement division will evaluate further actions to address unpermitted development not resolved under this permit.

#### **F. LOCAL COASTAL PROGRAM**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a

Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

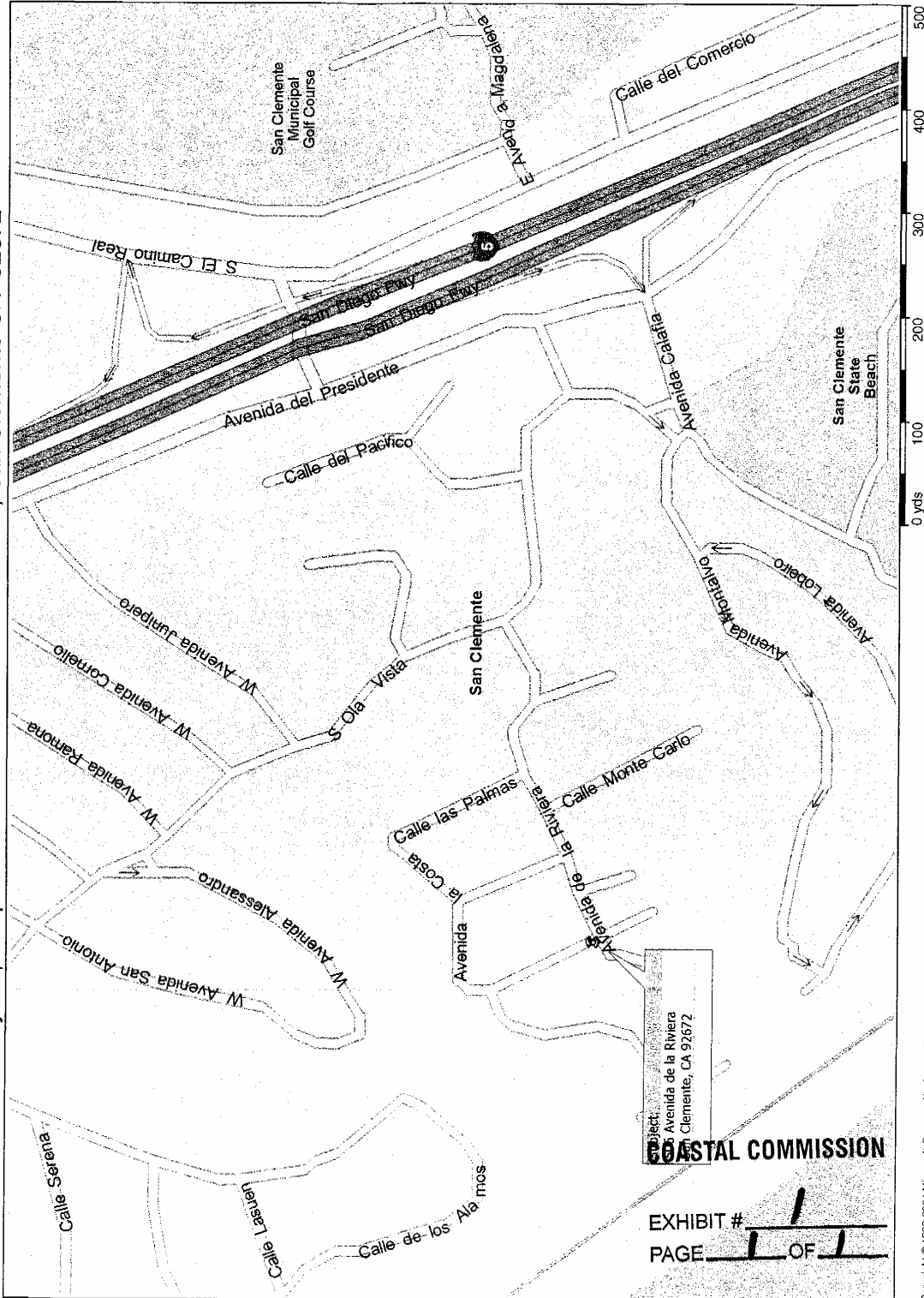
**G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located within an existing residential neighborhood. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with policies of the Coastal Act: 1) submittal of revised final project, grading, drainage and runoff control plans indicating conformance with geotechnical recommendations; 2) conformance with proposed landscaping plan; 3) OCFA approval; 4) storage of construction materials, mechanized equipment and removal of construction debris; 5); future improvements come back to the Commission for review; 6) assumption of risk, waiver of liability and indemnity and 7) pool protection plan.

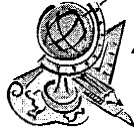
As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with CEQA.

Vicinity Map Prepared for: 506 Avenida de la Riviera, San Clemente CA 92672



**COASTAL COMMISSION**

EXHIBIT # 1  
 PAGE 1 OF 1



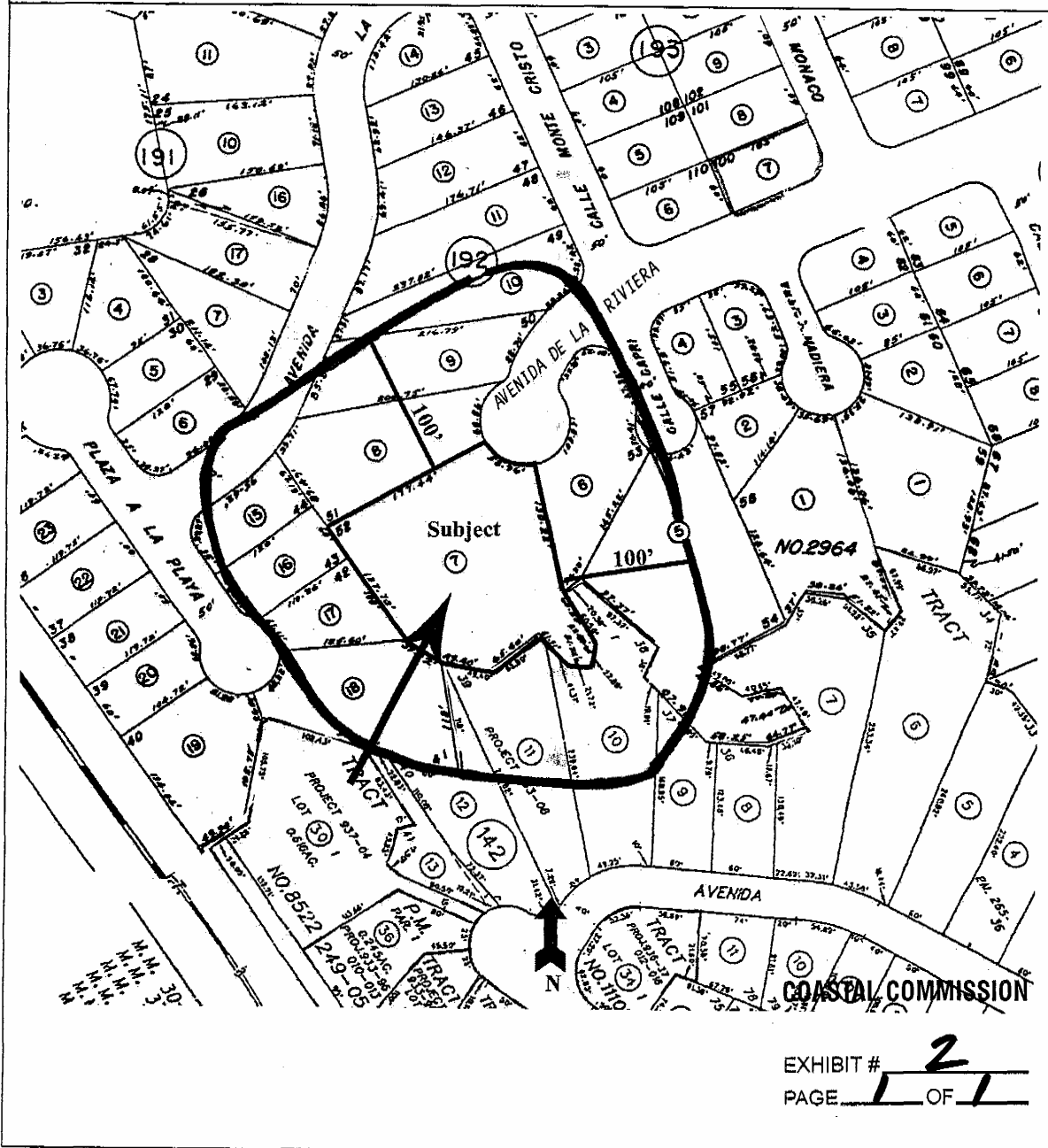
### Advanced Listing Services

Ownership Listings & Radius Maps  
P.O. Box 2593 • Dana Point, CA • 92624  
Office: (949) 361-3921 • Fax: (949) 361-3923  
[www.Advancedlisting.com](http://www.Advancedlisting.com)

Item 2

Subject APN: 060-192-07  
100' Radius (excluding streets)

Address: 506 Avenida de la Riviera  
San Clemente CA 92672



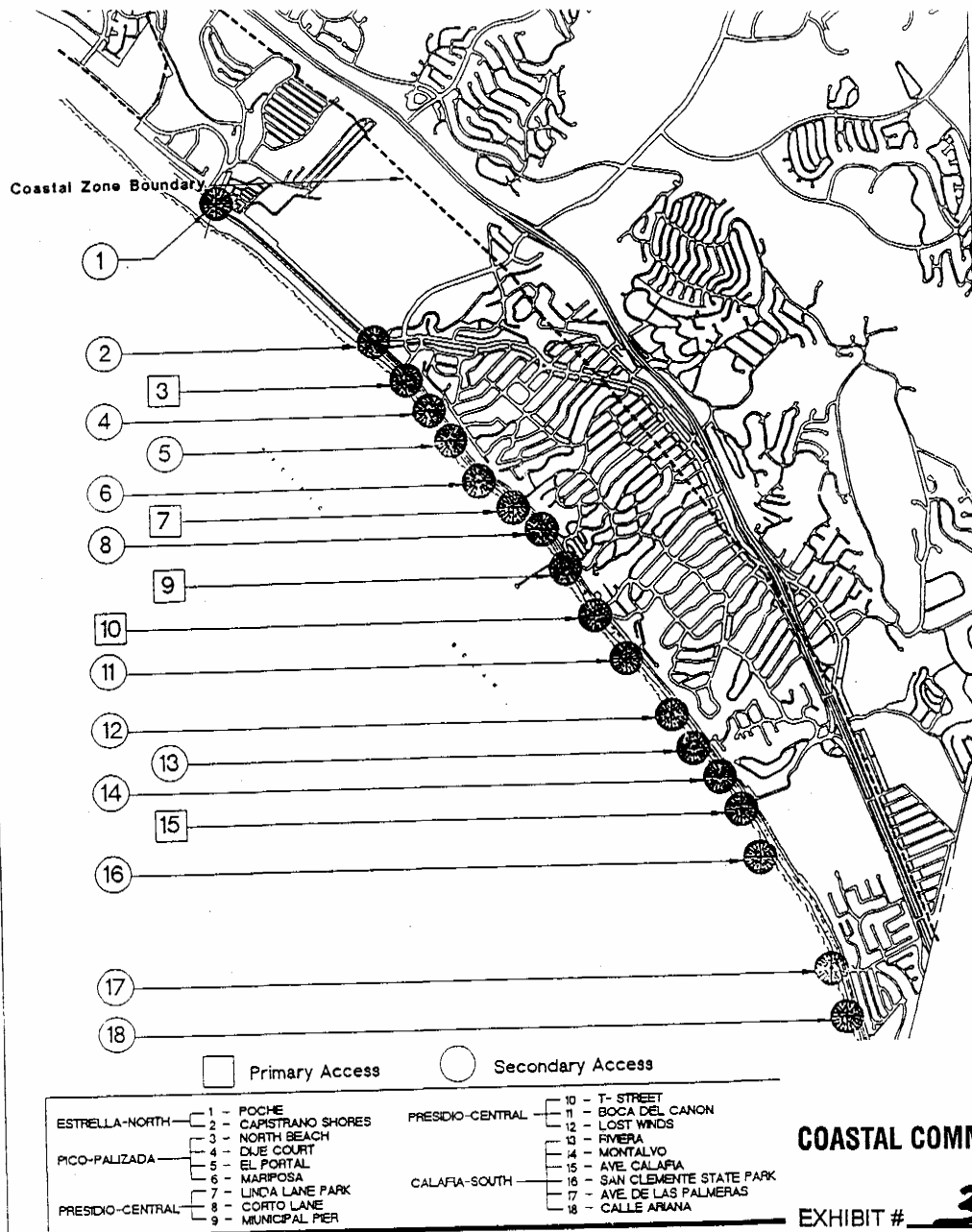


FIGURE 2-5

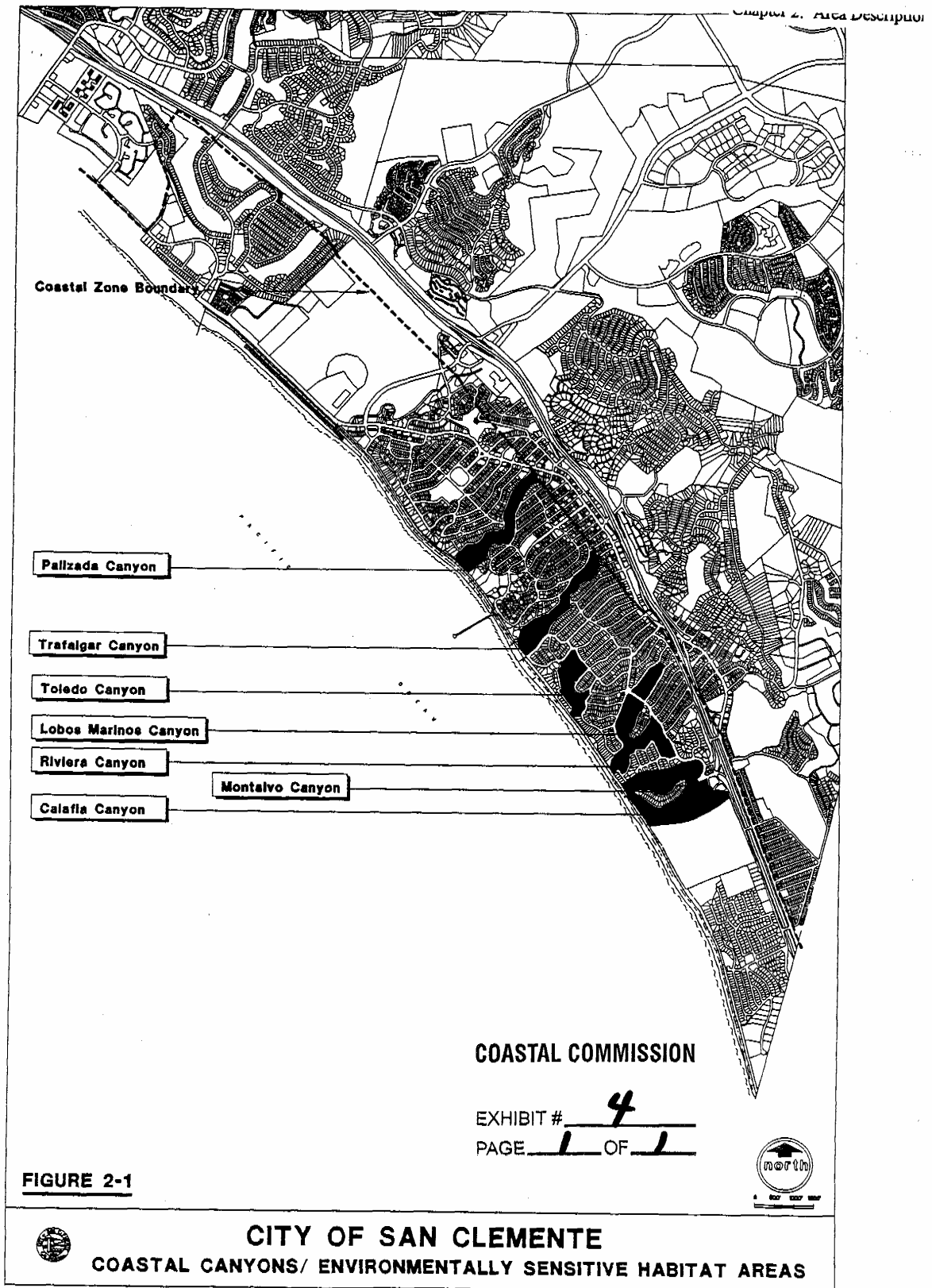
COASTAL COMMISSION

EXHIBIT # 3  
PAGE 1 OF 1



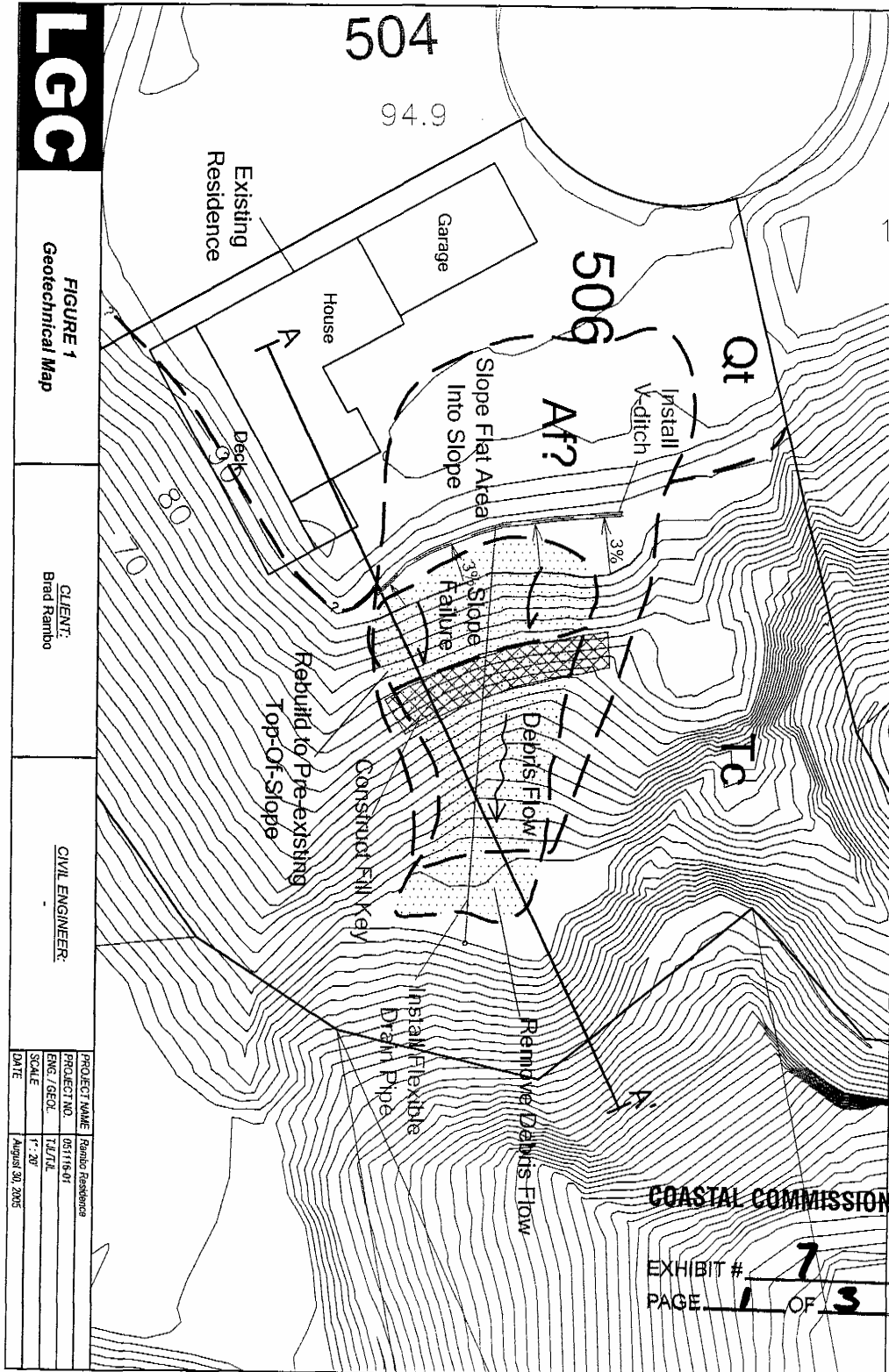
CITY OF SAN CLEMENTE  
COASTAL ACCESS POINTS

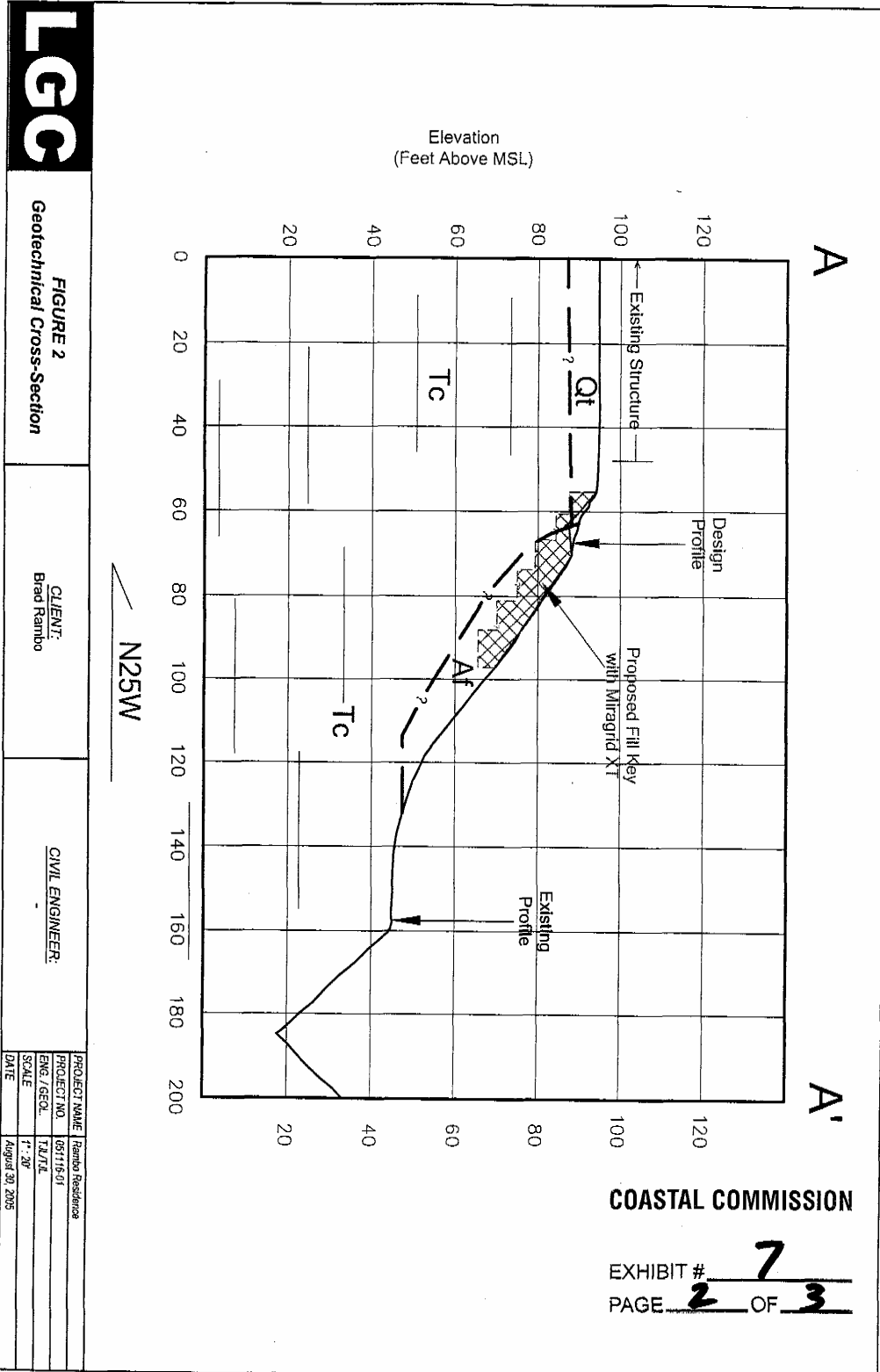


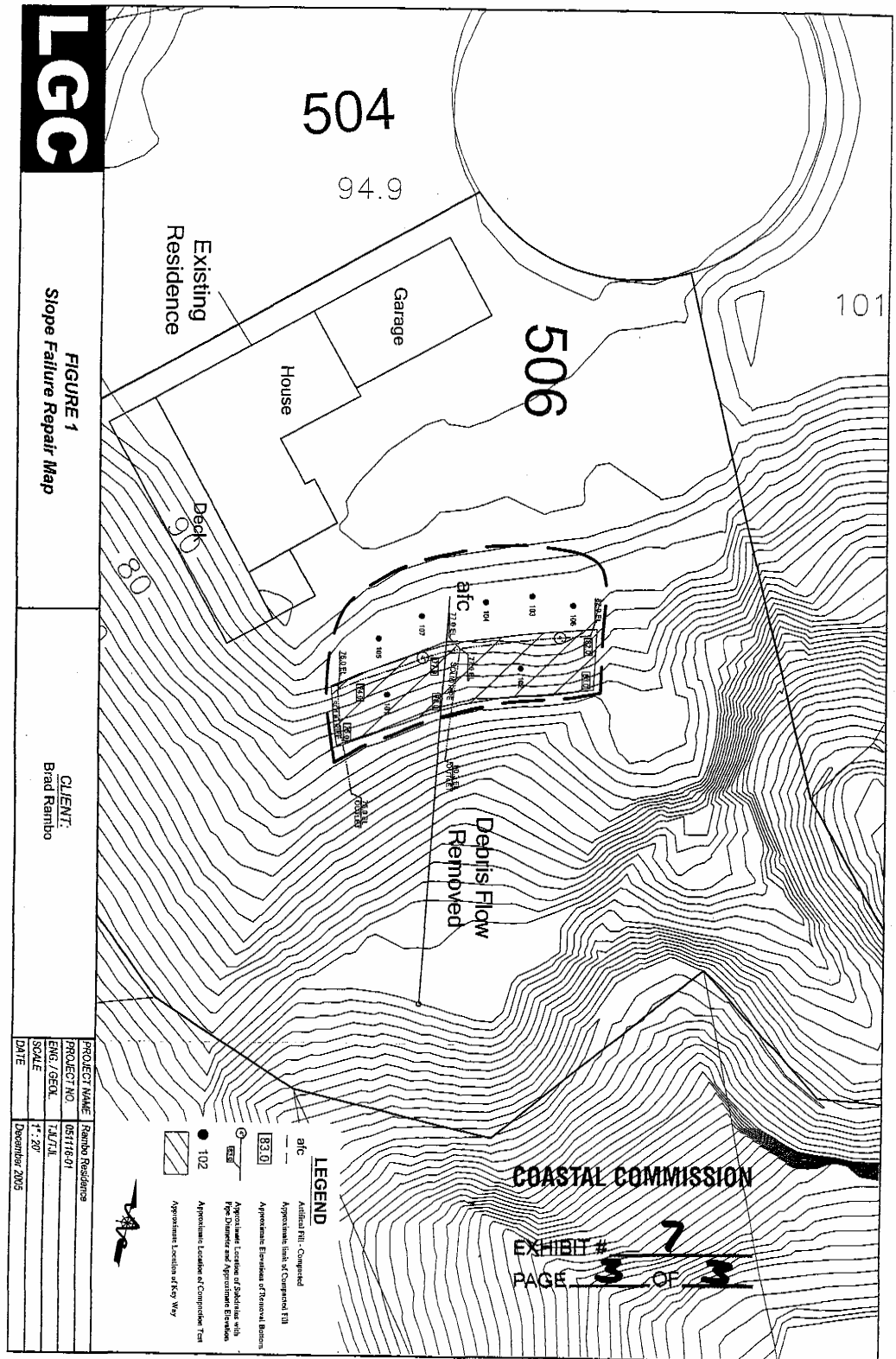




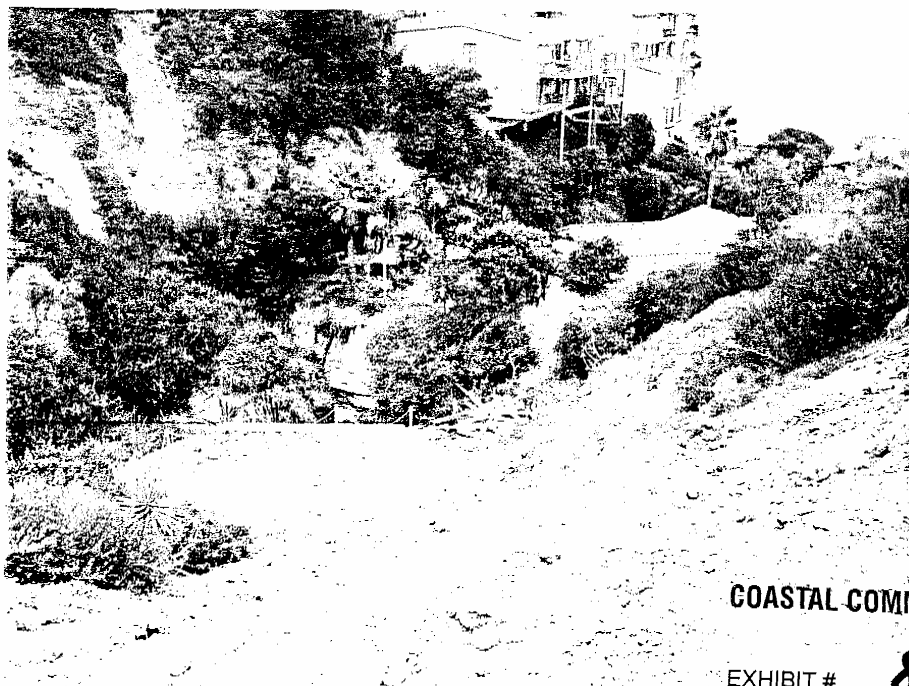








Photos depicting a cleared coastal canyon slope after slope failure.



COASTAL COMMISSION

EXHIBIT # 8  
PAGE 1 OF 2

506 Riviera, San Clemente  
8/23/05

506 Riviera, San Clemente 5/13/08 - Post Emergency Permit work. Photo depicting unpermitted development (landscaping, graded path & timber stairs) in the coastal canyon. The applicant is only requesting approval of canyon slope landscaping.



506 Riviera, San Clemente 5/13/08 - Post Emergency Permit Work. Photo depicting unpermitted development (landscaping, graded pad & timber stairs, trampoline) in the coastal canyon.



STAL COMMISSION

BIT # 8  
E 2 OF 2