

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-6071

Filed: 10-12-95
49th Day: 11-30-95
180th Day: 04-09-96
Staff: RMR-LB (MR)
Staff Report: 11-22-95
Hearing Date: December 12-15, 1995
Commission Action:



STAFF REPORT: CONSENT CALENDAR

F4a

APPLICATION NO.: 5-95-234

APPLICANT: Marquita Townhome Partners

AGENT: Don Rackemann

PROJECT LOCATION: 253 West Avenida Marquita, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a 6 unit detached condominium project with 2 and 3 car garages. Grading consists of 3,700 cubic yards of cut and 850 cubic yards of fill.

| | |
|---------------------|----------------|
| Lot area: | 31,044 sq. ft. |
| Building coverage: | 10,800 sq. ft. |
| Pavement coverage: | 7,200 sq. ft. |
| Landscape coverage: | 13,100 sq. ft. |
| Parking spaces: | 18 |
| Zoning: | R-3 |
| Plan designation: | RM (15 du/ac) |
| Project density: | |
| Ht abv fin grade: | 25 |

LOCAL APPROVALS RECEIVED: Approval in Concept from the Planning Department of the City of San Clemente, Tentative Tract Map 14573, Conditional Use Permit 95-20 and Variance 95-21

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente certified Land Use Plan, Coastal Development Permit 5-92-153 (Marquita Townhomes)

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California

Coastal Act of 1976, 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 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. 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. Conformance with Geologic Recommendations

All recommendations contained in the Geologic Report dated April 26, 1995 by Geofirm, shall be incorporated into all final design and construction plans, including drainage. Prior to the issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, final design plans signed by the consultant incorporating the recommendations made in the referenced report.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

2. Landscape Plan

Prior to issuance of the coastal development permit, the applicant shall submit a landscaping and erosion control plan for the top of the southeasterly slope for the review and approval of the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas or bare areas on the canyon side of the proposed residences shall be planted and maintained for erosion control and preservation of native vegetation. To minimize the need for irrigation and reduce potential erosion and slope failure, development landscaping shall consist primarily of native, drought tolerant or fire resistant plants. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All graded slope areas shall be stabilized with planting at the completion of the project. Planting should consist primarily of native plant species indigenous to the area using accepted planting procedures. Such planting shall be adequate to provide 80 percent coverage within 180 days and shall be repeated, if necessary, to provide such coverage.

3. Future Development

Prior to the issuance of the coastal development permit the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in coastal development permit 5-95-234 and that any future additions or other development as defined in Public Resources Code Section 30106 will require an amendment to Permit No. 5-95-234 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

4. Removal of Excess Cut Material

Prior to the issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director, the location of the proposed dump site for all excess cut material. If the disposal site is within the coastal zone a coastal development permit or an amendment to the permit may be required.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description

The applicant is proposing to construct a 6 unit detached condominium project with two and three car garages. Grading consists of 3,700 cubic yards of cut and 850 cubic yards of fill. Excess cut consists of 2,850 cubic yards.

The proposed development is located on a vacant lot which was graded with stepped-down pads in the 1960's. The lot is at the north and northwest boundary of the public parking lot at Linda Lane Park, a major coastal access point. The site is located adjacent to West Marquita on the north, Via Mecha on the east, and the Linda Lane Park parking lot on the south. To the west is an existing multi-family or condominium development. Linda Lane Park was improved by the City of San Clement in 1975 with parking spaces, a children's play area, restrooms and a picnic area.

The site consists of three graded pads and an approximately 15-25+ foot high slope to the Linda Lane parking lot. Relief on the site is 55 feet. The property was graded in the 1960's and included construction of the level pads, filling portions of the canyon and construction of cut and fill slopes.

The project is located in a highly scenic area and complies with the 25 foot height restriction. The proposed project is also consistent with both the zoning and the General Plan designations for the site.

The proposed project will not obstruct views of the ocean from Linda Lane Park. Ingress to the park is provided by Linda Lane and egress is provided by Via Mecha and Marquita. When entering the park by Linda Lane, the ocean is straight ahead, and the proposed project is to the right of the line of sight to the ocean. Also, because Via Mecha is one-way exiting Linda Lane Park, the project will not impact views to the ocean via this route.

The proposed development is located in a developed area. There is existing residential development in every direction except to the south. Public access to the site is provide via Linda Lane. Access to the beach is provided at Linda Lane Park via a large storm drain tunnel under the railroad right-of-way. The project is located between the sea and the first public road but will not have any impact on the coastal access and recreation policies contained in Chapter 3 of the Coastal Act.

Finally, the project will provide 18 parking spaces, which is consistent with the Commission's parking guidelines.

In July of 1992 the Commission approved coastal development permit 5-92-153 (Marquita Townhomes) for the construction of 12 25 foothigh townhomes with attached 2-car garages. Grading consisted of 4,000 cubic yards of cut and 1,000 cubic yards of fill. The special conditions were a future development deed restriction and conformance with geologic recommendations.

B. Geologic Stability

Section 30253 of the Coastal Act states in part:

New development shall:

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

(2) 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.

The applicants have submitted a geotechnical report dated April 26, 1995 prepared by Geofirm. The geotechnical report states that the site consists of a vacant parcel with three progressively lower graded pads bounded by slopes on the northwest, northeast, and southeast. The southeast 1.5:1 fill slope descends 15 to 25+ feet. A city storm drain is located at the southwesterly property boundary.

The project site was graded in the 1960's and consisted of excavation of the pads, filling some portions of the canyon to the southeast and northeast, and construction of the cut and fill slopes.

Bedrock underlying the site strikes northeasterly and dips to the northwest, a condition which promotes gross stability. The geotechnical report states that there has been some creep and erosion on the site slopes, however, these are shallow soil failures which extend only to about three feet. In addition, the site contains no active faults.

In the conclusion portion of the geotechnical report it states:

Development substantially as proposed is considered geotechnically feasible and safe providing the recommendations of this report are followed during design, construction and maintenance of the subject property.

The geotechnical report states that cut will be for the excavation of building pads and below grade garage level, and fill will be utilized to achieve design grades beneath the driveway and portions of the lower row of structures.

The geotechnical report includes recommendations concerning the design of structural foundations, placement of caissons, structural setbacks, design of retaining walls and recommendations for site drainage. It states:

Landscape design should include provisions for a blanket subsurface drainage system beneath proposed lawn areas if such are adjacent to the top of slope in order to prevent saturation of slope materials. It is also recommended that drought-tolerant, deep-rooted, preferably native plants be selected for all landscaping adjacent to or upon slopes and for slope areas possibly disturbed by storm and sewer line installation.

The landscape plan for the site shows the line of the structures and the hardscape patio areas on the southeasterly slopes above the City parking lot. However, the plan does not indicate what ground cover or plants will be installed at the top of slope. The geotechnical experts have recommended that a subdrain system be installed on the top of slope and that native, drought-tolerant plants be placed there. The consulting geologists recommend native plants because they are drought tolerant, have deep root systems, and help consolidate soils and prevent slope failure. For this reason the

applicant is conditioned to supply revised landscaping and drainage plans for the top of the southeasterly slope above the City parking lot in conformance with geologic recommendations, as well as comply with a future improvements deed restriction. The future improvements deed restriction will ensure that any future landscaping on the top of the bluff will conform with the geologic recommendations as well as Commission policies on preservation and revegetation of ESHA areas.

Only as conditioned for a revised landscaping plan, future improvements deed restriction and for the consulting geotechnical experts to review the proposed building plans and the revised drainage and landscape plans does the Commission find the proposed project in conformance with Section 30253 of the Coastal Act.

C. Environmentally Sensitive Habitat Area

The project is located in Marquita Canyon, which is designated as an environmentally sensitive habitat area.

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.

The certified San Clemente LUP also has policies guiding development in coastal canyons.

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

The coastal canyon preservation policy in the certified LUP states:

New development shall not encroach into coastal canyons and shall be set back either:

- a. a minimum of 30% of the depth of the lot, and not less than 15 feet from the canyon edge; or
- b. a minimum of 30% of the depth of the lot, and set back from the line of native vegetation (not less than 15 feet from coastal sage scrub vegetation or not less than 50 feet from riparian vegetation); or
- c. in accordance with house and deck/patio stringlines drawn between the nearest corners of the adjacent structures.

In addition, policy 8 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 project is located at the terminus of Marquita Canyon, one of seven coastal canyons designated as Environmentally Sensitive Habitat Area (ESHA) in the certified LUP. The coastal canyons are designated as ESHAs because they still contain natural habitat. However, over the years, the amount of native vegetation is decreasing because of development, fire clearance, invasion of exotic plant species, and revegetation with non-native plants.

Although the Linda Lane Park area is technically labelled as an ESHA, most of the original native vegetation and topography has been altered. Most of the native vegetation on the site is contained on the slope adjacent to the southern boundary of Linda Lane Park. The remainder of the site has been graded and contains scattered weeds. The southernmost slope of the project is approximately 170 feet long and 30+ feet high. The slope at present is covered with both native and non-native plants.

The applicant is not proposing any modifications to the slope or slope vegetation at this time. In fact, the plans indicate that the slope vegetation will be left in its current state. The slope is a remnant of the former canyon and as such is not connected to a larger canyon ecosystem. However, the site is located on a coastal canyon which is identified in the certified LUP as an ESHA. Additionally, the site does contain native plants on the southeasterly slope.

The residential structures are in conformance with the 30% depth of lot setback line and also comply with the 15 foot setback from the coastal canyon edge. A stringline is not applicable in this case. In addition, the plans show that the southeasterly canyon slope will not be disturbed. However, the plans show that there will be patio to within five feet of the bluff top. However, in order to ensure that the native plants on the slope will not be disturbed, the applicant is being conditioned to supply revised landscaping and drainage plans for the canyon top of slope and to conform with a future improvements deed restriction.

Only as conditioned does the Commission find that the project conforms with Section 30240 of the Coastal Act.

D. Public Access

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

The proposed development is located on a coastal canyon between the sea and the first public road. Directly east of the project site is Via Mecha, a one-way road leading out of Linda Lane Park. Directly south of the project site is the parking lot of Linda Lane Park. The site is currently fenced.

Access to Linda Lane Park is obtained via Linda Lane which winds through the parking lot and exiting becomes Via Mecha. Access to the beach is obtained via a storm drain tunnel under the railroad tracks. Development of this site will not have any adverse impact on coastal access and recreation. There are no trails across the site and no beach access.

A public access dedication can be required pursuant to section 30212 only if it can be shown that the development either, individually or cumulatively, directly impacts physical public access, i.e., impacts historic public use, or impacts or precludes use of Public Trust Lands. The Commission finds that under Section 30212(a)(2) there is adequate access nearby. In addition, the proposed development conforms with the land use designations for the property.

The development proposed by the applicants will not adversely impact public access to the beach from Linda Lane Park. Neither will the development impact coastal recreation and the use of facilities in Linda Lane Park.

The Commission finds, therefore, that the development conforms with sections 30210, 30211 and 30212 of the Coastal Act in that the proposed development will not create adverse impacts, either individually or cumulatively on public access and will not block public access from the first public road to the shore.

E. 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.

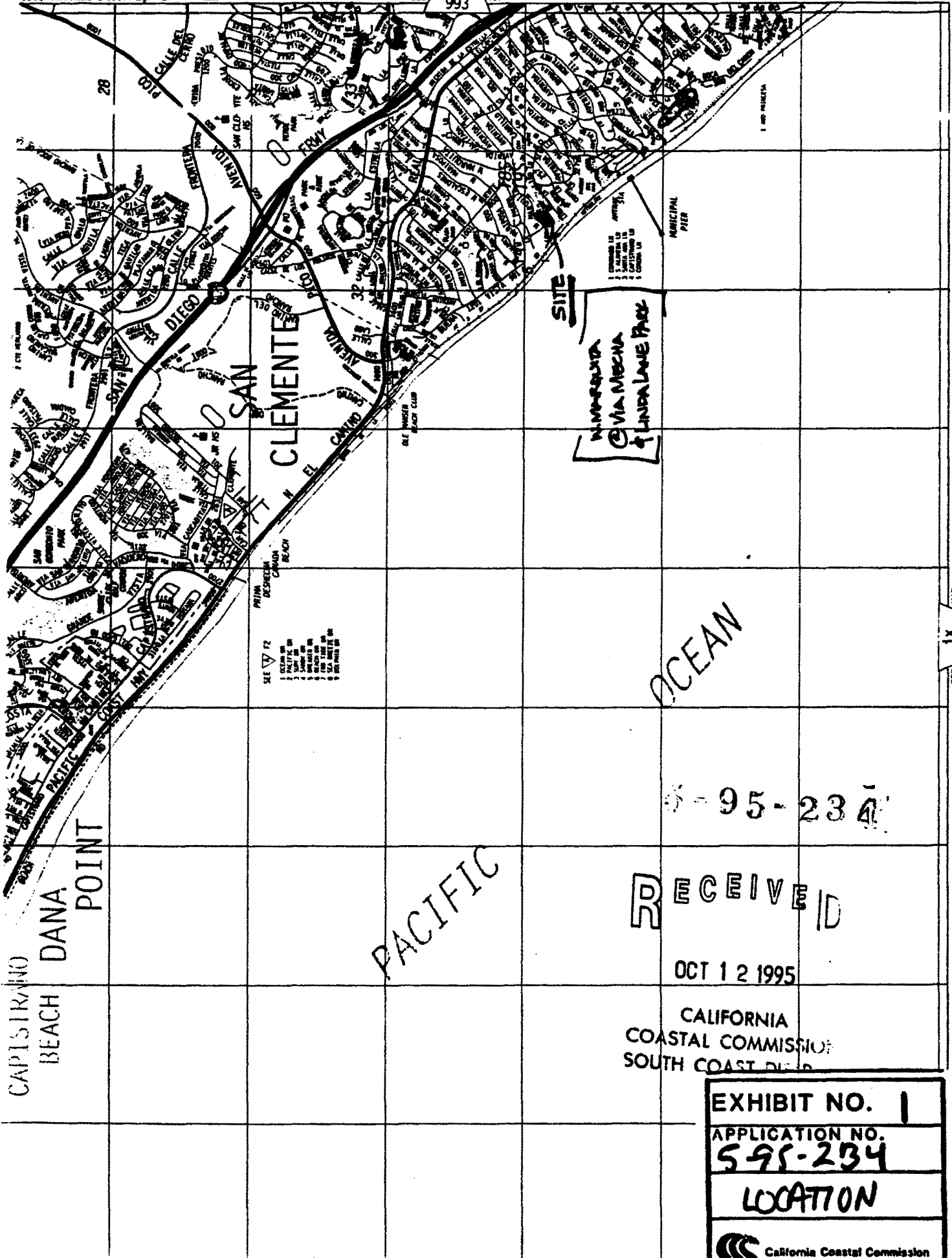
The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988. As conditioned for provision of a revised landscape plan, geologic recommendations, location of excess cut dirt, and future improvements condition the proposed development is consistent with the policies contained in the certified Land Use Plan. 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).

F. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit application 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)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the policies of Sections 30240 and 30253 of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

5786F



SITE
 11111 VIA MEBANA
 LINDA LAURE PRIDE

SEE 12
 1. COASTAL
 2. PUBLIC
 3. STATE
 4. FEDERAL
 5. OTHER
 6. UNCLASSIFIED
 7. OTHER

95-234
RECEIVED
 OCT 12 1995

CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT

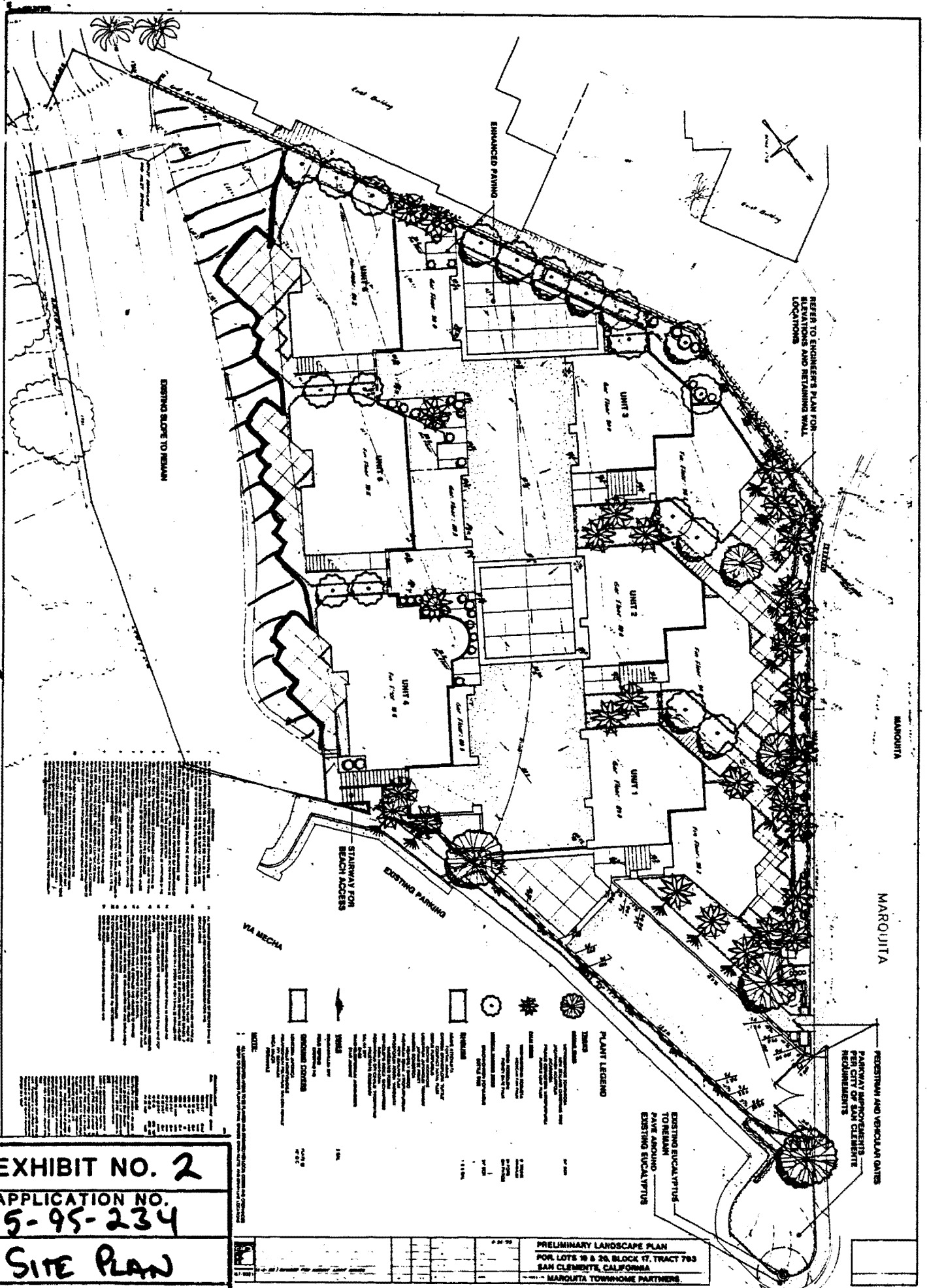
EXHIBIT NO. 1
APPLICATION NO. 595-234
LOCATION

California Coastal Commission

CAPTAINO
 BEACH
 DANA
 POINT

SEE 1X MAP

III = Area for revised landscaping



REFER TO ENGINEER'S PLAN FOR ELEVATIONS AND RETAINING WALL LOCATIONS

EXISTING SLOPE TO REMAIN

STAIRWAY FOR BEACH ACCESS

EXISTING PARKING

EXISTING PARKING

EXISTING EUCALYPTUS TO REMAIN PAVE AROUND EXISTING EUCALYPTUS

MARQUITA

MARQUITA

WESTERN AND VERTICAL GRATES

PARKWAY IMPROVEMENTS PER CITY OF SAN CLEMENTE REQUIREMENTS

PLANT LEGEND

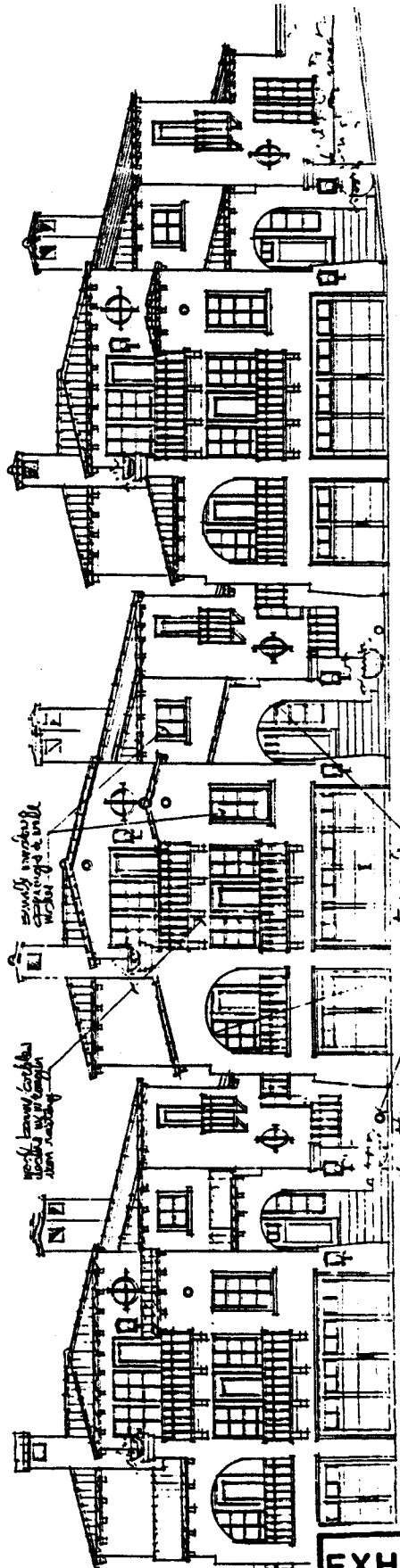
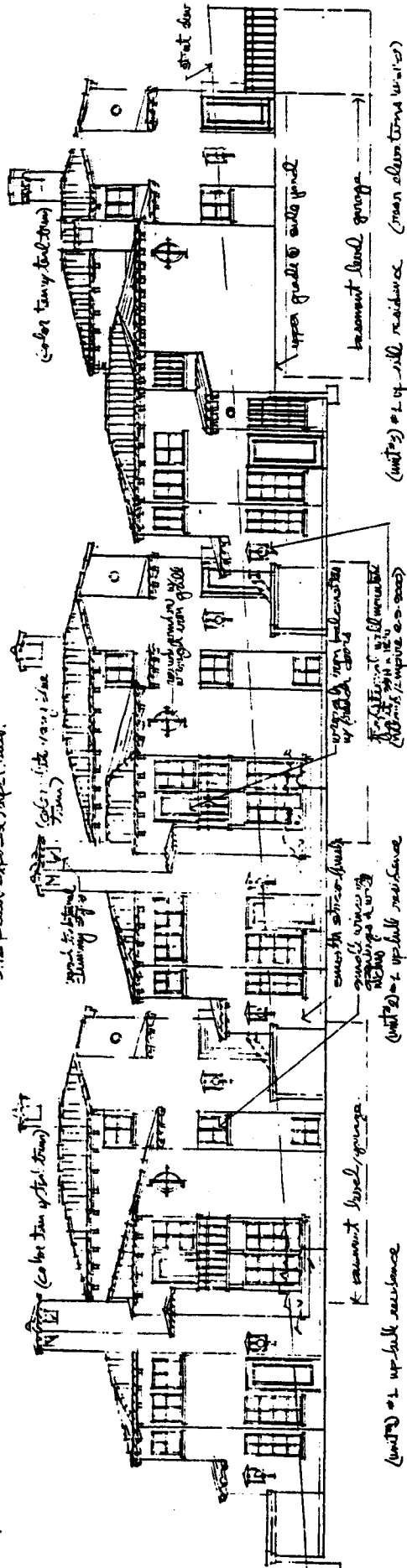
| | |
|----------|---------------|
| SYMBOL | DESCRIPTION |
| [Symbol] | 1. EUCALYPTUS |
| [Symbol] | 2. PALM |
| [Symbol] | 3. ... |
| [Symbol] | 4. ... |
| [Symbol] | 5. ... |
| [Symbol] | 6. ... |
| [Symbol] | 7. ... |
| [Symbol] | 8. ... |
| [Symbol] | 9. ... |
| [Symbol] | 10. ... |
| [Symbol] | 11. ... |
| [Symbol] | 12. ... |
| [Symbol] | 13. ... |
| [Symbol] | 14. ... |
| [Symbol] | 15. ... |
| [Symbol] | 16. ... |
| [Symbol] | 17. ... |
| [Symbol] | 18. ... |
| [Symbol] | 19. ... |
| [Symbol] | 20. ... |
| [Symbol] | 21. ... |
| [Symbol] | 22. ... |
| [Symbol] | 23. ... |
| [Symbol] | 24. ... |
| [Symbol] | 25. ... |
| [Symbol] | 26. ... |
| [Symbol] | 27. ... |
| [Symbol] | 28. ... |
| [Symbol] | 29. ... |
| [Symbol] | 30. ... |
| [Symbol] | 31. ... |
| [Symbol] | 32. ... |
| [Symbol] | 33. ... |
| [Symbol] | 34. ... |
| [Symbol] | 35. ... |
| [Symbol] | 36. ... |
| [Symbol] | 37. ... |
| [Symbol] | 38. ... |
| [Symbol] | 39. ... |
| [Symbol] | 40. ... |
| [Symbol] | 41. ... |
| [Symbol] | 42. ... |
| [Symbol] | 43. ... |
| [Symbol] | 44. ... |
| [Symbol] | 45. ... |
| [Symbol] | 46. ... |
| [Symbol] | 47. ... |
| [Symbol] | 48. ... |
| [Symbol] | 49. ... |
| [Symbol] | 50. ... |

EXHIBIT NO. 2
APPLICATION NO.
5-95-234
SITE PLAN



PRELIMINARY LANDSCAPE PLAN FOR LOTS 16 & 26, BLOCK 17, TRACT 793 SAN CLEMENTE, CALIFORNIA MARQUITA TOWNHOME PARTNERS

including the fire escape and stairs in common to both units.



(unit) #1 up-hill residence (mean elevations units)

(unit) #2 up-hill residence (mean elevations units)

3

| |
|------------------------------------|
| EXHIBIT NO. 3 |
| APPLICATION NO. S 95-234 |
| ELEVATIONS |
| California Coastal Commission |