

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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Staff: RMR-LB **RMR**

Staff Report: 01-17-96

Hearing Date: February 6-9, 1996

Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-95-267

APPLICANT: Tri-Millennium Corporation

AGENT: Sam Schaefer

PROJECT LOCATION: 223 Avenida Lobeiro, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a three story 2,450 duplex with an 835 square foot garage. Grading consists of 206 cubic yards of cut, 200 cubic yards will be exported off-site.

Lot Area	7,104 sq. ft.
Building Coverage	1,290 sq. ft.
Pavement Coverage	1,195 sq. ft.
Landscape Coverage	204 sq. ft.
Parking Spaces	4
Zoning	R3
Plan Designation	RM
Ht abv fin grade	27 feet

LOCAL APPROVALS RECEIVED: Approval in concept from the City of San Clemente Community Development Department

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development 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, 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. Future Development

Prior to the issuance of the coastal development permit, the applicant [landowner] 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 No. 5-95-267, and that any future improvements or additions to the property, including but not limited to vegetation removal, landscaping and structural improvements (other than approved with this permit) will require a permit or a permit amendment from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free and clear of all prior liens and encumbrances which the Executive Director determines to affect said interest.

### 2. Removal of Excess Cut Material

Prior to the issuance of the Coastal Development Permit, the applicant shall submit in writing 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 may be required.

#### IV. Findings and Declarations.

##### A. Project Description

The applicant is proposing to construct a three-story 2,450 square foot two-unit duplex with an 835 square foot garage. Grading consists of 206 cubic yards of cut, 200 cubic yards of which will be exported off-site. The first floor includes a 455 square foot living area and an 835 square foot garage. The second floor consists of 1290 square feet of living area. The third floor consists of 705 square feet of living area. The building will be divided into one 3 bedroom unit on the second and third floors and a second 1 bedroom unit on the first floor. Development on the canyon side of the residence consists of a concrete patio attached to the first floor and a second floor deck with post supports.

The proposed project is located on a coastal canyon between Avenida Lobeiro and Avenida Calafia, the entrance road to San Clemente State Park. The Calafia Canyon is horseshoe-shaped, with Avenida Lobeiro in the middle. Although the canyon north of the northernmost residences on Avenida Lobeiro does contain water and a defined creek system, the slope beneath the proposed site does not. Therefore, the slopes are relatively stable because they are not being undercut by running water. In addition, the slopes are heavily vegetated, which adds to the slope stability.

When Avenida Lobeiro was constructed, fill dirt was placed on the southern side of the roadway, creating level pads. Most of the lots on the southern side of the road contain residences. This lot is one of the last vacant lots on Avenida Lobeiro. There have been no applications for slope stability work along this stretch of road, with one exception. Coastal Development Permit 5-93-217 (Friedman) was approved for slope reconstruction and replacement of concrete walkways because the drainage system approved on the project plans was never installed and runoff from the residences caused erosion and slope failure. The geotechnical consultant, Ric Munson, has stated that the site is stable and capable of supporting the proposed residence. He stated that there is no evidence of soil slips or slope failure at the project site.

The applicant does not propose any landscaping or vegetation removal on the canyon slope. The proposed development includes four parking spaces, which meets the Commission-applied standard of two parking spaces per residential unit.

##### B. Protection of Coastal Canyon Resources

###### 1. Coastal Act Policies

The Chapter 3 policies of the Coastal Act apply to the protection and preservation of coastal canyon resources. Among these policies is section 30240(b).

###### Section 30240.

(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.

## 2. LUP Policies

San Clemente's Certified Land Use Plan states:

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

The Coastal Canyon Policy 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 primary vegetation line (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 applicable LUP policy in this case is subsection "c". The "stringline" is arrived at by drawing a line between the nearest corners of the adjacent structures. In this case, the enclosed living area of the proposed three-story structure conforms with the building stringline, and the proposed deck also conforms with a deck stringline. The project site is a lot which is 154 feet long and 45 feet wide. The residence and deck will extend approximately 65 feet onto the lot.

## 3. Project Description

Calafia Canyon is one of seven coastal canyons designated as ESHAs in the certified LUP. Calafia Canyon is horseshoe-shaped with Avenida Lobeiro in the middle. This project site is located on the south side of Avenida Lobeiro, between Avenida Lobeiro and Avenida Calafia. Avenida Lobeiro is developed with single- and multi-family dwellings. South of Avenida Calafia is Avenida Calafia and San Clemente State Park.

The project site is 154 feet long and 45 feet wide. The proposed residence will extend approximately 65 feet south from Avenida Lobeiro. There is a flat graded pad area approximately 60 feet long by 45 feet wide. Overall elevation differential on the lot from the pad area to the road below is 29 feet. Currently the slope contains both native shrubs and non-native grasses and plants.

The applicant is not proposing to conduct any grading or revegetation on the slope beyond that required for the deck footing/posts. Because the applicant is not proposing any work on the slope, a landscaping condition is not required. The applicant has stated that the slope will remain in its natural state. The applicant is proposing to extend a 6" drainage pipe down the slope, but will place the pipe in and among the vegetation in order to minimize the visual impacts. No trenching or vegetation removal is proposed for this drainage pipe.

#### 4. Conclusion

As proposed, the development will not adversely impact the slope vegetation either by grading, vegetation removal or by potential erosion caused by runoff or breaks in sprinkler systems. Excess watering is a major cause of slope failure in the San Clemente area. Additionally, the applicant is not proposing any landscaping on the slope side of the residence. However, in order to ensure that the applicant or future owner(s) of the site do not take action which could potentially adversely affect the stability of the slope through landscaping with water intensive plants, overwatering, or vegetation removal, the Commission is conditioning the applicant to comply with a future improvements deed restriction.

In addition, in order to ensure that the excess cut dirt is disposed of in a manner not detrimental to coastal resources, the Commission finds that the applicant shall submit in writing the location where the export dirt will be taken.

Only as conditioned for a future improvements deed restriction and disposition of excess cut dirt does the Commission find that the proposed development conforms with Section 30240 of the Coastal Act.

#### C. 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. On Wednesday, October 11, 1995 the Commission approved a major amendment to the Land Use Plan which revised and updated the LUP.

The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988. As conditioned 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).

#### D. 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 resource protection policies of Chapter 3 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.

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California Coastal Commission

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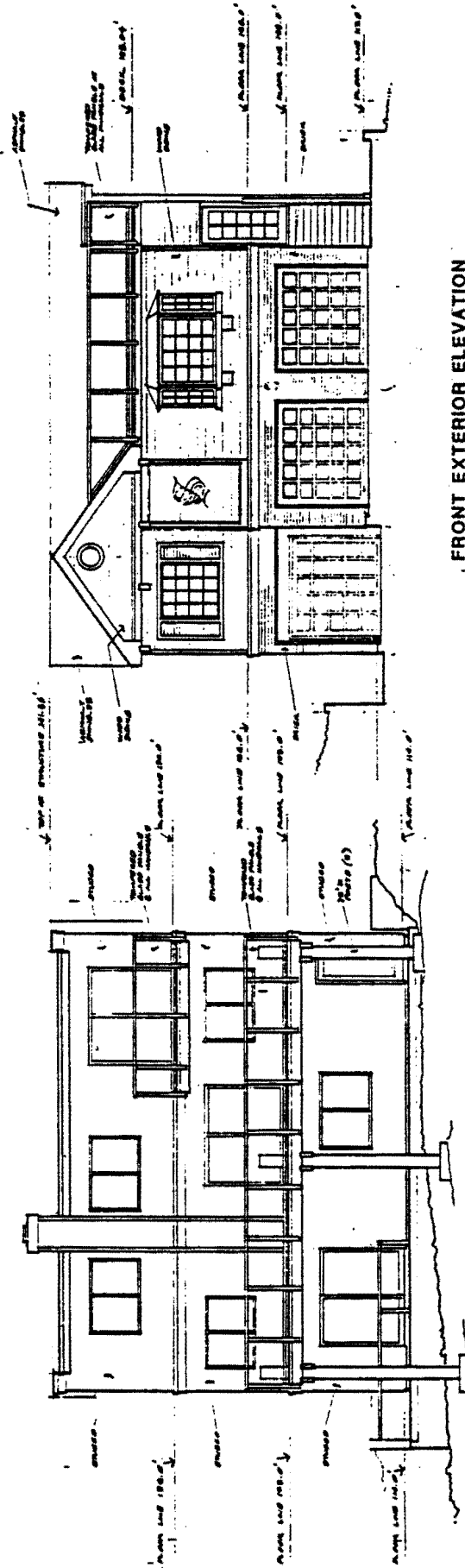
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FRONT EXTERIOR ELEVATION  
1/4" = 1'-0"

REAR EXTERIOR ELEVATION  
1/4" = 1'-0"

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EXHIBIT NO. 3
APPLICATION NO. 5-95-267
ELEVATION
California Coastal Commission

