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CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

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Staff: RMR/LB

Staff Report: 02-18-98

Hearing Date: March 10-13, 1998

Commission Action:



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-97-351

APPLICANT: Thomas & Theresa Hogan

AGENT: Ricardo A. Nicol

PROJECT LOCATION: 2313 Calle las Palmas, San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a 25 foot high, 1,915 square foot single-family residence with an 834 square foot garage. Grading consists of 174 cubic yards of cut. The site is currently vacant.

| | |
|---------------------|---------------|
| Lot area: | 8,060 sq. ft. |
| Building coverage: | 2,840 sq. ft. |
| Pavement coverage: | 1,540 sq. ft. |
| Landscape coverage: | 3,446 sq. ft. |
| Parking spaces: | 2 |
| Zoning: | RL |
| Plan designation: | RL |
| Ht abv fin grade: | 25 |

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

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan, Preliminary Geotechnical Investigation by Lotus Consulting Engineers, Inc., dated Dec. 15, 1997

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed development with special conditions regarding future improvements, disposal of excess cut dirt, conformance with geotechnical recommendations and submittal of a rear-yard landscaping plan.

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, 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 shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-97-351 is for the approved development only and that any future improvements or additions on the property, including, but not limited to, installation of hardscape improvements, grading, vegetation removal, landscaping and structural improvements not permitted in this permit or allowed in special condition 3, will require a coastal development permit or 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 of prior lines that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

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 disposal site for all excess cut material. If the disposal site is within the coastal zone a coastal development permit may be required.

3. Landscaping Plan

Prior to the issuance of the Coastal Development Permit the applicant shall submit, for the review and approval of the Executive Director, landscaping plans for the rear yard setback area. The plans shall incorporate the following criteria:

- (a) The area between the rear of the residence and the canyon edge (with the exception of the concrete deck at grade) shall be planted and maintained for erosion control and enhancement of native vegetation. To minimize the need for irrigation and reduce potential erosion and slope failure, development landscaping shall consist 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 areas in the rear of the residence shall be stabilized with planting at the completion of the project. Planting shall be of native plant species indigenous to the area using accepted planting procedures, adequate to provide 70% coverage within one year, and shall be repeated, if necessary, to provide such coverage.

The approved landscape plan shall be carried out as approved by the Executive Director.

4. Conformance with Geologic Recommendations

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, grading, foundation and drainage plans. The approved foundation plans shall include plans for the foundation, retaining walls, and footings. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the geotechnical investigation prepared by Lotus Consulting Engineers, Inc. dated December 15, 1997.

The approved development shall be constructed in accordance with the plans approved by the Executive Director. Any deviations from said plans shall be submitted to the Executive Director for a determination as to whether the changes are substantial. Any substantial deviations shall require an amendment to this permit or a new coastal development permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant is proposing to construct a 25 foot high, 1,915 square foot single-family residence with an 834 square foot garage. Grading consists of 174 cubic yards of cut. The site is currently vacant.

The site for the proposed development is located on a vacant lot adjacent to a coastal canyon. The coastal canyon is Riviera Canyon, one of seven coastal canyons designated in the certified Land Use Plan as Environmentally Sensitive Habitat Area (ESHA). The vicinity map is included as Exhibit 1. The assessors parcel map is included as Exhibit 2. A cross section of the lot (lot #5) is included as Exhibit 3. The ESHA map in the certified Land Use Plan is included as Exhibit 4. The site plan is included as Exhibit 5.

B. 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.

San Clemente's certified land use plan 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.

The policy in the certified LUP concerning setbacks on coastal canyons is found in Chapter 3, Section 302 G, policy VII.15, and 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.

The development setback shall be established depending on site characteristics.

In addition, 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.

The proposed development is located on Riviera Canyon in the southern part of San Clemente. A map of the coastal canyons designated as ESHA is included as Exhibit 4. As exhibits 2 and 3 show, the proposed site does include the canyon edge but the property line does not extend down into the canyon to include the flow line of the drainage. Another lot separates the development site from the flowline of the canyon drainage.

The cross section (Exhibit 3) shows that the site was graded and flattened in 1956, when pads were created along this part of Calle las Palmas. The flat portion of the site does not have any native vegetation and consists predominantly of annual grasses. During a site visit staff noted that there was some native vegetation growing below the canyon edge as well as other non-native vegetation. Overall, however the entire site has been disturbed because of the grading conducted in 1956.

Coastal Canyon Setbacks

The development plans submitted by the applicant (Exhibit 5) show that the setback selected for this site is option "a", minimum of 30% of the depth of the lot and not less than 15 feet from the canyon edge. The greater portion of the lot is flat with the exception of the 25 foot long by 20 foot wide section at the northeast corner of the lot. Beginning at the 119 foot elevation this canyon edge section terminates at the property boundary line at about the 107 foot contour line.

Staff has reviewed the site plans submitted by the applicant. The plans submitted conform with the 30% depth of lot line requirement and the fifteen feet from the coastal canyon edge requirement. There is no native vegetation on the site inland of the canyon edge, therefore, the canyon edge setback is

more restrictive setback criteria. The plans also show that the project conforms to the 15 foot setback from the canyon edge.

Therefore, the Commission finds that the proposed development conforms with the applicable coastal canyon setback policies of the certified LUP.

Enhancement of Native Vegetation

As stated previously, the Coastal Act requires the preservation of ESHA and the certified LUP includes policies calling for the preservation and enhancement of native vegetation on coastal canyons. The proposed development is an irregularly shaped lot which is adjacent to the Riviera Coastal Canyon and includes a portion of the canyon edge. The plans show that the lot drains towards the street and therefore runoff into the canyon is minimized.

The applicant has not submitted landscape plans for the rear yard portion of the development fronting the coastal canyon. In prior permits for development on coastal canyons the Commission has an established history of requiring the submittal of landscape plans composed of native plants. There are several reasons for this policy. First, native plants common to coastal canyons are predominantly deep rooted and drought tolerant. Therefore, use of native, drought-tolerant plants minimizes irrigation, percolation and saturation of soils from over-watering. Because the plants are drought-tolerant they establish extensive root systems which help hold the soil and prevent soil erosion and landsliding, both of which are common to coastal canyons. Finally, planting with native vegetation helps preserve native plant and animal communities, both of which are diminishing in the City of San Clemente.

For these reasons, the Commission finds that the applicant shall submit a landscaping plan for the rear yard portion of the lot. The landscaping plan shall be composed of native, drought-tolerant plants sufficient to establish a 70% cover within one year and shall be carried out as approved by the Executive Director.

As conditioned the Commission finds that the proposed development will result in the enhancement of native plant resources and conforms with Section 30240 of the Coastal Act.

In the past development has taken place on coastal canyons without benefit of coastal development permits. Unauthorized development in coastal canyons can result in the loss of native vegetation and coastal resources, by outright vegetation removal or by installation of invasive plants which tend to supplant native species. Therefore, it is the practice of the Commission to require the applicants developing on coastal canyons to comply with a future development deed restriction. The deed restriction simply requires that any future improvements, i.e., landscaping, hardscape, structures, require either a new coastal development permit or a coastal development permit amendment. Only as conditioned for the imposition of the future development deed restriction does the Commission find that the proposed development is consistent with the ESHA protection policies of the Coastal Act.

Also, to ensure that there are no adverse impact to sensitive coastal resources from dumping of excess cut dirt, the Commission finds that the applicant shall submit a letter for the review and approval of the Executive

Director, indicating where the excess cut dirt will be disposed. If the disposal location is within the coastal zone, a coastal permit or coastal development permit amendment may be required. As conditioned, the proposed development is consistent with Section 30240 of the Coastal Act.

C. 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 applicant submitted a geotechnical report prepared by Lotus Consulting Engineers, Inc. on December 15, 1997. This geotechnical report was conducted over three lots, lots 5, 6 and 7 of Tract 2964 (1313, 2311 and 2309 Calles las Palmas). Included as a part of the geotechnical investigation were on-site reconnaissance, subsurface exploration, sampling and laboratory testing. Cross-sections of the site were prepared showing the previous grade prior to 1956 and the existing grade.

The cross section prepared for lot 5 (the proposed development site) shows that the canyonmost property line is about nine feet from the canyon top of slope. The lot is flat with the exception of a 25 foot by 20 foot triangular piece in the northeastern corner of the lot. The elevation in this triangular section goes from the 119 foot contour line to approximately the 107 foot contour line over a distance of 21 feet. As indicated in the geotechnical report the site was graded in 1956. The site has positive drainage from the top of slope back to the street.

The property lines of lots 6 and 7 include the flow line of the drainage. The property lines of the proposed development site do not extend down into the canyon to include the flow line. The City of San Clemente has a 20 foot wide drainage easement at the bottom of the canyon. The mass grading of lots 5, 6 and 7 in 1956 resulted in the flat pads and 1.5:1 slopes descending into the canyon.

The geotechnical report presents a favorable assessment of the structural stability of the site. It states:

No topological or physiological evidence of gross slope instability in the form of slumps or other forms of land sliding were observed within the site or has been documented on the Site or within its immediate vicinity.

Surficial instability in the form of localized soil sloughing or erosion was also not observed on the rear as-built 1.5H:1V slope. Most slope areas are covered with dense vegetal [sic] cover, thereby reducing soil sloughing process and improving surficial stability.

However, the geotechnical report also states:

The site is geotechnically suitable for the proposed development of single family residences, provided the conclusions and recommendations of this report are incorporated into the project plans, specifications and construction.

The recommendations of the geotechnical report concern grading, the foundation and footings, site drainage, and subgrade slabs. Therefore, the Commission finds that only as conditioned to provide project plans reviewed and signed by the consulting geotechnical experts is the proposed development consistent with Section 30253 of the Coastal Act regarding geological stability.

D. Local Coastal Program

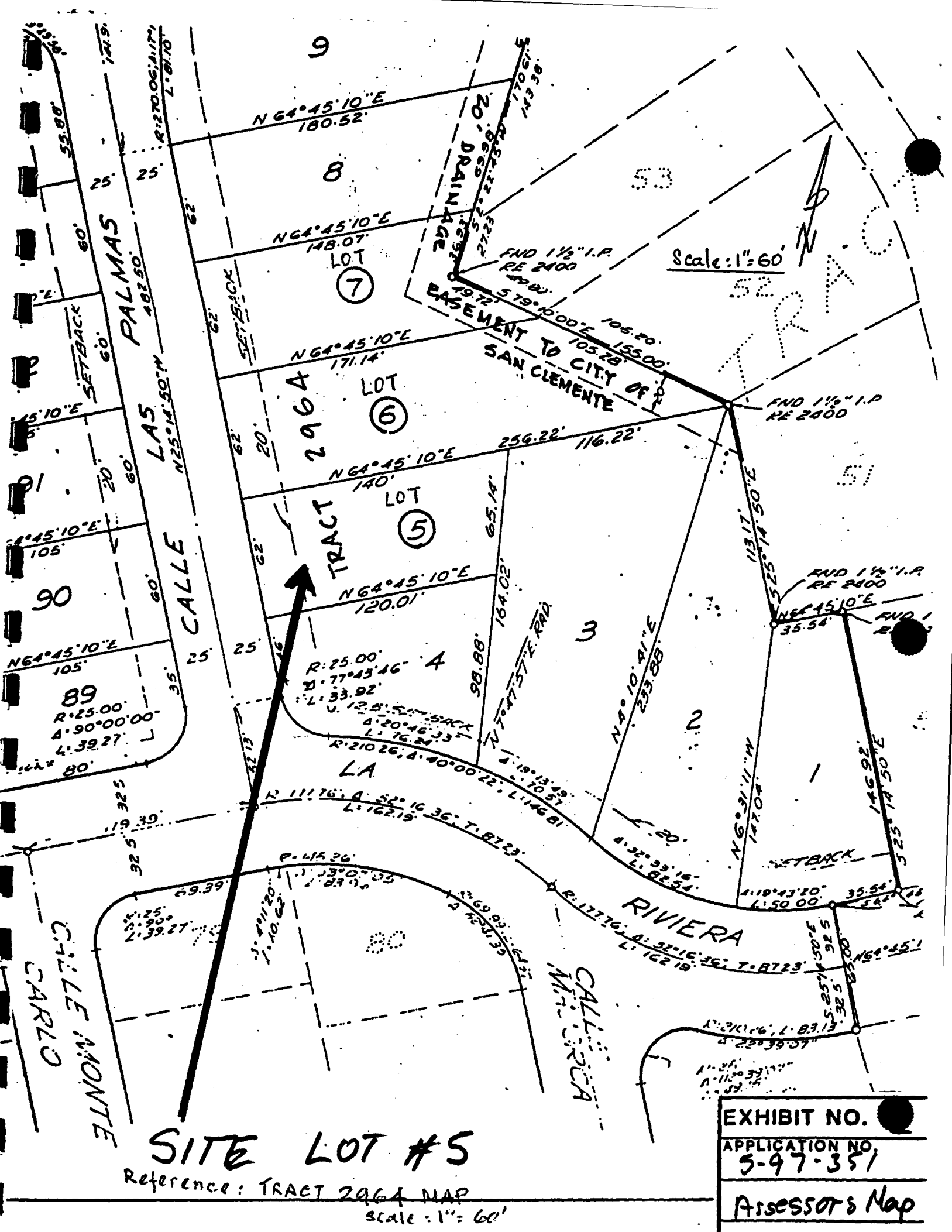
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

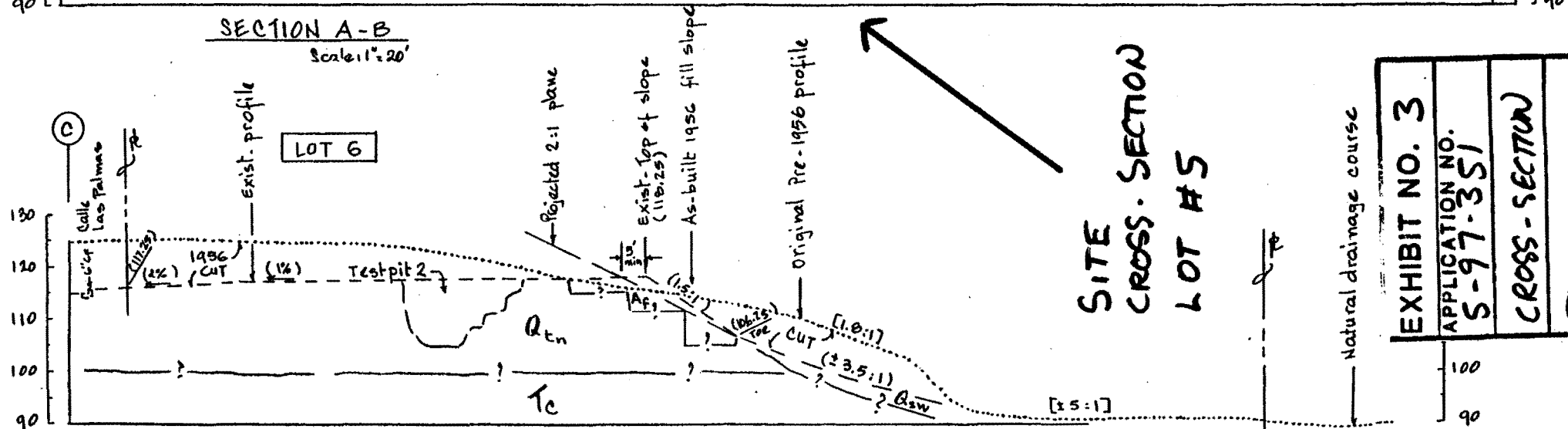
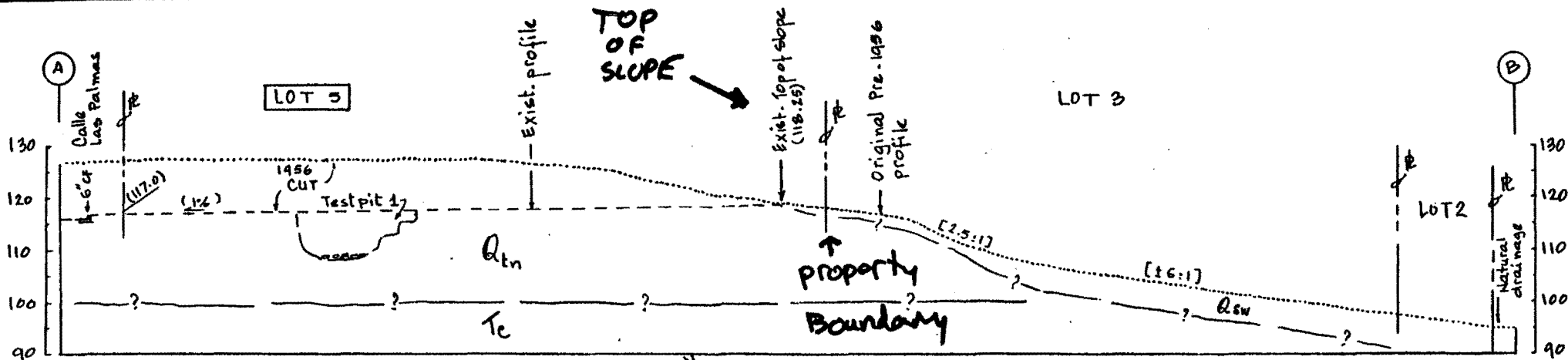
The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan regarding coastal canyon setbacks, enhancement of native vegetation, and geological stability. 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).

E. Consistency with the California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 the Coastal Act. Mitigation measures to conform to the consultant's geology/soils recommendations, record a future improvements deed restriction, submit a landscaping plan and disclose the destination of excess cut dirt are required to minimize potential adverse impacts of development. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



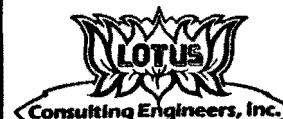


SITE
CROSS-SECTION
LOT #5

| |
|-----------------------------|
| EXHIBIT NO. 3 |
| APPLICATION NO. S-97-351 |
| CROSS-SECTION |

LEGEND

| | | | |
|-------|---|----------|----------------------------------|
| | Original Pre-1956 ground profile | Q_{sw} | slopewash Deposits |
| --- | Existing (as-graded in 1956) ground profile | Q_{tn} | non-marine Terrace Sediments |
| 6:1 | Original slope gradient | T_c | Capistrano Formation - Siltstone |
| 5:1 | As-graded 1956 slope gradient | A_f | 1956 Engineered Fill |
| 100 | Existing spot elevation | | |



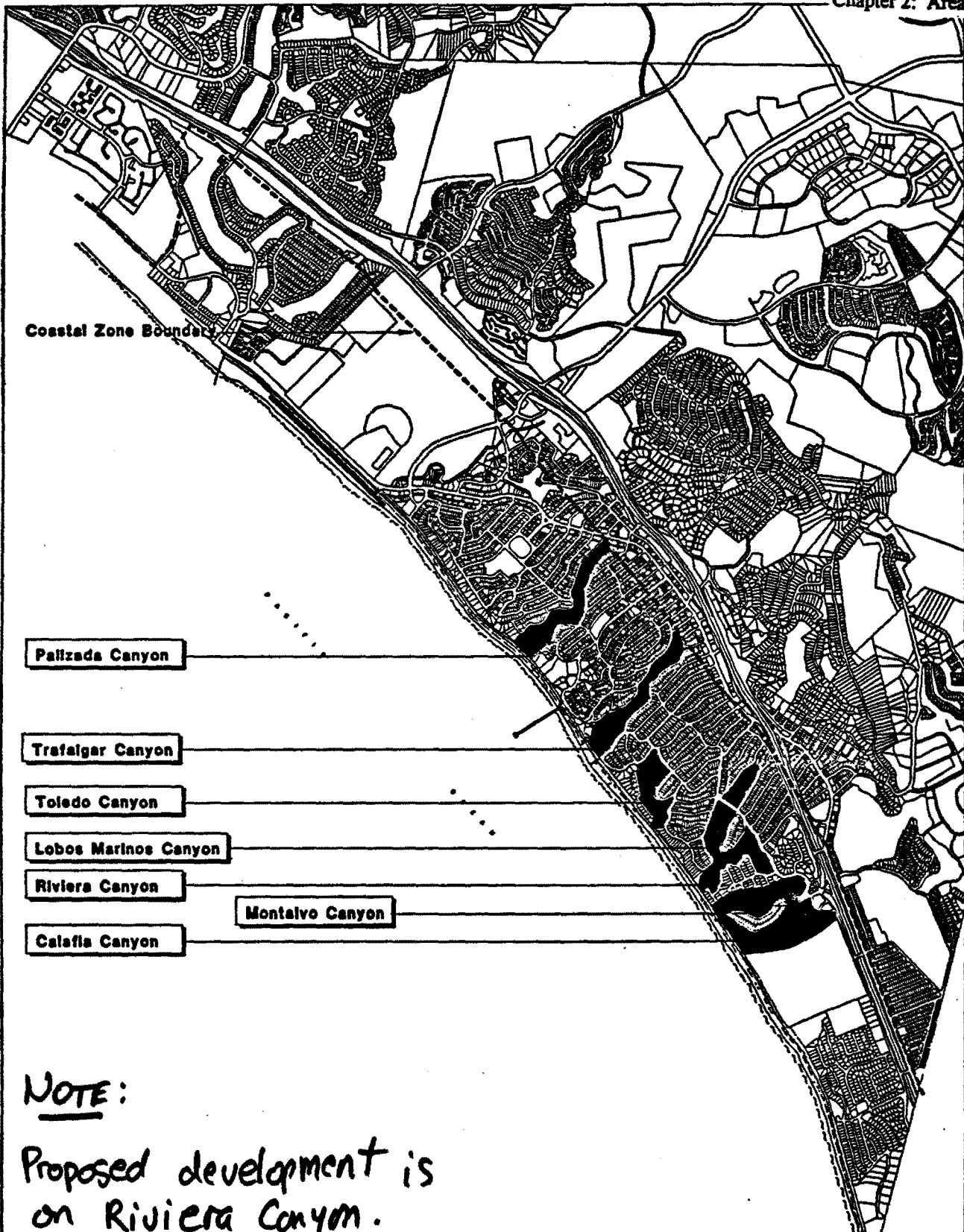
23112 ALCALDE DR., STE. C
LAGUNA HILLS, CA 92653
(714) 768-4466

GEOTECHNICAL SECTIONS

AT

LOTS 5 & 6 OF TRACT 2964
2313 & 2311 CALLE LAS PALMAS
SAN CLEMENTE, CALIFORNIA


| | | | |
|------------------------|--------------|-----------|---------------|
| PROJECT NO. 971291G | DATE 6/97 | BY ATD | FIGURE 5-1 |
|------------------------|--------------|-----------|---------------|



NOTE:

Proposed development is
on Riviera Canyon.

FIGURE 2-1

| |
|---|
| EXHIBIT NO. 4 |
| APPLICATION NO. 5-97-351 |
| ESHA MAP |
|  California Coastal Commission |



↑ Top of slope

