

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Staff Report: March 24, 2005
Hearing Date: April 13-15, 2005

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-13

Applicant: W & W Real Estate Holdings, LLC Agent: Sam Karp

Description: Construction of a new, approximately 7,697 sq.ft. 2-level single-family residence with an attached 1,035 sq.ft. garage, a 600 sq.ft. detached guesthouse, pool, and request for after-the-fact approval of grading, removal of eucalyptus trees, and replanting of slope on a 2.87-acre vacant lot.

Lot Area	2.87 acres.
Building Coverage	.17 acres (6%)
Pavement Coverage	.2 acres (7%)
Landscape Coverage	2.5 acres (87%)
Parking Spaces	4
Zoning	RR Rural Residential
Plan Designation	.35 du/ac
Project Density	.35
Ht abv fin grade	30 feet

Site: 15360 El Camino Real, Rancho Santa Fe, San Diego County.
APN 268-230-27

Substantive File Documents: Commission Certified County of San Diego Local Coastal Program (LCP); CDP #6-96-47.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed single-family residence and slope revegetation. There is little or no native vegetation on the site and the proposed residence will not be visible from any public areas. Special Conditions require that no invasive plant species be used anywhere on the site, and that the slope that was previously cleared of non-native vegetation be replanted with native, drought-tolerant, non-invasive species. In addition, the slope must be replanted with large trees to provide a vegetated canopy and visual buffer similar to the one that was removed.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-05-13 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Revised Landscape Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a revised final landscape plan developed in consultation with the California Department of Fish and Game. Said plan shall be approved by the County of San Diego, have the written approval of the Rancho Santa Fe Fire Department, and shall include the following requirements:

- a. The installation of plant materials within the County of San Diego open space easement shall consist only of native, drought-tolerant and non-invasive plant materials. The east-facing slope in the open space easement shall be planted with a minimum of 20 specimen size (24-inch box minimum) trees, arranged across the slope, which at maturity will gain substantial height.

- b. The installation of plant materials on the remainder of the site shall consist only of non-invasive or native, drought-tolerant, fire-resistant materials. The plan shall also indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features on the site.
- c. Indication of the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features on the site.
- d. A planting schedule that indicates the planting plan will be implemented within 60 days of completion of construction.
- e. A written commitment by the applicant that all required plantings will be maintained in good growing condition, and whenever necessary, will be replaced with new plant materials to ensure continued compliance.
- d. A written commitment by the applicant that five years from the date of the receipt of the Certificate of Occupancy for the residence, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake development in accordance with the approved landscaping plans. Any proposed changes to the approved landscaping 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. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final site, building, elevation and drainage plans for the permitted development that have been approved in writing by the County of San Diego. Said plans shall be in substantial conformance with the plans submitted by John P. Jensen, dated 10/29/04. The site plan shall show the existing County of San Diego open

space easement. The plans shall specifically document through written notes on the plan the following requirements:

- a. No structures, grading, or other improvements other than the native landscaping required pursuant to Special Condition #1 of this permit and the existing paved private road are permitted in the open space easement area.
- b. Runoff from the roof, driveway and other impervious surfaces will be directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation, prior to being conveyed off-site in a non-erosive manner.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final site and grading plans stamped and approved by the County of San Diego with plan notes specifically incorporating the following requirements:

- a. All areas newly disturbed by grading shall be planted within 60 days of the initial disturbance with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize species compatible with surrounding native vegetation, subject to Executive Director approval.
- b. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans or grading schedule 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.

4. Future Development Restriction. This permit is only for the development described in coastal development permit No. 6-05-13. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. 6-05-13 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

5. Condition Compliance. **WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION,** or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

6. Replanting of Slope. **WITHIN (60) DAYS OF ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** or within such additional time as the Executive Director may grant for good cause, the applicants shall implement the required plantings within the open space easement consistent with the requirements of Special Condition #1 of this permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposal is for the construction of a new, approximately 7,697 sq.ft. 2-level single-family residence with an attached 1,035 sq.ft. garage, a 600 sq.ft. detached guesthouse, pool, and request for after-the-fact approval for grading, removal of eucalyptus trees, and replanting of the slope on a 2.87-acre vacant lot. The existing pad was graded between 1996 and 2003 without the required coastal development permit. There is also an existing driveway on the site and only minor amounts of new grading is proposed.

The site is located on the west side of El Camino Real, south of Linea del Cielo in the Lomas Santa Fe community in the County of San Diego. The site consists of a eastern-facing slope fronting El Camino Real, and a flat pad on the upper, western portion of the lot. The surrounding area is characterized by large lot residential development.

In May 1996, the Commission approved the subdivision of an existing 20.64-acre parcel into five lots, including the subject site (#6-96-47/Pierson). At that time, the entire parcel was characterized by stands of ornamental trees, predominately Eucalyptus, ornamental landscaping, and a variety of non-native grasses. Portions of the lot, including the subject lot, have steep slopes, mostly along the El Camino Real frontage. There was not at that time, nor is there currently, any coastal sage habitat or scrub brush understory on any portion of the larger parcel, including the subject lot.

On March 12, 2003, the Rancho Santa Fe Fire Protection District sent the property owner of the site a letter requesting the removal of all dead/dying trees from the entire property within 15 days. The applicant has indicated that this request was carried out within the required timeframe. However, a site inspection by Commission Enforcement staff in December 2003 revealed that almost the entire slope was cleared and numerous mature eucalyptus trees were removed. In addition, it appears that some minor grading was done on the slope to clear the slope of vegetation.

The project site is located within the unincorporated County of San Diego. While the County of San Diego did receive approval of its Local Coastal Program from the Commission in 1985, it never became effectively certified. As such, the standard of review is Chapter 3 policies of the Coastal Act with the County LCP used as guidance.

2. Environmentally Sensitive Habitats/Steep Slopes. Section 30231 of the Coastal Act is applicable to the proposed development and states, in part:

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...

In addition, Section 30240 of the Coastal Act is applicable and 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 project site is located within the Coastal Resource Protection (CRP) overlay zone of the Commission-certified County of San Diego LCP. The CRP overlay zone was developed as part of the County LCP in response to the habitat protection policies of the Coastal Act and the need to preserve environmentally sensitive habitats and steep slopes. When the subject site was created as part of a larger subdivision in 1996, the County of San Diego required a slope analysis and biological report. The report determined that the parcel proposed for subdivision, including the slope on the subject lot overlooking El Camino Real, contained slopes of 25% or greater. The report concluded, however that the potential for preserving meaningful habitat on the site was not applicable since there was no natural habitat on the site. Nevertheless, the County required that an open space easement be placed over the eucalyptus groves to provide for continued raptor use, preservation of steep slopes, and to provide a visual barrier from views from El Camino Real. The easement precluded grading, placement of fill, removal of the eucalyptus trees, or other development, with the exception of certain driveways. In its approval of the

subdivision, the Commission found that since the site did not contain significant natural vegetation, and the open space easement required by the County would provide protection for the non-natively vegetated steep slopes on the site, there was no need for the Commission to require that open space be provided in conjunction with its permit review.

The proposed project includes the construction of a new house and guesthouse on the upper, western portion of the site, and after-the-fact approval of grading, the removal of vegetation, and grading of the slope above El Camino Real. The County has indicated that despite the removal of vegetation, no further action or amendments to the County's existing open space easement will be required. The applicant has submitted a landscape plan approved by the Rancho Santa Fe Fire Department that includes a 100-foot fuel modification zone. Because there is no sensitive vegetation on the site or on the lots immediately adjacent to the subject site, the fuel modification will not have any adverse impact on environmentally sensitive habitat or native vegetation.

However, the proposed landscaping plan consists almost entirely of non-native ornamental vegetation, including some of which are considered invasive and inappropriate in the vicinity of sensitive resources (e.g. tall fescue; *Schinus molle*, *Phoenix canariensis*, *Olea europea*, *Myoporum laetum*, *Myoporum pacificum*, *Mycosis*, *Myoporum parvifolium*). Although there are no sensitive resources on the site, the site is approximately 1.5 miles from San Elijo Lagoon Ecological Reserve to the northwest, approximately 1 mile from the San Dieguito River Valley to the south, and as such, the presence of invasive species could adversely affect off-site environmentally sensitive resources.

Also proposed on the flat portion of the site are species such as new and existing citrus trees, which, while not native, are not invasive and are fairly fire-resistant. There appears to be little or no native vegetation on the subject site, including the trees that were removed from the slope. The portion of the site where the residence and guest house are proposed is well removed from El Camino Real and surrounded by lots developed with predominantly non-native landscaping. In contrast, most of the portion of the site that falls within the County's open space easement is highly visible from El Camino Real (see below discussion of Visual Resources), and is well located and suitable for providing a natural landscape. The Commission's Ecologist has previously identified that even isolated patches of native habitat could serve as "stopping points" or links for birds between the San Elijo Lagoon to the northwest and San Dieguito County Park to the south (#6-99-148/Horseman's Valley). Given the significant amounts of clearing that took place on the slope, replacing the vegetation with natives would serve to partially mitigate potentially adverse impacts to birds or other species that might have resulted from the unpermitted clearing.

Therefore, Special Condition #1 requires submittal of a revised landscaping plan. The portion of the lot within the County's open space easement must be landscaped with native drought-tolerant and non-invasive plants. The remaining portion of the lot must be landscaped with non-invasive species to avoid potential indirect adverse effects to nearby sensitive resources. The landscaping plan must be developed in consultation with the

California Department of Fish and Game to assure appropriate species are used. A small portion of the outer 50 feet of fuel modification zone overlaps with the open space easement. In general, the Fire Department permits existing native vegetation in this zone to remain but it must be thinned-out by 50%, dead vegetation must be removed, and specific fire-related "undesirable" plants and weeds must be completely removed. The revised landscape plans must be approved by the Fire Department to ensure that the required native species will not require clearing in the future. Special Condition #4 puts the permittees on notice about the need to obtain a coastal development permit for non-exempt development in the future.

In summary, as conditioned to ensure that native vegetation will be planted on the slope and that no portion of the proposed landscaping will adversely affect sensitive vegetation, the Commission finds the project is consistent with Sections 30231 and 30240 of the Coastal Act regarding protection of environmentally sensitive resources.

3. Runoff/Water Quality/Hazards. Section 30231 of the Coastal Act is applicable to the proposed development and 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.

Section 30231 and 30240 of the Coastal Act also require that new development be designed to minimize the adverse impacts of sediments and polluted runoff that enter sensitive habitat areas. The subject site is not adjacent to any streams or wetlands, but runoff from the site will eventually drain into the San Dieguito River and Lagoon.

In the past in San Diego County, the Commission typically restricted grading, particularly large scale grading projects, to outside the winter months when erosion and transport of sediment to lagoons or other sensitive resource areas is least likely to occur. However, due to technological advances and a better understanding of the importance of erosion control measures, many of the local jurisdictions in San Diego County have new grading ordinances that include detailed erosion control provisions. As such, limiting grading to the non-rainy months is no longer necessary (in most cases) or required by many of the local jurisdictions in San Diego County.

The County of San Diego has also revised their ordinances to not require a rainy season moratorium in coastal San Diego County and has recently adopted new erosion control provisions that assure that off-site sedimentation impacts will be minimized. In this case, only minor amounts of grading are proposed. Nevertheless, erosion control measures are still important to ensure off-site resources are not harmed. Special Condition #4 requires

the submittal of final grading and erosion control plans documenting that erosion control measure will be implemented.

In order to further reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Condition #1 is attached. The condition requires that runoff from the roof, driveway and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being conveyed off-site. Directing runoff through landscaping is a well-established BMP for treating runoff from developments such as the subject proposal. As conditioned, the proposed development will serve to reduce any impacts to water quality from the project to insignificant levels, and the Commission finds that the project is consistent with Section 30231 of the Coastal Act regarding the protection of water quality.

4. Visual Resources. Section 30251 of the Coastal Act is applicable and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The subject site is not visible from any portion of the coastline, lagoons, or parks, but the slope on the eastern portion of site above El Camino Real is highly visible from this roadway, which is a major access link between the lagoons and the inland boundary of the Coastal Zone. As discussed above, when the Commission approved the subdivision that created the subject site, it was with the understanding that the eucalyptus groves within the County of San Diego's open space easement would be retained in order to provide a visual buffer from views from El Camino Real. The removal of the eucalyptus significantly changed the appearance of the slope and disrupted what was previously a fairly contiguous line of dense, lush tree canopies along that stretch of El Camino Real.

The applicant has submitted a landscaping plan that proposes a large number of specimen size trees located all around the east-facing slope visible from El Camino Real. However, as discussed above, the majority of the proposed trees are not native, and several are considered invasive and inappropriate in the vicinity of sensitive native vegetation, such as that found in at San Elijo Lagoon to the north, the San Dieguito River Valley to the south, and the various patches of upland native vegetation found in the area.

Therefore, Special Condition #1 requires that the applicant submit and implement a revised landscape plan that provides for the same number of trees (20) on the east-facing slopes, but requires that the trees be native, drought-tolerant and non-invasive species that at maturity will gain substantial height. These trees will provide a visual buffer along El Camino Real similar to the one that was removed. Additionally, the subject residence is compatible in size and scale with the pattern of development in the subject area. As such, the project will not adversely impact the visual quality of the area, and is consistent with Section 30251 of the Act.

5. Unpermitted Development. Development has occurred on the subject site consisting of grading, removal of eucalyptus trees, and replanting of slope without the required coastal development permits. To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition #5 requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 60 days of Commission action. The applicant is also proposing to revegetate the slope. In order to ensure the slope where the vegetation was removed is replanted in a timely manner, Special Condition #6 requires the applicant to implement the required landscaping within the County's open space easement within 60 days of the issuance of this permit unless additional time is granted by the Executive Director for good cause.

Although development has taken place prior to the submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

While the County of San Diego did receive approval of its Local Coastal Program from the Commission in 1985, it never became effectively certified. As such, the standard of review is Chapter 3 policies of the Coastal Act with the County LCP used as guidance. The subject site is planned and zoned for large-lot residential development at a density of .35 dwelling units per acre in the Commission certified County of San Diego Local Coastal Program. The subject site is consistent with this designation. The project site is also located within the County's Coastal Resource Protection (CRP) Overlay area, which calls for the protection of steep naturally vegetated areas. As discussed above, the proposed project is consistent with the CRP provisions. As conditioned, the project will not adversely impact environmentally sensitive habitat areas and is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that project approval will not prejudice the ability of the County of San Diego to obtain an effectively certified LCP.

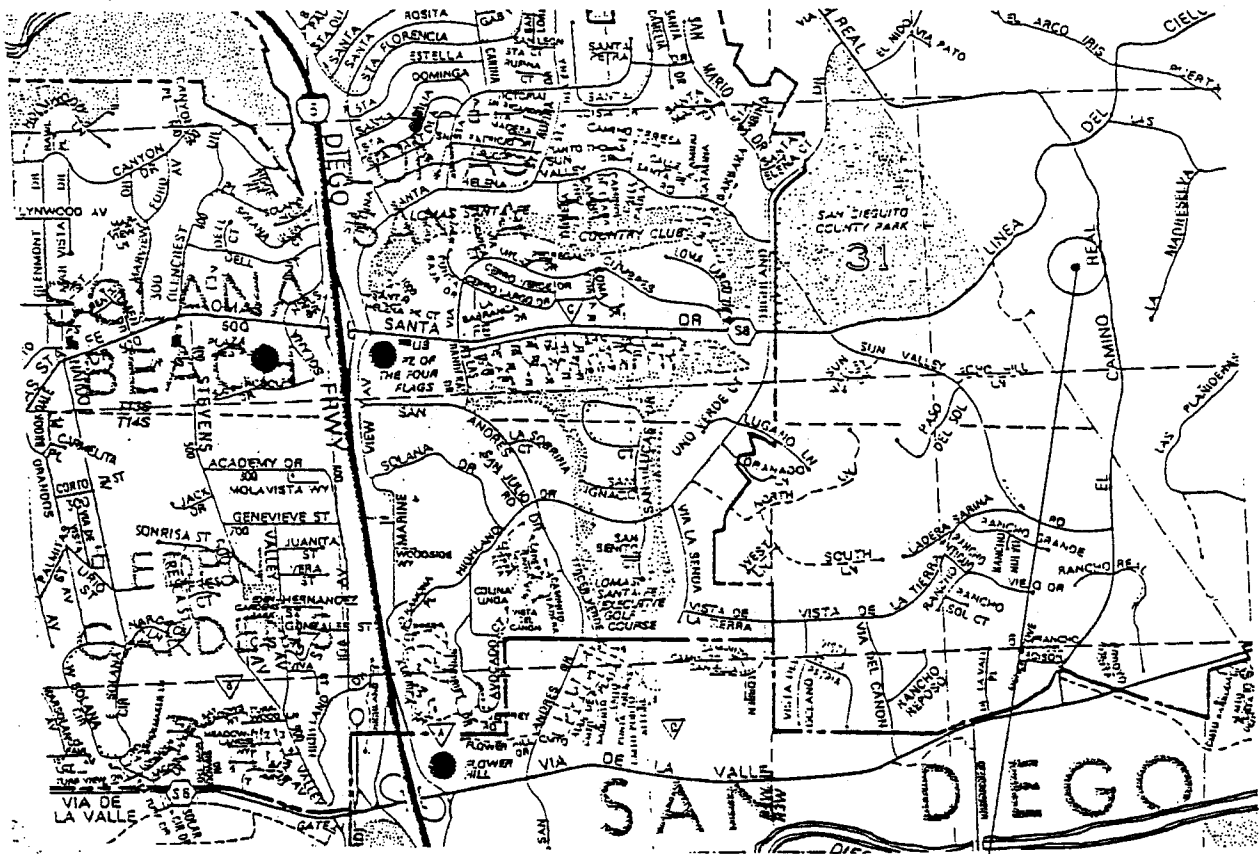
7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(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 proposed project has been conditioned in order to be consistent with the environmental resource protection policies of the Coastal Act. Mitigation measures, including conditions addressing the submittal of final site, drainage, grading and landscape plans will minimize all adverse environmental impacts. 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 is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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 on which the Commission voted on the application. 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.



SITE

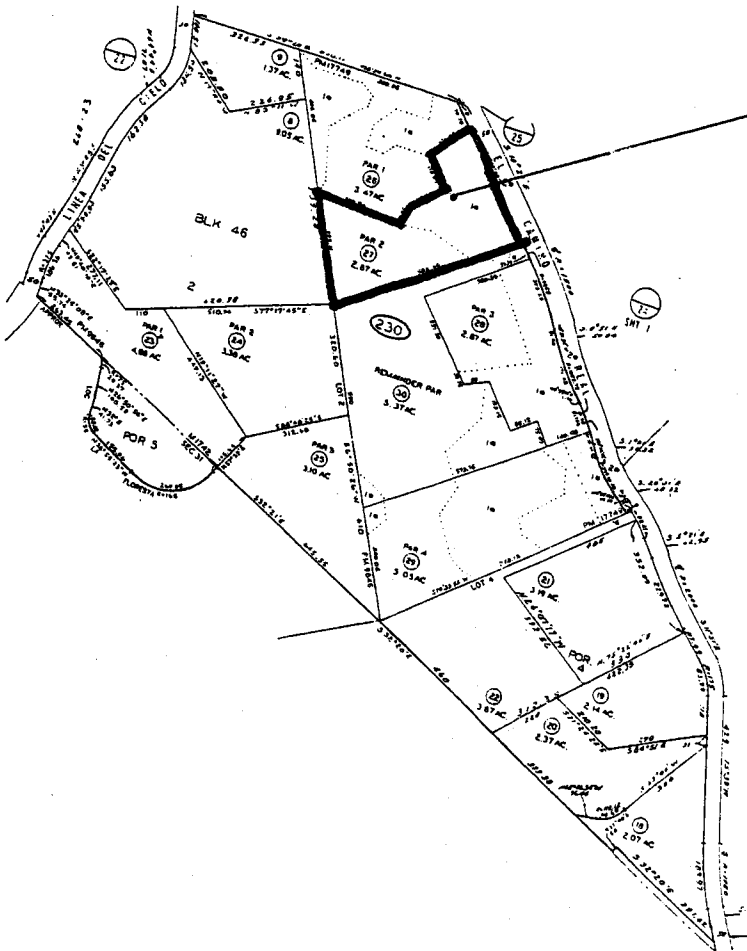



EXHIBIT NO. 1
APPLICATION NO.
6-05-13
Location Map
 California Coastal Commission

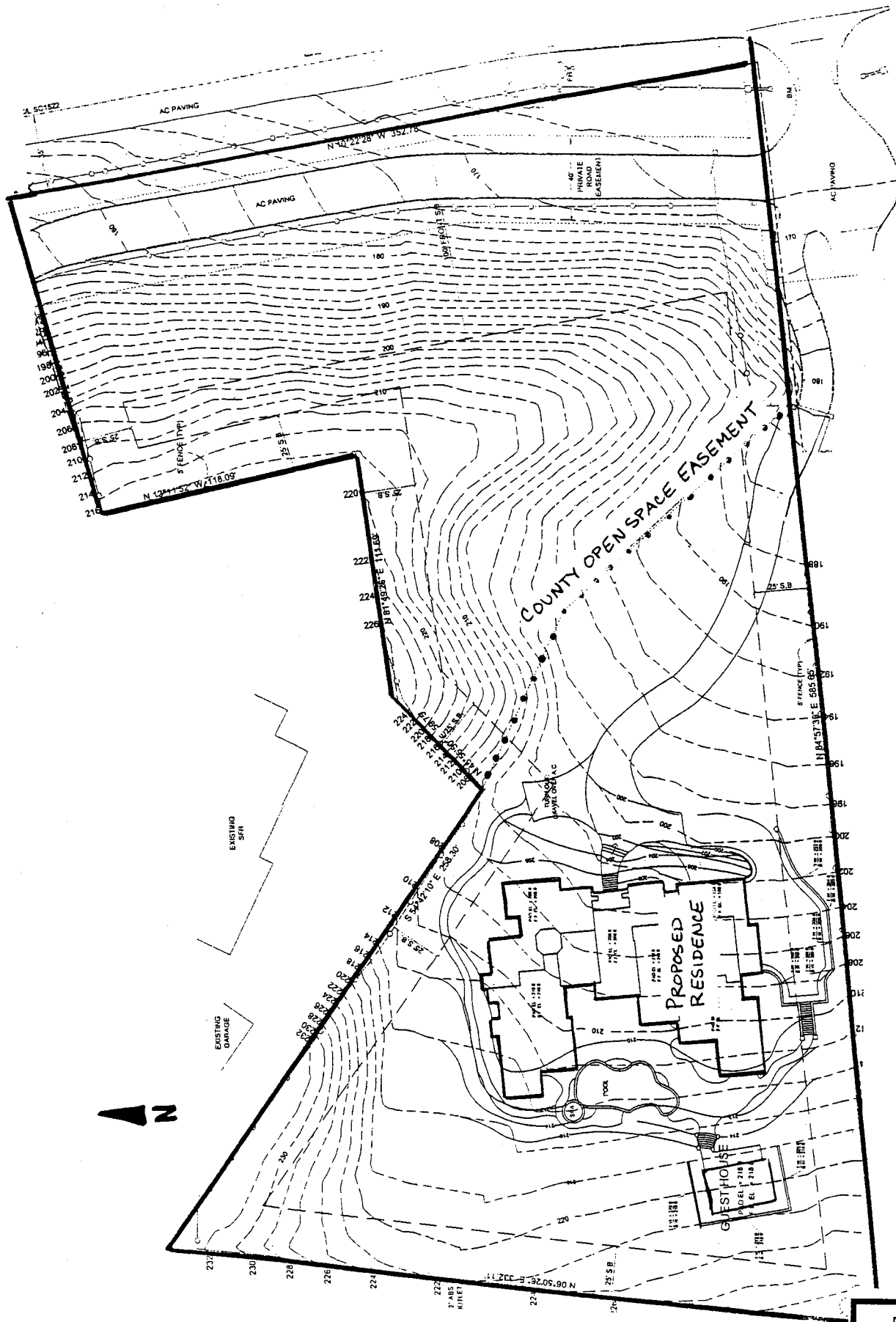


EXHIBIT NO. 2
 APPLICATION NO.
6-05-13
 Site Plan

