

CALIFORNIA COASTAL COMMISSION

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W14a

Filed: June 8, 2010
49th Day: WAIVED
Staff: T. Ross-SD
Staff Report: May 26, 2011
Hearing Date: June 15-17, 2011

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Carlsbad

DECISION: Approved with Conditions

APPEAL NO.: A-6-CII-10-044

APPLICANT: Ocean Park Estates

PROJECT DESCRIPTION: The subdivision of an existing 146-space rental mobile home park into 146 privately owned airspace lots.

PROJECT LOCATION: 6550 Ponto Drive, Carlsbad, San Diego County

APPELLANTS: Commissioner Patrick Kruer, Commissioner Sara Wan

SUMMARY OF STAFF RECOMMENDATION: The staff recommends that the Commission, after public hearing, determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed. While the appellants are correct in that the City failed to adequately review the project for consistency with the City's LCP, based on review of the City's file and information provided by the applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions as the approved subdivision does not result in any coastal resource impacts.

SUBSTANTIVE FILE DOCUMENTS: Appeal by Commissioners Patrick Kruer and Sara Wan, filed June 8, 2011; Certified City of Carlsbad Local Coastal Program (LCP)/Mello II Segment; Carlsbad Coastal Development Permit 09-15.

I. Appellants Contend That: The proposed development is inconsistent with the policies of the certified LCP in that the City failed to do an adequate analysis of the potential impacts associated with a subdivision proposal. A range of coastal resource policies certified in the City's LCP should have been applied and reviewed associated with this request for land division, including, but not limited to, protection and enhancement of

public access, biological resources, water quality and scenic resources. However, the City's action included very limited findings relative to the following coastal resource concerns:

- The project site's proximity to ESHA, particularly identified vernal pools on the adjacent property;
- Potential concerns related to runoff and water quality both on- and off-site;
- Protection of scenic resources along a major coastal access corridor and scenic route;
- Adequacy of on-site parking facilities; and
- Protection/presence of public access and recreational impacts/opportunities

The appellants, therefore, contend that the project, as approved by the City, cannot be found consistent with the City's certified Local Coastal Program. The City staff report cited Government Code section 64427.5, addressing what is required associated with any mobile home subdivision or conversion from rental to single-ownership lots. Specifically this section details what is required of the "subdivider" in order to adequately avoid economic displacement of all non-purchasing residents. The City had indicated that this section limits the review of the conversion by the City to the issue of compliance with this section only, thus, the City's applicable *zoning policies* do not apply. The Commission has previously interpreted this section to mean that while the City does not have direct jurisdiction over the review of the project, it is still required through its obligations under the Coastal Act, to find the project consistent with the City's Local Coastal Program, which includes the City's zoning policies. The City, to a limited extent, did, however, apply the land use policies certified in its LCP. The subdivision of mobile home parks to facilitate individual ownership has become a statewide concern for the Coastal Commission, in that local governments' review of this type of subdivision often excludes the policies contained in their certified Local Coastal Programs and/or the Coastal Act.

II. Local Government Action. The City of Carlsbad Planning Commission approved the subdivision on April 27, 2010 with eight conditions. The majority of conditions associated with the approval were general conditions required with any development; however, one special condition requires the applicant to comply with all federal, state and local laws.

III. Appeal Procedures/Substantial Issue Analysis. After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the

certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. titl. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;

2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-CII-10-044 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-6-CII-10-044 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The project consists of the subdivision of one lot to 146 “airspace” condominium lots on a 14.13-acre site. The subdivision will convert the currently existing 146-space rental mobile home park into an ownership park. All onsite facilities necessary to serve the mobile home park, including access roads, sewer, water, electricity, etc., exist and no additional improvements or changes to the current use are proposed as a component of the City’s approval. Upon recordation of the final map, each existing tenant will be given the option to purchase the newly created airspace condominium lot on which his or her mobile home is located. Tenants that choose not to purchase may continue to rent their space. According to the City, increases in space rent are also regulated by California Governmental Code Section 66427.5. A homeowners association (HOA) will be created and each new airspace condominium unit will have an equal interest in the HOA.

The subject site is located on the inland side of Carlsbad Boulevard within 300 feet of the top of the seaward face of a coastal bluff. Adjacent development includes South Carlsbad State Beach and state campground to the west, the rail corridor and Poinsettia Coaster Station to the east, and single family homes to the north and south. The Commission reviewed and approved North County Transit District’s (NCTD) proposal for the construction of the Poinsettia Coaster Station in March of 1994. During this review, it was recognized that the Poinsettia Coaster site contained jurisdictional wetland areas (vernal pools). The vernal pools are now a protected resource and the area is managed by U.S. Fish and Wildlife Service.

2. Consistency with Certified LCP. The primary concern associated with the City’s approval is that by dividing land into small lots that correspond with the location of existing mobile homes, this action would also have the effect of formalizing the location of these existing mobile home sites and extending the lot configuration into the future. This action would formalize the lot development pattern without addressing whether or not it was suitable for development over the long term. The appellants raise four specific concerns associated with approving the subdivision. These concerns include 1) the provision of adequate public access and recreational opportunities; 2) potential impacts to water quality; 3) potential impacts to environmentally sensitive habitat; and, 4) potential impacts to scenic resources. These concerns are discussed separately and in greater detail below.

A. Environmentally Sensitive Habitat Areas. The City’s LCP contains numerous policies pertaining to the protection of sensitive habitats. The two applicable policies are cited below and state:

Mello II Policy 3-1.2 – Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Mello II Policy 3-1.7 Wetlands

Pursuant to California Public Resources Code Section 30121 and Title 14, California Code of Regulations Section 13577(b), 'wetland' means lands within the coastal zone, which may be covered periodically or permanently with shallow water and include salt water marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens. Wetland shall include land where the water table is at, near, or above the land surface long enough to promote formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil poorly developed or absent as a result of frequent and drastic or other substances in the substrate. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions.

Wetlands as delineated following the definitions and boundary descriptions in Section 13577 of the California Code of Regulations.

Pursuant to California Public Resources Code Section 30233, no impacts to wetlands shall be allowed except as follows:

- a. The diking, filling, or dredging of open coastal waters, wetlands, estuaries and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
 - (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
 - (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
 - (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary

navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public services purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intakes and outfall lines.
- (6) Mineral extraction, including sand for restoration beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.

The City's approved Coastal Development Permit (CDP) authorized the subdivision of a 14.13-acre lot into 146-airspace condominium lots, to allow for private ownership of an existing 146-space rental mobile home park. As previously stated, the Commission reviewed and approved North County Transit District's (NCTD) proposal for the construction of the Poinsettia Coaster Station in March of 1994. During this review, it was recognized that the Poinsettia Coaster site contained jurisdictional wetland areas (vernal pools). Several special conditions were required for the protection and enhancement of these vernal pools including mitigation, fencing, signage, an irrevocable offer to dedicate an easement for habitat restoration, habitat maintenance, open space, and habitat protection (ref. CDP No. 6-93-207). The vernal pools are now a protected resource and the area is managed by U.S. Fish and Wildlife Service.

The appellants contend that the proximity of the vernal pools to the mobile home park was not addressed in the City's review/approval. Unless one has a clear understanding of a project site's proximity to vernal pools, it would be impossible to determine if a sufficient buffer exists that can effectively protect the habitat. As such, reviewing the potential impacts to the vernal pools should be included when a lot is being proposed for subdivision into permanent and separate airspace lots. It is also during this time that any necessary buffers to the habitat should be required. Again, by the City approving the subdivision without such review, it allowed a density for the site that could have resulted in impacts to the adjacent vernal pools. Additionally, if not the density, but the location of the newly created lots were a concern, the City could have required a different lot configuration and potentially, a more appropriate buffer between the newly created lots and the vernal pools. Additionally, the last time the vernal pools were mapped was in 1993, and vernal pools are inherently ambulatory. In its approval of this CDP, the City failed to address the current location of the vernal pools, any necessary buffers, or any decrease in density, to protect the vernal pools consistent with its certified LCP. In

reviewing this appeal, Commission staff contacted the U.S. Fish and Wildlife Service (FWS) regarding the issue of the subject site's proximity to the vernal pools, and inquired if, in order to protect the vernal pools, any additional mitigation measures were necessary. In this case, FWS staff indicated that the distance and existing development (including the railway) separating the subject site and the vernal pools was an adequate distance to protect/buffer the vernal pools. Therefore, in this case, while the City failed to adequately review and address the proposed development's potential impacts to ESHA, specifically vernal pools, the location of the development, as approved by the City, will not result in any impacts to the vernal pools, so the proposed development does not raise a significant issue.

B. Public Access/Recreation. The subject site is located west of the railroad tracks and Poinsettia Coaster Station and east of South Carlsbad State Beach and Carlsbad Blvd (ref. Exhibit #1, 2). As such, coastal access and parking amenities should be reviewed associated with any proposed development at this location. The project is located within 300 feet of the top of the seaward face of a coastal bluff, but is not located between the sea and the first coastal roadway, and therefore, the public access and recreational policies of the Coastal Act do not apply; only the City's policies are applicable and are stated below.

Policy 7-3 Access along Shoreline

The City will cooperate with the State to ensure that lateral beach access is protected and enhanced to the maximum degree feasible, and will continue to formalize shoreline prescriptive rights. Irrevocable offers to dedication for lateral accessways between the mean high tide line and the base of coastal bluffs, and vertical accessways where applicable, shall be required in new development consistent with Section 30212 of the Coastal Act of 1976. There is evidence of historic public use adjacent to Buena Vista Lagoon. Paths crisscross the area near the railroad tracks to the ocean shoreline. Development shall provide access and protect such existing access consistent with the needs to protect habitat.

The City's Implementation Plan also has applicable policies that state:

Coastal Shoreline Development - Policy 21.204.060 (2) - Requirements for Public Access.

One or more of the following types of public access shall be required as a condition of development:

...

2. **Additional Requirements.** New developments as specified below shall be conditioned to provide the public with lateral public access in addition to minimum requirements.

a. Applicability

- (1) Seawalls and other shoreline protective devices.
- (2). Development on parcels where there is evidence of historic public use. In such areas the amount and location of additional access shall be equal to the amount and extent of public use
- (3). Development which either by itself or in conjunction with anticipated future projects adversely affects existing public access by overcrowding of major coastal access roads or existing beach areas.
- (5). Access as identified in the local coastal program. Developments adjacent to Buena Vista Lagoon (see Policy 7-6 of the local coastal program Mello II Segment land use plan) and the parcel located at extreme north end of Ocean Street (see Policy 7-8 of the local coastal program Mello II Segment land use plan.)

b. Required Standards. In determining the amount and type of additional lateral public access to be required (e.g. area for additional parking facilities, construction of improvements to be made available to the public, increased dry sandy beach area, or type of use of the dry sandy beach) the city shall make findings of fact considering the following:

- (1). The extent to which the development itself creates physical and visual impediments to public access which has not been mitigated through revisions in design or plan changes.
- (2). The extent to which the development discourages the public from visiting the shoreline because of the physical and visual proximity of the development to the shoreline.

[...]

RMHP Residential Mobile Home Park Zone – 21.37.100 Development Standards

[...]

17. Each mobile home site shall include a paved area suitable for providing automobile shelter for at least two automobiles...
19. Visitor parking shall be provided at a ratio of one space per four mobile home units.

The appellants contend that the City failed to identify/address public access and recreational amenities or opportunities with the proposed development. The City also

failed to address if the number of existing parking spaces was adequate to provide parking for all of the mobile home park residents and their visitors. Again, the subject site is located directly in between a state park with overnight camping and the Poinsettia Coaster Station, thus on-street parking is a valuable amenity at this location. If the mobile home park does not provide adequate resident and visitor parking, these residents and visitors could use any available on-street parking, which could usurp such parking spaces that should otherwise be available for the beach going public. The City, in its approval, included the following finding pertaining to public access and recreation, which stated:

...Since the site does not have frontage along the coastline, no public opportunities for coastal shoreline access are available from the subject site. Furthermore, the residentially-designated site is not suited for water-oriented recreation activities.

The appellants contend that the above stated findings do not adequately address all public access and recreation concerns associated with new development such as the subject subdivision. Additionally, the City failed to identify any existing public access/recreation *amenities* located at this site. Lastly, the City failed to address the current parking within the park and if this parking stock would be adequate to accommodate the subdivision. Since the time of the Commission appeal, Commission staff, the City and the applicant have worked cooperatively to address these oversights. Commission staff visited the mobile home park, and assessed the public access and recreation opportunities. In this case, there are already more than adequate public access improvements in this area. Specifically, there are improved public access paths starting from the coaster station along the north boundary of the subject site west to the residential development, which then connects to Carlsbad Blvd., as well as, on the south boundary of the subject site west to Carlsbad Boulevard (ref. Exhibit # 4). Therefore, transit passengers have easy and unobstructed access to and from the transit station to the beach. Therefore, no additional vertical public access improvements are necessary associated with the approved subdivision.

Additionally, the City's zoning chapter addressing mobile home parks, which is a certified component of the City's LCP, contains parking standards for all mobile home parks. These standards require two (2) paved spaces per mobile home, and one (1) visitor parking space for every four (4) mobile homes. The total required parking for this site under these standards is 329 spaces. The current parking stock is 330 spaces. The proposed development is not increasing the number of mobile home units, thus no additional parking is necessary. As such, again, while the City may have failed to adequately address the *potential* impacts to public access and recreation, in this case, the development as approved by the City can be found consistent with the City's LCP. Therefore, the project does not raise a significant issue on the grounds raised by the appellants.

C. Scenic Resources. Due to the proximity of the proposed subdivision with a large section of undeveloped beach (state park), impacts associated with coastal scenic resources are relevant. The appellants contend that the City failed to adequately address

impacts associated with scenic resources. The City's certified LCP contains policies addressing the prevention of public view impacts, and states, in part:

Land Use Plan Policy 8-1 Site Development Review

The Scenic Preservation Overlay Zone should be applied where necessary through the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

The City's Implementation Plan also contains several policies addressing impacts to coastal views:

S-P Scenic Preservation - Policy 21.40.135 - Coastal Zone Restrictions.

Within the coastal zone, existing public views and panorama shall be maintained. Through the individualized review process, sites considered for development shall be conditioned so as to not obstruct or otherwise damage the visual beauty of the coastal zone. In addition to the above, height limitations and see-through construction techniques should be employed. Shoreline development shall be built in clusters to leave open area around them to permit more frequent views of the shoreline. Vista points shall be incorporated as parts of larger projects...

Coastal Shoreline Development - Policy 21.204.100 (B & C)

- B. Appearance – Buildings and structures will be so located on the site as to create a generally attractive appearance and be agreeably related to surrounding development and the natural environment.
- C. Ocean Views – Buildings, structures, and landscaping will be so located as to preserve the degree feasible any ocean views as may be visible from the nearest public street.

As previously discussed, the City did not review the proposed subdivision in a manner that included, reviewed, and/or eliminated all coastal impact concerns. Again, the subdivision serves to finalize a development type, density, and location of mobile homes that may have previously been available for removal, relocation, and redesign. As such, these permanent lines of development needed to be reviewed for consistency with all policies of the City's LCP. In this case, the City failed to sufficiently identify or address any scenic resources that would be impacted through approval of the subdivision. The City's staff report made minimal findings pertaining to scenic resources. The report included the following:

No improvements or construction are proposed nor will construction of improvements be a condition of approval. **Subdividing** the mobile home park will not obstruct views of the coastline as seen from public lands or the public right-of-way, nor otherwise damage the visual beauty of the coastal zone...[emphasis added]

The appellants contend that the subdivision will finalize a line of development and therefore, the scenic resource impacts associated with the mobile homes themselves and not just the subdivision should have been reviewed by the City. Again, since the time of the appeal, Commission staff and the applicant have worked cooperatively to identify any potential impacts. Again, in this case, because of the elevation of Carlsbad Boulevard and the land inland of the subject site, there are not opportunities for public views across the site. Specifically both Carlsbad Boulevard and the land inland of the subject site are higher in elevation, thus no impacts to scenic resources or public views of the ocean would result from permanently allowing the retention of the existing mobile home parks in their current locations or from potential redevelopment of the mobile home sites with larger mobile units. Additionally, the removal of any/all of the mobile homes would not open up any new or additional coastal views. Thus, while the appellants' contention that the City failed to adequately address impacts to scenic resources is correct, the development, as approved by the City, can be found consistent with the City's LCP. The project, therefore, does not raise substantial issue on the grounds raised by the appellants.

D. Run-off/Water Quality. The final concern raised by the appellants is the subdivision's impacts on storm-water and run-off, and thus the water quality of the surrounding areas. As previously discussed, the project is located in between vernal pools and coastal bluffs, thus untreated runoff could have impacts to the areas both west and east of the subject site. The City's LCP has one applicable policy pertaining to development and water quality and states in part:

Mello II Land Use Policy 3-4 – Grading and Landscaping Requirements

Permitted new development shall comply with the following requirements:

- a) All development must include mitigation measures for the control of urban runoff flow rates and velocities, urban pollutants, erosion, and sedimentation in accordance with the requirements of the City's Grading Ordinance, Storm Water Ordinance, Standard Urban Storm Water Mitigation Plan (SUSMP), City of Carlsbad Drainage Master Plan, and the following additional requirements. The SUSMP, dated April 2003 and as amended, the City of Carlsbad Drainage Master Plan are hereby incorporated into the LCP by reference. Development must also comply with the requirements of the Jurisdictional Urban Runoff Management Program (JURMP) and the San Diego County Hydrology Manual to the extent that these requirements are not inconsistent with any policies of the LCP.

Land use Policy 3-4, as stated above, requires various mitigation measures to control urban runoff associated with all development. Subdivisions are included in the definition

of development. As such, mitigation measures should have been required associated with the proposed development; or, at least, findings should have been made as to why the project can be found consistent with the above stated policy without the requirement of any mitigation measures. The City's approval did not include any findings for consistency with this policy. Further, the City failed to review the existing sewer/drainage/runoff facilities, and thus the appellants contend that it is unclear what the potential impacts to surrounding resources (both existing vernal pools and adjacent coastal bluffs) may be. Again, Commission staff worked cooperatively with the applicant to identify the current drainage facilities onsite, and to determine whether additional facilities or mitigation was necessary to find the project consistent with the City's LCP. In this case, the runoff on site sheet flows to the northeastern corner of the property where it outflows to the railroad right-of-way. The runoff outflows into a section of the right-of-way that contains low quality habitat and non-native vegetation, and is adequately distanced from the vernal pools. The mobile home park currently provides all necessary sewer service, and no additional impervious surfaces are proposed. Therefore, the project can be found consistent with the City's LCP, as approved by the City. The approval therefore does not raise a substantial issue on the ground presented by the appellants.

3. Conclusion. In conclusion, the appellants raised four valid concerns regarding the City's approval for the subdivision and its consistency with the City's LCP. Specifically, concerns raised include: 1) impacts to sensitive habitat; 2) impacts to public access and recreation; 3) impacts to scenic resources; and 4) impacts associated with runoff and water quality. The general concern associated with the City's approval is that its review of the subdivision failed to evaluate the project's consistency with the majority of the policies contained in its certified Local Coastal Programs. While the City's review did not adequately identify or review any of the identified potential impacts, the Commission has reviewed the project and all associated concerns, and has determined that in no case does the project, as approved by the City, result in impacts to coastal resources. It is only because there are no impacts to coastal resources that the project can be found consistent with the City's LCP. Again, while the appellants' contentions are accurate, the lack of coastal resource impacts facilitates the finding that the project does not raise a significant issue on any of the grounds raised by the appellants.

4. Substantial Issue Factors. Generally speaking, the Commission considers five specific findings when considering whether a project raises a "substantial issue." These factors begin on Page 3 of this staff report and none of them support a finding of substantial issue in this case. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP and the City's approval of this CDP will not create an adverse precedent for future interpretation of this LCP.

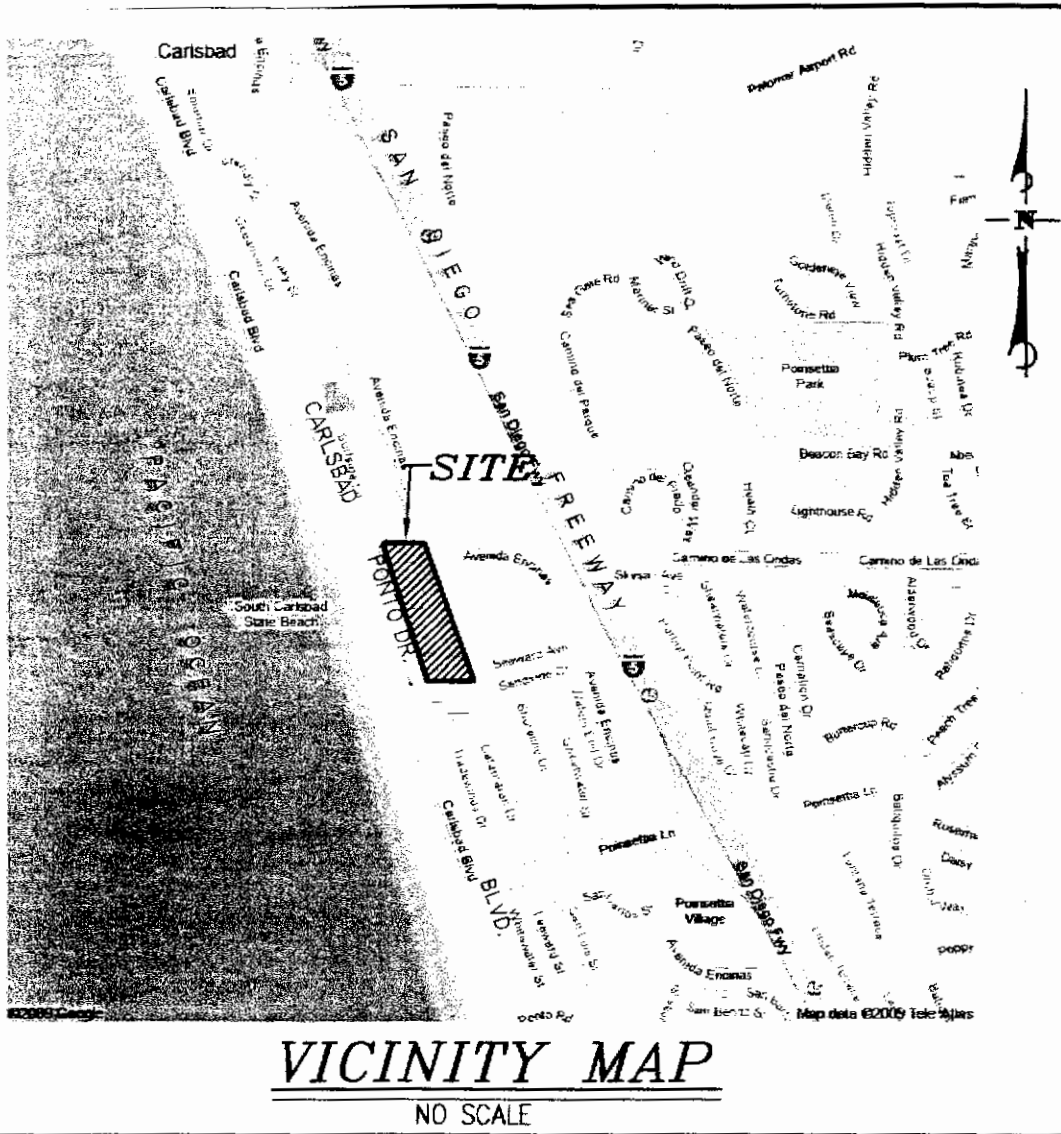
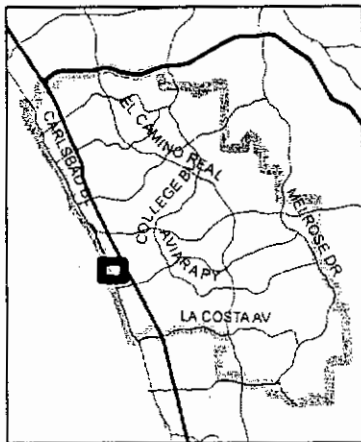


EXHIBIT NO. 1
APPLICATION NO.
A-6-OCN-10-044
Location Map
California Coastal Commission



SITE MAP



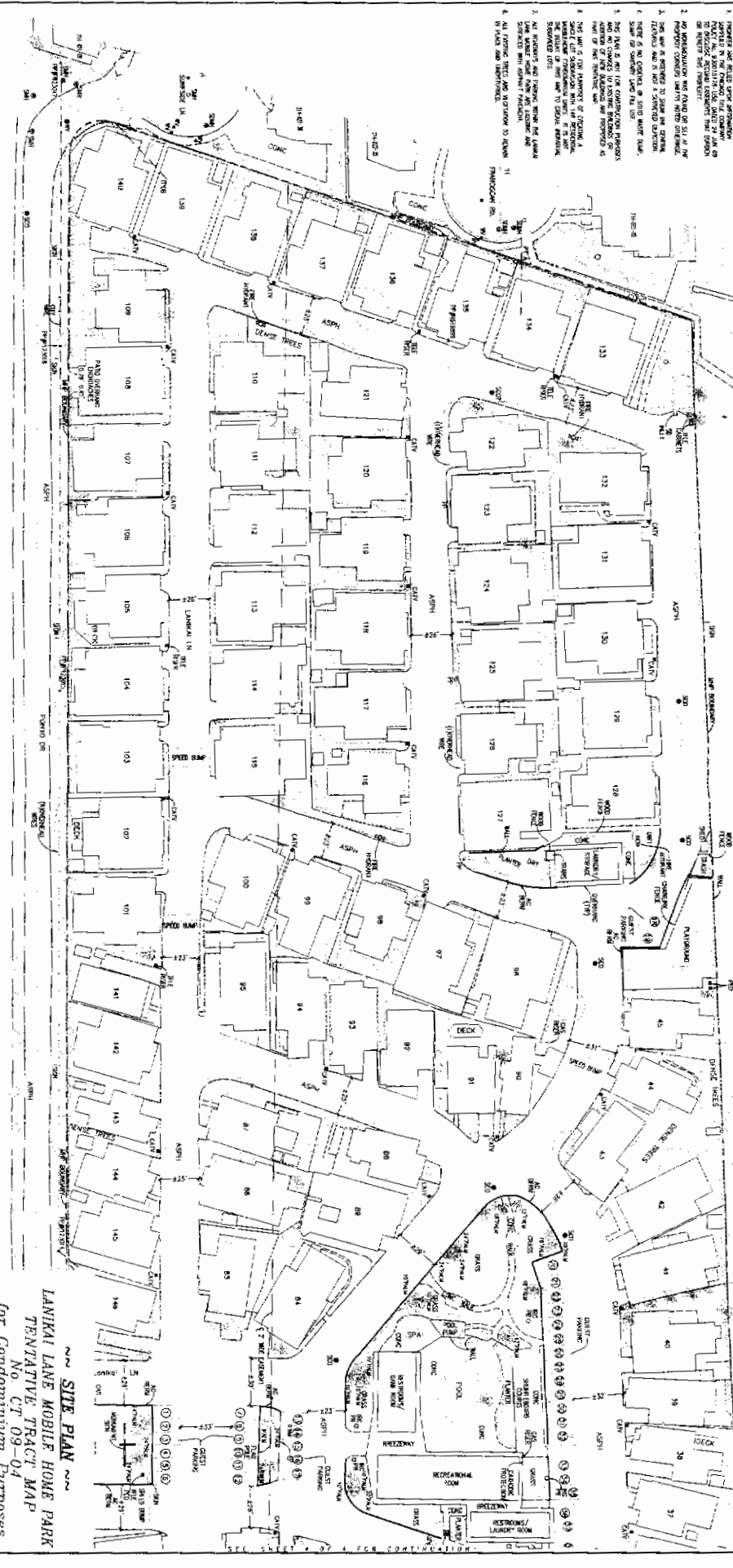
NOT TO SCALE

Lanikai Lane
 CT 09-04 / CDP 09-15

EXHIBIT NO. 2
APPLICATION NO.
A-6-OCN-10-044
Site Map
California Coastal Commission

GENERAL NOTES

1. PROPERTY AND SITE INFORMATION SHALL BE AS SHOWN ON THE PLANS AND SHALL BE THE RESPONSIBILITY OF THE CLIENT.
2. NO REPRESENTATION IS MADE BY THE ENGINEER AS TO THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.
3. THE ENGINEER HAS CONDUCTED VISUAL GENERAL SURVEY AND HAS FOUND THE SITE TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
4. THE ENGINEER HAS CONDUCTED VISUAL GENERAL SURVEY AND HAS FOUND THE SITE TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
5. THE ENGINEER HAS CONDUCTED VISUAL GENERAL SURVEY AND HAS FOUND THE SITE TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT.
6. ALL EXISTING UTILITIES AND STRUCTURES SHALL BE PRESERVED UNLESS OTHERWISE NOTED ON THE PLANS AND INDICATED.
7. ALL EXISTING UTILITIES AND STRUCTURES SHALL BE PRESERVED UNLESS OTHERWISE NOTED ON THE PLANS AND INDICATED.
8. ALL EXISTING UTILITIES AND STRUCTURES SHALL BE PRESERVED UNLESS OTHERWISE NOTED ON THE PLANS AND INDICATED.
9. ALL EXISTING UTILITIES AND STRUCTURES SHALL BE PRESERVED UNLESS OTHERWISE NOTED ON THE PLANS AND INDICATED.
10. ALL EXISTING UTILITIES AND STRUCTURES SHALL BE PRESERVED UNLESS OTHERWISE NOTED ON THE PLANS AND INDICATED.



LEGEND

AC	•	APPOINTMENT	2	•	STREET LIGHT
AD	•	ADULT DAY CARE	3	•	STREET LIGHT
AE	•	ADULT HOME	4	•	STREET LIGHT
AF	•	ADULT HOME	5	•	STREET LIGHT
AG	•	ADULT HOME	6	•	STREET LIGHT
AH	•	ADULT HOME	7	•	STREET LIGHT
AI	•	ADULT HOME	8	•	STREET LIGHT
AJ	•	ADULT HOME	9	•	STREET LIGHT
AK	•	ADULT HOME	10	•	STREET LIGHT
AL	•	ADULT HOME	11	•	STREET LIGHT
AM	•	ADULT HOME	12	•	STREET LIGHT
AN	•	ADULT HOME	13	•	STREET LIGHT
AO	•	ADULT HOME	14	•	STREET LIGHT
AP	•	ADULT HOME	15	•	STREET LIGHT
AQ	•	ADULT HOME	16	•	STREET LIGHT
AR	•	ADULT HOME	17	•	STREET LIGHT
AS	•	ADULT HOME	18	•	STREET LIGHT
AT	•	ADULT HOME	19	•	STREET LIGHT
AU	•	ADULT HOME	20	•	STREET LIGHT
AV	•	ADULT HOME	21	•	STREET LIGHT
AW	•	ADULT HOME	22	•	STREET LIGHT
AX	•	ADULT HOME	23	•	STREET LIGHT
AY	•	ADULT HOME	24	•	STREET LIGHT
AZ	•	ADULT HOME	25	•	STREET LIGHT
BA	•	ADULT HOME	26	•	STREET LIGHT
BB	•	ADULT HOME	27	•	STREET LIGHT
BC	•	ADULT HOME	28	•	STREET LIGHT
BD	•	ADULT HOME	29	•	STREET LIGHT
BE	•	ADULT HOME	30	•	STREET LIGHT
BF	•	ADULT HOME	31	•	STREET LIGHT
BG	•	ADULT HOME	32	•	STREET LIGHT
BH	•	ADULT HOME	33	•	STREET LIGHT
BI	•	ADULT HOME	34	•	STREET LIGHT
BJ	•	ADULT HOME	35	•	STREET LIGHT
BK	•	ADULT HOME	36	•	STREET LIGHT
BL	•	ADULT HOME	37	•	STREET LIGHT
BM	•	ADULT HOME	38	•	STREET LIGHT
BN	•	ADULT HOME	39	•	STREET LIGHT
BO	•	ADULT HOME	40	•	STREET LIGHT
BP	•	ADULT HOME	41	•	STREET LIGHT
BQ	•	ADULT HOME	42	•	STREET LIGHT
BR	•	ADULT HOME	43	•	STREET LIGHT
BS	•	ADULT HOME	44	•	STREET LIGHT
BT	•	ADULT HOME	45	•	STREET LIGHT
BU	•	ADULT HOME	46	•	STREET LIGHT
BV	•	ADULT HOME	47	•	STREET LIGHT
BW	•	ADULT HOME	48	•	STREET LIGHT
BX	•	ADULT HOME	49	•	STREET LIGHT
BY	•	ADULT HOME	50	•	STREET LIGHT
BZ	•	ADULT HOME	51	•	STREET LIGHT
CA	•	ADULT HOME	52	•	STREET LIGHT
CB	•	ADULT HOME	53	•	STREET LIGHT
CC	•	ADULT HOME	54	•	STREET LIGHT
CD	•	ADULT HOME	55	•	STREET LIGHT
CE	•	ADULT HOME	56	•	STREET LIGHT
CF	•	ADULT HOME	57	•	STREET LIGHT
CG	•	ADULT HOME	58	•	STREET LIGHT
CH	•	ADULT HOME	59	•	STREET LIGHT
CI	•	ADULT HOME	60	•	STREET LIGHT
CJ	•	ADULT HOME	61	•	STREET LIGHT
CK	•	ADULT HOME	62	•	STREET LIGHT
CL	•	ADULT HOME	63	•	STREET LIGHT
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CN	•	ADULT HOME	65	•	STREET LIGHT
CO	•	ADULT HOME	66	•	STREET LIGHT
CP	•	ADULT HOME	67	•	STREET LIGHT
CQ	•	ADULT HOME	68	•	STREET LIGHT
CR	•	ADULT HOME	69	•	STREET LIGHT
CS	•	ADULT HOME	70	•	STREET LIGHT
CT	•	ADULT HOME	71	•	STREET LIGHT
CU	•	ADULT HOME	72	•	STREET LIGHT
CV	•	ADULT HOME	73	•	STREET LIGHT
CU	•	ADULT HOME	74	•	STREET LIGHT
CV	•	ADULT HOME	75	•	STREET LIGHT
CW	•	ADULT HOME	76	•	STREET LIGHT
CX	•	ADULT HOME	77	•	STREET LIGHT
CY	•	ADULT HOME	78	•	STREET LIGHT
CZ	•	ADULT HOME	79	•	STREET LIGHT
DA	•	ADULT HOME	80	•	STREET LIGHT
DB	•	ADULT HOME	81	•	STREET LIGHT
DC	•	ADULT HOME	82	•	STREET LIGHT
DD	•	ADULT HOME	83	•	STREET LIGHT
DE	•	ADULT HOME	84	•	STREET LIGHT
DF	•	ADULT HOME	85	•	STREET LIGHT
DF	•	ADULT HOME	86	•	STREET LIGHT
DF	•	ADULT HOME	87	•	STREET LIGHT
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DF	•	ADULT HOME	89	•	STREET LIGHT
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DF	•	ADULT HOME	91	•	STREET LIGHT
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DF	•	ADULT HOME	130	•	STREET LIGHT
DF	•	ADULT HOME	131	•	STREET LIGHT
DF	•	ADULT HOME	132	•	STREET LIGHT
DF	•	ADULT HOME	133	•	STREET LIGHT
DF	•	ADULT HOME	134	•	STREET LIGHT
DF	•	ADULT HOME	135	•	STREET LIGHT
DF	•	ADULT HOME	136	•	STREET LIGHT
DF	•	ADULT HOME	137	•	STREET LIGHT
DF	•	ADULT HOME	138	•	STREET LIGHT
DF	•	ADULT HOME	139	•	STREET LIGHT
DF	•	ADULT HOME	140	•	STREET LIGHT
DF	•	ADULT HOME	141	•	STREET LIGHT
DF	•	ADULT HOME	142	•	STREET LIGHT
DF	•	ADULT HOME	143	•	STREET LIGHT
DF	•	ADULT HOME	144	•	STREET LIGHT
DF	•	ADULT HOME	145	•	STREET LIGHT

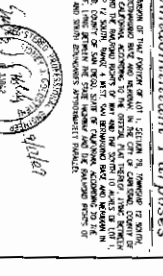
SITE MAP

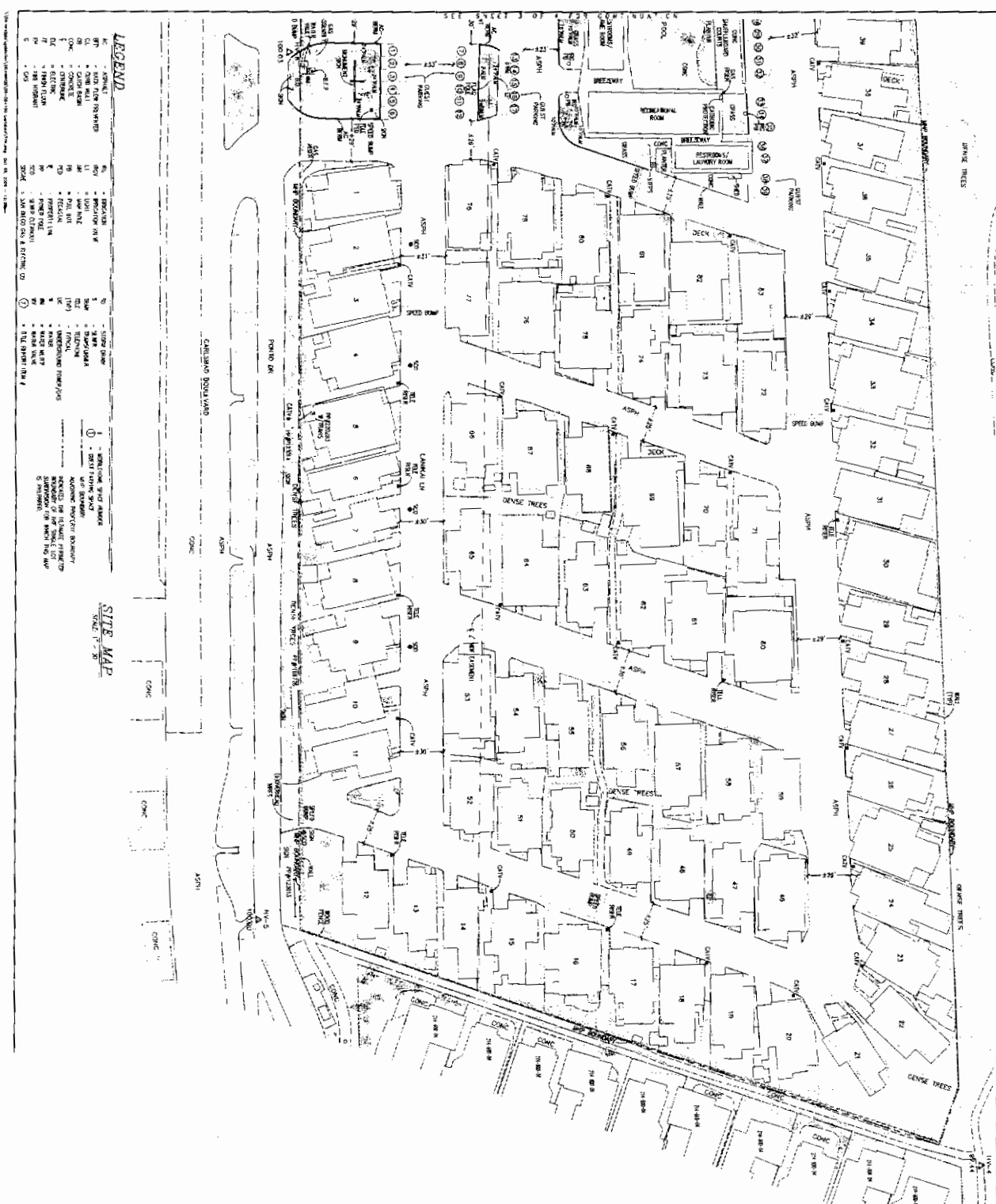
SCALE: 1" = 100'

LANIKAI LANE MOBILE HOME PARK
TENTATIVE TRACT MAP
 No. CT 09-04
 for Condominium Purposes

ENGINEER: **SID GOLDSTEIN - CIVIL ENGINEER, INC.**
 1000 W. 10TH AVENUE, SUITE 100
 DENVER, COLORADO 80202
 PHONE: (303) 733-1111
 FAX: (303) 733-1111

DATE: 10/15/09
 SHEET: 3 OF 4





LEGEND

AS	ASPHALT	AS	ASBESTOS
BR	BREAK ROOM	BR	BREAK ROOM
CL	CLUB ROOM	CL	CLUB ROOM
CO	COMMON	CO	COMMON
CR	CORRIDOR	CR	CORRIDOR
DE	DECK	DE	DECK
DR	DRIVE	DR	DRIVE
EL	ELECTRICAL	EL	ELECTRICAL
FI	FIRE	FI	FIRE
FL	FLOOR	FL	FLOOR
FR	FURNITURE	FR	FURNITURE
GA	GARAGE	GA	GARAGE
GR	GRASS	GR	GRASS
HT	HOT TUB	HT	HOT TUB
IN	INSTRUMENT	IN	INSTRUMENT
IR	IRONING BOARD	IR	IRONING BOARD
LA	LANDSCAPE	LA	LANDSCAPE
LI	LINEN	LI	LINEN
LO	LOBBY	LO	LOBBY
LU	LUNcheon ROOM	LU	LUNcheon ROOM
ME	MEETING ROOM	ME	MEETING ROOM
MT	MUSIC ROOM	MT	MUSIC ROOM
OR	OFFICE	OR	OFFICE
PA	PANTRY	PA	PANTRY
PL	POOL	PL	POOL
PO	POST OFFICE	PO	POST OFFICE
PR	PRINTING ROOM	PR	PRINTING ROOM
RE	RECEPTION	RE	RECEPTION
RI	RESTROOM	RI	RESTROOM
RO	ROOF	RO	ROOF
RU	RUG	RU	RUG
SA	SANITARY	SA	SANITARY
SE	SEWER	SE	SEWER
SH	SHOWERS	SH	SHOWERS
SI	SIGN	SI	SIGN
SK	SKY	SK	SKY
SL	SLIPPER	SL	SLIPPER
SO	SOUND	SO	SOUND
SP	SPORTS	SP	SPORTS
ST	STAIR	ST	STAIR
TE	TELEPHONE	TE	TELEPHONE
TR	TRUCK	TR	TRUCK
TV	TELEVISION	TV	TELEVISION
WA	WATER	WA	WATER
WC	WATER CLOSET	WC	WATER CLOSET
WI	WIRE	WI	WIRE
WO	WOOD	WO	WOOD
WV	WIND	WV	WIND
WY	WYLL	WY	WYLL
YR	YARD	YR	YARD
ZO	ZONING	ZO	ZONING

SITE MAP
SCALE: 1" = 30'

- GENERAL NOTES**
1. EXCEPT THE BUILDING FOOTPRINT, THE CONCRETE FOUNDATION, THE ROOFING, THE EXTERIOR FINISHES, THE INTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS ARE NOT SHOWN.
 2. THE CONCRETE FOUNDATION IS SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 3. THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS ARE SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 4. THE LANDSCAPE IS SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 5. THE DRIVEWAYS ARE SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 6. THE CONCRETE FOUNDATION IS SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 7. THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS ARE SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 8. THE LANDSCAPE IS SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.
 9. THE DRIVEWAYS ARE SHOWN WITH THE EXTERIOR FINISHES, THE MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS, THE LANDSCAPE, AND THE DRIVEWAYS.

SITE PLAN
LANIKU LANE MOBILE HOME PARK
TENTATIVE TRACT MAP
No. CT 09-04
for Condominium Purposes

PREPARED BY: **STEVENS & STEVENS, INC.**
REGISTERED PROFESSIONAL ENGINEERS
1000 WEST MAIN STREET, SUITE 200
WESTPORT, CONNECTICUT 06880
TELEPHONE: (407) 226-1111
FAX: (407) 226-1112

DATE: **NOVEMBER 10, 2009**

PROJECT: **LANIKU LANE MOBILE HOME PARK**

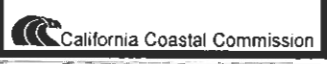
SCALE: **AS SHOWN**



Existing Improved
Public Accessways



EXHIBIT NO. 4
APPLICATION NO.
A-6-OCN-10-044
Location of existing
Public Accessways



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CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Sara Wan
Mailing Address: 45 Fremont St. Suite 2000
San Francisco, CA 94105

Phone Number: (858) 551-4390

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Carlsbad
2. Brief description of development being appealed: The subdivision of an existing 146 space rental home park into 146 airspace lots. No development or construction is associated with the proposal.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
6550 Ponto Drive, Carlsbad, San Diego County
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-CII-10-044

DATE FILED: June 8, 2010

DISTRICT: San Diego

EXHIBIT NO. 5
APPLICATION NO.
A-6-OCN-10-044
Commission Appeal
California Coastal Commission

RECEIVED

JUN 08 2010

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: April 27, 2010

Local government's file number (if any): CDP 09-15

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Ocean Park Estates
17780 Fitch #145
Irvine, Ca 92614

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment "A" dated June 8, 2010

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____

Appellant or Agent

Date: _____

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Attachment A
Lanikai Lane – 6550 Ponto Drive, Carlsbad
June 8, 2010

On April 27, 2010, the City of Carlsbad approved Coastal Development Permit No. 09-15 facilitating the subdivision of an existing 14.38 acre rental mobile home park into a one lot subdivision with 146 airspace lots. The subdivision will convert the rental mobile home park into an ownership park, as allowed by Government Code Section 66427.5. All onsite facilities necessary to serve the mobile home park exist and no additional improvements or changes to the current use were proposed as a component of the City's approval.

Key Concerns

City failed to do analysis of potential impacts associated with a subdivision. The whole range of coastal resource issues addressed in the City's certified LCP should have been considered in this request for land division, including, but not limited to, protection and enhancement of public access, biological resources, water quality and scenic resources. However, the City's action did not include any findings relative to the following public access or coastal resource issues:

- The project site's proximity to ESHA, particularly identified vernal pools on the adjacent property;
- Potential concerns related to runoff and water quality both on- and off-site;
- Protection of scenic resources along a major coastal access corridor and scenic route;
- Adequacy of on-site parking facilities; and
- Protection of public access/recreational impacts/opportunities.

The subject site is located on the inland side of Carlsbad Boulevard within 300 feet of the inland extent of the beach. Adjacent development includes South Carlsbad State Beach and state campground to the west, the rail corridor and Poinsettia Coaster Station to the east, and single family homes to the north and south. The Commission reviewed and approved North County Transit District's (NCTD) proposal for the construction of the Poinsettia Coaster Station in March of 1994. During this review, it was recognized that the Poinsettia Coaster site contained jurisdictional wetland areas (vernal pools). Several special conditions were required for the protection and enhancement of these vernal pools including mitigation, fencing, signage, an irrevocable offer to dedicate, and an easement for habitat restoration (ref. CDP No. 6-93-207).

The primary concern associated with the City's approval is that by dividing land into small lots that correspond with the location of existing mobile homes, this action would also have the effect of formalizing the location of these existing mobilehome sites and extending the lot configuration into the future. This action would formalize the lot development pattern without addressing whether or not it was suitable for development

over the long term given the presence of environmentally sensitive habitat areas (ESHA) in the area. The certified local coastal program also contains policies that address water quality protection, as well as public access and recreation policies that should be applied to this type of land division.

In conclusion, it is unclear, based on the City's action and findings, what potential for impacts to public access, recreational opportunities and coastal resources exist. Without having a clear understanding of the project site's proximity to the vernal pools, it is unclear if a sufficient buffer exists to effectively protect the habitat. Further, without review of the sewer/drainage/runoff facilities, it is unclear what the potential impacts to surrounding resources (both existing vernal pools and adjacent coastal bluffs) may be. Lastly, the project site is located immediately adjacent to a state campground, and as such, the potential for public access and recreational impacts should have been addressed. The subdivision of mobile home parks to facilitate individual ownership has become a statewide concern for the Coastal Commission, in that, the local governments' review of the type of subdivision often excludes the policies contained in their certified Local Coastal Programs and/or the Coastal Act.