

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
3111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
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Staff: LRO-SD  
Staff Report: September 12, 1996  
Hearing Date: October 8-11, 1996

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-96-119

Applicant: MSP California, LLC  
Marcus Palkowitsh & David Bentley

Agent: Robert C. Ladwig

Description: Subdivision of a 27.4 acre site into 60 residential lots (Emerald Ridge East) and three open-space lots totaling 7.89 acres; project includes 176,700 cy. of grading, construction of local public roadways, sidewalks, curbs, gutters and drainage facilities, and a public trail within open space lot #61. Residential construction is not included in this permit.

Lot Area	27.4 acres
Zoning	R-1-7500-Q
Plan Designation	Residential Medium (RM) (8 dua)

Site: South of Palomar Airport Road, east of Hidden Valley Road, and north of Camino de las Ondas, Carlsbad, San Diego County.  
APNs 212-040-32 & -36

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STAFF RECOMMENDATION:

The staff recommends 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 the development, as conditioned, will be in conformity with the adopted Local Coastal Program, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Open Space Deed Restriction. Prior to the issuance of the coastal development permit, the applicants shall record a restriction against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittees' successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall prohibit any alteration of landforms, removal of vegetation or the erection of structures of any type. The open space lots include the area shown on the attached Exhibit "5", and are generally described as follows: Lots 61, 62 and 63 of the Tentative Map. An east/west linear public trail, as indicated on site development plan, east of Hidden Valley Road, may be a permitted use within the open space.

The recording document shall include legal descriptions of both the applicants' entire parcel(s) and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review and written approval of the Executive Director.

2. Grading and Erosion Control. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, in consultation with the Department of Fish and Game, final grading plans approved by the City of Carlsbad. Grading activities shall be permitted between August 1 and February 15th subject to the following criteria:

a. All temporary and permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

b. All areas disturbed, but not completed, during the dry 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 from the construction site. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

3. Drainage/Runoff Control. Prior to the issuance of the coastal development permit, the applicant shall submit final drainage and runoff control plans, approved by the City of Carlsbad. Said plans shall be designed by a licensed engineer qualified in hydrology and hydraulics, and assure no increase in peak runoff rate from the developed site as a result of a ten-year frequency storm over a six-hour duration (10 year, 6 hour rainstorm). Runoff control shall be accomplished by such means as on-site detention/desilting basin(s). Energy dissipating measures at the terminus of outflow drains shall be constructed. The runoff control plan including supporting calculations shall be submitted to and determined adequate in writing by the Executive Director.

4. Construction Timing/Staging Areas/Access Corridors. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule shall also include plans for the location of access corridors to the construction sites and staging areas. Access corridors and staging areas shall be located in a manner that has the least impact on coastal resources. No staging areas or access corridors shall be located within the environmentally sensitive habitat areas located along the southern and northern portions of the project site or the two finger canyons approximately located in the middle of the site.

5. Agricultural Conversion. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, evidence that payment of an agricultural mitigation fee for converting agricultural lands to urban uses has been received by the California Coastal Conservancy, consistent with the provisions of the Carlsbad Mello II LCP.

6. Brush Management Program. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a brush management program. The plan shall include a site plan showing a 60 foot distance beyond all proposed building pads on lots adjacent to areas of native vegetation, designating those areas subject to selective thinning and pruning. The plan shall indicate that clear-cut vegetation removal for brush management purposes shall not be permitted within required open space areas pursuant to Special Condition #1 and the two finger canyons to be preserved in a natural state pursuant to Special Condition #7. Any approved clearing shall be conducted entirely by manual means and shall be the absolute minimum for reduction of fire hazards.

7. Preservation of Other On-Site Native Habitat. No clearcutting of native habitat shall be permitted within the two finger canyons on-site which border Lots 27-30, 32-37 and 45, as shown in Exhibit No. 7, without further review and approval by the Coastal Commission or its successor in interest.

8. Future Development. This permit is for construction of residential building pads including grading, landscaping, construction of local public streets, sidewalks, curbs, gutters, and storm drains. Construction of residences on any of the proposed lots shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit or an amendment to this permit.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The applicant is proposing a tentative map to grade and subdivide a 27.4 acre site for a residential subdivision known as

Emerald Ridge East. The subdivision will include grading to create 60 residential lots, ranging in size from 7,630 sq.ft. to 23,916 sq.ft., and three open space lots totaling 7.89 acres (Lot 61 = 5.28 acres, Lot 62 = 1.78 acres and Lot 63 = .83 acres in size). The property is immediately east of, and adjacent to, the Emerald Ridge West subdivision for 61 residential lots which was approved by the Commission pursuant to CDP #6-96-53 in July, 1996. CDP# 6-96-53 resulted in the resubdivision of two legal parcels to create two separate development sites for the two subdivisions, which are divided by the Hidden Valley Road alignment.

Grading associated with the subject tentative map will consist of 176,700 cy. of balanced cut and fill grading to construct building pads, internal roads, sidewalks, curbs and gutters, and drainage facilities. Residential construction on the building pads is not proposed with this permit application and will be subject to a future coastal development permit or an amendment to this permit.

As part of the subject proposal, the applicant is requesting an extension of time to perform necessary grading to February 15th, with installation of appropriate erosion and runoff control devices. Generally, grading is prohibited during the rainy season between October 1st and April 1st of any year under the certified LCP.

The subject property is a vacant site located south of Palomar Airport Road, east of Interstate-5, in an area of Carlsbad that has been used for agricultural purposes in the past. The subject site is located just east of Hidden Valley Road which was permitted pursuant to CDP #6-94-131/Toyohara and is presently underway. The surrounding neighborhood is largely undeveloped with vacant land to the north, west and south. Multi-family residential development exists to the east. Encinas Creek lies to the north of the site. Presently Poinsettia Community Park, which is southwest of the site, is under construction.

2. Sensitive Habitat Areas. Relevant policies which address protection of environmentally sensitive habitat areas include Policy 3-1 of the certified Mello II LCP, "Slopes and Preservation of Vegetation" which states:

Certain areas of the Carlsbad coastal zone have very high habitat value. These areas are not suitable for farming. These areas exhibit a large number and diversity of both plant and animal species, several of which are threatened because of extensive conversion of mixed chaparral and coastal sage scrub habitats to urban or agricultural uses. Also, well-established and well-maintained vegetation is a major deterrent to soil erosion and attendant difficulties.

Unless specifically addressed in other policies of this Land Use Plan, the vegetation on steep slopes shall be maintained so that natural habitats are preserved and soil erosion is minimized.

The policies of the certified Mello II segment of the City's LCP also contain the following language regarding the development of steeply sloping hillsides

with native vegetation:

Grading and Erosion Control

a) For those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub (CSS) and chaparral plant communities, the following shall apply:

- 1) Slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. For existing legal parcels, with all or nearly all of their area in slope area over 25% grade, encroachment shall be permitted, however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

The subject site is located in the area subject to the Mello II segment of the City of Carlsbad's LCP and the Coastal Resource Protection Overlay Zone. Steep slope areas are afforded special status due to the presence of naturally occurring chaparral/coastal sage scrub which provides valuable natural habitat. The LCP regulations pertaining to steep slopes, as drafted by the City and certified by the Commission, protect those slopes of 25% grade and greater that contain coastal sage scrub and chaparral vegetation.

The subject property contains west-southwest facing slopes. The majority of the site (25.73 acres) is disturbed as a result of agricultural activities which have occurred in the past. The property supports two native habitat types which include Diegan coastal sage scrub (sage scrub) and wetland vegetation. Sage scrub consists of low woody shrubs, many of which are summer deciduous. This vegetation is usually found on dry sites, such as steep south and southeast facing slopes. These areas of the site are located along the southeast portion of the site and approx. in the middle of the site in two east-west finger canyons. There are approx. 1.47 acres of sage scrub of which 0.15 acre is disturbed sage scrub. Wetland vegetation (0.17 acre) is located in the Encinas Creek channel along the northern boundary of the property.

As part of the environmental review process, a biological survey report was done for the subject property by Brian Mooney and Associates, dated September 1995. The "threatened" coastal California gnatcatcher was observed in the Diegan coastal sage scrub in the southeastern part of the site during a survey in the summer of 1995. This bird species has also been observed in other nearby areas off-site to the west. The habitat areas for the gnatcatcher will be preserved through establishment of three open space lots on the site, the most significant being Lot 62, the area where the gnatcatcher was observed.

In addition, a slope encroachment analysis and vegetation survey, dated 9/29/95, indicates that about 24.9% (6.8 acres) of the subject site area (27.4 acres) is slopes of 25% grade or greater. Of the 1.47 acres containing Diegan CSS on site, 1.06 acres represents dual criteria slopes. A total of 0.04 acre of CSS will be impacted as a result of the proposed project; of this figure, 0.03 acre represents dual criteria slopes consisting of low quality/disturbed CSS (0.01 acre on Lots 32 and 30 and 0.02 acre on Lot 37) (reference Exhibit No. 6). The slopes proposed to be graded on Lots 30 & 32 are associated with grading necessary to minimize differences in finished pad elevations and natural grades for purposes of facilitating drainage from the area. The purpose of the 0.03 acre impact to dual criteria areas on Lot 37 is to create an access drive onto the lot which has been reconfigured to minimize said impacts. Only 0.02 acres of the CSS is on steep slopes containing low quality CSS pursuant to the biological survey and report completed for the project. The remaining 0.01 acre of CSS that will be impacted in this area is outside of the steep slope areas, and are thus not dual criteria slopes protected under the policies of the LCP.

According to the applicant's representative, the 0.01 acre of dual criteria slopes to be disturbed on Lots 30 and 32 is an area which, if not graded to create certain pad elevations, would create a potential drainage problem, as noted above. The existing topography at Lots 30 and 32 is 6-8 feet below the proposed adjacent street grade, which would create a hole/depression where drainage would be directed. As such, the area would need to be mechanically drained on a continuous basis. The proposed street is at a higher elevation than the natural grade which would create an ongoing maintenance problem in terms of collection of runoff and drainage of water that pools at this location.

All remaining coastal sage scrub habitat on the site would be preserved in three open space lots, the most significant being Lot 62 which contains high-quality habitat. In addition, two other open space lots are also proposed--Lot 63 which includes a finger canyon and Lot 61 which contains riparian vegetation. Within Lot 61, a 20-foot wide public trail easement is proposed (Citywide Trail Link No. 31) which will run in an east/west direction at the northeast part of the property, east of Hidden Valley Road, approx. 500 feet south of Palomar Airport Road.

The project has been conditioned by the City to mitigate for the proposed impacts. Native habitat impacts have been reduced or mitigated by the design of the project in that the preservation of .83 acres of the .97 acres of coastal sage scrub habitat occupied by the gnatcatcher and located within Lot 62 will be preserved within an open space easement. In addition, .47 acres of the .5 total acres of native habitat located within two small finger canyons will be preserved. However, the U.S. Fish and Wildlife Service (USFWS) has determined that this .5 acre is considered "impacted" due to the proposed surrounding development, even though no grading or removal of vegetation will occur. As such, the City has required that 0.64 acres of coastal sage scrub habitat be mitigated by acquiring, for preservation, 0.64 acres of comparable habitat within the high quality, coastal sage scrub area found in the Carlsbad Highlands mitigation bank. Mitigation will be required at a ratio of 1:1 for

the 0.5 acres of impact of unoccupied and isolated coastal sage scrub. Impacts to 0.14 acres of coastal sage scrub contiguous with other habitat to the south and occupied by the gnatcatcher would be mitigated at a 2:1 ratio (0.28 acres) for a total of .64 acres that must be mitigated, as described above. The proposed mitigation has been reviewed and endorsed by the U.S. Fish and Wildlife Service (USFWS). It should be noted that USFWS recommended purchasing appropriate off-site lands as mitigation rather than actively revegetating the disturbed area identified onsite. It was USFWS' opinion that since the disturbed area is adjacent to coastal sage scrub currently proposed for preservation, the area may act as a natural seed bank for the disturbed area and revegetate over time without any additional effort. In addition, the City found in its approval that the proposed development is consistent with the intent of the Hillside Ordinance in that the grading avoids steep slopes except for small isolated ravines, manufactured slopes are contoured to follow the road and adjacent open space alignments, roadways are curvilinear and follow the natural contours, and future homes would be set back from the edge of the hillside.

The City has used its "Zone 20 Specific Plan" as the standard of review for this project. It provides a master plan for the buildout of the City's Zone 20 planning area, which contains the subject parcel and surrounding parcels of mostly vacant land, and a number of environmentally sensitive areas. While the Zone 20 Plan has been approved at the local level, it has not been submitted to the Commission for review and certification of its consistency with the Coastal Act. Thus, the certified policies of the Mello II LCP are the standard of review. In this particular case, the proposed impacts to 0.03 acre of dual criteria slopes can be found acceptable and consistent with the LCP because the amount of disturbance is extremely small and represents remote and isolated patches of CSS habitat which are not contiguous with other native corridors, all remaining high-quality CSS habitat will be preserved in open space lots on the site, and the proposed impacts have been reviewed and supported by the USFWS in conjunction with the proposed off-site mitigation.

In addition, the applicant has stated that the proposed grading plan and tentative map have been revised to further reduce the amount of disturbance and/or encroachment into steep slope areas, primarily, dual criteria slopes. For example, revisions to the site development plan have resulted in creating two pan-handle lots for purposes of avoiding grading of steep slope areas. In particular, the lot lines for Lot #44 & 45 have been revised to avoid grading in steep slope areas. The applicant has also pointed out that the majority of the proposed encroachment (0.03 acre) into dual criteria slopes is within the building setback areas. Only .005 acre is actually for purposes of grading associated with the building pad itself. In summary, because the coastal sage habitat in the two finger canyons consists of isolated and small patches of low-quality native habitat, these areas would not be considered environmentally-sensitive habitat areas warranting preservation.

In addition to the cited LCP policies addressing steep slopes and native vegetation, the Mello II LCP also prohibits development in wetlands, pursuant to Policy #3-7. The northern portion of the site contains riparian vegetation associated with Encinas Creek. However, this area will remain in open space

and will not be disturbed as a result of the proposed project. Thus, the proposed development is fully consistent with Policy #3-7 of the LCP.

Brush management for fire safety is proposed with the subject project. A 60-foot setback along the rear of Lots 27-30, 34-37 and 46-49 for purposes of native habitat protection and fire suppression is required by the City. No development is permitted in this buffer area including grading or construction of habitable and accessory structures, etc. Pursuant to the City's Landscape Technical Manual, selective thinning and clearing consistent with Zone 2 and Zone 3 brush management requirements is permitted. The manual identifies three brush management zones, each 20 feet in width, where vegetation removal and thinning is required to protect homes from fire hazard when they are proposed to be located next to mature, naturally vegetated areas. Although it is the Commission's practice, consistent with the certified LCP, to allow selective thinning in open space areas as part of brush management to protect homes from fire hazard, the Commission has historically found that Zone 1 clearcutting requirements must not occur in open space areas and building setbacks must be established consistent with that provision. The lots which border CSS habitat areas will observe a 60-foot setback from such areas and provide for a clearcutting area that will not intrude into any secured open space lots or native vegetation areas.

Special Condition #6 requires the applicant to submit a brush management plan showing a 60 foot distance beyond all building pads on lots adjacent to native vegetation providing assurance that no clearcutting will be necessitated in open space or native vegetation areas. The plan shall document that clearcut vegetation removal for brush management purposes shall not be permitted within proposed open space areas. Any approved selective clearing shall be conducted entirely by manual means and shall be the absolute minimum for the reduction of fire hazards. In addition, within the two finger canyons on the subject site, the homeowners' association will maintain these native habitat areas through removal of trash and debris which will not involve any kind of vegetation removal or planting of ornamental landscaping. Special Condition #7, an advisory condition, has been attached to assure that no clearcutting of native habitat will be permitted within the two finger canyons on-site without further review and approval by the Commission. The Commission recognizes that each case must be considered on a site specific basis and that the Carlsbad Fire Department has found that a 60-foot structural setback from open space is acceptable to mitigate fire hazard. However, the Commission, consistent with the Landscape Technical Manual and the certified LCP, has historically prohibited clearcutting in open space areas and as such has conditioned the project to this effect, as described above.

Regarding grading and erosion control, approximately 176,700 cubic yards of grading is proposed to be balanced on-site, resulting in cut and fill slopes ranging from 27 to 38 feet in height. The grading of the property, however, has the potential to indirectly impact sensitive off-site resources located in Canyon de las Encinas. The City's approval requires the all building pad and street areas that are graded and remain vacant or undeveloped for a period of more than six months after the grading operation is completed be seeded and adequately irrigated to reduce erosion and visual impacts. The USFWS has also

recommended that grading and construction of the proposed project only be allowed during the non-breeding season of the gnatcatcher between August 1 and February 15. According to the Service, minimizing impacts associated with noise within the remaining areas of coastal sage scrub during grading and construction may help to reduce disturbance to the gnatcatcher which has been found to use the native steep slopes in the southern part of the site.

The City of Carlsbad permits grading to occur within the restricted time period provided that drainage and erosion control devices are in place. The applicant thus proposes to install temporary desiltation basins at the beginning of grading activities, along with temporary erosion control devices and installation of erosion control planting. Drainage from the subdivision will be collected in a drainage system and discharged with proper energy dissipation. Lot drainage will be directed away from new slopes. In this particular case, since the drainage from the site will discharge to Encinas Creek rather than to an ecosystem such as a lagoon, the extension of time for grading into the rainy season can be found acceptable and has been permitted in similar projects. In addition, since the extension of time to complete all grading activities requested by the applicant coincides with the time frame that USFWS would recommend that grading and construction occur, extension of the grading period should not adversely affect the sensitive wildlife habitat in the area, provided that all erosion control devices are in place well in advance of the onset of grading activities.

Regarding drainage and runoff control, the LCP addresses the protection of downstream sensitive resources. It requires that runoff rates from developed sites not exceed natural runoff rates resulting from a 10 year storm of moderate intensity. Additionally, to mitigate drainage impacts from project sites, adequate devices must be installed for drainage and erosion control, and urban pollutant basins must be provided. To comply with these water quality standards, the City has required the applicant to install erosion control devices pursuant to the requirements of the Mello II LCP. Lot drainage will be directed away from new slopes. Special Conditions #2 and #3 require the submittal of final grading, drainage, and erosion control plans designed to prevent erosion and subsequent downstream sedimentation impacts associated with drainage from the developed site. Special Condition #3 further requires final drainage plans designed to assure no increase in the peak rate of runoff associated with the developed site when compared to undeveloped conditions. These requirements are consistent with the language contained in the Carlsbad LCP and past Commission precedents.

In order to identify staging areas and access corridors so that sensitive habitats are not disturbed for this purpose, Special Condition #4 requires final plans to delineate these features. Access corridors and staging areas shall be located in a manner that has the least impact on coastal resources. No staging areas or access corridors shall be located within the environmentally sensitive habitat areas.

In summary, the proposed project will avoid nearly all impacts to dual criteria slopes and the applicant has proposed a mitigation plan for the 0.03 acre of coastal sage scrub impacts that will result from grading associated

with an access drive to Lot 37 and grading necessary for purposes of minimizing elevational differences in the finished pad and natural grade to facilitate drainage on Lots 30 and 32. As such, the Commission finds the project, as conditioned, complies with the slope preservation and environmentally sensitive habitat area provisions of the Mello II LCP.

3. Agriculture. The level portions of the project site support agricultural use and the site is located in the Coastal Agricultural Overlay Zone (Site II) of the Mello II segment of the City's LCP. The soils of the site, however, are not regarded as prime Class I or II agricultural soils. The Mello II LCP requires mitigation when non-prime coastal agricultural land is converted to urban land uses. Sections 30241 and 30242 of the Coastal Act concern the protection of agricultural lands. In 1981, when the Carlsbad Mello II LCP segment was certified by the Commission, the two major concerns were preservation of agricultural uses and protection of environmentally sensitive habitats. Regarding agricultural preservation, a major issue was minimizing agricultural versus urban impacts by developing stable urban/agricultural boundaries. For the most part, the certified LCP accomplished this objective by concentrating development along I-5, Palomar Airport Road, and the El Camino Real transportation corridors and preserving the interior areas, where public infrastructure is lacking, for continued agricultural use.

Major amendments to the LCP certified by the Commission in 1985 significantly changed the policies of the LCP regarding agricultural preservation. Those amendments essentially allowed for conversion of almost all the agriculturally-designated lands within the City's Mello I and Mello II segments. The LCP provides three mitigation options for such conversions for projects in Site II of the Coastal Agricultural Overlay Zone: (1) "Prime Land Exchange"; (2) "Determination of Agricultural Feasibility"; and (3) "Agricultural Conversion Mitigation Fee".

The implementing ordinances of the LCP, as modified in 1985, contain the specific requirements for implementing the three options of the LCP. The applicant has chosen the third option for conversion which provides for the payment of an agricultural mitigation fee of between \$5,000 and \$10,000 per each net converted acre of non-prime agricultural land. The funds accrued from the mitigation fees are to be used in the restoration and enhancement of natural resources, public access opportunities, and preservation of agricultural lands in Carlsbad.

The mitigation fee requirement is triggered at the time that a coastal development permit for "urban development" is considered. Specifically, subsection 21.070-c calls for such fees to be paid "prior to the issuance of building permits for the project". As noted, the subject property is located in the Coastal Agricultural (C-A) zone and is, thus, subject to the requirements of the LCP regarding agricultural lands. The proposed use clearly constitutes an urban conversion. The City's approval requires payment of between \$5,000 to \$10,000/acre as a mitigation fee. The City will determine the exact amount of the fee prior to final approval of the tentative map. The Commission finds this option acceptable provided evidence is

submitted that the fee has been paid, consistent with the provisions of the attached Special Condition #5. Only as conditioned can the Commission find the subject project and conversion of agricultural lands consistent with the agricultural policies of the certified Mello II LCP.

4. Visual Impacts. Section 30251 of the Coastal Act and the certified Mello II LCP state that new development must be sited and designed to not adversely impact scenic features. The project site is located in the southern portion of the City of Carlsbad. This area is primarily agricultural land surrounded by either existing or planned medium density residential projects. The subject site is at a somewhat higher elevation than development to the west but is not visible from Interstate-5. As noted in a City staff report, portions of the site, however, may be visible in the distance further west near the ocean looking east. The site is also visible from Palomar Airport Road to the north, which is designated as a scenic roadway in the LCP, and contains the Qualified Development Overlay zone. Through application of this overlay zone, it can be assured that future development on the site will be designed in a manner to protect the scenic views from this roadway.

When both the City and Commission review the site development plans for future development of homes on the property through a subsequent coastal development permit application, special design measures will be implemented through the overlay, which may include any of the following: reduced building height along the top of the ridgelines, varying rooflines and roof massing, increased landscape screening, earthtone roof and building wall material and colors, increased building separation, and enhanced rear building elevations for those homes that will be visible from Palomar Airport Road. Therefore, the Commission finds that the subject development is consistent with the visual resource policies of the certified Mello II LCP.

5. Local Coastal Planning. Sections 30170(f) and 30171 of the Coastal Act were special legislative amendments which required the Commission to adopt and implement a Local Coastal Program for portions of the City of Carlsbad and County islands prior to specific statutory dates. In reviewing development proposals, the Commission must essentially act like the local government and assess whether a project is consistent with the implementing zone and other policies of the certified LCP. In this case, such a finding can be made for the proposed development, as conditioned.

The project site was rezoned from RDM-Q (Residential Density Medium with a Qualified Development overlay) to One-Family Residential with the Qualified Development overlay (R-1-7500-Q) pursuant to a LCP Amendment #2-96B to the Mello II segment of the City's certified LCP, approved by the Commission in June, 1996. The site is planned for residential uses (Residential Medium at 4-8 dwelling units per acre) in the City of Carlsbad's certified Local Coastal Program (LCP). The proposed project density, at 3.06 du/a, is consistent with these designations. As noted by the City, in this case, the new zone of R-1-7500-Q is more restrictive than the former RDM-Q zone as it contains more development standards with regard to the siting of new development on individual lots. Therefore, the Commission finds the subject proposal consistent with the certified LCP and project approval should not prejudice

the City's ability to continue to implement its certified LCP.

6. California Environmental Quality Act Section 13096 of the Commission's administrative regulations requires Commission approval of the coastal development permit 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 policies of the certified LCP which address hillside development and protection of environmentally sensitive areas. Mitigation measures, including conditions addressing preservation of naturally vegetated steep slopes in open space; mitigation for coastal sage scrub and riparian impacts; grading and erosion control; drainage/runoff control; construction timing/staging and access corridors; payment of agricultural conversion fees; and, a brush management program, will minimize all environmental impacts to a level of insignificance. As conditioned, the project complies with the slope preservation and environmentally sensitive habitat area provisions of the Mello II LCP. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as 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 development during construction, 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.

(6119R)

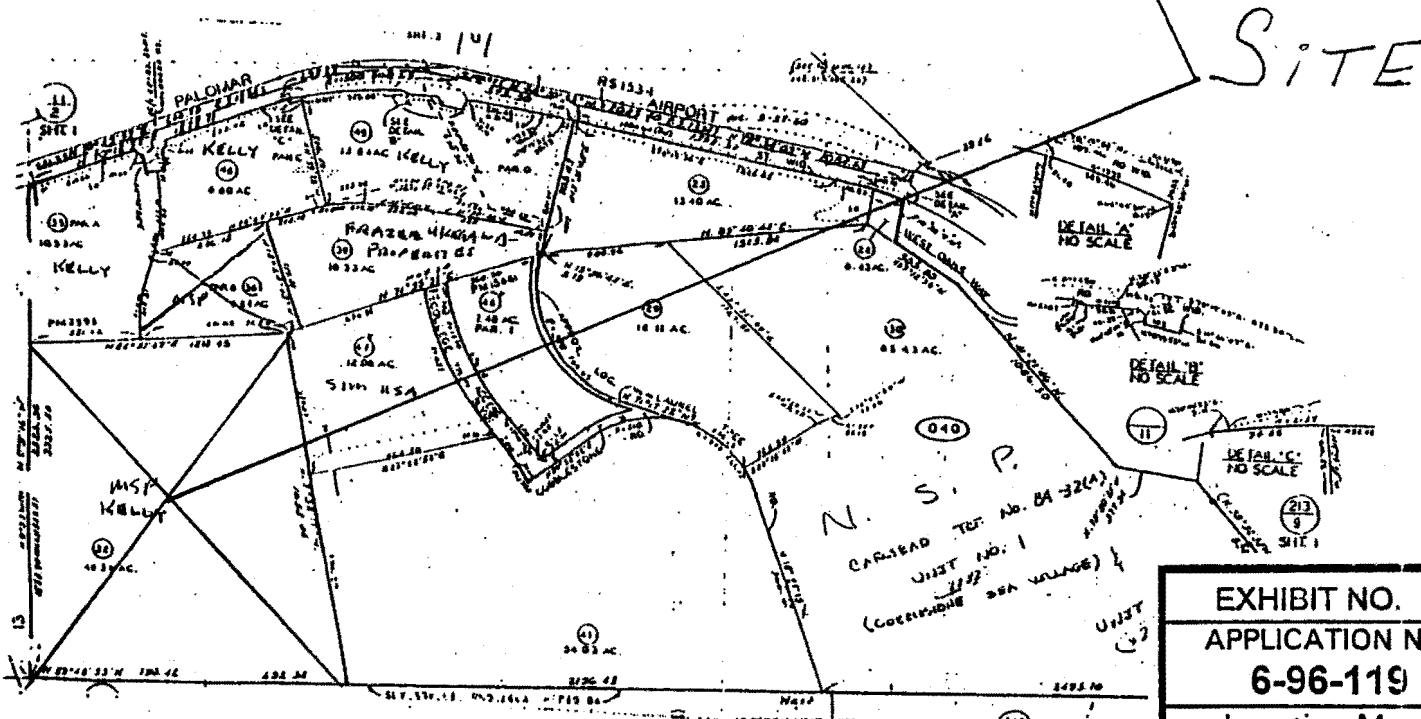
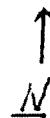
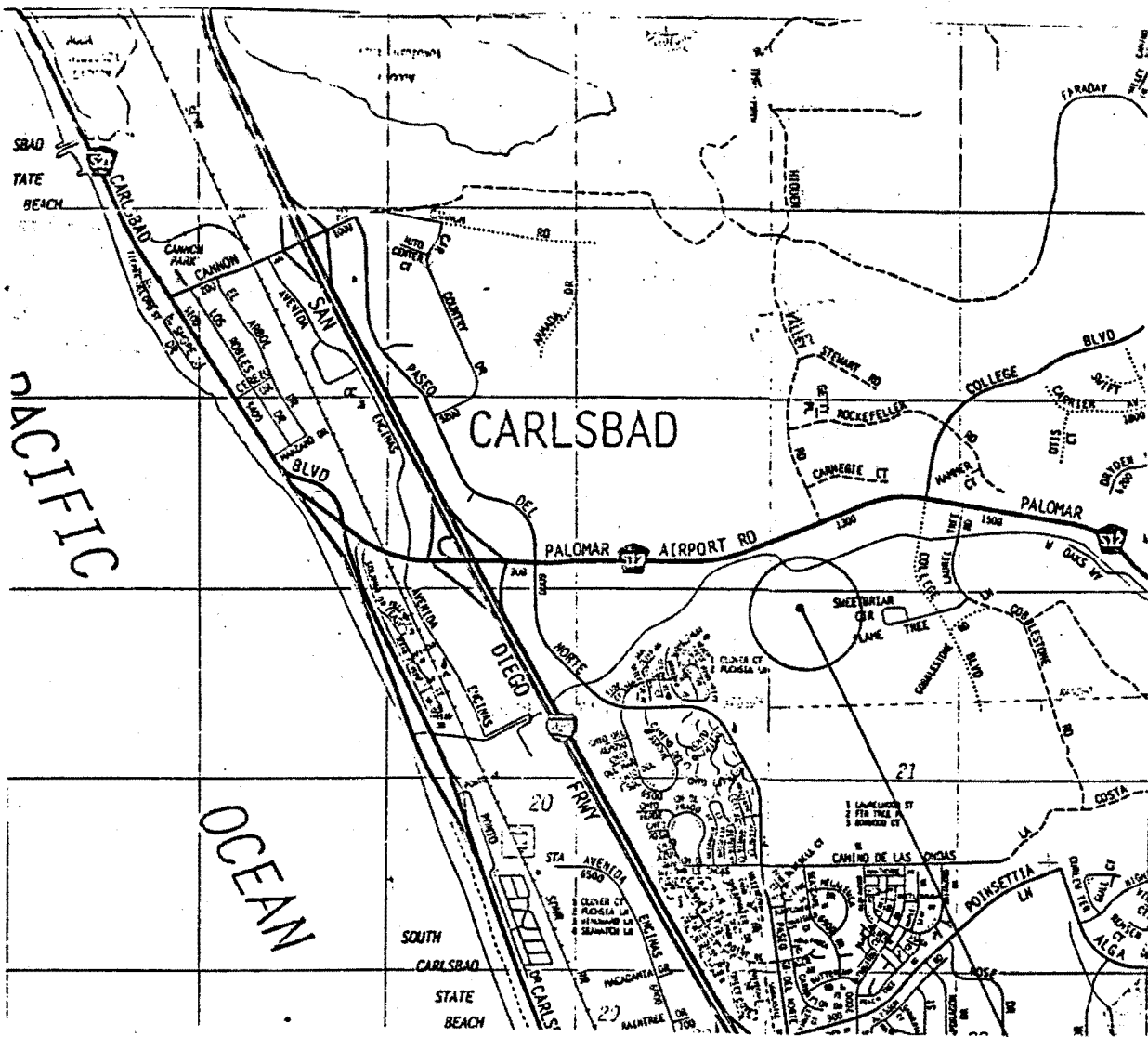
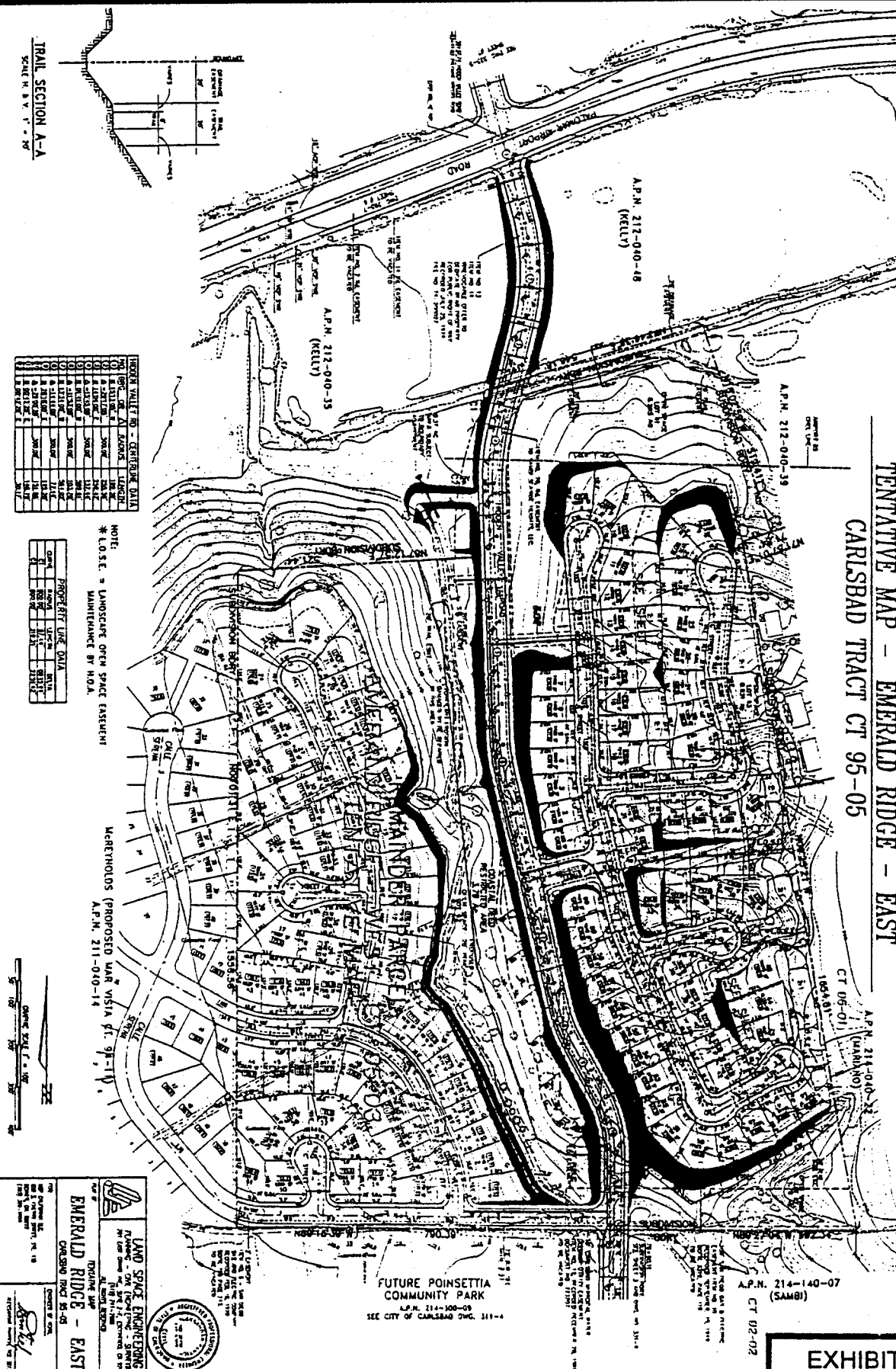


EXHIBIT NO. 1
APPLICATION NO.
6-96-119
Location Maps
California Coastal Commission

# TENTATIVE MAP - EMERALD RIDGE - EAST CARLSBAD TRACT CT 95-05



PROPOSED LOT DATA

LOT	AREA (SQ. FT.)	AREA (AC.)	PERCENTAGE
1	1,111.00	0.0255	1.11
2	1,111.00	0.0255	1.11
3	1,111.00	0.0255	1.11
4	1,111.00	0.0255	1.11
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97	1,111.00	0.0255	1.11
98	1,111.00	0.0255	1.11
99	1,111.00	0.0255	1.11
100	1,111.00	0.0255	1.11

NOTE:  
\* L.O.S.E. = LANDSCAPE OPEN SPACE ESTIMATE  
MAINTENANCE BY M.O.A.

PROPOSED LOT DATA

LOT	AREA (SQ. FT.)	AREA (AC.)	PERCENTAGE
1	1,111.00	0.0255	1.11
2	1,111.00	0.0255	1.11
3	1,111.00	0.0255	1.11
4	1,111.00	0.0255	1.11
5	1,111.00	0.0255	1.11
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18	1,111.00	0.0255	1.11
19	1,111.00	0.0255	1.11
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**LAND SPACE ENGINEERING**

10000 N. 100th St., Suite 100  
Portland, OR 97220

TEL: 503/253-1111  
FAX: 503/253-1112

www.lse-engineering.com

**EMERALD RIDGE - EAST**

CHASSIS TRACT 95-05

DATE: 10/1/05

BY: [Signature]

FOR: [Signature]

**EXHIBIT NO. 2**

**APPLICATION NO.**

**6-96-119**

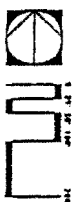
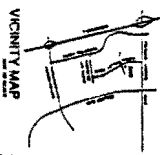
**Tentative Map**

California Coastal Commission



# LANDSCAPE CONCEPT PLAN EMERALD RIDGE EAST

Owner / Architect: W&P Capital, LLC



ADL  
Planning  
Associates

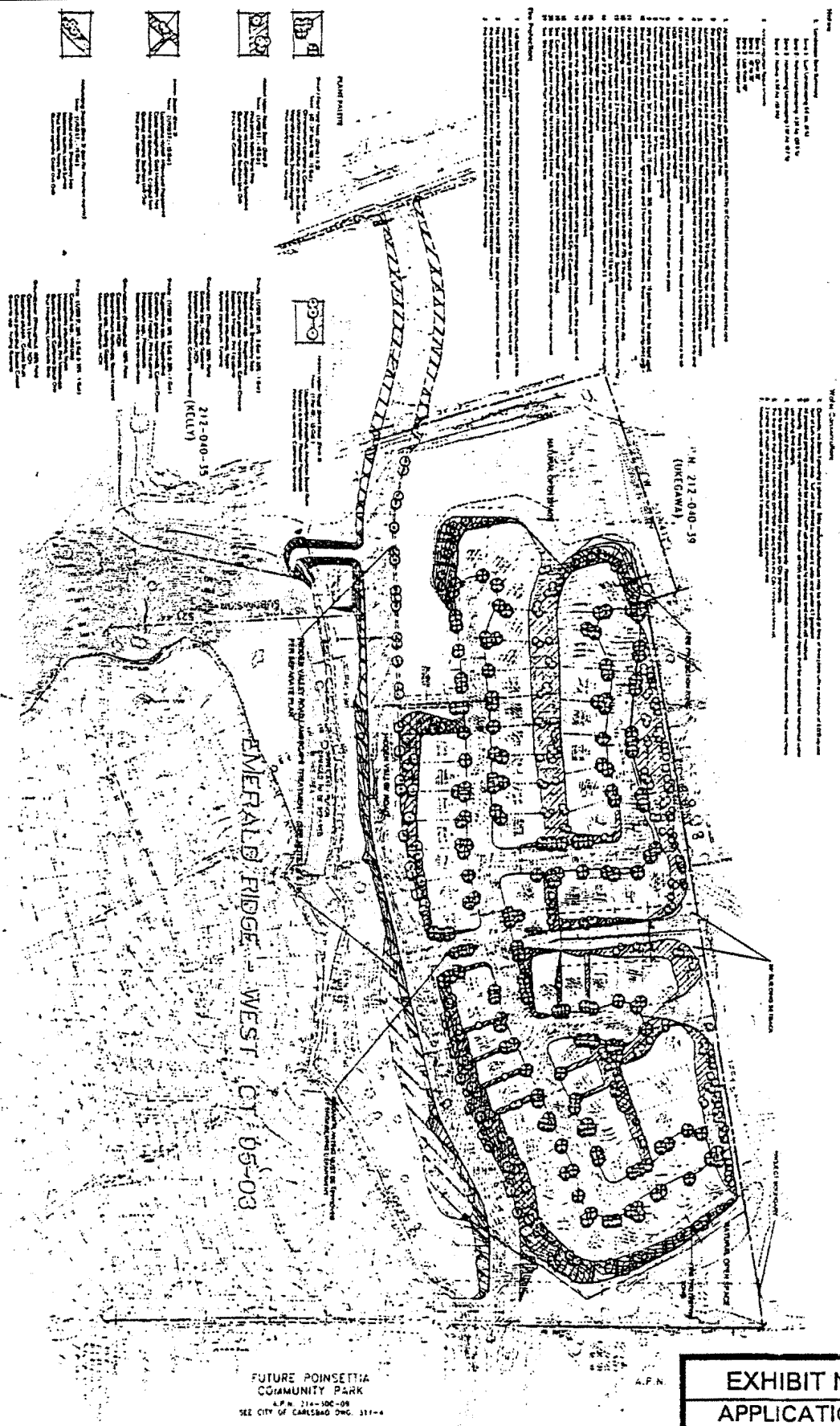
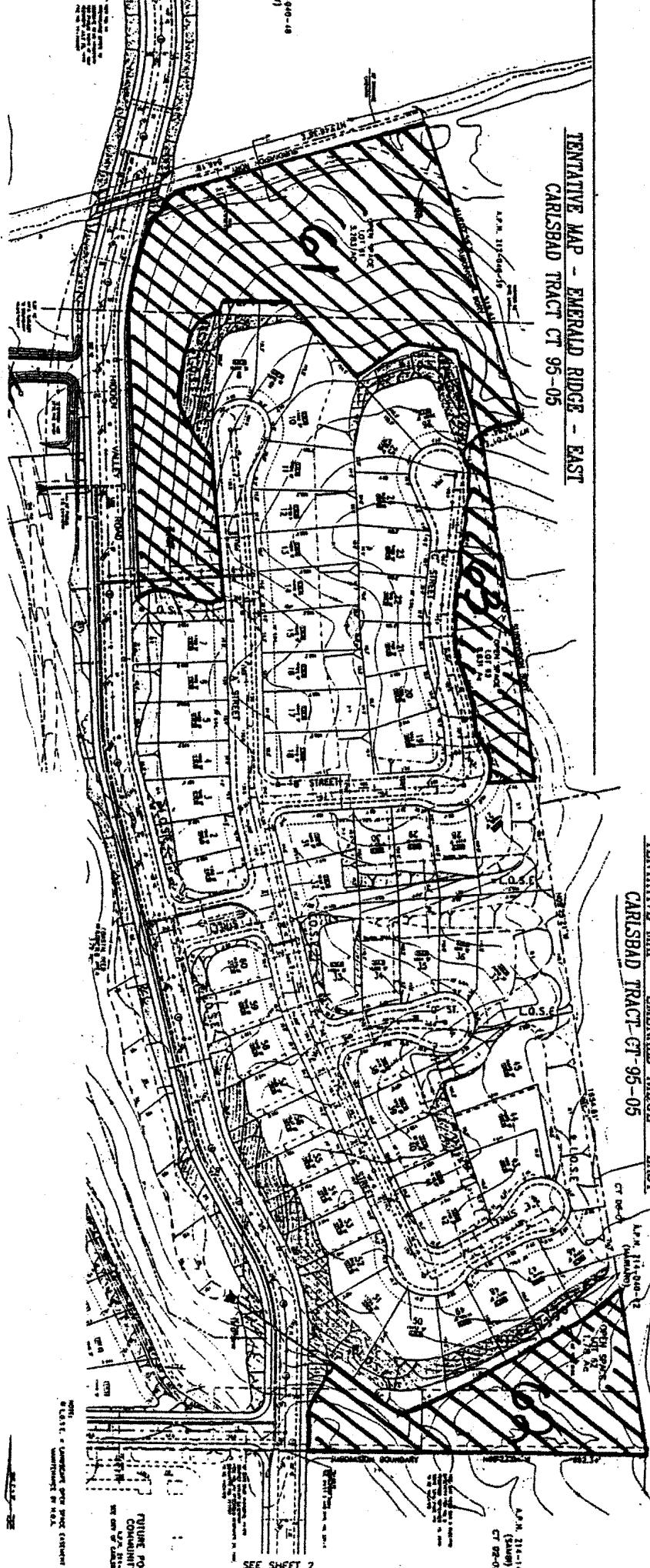


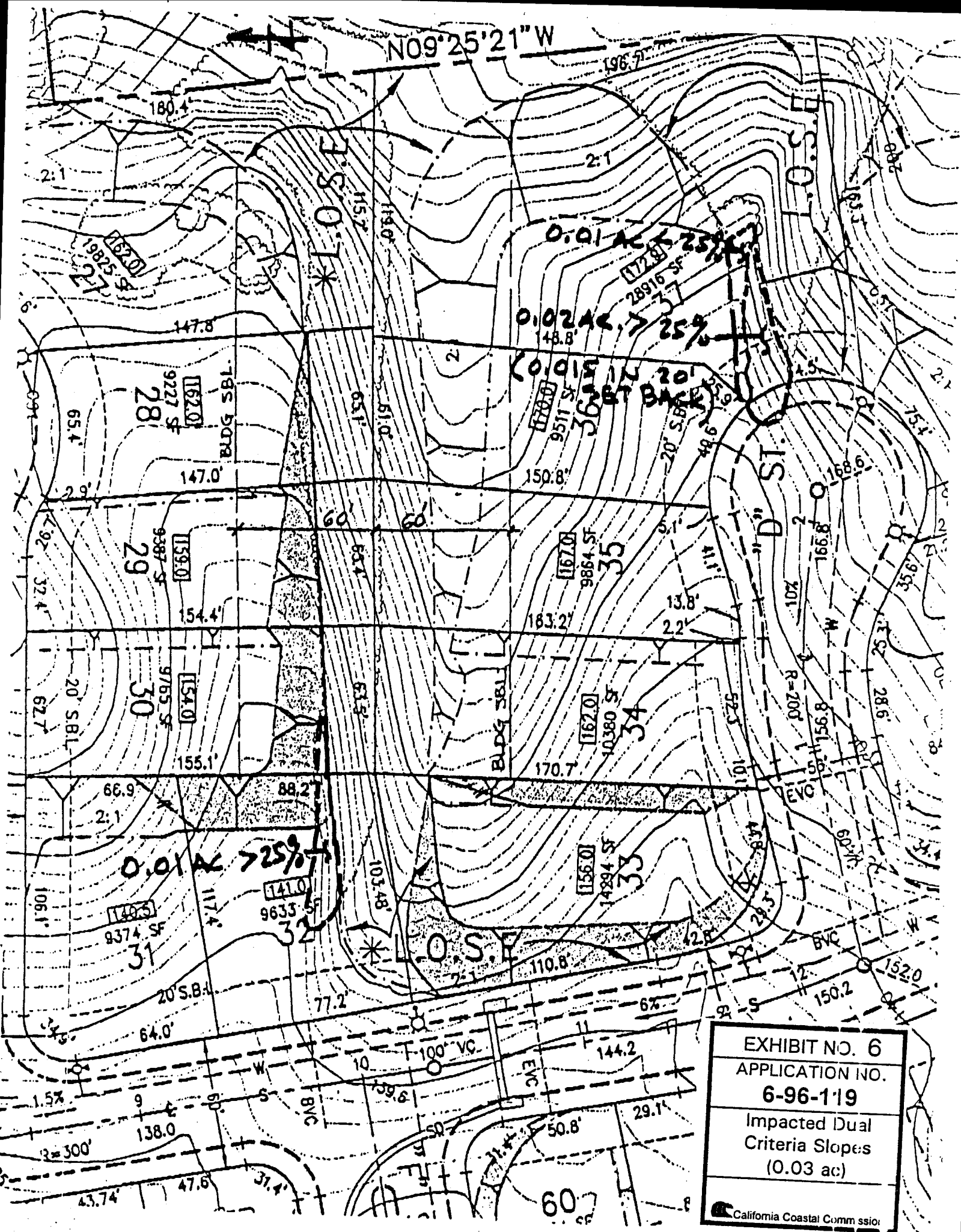
EXHIBIT NO. 4  
APPLICATION NO.  
6-96-119  
Conceptual  
Landscape Plan



TENTATIVE MAP - EMERALD RIDGE - EAST  
CARLSBAD TRACT-CT-95-05

EXHIBIT NO. 5  
APPLICATION NO.  
**6-96-119**  
Open Space Deed  
Restricted Area  
Pursuant to SC#1

California Coastal Commission



N09°25'21"W

0.01 AC > 25%

0.01 AC > 25%

0.02 AC > 25%

0.01 AC > 25%

140.5

141.0

156.0

167.0

102.91

162.0

172.8

159.0

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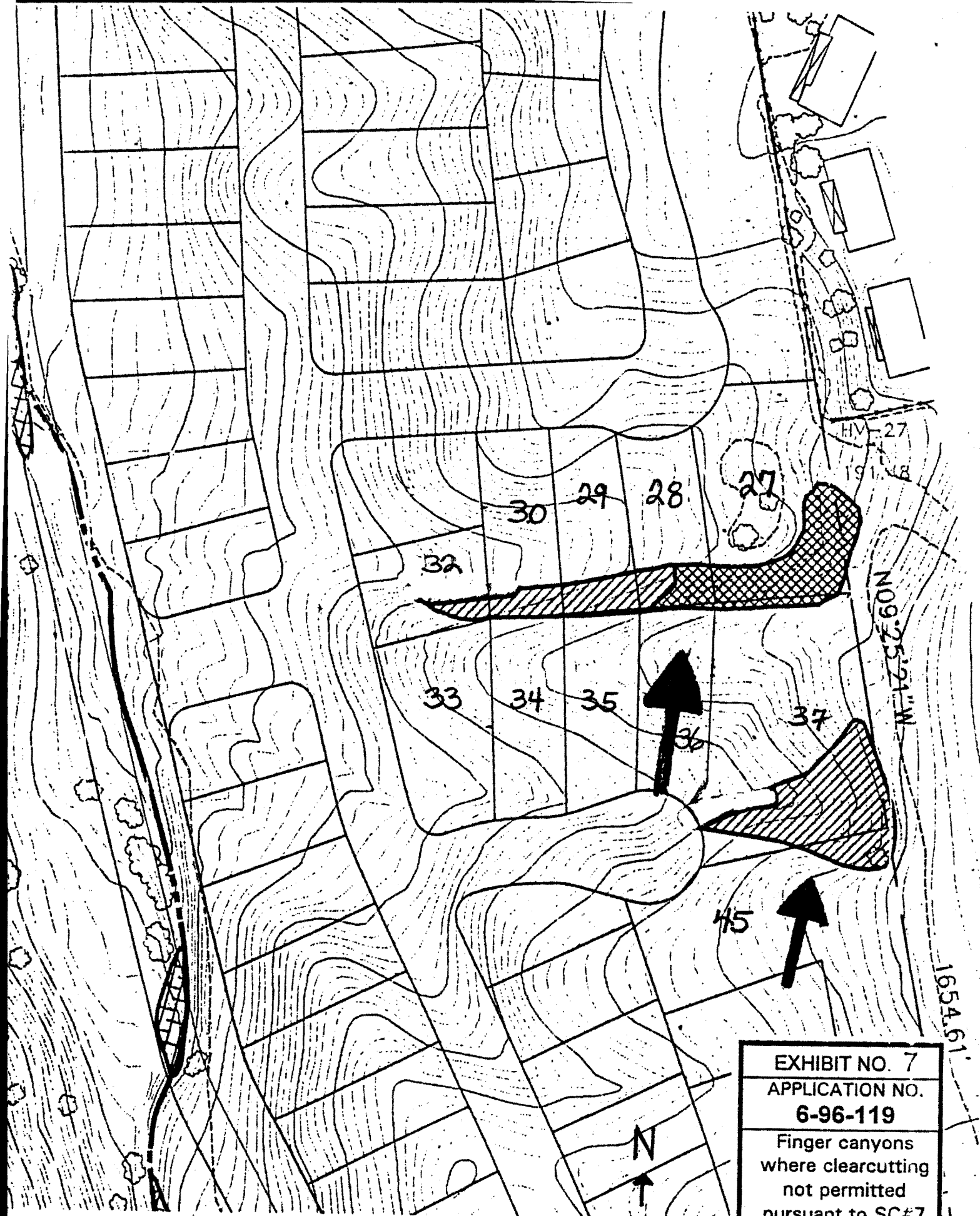



EXHIBIT NO. 7
APPLICATION NO. <b>6-96-119</b>
Finger canyons where clearcutting not permitted pursuant to SC#7
 California Coastal Commission