

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

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Staff: EL-SD
Staff Report: February 20, 1996
Hearing Date: March 12-15, 1996

STAFF REPORT: CONSENT CALENDAR**F5b**

Application No.: 6-96-10

Applicant: Mark Jacobson

Agent: Latitude 33 Planning and
Engineering

Description: Subdivision of 12.1 acres into three lots (one of 8.75 acres, and two of 1.73 acres each); construction of a small-animal boarding facility on the large lot, including a kennel building, a main building and retention of an existing 5,300 sq.ft. home for use as an office/caretaker's facility; construction of two new, 3,900 sq.ft. single family homes on the two smaller lots. In addition, the proposal includes three easements required in the City of San Diego discretionary permits: a non-building easement over the steep hillsides in the southern portion of the site; a non-building/conservation easement over the streambed, riparian corridor, and wetland buffer in the northern portion of the site; and a flowage easement over the floodplain portions of the site.

Lot Area	531,868 sq. ft.
Building Coverage	32,800 sq. ft. (7%)
Pavement Coverage	0 sq. ft. (0%)
Landscape Coverage	130,000 sq. ft. (25%)
Unimproved Area	363,768 sq. ft. (68%)
Parking Spaces	28
Zoning	A-1-10
Plan Designation	Future Urbanizing Area
Project Density	2.4 dua
Ht abv fin grade	28 feet

Site: 4401 Carmel Valley Road, North City, San Diego, San Diego
County. APN 308-010-02

Substantive File Documents: Certified North City FUA Framework Plan and
City of San Diego LCP Implementing Ordinances
City of San Diego Approval No. 95-0195 (Mitigated
Negative Declaration and Conditional Use,
Planned Residential, Tentative Parcel Map and
Resource Protection Permits)

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 will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. The project shall be constructed in accordance with final plans as approved by the Executive Director. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development, which shall be in substantial conformance with the preliminary plans and project description approved herein. Said plans shall document the location of paving for the existing access road and shall document a single-family residence for Lot 3 not exceeding 3,500 sq.ft. in floor area, consistent with the City of San Diego approvals.

2. Biological/Hydrological Resources. The non-building/conservation and flowage easements required in the City of San Diego discretionary approvals and permits are part of the project as proposed. Prior to commencement with construction, the applicant shall submit the final tentative parcel map, evidencing that said easements have been recorded in conformance with the locations and boundaries shown on Tentative Parcel Map No. 95-0195. Any modification to the terms of these easements, or the areas to which they are applied, will require an amendment to this permit. Evidence of recordation of the easements shall be subject to the review and written approval of the Executive Director.

3. Lagoon Enhancement Fund. Prior to the issuance of a coastal development permit, the applicant shall submit an agreement, suitable in form and content to the Executive Director, demonstrating that the applicant and all successors in interest have participated in a lagoon enhancement fund to aid in the restoration of Los Penasquitos Lagoon. Said agreement shall consist of a Letter Authorizing Deposit and Use of Funds for Los Penasquitos Lagoon Enhancement and a receipt of deposit for an amount equal to one-half

cent per square foot of surface area graded and three cents per square foot of new impervious surface (buildings and paving) created by this project on Parcel 1, and \$50 each for the two residential units on Parcels 2 and 3.

Any funds shall be executed in a manner that allows use of the funds by the Coastal Conservancy, the Wildlife Conservation Board, the Department of Fish and Game or the City of San Diego. No such use of funds shall occur unless and until the Executive Director certifies that the funds are proposed for a bona fide Los Penasquitos enhancement activity. Examples of "bona fide enhancement" activities shall include, but not be limited to, the development of a lagoon restoration plan, the preparation of background technical studies for the development of the plan, the implementation of the plan and stewardship and management following implementation of the plan.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to subdivide an approximately twelve-acre parcel into three parcels, with Parcel 1 being 8.75 acres in size, and the other two parcels being 1.73 acres each. The applicant proposes to retain an existing single-family home on Parcel 1 and convert it to a joint office space and caretaker's quarters for a proposed small animal boarding facility on that parcel. The applicant proposes to construct a new one-story, 4,600 sq.ft. building to house reception/office area, an area for grooming and a cat kennel. Also proposed is construction of two, two-story structures for use as dog kennels (11,587 sq.ft. and 9,381 sq.ft. in size), a twenty-eight space parking lot, and outdoor exercise and training areas. Two open corrals, the only existing structures besides the single-family residence referenced earlier, will be removed from the floodplain portions of the site. Other improvements include paving the first fifty feet of the existing access road leading off of Carmel Valley Road, fencing of the southern open space area to separate the open space from the remainder of the site, extensive landscaping, and approximately 2,400 cu.yds. of balanced cut and fill grading within the disturbed portions of the site for the development of all three proposed parcels.

The two smaller proposed lots will be developed with a single-family residence on each. The City's approvals allow for a maximum 4,000 sq.ft., two-story home on Parcel 2 and a maximum 3,500 sq.ft., one-story home on Parcel 3. The restriction to 3,500 sq.ft. for the Parcel 3 home was a last minute change during the local hearing process, such that the submitted preliminary plans show a 3,900 sq.ft. home on each of the two smaller parcels. Also, the preliminary plans do not indicate the fifty feet of paving on the existing access road described above. Thus, Special Condition #1 requires submittal of final plans documenting these modifications.

The proposed development also includes three easements required in the City of San Diego discretionary reviews (Tentative Parcel Map, Conditional Use Permit, and Resource Protection Ordinance Permit). These address the on-site biological resources, consisting of riparian and coastal sage/chaparral

vegetation, and hydrological resources including Carmel Creek and its floodplain. They will be discussed in greater detail in the following finding.

2. Environmentally Sensitive Habitat Areas/Floodplain. The Chapter 3 policies most applicable to the proposed development are Sections 30233, 30236 and 30240, which protect floodplain areas, wetlands, and sensitive habitats and park and recreation areas. The approximately twelve-acre parcel includes a stream (Carmel Creek) flowing from east to west just south of the northern property line, with Southern sycamore riparian woodland vegetation paralleling the stream, and steep slopes along the southern portion of the site containing Diegan coastal sage scrub, Southern mixed chaparral and Scrub-oak chaparral. Also, approximately the northern third of the site is within the 100-year floodplain of Carmel Creek; this aspect will be discussed more fully in the subsequent finding. The central portions of the property are above the floodplain and relative level, and have been previously disturbed by agricultural and equestrian activities. This area includes an existing, 5,300 sq.ft., two-story single-family home which will remain and be incorporated into the proposed development.

The nearest public street is Carmel Valley Road, which lies to the northwest of the subject site. There is an existing private road exiting Carmel Valley Road and heading in a southeasterly direction to access the subject property; this accessway includes an existing bridge over Carmel Creek. No modifications to the road or bridge within the floodplain are herein proposed. Furthermore, the applicant is removing existing horse corrals within the 100-year floodplain and is not proposing any new development within that area. The only off-site improvement required by the City of San Diego is paving of the first fifty feet of the road where it exits Carmel Valley Road. This is in an upland area considerably northwest of the creek, such that there is no paving proposed within the wetland, the wetland buffer, or the floodplain. The remainder of the access road will remain in its present, unpaved condition. The accessway will separate into three driveways within the developable portion of the site to access the three proposed parcels.

The applicant does not now propose any development within any of the identified sensitive areas. However, since the potential exists that future site proposals could negatively impact the on-site resources, the City of San Diego, in its approval of Tentative Parcel Map No. 95-0195 and the other related local reviews/permits, is requiring conservation, flowage and non-building easements over the various resource areas. A non-building easement covers the area of naturally vegetated steep slopes along the southern property limits. The City's requirements include installation of a fence along the easement's northern border to prevent encroachment by humans or domestic animals into the sensitive areas, and provision of adequate level ground within the easement area to accommodate wildlife movement. A second non-building/conservation easement is placed over the stream, riparian corridor and a 100-foot wetland buffer in the northern portion of the site. The third easement is a flowage easement, to incorporate all floodplain portions of the site and prohibit inappropriate development therein. This easement is approximately 300 feet in width, and includes the area covered in the second easement, which, in addition to its wetland resources, is also located within the floodplain.

Potential future impacts to the environmentally sensitive habitats, including riparian wetlands and naturally-vegetated steep slopes, would be inconsistent not only with the City's certified LCP, but with the cited Chapter 3 policies of the Coastal Act as well. The easements required by the City will protect the environmentally-sensitive habitat areas and floodplain from disruption. Therefore, if these easements are recorded as proposed, the project will be consistent with Sections 30233, 30236, and 30240 of the Coastal Act. Therefore, Special Condition No. 2 requires that before the applicant begins construction of the project, the applicant shall submit the final tentative map evidencing recordation of the three easements required by the City of San Diego. As conditioned to protect on-site resources from any future disturbance, the Commission finds the proposed development consistent with Section 30240 of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act provides for the protection of scenic coastal areas and for the compatibility of new and existing development. Although removed from the immediate coastline, the subject site is located within a scenic river valley, upstream from Los Penasquitos Lagoon. The property is currently developed with a single-family residence and horse corrals; the residence is being retained as part of the proposed animal boarding facility, but the corrals are being removed. There are undeveloped, naturally-vegetated steep slopes south of the proposed area of development, a streambed and riparian corridor to the north, open river valley to the east and a large subdivision to the west. Although the proposed animal boarding facility on proposed Parcel 1 and two new single-family homes on proposed Parcels 2 and 3 will change the character of the existing site, the development will be far less intense than the existing subdivision to the west. Moreover, the buildings are relatively low-scale (one and two stories in height), and are proposed to be finished in earthtones.

All steep slope areas, the stream and riparian corridor, and the floodplain areas are to be maintained as open space, per the City's approvals and Special Condition #2. In addition, the proposal includes a substantial landscaping program for the developable areas of the site, which will provide significant screening of the proposed buildings. Thus, the completed development will not detract from the visual amenities of the area, and will be similar in general appearance (overall scale and coloration) to the existing residential development to the west. Therefore, the Commission finds the proposal, as conditioned, consistent with Section 30251 of the Act.

4. Lagoon Enhancement Fund. Even with proper project design to minimize erosion and runoff impacts, development will have some degree of adverse effects on Los Penasquitos Lagoon. As noted in other permits (e.g. 6-82-100, Genstar; 6-82-106-A, Fieldstone; 6-83-13, Baldwin; A-69-81, Village Properties; and, 6-82-182, Lusk-Smith/Mira Mesa North) and in the findings of the predecessor Regional Commission to deny the North City Land Use Plan, development will increase the amount and rate of runoff; and, will increase the amount of urban pollutants in runoff. In addition, even with controls over the rate of runoff, a greater net volume of runoff will result because less water will percolate into the ground. The combined result will provide the potential for a substantial increase in sedimentation.

In order to mitigate the effects of runoff, the Commission sponsored a study of Los Penasquitos Lagoon entitled "Stream and Lagoon Channels of the Los Penasquitos Watershed, California, with an Evaluation of Possible Effects of Proposed Urbanization" by Karen Prestegaard; a recommendation was made to increase the tidal prism of the lagoon by restoring channels cut off by construction of the railroad across the lagoon. It was recommended that this would enhance the capability of the lagoon to maintain an open mouth. It was also reasoned that a lagoon that was open more of the year would be better flushed and more capable of absorbing the increased load of pollutants. Commission staff worked with North City West developers to analyze the costs of a minimal improvement project along the lines recommended in the Prestegaard study.

In this application, the Commission is recognizing the contribution of both commercial and residential construction to the problems of Los Penasquitos Lagoon. Because the solution initially developed was a minimal approach, the Commission recognizes that additional funding will allow a more comprehensive and effective solution. Some degree of the major causative factor in increased runoff and pollutants is the establishment of impervious surfaces. Such areas cause runoff to enter streams more rapidly, and the runoff contains increased pollutant loads particularly from such areas as parking lots. If we generalize residential development such as occurs in North City West to involve a net density of about 5 units per acre and a coverage with impervious surfaces of about 60% (midrange figures, residential development actually varies around these figures depending on density and amenities), the existing fees represent a cost of about 1¢ per square foot of impervious surface. Ultimately, it was determined that \$50 per residential unit was an appropriate amount to mitigate the anticipated lagoon impacts resulting from residential development within the Los Penasquitos Lagoon watershed.

However, impacts are caused by initial grading as well as the ultimate impervious surfaces. Even with maximum possible controls on sedimentation, sedimentation increases downstream from graded areas until landscaping achieves effective coverage. Also, large-scale grading could alter the hydrology or runoff, leading to even more rapid runoff. Both size of graded area and area of impervious surface are considerations important in commercial projects where grading is most often more extensive (to create large pad areas) and where impervious surfaces (for parking) are usually necessary. The Commission finds that it is appropriate to assess a fee to mitigate these short and long-range impacts. The fee would be based upon one-half cent per square foot of site surface area disturbed by grading and three cents per square foot of ultimate impervious surface area. The smaller fee (grading) is for the shorter-term impacts before the site is revegetated or built upon; and, the larger fee (impervious surfaces) is for the longer-term impacts of annual rainfall on permanently hardened surfaces. The Commission finds that the fee is a reasonable condition that mitigates the actual effects of grading of undisturbed areas or previously disturbed, but stabilized, sites.

In this particular application, the proposal includes both commercial and residential development. Thus the commercial fees of one-half cent per square foot of grading and three cents per square foot of new impervious surfaces is

applied to the proposed development on Parcel 1. Since the applicant does not propose to pave the parking areas, there will be less impervious surfaces than with a typical commercial development, and the existing residence being incorporated into the animal boarding facility would not be considered in calculating the required fee. For Parcels 2 and 3, the flat rate of \$50 per residential unit would be applied. These fees are addressed in Special Condition #3. As conditioned, the Commission finds the proposed project consistent with Sections 30230 and 30231 of the Coastal Act, which provide for the protection and enhancement of marine resources and biological productivity of streams and lagoons. Application of the lagoon enhancement fee is also consistent with the certified City of San Diego LCP, which includes the mitigation program in its Coastal Development Permit Ordinance, and of which the Los Penasquitos Lagoon Enhancement Plan is a component.

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

Although the City of San Diego has a fully-certified LCP, and issues its own coastal development permits for most areas, the North City Future Urbanizing Area, where the project site is located, is an area of deferred certification, until such time as subarea plans have been certified by the Commission. Thus, the standard of review for this permit is Chapter 3 of the Coastal Act, and consistency with Chapter 3 policies has been demonstrated in the preceeding findings. However, the proposed development is also consistent with the A1-10 Zoning applied to the site and, with the open space easements applied by the City and herein, with the Future Urbanizing Area Framework Plan, which was certified by the Commission. This is a general planning document, addressing primarily traffic circulation and open space, and does not include the necessary detail to serve as an LCP Land Use Plan; subarea plans currently being drafted at the City will fill this role. The reservation of sensitive resources on this site (naturally-vegetated steep slopes and riparian wetlands in particular) as open space is also consistent with the reserve planning efforts of the City's Multiple Species Conservation Plan (MSCP), which is still under development at this time. Therefore, the Commission finds that approval of the development, as conditioned, will not prejudice the ability of the City of San Diego to complete subarea planning for this portion of the North City LCP segment, to finalize the MSCP, and to continue implementation of the certified LCP in other areas of the City's coastal zone.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit 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.

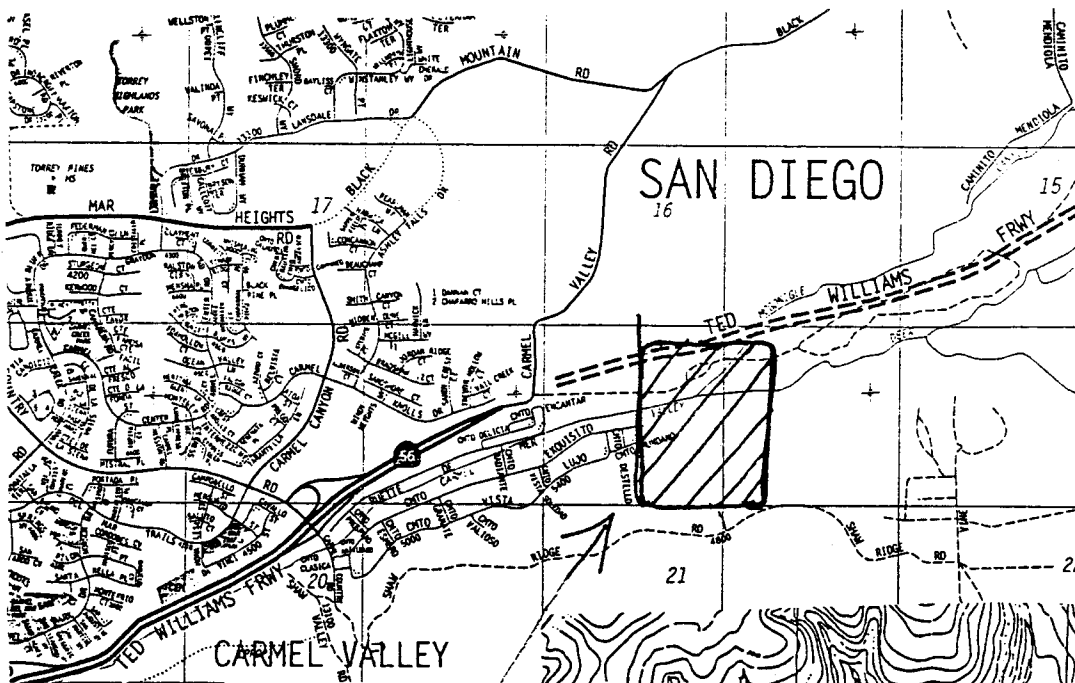
As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the biological and visual resource policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project 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.

(6010R)

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Site

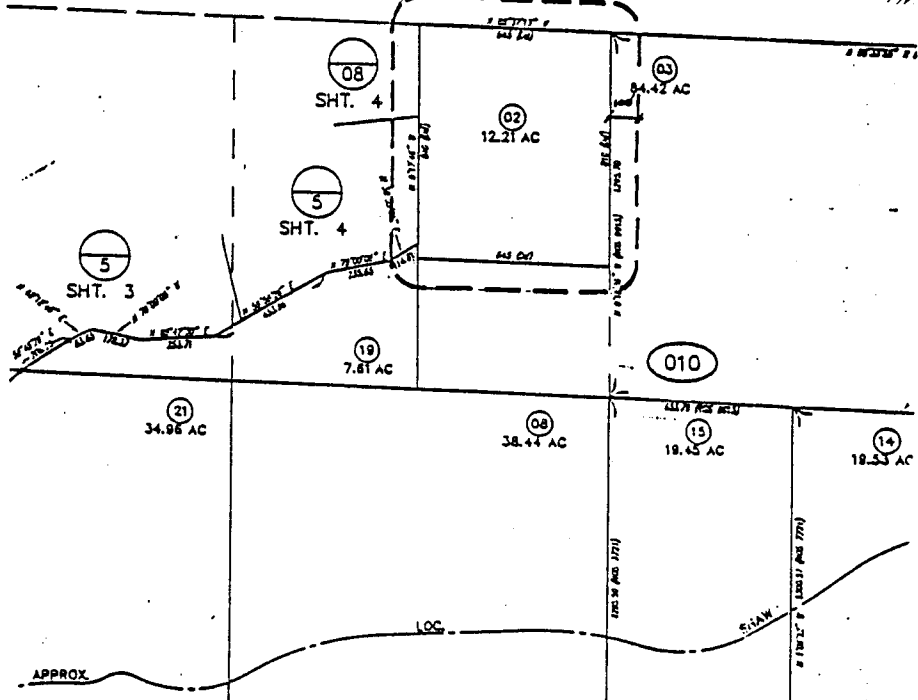
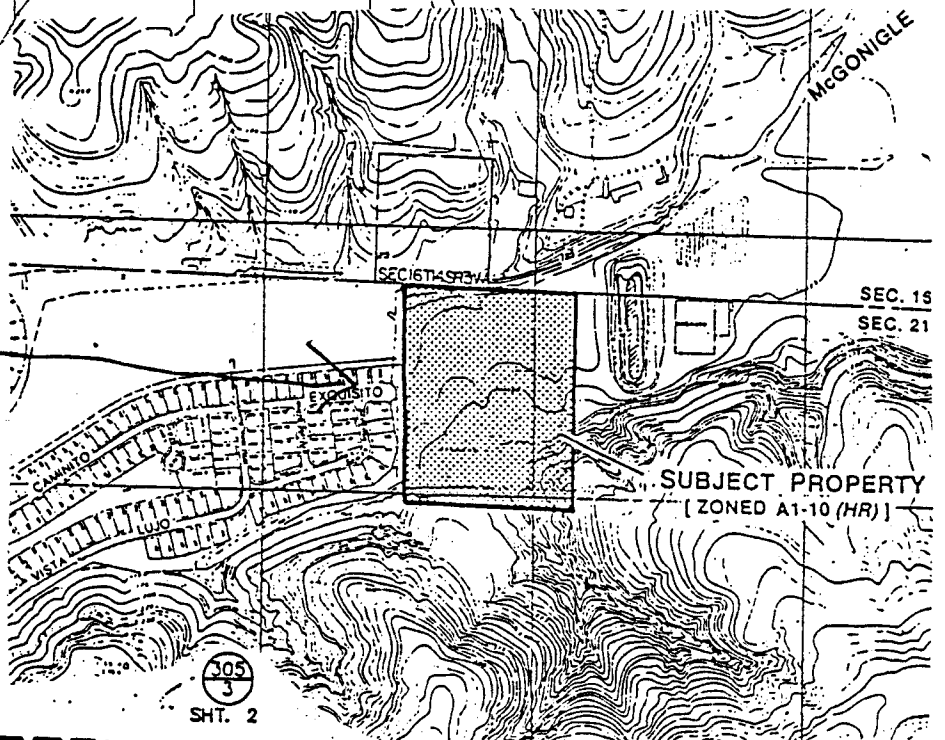


EXHIBIT NO. /
APPLICATION NO.
6-96-10
Location Maps
California Coastal Commission

6-96-10

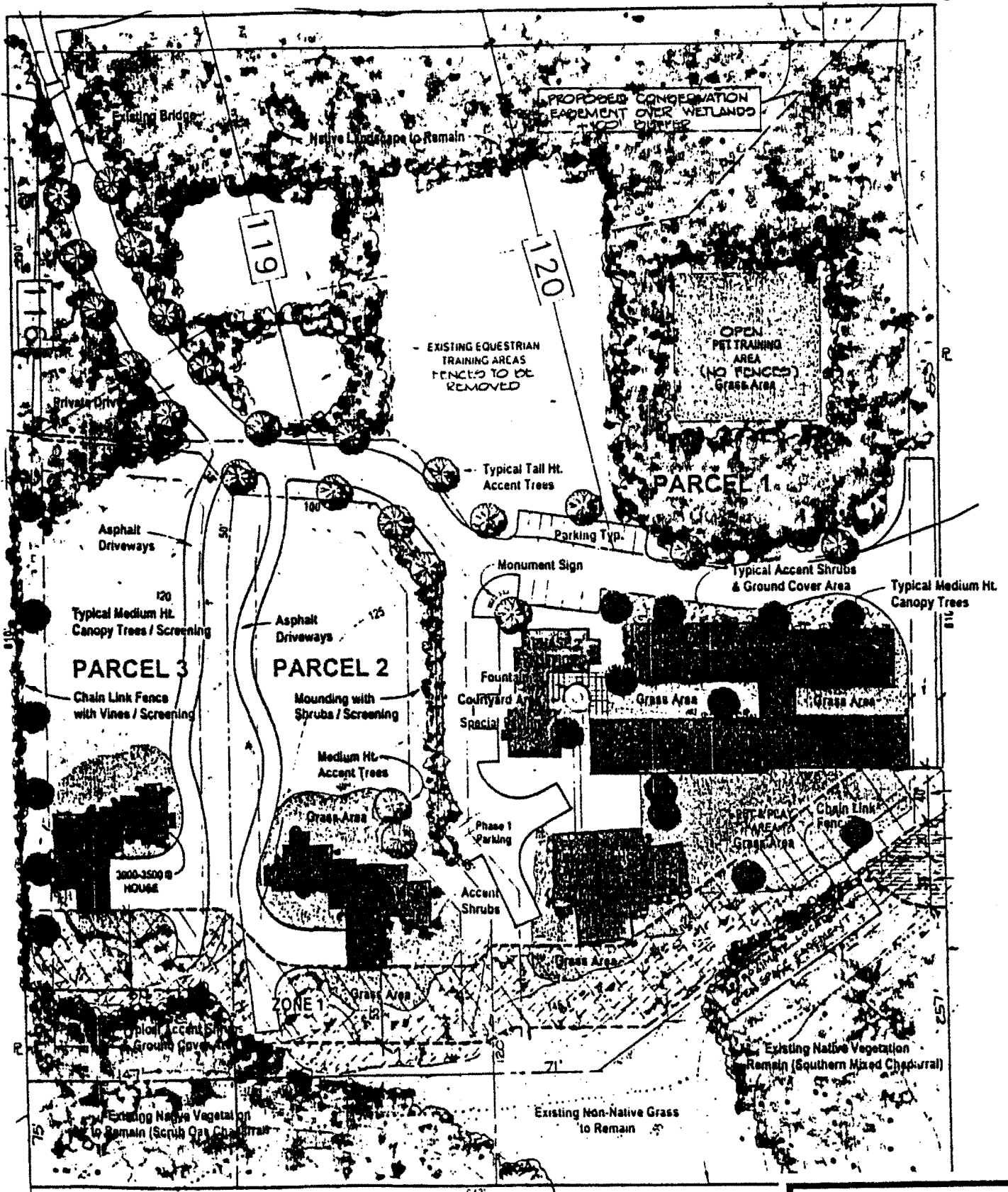
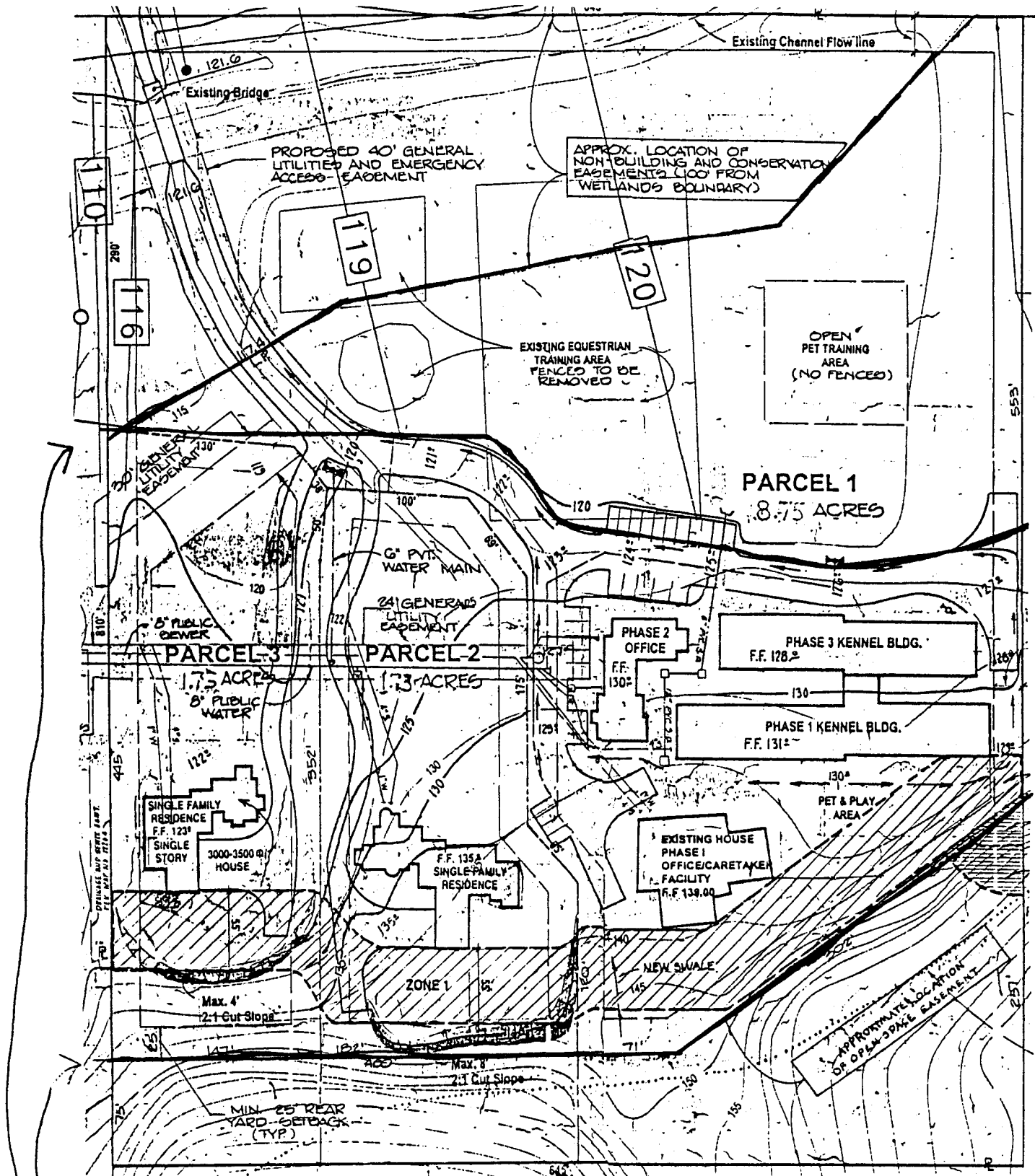


EXHIBIT NO. 2
APPLICATION NO. 6-96-10
Site/Landscaping Plan
California Coastal Commission

6-96-10



Darker lines denote easements

EXHIBIT NO. 3
APPLICATION NO. 6-96-10
Tentative Parcel Map 95-0195
California Coastal Commission