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CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
3111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
(619) 521-8036

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Hearing Date: August 13-16, 1996



REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Wed 18c

Application No.: 6-96-97

Applicant: Al Graff and Christa McReynolds  
Agent: Doug Boyd/Keith Herbers

Description: Subdivision of 17.5 acres within Coastal Commission jurisdiction (of a total 40-acre parcel) into ten lots for future residential and industrial uses and two open space lots; proposal includes 11,000 cu.yds. of cut and 25,000 cu.yds. of fill, with 14,000 cu.yds. of material imported from portions of the project outside the coastal zone. No other site improvements are proposed at this time.

Lot Area 17.5 acres  
Zoning R-1500, M-IP & OS-OSP  
Plan Designation Residential, Industrial & Open Space

Site: East of the I-5/I-805 merge, north of Los Penasquitos Canyon Preserve, south of Carmel Mountain Road in the Sorrento Hills Community, North City, San Diego, San Diego County.  
APN 310-050-03

Substantive File Documents: Certified Sorrento Hills Community Plan and City of San Diego LCP Implementing Ordinances  
DEP No. 91-0540 (Environmental Impact Report)  
Local Approvals: PID, PRD, HRP, and CDP  
NCCP Findings for Interim Habitat Loss Permit and Mitigation Monitoring and Reporting Program

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed development, with special conditions requiring the submittal of final plans, addressing the proposed open space easements, and requiring a contribution to the Los Penasquitos Lagoon Enhancement Fund. Potential issues raised by the project and addressed herein are impacts to steep slopes and biological resources, erosion and downstream sedimentation, and visual impacts.

PRELIMINARY 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 Grading and Erosion Control 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 project description approved herein and shall document that only grading of the site is occurring under the subject permit. The required grading plans shall incorporate the following:

A. From November 15 to March 31 of each year, grading may only occur in increments as determined by the City Engineer and in conformance with Section 62.0417.1 of the Land Development Ordinance of the City of San Diego, as certified by the Commission in January, 1988. Prior to commencement of any grading activity, the permittee shall submit a grading schedule to the Executive Director. Any variation from the schedule shall be promptly reported to the Executive Director.

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

C. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss from the construction site.

2. Biological Resources/Open Space. The open space easements (portions of Lots F and H in the coastal zone) 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 evidence that said easements have been recorded in conformance with the locations and boundaries shown on Tentative Parcel Map No. 91-0540. 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 final map including these easements shall be subject to the review and written approval of the Executive Director upon recordation of the final map.

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.

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.

4. Future Development. This permit is for subdivision and grading only. All future site development, including roads, utilities, buildings, parking areas, landscaping and brush management, is not approved herein, and will require a separate coastal development permit.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing a major planned development on a forty-acre site in the Sorrento Hills Community of San Diego. Roughly half the property is located within the coastal zone, and most of that is within the Coastal Commission's area of deferred certification. The City of San Diego has already approved a coastal development permit for the small portion of the development under its jurisdictional authority. All subsequent figures, calculations, discussion, etc. address only the 17.5 acres within Coastal Commission jurisdiction. The proposal includes a subdivision to create portions of ten lots for future residential and industrial uses, and also includes portions of two open space lots. All of the lots being created within the Commission's jurisdiction are so configured that they also extend to areas outside the Commission's jurisdiction.

In addition to the subdivision, the subject proposal includes mass grading of the site. This will total to 11,000 cu.yds. of cut and 25,000 cu.yds. of fill within the Commission's jurisdiction. The required 14,000 cu.yds. of imported material will come from portions of the project outside the coastal zone, such that there is balanced grading on the entire forty-acre site as a whole. No other site improvements are proposed at this time. Although the applicant is only proposing mass grading in conjunction with the subject permit, the City's permits give conceptual approval to a full project, which includes multi-family residential and office/industrial development. Most of the future development will occur outside the coastal zone, on the flatter areas of the total site. Any future permit applications for buildout of the site will include minimal improvements within the Commission's jurisdiction, such as recreational facilities, parking, landscaping and brush management. Special Condition #1, which requires the submittal of final plans for the grading operation, makes it clear that only the subdivision and grading are being approved herein.

2. Environmentally Sensitive Habitats/Steep Slopes. Section 30240 of the Coastal Act is most applicable to the proposed development, and states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject site includes approximately 17.5 acres of land located along the northern rim of the Los Penasquitos Canyon Preserve, slightly east of Interstate 5. Nearly all of the property within the Coastal Commission's jurisdiction is comprised of naturally-vegetated steep slopes, or "sensitive slopes" as they are referenced in the City's certified LCP. The certified LCP gives the City the ability to approve discretionary encroachments into the sensitive slope area, based on site-specific circumstances, and the Commission has applied the same mechanism to projects under its review. Permitted maximum encroachments are calculated according to a sliding scale which ranges from 10% to 20% allowable encroachment, depending on how much of the site contains sensitive slopes. The applicant is proposing a total encroachment onto sensitive slopes of 1.60 acres, which is .5 acres less than 10%.

In addition to the sensitive slopes, much of the applicant's total property also contains coastal sage scrub habitat. Thus, the applicant has been working with the U.S. Fish & Wildlife Service (Service) to obtain an incidental take permit. The Service has required both on- and off-site habitat preservation, along with other mitigations. The overall mitigation program includes the retention of most of the land in the Coastal Commission's jurisdiction, approximately 15.9 acres, as open space. The City's approval resolution indicates that this area (portions of Lots F and H in the

Commission's jurisdiction) was proposed for dedication to the City by the applicant, and notes on the Tentative Parcel Map indicate that open space easements will be recorded against these areas (and others outside the Commission's purview). Special Condition #2 has been attached to assure that evidence of the open space easements is submitted to the Commission. As conditioned, the Commission finds the proposed development consistent with Section 30240 of the Act. In addition, Special Condition #4 reminds the applicant that the only physical improvement approved herein is site grading. Moreover, the applicant should be aware that the permitted grading operation is considered to define the outer limits available for future improvements, such that no further encroachments onto steep, naturally-vegetated slopes should be proposed through future permit applications.

3. Grading/Erosion Controls. The following Chapter 3 policies address the concerns of site runoff and downstream impacts, and state, in part:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means ... controlling runoff ... maintaining natural vegetation buffer areas that protect riparian habitats [ ... ]

Section 30253

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area [ ... ]

The proposed project consists of a subdivision and mass grading of a site adjacent to an open space system (Los Penasquitos Canyon Preserve). Although most of the grading activity will occur on flatter areas outside the coastal zone, 1.62 acres of sensitive slopes will be disturbed inside the coastal zone. In addition, the head of a canyon will be filled; although this grading occurs outside the coastal zone, the canyon is directly upstream from the Preserve. Thus, it is critical that the grading operation be conducted in a sensitive manner, and that all appropriate erosion control measures are employed. Special Condition #1, which requires the submittal of final plans, also addresses this issue, and provides that only incremental grading occur during the rainy season. It further provides for installation of erosion control devices prior to grading and that all disturbed areas be stabilized before each rainy season. As conditioned, the Commission finds the development consistent with the cited policies 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. Because the solution initially developed was a minimal approach, the Commission recognizes that additional funding will allow a more comprehensive and effective solution.

In this application, the Commission is recognizing the contribution of mass grading operations to the problems of Los Penasquitos Lagoon. Even with maximum possible controls on sedimentation, sedimentation nonetheless 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.

Although a factor in residential development as well, both size of graded area and area of impervious surface are of greater consideration in industrial projects where grading is most often more extensive (to create large pad areas) and where impervious surfaces (for parking) are usually necessary. The subject application is for grading only, although portions of the site will be developed for both residential and industrial purposes in the future, under a separate permit. 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 case, only the one-half cent per square foot fee is being assessed, since no impervious surfaces are herein approved, and the lagoon enhancement program is addressed in Special Condition #3.

5. 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. The subject site is located on vacant lands north of Los Penasquitos Canyon Preserve, and is visible, at a distance, from Interstate 5 and from portions of the canyon itself. The only site modifications occurring at this time will be mass grading of the future building areas. However, this operation will remove areas of native vegetation and modify landforms (mostly outside the coastal zone) such that it will have a significant, albeit temporary, effect on the overall appearance of the general area, until landscaping and revegetation efforts take hold. However, because the impacts are basically temporary in nature, the Commission finds the proposed development, as conditioned, consistent with Section 30251 of the Act.

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

The subject site has been designated in the certified Sorrento Hills Community Plan, part of the North City LCP segment land use plan, for a combination of residential, industrial and open space uses. The proposed development is consistent with that designation. In addition, the City is concurrently processing a rezoning of the site from A-1-10 to R-1500, M-IP and OS/OSP, with a Hillside Review Overlay, to bring the zoning into consistency with the certified land use plan. The proposal is fully consistent with that rezone. Although most of Sorrento Hills is either outside the coastal zone, or within the City's permit jurisdiction, the slopes above Los Penasquitos Canyon Preserve, along with the park itself, have not yet been master planned, and thus remain an area of deferred certification. Thus, the Commission is reviewing the subject permit application.

As noted in the previous findings, the project, with the attached special conditions, has been found consistent with all applicable Chapter 3 policies of the Coastal Act. It is also consistent, as conditioned, with the way those policies have been interpreted in the certified LCP. Therefore, the Commission finds that project approval, with the recommended conditions, will not prejudice the ability of the City of San Diego to prepare a certifiable plan for this area, or to continue implementation of its certified LCP.

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

(6097R)



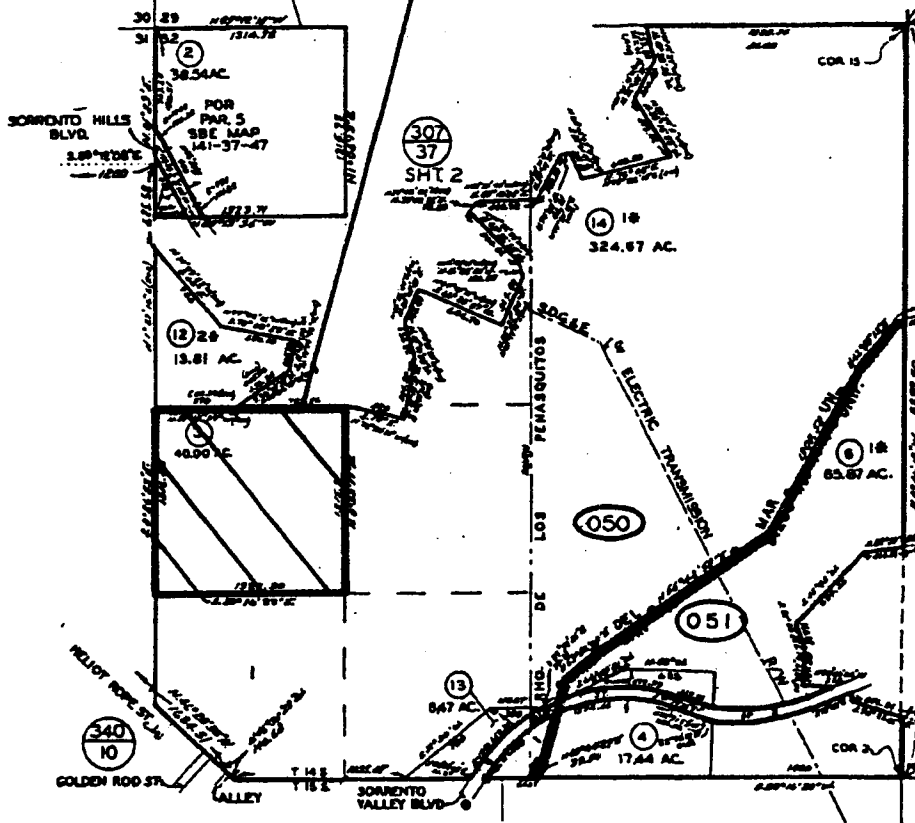
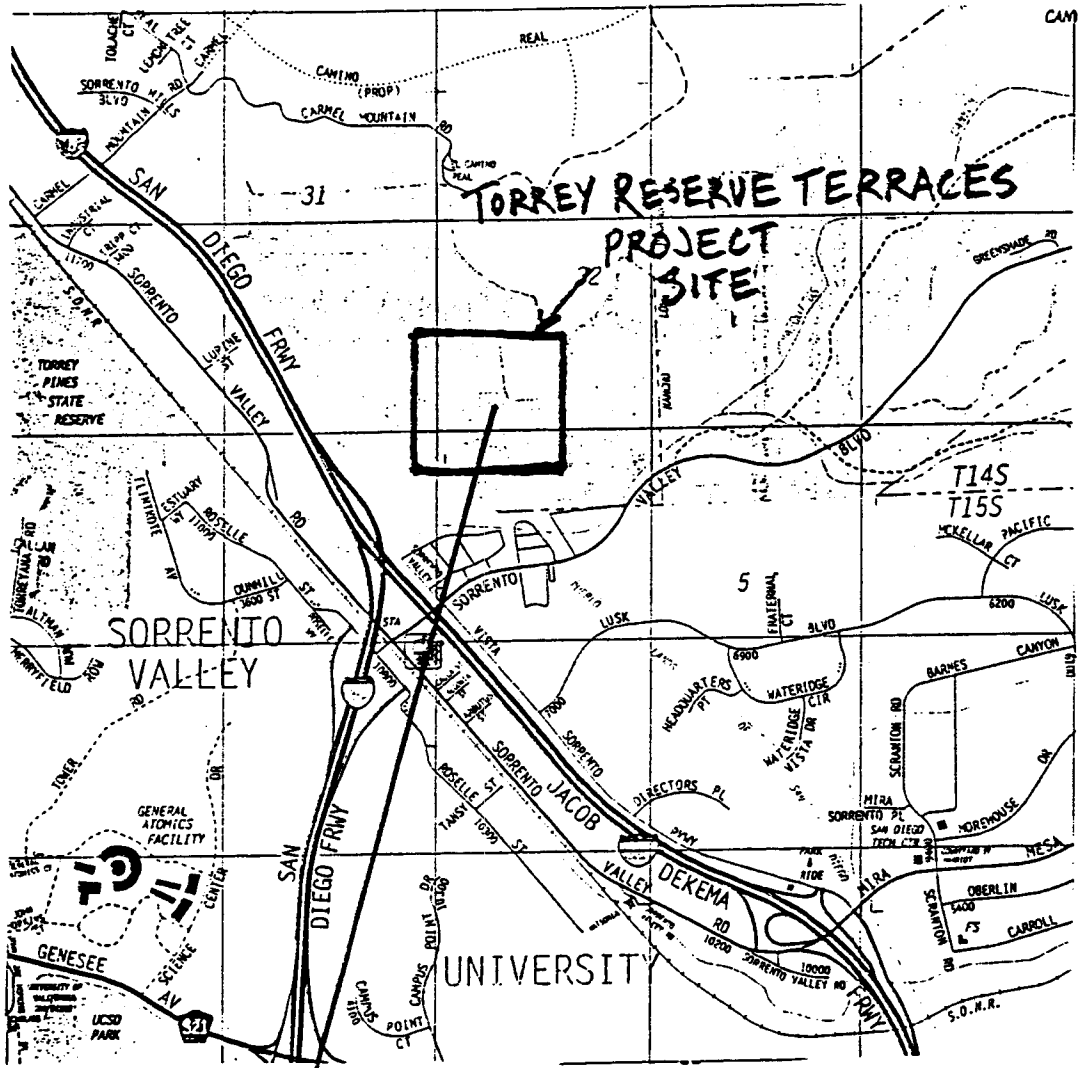
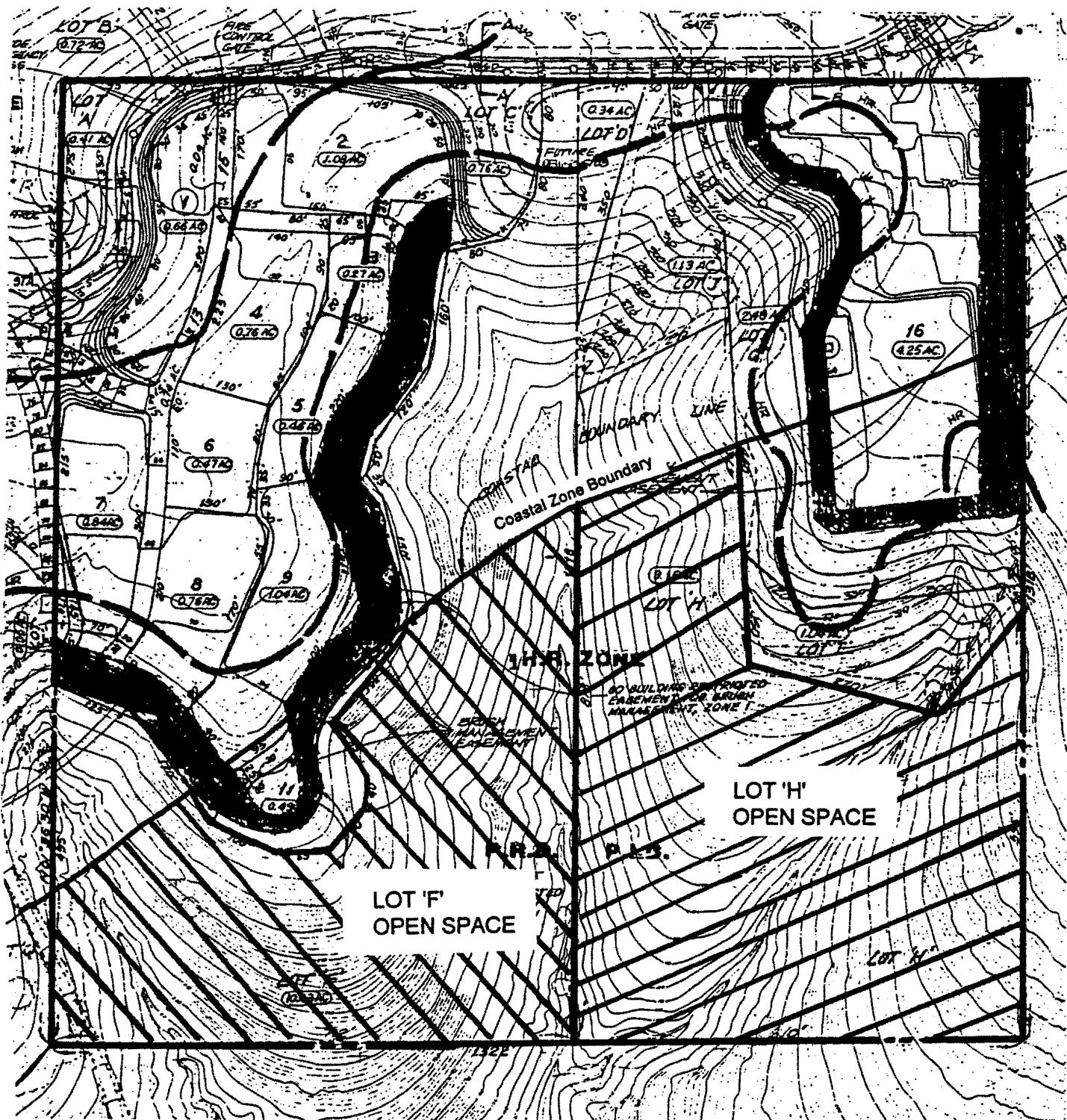


EXHIBIT NO. 1
APPLICATION NO.
6-96-97
Location Maps
California Coastal Commission





TENTATIVE MAP  
 TORREY RESERVE TERRACES P.R.D./P.I.D.

EXHIBIT NO. 3
APPLICATION NO.
6-96-97
City-Required
Open Space
California Coastal Commission