

CALIFORNIA COASTAL COMMISSION

STATION
SAN DIEGO AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
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Staff: DL-SD
Staff Report: April 24, 1997
Hearing Date: May 13-16, 1997

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Wed 10a

Application No.: 6-97-25

Applicant: Isao & Midori Nakatani and Rios Drive Assoc. Agent: Doug Jensen

Description: Subdivision of an existing 9.4 acre site into 24 lots ranging from 14,000 sq.ft. to 17,778 sq.ft. (net), construction of an on-site public street and drainage improvements and construction of 24 single-family residences approximately 3,000 sq.ft. each. Demolition of abandoned greenhouses and storage sheds on the site; also, approximately 26,000 cubic yards of balanced grading and installation of off-site curb and gutter improvements to North Rios Avenue and Patty Hill Drive and a new storm drain in North Rios Avenue.

Lot Area	409,464 sq. ft.
Building Coverage	59,800 sq. ft. (15%)
Pavement Coverage	81,461 sq. ft. (20%)
Landscape Coverage	268,203 sq. ft. (65%)
Parking Spaces	92 (minimum)
Zoning	Low Residential/Specific Plan
Plan Designation	Low Residential/Specific Plan (3 du/ac)
Project Density	2.6 du/ac
Ht abv fin grade	25 feet

Site: Northeast corner of North Rios Avenue and Patty Hill Drive, Solana Beach, San Diego County. APN 263-280-18, 19, 29, 30.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project with special conditions addressing grading/erosion controls and future development on the site. As conditioned, the project will not have any adverse impact on the natural, recreational or visual resources of San Elijo Lagoon located to the north of the site.

Substantive File Documents: Certified County of San Diego Local Coastal Program; RBRiggan & Assoc., "Final EIR For the North Rios Drive Subdivision," November 20, 1995; Robert Prater Assoc. "Supplemental Phase II Environmental Assessment," December 3, 1996; U.S. EPA *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*; CDP #6-83-170

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. Grading/Erosion Control. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final site and grading plans approved by the City of Solana Beach, to be subsequently implemented, which specifically incorporate the following requirements:

a. All grading activity shall be prohibited between October 1st and April 1st of any year.

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

c. Any graded pads left undeveloped during the rainy season shall be constructed in a manner (utilizing sandbags and other devices as necessary) that they will act as detention basins. The surface of the pad shall act to store runoff, releasing it to the street drains at a rate less than or equal to the natural runoff rate.

d. Landscaping shall be installed on all cut and fill slopes prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval. Said vegetation shall not include any plants on the list of prohibited plants proposed by the applicant.

2. Final Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final plans approved by the City of Solana Beach, to be subsequently implemented, for the proposed storm drain in North Rios Avenue. Said plans shall indicate no changes to the existing storm drain/catch basin outlet or rip-rap energy dissipater in North Rios Avenue, other than as required to connect the proposed storm drain system to the existing facilities.

3. Future Development. This permit is for a 24-lot subdivision and construction of 24 single-family residences with associated street and drainage improvements. Any changes to the existing storm drain/catch basin outlet or rip-rap energy dissipater in North Rios Avenue, except as specified in Special Condition #2 of this permit, shall require review and approval under a separate coastal development permit or an amendment to this permit.

4. Street Sweeping. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final street sweeping program, to be subsequently implemented, which includes the following elements:

a. Street sweeping shall occur at least monthly from April to October.

b. Sweeping shall include the streets internal to the subdivision as well as the proximate parts of both North Rios Avenue and Patty Hill Drive.

c. Street sweeping shall be by means of a vacuumized sweeper and at least three passes shall be made along each curb.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description: The proposed project involves demolition of several existing abandoned greenhouses and storage sheds, the subdivision of a 9.4 acre lot into 24 lots ranging in size from 14,000 sq.ft. to 17,778 sq.ft. (net), and construction of an internal street. Also proposed is the construction of 24 single-family residences, both one and two stories high, with a maximum height of 25 feet. The residences will be approximately 3,000 sq.ft. each. The project involves approximately 26,000 cubic yards of balanced cut and fill grading to recompact the soils on the site and off-site street improvements to North Rios Drive and Patty Hill Lane, including the installation of curbs, gutters, sidewalks. A new storm drain is proposed in North Rios which will connect at street level with the existing storm drain/catch basin outlet which currently carries water down to the lagoon to the north and discharges into an energy dissipater. Landscaping maintained by the homeowners association will be installed around the perimeter of the development and along the internal street system.

The project site is located on the northeast corner of North Rios Drive and Patty Hill Drive in the City of Solana Beach. The site is approximately 300 feet south of the San Elijo Lagoon Ecological Reserve and a lagoon trailhead.. An existing single-family residence on the southeast corner of the site (APN 263-288-30) will remain. No changes to the residence are proposed through this application.

The site has been used for agriculture in the past but is currently vacant except for the abandoned greenhouses. The soils on the site are not considered "Prime Agricultural Lands." Because of the history of agriculture on the subject property, a Phase I and Phase II environmental assessment was conducted for the site. Tests conducted in November, 1996 determined that residual pesticides concentrations on the site are well below the requirements of EPA Region 9 Preliminary Remediation Goal values for residential soils. The assessment determined that the residual pesticide levels at the site do not pose a significant health risk. As an additional precaution, the applicant is required by the City of Solana Beach to water all freshly graded surfaces to the maximum extent allowed by the on-site geologist in order to minimize dust transport.

2. Resource Protection/Water Quality. Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Act states:

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

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

The project site is located approximately 300 feet south of the San Elijo Lagoon Ecological Reserve. San Elijo Lagoon is an environmentally sensitive habitat area and Regional Park that is managed jointly by the California Department of Fish and Game and the San Diego County Parks and Recreation Department. The lagoon is one of the 19 priority wetlands listed by the Department of Fish and Game for acquisition. The lagoon provides habitat for at least five State or Federal-listed threatened or endangered birds including the California least tern, the light-footed clapper rail, Belding's savannah sparrow, the brown pelican and the western snowy plover. The California gnatcatcher has also been observed around the lagoon reserve.

The project site itself was previously used for agricultural purposes and contains no sensitive natural resources. However, runoff from the project site during construction could result in increased sedimentation entering the lagoon. After project completion, trash, dirt and oil from the development could be directed into the proposed storm drain that will connect with the existing catch basin outlet which discharges into the lagoon. The decrease in impervious surfaces resulting from the development could also potentially result in runoff being discharged into the lagoon at an erosive velocity. Other impacts to the natural environment which could result from the project include the increased introduction of invasive non-native landscaping plants into the lagoon environment, and increased predation of birds and other animals by domestic pets.

The U.S. Environmental Protection Agency has identified a series of Best Management Practices (BMPs) to manage runoff from new development and prevent pollution from entering coastal waters. Some of these measures include:

- restrictions on slope development
- erosion and sediment control plans
- dust controls
- scheduling of projects so that clearing and grading are conducted during the time of minimum erosion potential
- management of pet excrement
- storm drain stenciling in appropriate areas
- sweeping, vacuuming and washing of residential/urban streets and parking lots
- water outlet protection (consider flow, discharge rate and velocity in outlet design)
- detention ponds, filtration basins, sand filters and oil/water separators

- preservation of existing vegetation and landscaping plans that include species that will not compete with existing vegetation

The project site is currently flat and no steep slopes will be graded. Grading and recompaction of approximately 26,000 cubic yards of material is required to prepare the site for construction. There are primarily two ways in which the proposed development could potentially increase the amount of sediment entering the lagoon. The first is through construction activities when loose soils on the site could be washed into the lagoon during storms. Secondly, the increase in impermeable surfaces after project completion could result in the discharge from the existing storm drain system above the lagoon reaching an erosive velocity.

To address construction impacts, Special Condition #1 requires submittal of a grading/erosion control plan which implements best management practices and the recommendations contained in the EIR for the project, specifically, sandbagging all graded slopes prior to the rainy season, constructing each graded pad left undeveloped during the rainy season in such a way that it will act as a detention basin, and installing landscaping on all cut and fill slopes prior to the rainy season. The applicant has proposed limiting grading to the non-rainy season, defined as April 1 through October 31. However, in this area the Commission has typically found the rainy season runs from October 1 through April 1, and thus Special Condition #1 restricts grading during this period.

With regard to the potential increase in rate of runoff into the lagoon, the project involves construction of a new storm drain in North Rios Drive to connect with an existing storm drain/catch basin outlet at the street end. In May 1983 the Commission approved construction of 17 condominium units on the northwest side of Rios Drive and required improvements to this storm outlet, including extension of the existing culvert and construction of an energy dissipater to alleviate significant erosion problems in the location (CDP #6-83-170). The improvements have now been in place for over 10 years. There is no visible alluvial fan around the energy dissipater indicating that no sediments are being deposited there. The EIR for the proposed project indicates that the storm drain and rip-rap energy dissipater were sized for the anticipated build out of the entire watershed, and can accommodate storm flows greater than a 100-year storm event. Hydrology calculations included in the report indicate that at build-out of the area, discharge rates would be at a non-erosive velocity. Therefore, as conditioned, the proposed project will not result in an increase in sediment entering the lagoon.

Although no improvements to the existing storm drain/catch basin outlet are proposed at this time, in its approval of the project, the City of Solana Beach indicated that improvements to the existing facilities may be required by the City Engineer. In addition, detailed plans for the new storm drain in North Rios Avenue have not been developed yet. Therefore, Special Condition #2 requires that final plans for the storm drain improvements be submitted, and Special Condition #3 notifies the applicant that no improvements to the

existing storm drain outlet or energy dissipater, other than connecting the proposed new storm drain to the existing facilities, is approved through this permit.

The potential discharge of pollutants into the lagoon is also associated with the proposed development. The EIR for the project notes that continued agricultural use of the site would likely generate a higher pollutant load than would a residential use. Nevertheless, there are significant pollutants associated with residential uses, such as oils, heavy metals, fertilizers, hydrocarbons, organic debris, etc. However, the report indicates that at least 90% of both macroscopic materials (sand, soil particles, leaves, grass clippings) and extremely fine particles (which can contain heavy metals, complex hydrocarbons, phosphorus, etc.) can be removed through street sweeping. In contrast, detention basins typically do not capture fine particles. Thus, the applicant has proposed a street sweeping program where both the internal streets of the subdivision and the proximate parts of North Rios Avenue and Patty Hill Drive will be swept on a monthly basis from April through October. The sweeping will be done with a vacuumized sweeper and at least three passes will be made along each specified curb. Special Condition #4 requires the applicant to implement the street sweeping program as proposed. The City of Solana Beach may require sweeping to be performed more frequently. In addition, the CC&Rs of the proposed development require homeowners to clean up pet waste, which will reduce the amount of nutrients entering the lagoon.

Thus, as conditioned, the proposed project will implement best-management practices regarding the management and reduction of non-point source urban pollution, and runoff from the development will not adversely impact water quality or have a significant adverse impact on lagoon resources.

To further mitigate the impact the development may have on the adjacent sensitive habitat, the applicant, in consultation with the San Elijo Lagoon Conservancy, has developed a list of exotic, invasive plants which, through the CC&Rs will be prohibited in the subdivision. As proposed, native plant materials will be used for landscaping whenever feasible. Other restrictions proposed by the applicant and incorporated into the Specific Plan and CC&Rs for the development include a condition restricting ownership of cats to indoor animals, a prohibition on feeding cats outdoors and a requirement to keep dogs on a leash. Provisions of the CC&Rs will notify homeowners of the proximity of the lagoon, the biological value of the lagoon, the need to regulate predators, and other educational material.

These measures will reduce the impact domestic pets will have on the lagoon. The EIR for the project recommends that a habitat improvement program involving removal of non-native plants and planting of native material be implemented within the reserve in order to further off-set the impact that pets, and additional human visitors, would have on the lagoon. In consultation with the San Elijo Lagoon Conservancy and the City of Solana Beach, the applicant has proposed paying an in-lieu fee to the Conservancy for appropriate lagoon conservation measures rather than implementing the revegetation plan. This fee, in addition to the measures outlined above, will reduce the impact the proposed project has on

sensitive vegetation to a level less than significant. Therefore, since as conditioned the project will implement appropriate water quality best management practices and will not result in adverse impacts to sensitive biological resources, the project can be found consistent with Sections 30231 and 30240 of the Coastal Act.

4. Public Access/Recreation. Section 30604(c) requires a specific finding that the proposed development is consistent with the public access and public recreation policies of Chapter 3 of the Coastal Act. Section 30210 of the Coastal Act requires that maximum access and recreational opportunities shall be provided for all people consistent with the rights of private property owners and the need to protect natural resource areas from overuse. In addition, Section 30252 of the Act requires that new development maintain and enhance public access to the coast by such means as providing non-automobile circulation within the development, providing adequate parking facilities, and assuring that the recreational needs of new residents will not overload nearby coastal recreation areas.

The site is located between the lagoon and first public roadway, approximately 300 feet south of a trailhead to the San Elijo Lagoon Reserve. Public parking in the area is limited to street parking along North Rios Avenue. The proposed project will not directly restrict access to the lagoon in any way, and may enhance access through providing sidewalks and widening North Rios Avenue, which may allow for increased on-street parking. Adequate off-street parking to serve the new units will be provided through the 2 or 3-car garages and driveways associated with each residence, and public on-street parking will be available on one side of the proposed internal street system. Thus, there should not be an "over-flow" of cars from the development which would impact the availability of street parking for lagoon visitors. Therefore, the Commission finds that the project is consistent with Section 30210 and 30252 of the Coastal Act.

5. Visual Resources/Community Character. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected, that new development be sited and designed to protect views to and along the ocean and scenic coastal areas, and that development be visually compatible with the character of surrounding areas. The subject site is set back approximately 300 feet from the entrance to San Elijo Lagoon at the northern terminus of North Rios Avenue. The lagoon trails are at a lower elevation than the street and views from the south side of the lagoon are limited to structures immediately adjacent to and above the lagoon. Except for the trailhead itself, the proposed development will not be visible from the reserve, and the level of existing development around the trailhead is sufficient enough that the proposed project would not significantly alter the character of the area.

Abandoned greenhouses on the property located north of the project site (between the site and the lagoon), block any views of the site from Manchester Avenue and Highway 101. It is possible that the northern portion of the development would be slightly and briefly visible in the distance from these locations were the structures on the adjacent property demolished. However, the development would be far less prominent than the

condominiums located northwest of the site, which are immediately adjacent to and above the lagoon. In addition, the applicant has proposed that roofing materials and exteriors of the proposed residences be limited to earthen colors and non-reflective materials. Landscaping maintained by the homeowners association will be installed around the perimeter of the development, and along the internal street system. There are no views from public areas which will be blocked by the proposed structures, and the 25 foot height limit is consistent with the surrounding structures.

The subdivision will be located in one of two remaining vacant lots in an established residential neighborhood. The area consists of a mix of single-family residences on varying lot sizes with some multi-family residential. The project has been scaled down considerably from an original proposal involving construction of 42 homes on the site. The proposed subdivision would have a density of 2.6 dwelling units per acre (du/ac), consistent with the 2.9 du/ac designation in the certified County of San Diego Local Coastal Program, which is used for guidance in the City of Solana Beach. Thus, the proposed project will not adversely impact the scenic quality of the natural environment, will be compatible with the character of the surrounding community, and can be found consistent with Section 30251 of the Coastal Act.

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

The site is zoned and designated for low-density residential (3 du/ac) uses in the City of Solana Beach and is also designated for such use (2.9 du/ac) in the previously-certified County of San Diego LCP. As previously noted, the proposed development would have a density of 2.6 du/ac, consistent with these designations. The site is located within the Coastal Resource Protection (CRP) and Unsewered overlay areas established in the County LCP. Although there are no steep slopes on the site, the project has been conditioned to restrict grading during the rainy season to avoid erosion on the site consistent with the CRP designation and best management practices. All typical urban services, including sewer, will be provided on the site. As discussed above, as conditioned, the proposed project is consistent with all applicable Chapter 3 policies of the Coastal Act, and no adverse impacts to coastal resources will result. Thus, the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program.

7. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would

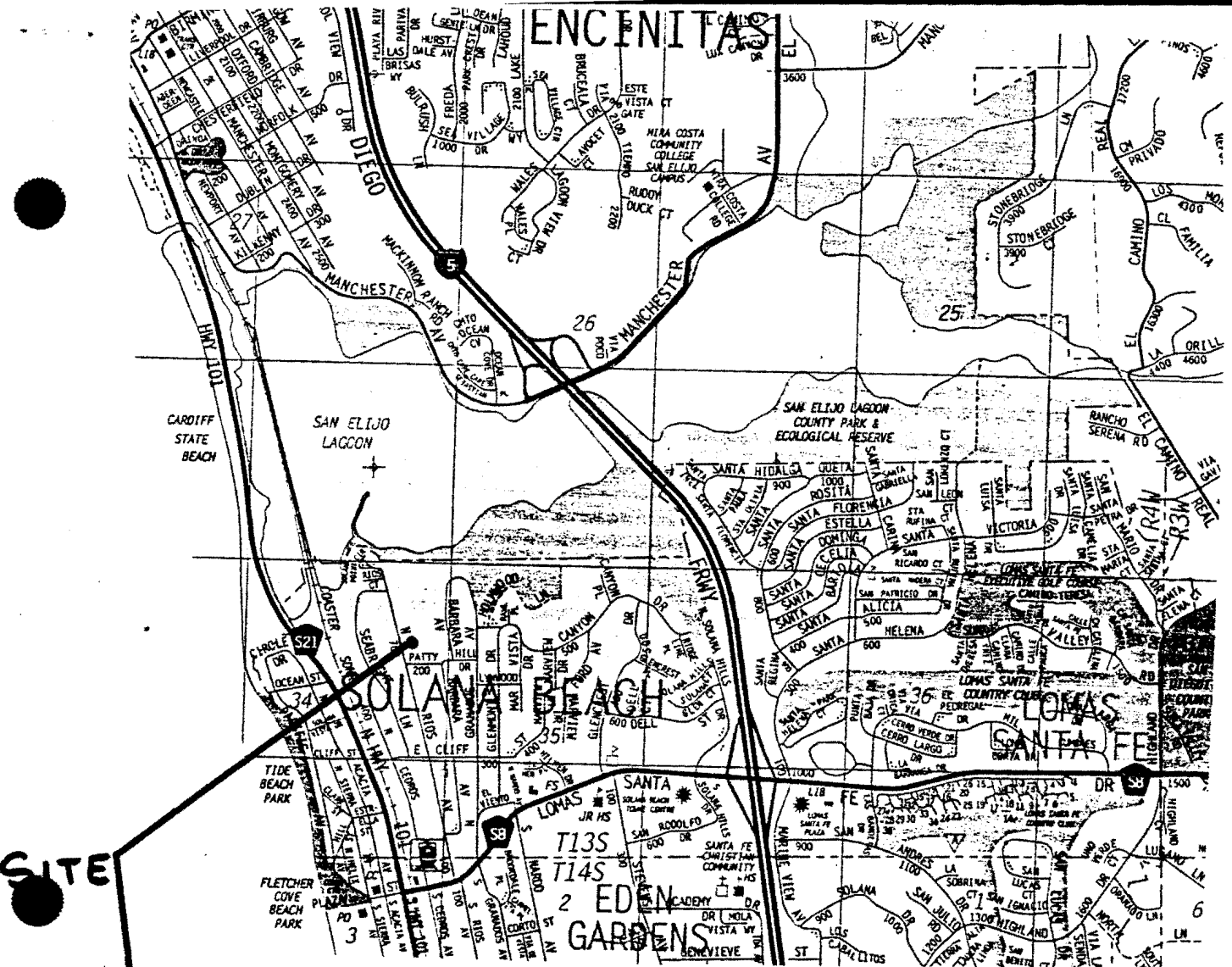
substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the sensitive resource, public access and recreation and scenic preservation policies of the Coastal Act. Mitigation measures, including submittal of a grading/erosion control plan, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **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.

ENCINITAS



SITE

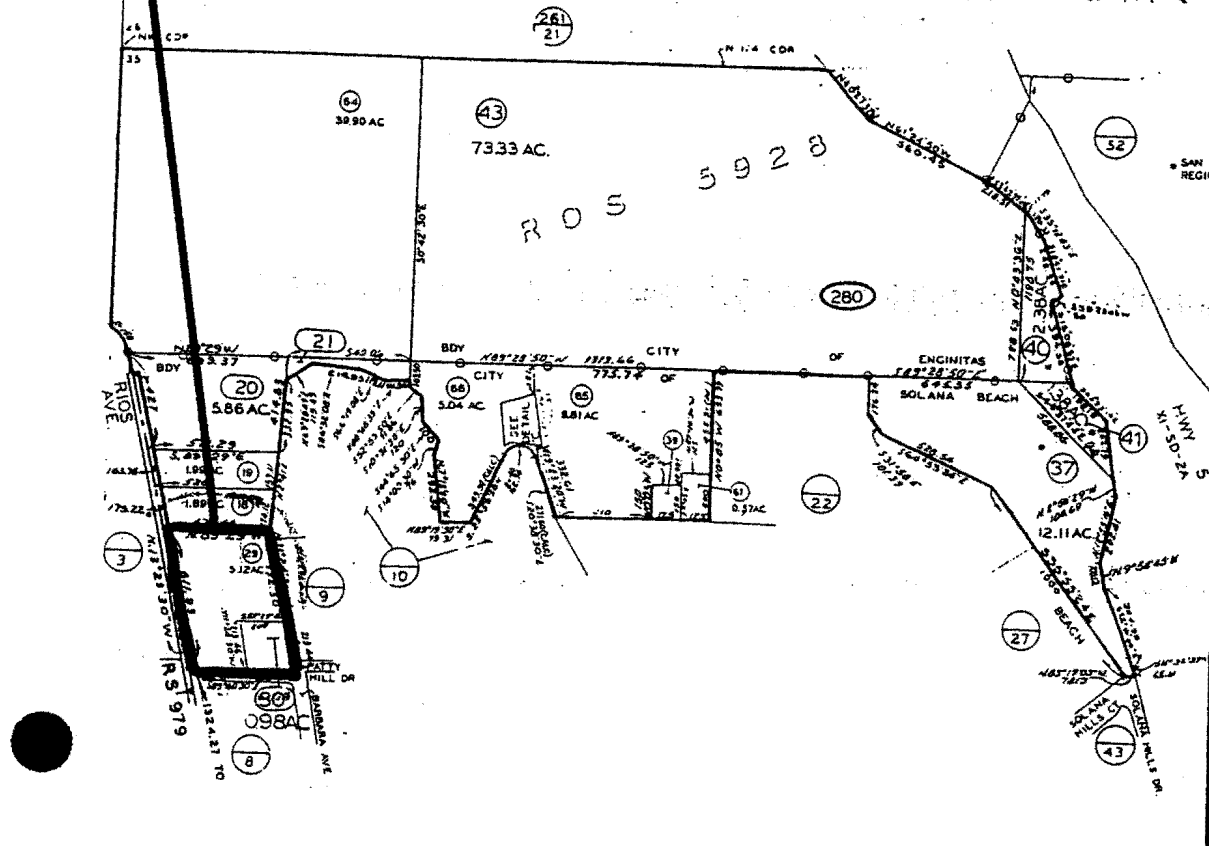
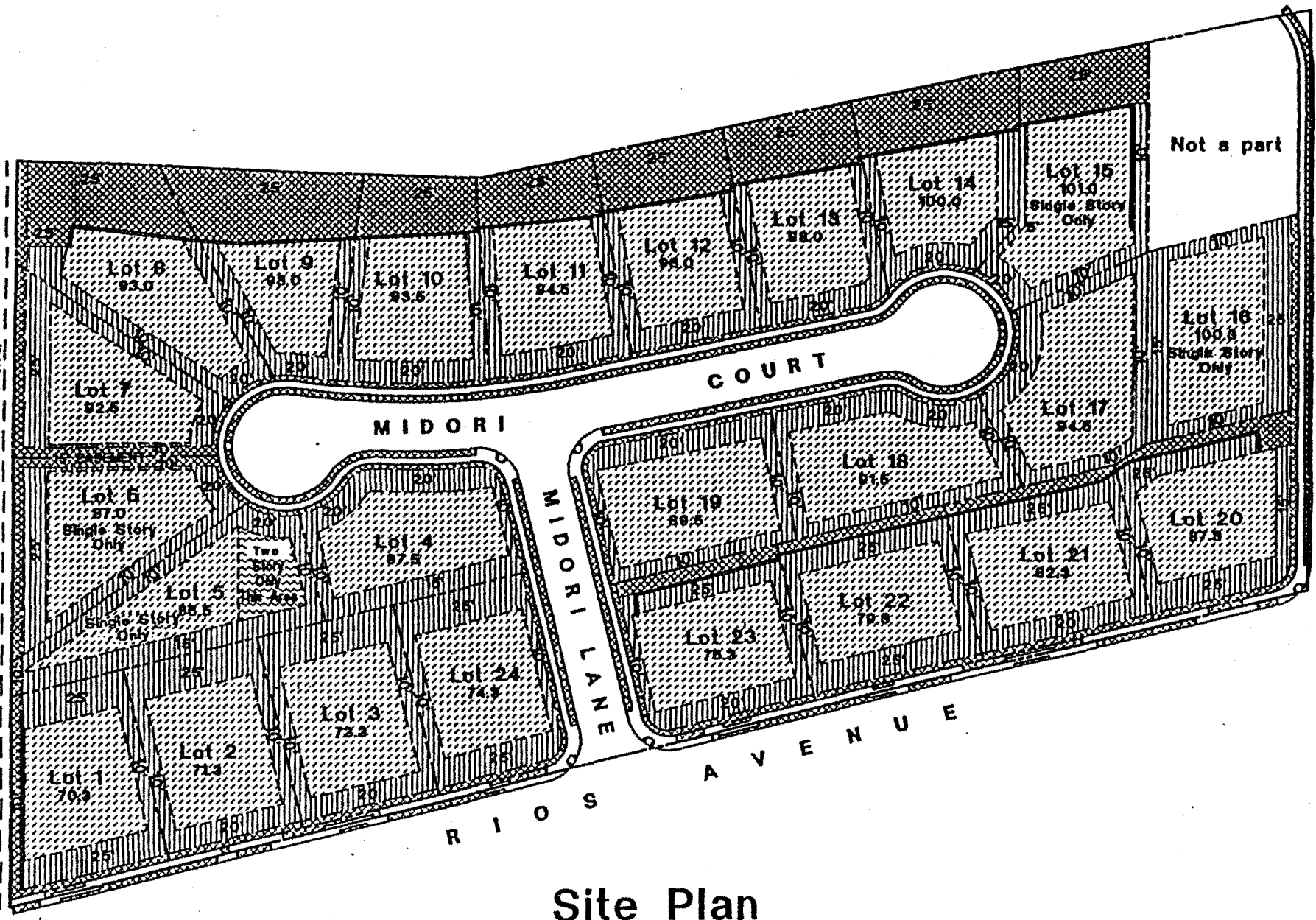


EXHIBIT NO. 1
APPLICATION NO.
6-97-25
Location Maps

California Coastal Commission

EXHIBIT NO. 2
 APPLICATION NO.
6-97-25
 Subdivision Map
 California Coastal Commission



15' EASEMENT 7.5' ON SITE AND 7.5' OFF SITE

PATTY HILL DRIVE

Site Plan

North Rios Specific Plan

Scale - 0 50 100 Feet
 1" = 100'-0"



- Legend**
- Planted Crib Wall
 - Common Area Landscape (Detailed by Developer, Maintained by H.O.A.)
 - Landscape by Homeowner
 - Building Envelope

For: Iseo and Midori Nakatani - Broadmoor Beach II Inc. - Rios Drive Assoc.