

CALIFORNIA COASTAL COMMISSION

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RECORD PACKET COPY

Staff: LRO-SD
Staff Report: November 13, 1998
Hearing Date: December 8-10, 1998

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-54-A1

Th 9d

Applicant: Cyrus Raoufpur

Original

Description: Construction of a two-story, 4,435 sq.ft. single-family residence with a three-car garage on a vacant 1.26 acre lot. The applicant also proposes brush management/revegetation plan and use of fire resistive construction materials in the construction of the proposed residence.

Lot Area	54,855 sq. ft.
Building Coverage	3,150 sq. ft. (6 %)
Pavement Coverage	450 sq. ft. (1 %)
Landscape Coverage	2,340 sq. ft. (4 %)
Unimproved Area	48,915 sq. ft. (89%)
Parking Spaces	3
Zoning	RS 1
Plan Designation	Residential (1 dua)
Ht abv fin grade	18 feet

Proposed Amendment: To permit alternative compliance with Special Condition No. 3 for off-site brush management agreement and to permit grading (620 cy. of cut and 610 cy. of fill) during rainy season with implementation of temporary erosion control measures.

Site: Lot #16 at cul-de-sac of Rancho Sol Court, Lomas Santa Fe vicinity, San Diego County. APN 302-221-06

STAFF NOTES:PRELIMINARY STAFF RECOMMENDATION:

Staff is recommending approval of the proposed amendment, subject to special conditions which allow the applicant a means of alternative compliance with the brush management requirements of the original permit and erosion control plans to ensure that grading will not result in any sedimentation impacts to downstream resources.

Substantive File Documents: County of San Diego Local Coastal Program (LCP); CDP
Nos. 6-96-86; 6-97-154; 6-98-23

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit amendment for the proposed development, subject to the conditions below, on the grounds that the development, as amended, 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. Special Conditions.

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All other terms and conditions of the original approval of CDP #6-98-54 not specifically modified herein, shall remain in full force and effect.

2. Off-Site Brush Management Agreement. Special Condition #3 of CDP #6-98-54 shall be replaced in its entirety with the following: PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written acceptance of the Executive Director, compliance with either of the following:

a) Submittal of an agreement in writing signed by both the applicant and the adjacent property owner to the immediate west of the subject site. The agreement shall indicate that the adjacent landowner agrees to implement items (a-d) listed in Special Condition No. 2 above for the area of his/her property shown generally in Exhibit #4 attached.

or

b) Submittal of a letter from the Rancho Santa Fe Fire District agreeing to require compliance of the adjacent landowner to the west of the brush management requirements required in Special Condition #2(a-d) of CDP #6-98-54 for his/her property.

3. Grading/Erosion Control. Special Condition #5 of the original permit shall be replaced in its entirety with the following: PRIOR TO THE ISSUANCE OF THE

COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final site, grading and erosion control plans that are in substantial conformance with the plans dated 10/21/98 submitted with this application. The plans shall include the following:

- a. All grading activity shall be prohibited from October 1st to April 1st of any year. However, from October 1st to January 16, 1999, necessary grading may occur in conformance with the approved grading plan.
- b. All permanent and temporary erosion control measures shall be developed and installed prior to or concurrent with any on-site grading activities. Sediment basins (debris basins, desilting basins, or silt traps) shall be installed in conjunction with the initial grading operation and maintained throughout the development process as necessary to remove sediment from runoff waters draining from the land undergoing development.
- c. Areas disturbed but not completed prior to January 16, 1999, shall be suitably prepared to prevent soil loss during the rainy season. All graded slopes shall be stabilized prior to January 16, 1999 by means of native vegetation. The use of vegetation as a means to control site erosion shall be accomplished pursuant to plans and specifications prepared by a licensed landscape architect or other qualified professional.
- d. Temporary erosion control measures shall include the use of berms, interceptor ditches, sandbagging, hay bales, filtered inlets, debris basins, silt traps, or other similar means.

The permittee shall undertake development in accordance with the approved grading plans. Any proposed changes to the approved grading plans shall be reported to the Executive Director. No changes to the grading plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. On August 12, 1998 the Commission permitted the construction of a two-story, 4,435 sq.ft., single-family residence with an attached three-car garage on a vacant 1.26 acre lot at the cul-de-sac of Rancho Sol Court, north of Via de la Valle, in the Lomas Santa Fe vicinity of the unincorporated County of San Diego. The development also included implementation of detailed brush management/standards for the proposed residence. The site is currently vacant and consists of a level graded building pad near the street elevation which drops off to the south into a steep canyon consisting of slopes containing native sage scrub vegetation. In

order to prepare the site for development, grading consisting of 620 cu. of cut and 610 sq. yds. of fill is also proposed. The permit was granted with a number of special conditions, including a requirement for implementation of a detailed brush management program and a condition which prohibited grading within the rainy season (October 1st through April 1st). A condition was also included which required the applicant and the adjacent property owner to sign an agreement regarding necessary brush management on the adjacent property.

The site is located within the unincorporated County of San Diego, east of the City of Solana Beach and is planned and zoned for residential development. While the County of San Diego did receive approval of its Local Coastal Program from the Commission in 1985, it never became effectively certified. As such, the standard of review is Chapter 3 policies of the Coastal Act with the County LCP used as guidance.

In attempting to comply with the off-site brush management requirements of the permit the applicant encountered problems in obtaining cooperation from the adjacent property owner. As a result, the applicant has not been able to comply with the brush management requirements off-site. In addition, due to this delay, the applicant has not been able to commence with grading prior to the onset of the rainy season. As such, the applicant is proposing to amend the permit to comply with the off-site brush management requirements in an alternative manner and to allow grading to occur in the winter rainy season.

2. Environmentally Sensitive Habitats/Steep Slopes. Section 30231 of the Coastal Act is applicable to the proposed development and states, in part:

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...

In addition, Section 30240 of the Coastal Act is applicable 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.

Because the project site and area drains into the San Dieguito River, which flows into the San Dieguito Lagoon, measures to control runoff and sedimentation are especially

critical. The project site is also within the County of San Diego's Coastal Resource Protection (CRP) overlay zone. The intent of the CRP's restrictions on grading steep slopes is to minimize the visual impacts associated with such grading, to preserve the habitat values of significantly vegetated steep slopes areas, and to avoid the increased likelihood of erosion, runoff and sedimentation which can occur when steep slopes are graded. In addition, brush management for fire safety was an issue addressed in the original permit approval and the permit included an extensive brush management program.

The original permit for the subject site was approved by the Coastal Commission on 8/12/98. A special condition was required regarding brush management for the subject site that required submittal of a brush management plan. Brush management provided for removal of all invasive and non-native plant species within 30 feet south of, and 45 feet east of, the proposed residence. The condition further required that all high fuel plant species be manually cut and removed. In addition, in those areas where vegetation removal will occur for brush management purposes, replanting was required with native, fire resistant plant species. Monitoring was also required in this area to assure that the invasive and non-native species do not regrow. Removal of proposed citrus trees on the south-facing slope of the site were also required to be eliminated and replaced with other fire-retardant native plant species.

In the original permit, in order to address brush management requirements of the fire department, the applicant proposed removal and eradication of all non-native, flammable plant species located within 30 ft. of the south side of the residence and within 45 feet of the west side of the residence. The brush management requirements of the fire department on the west side of the proposed residence included 15 feet of clearance on the subject site and 30 feet on the adjacent property to the west. This area consisted of a canyon (or "draw") where high fuel plant species were required to be removed and other species were required to be selectively thinned by the Rancho Fe Fire Department in order to reduce the fire hazard in this location. Since a portion of this brush management area is located off-site on the property to the west, the Commission also required that the applicant enter into an agreement with the adjacent property owner such that the adjacent owner agreed in writing to implement the required brush management requirements.

Prior to the Commission's approval of the permit application, the subject property owner indicated that the adjacent property owner agreed to enter into the agreement and therefore, it appeared that there were no problems in requiring this condition or in fulfilling it. However, after the Commission approved the project, the applicant was unable to get the adjacent property owner to sign an agreement. Without such an agreement, the Commission would not be assured that the necessary brush management would be carried out. Furthermore, there would be no ability to require monitoring and maintenance of this area to assure that the non-native and invasive plants are permanently removed in this area and that the native fire resistant plantings thrive and regrow in the same location.

Upon notification of the concern by the applicant, Commission staff discussed other options with the Rancho Santa Fe Fire Department. In the discussions, the fire department indicated that it has the authority to require the adjacent property owner to comply with the brush management requirements of the permit. The fire department has also stated that it will take responsibility for assuring that the brush management requirements of the subject coastal development permit are carried out on the neighbor's property. The fire department has the authority to order the adjacent property owner to comply with this condition and to order that the work be completed and to monitor it as well (ref. Exhibit #3 attached). Through monitoring, the fire department will assure that the brush management area is maintained as a native fire resistant area.

Therefore, by permitting alternative compliance with the off-site brush management requirements by allowing the fire department to take this responsibility in lieu of the adjacent property owner, it can be assured that the natural canyon will be protected and that plants which will be removed for fire protection purposes will be replaced with native species which contain comparable habitat value. Therefore, in order to give the applicant the ability to comply with the off-site brush management requirements in an alternative manner, Special Condition No. 2 gives the applicant the option of securing the written agreement with the adjacent property owner to the immediate west of the site to comply with the required brush management requirements on his/her property or to submit a letter from the Rancho Santa Fe Fire District agreeing to require the adjacent property owner to comply with the brush management requirements.

In addition, as previously stated, due to time delays in attempting to comply with the off-site brush management requirements of the original permit, the applicant was not able to commence with grading within the parameters outlined in the original Commission permit approval. The original permit was restricted pursuant to Special Condition No. 5 such that grading is allowed only in the non-rainy season months (April 1st through September 30 of any year). In addition, the condition also required that all graded areas on the site be stabilized during the rainy season to reduce the potential for erosion and associated downstream adverse impacts from sedimentation. In addition, runoff from impervious surfaces of the site were required to be collected and appropriately discharged into the existing street drainage system.

The applicant has submitted a detailed grading and erosion control schedule for the proposed project. As noted above, the proposed grading only involves 620 cubic yds. of cut and 610 cubic yds. of fill and will take approximately three weeks to complete. Through the subject amendment request, the applicant proposes to grade during the rainy season and has submitted erosion control plans with the amendment request.

Historically, the Commission has allowed exceptions to the winter grading restriction, but only with the implementation of detailed temporary and permanent erosion control measures. In this particular case, the grading cannot be completed within the required time frame outlined in the Commission's permit approval due to delays and problems in getting an adjacent property owner to agree to the off-site brush management

requirements of the conditions of approval. Given the timing constraints that have occurred in attempting to comply with the special conditions of the permit and based on the minimal amount of grading and the applicant's erosion control program submitted with this amendment request, which will serve to limit any downstream impacts to sensitive resources located within the San Dieguito River Valley, the Commission can support the proposed grading. However, to further assure impacts on downstream resources are minimized, Special Condition #3 states that grading may only occur up to January 15, 1999. The condition also requires the submittal of a final erosion control plan which document that all permanent run off and erosion control devices are developed and installed prior to or concurrent with any on-site grading activities, and that all areas disturbed but not completed during the construction period shall be stabilized. 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.

In summary, the proposed amendment, as conditioned, will give the applicant the ability to comply with the off-site brush management requirements in an alternative way and to grade into the rainy season, but only up to January 16, 1999. Given the special conditions, potential impacts to environmentally sensitive habitat areas and downstream sensitive resources will be reduced to the maximum extent feasible. Therefore, the Commission finds that the subject permit amendment, as conditioned, is consistent with Sections 30231, 30240 and 30253 of the Act.

3. 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, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the resource policies of the Coastal Act. The attached mitigation measures 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, as amended, is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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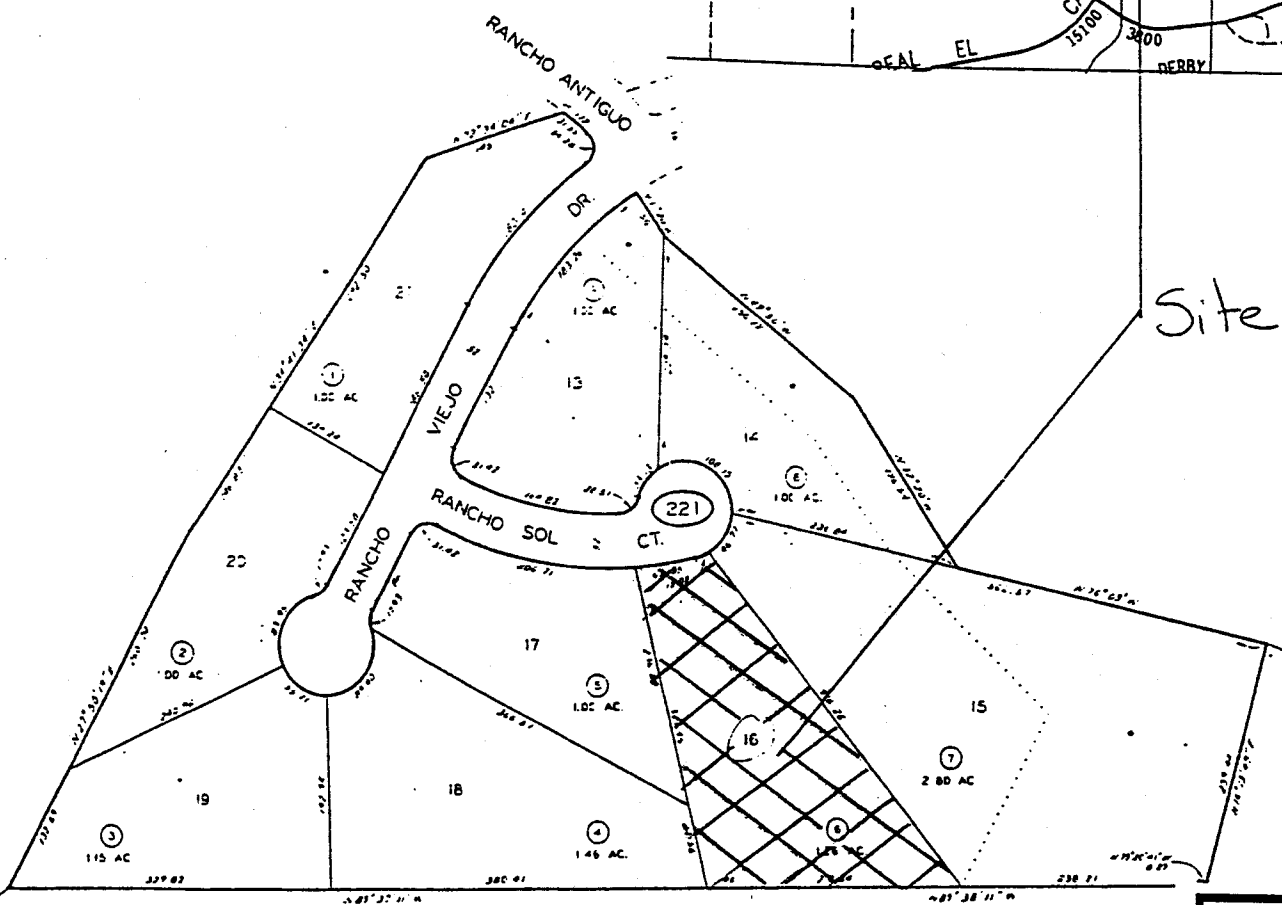
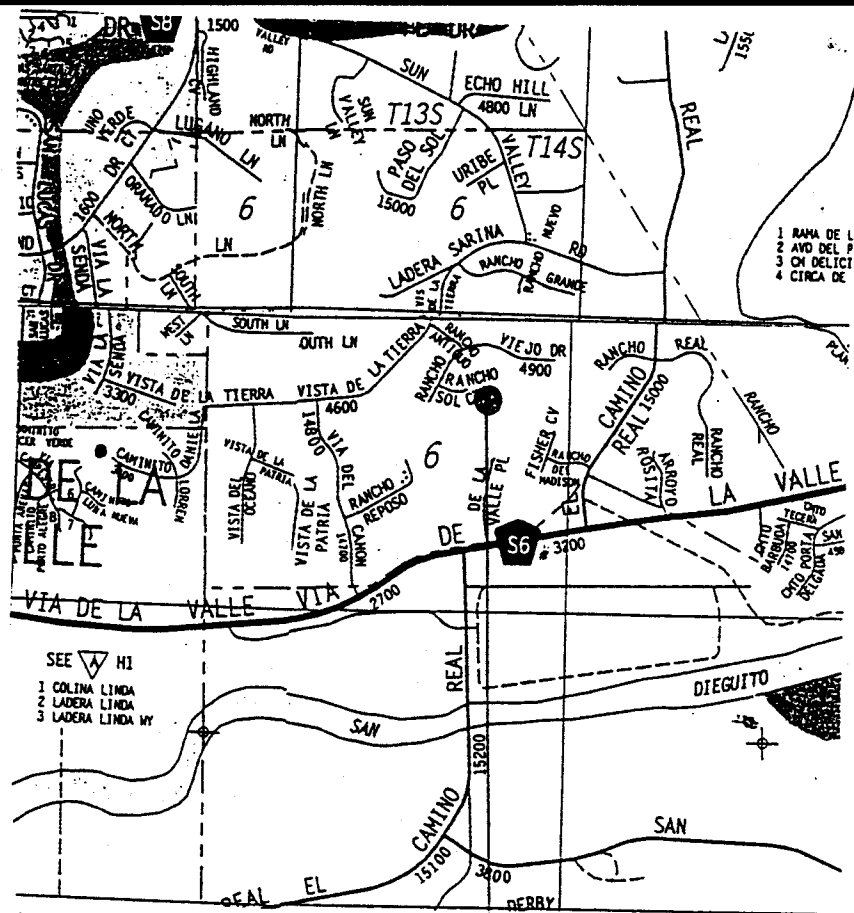


EXHIBIT NO. 1
APPLICATION NO.
6-98-54-A1
Location Map

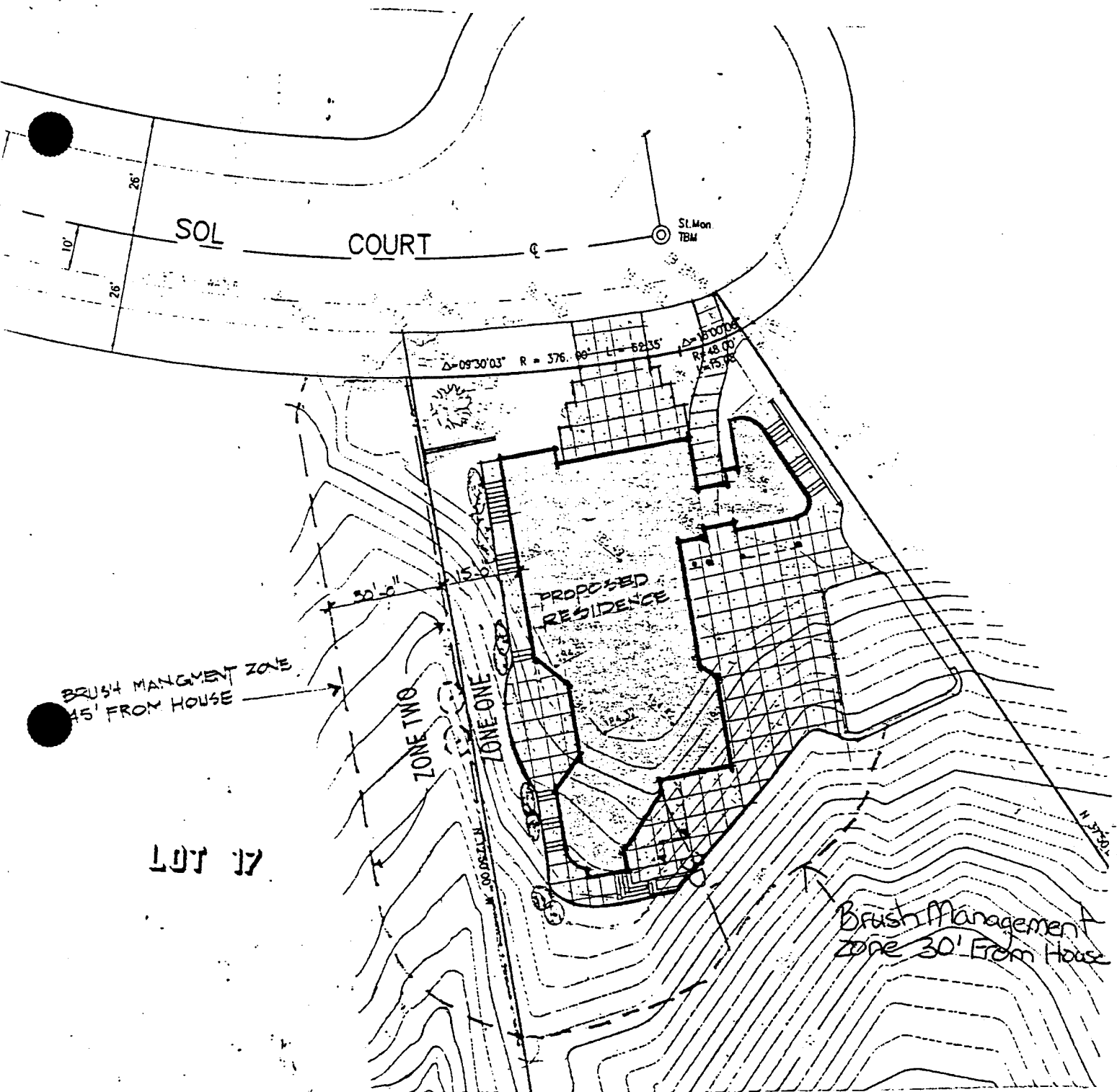


EXHIBIT NO. 2

APPLICATION NO.

6-98-54A1

Brush Management
Plan

 California Coastal Commission



Rancho Santa Fe Fire Protection District

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October 7, 1998

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Re: Permit # 6-98-54

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Owens,

I'm writing this letter as a result of the concern I have regarding the conditions surrounding the above mentioned permit. My staff has advised me that the Coastal Commission has included, as a condition of the permit being granted, a requirement for an 'Off-Site Brush Management Agreement' with an adjacent property owner.

The Rancho Santa Fe Fire Protection District does not require this as a condition of plan approval. We have developed a very structured and stringent 'brush management' ordinance that also contains enforcement standards. This ordinance even has provisions that allow us to have any deemed fire hazards mitigated and maintained. Additionally, we have operational procedures in place regarding notification of adjacent property owners and their subsequent and ongoing compliance requirements.

We feel very comfortable in ensuring you that your concerns surrounding the compliance of the area in question are addressed within the terms and conditions of our Ordinance 95-01. If your agency chooses to remove this condition, and modify the distance requirements noted in Section 2. a-d, from the 45 feet noted, to the actual 15 foot setback that Mr. Raoufpor owns, we will still be able to create the defensible space we require.

Should you not be familiar with this ordinance, I've included one for your files. Please do not hesitate to call me with any questions you might have.

Yours in fire safety,

Erwin L. Willis
Fire Chief

EXHIBIT NO. 3
APPLICATION NO.
6-98-54-A1
Letter from fire department
California Coastal Commission