

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036

Wed 19d



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Staff: LRO-SD
Staff Report: 3/17/98
Hearing Date: 4/7-10/98

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-23

Applicant: North County Custom Homes
Miguel Elias

Description: Construction of a split-level, 4,900 sq. ft. single family residence with subterranean garage, a detached approx. 1,100 sq. ft. guest house, swimming pool and tennis court on a vacant 1.58 acre site.

Lot Area	68,907 sq. ft.
Building Coverage	6,545 sq. ft. (9%)
Pavement Coverage	15,226 sq. ft. (22%)
Landscape Coverage	21,900 sq. ft. (32%)
Unimproved Area	25,236 sq. ft. (37%)
Parking Spaces	7
Zoning	RS1
Plan Designation	Residential (1 dua)
Ht abv fin grade	24 feet

Site: Lot #9 on east side of Via del Canon between Rancho Reposo and Vista de la Tierra, Rancho Santa Fe, San Diego County. APN 302-032-22

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

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project with several special conditions which address grading, site drainage, brush management and permitted density. A little

less than one-third of the site has steep naturally vegetated slopes. The proposed residence will result in an encroachment of 6.9% into steep naturally vegetated slopes. However, in this particular case, given the applicants proposal to construct the proposed residence utilizing fire resistant construction methods/materials and to initiate a detailed brush management program which eliminates the need for clear cut vegetation removal within 50 feet of the structure, staff finds that the proposed development can be found consistent with Coastal Act policies.

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 Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final building plans (site plan, floor plans and elevations) which have been approved by the Rancho Santa Fe Fire Department and the County of San Diego Building Department. Said plans shall be in substantial conformance with the Site Plan for the North County Custom Homes Residence (Commission date stamped February 20, 1998). Said plans shall document the use of fire resistant building construction methods and materials as proposed. The project shall be constructed in accordance with the approved plans.

2. Final Brush Management/Revegetation/Landscaping Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, detailed brush management/revegetation/landscape plans for the site. Said plans shall be in substantial conformance with the Brush Management Plan

for the North County Custom Homes Residence by Tri-Dimensional Engineering dated March 16, 1998 (ref. Exhibit #3), be reviewed and approved by the Rancho Santa Fe Fire Department and include the following:

- a. Within the area 50 ft. from the proposed residence, all invasive and non-native exotic plant species (as indicated on the final plan) shall be identified and flagged by a qualified biologist and then removed by cutting and the use of herbicides (under the supervision of a California licensed pest control applicator).
- b. Within the area 50 ft. from the proposed residence, in addition to the removal of all invasive and non-native exotic plant species as described in 2(a) above, all remaining high fuel plant species shall be identified and flagged by a qualified biologist and then removed. Removal shall be carried-out by manually cutting plants to a height of no less than six (6) inches above grade. To reduce the potential for erosion and off-site sedimentation, no grubbing (removal of roots below the soil surface) shall occur on slopes with gradients of 2:1 or greater.
- c. All areas within 50 ft. from the proposed residence where vegetation is removed shall be replanted with native, fire resistant plant species (utilizing a combination of seeding and container plants) compatible with the surrounding native coastal sage scrub and mixed chaparral vegetation. All areas planted shall be stabilized with geotextile fabric and temporarily irrigated with drip irrigation.
- d. The area within 50 ft. of the proposed residence shall be monitored annually and maintained as needed to assure the elimination of all invasive and non-native exotic plant species and the regrowth of native fire resistant plantings. Any dead or unhealthy plants shall be replaced.
- e. The proposed residence shall be constructed utilizing the fire resistant building construction methods and materials detailed in the San Diego County Fire Chief's Association Wildland/Urban Interface Development Standards as required by the Rancho Santa Fe Fire Department.

Brush management/revegetation/landscaping shall be installed in accordance with the approved plans. Additionally, PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which shall reflect the requirements of Special Condition #2 of CDP #6-98-23. The recorded document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. 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, grading and erosion control plans approved by the County. The project shall be implemented in accordance with the approved plan and shall incorporate the following requirements:

- a. All grading activity shall be prohibited between October 1st and April 1st of any year.
- b. All areas disturbed by grading shall be planted within 60 days of the initial disturbance and 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 prior to October 1st, and shall utilize vegetation of species compatible with surrounding native vegetation. The species list shall be subject to Executive Director approval, prior to issuance of the permit.

4. Drainage Plans. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, a drainage and runoff control plan, with supporting calculations. This plan shall document that runoff from the roof, driveway and other impervious surfaces will be collected and appropriately discharged into the existing street drainage system and away from the hillside in order to protect the scenic resources and habitat values of the hillside from degradation by scouring or concentrated runoff. The project shall be constructed in accordance with the approved plans.

5. Permitted Density. No portion of the guest house permitted on this site shall be rented, leased, occupied, sold or otherwise used as a second separate dwelling unit without the prior review and approval of the Coastal Commission or its successor in interest.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Permit History. The proposed development involves the construction of a split-level, 4,900 ft., single-family residence with an attached subterranean garage, an approx. 1,100 sq.ft. detached guest house, tennis court and a pool on a vacant 1.58 acre lot on the east side of Via del Canon, north of Via de la Valle, in the County of San Diego. The site is currently vacant, and characterized by patches of isolated native sage scrub vegetation and non-native species. In order to prepare the site for development, grading consisting of 1,700 cu. yds. of balanced cut and fill is proposed. The development also includes implementation of a detailed brush management/

revegetation plan on the site and the use of fire resistant construction materials and standards for the proposed residence.

A previous permit (CDP #6-96-86/Norman) for the subject site was approved by the Commission on August 14, 1996 for construction of a two-story, 2,172 sq.ft. single family residence with a 973 sq.ft. attached garage which encroached into slightly less than 7% of the steep naturally vegetated slopes located on the site. Although the permit was issued, the applicant at that time never developed the 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. Special Condition No. 5 has been attached as an advisory condition to inform the applicant that no portion of the guest house may be used as a separate dwelling unit on the site without further review and approval by the Commission.

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. As noted previously, the County of San Diego LCP was certified by the Commission in 1985. However, because the County never formally accepted the Commission's decision, the LCP was never effectively certified. However, the Commission has continued to use the County's LCP as guidance in review of permit requests in the County. In response to

the habitat protection policies of the Coastal Act and the need to preserve sensitive habitats and steep slopes, the County of San Diego developed the Coastal Resource Protection (CRP) overlay zone as part of its certified LCP. The CRP ordinance, which regulates the development of naturally-vegetated slopes in excess of 25 percent grade, states, in part:

Steep slopes. No development, grading, planting, excavation, deposit of soil or other material, or removal of natural vegetation, except as may be necessary for fire safety or installation of utility lines, shall be permitted on steep natural slopes of 25% grade or greater...No alteration of such natural steep slopes shall be permitted in order to obtain use of a property in excess of the minimum reasonable use. For purposes of this provision, the term "minimum reasonable use" shall mean a minimum of one (1) dwelling unit per acre. Any encroachment into steep slope areas over 25% shall not exceed 10% of the steep slope area over 25% grade.

The project site is located within the 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. These concerns are addressed by eliminating or significantly reducing grading on steep slopes. While encroachments into steep slopes can be allowed in some instances, where there is the possibility to develop sites without such encroachments, they are to be avoided.

Since the time when the County LCP was certified by the Commission and the other permit decisions by the Commission in this area, the California Gnatcatcher has been listed by the U.S. Fish and Wildlife Service as an endangered species. As a result of this listing, preservation of naturally vegetated (coastal sage/chaparral) slopes is even more significant, particularly when they are located within large contiguous areas of native habitat.

In the case of the proposed development, portions of the residence and guest house will involve some direct encroachment into the steep naturally vegetated slopes. Based on the slope analysis and vegetation survey submitted by the applicant, approximately 21,220 sq.ft. or 30.8% of the site contains naturally vegetated steep slopes which are located in three places on the site--two patches along the northern property line and one patch along the southern property line. The proposed project will encroach directly onto 4,788 sq.ft. or 6.9% of the naturally-vegetated steep slopes. This encroachment is associated with minor grading for the guest house and the single family residence. However, no encroachment is proposed for construction of the proposed tennis court and swimming pool. These structures have been located on the flat portions of the site in order to avoid the sensitive steep slopes.

Additionally, in recent years, the issue of fire safety in areas of "wildland/urban interface" has become increasingly pertinent. Local governments and fire departments/districts have

become increasingly aware of the need to either site new development away from fire-prone vegetation, or to regularly clear vegetation surrounding existing structures (ref. Section 4291 of the Public Resource Code). Since fire department requirements for vegetation thinning and clear-cutting can adversely effect coastal resources, the Commission has in past actions included a 30-foot brush-management zone around proposed structures when calculating the amount of proposed encroachment on steep, naturally vegetated-slopes, with the idea that vegetation at least 30 feet from any structure may have to be cleared to meet fire safety regulations. Brush management for fire safety needs to be addressed in review of the proposed residence.

In this particular case, the applicant initially indicated that the fire department would require brush clearance of 100 feet around the proposed single family residence and guest house. The Fire Department advised the applicant that previously they had required 30-feet of brush clearance but since a recent fire in San Diego County (Harmony Grove), they now require 100-feet of brush clearance. With clearance of 100 feet around the proposed structures, nearly all of the native vegetation on steep slopes would have been eliminated.

Commission staff advised the applicant to meet with staff at the Rancho Santa Fe Fire Department, which has jurisdiction over the subject site, to review the Department's requirements regarding the potential for future need to clear vegetation around the proposed structure for fire safety and to determine if other alternatives existed which would reduce or eliminate the need for 100 feet of brush clearance. The fire department indicated to the applicant that a requirement of 50 feet of brush clearance could be permitted with incorporation of "class one" construction materials into the proposed development. In past recent projects involving fire department requirements for brush clearance, staff has met with the Fire Department. The Fire Department has indicated that in some cases, zones may be established where clear-cutting is required around structures, with selective thinning of vegetation required further away from the structures.

In this particular case, the Rancho Santa Fe Department has indicated that no clearing of vegetation on steep slopes would be required for this site at this time, as long as the applicant removes the high fuel species within 50 feet of the proposed residence and guest house. The coastal sage chaparral mix includes three plants species as follows: 1) *Heteromeles Arbutifolia* (Toyon), 2) *Eriogonum Fasciculatum* (California Buckwheat) and 3) *Baccharis* species (Coyote Brush). The fire department has indicated that the Toyon can remain and that the California Buckwheat and Coyote Brush must be removed. However, in those areas where these plants are removed, the Toyon or other fire-retardant native plant species can be planted in its place. As such, clear-cutting will not be required.

In order to address Commission staff concerns relative to fire safety and protection of existing natural areas, the applicant has agreed to revise the project to incorporate a number of measures. These measures include constructing the residence utilizing fire resistant construction standards and materials, removal and eradication all non-native, flammable plant species located within 50 ft. of the residence on the subject site, and

removal of other high fire hazard plant materials located within 50 ft. of the proposed residence. Lastly, the areas where the plants will be removed will be revegetated with native, fire-resistant plant species which will be maintained. Furthermore, the applicant has indicated that the Rancho Santa Fe Fire Department has stated that with implementation of the proposed brush management plan and utilization of fire resistant construction standards, the development meets all fire district requirements and clear-cut vegetation removal within the naturally vegetated steep slopes areas will not be required.

The Coastal Commission acknowledges the unique site conditions which exist on the subject property. The site, according to a slope/vegetation survey submitted by the applicant, reveals that only small isolated patches of native vegetation occur on the subject site. These patches of vegetation are important to retain for their value from a visual resource perspective and habitat area for bird species, consistent with the CRP policies of the certified County of San Diego LCP. However, it must also be recognized that these patches of vegetation are on slopes near the northern and southern property lines which immediately abut other residentially developed properties to the north and south of the site, as opposed to being adjacent to a contiguous open space system which exists, for example, to the east of the site. The applicant has noted that the Fire Department has indicated their biggest concern is with the canyon located off-site to the east of the subject site. However, the proposed residence will observe a 50-foot setback from this canyon, thus, no clearing of vegetation will be required off-site and the setback provides adequate fire protection measures.

It is also important to note that a contiguous open space system such as that which exists in the canyon to the east of the site is more significant and worthy of protection from encroachment pursuant to the policies of the Coastal Act due to its critical value as an environmentally sensitive habitat area. The proposed development, resulting in minor encroachment into isolated patches of naturally vegetated steep slopes on site, will not encroach into this large open space area. Additionally, native plants which will be removed for fire protection purposes will be replaced with native species which contain comparable habitat value. Thus, given the existing site conditions, the proximity of adjacent development, and the detailed proposal to address fire safety through the use of fire resistant construction methods and materials and elimination of highly flammable plant materials, the Commission finds the proposed development is acceptable.

In order to formalize the applicant's agreement to incorporate a brush management program into the proposal, Special Condition Nos. 1 and 2 are proposed. Special Condition #1 requires the applicant to submit final plans for the project that have been approved by both the Rancho Santa Fe Fire Department and the County of San Diego. Special Condition #2 requires the applicant to submit final brush management/revegetation/landscape plans which have been approved by the Rancho Santa Fe Fire Department. This condition also requires that the provisions of the approved brush management program be recorded in a deed restriction to notify future property owners of

the requirements to maintain native vegetation cover and remove invasive species for fuel management purposes.

To provide additional protection to the adjacent natural habitat area and the sensitive habitat areas of the San Dieguito River Valley and Lagoon, Special Condition Nos. 3 and 4 have been attached. These conditions call for the provision of drainage, grading and erosion control plans and limit site grading to the non-rainy season months (April 1st through September 30 of any year). In addition, the conditions require 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. The conditions further require that all runoff from impervious surfaces of the site be collected and appropriately discharged into the existing street drain system.

With the proposed conditions, the Commission can be assured that the existing naturally vegetated steep slopes will not be adversely impacted through the need to provide brush clearance for fire safety or from runoff or sedimentation, and that these natural areas on the site will be enhanced through the revegetation/brush management plan. In addition, the direct encroachment proposed for grading and development of proposed residence and guest house will not exceed 6.9% of the total area of steep naturally vegetated slopes which is consistent with the CRP policies of the County's certified LCP which limits such encroachment to a maximum of 10%. Therefore, the Commission finds the proposed development consistent with Sections 30231 and 30240 of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act is applicable and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

The rear portion of the project site abuts the top of a canyon area but the proposed development will not be visibly prominent from Via de la Valle or from other areas within the San Dieguito River Valley. As such, the development will not result in any adverse visual impacts and can be found consistent with Section 30251 of the Coastal Act.

4. 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. In this case, such a finding can be made.

The County of San Diego previously received approval, with suggested modifications, of its Local Coastal Program (LCP) from the Commission. However, the suggested modifications were never accepted by the County and therefore, the LCP was never effectively certified. While the LCP was never effectively certified and the standard of review for development in the unincorporated County of San Diego is Chapter 3 policies of the Coastal Act, the Commission does use the County LCP as guidance. The County designates this area for residential development as a maximum density of one dwelling unit per acre. The proposed development is consistent with that designation.

The project site is also located within the Coastal Resource Protection (CRP) Overlay area which calls for the protection of steep naturally vegetated areas. While some encroachment into steep natural areas may result from the subject development, the encroachment is minimal and will not adversely impact any environmentally sensitive habitat areas. As conditioned to require detailed brush management, the proposed development can be found consistent with the CRP provisions. As discussed above, the Commission finds that approval of the proposed development, as conditioned, will not adversely impact environmentally sensitive habitat areas and is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development, as conditioned, will not prejudice the ability of the County of San Diego to prepare a certified LCP.

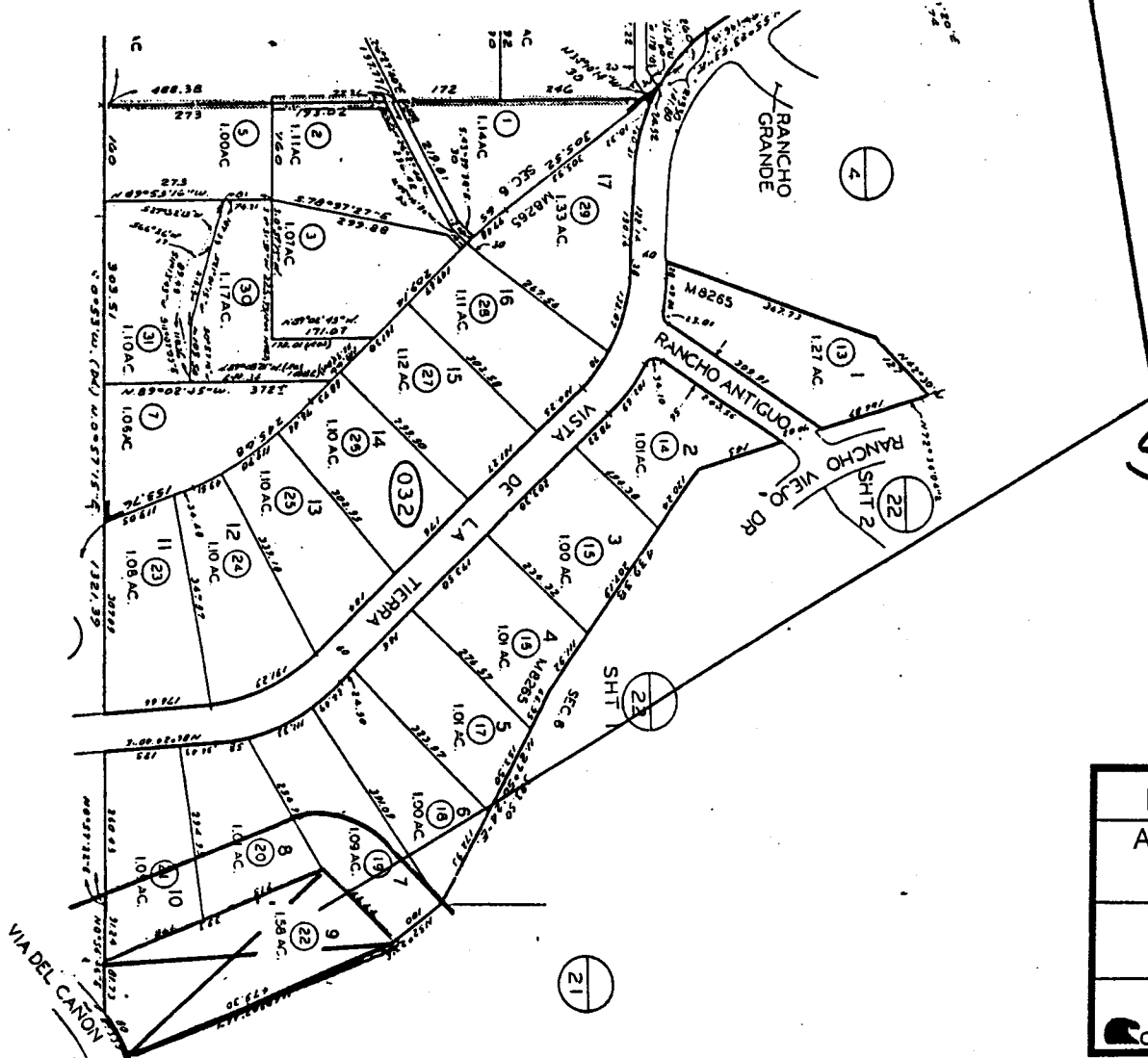
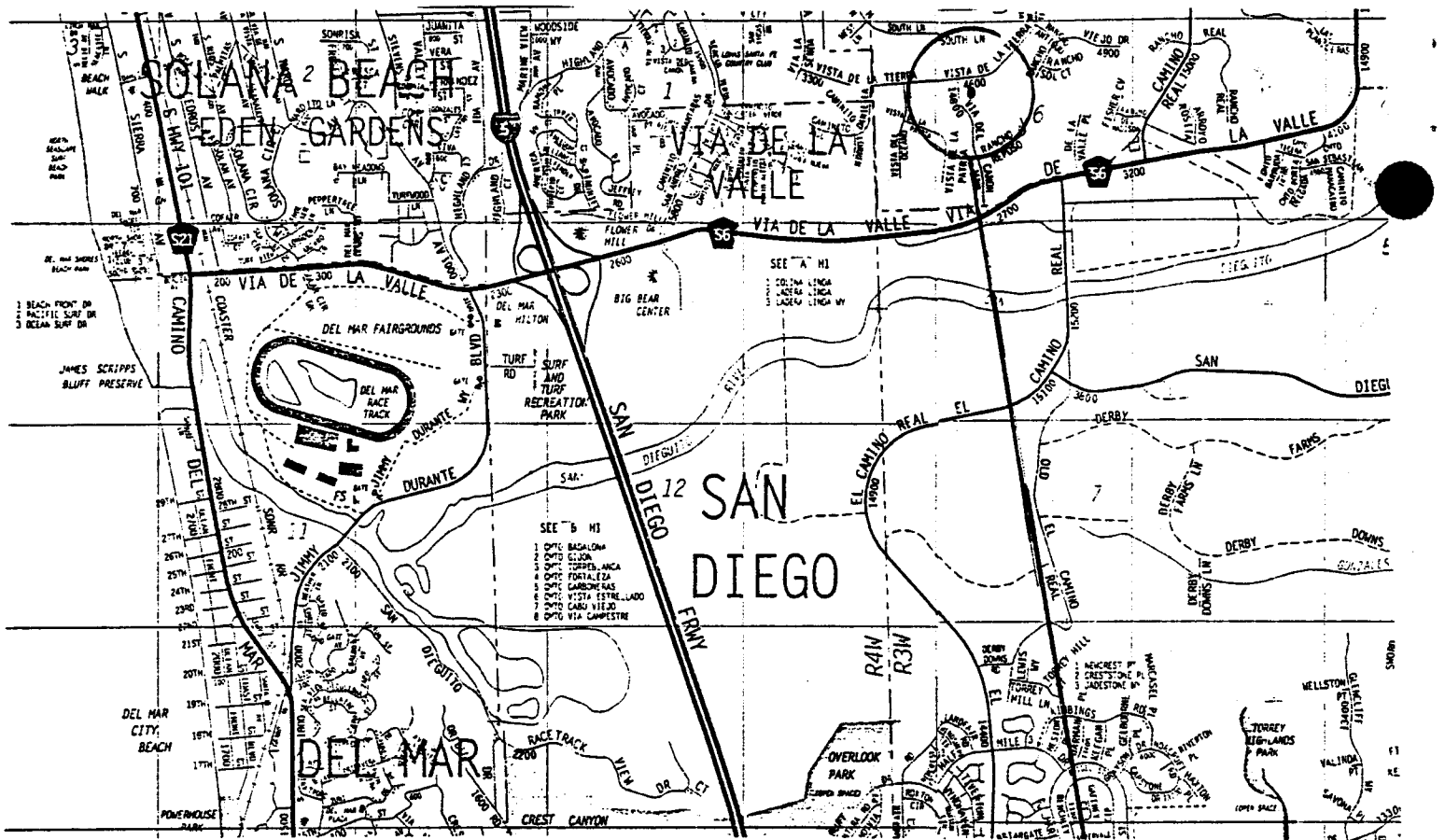
5. Consistency with the California Environmental Quality Act (CEQA).

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 protection policies of the Coastal Act. Mitigation measures, including conditions which require submittal of a brush management plan approved by the Fire Department which does not result in any clear-cutting of native vegetation on steep slopes, 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:

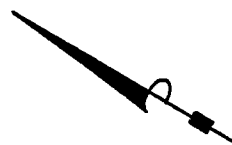
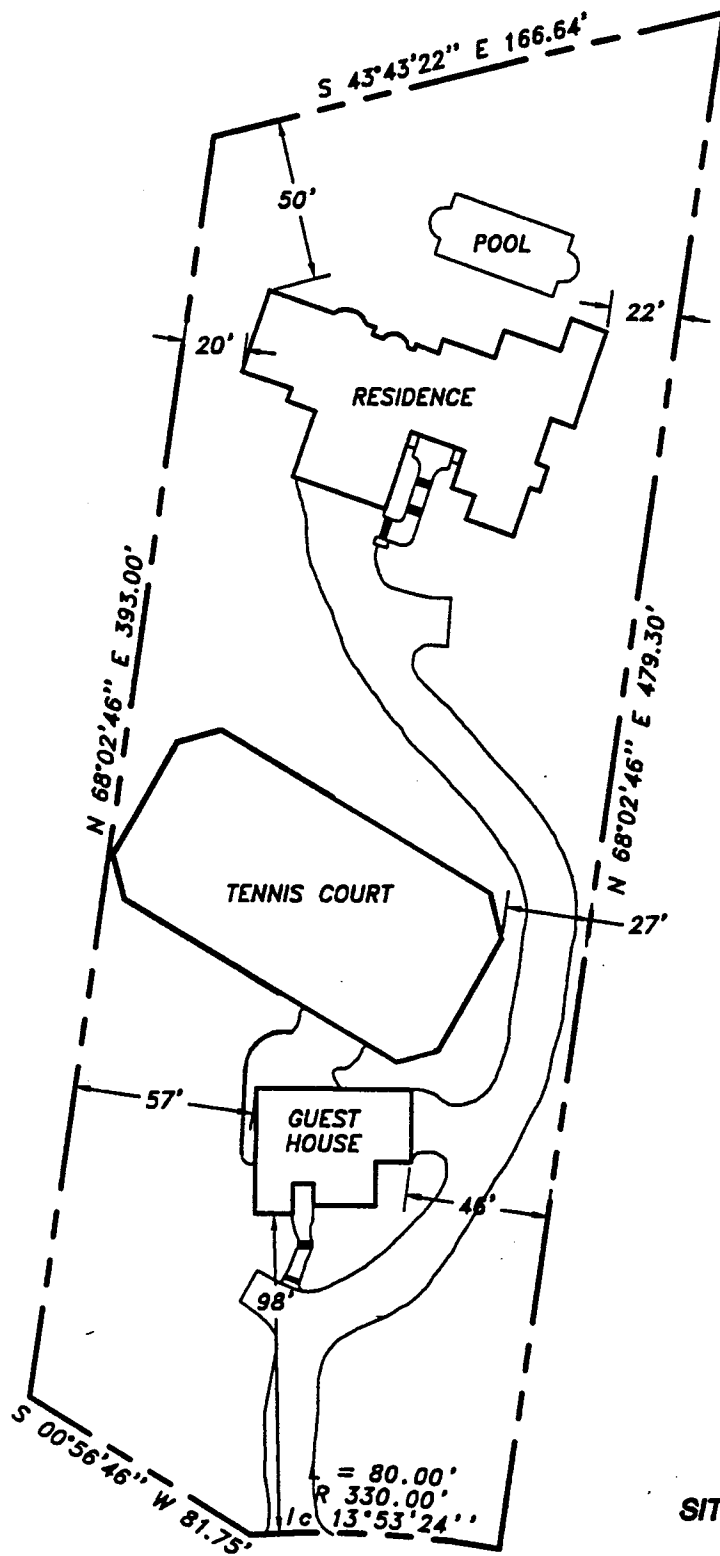
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.



SITE

EXHIBIT NO. 1
APPLICATION NO.
6-98-23
Location Maps
California Coastal Commission

6-98-23



SCALE: 1"=60'

SITE PLAN FOR

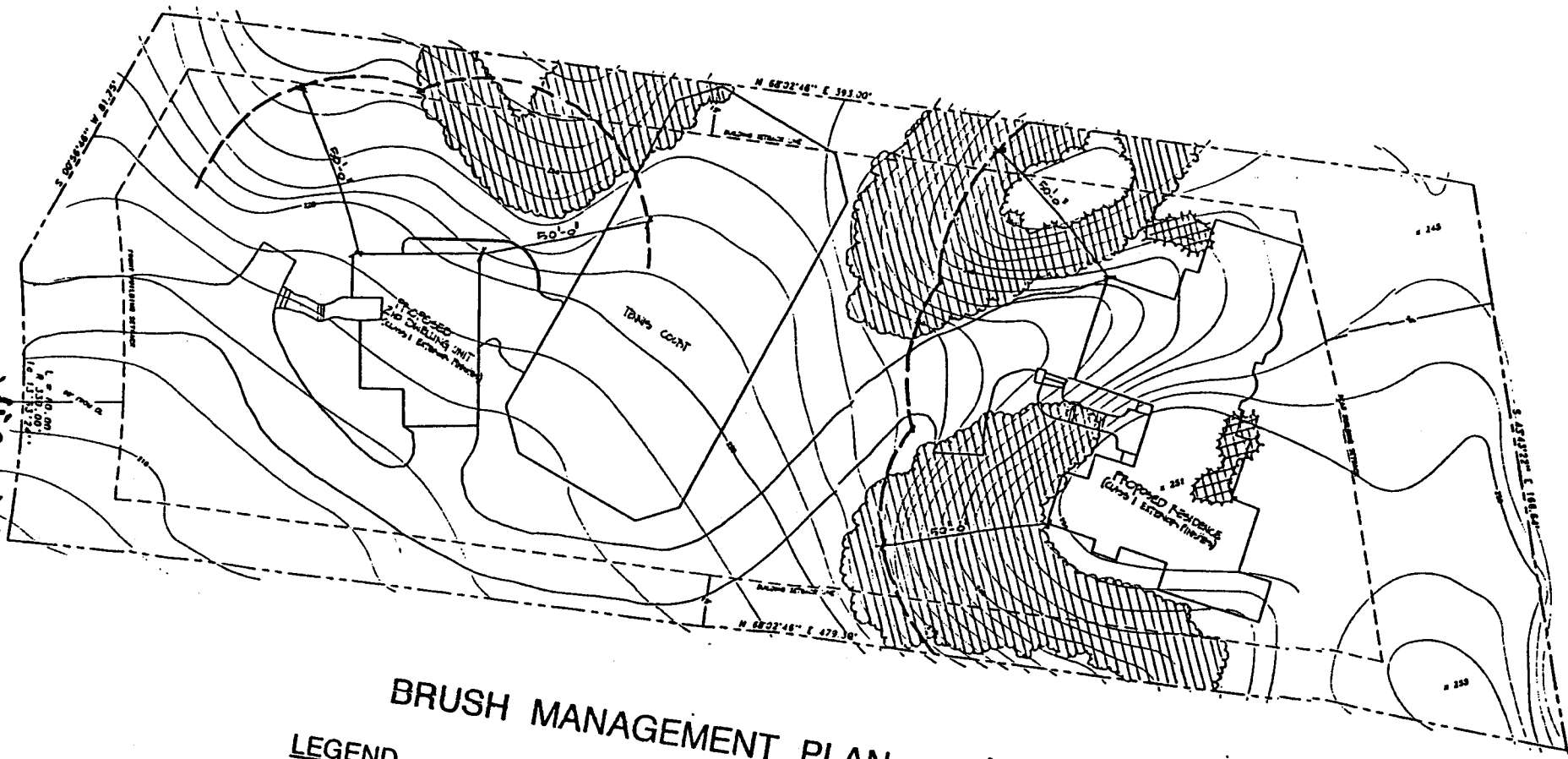
LOT 9,
VIA DEL CANNON
RANCHO SAN

EXHIBIT NO. 2
APPLICATION NO.
6-98-23
Site Plan
California Coastal Commission



P.O. BOX 791 POWAY, CA 92074 (619)

Via del Cañon



BRUSH MANAGEMENT PLAN

LEGEND



- Native Plant Shrub masses consisting of:
1. HETEROMELES ARBUTIFOLIA (TOYON)*
 2. ERIOGONUM FASCICULATUM (CALIFORNIA BUCKWHEAT)
 3. BACCHARIS SPECIES (COYOTE BRUSH)



- Ground Cover:
1. CARPOBROTUS CHILENSIS (SEA FIG)*

50'-0" Radius around residence to be cleared of vegetation per Fire Department. SEE EXEMPTIONS BELOW.*

NOTE: Plants noted with a *, do not have to be removed according to the Fire Department.

AREA OF VEGETATION REMOVED: 7800 S.F.

TOTAL VEGETATION AREA: 10,898 S.F.

NORTH COUNTY CUSTOM HOMES
VIA DEL CANON
DEL MAR

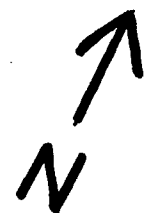


EXHIBIT NO. 3
APPLICATION NO.
6-98-23
Brush Management Plan (in concept)
California Coastal Commission