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San Diego Coast District

CONSENT CALENDAR

Tuesday, June 9, 1998

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6-98-37

CALIFORNIA COASTAL COMMISSION

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



Filed: May 7, 1998
 49th Day: June 25, 1998
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 Staff: DL-SD
 Staff Report: May 21, 1998
 Hearing Date: June 8-11, 1988

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-98-37

Applicant: Michael Bart

Description: Construction of a one-story, 4,058 sq.ft. single-family residence including an attached garage with 150 cubic yards of balanced grading on a 2.03 acre lot.

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| Lot Area | 2.03 acres |
| Building Coverage | 4,048 sq. ft. (5%) |
| Pavement Coverage | 1,100 sq. ft. (1%) |
| Landscape Coverage | 3,000 sq. ft. (3%) |
| Unimproved Area | 80,452 sq. ft. (91%) |
| Parking Spaces | 3 |
| Zoning | RS1 |
| Plan Designation | Residential |
| Ht abv fin grade | 29 feet |

Site: 4948 Rancho Viejo Drive, Lomas Santa Fe vicinity, San Diego County.
 APN 302-222-04.

Substantive File Documents: Certified County of San Diego Local Coastal Program;
 CDP #6-89-240; #F5164

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

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 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 preliminary site plan by Metzgar Engineering dated March 4, 1998. 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.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless than Executive Director determines that no amendment is required.

2. Open Space Deed Restriction. No development, as defined in Section 30106 of the Coastal Act, shall occur in the area shown on the attached Exhibit 3, and generally described as that portion of the site north of the 140 foot contour line as shown on Exhibit 3, except for landscaping and brush management as approved pursuant to Special Condition #3 of CDP #6-989-37.

PRIOR TO THE ISSUANCE OF THE PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director which reflects the restrictions stated above on the proposed development in the designated open space. The document shall run with the land for the life of the structure approved in this permit, 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 than no amendment is required.

3. Final Landscape Plans/Deed Restriction. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, a landscaping plan. Each plan shall consist of:

- a. A map showing the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features.
- b. A planting schedule indicating that the required trees shall be planted within 60 days of completion of residential construction.
- c. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements. The steep slope area within 50 feet of the approved residence shall be monitored annually and maintained as needed to assure the elimination of all invasive and non-native exotic plant species and the growth of native fire resistant plantings.

The landscaping plan shall demonstrate compliance with the following requirements:

- d. The steep slope area within 50 feet of the approved residence shall be planted with native, fire resistant plant species compatible with the surrounding native coastal sage scrub and mixed chaparral vegetation, and irrigation as required by the Rancho Santa Fe Fire District.
- e. Existing dead vegetation shall be removed from the area between 50 and 100 feet from the residence.
- f. A minimum of two trees, consistent with the Rancho Santa Fe Fire District's Fuel Modification Standards, shall be planted on the northern side of the approved residence.

PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, that reflects the above requirements. The restriction shall provide that landscaping shall be implemented in accordance with Special Condition #3 and consistent with those plans approved with CDP #6-98-37. The document shall run with the land for the life of the structures approved in this permit, 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. This 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.

4. 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 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Permit History. The proposed development involves the construction of a one-story 4,058 sq.ft. single-family residence with an attached garage on a vacant 2.03 acre lot on the north side of Rancho Viejo, in an unincorporated portion of the County of San Diego referred to as the Lomas Santa Fe vicinity. The site is located on a mesa north of the San Dieguito River Valley. The irregularly-shaped lot consists of a flat graded area adjacent to the street, which drops sharply northward into a canyon which makes up the majority of the lot. The flat portion of the site is largely devoid of vegetation, while the first approximately 40 feet of steep area beyond the graded pad contains patchy vegetation consisting mostly of annual grasses, weeds, and other exotics. The remainder of the canyon area is heavily vegetated with native sage scrub and chaparral brush. The proposed residence would be located on the graded pad, set back a minimum of approximately 10 feet from the steep slope. In order to prepare the site for development, 150 cubic yards of balanced cut and fill grading is proposed.

The Commission approved the subdivision of 27.5 acres into 22 parcels and road improvements, including the creation of the subject site, in 1977 (CDP #F5164). In October 1998, the Commission approved a permit for construction of a three-story, 5,400 sq.ft. single-family residence on the site with special conditions requiring recordation of an open space deed restriction to protect the naturally vegetated steep slopes on the site, and limiting grading to the non-rainy season (CDP #6-89-240). However, the special conditions were never met and the permit was not issued.

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.

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

The project site and area drains into the San Dieguito River, which flows into the San Dieguito Lagoon; thus, measures to control runoff and sedimentation in this area are especially critical. 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:

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 that 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, as is the case with the subject site.

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. However, since a recent fire in North San Diego County at Harmony Grove, the Rancho Santa Fe Fire District, which has jurisdiction over the subject site, has indicated that up to 100 feet of brush clearance may now be required from all structures.

In the case of the proposed project, no portion of the residence would directly encroach into steep naturally vegetated slopes. The structure would be located on the graded pad a minimum of approximately 10 feet away from the steep slopes. In past projects involving fire department requirements for brush clearance, the Fire District has allowed in some cases, depending on the topography of the site and the incorporation of appropriate construction materials into the proposed development, zones to be established where clear-cutting is required only in the area around structures, with selective thinning of vegetation required further away from the structures. The Rancho Santa Fe Department has indicated in this particular case, because the first 50 feet in the fuel modification zone (the area surrounding any structures) has very few plants and is on a very steep cliff, this area must be irrigated and, if any, planted with fire-resistant plants. The next 50 feet, still on steep slopes, contains native vegetation; however, the Fire District is only requiring the removal of dead vegetation in this area. As such, the required brush-management program will not adversely impact the native vegetation in the area.

Consistent with the recommendations of the Fire District, the applicant has proposed planting fire-resistant native plants in the first 50 feet of area adjacent to the residence. Planting of native materials will ensure that the adjacent native habitat is not impacted by invading exotic plants. In order to formalize the brush management program and ensure that the steep slopes and native habitat are permanently protected, Special Conditions #1,

#2 and #3 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 record an open space deed restriction over the undisturbed sensitive steep slopes areas on the site as shown on Exhibit 3. Special Condition #3 requires the applicant to plant and maintain fire resistant, native plant material on the slope area within 50 feet of the residence, and remove the dead vegetation as required by the Fire Department.

Plans submitted by the applicant indicate that drainage from the project site will be directed towards the improved street system. 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 #4 has been attached. This condition requires the provision of grading and erosion control plans and limits site grading to the non-rainy season months (April 1st through September 30 of any year). In addition, the condition requires 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.

With the proposed conditions, the Commission can be assured that the existing natively vegetated steep slopes will not be adversely impacted and will be protected in the future. 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 which is briefly visible from a small segment of southbound El Camino Real, a major coastal access road. The views from this segment of El Camino Real consist of a variety of mature vegetation (mostly eucalyptus and other landscaping), residences, and steep canyons. The applicant has proposed to place a couple of trees on the northern side of the house, consistent with the Fire District's Fuel Modification Standards, which will help soften views of the residence from El Camino Real. As noted above, the applicant has proposed planting fire-resistant natives on the upper, north-facing portion of the canyon. The Fire District's standards discourage the massing of large trees within the first 100 feet from structures. Since views of the project site are minimal and the visual character of the area is not predominately natural, the development as proposed will not have an adverse visual impact on the area. Special Condition #3 requires submittal of a final landscaping plan indicating the presence of fire resistant natives on the steep slope area within 50 feet of the residence, and at least two trees on the upper portion of the lot, on the northern side of

the structure. 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 with 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. As discussed above, no encroachment into steep native areas will result from the subject development, and the brush management program will not adversely impact any environmentally sensitive habitat areas. Therefore, as conditioned, the proposed development can be found consistent with the CRP provisions. Thus, the Commission finds that approval of the proposed development, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and will not prejudice the ability of the County of San Diego to prepare a certified LCP.

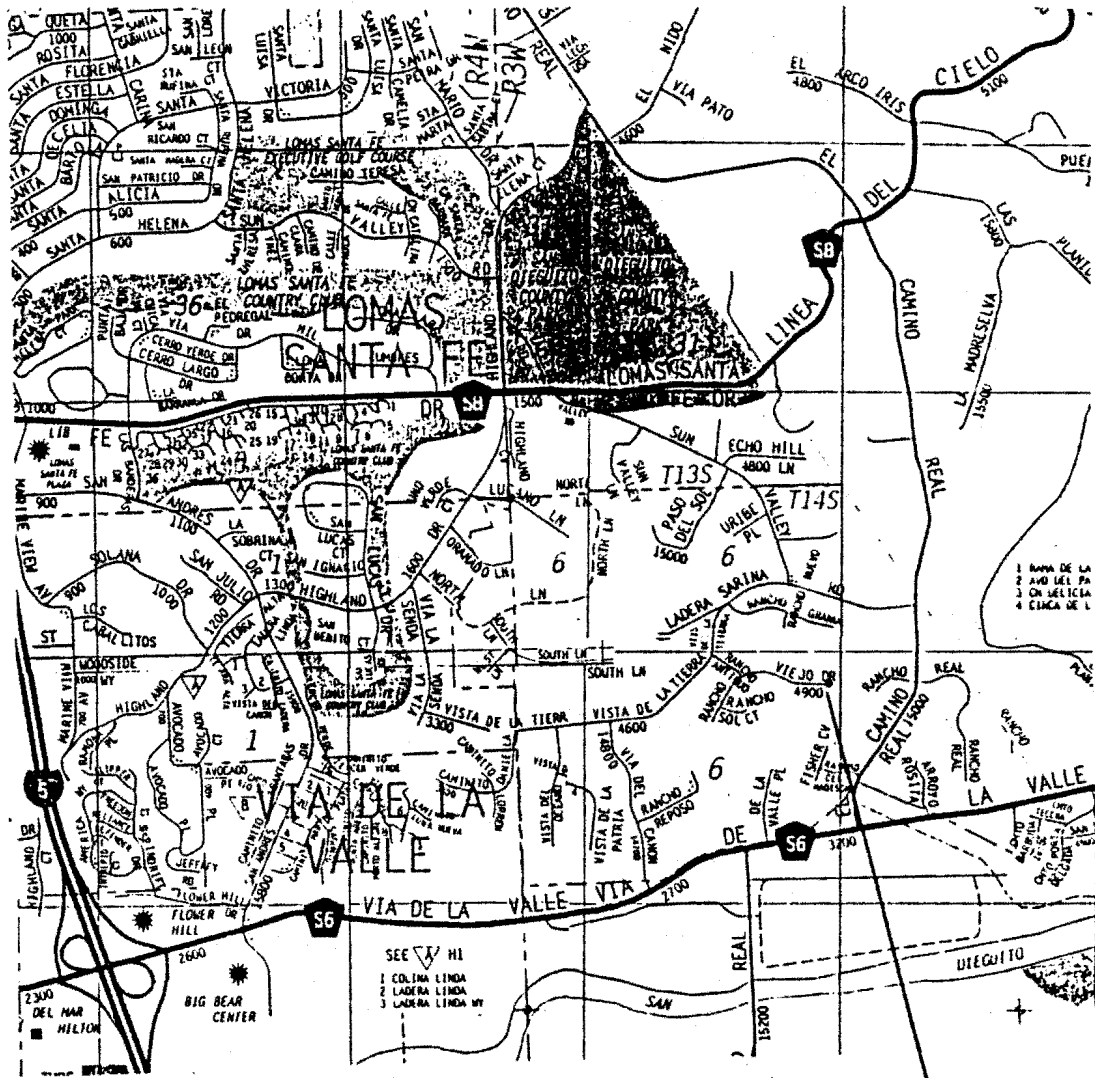
5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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 an open space deed restriction over the steep, natively vegetated slopes, and the planting of fire-resistant natives 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

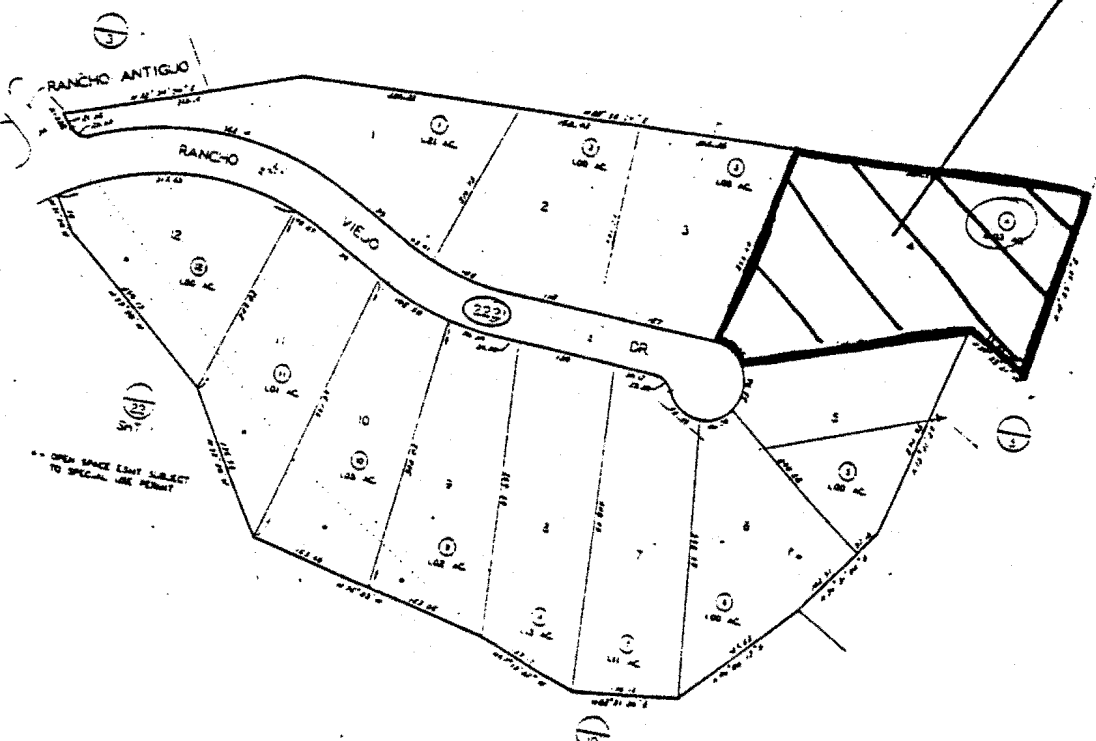
environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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.



Project Site

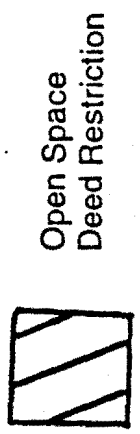
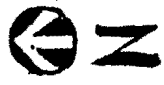
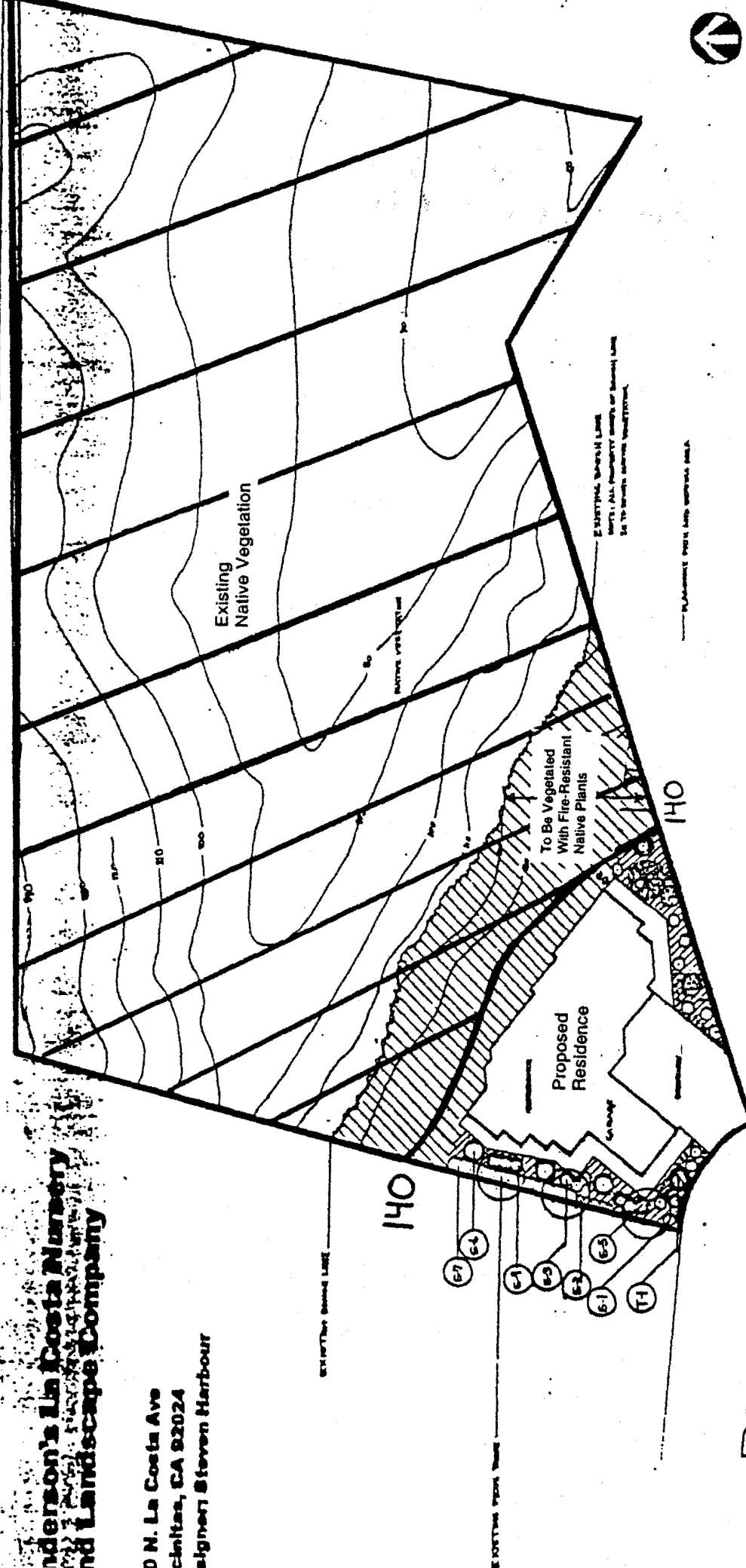


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| EXHIBIT NO. 1 |
| APPLICATION NO. |
| 6-98-37 |
| Location Map |
| California Coastal Commission |

6-98-37

Anderson's La Costa Nursery
and Landscape Company

10 N. La Costa Ave
San Marcos, CA 92074
Signer: Steven Harbour



Open Space
Deed Restriction

Bart Residence

Plant Legend:

- G-1 10' x 10' Mexican Fan Palm (Pinnate Palm)
- G-2 10' x 10' Fan Palm (Pinnate Palm)
- E-1 8' x 8' Agave (Pinnate Palm)
- E-2 8' x 8' Agave (Pinnate Palm)
- E-3 8' x 8' Agave (Pinnate Palm)
- E-4 8' x 8' Agave (Pinnate Palm)
- E-5 8' x 8' Agave (Pinnate Palm)
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- E-99 8' x 8' Agave (Pinnate Palm)
- E-100 8' x 8' Agave (Pinnate Palm)

RANCHO
VIEJO

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| EXHIBIT NO. 3 |
| APPLICATION NO. |
| 6-98-37 |
| Open Space Deed |
| Restricted Area |
| California Coastal Commission |