

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 3111 CAMINO DEL RIO NORTH, SUITE 200
 SAN DIEGO, CA 92108-1725
 619-21-8036



Filed: January 27, 1999
 49th Day: March 17, 1999
 180th Day: July 26, 1999
 Staff: GDC-SD
 Staff Report: April 22, 1999
 Hearing Date: May 11-14, 1999

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-99-13

Applicant: Michael and Deborah Kirk

Description: After-the-fact subdivision of an approximately 42,950 sq. ft. lot into two lots (Lot 1 =21,780 sq. ft.; Lot 2 = 21,170 sq. ft.)and construction of a two-story, 4,436 sq. ft. single family residence with attached 727 sq. ft. garage on proposed Lot 1. An existing 1,558 sq. ft. single family residence will remain on proposed Lot 2.

Lot Area	42,950 sq. ft.
Building Coverage	3,499 sq. ft. (16% of proposed Lot 1)
Pavement Coverage	4,537 sq. ft. (21% of proposed Lot 1))
Landscape Coverage	4,200 sq. ft. (19% of proposed Lot 1)
Unimproved Area	9,544 sq. ft. (44% of proposed Lot 1)
Parking Spaces	6
Zoning	ER-2
Plan Designation	Estate Residential (ER)
Project Density	2 du/ac
Ht abv fin grade	25 feet

Site: 1144 Solana Drive, Solana Beach, San Diego County. APN(s) 298-370-6, [298-370-35, 36: proposed new parcels]

Substantive File Documents: Certified County of San Diego Local Coastal Program; City of Solana Beach General Plan; City of Solana Beach Resolution 98-100.

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. Disposal of Graded Spoils. PRIOR TO THE ISSUANCE OF THE PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the after-the-fact approval for subdivision of an existing approximately 42,950 sq. ft. lot into two parcels (Parcel 1 = 21,780 sq. ft., Parcel 2 = 21,170 sq. ft.). Also proposed is the construction of a new 4,436 sq.ft. single-family residence with an attached 727 sq.ft. garage on Parcel #1. An existing 1,558 sq. ft. single family residence will remain on Parcel #2. The subject site is located on the east side of Solana Drive between Marine View Drive and Highland Drive in the City of Solana Beach. The vacant parcel appears to have had some minimal grading or fill placement which occurred at some unknown time and is covered with grasses and weeds.

A tentative map for the subdivision was approved in October of 1980 by the County of San Diego and the parcel map recorded in 1981 without benefit of a coastal development permit. Since that time the properties have been bought and sold numerous times such that the original subdivider is no longer available. The current property owner of Lot #2 has declined to be a co-applicant on the subject application, however, they have submitted a letter permitting the applicant to process the subdivision application.

The construction of the new home and access driveway from Solana Drive will require approximately 400 cubic yards of grading of which 85 cubic yards of material will be exported off-site. As no site has yet been identified for the deposition of this graded material, Special Condition #1 has been attached, which requires the applicant to identify a disposal site prior to issuance of the permit. If the material is to be deposited within the coastal zone, an amendment or separate coastal development permit may be required.

The project site is located in the City of Solana Beach and which was previously within the jurisdiction covered by the certified County of San Diego Local Coastal Program (LCP) Because of the incorporation by the City, the certified County LCP no longer is applicable and the standard of review is the Chapter 3 Policies of the Coastal Act.

2. New Development. Section 30250 (a) of the Coastal Act states, in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effect, either individually or cumulatively, on coastal resources.

Additionally, Section 30251 of the Act 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 project site is located in a developed area in the City of Solana Beach on the east side of Solana Drive, east of Interstate 5. All typical utility services are available to serve the project site and the surrounding infrastructure of the community will be able to accommodate the increased density of development resulting from approval of this subdivision.

The site is not visible from any scenic area and no public views will be blocked by the development. The project site is located within a well-established residential neighborhood and the proposed residence will be consistent with the bulk and scale of the surrounding development. No natural vegetated steep slopes occur on the site. Given that no impacts to any coastal resources will result from the proposed development and that the development will be compatible with the surrounding area, the Commission finds the proposed project consistent with Sections 30250 (a) and 30251 of the Act.

3. No Waiver of Violation. The parcel map for the proposed subdivision was previously recorded without benefit of a coastal development permit. Although

development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

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 subject site was previously in the County of San Diego Local Coastal Program (LCP) jurisdiction, but now is in the boundaries of the City of Solana Beach. Because of the incorporation by the City, the certified County LCP is no longer applicable and the standard of review for the proposed development is Chapter 3 Policies of the Coastal Act. However, the Commission in its review of the County Land Use Plan and Implementing Ordinances has addressed the issues regarding protection of coastal resources in the area. As such, the Commission will continue to utilize the County LCP documents for guidance in its review of development proposals in the City of Solana Beach until such time as a new or revised LCP is submitted by the City.

The site is designated Estate Residential with a maximum allowable density of 2 dwelling units per acre in the City of Solana Beach General Plan and Zoning Ordinance. The site is designated for 2 dwelling units per acre in the certified County of San Diego LCP. The maximum density resulting from the subject proposal will be 2 dwelling units per acre, consistent with the previously certified County LCP and the City's designation. The San Diego County LCP also contains special overlay areas where sensitive coastal resources are to be protected. The subject property falls within the unsewered overlay area, however, the proposed development will connect with the existing sewer service. No adverse impacts to any coastal resources are anticipated as a result of this development. The Commission finds that the proposed development conforms to Chapter 3 policies of the Coastal Act and with the special area regulations contained in the certified County of San Diego LCP.

Therefore, as conditioned, the Commission finds the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program.

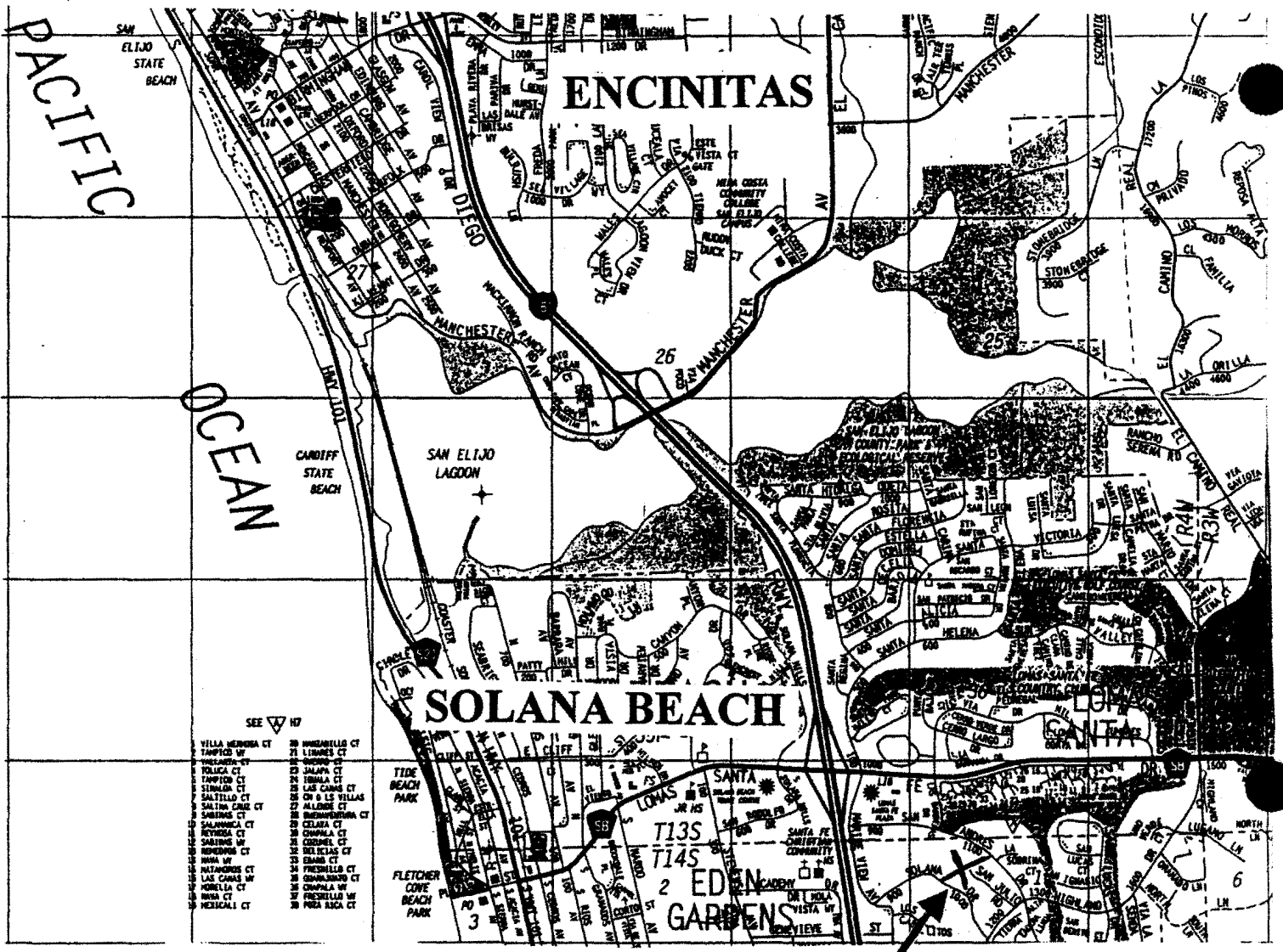
5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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 all applicable policies of the Coastal Act. Mitigation measures, including a condition addressing the location of the proposed export site, 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.



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|-------------------|--------------------|
| 1 VILLA MEMORA CT | 26 IRVINGVILLE CT |
| 2 TAMPICO WY | 27 LINDSEY CT |
| 3 YOLGA CT | 28 GARDNER CT |
| 4 TIMPICO CT | 29 JALAPA CT |
| 5 SIBALDA CT | 30 YEMMA CT |
| 6 SALTILLO CT | 31 LAS CANAS CT |
| 7 SALTIN CRIBE CT | 32 ON B LE VILLAS |
| 8 SAMSUNG CT | 33 ALORDE CT |
| 9 SALAMANCA CT | 34 BUENAVENTURA CT |
| 10 REYDECA CT | 35 CELAYA CT |
| 11 SARBINE WY | 36 CHAPALA CT |
| 12 MICHIGAN CT | 37 CORNEL CT |
| 13 HANA WY | 38 IZAHN CT |
| 14 HAZARDOS CT | 39 FRESNELLO CT |
| 15 LAS CANAS WY | 40 OSWALDINO CT |
| 16 NORIELA CT | 41 CRONPLA WY |
| 17 INVA CT | 42 FRESNELLO WY |
| 18 HERSCALI CT | 43 PURA RACA CT |

Project Site

EXHIBIT NO. 1
APPLICATION NO.
6-99-13
Location Map
California Coastal Commission

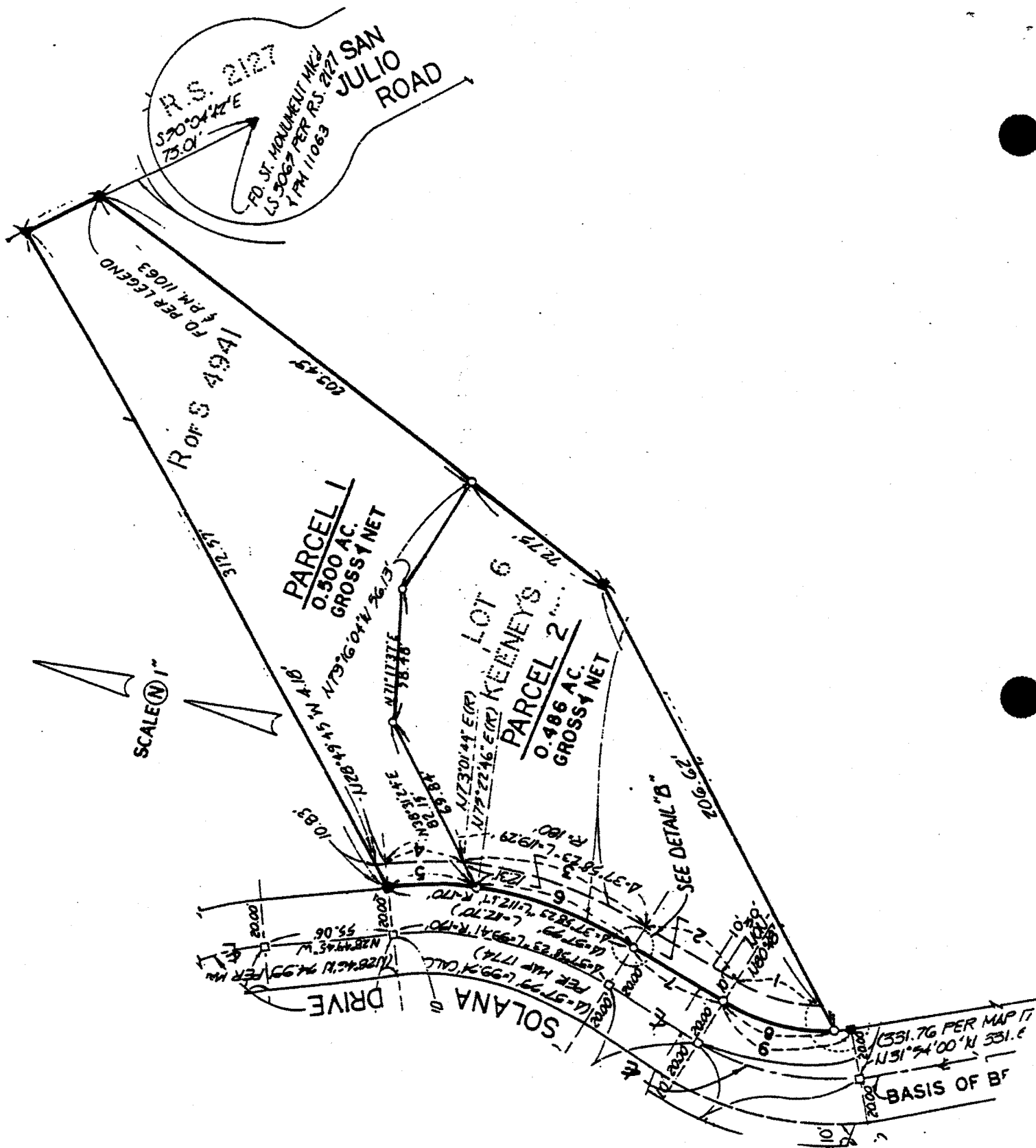


EXHIBIT NO. 3
APPLICATION NO. 6-99-13
Subdivision Plan
California Coastal Commission