

**CALIFORNIA COASTAL COMMISSION**

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

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Staff: DL-SD  
 Staff Report: March 23, 2000  
 Hearing Date: April 11-14, 2000

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-84-233-A2

Applicant: Linda & Charles Brandes                      Agent: Matthew Peterson

Original Description: Construction of a single-family residence with guest house and access road including 6,440 cubic yards of grading and installation of septic system.

First Amendment: Revise Special Condition #2 to change October 1<sup>st</sup> grading deadline to November 15, 1984 and install temporary erosion control devices.

Proposed Amendment: Demolish existing residence and guest house and remove open space deed restriction required by Special Condition #3.

Site: 15880 El Camino Real, Rancho Santa Fe, San Diego County. APN 268-220-23.

Substantive File Documents: Certified County of San Diego Local Coastal Program; CDP #6-89-51; 6-89-97; 6-99-142.

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed demolition and removal of the open space deed restriction. The Commission has previously acknowledged through past permit action that the subject site had limited native vegetation in 1984, when the open space was applied, and thus, authorized the development of structures and non-native landscaping over the entire site in 1989. There are no sensitive habitat resources on the site that could be jeopardized by the removal of the open space restriction. To the extent the open space deed restriction protected visual resources, the demolition of the residence will remove any adverse visual impact such that the open space condition will no longer be necessary.

The Commission's approval of this project is necessary for the Commission to approve the applicant's proposed construction of a single-family residence on the subject site in the location of the deed restricted open space. The applicant's proposed residence will also extend into an open space area that was deed restricted pursuant to a different permit.

The application to amend that permit to remove the open space deed restriction is being reviewed concurrently through CDP application #6-89-97-A2. The application for the new home is being reviewed through CDP application #6-99-142.

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I. PRELIMINARY STAFF RECOMMENDATION:

**MOTION:**            *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-84-233-A2 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Sequence of Permit Activity/Extinguishment of Open Space Deed Restriction.

Prior to extinguishment of the deed restrictions, the applicant shall submit to the Executive Director for review and written approval, evidence that the existing residential structure on the project site has been demolished.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Amendment Description/Project History. The proposed project is the demolition of an existing single-family residence and associated facilities, including a guest house and maid's quarters, and removal of an existing open space deed restriction placed on the 17-acre subject site as a condition of approval of coastal development permit (CDP) #6-

84-233. The stables and paddocks will remain. The site is located on the south side of El Camino Real, which is the Coastal Zone boundary in this location, in the unincorporated Rancho Santa Fe area of the County of San Diego. The site is adjacent to the San Dieguito County Park, a generally developed and landscaped recreational park, to the west.

The removal of the existing open space restriction is intended to allow for the construction of a new 38,936 sq.ft. single-family residence on the subject site and the property immediately south of the site. The application for amending the open space deed restriction on the site to the south is being reviewed concurrently through CDP application #6-89-97-A2, and the request for the new home is being reviewed through CDP application #6-99-142.

The site has a considerable and complicated permit history. On June 13, 1984, the Commission approved CDP #6-84-233 for the construction of a single-family residence on a vacant 27-acre site. This site consisted of the 17-acre subject site, and 10 acres located south of and adjacent to the subject site. The proposal included a total of 17,615 square feet of building coverage, including a single-family residence with attached garage and maid's quarters, a detached three-bedroom guesthouse, and an access road. A total of 6,440 cubic yards of balanced grading was approved in order to construct the access road from El Camino Real.

The permit for this proposal was approved subject to three special conditions. These included requirements for revisions to the building and grading plans to eliminate all grading on slopes greater than 25% grade and submittal of an erosion control plan. All areas located outside the area where development was approved were placed in open space, subject to an open space deed restriction (see Exhibit #3). The deed restriction was recorded and the permit released, and the residence was constructed.

Subsequently, it was determined that the siting of the structures and the grading that actually occurred on the site was substantially different than the approved development. In essence, the entire site was developed, graded or landscaped. In May 1989, the Commission approved the development after-the-fact, finding that the areas that had previously been placed in open space had contained limited amounts of native vegetation and the development had not resulted in significant impacts to coastal resources (#6-89-51). Thus, the Commission found the development was consistent with the Coastal Act as built. However, the open space deed restriction placed on the site by CDP #6-84-233 was not removed from the site.

It was also determined that two additional developments had occurred without the benefit of a coastal development permit. First, a boundary adjustment occurred, which effectively subdivided the 27-acre parcel into a 17-acre lot adjacent to El Camino Real, and a 10-acre lot located to the south. The subject permit amendment involves the 17-acre lot. All of the physical improvements approved in CDP #6-89-51 including grading, construction of the house, stables, etc. were located on the 17-acre portion of the original parcel, and the boundary adjustment was also approved after-the-fact through CDP #6-89-51.

The owner of the 27-acre site had also purchased a 3-acre lot south of and adjacent to the original 27-acre parcel. The second additional after-fact-development involved the re-subdivision of the 10-acre parcel and the 3-acre lot into four lots. Due to the complexity of the various development actions, and the sale of the 13 acre area to parties not connected to the original project applicant for either CDP #6-84-233 or CDP #6-89-51, the after-the-fact subdivision was reviewed under a new permit, CDP #6-89-97. In January 1990, the Commission approved CDP #6-89-97.

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.

2. Environmentally Sensitive Habitats/Steep Slopes/Chapter 3 Policies. Section 30231 of the Coastal Act 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 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.

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, and, where feasible, to restore and enhance visual quality in visually degraded areas....

As noted above, the County of San Diego LCP was certified by the Commission in 1985. Because the County never formally accepted the Commission's modifications, 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 overlay regulates the development of naturally-vegetated slopes in excess of 25% grade in order to reduce or avoid impacts to sensitive habitat, natural landforms, and downstream resources from sedimentation and erosion. The CRP overlay also invokes the Scenic Area regulations.

The proposed amendment involves demolition of the existing residence and removal of an open-space deed restriction placed on the subject site by the original permit. The subject site is located in an area that is designated with the CRP overlay zone special designator in the County LCP's zoning ordinance. The site was afforded this status due to the presence of naturally occurring chaparral/coastal sage scrub slopes in the general area and due to the fact that the site drains to a small drainage course which leads to San Elijo Lagoon.

However, as described above, past permit action on the site has previously acknowledged that there was originally little native vegetation on the subject site, and the complete build-out of the site with structures and non-native landscaping has been authorized by the Commission (#6-89-51). Thus, there is no benefit in maintaining the open space deed restriction, which does not protect or provide any benefits to coastal resources.

The subject site is immediately adjacent to the San Dieguito Park. The open space deed restriction has also served to protect the visual quality of the area by providing a buffer between the residential development and the public recreational facility. If the open space restriction were be removed prior to demolition of the structure, there would be no restrictions on the removal of landscaping adjacent to the park, which could adversely impact views from the park. Therefore, Special Condition #1 requires that the applicants demolish the existing residence prior to extinguishing the deed restrictions.

The ultimate development of the subject site could still have impacts upon the resources of San Elijo Lagoon if proper site development practices regarding grading, drainage and landscaping are not followed. Potential impacts from development of a single-family residence on the site are being reviewed concurrently with the subject proposal through CDP #6-99-142. Demolition of the existing residence and removal of the open space deed restriction will not have any impact on sensitive resources or visual quality. Any grading required to prepare the site for future development will be reviewed and authorized under CDP #6-99-142. Therefore, the Commission finds that the subject development proposal, as conditioned, is consistent with Sections 30231, 30240 and 30251 of the Act and the CRP and Scenic Area regulations contained in the certified County LCP.

3. 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 estate residential development as a maximum density of 1 dwelling unit per 2-4 acres. 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, the proposed project is consistent with the CRP provisions because no naturally vegetated steep slopes are located on the subject site. The Commission finds that approval of the proposed development will not adversely impact environmentally sensitive habitat areas and is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed amendment will not prejudice the ability of the County of San Diego to obtain an effectively certified LCP.

4. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit is 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 a requirement that the demolition occur prior to the extinguishment of the open space deed restriction, 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.

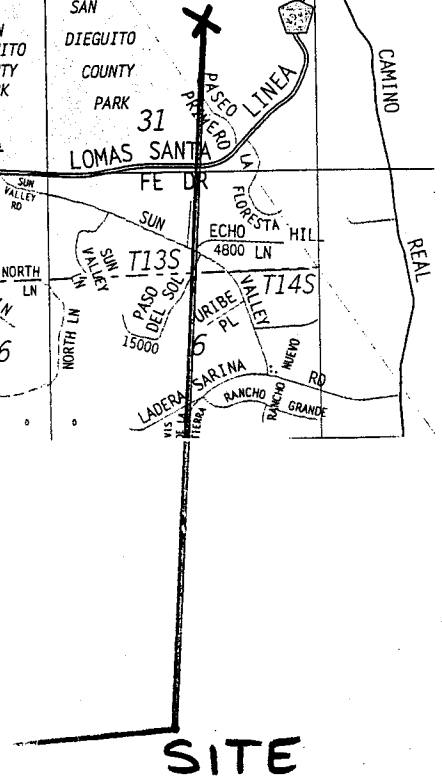
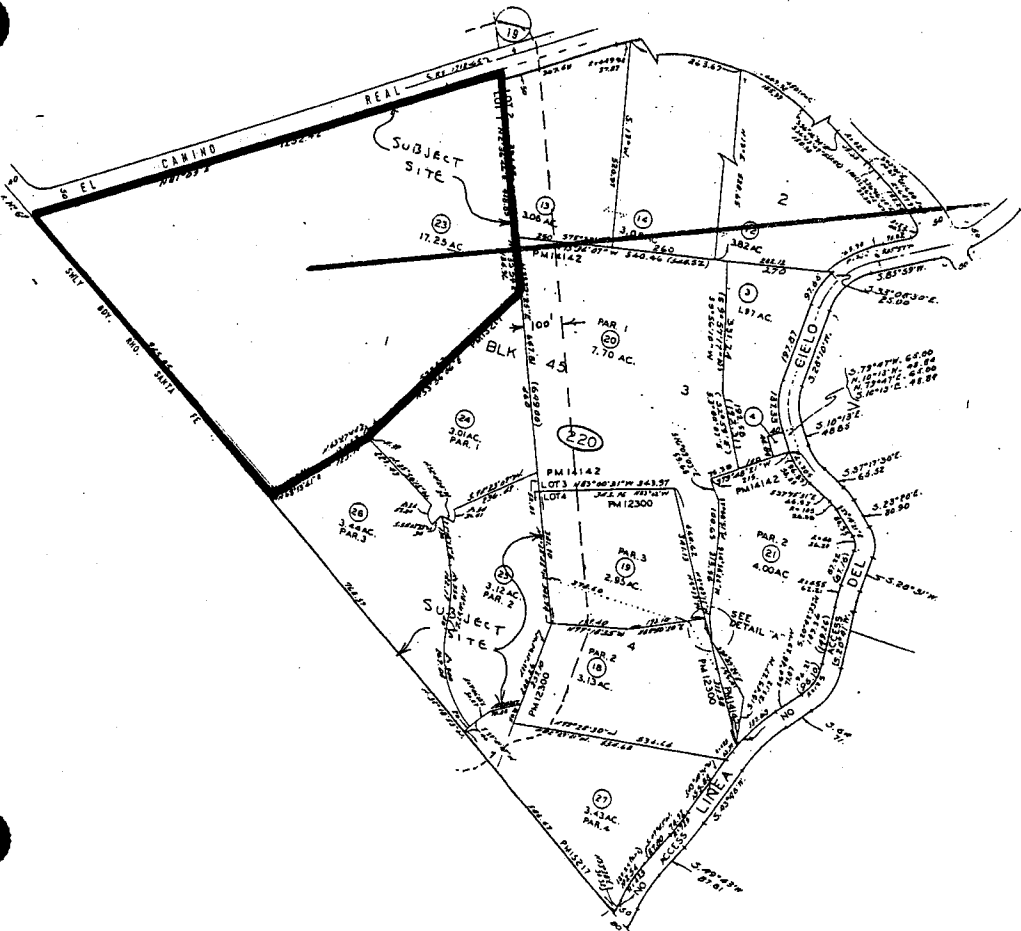
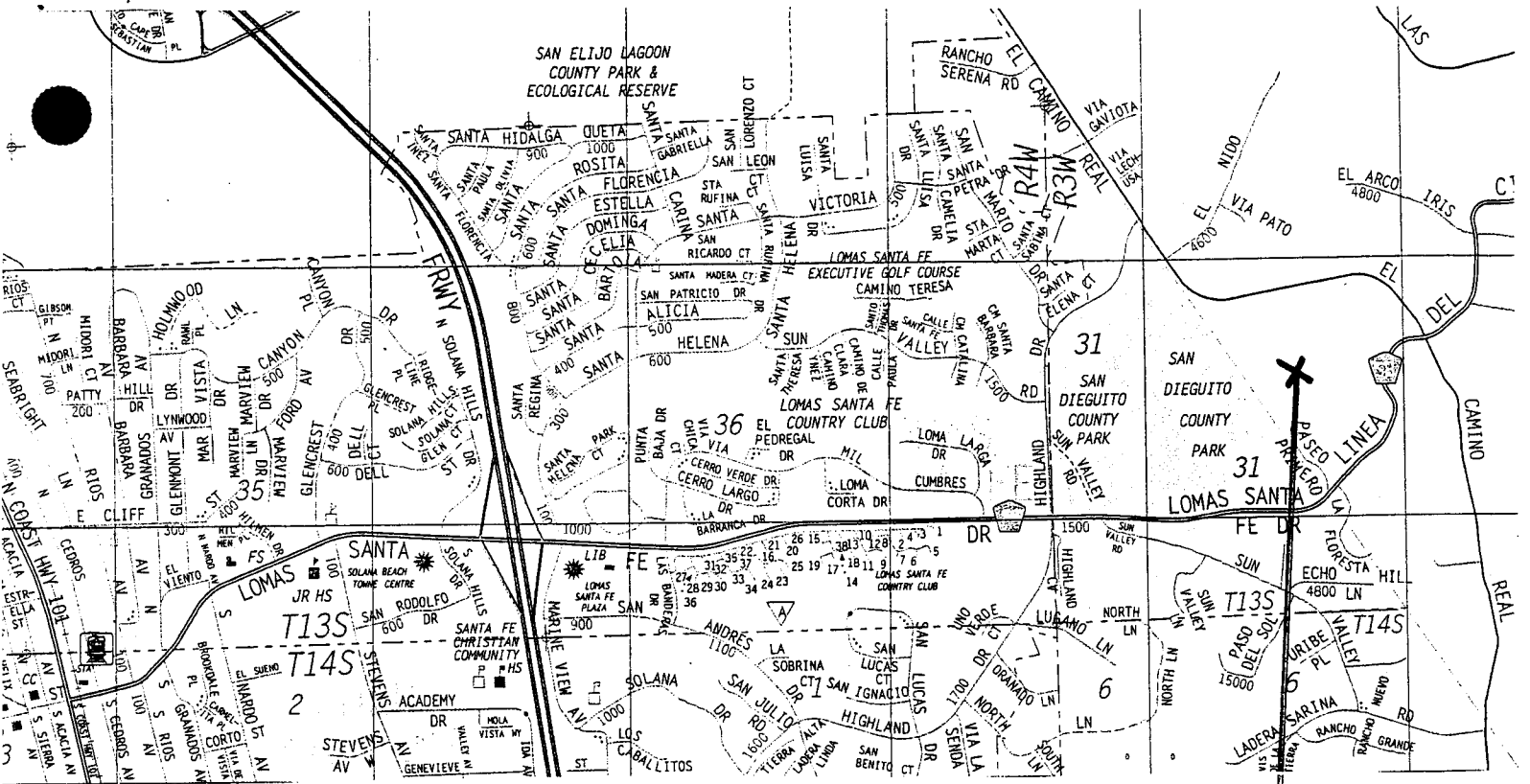
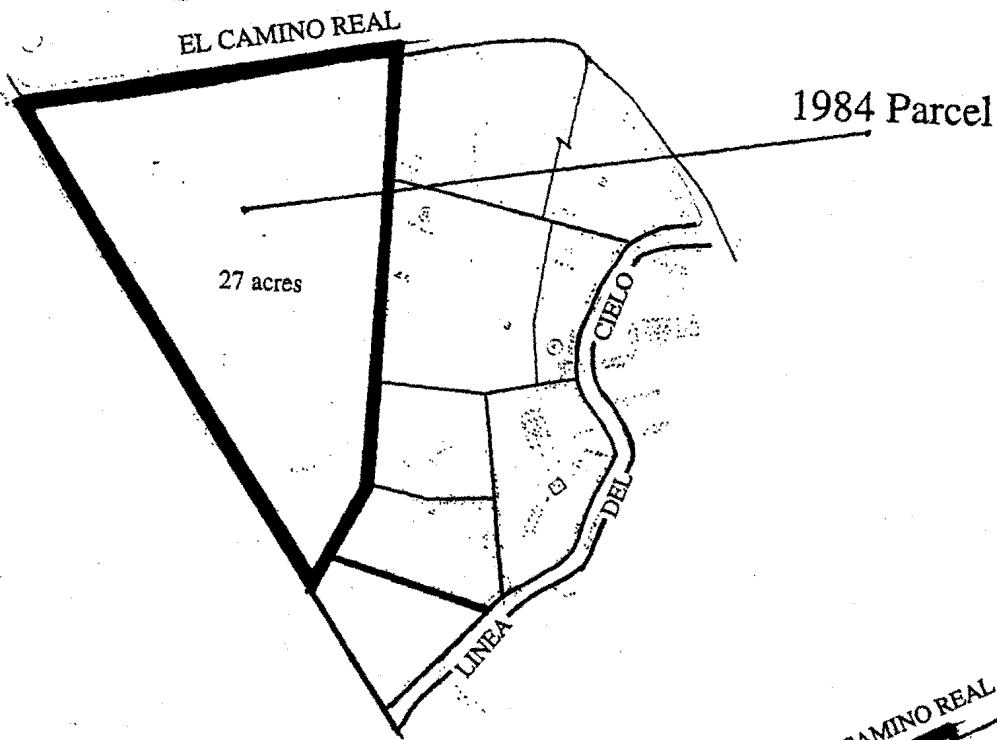
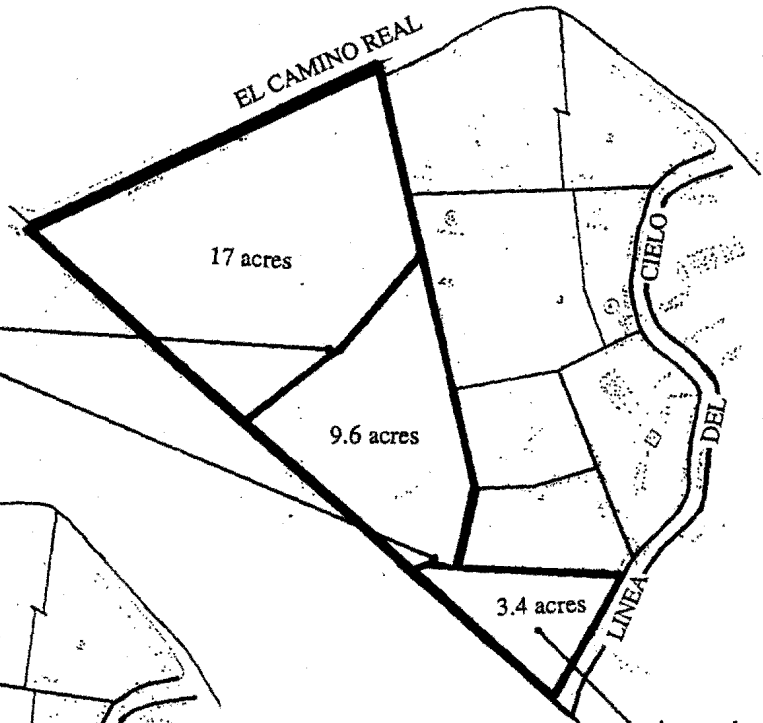


EXHIBIT NO. 1  
 APPLICATION NO.  
**6-84-233-A2**  
 Location Map

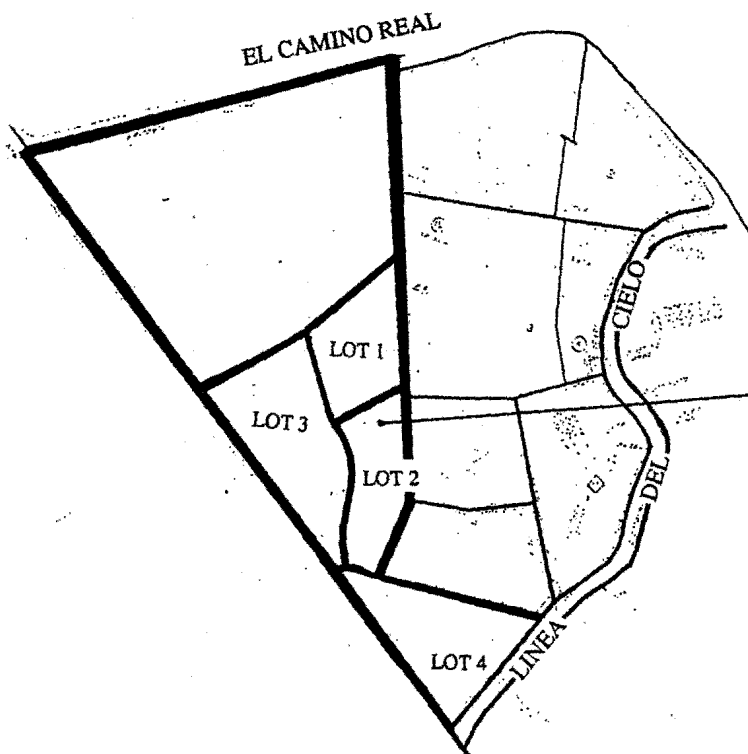
California Coastal Commission



Boundary Adjustment/Lot Split



Acquired Parcel



Subdivision

EXHIBIT NO. 2
APPLICATION NO.
<b>6-84-233-A2</b>
Site History
 California Coastal Commission



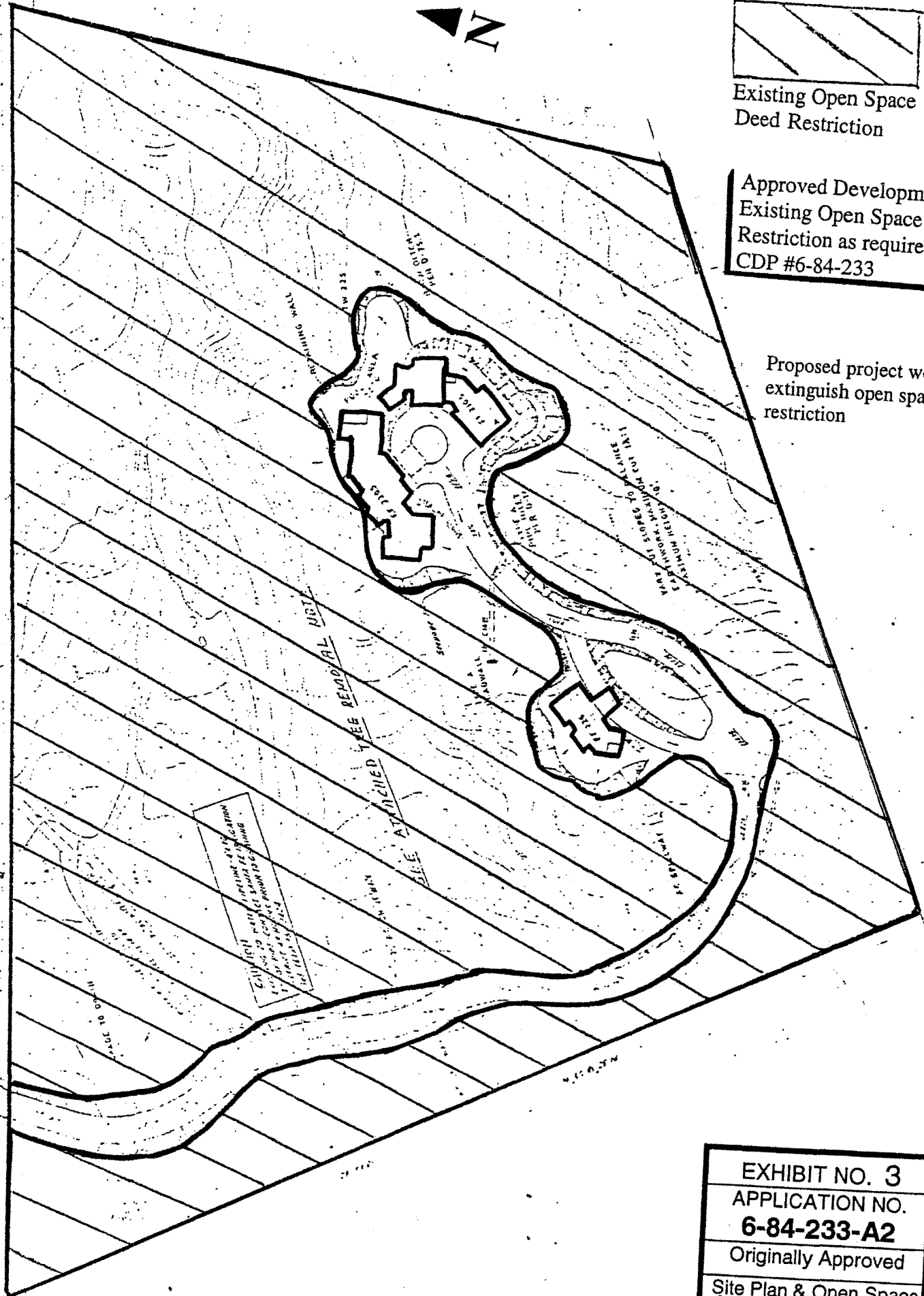
EL CAMINO REAL



Existing Open Space  
Deed Restriction

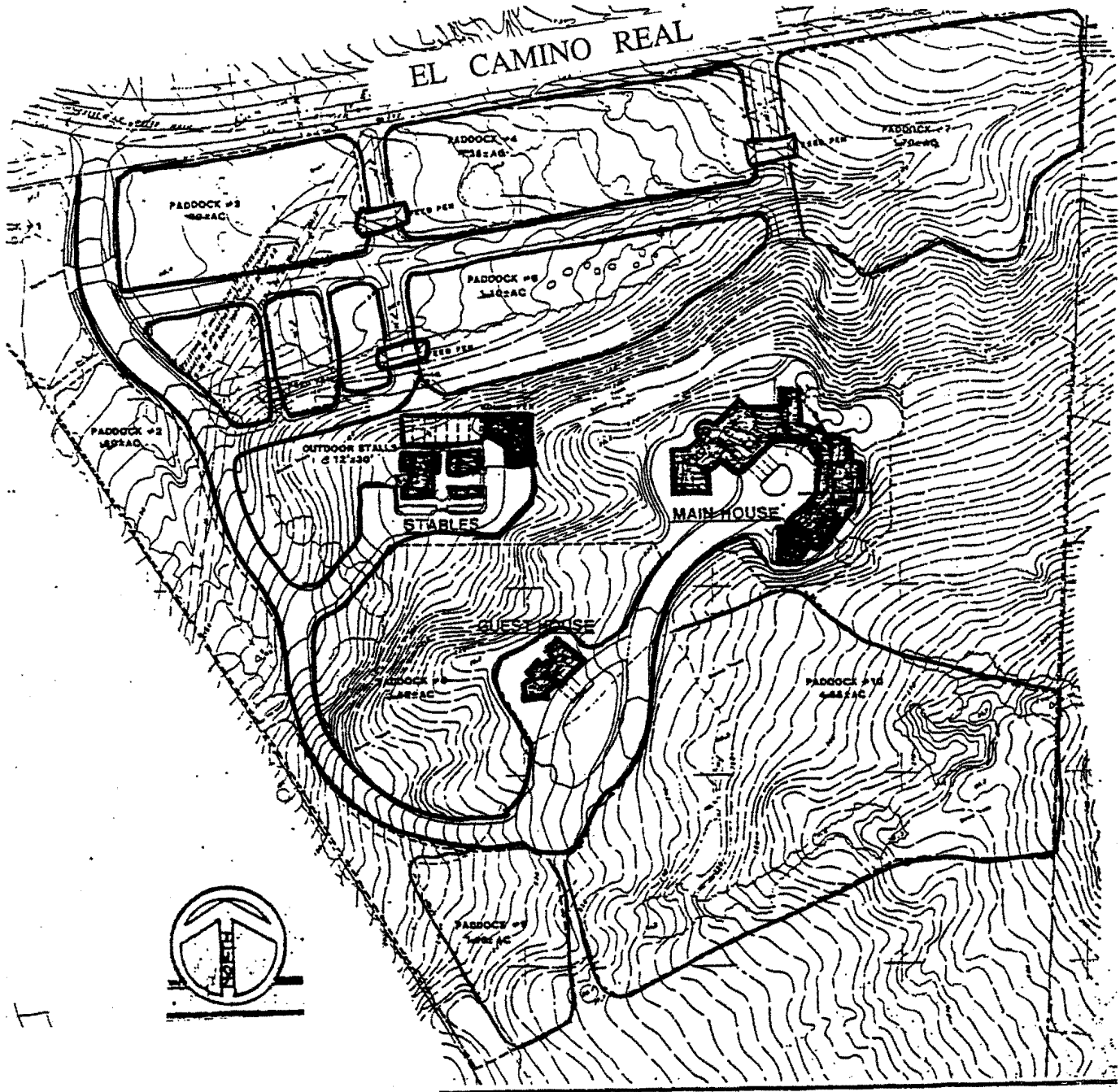
Approved Development and  
Existing Open Space Deed  
Restriction as required by  
CDP #6-84-233

Proposed project would  
extinguish open space deed  
restriction



CALL FOR THE LATEST INFORMATION  
FOR THE PROJECT. CONTACT THE  
PROJECT MANAGER AT THE  
ADDRESS LISTED BELOW.

EXHIBIT NO. 3  
APPLICATION NO.  
**6-84-233-A2**  
Originally Approved  
Site Plan & Open Space  
California Coastal Commission



As-Built (Existing)  
 Development Approved  
 After-the-Fact by  
 CDP #6-89-51

Proposed project would  
 demolish existing residence

<b>EXHIBIT NO. 4</b>
<b>APPLICATION NO.</b>
<b>6-84-233-A2</b>
<b>As-Built Site Plan</b>
 California Coastal Commission