

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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RECORD PACKET COPY



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Staff: DL-SD
Staff Report: March 24, 2000
Hearing Date: April 11-14, 2000

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-89-97-A2

Applicant: Linda & Charles Brandes Agent: Matthew Peterson

Original Subdivision of a vacant 13-acre parcel into four parcels (Parcel 1 = 3.01
Description: acres; Parcel 2 = 3.12 acres; Parcel 3 = 3.44 acres; Parcel 4 = 3.43 acres).

First Allow an extension of 90-day time limit for satisfaction of Special
Amendment Conditions #1 and #2 requiring the recordation of future development and
open space deed restrictions.

Proposed Removal of the open space deed restriction required by Special Condition
Amendment: #2 of original permit.

Site: 15880 El Camino Real, Rancho Santa Fe, San Diego County. APN 268-
220-24, 25, 26, 27.

Substantive File Documents: Certified County of San Diego Local Coastal Program;
CDP #6-84-233; 6-89-51; 6-99-142,

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed removal of the open space deed restriction. A current biological survey of the site indicates that the only native plant species on the site are isolated specimens unlikely to thrive in the eucalyptus woodland covering the site. The Commission's ecologist has examined the site and concurs that removal of the open space restriction will not have a significant adverse impact on coastal resources.

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 #6-84-233-A2. The application for the new home is being reviewed through CDP application #6-99-142.

PRELIMINARY STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-89-97-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. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The proposed amendment is to remove an existing open space deed restriction placed on the 3-lot, 9.6-acre subject site as a condition of approval of coastal development permit (CDP) #6-89-97. The project site is currently vacant except for a driveway providing access to the site from Linea Del Cielo. The site is located north of Linea Del Cielo, south 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 proposed amendment 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 north of the site. The application for amending the open space deed restriction on the site to the north is being reviewed concurrently through CDP application #6-84-233-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 9.6-acre subject site, a .4-acre area

adjacent to the subject site, and 17 acres located north of 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 proposed and 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 proposed fill 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. The deed restriction was recorded and the permit released.

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 after-the-fact that two additional developments had occurred without the benefit of a coastal development permit. First, a boundary adjustment was performed, resulting in the 27-acre parcel being reduced to 17 acres, with the remaining area approximately 10 acres. The subject permit involves the majority of this 10-acre area. (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 approved through CDP #6-89-51.)

A 3-acre lot south of and adjacent to the original 27-acre parcel had also purchased by the owner of the main parcel. The second additional after-the-fact-development was that the 10-acre parcel, plus the 3-acre lot, was re-subdivided into four lots, resulting in four lots of approximately 3 acres, 3.3 acres, 3.3 acres, and 3.4 acres. Due to the complexity of the various development actions, and the sale of the 13-acre site 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 separate permit, CDP #6-89-97. In January 1990, the Commission approved CDP #6-89-97, with a special condition requiring that an 80-foot wide open space deed restriction be placed on the north and northwest boundaries of the site, on the approved Lots 1 and 3. Special Conditions also required the removal and relocation of the Western Dichondra located on the subject site, and recordation of a deed restriction notifying future property owners that future development on the site requires a coastal development permit. In March 1991, a non-material amendment was approved allowing an extension of the 90-day time limit for compliance with the conditions requiring recordation of deed restrictions (CDP #6-89-097-A1). The conditions were met and the permit released.

The subject permit involves only the 9.6-acre site, or 3 of the 4 subdivided parcels. In March 1998, the Commission approved construction of an 8,660 sq.ft. single-family on the 3.4-acre (Lot 4, APN 268-220-27) of the approved 4-lot subdivision (CDP #6-98-4). The development has occurred on this site, and the lot is not included in the subject project. Other permit action on the subject site includes CDP #6-97-38, approved in May 1997, for construction of 9,466 sq.ft. single-family residence on the approved Lot 1 (APN 268-220-24). However, the Special Conditions on the project were never met and construction did not occur. The permit has since expired.

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. 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.

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 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.

The proposed project involves removal of an open-space deed restriction placed on the subject site by a previous permit when the Commission approved subdivision of the site in 1989. The vegetation surveys performed on the subject site at that time found that the site was entirely covered with eucalyptus trees, but also identified several sensitive plant species, the White Coast Lilac, Western Dichondra, Del Mar Manzanita and the Coast Barrel Cactus on the site. Therefore, an open space corridor was placed along the west and north sides of the site where the majority of the plant species were identified (see Exhibit 3). As noted above, the Commission also required that the Western Dichondra be salvaged, removed, and transmitted to the County of San Diego Department of Parks and Recreation, finding that on-site preservation of the species was not feasible since it occurred in small, widely diffused patches. The salvage and removal was performed.

The applicants have submitted a current biological survey for the site. Like the earlier survey, the report notes that eucalyptus woodland vegetation covers all non-paved areas of the site, including eucalyptus trees and other non-native plants. Isolated native plants also appear sporadically around the site, but their presence and indeed, any type of understory vegetation is very limited, most likely due to the prevalence of the eucalyptus trees. The current survey identifies two sensitive plant species, a single Wart-Stemmed Ceanothus in the middle of the site, and a cluster of four Coast Barrel Cactus near the eastern boundary of the project site. However, these plants also consist of isolated specimens, not large swatches of vegetation that could feasibly be preserved. It is unknown why different species were identified in 1999 that in 1989; however, the changes suggested that while isolated native species will grow on the subject site, the plants are unlikely to spread and survive in the eucalyptus woodland setting. Removal of these isolated plants is not considered significant. The Commission's ecologist has reviewed the biological survey and has determined that these plants do not constitute an environmentally sensitive habitat area (ESHA) and that their loss is not significant.

Therefore, given that there are only a few individual plants, that the plants are isolated and not likely to survive and spread, the Commission finds that these few isolated plants do not constitute ESHA and that their removal is not a significant adverse environmental effect. Thus, the proposed development will not have any direct impact on sensitive biological habitat and does not raise an issue of consistency with Coastal Act section 30240

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. 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 amendment proposal, as conditioned, is consistent with

Sections 30231 and 30240 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 project site is 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 amendment 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. 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, 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.

As discussed herein, the proposed amendment will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the sensitive resource policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might 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.

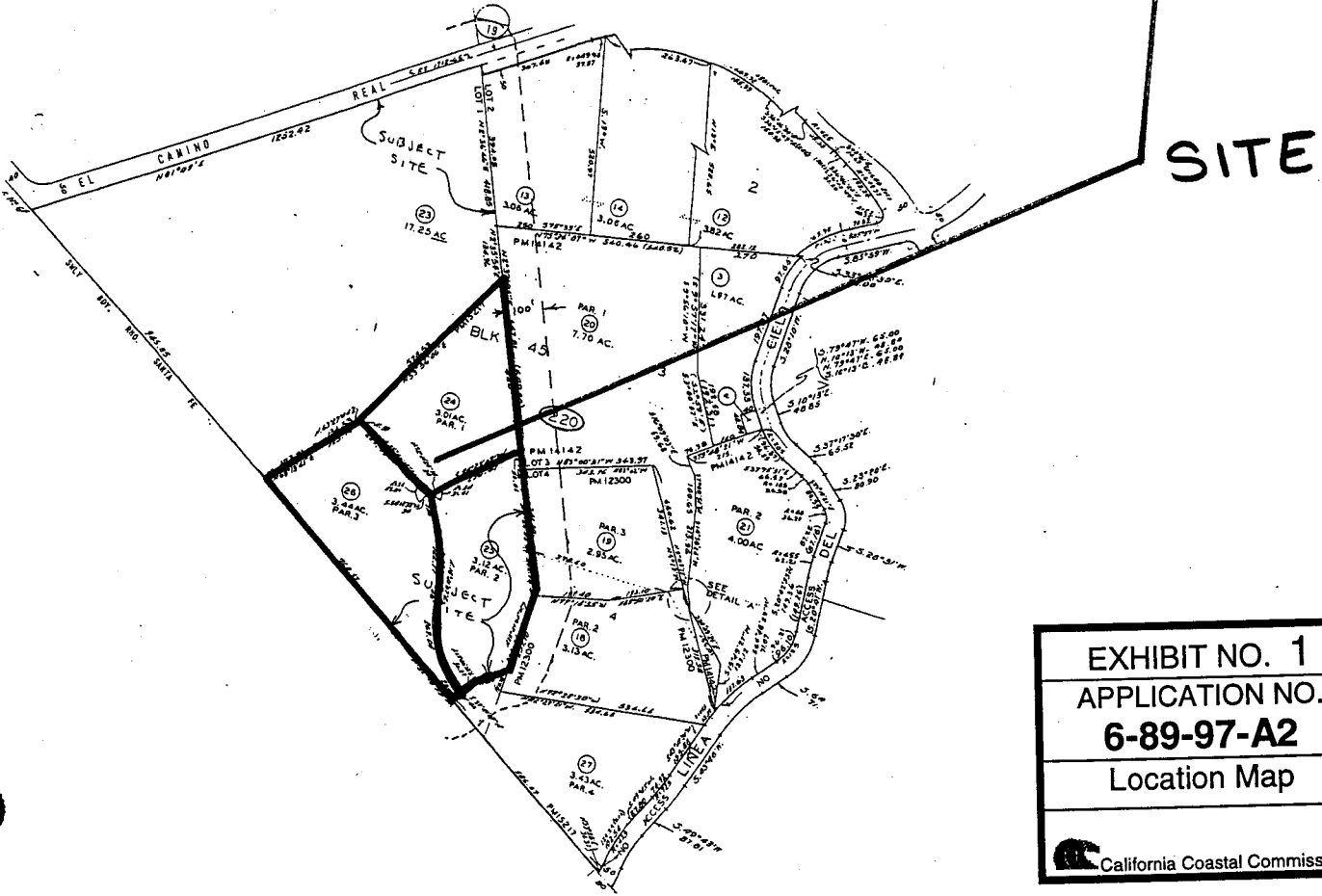
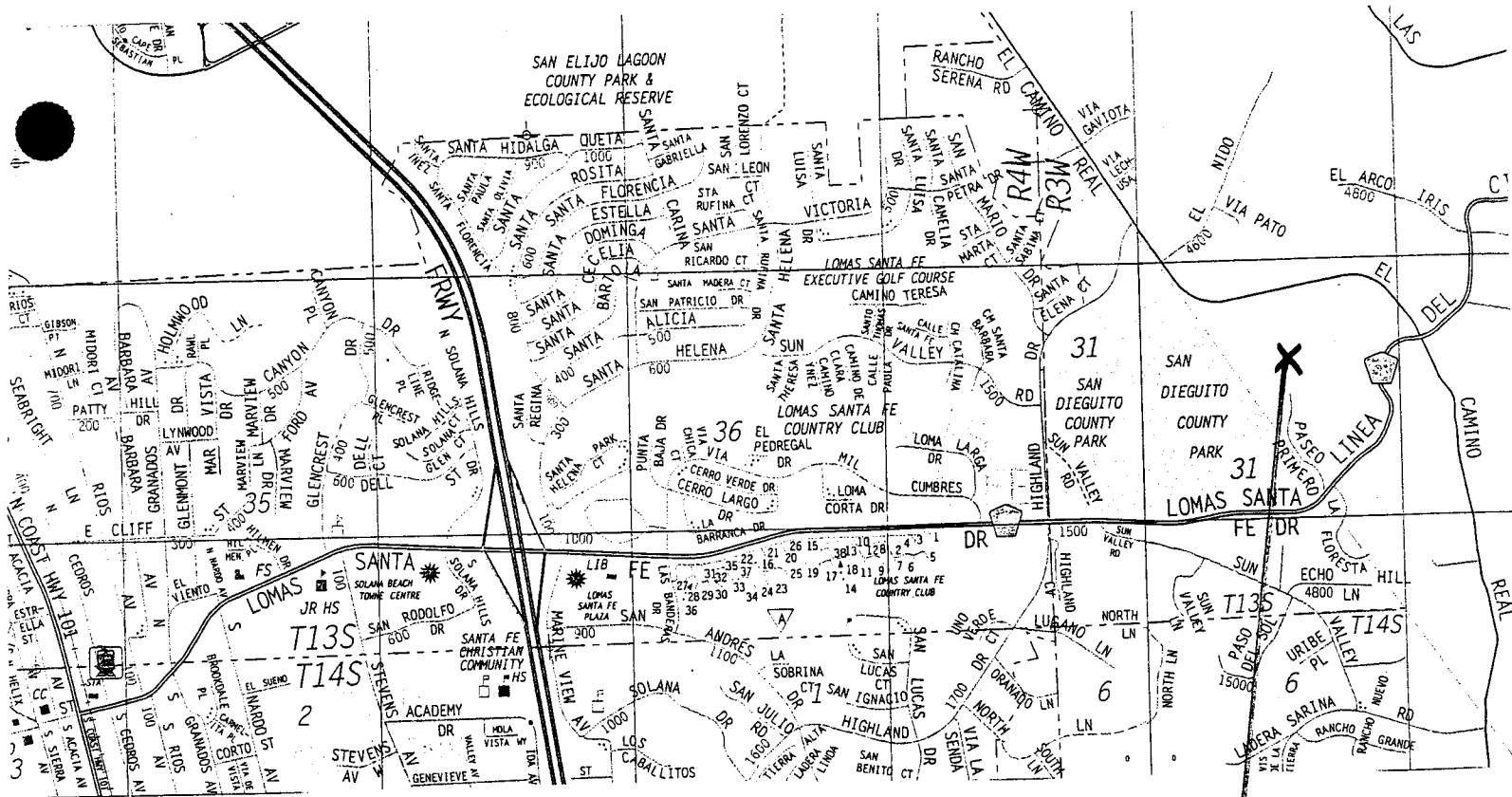

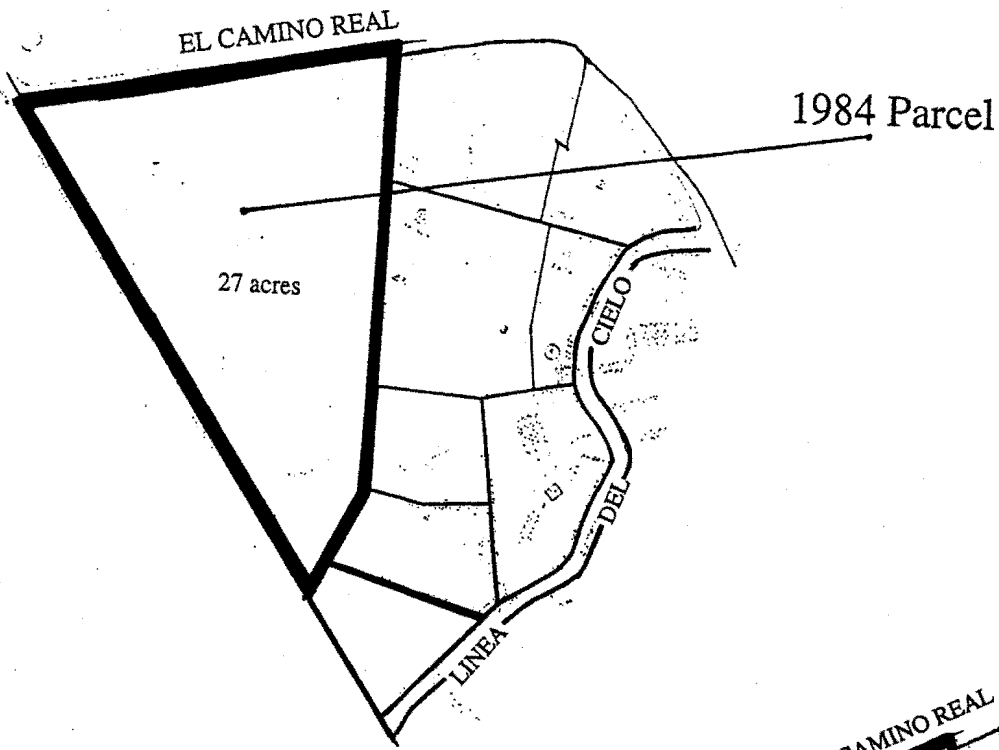
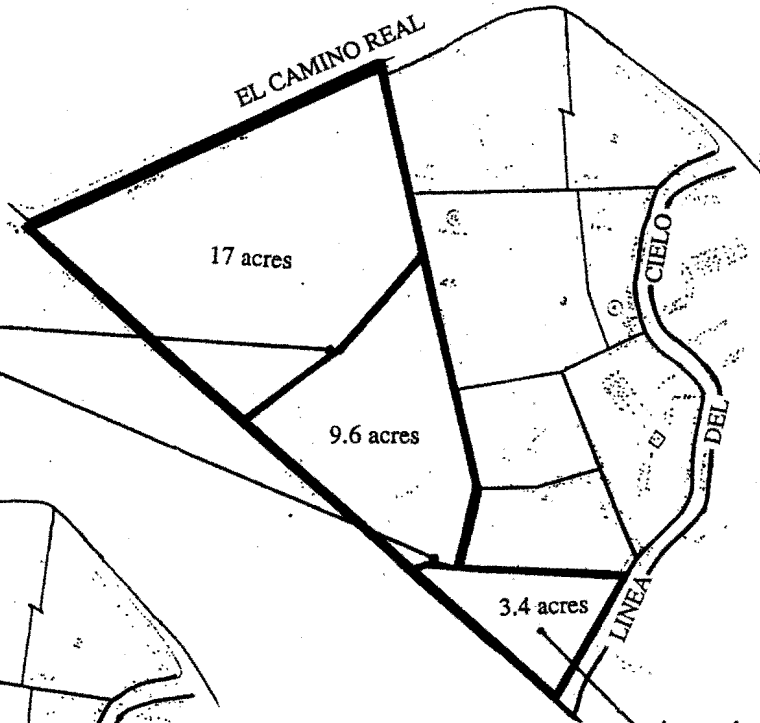


EXHIBIT NO. 1
APPLICATION NO.
6-89-97-A2
Location Map

 California Coastal Commission



Boundary Adjustment/Lot Split



Acquired Parcel

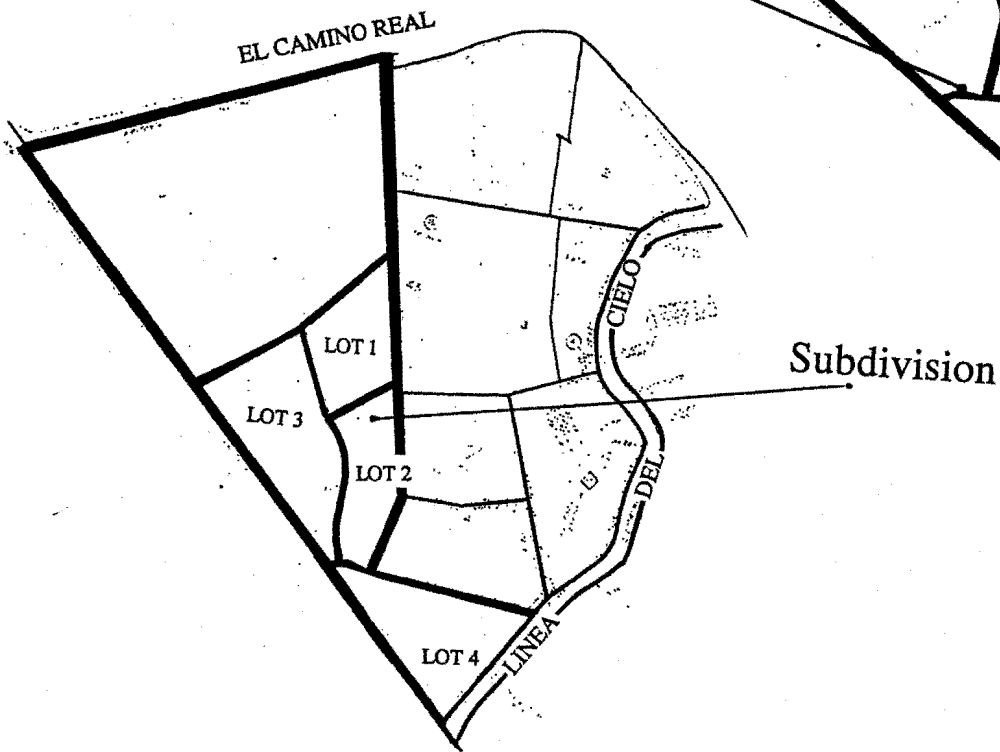



EXHIBIT NO. 2
APPLICATION NO.
6-89-97-A2
Site History
 California Coastal Commission

EL CAMINO REAL

1249'

NOT A PART

Existing
Open Space Deed Restriction
To be Removed

PARCEL 1
2.4 ac NET

LOT 1
3 acres

LOT 3
3.3 acres

LOT 2
3.3 acres

Existing driveway

PARCEL 4

NOT A PART

LINEA DEL CIELO

EXHIBIT NO. 3
APPLICATION NO.
6-89-97-A2
Open Space Plan

