

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

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REGULAR CALENDAR

STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-38

Applicant: Karley Development Co.

Agent: Samuel Karp

Description: Construction of two-story, 22-ft high, 11,005 sq. ft single family home with 4-car garage, detached guest house, pool and spa, motor court, driveway and 5,400 cu.yds. of grading on a vacant 4.76 acre site.

Site: 17513 La Noria, south of La Bajada, Rancho Santa Fe, San Diego County.
APN 266-040-24

Substantive File Documents: Previously certified County of San Diego Local Coastal Program, CDP #s 6-98-46, 6-98-55 and 6-99-78

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, subject to several special conditions. The project raises concerns relative to potential impacts to biological resources and hazards because of its proximity to the floodplain of Escondido Creek. While there is no on-site sensitive habitat areas, the floodplain of Escondido Creek does extend onto the site. However, no development is proposed within the floodplain. Special conditions have been attached which will bring the proposed project into conformance with Chapter 3 policies of the Coastal Act. Specifically, Special Condition #1 requires a final drainage plan requiring runoff to be directed into pervious surfaces such as landscaping prior to discharge offsite. Special Condition #2 requires that any future improvements on the site will require a coastal development permit or amendment. Special Condition #3 indicates the site may be subject to extraordinary hazard from flooding and that the applicant must assume the liability from such hazards by waiving any claim of liability on the part of the Commission or its successors in interest. Special Condition #4 indicates no grading activities are allowed during the rainy

season (the period from October 1st to March 31st of each year). Special Condition #5 requires the applicant to submit a revised landscape plan which indicates native drought-tolerant, non-invasive vegetation will be planted. Finally, Special Condition #6 requires final plans in substantial conformance with the plans submitted for Commission review.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-038 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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 THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned 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 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Drainage Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, which shall be approved by the County of San Diego. The plans shall document that the runoff from the roof, driveway and other impervious surfaces shall be directed into pervious areas on the

site (landscaped areas) for infiltration and/or percolation, prior to being conveyed off-site in a non-erosive manner.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development Deed Restriction.

A. This permit is only for the development described in coastal development permit No. 6-01-38. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future improvements to the single family residence authorized by coastal development permit No. 6-01-38, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. 6-01-38 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

B. PRIOR TO 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, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). The deed restriction 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. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. Assumption of Risk.

A. By acceptance of this permit, the applicant, on behalf of itself and its successors and assigns, acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. PRIOR TO 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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction 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. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final grading and erosion control plans that have been approved by the County of San Diego. The approved plans shall incorporate the following requirements:

- a. No grading activities shall be allowed during the rainy season (the period from October 1st to March 31st of each year). All disturbed areas shall be replanted immediately following grading and prior to the beginning of the rainy season.
- b. The permittees shall submit a grading schedule to the Executive Director demonstrating compliance with the above restriction.
- c. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.
- d. Landscaping shall be installed on all cut and fill slopes 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 shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans or grading schedule shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Revised Landscape Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a revised landscape plan developed in consultation with the California Department of Fish and Game. Said plan shall include the following:

- a. The installation of plant materials consisting of native, non-invasive, drought-tolerant fire resistant materials. The plan shall also indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features.
- b. A planting schedule that indicates the planted plan shall be implemented within 60 days of issuance of the coastal development permit.
- c. A written commitment by the applicant that all required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance.

The permittee shall undertake development in accordance with the approved landscaping plans. Any proposed changes to the approved landscaping plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final site, building and elevation plans for the permitted development that have been approved by the County of San Diego. Said plans shall be in substantial conformance with the plans submitted by San Dieguito Engineering, dated May 7, 2001.

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. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the construction of a two-story, 22-ft high, 11,005 sq. ft single family home with 4-car garage, detached guest house, pool and spa, motor court, driveway and 5,400 cu.yds. of grading. The vacant 4.76-acre subject site is located on the west side of La Noria, south of La Bajada, in the Rancho Santa Fe community of the unincorporated County of San Diego.

The subject site slopes gently north except for steep slopes near the flood plain of Escondido Creek which runs along a portion of the northern property line. The site has been disced and contains no sensitive vegetation. There is an existing paved access road that connects the site from La Noria Road and serves several other sites in the area.

There have been two past coastal development permits for development by the applicant on the subject site. CDP #6-98-46 was approved on June 9, 1998 for the construction of an approximately 820-foot long private road to provide access to the subject site and three other lots near the subject site. CDP #6-98-55 was approved on July 8, 1998 for a boundary adjustment between the subject site and the three lots. Together, the four lots are approximately 30.85 acres in size. The boundary adjustment re-configured the lot lines of each parcel without affecting any of the existing improvements. The subject site is the northernmost lot of the four reconfigured lots.

The project site is located within the Rancho Santa Fe community of the unincorporated County of San Diego. The County of San Diego's Local Coastal Program (LCP) was certified by the Commission; however, the County never assumed permitting authority. Therefore, the County LCP is not effectively certified. Although the certified LCP is used for guidance, Chapter 3 of the Coastal Act is the standard of review.

2. Environmentally Sensitive Habitat Area.

Section 30240 of the Coastal Act also states the following:

(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.

Escondido Creek in the project area contains riparian habitat and both freshwater and saltmarsh vegetation. The northwest portion of the project site is located within the floodplain of Escondido Creek which is within the watershed of San Elijo Lagoon. The California Department of Fish and Game (DFG) considers the creek and its surrounding wetlands environmentally sensitive habitat areas. However, no development is proposed within the creek's floodplain; there is approximately 100-feet between the floodplain and proposed development. Additionally, no sensitive resources are present within the on-site floodplain, or within 100-feet of the site. The Commission staff biologist has reviewed the wetland delineation provided by the applicant and concurs with this statement. Thus, although grading is proposed, no sensitive vegetation would be directly impacted by the proposed development. Special Condition #5 requires native non-invasive plants to avoid potential adverse effects to nearby sensitive resources within San Elijo Lagoon and its environs.

Because the proposed residential development does not involve impacts to any sensitive upland habitat or wetlands, and as conditioned, the Commission finds the proposed project can be found consistent with Section 30240 of the Coastal Act.

3. Runoff/Water Quality/Hazards. Section 30231 of the Coastal Act is applicable to the proposed development and states:

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, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition, Section 30253 of the Coastal Act states, in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

A portion of the project site is located within the floodplain of Escondido Creek and is upstream from San Elijo Lagoon. In order to reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Condition #1 is attached. The condition requires that runoff from the roof, driveway and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being conveyed off-site. Directing runoff through landscaping for filtration of on-site runoff in this fashion is a well-established BMP for treating runoff from small developments such as the subject proposal. As conditioned, the proposed development will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, as conditioned, the Commission finds the proposed project consistent with Section 30231 of the Coastal Act.

Based on the site's proximity to Escondido Creek, several other special conditions are proposed. Special Condition #2 advises the applicant that any future development on the site will require a coastal development permit. The concern is that any future development be reviewed for its proximity to the floodplain. No permanent structures are appropriate within the floodplain as they would be subject to hazard from flooding.

Therefore, the condition requires that all future improvements which otherwise may be exempt from coastal development permit requirements shall obtain a coastal development permit. Special Condition #3 indicates the site may be subject to extraordinary hazard from flooding and that the applicant must assume the liability from such hazards by waiving any claim of liability on the part of the Commission or its successors in interest. Special Condition #4 indicates no grading activities are allowed during the rainy season (the period from October 1st to March 31st of each year) to ensure sedimentation and erosion impacts to downstream Escondido Creek will be avoided during the time of the year most likely to result in such adverse impacts. Special Condition #5 requires the applicant to submit a final landscape plan developed in consultation with the California Department of Fish and Game which indicates native drought-tolerant, non-invasive vegetation will be planted. This special condition will limit irrigation-related runoff into the creek. The submitted landscape plan indicates several non-native ornamental plants (ice plant, myoporum) are proposed near the floodplain which are invasive and must be replaced. Finally, Special Condition #6 requires final plans in substantial conformance with those submitted with the application. As conditioned, the Commission finds the project is consistent with the Sections 30231 and 30253 of the Coastal Act regarding the protection of water quality and hazards.

4. Visual Resources. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be considered and protected and that development be sited and designed to protect views along scenic coastal areas. The proposed project site is located well inland and far removed from San Elijo Lagoon which is located southwest of the site. As such, it will not be visible from any scenic roadways or recreational areas. Many of the surrounding properties contain horse ranches and the subject site itself was previously used as a horse ranch and contains single family residence, barn, corrals, etc. The project will not adversely impact the visual quality of the area, and can be found consistent with Section 30251 of the Act.

5. Public Access. The project site is located south of Manchester Avenue which is designated as the first public roadway. As the proposed development will occur between the first public roadway and the sea (San Elijo Lagoon in this case), a public access finding must be made that such development is in conformity with the public access and public recreation policies of the Coastal Act.

While the proposed development is located well inland of the coast, public access and recreational opportunities, in the form of hiking, do exist in the area, providing access into San Elijo Lagoon Ecological Reserve and Regional Park. However, there are currently no such trails existing or planned on the subject site and the proposed development will not impede access to the lagoon over that which currently exists. Therefore, the proposed development would have no adverse impacts on public access opportunities, consistent with the public access policies of the Coastal Act.

6. 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, as conditioned, such a finding can be made.

The subject site is planned and zoned for large-lot residential development in the certified County of San Diego Local Coastal Program which the Commission uses for guidance in review of development in this area. The proposed buildout of the subject site with one single-family residence would be consistent with that LUP designation. As conditioned, the project is consistent with all applicable Chapter 3 policies of the Coastal Act and the Commission finds that approval of the subject project will not prejudice the ability of the County of San Diego to obtain a fully certified Local Coastal Program.

7. 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.

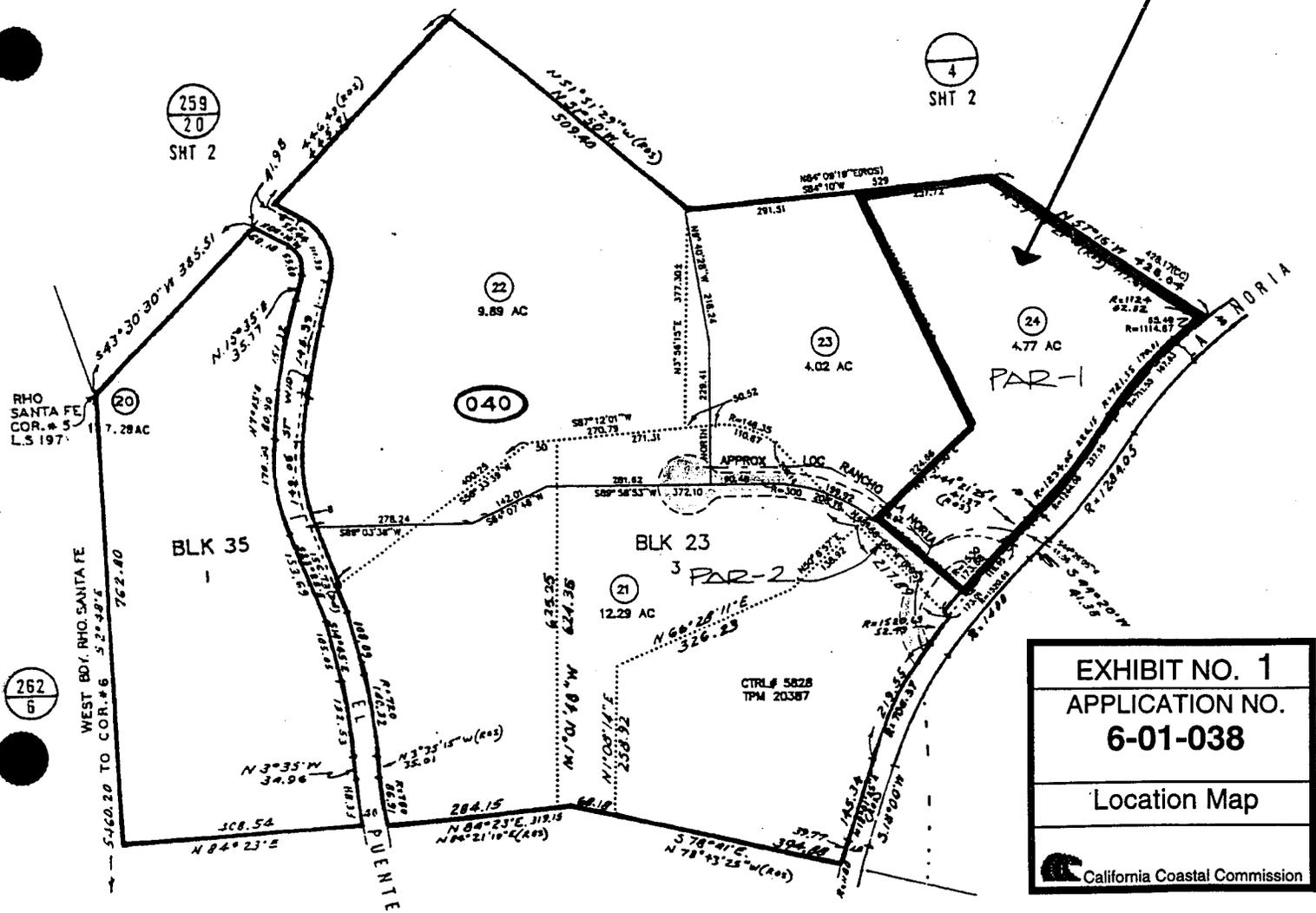
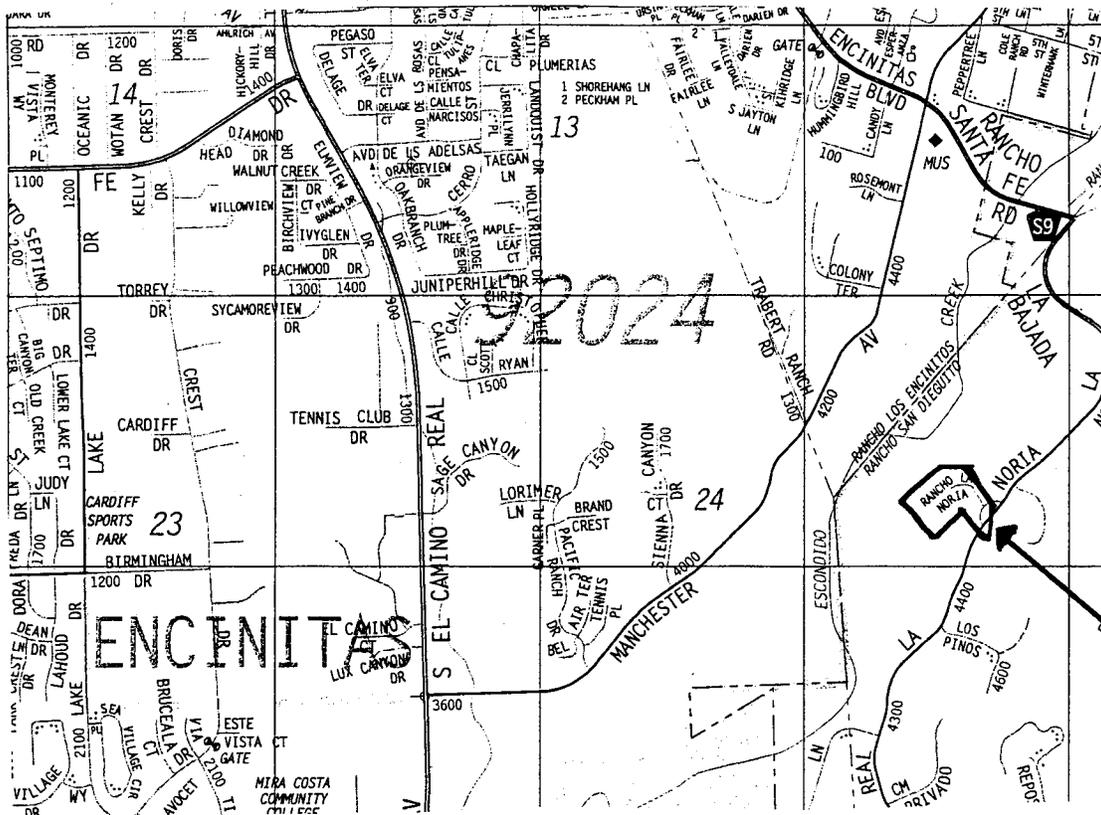
The proposed project as conditioned has been found consistent with the environmental resource protection policies of the Coastal Act. Mitigation measures, including a condition addressing water quality will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. 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.
5. 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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SCALE 1" = 40'

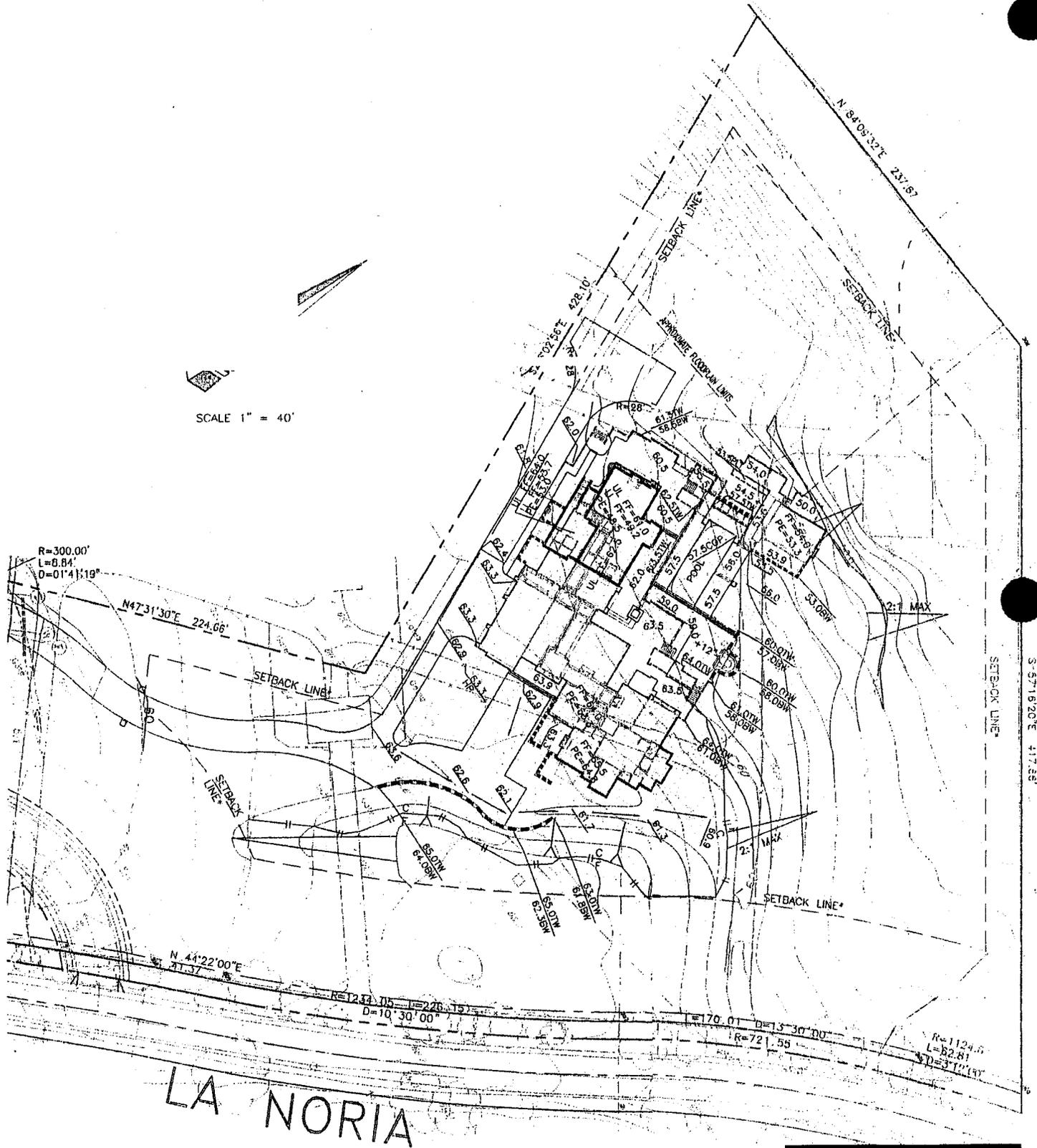


EXHIBIT NO. 2
APPLICATION NO.
6-01-038
Site Plan
 California Coastal Commission