

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

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Staff: WNP-SD  
Staff Report: 12/20/02  
Hearing Date: 1/7-10/03

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-43-A1

Applicant: Kachay LN2, LLC

Agent: Samuel Karp

Original Project

Description: Request for after-the-fact approval of both a lot line adjustment affecting four vacant lots, and grading and construction of an access road on an approximately 31 acre site. Also proposed is construction of a 2-story, 8,575 sq. ft. single-family residence with driveway, retaining walls, pool and spa, located on a newly reconfigured 3.7-acre lot (Lot A).

Proposed

Amendment: Modify Special Condition #4 to allow approximately 2,700 cubic yard of grading during the rainy season to construct a retaining wall and building pad for approved single family residence.

Site: 4668 La Noria Drive, Rancho Santa Fe, San Diego County  
APN's: 266-041-13,14,16,17.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed amendment, subject to special conditions requiring submittal of a detailed grading/erosion control plans and a monitoring program. The erosion control plans and monitoring will ensure that grading will not result in any off-site sedimentation impacts. The unincorporated County of San Diego used to limit grading to the dry season to minimize potential impacts on downstream resources. However, the County has recently adopted new erosion control provisions that includes detailed erosion control measures for all projects that are intended to minimize erosion caused by construction during the rainy season. The County has approved the applicant's request to grade in the rainy season provided detailed erosion control measures are implemented. Staff has reviewed the measures required by the County and has found that with implementation of these measures, sedimentation impacts off-site will be minimized.

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Substantive File Documents: CDP No.s 6-99-79; 6-99-85; Previously certified County of San Diego Local Coastal Program.

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**PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-02-043-A1 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.

The staff recommends the Commission adopt the following resolution:

**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 amended permit is subject to the following conditions:

**The following condition replaces Special Condition #4 of the original permit in its entirety.**

1. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, final grading and erosion control plans and grading schedule that are in substantial conformance with the plans submitted with this application, dated September 28, 2002 by San Dieguito Engineering. The plans shall indicate that all permanent and temporary erosion control measures shall be developed

and installed prior to or concurrent with any on-site grading activities and include, at a minimum, the following measures:

- a. Placement of a silt fence around the project anywhere there is the potential for runoff. Check dams, sand bags, straw bales and gravel bags shall be installed as required in the County's grading ordinance. Hydroseeding, energy dissipation and a stabilized construction entrance shall be implemented as required by the County. All disturbed areas shall be revegetated after grading. Small incremental amounts of daily grading is required; the site shall be secured daily after grading with geotextiles, mats and fiber rolls. Concrete, solid waste, sanitary waste and hazardous waste management BMPs shall be used.
- b. Demonstration that all on-site temporary and permanent runoff and erosion control devices are installed and the County of San Diego Engineer has determined that all measures are in place to minimize soil loss from the construction site.

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

2. Monitoring and Reporting. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, a program for monitoring the condition of erosion control devices and the effectiveness of the erosion control program. The monitoring program shall include, at a minimum, monthly reports beginning one month from the date of Commission action on this permit approval, continuing to April 1, 2003. The reports shall be completed by a licensed engineer and shall describe the status of grading operations and the condition of erosion control devices, including temporary and permanent desilting basins. Any potential modifications to the approved grading schedule shall be indicated. Maintenance of temporary erosion control measures is the responsibility of the applicant, including replacement of any devices altered or dislodged by storms. Desilting basin maintenance, including removal of accumulated silt, shall occur prior to the onset of the rainy season and on an as-needed basis throughout the winter.

3. Prior Conditions of Approval. All other terms and conditions of the original approval of Coastal Development Permit #6-02-43 not specifically modified herein, shall remain in full force and effect.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Original Development Description and History. On August 7, 2002, the Commission approved a lot line adjustment affecting four vacant lots, grading and construction of an access road on an approximately 31 acre site. Also approved was construction of a 2-story, 8,575 sq. ft. single-family residence and driveway requiring approximately 2,900 cu yards of cut and fill grading on a newly reconfigured 3.7-acre lot (Lot A).

The project site is located on the west side of La Noria, approximately 2 miles east of Interstate 5, approximately 3 miles north of Lomas Santa Fe Drive, just south of La Bajada, in Rancho Santa Fe, an un-incorporated area of San Diego County.

The project raised concerns relative to potential impacts to biological resources and hazards because of its proximity to Escondido Creek and associated wetland vegetation. The Commission found the proposed lot line adjustment would result in four lots that could support residential development while still providing the necessary buffers from on-site sensitive resources. Approved Special conditions required an Open Space restriction be placed over all on-site wetland resources, a 100 ft. buffer area between wetlands and proposed development, a final drainage plan requiring runoff to be directed into pervious surfaces, such as landscaping, prior to being discharged off-site and a condition requiring that no grading activities are allowed during the rainy season (the period from October 1<sup>st</sup> to March 31<sup>st</sup> of each year).

The project site is located within the unincorporated County of San Diego. The County does not have a certified local coastal program for this area. Chapter 3 policies of the Coastal Act are the standard of review.

2. Proposed Amendment. The proposed amendment is for a grading exception from the winter grading season. The original permit, as approved by the Commission, included a special condition which prohibited any grading of the site during the winter rainy season of October 1 to April 1 of any year. The project proposes approximately 2,700 cubic yards of grading (the driveway has already been graded prior to the rainy season requiring 200 cu.yds.) to construct a previously approved 1,700 sq.ft. retaining wall and building pad for a 8,575 sq.ft. home. The applicant has demonstrated that circumstances have changed since the original permit was approved. The County has recently adopted new erosion control provisions that assure that off-site sedimentation impacts will be minimized.

3. Resource Management/Sensitive Habitat. Relevant Coastal Act policies which address protection of environmentally sensitive habitat areas include:

#### Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a

manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate.

### **Section 30231**

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 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 northwestern portion of the site is immediately adjacent to Escondido Creek. Escondido Creek in this area contains riparian habitat and both freshwater and salt marsh vegetation. Three other areas of jurisdictional wetlands are located on site; a mature Arroyo Willow located along the southwestern portion of Parcel D; a large Blue Elderberry with several other wetland-related species; and a drainage swale containing Coastal and Valley Freshwater Marsh and Emergent Wetland vegetation. Although the subject parcel (Lot A) for the construction of a new home does not contain any wetland habitat, the 100 ft. buffer area from Coastal and Valley Freshwater Marsh contained in a drainage swale on Lot B does extend onto the subject lot.

In San Diego County the Commission has typically restricted grading, particularly large scale grading projects, to that time of year when erosion and transport of sediment to lagoons or other sensitive resource areas is least likely to occur. That is, the Commission has restricted grading during the winter months. Historically, the County and the Commission have allowed exceptions to the winter grading restriction, but only until November 15, and only if mass grading has been completed prior to October 1 and the site has been secured with temporary and permanent erosion control measures.

In this case, while the site drains directly to Escondido Creek, both permanent and temporary erosion control measures are being applied. Erosion control required by the County consists of placement of a silt fence around the project anywhere there is the

potential for runoff. Check dams, sand bags, straw bales and gravel bags installed as required in the County's grading ordinance. Hydroseeding, energy dissipation and a stabilized construction entrance shall be implemented; all disturbed areas shall be revegetated after grading. Small incremental amounts of daily grading is required; the site shall be secured daily after grading with geotextiles, mats and fiber rolls. Concrete, solid waste, sanitary waste and hazardous waste management BMPs shall be used. Special Condition #1 requires the submittal of final grading and erosion control plans documenting that these measures will be carried out. Staff has reviewed the measures and has found that, as required, sedimentation impacts off-site will be minimized.

Special condition #2 requires the applicant to maintain the erosion control measures to assure the success of the proposed winter erosion control program. The condition requires submittal of monthly monitoring reports describing the current status of the grading operations, the conditions of the erosion control devices and any needed repairs or maintenance of the devices. This condition is proposed to ensure maximum protection of the adjacent sensitive biological resources of Escondido Creek.

The Commission finds that in this particular case, allowing grading to occur during the winter months will not adversely impact environmentally sensitive habitat areas because detailed erosion control measures will be implemented that assure downstream resources will be protected. Therefore, the Commission finds that the subject permit amendment, as conditioned, is consistent with the resource protection policies 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, as conditioned, such a finding can be made.

The Commission is reviewing the project because the proposed winter season grading is an amendment to the Commission's original approval and as such requires Commission approval. The Commission has allowed limited grading to occur during winter months, if the protection of coastal resources is assured. As noted, recently the County has approved grading in the rainy season provided detailed erosion control measures are implemented. The special conditions proposed above would provide the type of additional protection the Commission has previously required of winter grading proposals and is consistent with the requirements of Chapter 3. Therefore, the Commission finds that the proposed amendment request, will not prejudice the ability of the County to prepare an LCP in conformity with Chapter 3.

5. 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, as conditioned, 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 to be consistent with the resource protection policies of the Coastal Act. The attached mitigation measures 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, as conditioned to mitigate the identified impacts, is the least environmentally damaging environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

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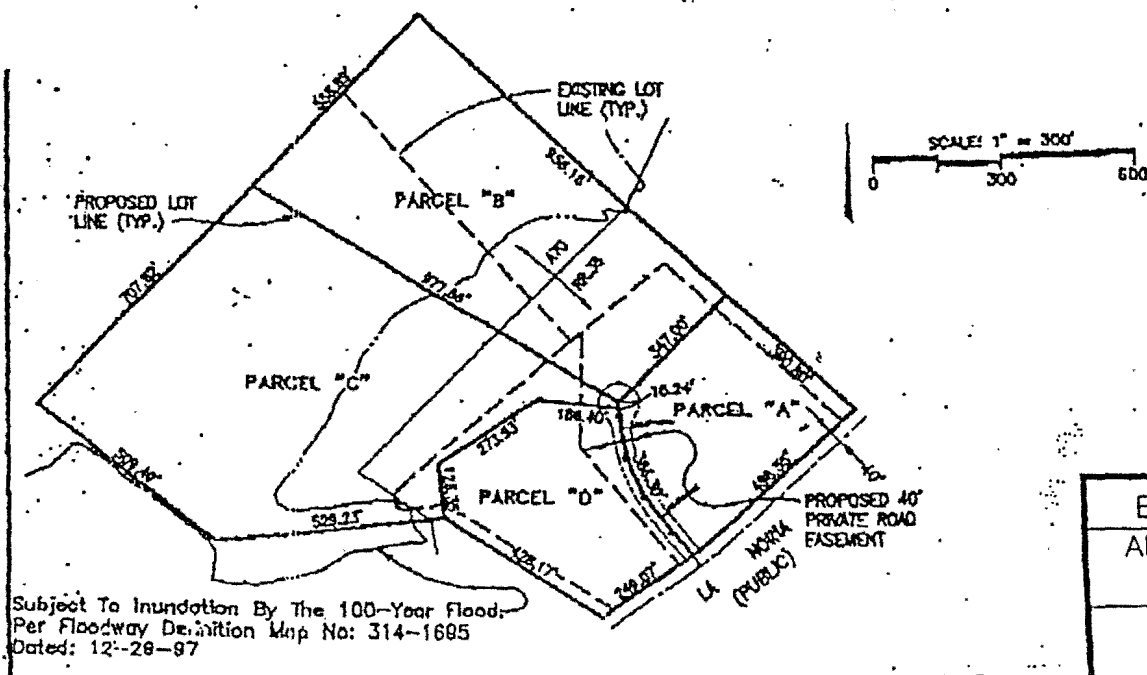
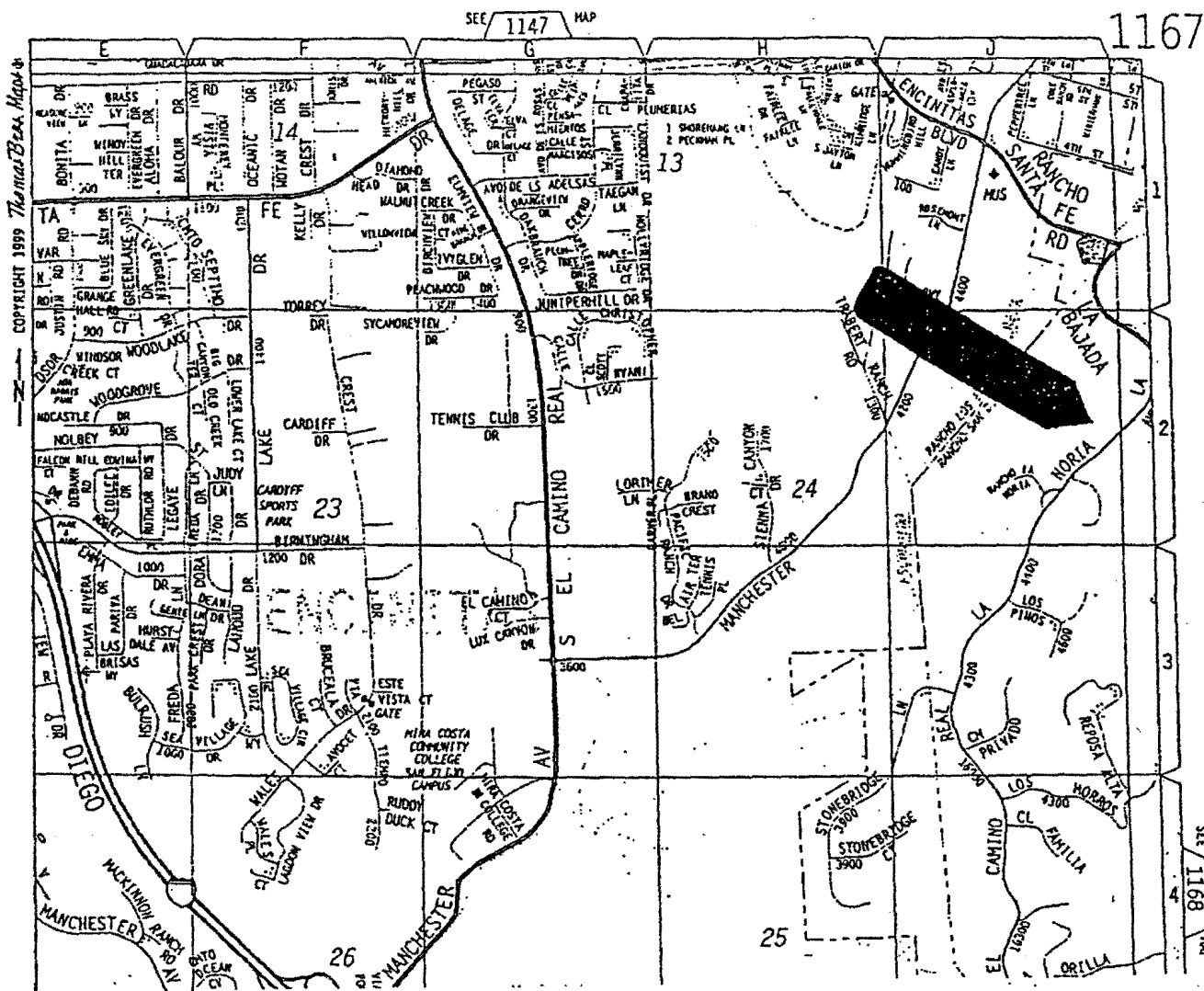


EXHIBIT NO. 1  
APPLICATION NO.  
6-02-43-AI  
Location Map



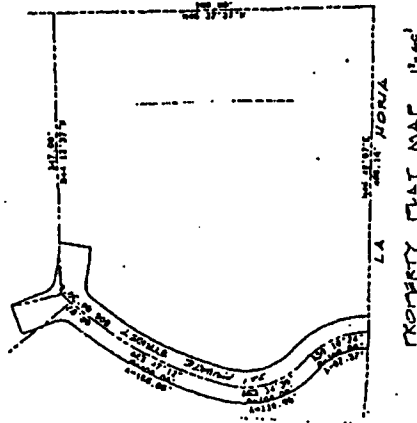
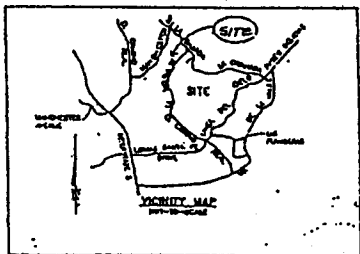
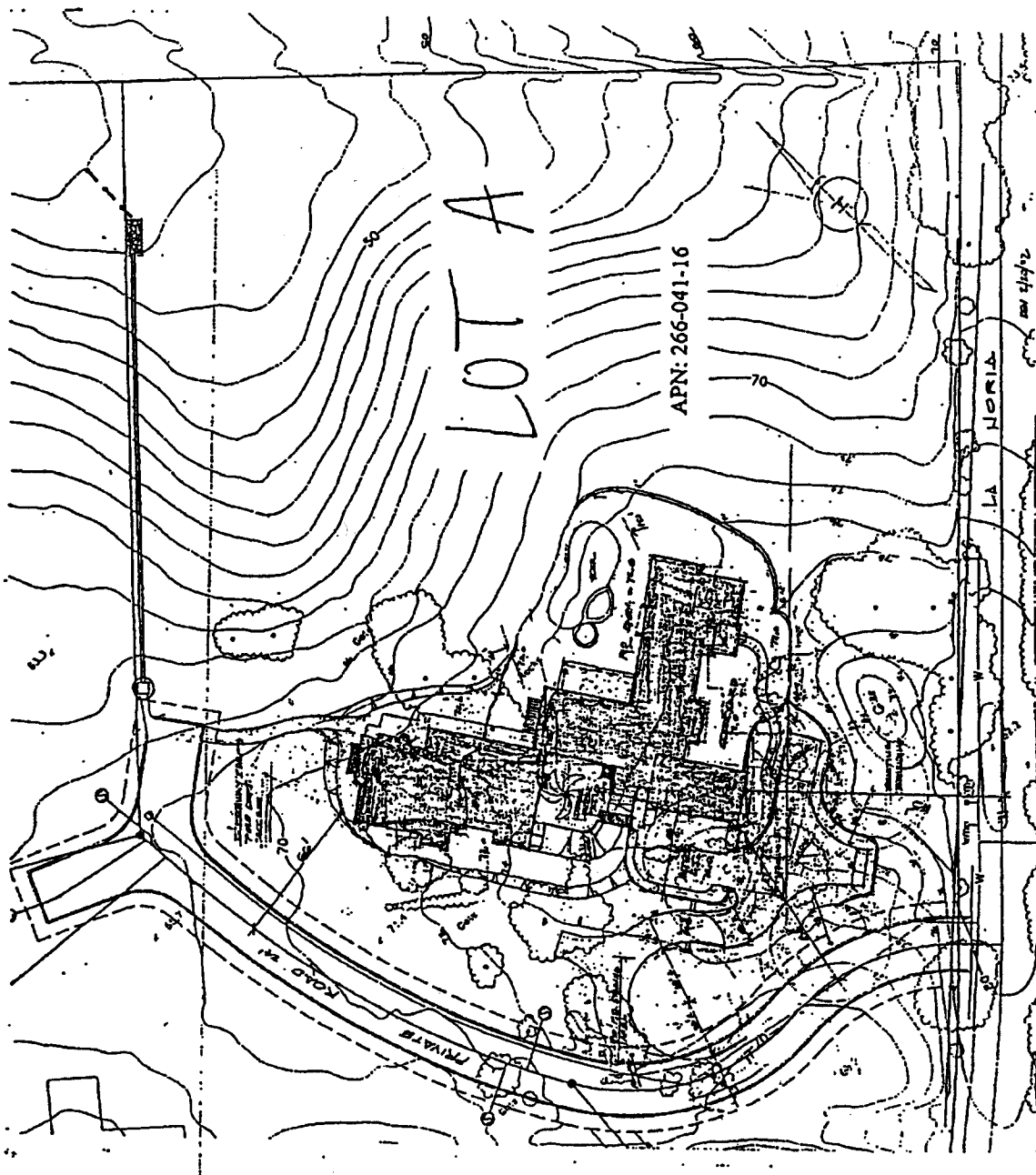


EXHIBIT NO. 2  
APPLICATION NO.  
6-02-43-A  
Site Plan