

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
767-2370

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Filed: November 13, 2002
49th Day: January 1, 2003
180th Day: May 12, 2003
Staff: DL-SD
Staff Report: January 16, 2003
Hearing Date: February 5-7, 2003.

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-97

Applicant: Kachay LN2, LLC

Agent: Samuel Karp

Description: Construction of a 9,720 sq.ft. one-story single-family residence including an attached guest house, a 1,192 sq.ft. attached garage, a pool and a detached 2-horse shelter and tack area on a vacant 4.13-acre site.

Lot Area	179,467 sq. ft. (4.13 acres)
Building Coverage	11,483 sq. ft. (6%)
Pavement Coverage	19,855 sq. ft. (11%)
Landscape Coverage	148,129 sq. ft. (83%)
Parking Spaces	4
Zoning	RR
Plan Designation	RR (.35 dua)
Project Density	0.2 dua
Ht abv fin grade	20 feet

Site: 4668 La Noria Drive, (Lot D) Rancho Santa Fe, San Diego County
APN 266-041-17.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, subject to several special conditions. The primary issues raised by the proposed development relate to protection of water quality and sensitive resources. The project site is one lot of a previously approved 4-lot subdivision. At the time the subdivision was approved, the Commission required an open space deed restriction be placed over a portion of the site containing wetland vegetation and a wetland buffer. As conditioned, the proposed project will not result in any encroachment into the open space area. Special conditions require final drainage plans requiring runoff to be directed into pervious surfaces, such as landscaping, prior to being discharged off-site, grading plans with detailed erosion control measures,

and a final landscape plan that restricts landscaping to drought-tolerant, non-invasive vegetation. As conditioned, no impacts to any coastal resources will result from the project proposal.

Substantive File Documents: Jurisdictional Wetland Delineation Report for the North La Noria Project, dated 5/28/02, by Merkel & Associates, Inc.; CDP #6-02-43; 6-02-043-A1; Previously certified County of San Diego Local Coastal Program.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-97 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 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 in writing by the County of San Diego. Said plans shall be in substantial conformance with the plans submitted by John P. Jensen, dated 10/298/02. The site plan shall show the deed restricted open space area. No structures, grading, or other improvements are permitted in the open space area.

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 legally required.

2. 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 that have been approved in writing by the County of San Diego. The plans shall show the deed restricted open area on the plans; no drainage or other facilities are permitted in the open space area. The plans shall specifically document either graphically or through written notes on the plan that the runoff from the roof, driveway and other impervious surfaces will 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 legally required.

3. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, 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 by San Dieguito Engineering, received by the Commission on November 13, 2002. The plans shall contain written notes or graphic depictions demonstrating that that all permanent and temporary erosion control measures will 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. Where small incremental amounts of daily grading are 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.

c. If grading is to occur during the rainy season (October 1st to April 1st) of any year, 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 1st. 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 season.

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.

4. Final Landscape Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final landscape plan. The landscape plan shall show the deed restricted open space area. No planting, grading, or removal of vegetation is permitted within the open space area. Said plans shall contain written notes stating and/or providing the following requirements:

- a. The installation of plant materials shall consist only of non-invasive or native, 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 on the site.
- b. A planting schedule that indicates the planting plan will be implemented within 60 days of completion of construction.
- c. A written commitment by the applicant that all required plantings will be maintained in good growing condition, and whenever necessary, will be replaced with new plant materials to ensure continued compliance.

- d. A written commitment by the applicant that five years from the date of the receipt of the Certificate of Occupancy for the residence, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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 legally required.

5. Manure Control Plan/BMP's. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval a manure control plan for any domestic livestock housed on the property, approved in writing by the County of San Diego, which includes at a minimum:

- (a) Manure shall be removed on a weekly basis and either immediately taken offsite in accordance with the plan or stored in a covered storage area. Stockpiling of manure in open areas is prohibited. Manure shall be removed from any storage area, composted or taken offsite in accordance with the plan on a twice-monthly basis.
- (b) The plan shall require that manure shall be taken offsite and dumped at an authorized solid waste collection facility, be collected by a commercial soils company for processing into a soils additive or be utilized as part of a composting or recycling program.

The permittees shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No change to the plan shall occur without a Commission-approved amendment to the

permit unless the Executive Director determines that no such amendment is legally required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project is for construction of a 9,720 sq.ft. one-story single-family residence including an attached guesthouse, a 1,192 sq.ft. garage, a pool and a detached 2-horse shelter and tack area on a vacant 4.13-acre site. The project also includes approximately 1,700 cu yards of balanced cut and fill grading.

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 subject site is Lot D of a 31 acre, 4-lot subdivision and construction of a single-family home on Lot A approved by the Commission in August 2002 (#6-02-43). At the time the subdivision was reviewed, the applicant submitted a biological survey and wetlands determination for the entire 31-acre site. The report determined that three areas of jurisdictional wetlands are located on the whole site, including a single mature Arroyo Willow located along the southwestern portion of the lot subject to this permit. The northwestern portion of the whole lot, now parcels 266-041-14 (Lot C) and 266-041-13 (Lot B), (Lot B is adjacent to the subject site to the northwest), is immediately adjacent to Escondido Creek. Escondido Creek in this area contains riparian habitat and both freshwater and salt marsh vegetation. The subject site is not located adjacent to Escondido Creek, but is separated from the creek by Lot B.

The project site is located within the unincorporated County of San Diego. Chapter 3 policies of the Coastal Act are the standard of review.

2. Environmentally Sensitive Habitat Area/Hazard. Section 30231 of the Coastal Act 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.

Furthermore, 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 lies to the northwest of the site. Due to the proximity of the subject site to this area, the applicant's biologist performed a wetlands delineation in August 2001 and May 2002. The findings of the survey were compiled into a report entitled, "Jurisdictional Wetlands Delineation Report" dated May 28, 2002. According to the report, four wetland habitat types, as defined by state requirements, were found on-site which include Southern Coastal Salt Marsh, Coastal and Valley Freshwater Marsh, and Southern Willow Scrub. In addition, areas of jurisdictional non-wetland waters were also found on site. The identified mature riparian and marsh vegetation is located mostly within the northwestern lots (Lots B and C), but three other areas of wetlands were located on the entire site, including a mature Arroyo Willow located along the southwestern portion of Lot D, the subject parcel.

As a condition of approval of the subdivision, the Commission required that the wetland area and a 100-foot wide buffer area be placed in a open space deed restriction to ensure that the sensitive habitat would be protected. The deed restriction has been recorded and the permit for the subdivision has been issued.

In general, the applicant is proposing development consistent with the existing deed restriction on the site. The site plan submitted with the application shows a fence going through the wetland area. The applicant has indicated that location of this fence was misidentified on the plans. Special Condition #1 requires the submittal of final plans that demonstrate no encroachment in the deed restricted area.

In the past 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 Commission has 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. However, due to technological advances and a better understanding of the importance of erosion control measures, many of the local jurisdictions in San Diego County have new grading ordinances that include detailed erosion control provisions. As such, limiting grading to the non-rainy months is no longer necessary (in most cases) or required by many of the local jurisdictions in San Diego County.

The County of San Diego has also revised their ordinances to not require a rainy season moratorium in coastal San Diego County and has recently adopted new erosion control provisions that assure that off-site sedimentation impacts will be minimized. In this case, while the site drains directly to Escondido Creek, both permanent and temporary erosion control measures are required. 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. Where small incremental amounts of daily grading are 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 #3 requires the applicant to maintain the erosion control measures to assure the success of the proposed winter erosion control program. The conditions require 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 the site is separated from Escondido Creek by another lot, is relatively flat and minimal grading is proposed. In addition, 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.

While no sensitive vegetation would be directly impacted by the proposed single-family residence, pool, horse corral, and patios, Special Condition #4 requires non-invasive plants be used in the proposed landscaping of the site to avoid potential indirect adverse effects to nearby sensitive resources within San Elijo Lagoon and its environs. This special condition will also limit irrigation-related runoff into the creek. Therefore, as conditioned, the proposed residential development does not involve impacts to any sensitive upland habitat or wetlands, and the Commission finds the proposed project consistent with Section 30240 of the Coastal Act.

In summary, the subject site is located adjacent to Escondido Creek and includes wetland resources on-site which are currently in a deed restriction open space area. As conditioned, no impacts to biological resources will occur, and thus, the Commission finds the project consistent with the Sections 30231 and 30240 of the Coastal Act regarding protection of environmentally sensitive resources

3. Runoff/Water Quality. 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.

The proposed residential construction will occur on a site (Lot D) that is located approximately 1/8 mile from Escondido Creek, and a small area that contains wetlands in a deed restricted open space area.

Section 30231 and 30240 of the Coastal Act also require that new development be designed to minimize the adverse impacts of sediments and polluted runoff that enter sensitive habitat areas. The applicant proposes to house up to two horses on the subject property. It is estimated that an average horse produces approximately 1 cubic foot of manure per day, and, therefore, the deposits from two horses over a short period of time on the approximately 4 acre parcel could be significant. Storm water runoff from the site would contain this manure, or pollutants from this manure. Because the subject site is located close to Escondido Creek and upland of San Elijo Lagoon, all runoff from the development site will eventually enter into the lagoon. Because of the potential harmful effects of manure to San Elijo Lagoon, it is essential that the manure waste generated on site be removed in a timely manner and that measures be installed which will prohibit the wastes from entering into the lagoon. Special Condition #5 has been attached which requires submittal of a Manure BMP program that requires removal of manure from open areas on a weekly basis and prohibits the stockpiling of manure in open unprotected areas. With this condition, potential adverse impacts from runoff associated with on-site horse activity will be minimized to the maximum extent feasible.

In order to reduce the potential for adverse impacts to water quality of nearby wetlands resulting from drainage runoff from the proposed development, Special Condition #2 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 is a well-established BMP for treating runoff from 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, and the Commission finds that the project is consistent with Section 30231 of the Coastal Act regarding the protection of water quality.

4. Visual Resources. Section 30251 of the Coastal Act is applicable and 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...

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. The proposed home will not be visible from any scenic roadways or recreational areas, is not located on steep slopes, and does not require substantial alteration of natural land forms. Additionally, the subject residence is compatible in size and scale with the pattern of development in the subject area. As such, the project will not adversely impact the visual quality of the area, and is consistent with Section 30251 of the Act.

5. Public Access. The project site is located west of La Noria, which is designated as the first public roadway in this area. 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 at a density of .35 dwelling units per acre in the certified County of San Diego Local Coastal Program, which the Commission uses for guidance in review of development in this area. The subject site is consistent with 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.

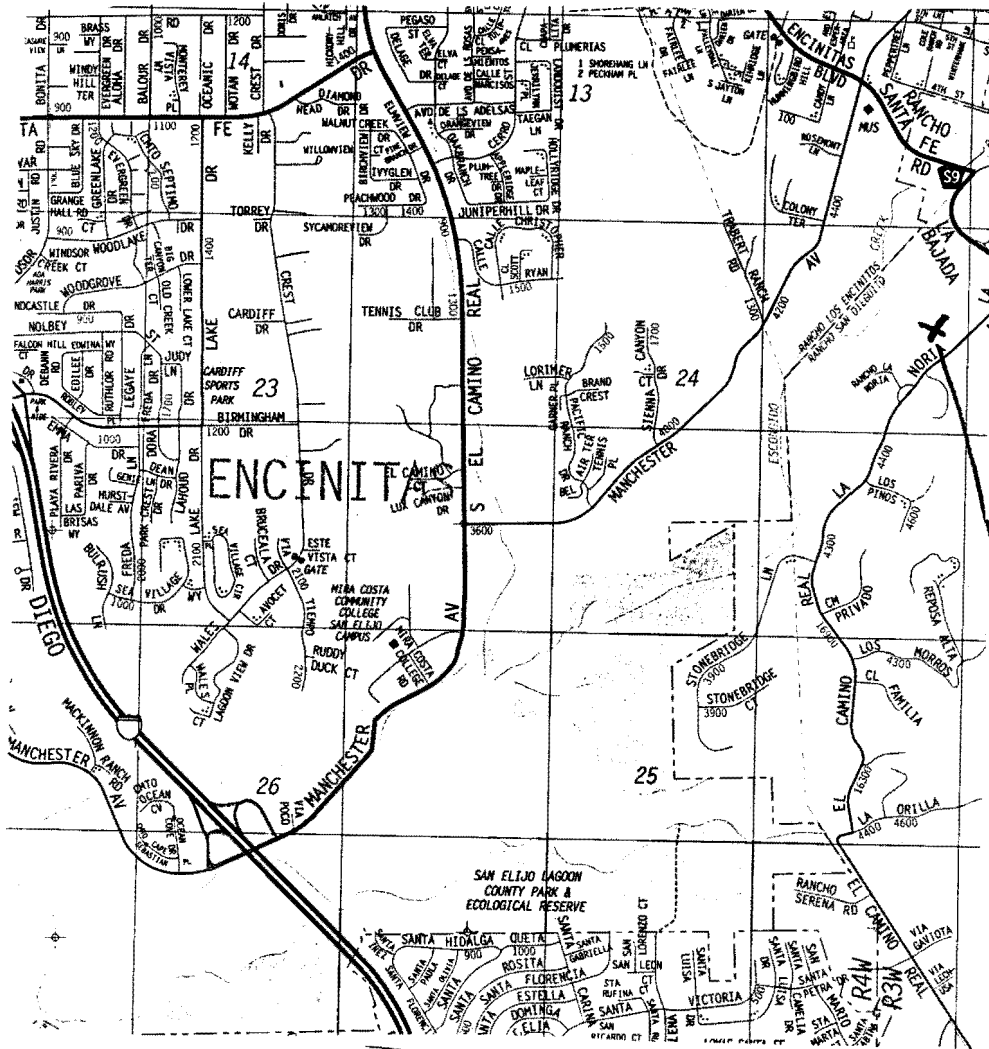
7. Consistency with the California Environmental Quality Act (CEQA).

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 has been conditioned in order to be consistent with the environmental resource protection policies of the Coastal Act. Mitigation measures, including conditions addressing the submittal of final site, drainage, grading and landscape plans 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 is 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.



SITE

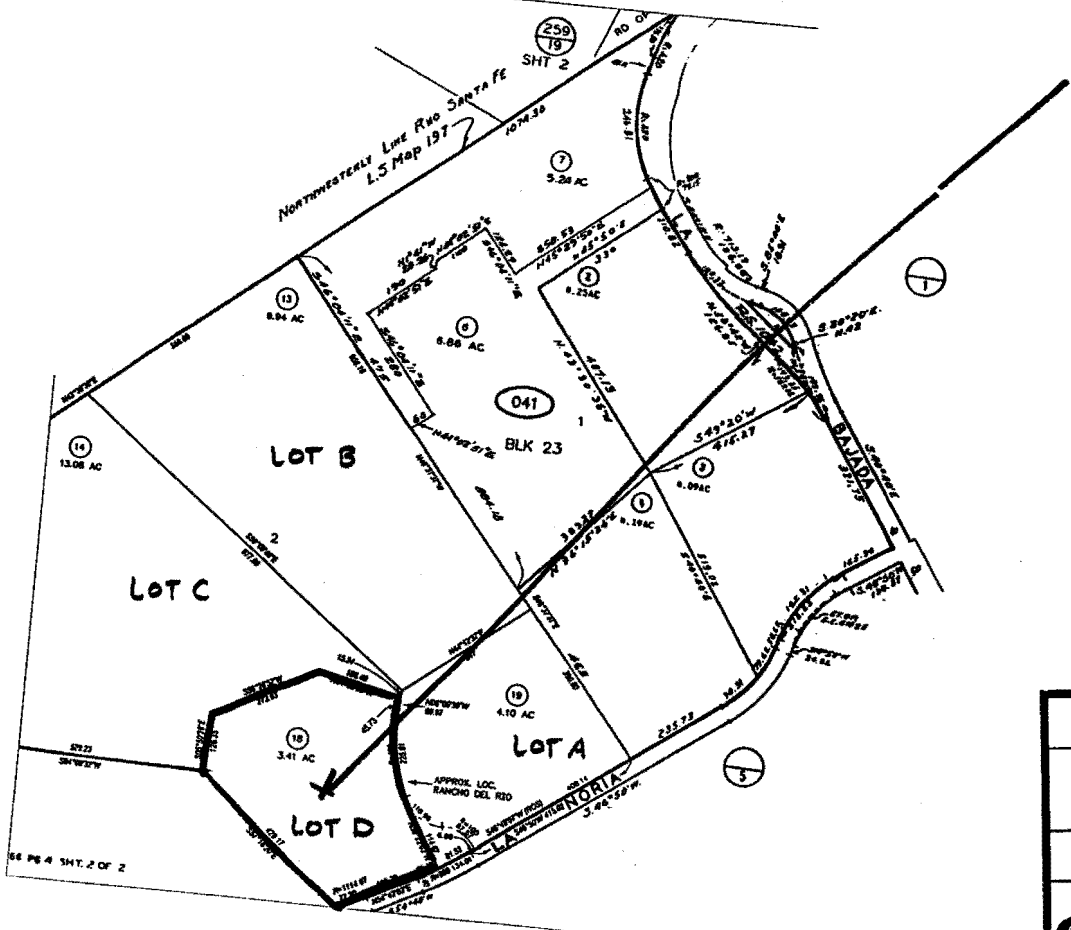
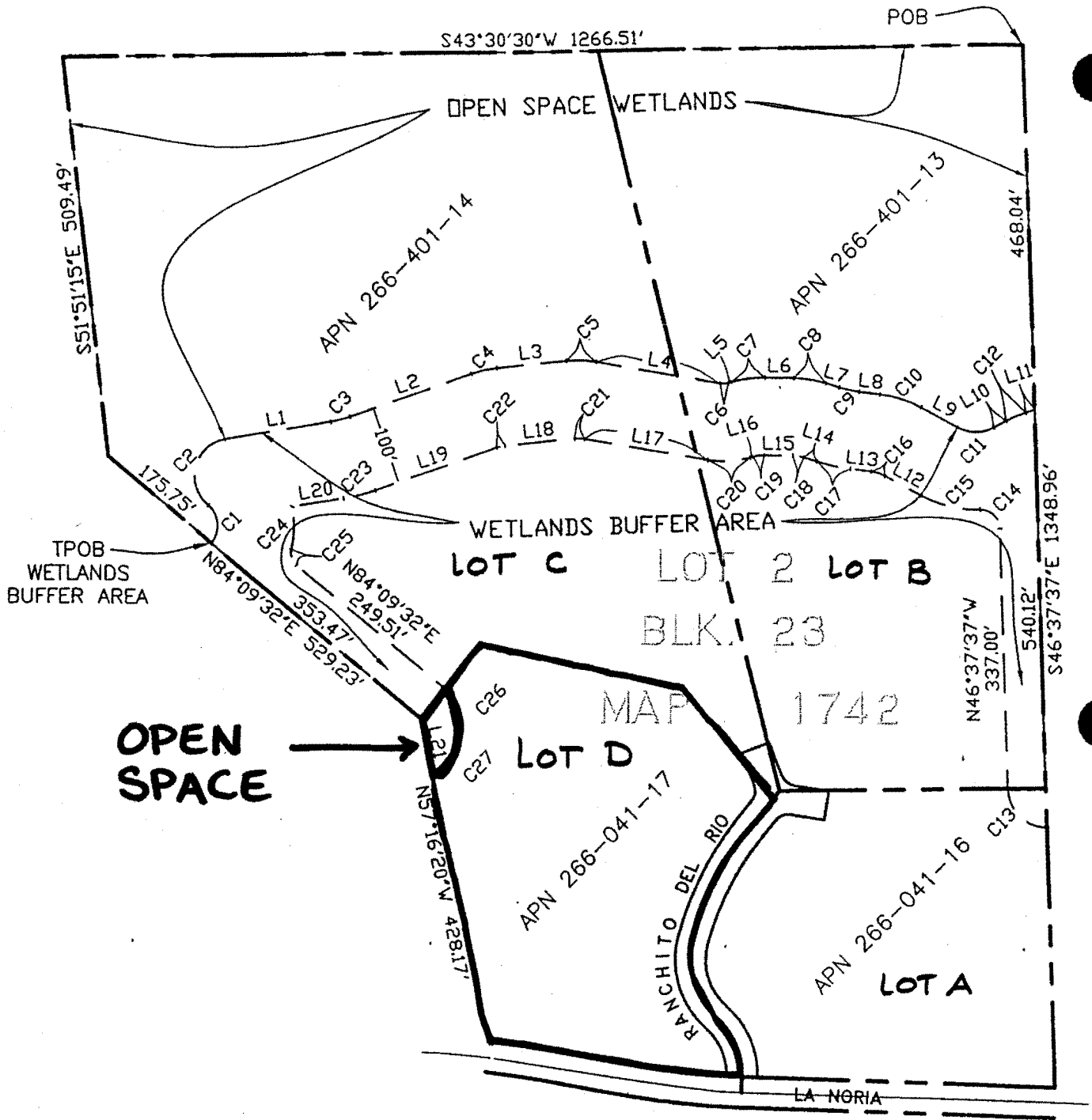
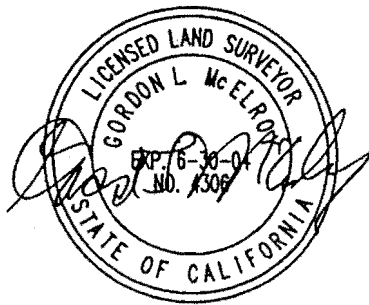
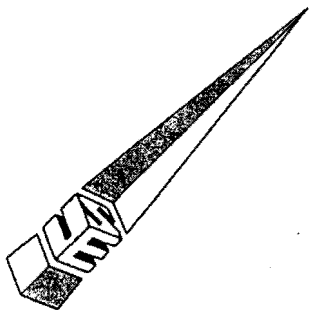


EXHIBIT NO. 1
APPLICATION NO.
6-02-97
Location Map
California Coastal Commission

OPEN SPACE DEED RESTRICTION EXHIBIT



OPEN SPACE



SCALE: 1" = 200'



0 200 400 800
SCALE IN FEET

EXHIBIT NO. 3
APPLICATION NO.
6-02-97
Open Space
Wetland Area
California Coastal Commission