

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

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RECORD PACKET COPY**Thu 14a**

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Staff Report: August 19, 2004
Hearing Date: September 8-10, 2004

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-18

Applicant: Kachay LN2, LLC.

Agent: Samuel Karp

Description: Construction of a one story, 12,087 sq.ft. single-family residence, 1,200 sq.ft. garage, 700 sq.ft. detached guesthouse, pool, driveway, lodge pole fence, vineyard and 4,800 cubic yards of balanced grading on a 13-acre lot.

Site: 17553 Ranchito Del Rio, Rancho Santa Fe, San Diego County. APN 266-041-14

Substantive File Documents: Previously certified County of San Diego Local Coastal Program, Jurisdictional Wetland Delineation Report for the North La Noria Project, dated 3/28/04, by Merkel & Associates, Inc.; CDP #6-02-43; 6-04-57.

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 restriction be placed over a portion of the site containing wetland and riparian vegetation and their buffers. The proposed development does not encroach into any of the restricted areas. However, a guesthouse is proposed adjacent to the wetland buffer area and proposed brush management requirements could affect the buffer. As such, staff is recommending the Commission require that the guesthouse be relocated such that a 30 ft. distance is maintained between the existing wetlands buffer and the guesthouse such that any necessary brush management requirements that could involve clear cut will occur outside of the wetlands buffer. As conditioned, no impacts to

any coastal resources will result from the structures proposed in this project. Additionally, a vineyard is proposed adjacent to the wetland buffer area and its construction and operation could adversely affect adjacent resources. As such, staff is recommending the Commission require deletion of the vineyard.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-18 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. 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 that have been stamped approved by the County of San Diego. Said plans shall be in substantial conformance with the submitted plan by San Dieguito Engineering dated 8/3/04. 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, which shall be graphically depicted or included as notes on the plans:

- a. No grading activities shall be allowed during the rainy season (the period from November 15 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 permittee shall submit a final grading schedule to the Executive Director demonstrating compliance with the above restriction.
- c. Placement of a silt fence around the project anywhere there is the potential for runoff is mandatory. 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 best management practices shall be used.
- d. The permittee shall demonstrate that all on-site temporary and permanent runoff and erosion control devices are installed and that the County of San Diego Engineer has determined that all measures are in place to minimize soil loss from the construction site prior to October 1st.

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 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.

2. 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 that has been stamped approved by the County of San Diego and the Rancho Santa Fe Fire Department. Said plan shall be developed in consultation with the California Department of Fish and Game and be in substantial conformance with the plans submitted with this application by G. Stone dated 7/19/04, except that they shall be revised to reflect the following:

- a. The installation of plant materials shall consist only of fire resistant, native and drought-tolerant materials. No invasive species are permitted. 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 plan 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. Revised Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, revised final site, building and elevation plans for the permitted development. Said plans shall be stamped approved by the County of San Diego and be in substantial conformance with the plans submitted by San Dieguito Engineering, dated May 7, 2004, except they shall be revised to reflect the following:

- a. No structures, grading, or other improvements other than native landscaping and the previously approved fencing are permitted in the open space area established by Coastal Development Permit #6-02-43.
- b. The proposed vineyard shall be deleted.
- c. No portion of the proposed guesthouse shall be located closer than 30 feet from the 100-foot wide wetland buffer 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the construction of a one story, 12,087 sq.ft. Single-family residence, 1,200 sq.ft. garage, 700 sq.ft. detached guesthouse, pool, driveway, vineyard, lodge pole fence and 4,800 cubic yards of balanced grading on a vacant 13-acre lot. Beyond the development area, the subject site slopes moderately north towards the flood plain of Escondido Creek which runs along a portion of the northern property line. Upland portions of the site have been previously disturbed; the lowland portion of the site contains wetland vegetation. There is an existing paved access road that connects the site from La Noria Road and serves several other sites in the area.

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 C of a 31 acre, 4-lot subdivision 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 wetlands on the subject site immediately adjacent to Escondido Creek. Escondido Creek in this area contains riparian habitat and both freshwater and salt marsh vegetation. To protect these areas, the Commission placed a condition on the subdivision permit prohibiting development in the identified wetland areas. In addition, the Commission required that the wetland buffer areas also be protected from future development. These requirements were recorded as a deed restriction and the permit was issued.

The project site is located within the unincorporated County of San Diego. The County of San Diego's LCP was approved but not effectively certified because the County did not accept the Commission's conditional approval. Therefore, Chapter 3 policies of the Coastal Act are the standard of review.

2. Environmentally Sensitive Habitat Area. 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.

The proposed development is located adjacent to Escondido Creek and within the watershed of Escondido Creek. Escondido Creek lies directly west of the subject site. Due to the proximity of the creek, a wetlands delineation was performed by the applicant's biologist in August 2001 and May of 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 were found on-site which include Southern Willow Scrub, Southern Coastal Salt Marsh and Coastal and Valley Freshwater Marsh. According to the biologist, the wetlands and jurisdictional waterways southwest and west of the site represent relatively high quality habitats. The creek and surrounding wetlands are also considered environmentally sensitive habitat areas by the California Department of Fish and Game (DFG). DFG has indicated that the wetlands on-site and adjoining the subject site are "biologically valuable" because they are adjacent to high quality riparian habitat along the creek that connects with preserved, sensitive lands downstream of the property that include San Elijo Lagoon. Furthermore, DFG indicates that the on-site and adjoining wetlands are also valuable because they are used as a corridor for wildlife movement through the area.

As a result, in its approval of the subdivision, the Commission required that the on-site wetlands and their buffer be preserved in open space. The buffer provides a protective area between the wetlands, on the one hand, and the human/pet activity and exotic plants associated with residential development, on the other. No existing sensitive vegetation is located within the buffer and none was present when the Commission approved the subdivision. Much of the buffer area on the western portion of the site is at a considerably higher elevation than the creek, and would not be expected to support

wetland species. An updated wetland delineation (March 2004) indicates the conditions remain similar to when the Commission approved the subdivision in 2002.

Understanding the disturbed nature of the buffer area, the Commission allowed for enhancement of the buffer in the future. Specifically, the Special Condition #1 of the subdivision permit allows for an exception to the development restrictions within the wetlands buffer as follows:

Planting of native, fire-resistant, drought-tolerant, non-invasive vegetation within the buffer area for the wetlands, and installation of upland fencing and/or landscaping along the boundary between the wetland buffer and the developable portion of the lot for the purpose creating a physical barrier between the wetland buffer and the remaining areas of the lot.

The applicant has proposed planting native, fire-resistant plants in the buffer, consistent with the special condition. As proposed, no portion of the proposed residential structures would encroach into the buffer area. A 100-foot wide "fuel modification zone" required by the Rancho Santa Fe Fire Protection District around any habitable structure, in this case, the main residence and the guest house, would overlap the existing wetland buffer zone. The Fire District has reviewed the proposed project and the restrictions placed on development within the buffer, and determined that on this particular site, the fuel modification required by the District is in conformance with the proposed native, fire-resistant plantings allowed by the previous special condition and with the restrictions placed on the buffer area by the subdivisions permit.

Nevertheless, the proximity of the proposed guesthouse to the wetland buffer area raises concerns about the preservation of this area. While the main residence is located no closer than 30 feet from the buffer, the proposed guesthouse would be as close as 25 feet to the buffer. It is standard practice for a minimum 30-foot wide area from habitable structures to be heavily regulated for fire safety purposes, which often means clearing the area of all vegetation. Thus, the Commission has typically required that structures maintain a minimum of 30 feet distance from any sensitive resource areas to accommodate any necessary fire clearance now or in the future.

As discussed above, the buffer provides a protective area between human/pet activity and exotic plants associated with residential development and the wetlands and can be considered a sensitive resource area. Thus, Special Condition #3 requires that the project be redesigned to relocate the proposed guesthouse a minimum of 30 feet from the wetland buffer to assure any necessary brush management that includes clear-cut of vegetation will not affect the wetlands buffer. This could require some changes to the proposed development, but the 13-acre site can easily accommodate both a main residence and guesthouse a minimum of 30 feet away from the previously required buffer.

The proposed landscaping plan indicates native plantings would be planted in the buffer and a fence is proposed near the upland extent of the buffer. These improvements are

consistent with CDP #6-02-43. However, the landscaping plan proposes some non-native ornamental and possibly invasive vegetation on the remainder of the site which may migrate into the buffer and Escondido Creek environs and as such have an adverse impact on coastal resources. Special Condition #2 requires native, non-invasive plants be used to avoid potential indirect adverse effects to nearby sensitive resources. The landscaping plan must be developed in consultation with the California Department of Fish and Game.

The project also proposes a vineyard immediately adjacent to the approved on-site buffers. The Commission's water quality unit has indicated the vineyard is incompatible with adjacent riparian resources in the buffer because herbicide, pesticide and fertilizer use associated with the vineyard would be detrimental to adjacent coastal resources. Special Condition #3 requires final plans which indicate the vineyard will be deleted.

The Commission is concerned that Escondido Creek and its wetlands not be adversely affected by grading, particularly in the rainy season when sedimentation and erosion hazards are greatest. The applicant has proposed both temporary and permanent erosion control measures to address these impacts and a grading schedule that indicates the grading and site stabilization can be completed by November 15 – typically when the rainy season is most likely to begin. Past Commission decisions have allowed grading until November 15 when the Commission is assured that no soil and/or sediment will be transported into sensitive downstream areas. Special Condition #1 requires the submittal of final grading and erosion control plans documenting that no soil or sediment will be transported into sensitive downstream areas and that the erosion control plans will be implemented and that grading will be completed by November 15. As conditioned, the Commission finds that the proposed grading is consistent with the resource protection policies of the Coastal Act.

In summary, as conditioned to ensure that the proposed landscaping, vineyard and guest house will not adversely affect existing and proposed sensitive resource areas and that no grading occurs during the height of the rainy season, the Commission finds the project is consistent with Sections 30231 and 30240 of the Coastal Act regarding protection of environmentally sensitive resources.

3. Runoff/Water Quality/Hazards. Sections 30231 and 30253 of the Coastal Act are applicable to the proposed development and state:

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.

Section 30253.

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. Project runoff will be directed into a bioswale with a riprap energy dissipater located near the proposed vineyard and upland of the approved buffer. Directing runoff through landscaping for filtration of on-site runoff in this fashion is a well-established best management practice for treating runoff from small developments such as the subject proposal. As noted, the Commission's water quality unit has indicated that the proposed vineyard and adjacent sensitive riparian resources are incompatible uses due to water quality concerns associated with use of fertilizers, pesticides, etc. to maintain the vineyard. Therefore, Special Condition #3 requires the vineyard to be deleted from the project. As proposed, the proposed development will serve to reduce any impacts to water quality from the project to insignificant levels.

The herein required grading restrictions will also protect water quality. Hydroseeding, energy dissipation and a stabilized construction entrance are required. All disturbed areas will be revegetated after grading; the site shall be secured daily after grading with geotextiles, mats and fiber rolls. These are accepted best management practices for ensuring water quality will not be adversely affected by new development.

Regarding hazards, as noted, the floodplain of Escondido Creek is present on the site; the 100-year floodplain boundary extends into the lower half of the upper buffer at approximate elevation 35. The lowest point of proposed development is at elevation 48. Since no improvements are proposed in the floodplain, there is no hazard concern. Therefore, the Commission finds the proposed project, as conditioned, is consistent with Sections 30231 and 30253 of the Coastal Act.

4. Visual Resources. Section 30251 of the Coastal Act requires that development must be sited and designed to protect views along scenic coastal areas and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The subject site is highly visible from Manchester Avenue to the north which is designated as a scenic highway in the Encinitas LCP. However, visual screening is proposed with native shrubs and trees within the buffer. The proposed plantings in the buffer zone are riparian trees (sycamores, oak, cottonwood, willow) in 24" and 36" boxes which will immediately provide visual screening. The trees are oriented such that the building facade will be broken up as viewed from Manchester Avenue.

In addition, the subject site has been previously disturbed and does not contain any steep slopes. While approximately 4,800 cubic yards of grading is proposed, it is the minimum necessary to accommodate the proposed development and will be balanced on site such that no significant alteration of natural landforms will occur. A mounded landscaped area is proposed immediately adjacent to the home. The mound will extend to elevation 72 which coincides with the lower plate of the home's roofline. This is a requirement of the local design review board and is intended to soften views of the home from neighboring private homes. It will not result in adverse impacts to public views that originate from Manchester Avenue and would actually soften the visual impact of the home from Manchester. Therefore, the Commission finds the project is consistent with Section 30251 of the Coastal Act.

5. Public Access. The project site is located south of Manchester Avenue and west of La Noria, which is designated as the first public roadway inland of the sea (San Elijo Lagoon in this case) in this area. As the proposed development will occur between the first public roadway and the sea, 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 is used as guidance in review of development in this area. As noted above, the County's LCP was certified by the Commission with suggested modifications; however, the County did not accept the modifications and as such, the LCP was not effectively certified; thus, Chapter 3 policies of the Coastal Act are the standard of review. The proposed buildout of the subject site with one single-family residence is consistent with the LCP designations for the site. 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.

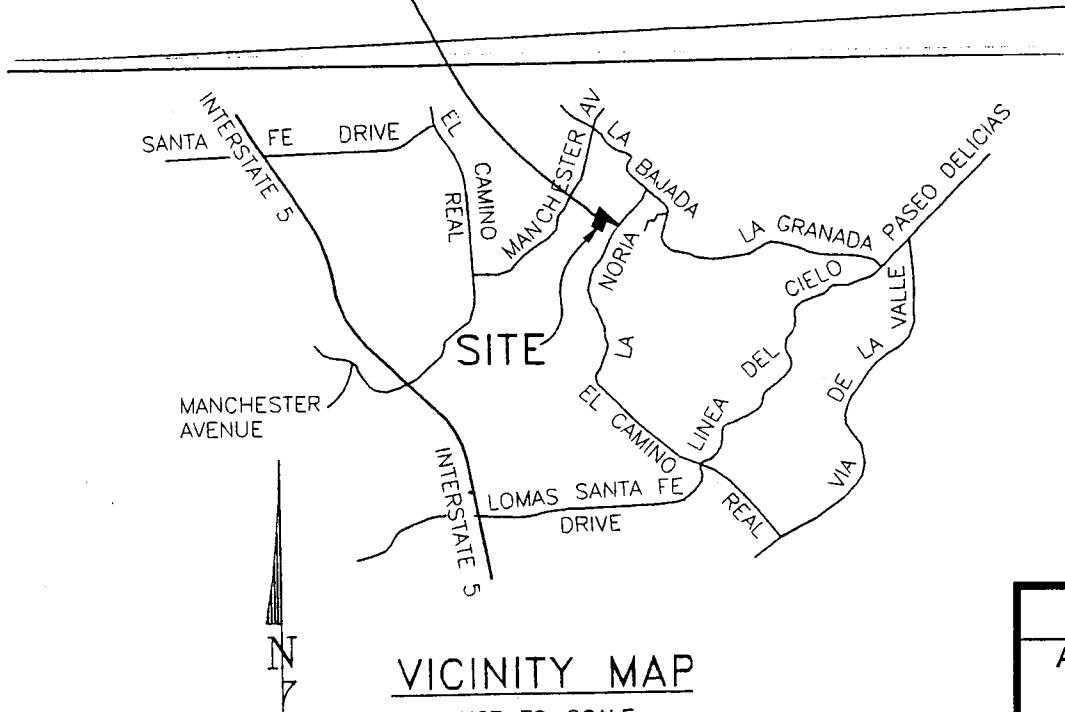
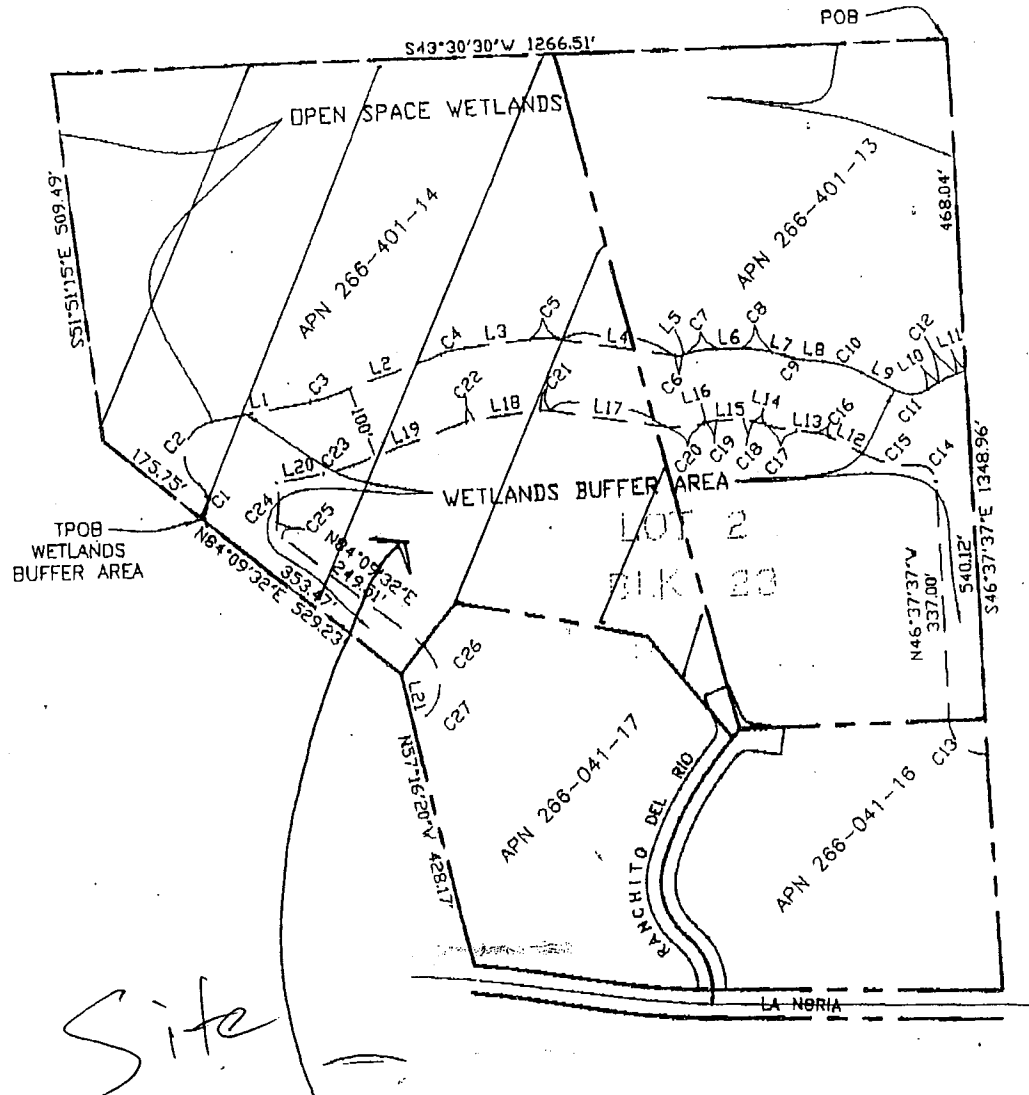
The proposed project as conditioned is consistent with the environmental resource protection policies of the Coastal Act. The herein recommended mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that 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.

OPEN SPACE DEED RESTRICTION EXHIBIT



VICINITY MAP

NOT-TO-SCALE
THOMAS BROS. 1167-J2

EXHIBIT NO. 1
APPLICATION NO.
6-04-018
Location Map



EXHIBIT NO. 2
APPLICATION NO.
6-04-018
Site Plan