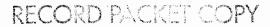
## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA 7575 METROPOLITAN DRIVE, SUITE 103 SAN DIEGO, CA 92108-4421 (619) 767-2370





Thu 8b

Filed:

September 22, 2005

49th Day: 180th Day: November 10, 2005 March 21, 2006

Staff:

DL-SD

Staff Report:

October 28, 2005

Hearing Date: November 16-18, 2005

# AMENDMENT REQUEST STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-148-A2

Applicant:

John Tyrrell

Agent: Holly Tyrrell McCarty

Original Description: Subdivision of an existing 5-lot, 17.93-acre site into 10 lots ranging in size from 1.08 acres to 3.07 acres (gross), and construction of internal streets

and utility improvements. An existing single-family residence on site will

remain.

First

Amend Special Condition #5 to allow 5,280 cubic yards of balanced

Amendment: grading to occur during the rainy season (until the end of December 2003)

to create four building pads.

Proposed

Amendment:

Revise brush management program as it applies to Lot #9 and construct a new, 6,314 sq.ft. 2-level single-family residence with an attached 995 sq.ft. garage and 415 sq.ft. storage space on that 1.06-acre vacant lot (Lot #9).

Site:

1820 Horseman's Lane, Rancho Santa Fe, San Diego County.

APN 302-180-68.

Substantive File Documents: Certified County of San Diego Local Coastal Program

(LCP); CDP #6-99-148; #6-99-148-A1

#### STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed amendment. The amendment modifies (for the subject lot - Lot #9) the specific details of the brush management plan originally approved for the entire subdivision, but the change will not reduce the protection of natural resources on the site and will be consistent with current fire department regulations. Special Conditions placed on the amendment require that landscaping for the subject lot consist of only native and drought-tolerant, non-invasive plant material, and requires the implementation of water quality best management practices.

#### I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: I move that the Commission approve Coastal

Development Permit amendment No. 6-99-148-A2

pursuant to the staff recommendation.

#### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

#### II. Special Conditions.

This permit amendment is subject to the following conditions, which both add to an existing special condition of the underlying permit and add new special conditions:

#### 1. Supplement Existing Special Condition No. 3 as follows (additional text in bold):

3. Brush Management/Deed Restriction.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval in writing of the Executive Director, a brush management plan for the site approved in writing by the Rancho Santa Fe Fire Department. Said plan shall include the following components:

a) A 50-foot wide fuel modification zone adjacent to the building envelopes on Lots 1, 2, 3, 7, 8, 9, and 10, and an indication that no brush clearance or thinning will occur outside the fuel modification zone,

- b) A non-combustible wall located on the far side (away from the building envelopes) of the fuel modification zone on Lots 1, 7, 8, 9, and 10,
- c) Only structures or landscaping approved by the Fire Department as consistent with a fuel modification zone shall be permitted in the fuel modification zone.

"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, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

Although the above-referenced brush management plan was originally required to apply to the entire subdivision, subsequent to the issuance of coastal development permit amendment 6-99-148-A2 (hereinafter referred to as "Am-A2"), the plan submitted in satisfaction of the requirement above will no longer apply to Lot 9.

- B. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT Am-A2, the applicant for Am-A2 shall submit a new brush management plan, applicable solely to Lot 9, also approved in writing by the Rancho Santa Fe Fire Department, and also for the review and written approval of the Executive Director. This new brush management plan must be in substantial conformance with the submitted landscaping plan by Second Nature, date-stamped received in the Commission offices on September 21, 2005. The new proposed brush management plan shall include the following components and restrictions:
  - 1. An open space area in the location of the native vegetation on the western edge of the property, where no brush clearance, thinning, or construction of structures may occur;
  - 2. A fuel modification zone ("Zone B") adjacent to the open space, ranging in width from 20 to 100 feet, wherein existing plants may be thinned or, the installation of plant materials shall consist only of native drought-tolerant and non-invasive plant materials is permitted. No irrigation is permitted in this Zone.
  - 3. A 50-foot wide fuel modification zone ("Zone A") between Zone B and the proposed structure, which may be irrigated and landscaped or hardscaped.
  - 4. Only structures or landscaping approved by the Fire Department as consistent with a fuel modification zone shall be permitted in either Zones A or B.

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

2. <u>Prior Conditions of Approval</u>. All other terms and conditions of the original approval of Coastal Development Permit #6-99-148, as amended, not specifically modified herein, shall remain in full force and effect.

The following conditions shall be added on after Conditions 1-7, and shall apply only to Lot #9:

#### 3. Add the following condition:

- 8. Final Landscape Plan. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-99-148-A2 ("Am-A2"), the applicant for Am-A2 shall submit to the Executive Director for review and written approval, a final landscape plan applicable to Lot 9 in substantial conformance with the submitted landscaping plan by Second Nature, date-stamped received in the Commission offices on September 21, 2005. The final plan shall be approved in writing by the County of San Diego, the Rancho Santa Fe Fire Department, and the California Department of Fish in Game.
  - A. The final plan shall contain written notes stating and/or providing for the following requirements:
    - 1. The installation of plant materials shall consist only of native drought-tolerant and non-invasive plant 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.
    - 2. All plant types utilized within the Fuel Modification zones shall be from the approved list in the Wildland/Urban Interface Development Guidelines, or as approved by the Fire District.
    - 3. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion residential construction
    - 4. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

- B. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether 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.
- C. 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 written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or 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.

## 4. Add the following condition:

- 9. <u>Final Plans</u>. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT Am-A2, the applicant for Am-A2 shall submit to the Executive Director for review and written approval, final site, building and elevation plans for the permitted development on Lot 9 that have been approved in writing by the County of San Diego. Said plans shall be in substantial conformance with the plans submitted by David Markwell Allee, dated 05/21/04, and shall include:
  - A. A depiction of the previously recorded deed restricted open space area, and the approved fuel modification zones on the plans. No structures, grading, or other improvements other than the existing drainage swale are permitted in the open space area.
  - B. A color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed non-combustible wall. The color of the wall permitted herein shall be restricted to a color compatible with the surrounding natural environment (earth tones) including shades of green, brown, and gray, with no white or light shades.
  - C. 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 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.

#### 5. Add the following condition:

- 10. <u>Grading/Erosion Control</u>. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT Am-A2, the applicant for Am-A2 shall submit to the Executive Director for review and written approval, final site and grading plans applicable to Lot 9 stamped and approved by the County of San Diego with plan notes specifically stating and incorporating the following requirements:
  - A. Placement of a silt fence around the project anywhere there is the potential for runoff during construction. 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. 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 plans. Any proposed changes to the approved erosion control plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. In March 2000, the Commission approved the subdivision of a 17.93-acre site into 10 lots, including the subject site, identified as Lot #9 (#6-99-148/Horseman's Valley South). The subdivision is located at the northwest corner of Highland Drive and El Camino Real, in an unincorporated area of the County of San Diego.

El Camino Real forms the inland boundary of the Coastal Zone in this area. The area is characterized by large-lot residential development. Across Highland Drive to the south is San Dieguito County Park, a mostly developed park and recreation area.

The subdivision permit included authorization for the construction of internal streets (Horseman's Lane) and installation of utilities. The permit also established a brush management plan to permanently protect the sensitive on-site habitat from encroachment from future structures or necessary fuel modification for fire safety purposes. The brush management plan consisted of placing the sensitive native vegetation in open space, and establishing a 50-foot wide fuel-modification zone next to the open space wherein thinning of vegetation would be permitted, as would such structures and landscaping as would be permitted by the fire department. A non-combustible wall would be constructed between the open space and the fuel-modification zone.

In September 2003, the Commission amended the permit to allow grading to occur during the rainy season, with the provision of additional erosion control measures (#6-99-148-A1). Construction of four other single-family residences have since been approved within this subdivision (#6-03-76).

The subject amendment involves modifying the previously approved brush management program as it applies to Lot #9 and constructing a 2-level single-family residence with an attached 995 sq.ft. garage and 415 sq.ft. storage space on Lot #9. The 1.06-acre vacant lot is located on the north side of Horseman's Lane, (sometimes shown as Horseman's Creek Road), near the terminus of the cul-de-sac. The lot adjacent to the subject site on the east (Lot #10) is development with a single-family home that existed prior to issuance of the original permit, and the adjacent lot to the west (Lot #8) is vacant.

The site contains a strip of native vegetation identified in the original subdivision and placed in open space. As noted, the approved brush management program called for establishing a 50-foot wide fuel-modification zone next to the open space wherein thinning of vegetation would be permitted, as would structures and landscaping that the fire department will permit. A non-combustible wall was to be constructed between the open space and the fuel-modification zone (see Exhibit #10).

The proposed amendment would replace the 50-foot wide fuel-modification with a "Zone A" and "Zone B," which, combined, total more than 50 feet in width, and provide an equal amount of protection for the native habitat on-site. As proposed with the subject amendment, the native vegetation on the site would remain in open space as originally required. However, on the west side of the open space (towards to the developable portion of the lot), the applicant is proposing an area identified as Zone B, which is a minimum of 20 feet wide, and up to 100 feet wide, which would allow existing vegetation to be thinned by 50%. The 50 feet west of Zone B, designated as Zone A, would be irrigated and developed with planted landscape or hardscape. No structures would be located in Zone B or Zone A, except that a fire-resistant retaining wall would be located roughly in the middle of Zone A (see Exhibit #2). No portion of the proposed

residence would be located closer than approximately 70 feet from the natively vegetated open space.

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. <u>Environmentally Sensitive Habitats/Steep Slopes</u>. Section 30240 of the Coastal Act is applicable to the proposed development 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.

A biological survey submitted at the time the original subdivision permit was approved identified two types of sensitive habitat on the site, Diegan Coastal Sage Scrub, and Maritime Chaparral. In assessing the value of naturally vegetated areas, the Commission must look at not only the value of the habitat on the site but also the nature of the surrounding area. In the case of the proposed project, the surrounding area consists of residential development to the west, large-lot residential to the north and east, and the San Dieguito County Park further to the south. There are substantial pockets of native vegetation on the vacant and low-density developed lots located between the subject site and the lagoon, which could serve as "stopping points" or links for birds between the lagoon and San Dieguito Park (the park is mainly developed with non-native vegetation, but still maintains biological value as an open space area). The site is also located within the Coastal Resource Protection (CRP) overlay zone of the County of San Diego LCP. The CRP overlay zone was developed as part of the Commission-certified but never finalized County LCP in response to the habitat protection policies of the Coastal Act and the need to preserve environmentally sensitive habitats and steep slopes. The Commission's biologist reviewed the biological survey performed for the original subdivision, and determined that the habitat on the subdivision site, including the subject lot, is an environmentally sensitive habitat area.

The issue of fire safety in areas of "wildland/urban interface" has become increasingly pertinent in recent years. Local governments and fire departments/districts have become increasingly aware of the need to either site new development away from fire-prone vegetation, or to regularly clear vegetation surrounding existing structures (ref. Section 4291 of the Public Resource Code). Fire department requirements for vegetation thinning and clear-cutting can adversely affect coastal resources, since "thinning" typically involves removing nearly all surface vegetation, leaving only the below-ground root stock intact. Thus, a proposal to construct a building that would trigger fire

department requirements for thinning of the sensitive habitat on the site would be inconsistent with Coastal Act Section 30240.

In the case of the proposed project, the Rancho Santa Fe Fire Department has reviewed and approved the brush management plan proposed by the applicant, which would not require any encroachment into or impacts on native vegetation. The proposed amendment would modify the originally-approved brush management plan as described above, but would be equally protective of the natural resources on the site. The closest any structures would be located to the open space is 70 feet, and a wall would still be constructed between the residence and the open space, which will help discourage the intrusion of people and domestic animals into the habitat.

Special Condition #1 of this amendment modifies Special Condition #3 of the underlying permit to reflect the Commission's approval of modifications to the existing brush management plan to change the 50-foot wide brush management program to a two-zone program, a minimum of 70 feet wide, as described above. The proposed revisions to the brush management program on this particular lot will not have any effect on the development of the remaining vacant lots in the subdivision, which can still be developed consistent with the original permit requirements.

The proposed landscaping plan, however, contains some plant species that, while not highly invasive, may in some instances be considered inappropriate in the vicinity of sensitive habitat (e.g. *myoporum* of any type). In its approval of other residences within this subdivision, the Commission required the installation of only native drought-tolerant and non-invasive plant materials (#6-03-76).

Therefore, Special Condition #3 of this amendment adds Special Condition #8 to the underlying permit, that requires submittal of a revised landscaping plan, developed in consultation with the California Department of Fish and Game, requiring that the site be landscaped with native drought-tolerant and non-invasive plants. The revised landscape plans must be approved by the Fire Department to ensure that the required native species will not require clearing in the future.

As conditioned, the amended project will not have any adverse direct or indirect impacts on sensitive biological species. The proposed fuel modification plan is consistent with the fire department's current regulations and requirements. Therefore, the Commission finds the proposed project consistent with Section 30240 of the Coastal Act.

3. <u>Runoff/Water Quality/Hazards</u>. 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.

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 subject site is not adjacent to any streams or wetlands, but runoff from the site will eventually drain into San Dieguito Lagoon.

In the past in San Diego County, the Commission typically restricted grading, particularly large scale grading projects, to outside the winter months when erosion and transport of sediment to lagoons or other sensitive resource areas is least likely to occur. 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 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, only minor amounts of grading are proposed. Nevertheless, erosion control measures are still important to ensure off-site resources are not harmed. Special Condition #5 of this amendment adds Special Condition #10 to the underlying permit, that requires the submittal of final grading and erosion control plans documenting that erosion control measure will be implemented.

In order to further reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Condition #4 of this amendment adds Special Condition #9 to the underlying permit. 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. <u>Visual Resources</u>. 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...

The site is located on the eastern border of the Coastal Zone, adjacent to El Camino Real. The proposed development may be somewhat visible from El Camino Real and the adjacent San Dieguito Park, but would not be visible from any lagoon or natural area. Nevertheless, the proposed non-combustible wall could present a stark visual contrast to the surrounding naturally-vegetated hillsides if it were painted in white or bright colors.

Thus, the Commission originally required that the wall be constructed utilizing earthen tone construction materials for all exterior surfaces. To assure such a requirement is maintained in the future, Special Condition #4 of this amendment adds Special Condition #9 to the underlying permit requires that final plans be submitted showing that the wall will been so colored in compliance with the condition placed on the original permit.

Therefore, as conditioned, potential impacts on visual resources have been reduced to the maximum extent feasible and will not have a significant impact on the visual quality of the coastal area, consistent with Section 30251 of the Coastal Act.

6. <u>Local Coastal Planning</u>. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The County of San Diego previously received approval, with suggested modifications, of its Local Coastal Program (LCP) from the Commission. However, the suggested modifications were never accepted by the County and therefore, the LCP was never effectively certified. While the LCP was never effectively certified and the standard of review for development in the unincorporated County of San Diego is Chapter 3 policies of the Coastal Act, the Commission does use the non-final County LCP as guidance. The County designates this area for residential development as a maximum density of 1 dwelling unit per acre. The proposed development is consistent with that designation.

The project site is also located within the Coastal Resource Protection (CRP) Overlay area, which calls for the protection of steep naturally vegetated areas. As conditioned, the proposed project is consistent with the CRP provisions. As discussed above, the Commission finds that approval of the proposed development, as conditioned, will not adversely impact environmentally sensitive habitat areas and is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that project approval will not prejudice the ability of the County of San Diego to obtain an effectively certified LCP.

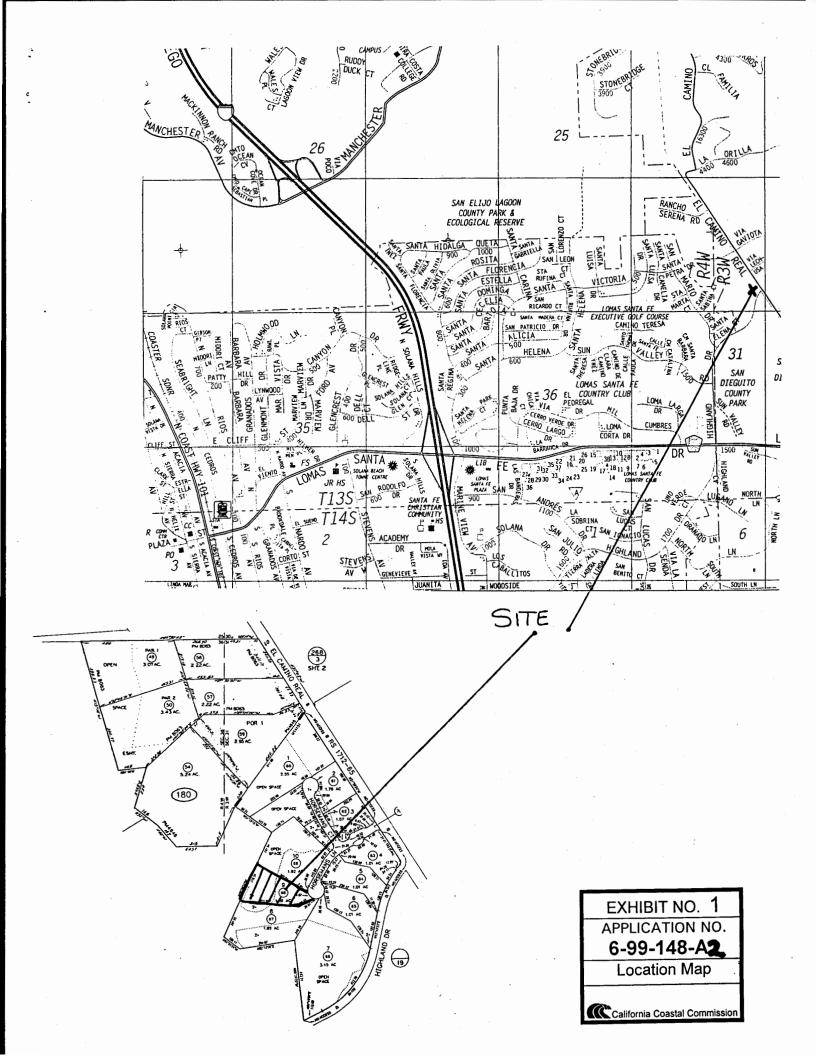
7. Consistency with the California Environmental Quality Act (CEQA).

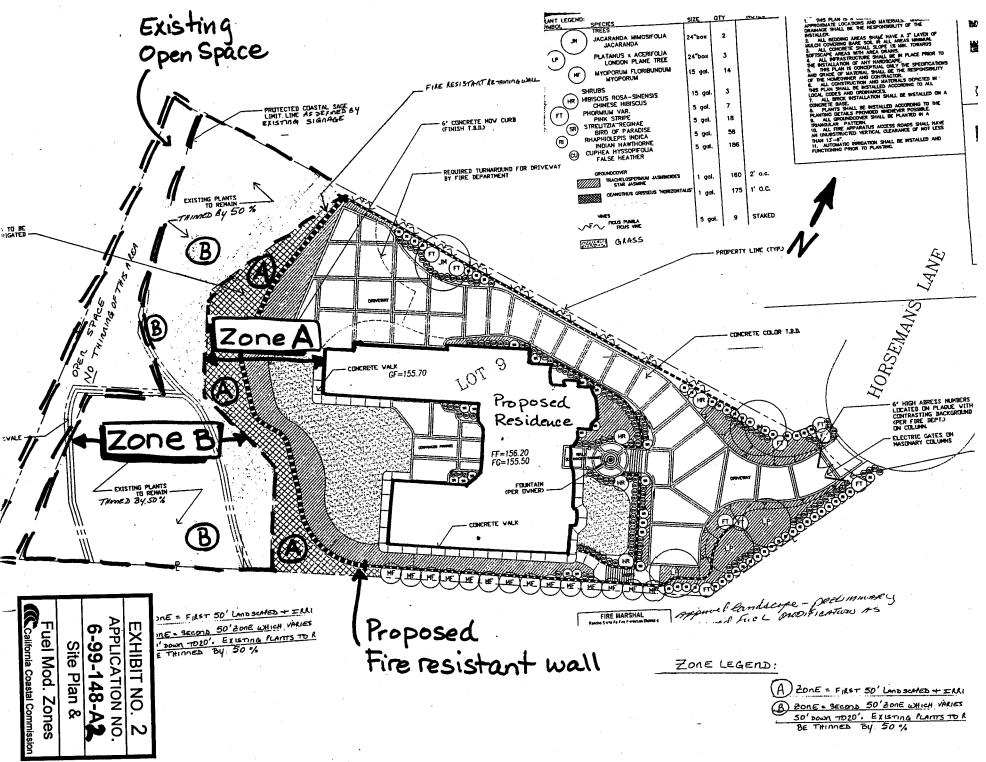
Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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.

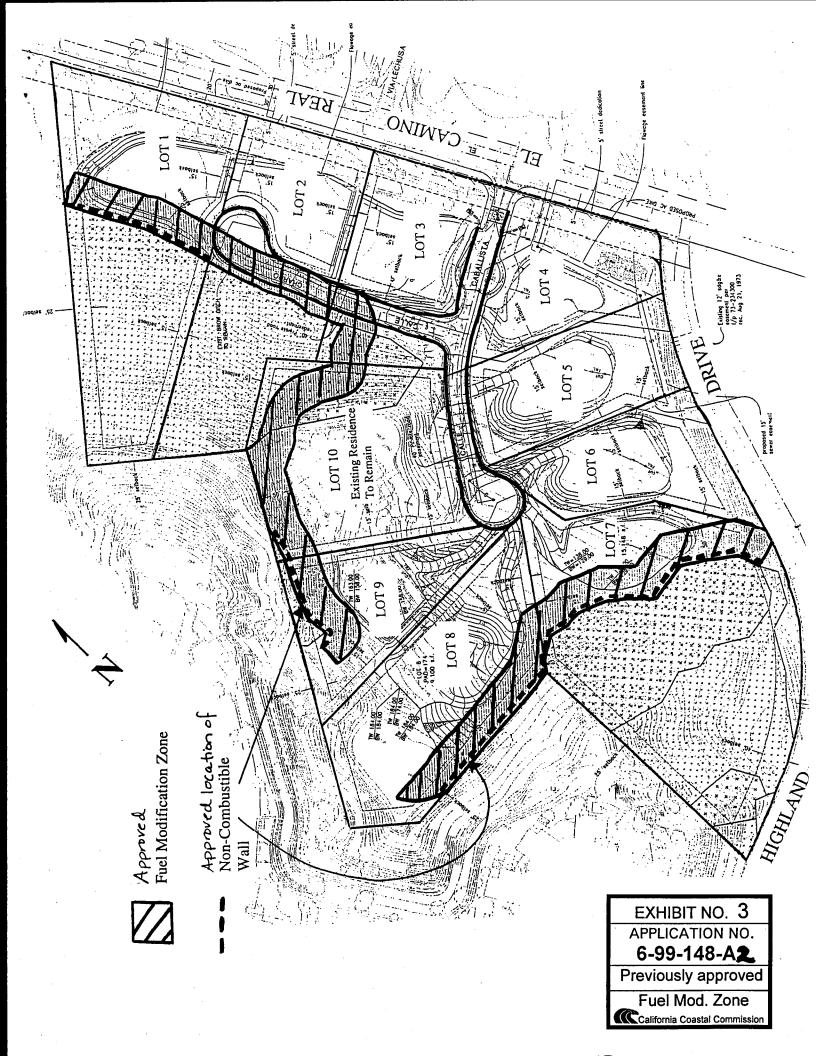
The proposed project has been conditioned in order to be consistent with the environmental resource protection policies of the Coastal Act. Mitigation measures, including conditions addressing the submittal of final site, drainage, grading and landscape plans will minimize all adverse environmental impacts. 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.

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