

CALIFORNIA COASTAL COMMISSION

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Staff: Gary Cannon-SD
Staff Report: February 22, 2007
Hearing Date: March 14-16, 2007

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-147

Applicant: Paul and Eva Linke Agent: Jack Smyer Architect

Description: Construct approximately 1,614 sq. ft. first floor addition to an existing approximately 2,693 sq. ft. one-story single-family residence on an approximately 13,939 sq. ft. lot.

Lot Area	13,939 sq. ft.
Building Coverage	4,198 sq. ft. (30 %)
Pavement Coverage	2,482 sq. ft. (18 %)
Landscape Coverage	6,118 sq. ft. (44 %)
Unimproved Area	1,141 sq. ft. (8 %)
Parking Spaces	3
Zoning	LMR - 4 dua
Plan Designation	Low Medium Residential
Ht abv fin grade	16 feet

Site: 1050 Santa Queta, Solana Beach, San Diego County
APN 263-540-16

STAFF NOTES:

The City of Solana Beach does not yet have a certified Local Coastal Program. As such, the standard of review for the proposed development is Chapter 3 of the Coastal Act.

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the residential addition with conditions. The proposed home will be located along the southern side of San Elijo Lagoon Ecological Park and can be seen from within the park and from Manchester Avenue, the first public roadway on the north side of San Elijo Lagoon. To address the potential visual prominence of the structure as seen from these areas, conditions have been attached to require the residential addition be colored with earth tones so as to blend with the natural colors of the adjacent park. The project is also conditioned to require any new landscaping be native, drought tolerant and non-invasive

so as to protect the habitat of the park. The project has also been conditioned to assure the use of Best Management Practices so that runoff from the site will not adversely affect the coastal waters of San Elijo Lagoon. A deed restriction identifying all conditions of approval is also required to assure all future property owners are aware of the conditions. With these conditions the project can be found to be consistent with the visual resource and water quality policies of the Coastal Act.

Substantive File Documents: City of Solana Beach General Plan; DRP/SDP #17-05-25; CDP Nos. 6-87-618/Rimmer; 6-88-193/Morrison, 6-89-32/Pavelko; 6-93-176/Dougherty, 6-98-1/Skerrett, 6-99-68/Roskowski, 6-99-76/ Burger; 6-00-11/MacLeod; 6-04-37/Edwards; 6-05-129/Thomas and 6-06-40/Hoover.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-06-147 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. Landscaping Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director a final landscaping plan approved the City of Solana Beach. Said plan shall include the following:

- a. Any proposed landscaping shall consist of drought-tolerant native, non-invasive plant species that are obtained from local stock, if available. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.
- b. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of the residential construction
- c. 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.
- d. The use of rodenticides and pesticides shall be prohibited.
- e. 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 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 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 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.

2. Exterior Treatment. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval in writing of the Executive Director a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed residential addition. The color of the structure and roof permitted herein shall be restricted to color compatible with the surrounding environment (earth tones) including shades of green, brown, and gray, with no white or light shades and no bright tones except as minor accents. All windows on the north side of the residence shall be comprised of non-glare glass.

The permittee shall undertake the development in accordance with the approved color boards. Any proposed changes to the approved color board shall be reported to the Executive Director. No changes to the color board 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. Drainage Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a drainage and runoff control plan approved by the City of Solana Beach documenting that the runoff from the roof and other new impervious surfaces will be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation in a non-erosive manner, prior to being conveyed off-site.

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.

4. Deed Restriction. **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant for this permit shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit.

The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed development involves an approximately 1,614 sq. ft. one-story addition to an existing approximately 2,693 sq. ft. one-story single-family home. The project requires a coastal development permit because it involves a greater than 10% addition to a residence that is located between the sea (San Elijo Lagoon) and the first coastal roadway (Santa Queta). The applicant proposes to demolish approximately 110 sq. ft. from the existing residence, add approximately 1,614 sq. ft., grade approximately 50 cu. yds. of balanced fill, construct a new driveway and entry gate, and install additional landscaping on the approximately 14,000 sq. ft. lot. In addition to the residence, the existing lot contains a detached wooden deck that lies within a County of San Diego required open space easement that is located between the residence and San Elijo Lagoon Ecological Park. The deck was constructed in approximately 1985 although no record of a coastal development permit for the deck's construction within the open space easement has been found and is, therefore, presumed to be an unpermitted development.

The project site is located on Santa Queta on a lot adjacent to San Elijo Lagoon Ecological Reserve. The site overlooks San Elijo Lagoon Ecological Reserve to the north and Interstate 5 to the northwest.

The project site is located within an area that was previously covered by the County of San Diego's Certified Local Coastal Program (LCP). However, the County LCP was never effectively certified and therefore is used as guidance with Chapter 3 Policies of the Coastal Act used as the standard of review.

2. Resource Protection. The following Coastal Act policy is applicable to the proposed development:

Section 30240

(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 subject development site lies adjacent to the south side of San Elijo Lagoon Ecological Reserve. San Elijo Lagoon Ecological Reserve is an environmentally sensitive habitat area and Regional Park that is managed jointly by the California Department of Fish and Game and the San Diego County Parks and Recreation Department. In addition, San Elijo Lagoon is one of the 19 priority wetlands listed by the State Department of Fish and Game for acquisition. The lagoon provides habitat for at least five State or Federal-listed threatened or endangered birds that include the California least tern, the light-footed clapper rail, Belding's savannah sparrow, the brown pelican and the western snowy plover. As such, potential adverse impacts on sensitive resources as a result of activity surrounding the lagoon could be significant.

The approximately 1,614 sq. ft. addition includes additions to the north, east and south sides of the existing residence. Portions of the proposed residential addition along its north side will be sited approximately 10 ft. closer to San Elijo Lagoon Ecological Reserve than the existing residence. As such, there is concern that any necessary brush management required by the Fire Department for the new development could adversely affect habitat if it involved removal or cutting of significant vegetation within the Reserve that might include ESHA. The City of Solana Beach Fire Department has identified a 100-foot vegetation management zone is required for all structures adjacent to the Reserve. In this case, the existing home and adjacent homes are located within 50 ft. of the Reserve. Therefore, the Fire Department could require brush management to occur within the Reserve to protect the existing homes adjacent to the Reserve. Because the applicant is proposing to construct an addition that will be located approximately 10 ft. closer to the Reserve than the existing home, the question becomes whether the proposed addition has the potential to increase the area required for brush management that could impact the adjacent Reserve and ESHA. In cases where additional impacts could occur, the Commission has typically required that the applicant examine alternatives to the design of the development so as to avoid the additional brush management requirements. However, in this case, the fire department has determined the proposed additions will not require any additional brush management over what currently exists. Based on a string-line comparison of the existing residence located on the west side of the subject residence and the street end that lies on the east side of the subject and extends further toward the Ecological Reserve than the subject residence, it appears that any brush management required for the adjacent residence and street end would overlap any brush management that might be needed for the addition. Therefore, since no additional brush management will be required for the proposed addition, no potential adverse impacts to environmentally sensitive habitat areas (ESHA) will occur as a result of the proposed addition.

Although the proposed development will not result in impacts to ESHA resulting from brush management requirements, new landscaping that might occur could impact the habitat of San Elijo Lagoon if invasive species were allowed to propagate on the site. On similar projects surrounding San Elijo Lagoon approved by the Commission, the

applicants have been prohibited from the use of invasive species and have been required to plant only drought-tolerant, native and non-invasive plant species. Special Condition #1 has been attached which requires the use of native, drought-tolerant, non-invasive species for any proposed landscaping. Special Condition #1 also prohibits the use of rodenticides and pesticides, and requires that all plantings be maintained.

Finally, Special Condition #4 requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. This restriction will serve to notify future owners of the sensitive nature of the site adjacent to the Ecological Reserve, the permitted landscaping requirements, and the other terms and conditions of the permit.

In summary, as conditioned, the proposed project is designed to prevent adverse impacts to the resources within San Elijo Lagoon Ecological Reserve and, therefore, the Commission finds that the subject proposal is consistent with Section 30240 of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act 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, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed structure will be located on lot overlooking San Elijo Lagoon Ecological Reserve and Manchester Avenue on the north side of the Reserve. The proposed development is located in an established residential neighborhood consisting of both one and two-story residences. The proposed development is consistent with the surrounding pattern of development. Because of the visibility of the site and the proposed residential addition from off-site scenic public areas within the Reserve and along Manchester Avenue, there is a need to assure that measures are incorporated into the project that serve to reduce its visibility. In order to soften the views of the residence from a distance, Special Condition #2 requires the color of the house be restricted to a color that will blend in with the surrounding natural park in order to be consistent with the visual resource protection policies of the Coastal Act. Accordingly, Special Condition #2 requires the applicant to submit a color board indicating that the exterior colors of the proposed residential addition will be earthen tones (greens, browns, tans, grays or other dark colors) compatible with the surrounding natural environment. In this way, the proposed home addition, as viewed from surrounding public vantage areas, will not stand out prominently and will blend in with the adjacent natural Reserve.

Therefore, with special conditions relating to colorizing, potential visual impacts from the proposed development will be reduced to the maximum extent feasible, consistent with the visual protection policies of the Coastal Act.

4. Runoff/Water Quality. Section 30231 states that:

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 of the Coastal Act requires that the biological productivity of coastal waters, streams, etc., be maintained by, among other means, controlling runoff. The proposed development will occur on an inland hillside above San Elijo Lagoon Ecological Reserve. As such, drainage and run-off from the development could potentially affect water quality within San Elijo Lagoon.

In order to reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Condition #3 has been attached. Special Condition #3 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 on-site 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 conditioned, the proposed landscaping will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, the Commission finds the proposed project consistent with Section 30231 of the Coastal Act.

5. Public Access and Recreation. The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide low cost recreational facilities, particularly in new development projects. The following Coastal Act policies are applicable to the proposed development:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

In addition, Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with any development located between the first coastal roadway and the sea, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed project will be located between the sea (San Elijo Lagoon) and the first coastal roadway (Santa Queta).

The proposed development is an addition to an existing single-family residence. The addition will not adversely public access to the adjacent park and, in this case, adequate public access to San Elijo Lagoon Reserve currently exists via a public access trail that commences at the street end adjacent to the existing residence. Therefore, the proposed development is in conformity with the requirements of the Coastal Act relating to public access.

6. Unpermitted Development. Unpermitted development has occurred on the subject site in the form of a detached wooden deck that was constructed in approximately 1985 and located within a County required open space easement which prohibited the construction of any structure without an approved Special Use Permit. The open space easement was placed by the County on the subject property during the subdivision process in approximately 1972, prior to the Coastal Act. However, in 1985 a coastal development permit would have also been required for the construction of a significant detached structure located between the sea (San Elijo Lagoon) and the first public road paralleling the sea (Santa Queta) (Ref. 14 C.C.R. § 13250(b)(4)). No evidence of a coastal development permit for the deck has been located. Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. The Commission's action on the applications does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. Resolution of this matter will occur as part of future enforcement action.

7. 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 provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The site is zoned and designated for Low Medium Residential development at a maximum allowable density of 4 dwelling units per acre (dua) in the City of Solana Beach Zoning Ordinance. The subject development, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and no adverse impacts to coastal resources are anticipated. Therefore, the Commission finds that the proposed development, as conditioned, will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

8. 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. In this case, the City determined the project is exempt from CEQA.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing use of native and non-invasive plant species, visual treatment and the use of Best Management Practices 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.

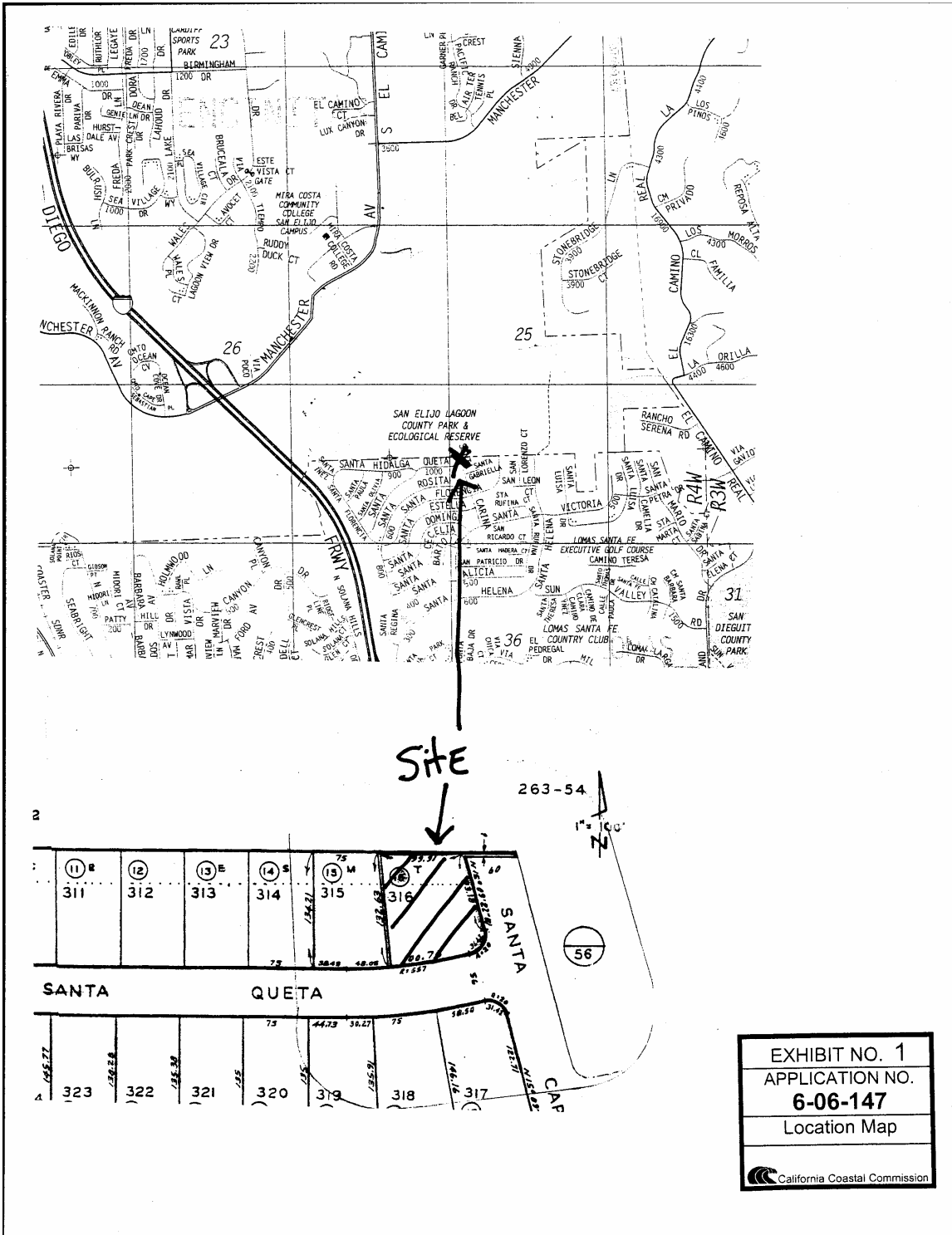


EXHIBIT NO. 1
APPLICATION NO.
6-06-147
Location Map

California Coastal Commission

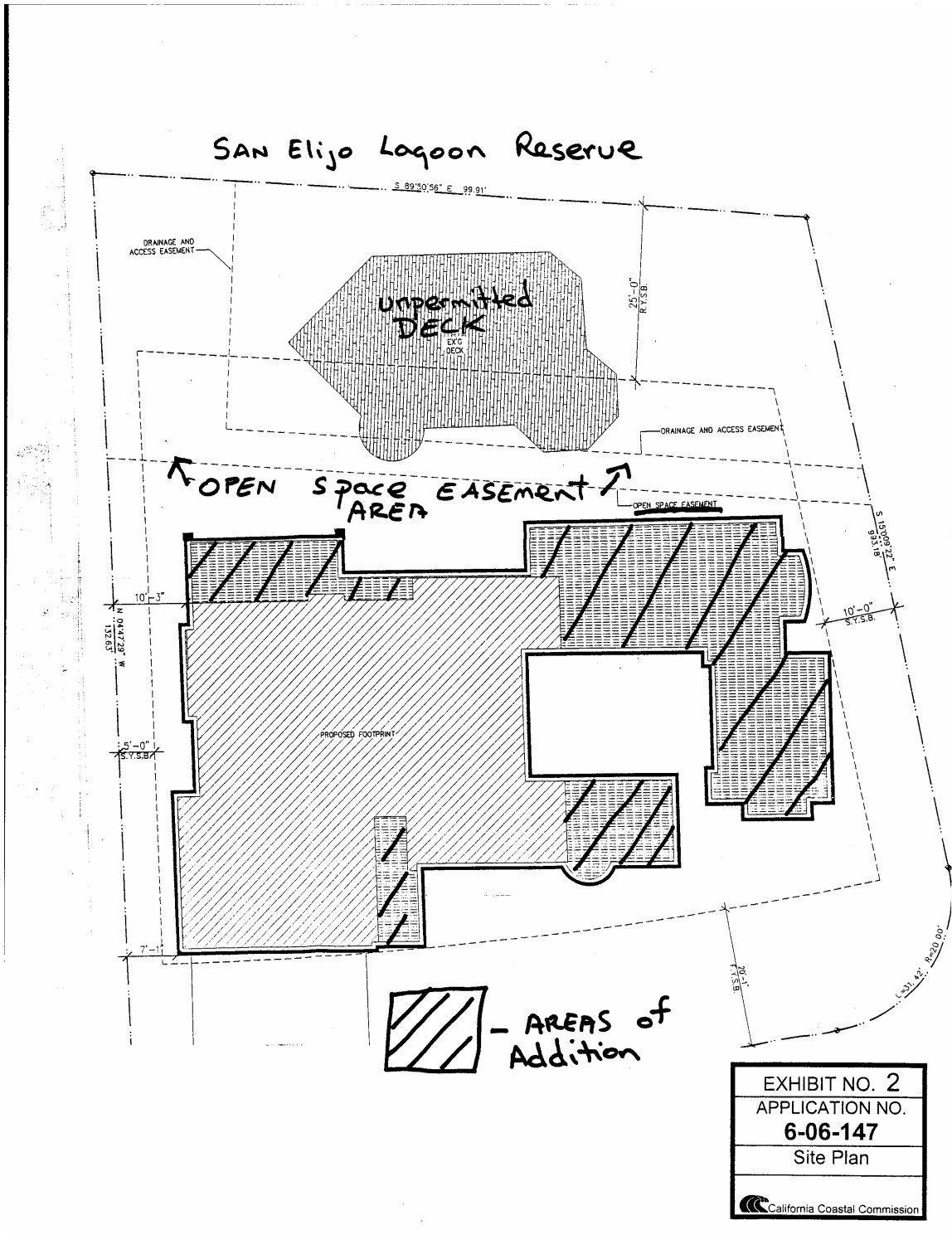


EXHIBIT NO. 2
APPLICATION NO.
6-06-147
Site Plan
California Coastal Commission