

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-006

Applicant: Michael Deutsch

Description: Construction of an 11,037 sq. ft. 2-story, multilevel over basement single family residence and pool on a 2.88-acre vacant lot. Approximately 1,600 cubic yards of balanced cut and fill are proposed.

Lot Area	2.88 acres
Building Coverage	.20 acre (7%)
Pavement Coverage	.25 acre (9%)
Landscape Coverage	1 acre (35%)
Unimproved Area	1.43 acre (49%)
Parking Spaces	5
Zoning	RR .5
Plan Designation	17
Ht abv fin grade	32 feet

Site: 3997 Stonebridge Court, Rancho Santa Fe, San Diego County.
 APN 262-190-09.

Substantive File Documents: Certified County of San Diego Local Coastal; CDPs #6-83-314; #6-04-108.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development with special conditions. The primary issue raised by this proposal is the need to provide a 100 ft. brush management zone surrounding the proposed home, as required by the Rancho Santa Fe Fire Department. The applicant's preliminary brush management program would require removal of approximately 550 sq.ft. of coastal sage scrub (CSS) vegetation located within 50 feet of the proposed residence. The applicant has suggested that the impacts to native vegetation could be offset through revegetation of a sparsely vegetated area on the southern portion of the

site. However, this area is currently undeveloped and consists of steep and non-steep slopes with some existing native vegetation. As approved in the original subdivision, this area was always intended to remain in an open, natural state, regardless of what development might occur on the flat portion of the site. Although the Commission's staff ecologist has determined that the small isolated area of coastal sage scrub that will be impacted is not ESHA, removal of healthy native vegetation supporting surrounding sensitive habitat is an unacceptable adverse impact. A minor redesign of the proposed 11,037 sq. ft., 2-story residence would avoid the need for any removal of native vegetation.

Special conditions also limit brush management within the approximately 4,000 sq.ft. patch of coastal sage scrub located from 50-100 feet from the residence to hand removal of dead vegetation. Only as conditioned will no adverse impacts to habitat will occur.

Standard of Review: Chapter 3 policies of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-006 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. Revised Final Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval by the Executive Director, final site and building plans for the proposed home that have first been approved by the County of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by ARS Development Services, dated 1/3/06, except they shall be revised to reflect the following:

- a. No structures, fencing, grading, Zone 1 brush management, ornamental landscaping or other improvements other than necessary energy dissipaters and native landscaping are permitted in the open space area established by Coastal Development Permit #6-06-006, and generally described as the coastal sage scrub/steep slope mapped area on the northern and southernmost portions of the site (see Exhibit #3).

The permittee shall undertake 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. Revised Final Brush Management Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, revised final brush management plans addressing the area within 100 feet of the proposed home. Said plans shall be approved by the Rancho Santa Fe Fire Department and shall specifically include the following as notes on the plans:

- a. The brush management requirements are as follows:
 - i) Zone 1 is 50 feet of clear-cut next to the residence.
 - ii) Zone 2 consists of the next 50 feet from Zone 1. Within Zone 2, the plans shall note that only dead plant material and non-native plants shall be removed, and they shall be removed or cut by hand only. No clear cut, grubbing (removal of roots below the soil surface) or thinning of living native plants shall occur. Non-native vegetation shall be replaced with native, drought-tolerant and non-invasive plant species compatible with the adjacent coastal sage scrub (and obtained from local stock, if available) shall be required within the Zone 2 brush management area.

- b. Brush management activities are prohibited during the breeding season of the California Gnatcatcher, February 15th through August 30th of any year.
- c. Any future brush clearance within Zone 2 other than removal of invasive or non-native plant species and dead plants shall require approval of a coastal development permit or amendment to the subject permit, unless the Executive Director determines no permit or amendment is legally required.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved fuel modification plan should 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.

3. Revised Final 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 revised final landscaping plan developed in consultation with the California Department of Fish and Game and approved by the County of San Diego. Said plan shall be in substantial conformance with the plans submitted with this application by Gary Stone, dated 6/6/06, but shall be revised to include the following:

- a. A plan showing the type, size, location of all landscape species to be retained, removed and planted on site and shall include, at a minimum, 4 trees (minimum 24-inch box or 5-foot trunk height minimum) or 4 similarly sized non-invasive plant species to be located adjacent to the western side of the proposed residence in a manner that will maximize screening of the structure and/or upon maturity will exceed the roofline of the residence so as to break up the facade of the structure from views from San Elijo Lagoon and Manchester Avenue.
- b. Any landscaping located within the outer 50 ft. of the 100 ft. brush management zone (Zone 2) shall consist of drought-tolerant native, non-invasive plant species that is obtained from local stock, if available. The landscape palate within the inner 50 ft. of the 100 ft. brush management zone adjacent to the residence shall emphasize the use of drought-tolerant native species, but use of drought-tolerant, non-invasive ornamental species is allowed as a small garden component. (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.)
- c. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion residential construction

- d. A written commitment by the applicant that all required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.
- e. The use of rodenticides and pesticides shall be prohibited.
- f. 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.

4. Open Space Restriction. No development, as defined in section 30106 of the Coastal Act shall occur in the area generally described as the portion of the property north of the 150 foot contour line to the north property boundary, and the portion south of the entrance road to the southern property boundary, as depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- a. The hand removal of dead vegetation, removal of non-native vegetation and revegetation of same with native species, and energy dissipaters for drainage.

b. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #3 attached to the February 2007 staff report.

5. Exterior Treatment. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval 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. This document shall comply with the following requirements:

- a. The color of the proposed residence and roof permitted herein shall be restricted to colors 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.
- b. All proposed external windows on the second floor of the west and north sides of the residence visible from Interstate 5 or Manchester Avenue shall be comprised of non-glare glass.

The permittee shall undertake the development in accordance with the approved color board. 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.

6. Grading/Erosion Control. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, final grading and erosion control plans that have been approved by the County of San Diego. The plans approved shall contain written notes or graphic depictions demonstrating that all permanent and temporary erosion control measures will be developed and installed prior to or concurrent with any on-site grading activities and include, at a minimum, the following measures:

- a. Placement of a silt fence around the project anywhere there is the potential for runoff. Check dams, sand bags, straw bales and gravel bags shall be installed as required in the City's grading ordinance. Hydroseeding, energy dissipation and a stabilized construction entrance shall be implemented as required. All disturbed areas shall be revegetated after grading.
- b. The site shall be secured daily after grading with geotextiles, mats and fiber rolls; only as much grading as can be secured daily shall be permitted. Concrete, solid waste, sanitary waste and hazardous waste management BMP's shall be used. In addition, all on-site temporary and permanent runoff and erosion control devices shall be installed and in place prior to commencement of construction to minimize soil loss from the construction site.
- c. If grading is to occur during the rainy season (October 1st to April 1st) of any year, the applicant shall submit to the Executive Director for review and written approval, a program for monitoring the condition of erosion control devices and the

effectiveness of the erosion control program. The monitoring program shall include, at a minimum, monthly reports beginning November 1st of any year continuing to April 1st, which shall be submitted to the Executive Director for review and written approval at the end of each month. The reports shall be completed by a licensed engineer and shall describe the status of grading operations and the condition of erosion control devices. Maintenance of temporary erosion control measures is the responsibility of the applicant, including replacement of any devices altered or dislodged by storms. Desilting basin maintenance, including removal of accumulated silt, shall occur prior to the onset of the rainy season and on an as-needed basis throughout the season.

d. Landscaping shall be installed on all cut and fill slopes prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

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 or grading schedule 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.

7. Final Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final drainage and runoff control plan in substantial conformance with submitted plans by ARS Development Services, dated 1/3/06, documenting, graphically and through notes on the plan, that runoff from the roof, driveway and other 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.

8. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant 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. Project Description/History. The proposed project is construction of an 11,037 sq. ft., multi-story over basement, single-family residence with a pool. To prepare the site for development, grading consisting of approximately 1,600 cubic yards of balanced cut and fill is proposed. The roughly triangular-shaped, 2.88-acre vacant lot is located at the inland terminus of Stonebridge Court, just west of El Camino Real, near the inland extent of San Elijo Lagoon and the floodplain of Escondido Creek in the Rancho Santa Fe community of San Diego County. The subject site is in the eastern portion of the subdivision, not immediately adjacent to San Elijo Lagoon, on a mesa top overlooking the lagoon.

The subject parcel was created through the subdivision of a larger 50-acre site approved by the Commission in 1983 (CDP #6-83-314/Manchester Estates) which created the subject Lot 9 and included the rough grading of portions of the overall site and construction and installation of roadways and utilities.

The subdivision was approved with a variety of special conditions designed to address future development of individual custom estate sites so as to avoid adverse impacts to the adjacent floodplain, downstream San Elijo Lagoon and the surrounding viewshed. The conditions prohibited any alteration of landforms, removal of vegetation or erection of structures within a minimum 100-foot setback from the southern property line adjoining the lagoon wetlands, without the approval of the Coastal Commission.

In addition, the original subdivision permit prohibited the grading or erection of any structures on slopes greater than 25% grade on certain lots, including the subject site. This condition was required to be recorded as a deed restriction to ensure that future property owners are aware of the restrictions. A slope analysis submitted by the applicant indicates that the majority of the steep slopes on the site are on the southernmost portion of the site, which is not proposed for any grading but where some ornamental landscaping would be located, and the northernmost portion of the site, most of which is proposed to be left undeveloped. However, the applicant is proposing to install a riprap energy dissipater, pool fence, potentially a portion of a proposed lawn area and some additional landscaping on the steep slopes (greater than 25% grade).

The Commission previously certified the County of San Diego Local Coastal Program (LCP); however, the County never assumed permit issuing authority. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the County LCP used as guidance.

2. Environmentally Sensitive Habitat. Section 30240 of the Coastal Act is applicable and states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30253(1) states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The subject site is located near the San Elijo Lagoon Ecological Reserve and Regional Park. The County of San Diego LUP designates San Elijo Lagoon as an “Ecological Reserve Area” and the upstream 100-year floodplain as “Impact Sensitive.” A slope and vegetation analysis submitted by the applicant indicates that both the southernmost and the northernmost portions of the lot contain steep slopes and natural vegetation, mostly coastal sage scrub type vegetation.

The Commission has historically limited grading steep slopes is to minimize the visual impacts associated with such grading, to preserve the habitat values of significantly vegetated steep slopes areas, and to avoid the increased likelihood of erosion, runoff and sedimentation which can occur when steep slopes are graded. These concerns can be addressed by eliminating or significantly reducing grading on steep slopes. While encroachments into steep slopes can be allowed in some instances, where there is the possibility to develop sites without such encroachments, they are to be avoided.

When the original subdivision creating the project site was approved by the Commission, a deed restriction was placed on the property prohibiting grading or erection of any structures on slopes greater than 25% grade. The condition states:

9. Lot Development Restrictions. Prior to or concurrent with recordation of the final map, the applicant shall record the following restrictions, on each individual

parcel specified, to run with the land free of prior encumbrances, except for tax liens, and in a manner approved by the Executive Director:

- A. (Lots 5, 6, 7, 8 and 9). No grading or erection of any structures shall occur on slopes of greater than 25% grade except that filling of the eroded gullies shall be permitted for the purpose of landscaping and erosion control. [...]
- B. (Lots 9, 10, 11, 12, 15 and 16) No grading or erection of any structures shall occur on naturally vegetated slopes of greater than 25% grade, except for the minimal amount necessary to access the site.

The subject site is Lot 9. Lots 5-9 all contain northwest-facing slopes with the development located up above on the southern, flat portions of the site. The portion of the site adjacent to the north side of Stonebridge Court is a mostly flat graded pad devoid of native vegetation. The majority of the proposed development will be located in this area. However, some non-native landscaping is proposed to be located on steep and/or natively vegetated areas, and a pool fence and energy dissipater would also be located on a steep, naturally vegetated area on the north side of the site (see Exhibit #2). These encroachments are not necessary to access the site.

The proposed energy dissipater/drainage improvements are reasonable in size and scope, and will help reduce the potential for erosion on the steep slopes. In contrast, the proposed encroachments to the steep, natively vegetated areas for ornamental landscaping, fencing and any portion of a lawn play area are inconsistent with the requirements of the original subdivision and the resource and visual protection policies of the Coastal Act, and may result in the introduction of non-native species adjacent to valuable habitat.

The applicant has proposed planting additional native landscaping, approximately 1,078 sq.ft., on the slopes south of the proposed residence to offset these direct impacts to native vegetation, as well as the impacts that would result from brush management. In addition to concerns about direct encroachment on naturally vegetated slopes, the issue of fire safety in areas of “wildland/urban interface” has become more 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. Fire department requirements for vegetation thinning and clear-cutting can adversely affect coastal resources in various ways ranging from complete removal of the plant and root stock to trimming of the plant but leaving the below-ground root stock intact. Typically to avoid such conflicts, the Commission has required that new development be sited such that the brush management requirements will not adversely affect native and environmentally sensitive habitat areas nor result in clear cutting or removal of vegetation on steep slopes such that erosion problems can occur.

Historically, at least 30 ft. of the required brush management zone, that closest to the home, has consisted of clear-cut removal of all native and/or high fuel vegetation.

Beyond the first 30 feet, there have been variations in the amount of thinning that may be permitted or required, depending on the habitat value and density of the existing native vegetation. Given the current drought conditions and fire threat in southern California, it is reasonable and prudent to plan for at least a 100-foot wide brush management zone when considering approval of new development.

The Rancho Santa Fe Fire Department has reviewed and approved a brush management plan for the site that consists of a 100-foot wide brush management area consisting of two zones 50 feet in width each. The first zone includes the area from the proposed residence to a point 50 feet away, which requires removal of high fire risk plant materials and planting with drought tolerant, fire-resistant plants. Irrigation is required. As proposed, a small portion of steep, native vegetation on the northwest portion of the site (roughly 550 square feet) would be impacted by these Zone 1 requirements.

Zone 2 is the area between 50 to 100 feet from the building. However, in this zone, as proposed, the fire department has indicated that all native, unbroken vegetation be thinned out by 50%. All dead and dying vegetation must also be removed. In the case of the subject site, approximately 4,000 sq.ft. of steep, naturally vegetated coastal sage scrub vegetation would be located within Zone 2, and could be impacted by this requirement. Thus, as proposed, the project would have both direct and indirect impact on native vegetation.

The Commission has previously analyzed the value and quality of the native habitat in this area. In May 2005, the Commission approved construction of a single-family home on Lot 8 of the Stonebridge development, immediately adjacent to the west of the subject site (CDP #6-04-108/Mehlberg). The habitat on the subject site is contiguous with and consistent with that on the adjacent site. The Commission's Ecologist/Wetlands Coordinator determined that the fairly isolated patch of CSS that occurs in this area is not an Environmentally Sensitive Habitat Area (ESHA), as the vegetation is surrounded on three sides by development and non-native habitat and there is no real connection between this patch of CSS and the lagoon. This situation differs from that encountered in other projects in the same subdivision but located further to the south, where a relatively intact linear strip of CSS provides a wildlife corridor between the lagoon and inland open space in the vicinity of the county park and beyond.

Nevertheless, while not rising to the level of ESHA, the native vegetation still maintains some biological productivity and support for the nearby lagoon wetlands and upland ESHA. As proposed by the applicant, providing for additional native landscaping on the southern side of the property, in an area always envisioned to remain undeveloped, will not offset the impacts to existing native habitat. In stead, revising the project to relocate or redesign the lawn area and pool fencing out of the steep, naturally vegetated area would avoid the need for any direct impacts to these resources.

Similarly, minor revisions to pull back the northwest corner of the proposed 11,037 sq. ft., 2-story residence approximately 10 feet further away from the steep slopes would eliminate the need to impact any native vegetation for brush management within 50 feet

of the residence. As for potential impacts in the 50-100 foot zone, a representative of the fire department has indicated that the subject property is the same habitat type and density as on the adjacent site, where the fire department determined that removal of all of the dead vegetation would adequately thin the vegetation by the 50% required for Zone 2. The Commission's ecologist has previously concluded that removal of just dead vegetation in this area will not adversely affect the existing habitat nor the health of the larger system of habitat associated with San Elijo Lagoon (ref. CDP #6-04-108/Mehlberg). Thus, fire safety objectives can be achieved without any impacts to healthy native vegetation.

Therefore, Special Condition #1 requires submittal of revised final plans removing these proposed encroachments in the steep, naturally vegetated areas and revising the home such that Zone 1 brush management does not encroach as well. The condition also prohibits any ornamental landscaping in the steep, naturally vegetated areas located on the northern and southernmost portions of the site.

However, this area must be maintained in its current state, otherwise, the cleared dead vegetation could be replaced by new native vegetation part of the existing coastal sage scrub community. At that point, removal of more than just dead vegetation could be required by the fire department, which could impact ESHA, inconsistent with resource protection provisions of Section 30240 of the Act.

Therefore, Special Condition #2 has been attached which requires the submittal of a final plan for the 100 ft. brush management zone that permits only dead brush material and non-native vegetation will be removed and that any future brush management on the property aside from what is approved with this permit will require approval by the Commission prior to commencement. It also requires management activities be implemented to assure the work is performed consistent with the approved plans. While the on-site CSS has been determined not to be ESHA, to assure protection of sensitive bird species that may be in the area, the Commission's staff Resource Ecologist has previously determined that in this area, brush management activities should be prohibited during the breeding season of the California Gnatcatcher, February 15th through August 30th of any year. Any replacement of non-native vegetation within Zone 2 must be with native, drought-tolerant and non-invasive plant species (provided from local stock, if available), compatible with the adjacent coastal sage scrub plant community. These conditions were acceptable to the fire department on the adjacent site.

Special Condition #4 requires the steep slopes on the hillside be protected as open space through an open space restriction. The previously recorded deed restriction does not specifically designate the slopes on this site as open space, it merely restricts development of steep natural slopes. The herein proposed open space restriction would protect the previously mentioned coastal resources that exist on the hillside. The restriction allows future (beyond that approved herein) brush management and planting of native vegetation if approved through an amendment to this coastal development permit and the installation of necessary energy dissipaters.

The proposed landscaping plan consists of mostly non-native ornamental vegetation, including some of which are considered invasive and inappropriate in the vicinity of sensitive resources (e.g. *Washingtonia Robusta*, *Phoenix canariensis*, *Olea europea*). The presence of invasive vegetation could adversely affect the surrounding environmentally sensitive resources.

Therefore, Special Condition #3 requires submittal of a revised landscaping plan. Any vegetation located within the required open space must be native, drought-tolerant and non-invasive. The remaining portion of the lot must be landscaped with non-invasive species 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 to assure appropriate species are used.

Special Condition #8 has also been attached to require the property owner to record a deed restriction against the property imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property so as to notify all future property owners of the terms and conditions of approval of the permit.

In summary, the proposed development, as conditioned to avoid the need for clearing of steep, naturally vegetated slopes within the Zone 1 brush management area, to limit clearance within Zone 2 to hand clearance of dead vegetation and removal of non-natives, prohibit brush management within the gnatcatcher breeding season, to require review of any future brush management activities within the open space aside from what is authorized by this permit, and to revise the landscape plan to avoid invasive species, the Commission finds the project will not result in adverse impacts to sensitive environmental coastal resources. Therefore, the proposed project can be found 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 site is located on the hillside at the east end of the San Elijo Lagoon Ecological Reserve and Regional Park and is highly visible from Manchester Avenue and from the San Elijo Lagoon to the east and north. Section 30251 of the Coastal Act protects the scenic and visual quality of the coastal zone as a resource of public importance. CDP #6-83-314 (the subdivision permit) and the existing CC&R's for the Stonebridge subdivision limit the height of proposed structures to 35' and require structures be colored to conform visually to the natural environment.

The proposed home, at 32 ft. high, is consistent with the 35 ft. height requirement. The applicant has not submitted a color board or other indication of the colors or materials to be used in the proposed home. As such, Special Condition #5 requires submittal of a color board indicating conformance with the color requirements of the subdivision permit. In this way, the proposed home as viewed from surrounding public vantage areas will not stand out prominently, but will blend in with the adjacent natural hillside. In addition, in order to break up the facade of the structure and soften views of the residence from a distance, Special Condition #5 requires that the applicant submit a final landscape plan indicating that a minimum of 4 specimen-sized trees or shrubs will be planted and maintained along the western side of the residence to reduce the visual prominence of the development as seen from the lagoon and Manchester Avenue.

As described above, other special conditions restrict grading the removal of native vegetation on the steep hillsides, which will also service to minimize the visual impact of the development.

As conditioned, the project will have only a minimal impact on the scenic resources of the area and is consistent with both Section 30251 of the Coastal Act and the Commission's previous requirements that development of the site be subordinate to the natural surroundings.

4. Runoff/Water Quality. Section 30231 of the Coastal Act is applicable to the proposed development and states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The subject site is upstream of San Elijo Lagoon and its surrounding wetlands. In the past in San Diego County, the Commission typically has 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 also revised their its 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, approximately 1,600 cubic yards of balanced grading is proposed, and erosion control measures are important to ensure off-site resources are not harmed. Special Condition #6 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 #7 is attached. The condition requires that runoff from the roof, driveway and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being conveyed off-site. Directing runoff through landscaping is a well-established BMP for treating runoff from developments such as the subject proposal. As conditioned, the proposed development will serve to reduce any impacts to water quality from the project to insignificant levels, and the Commission finds that the project is consistent with Section 30231 of the Coastal Act regarding the protection of water quality.

5. Public Access. Section 30604(c) of the Act requires that a specific access finding be made for any development located between the sea and the first public roadway. In this particular location, El Camino Real serves as the first public roadway and the proposed development would be located between El Camino Real and San Elijo Lagoon.

While the proposed development is located well inland of the coast, public access and recreational opportunities exist at nearby San Elijo Lagoon Ecological Reserve and Regional Park. However, there are no existing or planned trails 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 Program. 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 County did not accept the suggested modifications. Therefore, the LCP was not effectively certified. While the LCP was not 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 uses the provisions of the County draft LCP as guidance.

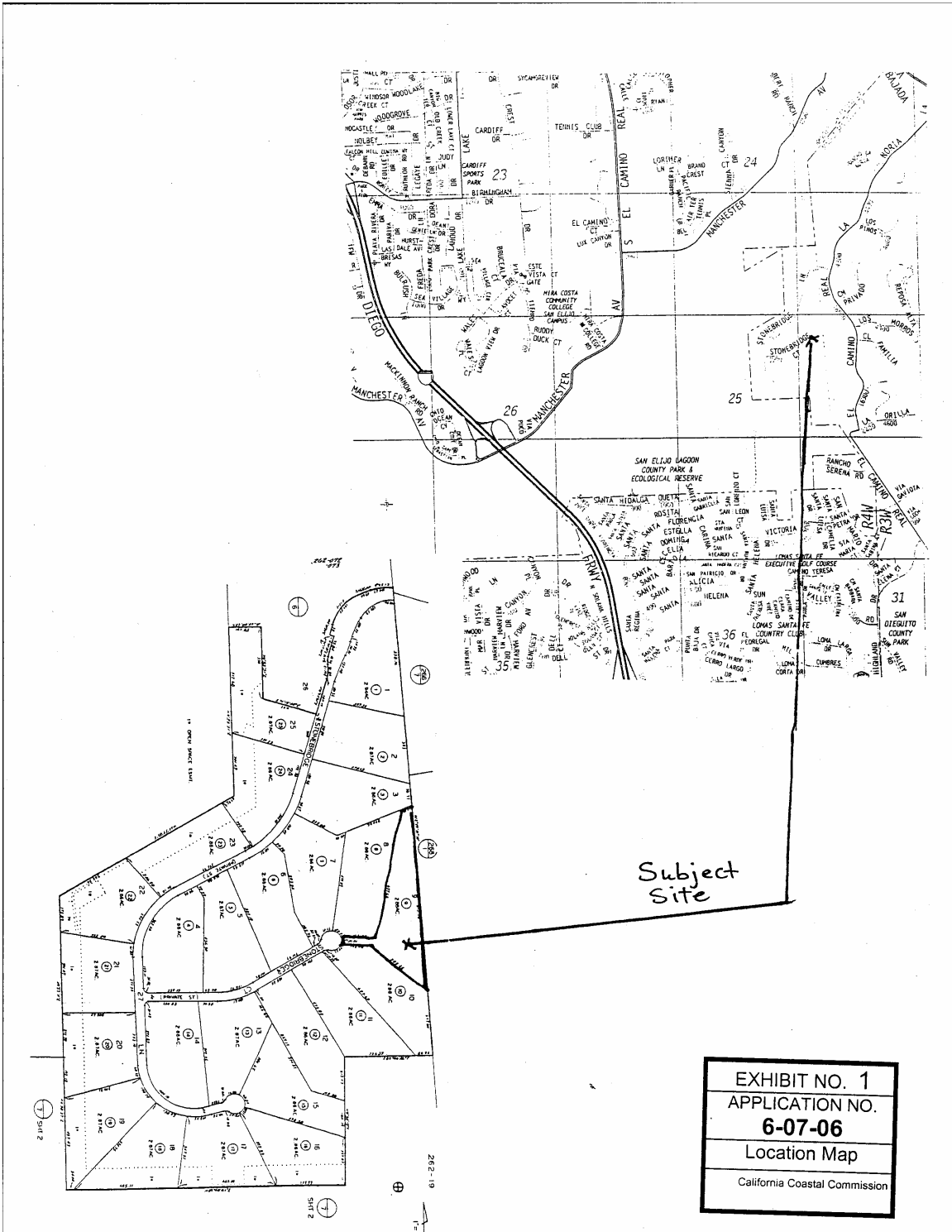
The subject site is designated for estate residential use in the County LCP. The site is within the Coastal Resource Protection Overlay (CRP) identified in the LCP. The overlay requires that new development be sited and designed to protect coastal resources. As conditioned herein the proposed project conforms to all applicable Chapter 3 policies of the Coastal Act as well as to the County LCP. Therefore, as conditioned, the project should not prejudice preparation of a certifiable LCP by the County of San Diego.

7. California Environmental Quality Act (CEQA) Consistency. 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 is consistent with the resource and visual protection policies of the Coastal Act as modified herein. The attached mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and inconsistent 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.



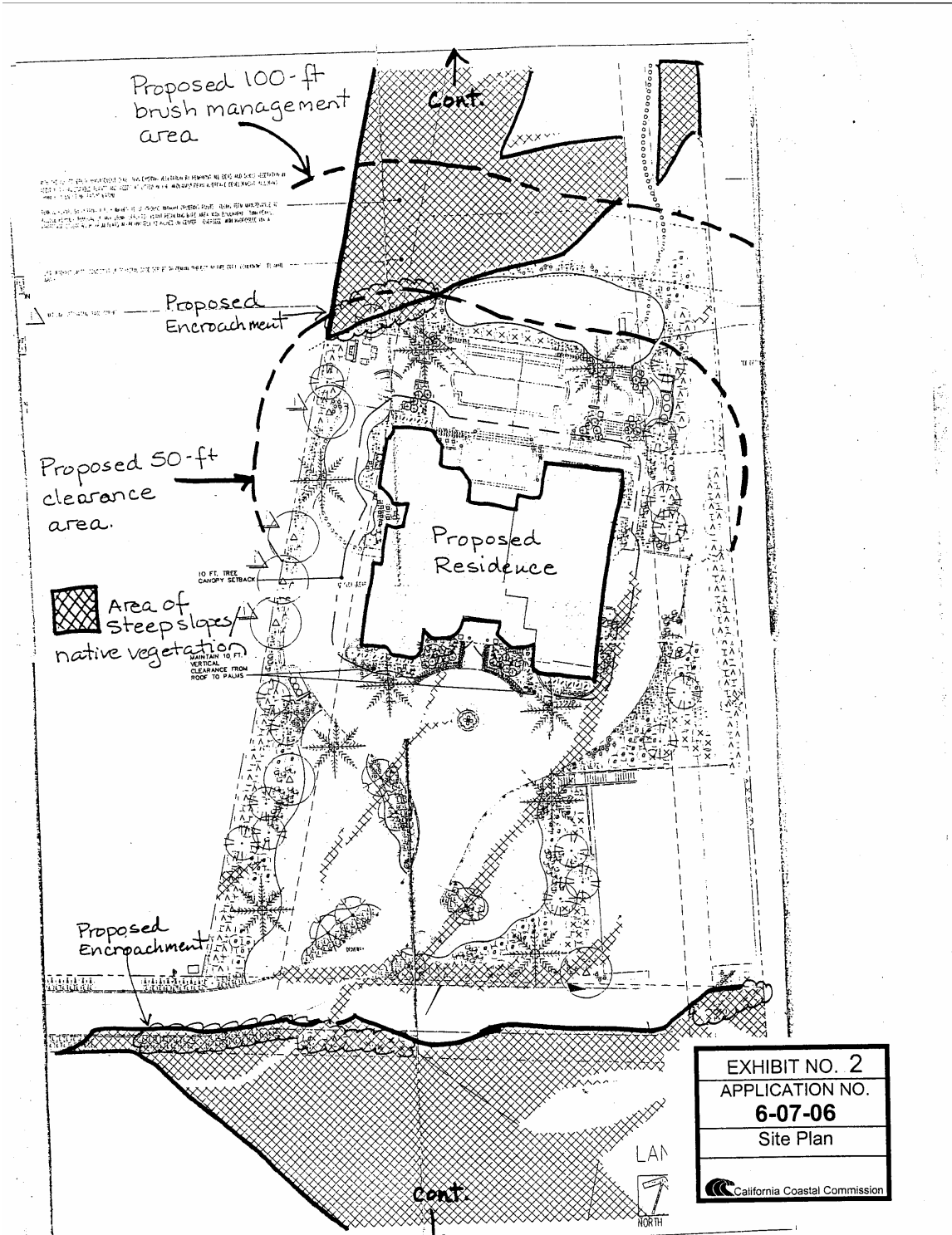
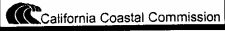
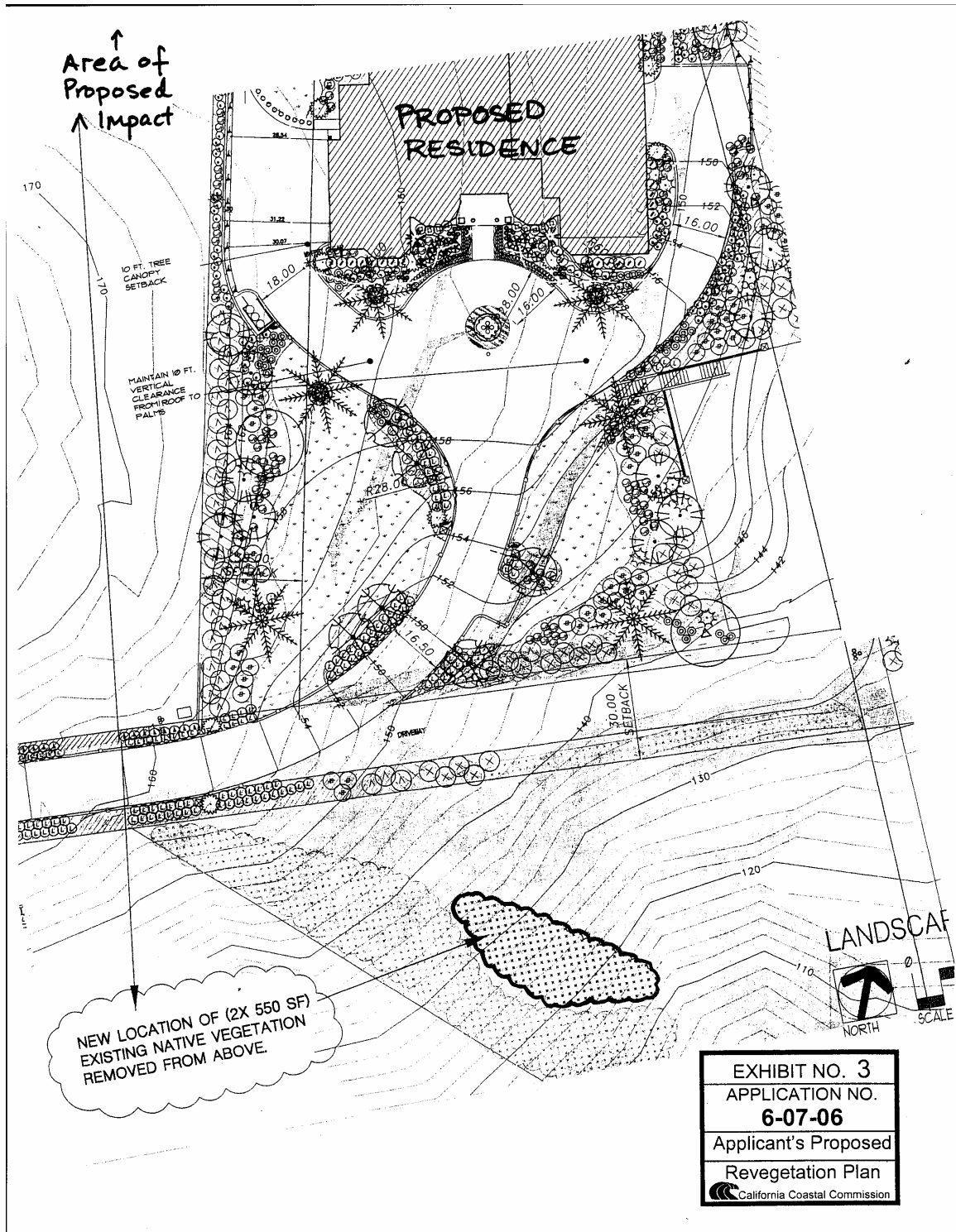
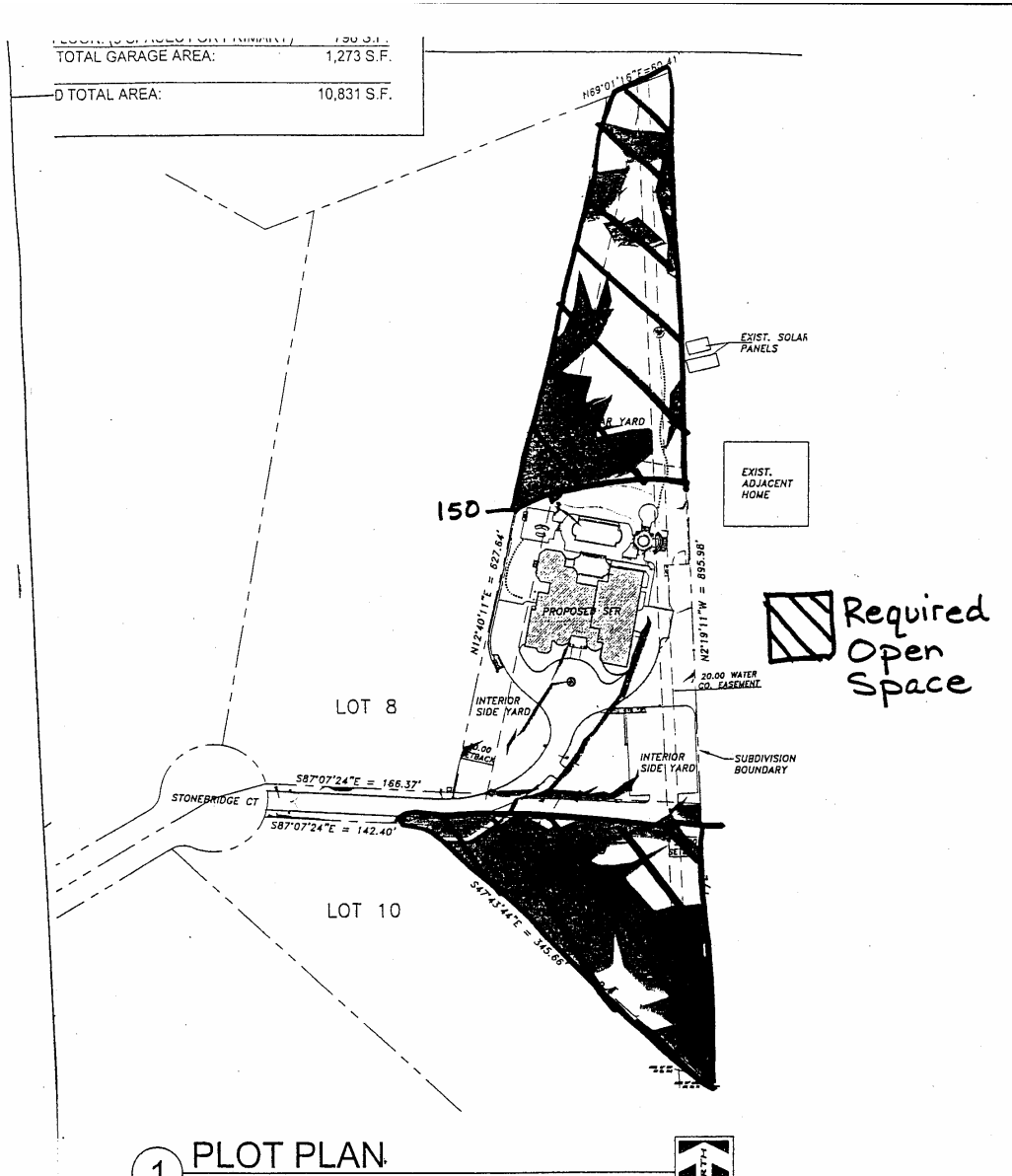


EXHIBIT NO. 2
APPLICATION NO.
6-07-06
Site Plan






1 PLOT PLAN

EXHIBIT NO. 4
APPLICATION NO.
6-07-06
Open Space Deed
Restriction Requirement
California Coastal Commission

David Harmon Freeto
(858) 752-8488

January 29, 2007

Re: Deutsch Residence
Lot 9/Stonebridge

RECEIVED


JAN 30 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Lilly:

The following are responses to your specific concerns as stated by you and left on my phone. Sorry for my delay in addressing your issues on the revised Landscape plan. At this point I am able to better respond to your inquiries. The prior plan / conditions do not match the reconnaissance results that I came up with after I have been retained by the owner. It is my understanding that the owner believed that the prior reconnaissance was incomplete and therefore the data did not accurately represent the actual Vegetation condition.

1. The 50' Fuel Management Zone as shown on the revised plans is in the Correct place at the North side of the house. This is the proposed area in which the existing native vegetation to be relocated will come from. The prior plan indeed showed two 50' FMZ's and is in obvious error.
2. The native vegetation to be moved is 550 SF. The 320 SF indicated in my prior letter to you (date) was a result of reliance on the errors of the first submittal and as dictated mistakenly by Mr.Deutsch. Further reconnaissance discovered that error. We apologize for the confusion.
3. Coastal Rules, as I understand it, dictate that whenever native vegetation is removed or moved, then an area of twice that removed or moved is required to be provided as mitigation. The note "2 X 550SF" fulfills this, but perhaps may have been clearer simply stating "1,100 SF".
4. The vacated 550 SF area on north side will be replaced with Standard Erosion Control Seed Mix (local seed only) as obtained from the S & S Seed Company (Carpentaria). Additionally, to double the 550 SF at the south side of lot, seeds to match the relocated sage will be used....again local to match the existing and from the same reliable source. This particular Seed produces a native sage that is perfectly acceptable to the Fire Department for fire safety and additionally is excellent for aiding erosion control.
5. Regarding your asking whether the Fire Department had been notified of this proposed minor change from first plan submitted, Mr. Deutsch did not confirm it had been notified.

EXHIBIT NO. 5
APPLICATION NO.
6-07-006
Applicant Response
 California Coastal Commission

Should you have further questions or concerns before preparing your final recommendations, please do not hesitate to contact either myself or Mr. Deutsch. I apologize for the lack of a timelier response, but over the holidays I had to do much travel so I was unable to clearly think and to respond to your concerns with veracity. Thank you for your patience, Ms. Lilly.

Respectfully,



David H. Fresto
Architect