

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 OceanGate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



November 15, 2010

ADDENDUM

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: SOUTH COAST DISTRICT STAFF

SUBJECT: Commission Hearing of November 17, 2010, **item W5a** of agenda, Coastal Development permit application #5-10-099 (Cyr), San Clemente, Orange County

Revisions to Staff Report

Commission staff recommends the following clarifications to the staff report. New language is in **bold, underlined italic**. Deletions are shown in **~~bold, strike-through~~**

1. Add the following language to the Project Description Section of Part IV, Findings.

The project site is located near a parks and recreation area. Use of clear, visually permeable materials near open space areas are known to have adverse impacts on a variety of bird species. Birds are known to strike glass walls causing their death or stunning them which exposes them to predation. Some authors report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat).

As conditioned, the project does not present a potential bird strike hazard. The deck on the north side of the property proposes the use of a wrought iron or wood railing. On the west side of the property, the applicants propose either a wrought iron fence, or a 6 foot high glass windscreen above a 1 foot high masonry wall, with glass to be treated, frosted, or etched to reduce potential bird strikes. Use of the wrought iron fence would be preferable as it would raise no potential impacts for bird strikes. If a glass windscreen is built on the west portion of the project site, Special Condition 2 would require the maintenance of bird strike avoidance features throughout the life of the development. Any changes to the approved plans would require an amendment or additional coastal development permit, pursuant to Special Condition 1, Future Development, and Special Condition 2, Landscaping.

2. Modify Special Condition 2 to read as follows:

2. Landscaping

A. All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. Native species shall be used to the maximum extent feasible. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

B. Vegetation required to reduce impacts of the proposed development upon public views from the adjacent San Clemente State Beach Park is proposed, and required, along the northern boundary of the subject property (see Exhibit #2 of the staff report dated October 27, 2010). This screening vegetation shall be maintained in good growing condition such that the vegetation continues to perform its purpose as visual treatment throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

C. As proposed by the applicant, materials used for railings and windscreens will be chosen that reduce the potential for bird strikes. If any glass is selected as a windscreen it will be treated with frosting and/or etching of the glass, and such treatment shall be maintained throughout the life of the structure to reduce the potential for bird strikes.

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

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W5a**

Filed: October 7, 2010
49th Day: November 25, 2010
180th Day: April 5, 2011
Staff: John Del Arroz - LB
Staff Report: October 27, 2010
Hearing Date: November 17-19, 2010
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-10-099

APPLICANT: Patricia and Peter Cyr

AGENT: Michael Luna and Associates

PROJECT LOCATION: 3803 Vista Azul, San Clemente, Orange County.

PROJECT DESCRIPTION: New landscape improvements, fence, pool, privacy wall, 593 sq. ft. deck, and additions and remodel totaling 848 sq. ft. to an existing single family residence near San Clemente State Beach Park.

LOCAL APPROVAL: City of San Clemente Approval In Concept

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission **APPROVE** a coastal development for the proposed development with six (6) special conditions regarding: 1) Future Development 2) Landscaping; and 3) Drainage and Runoff Control Plan 4) Construction Staging Plan 5) Construction Responsibilities and Debris Removal and 6) Deed Restriction. As conditioned, the proposed development does not adversely affect visual resources or public access and recreation. **See Page Two for the motion to carry out the staff recommendation.** The applicant agrees with the staff recommendation. Staff recommends that the Commission find that the proposed development, as conditioned, conforms with the Chapter 3 policies of the Coastal Act and previous Commission approvals, and will not prejudice the City's ability to prepare an LCP.

SUBSTANTIVE FILE DOCUMENTS:

1. City of San Clemente Approval in Concept
2. City of San Clemente certified Land Use Plan

LIST OF EXHIBITS:

1. Vicinity Map
2. Site Plan
3. Visual Simulation

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permit with special conditions:

MOTION: ***I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.***

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

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 of the Coastal Act. 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

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.

III. Special Conditions

1. Future Development

This permit is only for the development described in coastal development permit No. **5-10-099**. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. **5-10-099** from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

2. Landscaping

- A. All landscaping shall consist of native or non-native drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. Native species shall be used to the maximum extent feasible. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).
- B. Vegetation required to reduce impacts of the proposed development upon public views from the adjacent San Clemente State Beach Park is proposed, and required, along the northern boundary of the subject property (see Exhibit #2 of the staff report dated October 27, 2010). This screening vegetation shall be maintained in good growing condition such that the vegetation continues to perform its purpose as visual treatment throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.
- C. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Drainage and Runoff Control Plan

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, two (2) full size sets of a drainage and runoff control plan showing roof drainage and runoff from all impervious areas directed to site design elements and/or landscape based features or systems that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas on site, where feasible. Examples of such

features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns

- B.** The permittees 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 a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Construction Staging Plan

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the Executive Director's review and approval, two (2) full size sets of Construction Staging Area Plans, which indicate that the construction staging area(s) and construction corridor(s) will avoid impacts to the nearby park.

- (1) The plan shall demonstrate that construction equipment, materials or activity shall not be placed or occur within San Clemente State Beach Park or outside the staging area and construction corridor identified on the site plan required by this condition

- (2) The plan shall include, at a minimum, a site plan that depicts:

- 1. limits of the staging area(s);
- 2. construction corridor(s);
- 3. construction site;
- 4. location of construction staging and storage areas, and temporary construction-related fencing with respect to the state park.

- B.** 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 a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Construction Responsibilities and Debris Removal

By acceptance of this permit, the permittee agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- A.** No demolition debris, construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wind or rain erosion or dispersion.
- B.** The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

- C. All grading and excavation areas shall be properly covered and sandbags and/or ditches shall be used to prevent runoff from leaving the site, and measures to control erosion must be implemented at the end of each day's work.
- D. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters or onto the beach, and more than fifty feet away from a storm drain, open ditch or surface waters.
- E. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.
- F. All construction equipment and materials shall be stored and managed in a manner to minimize the potential for discharge of pollutants. Any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible.
- G. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any street or drainage unless specifically authorized by the California Regional Water Quality Control Board.
- H. In the event that hydrocarbon-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.

The permittee shall undertake the approved development in accordance with this condition.

6. 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 landowners have 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 hereby finds and declares:

A. Project Description

The subject site is located at 3803 Vista Azul in the City of San Clemente, Orange County, within the first public road and the sea. To the south lies an existing residential neighborhood and to the east Concordia Elementary School. To the north of the subject site lies a drainage easement owned by the City of San Clemente. Beyond the drainage easement lies San Clemente State Beach Park. Campgrounds of the State Park are located approximately 120 feet to the north of the subject site. The lot size is 15,000 square feet, and the subject site is classified as Residential Low Density in the City's certified Land Use Plan. The proposed project includes landscaping, pool, fence, privacy wall, 593 sq. ft. outdoor deck, and additions and remodel totaling 848 sq. ft. to the existing 5300 sq. ft. two story single family home.

The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Orange County). The term drought tolerant is equivalent to the terms 'low water use' and 'ultra low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>. To make sure that vegetated landscaped areas only consist of native plants or non-native drought tolerant plants, which are non-invasive, the Commission imposes **Special Condition 2**, which requires only this type of vegetation.

The subject property is in close proximity to the San Clemente State Beach Park. Without mitigation, the proposed development would result in adverse visual impacts to public scenic views from San Clemente State Beach Park. Portions of the project, such as the pool, deck, and fence, would be located a short distance away and be directly visible from the nearby campgrounds. The applicant's proposed landscaping plan includes the use of drought-tolerant non-invasive screening vegetation, which will serve to soften the visual impact of the proposed development. In order to prevent impacts to visual resources from the nearby state park the Commission requires **Special Condition 2** requiring that the proposed native and/or non-invasive drought tolerant screening vegetation is maintained throughout the life of the proposed development. Only as proposed and conditioned can the development be found consistent with Chapter 3 policies addressing the protection of public views.

Typically, projects located adjacent to state parks are required to use native landscaping. The proposed project is not located adjacent to a state park, but is separated from the state park by a drainage easement owned by the City of San Clemente. The requirement for screening vegetation presents a potential barrier to the use of native species, which may not be able to

provide sufficient coverage to fully screen the proposed development. As such, landscaping is restricted to the use of native vegetation to the maximum extent feasible.

B. Access

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. Recreation

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes an additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

E. Parks And Recreation Areas

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

F. Water Quality

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health

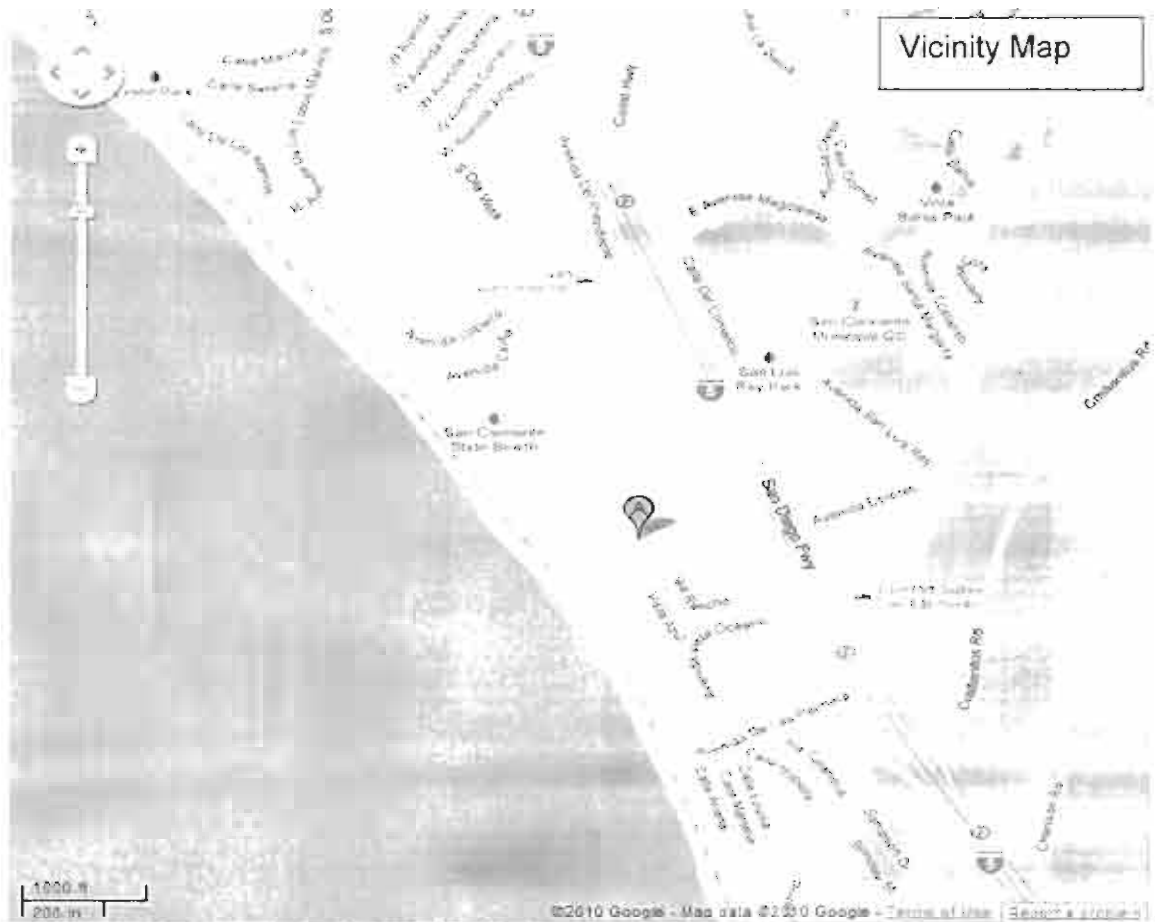
G. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development, as conditioned, is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act (CEQA)

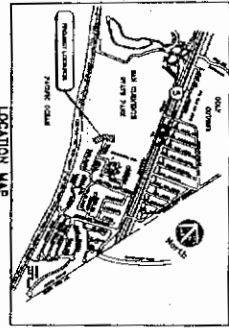
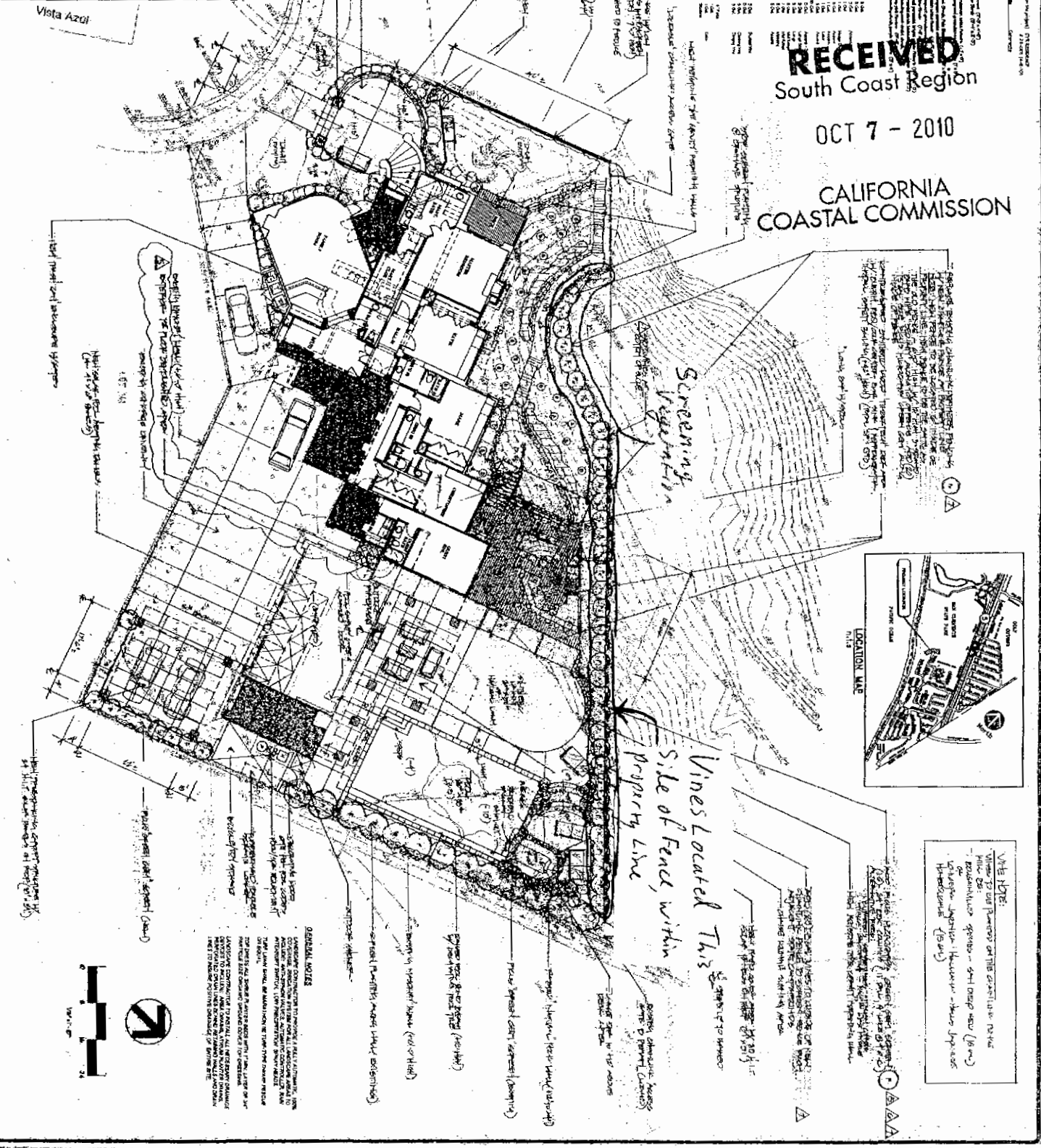
As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



RECEIVED
 South Coast Region
 OCT 7 - 2010
 CALIFORNIA
 COASTAL COMMISSION

TABULATIONS

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY	10/10/10	J.P.
2	REVISED	10/10/10	J.P.
3	REVISED	10/10/10	J.P.
4	REVISED	10/10/10	J.P.
5	REVISED	10/10/10	J.P.
6	REVISED	10/10/10	J.P.
7	REVISED	10/10/10	J.P.
8	REVISED	10/10/10	J.P.
9	REVISED	10/10/10	J.P.
10	REVISED	10/10/10	J.P.



WHILE HERE:

When to our Property of the residence to the north
 will be
 residential garden - set deep near (10-15)
 or light - medium - heavy - blue - light
 horizontal (10-15)

PRINT DATE: 10-10-2010

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY	10/10/10	J.P.
2	REVISED	10/10/10	J.P.
3	REVISED	10/10/10	J.P.
4	REVISED	10/10/10	J.P.
5	REVISED	10/10/10	J.P.
6	REVISED	10/10/10	J.P.
7	REVISED	10/10/10	J.P.
8	REVISED	10/10/10	J.P.
9	REVISED	10/10/10	J.P.
10	REVISED	10/10/10	J.P.

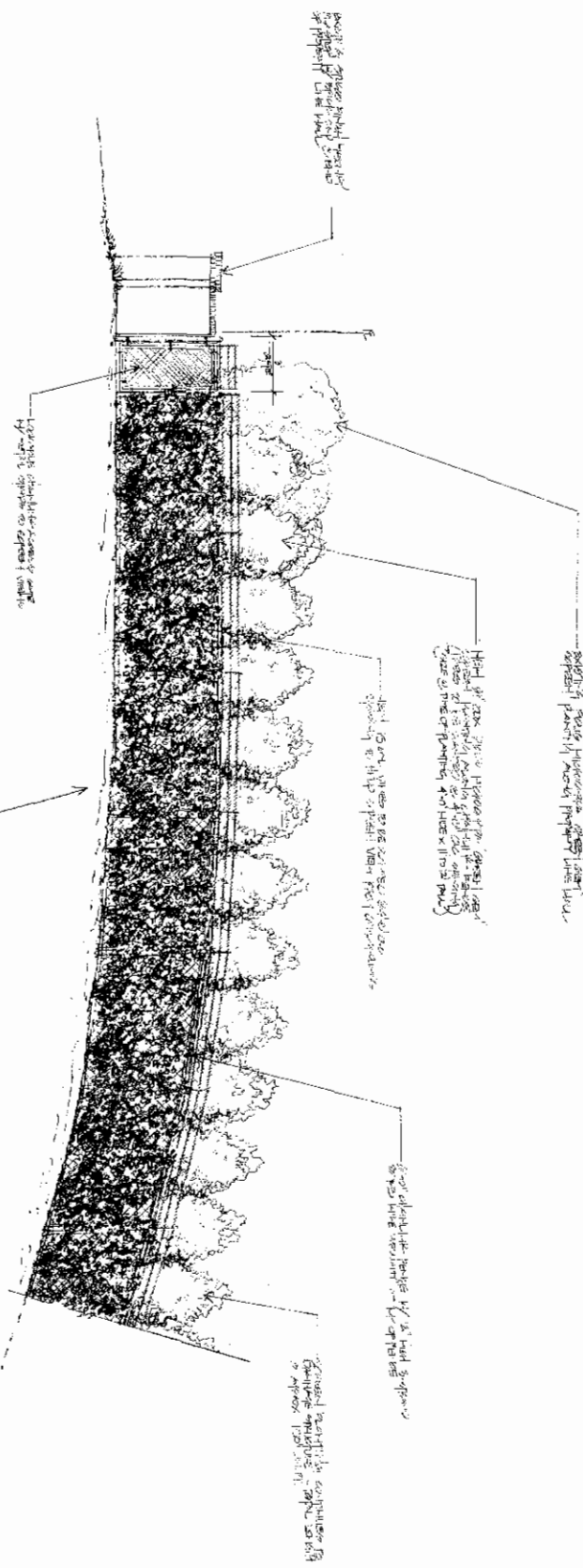
Author:
 Landscape
 Plan

CYR RESIDENCE
 3803 Vista Azul
 San Clemente, CA 92672



LANDSCAPE ARCHITECT
JAMES PEKAR
 1215 S. Bascom
 San Jose, CA 95128
 (415) 255-1111
 www.jamespekar.com

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY	10/10/10	J.P.
2	REVISED	10/10/10	J.P.
3	REVISED	10/10/10	J.P.
4	REVISED	10/10/10	J.P.
5	REVISED	10/10/10	J.P.
6	REVISED	10/10/10	J.P.
7	REVISED	10/10/10	J.P.
8	REVISED	10/10/10	J.P.
9	REVISED	10/10/10	J.P.
10	REVISED	10/10/10	J.P.



VIEW FROM SPARE SWANK CONTIGUOUS

SECTION 1
10'-0"

some in areas to establish composition

Large trees to provide shade & privacy

Small trees to provide shade & privacy

Plant in back yard to provide privacy & shade
Use of large trees to provide shade & privacy
Use of small trees to provide shade & privacy

Small trees to provide shade & privacy

Plant in back yard to provide privacy & shade

Small trees to provide shade & privacy

Small trees to provide shade & privacy

CALIFORNIA COASTAL COMMISSION

OCT 7 - 2010

RECEIVED
South Coast Region

PRINT DATE: 10-5-10

NO.	DATE	BY	REVISION
1			
2			

Locations & Sections

CYR RESIDENCE
3803 Vista Azul
San Clemente, CA 92672



LANDSCAPE ARCHITECT
JAMES PEKARSKO
1219 GARDEN
SAN CLEMENTE, CA 92672
PHONE: (949) 385-0886
CELL: (949) 385-0886

NO.	DATE	BY	REVISION
1			
2			