

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
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Staff: BP-SD
Staff Report: September 17, 1997
Hearing Date: October 7-10, 1997



REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Wed 96

Application No.: 6-97-49

Applicant: Jones Building

Agent: Thomas E. Jones

Description: Demolition of an existing 1,830 sq.ft. single family dwelling and construction of a one-story, 5,285 sq.ft. single family residence, attached garage and swimming pool on a 1.619 acre lot. The applicant proposes approximately 1,730 cubic yards of cut grading and 340 cubic yards of fill, with 1,390 cubic yards proposed to be exported off-site; grading is proposed to occur until November 15, 1997.

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|--------------------|-------------------------|
| Lot Area | 70,554 sq. ft. |
| Building Coverage | 6,629 sq. ft. (9%) |
| Pavement Coverage | 5,020 sq. ft. (7%) |
| Landscape Coverage | 37,380 sq. ft. (53%) |
| Unimproved Area | 21,525 sq. ft. (31%) |
| Parking Spaces | 2 |
| Zoning | R-1-15 |
| Plan Designation | Res. Medium (0-8 du/ac) |
| Ht abv fin grade | 19 feet |

Site: 4529 Adams St., Carlsbad, San Diego County. APN 206-200-09.

Substantive File Documents: Certified Agua Hedionda Land Use Plan
City of Carlsbad Hillside Development Permit

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the project subject to special conditions regarding the recordation of an open space deed restriction, revised landscaping plans, brush management plans, provision of final grading and runoff control plans, and a plan for the disposal of graded spoils. The open space deed restriction will preserve on-site areas containing coastal sage scrub, an environmentally sensitive habitat. The revised landscaping plan will assure that proposed landscaping in the proximity of the open space areas will be compatible with the sensitive habitat. The brush management condition will require a fire protection plan to be approved by the Carlsbad Fire Department to assure adequate setback from open space areas to avoid the need to remove vegetation for fire protection within the open space areas. If an adequate setback is not proposed, a revised site plan will be required

which would result in the proposed residence being resited to another location on the lot to avoid clearcutting of sensitive vegetation in the open space areas. The proposed grading and erosion control plan is required to assure that temporary and permanent erosion control measures are installed prior to or concurrent with the grading of the site so that no downstream sedimentation impacts to Agua Hedionda Lagoon would take place. The application also proposes grading within the rainy season, which begins October 1 and ends on April 1. Because the applicant proposes to grade only until November 15, proposes minimal grading and proposes temporary and permanent erosion control measures, staff recommends that the Commission approve this encroachment. Finally, the location for the disposal of graded spoils must be identified. If the site is located within the coastal zone, a separate coastal development permit or permit amendment must be obtained so that the Commission can be assured that its disposal will not result in adverse impacts to coastal resources. These measures are necessary to mitigate project impacts on this hillside lot that contains disturbed coastal sage scrub habitat and is located between the first coastal roadway and Agua Hedionda Lagoon.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Open Space Deed Restriction. Prior to the issuance of the coastal development permit, the applicant shall record a restriction against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall prohibit any alteration of landforms, erection of structures of any type and removal of vegetation for any purposes in the area shown on the attached Exhibit "3" to ensure preservation of all coastal sage scrub on steep slopes. Brush management as approved in CDP #6-97-49 shall be permitted. The recording document shall include legal descriptions of both the applicant's

entire parcel and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review of the Executive Director.

2. Revised Landscaping Plan. Prior to the issuance of the coastal development permit, the applicant shall submit a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. Use of native plant species compatible with the adjacent coastal sage/chaparral vegetation shall be used on the slopes surrounding the residence. At least 6 specimen-sized trees (24 inch box) shall be planted at various locations to break-up the mass of the residence and help mitigate the project's visual impact when viewed from the lagoon and I-5. Said plan shall be reviewed and approved by the Executive Director in consultation with the California Department of Fish and Game.

3. Revised Site Plan/Brush Managment Program. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a brush management program approved by the City of Carlsbad Fire Department. The plan shall include a scaled site plan exhibit showing a 100 foot distance beyond the building pad and the required open space area. The plan shall designate those areas subject to clearcut vegetation removal for fire protection purposes, and all those areas subject to selective thinning and pruning. Said program shall indicate that no clearcut vegetation removal for brush management purposes shall be permitted within the required open space areas; therefore, if the existing setback of the residence is not sufficient to prevent clearcut removal of vegetation for fire protection purposes, the site plan shall be revised in accordance with the setback required by the fire department to prevent such clearcut. The project construction and implementation of the brush management program shall be in accordance with the approved plans.

4. Grading and Erosion Control. The applicant shall comply with the following conditions related to grading and erosion control:

A. Prior to the issuance of the permit, the applicant shall submit final grading plans, approved by the City, to the Executive Director for review and written approval. Said grading plans shall be in substantial conformance with the submitted plans and shall indicate no encroachment into the open space requirements contained in Special Condition #1.

This coastal development permit approves a one-time grading season encroachment until November 15, 1997. Prior to commencement of any grading activity, the permittee shall submit a final grading plan approved by the City of Carlsbad.

B. All permanent run off and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

C. All areas disturbed but not completed during the construction season, including graded pads, shall be stabilized in advance of November 15, 1997. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss from the construction site.

The applicant shall undertake the development in accordance with the approved grading and erosion control plan. Any variation from the schedule shall be reviewed as an amendment to this coastal development permit.

5. Disposal of Graded Spoils. Prior to the issuance of the coastal development permit, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes demolition of an existing 1,830 sq.ft. single family dwelling and construction of a one-story, 5,285 sq.ft. single family residence, attached garage and swimming pool on a 1.619 acre lot. The proposed expansion of the building pad and access will require approximately 1,730 cubic yards of cut grading and 340 cubic yards of fill, with 1,390 cubic yards proposed to be exported off-site. The applicant proposes grading to occur until November, 15, 1997.

The site of the proposed construction is a hillside lot located on the lagoonward side of Adams Street, which is the first public roadway nearest the north shore of Agua Hedionda Lagoon in the City of Carlsbad. Although located between Adams and the lagoon, the site does not have lagoon frontage. Part of the hillside area below the existing building pad area contains steep slopes which are slopes greater than 25% gradient. Approximately .55 acres of steep slopes occur on the property which are presently vegetated with native, disturbed coastal sage scrub and chaparral vegetation. The project proposes an 8% encroachment onto steep slopes, but no encroachment into environmentally sensitive dual criteria slopes (i.e., steep slopes containing coastal sage scrub or chaparral vegetation).

The land use designation applied to the site in the Agua Hedionda Land Use Plan is RM, which would allow development at a maximum density up to eight dwelling units per acre.

2. Environmentally Sensitive Habitat Areas. Section 30240 of the Act states:

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

In addition, Section 30253 of the Coastal Act states, in part:

New development shall: (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Finally, Section 30251 of the 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....

The project site contains steep slopes and disturbed environmentally sensitive habitat and is located on the lagoon side of Adams Street. Agua Hedionda Lagoon is recognized by the State Department of Fish and Game as one of the 19 most valuable coastal wetland areas in the State, as referenced in Section 30233 of the Coastal Act. Grading or other development of steep slopes within the lagoon's watershed presents three concerns. The first is the visual impact of such activity; the second is the increased likelihood of erosion, runoff and sedimentation to the lagoon if such steep slopes are graded, and the third is the effect the proposed project would have on environmentally sensitive habitat, in this case coastal sage scrub.

The certified Agua Hedionda Land Use Plan includes policies intended to prevent the potential adverse environmental impacts associated with grading on steep slopes, especially those in proximity to the lagoon. Policy 4.4 of the Land Use Plan states in part:

Policy 4.4

...b. Development, grading and landform alteration in steep slope areas (25%) shall be restricted. Exceptions may include encroachments by roadway and utilities necessary to reach developable areas. The maximum allowable density shall be calculated on the total lot area, although this may be modified through setbacks, plan review, or other requirements of this plan and applicable city regulations.

c. Use of the Planned Development (PD) Ordinance and cluster development shall be required in areas containing environmentally sensitive resources, extensive steep slope areas and significant natural landform features.

With respect to habitat impacts, as stated in Policy 4.4 of the Agua Hedionda LUP, development, grading and landform alteration is restricted in steep slope areas (25%) subject to a few exceptions. Exceptions may include encroachments by roadway and utilities necessary to reach developable areas; additionally, encroachment associated with Circulation Element roads (as identified in the City's LCP) is permitted under the above policy. While the Agua Hedionda LUP restricts development on steep slopes, other LUPs within the Carlsbad LCP (Mello I, Mello II, East Batiquitos Lagoon/Hunt Properties and West Batiquitos Lagoon/Sammis Properties) have policies that protect those areas that contain both steep slopes and environmentally sensitive vegetation like coastal sage scrub and chaparral. The LUPs recognize naturally vegetated steep slopes are deserving of greater protection and acknowledge up to 10% encroachment may be permitted on such slopes under certain circumstances.

Approximately .73 acres of the 1.62 acre site has steep slopes with a 25% or more gradient. As noted, the project would encroach onto 8% of the unvegetated steep slope areas of the site. No dual criteria slopes (i.e., slopes with coastal sage scrub that are greater than 25% grade) would be affected by this encroachment.

About half of the encroachment includes filling part of the hillside area immediately adjacent to the building pad to bring it to the same elevation as the building pad and the street elevation. A small retaining wall is proposed to retain the fill on the hillside. The City is requiring this area be brought to the street elevation for safety purposes. That is, the site's access from Adams is at the steepest part of a hairpin curve and the City has indicated that creation of a flat area on-site would serve as a safety area for cars going too fast through the curve. The proposed widening of Adams Street, a circulation element road, on the upper portion of the property would also be allowed in the LUP. The remaining encroachment, exclusive of that necessary for the preceding road and driveway construction, is proposed near the edge of the building pad where the topography drops off into the hillside portion of the lot. Again, no dual criteria slopes would be affected by this encroachment, only unvegetated slopes in excess of 25% grade.

Native disturbed coastal sage scrub vegetation currently exists in three locations on the property. No direct encroachment onto these areas from construction activities is proposed. The City of Carlsbad has conditioned the project to put these pockets into open space through an open space easement. Although no direct encroachment on naturally vegetated steep slopes is proposed, due to the proposed setback of the residence from the open space area (i.e., less than 10 feet in some locations) the potential exists for brush management in the form of clearcut vegetation removal within the open space area if required by the Carlsbad Fire Department. Such vegetation removal would be inconsistent with Section 30240 of the Coastal Act and past Commission precedent.

Therefore, Special Condition #3 requires a brush management program. The plan shall include a scaled site plan, approved by the Executive Director, showing a 100 foot distance beyond the building pad, designating the area subject to clearcut vegetation removal for fire protection purposes, and the area subject

to selective thinning and pruning. Said program shall indicate that no clearcut for brush management purposes shall be permitted into the open space areas. This program shall utilize native fire retardant plant species and sufficient setback for the residential development to minimize the need for future brush clearance in the open space area. Therefore, if the existing setback of the residence is not sufficient to prevent clearcut removal of vegetation for fire protection purposes, the site plan shall be revised in accordance with the setback required by the fire department to prevent such clearcut.

Special Condition No. 1 requires the applicant to record an open space deed restriction that will ensure preservation of the vegetation and would allow fuel management in the open space area through use of fire retardant species; however, no clear cutting for fire protection purposes would be permitted.

While the public viewshed on the northern shore of Agua Hedionda Lagoon has been incrementally impacted by development, it still has value as a scenic resource. Adams Avenue has been designated in the LUP as a Scenic Highway, and views from the highway to the lagoon are preserved. Policy 8.3 requires that new development cannot extend above the elevation of Adams Avenue. In this case, the existing structure extends above the centerline and was constructed prior to the passage of the Coastal Act. The proposed residence, although larger, will extend no higher than the existing residence. The Commission can accept the proposed residence because it does not present an obstruction of views from the roadway to the lagoon beyond what currently exists. Additionally, the proposed landscaping enhances the visual value of the hillside area above the lagoon so that approval of the project will not represent an incremental visual degradation of this still scenic area.

Special Condition #2 requires the applicant to provide a revised landscaping plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. The landscaping plan submitted with the application indicates that the site will be planted with primarily non-native ornamental vegetation. Instead, based on the existence of the native habitat on the site and to promote greater soil stability, drought tolerant plant materials should be utilized to the maximum extent feasible. The Commission finds that use of native plant species compatible with the adjacent coastal sage/chaparral vegetation should be used on the slopes surrounding the residence, and that the revised landscaping plan should be reviewed by the California Department of Fish and Game in consultation with the Executive Director. With respect to mitigating the project's visual impacts, the landscaping plan indicates 6 specimen-sized trees (24 inch box) will be planted at various locations to break-up the mass of the residence and help mitigate the project's visual impact when viewed from the lagoon and I-5.

With these conditions, the Commission finds the proposed project will not have a significant impact on visual quality and coastal resources and will be consistent with the certified Agua Hedionda LCP Land Use Plan and the preceding resource protection sections of the Coastal Act.

3. Grading/Erosion Control. The applicant is proposing approximately

1,730 cubic yards of cut grading and 340 cubic yards of fill, with 1,390 cubic yards proposed to be exported off-site for site preparation. As stated above, the project site is located in the watershed of Agua Hedionda Lagoon. Without the proper grading and erosion control measures, the project could have a negative impact on the lagoon. The applicant has provided a grading and drainage plan which indicate drainage and runoff will be conveyed off-site to an existing storm drain serving the adjacent 23-unit Bristol Cove development at non-erosive velocities.

Regarding the request to grade within the rainy season, the applicant has submitted a grading and erosion control plan for the subject proposal to prevent erosion and subsequent sediment transport into sensitive resource areas, particularly during the winter rainy season. The proposed temporary and permanent erosion controls take the form of temporary checkdams, sandbag chevrons, curb inlets and a french drain as well as drainage improvements associated with the construction of a portion of Adams Avenue. The grading plan indicates all areas disturbed, but not completed, during the construction season shall be stabilized prior to November 15, 1997. The above provisions are memorialized in Special Condition #4, which also requires that no grading can occur within the approved open space area. In this case, the Commission can accept the rainy season encroachment based on the minor amount of grading associated with this project.

As noted, approximately 1,390 cubic yards of material is proposed to be exported off-site. Special Condition #5 requires the applicant to identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

Thus, the Commission finds the proposed project consistent with the Chapter 3 policies of the Coastal Act and the certified Agua Hedionda Land Use Plan.

4. Local Coastal Planning. Section 30604 (a) 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. As stated above, the subject development proposal, as conditioned, is consistent with the applicable Chapter 3 policies of the Coastal Act and is consistent with the intent of the applicable Agua Hedionda Land Use Plan policies, most notably Policy 4.4. The Commission therefore finds that the subject proposal will not prejudice the ability of the City of Carlsbad to prepare and implement a fully certifiable Local Coastal Program for the area.

5. 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)(i)

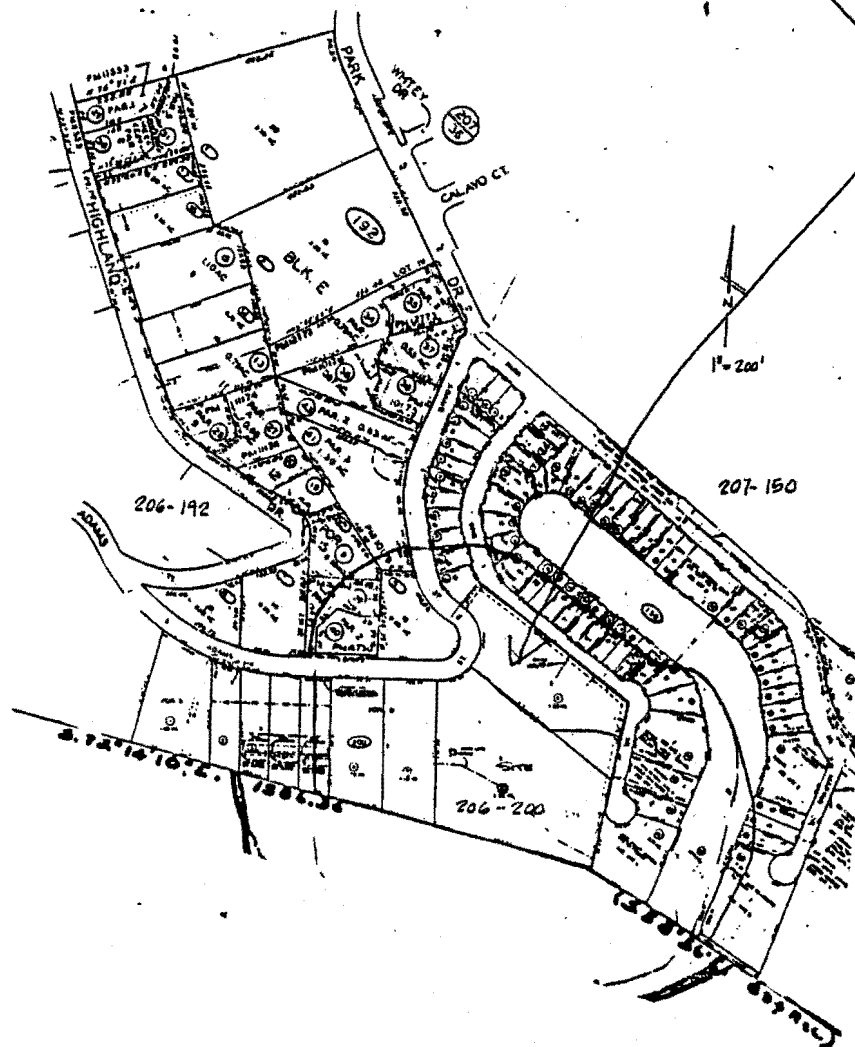
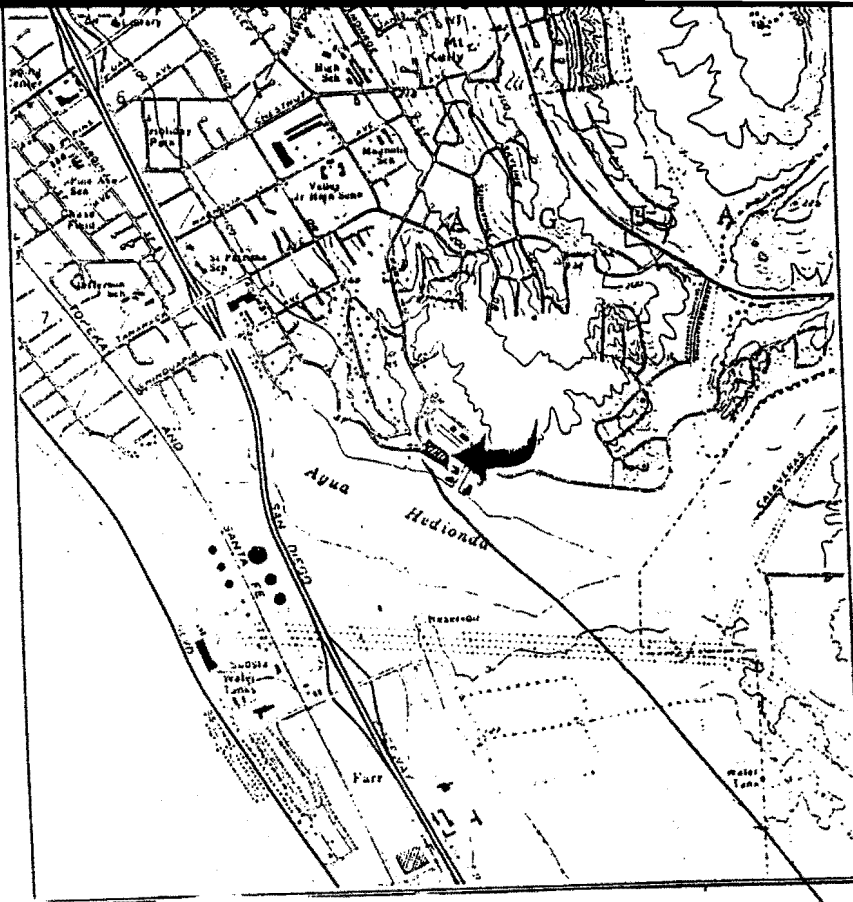
of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

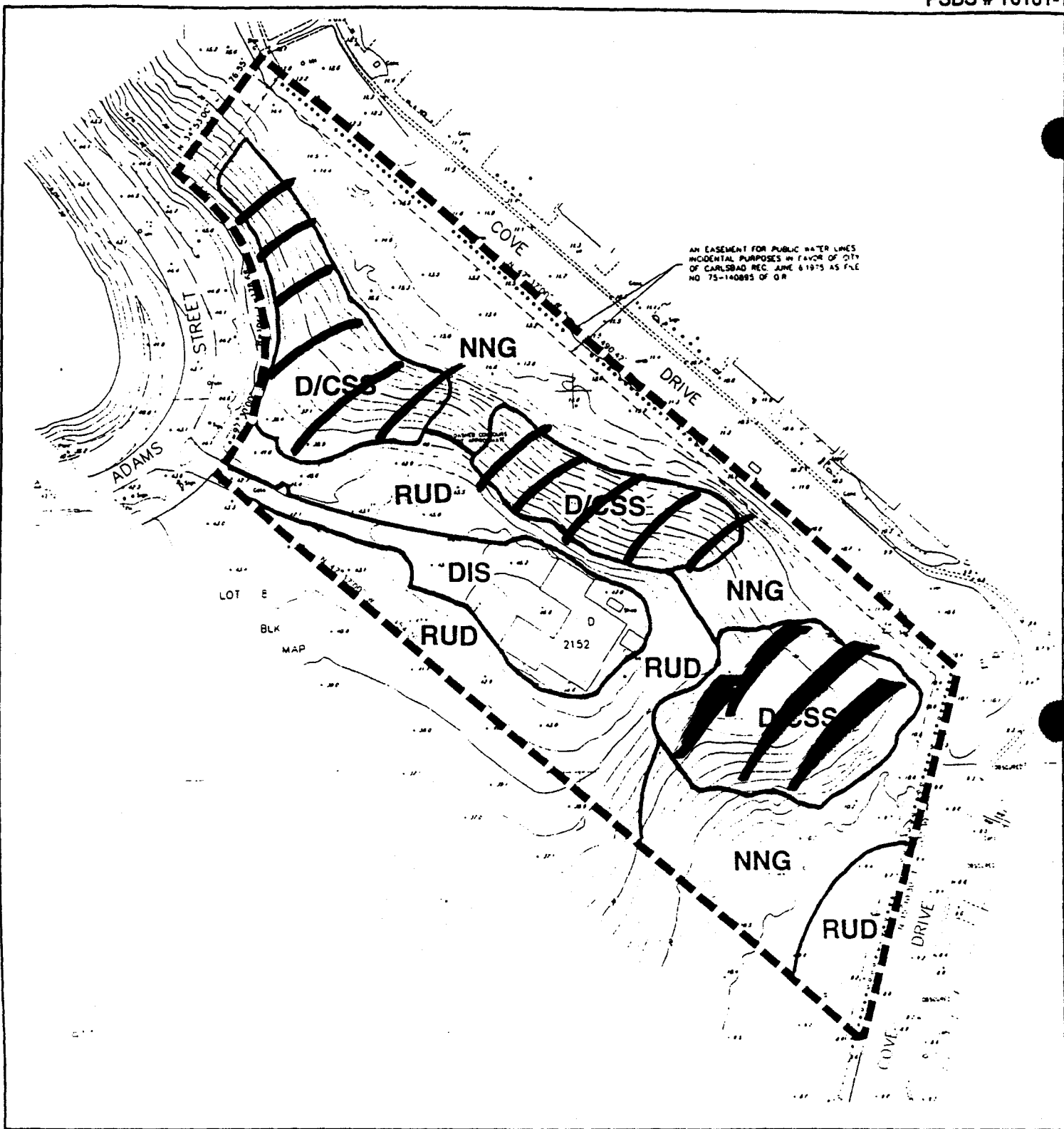
1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

(7049R)



Site

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|-------------------------------|
| EXHIBIT NO. 1 |
| APPLICATION NO. 0-97-49 |
| location |
| California Coastal Commission |



Legend

D/CSS Disturbed Coastal Sage Scrub

DIS Disturbed

NNG Non-Native Grassland

RUD Ruderal/Horticultural

not mapped California Adolphia (*Adolphia californica*) scattered throughout the disturbed coastal sage s

--- Gold Coast Property Boundary

Figure 3. Vegetation and Sensitive Resources

Pacific Sou.

EXHIBIT NO. 3

APPLICATION NO.

0-97-49

Open Space

California Coastal Commission