

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

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49th Day: September 18, 1998  
180th Day: January 27, 1999  
Staff: EL-SD  
Staff Report: September 8, 1998  
Hearing Date: October 13-16, 1998

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

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Application No.: 6-98-100

Applicant: Michael Rosengarten

Agent: Dominy &amp; Associates

Description: Construction of a three-level, 35-foot high, 3,500 sq.ft. single-family residence including an attached 400 sq.ft., two-car garage on a vacant, 28,969 sq.ft. site.

Lot Area	28,969 sq. ft.
Building Coverage	1,465 sq. ft. ( 5%)
Pavement Coverage	2,301 sq. ft. ( 8%)
Landscape Coverage	0 sq. ft. ( 0%)
Unimproved Area	25,203 sq. ft. (87%)
Parking Spaces	2
Zoning	Carmel Valley Precise Plan (CVPP)
Plan Designation	Residential Single-Family/CVPP
Ht abv fin grade	35 feet

Site: Lot 4 of the Carmel Valley Precise Plan, east of 469 Oceanview Avenue, Del Mar, San Diego County. APN 301-033-44

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed single-family residence. Because the site is visible from public recreation areas and access routes (Torrey Pines State Beach, Highway 101 and Los Penasquitos Lagoon), Special Conditions #1 and #2 require recordation of a deed restriction addressing colors and landscaping. Special Condition #3 requires submittal of a drainage plan consistent both with the City's requirements in its Design Review Board approval and typical Commission precedent. Finally, Special Condition #4 requires the applicant to identify a site for disposal of excavated materials. With the conditions, the project is consistent with all applicable Chapter 3 policies of the Coastal Act. It is staff's understanding that the conditions are acceptable to the applicant.

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Substantive File Documents: Certified City of Del Mar LCP Land Use Plan  
Carmel Valley Precise Plan  
CCC files #F9134 and 6-91-115

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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. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and written approval, final plans for the proposed development which shall be in substantial conformance with the preliminary plans titled "Rosengarten Residence" and dated June 18, 1998. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director. Proposed changes to the approved plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Exterior Treatment/Landscaping. The color of the structure and roof permitted hereby shall be restricted to colors compatible with the surrounding environment, and shall consist of deep natural earthen tones and colors, with no white or light shades, and no bright tones, except as minor accents, to minimize contrast with the surrounding hillsides and open space areas. Also, the applicant shall plant and maintain in good health appropriate landscaping to soften and screen views of the approved residence from Torrey Pines State Beach, Highway 101 and Los Penasquitos Lagoon,

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and written approval, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed residence and final landscaping plans, approved by the City of Del Mar, reflecting the restrictions stated above on the proposed development. The landscaping plans shall indicate the type, size, extent and location of all plant materials, any proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible.

Also, PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

The permittee shall undertake development in accordance with the approved color board and final landscaping plans. Any proposed changes to the approved color board or landscaping shall be reported to the Executive Director. Proposed changes to the approved color board or landscaping plan shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Drainage/Runoff/Sedimentation Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, final drainage and runoff control plans for the project designed by a licensed engineer qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from the developed site over runoff from the natural site, as a result of a ten-year frequency storm over a six-hour duration (10 year, 6 hour rainstorm). The plan shall first be approved by the City of Del Mar and identify the location and type of existing drainage facilities, on-or off-site, which are part of the CVPP improvements or the City of Del Mar municipal stormwater system, and shall document that runoff from the impervious surfaces of the site will be collected and discharged at a non-erosive velocity and elevation. Energy dissipating measures at the terminus of any proposed outflow drains shall be constructed. Any vegetation removed to install such measures shall be replanted with native vegetation. The applicant shall also submit a written commitment indicating that all devices shall be installed and maintained by the applicant in accordance with the approved plan.

4. Disposal of Excavated Materials. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the disposal site for any excavated materials being exported. If the identified site is within the coastal zone, it must have a valid coastal development permit allowing import of such material.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes construction of a multi-level single-family home on an existing, previously-subdivided, vacant 28,969 sq.ft. lot in the southeastern portion of the City of Del Mar. Proposed are three levels of living space in a 35-foot high structure, for a total of 3,100 sq.ft., with an attached, 400 sq.ft. two-car garage on the first level. The site is highly constrained, consisting almost entirely of steep slopes, some nearly vertical, and a narrow canyon bottom. It is surrounded by other single-family residences of various sizes and designs.

The Carmel Valley Precise Plan (CVPP), which created the subject lot and twenty-eight other building sites, was approved by the Coastal Commission as consistent with Chapter 3 of the Coastal Act under Coastal Development Permit #F9134. The CVPP established a building envelope and included specific development criteria for each lot within the subdivision. The subject site is required in the CVPP to use caisson foundations, with no grading of the natural terrain permitted. The proposed development is consistent with this criteria, although a variance was approved by the City to allow minor excavation for the caisson footings and to set the sides of the home into the hillsides. This will generate 152.6 cu.yds. of graded material to be exported off-site. Because no site has yet been identified for the disposal of this excavated material, Special Condition #4 is attached to assure that, if the chosen site is within the coastal zone, the disposal location has a valid coastal development permit for import.

Although Chapter 3 of the Coastal Act is the standard of review for this permit, the previously-approved CVPP contains the specific criteria for development of this particular subdivision, and, as stated above, has already been found consistent with Chapter 3. Although the development criteria is different than that applied elsewhere in the City of Del Mar, through the now-certified LCP Land Use Plan, the CVPP is itself an addendum to that plan. In addition to the criteria mentioned above, the CVPP also requires the retention of existing Torrey Pines on the site. The proposed residence is designed around and between the four existing mature trees, all of which are thus retained. Other than retaining all existing native vegetation, most of which occurs within dedicated open space areas of the site, no landscaping is proposed herein.

2. Visual Resources. Section 30251 of the Coastal Act provides for the protection of scenic coastal resources, and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The subject site is part of a residential subdivision, which includes varied terrain, and significant amounts of natively-vegetated open space. Although development criteria varied from lot to lot, the general concept was to minimize the alteration of natural landforms, and build to conform to the existing sites. The proposed residence is consistent with that requirement, and will be similar in scale to other existing homes in the community.

The entire subdivision is located on a hillside above Carmel Valley Road, north of Los Penasquitos Lagoon. The subject site is one of very few remaining vacant lots in the area, and is visible from the lagoon, Highway 101 and Torrey Pines State Beach. The Commission has historically limited colors and building materials on homes located within major public viewsheds such as the subject site to minimize contrast between the home and the adjacent hillside and to generally minimize the visual impacts of the project. Special Condition #2 requires the applicant to utilize earthen tones for home construction and to submit a color board proposing an appropriate palette.

Although the subject site contains a good amount of existing vegetation, the proposed development does not include any impacts to native vegetation or habitat and no additional landscaping is proposed. With the proposed pier/caisson foundation and multi-level design, the home will be very visible, albeit at a distance, from the identified public access and recreational sites. The Commission finds that some landscape screening along the southern facade of the proposed home would soften views from these locations and allow the proposed home to visually blend into the hillside more completely. Special Condition #2 requires the applicant to plant and maintain suitable landscaping. The applicant must submit a detailed landscaping plan identifying plant species and any proposed irrigation. Native or naturalizing plant materials are required, both to minimize the need for irrigation and also to be compatible with adjacent open space areas.

Special Condition #2 also requires recordation of a deed restriction to assure that these requirements are carried out for the life of the proposed development. These conditions are similar to ones approved on the most recent construction in the CVPP, Coastal Development Permit #6-91-115, which authorized construction of a single-family residence on an immediately adjacent site. Given these conditions, the potential for visual impacts associated with the proposed development has been reduced to the maximum extent feasible. Therefore, the Commission finds the subject proposal, as conditioned, consistent with Section 30251 of the Act.

3. Drainage and Erosion Controls. The following Coastal Act policies are most applicable to this concern, and state, in part:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects

of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30253

New development shall:

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

The subject site consists almost exclusively of steep slopes in excess of 25% grade, approaching vertical in some locations. Although the project does not propose actual landform alteration, consistent with the previously-approved subdivision, some excavation will occur to accommodate the caisson footings and to set the home into the site. In addition, the proposed residence will increase the amount of impervious surfaces on the site to some degree, although much less than with a typical slab foundation design, since the ground under the elevated portions of the house can still absorb sheet flow.

To address drainage concerns, Special Condition #3 requires submittal and implementation of a drainage and erosion control plan. Under the condition, runoff from the developed site cannot exceed runoff under current, undeveloped conditions. The applicant must identify the location and type of any existing drainage improvements, whether installed under the CVPP or part of the municipal system. Also, the applicant must design, install and maintain any additional drainage facilities needed to meet the parameters of the condition. In this way, sensitive downstream resources will not be adversely impacted. As conditioned, the Commission finds the proposal consistent with the cited policies of the Coastal Act.

6. 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 for the proposed development, as conditioned.

The subject site is designated for single-family residential development in the certified City of Del Mar LCP Land Use Plan under the Carmel Valley Precise Plan. The construction of a single-family home proposed herein is consistent with that designation. The City's Design Review Board and variance approvals included several conditions, including requiring the retention of existing mature Torrey Pine trees and implementing

site drainage improvements. Drainage is also addressed herein, along with visual resources. As conditioned to address the identified resources, the project is consistent with all applicable Chapter 3 policies of the Coastal Act, and no adverse impacts to coastal resources will result. It is also consistent with the CVPP, which the Commission approved many years ago as being consistent with the Coastal Act, and which provides detailed criteria for development within the subdivision. Therefore, the Commission finds the proposed development will not prejudice the ability of the City of Del Mar to complete its implementation program and obtain a fully-certified Local Coastal Program.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the visual resources and runoff control policies of the Coastal Act. 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 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. 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.

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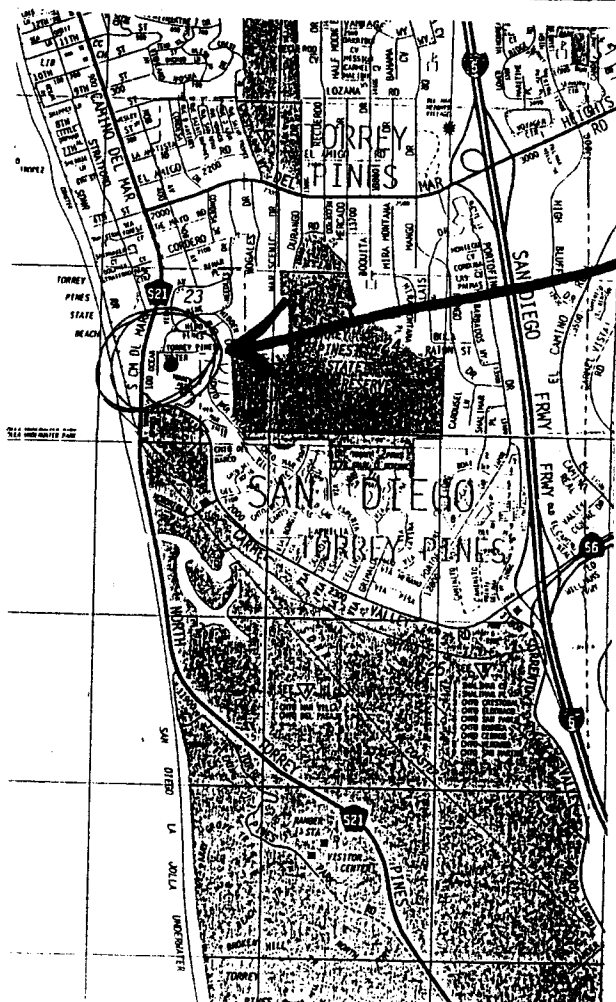
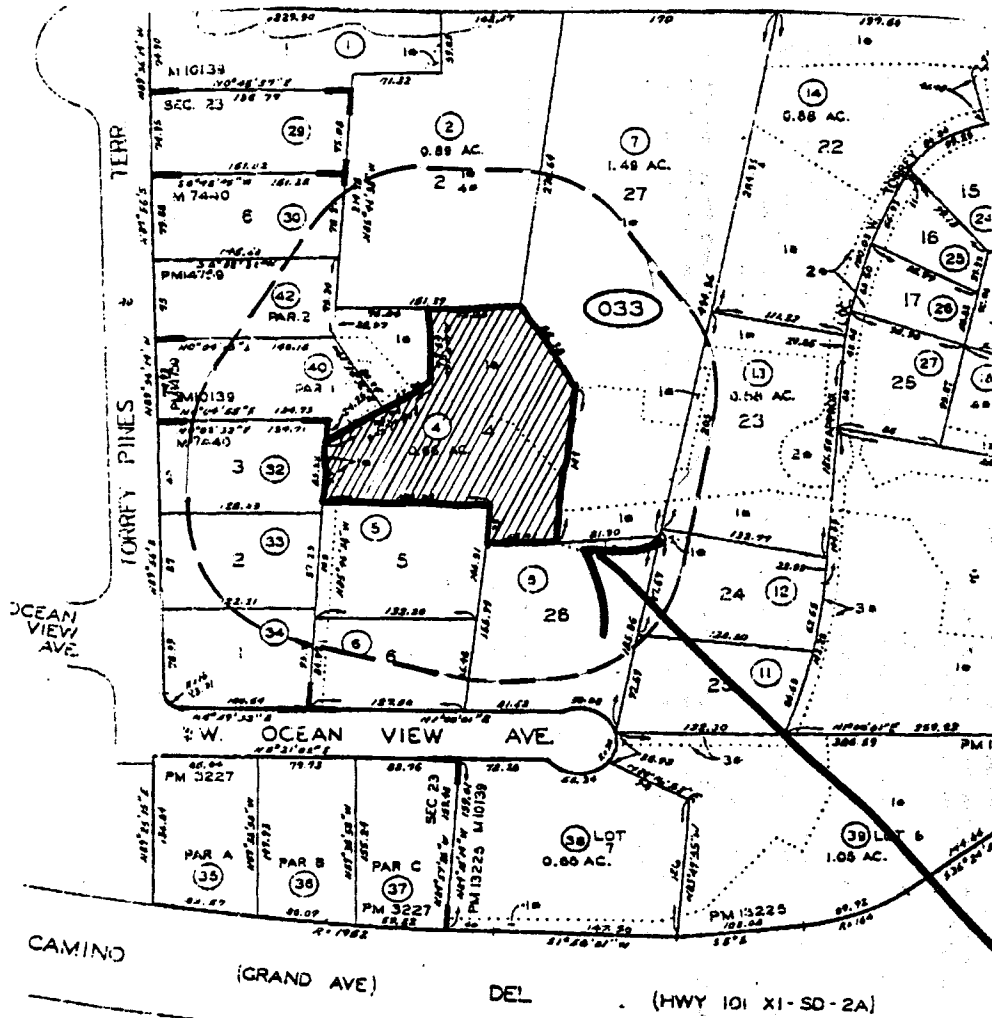


EXHIBIT NO. 1
APPLICATION NO. 6-98-100
Vicinity Maps
California Coastal Commission

APPLICATION NO.

## Site Plan