

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

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Wed 19c

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-20

Applicant: Donald Countryman/Burt Bondy

Description: Construction of a new, one-story, 7,220 sq.ft. single-family residence, including both attached and detached garages and associated grading, pool and landscaping improvements on a vacant, 71,002 sq.ft. parcel; the project includes dedication of all substantial slopes to the City of Del Mar as a permanent open space easement.

Lot Area	71,002 sq. ft.
Building Coverage	7,220 sq. ft. (10%)
Pavement Coverage	7,181 sq. ft. (10%)
Landscape Coverage	14,000 sq. ft. (20%)
Unimproved Area	42,601 sq. ft. (60%)
Parking Spaces	3
Zoning	R1-40
Plan Designation	Very Low Density Residential
Ht abv fin grade	14 feet

Site: 104 Stratford Court, Del Mar, San Diego County. APN 301-010-27

Substantive File Documents: Certified City of Del Mar LCP Land Use Plan
Del Mar Approvals: EA 97-04, CUP 97-09; DRB 97-60

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed development with special conditions addressing the proposed open space easement and planting restrictions to protect existing public ocean views. Issues raised by the project include potential impacts to visual

resources and public views, and development adjacent to substantial (steep, natural) slopes. These issues are resolved through project design, landscaping and the special conditions, which staff believes are acceptable to the applicant.

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. Conservation and Open Space Easement. No development, as defined in Section 30106 of the Coastal Act, shall occur on any substantial slopes on-site as defined in the certified City of Del Mar LCP Land Use Plan, and which are illustrated generally in Exhibit #3 of this staff report and described specifically as the "open space easement," on the plan on file at the Commission's office entitled "Site/Grading Plan-104 Stratford Court" and dated 10/24/97.

PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit to the Executive Director for review and approval a copy of the recorded irrevocable offer to dedicate an open space/conservation easement to the City of Del Mar, in accordance with the terms of the Project Description as proposed by the applicant.

2. Landscaping Restricted Area. Except for the landscaping shown on the plan on file at the Commission's office entitled "Landscaping Plan-104 Stratford Court" and dated 10/24/97, the planting of any vegetation which would, at maturity, exceed two feet in height is prohibited in the area of the subject property illustrated generally in Exhibit #3 of this staff report and described specifically as the "landscaping restricted area" located

south/southwest of the line S.25°40'00"W on the plan on file at the Commission's office entitled "Site/Grading plan-104 Stratford Court" and dated 10/24/97.

PRIOR TO ISSUANCE OF THE 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes construction of a 7,220 sq.ft. single-family residence on a vacant, 71,002 sq.ft. parcel. The home is proposed to be one story in height (14 feet maximum) above a partial basement (1,115 sq.ft.) and will include both attached and detached garages accommodating a total of three vehicles. Existing fill on-site will be removed and the home set into the existing landform such that the height of the home as seen above the elevation of Stratford Court is only 5.75 feet. Proposed associated improvements include a swimming pool, spa and landscaping. Construction of the home will require the removal of six mature eucalyptus trees; two mature eucalyptus and a mature melaleuca will be retained. Proposed landscaping includes Torrey Pine trees, additional accent trees, numerous shrubs and groundcover which will screen the proposed residence on all sides.

Approximately a third of the site consists of substantial slopes, as defined in the certified Del Mar LCP Land Use Plan (LUP). Substantial slopes refers to natural landforms at or exceeding 25% gradient, with an elevational difference of at least twenty feet. None of the substantial slopes will be encroached upon by the proposed development and an easement over all the slopes has been dedicated to, and accepted by, the City of Del Mar, pursuant to conditions of the required local approvals. The development is proposed to be built on existing flat area and manmade slopes (areas of fill) with a minimum twenty-foot setback from substantial slopes, as required in the certified LUP. Some minor grading to redirect runoff away from the slopes and into the existing municipal storm drain system is proposed within the required slope setback area.

The site is located near the southern end of the City of Del Mar, west of Camino del Mar and east of the existing railroad tracks along the bluffs. There is existing residential development between the site and the ocean bluff and northeast of the property; the area to the south is undeveloped land in public ownership. Stratford Court becomes a private

street just south of 4th Street, at the existing Del Mar Woods condominium project (northeast of the site) and then cul-de-sacs at the subject property. An existing paved public bike/pedestrian path leads south from the cul-de-sac, along the eastern edge of the subject site and merges with an unpaved area (an informal sidewalk) on the west side of Camino del Mar, which accesses Torrey Pines State Beach approximately half a mile further south. Public ocean views are available along this pathway across the steep slope portion of the subject site.

2. Visual Resources. Section 30251 of the Coastal Act provides for the protection of scenic coastal areas and for the compatibility of new and existing development. The subject site is located west of the first public road (Camino del Mar) but inland of the existing railroad tracks, such that it is not considered a blufftop lot. However, public views of the ocean are available to walkers and bikers on the existing paved pathway which runs along the eastern edge of the site. The proposed residential structure is sited and designed to not encroach into the existing ocean views from the access path. The existing ocean views are across the portion of the site being dedicated to the City of Del Mar through an open space easement. That portion of the site is also governed by a landscaping restriction intended to keep vegetation at a minimum height to protect the viewshed. The two restricted areas are not entirely identical in location. A portion of the landscaping restriction area is outside the area of the open space easement. However, a portion is within the open space easement to be dedicated to the City; the easement is also intended by the City to address LUP concerns relative to preservation of existing landforms and natural steep slopes.

These requirements were part of the local discretionary permits (Design Review Board approval and a Conditional Use Permit, since the site is within the designated Bluff, Slope and Canyon overlay of the City's certified LUP), and have thus been included as part of the proposed development in the subject coastal development permit application. The Commission finds that the dedication of the open space easement and the prohibition on vegetation above a certain height will protect public views consistent with Section 30251 of the Coastal Act. However, to insure the intent of the dedication and vegetation prohibition is carried out, special conditions are necessary; these intentions are thus further refined in Special Conditions #1 and #2, attached.

The project has the potential to adversely impact public views and scenic resources. Various proposed improvements (house, pool, landscaping, etc.) will be visible from the pedestrian/bike path, even though they will not block existing ocean views. To mitigate for these adverse visual effects, and to be consistent with steep slope policies (discussed in greater detail in subsequent findings), development must be prohibited within the area of natural steep slopes. The applicant has proposed the offer to dedicate an easement over the natural steep slopes to offset potential impacts. Had the dedicated easement not been part of the project proposal, as required by the City of Del Mar, the public view and visual resource issues raised by the development would have warranted an open space deed restriction as a condition of this permit. Since the applicant has made the offer to dedicate

an easement, and the City of Del Mar has accepted said dedication, the Commission, in Special Condition #1, instead is simply applying a prohibition on all development in the area delineated by the easement, rather than requiring that it be party to a separate legal document. In addition, the condition requires submittal of a copy of the recorded easement for the file.

The open space easement area includes much of the existing public ocean view from the pedestrian/bike path. Protection of the remainder of the viewshed is addressed in the landscaping restrictions applied to the southern part of the site. Special Condition #2 provides that no vegetation which will exceed two feet in height at maturity can be planted within the restricted area, and further requires the recordation of a deed restriction to formalize this requirement. An exception is allowed for the landscaping approved herein, which includes some shrubs three feet in height, immediately adjacent to portions of the proposed residence. This is in an area where the one-story residence itself will be recessed below the elevation of the pathway.

In addition to providing public ocean views across the site, the site itself is visible from two public areas: a brief portion of northbound Camino del Mar and a small area of the informal paths along the railroad right-of-way. The current view from northbound Camino del Mar is of the upper edge of the steep slopes and the flat upper area of the property where the home will be sited. Thus, the existing view includes the mature trees which will be removed. However, there are additional trees beyond these on an adjacent property which will remain, and new trees will be planted in this location under the proposed landscaping plan, such that the view will not significantly change in this respect. The southern end of the proposed home will be visible as well, but will not appear too prominent since the one-story house is recessed into the site and will, in this location, be below the elevation of Camino del Mar; moreover, landscaping improvements will partially screen this elevation of the home. Finally, the restrictions on planting in the southern part of the site (where the public view is across the edge of the slopes with the ocean in the distance), which is required both by local discretionary permits and by Special Condition #2 of this permit, will assure that mature vegetation will never block this existing view.

The view from the railroad right-of-way is more distant, and the steep slope/canyon portion of the site which will remain in permanent open space is most prominent from this perspective. However, even though the proposed residence is only one-story and is set back a minimum of twenty feet from the top of the slopes, it is likely that some portions of the roof of the proposed residence will be visible. Again, landscaping is proposed along the western elevation of the home, which will provide screening from the railroad right-of-way view. In addition, there is a large existing residence between the subject site and the railroad more visually prominent from this perspective, and other existing development east of the site, which will provide a backdrop. Thus, although some portions of the proposed home may be within the public viewshed, they will not be a dominant feature of

the landscape. Therefore, as proposed and conditioned, the Commission finds the project consistent with Section 30251 of the Act.

3. Public Access. Several Coastal Act policies address the provision, protection and enhancement of public access; those most applicable to the proposed development include, in part:

Section 30210.

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

Section 30212.

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected.

Although the subject site is neither an oceanfront nor blufftop lot, it is located between the first public road and the sea. In this location, Camino del Mar is the first public road, since Stratford Court dead-ends at the subject site, and is a private road in that area in any case. The railroad right-of-way and existing residential development are located between the subject site and the ocean, and there is no direct access to the beach. Access is available further south at Torrey Pines State Beach and to the north at Powerhouse Park. Only informal lateral access along the public beach and railroad right-of-way exists west of the site, and, between the potential instability of the bluffs west of the railroad, and the dangers associated with the railroad itself, public safety concerns preclude the formalization of any direct beach access in this area at this time.

However, as described previously, there is an existing paved public pedestrian/bicycle pathway immediately east of the subject site. This proceeds from the end of Stratford Court and joins Camino del Mar to the south, to continue in unimproved manner to Torrey Pines State Beach. This accessway and scenic overlook is in no way affected by the proposed development, and will remain available to the public in the future. The

Commission, therefore, finds the level of public access facilities commensurate with public safety, and thus consistent with the cited policies of the Coastal Act.

4. Hazards/Steep Slopes. Section 30253 of the Coastal Act is applicable to the subject permit application and states, in part:

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

Approximately one third of the subject site includes steep slopes at, or in excess of, 25% gradient. The certified City of Del Mar LCP Land Use Plan defines these as "substantial slopes" and includes specific requirements limiting encroachments, establishing minimal setbacks from the top and bottom of substantial slopes and preserving natural landforms in permanent open space. The proposed development is consistent with the LUP policies in that there will be no encroachment onto any identified natural steep slopes, and all said slopes will be preserved in open space through dedication to the City of Del Mar. The proposed structural improvements all maintain a minimum twenty-foot setback from the top of substantial slopes as required in the LUP. However, minor grading is permitted within the setback to redirect existing drainage patterns on site; thus, surface runoff which now goes over the slopes will be directed away from the slopes and into the City's municipal storm drain system.

The applicant has submitted geologic and geotechnical reports indicating the natural landforms are stable and the site can accommodate the proposed single-family home and accessory improvements. The reports recommend the removal or recompaction of areas of fill, which are believed to have been deposited on the site several years ago in conjunction with the construction of an adjacent subdivision. These recommendations are carried out in the proposed plans since areas of fill are being removed from the site in order to set the home into the landform. Therefore, the Commission finds the proposed development consistent with the intent of Section 30253 of the Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. As conditioned, such a finding can be made for the subject development.

The site is zoned R1-40 and designated for Very Low Density Residential development in the certified City of Del Mar LCP Land Use Plan. The proposal is consistent with those designations and is designed in conformity with the provisions of the Bluff, Slope and Canyon Overlay, with the exception of minor grading within the slope setback area to redirect site drainage. The project has received all required local discretionary approvals, including Design Review Board approval, a Conditional Use Permit and a certified Mitigated Negative Declaration. As conditioned herein, the proposal has also been found consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that project approval will not prejudice the ability of the City of Del Mar to complete a fully-certifiable Implementation Program for its LCP.

6. Consistency with the California Environmental Quality Act (CEQA).

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

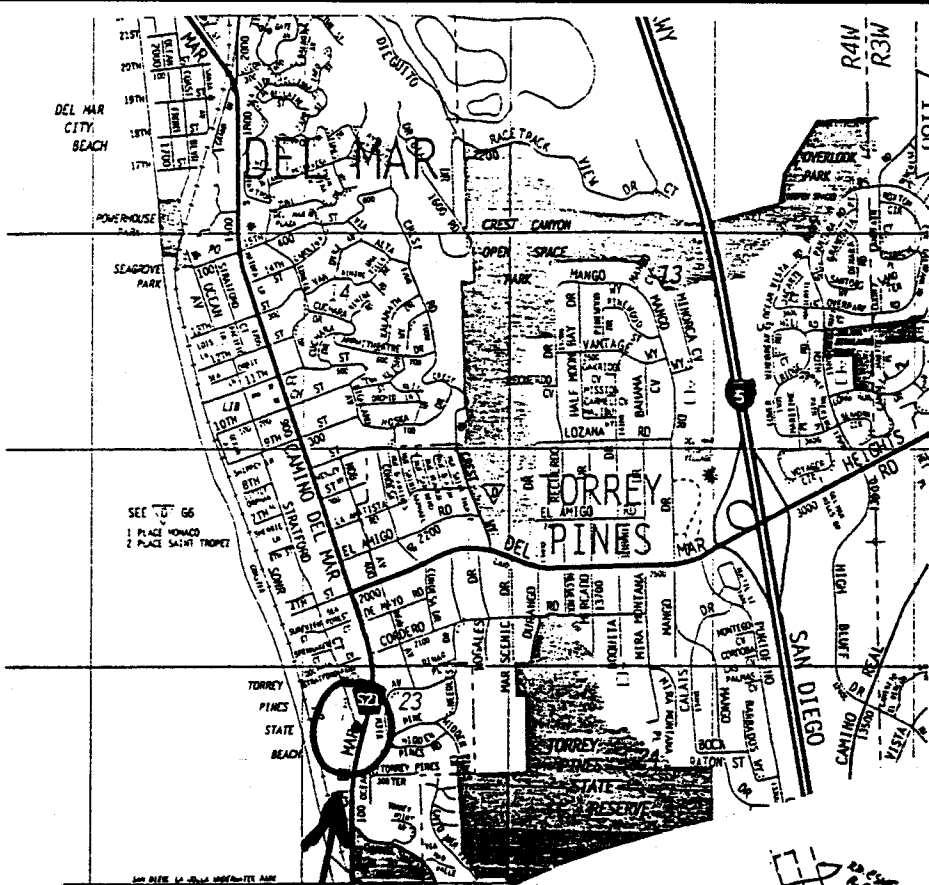
The proposed project has been conditioned in order to be found consistent with the visual resource and hazards policies of the Coastal Act. Mitigation measures, including conditions addressing retention of steep slopes in permanent open space and landscaping restrictions within a public viewshed, will minimize all adverse environmental effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project 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.

6-98-20



Site

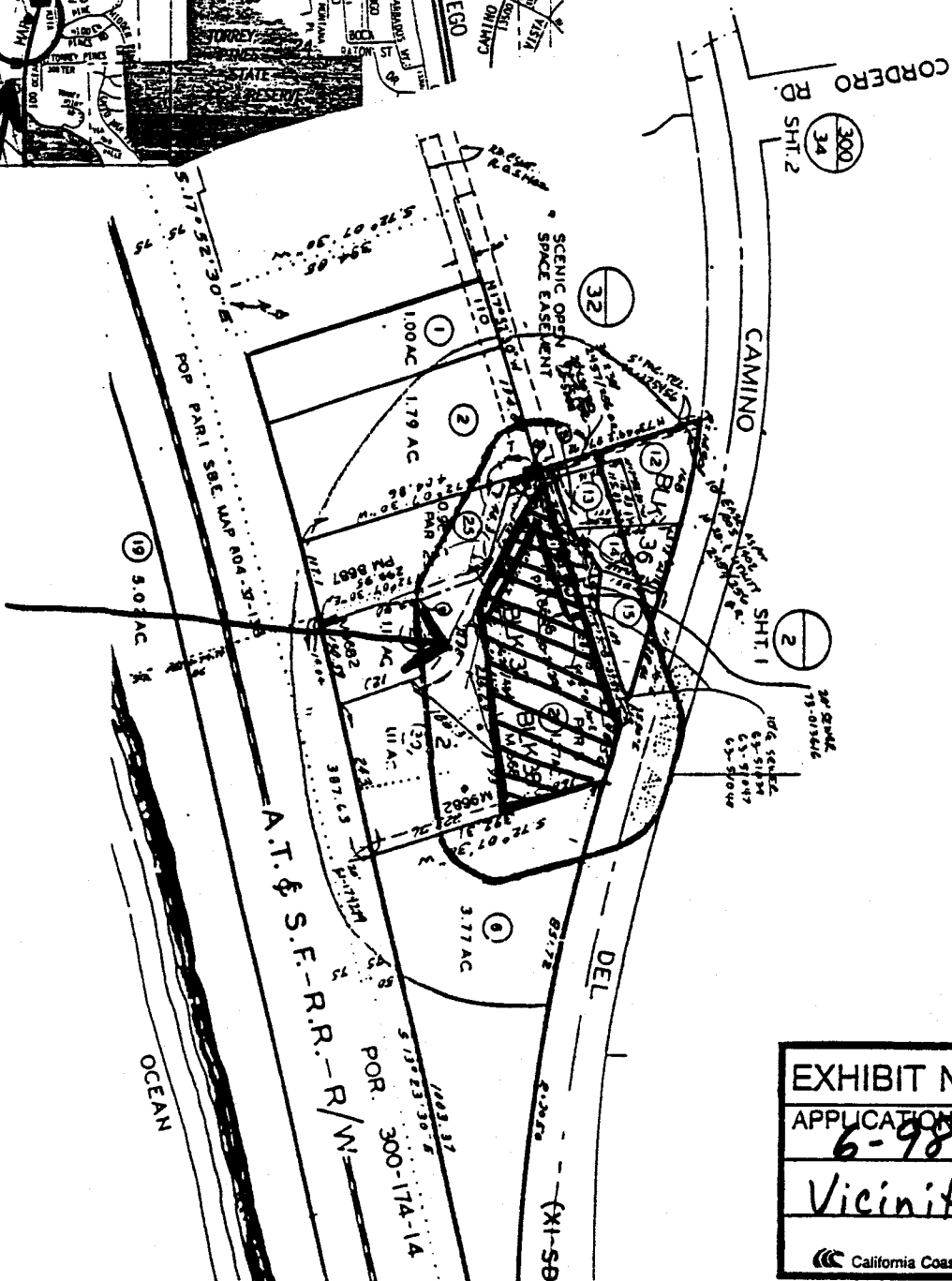
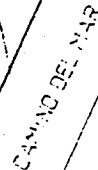
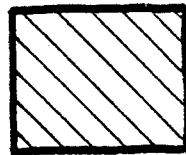
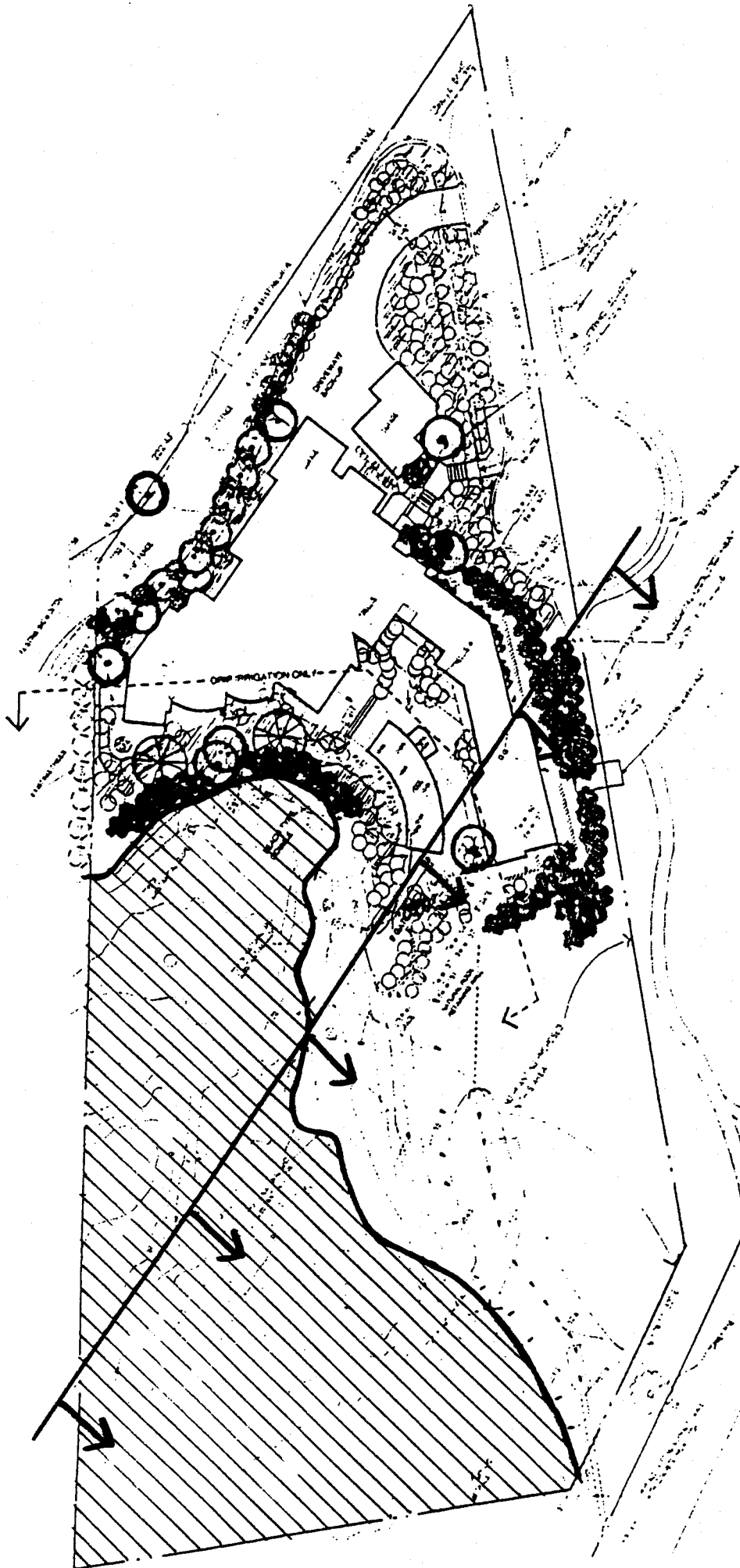


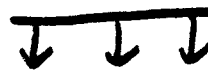
EXHIBIT NO.	1
APPLICATION NO.	6-98-20
Vicinity Maps	
California Coastal Commission	

 California Coastal Commission

6-98-20



Open Space
Easement
Area



Landscape
Restricted
Area

EXHIBIT NO.	3
APPLICATION NO.	6-98-20
Restricted Areas	
California Coastal Commission	