

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036

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Filed: May 2, 2000
 49th Day: June 20, 2000
 180th Day: October 29, 2000
 Staff: EL-SD
 Staff Report: May 23, 2000
 Hearing Date: June 13-16, 2000

REGULAR CALENDARSTAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-00-13

Applicant: Irving J. Pinto

Agent: William Metz

Description: Construction of a one-story, 5,090 sq.ft. single-family residence with attached garages on a vacant 88,427 sq.ft. parcel; accessory improvements include garden walls, landscaping and drainage facilities.

Lot Area	88,427 sq. ft.
Building Coverage	5,090 sq. ft. (06%)
Pavement Coverage	2,550 sq. ft. (03%)
Landscape Coverage	4,100 sq. ft. (05%)
Unimproved Area	76,687 sq. ft. (86%)
Parking Spaces	3
Zoning	RS-1-3/HR
Plan Designation	Low Density Residential
Ht abv fin grade	21 feet

Site: 3310 Caminito Daniella, North City, San Diego, San Diego Count.
 APN 298-590-06

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed single-family residence, which represents one of the last vacant lots in a subdivision approved by the Commission in 1986. Staff initially raised concerns regarding brush management, steep slopes, open space and drainage. These issues have been resolved through further investigation into the project's history and through the recommended special conditions. The conditions require submittal of a brush management/vegetation program and final landscaping and drainage plans demonstrating that all runoff from impervious surfaces is directed through

landscaping prior to entering the municipal storm drain system. With these conditions, the proposed development is consistent with all applicable policies of the Coastal Act.

Substantive File Documents: Certified City of San Diego Local Coastal Program
CCC Files #6-86-109 and #6-86-626 (Alta Del Mar Units
and II)

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-00-13 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Brush Management/Revegetation Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final brush management/revegetation plan, approved by the City of San Diego Fire Department, that includes the following components:

- a. delineation of all areas of required Zone 1 and Zone 2 brush management;
- b. description of the methods and equipment required to implement the program;
- c. revegetation of all currently unvegetated steep slope areas outside the graded building pad with fire-resistant, non-invasive, drought-tolerant native vegetation compatible with surrounding and nearby naturally-vegetated areas; and
- d. removal of all exotic vegetation such as iceplant and pampas grass.

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

2. Final Landscaping Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final, detailed landscape plan for the proposed development that has been approved by the City of San Diego. Said plan shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features within the existing graded portion of the site (building pad). Drought tolerant, native and non-invasive plant materials, and low-flow irrigation systems shall be utilized. The plans shall include landscaping consisting of trees and ground cover.

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

3. Final Drainage Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, which shall be in substantial conformance with the conceptual plan titled *Grading and Drainage Plan for: Lot 29, Alta Del Mar, Unit No. 2*, submitted to the Commission's San Diego office on May 2, 2000. The plans shall document that the runoff from the roof, driveway and other impervious surfaces shall be directed into pervious areas on the site (landscaped areas)

for infiltration and/or percolation, prior to being conveyed off-site in a non-erosive manner.

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

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes construction of a single-story, 5,090 sq.ft., three-bedroom single-family residence on a vacant, approximately 2-acre site. The proposal includes attached one- and two car garages, plus garden walls, landscaping and drainage improvements. The property is located in the City of San Diego, north of Via de la Valle and east of Interstate 5. It is in an area known as the Via de la Valle Specific Plan, which has not been certified by the Coastal Commission. Thus, this is an area of deferred certification, where development proposals are reviewed by the Coastal Commission and Chapter 3 of the Coastal Act is the standard of review.

2. Site/Subdivision History. The site is one of the few remaining vacant lots in a 29-unit residential subdivision known as Alta Del Mar, Units I (20 homesites) and II (9 homesites). The overall subdivision was approved in two Commission actions (Coastal Development Permits #6-86-109 and #6-86-626) and included 33 lots, with two being designated for interior streets and two for open space.

The Commission approved creation of the subject site in Coastal Development Permit #6-86-626 in December, 1986. That approval addressed only Unit II, creating 9 residential lots and one street lot, and included overall site grading to create building pads on each lot, the construction of an interior street system, utility extensions and drainage improvements. The actual construction of homes was not included in the subdivision permits and the Commission has reviewed individual permit applications for these over the past several years.

When the subdivision was approved in 1986, the Commission had not begun to consider the issue of brush management in determining appropriate building setbacks or potential steep slope encroachments, nor was it addressing water quality as it does today. It did not put most of the steep slope areas within the subdivision into formal open space, because most of that area was within an existing utility easement and already identified as "non building area." Thus, none of the steep slopes on the subject site (which is Lot 29 of the subdivision) were placed in deed-restricted open space. The proposed residential construction is located entirely on the previously-graded building pad. However,

clearance and thinning of vegetation on the adjacent steep slopes will be required for brush management purposes.

The Commission reviewed 22 past permit applications for construction of homes on these lots: 1 in 1988, 16 in 1989, 3 in 1990, 1 in 1993 and 1 in 1997. Of these, 16 were issued coastal development permits (most without special conditions of any kind) and 6 were issued permit waivers. There are also four other lots within Unit 2 of the total subdivision which have existing single-family homes, but no records to indicate that Commission approval was granted. This will be pursued as a separate matter.

None of the earlier permits specifically addressed brush management, and homes were allowed to be built within close proximity (or immediately adjacent) to on-site steep slopes. The finding was consistently made that all proposed development, including all proposed grading, was located within the area rough-graded for a building pad at the time of the 1986 subdivision. Site drainage was addressed and the individual sites were graded to drain into the City's municipal storm drain system. However, polluted runoff was not addressed, either at the subdivision level or in any subsequent permit for individual home construction.

3. Brush Management/Steep Slope Encroachments. The following Coastal Act policy is pertinent to the proposed development, and states:

Section 30240

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

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

The Via de la Valle Specific Plan area of the City of San Diego consists of a number of large subdivisions and a few smaller ones, such as Alta Del Mar Units I and II, and a number of existing, scattered, individual lots, which were likely part of subdivisions in the more distant past. Some of the development in this area predates the Coastal Commission, but most of the major subdivisions were reviewed by the Commission during its early years (late 70's and early 80's). Alta Del Mar is actually one of the more recent Commission actions on a subdivision in this area, and both Units I and II were approved in 1986.

A significant amount of landform alteration and vegetation removal has occurred over the past couple decades in this general area. However, most of the existing development has occurred in valleys/canyons or on mesatops, with many of the side slopes of interior

canyons continuing in a more or less natural state. Such is the case with Alta Del Mar, where subdivision grading consisted of daylight cuts which created a flat mesatop for development. Most of the residential lots in Alta Del Mar I and all the residential lots in Alta Del Mar II have a flat upper graded pad, then extend down steep slopes into the inland canyons. The subdivision approval did not establish design criteria for the future homes, but did include a provision that landscaping could not be "invasive or noxious to the adjacent habitat."

In this particular case, the applicant has indicated that the fire marshal requires a 30 ft. clear cut area between native vegetation and the proposed residence (Zone 1) and a 30 ft. area beyond that where selective thinning will occur (Zone 2). The applicant submitted a report from a May 1, 2000 biological survey of the subject lot, which identified several different native plant communities on the steep slope portions of the site, and a combination of native and exotic vegetation on both the slopes and building pad. The survey and accompanying photographs also identified that the upper 20-25 feet of the slopes, adjacent to the building pad, have recently been cleared of most vegetation, as has the building pad itself. Thus, the survey makes an assumption of what was removed based on the surrounding patterns of vegetation which remain, and states that approximately 2,570 sq.ft. of southern maritime chaparral and 180 sq.ft. of Diegan coastal sage scrub were cleared. The applicant's agent maintains that this was done inadvertently; he states that when the owner received a letter signed by a City planner and describing what should be included in a brush management program, the letter was interpreted as an authorization to clear a portion of the site. A copy of that letter, which has since also been signed by the deputy fire marshal, is included as Exhibit #3.

The Commission must consider the potential effects of the proposed development as though the vegetation clearance described above had not occurred. It is important to determine whether or not the on-site steep slopes, particularly the 20-25 foot wide strip at the top of the slopes, would be considered environmentally-sensitive habitat area (ESHA) within the meaning of Section 30240 of the Coastal Act. The proposed residence, as currently sited, would require continuous maintenance/disturbance of that upper slope area for Zone 1 brush management.

The proposed residence represents urban infill development in a nearly built-out community. The site is located between two properties already developed with large single-family homes, that extend as close to the steep slopes on those two sites as will the proposed structure on the subject site. In fact, what is referred to herein as "slopes" is really all one continuous wall of an isolated finger canyon. All the surrounding mesatops are developed with residential uses sited in close proximity to the top of slope. The canyon is completely internal to the surrounding subdivisions and does not connect with any larger system of functioning habitat. All the property owners of the surrounding homes, including those adjacent on both sides of the subject site, are already required to conduct brush management activities on portions of steep slopes. Moreover, although the steeply sloping portions of the subject site appear to consist mainly of native vegetation, this is not the case in many of the surrounding properties, where significant amounts of

exotic vegetation, primarily iceplant, pampas grass, palm trees and portions of lawns, have spilled down the hillsides. Even on the subject undeveloped site, there are patches of iceplant on the upper portions of the steep slopes. It is possible some habitat value remains further down the slopes and in the canyon bottom, even isolated as it is from other habitat areas. However, the Commission finds that the upper portion of the subject steep slopes, because of the ongoing disturbances to adjacent areas, do not qualify as ESHA pursuant to Section 30240.

If the slopes on the project site were ESHA, the Commission could require this particular property owner to redesign the proposed residence to set the home further back from the edge of slope (as currently designed it comes to within ten feet of the edge of slope). If the Commission determined that the entire steep slope area of the subject site constituted ESHA, it is likely such a redesign would be required. However, the upper area of slope surrounding this finger canyon has been continually disturbed and modified ever since community build-out began to address fire protection for adjacent properties. These disturbances will continue in the future. Therefore, the Commission has determined that the upper area of slope is not ESHA and the removal of a small area of native plants for brush management purposes can be permitted. Moreover, the brush management and revegetation program required in Special Condition #1 may actually increase the value of habitat on the subject site, since the program includes the removal of all exotic (non-native) species. Therefore, the Commission finds the proposed development, with the required brush management and revegetation program, consistent with the intent of Section 30240 of the Act.

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

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..

The project site is currently undeveloped except for the graded pad created with the subdivision improvements many years ago. The site is not adjacent to any wetland, but sensitive resources on the steep slope portions of the property could be adversely impacted by runoff from the site. The proposed development includes site drainage improvements to ensure that all runoff is collected and directed to the existing municipal system. However, no provisions to address water quality are proposed.

In order to reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Conditions No. 2 and 3 have been attached. The applicants have submitted draft landscaping and drainage plans. The drainage plan appears to address Coastal Act concerns and the placement of vegetation on the conceptual landscape plan is appropriate. However, although the proposed species

are similar to landscaping on adjacent lots, they are not native species and the plan must be revised. Special Condition #2 requires the installation of drought tolerant, native and non-invasive landscaping on the site, consisting of trees and ground cover. Special Condition #3 requires that runoff from the roof, driveway and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being conveyed off-site. Directing runoff through landscaping for filtration of on-site runoff in this fashion is a well-established Best Management Practice for treating runoff from small developments such as the subject proposal. As conditioned, the proposed landscaping will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, the Commission finds the proposed project consistent with Section 30231 of the Coastal Act.

5. Visual Resources/Community Character. 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 site is located in the northern portion of the City of San Diego, north of Via de la Valle and well east of Interstate 5. Although portions of the subdivision are visible from Interstate 5, Via de la Valle and the San Dieguito River Valley, the subject site faces westward and is not visible from any public vantage point. The steep slope/canyon portions of the site are enclosed/surrounded by other developed sites and only visible from within the neighboring subdivisions. The proposed residence will be similar in bulk and scale to, and thus visually compatible with, the surrounding estate-size homes, and will maintain the existing pattern of development in the community. Therefore, the Coastal Commission finds the proposed development consistent with Section 30251 of the Act.

6. No Waiver of Violation. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

7. 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. In this case, as conditioned, such a finding can be made.

The subject site is designated as Low Density Residential and zoned RS-1-3/HR by the City of San Diego. It is located within the North City LCP segment. However, although the City has a fully-certified LCP and issues its own coastal development permits in many areas of North City, several areas of deferred certification remain. The Via de la Valle Specific Plan has never been brought before the Commission for review, so this planning area remains uncertified. All permits in the specific plan area must come before the Coastal Commission and Chapter 3 of the Coastal Act is the standard of review. As demonstrated in the preceding findings, the Commission has found the proposed development, as conditioned, consistent with all applicable policies of the Coastal Act. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to complete the planning process for this area and continue implementation of its certified LCP.

8. 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.

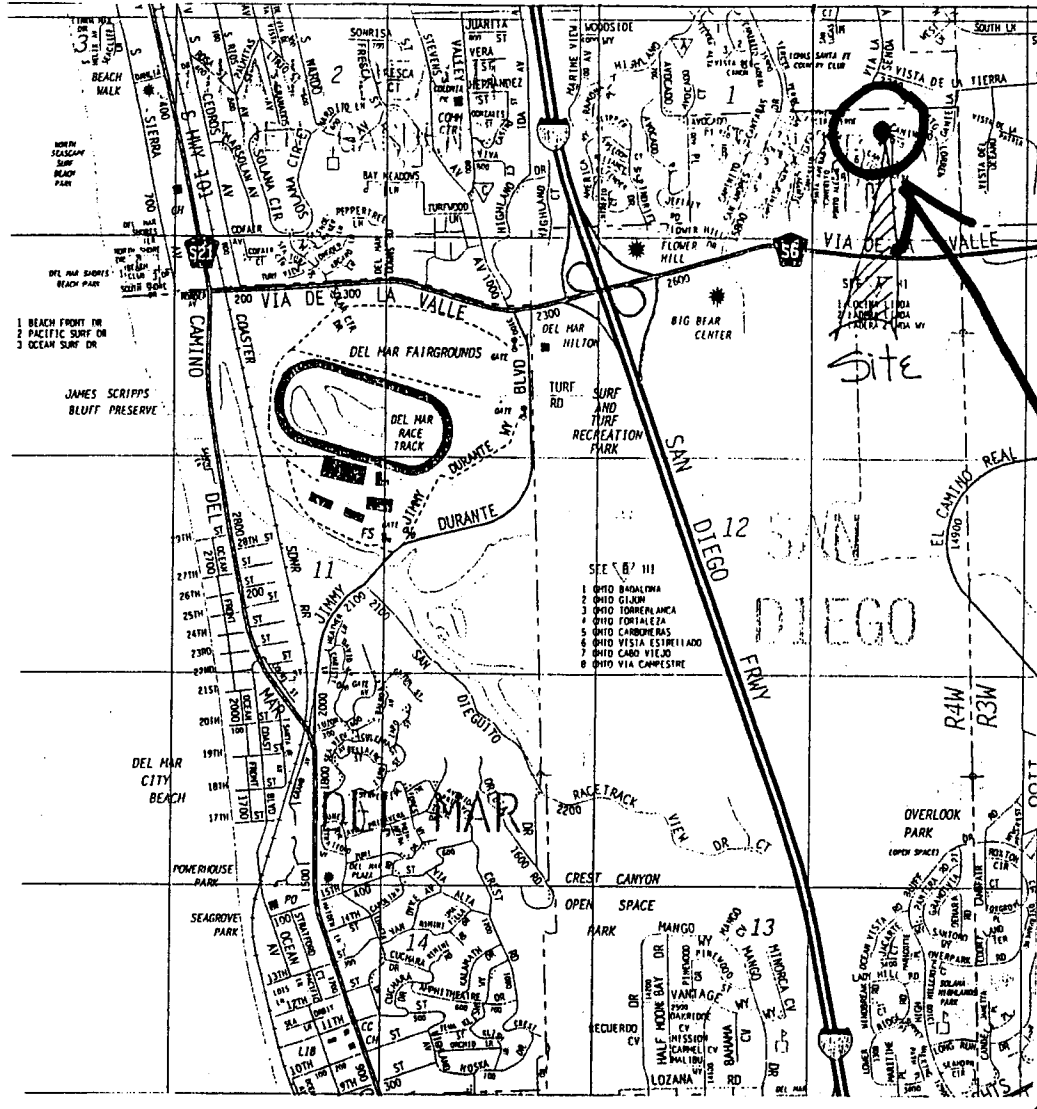
The proposed project has been found consistent, as conditioned to address habitat and water quality concerns, with all applicable policies of the Coastal Act. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project 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.

6-00-13



Site

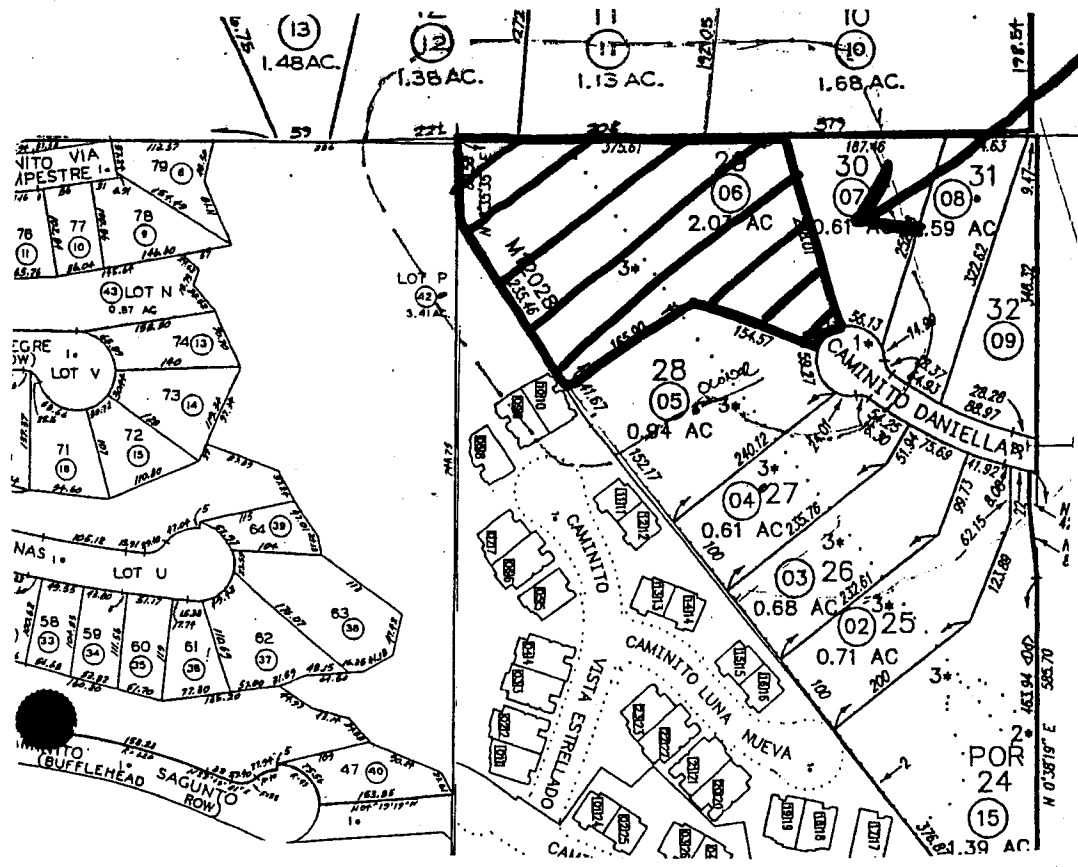
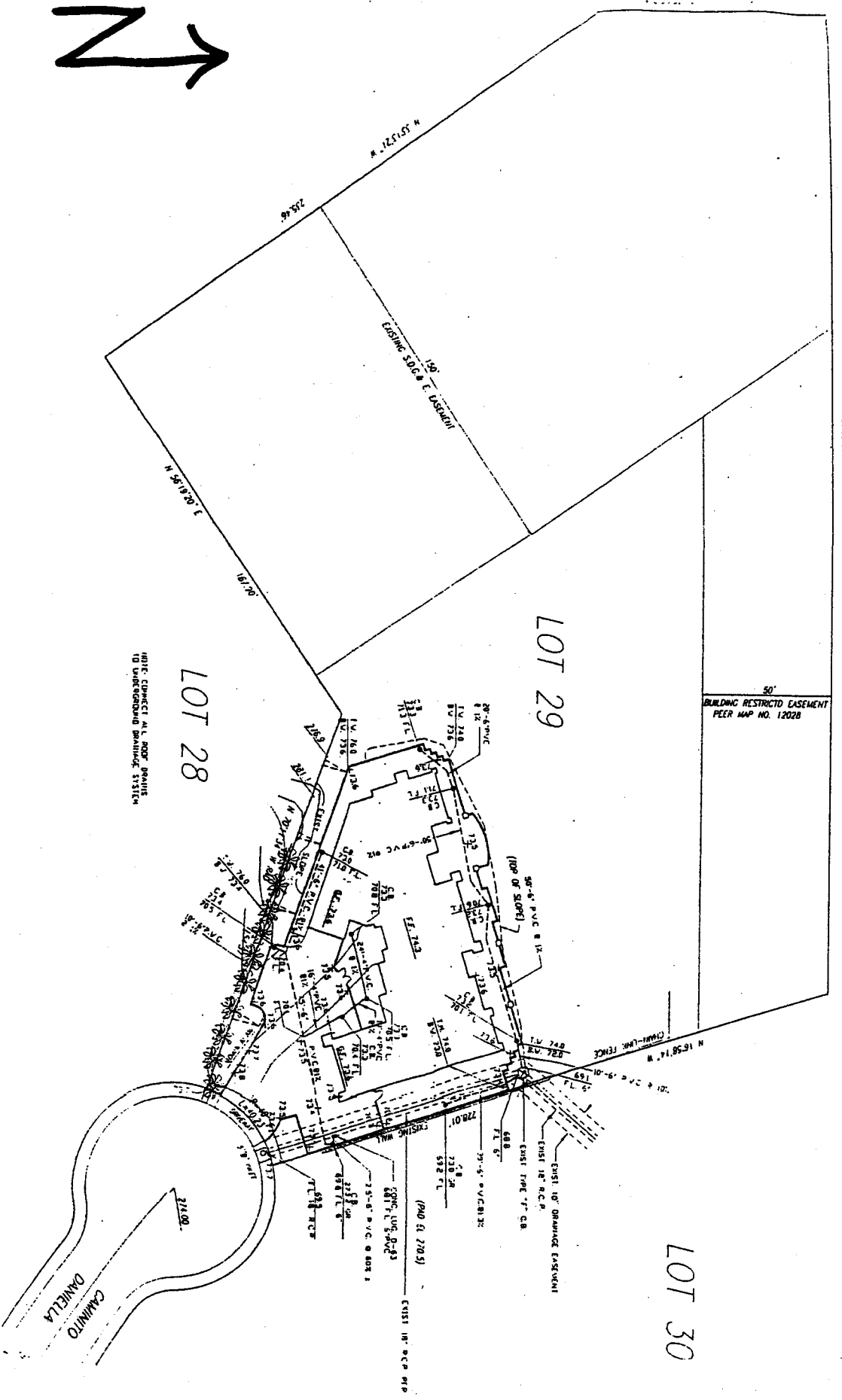
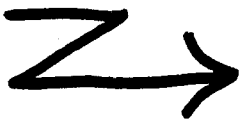


EXHIBIT NO. 1
APPLICATION NO.
6-00-13
Location Map
California Coastal Commission



EXIST. CONCRETE AT L. ROOF BEARINGS TO UNDERGROUND DRAINAGE SYSTEM

50'
BUILDING RESTRICTD EASEMENT
PEER MAP NO. 12028

EXHIBIT NO. 2
APPLICATION NO.
6-00-13
Site Plan
California Coastal Commission

6-00-13

26 April, 2000

Barry Kelleher
City of San Diego
Planning Dept., Landscape division

Re: TM 86-0099
Pinto residence, Lot 29
Caminito Daniella, San Diego

RECEIVED

MAY 02 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

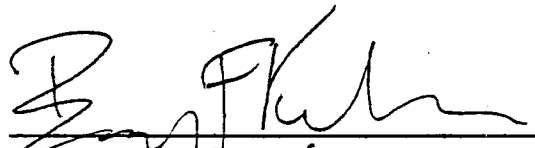
Sirs,

As we discussed, for the purpose of fire protection/ mitigation, the department will require a brush management program consisting of a 30 foot zone I and a 30 foot zone II. This is required and allowed pursuant SDMC sections 101.142 0412 and 101.143 0142 a 4. Though this is steep slope, this is allowed as it is NOT designated as sensitive habitat. Also note per section 101.0462.007 encroachment is allowed for the purpose of fire protection. Your confirmation is required so we may proceed with our coastal development permit. A brush management plan will be prepared and approved prior to the issuance of building permits.

Sincerely,

William Metz Architect
C-18569

Approval by the City of San Diego


3/27/00 ASSOCIATE PLANNER

This also confirms that this is acceptable to fire Marshal and will not require any further encroachment for fire protection purposes. Approval by the City of San Diego Fire Marshal:



DEPUTY FIRE MARSHAL
5-2-00

EXHIBIT NO. 3
APPLICATION NO. 6-00-13
Brush Agent Letter
California Coastal Commission

