

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

75 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

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 Staff Report: 8/22/01
 Hearing Date: 9/11-14/01

REGULAR CALENDAR

STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-99

Applicant: Dennis Schmucker; Steve Cavadias;
 and Steve & Mary Prewitt

Agent: Thoryk Architecture;
 Kyle Sobozak

Description: Consolidation of two existing lots into one lot totaling 15,195 sq.ft., demolition of two existing one-story single family residences and construction of three new residences (6,594 sq.ft., 7,108 sq.ft. and 5,713 sq.ft., respectively) on a bayfront site.

Lot Area	15,198 sq. ft.
Building Coverage	7,832 sq. ft. (52 %)
Pavement Coverage	3,475 sq. ft. (23 %)
Landscape Coverage	3,891 sq.ft. (25 %)
Parking Spaces	12
Zoning	R-1500
Plan Designation	Medium Density Residential (14-29 dua)
Project Density	8.6 dua
Ht abv fin grade	30 feet

Site: 3712, 3720 Riviera Drive, Pacific Beach, San Diego, San Diego County.
 APN 443-441-12 & -21

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development with special conditions as it can be found consistent with the Chapter 3 policies of the Coastal Act. The issues of protection of public views, public access and shoreline hazards have been adequately addressed and resolved through the project design and proposed conditions of approval.

Substantive File Documents: Certified Pacific Beach Land Use Plan; Geotechnical Investigation Update by Geotechnical Exploration, Inc. dated 9/6/00.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-99 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. Revised Final Landscape/Sideyard Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans submitted with this application by Thoryk Architect, dated 8/11/99, except that they shall be revised to indicate that the sideyard setback areas are kept clear to enhance

public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. All existing landscaping in the sideyard setback areas shall be trimmed or removed and replaced with landscaping to be maintained at a height of three feet or lower to preserve views from the street toward the bay. All new landscaping shall not exceed a height of three feet.
- b. All landscaping shall be drought-tolerant, native plant species.
- c. A written commitment by the applicant that all required plants on this site shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements. A planting schedule that indicates that the plantings shall be implemented within 60 days of completion of residential construction.
- d. Any fencing in the sideyard setback areas shall be composed of a solid base with a minimum of 50% open materials on top.

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

PRIOR TO 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 all prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. The 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.

2. Final Plans/Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans to the Executive Director for review and written approval. The final plans shall specify that no construction will take place between Memorial Day weekend and Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes. The applicant shall not use public parking or sandy beach as staging areas or for the storage of equipment.

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.

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, a drainage and runoff control plan documenting that the runoff from the roofs, driveways and other impervious surfaces shall be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation in a non-erosive manner, prior to being conveyed off-site.

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.

4. 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. Proposed is the consolidation of two existing lots into one lot totaling 15,195 sq.ft., demolition of two existing one-story single family residences and construction of three new residences on the site. The residences proposed to be demolished are two stories each and approximately 4,000 sq.ft. in size. The middle portion of the existing site is presently vacant. The newly proposed residence on the southern portion of the site will consist of a detached three-level, 30-foot high, 6,594 sq.ft. residence over basement with attached three-car garage. The other two residences will be constructed in an attached structure located north of the detached residence. The southernmost attached residence will consist of a three-level, 30-foot high, 7,108 sq.ft. residence over basement with attached three-car garage. The northernmost attached residence will consist of a two-level, 30-foot high, 5,959 sq.ft. residence (no basement) with an attached two-car garage with workshop and an attached four-car garage.

Also proposed is grading consisting of 500 cy. of cut and 100 cy. of fill with 400 cy. of materials to be exported off site at an unknown location. Because the deposition site for the graded materials is not yet known, Special Condition No. 4 requires the applicant to identify the site prior to issuance of the coastal development permit and that if the disposal site is within the coastal zone, that the applicant first obtain a coastal development permit.

The subject site is located on the Crown Point peninsula in the community of Pacific Beach in the City of San Diego. The subject site contains a relatively level building pad adjacent to Riviera Drive which slopes down on the west side to the beach and boardwalk adjacent to Mission Bay. The subject site is located on the Crown Point peninsula adjacent to Mission Bay. The shoreline area is largely characterized by wide sandy beaches. An existing improved concrete boardwalk is located west of the subject site. The boardwalk is located between 20 to 36 beyond (bayward of) the western property line of the subject site, with sandy beach area located both east and west of the boardwalk.

Although the City of San Diego has a certified LCP, the subject project is located within the Commission's area of original jurisdiction. As such, the standard of review is the Chapter 3 policies of the Coastal Act with the LCP used as guidance.

2. Visual Resources. Section 30251 of the Act is applicable to the project and states:

Section 30251

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....

In addition, the Pacific Beach Land Use Plan contains the following policies.

"Improve the community's scenic views and vistas of the beach and bay through a program of undergrounding utilities and maintaining streetscapes that frame, rather than obstruct, views."

The subject site is located on the west side of Riviera Drive in Pacific Beach on a bayfront lot. Some views are currently visible in the north and south side yards of the subject site looking west towards the bay however the middle portion of the existing site which is presently vacant is completely fenced off with no views available of the bay. A short distance to the north, the majority of the development on the west side of the road consists of multi-family residential structures, some towering several stories in height which pre-date the Coastal Act. In fact, this area is largely "walled off". As such, it is important that when sites are redeveloped, such as in the subject case, that public views toward the bay be enhanced and recaptured wherever possible. The project has been well designed to provide for public views to the west in its design review at the City. All of Riviera Drive in this area is identified as "roads with public view of water" as shown on the "Coastal Views" map of the certified Pacific Beach Land Use Plan. Furthermore, the City's new Land Development Code provides for protection of views through side yards

regardless of whether the site or streets leading to the site are designated public view corridors.

However, any newly proposed landscaping or fencing in the side yards should be designed in a manner that enhances public views toward the ocean to prevent a "walled off" effect. The existing residence on the southern lot presently observes a zero sideyard setback at its north property line and a 5 ft. setback at its south property line. The residence on the northern lot observes a 3 ft. setback at its northern property line and a 0 setback at its southern property line. The existing setbacks are proposed to be increased through the proposed development. Specifically, the southernmost residence will observe a south side yard setback of approximately 6 feet. The sideyard setbacks between the southernmost residence and the middle residence will be 11-foot wide. The north yard setback of the northernmost residence will be 4 ½ feet wide. The City requires a minimum width of 3 feet under its current implementing ordinances for sideyard setbacks for the subject residential zone where the proposed residences will be located. As such, through the creation of sideyards on all three lots, particularly the 11-foot wide setback between the two southern lots, public views towards the bay will be greatly enhanced at this location.

In the review of past coastal development permits located between the sea and the first coastal road, the Commission has historically required that fencing in the side yard areas be composed partially of open materials for the purposes of opening up views toward the ocean (or bay) and preventing a "walled off" effect. The Commission has taken the position in past similar projects (A-6-LJS-98-85/Holmes, A-6-LJS-98-169/Moncrieff) that through installation of open fencing in the side yard setbacks along the eastern frontage of the properties between the first coastal road and sea, a "window" to the ocean in the side yard setback areas can be preserved while looking west from the street elevation. Even small glimpses of the ocean while driving or walking by give passersby the feel of being close to the ocean (or bay) and eliminates a continuous wall effect. In those cases where views would still not be achieved through installation of open fencing, it is still required to help to prevent a "walled off" effect. In the subject proposal, wrought iron fencing and gates are proposed along the street frontage which are "open" in nature and will further preserve views toward the bay.

For those properties located between the sea and the first coastal road, LCP policies call for the opening up of side yard areas including keeping side yard areas free of untrimmed landscaping or other obstructions in addition to the installation of open fencing in order to prevent a "walled off" effect as well as to enhance any existing public views toward the bay. In this case, landscaping in these setbacks is proposed to be low-level type of vegetation, pursuant to the landscape plans submitted. In addition, the applicant proposes to underground all existing utility lines, as recommended in the certified community plan, which will improve the visual quality of area, as well. To assure these side yard areas are preserved, Special Condition #1 requires final landscape/fence plans that includes that existing landscaping be trimmed and replaced with landscaping to be maintained at a height of three feet. The condition also requires that fencing in the side yard setback areas be composed of at least 50% open materials. The condition requires recordation of

a deed restriction such that future owners are notified of this requirement. As such, views toward the ocean in the sideyard setback areas will be enhanced and the open fencing will help to prevent a "walled-off" effect, consistent with the policies of the certified LCP.

In addition, the proposed development will be visually compatible in scale and character with the surrounding area. To the east and south is single family residential development. To the north are larger multi-family residential structures. The proposed residences will appear as two and three-story structures from the street frontage and as three-story structures from the bay frontages. The basement levels of each residence will be under ground and will not be visible. As such, the proposed development will not result in any adverse visual impacts and is consistent with Section 30251 of the Act.

3. Public Access. Sections 30220, 30221, and 30222 of the Act call for the protection and/or provision of public access opportunities and state the following:

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

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, [...]

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

In addition, Section 30252 requires "that the location and amount of new development should maintain and enhance public access to the coast by...providing adequate parking facilities...."

The project site is located on a bayfront site on the west side of Riviera Drive in the community of Pacific Beach immediately adjacent to Mission Bay. There is an improved concrete walkway (boardwalk) around the perimeter of the bay along this stretch of shoreline which is seaward/bayward of the subject site. This is used by

pedestrians, bicyclists, roller-bladers, etc. The beach on either side of the boardwalk is also used directly for strolling, sunbathing, viewing and as well as active water sports. The sandy beach is very wide near the subject site and the western property line is approximately 100 feet inland from the water's edge along this area of shoreline. The proposed development is located well inland of the boardwalk and bay and will not adversely affect public access at this location.

The proposed project will not result in any changes in public access to the surrounding area. The public will be able to continue to freely use the beach and boardwalk near the subject site and walk along the shoreline areas bayward of the site. The project site is located between the bay and the first coastal roadway (Riviera Drive). In addition, there is vertical access approximately two lots to the south of the subject site where there is an existing pedestrian ramp/driveway that leads down to the sandy beach area south of the subject site which is used to gain access to the beach. In addition, the site is located about one-half mile from Crown Point Shores beach recreational area, where unlimited access to the shoreline is provided. As required in Section 30604(c) for development between the first public road and the sea, the project, as conditioned, is consistent with all other public access and recreation policies of the Coastal Act.

In addition, because the site is located on not only a major coastal access route, but also near a popular stretch of shoreline used by the public during the summer months, construction activity that impedes the traffic on the public street as well as use of the beach would have a significant adverse impact on public access and recreation. In prior approval of other projects that involve construction at or near the beach, the Commission has restricted work in public recreational areas to outside the summer season, to avoid impacts to the public during the time of highest demand for recreation and public beach access. The Crown Point peninsula of Mission Bay Park is used heavily by the public during the summer. As noted above, the area is used by the public for walking, picnicking, sunbathing, viewing and active water sports. Thus, any work occurring during the summer months could potentially interfere with the public's use and enjoyment of this area. Therefore, Special Condition #2 requires notes on the final plans that no work may occur during the summer peak season between Memorial Weekend and Labor Day. In addition, the condition further requires that access corridors and staging areas shall be located in a manner that has the least impact on public access and public parking spaces (no use of public parking or sandy beach areas).

In summary, the proposed improvements, as conditioned, will not adversely affect the public's ability to continue to use and enjoy this area of shoreline and thus, the proposed development is consistent with all of the applicable public access and recreation policies of the Coastal Act.

4. Water Quality. Sections 30230 and 30231 of the Coastal Act state the following:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate.

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.

The proposed project involves development on a bayfront site where adverse water quality impacts to the bay could occur. The proposed development involves the demolition of two existing single family residences and the construction of three new single family residences totaling 6,594 sq.ft., 7,108 sq.ft. and 5,959 sq.ft., respectively. New driveways and curb cuts are also proposed including undergrounding of existing above-ground utilities on the subject site.

In order to reduce the potential for adverse impacts to water quality resulting from the proposed development, Special Condition No. 3 has been attached. Special Condition No. 3 requires that runoff from the roof, driveways and other impervious surfaces be directed into the landscaped areas on the site for infiltration and/or percolation, prior to being collected and conveyed off-site. Directing on-site 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 filtering of all runoff through landscaping will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, as conditioned, the Commission finds the proposed project consistent with water quality resource policies of the Coastal Act.

5. Geologic Hazards. Section 30235 of the Coastal Act states, in part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to

protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

In addition, Section 30253 of the Coastal Act 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 or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

The Commission has traditionally been concerned with the siting of new development directly along the shoreline in terms of both its encroachment onto public sandy beach as well as visual impacts. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in connection with requests to construct new development. A shoreline protective device proposed in those situations is likely to be inconsistent with various Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices that would substantially alter natural landforms along bluffs and cliffs.

In the case of the proposed development, although the subject site is situated immediately adjacent to a sandy beach near Mission Bay, the site is 100 feet away from the water's edge. The applicant has also had a Geotechnical Investigation Update completed which has addressed the safety of the site from flooding and wave action. As stated in the report, the site is unaffected by normal wave action. The report concludes that no significant geologic hazards are known to exist at the site. The applicants are not proposing to construct any shoreline protective devices nor are they needed to protect the site. Again, because this site is situated along the bay, as opposed to the ocean, it is not subject to wave action, flooding, etc. that is characteristic of properties situated adjacent to the ocean. As such, the proposed development is consistent with the shoreline hazard policies of the Coastal Act.

6. 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, such a finding can be made.

The subject site is zoned R-1500 and is designated for residential use at a density of 14-29 dwelling units per acre. The proposed development will attain a density of 8.6 dwelling units per acre and, as such, is consistent with the subject zone and designation. The proposed project will not affect the project's continued consistency with that zone

and designation. The certified Pacific Beach LUP contains policies which call for the protection of views towards the beach and bay and the visual compatibility of new development with the surrounding area. Since the proposed improvements will not result in any impacts to public views and, in fact, will result in enhancement of public views through the provision of adequate sideyard setbacks, the proposed development, as conditioned, is consistent with the certified Pacific Beach certified Land Use Plan and with all applicable Chapter 3 policies of the Coastal Act.

The project site is in the Commission's area of original jurisdiction and subject to the public trust. Although the proposed development will occur on public trust lands, the development will not result in adverse impacts to any public trust values. The site is currently developed with a single-family residences and the entire stretch of shoreline along Riviera Drive is developed with single family residential development. The proposed development will not have any adverse impacts on public access to the bay, fishing or boating activities and the site contains no native plant species. In summary, given that the proposed development is consistent with the visual resource, public access and hazard policies of the Coastal Act, the Commission finds that project approval, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Pacific Beach area.

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

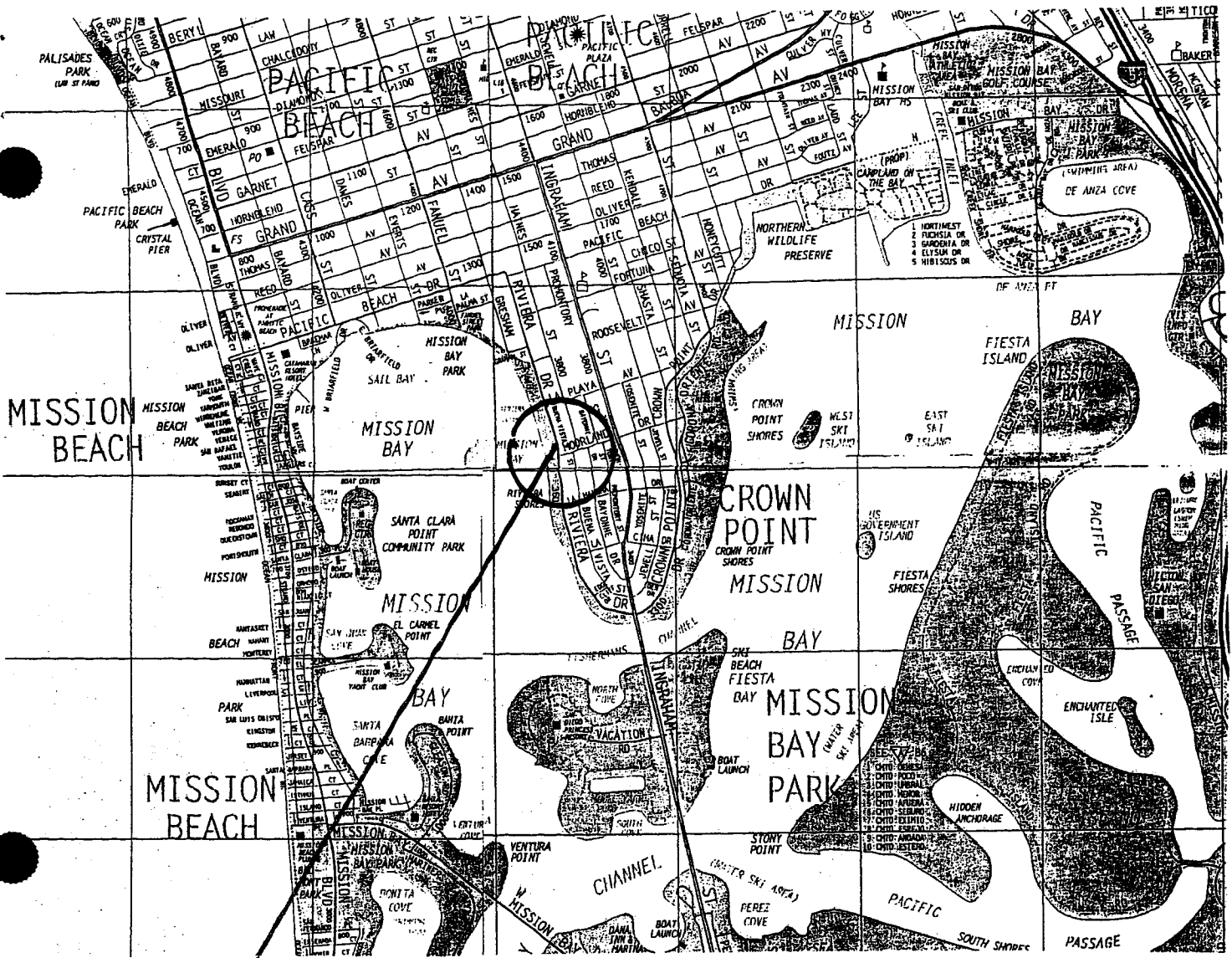
Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 proposal to demolish two existing single family residences and construct three new residences has been conditioned in order to be found consistent with the visual resource and public access of the Coastal Act. The proposed conditions addressing public views and timing of construction 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 is the least environmentally-damaging feasible alternative and is 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



SITE

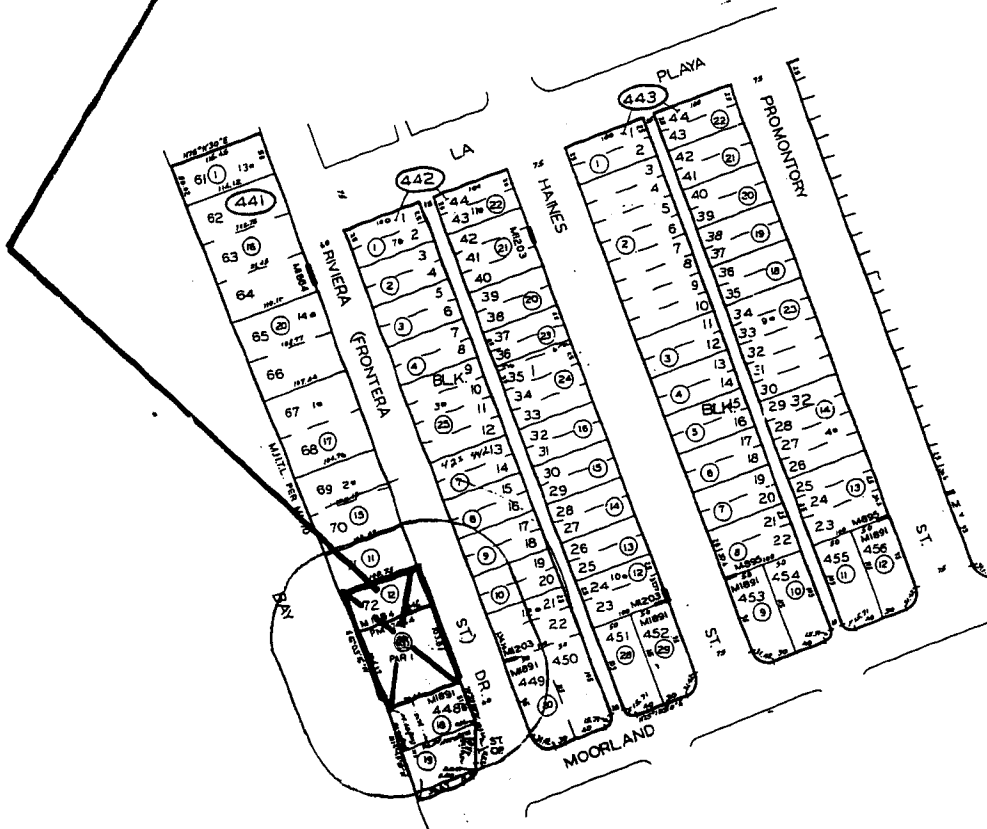
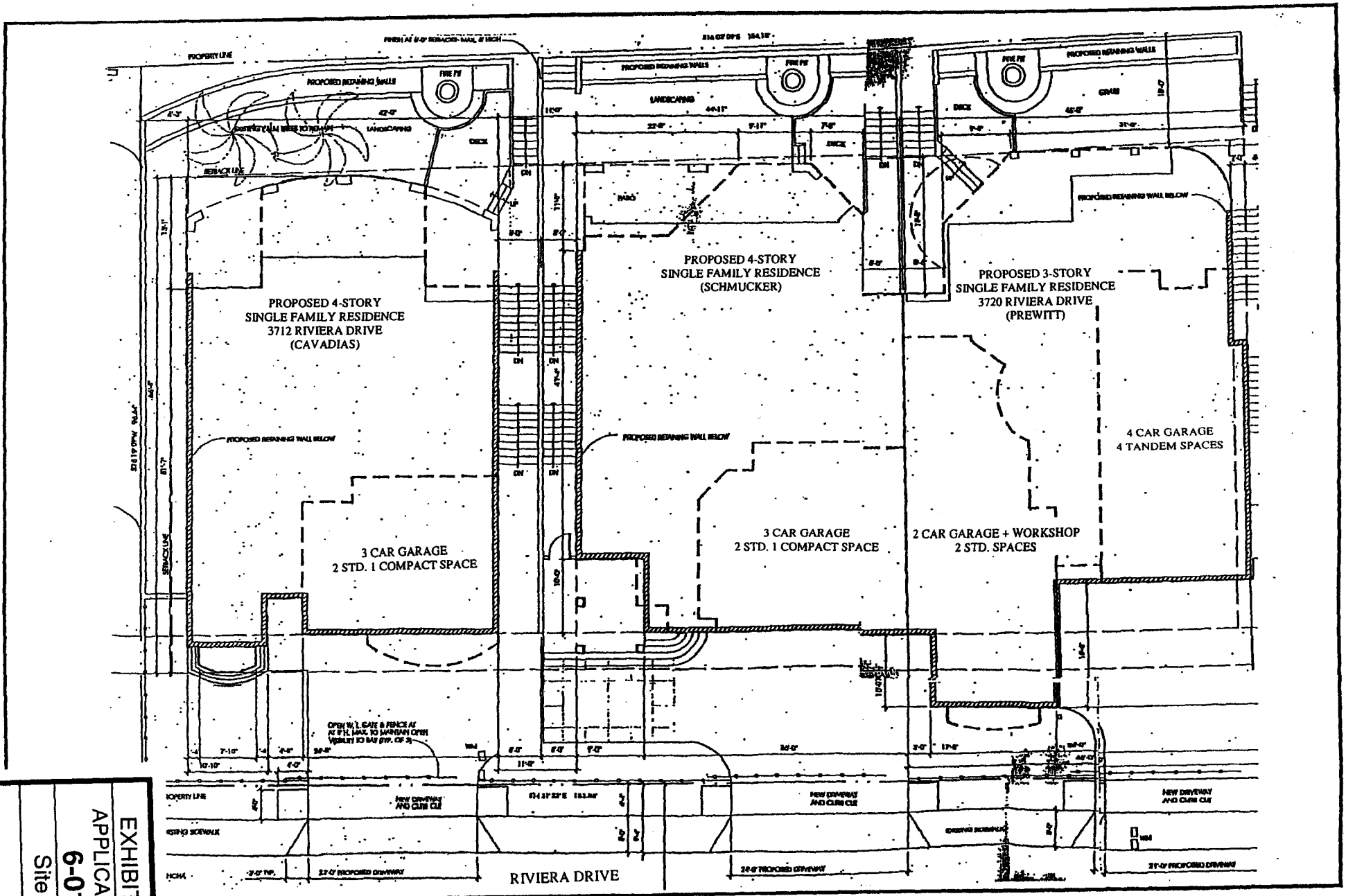


EXHIBIT NO. 1
APPLICATION NO.
6-01-99
Location Map
 California Coastal Commission

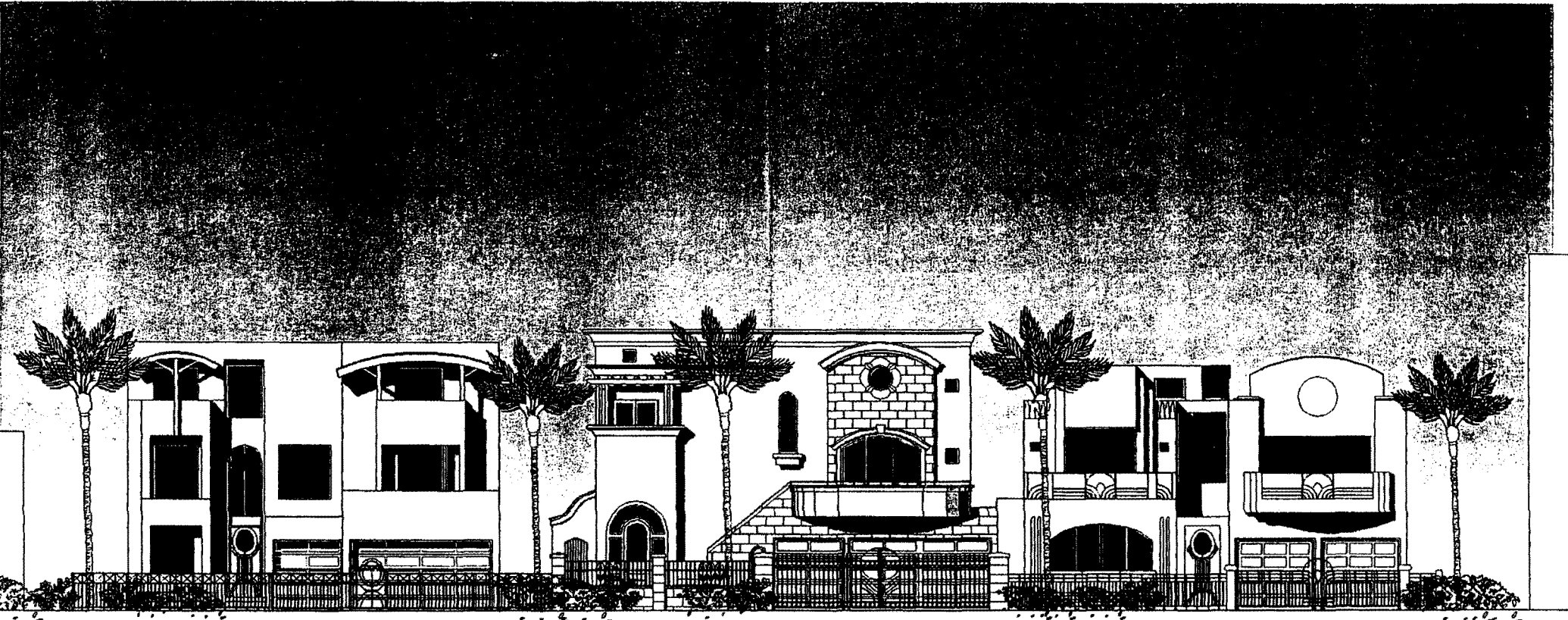
BEACH



SITE PLAN



California Coastal Commission
 EXHIBIT NO. 2
 APPLICATION NO.
 6-01-99
 Site Plan



CAVIADIAS RESIDENCE


SCHMUCKER RESIDENCE

PREWITT RESIDENCE

EAST (STREET) ELEVATIONS

THORYK ARCHITECTURE
 INCORPORATED
 1235 SHAFTER STREET
 SAN DIEGO, CA 92106
 619 523-9050



 California Coastal Commission	EXHIBIT NO. 3
	APPLICATION NO.
	6-01-99
	East (Street) Elevation

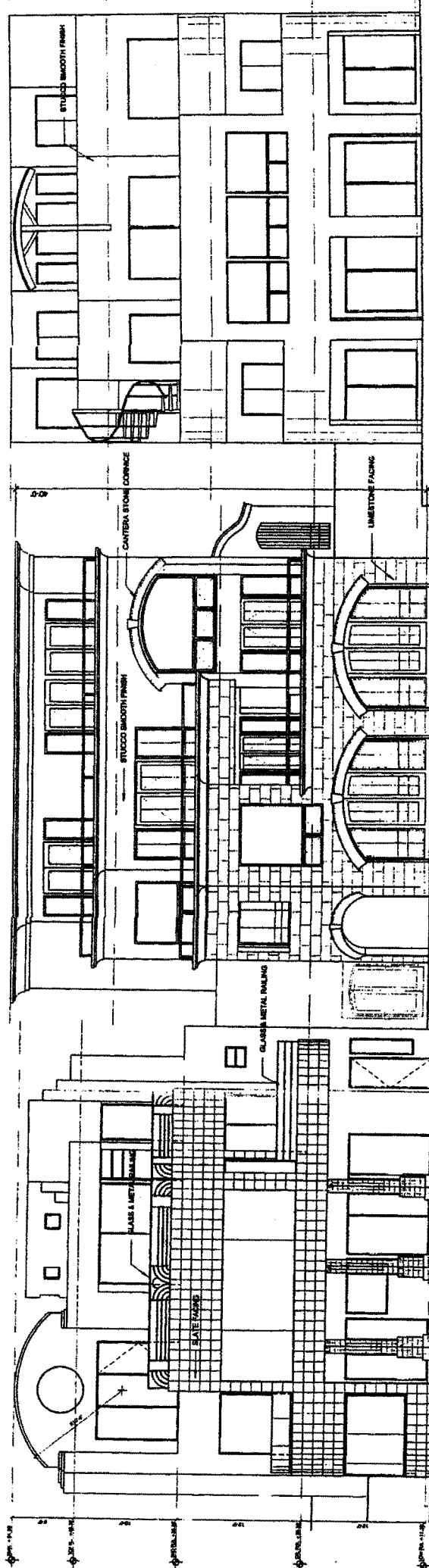



EXHIBIT NO. 4
APPLICATION NO.
6-01-99
West (Bayfront)
Elevation

 California Coastal Commission