

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

(619) 767-2370



Staff: BP-SD
 Staff Report: 5/24/02
 Hearing Date: 6/10-14/02

Fri 9a

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AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-95-28-A1

Applicant: George, Sandra Petri

Agent: Bob Sukup

Original Description: Construction of a 3-level (30-foot high and two stories above street level), 3,160 sq. ft. home and attached 600 sq.ft. garage on a vacant 7,844 sq.ft. lot. Vacation of a portion of Jefferson Street and incorporation of the vacated area into the subject site and a lot line adjustment to include approximately half the right of way width of Carlsbad Road (a paper street) to the west.

Proposed: Revise project to construct a two level, 25-foot high, 2,250 sq. ft. home and 2,237 sq. ft. garage.

Site: 2377 N. Jefferson St., Carlsbad, San Diego County, APN 155-180-17

Substantive File Documents: Certified Carlsbad Mello II Local Coastal Program, CDP #6-95-27/Muhe

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed redesign. On April 12, 1995, the Commission approved the original project. While slightly larger than the approved development, the proposed redesigned project is of similar height and bulk. As such, the Commission's previous conditions regarding landscaping and coloring are appropriate and would continue to apply to the revised project. Additionally, a water quality condition is proposed to mitigate impacts to the nearby Buena Vista Lagoon.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-95-28-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions will be in conformity with the policies of the certified Local Coastal Program and with the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All special conditions adopted by the Coastal Commission as part of the original permit action or any subsequent amendments, except as specifically modified or replaced herein, remain in full force and effect.

2. 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 approved by the City of Carlsbad. The plans shall document that the runoff from the roof, driveway and other impervious surfaces shall, to the maximum extent practicable, be collected and 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 legally required.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The original project involved construction of a three level (30-foot high), 3,160 sq. ft. home and attached 600 sq.ft. 3-car garage on a 7,844 sq.ft. lot located near Buena Vista Lagoon in Carlsbad. The project also included vacation of a portion of Jefferson Street (east of the site) and incorporation of the vacated area into the subject site and a lot line adjustment to include approximately half the right of way width of Carlsbad Road (a paper street to the west). The home has not been constructed and the coastal development permit has been extended five times.

The hillside site consists of a series of terraces and bluffs. The uppermost terrace is relatively flat measuring approximately 35 feet long by 20 feet wide adjacent to Jefferson Street. The terrace ends at a steep hillside that drops approximately 30 feet to the second terrace which is approximately 35 feet long and 10 feet wide. The property ends at this terrace. Beyond the subject property to the west is a third terrace which is approximately 30 to 40 feet away from the edge of Buena Vista lagoon which gradually slopes down to the lagoon elevation. The property adjacent to the west is owned by the Department of Fish and Game.

The redesigned house is two levels and 25-feet high (measured from garage floor to peak of roof) at 2,250 sq.ft. with a garage/basement of 2,237 sq. ft.. The garage/basement is tucked under the house. The living level of the house is at elevation 66 and the garage/basement is at elevation 55. The tuck under garage has a side entry so the garage doors are not visible from the lagoon side of Jefferson Street. The larger garage allows for turnaround on the site, thus allowing vehicles to exit to Jefferson Street without backing up. Like the original house, the bottom of this house's retaining wall is proposed at approximate elevation 44.

Because the applicant is proposing an amendment to a Coastal Commission issued coastal development permit, the Commission has jurisdiction over the proposed amendment. The standard of review is the certified Carlsbad Mello II LCP.

2. Environmentally Sensitive Habitat Areas. The site of the proposed development is located immediately adjacent to Jefferson Street overlooking Buena Vista Lagoon. Development around Buena Vista Lagoon is governed by Policy 3-2 of the certified Mello II segment of the City's LCP. This policy states, in part:

...Minimum setback of at least 100 feet from wetlands shall be required in all development, in order to buffer such sensitive habitat areas from intrusion. Such buffer areas, as well as other open space areas required in permitted development to preserve habitat areas, shall be permanently preserved for habitat uses through

provision of an open space easement as a condition of project approval. In the event that a wetland area is bordered by steep slopes (in excess of 25%) which will act as a natural buffer to the habitat area, a buffer area of less than 100 feet in width may be permitted.

Although the property is immediately adjacent to the lagoon and Department of Fish and Game (DFG) reserve area, no wetland resources are located on the property itself. All wetland vegetation is confined to that property under the ownership of DFG and included in the reserve.

The above Mello II LCP policy requires that any proposed improvements must observe a 100-foot setback from the landward edge of wetland resources. In this particular case, there is a buffer of approximately 130 to 150 feet between the wetlands of the lagoon and the western property line of the subject site (165 feet to the closest part of the proposed house). The proposed revised home will not be constructed any closer to the lagoon than the originally approved home. The Commission previously found that an open space deed restriction is not required for the subject development since the required buffer area does not extend onto the subject property. Since conditions have not changed since the Commission's original approval, the Commission finds the proposed development is consistent with the wetland protection policies of the certified Carlsbad Mello II LCP.

The steep slopes of the subject site were created artificially by a cut made when the old Carlsbad Road was created around the lagoon years ago (before it was closed to vehicular traffic). The proposed project is consistent with the City's Hillside Ordinance. The slope has been in place for over 45 years and the soils report indicates that there are no significant signs of potential failure; as such, the site is stable to support the new development. Approximately 36% of the subject site is comprised of steep slopes with gradients over 25%. The majority of the steep slopes will be encroached upon for the construction of the home, but the site has been previously disturbed and contains only isolated patches of native vegetation including Lemonade berry. Vegetation on the site has re-established itself predominantly with non-native vegetation; as such, the project will not result in significant adverse impacts to any sensitive plant species. The Commission finds the proposed development, as amended, is consistent with the resource protection policies of the certified Carlsbad Mello II LCP.

3. Visual Resources. The visual resource policies of the Mello II LCP require new development to be sited and designed to protect scenic features. Policy 8-1 of the Mello II LCP provides:

SITE DEVELOPMENT REVIEW

The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce

appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

The proposed residence consists of infill development on a vacant site located on the south shore of the lagoon between existing residences to the immediate north and south. While driving across the lagoon on Highway 101 (Carlsbad Boulevard), the site is visible looking east. Also, both the shoreline of the lagoon and site are visible from Vista Way and northbound Interstate-5 looking southeast.

By comparison, the proposed development on this lot is of a much smaller scale than other nearby condominium and apartment buildings which are situated further down the hillside at an elevation closer to the lagoon's edge. Although the total floor area of the project has increased from the approved 3,760 sq.ft.(including garage) to the proposed 4,487 sq.ft., the project is similar in scale to what was previously approved. Both projects propose to extend approximately to the 81 ft. elevation at the peak of the roof and have retaining walls that extend down to approximately the 44 ft. elevation. As such, the amended project should not result in additional adverse impacts as viewed from the public viewshed. Nevertheless, the project results in a cumulative adverse visual impacts to the viewshed of Buena Vista Lagoon. The Commission previously required a landscape plan recorded in a deed restriction, emphasizing the provision of an intermittent vegetative screen consisting of three specimen-sized trees between the proposed residence and lagoon to screen the home from the viewshed to the west. The trees may be placed in a manner so as not to obstruct the public views of the lagoon for the property owner. Additionally, the Commission required a deed restriction requiring exterior building materials to be of an earthen tone to blend in with the natural character of the area. The attached Special Condition #1 requires that all special conditions adopted by the Coastal Commission as part of the original permit action remain in full force and effect. As conditioned, the Commission finds the project as amended is consistent with the visual resource policies of the Mello II segment of the Carlsbad LCP.

4. Water Quality. Chapter 15.12.020 of the "Stormwater Management And Discharge Control Ordinance, of the certified Carlsbad Zoning Ordinance identifies "Best Management Practices" as follows

"Best Management Practices" or (BMPs) means schedules of activities, prohibitions of practices, general food housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable (MEP) the discharge of pollutants directly or indirectly into waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Chapter 15.12.010 defines the purpose and intent of the ordinance. The purpose of the chapter is to ensure the future health, safety, and general welfare of the residential, commercial and industrial sectors of the City of Carlsbad by....

B. Reducing pollutants in storm water discharges in order to achieve applicable water quality objectives for surface waters in San Diego County.

C. Reducing pollutants in storm water discharges, including those pollutants taken up by storm water as it flows over urban areas (Urban runoff), to the maximum extent practicable

The intent of the ordinance is to protect and enhance the water quality of watercourses and wetlands in a manner pursuant to and consistent with the Clean Water Act and California Regional Water Control Board NPDES Permit No. CA108758, Order 90-42 and any amendment, revision or reissuance thereof.

Policy 4-6 of the Mello II LUP, "Sediment Control" Practices, provides:

Apply sediment control practices as a perimeter protection to prevent off-site drainage. Preventing sediment from leaving the site should be accomplished by such methods as diversion ditches, sediment traps, vegetative filters and sediment basins. Preventing erosion is of course the most efficient way to control sediment runoff.

The site is located on the south shore of Buena Vista Lagoon. Buena Vista Lagoon has been identified by the State Department of Fish and Game as one of the 19 highest priority wetland areas for acquisition and, as such, is referenced in Section 30233(c) of the Coastal Act. The adverse impacts of development most often associated with wetland areas are erosion of soils within the watershed and subsequent sediment transport to the wetlands.

Some site runoff will be directed towards the existing storm drain system in Jefferson Street. However, the majority of runoff originating from the driveway and the proposed impervious surfaces on the sloping hillside lot will be directed west of the site towards Buena Vista Lagoon. Because the proposed project is larger than the approved project, it appears there will be a minor increase in impervious surfaces. The Commission's water quality staff have indicated that water quality concerns can be addressed by directing runoff through vegetation before it is discharged off-site. The City indicates it can accept the proposal provided it complies with City and State mandated water quality requirements. Special Condition #2 requires final drainage and runoff control plans, which have been approved by the City of Carlsbad, and document that the runoff from the roof, driveway and other impervious surfaces shall be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation to the maximum extent practicable, prior to being conveyed off-site in a non-erosive manner. This is a well-established Best Management Practice for treating runoff from development such as the subject proposal.

As conditioned, the Commission finds that potential adverse impacts related to water quality have been minimized to the maximum extent feasible. As such, the proposed project is consistent with the certified Carlsbad LCP.

5. Public Access. Section 30604(c) of the Act requires that a specific access finding be made for any development located between the sea and the first public roadway. In this particular location, Jefferson Street serves as the first public roadway and the proposed development would be located between Jefferson Street and Buena Vista Lagoon. Section 30212 of the Act requires that public access from the nearest public roadway be provided, unless such access would be inconsistent with public safety, military security or resource protection needs. In addition, the Carlsbad Mello II Segment LCP calls for a lateral public access pathway along the south shore of Buena Vista Lagoon, the site of the proposed development.

POLICY 7-6 BUENA VISTA LAGOON

An access trail shall be provided along the southern shoreline of Buena Vista Lagoon (See Exhibit 4.10, Page 63), to facilitate public awareness of the natural habitat resources of the Lagoon. To protect the sensitive resources of this area, access development shall be limited and designed in consultation with the State Department of Fish and Game. In permitted development of properties adjacent to the Lagoon (See Exhibit 4.5, Page 61), offers of dedication of lateral accessways, irrevocable for a term of 21 years, shall be required to be provided to the City of Carlsbad, State Coastal Conservancy, or other appropriate public agencies. Such access dedications shall be of at least 25 feet in width upland from environmentally sensitive areas and any required buffers thereto. In addition, the City of Carlsbad, State Coastal Conservancy, and Wildlife Conservation Board shall seek to obtain lateral accessways across developed lands.

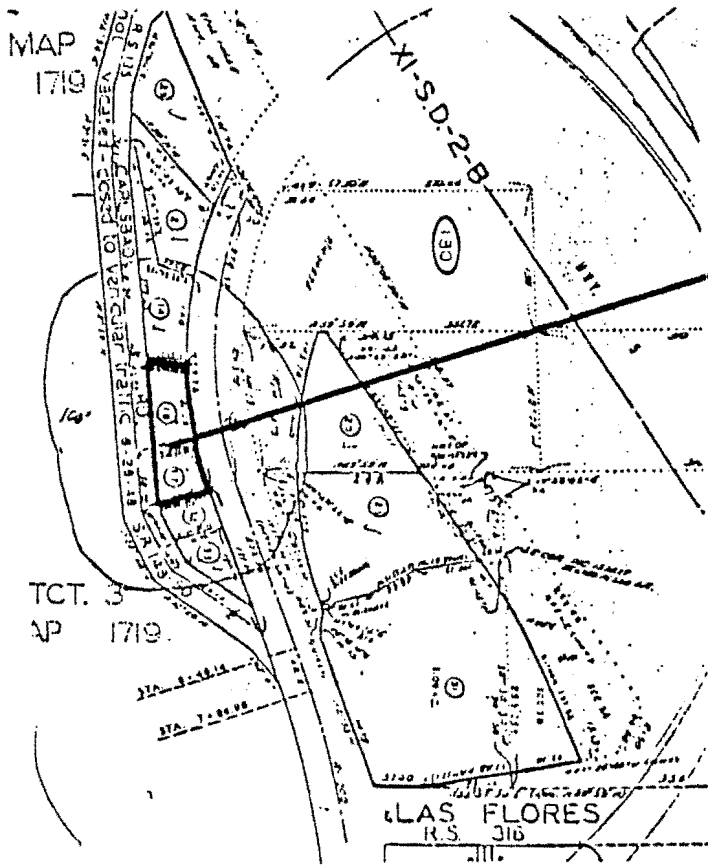
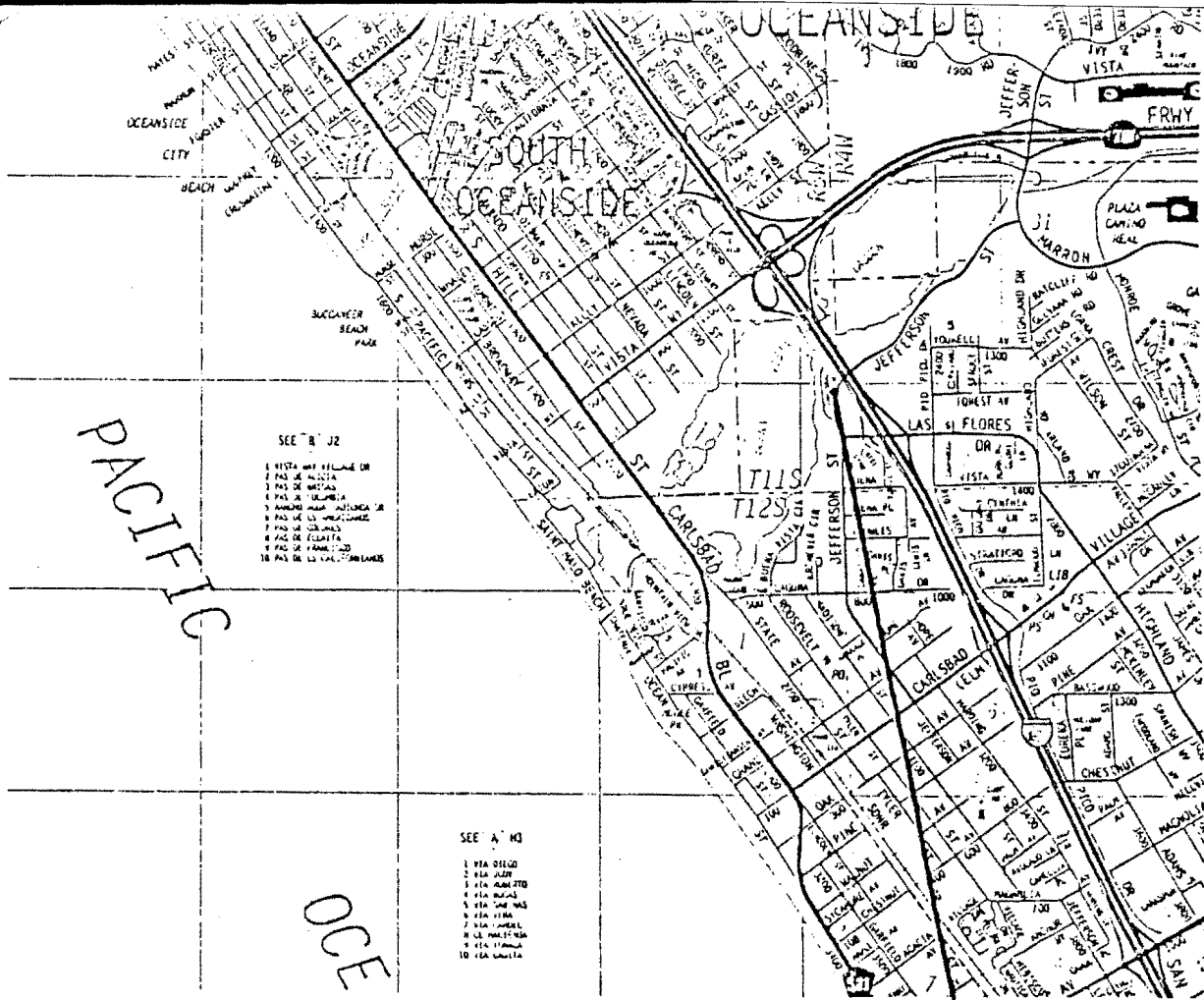
In this case the distance between the lagoon and subject western (lagoonward) property line ranges from 135 to 150 feet. Thus, taking into consideration a 100-foot buffer, this leaves ample room (35 to 50 feet) outside the applicant's property and within a portion of a vacated public street adjacent to the site for the construction of a lateral public access pathway at some point in the future. Therefore, the Commission finds that the project would not be inconsistent with the access requirements of the LCP and Section 30212 of the Act.

6. Local Coastal Planning. The land use and zoning designations applied to the site in the LCP are Residential Medium High (8-15 du/ac) and R-3 and the project is consistent with those designations. Therefore, the Commission finds that the subject proposal, as conditioned, is consistent with the policies of the certified City of Carlsbad Mello II segment LCP.

7. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal

Development Permit Amendments 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 amendment has been conditioned in order to be found consistent with the visual resource policies of the certified Mello II LCP and Chapter 3 policies of the Coastal Act. Mitigation measures, including compliance with the conditions placed on the original permit and the amended permit, 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 amendment is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



SITE

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| EXHIBIT NO. 1 |
| APPLICATION NO. |
| 6-95-28-A1 |
| Location Map |

California Coastal Commission

S03°59'00"E 79.96'

Property Line

5' high screen wall w/ encroachment permit

Property Line

7'-6" SIDE SETBACK

7'-6" SIDE SETBACK

Deck string line
Building string line

N71°07'56"E 28.41'

Property Line

N87°45'26"E 19.76'

Proposed cond. driveway

PROPOSED BALCONY

PROPOSED SINGLE FAMILY RESIDENCE

WALKWAY FOR LANDSCAPE DRUGS

S11°19'41"W 61.17'

N64°37'47"W 59.96'

20'-0" FRONT SETBACK

L = 67.85' Δ = 07°16'42" R = 580.00'

Property Line

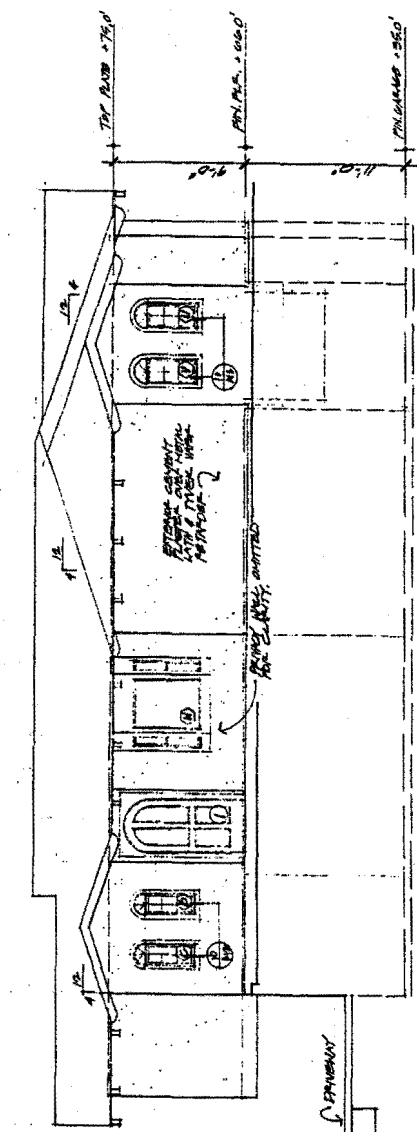
Existing 4' wide sidewalk

JEFFERSON STREET

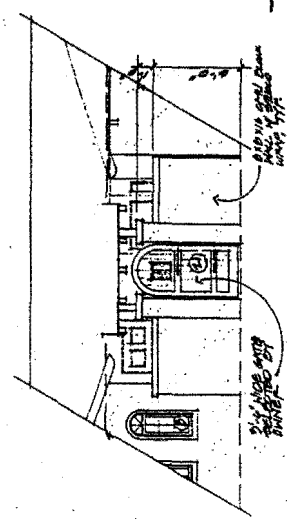
30'-0"
40'-0"

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| EXHIBIT NO. 2 |
| APPLICATION NO. |
| 6-95-28-A1 |
| Site Plan |
| California Coastal Commission |

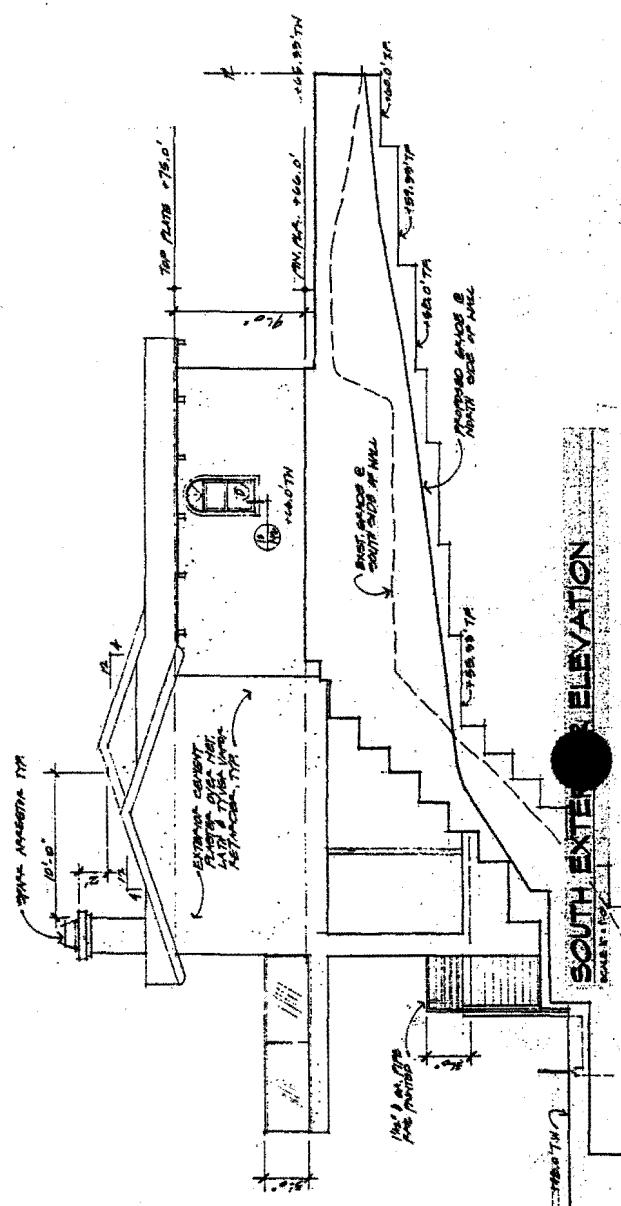
SITE PLAN



EAST EXTERIOR ELEVATION
SCALE 1/4" = 1'-0"



ENTRY GATE & PRIVACY WALL
SCALE 1/4" = 1'-0"



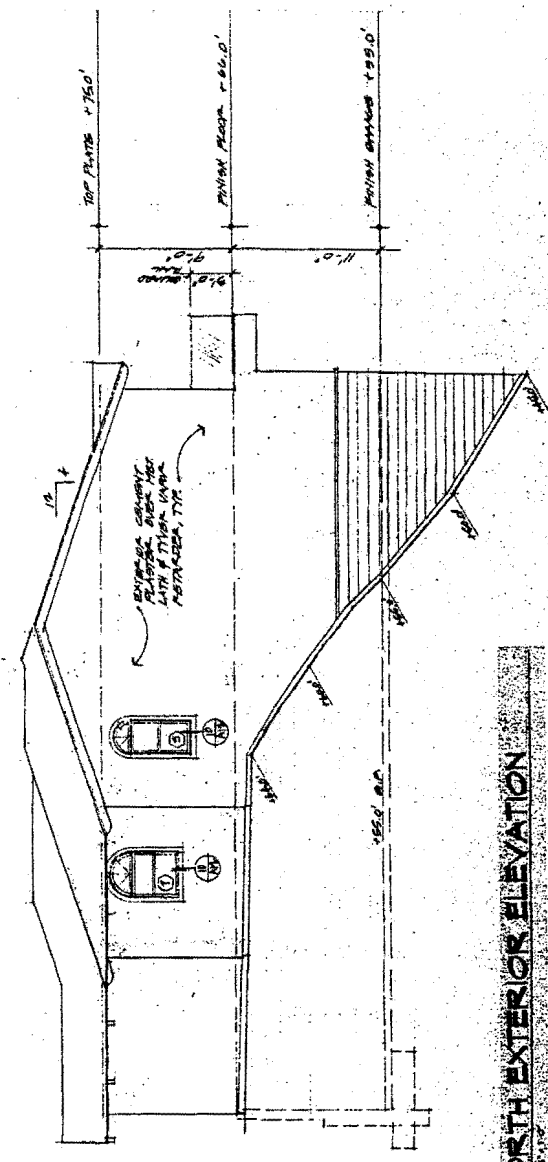
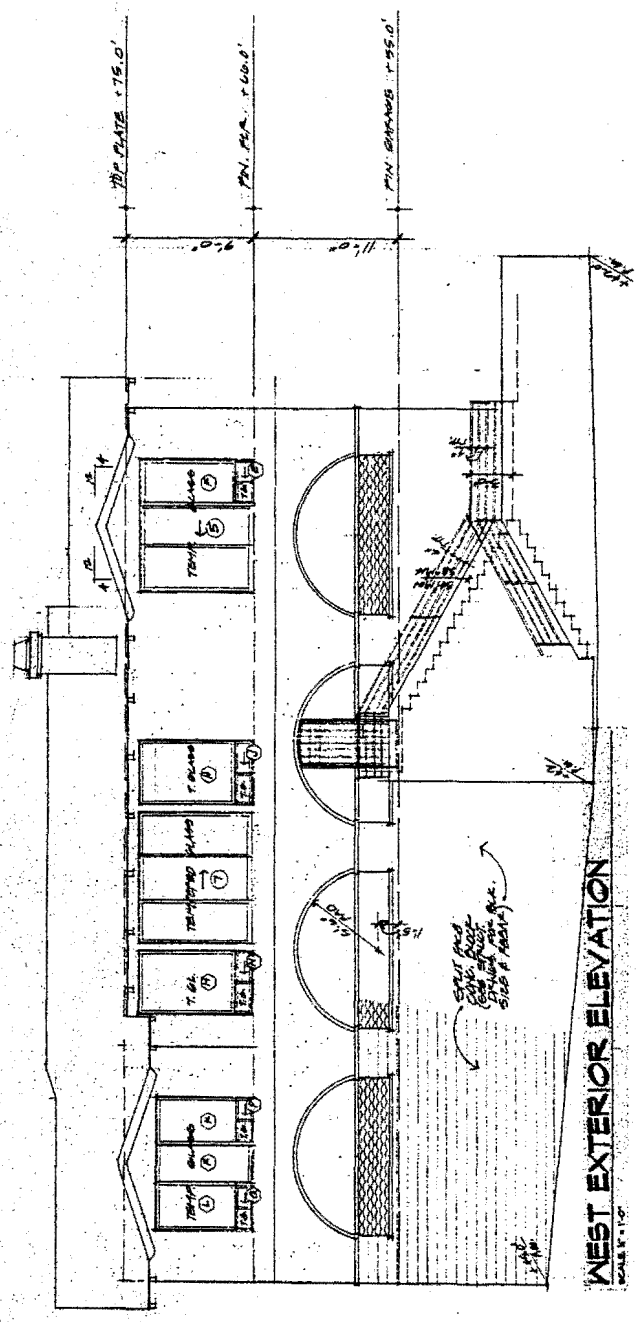
SOUTH EXTERIOR ELEVATION
SCALE 1/4" = 1'-0"

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| EXHIBIT NO. 4 |
| APPLICATION NO. |
| 6-95-28-A1 |
| Elevations |
| Page 1 of 2 |
| California Coastal Commission |

R.W. ALXANDERSON DESIGN
 735 S. Highway 101, Ste. 1, San Marcos, CA 92069 (760) 339-0700 (fax) 129-0000

M.R. & M.R.S. G. PATRIZI RESIDENCE
 LITTLETON STREET
 CARLSBAD, CALIFORNIA 92008

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CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
 3111 CAMINO DEL RIO NORTH, SUITE 200
 SAN DIEGO, CA 92108-1725
 (619) 521-8036

Date April 18, 1995Application No. 6-95-28Page 1 of 3**FILE COPY**NOTICE OF INTENT TO ISSUE PERMIT

On April 12, 1995, the California Coastal Commission approved the application of Patricia Mahy, subject to the attached standard and special conditions, for the development described below:

Description: Construction of a three-level, 3,160 sq.ft., 30-foot high single family residence on a vacant 7,844 sq.ft. site. Also, vacation of a portion of Jefferson Street to east of site and incorporation of that area onto subject site, and lot line adjustment to include in the site approx. half the right-of-way width of Carlsbad Road (paper street) to the west.

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| Lot Area | 7,844 sq. ft. |
| Building Coverage | 1,274 sq. ft. (16%) |
| Pavement Coverage | 1,000 sq. ft. (13%) |
| Landscape Coverage | 1,000 sq. ft. (13%) |
| Unimproved Area | 4,570 sq. ft. (58%) |
| Parking Spaces | 4 |
| Zoning | R-3 |
| Plan Designation | RLM General Plan |
| Ht abv fin grade | 30 feet |

Site: Parcel 2 on west side of Jefferson Street, north of Las Flores Drive, Carlsbad, San Diego County. APN 155-180-17

The permit will be held in the San Diego District Office of the Commission, pending fulfillment of Special Conditions 1 & 2. When these conditions have been satisfied, the permit will be issued.

CHARLES DAMM
 DISTRICT DIRECTOR
 BY

Laurinda R. Owens

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| EXHIBIT NO. 5 |
| APPLICATION NO. |
| 6-95-28-A1 |
| Notice of Intent |
| Page 1 of 3 |
| California Coastal Commission |

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. Final Landscape Plans/Deed Restriction

a. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. Special emphasis shall be placed on the placement of at least three (3) specimen size trees (24-inch box minimum) to be planted at grade on the west-facing portion of the site adjacent to the residence to effectively screen the structure from views from

SPECIAL CONDITIONS, continued:

Buena Vista Lagoon and Highway 101 to the west. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director in consultation with the Department of Fish and Game to avoid species inherently noxious to the lagoon environment. The plan shall include the following:

- (1) A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of construction.
- (2) A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

b. Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, to ensure that the intent of this condition continues to be applicable throughout the life of the project. The restriction shall provide that landscaping shall be implemented in accordance with Special Condition #1 and consistent with those plans approved with CDP #6-95-28. The restriction shall be recorded, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property.

2. Exterior Treatment. Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval in writing of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed residence. Said materials shall be consistent with the following which shall be recorded as a deed restriction against the property that states:

Any future modifications to the exterior surfaces of the residence shall be implemented with building materials of natural earthen tones, including shades of green, brown and grey, with no white or very light shades, and no bright tones, except as minor accents, to minimize the residential development's contrast with the surrounding scenic areas, and consistent with those approved under Coastal Development Permit #6-95-28, on file in the San Diego Commission office.

Said restriction shall be recorded, prior to issuance of the coastal development permit, in a form and content acceptable to the Executive Director. The document shall be recorded against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property.