

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
767-2370

RECORD PACKET COPY



Tue 9j

Filed: 5/30/02
49th Day: 7/18/02
180th Day: 11/26/02
Staff: WNP-SD
Staff Report: 6/20/02
Hearing Date: 7/8-12/02

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-69

Applicant: Bristol Cove, LLC

Agent: Leo A. Fitzsimon

Description: Construction of 2 attached condominium residences (1,775 sq.ft and 2,403 sq.ft and each 3 stories and 35 feet high) with attached garages on a vacant 6,229 sq.ft. lot.

Lot Area	6,229 sq. ft.
Building Coverage	1,631 sq. ft. (26%)
Pavement Coverage	1,001 sq. ft. (16%)
Landscape Coverage	130 sq. ft. (2%)
Unimproved Area	3,467 sq. ft. (56%)
Parking Spaces	5
Zoning	Residential Waterway (15-23 du/ac)
Plan Designation	Residential High Density
Ht abv fin grade	35 feet

Site: Lot 13 Map No. 5162 on Cove Drive, Agua Hedionda, Carlsbad (San Diego County)
APN 207-150-66 & 67.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the permit with special conditions. The proposed development is located near a small private cove in near Agua Hedionda Lagoon. The primary issues raised by the development relate to protection of water quality and scenic resources. Because the site drains into Bristol Cove, a special condition requires that all runoff from the site be filtered prior to discharge into the cove. Also, because development is proposed above the adjacent scenic roadway, a special condition requires project height to be lowered to preserve public views of the lagoon from the roadway. As conditioned, the proposed development is consistent will all applicable Chapter 3 policies of the Coastal Act.

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Substantive File Documents: Preliminary Geotechnical Evaluation, Leighton and Assoc Inc. 10/16/01; City of Carlsbad Ms 01-17; Condominium Permit No. 01-08; CDP #6-98-51.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-69 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 Drainage Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final drainage and runoff control plans, that have been approved by City of Carlsbad, to the Executive Director for review and written approval. The plans shall 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.

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.

2. Revised Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, revised final site, building and elevation plans for the permitted development that have been approved by the City of Carlsbad. Said plans shall be in substantial conformance with the plans submitted by Leo A. Fitzsimon Associates, dated received 4/26/02, except they shall be revised as follows:

- (a) Project height shall not exceed the Adams Street elevation (132-foot Mean Sea Level)

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

3. 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/History. Proposed is the construction of two attached condominium residences (1,775 sq.ft and 2,403 sq.ft and each 3 stories and 35 feet high) with attached garages on a vacant 6,229 sq.ft. lot located near Bristol Cove, a private inland waterway connected to Agua Hedionda Lagoon in the City of Carlsbad. The project site is a hillside lot that has been previously graded and does not contain any native vegetation, wetlands, or sensitive upland habitat. The project also includes 176

cubic yards of grading (cut) in order to prepare the site for construction. Special Condition #3 is attached, and requires the applicant to identify the location for the disposal of graded spoils and, if necessary, to obtain a coastal development permit or amendment for the disposal.

Bristol Cove is a private cove and marina facility located off the inner basin of Agua Hedionda Lagoon. The cove is owned by Bristol Cove Property Owner's Association, which comprises the residential condominium complexes along the shoreline of the cove channel. Since 1972, over three dozen permits have been issued for the construction of condominium complexes and duplexes along Bristol Cove, ranging in size from 2-unit structures to 100-unit complexes. However, the subject site is not located on the water and is an interior lot located inland of Cove Drive. It does not provide any views of the main channel, nor is there evidence that the site has been used by the public to access the shoreline.

Agua Hedionda Lagoon is a "man-made" water body that was originally dredged in 1954 to -11 ft. MSL, out of a historical 230 acre salt marsh slough to provide cooling water for the Encina Power Plant. Two settling basins were included in the design: one in the outer lagoon to trap sands carried in from the ocean, and one at the eastern end to trap incoming sediments from Hedionda Creek. Several Coastal Development Permits have been issued since 1980 for the dredging of Bristol Cove and other areas of the lagoon. On July 8, 1998 the Commission approved CDP #9-98-51 for the dredging of 20,000 cubic yards of silt from Bristol Cove, as well as the replacement of 1,200 cu. yds. rip-rap along the shoreline. The permit included conditions concerning eelgrass impacts and a Monitoring Program for eelgrass mitigation that required replanting of the species at a ratio of 1.2:1 sq. ft. impacted area.

The certified Agua Hedionda lagoon Land Use Plan (LUP) is one of six segments of the City of Carlsbad's LCP and Bristol Cove is within the area governed by this document. While most of the city's coastal zone has a fully certified LCP, with the city issuing coastal development permits, an implementation program for the Agua Hedionda lagoon segment has not been certified as yet. Thus, permit responsibility remains with the Commission, and Chapter 3 of the Coastal Act is the standard of review with the certified Agua Hedionda Lagoon LUP used as guidance.

2. Runoff/Water Quality. Sections 30230 and 30231 of the Coastal Act are applicable to the proposed development and state, in part:

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 for long-term commercial, recreational, scientific, and educational purposes.

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...

The project site is near Bristol Cove, a small offshoot of Agua Hedionda Lagoon, currently undeveloped, and surrounded by existing residential condominium and apartment complexes. The proposed 2-unit development and driveway will create new impervious surface. This reduction in pervious surface leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Furthermore, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides and pesticides; and bacteria and pathogens from animal waste.

The proposed development includes some on-site and off-site drainage improvements to ensure that most runoff is collected and dissipated prior to it entering the storm drain and eventually the cove and lagoon. In order to reduce the potential for adverse impacts to water quality resulting from the proposed development, Special Condition #1 is attached. This condition requires that runoff from the roof and other impervious surfaces be directed into on-site landscaped areas for infiltration and or percolating prior to being conveyed offsite. Directing runoff through landscaping is a well-established BMP for treating runoff from small developments such as the subject proposal. Special Condition #1 requires this measure as a post-construction best management practice. As conditioned, the Commission finds the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act.

3. Visual Resources. Because Agua Hedionda Lagoon and the viewshed surrounding the lagoon is both an environmentally sensitive area and major recreational resource, it was the subject of a detailed Land Use Plan prepared by the City and certified by the Coastal Commission. In response to Section 30251 of the Coastal Act, one of the issues addressed in the Land Use Plan was the preservation of views from Adams Street. This street is a designated scenic corridor that runs along the north shore of the lagoon, and briefly runs above Cove Drive. Policy 8.3a of the LUP requires that development of the lots which lie between Adams Street and Agua Hedionda Lagoon be designed so as to preserve the public views from Adams Street.

8.3: Development located adjacent to scenic roadways, or located between the road and shoreline, shall be regulated as follows:

a) Where a significant elevation difference (e.g. 35 feet) exists between the shoreline and the first parallel public road, as in the case of Hedionda Point and Snug Harbor, no portion of a structure in the intervening area shall be permitted to exceed the elevation of the roadway.

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 the case of the proposed development, the roofline of the proposed residence is proposed at elevation 136.22 MSL which exceeds the elevation of Adams Street, running above the project site at approximate elevation 132 MSL. Adams street is the first street paralleling the lagoon and views to the lagoon from this street could be adversely impacted by the proposed development that includes a roof projection of almost 4 ½ ft. above the elevation of the roadway. Thus, the project does not conform to the LUP requirement and would block views from Adams Street to the lagoon, inconsistent with Section 30251 of the Coastal Act. Special Condition #2 requires revised plans indicating the project does not exceed the Adams Street elevation. Only as conditioned can the Commission find that public views are preserved consistent with Section 30251 of the Coastal Act and the applicable policies of the Agua Hedionda Land Use Plan regarding scenic preservation.

4. Public Access. Section 30604(c) of the Act requires that a specific access finding is made for any development located between the sea and the first public roadway. In this particular location, Adams Street serves as the first public roadway and the proposed development would be located between Adams Street and Agua Hedionda 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.

Vertical public access to the Agua Hedionda Lagoon shoreline is provided well south of the site at the terminus of Cove Drive. From there, public trail segments exist to the east in front of the Bristol Cove multi-family project and the two lots to the immediate west. The project site itself does not provide any views of the main channel, nor is there evidence that it is used by the public to access the shoreline. In addition, the proposed development does not propose any structures that would interfere with existing access, and the Commission finds the project consistent with the public access policies of both the Coastal Act and the Agua Hedionda Land Use Plan.

5. Local Coastal Planning. Section 30604 (a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will

not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

The Commission has certified the Agua Hedionda Land Use Plan (LUP) but the City for this plan segment has submitted no implementing ordinances. Thus, the standard of review for this application is Chapter 3 policies of the Coastal Act. The Agua Hedionda Land Use Plan (LUP) designates the site for residential development. The project is consistent with that designation. As conditioned, the project is consistent with the policies of the Agua Hedionda Land Use Plan regarding water quality and scenic resources and corresponding Chapter 3 policies of the Coastal Act. Therefore approval of the project will not prejudice the ability of the City of Carlsbad to prepare a fully certifiable Local Coastal Program for its Agua Hedionda Lagoon segment.

6. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit, as conditioned, is 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 to be consistent with the resource, visual and public access protection policies of the Coastal Act. The required mitigation measures regarding drainage/water quality and public views 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, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

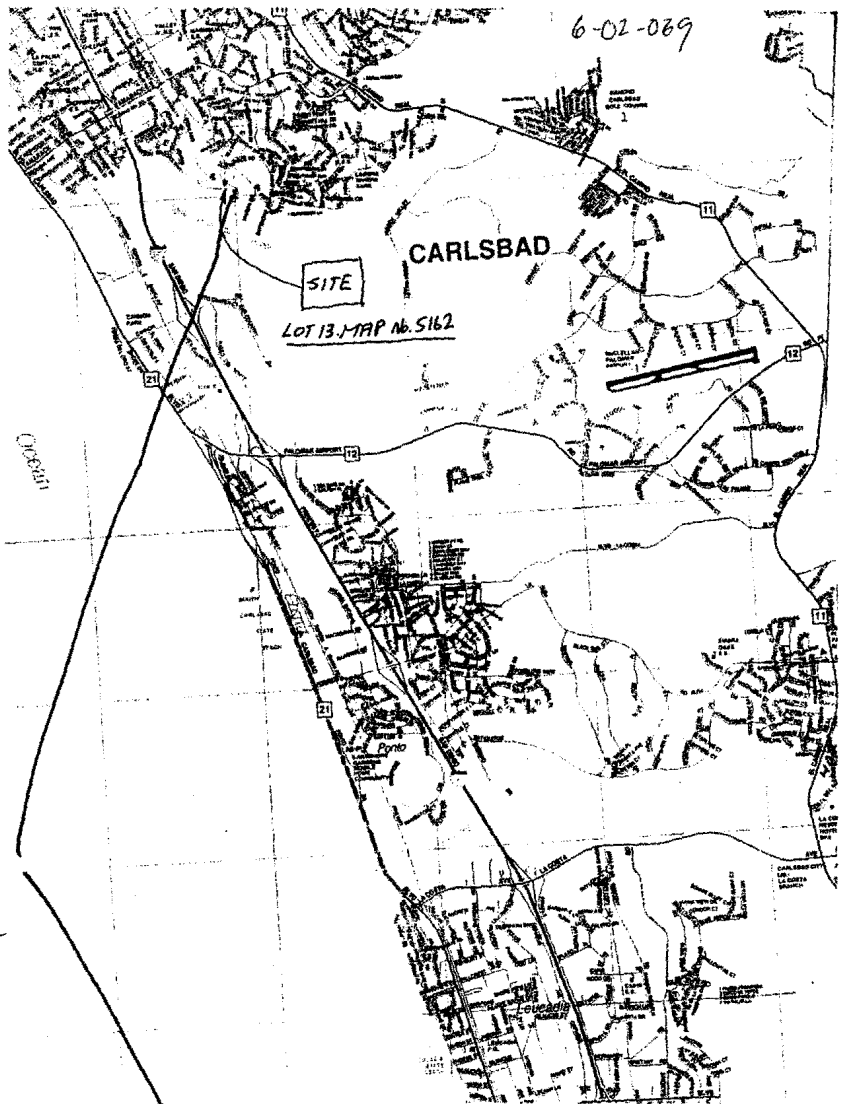
STANDARD CONDITIONS:

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.

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6-02-089



Site

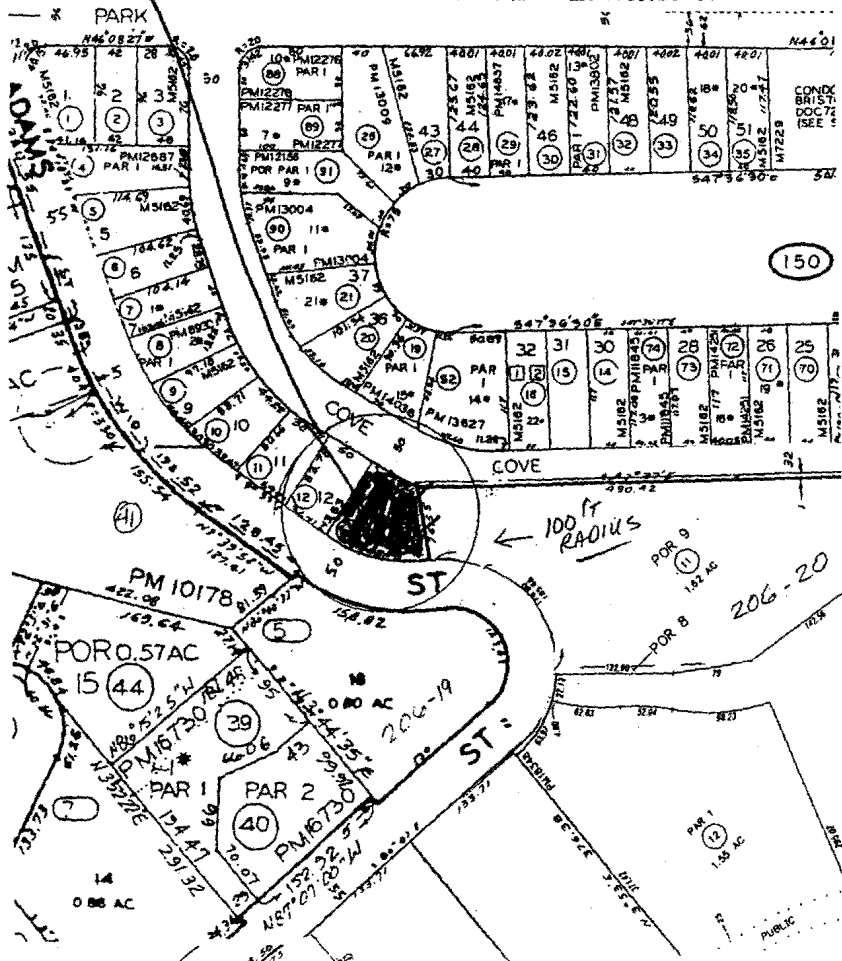
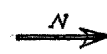
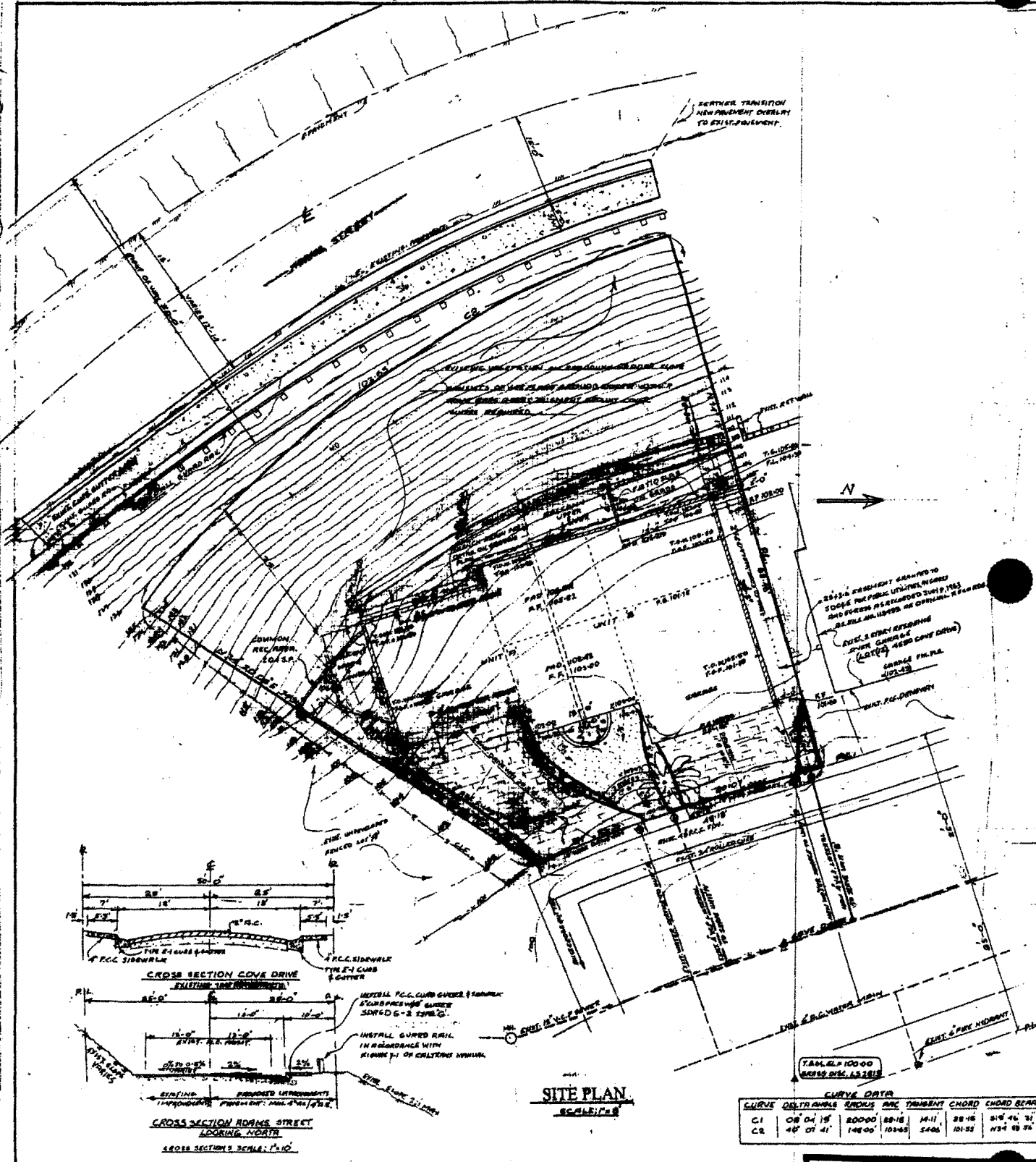
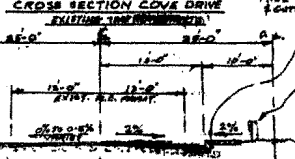
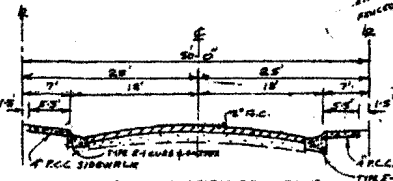


EXHIBIT NO. 1
 APPLICATION NO.
 6-02-69
 Location Map

6-02-069



SHOWN PERMIT GRANTED TO
 STATE FOR PUBLIC UTILITIES PURPOSES
 AND POWER IS RECORDED WITH THIS
 RECORD. ALL UTILITIES ARE CORRECTED TO PERMITS
 EXIST'S SHOWS EXISTING
 UNDER CONTRACT
 (L.C.C. 67) 4000 COVE DRIVE
 CHANGE PERMITS
 (L.C.C. 67)



INSTALL P.C.C. CURB GUARD RAILING
 2\"/>

INSTALL GUARD RAIL
 IN ACCORDANCE WITH
 FIGURE 3-1 OF CALTRANS MANUAL

SITE PLAN
 SCALE: 1"=20'

TABLE A-10000
 28100 BY 65.1218

CURVE	DELTA ANGLE	RADIUS	ARC TANGENT	CHORD	CHORD BEARING
C1	08 04 19"	20000	28-18'	14-11'	81° 46' 51" E
C2	48 01 41"	14800	10-58'	10-55'	173° 05' 24" N

EXHIBIT NO.
 APPLICATION NO.
6-02-69
 Site Plan

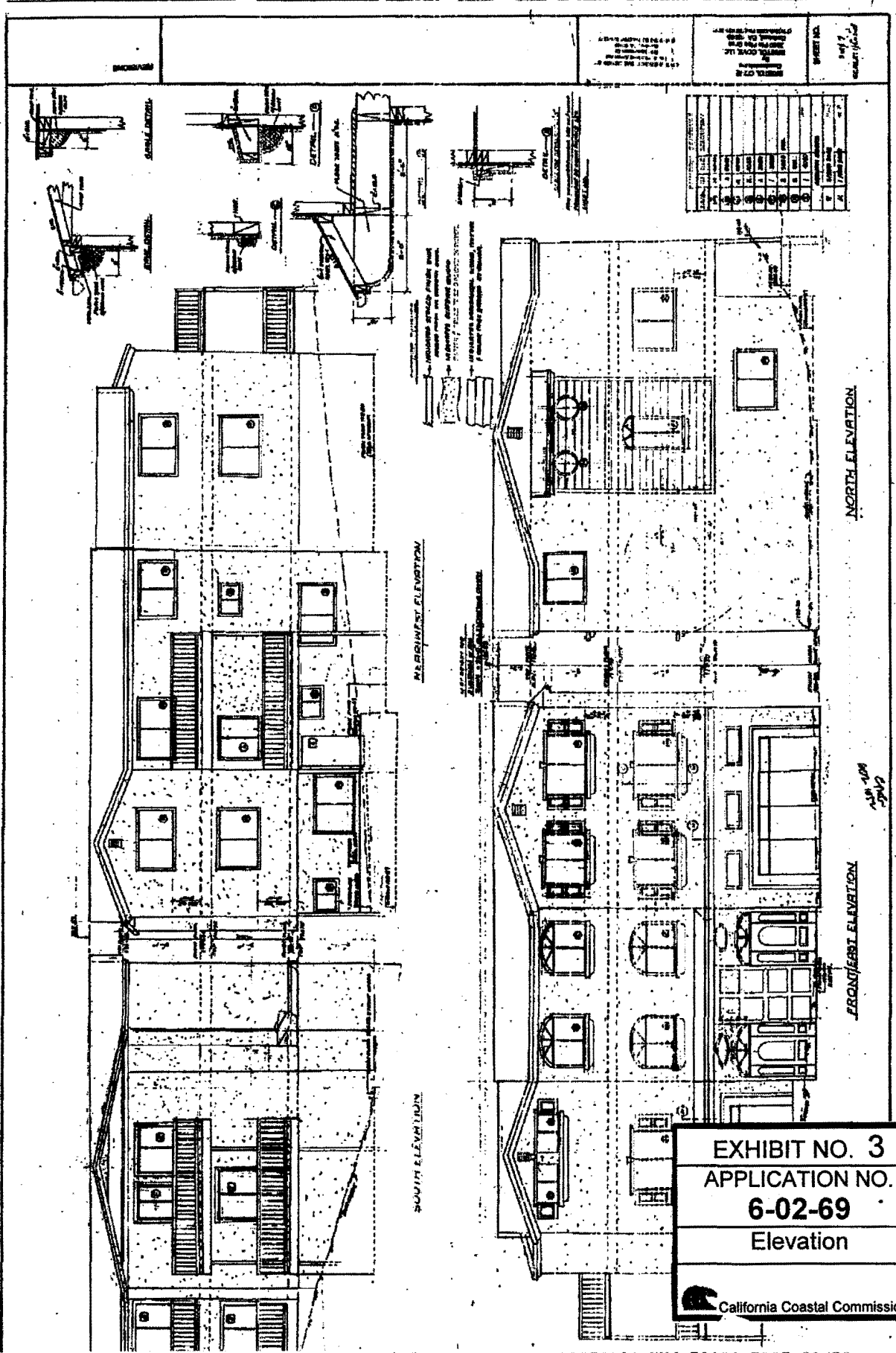


EXHIBIT NO. 3
 APPLICATION NO.
 6-02-69
 Elevation

California Coastal Commission

