

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370

RECORD PACKET COPY

**Thu 8c**

Filed: 11/26/02
49th Day: 1/14/03
180th Day: 5/25/03
Staff: WNP-SD
Staff Report: 12/19/02
Hearing Date: 1/8-10/03

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-136

Applicant: Stefan Ricketts

Agent: Randall Ricketts

Description: Construction of a two-story, 25 ft. high duplex on a vacant 4,745 sq.ft. waterfront lot.

Lot Area	4,745 sq. ft.
Building Coverage	3,460 sq. ft. (73%)
Pavement Coverage	900 sq. ft. (19%)
Landscape Coverage	385 sq. ft. (8%)
Parking Spaces	4
Zoning	Residential Waterway (15-23 du/ac)
Plan Designation	Residential High Density
Ht abv fin grade	25 feet

Site: 4520 Cove Drive, Agua Hedionda, Carlsbad, San Diego County, APN 207-150-20

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the permit with special conditions. The proposed development is located on a small private cove off Agua Hedionda Lagoon. The primary issues raised by the development relate to protection of water quality. 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. As conditioned, the proposed development is consistent with all applicable Chapter 3 policies of the Coastal Act.

Substantive File Documents: Certified Agua Hedionda LUP, CDPs #6-98-51, #6-01-175,
#6-02-69

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-02-136 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 will 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. Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a landscaping plan for the review and written approval of the Executive Director. Said plan shall include provision of at least a 3-ft vegetative strip between the project development and the Cove shoreline designed to filter runoff from the development, and shall include the following:

- (a) A maintenance plan for the landscaped area that shall describe the herbicide, pesticide and fertilizer practices as well as list the chemical pesticides and fertilizers that will be employed on site. Said chemicals shall not be toxic to fish or wildlife or persistent in the environment. Herbicides and pesticides, if used at all, shall be applied by hand application or by other means that will prevent leakage, percolation, or aerial drift into adjacent lagoon;
- (b) A plan showing the type, size, extent and location of all plant materials used;
- (c) Drought-tolerant native or non-invasive plant materials shall be utilized;
- (d) A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion residential construction;
- (e) All required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new drought-tolerant native or non-invasive plant materials to ensure continued compliance with landscape requirements; and
- (f) Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to

remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the landscape 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the construction of a two-story, 25 ft. high duplex on a vacant, previously graded 4,745 sq. ft. waterfront lot located adjacent to Bristol Cove, an inland waterway connected to Agua Hedionda Lagoon in the City of Carlsbad. The project also includes 50 cubic yards of balanced grading to prepare the site for construction.

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 a 100-unit complex.

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 #6-98-51 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 will create new impervious surfaces. 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 and off-site drainage improvements to ensure that runoff is collected and dissipated prior to it entering the storm drain on Cove Drive and the lagoon itself. 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.

The project site is a waterfront lot that has been previously graded and does not contain any native vegetation, wetlands, or upland habitat. While the lot extends to the waters edge, no wetland vegetation exists on site and no fill of wetlands is proposed. The

shoreline of Bristol Cove is lined completely with rock rip-rap and no natural upland habitat is located on the site. Existing vegetation consists of several non-native palm species, with the majority of the site covered with crabgrass.

The Commission has typically in the past required a 100-foot buffer between new development and the water's edge of a coastal lagoon along Adams Drive. Historically, the Commission requires that buffer areas remain undeveloped to provide physical space between development and environmentally sensitive areas like Agua Hedionda Lagoon. The project site, however, is within an area where development pre-dates the Coastal Act; most of the lots around Bristol Cove were developed in the 1960's. Thus, the current pattern for development along Bristol Cove establishes a 20-ft. setback. Bristol Cove's entire shoreline is covered with rip-rap and all parcels along the Cove, except for the project site, contain residential development built along the 20-ft setback line. In addition, while some eelgrass may exist in the cove, it is periodically dredged to provide safe passage for boats. As well, approximately fifty floating boat docks exist within the Cove itself. The project proposal includes a 20-ft setback between the proposed development and the Cove shoreline. This setback is consistent with neighboring structures and maintains the character of the surrounding area.

A vegetative area between the proposed structure and the Cove will provide both a visual and physical barrier between the Cove and the project development. In order to provide a sufficient landscape buffer between the proposed development and the Cove shoreline, Special Condition #1 requires that the applicant submit to the Executive Director a landscape plan that requires the use of only drought-tolerant native or non-invasive plant species, requires a vegetative 3-ft. wide vegetated filter between the landscaping and shoreline, requires that landscaping be maintained in good growing condition, and requires, whenever necessary, that landscaping be replaced with new plant materials.

As originally proposed, the project included a floating boat dock that would attach to the property shoreline and extend into Bristol Cove. However, the applicant has withdrawn this part of the application.

In summary, the proposed residential development does not involve impacts to any sensitive upland habitat or any fill of wetlands, incorporates a 20-foot buffer between the mean high tide line and on-site development, and as proposed, assures coastal resources will be preserved. Therefore, as conditioned, the Commission finds the proposed project consistent with the cited Coastal Act policies.

3. Visual Resources. Agua Hedionda Lagoon and the viewshed surrounding the lagoon were 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 8.3 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.

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 25-ft. MSL, which is below the elevation of Adams Street, running well above the project site. Thus, the project conforms to the LUP requirement and will not threaten any existing viewsheds from Adams Street. The existing community along Bristol Cove is made up of multi-unit apartment and condominium complexes that create a solid wall of development along the shoreline such that no views to Bristol Cove exist along Cove Drive. The proposed development will place a large residential structure between the road and shoreline of the Cove but does not block any views of the lagoon and will complete the line of development consistent with all other development along Bristol Cove. In summary, the residential development as proposed provides for the required view preservation from the adjacent scenic roadway, and the Commission finds that the proposed development is 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.

The project site is located between Agua Hedionda Lagoon and Cove Drive and contains roughly 72 feet of actual shoreline frontage. Bristol Cove is an approximately 800 ft. long, 50 ft. wide, channel that runs northwest from Agua Hedionda Lagoon's inner basin. The Cove's shoreline is entirely private and lined with approximately 15 feet of rip-rap along its length. All existing shoreline developments include small-craft floating boat docks that attach to the rip-rap and extend into the Cove. Vertical public access to the Agua Hedionda Lagoon shoreline is provided south of the proposed site, at the terminus of Cove Drive about ¼ mile away. From there, public trail segments exist to the east in front of the Bristol Cove multi-family project (about 100 feet) and the two lots to the immediate west (about 500 feet). 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.

The construction of a duplex structure along the lagoon raises issues of consistency with Coastal Act policies protecting public access to and along the shoreline (which includes the shoreline of coastal lagoons). The Agua Hedionda Land Use Plan (LUP), however, does not identify public access along the shoreline of Bristol Cove and private development currently exists on all surrounding lots located on the Cove shoreline. Pedestrian trail access outlined in the LUP ends at the entrance of Bristol Cove on the western bank, continues inland along Cove Drive to Park Drive, and resumes again along the Lagoon on the opposite side of the cove mouth on the eastern shore. Currently there is not public access to any part of the Bristol Cove shoreline, as it is fully developed (except for the proposal site) with existing residential development, and construction of the project proposal will not impact public access to the area. Again, public access to the lagoon is nearby at the terminus of Cove Drive. In the case of the proposed development, adequate public access to Agua Hedionda Lagoon is provided south of the subject site. 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 no implementing ordinances have been submitted. 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 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.

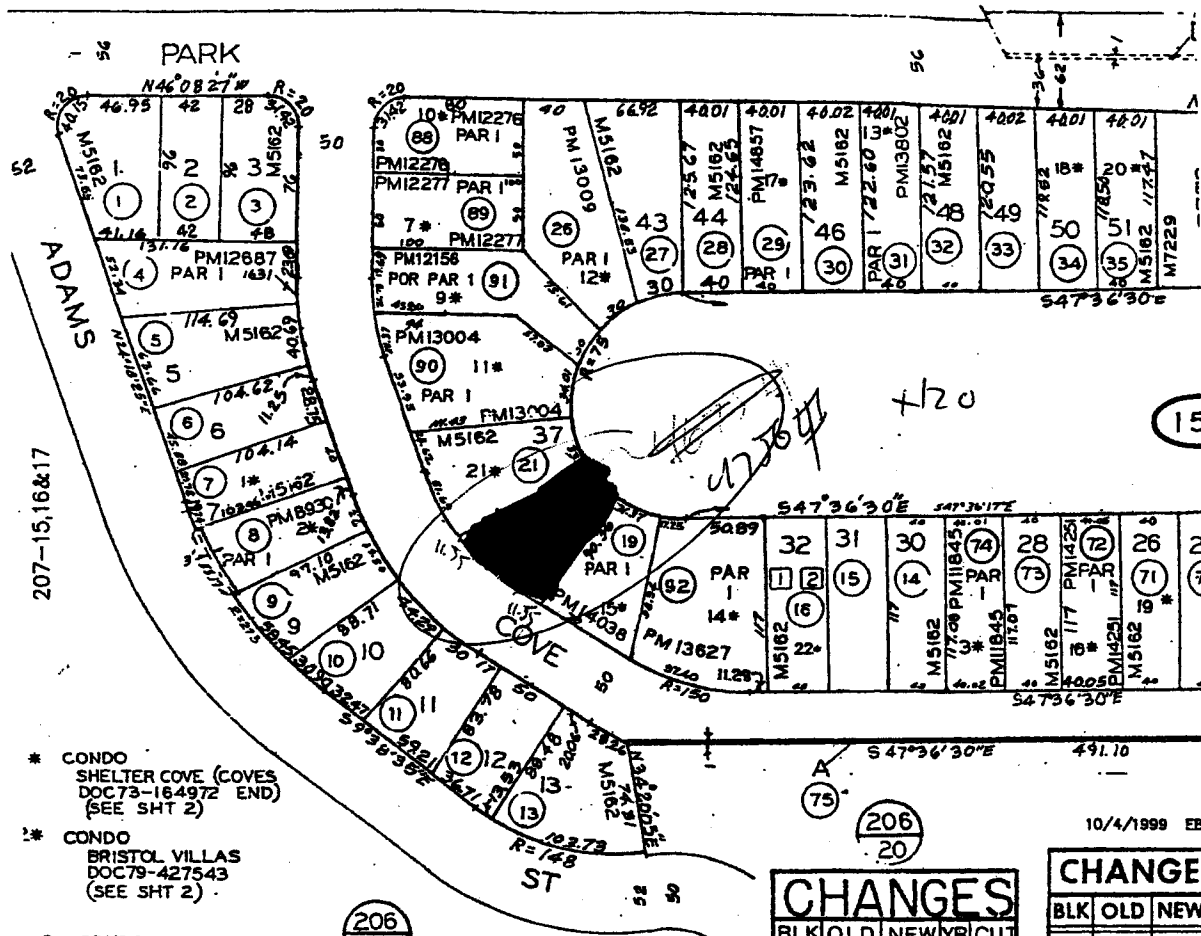
6. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit, as conditioned, is consistent with any applicable requirements of the 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 water quality protection policies of the Coastal Act. The required mitigation measures regarding drainage/water quality 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.



* CONDO
SHELTER COVE (COVES
DOC73-164972 END)
(SEE SHT 2)

2* CONDO
BRISTOL VILLAS
DOC79-427543
(SEE SHT 2)

3* CONDO
BRISTOL BAY
DCC92-016668
(SEE SHT 2)
4* CONDO
PARK BRISTOL
DOC82-316405
(SEE SHT 3)
5* CONDO
SHELTER COVE
DOC82-200143&316404
(SEE SHT 6)

6* CONDO
PIRATES COVE
DOC82-322530
(SEE SHT 2)

8* CONDO
VISTA LAGOON
DOC82-322526
(SEE SHT 6)
9* CONDO (SEE SHT 3)
COVE PARK
DOC83-383330

10* CONDO
BRISTOL COVE
DOC82-322522
(SEE SHT 3)

CHANGES				
BLK	OLD	NEW	YR	CUT
150	41	CONDO	85	66 CC
	1748	92	85	2032
	91	CONDO	85	724 RC
	31	CONDO	86	567
	92	CONDO	86	625
	19	CONDO	87	558
	84	CONDO	87	602
	72	CONDO	88	596
	29	CONDO	88	720

CHANGES		
BLK	OLD	NEW
150	21	CONDO
	68	CONDO
	44	CONDO

10/4/1999 EBF

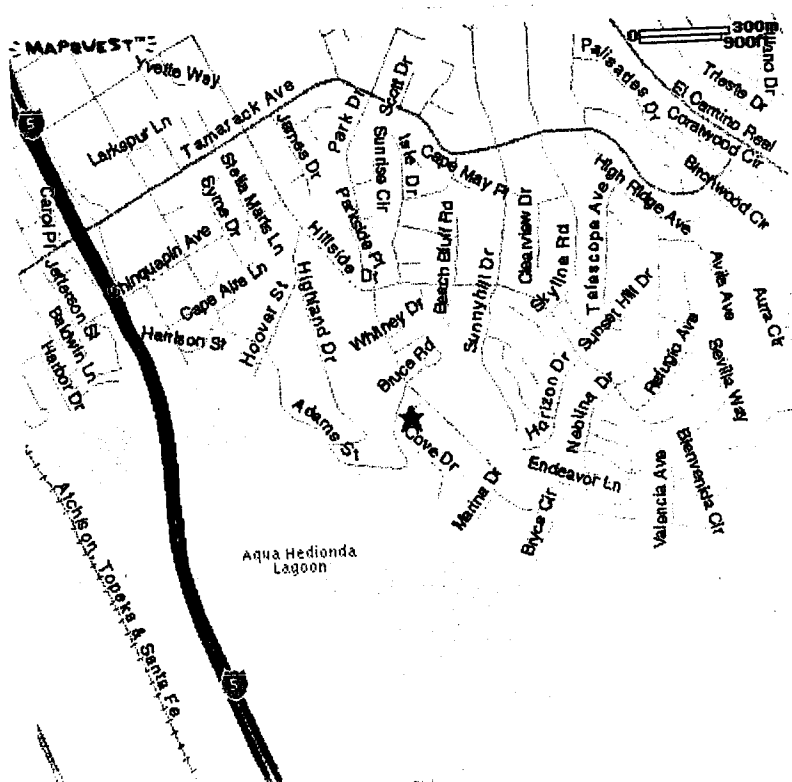


EXHIBIT NO. 1

APPLICATION NO.

6-02-136

Location Map

California Coastal Commission

