

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4402
(619) 767-2370



TH 8b

Addendum

February 28, 2008

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **TH 8b**, Coastal Commission Permit Application
#6-07-84 (Billington), for the Commission Meeting of March 6, 2008

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 3, Special Condition #1 shall be revised as follows:

1. Revised Final 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 plans for the permitted development that have been stamped approved by the City of Solana Beach. Said plans shall be in substantial conformance with the plans approved by the City dated 2/15/07, by Stephen Dalton Architects, but shall be revised as follows:

- a. No portion of the proposed additions shall be located closer to San Elijo Lagoon Ecological Reserve and Park than the adjacent homes located on the west and east sides of the subject site (this shall be determined by drawing a line between the adjacent structure to the west and east and ensuring that no portion of the proposed additions(s) are located closer to the lagoon than that line) unless it can be documented, through a biological survey to be reviewed and approved by the Executive Director, that ~~any such addition(s) will not be located within 100 feet of Environmentally Sensitive Habitat Areas (ESHA).~~ no Environmentally Sensitive Habitat Areas occur within the zone created by a 100 ft. radius from the proposed additions, excluding the areas covered by a 100 ft. radius from the existing residence and the two residences located on either side of the subject residence as depicted on Exhibit #3 of this staff report.

[. . .]

Th8b

My name is Scott Billington. I live at 762 N. Granados Avenue in Solana Beach, California. This letter is in response to Staff Report and Preliminary Recommendation for Application No. 6-07-84 for applicants Scott and Jessica Billington.

BACKGROUND

The proposed remodel of my current home has two purposes: (1) To update a 50 year old home to standards that would allow normal use and enjoyment by a family of 4 that includes two children whose ages are 8 and 4, and (2) To construct an accessory living unit that will allow my children's grandmother the ability to become a more integral part of our family as she lives out the remainder of her life.

The City of Solana Beach has very strict requirements for obtaining a building permit for the purpose of remodeling a home. The city recently enacted legislation that greatly limits the size and design of homes that may be constructed in the future. In conjunction with this legislation is a new trend by the city council that restricts property owners from building distasteful "boxy" homes that are not in the best interest of the general feel and appearance of a neighborhood. The city also has a view assessment process with strict guidelines that require homeowners to work together to preserve the sight lines of any homeowners that would be affected by new construction. If the homeowners can not work out their differences, the city then makes a ruling.

After successfully obtaining a Conditional Development Permit from the City of Solana Beach, I submitted our plans to the Coastal Commission (on June 7, 2007). In mid October, 2007 two members of the Coastal Commission staff visited my home and discussed the proposed remodel with myself, my wife and our architect. The staff representatives stood in our back yard and surveyed the layout of our proposed remodel (the story poles were still intact and showed the exact proposed footprint of the remodel), the proximity to the open area of the lagoon rim and the steepness of the cliff directly behind our property. After much discussion, we were informed that the most restrictive condition which we could probably expect was a deed restriction stating that brush removal would not be allowed in the future based on the location of the remodeled structure. Also mentioned was that there was always the (minor) possibility that someone back in the office could require tighter restrictions.

On November 5, 2007, I received word (via my architect) that the Coastal Commission staff recommendation would be to restrict our remodel by using the "stringline" method based on the footprint of the adjacent homes due to concerns about possible brush management requirements that might occur at a future date.

On February 16, 2008 (after having requested a 90 day extension to our initially proposed hearing date), I received the Staff Report and Preliminary Recommendations report. That report informed me that my hearing date would be 19 days later in Carmel, California.

**Applicant's Response to
Staff Recommendation**

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RESPONSE TO THE COASTAL COMMISSION STAFF REPORT

On page 9 of the report, staff states:

“Based on a review of the applicant’s submitted plans, the project could be re-designed to eliminate the potential impacts by constructing a larger second story over the existing residence and/or moving the development closer to the residence so that it does not extend closer to the Reserve than the homes on either side of the subject site. With such an alternative, the applicant could construct a substantial addition to the existing home without significantly increasing the potential brush management impacts to the Reserve over what currently exists for the three adjacent homes.”

This conclusion is incorrect for the following reasons:

- 1) The construction of a larger second story over the existing home would completely defeat the purpose of the accessory living unit. My mother in law is a 68 year old woman whose desire is to be a close part of our family, yet still maintain a level of independence by having her own self contained unit on our property. One of the main needs for her (and any person of that age) is to avoid the need to climb stairs on a daily basis. The accessory living unit as proposed would allow for all of her needs to be met.
- 2) The chances of successfully obtaining permission from the city to construct a larger second story are nearly zero. View assessment demands as well as the “boxy” outcome of such a remodel would most likely result in denial by the city (I actually had a city council member stand in front of my home and inform me of just that).
- 3) The suggestion that the development (accessory living unit) could be moved closer to the home is impossible based on the “stringline” method requirements being imposed by staff. (See Attachments #1 and #2)

On page 9 of the report, staff states:

“Therefore, Special Condition #1....Special Condition #1 includes that any extension north of the stringline can only occur if it can be documented through a detailed biological survey, reviewed and approved by the Executive Director, that no ESHA occurs within 100 ft. of the proposed additions such that no ESHA would be impacted if a 100 ft. brush management zone were established.”

This Special Condition is inaccurate for the following reason:

- 1) This condition ignores the analysis by Coastal Commission staff that certain areas within the 100 ft. radius of the proposed addition would already be within the

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overlapping potential brush management zones created by drawing 100 ft. radii from the current home and the 2 adjacent homes. (Ref. Exhibit 3 of the report). For this condition to be accurate, it should be changed to read..."reviewed and approved by the Executive Director, that no ESHA occurs within the zone created by a 100 ft. radius from proposed addition, but excluding the zones covered by the 100 ft. radii drawn from the three existing homes..."

On page 7 of the report, staff states:

"...Historically, the Solana Beach Fire Department has identified that steep vertical slopes adjacent to residential structures provide an additional measure of protections such that flames extend upwards and not generally toward the residence. Because of such vertical slopes, the fire department has sometimes reduced the 100 ft. WUI brush management zone. However, following the recent fires within San Diego County (Witch Creek fire) a reduction of the 100 ft. brush management zone because of the steep slope feature may no longer be applicable practice..."

This statement is not accurate as it relates to my application for approval of our plans. The Fire Marshal of the Solana Beach Fire Department states in a letter dated February 26, 2008 that the steepness of the topography adjacent to our property provides an adequate safety barrier for the proposed remodel. According to the Fire Marshal, the 100 ft. WUI brush management zone could be measured from the footprint of the current structure and still provide an adequate level of safety for the proposed remodel. (See Attachment #3)

Recently, the Commission has supported Fire Departments' ability to modify the requirements of widths of Brush Management zones. In a letter dated July 25, 2007, from Coastal Commission District Manager Deborah N. Lee to Mrs. Marcela Escobar-Eck of the City of San Diego Development Services Department (Regarding the Certification of City of San Diego LCP Amendment No. 1-07 (Brush Management)), the Suggested Modifications (as modified and adopted by the Coastal Commission on February, 15, 2007) state:

3. 142.0412 Brush Management – subsections (h) and (i) should be modified as follows:

- (i) In consideration of the topography, existing and potential fuel load, and other characteristics of the site related to fire protection, the Fire Chief may modify the requirements of this section...if the following conditions exist:
 - (2) The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412.

On page 8 of the report, staff writes:

“Although the Commission is supportive of brush management proposals that are designed to protect existing development so as to minimize any adverse impacts to ESHA within the Reserve, the Commission does not support new development along the ridgeline if it results in additional impacts to ESHA as a result of expanded brush management requirements for the new development.”

As per the letter dated February 26, 2008 from the Fire Marshal of the City of Solana Beach, our new development will create no additional impacts to any brush management requirements that may occur in the future (“...the 100 foot distance as measured from the present structure provides an acceptable zone of safety for the proposed structure...”). The Fire Marshal of Solana Beach must be recognized as the person most qualified in and most familiar with the local safety requirements. Furthermore, he is the sole person responsible for administering any future brush management programs that may affect the entire area surrounding the San Elijo Lagoon’s south rim.

SUMMARY

I respectfully request that you approve our application, but only after removing Special Condition #1 and addressing one constraint of Special Condition #2. Please consider modifying Special Condition #2 to reflect that we only have 2 trees located on our property (which we fully intend to maintain).

Please refer to attached photos showing the cliff behind our property.

Respectfully submitted,

Signature on File

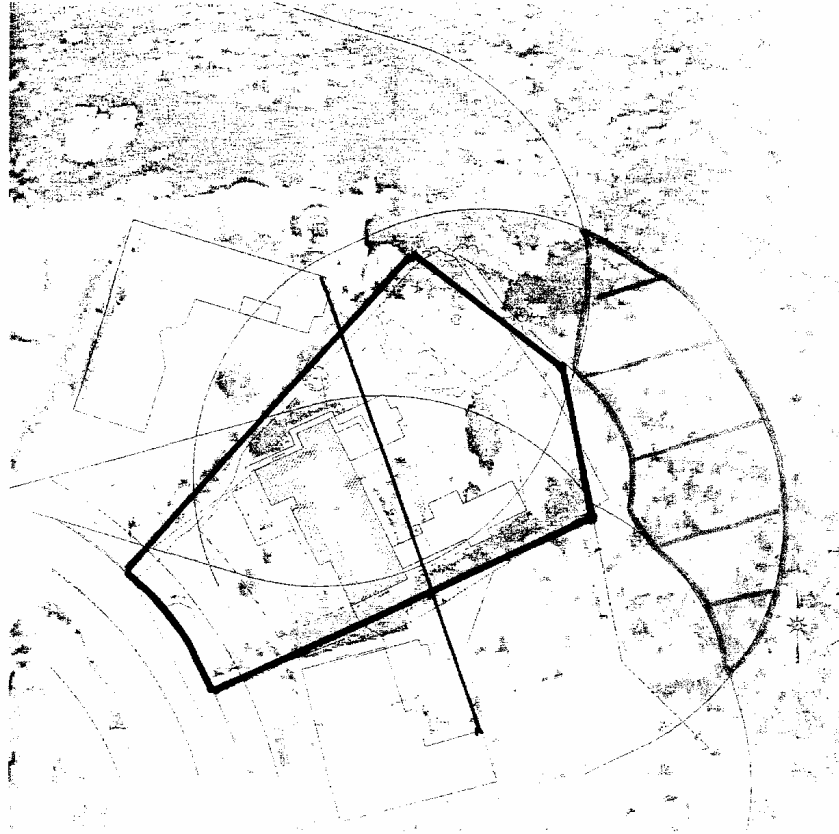
Scott A. Billington
February 27, 2008

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Attachment #1



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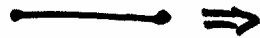
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Attachment #2



COASTAL COMMISSION "STRAIGHT-
LINE" METHOD OF REZONING
(AS DESCRIBED IN PHONE
CONVERSATION WITH LEE
McEachern - Coastal Commis-

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February 26, 2008

Scott and Jessica Billington
762 North Granados Avenue
Solana Beach Ca 92075

Mr. and Mrs. Billington,

This letter is intended as a follow up to letters written on June 22 and July 11, 2007. I hope this clarifies the position of the Solana Beach Fire Department as it relates to your proposed project at 762 North Granados Avenue.

Your residence is within the Wildland Urban Interface (WUI) as defined by the code. I have inspected the above mentioned property on multiple occasions and the landscaping as it is presently arranged meets the WUI code. The property is further protected by the steepness of the slope leading up to the property. The amount and spacing of vegetation coupled with the steepness of the slope results in adequate protection to the property as it presently is maintained.

As for the proposed remodel, the uniqueness of the topography coupled with the arrangement of the vegetation provides an acceptable boundary for the protection of the proposed structure. The protection of the structure will be further enhanced by construction standards regulated by the WUI code. Although the optimal defensible space for every structure in the WUI is 100 feet from the structure (to provide for the highest probability of survival in the event of a wildfire), the 100 foot distance as measured from the present structure provides an acceptable zone of safety for the proposed structure.

The SBFD will continue to work with the Coastal Commission, the San Elijo Conservancy, California Department of Fish and Game, U.S Department of Fish and Wildlife and the San Diego County Parks Department to achieve the necessary defensible space while maintaining a healthy ecosystem. As always, review of the structure plans and a final landscaping plan is required for fire department approval prior to final approval of the project.

I hope this clarifies the requirements that the Solana Beach Fire Department places on your property. I am pleased to inform you that the current vegetation around the structure meets Solana Beach Fire Department approval for the present structure and your proposed addition. Please feel free to contact me if you have additional questions.

Thank you,

Signature on File

Dismas Abelman
Deputy Fire Chief / Fire Marshal

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TH 8b

Filed: July 24, 2007
 49th Day: September 11, 2007
 180th Day: January 20, 2008
 Extension Request: December 13, 2007
 Length of Extension: 90 Days
 Final Date for
 Commission Action: April 19, 2008
 Staff: G. Cannon-SD
 Staff Report: February 14, 2008
 Hearing Date: March 5-7, 2008

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-07-84

Applicant: Scott and Jessica Billington

Agent: Steve Dalton

Description: Construct 2,263 sq. ft. addition (including attached accessory unit) to one-story 1,531 sq. ft. home on a 15,716 sq. ft. lot.

Lot Area	15,716 sq. ft.
Building Coverage	3,094 sq. ft. (20 %)
Pavement Coverage	3,490 sq. ft. (22 %)
Landscape Coverage	9,132 sq. ft. (58 %)
Parking Spaces	3
Zoning	LR-Low Residential
Plan Designation	Low Residential
Ht abv fin grade	24.5 feet

Site: 762 North Granados Avenue, Solana Beach, San Diego County.
 APN 263-101-13

Substantive File Documents: City of Solana Beach General Plan and Zoning Code; Resolution 2007-057 for Development Review Permit and Structure Development Permit; CDP Nos. 6-87-618/Rimmer; 6-88-193/Morrison, 6-89-32/Pavelko; 6-93-176/Dougherty, 6-98-1/Skerrett, 6-99-68/Roskowski, 6-99-76/ Burger, 6-00-11/MacLeod, 6-04-37-A1/Dudek, 6-05-129/Thomas, 6-05-129-A1 and 6-06-40/Hoover.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the request to add to the existing residence with special conditions. The primary issues

raised by the proposed development relate to protection of visual resources and sensitive native upland habitat. The project site is located along a hillside overlooking the San Elijo Lagoon Ecological Reserve and the proposed additions will be visible from off-site locations. Also, as proposed, the residential additions project closer to the Lagoon, which raises a concern relative to necessary brush management for fire safety that could impact sensitive native habitat within the Ecological Reserve. To address these issues, special conditions require that the project be modified such that no portion of the proposed additions encroach closer to the Lagoon than what currently exists on the homes on either side, similar to a “stringline” used on coastal blufftop properties. In this way, any necessary brush clearance for fire safety will not impact sensitive native habitat anymore than that which currently exists. In addition, Special Conditions are included to require the use of native, non-invasive plant species, that adequate landscaping be installed adjacent to the development, that earthtones be used in coloring of the structures to assure that the visual appearance of the new structures is minimized, that all runoff from new impervious surfaces filter through landscaping and a deed restriction to document the terms and conditions of the subject permit.

Standard of Review: The City of Solana Beach does not yet have a certified Local Coastal Program. As such, the standard of review for the proposed development is Chapter 3 of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-07-84 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 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 plans for the permitted development that have been stamped approved by the City of Solana Beach. Said plans shall be in substantial conformance with the plans approved by the City dated 2/15/07, by Stephen Dalton Architects, but shall be revised as follows:

- a. No portion of the proposed additions shall be located closer to San Elijo Lagoon Ecological Reserve and Park than the adjacent homes located on the west and east sides of the subject site (this shall be determined by drawing a line between the adjacent structure to the west and east and ensuring that no portion of the proposed additions(s) are located closer to the lagoon than that line) unless it can be documented, through a biological survey to be reviewed and approved by the Executive Director, that any such addition(s) will not be located within 100 feet of Environmentally Sensitive Habitat Areas (ESHA).

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.

2. Landscaping Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan approved by the City of Solana Beach which shall include the following:

- a. A plan showing the type, size, and location of all landscape species to be retained, removed or planted on site and shall include, at a minimum, 3 trees (24-inch box or 5-foot trunk height minimum) or 3 similarly sized plants (which at maturity will exceed the roofline of the structure) to be located in a manner so as to maximize screening and to break up the facade of the structure from views from San Elijo Lagoon and Interstate 5.

b. The landscape palate within the inner 30 ft adjacent to the residence shall emphasize the use of drought-tolerant native species, but use of drought-tolerant, non-invasive ornamental species is allowed as a small garden component. All other proposed landscaping shall be drought-tolerant and native, non-invasive plant species that are obtained from local stock, if available. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.

c. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of construction

d. 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.

e. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

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 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 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.

3. 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 residential additions. The color of the structure and roof permitted herein shall be restricted to colors compatible with the surrounding environment (earth tones) including shades of green, brown, and gray, with no white or light shades and no bright tones except as minor accents. All windows on the north side of the residence shall be comprised of non-glare glass.

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.

4. Drainage Plan. **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 approved by the City of Solana Beach documenting 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 in a non-erosive manner prior to being discharged 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 legally required.

5. Future Development Restriction. This permit is only for the development described in coastal development permit No. 6-07-84. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit No. 6-07-84. Accordingly, any future improvements to the single family house authorized by this permit, shall require an amendment to Permit No. 6-07-84 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a

legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The proposed development involves the construction of 2,263 sq. ft. addition to an existing 1,531 sq. ft. one-story single-family residence on an 15,716 sq. ft. lot that overlooks San Elijo Lagoon Ecological Reserve and Regional Park. The applicant is proposing to add 700 sq. ft. as a second story addition, 444 sq. ft. as a one-story addition on the northwest side of the home and a one-story, 767 sq. ft. addition the northeast side of the residence. The project involves approximately 170 cu. yds. of grading with approximately 150 cu. yds. to be exported to a site outside of the coastal zone. The resulting structure will have a height of approximately 24 ½ ft. The 767 sq. ft. addition on the northeast side of the residence involves a 127 sq. ft. storage building and a 640 sq. ft. accessory unit. The existing home is located on an inland hillside site, approximately 75 ft. inland of San Elijo Lagoon Reserve and Park. The proposed development would result in a home that lies 25 ft. from the Park and would be located closer to the Park than the homes located on either side of the subject site. The existing residence was constructed prior to the Coastal Act and no record of previous coastal developments for the site have been found.

The project site is located near the north end of North Granados Avenue in Solana Beach approximately ¾ miles inland of the Pacific Ocean. Solana Beach does not have a certified local coastal plan; therefore, the standard of review is the Coastal Act.

2. Resource Protection. The following Coastal Act policy is applicable to the proposed development:

Section 30240

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

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

The north side of the subject site lies immediately adjacent to San Elijo Lagoon Ecological Reserve and Park. San Elijo Lagoon is an environmentally sensitive habitat area and Regional Park that is managed jointly by the California Department of Fish and Game and the San Diego County Parks and Recreation Department. In addition, San Elijo Lagoon is one of the 19 priority wetlands listed by the State Department of Fish and Game for acquisition. The lagoon provides habitat for at least five State or Federal-listed threatened or endangered birds that include the California least tern, the light-footed clapper rail, Belding's savannah sparrow, the brown pelican and the western snowy plover. As such, potential adverse impacts on sensitive resources as a result of activity surrounding the lagoon could be significant.

The existing residence is located approximately 75 ft. from the southern property line of the Reserve and Park. The proposed development involves a 444 sq. ft. first floor addition to the northwest side of the existing residence, a 700 sq. ft. second story addition and a 767 sq. ft. one-story storage room and accessory unit on the northeast side of the residence. The proposed additions will be sited as close as 25 ft. from the Park. While none of the proposed additions will be located within ESHA, the proposed residential additions raise a concern that any necessary brush management required by the Fire Department for the new development could adversely affect ESHA if it involves removal or cutting of significant vegetation within San Elijo Lagoon Ecological Reserve and Park.

The Wildland Urban Interface (WUI) code that is utilized by the local fire departments within San Diego County requires a 100 ft. brush management zone around residential structures that are located adjacent to natural areas such as San Elijo Lagoon. Since the existing structure is located within 75 ft. of the Reserve and Park, if any ESHA is currently located within the additional 25 ft. within the Reserve, the fire department could today require brush management of up to 25 ft. into the Reserve in order to satisfy the requirement of a 100 ft. brush management zone. When brush management is required to protect existing structures, the Commission has typically supported such brush management as long as it is designed and managed in a way that is most protective of the habitat. However, the proposed development has the potential of requiring up to 50 ft. of additional brush management into the Reserve over what currently exists. The proposed addition on the northwest side of the existing home will extend to approximately 50 ft. from the Reserve and Park. In addition, the proposed storage unit and accessory unit which is to be located on the northeast side of the existing home will extend up to 25 ft. from the Reserve and Park which could result in an additional 50 ft. of brush management within the Reserve over what exists today.

The applicant received a letter dated July 11, 2007 from the City of Solana Beach Fire Department which identifies the existing home is subject to the WUI code but that the steepness of the slope adjacent to San Elijo Lagoon and the amount and spacing of existing vegetation “results in adequate protection to the property as it presently is maintained”. However, the letter does not address specifically the proposed additions that will extend to within 25 ft. of the Reserve. Historically, the Solana Beach Fire Department has identified that steep vertical slopes adjacent to residential structures provide an additional measure of protection such that flames extend upwards and not

generally toward the residence. Because of such vertical slopes, the fire department has sometimes reduced the 100 ft. WUI brush management zone. However, following the recent fires within San Diego County (Witch Creek fire) a reduction of the 100 ft. brush management zone because of the steep slope feature may no longer be an applicable practice. Many of the structures destroyed or damaged during the firestorms of October 2007 were caused by wind driven embers and, as a result, homeowners are likely to demand maximum fire breaks and brush management surrounding their properties rather than a reduction.

In the case of Solana Beach, the residences along San Elijo Lagoon ridgeline were among the homes required for evacuation during the October 2007 fires that occurred within San Diego County. According to County of San Diego Parks Department, following the Witch Creek fire of 2007, the County, which is the primary manager of San Elijo Lagoon Reserve and Park, has received numerous demands from homeowners living around the ridgeline of San Elijo Lagoon asking the County to clear brush within the Park and Reserve. As a result of these requests and expected future requests, the County is currently preparing a brush management plan for the removal or cutting of vegetation within 100 ft. of all existing residences within Solana Beach adjacent to San Elijo Lagoon Reserve and Regional Park. The ridgeline containing residences overlooking San Elijo Lagoon in Solana Beach is approximately 2 to 2 ½ miles long and existing structures along the ridgeline may be located as close as 25 ft. from the reserve. Some of the residential structures are setback at greater distances from the Reserve, such as the subject residence which is setback approximately 75 ft. from the property line of the Reserve. In this particular case, while the Solana Beach Fire Department stated prior to the October 2007 fires that no additional brush management may be necessary, the property owners along this inland hillside are currently working with the County to clear 100 ft. from all structures, which may result in significant impacts to ESHA.

Although the Commission is supportive of brush management proposals that are designed to protect existing development so as to minimize any adverse impacts to ESHA within the Reserve, the Commission does not support new development along the ridgeline if it results in additional impacts to ESHA as a result of expanded brush management requirements for the new development. The subject development request involves additions to an existing residence that is currently sited approximately 75 ft. from the Reserve. The proposed additions will extend out up to an additional 50 ft. toward the Reserve resulting in an additional 50 ft. of brush management within the Reserve over what currently exists for the existing home. Section 30240 of the Act requires new development be sited adjacent to ESHA and park and recreation areas so as to avoid adverse impacts that would significantly degrade those areas. In addition, Section 30240 requires that ESHA be protected against significant disruption of habitat values. In this case, the proposed new development has the potential for having greater brush management impacts to ESHA than currently exists which is inconsistent with the requirements of Section 30240.

In evaluating the potential impacts of the proposed additions, Commission staff evaluated the potential 100 ft. brush management requirements for homes adjacent to the subject

residence so as to determine where each of the homes' brush management zones might overlap. The applicant's architect has prepared an aerial plan documenting the locations of the existing home and the homes located on either side with a 100 ft. radius drawn around each of the homes to depict the brush management zone that might be required for the homes. In addition, the plan includes a 100 ft. radius for the proposed additions. Based on this plan, it is evident that even with an overlapping brush management zone, a substantial additional area of naturally vegetated area within the Reserve could be impacted by a 100 ft. brush management zone from the proposed additions (Ref. Exhibit 3) which would be inconsistent with Section 30240 of the Act.

Based on a review of the applicant's submitted plans, the project could be re-designed to eliminate the potential impacts by constructing a larger second story over the existing residence and/or moving the development closer to the residence so that it does not extend closer to the Reserve than the homes on either side of the subject site. With such an alternative, the applicant could construct a substantial addition to the existing home without significantly increasing the potential brush management impacts to the Reserve over what currently exists for the three adjacent homes.

Therefore, Special Condition #1 has been attached which requires submission of revised plans documenting that the proposed additions will not be located any closer to the Reserve than the homes located on either side of the existing residence, based on a line drawn between the most northern corner of the home adjacent to the west side of the subject site and the most northern corner of the home adjacent to the east side of the subject site. In addition, because a biological survey has not been done for the adjacent parkland to determine what type of habitat will be impacted, Special Condition #1 includes that any extension north of the stringline can only occur if it can be documented through a detailed biological survey, reviewed and approved by the Executive Director, that no ESHA occurs within 100 ft. of the proposed additions such that no ESHA would be impacted if a 100 ft. brush management zone were established.

Although the permit is conditioned to eliminate brush management impacts to ESHA, new landscaping that might occur as part of the residential improvements could also impact the habitat of San Elijo Lagoon if invasive species were allowed to propagate on the site. On similar projects surrounding San Elijo Lagoon approved by the Commission, the applicants have been prohibited from the use of invasive species and have been required to plant only drought-tolerant, native and non-invasive plant species. Over time these conditions have proven difficult for applicants since a strict interpretation would mean a home owner would be prohibited from planting roses or other garden plants although such plants do not have the potential of adversely affecting the habitat of the San Elijo Lagoon Ecological Reserve. The California Invasive Plant Council advocates the use of drought-tolerant, non-invasive plants on residential properties such as the subject property and does not suggest using only native plants. In this case, the Commission finds that some non-native, non-invasive species can be permitted, at least in the area near the residence. Special Condition #2 has been attached which requires the use of only drought-tolerant, non-invasive species within 30 ft. of the proposed residence. The Executive Director of the San Elijo Lagoon Conservancy supports the proposed

allowance of non-invasive ornamental plants within 30 ft. of the perimeter of the proposed residence (Ref. CDP #6-06-40/Hoover). Special Condition #2 also requires any area beyond 30 ft. from the residence that is proposed for landscaping shall be restricted to native, drought-tolerant and non-invasive species. Special Condition #2 also prohibits the use of rodenticides that contain anticoagulant compounds, and requires that all plantings be maintained.

In addition, Special Condition #5 has been attached which requires that any future development of the site will require an additional coastal development permit or amendment to the subject permit. Section 13250 of the Commission's Code of Regulations exempts an addition of less than 10% to existing development unless the Commission requires a permit as part of the original development as in this case. With this condition, the Commission can be assured that the applicant will be unable to add onto the residence unless first having it approved by the Commission to assure the addition will not adversely impact ESHA, for instance, in terms of potential additional brush management requirements.

Finally, Special Condition #6 requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. This restriction will serve to notify future owners of the terms and conditions of the permit such as the landscaping requirements.

In summary, as conditioned, the proposed project is designed to prevent adverse impacts to the resources within San Elijo Lagoon Ecological Reserve and Park and, therefore, the Commission finds that the subject proposal is consistent with Section 30240 of the Coastal Act.

3. Visual Resources. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed structure will be located on top of a hillside overlooking San Elijo Lagoon Ecological Reserve and Park and is located within the City's Hillside Overlay Zone, which restricts development in areas in excess of 25% slopes and seeks to preserve natural topography and scenic qualities of the City. The site lies along the southern boundary of the Park. The existing residence lies approximately 75 ft. from the Park and the proposed additions will be located up to 25 ft. from the Park.

The site is visible from Manchester Avenue, a coastal roadway that runs along the north side of San Elijo Lagoon and from public trails within San Elijo Lagoon Ecological Reserve. The proposed development is located in an established residential neighborhood consisting of both one and two-story residences. Because of its visibility

from off-site public areas, it is important that the proposed additions not be visually prominent from off-site.

In order to break up the facade and soften views of the structures from a distance, Special Condition #2 requires that the applicant submit a final landscape plan indicating that the existing 3 specimen-sized trees be maintained adjacent to the residential structures to screen the project from public views from within San Elijo Lagoon and along Manchester Avenue. The required landscaping will reduce the visual prominence of the development. However, given the vegetated nature of the area, which creates a dark green and brown landscape, if the exterior of the proposed additions are white or brightly colored, it would contrast significantly with the surrounding natural hillside, causing it to be visually prominent on the hillside. Therefore, the Commission finds that for the proposed development to be found consistent with the visual resource protection policies of the Coastal Act, the color of the residential additions must be restricted to a color that will blend in with the surrounding hillside. Accordingly, Special Condition #3 requires the applicant to submit a color board indicating that the project's exterior colors will be earthen tones (greens, browns, tans, grays or other dark colors) compatible with the surrounding natural environment. In this way, the proposed home as viewed from surrounding public vantage areas will not stand out prominently, but will blend in with the adjacent natural hillside. The Commission has a long history of requiring landscaping and color restrictions on new development around San Elijo Lagoon (Ref. CDP Nos. 6-87-618/Rimmer; 6-88-193/Morrison, 6-89-32/Pavelko; 6-93-176/Dougherty, 6-98-1/Skerrett, 6-99-68/Roskowski, 6-99-76/ Burger, 6-00-11/MacLeod, 6-04-37-A1/Dudek, 6-05-129/Thomas, 6-05-129-A1 and 6-06-40/Hoover).

Although the attached special conditions will mitigate the potential visual impacts of the proposed development, future development of the site could result in adverse visual impacts which may not be subject to the landscaping or coloring conditions of the subject permit. Special Condition #5 provides that any future development of the site will require an additional coastal development permit or amendment to the subject permit to ensure that any adverse visual or other resource impacts from future development can be addressed through additional Commission review. Special Condition #6 has been attached to require the subject conditions of approval be recorded against the property in the form of a deed restriction so that all future owners are aware of the conditions and restrictions on the use of the property.

Therefore, with special conditions relating to landscaping, colorizing and future development, potential visual impacts from the proposed development will be reduced to the maximum extent feasible, consistent with the visual protection policies of the Coastal Act.

4. Runoff/Water Quality. Sections 30231 and 30240 of the Coastal Act require that the biological productivity of coastal waters be maintained by, among other means, controlling runoff and state, in part, that:

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 entrapment, controlling runoff,

Section 30240

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

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

The proposed development will be located on an inland hillside above San Elijo Lagoon Ecological Reserve. As such, drainage and run-off from the development could potentially affect water quality within San Elijo Lagoon. The City's approval requires that all drainage from the development site, including run-off from the roof, drain into onsite pervious surfaces.

In order to reduce the potential for adverse impacts to water quality resulting from drainage runoff from the proposed development, Special Condition Nos. 2 and 4 have been attached. Special Condition #2 requires the use of drought tolerant landscaping on the site. Special Condition #4 requires that runoff from the roof, driveway and other impervious surfaces be collected and directed into the landscaped areas on the site for infiltration and/or percolation, prior to being 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 landscaping plan will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, the Commission finds the proposed project consistent with Sections 30231 and 30240 of the Coastal Act.

5. Public Access. The subject site is located between San Elijo Lagoon and the first coastal roadway. In accordance with Section 30604(c), the Commission finds the proposed development to be in conformity with all public access and public recreation policies of Chapter 3 of the Act. Although the project site lies adjacent to San Elijo Lagoon Ecological Reserve, there are currently no access opportunities to the lagoon from the project site and because of elevational differences, safe access would be impractical at the subject site. In addition, access trails into the park currently exist in nearby locations and the proposed project will not impact that access. Therefore, the proposed development will not affect public access to the lagoon.

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 provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The site is zoned and designated for low residential development at a maximum allowable density of 3 dwelling units per acre (dua) in the City of Solana Beach Zoning Ordinance. The subject development, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and no adverse impacts to coastal resources are anticipated. Therefore, the Commission finds that the proposed development, as conditioned, will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

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 proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including redesign of the project to avoid all impacts to ESHA, requirements for use of native and non-invasive plant species, visual treatment and the use of Best Management Practices 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.

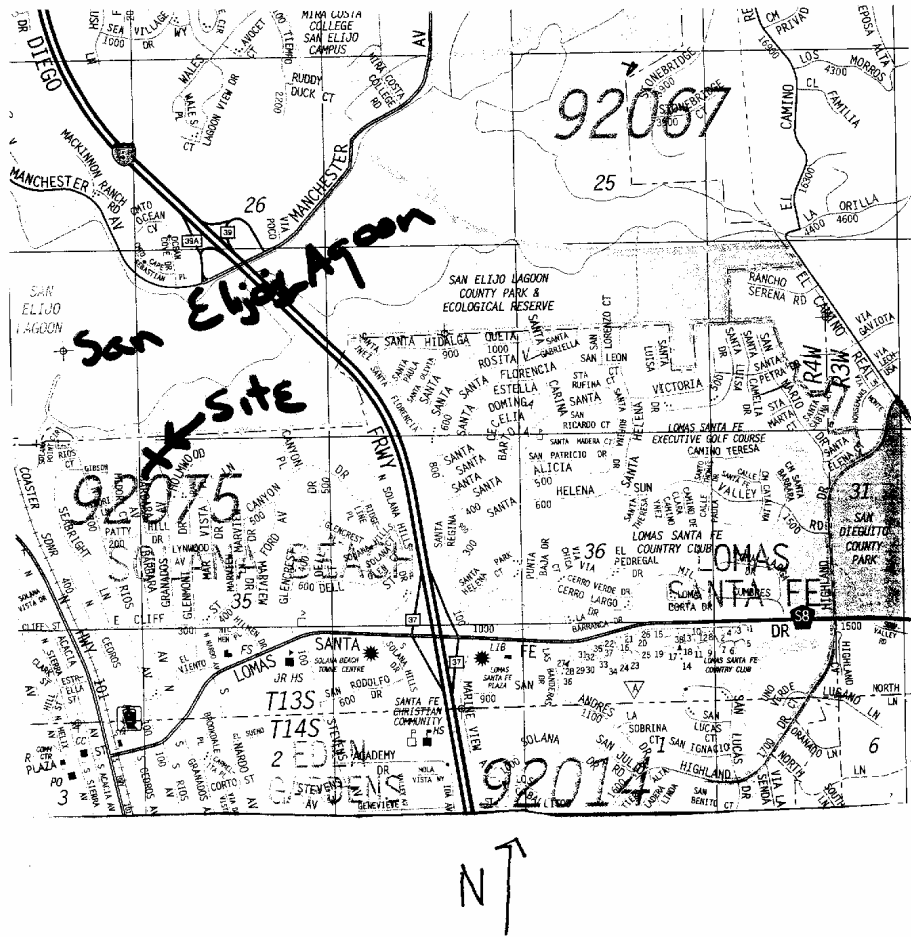


EXHIBIT NO. 1
APPLICATION NO.
6-07-84
Location Map

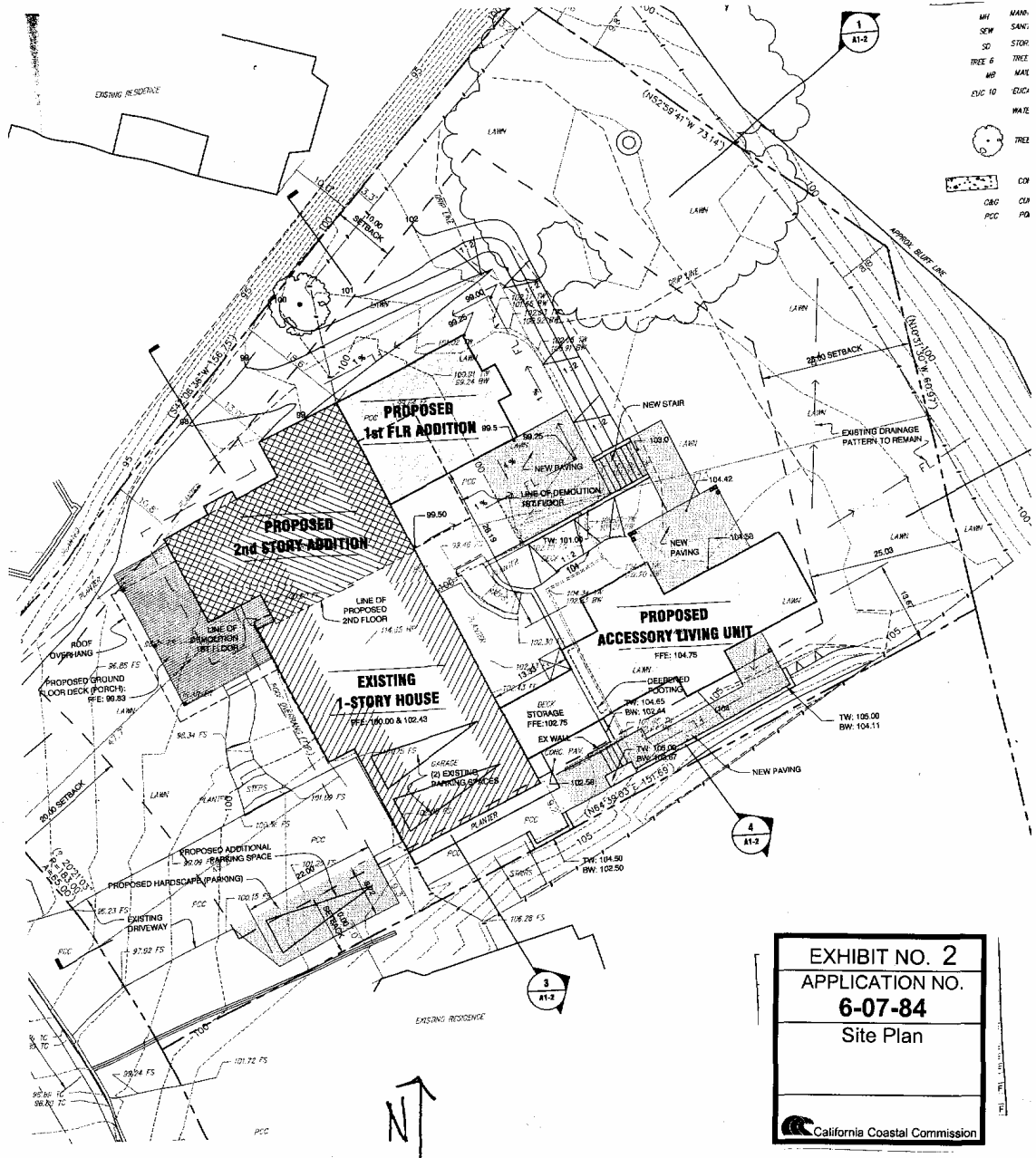





EXHIBIT NO. 3
APPLICATION NO.
6-07-84
100 ft. Perimeter
Estimates provided
by Applicant (with
Staff Notes)

 California Coastal Commission

NA