

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



W17a

Addendum

April 29, 2009

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 17a**, Coastal Commission Permit Application
#6-08-086 (Gautsch/Matsui), for the Commission Meeting of May 6,
2009

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

An exhibit delineating the recommended open space area was omitted from the original staff report. Exhibit #3, referenced in the report, is attached to this memo.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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W17a

Filed: January 21, 2009
 49th Day: March 11, 2009
 180th Day: July 20, 2009
 Staff: Ellen Lirley-SD
 Staff Report: April 15, 2009
 Hearing Date: May 6-8, 2009

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-08-086

Applicant: Pollie Gautsch/Darryl Matsui Agent: Golba Architecture

Description: To construct a new two-story, 4,012 sq. ft. single-family residence, 283 sq. ft. workshop, and a 590 sq. ft. two-car garage, with associated grading and landscaping, on a 59,533 sq. ft. lot.

Lot Area	59,533 sq. ft.
Building Coverage	4,885 sq. ft. (8%)
Pavement Coverage	2,305 sq. ft. (4%)
Landscape Coverage	6,100 sq. ft. (10%)
Unimproved Area	46,243 sq. ft. (78%)
Parking Spaces	2
Zoning	OSR
Plan Designation	Open Space Recreation
Density	1 SFR per legal lot, minimum 1 acre lots
Ht abv fin grade	26 feet

Site: 445 Holmwood Lane, Solana Beach, San Diego County.
 APN 263-193-012

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance; Biological Survey Report, dated January 20, 2009 and Clarification of Report, dated April 13, 2009; Letter from Solana Beach Fire Department, dated December 1, 2008; Report of Geotechnical Investigation, dated December 19, 2008

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval with conditions for the proposed single-family home construction on a 1.3-acre vacant lot. A concern over possible ESHA had been raised, as

the site is upland of San Elijo Lagoon. This area is designated as Open Space/Recreation, but, because much of the area is still in private ownership, the designation allows construction of one single-family residence per each minimum one-acre legal lot. However, pursuant to review by the staff ecologist, and verification by a site visit, it has been determined that no ESHA exists on the site. Moreover, there are two existing unpaved roads separating the site from the lagoon. There are a few scattered, disturbed native plant remnants, but nothing that constitutes ESHA, and the site is surrounded by existing residential development on three sides. As such, the site has historically been disturbed to provide mandated brush management for existing development on adjacent properties. Recommended special conditions address landscaping, brush management, drainage and erosion controls, the use of appropriate colors/materials, and retention of roughly half the site in permanent open space.

Chapter 3 policies of the Coastal Act are the standard of review for this uncertified area.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-08-086 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 Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for review and written approval of the Executive Director, final plans for development proposed at this site that are in substantial conformance with the submitted plans dated 9/15/08 by Golba Architecture. Said plans shall first be approved by the City of Solana Beach, which approval shall be marked on the plans themselves.

The permittees 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. Final Fire Dept. Fuel Modification 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 fire department fuel modification plans addressing the area within 100 feet of the proposed home, garage and driveway. Said plans shall be in substantial conformance with the plans submitted with this application by Golba Architecture, date-stamped received September 15, 2008, and the requirements in the December 1, 2008 letter from the Fire Marshal. Said plans shall be approved by the Solana Beach Fire Marshal and shall include the following:

- a. The fuel modification zone is limited to 100 ft. from the proposed structure.
- b. The property owner shall be responsible for at least annual maintenance within the designated 100 ft. brush management area to remove any introduced non-native or invasive plant species, as well as any dead or dying plant materials.
- c. In fuel modification Zone II, activities shall consist only of removing non-native or invasive plant species, as well as any dead or dying plant materials.
- d. Fuel modification activities are prohibited during the breeding season of the California Gnatcatcher, February 15th through August 30th of any year, unless approved in writing by the California Department of Fish and Game or the United States Fish and Wildlife Service.

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

3. Final Revised Landscaping Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for the review and written approval of the Executive Director, final revised landscaping plans that have been approved by the City of Solana Beach (including the Solana Beach Fire Marshal). Said plans shall be in substantial conformance with the plans submitted with this application on September 15, 2008 by Golba Architecture, except that they shall be modified to include the following requirements:

- a. All proposed landscaping shall be drought-tolerant, native, fire-resistant, 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 Exotic Pest 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. Specifically, no palm species, ice plant species, Pride of Madeira, Mexican Feather Grass, or any non-native species are permitted.
- b. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of residential construction.
- c. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- d. The landscaping plan must include a minimum of two trees on the western side of the residence and a minimum of three trees or tree-like shrubs along the northern side. These must be a minimum container size of 24 inches, and shall be placed appropriately to help screen the structure from the lagoon.
- e. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) is prohibited.
- f. No clear glass windscreens or clear glass railings around decks shall be installed on the site.
- g. 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 permittees 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. Final Grading/Erosion Control. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval final grading and erosion control plans that have been approved by the City of Solana Beach. The plans approved shall contain written notes or graphic depictions demonstrating that all permanent and temporary erosion control measures will be developed and installed prior to or concurrent with any on-site grading activities and include, at a minimum, the following measures:

- a. Placement of a silt fence around the project anywhere there is the potential for runoff. Check dams, sand bags, straw bales and gravel bags shall be installed as required in the City's grading ordinance. Hydroseeding, energy dissipation and a stabilized construction entrance shall be implemented as required. All disturbed areas shall be revegetated after grading.
- b. The site shall be secured daily after grading with geotextiles, mats and fiber rolls; only as much grading as can be secured daily shall be permitted. Concrete, solid waste, sanitary waste and hazardous waste management BMPs shall be used. In addition, all on-site temporary and permanent runoff and erosion control devices shall be installed and in place prior to commencement of construction to minimize soil loss from the construction site.
- c. If grading is to occur during the rainy season (October 1st to April 1st) of any year, the applicant shall submit to the Executive Director for review and written approval, a program for monitoring the condition of erosion control devices and the effectiveness of the erosion control program. The monitoring program shall include, at a minimum, monthly reports beginning November 1st of any year continuing to April 1st, which shall be submitted to the Executive Director for review and written approval at the end of each month. The reports shall be completed by a licensed engineer and shall describe the status of grading operations and the condition of erosion control devices. Maintenance of temporary erosion control measures is the responsibility of the applicant,

including replacement of any devices altered or dislodged by storms. Desilting basin maintenance, including removal of accumulated silt, shall occur prior to the onset of the rainy season and on an as-needed basis throughout the season.

d. Landscaping shall be installed on all cut and fill slopes prior to October 1st of any year with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

The permittees shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans or grading schedule 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. Drainage and Sewage. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval a final drainage plan approved by the City of Solana Beach and an approval from the Health Department for the proposed septic system. The drainage plan shall include supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of all outflow drains.
- (b) Drainage from the roof, parking area and driveway shall be directed through vegetative or other media filter devices effective at removing and/or mitigating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates. Opportunities for directing runoff into pervious areas on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized where geotechnical concerns would not otherwise prohibit such use.

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

6. Exterior Treatments. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed residence. 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. All windows shall be comprised of non-glare glass.

The permittees, and each subsequent landowner, shall undertake and maintain the development in accordance with the approved color board. Any proposed changes to the approved color board shall be reported to the Executive Director. No changes to the color board shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Open Space Restriction. No development, as defined in section 30106 of the Coastal Act, shall occur outside of the 35-foot Zone I fuel modification area, or on slopes of 25% gradient or steeper, as generally described and depicted in Exhibit #3 to the April 15, 2009 staff report and more specifically described and depicted in Exhibit #1 attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- a. Construction and maintenance of drainage devices;
- b. Construction and maintenance of septic system improvements; and
- c. Mandated fuel modification activities consisting of removal of dead and dying vegetation, along with removal of non-native and invasive plants.
- d. Planting of stabilizing vegetation, consistent with Special Conditions #2 and #3, and construction of a portion of one retaining wall, on the small Zone I fuel modification area that occurs on steep slopes, as shown on Exhibit #3.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #3 to the April 15, 2009 staff report.

8. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants 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 applicants propose to construct a new two-story, 4,012 sq. ft. single-family residence on a sloping site located on the southern uplands of San Elijo Lagoon. The proposed home would include a 283 sq. ft. workshop, and a 590 sq. ft. four-car garage, with associated grading and landscaping, on an approximately 1.3-acre, vacant legal lot. About 29% of the site consists of slopes exceeding 25% gradient, with an overall elevation differential of roughly 75 feet. Development is not proposed on the steep slope portions of the site. This area of Solana Beach is not sewered, so a septic system is also proposed, along with permanent drainage facilities.

The project site is located within Holmwood Canyon at the far northern extent of the City of Solana Beach. This is an area of large lots and single-family homes, with much of the area, both private and public, in open space. The City of Solana Beach does not yet have a certified LCP. Therefore, the Chapter 3 policies of the Coastal Act are the legal standard of review.

2. Biological Resources/ESHA. The following Coastal Act policy is most applicable to the proposed development, and states:

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 subject property is located in the far northern portion of the City of Solana Beach, west of I-5, approximately a third of a mile south of San Elijo Lagoon, and very close to the San Elijo Lagoon County Park and Ecological Reserve. It is located on the south side of Holmwood Lane, an unimproved road which trends east-west parallel to the lagoon, then turns south and steeply uphill just past the subject property, dead-ending at the top of the hill where existing residential development is located.

The dominant plant community in this general area, including the lagoon uplands, is coastal sage scrub, and there are a few scattered remnants (individual plants here and there) of that vegetation type on the subject site. Much of the site, including the proposed building area has been significantly disturbed in the past and consists primarily of bare earth. According to the applicants' biological representative, most disturbances were due to fuel modification activities associated with surrounding developed sites. In fact, much of the vegetation within the rear-yard setback (southern boundary of the site) consists of exotic species such as Jade Plant. There are no rare, endangered or endemic plants on the site, nor any rare or endangered animal species documented or expected in this highly disturbed area.

The Commission's staff ecologist has reviewed the biological survey of the site, along with aeriels of the site and surrounding areas, and has determined that there is no ESHA on the property. A site visit by local Commission staff confirmed this determination. There are scattered individual plants typical of coastal sage scrub communities, but the disturbance is so great that no viable habitat exists on the site. The northeastern portion of the site is the most disturbed, and that is where the proposed residential structure, and its 35-foot Zone I fuel modification area would be located. The surrounding sites are developed, and do not contain native, sensitive species. Thus, the proposed home and brush management for fire safety will not result in impacts to ESHA.

Because of the sensitive lagoon and reserve areas located just north of the subject site, it is critical that all landscaping improvements be fully compatible with lagoon and upland habitats. Therefore Special Condition Nos. 2 and 3 address permitted fuel modification practices and landscaping requirements. These conditions limit the type of activity allowed in the Zone II fuel modification area, and require new landscaping plans. Many of the proposed landscape species are non-native and/or invasive, such as palms and ice plant. Special Condition No. 3 also addresses concerns relative to bird strikes by prohibiting the use of clear glass windscreens or deck rails. Pursuant to Special Condition No. 7, all of the site outside the 35-foot Zone I fuel modification area, and all steep slopes, would be placed in permanent open space, and could potentially develop some habitat value over time. The only activities that would be allowed in this area would be construction and maintenance of portions of the drainage facilities, the septic system, and part of one retaining wall, a small area of Zone I fuel modification that encroaches in steep slopes, and Zone II fuel modification, that shall consist only of the removal of dead and dying vegetation and the removal of invasive and/or non-native species. The open space area, including the steep slope area, is shown on Exhibit #3. Special Condition No. 8 requires that the permit and findings be recorded.

In summary, although some native vegetation occurs on the site, it is highly fragmented and disturbed. The staff ecologist has determined that there is no portion of the site that rises to the level of ESHA where Section 30240 of the Coastal Act would be applied. Because of the site's proximity to lagoon and open space areas that do constitute ESHA, some changes to the proposed fuel modification and landscaping programs must be made. In addition to those changes, approximately half the site will be placed in permanent open space. Therefore, as conditioned, the Commission finds the development consistent with the cited Coastal Act policy.

3. Drainage and Erosion Control/Septic System. The following Chapter 3 policy is most applicable to the proposed development, and states:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The subject property does not connect to the City of Solana Beach's municipal stormwater system, nor to its sewer system. Therefore, the proposed development includes a septic system and drainage plan, but the septic system has not yet been approved by the Health Department. Because this area of Solana Beach lacks stormwater and sewer facilities, and the site is uphill from the lagoon/wetlands system, all drainage, and potentially seepage, from the site goes directly to the lagoon. Special Condition No. 5 provides that, prior to issuance of the coastal development permit, the applicants must submit the final sign-off from the Health Department for the proposed septic system.

As for the drainage plan, the Commission needs to assure that not only is the site drainage treated but that it is collected and discharged in an appropriate location and in a non-erosive manner. The proposed drainage system includes two major swales circling the proposed residence on the north and south sides, then outletting through riprap at lower elevations on the site. One swale is proposed to be lined with concrete topped by rock, and the other appears to be just rock. The proposed concrete and rock swales are different than what is typically associated with a single-family residence, where vegetation alone is typically utilized as a filtering medium. The overall system includes an infiltration trench that appears to only address runoff from the driveway area. Special Condition No. 5 further requires submittal of a final drainage plan approved by the City of Solana Beach. The plan must include calculations that support the final design, and use of concrete and rock shall be eliminated or minimized to the extent possible.

The submitted plans did not include any erosion control measures for the construction phase of development. Therefore, Special Condition No. 4 requires that construction BMPs adequate to protect downstream resources (San Elijo Lagoon and the associated Ecological Reserve) from erosion and sedimentation be part of the final plans. The condition advises what specific components need to be part of the plan. Therefore, as conditioned, the Commission finds the proposed development consistent with the cited Chapter 3 policy.

4. Visual Amenities. The following Chapter 3 policy of the Coastal Act is most applicable to the proposed development, and states in part:

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. ...

San Elijo Lagoon is a highly scenic area, and includes an extensive trail system. Thus, public views both to and from the lagoon are significant and deserve protection pursuant to the policy cited above. The subject property is located on the southern uplands of San Elijo Lagoon, and is visible from the lagoon and possibly from public areas north of the lagoon. From the latter vantage point, it would be a very distant view of a home located roughly mid-slope, and surrounded by other developed sites, including a couple homes actually closer to the lagoon than the subject site. The site would also be seen against the same backdrop of other existing homes and some vegetated slopes from within the lagoon, but it would be more in the foreground and thus more visually prominent. Because the home is proposed to be set into the hillside, it will not block any public views towards the lagoon.

Portions of the proposed residence and the site itself will be further hidden by existing tree and shrub groupings that are located between it and the lagoon within the designated San Elijo Lagoon County Park and Ecological Reserve. However, some portions of the site will be visible from a number of lagoon vantage points. Special Condition No. 6 requires the applicants to submit a color board to demonstrate that only earth tones will be used in association with the proposed structure. No white, light or bright colors will be permitted, thus diminishing the visibility of the proposed structure. To further screen the residence from views within the lagoon and ecological reserve, the landscaping plan required in Special Condition No. 3 provides for screening vegetation, in the form of trees or tree-like shrubs, along the northern and western sides of the home.

In summary, the proposed development will be somewhat visible from a number of off-site locations. To minimize the visibility, special conditions address the colors used on the residence and the use of landscaping to partially screen the site. With these

conditions, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

5. Public Access. The following Chapter 3 policies are most applicable to the proposed development, and state, in part:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The project site is located between the first public road and the sea; in this case, the "sea" is San Elijo Lagoon. North of the subject site is the Ecological Reserve and, further north, the open waters of the lagoon itself. There are approximately 5 miles of public hiking trails throughout the lagoon and reserve, but, due to the sensitive nature of the lagoon and upland resources, public access to the trail system is limited to only a few street ends. None of these are in the immediate vicinity of the subject property, but providing public access from this site directly to the trail system would require extensive

impacts to both wetlands and uplands. There is no beach along this portion of the lagoon, only hiking trails and ESHA. Therefore, the Commission finds it would be inappropriate to require vertical public access from the subject site to the trail system.

Moreover, no public access across or through the site from areas to the south is possible. The site is surrounded by other developed sites, as well as steep slopes to the east and south. The subject site is similar in this respect to most of the surrounding properties, and there is no visual evidence of historic use of the site for lagoon access. The limited access to the lagoon may be not only to minimize disturbance to habitat but also in deference to the overall topography of the Holmwood Canyon area. As conditioned to address concerns discussed previously, the Commission finds the proposed development consistent with the cited access policies of the Coastal Act and with all other public access and recreation policies as well.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site was previously in the County of San Diego jurisdiction, but is now within the boundaries of the City of Solana Beach. The City is preparing and plans to submit a new LCP for the area to the Commission for review. Because of the incorporation of the City, the County of San Diego's LCP never became effectively certified. However, the issues regarding protection of coastal resources in the area have been addressed by the Commission in its review of the San Diego County LUP and Implementing Ordinances.

This area of Solana Beach, including the specific location of the proposed development, is designated and zoned as Open Space Recreation in the City of Solana Beach Zoning Ordinance and General Plan, and was designated for similar uses under the prior County LCP. The purpose of this zone/designation is to protect the large extent of open space in this portion of the City, both on public and private lands. However, because much of the land remains in private ownership, the zone/designation allows development of one single-family home per existing legal lot, with a minimum lot size of one acre. No lot can have more than one home, and lot splits are permitted only to create open space lots. Maximum lot coverage is 50% and maximum height is 30 feet. As proposed and conditioned, the subject development is consistent with these requirements.

The subject site is also located within several overlays, including the Scenic Area Overlay Zone, Dark Sky Overlay Zone and Hillside Overlay Zone. Collectively, the overlays assure that new development will be visually compatible with the mostly open space nature of the area, protect open space areas from the potential impacts of night lighting, and will not encroach onto steep slopes. The proposed development is consistent with these parameters. Based on the above findings, the proposed development is also consistent with the Chapter 3 policies of the Coastal Act, with the

attached special conditions. Therefore, the Commission finds the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act, and will not prejudice the ability of the City of Solana Beach to complete 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.

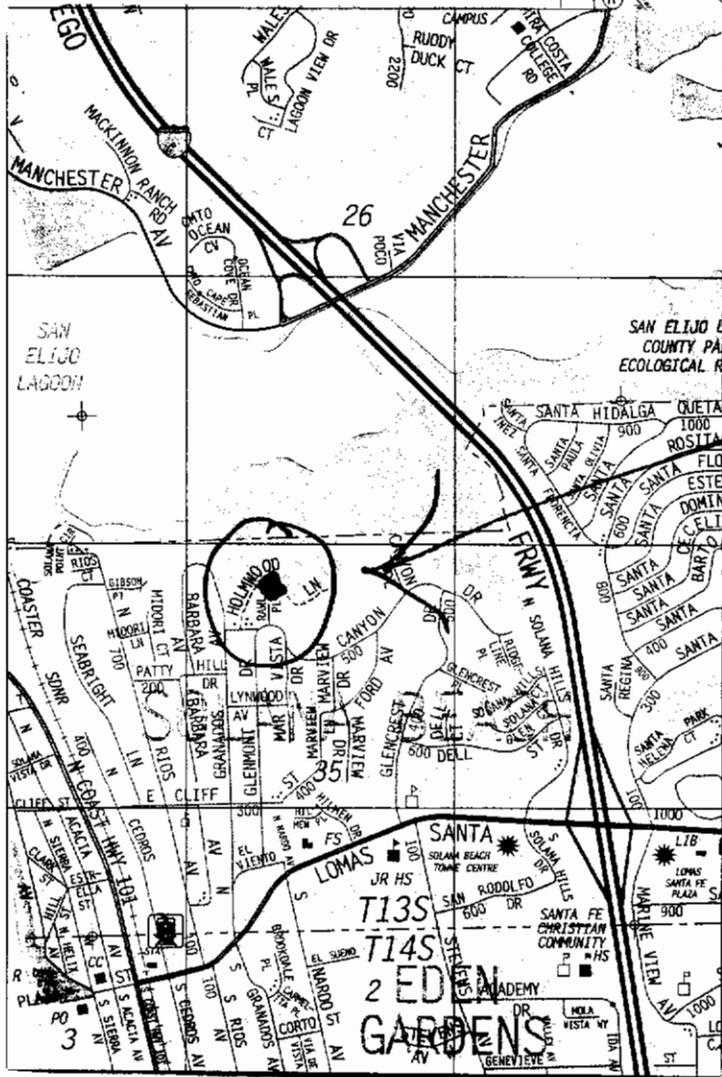
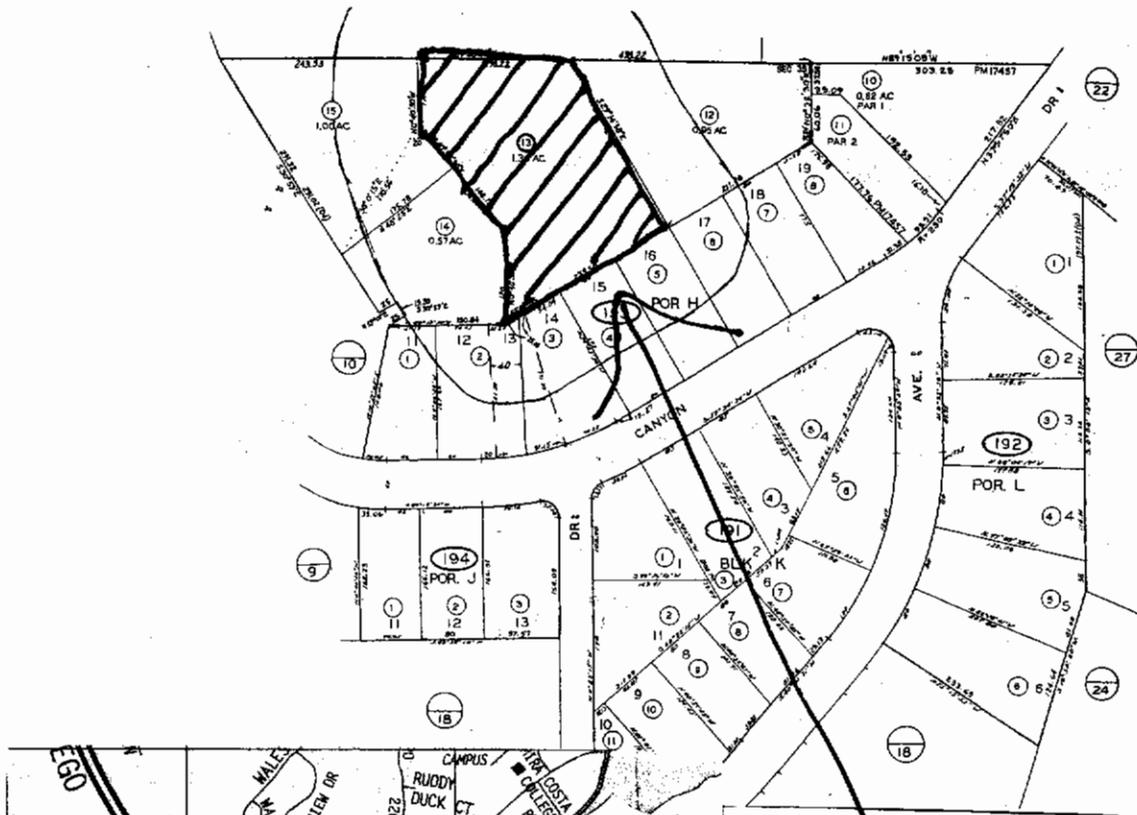
The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing fuel modification, landscaping, drainage and erosion control, exterior treatments and open space will minimize all adverse environmental 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.

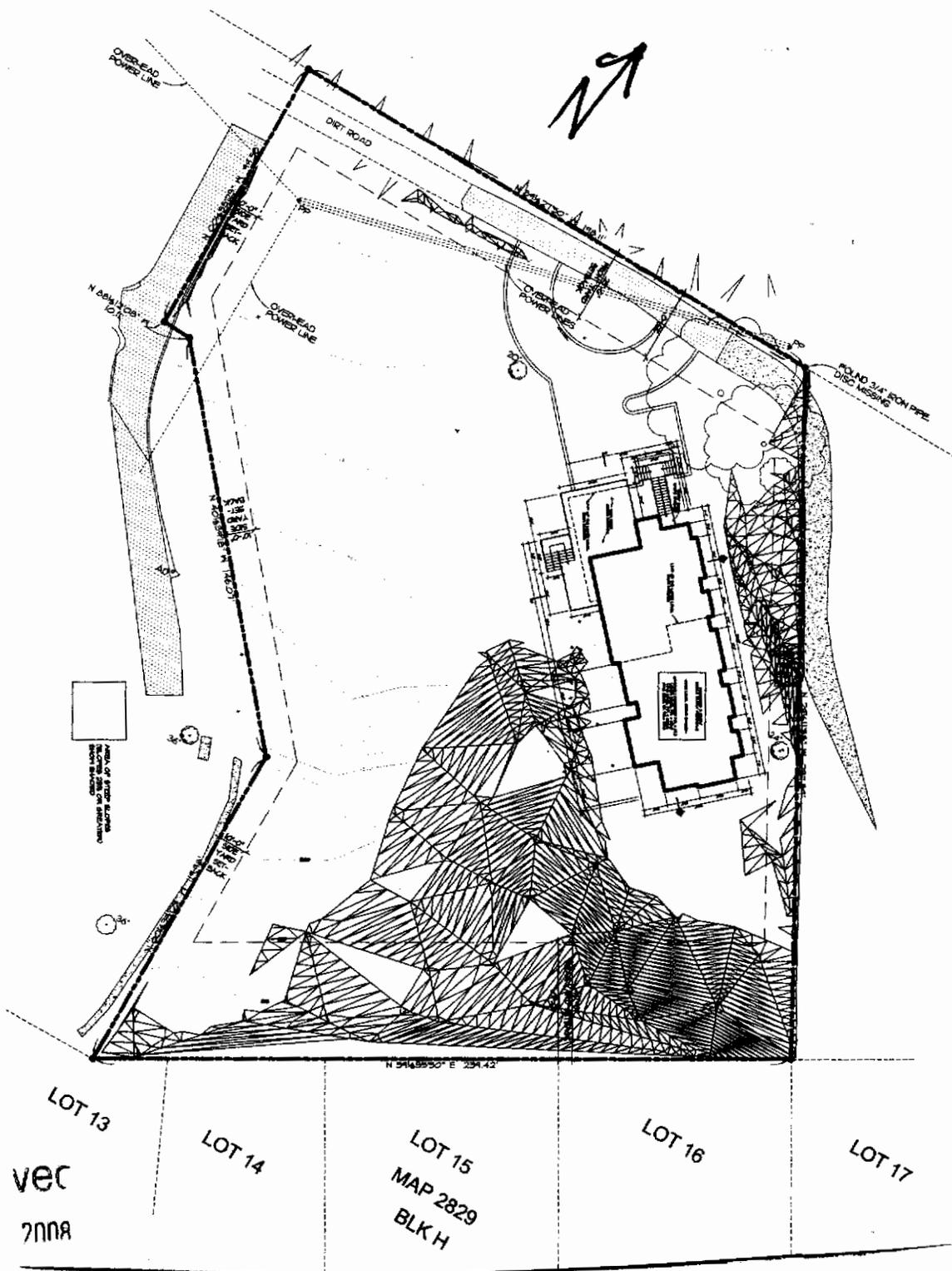
6-08-086



Site

EXHIBIT NO. 1
APPLICATION NO.
6-08-086
Location Maps
California Coastal Commission

6-08-086



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EXHIBIT NO. 2
APPLICATION NO.
6-08-086
Site Plan
 California Coastal Commission