

CALIFORNIA COASTAL COMMISSION

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



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 Hearing Date: February 3-5, 1999

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-98-152

Applicant: Steven Nelly

Agent: Bruce Peeling

Description: Construction of a 1,736 sq.ft., two-story art studio on a 2.72 acres site with existing stable facilities and accessory structures.

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| Lot Area | 2.72 acres total |
| Zoning | R1-40 |
| Plan Designation | Low Density Residential |

Site: 1810 San Dieguito Road, Del Mar, San Diego County. APN 299-200-12

Substantive File Documents: Certified City of Del Mar Land Use Plan (LUP), Del Mar Resolutions No. PC-98-14; CCC File #6-97-155

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed artist studio. Said final plans shall be in substantial conformance with the plans submitted with this application dated August 31, 1998 by Bruce Peeling, Architect. The permittee shall undertake 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 required.

2. Drainage 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 drainage and runoff control plan, with supporting calculations. This plan shall document no increase in peak runoff and that runoff from the roof, driveway and other impervious surfaces will be collected and appropriately discharged. Runoff shall be directed away from the hillside where appropriate, and any runoff directed over the hillside shall be retained and discharged at a non-erosive velocity (less than 6 cfs) and elevation in order to reduce the potential for degradation resulting from scouring or concentrated runoff.

3. Landscape Plans/Exterior Treatment/Deed Restriction.

- (a) Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. The plan shall include the following:
- (1) Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible.
 - (2) Special emphasis shall be placed on the placement of at least 5 specimen size trees (24-inch box minimum) to be arranged along the east-facing portion of the site to effectively screen the structure from views from San Dieguito Lagoon and Interstate 5.
 - (3) A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of construction.

(4) A written commitment by the applicant that all required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

(b) Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed residence and office/garage. Building colors and materials shall be limited to earth tones, including deep shades of green, brown and grey with no white or light shades, and no bright tones, except as minor accents, to minimize the residential development's contrast with the surrounding hillsides.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded, free of all prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

Project Description. The applicant is proposing to construct a 1,736 sq.ft., two-story, 18-foot high art studio on a 2.72 acres site with existing stable facilities and accessory structures. No grading is proposed. In Coastal Development Permit (CDP) #6-97-155-W, the Commission waived the permit requirement for demolition of a stable, tack shed and maintenance building and construction of a new stable structure on the subject site. However, the project has not been built. The proposed footprint of the artist studio is within the existing footprint of the stables to be demolished.

The site is located south of the Del Mar Race Track and San Dieguito Lagoon, just off San Dieguito Road and is accessed by a long, paved driveway from San Dieguito Road. Surrounding uses include single family development on large hillside lots. While the City of Del Mar has a certified Land Use Plan, no implementing ordinances have been reviewed by the Commission. As such, the standard of review is Chapter 3 policies of the Coastal Act with the certified LUP used as guidance.

2. Steep Slope Encroachments/Visual Resources. Three policies of the Coastal Act are most pertinent to the proposed development, and state, in part:

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.

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...

Section 30253

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

The project site is situated on a steep hillside/terrace on the south side of the San Dieguito River Valley in the City of Del Mar. Although significant portions of the hillsides that exist on the site have been altered in the past, most of the site is currently heavily vegetated with a mixture of ornamental and native plants, and the subject site is visually prominent from I-5 and the western part of the San Dieguito River/Lagoon system.

In addition to the cited Coastal Act policies, the City of Del Mar certified LCP Land Use Plan has policies addressing development in visually prominent areas and in areas within or adjacent to steep slopes and sensitive vegetation. To address issues regarding development on or adjacent to steep slopes, the City of Del Mar has developed the Bluff,

Slope and Canyon (BSC) Overlay and Open Space (OS) Overlays. Moreover, these two overlays with their respective development criteria have been certified as part of the LCP Land Use Plan, and are thus utilized for guidance in review of permit applications within the City of Del Mar. The overlays establish parameters for the appropriate siting of development in visually or geologically sensitive areas, including provisions for setbacks from steep slopes and the protection of existing viewsheds. The proposed art studio is located within the setbacks from steep slopes established in the overlays; additionally, the site is visible from various public vantage points along I-5 and Camino del Mar and from areas throughout the western part of the San Dieguito River/Lagoon system.

The City found in its review that although the project involves some encroachment into the steep slope setbacks identified in the overlay zone, the slopes adjacent to the encroachment area were previously disturbed and graded and currently exist as manufactured terraces and do not contain the type of native habitat the overlay zone is intended to preserve. The City further found that the steep slopes in the area and the downstream resources would be protected from inappropriate runoff and erosion by imposition of drainage conditions. In that regard, the City conditioned the applicant to provide a drainage plan. The Commission concurs with the City's analysis and finds the required drainage plan must include "Best Management Practices" to minimize the volumes of urban runoff, including low flow dissipaters. The plan must minimize the amount of impervious surface area of the development and maximize the on-site dissipation of storm water runoff. To address runoff and drainage impacts, Special Condition #2 requires that runoff be directed away from the hillside where appropriate, and any runoff directed over the hillside shall be retained and discharged at a non-erosive velocity (less than 6 cfs) and elevation in order to protect the scenic resources and habitat values of the hillsides from degradation by scouring or concentrated runoff. As conditioned, the Commission finds the proposed development consistent with Section 30231 of the Coastal Act.

As stated above, Section 30251 of the Act provides for the protection of scenic coastal areas. In this case, although existing mature vegetation is located in the project area, the proposed art studio at two-stories and 18-feet high would be visible from public view from I-5, a designated scenic corridor. The studio would also be visible from the lagoon area. The Commission has found that the development of even accessory structures on these prominent hillsides can result in adverse impacts on the visual resources of the area (including the lagoon and I-5). The proposed art studio will be constructed mostly within the same footprint as the existing stables on the site and no new grading is proposed. As such, the Commission finds that the proposed project is appropriately sited. Special Condition #1 requires final plans for the proposed project in substantial conformance with the submitted plans. However, as a means of reducing the visibility of the structure, landscaping should be provided. No landscaping plan has been submitted. For that reason, Special Condition #3 is proposed. It requires a landscaping plan be submitted indicating that special emphasis be placed on the placement of at least 5 specimen size trees (24-inch box minimum) to be arranged along the east-facing portion of the site to effectively screen the structure from views from San Dieguito Lagoon and Interstate 5.

Additionally, the Commission finds that earth tone colors and materials will serve to minimize the project's contrast with the surrounding hillside. As such, Special Condition #3 also requires that building colors and materials be limited to earth tones, including deep shades of green, brown and grey with no white or light shades, and no bright tones, except as minor accents, to minimize the development's contrast with the surrounding hillsides. The condition also requires that these requirements be recorded as restrictions on the title. As conditioned, the Commission finds that the proposed development is consistent with Section 30251 of the Act.

Section 30253 of the Act provides that new development not lead to instability of the site. The project site includes areas of very steep slopes, although most of these appear to be manufactured slopes, which are no longer natural. The proposed project is located within previously disturbed portions of the site that do not contain native vegetation. No encroachments onto any steep slopes will occur with the proposed development. Therefore, the Commission finds the subject proposal, as conditioned, consistent with Section 30253 of the Act.

Based on the above, the Commission finds that only as conditioned to provide drainage plans that assures downstream resources, including San Dieguito Lagoon, will be protected from erosion and sedimentation and landscaping and building exterior treatment plans are implemented that minimize the visual impact of the development can the Commission find the proposed development consistent with Sections 30231, 30251 and 30253 of the Coastal Act.

3. 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. As conditioned, such a finding can be made for the subject proposal.

The City of Del Mar has a certified land use plan and is currently developing its implementation component. The site is zoned R1-40 and designated in the certified City of Del Mar LCP Land Use Plan for Very Low Density Residential development; both designations allow a maximum of one dwelling unit per lot, with a minimum lot size of one acre. The City has conditioned the project to record a covenant to ensure that the lot will not maintain an accessory use as a principal use on the lot. Thus, a single residence may ultimately be built on the lot. The subject proposal, as conditioned, has been found consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City of Del Mar to continue developing a fully-certifiable LCP.

4. 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 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.

As discussed herein, the proposed project, as conditioned, will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the visual resource and hazard policies of the Coastal Act. There are no feasible alternatives or mitigation measures available, which would substantially lessen any significant adverse impact, which the activity might have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

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