# **CALIFORNIA COASTAL COMMISSION**

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 8/26/99

 Hearing Date:
 9/14-17/99

 Commission Action:

# STAFF REPORT: PERMIT AMENDMENT

AMENDMENT APPLICATION No.:

5-98-151-A1

APPLICANT: Esslinger Family Trust

AGENT: Darlene Shelley, John Tettemer & Associates

- **PROJECT LOCATION**: Northern end of Driftwood Drive, Laguna Beach, Orange County
- **DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construction of a 140 foot long, 3 foot wide ditch and placement of an 18 inch wide storm drain pipe. Grading consisting of 50 cubic yards of cut and 15 cubic yards of fill.

**DESCRIPTION OF AMENDMENT:** Construction of 700 feet of 18-inch reinforced concrete pipe storm drain and six sediment basins on 7.78 acres of land. The pipe will be placed in an existing, graded dirt road. Each of the six sediment basins will have a 24-inch standpipe that collects water for delivery into the storm drain through 18-inch corrugated steel pipe laterals.

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Laguna Beach; Design Review Approval No. 99-074.

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit 5-98-151 (Esslinger); emergency coastal development permit G5-95-286 (Esslinger); coastal development permit 5-96-048 (Esslinger Family Trust/Laguna Terrace Park), coastal development permits 5-95-286 and 5-95-286A (Esslinger Family Trust/Laguna Terrace Park); Negative Declaration prepared for project (date posted 3/16/99); Hydrology and Hydraulic Study for Line A in Ocean Vista Drive and Line B in Driftwood Drive in The City of Laguna Beach, California, dated July 31, 1998; City of Laguna Beach certified Local Coastal Program.

# SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed coastal development permit amendment with one special condition requiring a Best Management Practices Plan to address water quality issues.



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# PROCEDURAL NOTE

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

1) The Executive Director determines that the proposed amendment is a material change,

2) Objection is made to the Executive Director's determination of immateriality, or

3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

# **STAFF NOTE:**

The applicant is proposing substantial changes to the development approved under the underlying permit. The purpose of the proposed development remains the same, provision of adequate drainage facilities necessary to prevent flooding in the vicinity, particularly within the Laguna Terrace Mobile Home Park. The previously approved project included 140 feet of 18-inch pipe. The following special conditions were required: landscaping and erosion control plant pentification of the disposal site for excess cut dirt; and flagging of coastal sage scrub. The proposed development is located in a different area of the applicant's property. No coastal sage scrub is expected to be impacted. The project is a substantial change from that previously approved. Therefore, pursuant to Section 13166 of the Commission's regulations, the Executive Director is referring this application to the Commission.

#### **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

# I. APPROVAL WITH CONDITIONS

The Commission hereby <u>APPROVES</u> the amendment to coastal development permit P-1-17-78-2639, subject to the conditions below, for the proposed development 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 effects on the environment within the meaning of the California Environmental Quality Act.

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# II. 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. <u>Expiration</u>. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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. <u>Compliance</u>. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections.</u> The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 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. <u>Terms and Conditions Run with the Land</u>. 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.

# III. SPECIAL CONDITIONS

# 1. Modification to Existing Condition

Because the proposed project as amended is not in the same location as the previous permit, the conditions imposed under the original permit are no longer applicable. There will be no excess cut dirt in conjunction with proposed project and the proposed project will not impact coastal sage scrub. However the following special condition, including a landscaping requirement, is necessary to assure the amended project's consistency with the Chapter 3 policies of the Coastal Act.

# 2. Best management Practices Plan

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a Best Management Practices Plan. The Best Management Practices Plan shall include:

a) provisions for routine maintenance of the proposed drainage system, including regular sediment removal from the basins and regular clean out of the inlet drain; and



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b) a landscape plan for each of the berms associated with the sediment detention basins. The landscaping plan shall indicate the type and location of the plantings to be used. All plantings shall be native to the Hobo Canyon area. The landscape plan shall be prepared by a licensed landscape architect. 3

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The proposed development shall be carried out consistent with the approved Best Management Practices Plan.

#### 3. Regional Water Quality Control Board Approval

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, written evidence of project review and approval by the Regional Water Quality Control Board.

# IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

# A. AMENDED PROJECT DESCRIPTION AND LOCATION

The applicant is proposing an amendment to coastal development permit 5-98-151 to replace the previously approved project with the currently proposed project. None of the development approved under the previously approved permit has begun.

Both the previously approved development (5-98-151) and the development as proposed to be amended are intended to drain the large undeveloped hillside area known as Hobo Canyon. In the past, the inadequate drainage system resulted in flooding and mud flows within the Laguna Terrace Mobile Home Park. The proposed development is located in a different area than the previously approved development, still within the applicant's property at the base of Hobo Canyon.

The project previously approved (5-98-151) allowed the construction of a 140 foot long and 3 foot wide ditch and placement of an 18 inch wide storm drain pipe. The 18 inch wide storm drain was to lead from a 50 foot by 50 foot retention basin and connect with a 48 inch wide storm drain pipe. Grading consisting of 50 cubic yards of cut and 15 cubic yards of fill was also approved.

The applicant proposes to amend the project to include construction of 700 feet of 18-inch reinforced concrete pipe storm drain and six sediment basins on 7.78 acres of land. The 700 foot pipe is proposed to be placed in an existing, graded dirt road. Construction of a ditch is proposed to accommodate the proposed pipe. The depth of the ditch varies from ten to three feet below the existing grade. The ditch will be 3.5 feet wide. The six sediment basins are proposed within the foot print of six existing graded pads. Each of the six sediment basins will have a 24-inch standpipe that collects water for delivery into the storm drain through 18-inch corrugated steel pipe laterals. There are six laterals, Laterals A through F. Each lateral differs in length. Lateral A is proposed to be 73 feet, Lateral B is proposed to be 33 feet, Lateral C is proposed to be 47 feet, Lateral D is proposed to be 31 feet, Lateral E is 33 feet, and Lateral F is 22 feet. Each lateral is proposed to be buried three to five feet deep within a 3.5 foot wide ditch. The six laterals and the 700 foot storm drain ditches will be backfilled with gravel to the top of the pipe and then backfilled with excavated material. Excess material is proposed to be used to create the berms for the six sediment basins. The sediment basins are located within the natural flow lines, which minimizes the amount of grading necessary. The proposed storm drain will tie into the City

of Laguna Beach's existing 24-inch storm drain in Driftwood Drive. The existing graded dirt road connects to Driftwood Drive.

A hydrology study was prepared for the City's storm drain improvement project (Hydrology and Hydraulic Study for Line A in Ocean Vista Drive and Line B in Driftwood Drive in the City of Laguna Beach, California, dated July 31, 1998). The hydrology study included the applicant's property and provided capacity for the area's drainage. The City's Driftwood Drive storm drain project was completed in August 1998.

The City prepared and approved a Negative Declaration in conjunction with the proposed project. The approved Negative Declaration determined that the proposed project would not have a significant effect on the environment.

# B. Project History

There have been four prior permits and one permit amendment granted by the Commission to the Esslinger Family Trust for storm drain improvements within their property at the base of Hobo Canyon: coastal development permits G5-95-286, 5-95-286, 5-95-286 A, 5-96-048, and 5-98-151. All the previous permits were located within the Laguna Terrace Mobile Home Park. The proposed project, although still located on property owned by the Esslinger Family Trust, is not located within the Mobile Home Park.

1. Emergency Permit G5-95-286



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On December 21, 1995 the Executive Director issued Emergency Permit G5-95-286 to the Laguna Terrace Mobile Home Park for drainage improvements consisting of: removal of existing speed bumps, construction of wooden barriers, asphalt curbs and catch basins. The emergency permit was granted because debris and mud flows from rainstorms required immediate action to prevent damage to the trailer park mobile home structures and prevented access by emergency vehicles. The materials submitted with the emergency permit application indicate that the existing 30 inch diameter corrugated metal storm drain pipe was inadequate to collect storm runoff and that during high runoff flows sediment entered the mobile home park and park buildings.

The Emergency Permit Acceptance Form was received on January 3, 1996. The Emergency Permit expressly did not include approval of: retaining walls, rail & timber debris control structures, regrading of "M" Street, removal of sediment, construction or refurbishment of storm drains or construction of the desilting basin.

# 2. Coastal Development Permit 5-96-048

Coastal Development Permit application 5-96-048 was approved on the Administrative Calendar on May 8, 1996. The permit was issued for removal of 2,000 to 2,500 cubic yards of sediment from the mouths of four tributary canyons within the Hobo Canyon drainage in the upstream end of the Laguna Terrace Mobile Home Park. There was one special condition which stipulated that any coastal sage scrub in construction areas would be flagged so that contractors would avoid impacts to the native vegetation.

The applicants sent a letter acknowledging the acceptance of the permit and special condition and also filed a "Notice of Commencement of Construction" on June 18,1996.

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### 3. Coastal Development Permit 5-95-286

Coastal Development Permit 5-95- 286 is the follow-up permit for Emergency Permit G5-95-286. On August 16, 1996 the Commission approved coastal development permit 5-95-286 on the Regular Calendar for construction of interim flood protection facilities, including street modifications, installation of catch basins, modifications to the storm drain system, installation of catch basins, modifications to the storm drain system, construction of debris control structures an a detention/desilting basin. The permit was approved with two special conditions. Special Condition 1 stipulated that any change to the Streambed Alteration Agreement resulting in a change to the approved project would require an amendment to the permit. Special Condition 2 stipulated that the applicant notify selected public agencies of the availability of the removed sediment for beach nourishment purposes. On August 20, 1996 the permit was issued.

The specific plans approved by the Commission included a 30 inch RCP storm drain and two catch basins along lower "M" Street, the desilting basin, and four debris control barrier structures on the main canyon and side canyons.

#### 4. Coastal Development Permit Amendment 5-95-286 A

This amendment was approved by the Commission in May 1998 and consists of the installation of a 2,534 linear feet storm drain facility main in the right-of-way of a mobile home park road, lateral drains and an outlet structure. The pipe for the storm drain varies from 48 to 60 inches in diameter for the main line (Line "A" and 12 to 30 inches in diameter for the five lateral storm drains (Laterals "C" and "E"-"H"). The main line will terminate at a proposed 60 inch outfall structure.

#### 5. Coastal Development Permit 5-98-151

Coastal Development Permit 5-98-151 was approved by the Commission on the Regular Calendar on August 13 1998. The permit approved construction of a 140 foot long, 3 foot wide ditch and placement of an 18 inch wide storm drain pipe (lateral D). Grading of 50 cubic yards of cut and 15 cubic yards of fill was also approved. The storm drain would lead from a 50 by 50 foot retention basin and connect to a 48 inch storm drain pipe. The 18 inch pipe approved under this permit was to replace an existing 18 inch pipe.

The permit was approved with three special conditions. Special condition 1 required a landscaping and erosion control plan for the area of slope disturbed by the project. Special Condition 2 required the applicant to inform the Executive Director of the location of the disposal site for the excess cut material. Special condition 3 required that coastal sage scrub in the project vicinity be flagged and all contractors made aware of its presence and the requirement to avoid impacts.

The special conditions of the permit have not been met and the permit has not been issued. Shortly after the Commission's action on permit 5-98-151, the applicant became aware that the City was creating a new storm drain system in Driftwood Drive adjacent to the Esslinger property. The City's storm drain was constructed with the capacity to accept flows from the Esslinger property.

The amended project will reduce the amount of flow that the mobile home system must handle. The applicant believes the amended project is an improvement to the original plan because it will deliver the storm flow into the existing City storm drain system. The previously approved project would have added storm flows to the mobile home park, which connects to the system that Caltrans had previously expressed concerns over.

#### C. Water Quality

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters that will maintain healthy populations of all species of marine organisms adequate for longterm commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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 proposed development would tie into the City's existing storm drain system which ultimately empties into the ocean. The Coastal Act requires that adverse effects of this project on coastal waters and the marine environment be minimized. In order to assure that these adverse effects are minimized, best management practices (BMPs) must be incorporated into the project. BMPs are used to control stormwater volumes and peak discharge rates, as well as to reduce the magnitude of pollutants.

The project involves construction of six sediment basins with laterals connecting to a single pipe which then would connect to the City's storm drain system. The sediment basins themselves are a type of BMP. By collecting the stormwater runoff within the basins, the runoff is temporarily contained and allows for settling, filtration and percolation. This allows pollutants such as sediment and storm debris, to be filtered out before the runoff enters the City's storm drain system.

However, as proposed the project contains no provision for routine maintenance of the sediment basins. Routine maintenance would include measures such as removal of accumulated sediment and clearing the inlet pipe on a regular basis. Measures such as these are necessary to assure that the drainage system continues to function properly and thus continues to prevent pollutants from entering the City's storm drain system which empties into the ocean.

The sediment basins are proposed to be constructed from the excess cut material resulting from burying the proposed drain pipes. No planting of the berms is proposed, however. Exposed dirt berms could be subject to erosion. The eroded dirt would likely flow into the City's storm drain system and then to the ocean. If the berms are planted, however, the risk of destructive erosion is minimized. In addition to minimizing destructive erosion, landscaping the berms will increase the filtering effect of the sediment basins on the stormwater flows. Landscaping the berms is an additional BMP that can be applied to the proposed project to increase filtration and decrease erosion which aids in the reduction of pollutants in the runoff before the runoff enters the ocean.

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Therefore as a condition of approval, the applicant shall prepare and submit a Best Management Practices Plan which shall include provisions for routine maintenance of the proposed drainage system and landscaping the berms. The Best Management Practices Plan shall include a landscape plan prepared by a licensed landscape architect and include a plant palette. Only as conditioned can the proposed project be found consistent with Sections 30230 and 30231 of the Coastal Act which require that coastal water quality be maintained and enhanced.

The Regional Water Quality Control Board (RWQCB) oversees water quality issues in the region. In order to ensure that the applicant complies with any requirements of the RWQCB, the Commission finds that the applicant shall submit written evidence of review and approval by the Regional Water Quality Control Board. Only as conditioned does the Commission find that the proposed development conforms with Sections 30230 and 30231 of the Coastal Act.

#### D. Environmentally Sensitive Habitats

Section 30240 of the Coastal Act states:

(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 is located in the Hobo Canyon area of the City of Laguna Beach. Hobo Canyon is a largely undeveloped, hillside area located inland of Coast Highway. Hobo Canyon is identified in the South Laguna Biological Resource Values Map as a Very High Value Habitat. Although the site is within the general Hobo Canyon area it is located along its urban edge. A biological assessment was prepared for the proposed project by John M. Tettemer & Associates and dated June 11, 1999. Due primarily to the fact that the proposed project will be located within existing graded pads and an existing graded road, no sensitive habitat was found on-site. The biological assessment states: "Although this area may have contained very high quality habitat at one time, it no longer contains such habitat."

As discussed above in the Water Quality section of this staff report, a special condition has been imposed on the proposed project which requires landscaping of the proposed berms. Because of the proposed project's location at the edge of the urban/wildland interface, the required landscaping should include only native plants, primarily coastal sage scrub and other plantings native to the Hobo Canyon area. If non-native plantings were used, the risk of invasion of non-native plants into the nearby very high value habitat is possible. Invasion of non-natives into a sensitive habitat area can cause the habitat to become degraded. Section 30240 requires that development adjacent to sensitive habitats be designed to prevent degradation of the sensitive habitats. Only as conditioned to require that the berm be landscaped using only plants native to the Hobo Canyon area is the proposed project consistent with Section 30240 of the Coastal Act.

# E. LOCAL COASTAL PROGRAM

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

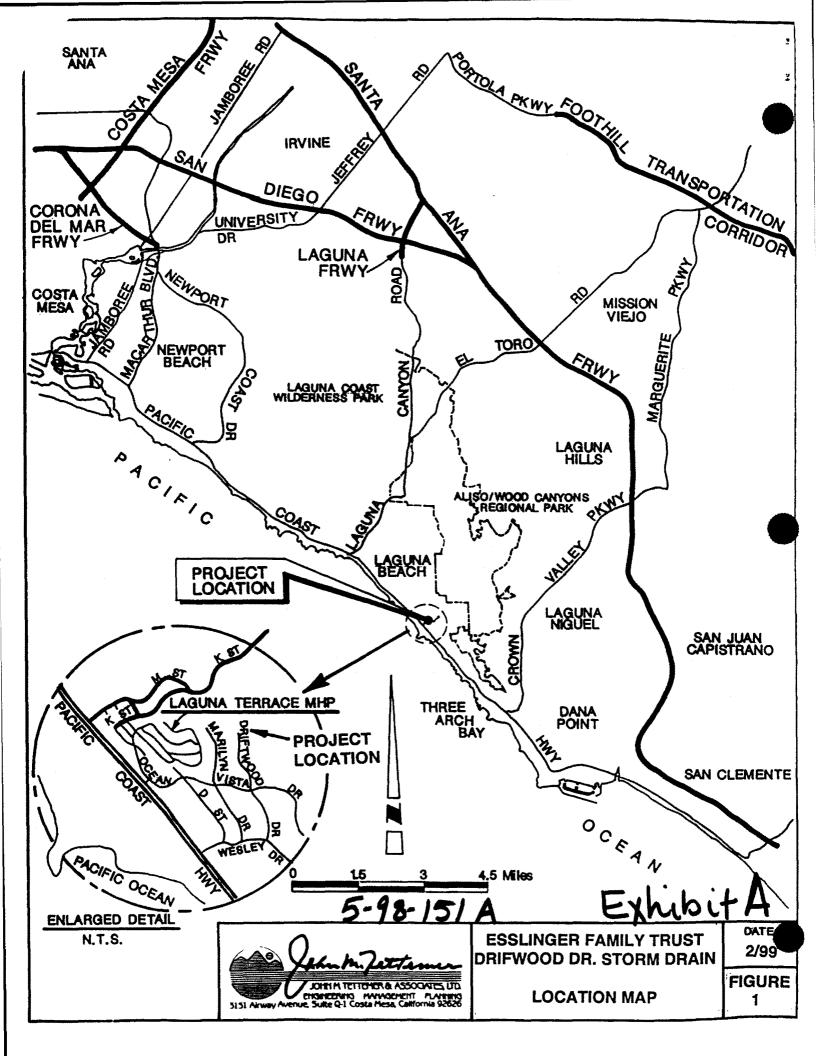
The Laguna Beach Local Coastal Program was approved with suggested modifications, excluding several areas of deferred certification, in July of 1992. The Laguna Beach LCP was effectively certified on January 25, 1993 after Notice of the Certification of the Local Coastal Program was filed with the Secretary of Resources. Hobo Canyon was one of the areas that was deferred certification (due to issues involving access to the area). The Commission is reviewing this project because it is in an area of deferred certification.

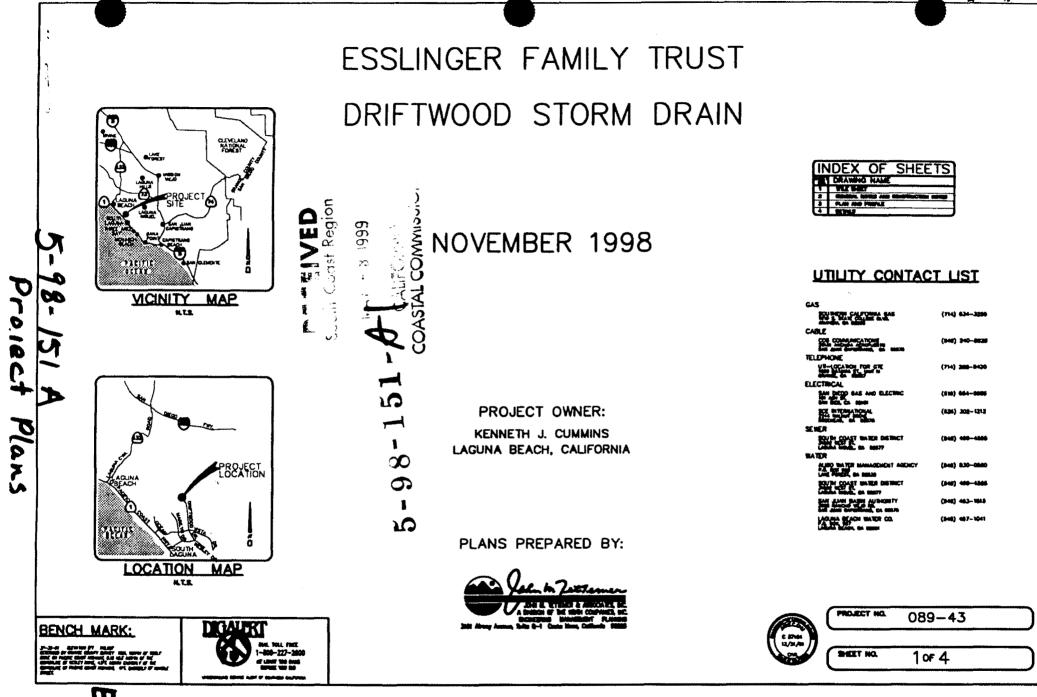
As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program for this area of deferred certification that is consistent with the Chapter 3 policies of the Coastal Act.

# F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

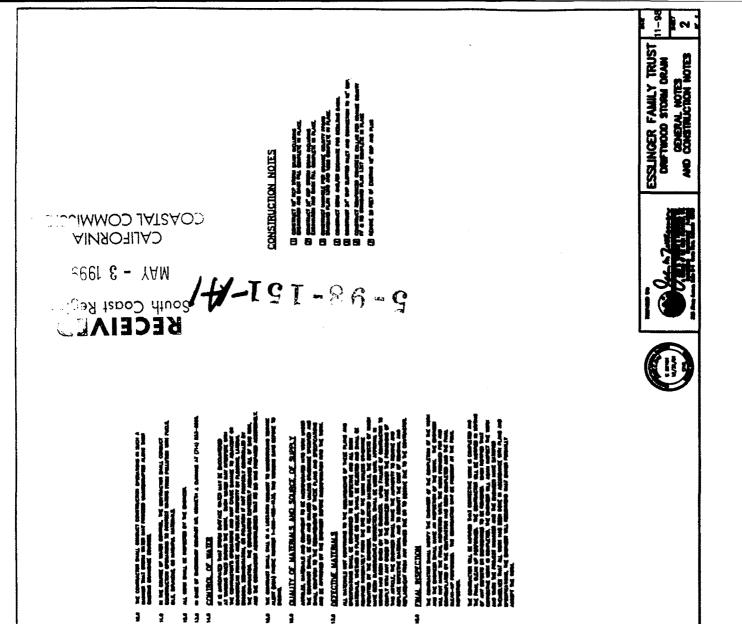
Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality 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 development has been conditioned to assure that the project will not have a significant adverse impact on coastal resources, specifically water quality and sensitive habitats. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.





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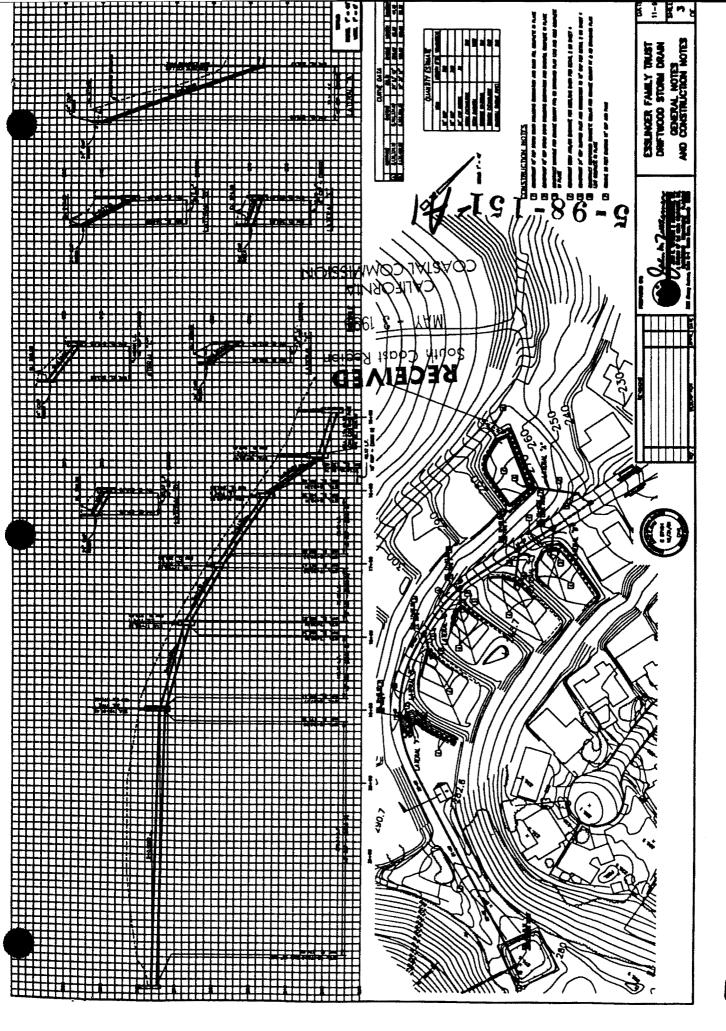
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