

Wed 5a-b

RECORD PACKET COPY

San Diego Coast District

CONSENT CALENDAR

Wednesday, September 13, 2000

Table of Contents

6-00-89

6-00-90

CALIFORNIA COASTAL COMMISSION

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



Wed 5a

Filed: August 2, 2000
49th Day: September 20, 2000
180th Day: January 29, 2001
Staff: GDC-SD
Staff Report: August 24, 2000
Hearing Date: September 12-15, 2000

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-00-89

Applicant: Solana Hills Estates
Homeowners Association

Agent: Nicholas A. Cotsidas

Description: Resubdivision of land to allow conversion of existing 10 unit condominium development to fee simple ownership with retention of common interest ownership of the open space parcel adjacent to Lots 1 through 8 and deletion of common interest ownership of same adjacent to Lots 9 and 10.

Zoning	Estate Residential - 2 dua
Plan Designation	Estate Residential

Site: 500, 507, 510, 522, 530, 541, 550 San Julio Road and three vacant parcels: lot 7 on San Julio Road and lots 9 and 10 on the east side of Solana Drive between Marine View Avenue and Highland Drive, Solana Beach, San Diego County.

Substantive File Documents: Certified County of San Diego Local Coastal Program (LCP); City of Solana Beach Draft Land Use Plan; CDP Nos. 6-83-652, 6-86-249, 6-87-24, 6-88-514, 6-94-30, 6-94-164, 6-96-20 and 6-99-45.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a YES vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Open Space Deed Restriction. No development, as defined in section 30106 of the Coastal Act shall occur in the area generally described as all naturally vegetated areas with slopes in excess of 25% grade as indicated on the Vesting Tentative Subdivision Map with revision date 9/22/95 as shown on the attached Exhibit "3".

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This 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 necessary. This open space deed restriction shall supercede any previously recorded open space deed restriction recorded pursuant to Coastal Development Permit #6-88-514.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description and History. Proposed is a resubdivision to change the type of ownership of an existing ten-unit planned residential development (PRD) on an approximately 7.85 acre site. The proposal is to change the 10-unit condominium development which was approved as a subdivision in 1988, to 10 fee simple lots through recordation of a new vesting tentative map (ref. Exhibit #2 attached). Eight existing lots have been developed with single-family residences, while lots 7 and 10 are vacant. In addition, lots 9 and 10 are at a different elevation than the remaining lots and are accessed via a separate street. Because of this geographic separation, the applicant has proposed the removal of ownership interest by lots 9 and 10 in the proposed common areas which are located adjacent to Lots 1 through 8. These common areas (Lots A -D) consist of open space, a private street and a tennis court. Lots 1 through 8 will retain joint ownership of these common areas.

The existing 10-unit condominium development is located east of Interstate 5 in the City of Solana Beach. Lots 1 through 8 are located at the western terminus of San Julio Road, within a private gated portion of the street. Lots 9 and 10 are located at a lower elevation west of that site along the east side of Solana Drive. The subject property is situated in an area characterized by similarly sized residential developments. The site is located within the Unsewered Overlay area in the previously-certified County of San Diego LCP, but is not located in the Coastal Resource Protection area overlay. Because the proposed development is located in the City of Solana Beach, which lacks a certified Local Coastal Plan, the standard of review is Chapter 3 policies of the Coastal Act, with the previously certified County LCP used as guidance.

The site has been the subject of numerous coastal development permits, including: CDP #6-83-652 for the construction of a 15-unit Planned Residential Development and miscellaneous improvements; CDP #6-86-249 for grading and construction of 15 condominium units and tennis court; and CDP #6-87-246 for a 15-unit Planned Residential Development, site preparation and construction of an access road. None of these permits were exercised. Development on the site did eventually occur through CDP #6-88-514 which authorized the existing subdivision and the construction of ten homes under a condominium form of ownership. The approval included a requirement for an open space deed restriction to protect those portions of the property containing steep naturally vegetated slopes in excess of 25% gradient. Since the approval of CDP #6-88-514 in December 1988, a number of applications for the construction of individual residences within this subdivision have also been reviewed and approved by the Commission. In 1996, the Commission approved an identical request as the subject application for conversion from condominium to fee simple ownership including the deletion of Lots 9 and 10 from common interest in the open space parcel (ref. CDP #6-96-20/Solana Hills Estates, H.O.A.). However, the special conditions of that approval were never completed and the permit subsequently expired.

2. Visual and Biological Resources. Section 30251 of the 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.

In addition, Section 30240 of the Act states:

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

Although the project site is located in an area that had not been proposed for protection under the County of San Diego LCP's Coastal Resource Protection (CRP) Overlay Zone, the project site does contain significant, mature coastal sage scrub vegetation on slopes in excess of 25% grade. In addition, the property is prominently situated within the Interstate 5 coastal access corridor, such that the slopes represent a visual resource. As part of CDP #6-88-514, the Commission required that the steep naturally vegetated slopes in excess of 25% gradient be preserved in open space. However, it appears that the open space easement for the subject subdivision was revised sometime after the Commission's approval such that the recorded open space is in a different configuration than that approved. Coastal Development Permit #6-88-514 required that both the open space lot and the vegetated steep slopes within each individual lot be preserved by an easement. However, the revised easement resulted in no open space areas being preserved within the lot lines of subject Lots 1 through 8. A separate parcel beyond the borders of Lots 1 through 8, however, is preserved as an open space parcel. In addition, open space areas were retained within Lots 9 and 10. It remains unclear why or how the open space easement was revised. Such a revision was never approved by the Commission. As a matter of note, the subdivision has been the subject of numerous problems over recent years and the property has been sold several times due to bankruptcies of previous owners.

While the open space deed restriction which was recorded following the Commission's approval of CDP #6-88-514 is somewhat different than the open space boundaries established by the Commission, the deed restriction required through this permit review will provide substantial protection of the steep, natively vegetated slopes on the project site. Because the recorded deed restriction is in conflict with the Commission earlier approval of CDP #6-88-514 which also required the Commission to be a party to that open space deed restriction, the applicant's request for a resubdivision of the property through filing of a new vesting tentative map will require a new open space deed restriction be recorded to replace the existing.

Special Condition #1 has been attached requiring the applicants to record new open space deed restrictions which mirrors exactly the portions of properties restricted by the City of Solana Beach on the new Solana Hills Estates Vesting Tentative Subdivision Map, as revised on 9/22/95. These restrictions shall apply to Lots 9 and 10 individually, and to Lots 1 through 8 in common. This deed restriction will ensure that steep slopes and natural vegetation will be permanently protected pursuant to Sections 30240 and 30251 of the Coastal Act. While Lots 9 and 10 are being deleted from their previously undivided interest in the condominium development's common open space area, each parcel individually contains naturally vegetated steep slopes and, therefore, will require open space deed restrictions to be recorded consistent with the aforementioned vesting tentative map. Since the current configuration of the open space areas, as outlined on the

proposed Vesting Tentative Subdivision Map, avoids encroachments onto steep slopes similar to the previously required open space easements, the future development of any vacant lots will not result in any increase in the level of impacts. In addition, previous encroachments onto naturally vegetated steep slopes have been resolved through restoration/revegetation in association with coastal development permits for construction of the individual homes (CDP #6-94-30 and #6-94-164).

With the attached Special Condition #1, imposing restrictions requiring that the steep, naturally vegetated or visually prominent portions of the site be protected from development through recordation of a deed restriction, the proposal can be found consistent with Sections 30251 and 30240 of the 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. In this case, such a finding can be made. As stated above, the project, as conditioned, is consistent with the applicable policies of Chapter 3 of the Coastal Act.

The subject site was previously in the County of San Diego Local Coastal Program (LCP) jurisdiction, but is now within the boundaries of the City of Solana Beach. Because of the incorporation of the City, the certified County Local Coastal Program no longer serves as the valid LCP for the area and, therefore, the Commission's standard of review is the Coastal Act. However, the issues regarding protection of coastal resources in the area have been addressed by the Commission in its review of the County of San Diego LUP and Implementing Ordinances. As such, the Commission will continue to utilize the County LCP documents for guidance in its review of development proposals in the City of Solana Beach until such time as a new or revised LCP is submitted by the City.

The San Diego County LCP contains special overlay areas where sensitive coastal resources are to be protected. The subject property falls within the unsewered overlay area; however, the site is fully sewerred, and thus, the provisions of this overlay do not apply. The Commission finds that, as conditioned, the proposed development conforms to Coastal Act Chapter 3 policies and with the special area regulations contained in the certified County of San Diego LCP. In addition, the existing condominium and proposed change in type of ownership are consistent with the Estate Residential Zone of the City of Solana Beach and the previously certified County of San Diego LCP. The development's approval, as conditioned, will not prejudice the ability of the City of Solana Beach to complete a certifiable Local Coastal Program.

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 will not cause significant adverse impacts to the environment. Specifically, as conditioned, the project has been found consistent with the biological and visual resource 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.

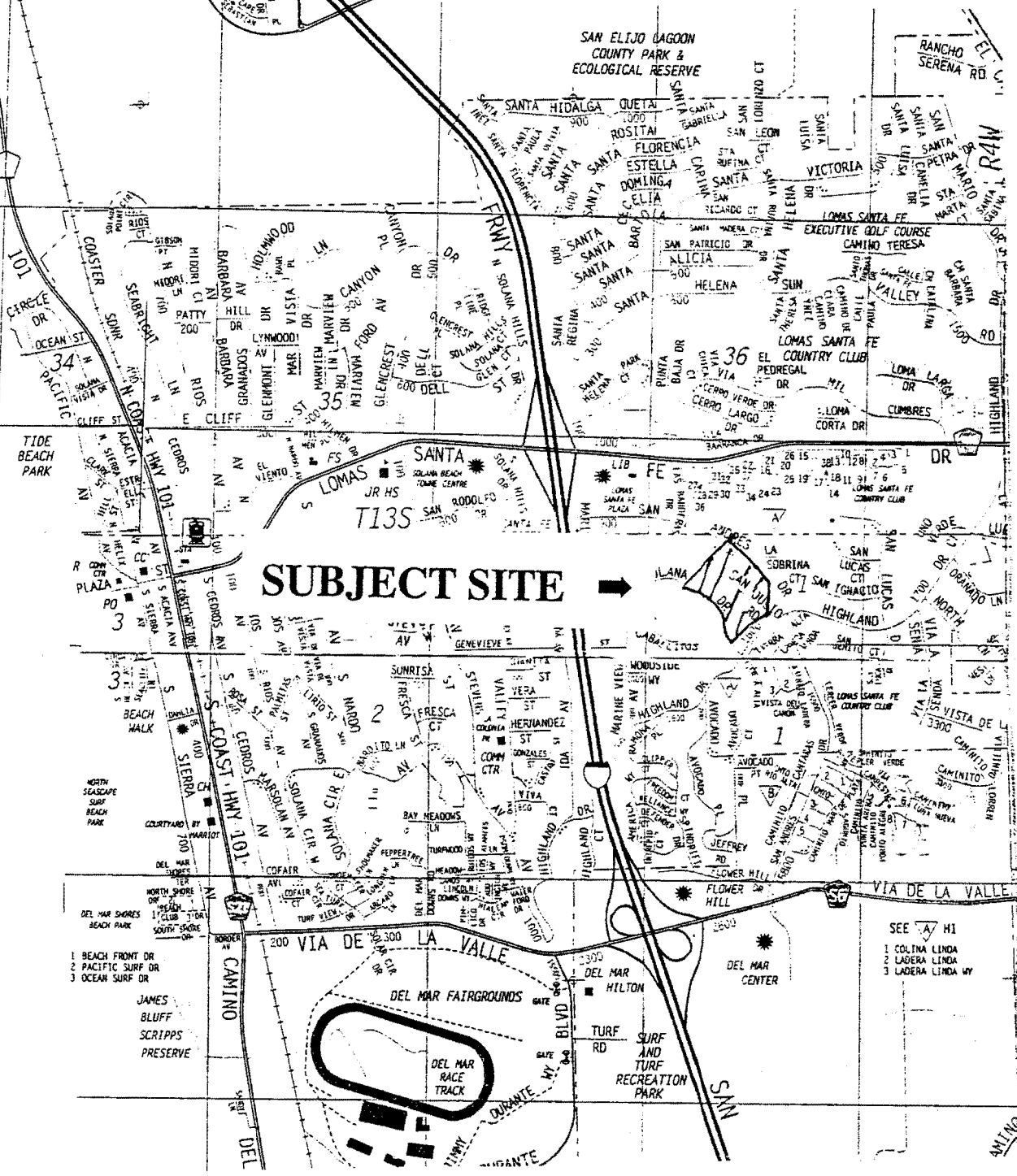
STANDARD CONDITIONS:

1. Notice of Receipt and 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.

CARDIFF
STATE
BEACH

SAN ELIJO LAGOON
COUNTY PARK &
ECOLOGICAL RESERVE

RANCHO
SERENA RD




SUBJECT SITE →

- 1 BEACH FRONT DR
- 2 PACIFIC SURF DR
- 3 OCEAN SURF DR

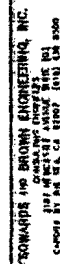
JAMES
BLUFF
SCRIPPS
PRESERVE



EXHIBIT NO. 1
APPLICATION NO.
6-00-89
Location Map
 California Coastal Commission

SHEET 7 OF 7 SHEETS

SHEET 7 OF 7 SHEETS

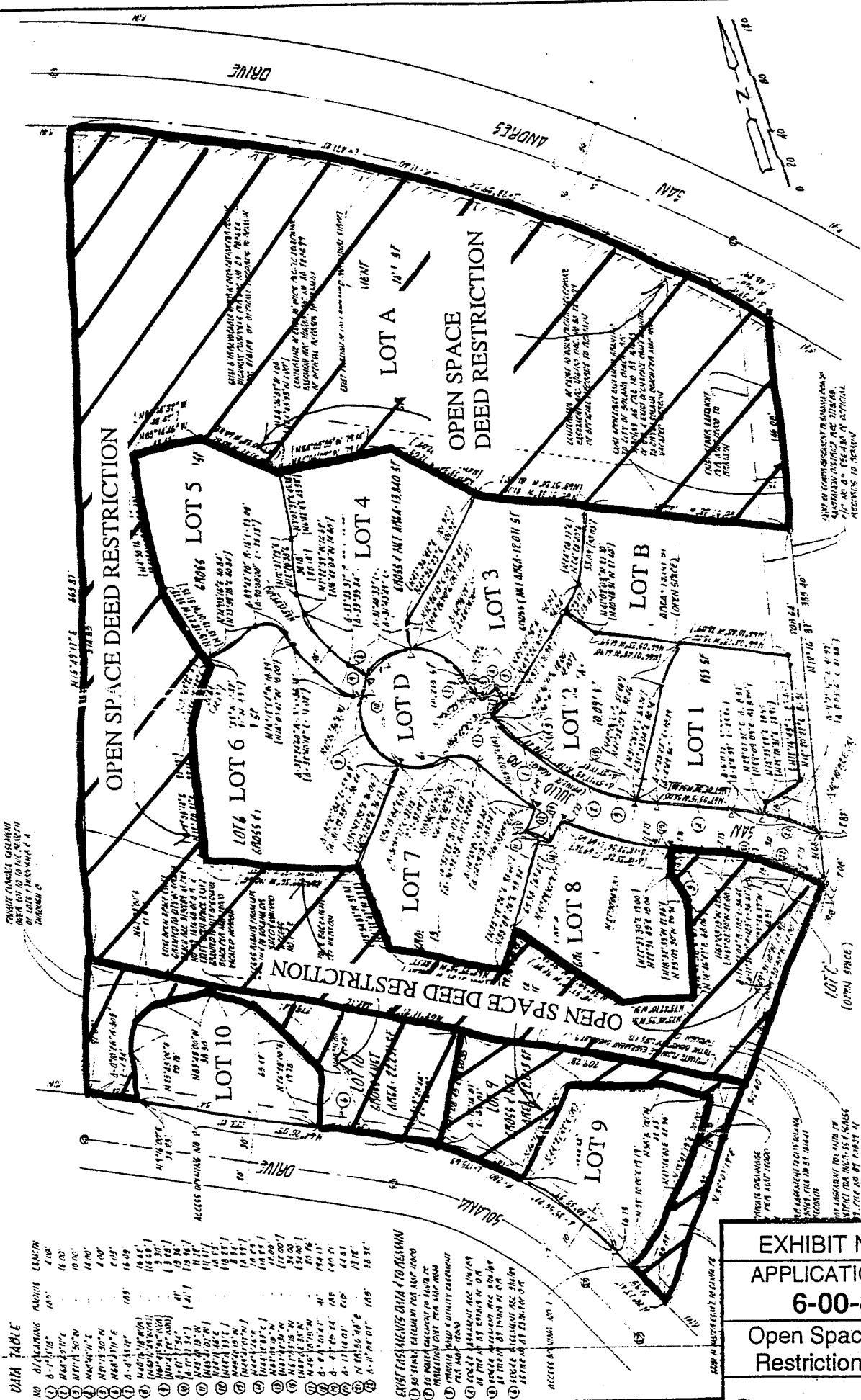


617 16 474 001

EXHIBIT NO. 2
APPLICATION NO.
6-00-89
Tentative Map

MAP NO.

SHEET 7 OF 7 SHEETS



DATA TABLE

NO.	DESCRIPTION	MEASURE	LENGTH
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EXISTING ENCUMBRANCES DATA TO REMAIN

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EXHIBIT NO. 3
APPLICATION NO.
6-00-89

Open Space Deed
Restriction Areas

CALIFORNIA COASTAL COMMISSION

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



Wed 5b

Filed: August 22, 2000
49th Day: October 10, 2000
180th Day: February 18, 2001
Staff: DL-SD
Staff Report: August 24, 2000
Hearing Date: September 12-15, 2000

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-00-90

Applicant: San Elijo Lagoon Foundation Agent: Doug Gibson
County of San Diego Dept of Parks & Recreation Barbara Simmons

Description: Clearing dedicated open space area adjacent to San Elijo Lagoon of non-native invasive vegetation and replanting with native riparian and upland vegetation.

Lot Area	1.58 acres
Plan Designation	Open Space
Project Density	Open Space

Site: Trailhead and Northern Terminus of North Rios Avenue, Solana Beach, San Diego County. APN 263-680-10.

Substantive File Documents: Certified County of San Diego Local Coastal Program (LCP); City of Solana Beach General Plan and Zoning Ordinance; CDP #6-98-1.

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a YES vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule that specifies the following:

- a. No work shall occur between February 1 and July 31 of any year, unless authorized in writing by the Executive Director and the California Department of Fish and Game.
- b. Access to the public trail on the subject site shall be restricted to the public on no more than 5 days total. No trail closures shall occur on weekends or holidays.

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 required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project is a vegetation restoration effort for an existing 1.58 dedicated open space area. The site is located at the northern terminus of North Rios Avenue at the San Elijo Lagoon County Parks trailhead in the City of Solana Beach. The parcel consists of a steep north-facing slope overlooking San Elijo Lagoon adjacent to an under-construction residential subdivision project to the south. An existing public trail is located on the lower portion of site.

The subject site was offered for dedication into open space as part of the adjacent subdivision project approved by the Commission in April 1998 (#6-98-1). In association with the construction of nine new residential units on a 6-acre parcel at the northeast terminus of North Rios Avenue, the northernmost 1.58 acres of the lot adjacent to the lagoon were offered in fee to a resource agency. In April 2000, the County of San Diego's Department of Parks and Recreation accepted the offer and incorporated the subject site into the San Elijo Lagoon Reserve.

A review of the existing vegetation on the subject site performed by a biologist from the San Elijo Lagoon Conservancy determined that the site contains a large number of exotic species including giant cane (*Arundo*), eucalyptus, and palm trees, with several isolated native upland and riparian wetland species (e.g. lemonade berry and willows). The proposed project involves manually removing the exotic species around the existing native vegetation, then scraping the remainder of the area with a tractor. For the *Arundo*, a tractor will remove the plant rhizomes with a mechanical apparatus that shakes all of the dirt from the mass back to the ground. Some plants will be removed by hand, others, such as the eucalyptus and Caster bean, will be cut by chainsaws. The larger native plants on the site such as the willows and mature coastal sage plants will be staked and preserved on-site. Several native plants may be temporarily removed, then replanted as close to the original site as possible. All vegetation removed will be transported to the dump for green-waste composting.

Revegetation of the site will consist of hydroseeding Coastal Sage Scrub and Southern Maritime Chaparral species on approximately 2/3 of the site (the upper slope area), and planting riparian species (sycamores and willows) on the lower elevations of the site, which receives on-going fresh water influence from an adjacent storm drain. A temporary irrigation system may be set up if deemed necessary. No alterations to the existing trail are proposed. Removal and revegetation is expected to take approximately 6 days over a 2-3 week period. Weed abatement efforts will continue throughout the next year. Signs restricting the public from entering the revegetation area (not the trail) will be posted on the site.

The City of Solana Beach does not yet have a certified Local Coastal Program (LCP) and therefore, Chapter 3 policies of the Coastal Act is the standard of review. The previously certified County of San Diego LCP is used for guidance in Solana Beach.

3. Sensitive Biological Resources. Section 30233 of the Coastal Act states in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

[...]

(7) Restoration purposes.

Section 30240 of the Act is also applicable and 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.

The project site is located within the San Elijo Lagoon Ecological Reserve, 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. The goal of the proposed project is to restore the habitat on the subject site, which has been taken over by exotic species, to its natural condition. Restoration activities are a permitted use in a wetland area, although there are no impacts to wetland habitat associated with the proposed project.

The proposed project will have a positive impact on the quality of the natural environment by removing non-native, exotic and invasive plants, and replanting the area with native species. The seed bank for the proposed hydroseeded revegetation will be taken from the Camp Pendleton and the Del Mar Coastal area to ensure genetic compatibility to the subject site to the greatest degree possible. To replant the riparian species, cuttings will be taken from the adjacent lagoon Reserve. This process involves taking small cuttings from existing plants and does not harm the existing plant in any way.

In order to ensure that no endangered species in the general vicinity of the project could be adversely impacted by construction, the applicant has indicated that no work will occur between February and July. Special Condition #1 requires the applicant to restrict work accordingly, unless work outside this time period is specifically authorized by the resource agencies. Therefore, the Commission finds the proposed project consistent with the resource protection policies of the Coastal Act.

3. Public Access and Recreation. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. Section 30213 states that lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with any development located between the first public roadway and the sea, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. In this case, such a finding can be made.

As noted above, a public trail crosses a portion of the subject site. Construction of the project could involve the closure of the trailhead for 3 to 5 days while construction is underway. Special Condition #1 requires that access to the trailhead not be restricted for more than 5 days, and in no case on weekends or holidays. Signage restricting the public from entering the revegetation area is appropriate in a sensitive environmental habitat area, and will not impact access on the existing trail. Thus, any impacts to public access and recreation will be minor and brief. Therefore, the Commission finds the project consistent with the public access and recreation policies of the Coastal Act.

4. 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 designated as Open Space in the previously certified County of San Diego LCP, which is used for guidance in the City of Solana Beach. The proposed development is within the jurisdiction of the County of San Diego Parks and Recreation and does not require review or approval from the City of Solana Beach. However, the proposed project is consistent with both the County's and the City's open space designation of the area. As conditioned, the Commission finds the proposed development consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

5. 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.

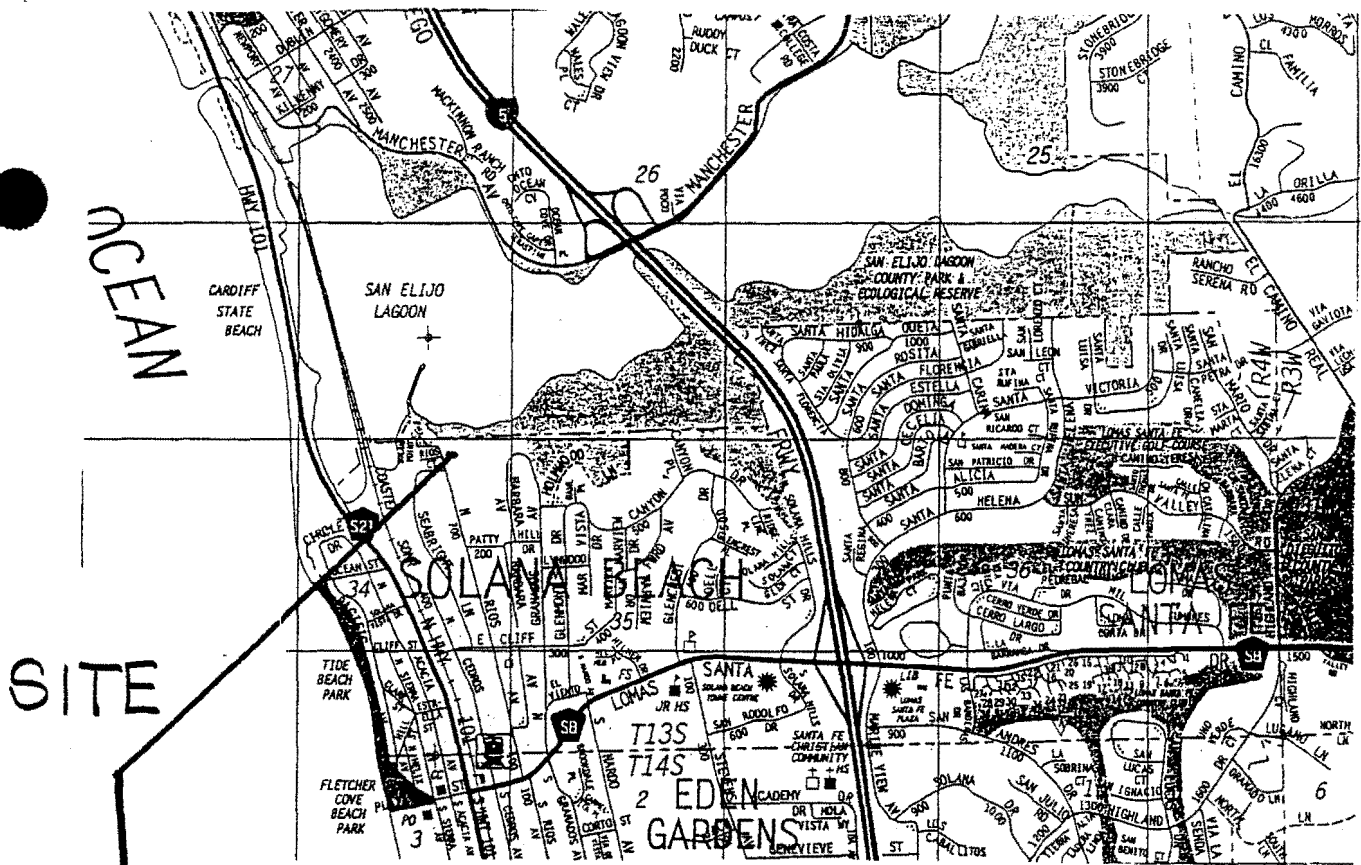
The proposed project has been conditioned in order to be found consistent with the sensitive biological resource policies of the Coastal Act. Mitigation measures, including conditions addressing the timing of construction, will minimize all adverse environmental impacts. As conditioned, there are no 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

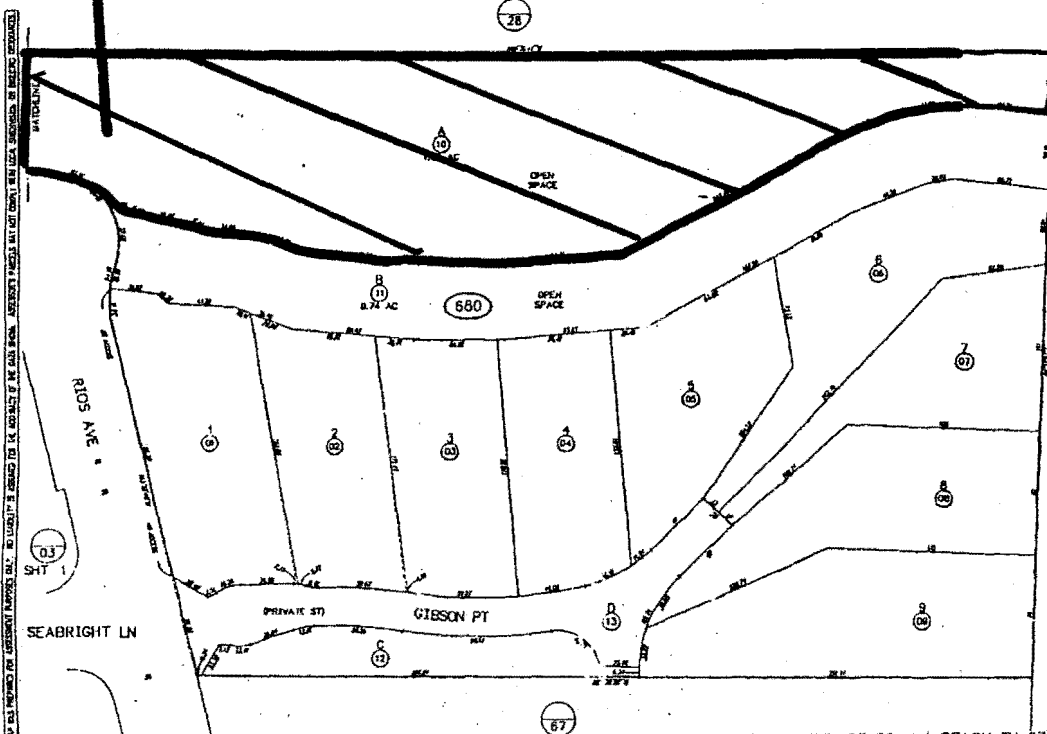
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.



18



MAP 13644 - CITY OF SOLANA BEACH TM 97

EXHIBIT NO. 1
APPLICATION NO.
6-00-90
Location Map

California Coastal Commission

