

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

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 Hearing Date: October 12-14, 2005

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-54

Applicant: Jerzy & Yolanta Lewak

Agent: Sjirk Zijlstra

Description: Construction of a 4,444 sq.ft., 3-story condominium duplex on a vacant 4,680 sq.ft. waterfront lot.

Lot Area	4,680 sq. ft.
Building Coverage	2,174 sq. ft. (47%)
Pavement Coverage	1,693 sq. ft. (36%)
Landscape Coverage	813 sq. ft. (17%)
Parking Spaces	5
Zoning	Residential Waterway (15-23 du/ac)
Plan Designation	Residential High Density
Project Density	18.6 du/ac
Ht abv fin grade	33' 6" feet

Site: 4547 Cove Drive, Agua Hedionda, Carlsbad, San Diego County
APN 207-150-15.Substantive File Documents: Certified Agua Hedionda LUP, City of Carlsbad LBC
Project V 04-01; CP 04-02; MS 04-05.STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the permit with special conditions. The proposed development is located on a small private cove off Agua Hedionda Lagoon. The primary issues raised by the development relate to protection of water quality. Because the site drains into Bristol Cove and ultimately Agua Hedionda Lagoon, a special condition requires that all runoff from the site be filtered prior to discharge into the cove. As

1. Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a landscaping plan for the review and written approval of the Executive Director. Said plan shall be in substantial conformance with the submitted plans by Zijlstra Architecture dated 8/14/05, and shall include the following:

(a) A maintenance plan for the landscaped area that shall describe the herbicide, pesticide and fertilizer practices as well as list the chemical pesticides and fertilizers that will be employed on site. Said chemicals shall not be toxic to fish or wildlife or persistent in the environment. Herbicides and pesticides, if used at all, shall be applied by hand application or by other means that will prevent leakage, percolation, or aerial drift into adjacent lagoon;

(b) A plan showing the type, size, extent and location of all plant materials used;

(c) Only drought-tolerant native or non-invasive plant materials shall be utilized;

(d) The 3-foot wide landscape strip shall be maintained in good growing condition, and whenever necessary, shall be replaced with new drought-tolerant native or non-invasive plant materials to ensure continued compliance with landscape requirements; and

(e) 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 whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the landscape 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. Runoff/Water Quality/Protection of Marine Resources. Sections 30230 and 30231 of the Coastal Act are applicable to the proposed development and state, in part:

Section 30230

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 and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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...

The project site is near Bristol Cove, a small offshoot of Agua Hedionda Lagoon, and is currently undeveloped, and surrounded by existing residential condominium and apartment complexes. The proposed 2-unit development will create new impervious surfaces. This reduction in pervious surface leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Furthermore, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides and pesticides; and bacteria and pathogens from animal waste, all of which can degrade the marine environment and reduce the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate.

The proposed development includes some on and off-site drainage improvements to ensure that runoff is collected and dissipated prior to entering the storm drain and the lagoon itself. The drainage plan submitted with the application includes a 3-foot wide vegetated landscape strip through which runoff from the site will be directed for infiltration and or percolating prior to being conveyed offsite. Directing runoff through landscaping is a well-established BMP for treating runoff from small developments such as the subject proposal. Special Condition #2 requires this measure as a post-construction best management practice. Special condition #1 also requires that, as proposed, no chemicals or pesticides harmful to fish and wildlife be used. As conditioned, the Commission finds the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act.

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.

In the case of the proposed development, the roofline of the proposed residence is proposed at elevation 41.78-ft, which is below the 45-ft elevation of Adams Street west of the project site. Thus, the project conforms to the LUP requirement and will not result in any existing public views from Adams Street. The existing community along Bristol Cove is made up of multi-unit apartment and condominium complexes that create a solid wall of development along the shoreline such that no significant views to Bristol Cove exist along Cove Drive. The proposed development will place a large residential structure between the road and shoreline of the Cove but does not block any views of the lagoon from Adams Street and will complete the line of development consistent with the size and character of other development along Bristol Cove. In summary, the residential development as proposed provides for the required view preservation from the adjacent scenic roadway, and the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act and the applicable policies of the Agua Hedionda Land Use Plan regarding scenic preservation.

4. Public Access. Section 30604(c) of the Act requires that a specific access finding be made for any development located between the sea and the first public roadway. In this particular location, Adams Street serves as the first continuous public roadway and the proposed development would be located between Adams Street and Agua Hedionda Lagoon. Section 30212 of the Act requires that public access from the nearest public roadway be provided, unless such access would be inconsistent with public safety, military security or resource protection needs.

The project site is located between Agua Hedionda Lagoon and Cove Drive and contains roughly 40 feet of actual shoreline frontage. Bristol Cove is an approximately 800 ft. long, 50 ft. wide, channel that runs northwest from Agua Hedionda Lagoon's inner basin. The Cove's shoreline is entirely private and lined with approximately 15 feet of riprap along its length. All existing shoreline developments include small-craft floating boat docks that attach to the riprap and extend into the Cove. Vertical public access to the Agua Hedionda Lagoon shoreline is provided south of the proposed site, at the terminus of Cove Drive about ¼ mile away. From there, public trail segments exist to the east in front of the Bristol Cove multi-family project (about 100 feet) and the two lots to the immediate west (about 500 feet). The project site itself does not provide any views of the main channel, nor is there evidence that it is used by the public to access the shoreline.

project will not prejudice the ability of the City of Carlsbad to prepare a fully certifiable Local Coastal Program for its Agua Hedionda Lagoon segment.

6. California Environmental Quality Act (CEQA) Consistency. 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.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the biological and marine resources, water quality, visual resource and public access 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 is the least environmentally damaging feasible alternative and is 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.

