

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

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Hearing Date: 11/18/05
Commission Action:

STAFF REPORT: MATERIAL AMENDMENT

APPLICATION NO.: 5-05-020-A1

APPLICANT: Hearthside Homes/Signal Landmark

AGENT: Ed Mountford, Dave Neish, Donna Andrews, Susan Hori

PROJECT LOCATION: 17201 Bolsa Chica Road, Bolsa Chica, Orange County

DESCRIPTION OF PROJECT

PREVIOUSLY APPROVED: Approval of Vesting Tentative Tract Map (VTTM) 15460 for the subdivision and development of two existing parcels into the 105.3-acre Brightwater community consisting of 349 residential lots on 67.9 acres and 37.1-acres of habitat restoration and public trail, located primarily on the upper bench of the Bolsa Chica Mesa. The project also includes the construction of 349 single-family homes and the construction of two local parks within the residential community. The 37.1-acre habitat area consists of a 29.2-acre coastal sage scrub and native grassland community located along the western and southern slope and bluff top edges and the construction of a 2.5-acre Los Patos Wetland and Southern Tarplant preserve. (The Los Patos Wetland and Southern Tarplant preserve is 2.9 gross acres and 2.5 net acres). The remaining 5 acres of the 37.1-acre habitat area is the existing Eucalyptus grove. Public access, including pedestrian, bicycle and vehicular access and public parking will be allowed throughout the community. Three vertical walkways providing resident access to the habitat trail will also be available to the public. The Los Patos Avenue frontage will also be widened, paved, and landscaped creating 114 (unstriped) public parking spaces. The Tract Map also includes the creation of an 11.8-acre residual parcel located on the lower bench of the Bolsa Chica Mesa.

Grading consists of 440,000 cubic yards (220,000-c.y. cut, 220,000-c.y. fill). Infrastructure improvements include the construction of a 1.2-million gallon underground drinking water reservoir and above-ground pump station on 0.3 acres and a new 54" to 66" storm drain and rip-rap energy dissipater discharging treated runoff to the off-site Isolated Pocket Lowland area.

DESCRIPTION OF PROPOSED AMENDMENT: Hearthside Homes (Brightwater) requests to amend Permit #5-05-020 in order to provide funding to partially offset the Commission's costs for its consideration of the permit application and condition compliance. This funding will provide additional temporary personnel so that a team of permanent Commission staff can expedite the review of prior to issuance documents for Permit #5-05-020 and ensure that the approved coastal development permit can be issued by December 7, 2005. This expedited condition compliance review is needed so that the pending escrow for the public purchase of the lower Bolsa Chica bench can close by the December 31, 2005 deadline.

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

The staff recommends that the Commission make the following motion and adopt the following resolution:

Motion: *I move that the Commission approve Coastal Development Permit Amendment No. 5-05-020-A pursuant to the staff recommendation.*

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of majority of the Commissioners present.

Resolution to Approve Permit Amendment No. 5-05-020-A:

The Commission hereby approves a coastal development permit amendment 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 are to prepare a Local Coastal Program confirming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternative 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. STAFF RECOMMENDATION, FINDINGS AND SPECIAL CONDITION

The Coastal Commission has lost \$3,821,000 in state general funds and 33.7 positions since FY 2001-2002. One of the positions eliminated in budget cuts was one of the Commission's two legal analysts. With only one Legal Analyst to review legal documents for recordation the backlog of workload has continued to grow. Currently there is a one to two year wait for the review and sign off of recorded legal documents that establish easements or offer to dedicate easements.

The Coastal Commission's regulations 13055 (15) (e) allow the Commission to require applicants to cover expenses in addition to permit fees. The regulation subsection states:

"In addition to the above fees, the Commission may require the applicant to reimburse it for any additional reasonable expenses incurred in its consideration of the permit application, including the costs of providing public notice."

The Commission has a history of requiring funding to offset staff costs for condition compliance and enforcement of several major energy projects. The Commission required funding for condition compliance and enforcement as a part of the permit approval and required that the Executive Director work with the applicants to determine the most efficient and cost-effective method of implementation. The best method we have found to date is for the applicant to provide funds to a non-profit (such as Environmental Careers Organization or a university foundation). The non-profit would then recruit and hire a temporary employee based on the Commission staff's direction. The temporary employee would work in the Commission's office and under the supervision of Commission staff, but be an employee of the selected non-profit.

Hearthside Homes, Inc. was the first permittee to ask the Commission to consider expediting the review of permit condition compliance documents if they provided funding for temporary staff to assist the Commission with the workload. Hearthside Homes' amendment application proposes to provide funding to partially offset the Commission's cost for its consideration of the permit condition compliance documents. This funding will provide additional temporary personnel so that a team of permanent Commission staff can expedite the review of prior to issuance documents for Permit 5-05-020 and ensure that the approved coastal development permit can be issued by December 7, 2005. This expedited condition compliance review is needed so that the pending escrow for the public purchase of the lower Bolsa Chica bench can close by the December 31, 2005 deadline. The Commission finds that the applicant's proposal is consistent with the above-cited fee regulation and that the development as amended is consistent with the Coastal Act.

Staff recommends that the Commission approve the amendment request with the following special condition:

SPECIAL CONDITION:

- I. **Funding Condition Compliance and Document Review:** Consistent with its proposal, Hearthside Homes shall within 10 days fund the costs associated with an expedited review of condition compliance documents by the Coastal Commission. These costs will include staff or temporary help salaries and associated operating costs incurred by the Coastal Commission to review legal documents and evaluate compliance with the conditions of this permit.

The Executive Director will determine the form and manner of payment by Hearthside Homes consistent with the requirements of state law and which will ensure efficiency and reasonable costs to Hearthside Homes. The Executive Director will prepare a written request specifying all needed funding. If Hearthside Homes and the Executive Director cannot agree on the funding or the schedule, the disagreement will be submitted to the Coastal Commission for resolution.