

**CALIFORNIA COASTAL COMMISSION**

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# Thu 16b

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 Staff: DL-SD  
 Staff Report: January 18, 2006  
 Hearing Date: February 8-10, 2006

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-128

Applicant: San Diego Co. Dept. of Parks and Recreation Agent: Charley Marchesano

Description: Trail improvements to limit off-trail encroachment and to allow for wheelchair access through the existing 1,800 linear foot San Elijo Ecological Reserve Visitor Center loop dirt trail. Improvements to consist of an elevated boardwalk along a 486-foot section of the existing trail, a 100 sq.ft. observation platform, and repair of approximately 400 feet of the adjoining path. Completion of the project would result in the entire trail being accessible to the disabled.

Parking Spaces	20
Zoning	Open Space
Plan Designation	Open Space

Site: San Elijo Lagoon Ecological Reserve Visitor Center, 2710 Manchester Avenue, Cardiff, Encinitas, San Diego County. APN 261-191-03.

Substantive File Documents: Certified City of Encinitas LCP, San Elijo Lagoon Enhancement Plan; CDP Nos. 6-84-406; 6-87-101; 6-87-582; 6-90-309; 6-95-107; 6-98-32.

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**STAFF NOTES:**

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed trail improvements. The boardwalk will be located on an existing dirt trail, immediately adjacent to wetlands, but will not have any direct or indirect impacts to sensitive biological species. The improvements will discourage human and domestic animal intrusion into the lagoon while increasing public access, and recreational opportunities. While no impacts are anticipated, proposed Special Conditions would require post-construction monitoring and restoration of any adverse impacts to sensitive habitat.

Standard of Review: Chapter 3 polices of the Coastal Act.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-05-128 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives 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. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

**1. Construction Impacts/Restoration.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a detailed revegetation plan developed in consultation with the California Department of Fish and Game that includes the following components:

- a. Post-Construction Survey. The existing condition of the wetland vegetation at the site has been documented. The extent of impacts to the vegetation and substrate shall be assessed and documented in a post-construction survey after completion of the project to determine actual impacts.

- b. Areas subjected to temporary wetland impacts shall be revegetated at a 1:1 ratio.
- c. Areas subjected to temporary upland impacts shall be revegetated at a 1:1 ratio. Drought tolerant, non-invasive native plants shall be utilized to re-establish the area consistent with historic conditions. Use of pesticides and rodenticides shall be prohibited.
- d. The following goals, objectives, and performance standards shall apply for the restoration sites:
  - 1. Full restoration of all temporary wetland impacts. Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species.
  - 2. Success criteria and final performance monitoring shall require and assess, respectively, that coverage of areas disturbed by construction activities be similar to adjacent non-impacted reference sites within 1 year of completion of construction activities.
- e. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards.
- f. Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the revegetated areas have been established in accordance with the approved design and construction methods.
- g. A survey taken one year after revegetation identifying the quantity and quality of the restored plants and compliance with the above success criteria. If the survey demonstrates the revegetation has been unsuccessful, in part or in whole, the survey shall include a plan for remediation and further surveys/reports until the sites are fully restored.
- h. All surveys, reports or other documentation of the revegetation effort shall be submitted to the San Diego office of the Coastal Commission within 30 days of completion.
- i. If the post-construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1.

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 legally required.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project is improvements to approximately 900 feet of the existing 1,800-foot long dirt trail on the north side of San Elijo Lagoon in the City of Encinitas. The improvements would consist of construction of an elevated boardwalk along a 486-foot section of the existing dirt trail, and repair of approximately 400 feet of the adjoining decomposed granite path. The boardwalk would be composed of wood and composite wood materials, be roughly 30 inches in height, five feet in width. Also included is an eight-foot wide, approximately 100 sq.ft. circular platform section for visitor gathering and observation. Repairs would consist of placing additional compacted decomposed granite along the existing route where needed and adding a wood border to reduce future erosion. Currently, only approximately 1,800 feet of the loop trail is accessible to the disabled; completion of this project will result in the entire trail being disabled accessible.

The subject site is located on the south side of Manchester Avenue, east of Highway 101, in the Cardiff community of the City of Encinitas. Currently, the County operates a visitor center at the site, which also serves as a staff headquarters for operation and maintenance of the nearly 900-acre Reserve. Other facilities located on the site include restrooms and an approximately 20-car parking lot.

The Commission has approved a number of previous permits on the site. The Commission first approved an interpretive center and parking lot through CDP #6-84-406, but the permit expired. A redesigned center was then approved through CDP #6-87-101. However, the County determined that the project could not be implemented all at once, so the nature center was approved in two phases. Phase I was approved under CDP #6-87-582 and included grading, the parking lot and sewer improvements. The nature center was approved under Phase II and included the placement of two integrated 12.5 ft. high, approximately 2,292 sq. ft. hexagonal pavilions over a concrete slab to be utilized for interpretive purposes and storage of supplies and materials (CDP #6-90-309). The Commission approved construction of a concrete pad for placement of a recreational vehicle to house an on-site volunteer and the placement of a crushed granite surface over an existing dirt access road leading to the volunteer pad (CDP #6-95-107), and several improvements to the nature center including construction of restroom facilities, a 900 sq. ft. storage and maintenance area, several benches for seating and a windscreen (CDP #6-98-32).

In May 1999, the Commission approved construction of two new viewing decks (465 sq.ft. and 400 sq.ft.) on the existing trail around the nature center, along with placement of a 2 ½ to 3-foot high cable/post fence along the sides of the trail, resurfacing the existing trail and removal of exotic vegetation (CDP #6-99-23).

The subject site is located within the Commission's area of original jurisdiction. As such, Chapter 3 policies of the Coastal Act are the standard of review, with the certified Encinitas Local Coastal Program used as guidance.

2. Sensitive Habitat/Public Recreation/Access. Section 30231 of the Coastal Act states, in part:

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...

Section 30233 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:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

[...]

Section 30240 (b) of the Coastal Act states:

(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.

Section 30210 of the Coastal Act is applicable to the proposed development and states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

In addition, Section 30212 of the Act is applicable and states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(l) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252 states, in part:

The location and amount of new development should maintain and enhance public access to the coast by...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

Finally, Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with the approval of any development to be 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.

The subject site is located at the northwest portion of San Elijo Lagoon, 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. In addition, San Elijo Lagoon is one of the 19 priority wetlands listed by the State Department of Fish and Game for acquisition. The lagoon provides habitat for at least five State or Federal-listed threatened or endangered birds that include the California least tern, the light-footed clapper rail, Belding's savannah sparrow, the brown pelican and the western snowy plover. As such, potential adverse impacts on sensitive resources as a result of activity in the lagoon could be significant.

The existing public trail is located on a dirt berm slightly upland of the lagoon itself, and is surrounded by a variety of native and exotic vegetation. The trail has been in existence for many years, and there is evidence the site was disturbed by sewer lines and other human intrusion since prior to the Coastal Act. In general, the area on the lagoon side of the trail loop has more native vegetation and is in a more pristine condition, while the "inner" loop of the trail nearer the nature center is dominated by exotic vegetation and has been subject to greater human and domestic animal intrusion. However, there is a variety of salt marsh and fresh water marsh vegetation surrounding the trail.

The elevated boardwalk is proposed to be located in areas of bare dirt, gravel, and/or exotic vegetation (within the existing trail alignment) and will be supported by a series of pillars, spaced at about nine feet apart, which will be the only portions of the structure touching the ground. The boardwalk will be supported (at 9 foot intervals) with two rows of 2x6 composite "Trex" boards laid on top of each other in a perpendicular manner. These would sit directly on top of the graded and compacted existing trail surface. The support post from the boardwalk would connect to this base structure. No concrete is needed, except at each end of the boardwalk where it connects to the decomposed granite trail. This design reduces the disturbance to the project site required, since concrete footings and related excavation are not required. Rainwater would be able to run between the planks of the boardwalk; thus the boardwalk would not channel runoff into the lagoon or represent an increase in impervious surfaces. However, at some points, the boardwalk would be located as close as 5 feet to the wetland vegetation (generally consisting of saltmarsh species).

The Commission has typically found that development that does not provide a 100-foot buffer from wetlands (freshwater or saltmarsh) and 50-foot buffer from riparian vegetation areas can adversely impact the wetland. The wetlands on the subject site consist of a variety of fresh and saltwater marsh vegetation. The purposes of establishing a buffer area between wetlands and development include: to reduce the amount of human and domestic animal intrusion into sensitive vegetation, to reduce the impact of human

activity on native wildlife species, to provide an area of land which can filter drainage and runoff from developed areas before it impacts the wetlands, and to provide an upland resting retreat area for some wetland animal species.

In the case of the proposed project, the boardwalk and trail improvements would be located on an existing trail utilized by the public that is currently surrounded by wetland vegetation no more than a few feet away from the trail. There would be no way to construct any trail improvements with a buffer more than several feet wide. Currently there is not a defined trail boundary along the section of the walkway proposed for improvement. Thus, trail users and their dogs frequently deviate from the trail area and disturb the adjacent habitat. The proposed boardwalk will establish a clear, distinct accessway, and being elevated, will discourage off-trail wandering.

The Department of Fish and Game has reviewed the proposed project and determined that the project is suitable and compatible with the existing trail even in the absence of a buffer. The Department specifically noted that the project would allow users to view wildlife while staying on the trail. Fish and Game comments have been incorporated into the project design, including constructing the boardwalk elevation to be at least 12 inches in height to allow animals to cross under it, and where it is lower than 12 inches (at both ends of the structure) the sides will be screened to prevent creating a predator ambush zone. Construction will also occur outside of the breeding season of September – February. Staff at the City of Encinitas Clean Water Program have also reviewed and support the project. The City has indicated that the project incorporates adequate stormwater protection measures, the proposed wooden border along the granite portion of the trail will limit migration of gravel, and the proposed boardwalk will reduce the potential for daily erosion.

The majority of the construction is expected to occur by hand, although some small mechanical equipment may be used to compact soils and/or move materials. Construction staging and storage will occur in the existing parking lot and any cutting of lumber or composite wood material will also be performed in the parking area and clean-up will occur on a daily basis. A biological monitor is proposed to be on site to monitor construction activities and confirm that the contractor avoids inadvertently impacting any sensitive plant or animal species. All disturbances around the boardwalk and path improvements will be returned to their preconstruction condition once the work is completed.

Many areas of the lagoon are not open to the public because of the sensitive nature of the resources. Only designated areas, such as trails and the nature center are open to public access. Through its approval of past improvements to the nature center area, the Commission has determined that the subject site is an appropriate location for recreational and public access to the lagoon. The proposed improvements would not represent a new intrusion into an unimproved, natural area. Rather, the project will help keep people on the improved trail and reduce intrusion into sensitive habitat while providing an area from which to view the lagoon resources.



The improvements are not expected to result in a significant increase in the number of visitors to the area, as the size and function of the facilities will remain essentially the same. However, the improvements would improve public access, for disabled visitors in particular. Providing an enhanced public recreational and access experience on the existing trail, adjacent to existing support facilities, will focus public use in an area of the Park which has been designed to support visitors. The Commission's staff ecologist has reviewed the project and determined that because of these benefits, the elimination of a buffer is offset by the improved protection of the surrounding wetlands.

Although no temporary or permanent impacts are anticipated to either wetland or native upland species, Special Condition #1 requires the applicant to submit and implement a post-construction restoration plan ensuring that in the event impacts do occur, they will be mitigated and the site restored. Any permanent wetland impacts would require mitigation through an amendment to this permit.

In summary, the project would support public access and recreation to the lagoon by improving existing trail facilities, while decreasing impacts to sensitive resources by concentrating access in this one improved location, and discouraging intrusion into the lagoon outside the trail location. Therefore, in this particular case, the absence of the traditional buffer next to new development would not represent an adverse impact to the lagoon. There will not be any direct or indirect impacts to any sensitive habitat as a result of the construction or from runoff. Therefore, as conditioned, the proposed project can be found consistent with the resource protection and public access and recreation policies of the Coastal Act.

3. Local Coastal Planning. The subject site is located in the City of Encinitas, and zoned and planned for open space/recreational uses. The proposed development, although within the boundaries of the City of Encinitas, is within the jurisdiction of the County of San Diego Parks and Recreation and does not require review or approval from the City. However, the City has expressed its support for the project. The City's certified LCP contains policies calling for the protection of the lagoon's sensitive resources, while at the same time allowing for passive recreational activity that does not impact sensitive habitat. The proposed project is consistent with these provisions. 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 Encinitas to continue to implement its certified 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, 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 Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing impacts to wetlands 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 is 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.