

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

**W 4f**

Filed: January 12, 2006  
49th Day: March 2, 2006  
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Staff: RT-LB  
Staff Report: January 19, 2006  
Hearing Date: February 8-10, 2006  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-06-014

**APPLICANT:** The Athens Group, Attn: Martyn Hoffmann

**AGENT:** Glenn Lukos Associates, Attn: Thienan Ly

**PROJECT LOCATION:** Northern Terminus of Driftwood Drive, Laguna Beach, Orange County, APN: 056-240-65

**PROJECT DESCRIPTION:** Replacement of approximately 500 sandbags for erosion control purposes.

**SUMMARY OF STAFF RECOMMENDATION:**

Commission staff is recommending **APPROVAL** of the proposed project with **Four (4) Special Conditions** regarding: **1)** biological monitoring; **2)** general construction responsibilities; **3)** submittal of a post construction report; **4)** additional approvals for any future development.

**LOCAL APPROVALS RECEIVED:** City of Laguna Beach Approval in Concept, dated 1/17/06.

**LIST OF EXHIBITS**

1. Location Map
2. Assessors Parcel Map
3. Site Plan
4. Photo of Current Site Conditions

**STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

**MOTION:**

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

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.

**RESOLUTION:**

**I. APPROVAL WITH CONDITIONS**

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 and 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. 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**

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 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. 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.

### III. SPECIAL CONDITIONS

#### 1. Biological Monitor

- A. A qualified biologist shall monitor all construction activities for disturbance to sensitive species or habitat areas. The biological monitor shall have the authority to stop work if any adverse impacts to sensitive species at the project site and/or within the project vicinity could result from continuation of construction activities. If construction activities are stopped by the biological monitor, the Executive Director shall be notified as soon as possible. The Executive Director shall determine whether an amendment to this permit or a new coastal development permit is necessary before the work may continue.
- B. Prior to commencement of construction, the applicant shall identify in writing the biological monitor and his/her qualifications for the review and approval of the Executive Director.

#### 2. General Construction Responsibilities

- A. The permittee shall comply with the following construction-related requirements:
  - 1. Prior to commencement of any work approved by this permit, a temporary **barrier or work area** demarcation (such as but not limited to flagging, staking or plastic mesh fencing) shall be placed between the construction areas and sensitive habitat area. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist. All temporary flagging, staking, fencing shall be removed upon completion of the development. No work shall occur beyond the limits of the project as identified on the project plans (Exhibit #3).
  - 2. No construction materials, debris, or waste shall be placed or stored where it may encroach upon adjacent habitat areas or enter any storm drain.
  - 3. Construction materials, chemicals, debris and sediment shall be properly contained and secured on site or upon adjacent existing paved areas to prevent the unintended transport of material, chemicals, debris, and sediment into habitat areas and coastal waters by wind, rain or tracking. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs selected shall be maintained in a functional condition throughout the duration of the project. A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines.
  - 4. Disposal of debris and excess material. Debris and excess material shall be disposed or recycled at a legal disposal/recycling site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive

Director determines that no amendment or new permit is legally required. No debris or excess material shall be placed on or within adjacent habitat areas.

5. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.

### **3. Post-Construction Report**

- A. Within 30 days of completion of work, the applicant shall submit a report, which documents all project activities as described by the applicant in their letter memo dated December 30, 2005, for the review and approval of the Executive Director.

### **4. Future Development**

- A. This permit is only for the development described in coastal development permit No. 5-06-014. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the development governed by coastal development permit No. 5-06-014. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-06-014 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION**

The applicant proposes to replace approximately 500 sandbags for erosion control purposes. Replacement of the sandbags will provide an improved barrier against sediment runoff from the upstream drainage that, if not properly detained, can drain directly into a nearby underground storm drain inlet, which drains into the ocean, cause blockage to the storm drain inlet and overflow during a heavy rain event and create eroded drainage paths leading to residential structures along Driftwood Drive and Ocean Vista Drive.

The project is located within a portion of the Driftwood Estates Property; a 16.9-acre property located approximately ¼ mile inland of Pacific Coast Highway in the City of Laguna Beach (see Exhibit #1). Existing residential development borders the site to the south, west and northwest. Open space borders the site from the east and northeast.

The applicant purchased the 16.9-acre Driftwood Estates Property in 2004. The applicant has stated that this property was initially graded for 11 residential building pads in the 1960's by the original owner. At the time of purchase by the applicant, the property contained the sandbags currently proposed for replacement. According to the applicant, the sandbags have deteriorated so much (see Exhibit #4) that replacement is necessary to provide adequate erosion and sediment

control. Additionally, maintenance of these sandbags is recommended by the City of Laguna Beach and by the San Diego Regional Water Quality Control Board.

The proposed project contains 3 components: a) pre-work biological assessment of the site and flagging of sensitive plant locations, b) replacement of approximately 500 sandbags under supervision of onsite biologist, and c) post-work report prepared by a biologist.

The pre-work biological assessment/flagging of the site was conducted during the week of December 26, 2005. The biologist identified a sensitive plant species, big-leaved crownbeard (*Verbesina dissita*) in numerous locations within the immediate work area. Each location was subsequently flagged with red pin flags to clearly demarcate the location of the plant species. No other sensitive plant species were identified by the biologist in the work area. Upon approval of the proposed project, the applicant will retain the services of an erosion control contractor to initiate the replacement of the approximately 500 sandbags. A biologist will also be retained to monitor the entire process from beginning to end. On the first morning of scheduled work, all workers will be informed of the appearance and locations of big-leaved crownbeard within the work area as to avoid impacts to the sensitive plant species. All work will be conducted on foot; the existing deteriorated sandbags will be placed inside new UV protective bags wherever possible. Where bags have deteriorated too much, the sand will be shoveled into new bags and the old bags will be removed and disposed of offsite. Within 30 days of completion of work, the applicant will submit a report to the Executive Director, which will document all project activities.

**B. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**C. WATER QUALITY**

The proposed work will be occurring in a location where there is a potential for a discharge of sediment-laden runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

**D. HABITAT**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

**E. UNPERMITTED DEVELOPMENT**

Development has occurred on site without benefit of the required coastal development permit including, but not limited to the placement of sandbags. The applicant's consultant, Glenn Lukos Associates, informed staff that the sandbags were installed prior to The Athens Group's purchase of the property in early 2004. Since some sandbags are still intact, they presume that these bags were placed (or probably replaced for that matter) sometime in 2003. The applicant's consultant believes that the very first installation most likely took place around or very soon after the initial grading took place in the 1960s, and were maintained by the previous landowners up until this point. However, historical aerial photos show that the sandbags were not in place before the Coastal Act. Although unpermitted development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

**F. 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.

**G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.