

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4421
 (619) 767-2370



Fri 14a

Filed: May 18, 2006
 49th Day: July 6, 2006
 180th Day: November 14, 2006
 Staff: Gary Cannon-SD
 Staff Report: June 22, 2006
 Hearing Date: July 12-14, 2006

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-37-A1

Applicant: Penny and Frank Dudek Agent: Gregory Castle

Original

Description: Demolition of an existing single-family residence and construction of a one story, 19-foot high, 2,792 sq. ft. single-family residence with an attached 595 sq. ft. garage.

Proposed

Amendment: Change home design and construct approximately 5,063 sq. ft., approximately 25 ft. high, two-story, single-family residence with approximately 471 sq. ft. garage.

Site: 609 Canyon Place, Solana Beach, San Diego County. APN 263-221-13

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance; City of Solana Beach DRP/SDP 17-94-14; City Resolution #2006-67 (DRP/SDP); CDP #6-04-37/Edwards.

STAFF NOTES:

Standard of Review: The City of Solana Beach does not have a certified LCP. Therefore, the standard of review is Chapter 3 of the Coastal Act.

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the amendment request with special conditions. The project site is a canyon side lot overlooking San Elijo Lagoon that contains steep naturally vegetated slopes. Staff has reviewed the proposed amendment, which essentially results in a larger home on the subject site, and determined that the project will not result in additional impacts because the revised residence will not be located any closer to the resources of San Elijo Lagoon than the previously approved residence. Consistent with Commission's approval of the original project, the subject development has been conditioned for submission of final landscaping/brush management plans that require planting of native, non-invasive

species, a final drainage plan, and visual treatment of the home using earthtone colors and vegetation to breakup the facade of the home as seen from public areas. In addition, since a portion of the property contains naturally vegetated steep slopes in excess of 25% grade, staff is recommending that those portions of the property be deed restricted to prohibit future development except for necessary and permitted brush management. As conditioned, the proposed development will not result in any adverse impacts to the sensitive coastal resources located within San Elijo Lagoon.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-04-37 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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 a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

Special Condition #3 of the original permit shall be replaced in its entirety with the following:

3. Landscaping/Brush Management Plan. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and

written approval of the Executive Director, a final landscaping plan approved by the Fire Department and City of Solana Beach. Said plan shall include the following:

- a. A plan showing the type, size, location of all landscape species to be retained, removed and planted on site and shall include, at a minimum, 3 trees (minimum 24-inch box or 5-foot trunk height minimum) or 3 similarly sized plants to be located adjacent to the residence in a manner so as to maximize screening of the structure and/or upon maturity will exceed the roofline of the residence so as to break up the facade of the structure from views from San Elijo Lagoon and Highway 101.
- b. The brush management requirements are as follows: 100 ft. brush management area in 2 zones. Zone 1 is 30 ft. clearcut. Zone 2 is selective thinning of up to 50% of vegetation. Any existing non-natives within the outer 70 ft. of the 100 ft. brush management area shall be removed and replaced with native, non-invasive species. Disturbance to root systems of native plants is prohibited in Zone 2.
- c. All proposed landscaping located within the outer 70 ft. of the 100 ft. brush management zone shall be drought-tolerant native, non-invasive plant species. The landscape palate within the inner 30 ft. of the 100 ft. brush management zone adjacent to the residence shall emphasize the use of drought-tolerant native species, but use of drought-tolerant, non-invasive ornamental species is allowed as a small garden component. (No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.)
- d. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion residential construction
- e. A written commitment by the applicant that all required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.
- f. The use of rodenticides and pesticides shall be prohibited.
- g. 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 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 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.

The following Special Conditions shall be added:

5. Open Space Restriction. No development, as defined in section 30106 of the Coastal Act shall occur in the area generally described as steep slopes of 25% grade or greater located on the western portion of the subject site as depicted in an exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- a. Within the 100-foot brush management area, fuel modification consisting of selective thinning of up to 50% of vegetation and removal of non-native species and replacement with fire resistant native plants.

PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director and, upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #3 attached to this staff report.

6. Prior Conditions of Approval. All other terms and conditions of the original approval of Coastal Development Permit #6-04-37 not specifically modified herein, shall remain in full force and effect.

7. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-04-37-A1), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit

amendment, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. This deed restriction shall supercede and replace the deed restriction recorded pursuant to Special Condition #4 of Coastal Development Permit #6-04-37, approved on October 14,2004, which deed restriction is recorded as Instrument No. 2004-1066106 in the official records of San Diego County.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Amendment Description/History. The proposed amendment involves a request to revise the design of a previously approved approximately 2,792 sq. ft. one-story single-family with attached 595 sq. ft. garage and instead construct an approximately 5,063 sq. ft., two-story single family residence with an approximately 471 sq. ft. attached garage. The 46,107 sq. ft. lot is located in an established residential neighborhood on the north side of Canyon Drive, overlooking San Elijo Lagoon and Highway 101 in the City of Solana Beach. The western portion of the site slopes down to the west towards a natural canyon above the San Elijo Lagoon Ecological Reserve. No grading is proposed.

In October of 2004, the Commission approved the original request to demolish an existing residence and construct a one-story residence (Ref. 6-04-37/Edwards). Subsequently the property was sold and the new owner is proposing a larger, two-story residence. However, the new residence will not be located any closer to the adjacent natural areas than the originally approved home.

The City of Solana Beach does not have a certified Local Coastal Program (LCP). Chapter 3 of the Coastal Act is the standard of review. However, the project site is located within an area that was previously covered by the County of San Diego's LCP. The County LCP was never effectively certified but is used as guidance.

2. Resource Protection. The following Coastal Act policy is applicable to the proposed development:

Section 30240.

(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.

(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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The western portion of the subject site slopes down to the west towards a natural canyon above the San Elijo Lagoon Ecological Reserve. San Elijo Lagoon is 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 surrounding the lagoon could be significant.

Coastal Act section 30240 was implemented in the County of San Diego Local Coastal Program (used for guidance in the City of Solana Beach) through the Coastal Resource Protection (CRP) overlay zone. The CRP regulations restrict development of naturally vegetated steep slopes to maintain the visual and habitat values of coastal areas, to maintain natural landforms and to avoid grading and sedimentation impacts on sensitive lagoon resources located downstream. The CRP designator also triggers the Scenic Area regulations in the County LCP. The subject site is located within both the CRP overlay of the County of San Diego LCP and the City of Solana Beach's Hillside Area overlay. Section 30240 of the Coastal Act requires that new development avoid impacts and significant disruption to environmentally sensitive habitat areas (ESHA).

As previously identified in the original staff report for the subject development, the existing development pad area is flat, with slopes below that are steep, more than 25% grade and mostly covered with mature chaparral. The current site plan for the subject amendment indicates the proposed residence will be setback at least 25 feet from the canyon edge and that no areas of significant native vegetation will be disturbed by site development, as was the case with the originally designed residence (Ref. 6-04-37/Edwards). The Fire Department has indicated that a 100-foot wide brush management zone for the proposed residence is required consisting of a 30-foot clearcut zone nearest the proposed development and a 70-foot thinning zone beyond that down the hillside. The Commission's staff Resource Ecologist has previously reviewed the vegetation on the hillside and has determined that while vegetation within the brush management zone is good quality native chaparral, it is not considered an Environmentally Sensitive Habitat Area (ESHA) and thus, some removal or thinning for brush management purposes to accommodate the proposed development will not impact ESHA. However, the hillside does connect to a larger canyon system and the San Elijo Lagoon Ecological Reserve, which is ESHA. As such, the introduction of non-native or invasive plant species in this area could result in impacts to ESHA. To address this issue, Special Condition #3 of the original permit required a specific landscaping plan be submitted for Executive Director approval which prohibited the use of invasive species anywhere on the subject property

and requires that any existing non-native or invasive plant species within the outer 70 ft. of the 100 ft. brush management area be removed and replaced with native, non-invasive species. Staff is recommending that similar landscaping restrictions be placed on the subject amendment request, but recommends some measures be incorporated into the condition that provide additional protection of ESHA and allow the property owner some flexibility in the design of the landscape plan.

Previous landscape conditions on similar projects surrounding San Elijo Lagoon approved by the Commission have prohibited the use of non-native plants anywhere on the property and have required the planting of native trees on the lagoonward side of the residence to address visual concerns. Over time these conditions have proven difficult for the applicants since a strict interpretation would mean a home owner is prohibited from planting roses or other garden plants although such plants do not have the potential of adversely affecting the habitat of San Elijo Lagoon Ecological Reserve. Staff is recommending that the use of native plants be the predominant plant species used in any landscaping but believes an allowance for small garden areas of non-invasive ornamental plants should be permitted near the residence. The California Invasive Plant Council advocates the use of drought-tolerant, non-invasive plants on residential properties such as the subject property. The Executive Director of the San Elijo Lagoon Conservancy and the Department of Fish and Game, which manages San Elijo Lagoon, also support the proposed allowance of non-invasive ornamental plants within 30 ft. perimeter of the proposed residence. In addition, requiring only native trees has proven somewhat burdensome since only three tree species are native to the area (Sycamore, Torrey Pine and Live Oak) and the requirement did not allow for substitution of comparable sized non-invasive native shrubs or other vegetation. Therefore, staff is recommending Special Condition #3 of the original permit (Ref. Exhibit #4) be replaced in its entirety with a new Special Condition #3. The revised Special Condition #3 includes a prohibition on the use of rodenticides and pesticides, prohibits the use of invasive species anywhere on the subject property, requires the replacement of non-native plants from the outer 70 ft. brush management zone with native plant species, allows for the planting of a small area of drought-tolerant, non-invasive ornamental plants within the inner 30 ft. of the 100 ft. brush management zone (nearest the residence), and requires that all plantings be maintained. As conditioned, the proposed brush management plan along with the required landscaping plan will not adversely affect the nearby ESHA of San Elijo Ecological Reserve.

In addition, to further protect the environmentally sensitive resources within San Elijo Lagoon Ecological Reserve, Special Condition #5 has been attached to require that all naturally vegetated steep slopes of 25% grade or more be subject to an open space deed restriction that prohibits all future development, including removal of vegetation within the open space area, except for the necessary brush management that is authorized as part of the subject amendment request. The open space area will serve as a natural buffer between the proposed development site and the habitat resources of San Elijo Lagoon (Ref. Exhibit #3).

Finally, Special Condition #7 requires the applicant to record a deed restriction (that will supercede and replace the existing deed restriction required by the original approval) imposing the conditions of this amended permit as covenants, conditions and restrictions on the use and enjoyment of the property. This restriction will serve to notify future owners of the sensitive nature of the slopes, the permitted brush management requirements, and the other terms and conditions of the permit.

In summary, as conditioned to perform brush management mindful of site specific and area resources, the Commission finds that the subject proposal is consistent with Section 30240(b) of the Coastal Act.

3. Visual Quality. Section 30251 of the Coastal Act addresses protection of visual resources within the Coastal Zone and states, in part:

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....

The proposed structure will be located on a hillside overlooking the San Elijo Lagoon Ecological Reserve. The site is located within the Prime Viewshed overlay area identified in the County of San Diego Local Coastal Program and is visible from Highway 101 to the west and from San Elijo Lagoon Ecological Reserve to the north and west and is located within the City of Solana Beach's Scenic Area Overlay Zone. The proposed development is located in an established residential neighborhood consisting of both one and two-story residences such as the proposed two-story residence.

Because the project site and proposed residence will be highly visible from these off-site public areas, visibility of the development needs to be reduced. Typically this is done through the provision of color and landscape requirements and siting of the residence away from the canyon edge. Relative to the siting of the home, it is proposed to be setback 25 ft. from the canyon edge (which is a requirement of the City of Solana Beach). In order to break up the facade of the structure and soften views of the residence as seen from Highway 101 or within San Elijo Lagoon, replaced Special Condition #3 requires that the applicant submit a final landscape plan indicating the provision of a minimum of three specimen sized trees or other significant vegetation that upon maturity will exceed the roofline of the residence.

However, given the vegetated nature of the area, which creates a dark green and brown landscape, if the exterior of the proposed residence was white or brightly colored, the house would contrast significantly with the surrounding natural hillside, causing the house to be visually prominent on the hillside. Therefore, the Commission finds that in

order for the proposed development to be consistent with the visual resource protection policies of the Coastal Act, the color of the house must be restricted to a color that will blend in with the surrounding hillside. Accordingly, Special Condition #2 of the original permit requires the applicant to submit a color board indicating that the exterior colors of the proposed residence will be earthen tones (greens, browns, tans, grays or other dark colors) compatible with the surrounding natural environment. The proposed amended residential design continues to be subject to the requirements of Special Condition #2. With this condition, the proposed home as viewed from surrounding public vantage areas will not stand out prominently, but will blend in with the adjacent natural hillside.

The Commission has a long history of requiring landscaping and color restrictions on new development around San Elijo Lagoon (ref. CDP Nos. 6-87-618/Rimmer; 6-88-193/Morrison; 6-89-32/Pavelko; 6-93-176/Dougherty; 6-98-1/Skerrett; 6-99-68/Roskowski; 6-99-76/Burger; 6-00-11/MacLeod; and 6-04-37/Edwards). The purpose of these requirements has been to cause new development to blend in with the natural surroundings of the lagoon in order to preserve the scenic quality of the lagoon and to be subordinate to the natural setting.

Therefore, with special conditions relating to landscaping and colorizing, the potential visual impacts from the proposed development will be reduced to the maximum extent feasible, consistent with the visual protection policies of the Coastal Act.

4. Runoff/Water Quality. Section 30231 of the Coastal Act is applicable to the proposed development and states:

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, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Due to the site's proximity to the environmentally sensitive habitat area of San Elijo Lagoon, there is a potential for the proposed project to impact the lagoon. The lagoon has experienced significant increases in sediment load in recent years, leading to dredging projects which are both expensive and disruptive of visitor use of the adjacent beach. The increased sediment load results from, among other things, inadequate runoff control from development adjacent to the lagoon.

A preliminary drainage plan submitted by the applicant indicates that runoff from the project site will be directed east towards Canyon Drive into the public storm drain system. Special Condition #1 of the original permit requires final drainage plans in substantial conformance with the preliminary plans to ensure the proposed development will serve to reduce any impacts to water quality from the project to insignificant levels.

The proposed amendment continues to be subject to the requirements of Special Condition #1. In addition, Special Condition #6 has also been attached to remind the applicant that all previous Special Conditions of approval on the original permit remain effective except as modified by the subject amendment. Therefore, as conditioned, the Commission finds the proposed project consistent with Section 30231 of the Coastal Act regarding the protection of water quality.

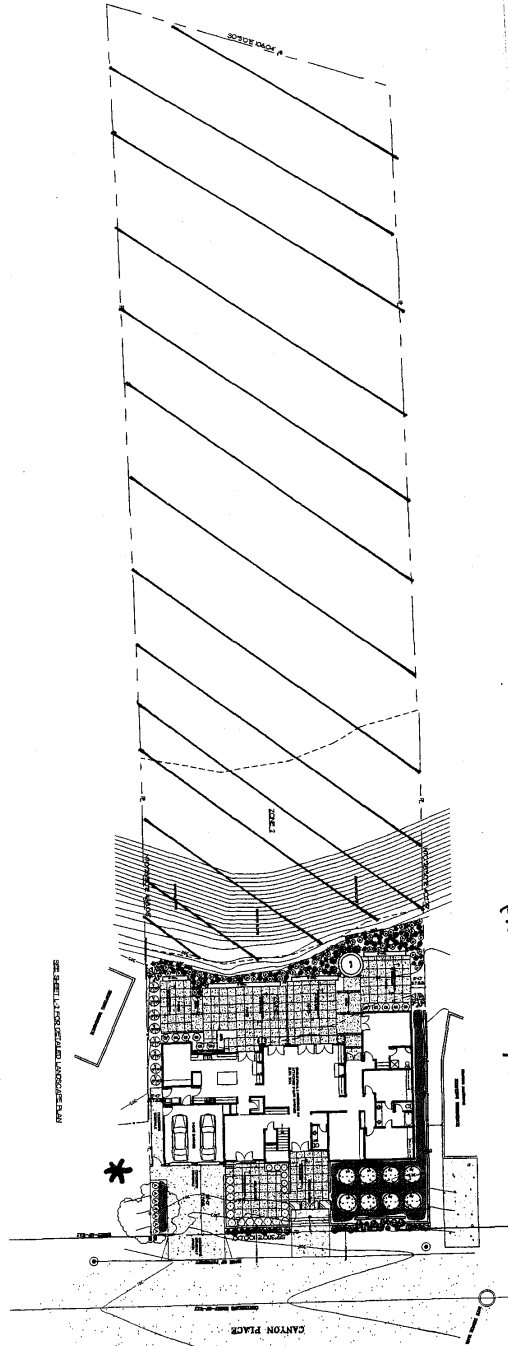
5. Public Access. The subject site is located between San Elijo Lagoon and the first coastal roadway. In accordance with Section 30604(c), the Commission finds the proposed development to be in conformity with all public access and public recreation policies of Chapter 3 of the Act. The project site is well removed from and above the lagoon and there are currently no access opportunities to the lagoon from the project site. Therefore, the proposed development will not affect public access to the lagoon.

6. 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 site is zoned and designated for low residential development at a maximum allowable density of 3 dwelling units per acre (dua) in the City of Solana Beach Zoning Ordinance. The proposed project will have no effect on the existing density of the site. The subject development, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and no adverse impacts to coastal resources are anticipated. Therefore, the Commission finds that the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable Local Coastal Program.

7. 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 as conditioned is consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including the attached conditions, 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.



Required Open Space Area.



EXHIBIT NO. 3
APPLICATION NO.
6-04-37-A1
General Location of Required Open Space Area
 California Coastal Commission

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370



Page: 1

Date: **October 19, 2004**

Permit Application No.: **6-04-037**

COASTAL DEVELOPMENT PERMIT

On **October 14, 2004**, the California Coastal Commission granted to

Dr. Betty Edwards

this permit subject to the attached Standard and Special conditions, for development consisting of

**Demolition of an existing single family residence and construction of a one story,
19-foot high, 2,792 sq. ft. single-family residence with an attached 595 sq. ft. garage.**

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

609 Canyon Place, Solana Beach (San Diego County)

Issued on behalf of the California Coastal Commission by

PETER M. DOUGLAS
Executive Director

Bill Ponder
By: **Bill Ponder**
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

11.23.04
Date

Steve Baghe For Betty Edwards
Signature of Permittee

EXHIBIT NO. 4
APPLICATION NO. 6-04-37-A1
Original Coastal Development Permit #6-04-37
California Coastal Commission

COASTAL DEVELOPMENT PERMIT

Date: October 19, 2004
Permit Application No.: 6-04-037
Page 2 of 4

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.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. **Final Drainage Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final drainage and runoff control plan in substantial conformance with submitted plans by Domestic Architecture, dated 4/14/04, documenting that runoff from the roof, driveway and other impervious surfaces will be directed into the street storm drain system.

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.

2. **Exterior Treatment.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed residence. This document shall comply with the following requirements:

COASTAL DEVELOPMENT PERMIT

Date: October 19, 2004

Permit Application No.: 6-04-037

Page 3 of 4

- a. The color of the proposed home and roof shall be restricted to colors compatible with the surrounding environment (earth tones) including shades of green, brown, and gray, with no white or light shades and no bright tones except as minor accents.

The permittee shall undertake the development in accordance with the approved colors and building materials. Any proposed changes to the approved colors and/or building materials shall be reported to the Executive Director. No changes to the approved colors or building materials shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Landscaping/Brush Management Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping/brush management plan in substantial conformance with the landscaping/brush management plan by Domestic Architecture submitted 8/14/04 and developed in consultation with the California Department of Fish and Game. Said plan shall be stamped approved by the Solana Beach Fire Department and shall contain written notes stating and/or complying with the following requirements:

- a. The installation of plant materials shall consist only of native drought-tolerant plant materials. No invasive plant species are permitted. The plan shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features on the site. A minimum of two specimen-sized trees (minimum 24-inch box) shall be planted in the rear yard to screen the project from views from San Elijah Lagoon and Old Highway 101.
- b. The brush management requirements are as follows: 100 ft. brush management area in 2 zones. Zone 1 is 30 ft. clearcut. Zone 2 is selective thinning of up to 50% of vegetation. Any existing non-natives within the 100 ft. brush management area shall be removed and replaced as necessary with native, non-invasive species. Disturbance to root systems of native plants is prohibited in Zone 2. The brush management shall be performed with the identical criteria and limitations that are proposed for brush management within the adjacent San Elijo Lagoon Ecological Reserve, i.e., protection of specific plant species and topping of vegetation without disturbance to root systems.
- c. A planting schedule that indicates the planting plan shall commence within 60 days of completion of construction.
- d. A written commitment by the applicant that all required plantings will be maintained in good growing condition, and whenever necessary, will be replaced with new plant materials to ensure continued compliance.
- e. A written commitment by the applicant that five years from the date of the receipt of the Certificate of Occupancy for the residence, the applicant will submit for the 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.

COASTAL DEVELOPMENT PERMIT

Date: October 19, 2004

Permit Application No.: 6-04-037

Page 4 of 4

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 approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified 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 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 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.

4. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.