

CALIFORNIA COASTAL COMMISSION

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



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Filed: November 16, 2007
49th Day: January 4, 2008
180th Day: May 14, 2008
Staff: D. Lilly-SD
Staff Report: November 19, 2007
Hearing Date: December 12-14, 2007

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-43-A1

Applicant: County of San Diego; City of Chula Vista; Agent: Steve Ron
City of San Diego

Original Improve 1.27 miles of 8-foot wide, decomposed granite multi-use trails
Description: and construct two staging areas for parking and recreational use as part of
a larger trail system within the Otay River Valley Regional Park.

Proposed Construct a 50-foot long wooden bridge over streambed trail crossing;
Amendment: remove isolated disturbed coastal sage scrub vegetation for trail
construction.

Site: Streambed adjacent to east side of Hollister Street, north of Palm Avenue,
South of Charles Street, Otay Mesa-Nestor, San Diego, San Diego County.
APN 628-051-11.

Substantive File Documents: City of San Diego certified Local Coastal Program (LCP).

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed bridge and vegetation impacts.

On October 11, 2006, the Commission approved construction of trail improvements at the subject site, with the exception of a proposed stream crossing located immediately east of Hollister Street, known as Stream Crossing #3. The raised trail causeway approach and box culvert proposed to improve the accessibility of the trail across the streambed would have resulted in impacts to approximately 150 sq.ft. of permanent riparian impacts to the streambed and surrounding vegetation; thus, the Commission approved the development without these improvements. The proposed project is for construction of a 50-foot long wooden bridge across the streambed. Because the bridge will span the width of the streambed, no impacts to wetlands will occur.

Since the original proposal, the County has determined that the proposed trail improvements around the proposed bridge site will result in impacts to isolated patches of disturbed coastal sage scrub vegetation (coyote brush). However, this vegetation is not considered environmentally sensitive habitat, and the minor impacts involved will not significantly disrupt the surrounding environment. No impacts to riparian or wetland resources will occur, and the proposed bridge and trail improvements will improve public access and recreation.

Standard of Review: Chapter 3 policies of the Coastal Act

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. 6-06-43 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:

1. Final Plans. The applicant shall comply with the final site plan and project description for the bridge and trail improvements included in the letter by Steve Ron, dated November 16, 2007, which indicate the following:

- A. Approximately 315 sq.ft. of coastal sage scrub vegetation will be removed.
- B. No removal of riparian vegetation will occur with the exception of limited trimming.

The permittee shall undertake 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. Prior Conditions of Approval. All prior conditions of approval of the permit 6-06-43, not specifically revised herein shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The original project was development of a multi-use trail system within the Otay River Valley Regional Park (OVRP) between Saturn Boulevard, just west of Interstate 5 and Interstate 805 (see Exhibit #1). In total, the trail system consists of 8.3 miles of trails on the north and south sides of the Otay River, with connecting trails across the river, and accommodating hikers, equestrians, and bicyclists. Only 1.27 miles of the trail are within the coastal zone. The coastal zone portion of the project extends from Saturn Avenue to 800 feet east of the Hollister Street trolley station. The trails are approximately 8-feet wide, consist of pervious decomposed granite, and are for shared hiking and mountain bike use; no equestrian use is allowed on the portion of the trail within the coastal zone.

The trail segments in the coastal zone have been designated into sections 1A, 1B, 2, 3, and the western portion of 1C. Trail segment 1C parallels the trolley tracks and would link to the Hollister Street Trolley Station for use by trolley users. This segment of the trail crosses a streambed located immediately east of Hollister Street (known as Stream Crossing #3). The City has previously proposed constructing a raised trail causeway approach and box culvert at the stream crossing. The box culvert would have resulted in 150 sq.ft. of permanent impacts to the streambed and surrounding vegetation. In its review of the original project, the Commission determined that there were feasible alternatives to the proposed culvert that would avoid wetland impacts, including the no project alternative, which would have allowed the existing unimproved trail to remain in place, although the trail would not be accessible during significant storm events. As such, the Commission approved the project, but deleted the box culvert.

The proposed amendment would construct a 50-foot long wooden bridge over the streambed. The bridge would improve trail accessibility while avoiding any wetland impacts. In addition, upon further review of the trail improvement project in the location of Hollister bridge, County staff determined that there would be some impacts to disturbed coastal sage scrub vegetation that had not been previously identified in the Commission's review. The applicant had previously proposed only trimming of coastal sage scrub bushes with no removal of root stock.

The trail system as a whole is under the land use jurisdiction of the Cities of San Diego and Chula Vista, and the County of San Diego and the Cities of San Diego and Chula Vista have entered into a Joint Exercise of Powers Agreement to plan, construct and manage the Otay Valley Regional Park. However, the portion of the trails within the coastal zone encompasses only land owned by City of San Diego, within the City of San Diego Multi-Species Conservation Plan. The area is deferred certification land not covered by the City of San Diego's certified Local Coastal Program, so the Chapter 3 policies of the Coastal Act are the standard of review.

2. Sensitive Habitat. 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 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.

(4) 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.

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

(6) Restoration purposes.

(7) 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.

The area at and around the proposed project site consists of a variety of disturbed habitat, agriculture, industrial uses, coastal sage scrub, and streambeds. The subject site already contains an unimproved trail through the streambed, which is largely unvegetated and dry for much of the year. The proposed bridge would be located over this streambed. However, during the rainy season, a usually shallow, narrow stream prevents passage for periods of several weeks or more. The proposed bridge would provide dry trail access for most of the year.

In general, the project has been designed to avoid or minimize impacts to biological resources. The bridge has been proposed as an alternative to a concrete culvert that would have impacted riparian vegetation. The proposed bridge would avoid any wetland impacts.

Much of the proposed trail construction in the coastal zone would consist of widening and improving existing informal trails through habitat areas that already have some degree of disturbance. Because the brush directly abuts the existing informal trail, the proposed improvements to the trail in the area around the streambed crossing would require impacting several isolated patches of disturbed coastal sage scrub vegetation, mostly coyote brush. County staff have estimated that approximately 315 sq.ft. of area would be impacted, although this calculation includes the land area between the isolated scrub brushes; the actual amount of vegetation impacted would be smaller. This impact will occur on the proposed trail on either side of the streambed, regardless of the type of crossing at the streambed.

However, the Commission's staff ecologist has reviewed the proposed project and the subject site, and determined that the disturbed, patchy coyote brush alongside the existing

informal trail is not an environmentally sensitive habitat area (ESHA), and that the minor impacts to existing scrub brush would not significantly degrade the area. This impact was accounted for in the mitigation plan currently being implemented by the County for the entire trail system. Although the mitigation site is outside of the Coastal Zone, given the insignificant nature of the impact, the mitigation included with the larger trail project is acceptable. Overall, the trail improvement project will have positive impacts on the environment, by creating a formal trail system that will reduce the number of unofficial trails and direct use into specific areas.

However, the riparian vegetation along the trail is considered valuable and worthy of preservation. The County has indicated that the trail can be constructed in a manner that limits impacts to riparian vegetation to trimming, and avoids removal of the rootstock. Special Condition #1 requires the submittal of final plans indicating that no riparian vegetation will be impacted other than trimming. Therefore, in this particular case, the proposed trail improvements will not significantly degrade the sensitive biological resources, and will be compatible with the continuance of the habitat areas, consistent with the resource protection policies of the Coastal Act.

3. Public Access and Recreation. The Coastal Act emphasizes the need to protect and provide for public access to and along the coast, and to provide low cost recreational facilities. The following Coastal Act policies are applicable to the proposed development:

Section 30210

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.

Section 30212.

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

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 trail project overall, including the proposed bridge would improve public access to the Otay River Valley and provide improvements in the form of a regionally significant recreational trail system. Within the coastal zone in particular, the trail will connect the Otay Valley Regional Park to the existing (and future proposed alignments) of the Bayshore Bikeway, a regional bikeway connecting downtown San Diego with National City, Chula Vista, south San Diego, Imperial Beach and Coronado. A portion of the trail also links to the Hollister Street Trolley Station for use by trolley users. Thus, the project will have a significant positive impact on public access, recreation, and would support non-automobile transit opportunities, consistent with the Chapter 3 policies of the Coastal Act.

4. Local Coastal Planning. The proposed project lies within the Otay Valley River Park in the City of San Diego. Although the City of San Diego has a certified LCP, the proposed development described herein lies within an area of deferred certification, thus Chapter 3 policies are the standard of review.

Based on the preceding discussion in this report, the Commission finds that the proposed development, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act; thus, no adverse impacts to coastal resources are anticipated. The Commission also finds, that based on the above, the proposed development would not prejudice the ability of the City of San Diego to fully to implement their local coastal program.

5. 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.

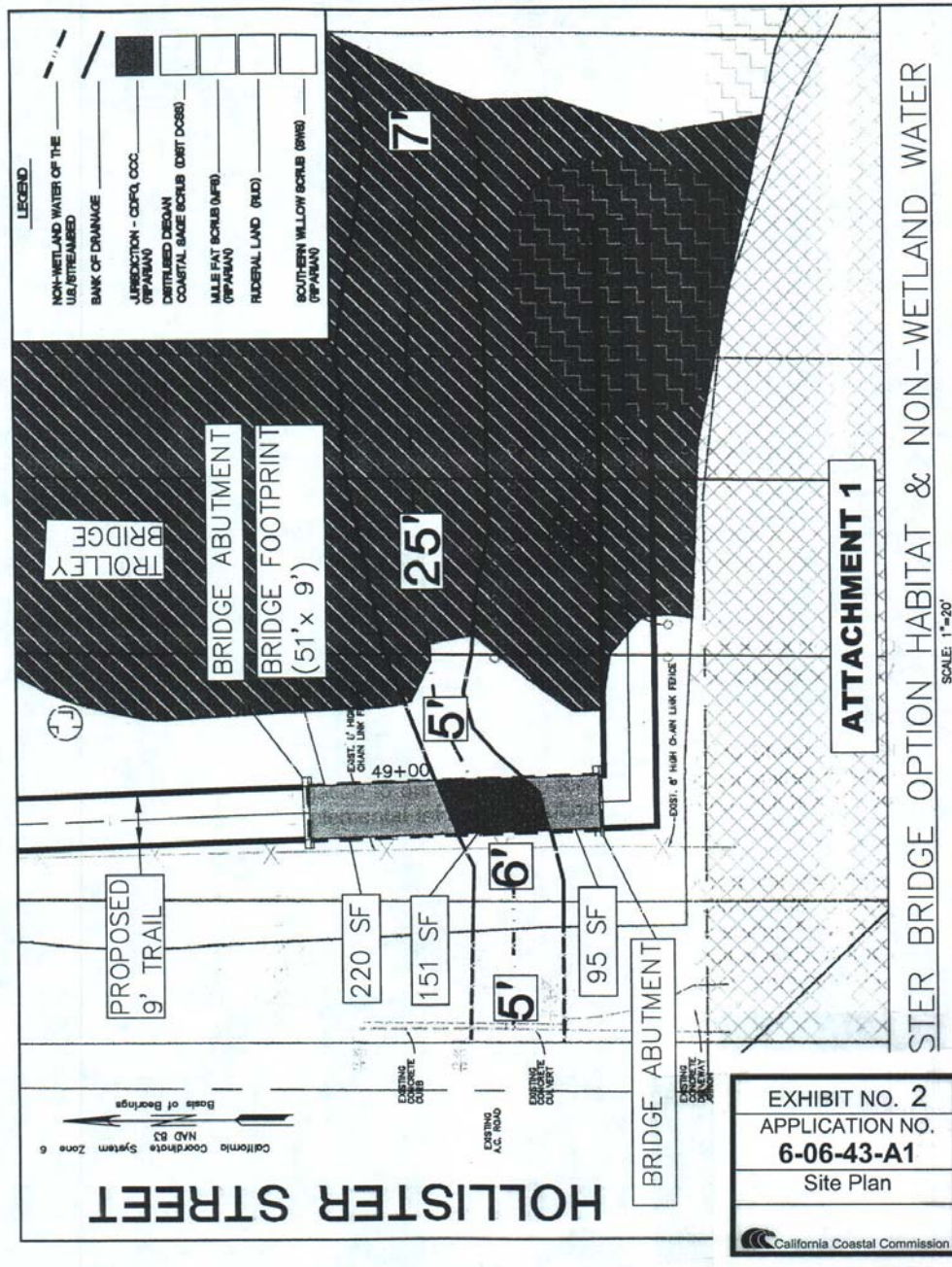
The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing the amount of impact to native habitat, will minimize all adverse environmental impacts. As conditioned, there are no feasible 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.

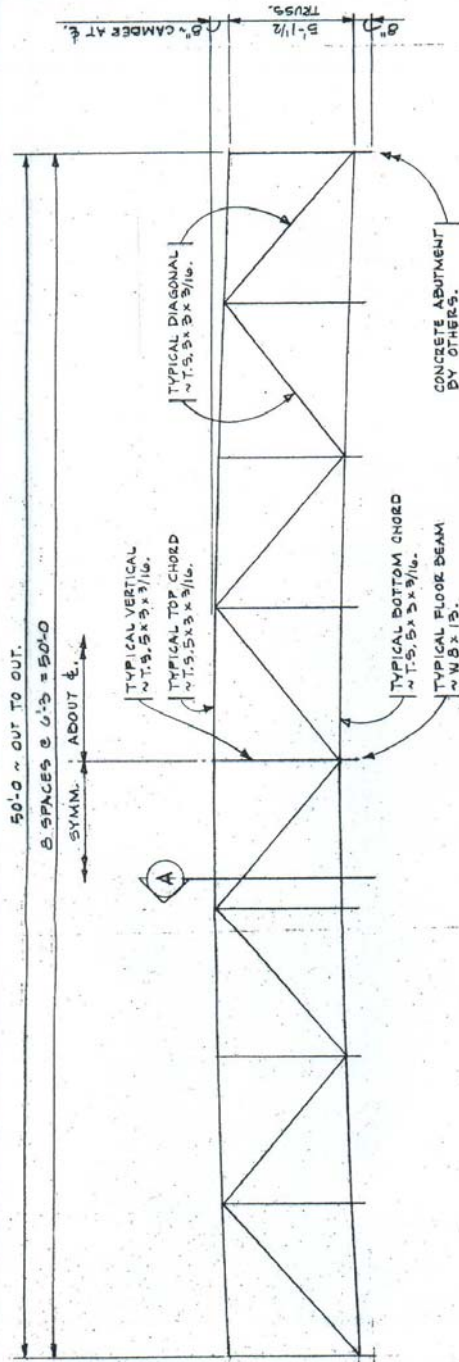


SITE

EXHIBIT NO. 1
APPLICATION NO.
6-06-43-A1
Location Map







1/4" = 1'-0"

50' BRIDGE ELEVATION

EXHIBIT NO. 3
APPLICATION NO.
6-06-43-A1
Cross-Sections
California Coastal Commission

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
(619) 767-2370

Date: November 7, 2006

Permit Application No.: 6-06-43

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**NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **October 11, 2006**, the California Coastal Commission approved Coastal Development Permit No. **6-06-43**, requested by **the County of San Diego, City of San Diego, and City of Chula Vista**, subject to the attached conditions, for development consisting of: **Improve 1.27 miles of 8-foot wide, decomposed granite multi-use trails and construct two staging areas for parking and recreational use as part of a larger trail system within the Otay River Valley Regional Park**, more specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at the **Otay River Valley Regional Park between Saturn Boulevard, just west of Interstate 5 and Interstate 805, San Diego, San Diego County.**

EXHIBIT NO. 4
APPLICATION NO.
6-06-43-A1
Original Conditions

California Coastal Commission

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: November 1, 2006

Permit Application No.: 6-06-43

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 6-06-43, please contact the Coastal Program Analyst identified below.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: Diana Lilly
Coastal Program Analyst
Date: November 7, 2006

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

Date_____
Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: November 1, 2006

Permit Application No.: 6-06-43

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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. **Revised Final Plans.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval by the Executive Director, final site plans in substantial conformance with the preliminary plans by Kimley-Horn, date-stamped received on September 15, 2006, except that it shall be revised as follows:

A. The proposed box culvert at the location known as "Stream-Crossing #3" shall be eliminated, and no trail improvements shall occur in this area.

B. The Local Staging Area at Hollister Street shall be revised such that no more than .085 acres of mulefat scrub vegetation will be impacted.

C. No other impacts to wetlands within the Coastal Zone are permitted herein.

The permittee shall undertake 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. **Landscape Plans.** The applicant shall comply with the landscaping plans for the proposed staging areas by Kimley-Horn, dated April 10, 2006 that include a hydroseed mix using native, non-invasive species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: November 1, 2006

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Exotic Pest 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 within the property.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

NOTE: IF THE **SPECIAL CONDITIONS** REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL DIANA LILLY AT (619) 767-2370 THE DISTRICT OFFICE.