

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th23a

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Staff: EStevens-SD
Staff Report: 5/24/12
Hearing Date: 6/14/12

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-90-290-A2

Applicant: Tim Tully

Agent: Charles Berwanger

Original

Description: Demolition of an existing single-family dwelling and detached garage and construction of a two-unit detached condominium development.

Proposed

Amendment: Removal of the unpermitted private access trail that starts from the subject residence and ends at the San Elijo Lagoon and restoration of an approximately 0.15 acre slope adjacent to the San Elijo Lagoon, which includes, both, the area of the unpermitted private access trail and a portion of the hillside on the subject site immediately downhill from the trail.

Site: San Elijo Lagoon hillside below 815 and 819 Seabright Lane, Solana Beach, San Diego County (APN #263-032-030)

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinances; Declaration of Timothy Tully in Support of Application for Permit received 9/6/2011; Final Restoration and Monitoring Plan for 815 & 819 Seabright Lane Parcel 3 Solana Beach, California dated 2/14/2012; CDP Nos. 6-90-290 and 6-90-290-A1; Planting Plan for 815 and 819 Seabright Lane dated August 1998

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development with conditions. The primary coastal issues involved with the proposal are impacts to visual resources and environmentally sensitive habitat. As conditioned, the subject application will eliminate an unpermitted private access trail and will restore a portion of the slope adjacent to the San Elijo Lagoon Ecological Reserve. Special conditions of approval include requirements to complete all restoration consistent

with the final Restoration and Monitoring Plan (Plan), to complete weed eradication and the initial planting consistent with the approved Plan within 180 days of Commission action on this CDP amendment, to submit a new landscaping plan for the property at 819 Seabright Lane, and to plant all required screening landscaping within 90 days of Commission action on this CDP amendment.

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. 6-90-290 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. Prior Conditions of Approval. All terms and conditions of the original approval of Coastal Development Permit 6-90-290, as amended, shall remain in full force and effect, and the following conditions shall be added.

2. The following shall be added as new Special Condition #5:

5. Landscaping Plan. **PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval, a final landscaping plan approved by the City of Solana Beach. The new landscaping plan shall supersede the previous landscaping plan dated August 1998 and the revisions to the plan shall only be for the property at 819 Seabright Lane. The new plan shall include the following:

- a. Special emphasis shall be placed on siting landscaping with the use of a minimum of 2 new specimen size trees (minimum 24 inch box) on the 819 Seabright Lane property in addition to the trees already existing on-site and shrubs to effectively screen the northwestern portion of the building which would otherwise be visible from South Coast Highway 101 to the west and the lagoon to the north. The new specimen trees shall be sited in the locations indicated in Exhibit #8.
- b. All landscaping shall be drought-tolerant and native or non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California 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.
- c. A written agreement by the applicant agreeing that five years from the date of the issuance of this coastal development permit amendment the applicant shall 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.

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 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.

3. The following shall be added as new Special Condition #6:

6. Restoration and Monitoring Plan. The permittee shall undertake development in accordance with the approved final Restoration and Monitoring Plan dated February 14, 2012. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. The following shall be added as new Special Condition #7:

7. Condition Compliance. **WITHIN 60 DAYS OF APPROVAL OF THIS CDP AMMENDMENT**, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

5. The following shall be added as new Special Condition #8:

8. Condition Compliance. **WITHIN 90 DAYS OF APPROVAL OF THIS CDP AMMENDMENT** the applicant shall have completed installation of all screening landscaping as detailed in the new landscaping plan for 819 Seabright Lane. **WITHIN 180 DAYS OF APPROVAL OF THIS CDP AMMENDMENT** the applicant shall have completed weed eradication and completed the initial planting in conformance to the approved final Restoration and Monitoring Plan. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The applicant proposes to restore approximately 0.15 acre of Coastal Sage Scrub habitat in an open space deed restricted area on the slope adjacent to the San Elijo Lagoon which was disturbed by the construction of an unpermitted trail (See Exhibit Nos. 2-4). The site of the proposed development is a steep slope running down to the San Elijo Lagoon and is located on the west side of Seabright Lane in the City of Solana Beach (See Exhibit #1). The open space deed restricted area is part of a two home subdivision which is broken up into three parcels. Parcel #1 (815 Seabright Lane) and Parcel #2 (819 Seabright Lane) are individually owned and Parcel #3 (the open space deed restricted area) is owned by an HOA consisting of the two individual property owners. In 1991, the Commission granted

a CDP for the construction of single family residences at 815 and 819 Seabright Lane (CDP #6-90-290). Conditions of the approval included the recordation of an open space deed restricted area on the slope between the two homes and the lagoon and a landscaping plan including numerous trees and bushes to screen the two homes from public vantage points. A subsequent amendment to the CDP modified the size of the two homes, revised the color and landscaping schemes and eliminated the pools the were approved in the original CDP. The property owner of 819 Seabright Lane is the only applicant for this CDP amendment.

The unpermitted approximately two ft. wide, 240 ft. long compacted dirt trail leading from the property at 819 Seabright Lane in Solana Beach down the slope, through Parcel #3, of the San Elijo Lagoon Ecological Reserve was constructed some time between 2008 and 2009. The unpermitted trail, built to provide direct private access from the approximately 6,500 sq. ft. single family residence at the top of the slope (819 Seabright Lane) to San Elijo Lagoon, crosses through the open space deed restricted area, which prohibits alteration of landforms or removal of vegetation (See Exhibit #7). In June 2011, Commission staff directed the responsible property owners to eliminate the path and to restore the area back to its natural habitat, which is consistent with the deed restriction of the previously issued CDP for this property. The applicant is only proposing to restore the portion of the slope that contains the unpermitted trail and the area immediately downhill from the trail that was impacted when the applicant disposed of graded material and vegetation during construction of the trail.

Section 30601.5 of the Coastal Act requires that "...all holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as coapplicant..." Because the open space deed restricted area is co-owned by the property owners at both 815 and 819 Seabright Lane, the Commission notified the property owner at 815 Seabright Lane of the pending application. However, the property owner of 815 Seabright Lane has not indicated an interest in becoming a coapplicant on the CDP amendment. Section 13053.5 of the Coastal Commission Regulations requires that a permit application include "...documentation of the applicant's legal interest in all the property upon which work would be performed..." Thus, the applicant has provided the Declaration of Restrictions for 815-819 Seabright Lane, which allows one property owner, with consent from the other owner, to independently apply for the subject CDP amendment for development within the HOA-owned open space deed restricted area. The applicant has indicated that he has received such consent from the owner of 815 Seabright Lane. Therefore, this permit only includes development within the open space deed restricted area and conditions related to 819 Seabright Lane (the applicant's property) and does not include any proposed development on the property of 815 Seabright Lane.

The approved final restoration plan indicates that the restoration of the unpermitted trail and the slope immediately downhill from the trail will be achieved by removing invasive exotic species and revegetating the area on and below the path with native species which are consistent with the desired native habitat (See Exhibit #5). The applicant does not propose grading of the project site in conjunction with the proposed restoration project.

The site will be accessed for follow up maintenance activities by walking on the non-sensitive vegetation that currently exists uphill of the restoration area within the open space deed restricted area. Monitoring for restoration success is proposed to occur over a five year period and will include photographic monitoring and mortality counts. If during monitoring, dead native plants or the spread of invasive plants within the restoration area is detected, any dead native plants will be replaced and any invasive plants will be removed. Following the five year monitoring period, the San Elijo Lagoon Conservancy has agreed to take over maintenance of the restored portion of the deed restricted area and will ensure that ice plant and other non-native plants do not invade into the restoration area and that the native plants continue to succeed.

The project site is located within the City of Solana Beach, which does not have a certified Local Coastal Program (LCP). Therefore, the Commission has permit-issuing authority throughout the City's coastal zone and Chapter 3 of the Coastal Act serves as the standard of review.

2. Visual Resources. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected and that new development not significantly adversely affect coastal resources. This section specifically provides:

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 development involves the restoration of a slope adjacent to the San Elijo Lagoon Ecological Reserve. The area to be restored is visible from a number of public vantages including the trails within the reserve, South Coast Highway 101, and from the adjacent railroad tracks. The proposed restoration will enhance the visual resources of the area by restoring the barren area on Parcel #3 that was created by the applicant for the unpermitted private accessway. Replacing invasive vegetation with native vegetation is consistent with Section 30251 of the Coastal Act. The restoration project will, therefore, enhance the visual quality of the visually degraded area on Parcel #3 by ensuring that the project site is fully restored with mature native plant species such that the trail will no longer be visible from nearby public vantages.

As cited above, Section 30251 of the Coastal Act mandates that development shall be sited and designed to protect views along scenic coastal areas and shall be subordinate to the character of its setting. Because of the visibility of the site from surrounding public road and trails, screening vegetation was required as part of the original approval of the structures at 815 and 819 Seabright Lane (ref. CDP #6-90-290). However, both properties are currently not in compliance with the approved landscaping plan and lack numerous required screening trees. Specifically, specimen size trees were required to be installed along the north and west facing portion of the structures to help screen them

from views and break up the façade of the buildings, thereby reducing the visual impacts of the buildings from off-site public areas. Special Condition #2 requires that the applicant submit a new landscaping plan for 819 Seabright Lane which includes 2 new specimen trees, in addition to the trees that currently exist on the property, which will effectively screen the building from South Coast Highway 101 and from the trails within the San Elijo Lagoon Ecological Reserve. The Special Condition requires that the specimen trees be a minimum of 24 inch boxes in order to immediately provide screening of the structure and that the specimens are drought-tolerant and native or non-invasive species. In addition, the special condition also mandates that the applicant provide a landscape monitoring report five years from the issuance of the coastal development permit amendment in order to demonstrate that the on-site landscaping is still in conformance with the approved landscaping plan. The applicant is required to remediate any portions of the landscaping that have failed or are not in conformance with the approved plan, which includes the new and existing screening vegetation. With the proposed slope and trail restoration along with the applicant's compliance with the required landscape screening condition imposed under CDP No. 6-90-290, visual qualities of the subject site will be protected by restoring and enhancing the visually degraded area on the site, consistent with the visual protection requirements of Section 30251.

3. Wetlands/Environmentally Sensitive Habitat/Water Quality. The following policies of the Coastal Act address these issues and state:

Section 30231

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. [Emphasis added]

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 proposed restoration area is located on a slope adjacent to the San Elijo Lagoon. Prior to construction of the two homes at the top of the slope, the Commission required the property owner to record an open space deed restriction for the slope. The open space deed restriction was required in order to maintain mature vegetation on the slope to prevent erosion events that would send sediment runoff into the lagoon and to conserve the visual character of the lagoon area. In addition, the deed restricted slope also functions as a native upland buffer from the wetlands of San Elijo Lagoon and provides valuable habitat.

The San Elijo Lagoon Ecological Reserve 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. The Ecological Reserve contains diverse habitat including six plant communities: coastal strand, salt marsh, brackish/freshwater marsh, riparian scrub, coastal sage scrub and mixed chaparral. At least five State or Federally-listed threatened or endangered birds make use of reserve's habitat including the California least tern, the California gnatcatcher, the light-footed clapper rail, the Belding's savannah sparrow and the western snowy plover. As such, any development or use in close proximity to these sensitive resources must be sensitively designed to avoid adverse impacts.

In order to prevent the introduction of invasive vegetation and to provide additional habitat area for the diverse fauna that utilize the San Elijo Lagoon Ecological Reserve, the applicant has prepared a restoration and monitoring plan consisting of removal of non-native vegetation and the planting of native plants in order to restore Coastal Sage Scrub habitat on the lagoon slope. The applicant does not propose to use any mechanical equipment and no sensitive habitat adjacent to the restoration area will be adversely impacted. Special Condition #2 requires that the landscaping plan for 819 Seabright Lane only use drought-tolerant and native or non-invasive plant species. The applicant's restoration and monitoring plan proposes to use plant stock sourced from the area between coastal Camp Pendleton and Torrey Pines State Reserve (located approximately 20 miles north of the project site and approximately 5 miles south of the project site, respectively). The geographic area of the subject site has sufficiently similar weather and topography to that found on Camp Pendleton and Torrey Pines State Reserve, being so geographically close to these areas, such that using plant stock sourced from these areas would best ensure that the landscape materials will maintain the same genetic make-up as the surrounding native plants. The use of local stock will further ensure that the plant species utilized are compatible with the native vegetation found in San Elijo Lagoon Ecological Reserve. Special Condition #3 requires that the permittee undertake development consistent with the approved final restoration plan, dated February 14, 2012. In the approved final restoration plan, the applicant states that this project will take a maximum of two weeks to complete (unless tarping is required) and that all work will occur in November or December 2012, which is outside the nesting season for the aforementioned bird species. In addition, the applicant's final restoration plan also states that a bird monitor will be onsite while work occurs, and any work will stop if sensitive birds are spotted within the project area.

In summary, the proposed development is designed to increase the area of native habitat at San Elijo Lagoon Ecological Reserve and will not result in adverse impacts to ESHA. Once complete, the restored area will again function as an upland habitat buffer from the lagoon proper. Therefore, as conditioned, the proposed development is consistent with Section 30240 of the Act.

4. Public Access. The following Chapter 3 policies of the Coastal Act are most applicable to this development, and states, in part:

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 ... the protection of fragile coastal resources, (2) adequate access exists nearby...

(b) For purposes of this section, “new development” does not include:

[...]

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure...

Section 30604(c)

[...]

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200)...

The subject site is located between the San Elijo Lagoon and the first public roadway, which in this case is Seabright Lane. The project site is bordered by the rail road tracks to the west, the Lagoon and Reserve to the north, and a developed single-family residential neighborhood to the south and west. Public access to the Lagoon is located less than 1,000 feet northwest of the project site at the terminus of North Rios Drive. The proposed restoration project will have no impact on public access, consistent with the public access policies of the Coastal Act. In addition, limiting the number of access paths to the reserve will best protect the fragile coastal resources.

5. Unpermitted Development. Development has occurred on the subject site without required coastal development permits, including, but not limited to creation of a

private access trail, which resulted in landform alteration and removal of vegetation in an open space deed restricted area in violation on of Special Condition #2 of Coastal Development Permit #6-90-290. In addition, both 815 and 819 Seabright Lane have insufficient screening of the structures from nearby public viewing areas and are inconsistent with the approved landscaping plan mandated by Special Condition #3 of CDP #6-90-290 (See Exhibit #3). Special Conditions of this permit require that the applicant submit a revised landscaping plan for 819 Seabright Lane. To ensure that the matter of unpermitted development is resolved in a timely manner, Special Condition #4 requires that the applicant complete all prior to issuance conditions within 60 days of Commission action on this CDP amendment. In addition, Special Condition #5 requires that the applicant complete weed eradication and initial planting within 180 days of Commission action on this CDP amendment and that the applicant install all screening landscaping within 90 days of Commission action on this CDP amendment. The property owner at 815 Seabright Lane is not an applicant on this CDP amendment and the lack of screening on 815 Seabright Lane will be handled through a separate enforcement action.

Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on these permit applications does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit.

6. Local Coastal Program. Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Commission has approved a Land Use Plan for the City of Solana Beach with suggested modifications; however the City has not yet taken the necessary actions to certify the plan and an Implementation Plan has not been approved by the Commission. Therefore, the City of Solana Beach does not have a certified LCP. As conditioned, the proposed development is consistent with Land Use Plan approved by the Commission and Chapter 3 of the Coastal Act. Therefore, approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the Coastal Act.

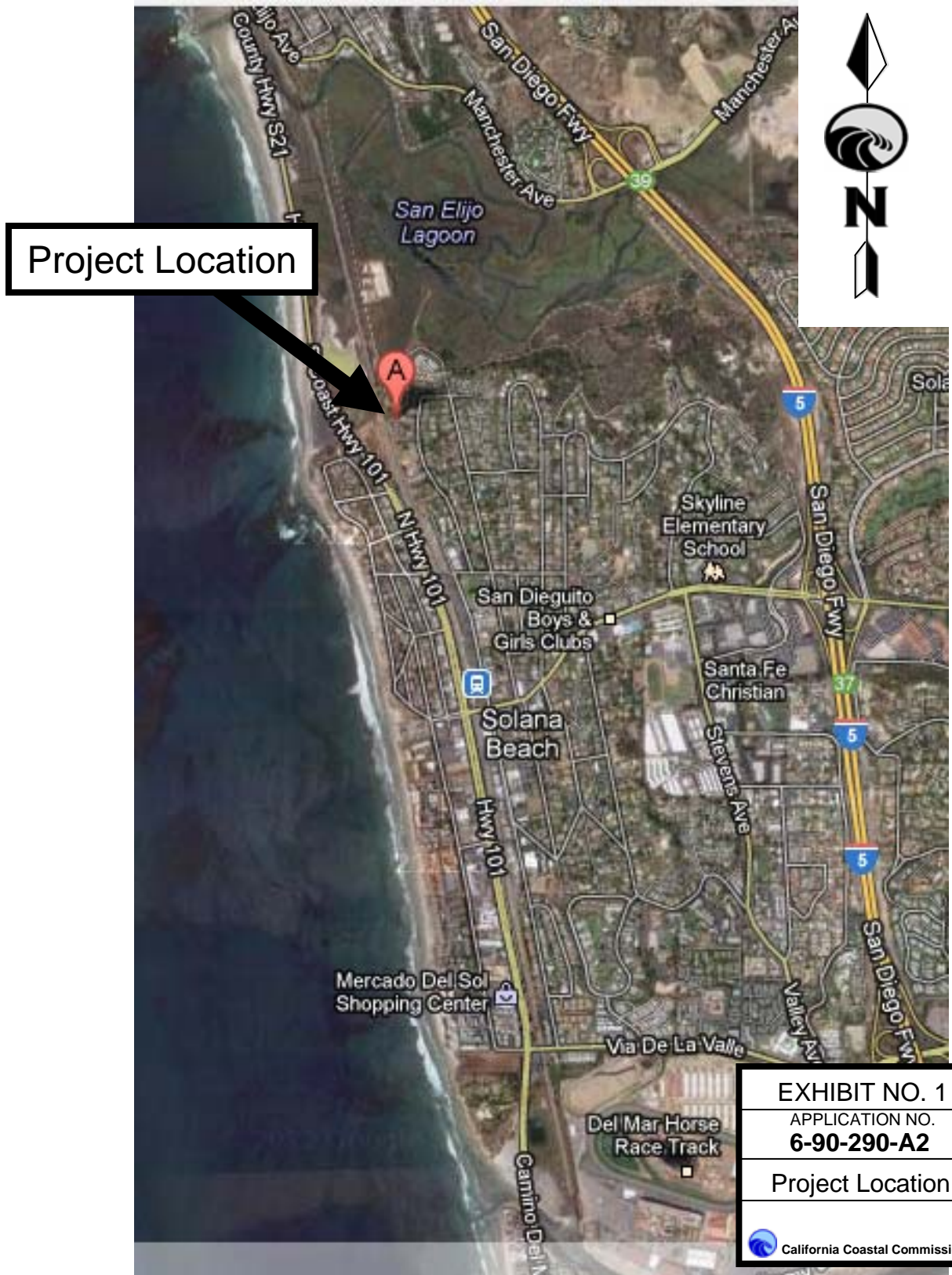
7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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 has been conditioned in order to be found consistent with the environmentally sensitive resource, public access and visual resource policies of the Coastal Act. No impacts to sensitive environmental resources will result as part of the proposed project. 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.

PROJECT LOCATION



UNPERMITTED TRAIL



EXHIBIT NO. 2
APPLICATION NO. 6-90-290-A2
Trail Aerial
 California Coastal Commission

UNPERMITTED TRAIL



Unpermitted Trail

EXHIBIT NO. 3

APPLICATION NO.

6-90-290-A2

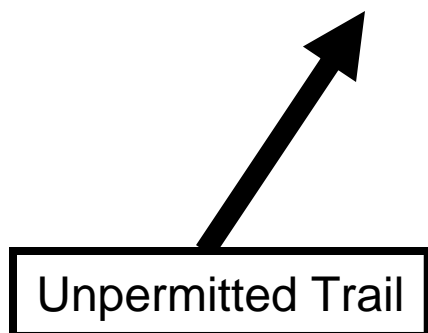
Unpermitted Trail



California Coastal Commission

Staff Photo

UNPERMITTED TRAIL



Unpermitted Trail

EXHIBIT NO. 4
APPLICATION NO. 6-90-290-A2
Unpermitted Trail
 California Coastal Commission

Image provided by Applicant

RESTORATION AREA

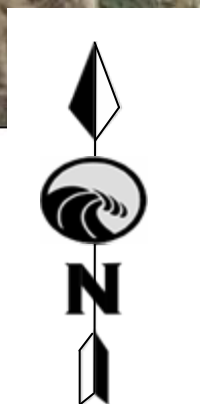
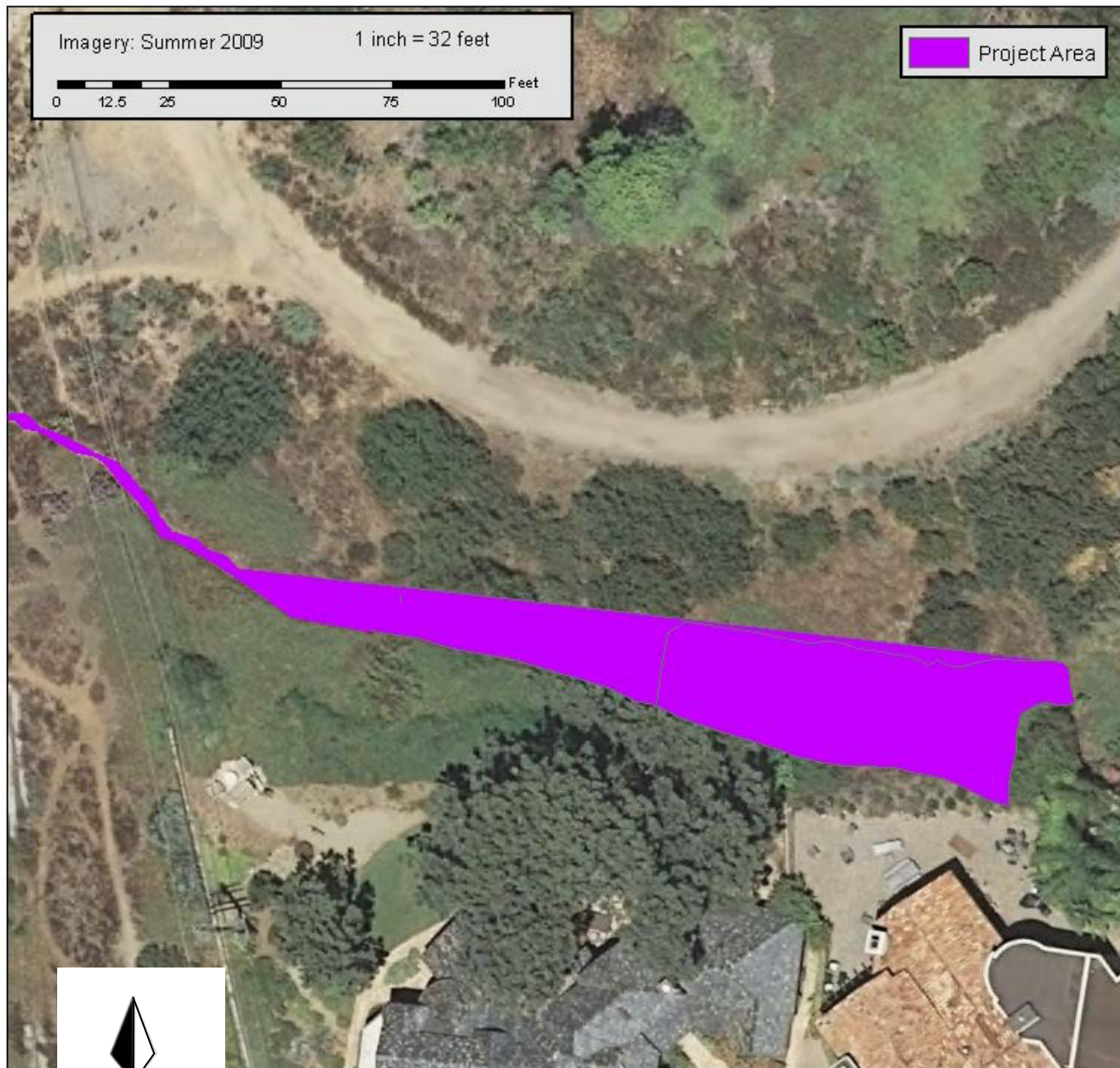


EXHIBIT NO. 5
APPLICATION NO.
6-90-290-A2
Restoration Area
 California Coastal Commission

Image provided by Applicant

SPECIAL CONDITIONS OF 6-90-290

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. Final Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final plans incorporating the following:

a. Final grading and drainage plans approved by the City of Solana Beach which indicate that no grading shall occur beyond the top of the slope as shown on the submitted site plan. Said plans shall also indicate that all run-off from the impervious surfaces of the development will be collected and directed away from the slopes towards the street.

b. Final building plans which indicate the exterior colors and construction materials for the proposed buildings to be wood or earth tones compatible with the surrounding natural environment. In addition, said plans shall be in substantial conformance with the plans submitted with this application and shall indicate that the maximum height of any structure shall not exceed 25 feet in height and that the minimum setback from the top of the slope shall be 25 feet.

2. Open Space Deed Restriction. Prior to the issuance of the coastal development permit, the applicant shall record a restriction against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall prohibit any alteration of landforms, removal of vegetation or the erection of structures of any type in the area shown on the attached Exhibit "3", and generally described as the area from the edge of the slope to the property lines, without the written approval of the California Coastal Commission or successor in interest. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review and written approval of the Executive Director.

3. Landscaping Plan. Prior to the issuance of the coastal development permit, the applicant shall submit a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant plant materials and native vegetation shall be utilized to the maximum extent feasible. Special emphasis shall be placed on siting landscaping with the use of a minimum of 8 specimen size trees (24 inch box) and shrubs to effectively screen the western and northern portions of the buildings which would otherwise be visible from Old Highway 101 to the west and the lagoon to the north. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director.

4. Assumption of Risk. Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from erosion and landslides and the (b) applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

EXHIBIT NO. 6

APPLICATION NO.

6-90-290-A2

SC 6-90-290

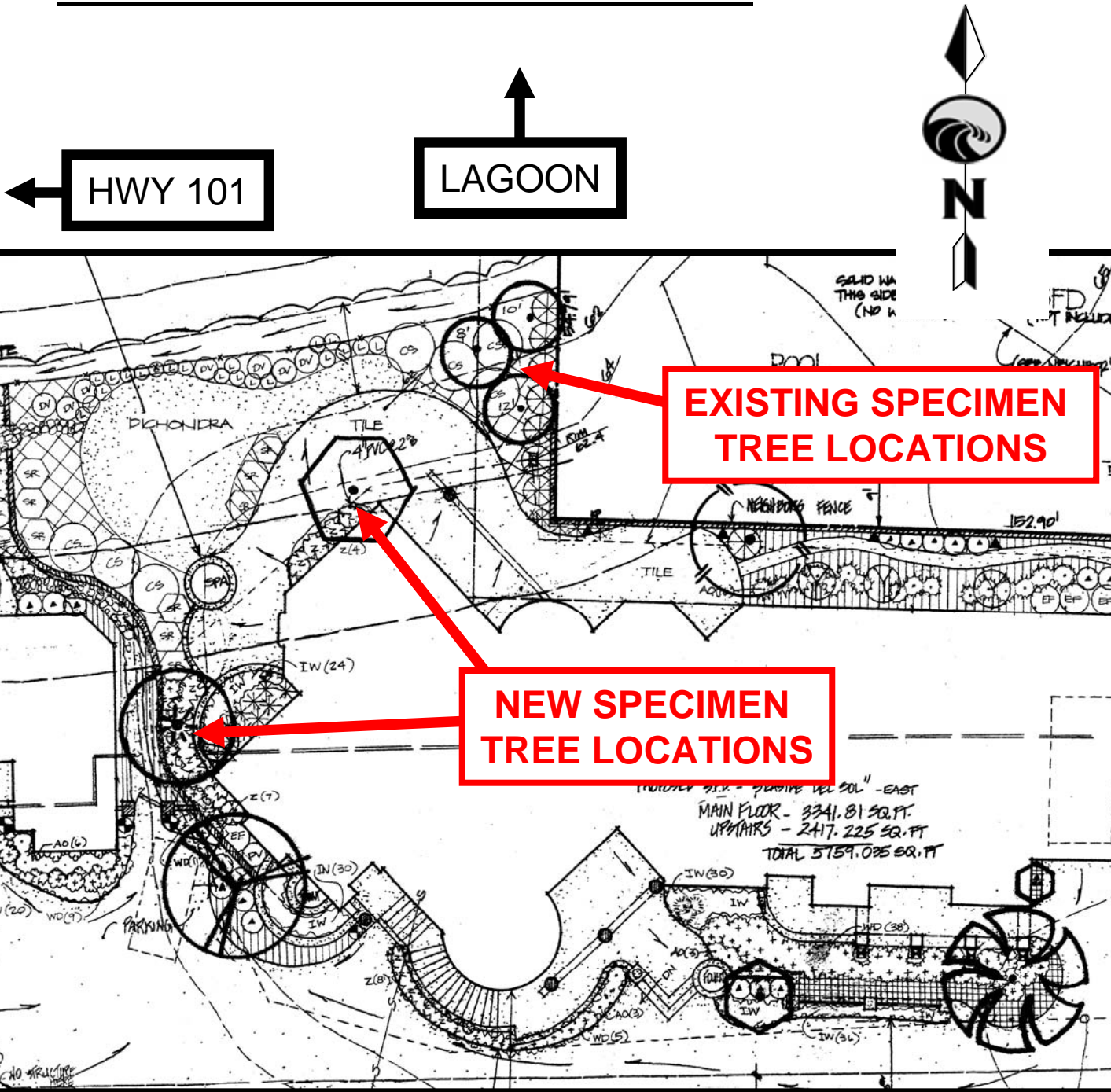


California Coastal Commission

EXHIBIT "B"



819 SEABRIGHT LANE LANDSCAPING



****This is part of the landscaping plan approved by the Commission under CDP #6-90-290-A1 and shows only the portion of the subdivision which includes 819 Seabright Lane.**

EXHIBIT NO. 8

APPLICATION NO.

6-90-290-A2

819 Landscaping



California Coastal Commission