

**CALIFORNIA COASTAL COMMISSION**

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**W7a**

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**STAFF REPORT: CONSENT CALENDAR**

**Application No.:** 6-17-0251

**Applicant:** Scott Kerslake

**Agent:** John Jensen

**Location:** 15179 Rancho Real, San Diego County (APN: 302-053-18)

**Project Description:** Construction of a new, 2-story, 5,224 sq. ft. single-family residence including an attached garage, an 850 sq. ft. detached garage, and a pool and spa on a vacant, approximately 55,000 sq. ft. lot.

**Staff Recommendation:** Approval with Conditions

**SUMMARY OF STAFF RECOMMENDATION**

Although no environmentally sensitive plant or animal species occur within the subject site, Diegan coastal sage scrub habitat, which is identified as Environmentally Sensitive Habitat Area in the County of San Diego's recently certified Land Use Plan, occurs immediately adjacent to the site. The applicant is proposing a 50 ft. buffer from the ESHA, where no development, including brush management, will occur. The Commission's staff ecologist and staff at the California Department of Fish and Wildlife have reviewed the project and determined that the proposed 50-foot wide ESHA buffer is sufficient to protect the adjacent habitat.

6-17-0251 (Scott Kerslake )

**Special Conditions 1 and 2**, which require the submittal of final plans and final landscape plans to ensure the project is undertaken in manner that prohibits brush management outside of the required brush management zone. **Special Condition 3** requires implementation of a suite of water quality best management practices during and post-construction. **Special Condition 4** requires that the approximately 18,000 sq. ft. ESHA buffer is placed into an open space restriction to prevent future development in the buffer area, and **Special Condition 5** requires the permit to be recorded as a restriction against the deed of the site, which will ensure that future owners are aware of the permit conditions and restrictions.

Commission staff recommends **approval** of coastal development permit application 6-17-0251 as conditioned.

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### **APPENDICES**

Appendix A – Substantive File Documents

### **EXHIBITS**

Exhibit 1 – Vicinity Map

Exhibit 2 – Aerial Image

Exhibit 3 – Site Plan

Exhibit 4 – Open-Space Deed Restricted Area

## I. MOTION AND RESOLUTION

### Motion:

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

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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 of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Submittal of Final Plans**
  - (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for the review and written approval of the Executive Director, one full-size set of the following final plans:

- i. Final construction plans that substantially conform to the plans by John Jensen Architect dated March 15, 2017.
  - ii. An approximately 18,000 sq. ft. buffer, outside of the required 50 ft. brush management zone on the western portion of the property, and as generally depicted in [Exhibit 4](#), shall be established. Within this buffer, no development shall be permitted except for restoration and maintenance of native plants.
- (b) The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **Landscaping and Fuel Modification Plans.**

**PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, in a form and content acceptable to the Executive Director, one full-size set of final landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. Said plans shall be stamped and approved by the County of San Diego and the Rancho Santa Fe Fire Department, and shall conform to the plans by John Jensen Architect dated July 14, 2017. The consulting landscape architect or qualified landscape professional shall certify in writing that the final landscape and fuel modification plans are in conformance with the following requirements:

- (a) Final landscape plans shall demonstrate the following and include as notes on the plan:
  - i. No brush clearing or fuel modification shall occur within the required approximately 18,000 sq. ft. ESHA buffer identified in Special Condition #1 of this permit.
  - ii. Any restoration activities within the required ESHA buffer shall consist of entirely of native, Diegan coastal sage scrub species, and if feasible, obtained from local stock.
  - iii. If restoration activities occur within the ESHA buffer, the applicant shall submit to the Executive Director for review and approval a list of species to be planted and seeded; the species list shall not contain any invasive, exotic species. Non-native species within the buffer may be removed and replaced with native species.
  - iv. The type, size, extent, and location of all trees and shrubs on the site, including the proposed irrigation system and other landscape features.

- v. All cut and fill slopes shall be stabilized with planting at the completion of final grading. Such planting shall be adequate to provide 90 percent coverage within two (2) years. All disturbed soils shall be planted to provide 90 percent coverage within two (2) years.
- vi. To minimize the need for irrigation all landscaping shall consist of primarily native drought tolerant plants, as listed by the California Native Plant Society. (See <http://www.cnps.org/cnps/grownative/lists.php>.) Some non-native drought tolerant non-invasive plants may be used within 30 feet of habitable structures. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 a “noxious weed” by the State of California or the U.S. Federal Government shall be shall be planted or allowed to naturalize or persist on the site.
- vii. All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., microspray) and drip irrigation only. Use of reclaimed water (“gray water “systems) and rainwater catchment systems is encouraged. Other water conservation measures shall be considered, including use of weather based irrigation controllers.
- viii. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) is prohibited.
- ix. A planting schedule that indicates that the planting plan shall be implemented within 60 days of completion of construction.
- x. A written commitment by the applicant that all landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

(b) Fuel modification plans shall include the following:

- i. Vegetation removal, hardscape and the construction of accessory structures may occur within 50 feet of the approved residence consistent with the Rancho Santa Fe Fire Department requirements.

Such development shall not occur within the required ESHA buffer identified in Special Condition #1 of this permit.

- ii. Landscaping planted within the 50-foot radius of the proposed residence shall be selected from the most fire-resistant, drought-tolerant species or subspecies available.
- (c) The permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

3. **Construction and Post-Construction Best Management Practices.**

**PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and written approval a construction pollution prevention plan and a drainage and runoff control plan approved by the County of San Diego, documenting that the runoff from the roof, driveway, and other impervious surfaces of the existing and proposed structures will be collected and directed into the retention basin for infiltration or percolation prior to being discharged off site in a non-erosive manner.

- (a) Construction Pollution Prevention Plan (CPPP) prepared under the guidance of a certified erosion control specialist or similarly qualified professional. At a minimum, the CPPP shall demonstrate that the development complies with the following requirements:
  - i. The limits of work shall be clearly delineated with use of staking, flagging, or silt fences, and shall be verified by a qualified biologist.
  - ii. During construction, development shall minimize site runoff and erosion through the use of temporary BMPs, and shall minimize the discharge of sediment and other potential pollutants resulting from construction activities (e.g., chemicals, vehicle fluids, petroleum products, cement, debris, and trash).
  - iii. Development shall minimize land disturbance during construction (e.g., clearing, grading, and cut-and-fill). Development shall minimize soil compaction due to construction activities, to retain the natural stormwater infiltration capacity of the soil.
  - iv. Development shall minimize the damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction.
  - v. Development shall implement soil stabilization BMPs (such as mulching, soil binders, erosion control blankets, or temporary re-

seeding) on graded or disturbed areas as soon as feasible during construction, where rainfall is predicted or there is a potential for soil erosion.

- vi. During construction, the applicant shall use temporary erosion and sediment control products such as fiber rolls, erosion control blankets, mulch control netting straw wattles, and silt fences that avoid plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers), in order to minimize wildlife entanglement and plastic debris pollution.
- vii. Tracking controls or street sweeping shall be used to prevent off-site movement of sediment.
- viii. Fueling and maintenance of construction equipment and vehicles shall take place off site if feasible. Any fueling and maintenance conducted on site shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible, unless these inlets are blocked to protect against fuel spills. The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants.
- ix. Trash and construction debris shall be removed from the site weekly, at a minimum, and the site shall be maintained in an organized manner with a neat appearance.

(b) Post-Development Runoff Plan, including a map, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage and water quality features, impervious surfaces, permeable pavements, and landscaped areas. The PDRP shall demonstrate that the project:

- i. Minimizes disturbance of coastal waters and natural drainage features; minimizes removal of native vegetation; and avoids, to the extent feasible, covering or compaction of highly permeable soils.
- ii. Preferentially uses Low Impact Development (LID) techniques to retain and disperse runoff on site.
- iii. Uses infiltration to the greatest extent feasible to retain runoff; minimize the addition of impervious surfaces; and disconnect impervious surfaces from the storm drain system by interposing strategically-located pervious areas. Where infiltration is not appropriate or feasible, uses alternative BMPs to minimize changes in the runoff flow regime (e.g., direct roof runoff into rain barrels or cisterns for later use, evaporate roof runoff, employ a green roof, construct a rain garden, or plant trees).



- iv. Minimizes pollutants associated with landscaping and building materials.
  - v. Directs drainage from all parking areas and driveways, roofs, walkways, patios, and other impervious surfaces to, in order of priority, a) landscaped areas or open spaces capable of infiltration, b) earthen-based infiltration BMPs, c) flow-through biofiltration BMPs designed to treat, at a minimum, twice the 85<sup>th</sup> percentile one-hour storm event volume, accompanied by supporting calculations, d) proprietary filtration systems designed to treat, at a minimum, twice the 85<sup>th</sup> percentile one-hour storm event volume, accompanied by supporting calculations and product documentation.
  - vi. Provide that any Water Quality BMPs sited within ESHA buffers enhance the protection afforded to the ESHA.
  - vii. Conveys excess runoff off-site in a non-erosive manner.
  - viii. Where flow-through BMPs are used, includes supporting calculations and product documentation.
  - ix. Includes all maintenance and operating procedures that will be conducted to keep the water quality provisions effective for the life of the development.
- (c) The permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**4. Open Space and Conservation Deed Restriction.**

- (a) No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area depicted in [Exhibit 4](#), except for Diegan coastal sage scrub vegetation restoration, including planting, maintenance, and temporary irrigation.
- (b) **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, reflecting the above restrictions on development in the designated open space area. The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the designated open space area prepared by a licensed surveyor based on an on-site inspection of the open space area.

- (c) The deed restriction shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.
- (d) The deed restriction shall run with the land in favor of the People of the State of California, binding successors and assigns of the landowner in perpetuity.

5. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner 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.

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. PROJECT DESCRIPTION/HISTORY**

The proposed project is construction of a 5,224 sq. ft. 2-story single-family residence and attached garage, an 850 sq. ft. detached garage, and a pool and spa on a vacant lot. The approximately 55,000 sq. ft. lot is located within the unincorporated County of San Diego, approximately ¼ mile north of Via de la Valle and approximately 450 ft. east of El Camino Real, which is the Coastal Zone boundary in this location ([Exhibit 1](#)).

Previous Commission action on the site consists of CDPs #F5863 and #F8748. CDP #F5863 was approved in August 1977 and permitted the subdivision of 12.08 acres into 9 lots, installation of public utilities and street improvements, and construction of residences with floor areas ranging between 2,700 – 3,000 sq. ft. That permit also required that the steeper sloping western portions of the property be preserved as an open space deed restriction to retain the scenic and habitat value of the hillside and prevent potential erosion problems. This project was granted a time extension in 1978; however construction did not commence and the permit did not vest prior to the expiration of the extension. As such, the applicant applied for the same project through CDP #F8748, which was approved in September 1979 and permitted the same project and conditions as was previously approved in CDP #5863, including protecting the slopes under an open space deed restriction ([Exhibit 3](#)).

The subject site is located in a residential neighborhood consisting of single-family residences similar in scope and size to the proposed development. The eastern portion of the site is a flat pad area that will accommodate all of the proposed development. The western portion of the site contains naturally vegetated, steep slopes. Some of the area adjacent to the western edge of the subject site has been identified in the recently certified County Land Use Plan (LUP) as Diegan coastal sage scrub Environmentally Sensitive Habitat Area (ESHA).

No portion of the proposed development, including required brush management, will encroach directly into the ESHA or steep slopes. All development is proposed to be set back from the property line and the off-site ESHA a minimum of 100 feet. The first 50 feet around the western side of proposed development will consist of a 50 ft. wide brush management zone, as required by the Rancho Santa Fe Fire Department. The applicant is also proposing a 50 ft. ESHA buffer, located between the required brush management zone and the property line, in which no development, other than restoration activities, may occur. The Commission's staff ecologist and staff at the California Department of Fish and Wildlife have reviewed the project and determined that the proposed 50-foot wide ESHA buffer is sufficient to protect the adjacent habitat.

To ensure biological resources in the area are protected, **Special Conditions 1 and 2** require submittal of final plans and final landscape and brush management plans that do not include any brush management outside of the required brush management zone. The final landscape plan also prohibits the use of invasive plants and rodenticides to further protect the sensitive habitat. **Special Condition 3** requires the use of construction and post-construction water quality BMPs to avoid impacts to water quality. **Special Condition 4** requires an open space deed restriction be recorded against the property prohibiting development in the ESHA buffer, and **Special Condition 5** requires recordation of the permit conditions against the property to ensure future property owners are aware of the above mentioned protections and conditions.

The Commission previously certified the County of San Diego's Local Coastal Program (LCP); however, the County never assumed permit issuing authority and as such, the LCP was never effectively certified. The Commission certified a new LUP in May 2017, and the County is currently in the process of developing a revised and updated Implementation Plan for Commission certification, but at this time, Chapter 3 of the Coastal Act is the standard of review.

## **B. BIOLOGICAL RESOURCES**

Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) will be provided. Thus, the project, as conditioned, is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

**C. COMMUNITY CHARACTER/VISUAL QUALITY**

The development is located within an existing developed area and, as proposed, will be compatible with the character and scale of the surrounding area, which contains homes of similar size. No public views will be impacted. Therefore, the Commission finds that the development conforms to Section 30251 of the Coastal Act.

**D. PUBLIC ACCESS/PARKING**

The proposed development will be located well inland of the beach, approximately five miles, and will not affect traffic to the major route of Via de la Valle. Thus, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. The proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

**E. LOCAL COASTAL PLANNING**

The County of San Diego does not have a certified LCP. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. 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.

**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

**APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

- County of San Diego’s Certified Land Use Plan
- CDP #F5863
- CDP #F8478