

**CALIFORNIA COASTAL COMMISSION**

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# Th18a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-17-0613

**Applicant:** Ted Viola

**Agent:** Bob Sukup

**Location:** Southeast intersection of Hoover Street and Adams Street, Carlsbad, San Diego County (APNs 206-172-01 and 206-172-02)

**Project Description:** Lot line adjustment between 2 vacant lots of 26,497 sq. ft. and 20,279 sq. ft. resulting in 2 lots of 15,000 sq. ft. and 31,775 sq. ft.; grading of both lots associated with future improvements to Adams Street, and construction of an approximately 4,900 sq. ft. 2-story single family home, attached 1,808 sq. ft. garage, and attached 832 sq. ft. accessory dwelling unit on the 15,000 sq. ft. lot.

**Staff Recommendation:** Approval with Conditions

## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing a lot line adjustment between two vacant lots and construction of a single family residence and accessory dwelling unit on the smaller, more inland lot on the north shore of Agua Hedionda Lagoon in Carlsbad. The subject site is located immediately adjacent to parcels containing significant coastal sage scrub habitat identified as environmentally sensitive habitat and subject to preservation standards in the City's certified Habitat Management Plan (HMP). In addition, the site is located between the lagoon and

Adams Street, a designated scenic roadway that offers expansive views of the lagoon. The site is also highly visible above the lagoon from Interstate 5. As a result, staff is recommending approval of the project with a number of special conditions designed to protect offsite sensitive habitat resources, water quality and visual resources from adverse impacts.

The City's certified Agua Hedionda Land Use Plan and HMP require a 20 foot habitat buffer between development and coastal sage scrub habitat and prohibit grading within such buffers. **Special Condition 2** requires the applicant to submit revised grading plans that eliminate any grading a minimum of 20 feet from any coastal sage scrub habitat consistent with the LUP and the HMP. To ensure the continued and improved habitat function of existing coastal sage scrub and the lagoon in this area, **Special Condition 3** requires the applicant to submit a revised landscape plan that uses primarily native, non-invasive plant species onsite. **Special Condition 4** acknowledges that any future development on Parcel B, including a subdivision, shall require a coastal development permit and shall be sited and designed to avoid impacts to sensitive coastal sage scrub habitat. **Special Condition 8** requires the applicant to record the permit conditions against the property to ensure that future property owners are aware of the sensitive habitat located on the adjacent parcels, and the potential limitations on future development of the site, including a future lot split.

The project also has potential to adversely impact water quality of Agua Hedionda Lagoon through erosion and runoff. To avoid these potential adverse impacts, **Special Condition 2** requires revised grading plans to indicate that major grading be completed and all erosion control best management practices be installed by November 1. **Special Condition 3** requires landscaping to stabilize all graded areas, and **Special Conditions 5** and **6** require the applicant to implement construction-phase erosion control best management practices and post-development drainage improvements.

Finally, because the site is located in a highly scenic area, the proposed home has been designed to sit below the centerline of Adams Street so that passersby can view the lagoon from the roadway. **Special Condition 1** requires submission of final plans reflecting this elevation limit. **Special Condition 3** requires the use of non-invasive trees planted along the lagoon-facing side of the home on Parcel A to screen the development from Interstate 5 and the lagoon waters. Finally, **Special Condition 7** requires the applicant to use earth tones in the materials and paint on the proposed structures to complement the natural hillside and further soften the visual impact of the proposed development.

Commission staff recommends **approval** of coastal development permit application 6-17-0613 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 – Parcel A](#)

[Exhibit 4 – Habitat Mapping from Biological Resources Technical Report, prepared by  
Everett and Associates, dated November 8, 2016](#)

[Exhibit 5 – Onsite Area Located Within 20 feet of Coastal Sage Scrub Habitat](#)

[Exhibit 6 – Views of the Site](#)

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-17-0613 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*The Commission hereby approves coastal development permit 6-17-0613 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

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. 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, final site and architectural plans approved by the City of Carlsbad which are in substantial conformance with the site plans by The Sea Bright Company date-stamped submitted on September 11, 2017 and the architectural plans by Wright Design date-stamped submitted on July 18, 2017.
- (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. Revised Grading Plans.

- (a) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, revised final grading plans approved by the City of Carlsbad that substantially conform with the preliminary grading plans by The Sea Bright Company date-stamped submitted on September 11, 2017, except that they shall be modified as required below.
  - (i) Eliminate all grading on Parcel B that is within 20 feet from coastal sage scrub habitat located on the adjoining parcel(s), as generally depicted in [Exhibit 5](#).
  - (ii) Grading of the 2:1 slope against Adams Street shall cease, and all erosion control BMPs (including fiber rolls and landscaping to stabilize the slope) shall be installed, by November 1 of any year. If necessary, grading of the slope may resume April 1. Additional grading activities, including trench work for the building and retaining wall foundations or for utilities, may occur after November 1.

- (b) All revised plans shall be prepared and certified by a licensed professional as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval.
- (c) 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.

3. **Revised Landscape Plans.**

- (a) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, revised final landscaping plans approved by the City of Carlsbad that substantially conform with the preliminary landscape plans by The Sea Bright Company date-stamped submitted on September 11, 2017, except that they shall be modified as required below.
  - (i) A planting schedule that indicates that the planting plan shall be implemented within sixty (60) days of completion of construction.
  - (ii) All graded soils 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.
  - (iii) To minimize the need for irrigation, all proposed landscaping shall be drought-tolerant, native, fire resistant, non-invasive plant species that are obtained from local stock, if available. *Acacia stenophylla*, *Salvia* "Allen Chickering," *Salvia apiana*, and California sege salt grass shall be replaced with coastal Southern California native species. Use of turf irrigated with potable water shall be minimized and irrigated with micro-spray systems. No plant species listed as problematic 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 "noxious weed" by the State of California or U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.
  - (iv) All existing non-native species onsite shall be removed.
  - (v) On Parcel A, the placement of a minimum of one non-invasive specimen size tree (24-inch box minimum) for every 20 feet of structure along the south-facing portion of the lot and arranged to maximize screening of the structure from views from Agua Hedionda Lagoon and Interstate 5. A

minimum of 5 trees shall be provided lagoonward of the building pad for the proposed residence. The required trees shall be planted within 60 days of completion of residential construction and be maintained in good growing condition for the life of the residence. The plan shall also indicate that all landscaping including the required trees shall consist of species which do not reach sufficient height to block public views from Adams Street. Said landscaping shall be designed to mitigate the visual impact of the structure as viewed from the lagoon and Interstate 5, while preserving views from the home.

- (vi) 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.
- (vii) Five years from the date of the issuance of the coastal development permit, the Permittee shall submit for the review and written approval of the Executive Director a landscaping 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 Permittee 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 qualified resource specialist and shall specify measures to remediate those portions of the approved landscaping plan that have failed or are not in conformance with the original approved plan.

- (viii) The use of rodenticides containing any anticoagulant compounds is prohibited.
  - (ix) All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water for irrigation is encouraged. If permanent systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., micro spray) and drip irrigation only. Use of reclaimed water (“gray water “systems) and rainwater catchment systems are encouraged. Other water conservation measures shall be considered, including use of weather based irrigation controllers.
- (b) All revised landscape plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., landscape architect or resource specialist), based on current information and professional standards, and shall

be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports as may be specified below.

- (c) 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.

#### 4. **Future Development Requirements**

BY ACCEPTANCE OF THIS PERMIT, the applicant and any successor in interest acknowledges this permit allows a lot line adjustment that reduces the size of Parcel A to approximately 15,000 square feet and increases the size of Parcel B to approximately 31,775 square feet; grading of both lots to support future improvements to Adams Street and support residential development; and construction on Parcel A of an approximately 4,900 square foot single family home, attached 1,808 square foot garage, and attached 832 square foot accessory dwelling unit. All other development proposals, including those on Parcel B, shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit. In addition, all future development on Parcel B must comply with the following:

- (a) Development shall be sited and designed to avoid impacts to sensitive habitat consistent with the most recently certified Carlsbad Habitat Management Plan and the most recently certified Agua Hedionda Land Use Plan. No development, including, but not limited to, the erection of structures, clearing of vegetation, grading, or bush management, may be located within a 20 foot habitat buffer measured from coastal sage scrub habitat either on the parcel or offsite, except as otherwise permitted by the certified Habitat Management Plan and certified Land Use Plan. [Exhibit 5](#) to the staff report dated January 25, 2018 for CDP 6-17-0613 shows the area of Parcel B that is located within 20 feet of sensitive coastal sage scrub habitat as of the date of approval of this permit.

#### 5. **Construction and Pollution Prevention Plan.**

- (a) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan that substantially conforms with the Tier 2 City Storm Water Pollution Prevention Plan by The Sea Bright Company date-stamped submitted on September 11, 2017. The final plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:



- (i) **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
  - A. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
  - B. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
  - C. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters. Three fiber rolls shall be installed on the 2:1 slope against Adams Street.
  - D. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
  - E. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) shall be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
  - F. Grading of the 2:1 slope against Adams Street shall cease, and all erosion control BMPs (including fiber rolls and landscaping to stabilize the slope) shall be installed, by November 1 of any year. If necessary, grading of the slope may resume on April 1. Additional grading activities, including trench work for the building and retaining wall foundations or for utilities, may occur beyond November 1.
- (ii) **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:

A. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:

- (1) Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
- (2) Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
- (3) Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
- (4) Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.

B. Fueling and maintenance of construction equipment and vehicles shall be conducted offsite if feasible. Any fueling and maintenance of mobile equipment conducted onsite shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those 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. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

(iii) **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:

- A. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
- B. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

- C. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
- (iv) **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- (v) **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
  - A. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
  - B. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
  - C. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
  - D. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.
- (b) The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**6. Post-Development Runoff Plan.**

- (a) The permittee shall comply with Sheet 3 of the Grading Plans by The Sea Bright Company date-stamped submitted on September 11, 2017 and the letter from Bob Sukup at The Sea Bright Company dated October 24, 2017, regarding water quality and post-development runoff plans.
- (b) The permittee shall undertake development in accordance with these post-development runoff plans, unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

**7. Exterior Treatment.**

- (a) 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 and accessory structures (fences and walls) on Parcel A. The color of the structures permitted herein 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.
- (b) The permittee shall undertake the development in accordance with the approved color board. Any proposed changes to the approved color board 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.

**8. 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.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

The subject property comprises two vacant lots located southeast of the intersection of Adams Street and Hoover Street on the north shore of Agua Hedionda Lagoon in Carlsbad, San Diego County ([Exhibits 1 and 2](#)). The site slopes gently from Adams Street south toward the lagoon, however, these parcels do not extend to the shoreline. Adams Street is designated as a scenic roadway in the City's Agua Hedionda Land Use Plan because it offers expansive views of the lagoon. The project site is also highly visible from Interstate 5.

The applicant proposes to adjust the lot line between the two vacant lots. Parcel A, located at the corner of Hoover and Adams Streets, would be reduced in size from 26,497 sq. ft. to 15,000 sq. ft. Parcel B, located south of Parcel A, would increase in size from 20,279 sq. ft. to 31,775 sq. ft. The applicant proposes to construct an approximately 4,900 sq. ft. 2-story single family home, attached 1,808 sq. ft. garage, and attached 832 sq. ft. accessory dwelling unit on Parcel A. The City requires a 5 foot dedication along the entire frontage of Adams Street for future widening and street improvements. Approximately 5,200 cu. yds. of grading is proposed to support future improvements to Adams Street and construction of the residence on Parcel A. The applicant also proposes to abandon a stormwater inlet on the east side of Adams Street that drains onto Parcel B and has resulted in a deep gully on the site.

There is no sensitive habitat located on the subject site, however, parcels located immediately east and south of the subject site contain significant coastal sage scrub habitat. These offsite parcels are identified in the City's certified Habitat Management Plan as Standards Areas, which limits development to protect the maximum amount of coastal sage scrub habitat possible.

Because Agua Hedionda Lagoon is both an environmentally sensitive area and a major recreational resource, the lagoon and the viewshed surrounding the lagoon was the subject of a detailed LCP Land Use Plan (LUP) prepared by the City and certified by the Coastal Commission in 1982. The subject property is within this LUP planning area, but an implementation plan for this area has not yet been certified. Thus, permit responsibility remains with the Commission and Chapter 3 of the Coastal Act is the standard of review, with the certified Agua Hedionda Lagoon LUP used as guidance.

## **B. BIOLOGICAL RESOURCES**

Section 30240 of the Coastal Act states:

- (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.*

Policy 3.13-1.11 of the City of Carlsbad Agua Hedionda Land Use Plan states in relevant part:

*Buffers shall be provided between all preserved habitat areas and development. Minimum buffer widths shall be provided as follows:*

*[...]*

*c. 20 feet for all other native habitats (coastal sage scrub, southern maritime chaparral, maritime succulent scrub, southern mixed chaparral, native grassland, oak woodland).*

*[...]*

*No development, grading or alterations, including clearing of vegetation, shall occur in the buffer area, except for:*

- a. Fuel modification Zone 3 to a maximum of 20 feet for upland and non-riparian habitat. No fuel modification shall take place within 50 feet of riparian areas, wetlands or oak woodland.*
  
- b. Recreation trails and public pathways within the first 15 feet of the buffer closest to the development, provided that construction of the trail or pathway and its proposed use is consistent with the preservation goals for the adjacent habitat, and that appropriate measures are taken for physical separation from sensitive areas.*

*Buffer areas that do not contain native habitat shall be landscaped using native plants. Signage and physical barriers such as walls or fences shall be required to minimize edge effects of development.*

Policy 7-11 of the City's certified Habitat Management Plan also includes the above-cited language of Policy 3.13-1.11.

The primary concerns raised by the proposed project relate to potential adverse impacts to sensitive habitat. Properties located immediately east and south of the project site contain coastal sage scrub habitat; however, this particular site has been historically cleared and contains no coastal sage scrub or other environmentally sensitive habitat onsite. According to the Biological Resources Technical Report prepared by Everett and Associates, dated November 8, 2016 and submitted by the applicant, the coastal sage scrub on adjacent properties abuts the southern property line of Parcel B (see [Exhibit 4](#)). Commission staff does not have sufficient information in order to determine whether the offsite coastal sage scrub habitat is an environmentally sensitive habitat area (ESHA) as defined by the Coastal Act, however, the parcels to the south and east along Adams Street are identified in the City's certified Habitat Management Plan (HMP) as Standards Areas – these parcels carry parcel-level development standards intended to allow some development while protecting the maximum amount of sensitive coastal habitat possible. Although there is no coastal sage scrub or other environmentally sensitive habitat area onsite, both the City's HMP and the Agua Hedionda LUP require a 20 foot buffer between sensitive habitat and development. No grading is permitted within the 20 foot habitat buffer. In addition, these policies limit fuel modification within the buffer area.

As proposed by the applicant, the grading of Parcel B along its Adams Street frontage extends up to the southern property line and within several feet of coastal sage scrub vegetation on the adjacent lot ([Exhibit 5](#)). Therefore, as proposed, the project is inconsistent with the 20 foot habitat buffer required by Agua Hedionda LUP Policy 3.13-1.11 and the HMP. **Special Condition 2** requires revised grading plans to eliminate any grading of Parcel B within 20 feet of existing coastal sage scrub habitat in the area generally depicted on [Exhibit 5](#). Because eliminating grading activities within this portion of Parcel B will prevent any adverse impacts to the adjacent coastal sage scrub habitat, an ESHA determination is not required at this time and the project, as conditioned, is consistent with the requirements of Section 30240 of the Coastal Act and with the applicable LUP and HMP policies.

The subject site is zoned for One-Family Residential with a minimum lot size of 15,000 sq. ft. (R-1-15,000). The applicant's proposed lot line adjustment would increase the size of Parcel B, which should better accommodate development of a future single family residence on Parcel B that meets the habitat buffer and fuel modification requirements without impacting coastal sage scrub habitat on adjacent parcels. Although the applicant has no plans to develop Parcel B at this time, any future development of Parcel B would have to maintain a 20 foot habitat buffer from coastal sage scrub, and must be designed to avoid impacts to coastal sage scrub habitat on the neighboring parcels from required fuel modification.

The proposed lot line adjustment would result in a Parcel B that is 31,775 sq. ft.; slightly more than double the minimum required lot size in this area. This would potentially allow for the future subdivision of Parcel B into two 15,000 sq. ft. lots. However, the creation of two parcels may not result in sufficient development area to site two structures while complying with the required 20 foot habitat buffer and avoiding fuel modification impacts into adjacent native habitat. Therefore, **Special Condition 4** acknowledges that any future development on Parcel B, including a subdivision, shall require a separate

coastal development permit and identifies that future development must be sited and designed to avoid impacts to sensitive coastal sage scrub habitat, consistent with the requirements of HMP Policy 7-11, Agua Hedionda LUP Policy 3.13-1.11, and Section 30240 of the Coastal Act. **Special Condition 8** requires the applicant to record the permit conditions against the property to ensure that future property owners are aware of the sensitive habitat located on the adjacent parcels, and the potential limitations on future development of the site, including a future lot split.

Finally, the site is also located on the slope above Agua Hedionda Lagoon, a designated environmentally sensitive area. Due to the proximity of the subject site to sensitive coastal sage scrub habitat and the lagoon itself, **Special Condition 3** requires the applicant to submit a revised landscaping plan largely limited to native, non-invasive species. In addition, the plan must eliminate *Acacia stenophylla*, *Salvia*, and salt grass species shown on the preliminary landscaping plan and replace them with native and drought tolerant species. As conditioned, the Commission finds the project consistent with Section 30240 of the Coastal Act and the applicable policies of the Agua Hedionda LUP regarding protection of sensitive habitat areas.

### C. WATER QUALITY

Section 30231 of the Coastal Act 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Policy 3-14 of the City of Carlsbad Agua Hedionda Land Use Plan states in relevant part:

*In addition to the requirements of the City of Carlsbad Drainage Master Plan, permitted development shall also comply with the following requirements:*

- a. *Grading activity shall be prohibited during the rainy season: from October 1<sup>st</sup> to April 1<sup>st</sup> of each year.*
- b. *All graded areas shall be landscaped prior to October 1<sup>st</sup> of each year with either temporary or permanent landscaping materials, to reduce erosion potential. Such landscaping shall be maintained and replanted if not well-established by December 1<sup>st</sup> following the initial planting.*
- c. *The October 1<sup>st</sup> grading season deadline may be extended with the approval of the City Engineer subject to implementation by October 1<sup>st</sup> of special erosion control measures designed to prohibit discharge of sediments off-site*



*during and after the grading operation. Extensions beyond November 15<sup>th</sup> may be allowed in areas of very low risk of impact to sensitive coastal resources and may be approved either as part of the original coastal development permit or as an amendment to an existing coastal development permit.*

The proposed project also raises concerns regarding potential adverse impacts to water quality within Agua Hedionda Lagoon associated with runoff during and after construction of the proposed project. As proposed, the project includes abandonment of an existing stormwater inlet on the east side of Adams Street to stop drainage onto Parcel B, which has resulted in a deep gully and erosion of the hillside. Redirecting drainage from this outlet will eliminate the runoff on the site and improve water quality. Once the inlet is closed, runoff would continue north along the inland side of Adams Street to another existing inlet at the northeastern corner of Adams and Hoover Streets. Runoff is conveyed from this inlet below Hoover Street into Agua Hedionda Lagoon. A Hydrology Report prepared by Robert Sukup, dated June 12, 2017 indicates that the existing inlet at Hoover and Adams Streets should be able to accommodate the additional flows that will occur with abandonment of the inlet adjacent to Parcel B.

The home proposed on Parcel A includes three bio-filtration basins to collect and infiltrate runoff from the site. Any overflow of the basins will run to the end of Hoover Street where an inlet pipe will convey the runoff to the outlet into the Lagoon. Calculations provided by the applicant indicate that these basins should be sufficient to infiltrate runoff from the site. The Commission's water quality have reviewed the drainage plans and concur that runoff associated with the project will not have adverse impacts to the lagoon.

However, proximity of this site to the lagoon and the amount of grading proposed poses a significant risk of erosion into the lagoon during construction, adversely impacting water quality. Agua Hedionda LUP Policy 3-14 prohibits grading during the rainy season between October 1 and April 1, but allows the October 1 grading season deadline to be extended if adequate erosion control measures are installed. To prevent potential impacts to water quality, **Special Condition 2** requires submission of a revised grading plan indicating that most significant grading associated with the project—construction of the proposed 2:1 slope against Adams Street—must cease by November 1, and all erosion control best management practices must also be installed by November 1. If necessary, grading of the slope may resume on April 1 to avoid the rainy season. **Special Condition 5** requires submission of a final Construction and Pollution Prevention Plan detailing construction phase best management plans to be implemented onsite. With the major grading for the slope against Adams Street completed and erosion control best management practices implemented by November 1, additional grading activities, including trench work for the building and retaining wall foundations or for utilities, may occur beyond November 1. In addition, **Special Condition 3** requires the applicant to stabilize with plants all graded areas at the completion of grading. Finally, **Special Condition 6** requires applicant to comply with the Post-Development Runoff Plan submitted with the application. As conditioned, the Commission finds the project

consistent with Section 30231 of the Coastal Act and the applicable policies of the Agua Hedionda LUP regarding protection of water quality.

#### **D. VISUAL RESOURCES**

Section 30251 of the Coastal Act states in relevant part:

*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.*

Policy 8.3 of the City of Carlsbad Agua Hedionda Land Use Plan states in relevant part:

*Development located adjacent to scenic roadways, or located between the road and shoreline, shall be regulated as follows:*

*a) Where a significant elevation difference (e.g., 35 feet) exists between the shoreline and the first parallel road, as in the case of Hedionda Point and Snug Harbor, no portion of a structure in the intervening area shall be permitted to exceed the elevation of the roadway.*

*[...]*

*d) Any development proposed to be located on or near a significant landform (e.g., Hedionda Point) shall be designed so as to minimize disturbance of natural landforms, and shall be developed in a manner that assures its compatibility and harmony with the natural landform through use of such architectural techniques as terraced or pole foundations and variation of roof lines to complement the topography.*

Policy 3.12 of the City of Carlsbad Agua Hedionda Land Use Plan states in relevant part:

*Landscaping shall be utilized as a visual buffer and be compatible with the surrounding native vegetation and preserved open space. All development shall be required to identify and implement a landscaping plan that provides for installation of plant species that are native or non-invasive and drought tolerant to the maximum extent feasible. Ornamental (non-invasive) vegetation shall be permitted within the interior of residential subdivisions only.*

In response to Section 30251 of the Coastal Act, one of the issues addressed in the certified Agua Hedionda LUP is the preservation of views from Adams Street. Adams Street is a designated scenic corridor which runs along the north shore of the lagoon. The policies of the LUP require that development of lots which lie between Adams Street and Agua Hedionda Lagoon be designed to preserve the views from Adams Street. The policies require that all structures be sited below the elevation of Adams Street to allow passers-by to see over the structure to the lagoon and surrounding areas ([Exhibit 6](#)).

The elevation of the centerline of Adams Street ranges from approximately 62 feet above mean sea level (MSL) at the corner of Hoover and Adams Streets to 75 feet above MSL moving east along Adams Street adjacent to the project site. Elevations across Parcel A range from approximately 67 feet above MSL along the eastern property line against Adams Street, to approximately 61 feet above MSL at the southwest corner of the property. On Parcel B, elevations range from approximately 70 feet above MSL along Adams Street to approximately 25 feet above MSL at the southwest corner of the parcel.

The roofline of the proposed single family residence on Parcel A varies in elevation from 63 to 66 feet, below the elevation of the centerline of Adams Street at its closest point to the respective portions of the structure. Thus, the project will not block any existing public views of the lagoon from Adams Street. However, approximately 5,200 cu. yds. of grading will be required in order to site the home below the elevation of Adams Street.

Section 30251 of the Coastal Act and Agua Hedionda LUP Policy 8.3(d) call for development to minimize disturbance of natural landforms. In this case, although site preparation will require a substantial amount of grading because the elevation of much of the existing lot is currently at or not far below street elevation, construction of any structure on the lot would require a fair amount of grading. Construction of a one-story rather than a two-story home would reduce the amount of grading necessary, but the final appearance of the structure from surrounding public vantage points, such as the lagoon and northbound Interstate 5, would not be substantially different; in either case, the view of an existing vacant hillside will be replaced by a view of a house. Reducing the proposed house size or height would not reduce visual impacts. Therefore, since the amount of landform alteration will not affect the resulting visual impact of placing a home on this vacant hillside, and the proposed project, as conditioned, will ensure that views of the lagoon from Adams Street over the site will continue to be available, the project will be consistent with Policy 8.3 of the Agua Hedionda LUP.

However, the significant visual impact of the residence on the existing vacant hillside from public vantage points including the lagoon and northbound Interstate 5 ([Exhibit 6](#)) must be mitigated. The Commission has routinely required the use of trees to screen residential development located between Adams Street and the north shore of Agua Hedionda Lagoon while preserving views from the homes (ref. CDPs 6-98-14/Huber, 6-00-080/Gallagher, 6-04-59/Anastasi Development Company, and 6-04-161/Steward). Although the lots located between Parcel A and the lagoon shoreline will be developed with single-family residences in the future which will further obscure views of the proposed residence, the Commission finds special emphasis shall be placed on the use of trees to mitigate the visual impact of the proposed structure as seen from the lagoon and Interstate 5. **Special Condition 3** requires a revised landscape plan that shall indicate the placement of at least one non-invasive specimen size tree (24-inch box minimum) for every 20 feet of structure along the south-facing portion of the lot and arranged to maximize screening of the structure from views from Agua Hedionda Lagoon and Interstate 5. A minimum of 5 trees shall be provided lagoonward of the building pad for the proposed residence. The required trees shall be planted within 60 days of completion of residential construction and be maintained in good growing condition for the life of the

residence. The plan shall also provide for the use of species that do not reach sufficient height to block public views from Adams Street. Maintenance requirements to assure no blockage of public views must be incorporated into the approved plan. The applicant has suggested the use of palms to screen the home. Based on the project's location adjacent to an environmentally sensitive area, Agua Hedionda Lagoon and coastal sage scrub habitat, native trees are preferable in this location to maintain habitat and scenic values in this area. However, because the trees must be maintained at a height that will not block public views from Adams Street, while screening the development from the lagoon and Interstate 5, the use of native trees may not be feasible in this location. Therefore, **Special Condition 3** requires submittal of a revised landscape plan, using non-invasive trees. As the trees cannot be invasive species, the use of a small number of non-native plant species in this location site is not expected to have any adverse impact on the sensitive resources of the area.

Finally, because the structure cannot be fully screened through the use of vegetation without adversely impacting views of the lagoon from the home itself, **Special Condition 7** requires that use of a color palette for the structures that is consistent with the surrounding natural hillside. As conditioned, the Commission finds the project consistent with Section 30251 of the Coastal Act and the applicable policies of the Agua Hedionda LUP regarding scenic preservation.

#### **E. 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 Agua Hedionda LUP has been certified by the Commission, but no implementing ordinances have been submitted by the City for plan segment. Thus, the standard of review for this application is the Chapter 3 policies of the Coastal Act. As conditioned, the project is consistent with all applicable Chapter 3 policies of the Coastal Act and with the habitat protection, scenic preservation, and water quality policies of the certified Agua Hedionda Land Use Plan, and will not prejudice the ability of the local government to prepare a fully certifiable Local Coastal Program.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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 City of Carlsbad found that

this project is categorically exempt from the requirements of CEQA under Section 15303(a) [construction of a single family residence].

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 native landscaping, habitat buffers areas, screening of the development, and water quality protection 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 can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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## APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Certified Agua Hedionda Land Use Plan