

## CALIFORNIA COASTAL COMMISSION

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# Wed 13a

## Addendum

July 2, 2003

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item 13a**, Coastal Commission Permit Application  
**#6-02-173 (San Diego Carmel Valley Road Improvements)**, for the  
Commission Meeting of July 9, 2003

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Because of the adjacency of wetlands to Carmel Valley Road in the Portofino Drive area, the City has identified that the only way to totally avoid wetlands would be through a combination of approaches, that would likely include vehicular lane narrowing, pedestrian path narrowing, and construction of some short retaining walls. Since the construction of any retaining wall in this area will result in some temporary wetland impacts, a special condition addressing mitigation of temporary impacts would also be needed. Therefore, staff recommends the following changes be made to the above-referenced staff report (new language is underlined; deleted language is ~~struck out~~):

**1. On Page 2 of the staff report Special Condition #1 shall be modified as follows:**

1. Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a complete set of final revised plans for all improvements, that are in substantial conformance with the plans titled *Carmel Valley Road Improvements*, dated May 5, 2003 and received in the San Diego Coastal Commission office on May 19, 2003, except that they shall be revised as follows:

a. All permanent wetland impacts associated with the project, ~~both permanent and temporary~~, including those shown on the plans dated May 5, 2003 shall be eliminated. Said elimination shall occur through modifications to the project that may include elimination of proposed on-street parking, reduction in road width, realignment of the roadway, relocation of the northern right-of-way (ROW) boundary (i.e., acquisition of additional ROW), reduction or elimination of specific project components such as sidewalks.

b. To eliminate the wetland impacts near Portofino Drive, another potential solution is construction of small, low profile retaining walls. If this option is chosen, the wall(s) must be designed consistent with the following:

1. The top of any wall(s), including any required railing, shall not be higher than adjacent Carmel Valley Road.

2. The wall(s) shall be of earthen tones to match the adjacent natural areas.

3. To the extent possible without impacting wetlands, the lagoon side of the wall(s) shall be planted with native, non-invasive species appropriate for the elevation.

The permittee shall undertake development in accordance with the approved final, revised plans. Any proposed changes to the approved final, revised plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**2. On Page 4, Special Condition #3 of the above referenced staff report shall be modified as follows:**

3. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule shall specify that:

- a. Construction activities involving closure of any travel lanes of Carmel Valley Road, shall not occur between Memorial Day weekend and Labor Day of any year;
- b. Construction activities shall not occur on weekends or holidays, year round;
- c. The construction schedule shall implement all breeding season restrictions required by other regulatory permits; and
- d. Construction activities shall only occur during daylight hours.

The permittee shall undertake development in accordance with the approved construction schedule. Any proposed changes to the approved construction schedule shall be reported to the Executive Director. No changes to the schedule shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**3. Special Condition #7 shall be added at the top of Page 6 of the referenced staff report, as follows:**

7. Temporary (Construction) Wetland Impacts/Restoration and Monitoring. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a detailed revegetation plan indicating the type, size, extent and location of all plant materials, any proposed irrigation system and other landscape features to revegetate all proposed temporary wetland impacts. The program shall be developed in consultation with the California Department of Fish & Game and at a minimum shall include:

- a. Before/After Survey. The condition of the wetland vegetation and substrate in the Portofino Drive area shall be documented prior to the construction of any authorized retaining wall. The extent of impacts to the vegetation and substrate shall be assessed and documented after completion of the construction. Temporary wetland impacts shall be revegetated at a 1:1 ratio. No permanent wetland impacts are authorized herein. If the post-construction survey identifies that any permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts.
- b. The following goals, objectives, and performance standards shall be implemented for the restoration site(s):
  1. Full restoration of all wetland impacts that are identified as temporary. Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact elevations, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species.
  2. Success criteria and final performance monitoring shall provide at least a 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities.
  3. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards.
  4. Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the restoration sites have been established in accordance with the approved design and construction methods.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final 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.

To support these new and changed special conditions, and to clarify the Commission's position on ESHA, several aspects of the findings should be modified:

**4. The paragraph beginning at the bottom of Page 10, and continuing onto Page 11 of the above referenced staff report, shall be revised as follows:**

Under the Coastal Act, there is no such thing as a "less than significant" wetland impact. In view of the tremendous wetland losses suffered throughout the past century, especially to coastal wetlands in California, all wetland impacts are considered significant and are thus limited to the above-identified eight uses. The Commission finds, however, that modified B-2 (the proposed project) can be revised in a variety of ways to eliminate all wetland impacts, including through removal of some parking spaces, reduction of road width, reduction or elimination of bike lanes and/or pedestrian amenities, etc. The City has also identified that a small retaining wall, or walls, in combination with other features, could eliminate permanent wetland impacts in the Portofino Drive area; some temporary wetland impacts would occur. Moreover, as a choice in alternatives, modified B-2 includes far more beneficial project features than either A or B-1. Again, Alternative A is the only alternative with no impacts at all, but consists of little more than simple road repairs.

**5. On Page 11 of the above referenced staff report, the second full paragraph shall be modified as follows:**

As proposed, however, these drainage facilities will have permanent and temporary (construction) impacts on coastal sage scrub and non-native grasslands. These vegetation communities generally provide habitat for endangered species and foraging area for raptors. The project biological report, however, indicates that although these communities are present within the project footprint, they have undergone ~~some~~ significant disturbance due to their proximity to Carmel Valley Road and due to human and domestic animal intrusion from nearby homes and businesses. ~~For these reasons~~ Due to the degraded nature of the coastal sage scrub, the fact that it occurs in an extremely narrow band along a busy road that has isolated and fragmented the habitat, and the lack of rare species, these off road areas containing some native vegetation ~~do not function as habitat for sensitive and listed species, and~~ are thus not appropriately identified as Environmentally Sensitive Habitat Areas (ESHA). They ~~do~~ are, however, ~~connect~~ adjacent to more intact wetland habitat systems that do qualify as ESHA and support listed species. The Commission's staff ecologist concurs with this characterization of the nature and value of existing resources.

**6. On Page 12 of the above referenced staff report, the first, second and third paragraphs shall be modified as follows:**

To address all identified concerns, the Commission finds it necessary to attach a number of special conditions. All ~~six~~ seven special conditions address the

protection of biological resources, although some also address other issues. Special Condition #1 requires that the project be redesigned to completely eliminate all permanent wetland impacts. Although a number of ways to achieve this are suggested, the City can ultimately decide what revisions to make to eliminate all wetland impacts. As one example, the City has identified that four of the seven areas of proposed wetland impact could be avoided by the simple elimination of seven proposed parking spaces. As important as public parking is to the Commission, it is not an allowed use in wetlands. Moreover, eliminating seven proposed parking spaces will not significantly reduce the public parking reservoir in this area.

Special Condition #2 addresses the proposed mitigation and monitoring program for upland impacts. The on-site mitigation activities require a CDP from the Commission, and have the potential to impact adjacent ESHA if not done according to an approved plan. A draft plan is included with the EIR for the project, as proposed. This includes mitigation for permanent wetland impacts, which are not allowed pursuant to Special Condition #1. Therefore, the second condition requires submittal of a final, revised mitigation and monitoring plan consistent with the approved permit. Special Condition #3 limits the time of construction to protect the breeding seasons of sensitive nearby birds from noise and dust impacts. Special Condition #4 stipulates where staging areas and construction corridors may be located, and Special Condition #5 provides for the staking of sensitive native vegetation areas outside the project footprint and before and after vegetation surveys. ~~Finally~~, Special Condition #6 requires copies of all permits issued by other permitting agencies, and advises that project changes required by any of those agencies may result in the need to process an amendment to this permit.

Finally, Special Condition #7 addresses mitigation and monitoring for any unavoidable temporary impacts to wetland resources. Such temporary impacts may occur in conjunction with actual construction of any walls, because wetland vegetation extends very close to the existing paved road. It is anticipated that any temporary impacts would be minimal in nature and would result from the presence of workers, and possibly equipment, within the wetland itself to construct the lagoon-facing side of any walls. All precautions will be taken to assure that even temporary impacts are minimized to the maximum extent feasible. Historically, the Commission has required mitigation measures to assure there is no net loss in acreage or habitat value for any displaced wetlands based on the type of habitat being impacted, the relative permanence of impacts, and the quality of the habitat affected. Special Condition #7 requires the applicant to revegetate any temporary wetland impacts which may occur. A "Before/After" survey is required to document the condition of the wetland vegetation prior to, and after completion of, the construction activities. The extent of impacts to the vegetation and substrate will be assessed and documented after completion of the repairs. If wetland plants are flattened but remain unbroken and the roots and rootstock remain intact, then plants are expected to recover. In that case, the condition is required to protect biological productivity of wetlands pursuant to 30231. If plants are killed by crushing and/or are uprooted, then revegetation is required at a 1:1 ratio. Such

temporary impact or filling of wetlands is allowable as an incidental public purpose pursuant to Section 30233. The impact is incidental to road/bike/pedestrian improvements, it's temporary, it's the least environmentally damaging alternative, and it's being mitigated through restoration. However, if the post construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required in order to establish appropriate mitigation.

In summary, the project is proposed to enhance both biological resources and public access opportunities. Access improvements that offer non-automotive transportation opportunities can benefit both air and water quality as well, although, with the current southern California lifestyle, reducing dependence on the automobile will not be achieved easily. The proposed drainage improvements will directly benefit biological resources supporting sensitive lagoon species, but will also improve public recreation opportunities through providing cleaner water. However, the proposed improvements will result in direct impacts to wetlands, which is inconsistent with Section 30233 of the Coastal Act as well as with policies in the certified LUP. Special conditions eliminate all permanent wetland impacts, and the applicant is proposing mitigation at appropriate ratios and in suitable locations for temporary wetland and permanent upland impacts. Other special conditions adequately address other aspects of resource protection. Therefore, as conditioned, the Commission finds the proposed development consistent with the cited resource protection policies of the Coastal Act, and also with the certified LUP.

**7. On Page 19 of the above referenced staff report, the first paragraph shall be modified as follows:**

The proposed improvements are all at, or below, existing grade, so the visual impact of project components will be minimal. Retaining walls proposed in earlier iterations of the project alternatives are no longer ~~required~~ proposed due to project refinements, eliminating ~~completely~~ what had been considered the greatest potential visual impact. However, a small retaining wall(s) may be necessary in the Portofino area in order to design a project that eliminates all permanent wetland impacts. Any such wall(s) would be visible from certain areas within the lagoon, and would potentially be visible, though at considerable distance, from North Torrey Pines Road, which is located south and west of the lagoon. Special Condition #1 establishes specific requirements for any such wall to assure minimal visibility. It requires that no improvements can exceed the grade of adjacent Carmel Valley Road, any wall must be colored in earth tones comparable with surrounding natural areas, and screening vegetation must be used to the degree possible without wetland impacts. These parameters will assure that any potential visual impacts are minimal. With the inclusion of seasonal construction constraints, unsightly construction equipment and materials will not degrade visual resources during the summer beach season. The Commission finds the proposal, as conditioned, fully consistent with Section 30251 of the Act.