

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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 SAN DIEGO, CA 92108-4402
 (619) 767-2370

**W 20a****2nd Addendum**

September 8, 2015

[Click here to go to
1st Addendum](#)

To: Commissioners and Interested Persons

[Click here to go to
original staff report](#)

From: California Coastal Commission
 San Diego Staff

Subject: 2nd Addendum to **Item W 20a**, Coastal Commission Permit Application
#6-15-0742 (City of Del Mar), for the Commission Meeting of September
 9, 2015.

The purpose of this addendum is to address a letter of opposition received by the Commission on September 4, 2015. The letter of opposition has previously been attached to the Addendum posted on September 4th. Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by a ~~strikethrough~~ and additions shall be underlined.

1. On Page 9 of the staff report, the following corrections shall be made to the last paragraph of the Project Description:

The subject site consists of 15 separate parcels including three privately owned parcels (299-100-34, 299-072-55, 299-100-35), five parcels owned by the City (299-100-37, 299-100-38, 299-100-39, 299-072-25, 299-072-22), four parcels owned by the San Dieguito River Valley Conservancy (299-072-53, 299-072-54, 299-072-56, 299-072-57) one parcel owned by the San Dieguito Joint Powers Authority (299-071-05), one parcel owned by North County Transit District (299-100-33), and one parcel owned by the Southern California Edison, a private entity (299-100-36). Two vacant privately-owned parcels identified as APNs 299-072-~~2055~~ and 299-072-~~2156~~ are not a part of the proposed project (ref. Exhibit #~~4X~~). All property owners have consented to be represented collectively by the City of Del Mar for the subject development proposal.

2. On Page 16 of the staff report, the following findings shall be added after the fourth paragraph on Section D – Public Access and Recreation – as follows:

On September 4, 2015, an interested party (owner of parcels 299-072-20 and 299-072-21) submitted a letter in response to the staff report. The following findings are in response to the assertions included in said letter. Each assertion is numbered and the response follows directly after.

1. *This letter is submitted on behalf of Dr. Philip J. Wyatt and the Debra Wyatt Living Trust (Wyatts), owners of two privately-owned parcels completely encircled by the proposed Del Mar River Path Extension Project.*

As shown on Exhibit 4, the Wyatt parcels are not “encircled” by the project. The parcels are bordered by the marsh (generally north), city property (west), private property (east), and the San Dieguito Drive (south). Only one part of the trail roughly aligns with Wyatts’ southern boundary.

2. *The proposed Project deprives the Wyatts of all use of their property in violation of the Coastal Act and constitutional requirements.*

While the Commission has an obligation to evaluate a potential takings claim under Public Resources Code section 30010, the Commission is not imposing mitigation or otherwise acting in a manner that takes anything from the Wyatts or conditions the use of their properties.

However, for the sake of argument, the trail does not physically intrude onto the Wyatts’ property. Because this is not a physical taking of the property, actions could be evaluated only under the standards for a regulatory taking.¹ Briefly, a regulatory

¹ The U.S. Supreme Court has identified two types of regulatory takings. The first is the “categorical” formulation identified in *Lucas v. South Carolina Coastal Council*. ((1992) 505 U.S. 1003, 1014.) In *Lucas*, the Court held, without examining the related public interest, that regulation that denied *all* economically viable use of property was a taking. (*Id.* at p. 1014.) The *Lucas* Court emphasized, however, that this category is extremely narrow, applicable only “in the extraordinary circumstance when *no* productive or economically beneficial use of land is permitted” or the “relatively rare situations where the government has deprived a landowner of all economically beneficial uses” or rendered it “valueless.” (*Id.* at pp. 1016-1017 (emphasis in original); see also *Riverside Bayview Homes* (1985) 474 U.S. 121, 126 [regulatory takings occur only under “extreme circumstances”].) The second circumstance in which a regulatory taking might occur is under the three-part, *ad hoc* test identified in *Penn Central Transportation Co. v. New York*. ((1978) 438 U.S. 104, 124 (“*Penn Central*”)) Here, if a government action will not deny all economically viable use, this test requires an examination into the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations. (*Id.* at p. 134; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005.) In 2001, the Court reinforced that the *Lucas* categorical test and the three-part *Penn Central* test were the two basic situations in which a regulatory taking might be found. (*Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 616 [rejecting *Lucas* categorical test where property retained value following regulation, but remanding for further consideration under the *Penn Central* test.])

taking either amounts to a complete deprivation of economic use, such as a government action that renders the property valueless (*Lucas v. South Carolina Coastal Council*. ((1992) 505 U.S. 1003, 1014), or a severe economic impact, such that it unreasonably interfered with the investment-backed expectations of the landowner, the key part of a three-part test (see *Penn Central Transportation Co. v. New York*. ((1978) 438 U.S. 104, 124). Formalizing a trail near the southern border of the Wyatts' property does not wipe out the use of the property. Neither does it impose a severe economic impact. *If there is a loss in value – and a more constructed trail could easily increase the value of the parcel by discouraging informal use—a mere loss cannot constitute a taking. (See *William C. Haas & Co., Inc. v. City and County of San Francisco* (9th Cir. 1979) 605 F.2d 1117 (diminution of property's value by 95% not a taking)]; *Rith Energy v. United States* (Fed.Cir. 2001) 270 F.3d 1347 [in applying *Penn Central*, holding that diminution of property's value by 91% not a taking])*. The Wyatts have owned the properties for 50 years and have not developed them in that time. Although their purchase price and other economic expectations are not offered in this letter, by the length of time involved their expectations have either been met or are very low.²

3. *In addition to surrounding their property on 4 sides with public recreational uses, the Project is designed to encourage path users to treat the Wyatts' property as though it is owned by the public.*

This assertion is contrary to the purposes and effects of the project, which aims to formalize and specifically delineate a popular trail. City of Del Mar senior planner Joseph Smith has confirmed that people walk across the Wyatt properties now, reinforcing informal trails. Over time, the public may have established prescriptive uses. Regardless, the Wyatts have not done anything to discourage this use. The proposed project will employ natural features, such as boulders, to discourage walking onto the Wyatt properties.

Furthermore, the Wyatts' own use will not change following the project's completion. The Wyatts would be free to, for example, put in a driveway that crosses the trail, and the City would adjust the trail accordingly.

4. *The Wyatts have owned their lagoon-front property for more than 50 years. They attempted to work with the City to protect their property rights during Project design. Recognizing the City's legitimate interest in acquiring the entirety of the property required for the Project, the Wyatts offered to sell or exchange their property. They offered to accept transferrable development rights, provided the City could identify receiver sites in accordance with the San Dieguito Community Plan. The City's only response was to propose that*

² A commercial calculator estimates that U.S. inflation rose 655% percent between 1965 and 2015, (http://inflationdata.com/Inflation/Inflation_Calculators/Cumulative_Inflation_Calculator.aspx) with California's CPI index calculator estimating that what cost a dollar in 1965 costs more than 9 dollars now (<https://www.dir.ca.gov/OPRI/capriceindex.htm>).

the Wyatts donate their property to the Project, arguing that it has no economic value in light of City and Coastal Commission regulations.

Senior Planner Joseph Smith notes the City reached out to the Wyatts throughout the planning process, but did not get a response until the first hearing on the project. The Wyatts suggested selling the parcels to the City at a price that was infeasible for the City to purchase. Currently, no exchange programs exist. While the City acknowledged to the Wyatts that the parcels are zoned “Floodway” and generally lie close to environmentally-sensitive areas, the City did not tell the Wyatts that the parcels lacked all economic value.

- 5. The Staff Report to the Commission does not adequately describe the Project. It gives the wrong parcel numbers for the Wyatt’s property, thereby locating its location closer to the Old Grant Avenue Bridge.*

The correct parcel numbers were added in an addendum to the staff report.

- 6. [The Staff Report] does not describe the width of the trail, although this is obviously an important Project characteristic.*

Generally the trail is 5 feet wide, and will have at the minimum a 5-foot buffer to the Wyatts’ southern boundary.

- 7. One of the parking spaces is proposed to be ADA accessible, but there is no information about the accessibility of the decomposed granite trail. The Project graphics are inconsistent, both including and excluding the Wyatts’ property for different purposes. (Compare Exhibits Nos. 3, 4 and 6.)*

The City of Del Mar has confirmed that the trail has been designed to be ADA compliant. The various exhibits attached to this staff report have different purposes, thus some include “not a part” in the exhibit for the Wyatt properties and some do not. However, in no case is development proposed within the Wyatt’s property.

- 8. In addition to the issues raised to the City in the attached letter, the Wyatts have the following objections to the proposed River Path Extension Project.*

The City’s response to these objections is attached to this addendum.

- 9. The Project must be redesigned to respect wetland buffer requirements in the City’s Land Use Plan and Commission policies. The Project calls for construction of two parallel trails, one along San Dieguito Road and the other within 5 feet of wetlands adjacent to the Lagoon. The Commission Staff Report states the Project will merely replace “numerous” informal and unimproved trails on the property. However, aerials of the property, including Exhibits Nos. 1 and 2, do not show multiple trails across the property. They show that the majority of the property is not used for passage, with public use only in very limited areas. The Project will expand this use throughout the site.*

As described above, one of the most important functions of the project is to discourage random and informal crossings by delineating a formal trail. With the use of boulders and perhaps other natural features, the project will discourage crossing onto the Wyatts' property.

10. The portion of the Project adjacent to the Lagoon appears to be prohibited by the City's Land Use Plan and Commission policies. The Commission Staff Report states that the trail will be located as close as 5 feet to the Lagoon, with an average setback of only 10 feet. The Commission typically interprets the City's Land Use Plan and Sections 30240 and 30231 of the Coastal Act to prohibit public trails closer than 50 feet from the edge of wetlands. (Staff Report, p. 2). The Staff Report recommends reducing the mandatory setback from coastal wetlands from 50 to 5 feet, without discussing whether the Commission has authority to grant a 90 percent variance from buffer requirements. (Staff Report, p. 15). In this case, the Project proposes a parallel trail located outside the wetland setback on the same property. The Commission will be setting a precedent that trails and picnic tables may be permitted within 5 feet of wetlands upon a finding that a larger setback is not required to protect coastal resources.

The specifics of the project are unique. As noted on p. 10 of this staff report, private individuals, businesses, other agencies, and the San Dieguito River Valley Conservancy are dedicating fifteen easements to make this trail possible. The Wyatts have refused to grant an easement and the City is respecting that request. The combined set of easements and flexibility regarding sea level rise (discussed below) means the site is unusually constrained. Due to the constraints, the project's wetlands buffers are as wide as feasible. They nevertheless meet the standard of review (see pp. 10-15 of this staff report), and fulfill the vital policy of securing access to a coastal resource. The City notes as well that the Lagoon Overlay zone allows the City to improve existing informal trails, including trails close to the lagoon.

11. The Commission Staff Report does not address sea level rise which, according to Commission policies, is likely to affect the Lagoon-side portion of the trail. Consistent with the Commission's actions on other permits, the CDP should clarify the obligations and options of the applicant in the event that sea level rise adversely affects continued use and maintenance of the trail.

As noted in this staff report, the trail has been designed with sea level rise in mind. If necessary, the trail can be moved to an alternate route. The project also relocates Coastal Sage Scrub conservation easements away from the lagoon and closer to near San Dieguito Drive to accommodate future sea level rise. The City considered these aspects from the beginning of the project.

12. There are feasible alternatives or mitigation measures that would avoid the need to reduce wetland setbacks, especially where the Project proposes to construct two parallel trails on each side of the same property, one that

requires a 90 percent variance and the other requiring no variance from applicable standards.

As described above, the project meets Coastal Act policies. Given the constraints on the site, there are no feasible alternatives. In addition, the alignment of the trail was designed to follow and formalize existing trails. While the construction of a formalized trail further inland may provide a greater wetland buffer, such a trail would result in the public's continued usage in the informal trail located directly adjacent to wetlands, in addition to the proposed trail. In contrast, the proposed project will decrease the use of informal trail and thus will improve the protection of the wetland buffer. Finally, the City's CEQA document concluded impacts to wetlands would be mitigated to be less than significant.

13. The Project also violates Section 30210 of the Coastal Act, which requires access to be provided and posted "consistent with the need to protect public rights and rights of private property owners." The design of the Project invites path users to cut across the Wyatt's property rather than return to the path located along San Dieguito Drive, especially since their property is flanked by picnic tables on either side.

The Wyatts' takings concerns and trespassing concerns are addressed above. However, as can be seen by Exhibit #4, the Wyatt properties are not "flanked" by the proposed picnic tables. The picnic tables will not be in the adjacent parcels. One will be in the third parcel to the west (299-072-53), and the other in the third parcel to the right (299-072-57); both parcels are owned by the Conservancy.

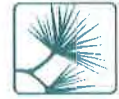
14. At a minimum, the Project must be conditioned to include a fence and signage delineating the boundary of the Wyatts' property, and ensuring them, continued legal access to San Dieguito Road across the trail. The Wyatts remain willing to work with the City and Coastal Commission to implement the City's Land Use Plan and San Dieguito Community Plan in a reasonable and fair manner.

Although the project will use cable post fencing along some parts of the trail (to encourage safety), the City's preference is not to add fencing. Fencing might interfere with the Wyatts' own access to San Dieguito Drive. Fencing often impacts views as well, potentially violating Coastal Act policies regarding visual resources. All signage must conform to visual resources policies.

3. The attached the City's response letter dated May 13, 2015 shall be added as Exhibit #10 to the staff report.



City of Del Mar



TO: Members of the Planning Commission

FROM: Joseph Smith, AICP, Senior Planner

DATE: May 13, 2015

RE: Item 5 – CUP15-005 for the River Path Del Mar Extension Project
Information in Response to Red Dot Correspondence Submitted by D. Rosenthal

.....

You are in receipt of red-dot correspondence dated May 13, 2015 from Deborah Rosenthal, on behalf of Philip Wyatt and the Wyatt Living Trust, regarding the River Path Del Mar Extension Project (CUP15-005 and EA15-001).

After review of the correspondence and claims made within, no significant impacts have been identified to the Wyatt parcels (APNs 299-072-20 and -021) as a result of the proposed trail extension project. Further, the proposed trail extension does not prohibit the use of the Wyatt parcels in any way and access to the Wyatt parcels will continue to be available from San Dieguito Drive. The Wyatt parcels are not a part of the proposed project design. The proposed trail is proposed on parcels owned by the City of Del Mar, the San Dieguito River Valley Conservancy, the San Dieguito River Park Joint-Powers Authority, North County Transit District, Southern California Edison, Scarab Corporation, McHugh Trust, and Armstrong-McHugh Corporation. The trail is also aligned within the San Dieguito Drive public right-of-way.

As identified on the project plans, no segments of the proposed trail extension, including any associated amenity, fencing, vegetation clearance, grading, or coastal sage scrub mitigation is proposed on the Wyatt parcels. The proposed trail includes a secondary alignment along San Dieguito Drive. The secondary alignment is located entirely within the San Dieguito Drive public right-of-way and does not cross onto the Wyatt parcels. The boundaries of the Wyatt parcels were first delineated on a site survey dated December 1, 2014 and have been represented both visually and by text on the project plans and applicable figures of the project Mitigated Negative Declaration (e.g., Figure 2-4). The project plan and accompanying CEQA figures include plan notes on the Wyatt parcels that state “Wyatt” and the associated Assessor Parcel Number.

Including the December 3, 2014 public workshop on the project, the Wyatts have been included on all mailed notices regarding project processing, CEQA review and opportunities to participate in the project design. To date, staff has conducted over 25 stakeholder outreach efforts, which includes a telephone call early in the process to Ms. Rosenthal on December 2, 2014 to discuss the proposed project.

Respectfully submitted,

Joseph Smith, AICP
Senior Planner

EXHIBIT NO. 10
APPLICATION NO. 6-15-0742
City's response to opposition dated 5/13/15
California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



W 20a

Addendum

[Click here to go to original staff report](#)

September 4, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item W 20a**, Coastal Commission Permit Application #6-15-0742 (City of Del Mar), for the Commission Meeting of September 9, 2015.

The purpose of this addendum is to attach to letters of support and opposition as exhibits to the staff report.

D. Dwight Worden
1801 Seaview Avenue
Del Mar, CA. 92014

September 2, 2015

California Coastal Commission
San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, Ca 92108-4421
Attn: Tony Ross

Re: Agenda Item 20(a) September 2015 Agenda: Application No. 6-15-0742 (Del Mar San Dieguito Lagoon Western Trail)

Dear Commissioners:

I write in strong support of the above-referenced application. As a member of the Del Mar City Council and as a council liaison to our Del Mar Lagoon committee, I have actively followed the development of this important public project.

We have a beautifully restored San Dieguito wetlands adjoining the project site. The 22nd District Agricultural Association (Del Mar Fairgrounds) is well underway with its wetlands restoration work in its south parking lot just across the river from the proposed trail location. The San Dieguito River Park JPA and the San Dieguito River Valley Conservancy are actively supporting and participating in the trail project as are the City of Del Mar and our 3rd District County Supervisor Dave Roberts.

The City of Del Mar and the River Valley Conservancy own the majority of the lots the trail will traverse, and the other owners are voluntarily cooperating in the project. There is one property owner who has chosen not to participate, so their property will not be touched. The City of Del Mar, under a recent Commission-issued coastal permit, has installed an improved parking area to service users of the proposed trail. The Coast to Crest Trail will soon be in place, running from the coast to Volcan Mountain (important sections are already in place) and it will intersect with the proposed trail covered by this project.

Things are coming together nicely and this new trail, with its great views and places to stop and sit and enjoy the restored wetlands, will be a great addition to the area and to the

Letters of
Support

region. This project is a stellar example of public and private entities working together to benefit the environment and to enhance public enjoyment of our unique wetland resources.

I have reviewed the special conditions recommended by your staff and find them reasonable. There is the hope amongst some, including me, that at some point in the future funding might become available to restore some of the area that the trail will traverse into actual wetlands to join the abutting restored San Dieguito wetlands. Currently, most of this area is disturbed unnatural uplands comprised of old fill.

As I read the proposed special conditions, such future wetland restoration will not be precluded and is compatible with the final mitigation and monitoring plan required by special condition No. 1 and the conservation easements called for by special condition No. 2. Under the special conditions (No. 7) any such future wetlands restoration will require review by your staff, and depending on what is proposed, may require a permit amendment. All of this strikes me as a reasonable way to preserve the future option for further wetlands restoration.

I hope you will vote to approve the project.

Sincerely,

D. Dwight Worden

C: City of Del Mar

SAN DIEGUITO
RIVER VALLEY



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EXECUTIVE DIRECTOR

Trish Boaz



October 22, 2014

California Coastal Commission
San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, Ca 92108-4421

Attn: Tony Ross

Re: Agenda Item 20(a) September 2015 Agenda: Application No. 6-15-0742 (Del Mar San Dieguito Lagoon Western Trail)

Dear Commissioners:

The San Dieguito River Valley Conservancy (Conservancy) is pleased to support the above-referenced application for the River Path Del Mar and your staff's recommendation for approval. We are spearheading the effort in partnership with the City of Del Mar to build the River Path Del Mar for residents and visitors to learn about the San Dieguito Lagoon (a State Marine Conservation Area) and the San Dieguito River Park.

The design includes a looped trail system with scenic overlooks with viewing platforms to provide visitors beautiful views of the San Dieguito River and Lagoon. Picnic tables and interpretive facilities will complement the outdoor experience and inform people about the importance of being good stewards of our natural resources.

The River Path project also includes removal of invasive species and planting of coastal sage scrub and other native vegetation. This will greatly enhance the health of the surrounding ecosystem.

Thank you for the opportunity to express our support for this project. We strongly urge you to approve this application. If you have any questions please contact Trish Boaz, Executive Director at 858-755-6956 or trish@sdrvc.org.

Sincerely,

Peter Shapiro
President



FITZGERALD·YAP·KREDITOR LLP

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George Vausher, LL.M. CPA‡

September 4, 2015

VIA EMAIL & FACSIMILE

Author's Email: drosenthal@fyklaw.com

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Facsimile: (619) 767-2384

Re: Agenda Item W20a/ CDP Number 6-15-0742
Del Mar River Path Extension Project
Philip & Debra Wyatt Living Trust Parcels 299-072-2000 & 299-072-2100

Dear Commissioners:

This letter is submitted on behalf of Dr. Philip J. Wyatt and the Debra Wyatt Living Trust (Wyatts), owners of two privately-owned parcels completely encircled by the proposed Del Mar River Path Extension Project. The proposed Project deprives the Wyatts of all use of their property in violation of the Coastal Act and constitutional requirements. In addition to surrounding their property on 4 sides with public recreational uses, the Project is designed to encourage path users to treat the Wyatts' property as though it is owned by the public.

The Wyatts have owned their lagoon-front property for more than 50 years. They attempted to work with the City to protect their property rights during Project design. Recognizing the City's legitimate interest in acquiring the entirety of the property required for the Project, the Wyatts offered to sell or exchange their property. They offered to accept transferrable development rights, provided the City could identify receiver sites in accordance with the San Dieguito Community Plan. The City's only response was to propose that the Wyatts donate their property to the Project, arguing that it has no economic value in light of City and Coastal Commission regulations.

The Staff Report to the Commission does not adequately describe the Project. It gives the wrong parcel numbers for the Wyatt's property, thereby locating its location closer to the Old

Letter of Opposition

16148 Sand Canyon Avenue · Irvine, CA 92618 | Tel: 949-788-8900 · Fax: 949-788-8980 · www.fyklaw.com

*Professional Corporation · †Of Counsel · ‡Certified Specialist in Estate Planning, Trust & Probate Law, State Bar of California Board of Legal Specialization

Grant Avenue Bridge. It does not describe the width of the trail, although this is obviously an important Project characteristic. One of the parking spaces is proposed to be ADA accessible, but there is no information about the accessibility of the decomposed granite trail. The Project graphics are inconsistent, both including and excluding the Wyatts' property for different purposes. (Compare Exhibits Nos. 3, 4 and 6.)

In addition to the issues raised to the City in the attached letter, the Wyatts have the following objections to the proposed River Path Extension Project.

1. The Project must be redesigned to respect wetland buffer requirements in the City's Land Use Plan and Commission policies. The Project calls for construction of two parallel trails, one along San Dieguito Road and the other within 5 feet of wetlands adjacent to the Lagoon. The Commission Staff Report states the Project will merely replace "numerous" informal and unimproved trails on the property. However, aerials of the property, including Exhibits Nos. 1 and 2, do not show multiple trails across the property. They show that the majority of the property is not used for passage, with public use only in very limited areas. The Project will expand this use throughout the site.
2. The portion of the Project adjacent to the Lagoon appears to be prohibited by the City's Land Use Plan and Commission policies. The Commission Staff Report states that the trail will be located as close as 5 feet to the Lagoon, with an average setback of only 10 feet. The Commission typically interprets the City's Land Use Plan and Sections 30240 and 30231 of the Coastal Act to prohibit public trails closer than 50 feet from the edge of wetlands. (Staff Report, p.2). The Staff Report recommends reducing the mandatory setback from coastal wetlands from 50 to 5 feet, without discussing whether the Commission has authority to grant a 90 percent variance from buffer requirements. (Staff Report, p. 15). In this case, the Project proposes a parallel trail located outside the wetland setback on the same property. The Commission will be setting a precedent that trails and picnic tables may be permitted within 5 feet of wetlands upon a finding that a larger setback is not required to protect coastal resources.
3. The Commission Staff Report does not address sea level rise which, according to Commission policies, is likely to affect the Lagoon-side portion of the trail. Consistent with the Commission's actions on other permits, the CDP should clarify the obligations and options of the applicant in the event that sea level rise adversely affects continued use and maintenance of the trail.
4. There are feasible alternatives or mitigation measures that would avoid the need to reduce wetland setbacks, especially where the Project proposes to construct two parallel trails on each side of the same property, one that requires a 90 percent variance and the other requiring no variance from applicable standards.

The Project also violates Section 30210 of the Coastal Act, which requires access to be provided and posted "consistent with the need to protect public rights and rights of private property owners." The design of the Project invites path users to cut across the Wyatt's property

Members of the Planning Commission
City of Del Mar
May 13, 2015
Page 3

and used by the Project. The City's failure to compensate the Wyatts, or even to acknowledge their property interest, is a violation of both the California and United States Constitutions and of the prohibitions against slander of title.

The Wyatts have always been willing to address the requirement for just compensation creatively, through a development rights transfer, property exchange or other payment mechanism. However, they have never been willing to see their property seized for public use without compensation. The proposed Trail Extension Project violates their interests and their rights as property owners.

Very truly yours,

A handwritten signature in cursive script that reads "Deborah M. Rosenthal". The signature is written in black ink and is positioned above the typed name.

Deborah M. Rosenthal, AICP

cc: Dr. Philip D. Wyatt

EXHIBIT 1

Author's Email: drosenthal@fyklaw.com

May 13, 2015

Michael J. FitzGerald*
Calvin C.S. Yap*
Liam L. Kreditor*
Eric P. Francisconi
Larry S. Zeman
Lynne Bolduc
Deborah M. Rosenthal
Ashley Bolduc
Andrew H. DeF
Edward J. Farrell
Natalie N. FitzGerald
David M. Lawrence
Alexandra Margariescu
Guido I. Pionti
George Nasser, LL.M., CPA†*

VIA EMAIL AND HAND DELIVERY

Members of the Planning Commission
City of Del Mar
Del Mar Communications Center
240 Tenth Street
Del Mar, California 92014

Re: Extension of River Path Del Mar Trail ("Trail Extension Project")
Conditional Use Permit 15-005/Environmental Assessment 15-001

Dear Chairman Bakker and Members of the Planning Commission:

This letter is written on behalf of Philip Wyatt and the Debra Wyatt Living Trust ("Wyatts"), which owns two of the parcels bordering the San Dieguito Lagoon within the boundaries of the proposed Trail Extension Project. Parcels 299-072-2000 and 299-072-2100 ("Wyatt Parcels") are both privately owned, with no public easements or ownership interests. Yet the Wyatt Parcels are located within the Project site on all of the exhibits, obviously included in the Project design and generally treated as though they are public property in all of the Project plans.

The Wyatts strongly object to approval of Conditional Use Permit 15-005 ("CUP") unless the Wyatt Parcels are purchased for public use, or the Trail Extension Project is completely redesigned to delineate the boundaries of their private ownership and to respect their access rights. As the Project is currently designed, the City asserts complete hegemony over the Wyatt Parcels and positively invites the public to use the Wyatts' private property as part of the Project. If the City wants to use the Wyatt Parcels as part of the Trail Extension Project, "it must pay for it." *Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 842.

Given the City's long-time treatment of this property, we must assume that the complete failure to consider or even acknowledge the Wyatts' private ownership is no accident. Shortly after the Wyatts purchased the property as a retirement investment, the City rezoned it from North Commercial to Floodway with no underlying zoning. The City insisted on this rezoning over the pointed objections of FEMA, which has consistently maintained the property is developable floodplain, not floodway. In other words, the property has never met the definition of Floodway under the City Zoning Ordinance, but the City has refused to rescind its downzoning in an effort to prevent development.

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In the San Dieguito Community Plan, the City offered to establish a program of voluntary compensation for the Floodway designation by transferring development rights from San Dieguito Road to commercial properties along Jimmy Durante Boulevard. Despite its recognition that compensation was due, the City never established a development rights transfer program and, to the best of our knowledge, it no longer has any receiver sites available. We note that Staff included a photocopy of the loop trail proposal from the Community Plan, but made no mention of the City's admission that compensation was due to San Dieguito Road owners in the same document.

After the downzoning, the City entered into an agreement with Caltrans for purchase and transfer of the San Dieguito parcels to the City, with minimal compensation to the Wyatts. When the Wyatts objected to loss of their retirement investment, Caltrans abandoned the agreement. Later, the City made several requests for the Wyatts to donate their property to the public, with no compensation. Most recently, the City proposed that the Wyatts donate an easement for the Trail Extension Project. When the Wyatts refused, after much discussion, the City redesigned the Project with a public loop around three sides of the privately-owned Wyatt Parcels, which are incorrectly shown as almost entirely covered by coastal brackish marsh.

Despite inclusion of the Wyatt Parcels in all of the Project exhibits, without distinction between public and private ownership, the City's draft findings for CUP 15-005 and Mitigated Negative Declaration (EA 15-001) state that only 15 parcels will be affected by the Project, omitting to list the Wyatt Parcels. Contrary to this assertion, the Project will dramatically affect the Wyatt Parcels by, among other impacts, cutting off access to San Dieguito Road, surrounding their private property with incompatible private uses and bringing large numbers of public users to the edge of their property.

Under these circumstances, the Planning Commission cannot make the findings necessary for approval of CUP 15-005. The Trail Extension Project will be injurious to the Wyatts' property, it is inconsistent with the compensation policies of the Community Plan and it is incompatible with private use of the Wyatt Parcels. The Planning Commission cannot certify the MND (EA 15-001) with a misleading description of the Project area and affected parcels. The Staff description of their outreach to property owners omits any reference to meetings with the Wyatts, or their objections to construction of the Trail Extension without addressing their concerns.

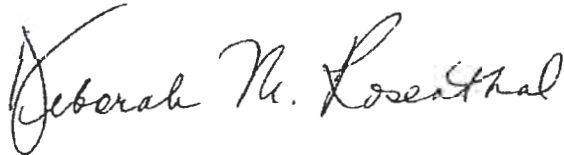
Section 19 of the California Constitution prohibits the taking or damaging of private property for a public use unless just compensation has first been paid to the landowner. Inverse condemnation occurs when a public agency commences a public use, like the Trail Extension, without paying for the property it needs. In this case, the documents prepared in support of the Trail Extension CUP and MND all demonstrate the Wyatt Parcels are both needed for the Project

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and used by the Project. The City's failure to compensate the Wyatts, or even to acknowledge their property interest, is a violation of both the California and United States Constitutions and of the prohibitions against slander of title.

The Wyatts have always been willing to address the requirement for just compensation creatively, through a development rights transfer, property exchange or other payment mechanism. However, they have never been willing to see their property seized for public use without compensation. The proposed Trail Extension Project violates their interests and their rights as property owners.

Very truly yours,

A handwritten signature in cursive script that reads "Deborah M. Rosenthal". The signature is written in black ink and is positioned above the typed name.

Deborah M. Rosenthal, AICP

cc: Dr. Philip D. Wyatt

EXHIBIT 2

AERIAL PHOTOGRAPH OF PROJECT SITE



CALIFORNIA COASTAL COMMISSION

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



W20a

Filed: 6/9/15
180th Day: 12/6/2015
Staff: T. Ross-SD
Staff Report: 7/28/15
Hearing Date: 9/9/15

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-15-0742

Applicant: City of Del Mar

Location: Along the southern shore of San Dieguito Lagoon northeast of San Dieguito Drive, southeast of Jimmy Durante Blvd, Del Mar, San Diego County. APNs 299-100-33 through -39, 299-072-53 through -57, 299-072-25, 299-072-22, 299-071-05.

Project Description: Construction of a 3,000-foot long decomposed granite pedestrian public access trail including public overlooks areas, interpretive panels, and picnic areas.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project includes construction of a public access trail along 15 lagoon fronting parcels directly adjacent to San Dieguito River/Lagoon. The trail will include two alignments; one following the lagoon edge, and one directly adjacent to San Dieguito Drive (ref. Exhibit Nos. 1, 2). There will be three connections between the two alignments. The construction of the trail will require minimal re-contouring and grading and will utilize existing informal access trails. The proposed trail will include two public overlook areas with benches, two picnic areas with trash cans, and two limited-time public parking spaces (one space will be ADA compliant). The trails will be constructed

predominantly of decomposed granite; however, portions of the trail located most adjacent to San Dieguito Drive will be concrete.

The project site is designated Floodway and Lagoon, and is zoned Floodway (FW) and North Commercial (NC). The trail will be located on predominantly vacant parcels, with the exception of two parcels, which are developed commercial buildings (ref Exhibit #2). The 15 parcels that comprise the subject site include privately-owned, City-owned lots, as well as lots owned by the San Dieguito River Valley Conservancy, Southern California Edison, NCTD and the San Dieguito River Joint Powers Authority. The site currently contains a number of informal trail alignments and the northwestern portion of the subject site includes some recently planted coastal sage scrub habitat. The alignment located adjacent to the lagoon will be located as close as 5 feet from the lagoon in certain places, with an average setback of approximately 10 feet from wetlands. Typically, the Commission requires a setback of at least 100 feet from wetlands to provide a protective upland buffer, with public trails potentially allowed to be sited within the upper 50 of the buffer. However, in this case, for a portion of the site, there is not sufficient available land area to set the trail further back, and formalizing the trail is expected to discourage use of the various informal trails on the site. Thus, the construction of the trail will have a positive impact on the sensitive habitat found on and adjacent to the subject site.

The project will require the removal of 0.18-acres of coastal sage scrub (CSS) to construct the trail. However, the coastal sage scrub is sparse and poor quality, and the Commission's ecologist has determined it does not qualify as Environmentally Sensitive Habitat Area (ESHA) as defined and protected by the Coastal Act. The applicant is proposing to mitigate the loss of CSS at a 2:1 ratio (0.36-acres) onsite, through the removal of existing non-native habitat and the planting of a coastal sage habitat plant palette located within the City's Right of Way and on the southeastern portion of the site within two parcels owned by the San Dieguito River Valley Conservancy (ref. Exhibit #6).

During the initial review of the proposed trail by the City, a member of the public expressed opposition to the proposed revegetation of the site with the proposed coastal sage scrub plant palette, arguing that the area should be planted with wetland species. However, given the elevation and soils, of the site, revegetation with wetland plants would not be feasible without substantial grading and re-contouring of the site. The City has indicated that they do not have funding to facilitate that level of grading at this time. Additionally, the project impacts are limited to coastal sage habitat, not wetlands, thus revegetation of the area to convert the area to wetlands would not be appropriate. All this said, the City has indicated that should a larger-scale project that could create additional wetlands onsite become feasible; the trail alignments could be removed and/or relocated to accommodate a wetland restoration project in the future.

The proposed project is located within both of the City of Del Mar's permit jurisdiction as well as areas within the Commission's retained permit jurisdiction (ref. Exhibit #5). However, the City has requested the Commission review the entire project through the consolidated permit process. As such, Chapter Three of the Coastal Act remains the

standard of review, with the certified City of Del Mar Local Coastal Program used as guidance.

Major Coastal Act issues associated with this project include protection of public access, impacts to coastal resources including wetland and upland vegetation and native birds, as well as the preservation of water quality and public views. To address these potential adverse impacts the Commission staff is recommending seven special conditions.

Special Condition No. 1 (Final Habitat Mitigation and Monitoring Plan) and **No. 6** (Final Landscaping Plan) requires the applicant to submit a final mitigation plan that adequately mitigates the proposed removal of 0.18-acres of CSS, and all other landscaping onsite to consist solely of native vegetation respectively. As discussed above, the project will include the removal and subsequent revegetation (mitigation) of native habitat. In order to protect the mitigation areas in perpetuity, **Special Condition No. 2** (Conservation Easements) requires the applicant to finalize all conservation easements for the areas that will be revegetated with coastal sage scrub included in the subject development. In order to adequately limit potential impacts to native birds nesting onsite, **Special Condition #4** (Sensitive Species/Timing) prohibits the removal of trees or any construction activities during the bird breeding/nesting season. **Special Condition #6** (Construction BMPs Plan) requires the submittal of a final construction phase/post-construction BMP plans.

In addition, Commission staff is also recommending **Special Condition No. 3** (Public Access or Trail Easements), which requires the applicant to finalize all public access and/or trail easements for all the parcels on which the trail will be located. Finally, **Special Condition No. 7** (Future Development) requires that any future development, including modifications to either the conservation or public access easements will require review by the Commission, and subject to the discretion of the Executive Director, may require an amendment to this permit. Only as conditioned can the project be found consistent with the applicable policies of Chapter 3 of the Coastal Act.

Commission staff, therefore, recommends **approval** of coastal development permit application 6-15-0742 as conditioned herein.

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APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Site Location](#)

[Exhibit 3 – Biological Resources and Impacts Map](#)

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[Exhibit 5 – Map of Commission Jurisdiction](#)

[Exhibit 6 – Impact and Restoration Plan](#)

[Exhibit 7 – Site Photo](#)

[Exhibit 8 – City’s LCP Public Access Trails Exhibit](#)

[Exhibit 9 – Public Access Easements](#)

I. MOTION AND RESOLUTION

Motion: *I move that the Commission approve Coastal Development Permit No. 6-15-0742 pursuant to 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.

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 Habitat Mitigation and Monitoring Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a Final Habitat Mitigation and Monitoring Plan that is in substantial conformance with the Conceptual Upland Mitigation Plan for the River Path Del Mar Extension Project prepared by Dudek and dated June, 2015.
2. **Conservation Easements.** PRIOR TO CONSTRUCTION, the applicant shall submit to the Executive Director:
 - A. Documentation demonstrating that the applicant has executed and recorded its acceptance of all easements against the parcels utilized for the purposes of habitat restoration, including the portion contained within the City's Right-of-Way and the portions within parcels owned by the San Dieguito River Valley Conservancy and generally depicted on Exhibit #6.
3. **Public Access or Trail Easements.** PRIOR TO CONSTRUCTION, the applicant shall submit to the Executive Director:
 - A. Documentation demonstrating that the applicant has executed and recorded its acceptance of all easements against the parcels listed in Exhibit #9 governed by this permit as generally depicted on Exhibit #4.
4. **Sensitive Species/Timing.** To avoid potential impacts to breeding activities of the California gnatcatcher, migratory songbirds, and other bird species associated with the adjacent sensitive open water, wetland, riparian, and coastal sage scrub habitat, removal of trees and/or construction of trail will not be permitted between the dates of February 15th to August 31st of any year, unless approved in writing by the California Department of Fish and Wildlife and/or the U.S. Fish and Wildlife Service.
5. **Final Landscaping Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan. Said plan shall include the following:
 - A. Only species native to southern California and typical of Coastal Sage Scrub habitats shall be used, such that the proposed planted areas will be compatible with surrounding natural areas. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive 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 utilized within the property;

- B.** All required plantings shall be maintained in good growing conditions, and whenever necessary, shall be replaced with new drought-tolerant native or non-invasive plant materials to ensure continued compliance with landscape requirements;
- C.** If using potable water for irrigation, only drip or micro spray irrigation systems may be used.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit.

6. Construction BMPs Plan.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for review and approval of the Executive Director, a Construction Best Management Practices plan. The plan should be in conformance with the following requirements:
 - (1) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion. To avoid disposal of construction materials, debris, or waste into the ocean, appropriate catch basins shall be installed prior to commencement of construction.
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project.
 - (3) Construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - (4) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - (5) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
 - (6) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be

required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

- (7) All stockpiles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (8) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (9) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (10) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (11) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
- (12) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Construction Best Management Practices plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

7. **Future Development Restriction.** This permit is only for the development described in Coastal Development Permit No. 5-15-0742. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use land, shall require an amendment to Permit No. 5-15-0742 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government. Additionally, any change in public access and/or conservations easements referenced in Special Condition Nos. 2 & 3 above shall require a report to the Executive Director for determination of whether an amendment is legally required.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project includes the construction of an approximately 3,000 ft. long public access trail along the southern bank of San Dieguito Lagoon between Jimmy Durante Boulevard and the Old Grand Avenue Bridge. The subject sites are mostly undeveloped lots with the exception of an existing commercial building complex on the northwestern portion of the site. The lagoon edge is currently partially reinforced by a rock revetment on the northwestern side of the site, and natural on the southeastern side. The trail would traverse 15 different parcels that are a mixture of privately and publicly-owned lands.

The trails would consist of two alignments allowing pedestrians the option of walking along the top of the lagoon edge/river bank adjacent to San Dieguito Lagoon/River (primary trail) or along the east shoulder of San Dieguito Drive (secondary trail). The proposed project includes three connections between the two alignments within the project area (ref Exhibit #4). The alignments would be mostly constructed with decomposed granite; however, portions of the secondary trail would include colored concrete and paved areas for a distance of 565 linear feet near the intersection of San Dieguito Drive and Jimmy Durante Boulevard. The proposed project would utilize existing, informal pathways and topography to the maximum extent feasible for pathway construction.

In addition to the path alignments, the project includes two overlook areas with seating (benches) and two picnic areas with trash cans located in areas near San Dieguito Drive and Old Grand Avenue Bridge (ref. Exhibit #4). Cable post fencing would be installed at limited locations along both trails in areas to provide public safety and to create a buffer from identified brackish marsh habitat. The provision of two time-limited parking spaces (1 ADA and 1 standard) would be provided within the San Dieguito Drive public right-of-way in order to allow users quick access from the roadway to the picnic table overlook areas within the project site.

The proposed project would include minor grading and debris removal to accommodate the trail alignments and overlook areas. The project has been designed to avoid impacts to Diegan coastal sage scrub (CSS) habitat to the maximum extent feasible. However, the project would impact 0.18 acres of CSS which would be re-established onsite at a 2:1 ratio (0.36 acres). To accommodate the proposed CSS re-establishment the applicant is proposing the removal of a number of non-native trees and shrubby bushes and replanting the area with native CSS habitat from local stock. As proposed, no trees would be removed during the traditional native and migratory bird breeding season (January 1st to August 31st). The applicant is proposing a number of construction phase BMPs including erosion control measures such as sandbag barriers, fiber rolls, silt fencing and construction personnel training to be implemented during and immediately following construction.

Given the two separate alignments, the trail system has been designed to accommodate future sea level rise and/or wetland restoration projects through the removal of the lagoon-fronting segment of the trail. By removing the lagoon fronting portion of the trail, land would be made available for adaptive management (such as inland wetland migration and space to accommodate additional flooding/ponding).

The subject site consists of 15 separate parcels including three privately owned parcels (299-100-34, 299-072-55, 299-100-35), five parcels owned by the City (299-100-37, 299-100-38, 299-100-39, 299-072-25, 299-072-22), four parcels owned by the San Dieguito River Valley Conservancy (299-072-53, 299-072-54, 299-072-56, 299-072-57) one parcel owned by the San Dieguito Joint Powers Authority (299-071-05), one parcel owned by North County Transit District (299-100-33), and one parcel owned by the Southern California Edison, a private entity (299-100-36). Two vacant privately-owned parcels identified as APNs 299-072-55 and 299-072-56 are not a part of the proposed project (ref. Exhibit #X). All property owners have consented to be represented collectively by the City of Del Mar for the subject development proposal.

B. STANDARD OF REVIEW

The project area is bisected by the boundary between the retained CDP jurisdiction of the Commission and the CDP jurisdiction delegated to the City of Del Mar by the Commission through the City's LCP. However, in order to expedite the coastal permitting process, the City has requested the CDP application be consolidated and the Commission be the sole entity responsible for approving a single consolidated CDP. Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application when requested by the local government and the applicant and approved by the Executive Director for projects that would otherwise require coastal development permits from both the Commission and from a local government with a certified LCP. In this case, the applicant is the City of Del Mar and requested a consolidated permit. The Executive Director agreed to the consolidated permit processing request. As such, the policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3, with the local government's certified LCP used as guidance.

C. BIOLOGICAL RESOURCES

The following Coastal Act policies related to biological resources are most applicable to the proposed development, and state, in part:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for longterm commercial, recreational, scientific, and educational purposes.

Section 30240

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

In addition, the City of Del mar Land Use Plan policies related to biological resources are applicable and state, in part:

Section IV-6

When new accessways are proposed or required, they shall be sited and constructed to:

- a. Minimize alteration of natural landforms, conform to the existing contours of the land, minimize erosion and siltation, and be subordinate to the character of their setting;*
- b. Prevent unwarranted hazards to the land and public safety;*
- c. Provide for the privacy of adjoining properties and to minimize conflicts with adjacent or nearby established uses;*
- d. Prevent misuse of environmentally sensitive areas, including the provision of access control fencing or barriers along trails adjacent to sensitive habitat where appropriate; and*
- e. Correct abuses resulting from existing trail or access way use.*

Section V-2

[...]

b. Cooperate in the planning and implementation of the San Dieguito River Valley Regional Open Space Park and ensure that said park plan or that for any other park along the San Dieguito River:

- i. Involves only the minimal amount of disturbance and impact to the natural terrain and ecosystem of the area necessary to provide*

access to and along the San Dieguito River Valley;

ii. Controls such access to minimize impacts on wildlife and sensitive habitat; and

iii. Provides fencing or vegetated berms between areas of human activity and sensitive habitat.

iv. Enlarges. the San Dieguito Lagoon ecosystem to its former size stretching from the ocean towards El Camino Real on the east.

v. Restores a total, well-functioning ecological unit which includes: tidal flushing through a continuous or nearly continuous rivermouth opening, open waters, wetlands, uplands and bluffs.

vi. Establishes a link to Regional San Dieguito River Valley ecosystem and the ocean.

vii. Ensures a good quality freshwater flow from upstream in the San Dieguito River Channel.

viii. Protects, preserves and enhances the open valley by retaining open space and views of scenic topography and the ocean.

ix. Protects, preserves and enhances the variety of natural features such as the Floodplain, the open waters of the lagoon and river, wetlands, marshlands, mudflats and uplands with their grassland, coastal sage and Torrey Pine trees.

x. Protect scenic viewsheds by retaining the open character of the uplands, low hills and sandstone bluffs.

Section VI-3

Ensure the protection of the wetlands of the Los Penasquitos Lagoon and San Dieguito Lagoon and their sensitive upland habitat by requiring that all development activities taking place in lagoon and uplands areas, designated on the Lagoon Overlay Zone Map (Figure VI-B), conform to the wetland preservation regulations of this chapter. In addition, the City shall implement the Bluff, Slope and Canyon Overlay Zone regulations of this Land Use Plan to protect sensitive wetland habitat from the impacts

[...]

3. Permitted Uses in Wetland Buffer Areas. Permitted uses in wetland buffer areas shall be limited to:

a. Passive recreational access paths and viewpoints within the upland half of the buffer, only when designed to assure no adverse impacts to adjacent wetland areas. An exception to allow access paths or viewpoints within the lower half of the buffer may be permitted where there is an elevation difference between the buffer and wetland resources of at least ten feet, or where an existing accessway/viewpoint present will be formalized. Any such permitted new access trail or viewpoint shall be set back at least ten feet from the edge of the bluff/slope. No armoring or reinforcing to either construct or maintain such a trail or viewpoint will be permitted.

b. The placement of improvements necessary to provide protection, preservation or enhancement of adjacent wetland areas. Such improvements shall be located within the upland half of the buffer only, and may include, but are not limited to fencing, creation of landscape berms and placement of signage related to scientific, educational or recreational uses.

c. All uses permitted in wetland areas.

[...]

5. Provision of Wetland Buffers.

a. To protect wetland areas, All new construction projects which are located on property which includes or lies in proximity to wetland habitat, as shown in Figure VI-B, shall include the provision of a continuous wetland buffer. The buffer shall be 100-feet in width with permitted uses in the wetland buffer limited to those cited in Wetland Regulation #3 of this Chapter. The buffer shall be measured landward from the boundary of wetlands as delineated pursuant to the requirements of this chapter.

b. A wetland buffer of less than 100 feet in width shall be allowed only when, due to physical constraints such as the size and dimensions of the property, such buffer of a lesser width will protect the resources of the adjacent wetlands, based on site-specific factors. Such factors shall include, but not be limited to, the type and size of the development proposed; mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials between the proposed development and wetland boundaries; or other similar factors which will serve to contribute to the purposes of a wetland buffer area. Proposals for mitigation measures for wetland buffers less than 100 feet in width shall be referred to representatives of the California Department of Fish and Game for a recommendation. In no event shall the wetland buffer be less than 50 feet in width.

The provision of a wetland buffer of less than 100-feet in width which, pursuant to this policy, has been authorized for one aspect of a

development proposal, shall not be construed as an authorization to provide a buffer of less than 100-feet in width for other aspects of such proposal which have not been specifically enumerated in the required findings set forth herein.

The proposed trail improvements are located directly adjacent to San Dieguito River/Lagoon. San Dieguito Lagoon is one of the largest lagoon and tributaries in San Diego County. In 2005, the Commission authorized the restoration of San Dieguito wetlands to mitigate adverse impacts to the marine environment occurring through operation of the San Onofre Nuclear Generating Station (SONGS) (ref. CDP 6-04-088). Currently, the lagoon is considered a stopover site on the Pacific Flyway for birds migrating from Siberia to South America, serves as a nursery for ocean fish and critical habitat for endangered species, such as the California Least Tern, the Light-Footed Clapper Rail, and California Brown Pelican, and includes the San Dieguito Lagoon State Marine Conservation Area and the San Dieguito Ecological Reserve.

The proposal includes construction of a public access trail along the southern edge of San Dieguito River Lagoon between Jimmy Durante and the old Grand Avenue bridge (ref. Exhibit #2). The project area is located outside of the wetlands associated with the lagoon, but would be located at close as 5 feet from the wetlands. The trail would average approximately 10 feet from the wetlands moving inland and to within the City's right of way, to go around the two lots that are not a part of the subject development (ref. Exhibit #4). The Commission has typically found that development that does not provide a 100-foot buffer from wetlands can adversely impact wetlands. The wetlands on the subject site consist of brackish marsh vegetation. The purpose of establishing a buffer area between wetlands and development include: to reduce the amount of human and domestic animal intrusion into sensitive vegetation, to reduce the impact of human activity on native wildlife species, to provide an area of land which can filter drainage and runoff from developed areas before it impacts the wetlands, and to provide an upland resting retreat area for some wetland animal species.

However, in the case of the proposed project, the alignment of the trail on the northwestern portion of the site (ref Exhibit #7) is highly limited to a small area between existing development and a rock revetment. As such, it is not feasible for the trail to be located in a manner that would provide a 100' biological buffer. In addition, one of the goals of the project was to design the trail to limit the amount of grading and habitat removal necessary. The alignment of the trail located closest to the lagoon will be formalizing an existing unimproved trail currently utilized by the public. While locating the trail further inland may be preferable as it would provide additional buffering for the wetlands, it would require additional grading and vegetation removal, and would not prevent the public from continuing to use the existing trail located directly adjacent to wetlands. In addition, cable post fencing would be installed at limited locations along both trails in areas to provide public safety and to create a buffer from identified brackish marsh habitat. Additionally, the proposed trail would be located on an existing informal trail already utilized by the public. Currently there is not an improved/defined trail for this section of the lagoon, and; thus, numerous unimproved trails and overlooks exist, and trail users and their dogs frequently deviate from the trail area and disturb the adjacent

habitat. The proposed trail will establish a clear, distinct accessway that will discourage off-trail wandering.

As such, the Commission finds it acceptable to reduce the buffer in this instance for the following reasons: 1) the Commission has historically allowed passive public recreational uses within 50 feet of the wetlands); 2) the northwestern portion of the site cannot accommodate a 100-foot buffer; 3) the formalization of the trail will deter the public to deviate off trail; 4) U.S. and State Fish and Wildlife agencies are supporting the reduced buffer as adequate to protect the resources in this area; 4) and the project can best provide public educational opportunities (nature study) when the public can actually see the resources. In addition, the Commission's staff resource ecologist as reviewed the proposal and found that the impacts associated construction of the trail within 100 feet of the wetlands will not adversely impact the resources.

The construction of the trail will include minor grading resulting in the removal of some native vegetation. While the project has been designed to avoid impacts to Diegan coastal sage scrub (CSS) to the maximum extent feasible, the project will require the removal of 0.18-acres of coastal sage scrub (CSS) located in the proposed trail alignment. The removal of the CSS is unavoidable as there is very limited space between the lagoon waters and existing development on the northwestern portion of the subject site (ref. Exhibit #7). The coastal sage vegetation to be removed was recently planted by Southern California Edison associated with the installation of the rock revetment. The planting of the CSS was not mitigation of any kind and does not currently provide suitable nesting habitat for California gnatcatchers. The Commission's ecologist has determined that the habitat does not constitute Environmentally Sensitive Habitat Area (ESHA) as defined and protected by the Coastal Act. Nevertheless, it is valuable native habitat, and the applicant has included mitigation for the loss of CSS at a 2:1 ratio (0.36-acres) to be planted within the City's Right-of-Way and on two parcels owned by the San Dieguito River Valley Conservancy (ref. Exhibit #6), through the removal of existing non-native habitat and the planting of a coastal sage habitat.

The applicant has submitted a conceptual mitigation plan that defines the location(s) of revegetation, plant palette (all native and from local stock), success criteria, and reporting to the Commission. In order to assure the plan is finalized and maintains all of these components, **Special Condition #1**, requires the applicant to submit to the Executive Director for review and written approval, a Final Habitat Mitigation and Monitoring Plan that is in substantial conformance with the Conceptual Upland Mitigation Plan received by staff. Typically, the Commission requires that any mitigation area be preserved in perpetuity as open space through a deed restriction. This is not being required for the subject permit because the areas are either publically owned or owned by the San Dieguito River Valley Conservancy. The San Dieguito River Valley Conservancy, while not a public agency, is a 501(c)(3) non-profit conservancy, dedicated to sustainable management of the natural resources of the San Dieguito Watershed with priority given to the protection of the San Dieguito River corridor. In addition, the MND requires and the City has included conservation easements in its approval of the project for both the lands within the City's Right-of-Way as well as the Conservancy-owned parcels. However, the Commission is not a party to these conservation easements. As such,

Special Condition #2 requires the City to submit to the Commission for review and acceptance all final conservation easements associated with the mitigation plan. In addition, **Special Condition #7** requires that all future development and/or any changes to the conservation easement be submitted to the Commission for review. Through the incorporation of **Special Condition Nos. 1, 2 and 7** the appropriate mitigation has been identified, will be carried out, and will be protected in perpetuity. Finally, **Special Condition #6** requires a final landscaping plan to be submitted and include only species native to southern California and typical of Coastal Sage Scrub habitats shall be used.

Because avian nesting activities do occur in the general region, the timing of construction was also raised by the resource agencies as a potential concern. The majority of existing trees onsite suitable for nesting birds are non-native Eucalyptus and do not have habitat value in their own right; however, Eucalyptus can provide nesting habitat for a number of native bird species. In addition, given the proximity to lagoon water and open-ocean, there is also the potential that the existing trees could be providing a rookery area for Great Blue Herons. The Commission's Ecologist, as well as a number of biologists who frequent San Dieguito River and Lagoon, have all confirmed that the subject trees are not providing a rookery for herons. However, the mature Eucalyptus does provide nesting habitat for other native birds and raptors. As proposed, the applicant is would not remove any trees from January 1st to August 31st, but to provide further protection during the traditionally accepted bird breeding season, **Special Condition #4** prohibits the removal of any trees between February 15th and October 15th of any year without written approval of the resource agencies. Thus, as conditioned, no impacts to nesting birds will occur.

As noted, the northwest portion of the site includes a rock revetment along the edge of the riverbank/lagoon. The southeastern portion of the site remains natural and does not include any armoring. As previously discussed, the project has been designed to allow future removal of the river/lagoon fronting segment of the trail to accommodate future changes in sea-level rise and thus no future armoring to protect the proposed trail is anticipated. Therefore, as conditioned, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

D. PUBLIC ACCESS/RECREATION

The following Coastal Act policies are most applicable to this issue, and state in part:

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212

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

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, ...

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

In addition, the City of Del mar Land Use Plan policies related to public access and recreation are applicable and state, in part:

Section V-1

The City shall implement a comprehensive program to preserve existing open space and recreation lands and where feasible acquire additional lands to meet the long-range needs of residents and visitors. This program shall be developed using the following criteria:

a. Small "pocket parks", also known as "mini-parks", should be utilized in the largely developed areas of the City where land for larger parks is difficult to obtain.

b. Sites should be acquired and developed to provide for special recreation needs including passive and active recreation areas, nature areas, aquatic areas, athletic facilities, and pedestrian, equestrian, and bicycle trails,

c. Park and open space systems should be protected from adjacent land uses that may infringe on scenic views.

d. Park planning should be integrated with planning for open space, conservation, hiking, bicycle, and equestrian trails, regional parks, and scenic highways. Wherever practical, parks should be linked together by a system of trails and/or open space.

Section V-2 (Cited in Section “C” above)

The proposed public trail project will integrate into the public trail head parking lot on the vacant NCTD lot (northeast corner of Jimmy Durante Boulevard and San Dieguito Drive) permitted through Coastal Development Permit No. 6-15-0081, approved by the Commission at its May 2015 hearing. By formalizing this section of public trail, the City is one step closer to completing a City-wide public access “Scenic Loop” trail.

As designated in the Del Mar Community Plan, a certified component of the City’s LCP, pedestrian access along the San Dieguito River and Lagoon is envisioned as a component of the City's future City-wide trail system. Additionally, the City's Transportation Element includes a provision that states, "Develop a continuous pedestrian loop trail which extends around the perimeter of the City while connecting and passing through areas of natural scenic value..," (Goal 2(A)(4) and Chapter 3 of the San Dieguito Lagoon Enhancement Plan includes the river path within its "open recreational and educational uses." (Chapter 3 – Improvements for Public Access – No. 4) Finally, the proposed extension implements a portion of the designated future pedestrian accessway along the San Dieguito River and Lagoon as identified in Figure IV-A of the City's certified Land Use Plan (LUP).

The Scenic Loop Trail is a seven-mile hiking trail that follows the City's perimeter. The trail is divided into seven trail segments. River Path Del Mar is an existing trail that is part of the San Dieguito segment of the Scenic Loop Trail. The segment provides pedestrian access along the river's south edge between the river mouth and Jimmy Durante Boulevard (ref. Exhibit No. 2). The proposed extension would advance the River path east from Jimmy Durante Blvd. to the Old Grand Avenue Bridge. With the proposed extension, there would only remain one additional section of river front east of the subject site, in order to have the River Path Del Mar meet with the existing Crest Canyon Segment of the Scenic Loop Trail.

The City is proposing to formalize this segment of its public access trail in order to carry out the above stated LCP provisions. It is not proposed associated with any development, nor is it considered mitigation for any previous and future projects. That said, it is critical the City secure public access easements to ensure the long-term viability of the improved trail alignment. As such, **Special Condition #3** requires that the City finalize all easements prior to construction. In addition, **Special Condition #7** requires that all future development and/or any changes to the public access trail configuration/alignment/amenities, etc., be submitted to the Commission for review.

In conclusion, the proposed development would result in improved public access amenities, as identified in the City’s certified LCP and consistent with the public access and recreation policies of the Coastal Act.

E. WATER QUALITY.

The following Coastal Act policies are most pertinent to this issue, and state:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Construction of the project will require limited vegetation clearing and minor grading (less than 1 acre total) and debris removal activities that could result in a temporary increase in erosion affecting the quality of storm water runoff. No construction activities will occur in any open water or wetland areas. The San Dieguito River is included on the state's 303(d) list of impaired water bodies for enterococcus, nitrogen, phosphorus, total dissolved solids, and toxicity. In addition, the subject site is located within the 100-year floodplain of the San Dieguito River. As proposed, the project includes a number of Best Management Practices (BMPs) to eliminate any potential impacts to water quality. Specifically, temporary erosion control measures such as sandbag barriers, fiber rolls, silt fencing and construction personnel training are some of the BMPs that will be implemented during and immediately following construction. Additionally, the proposed trail and fencing would not create any impedance to flood flows or place new amounts of fill within the floodplain. However, to further ensure no impacts to water quality occur, **Special Condition #6** has been included and requires the applicant to submit a final construction phase BMP plan, to be reviewed and approved by the Executive Director.

The Commission finds that only as conditioned as described above, can the proposed development be found consistent with Sections 30231 of the Coastal Act which requires water quality be maintained, and where possible, restored.

F. VISUAL QUALITY.

The following Coastal Act policies are most applicable to this issue, and state in part:

Section 30251

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. ...

While the project is located adjacent to San Dieguito River/Lagoon, the subject proposal consists of a public access trail, two public overlook areas with benches, two picnic areas with trash cans, and two limited-time public parking spaces. As such, the development will be low-impact, compatible with the character and scale of the surrounding area, and will not impact public views. Therefore, the Commission finds that the development conforms to Section 30251 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits, or permit amendments, to be supported by a finding showing the permit or amendment, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The City prepared an Initial Study and Mitigated Negative Declaration for the project, and addressed all impacts as part of its conditions for approval. Section 21080.5(d)(2)(A) of CEQA prohibits the Commission from approving a proposed development if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Special conditions have been included that address the adequate protection of public access, native vegetation and wildlife, public views, and water quality. A condition has also been included requiring the City to finalize public access easements on each of the included parcels in order to provide adequate long-term protection for the access trail. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

SUBSTANTIVE FILE DOCUMENTS

- 1) City of Del Mar Local Coastal Program
- 2) Biological Resource Constraints Evaluation for the River Path Del Mar Extension Project, City of Del Mar, prepared by Dudek dated November 26, 2014
- 3) Great Blue Heron Rookery Site Assessment, Del Mar River Path Extension Project, City of Del Mar, prepared by Dudek dated July 14, 2015
- 4) Draft Conceptual Upland Mitigation Plan for the River Path Del Mar Extension Project City of Del Mar

Project Location



Site Location

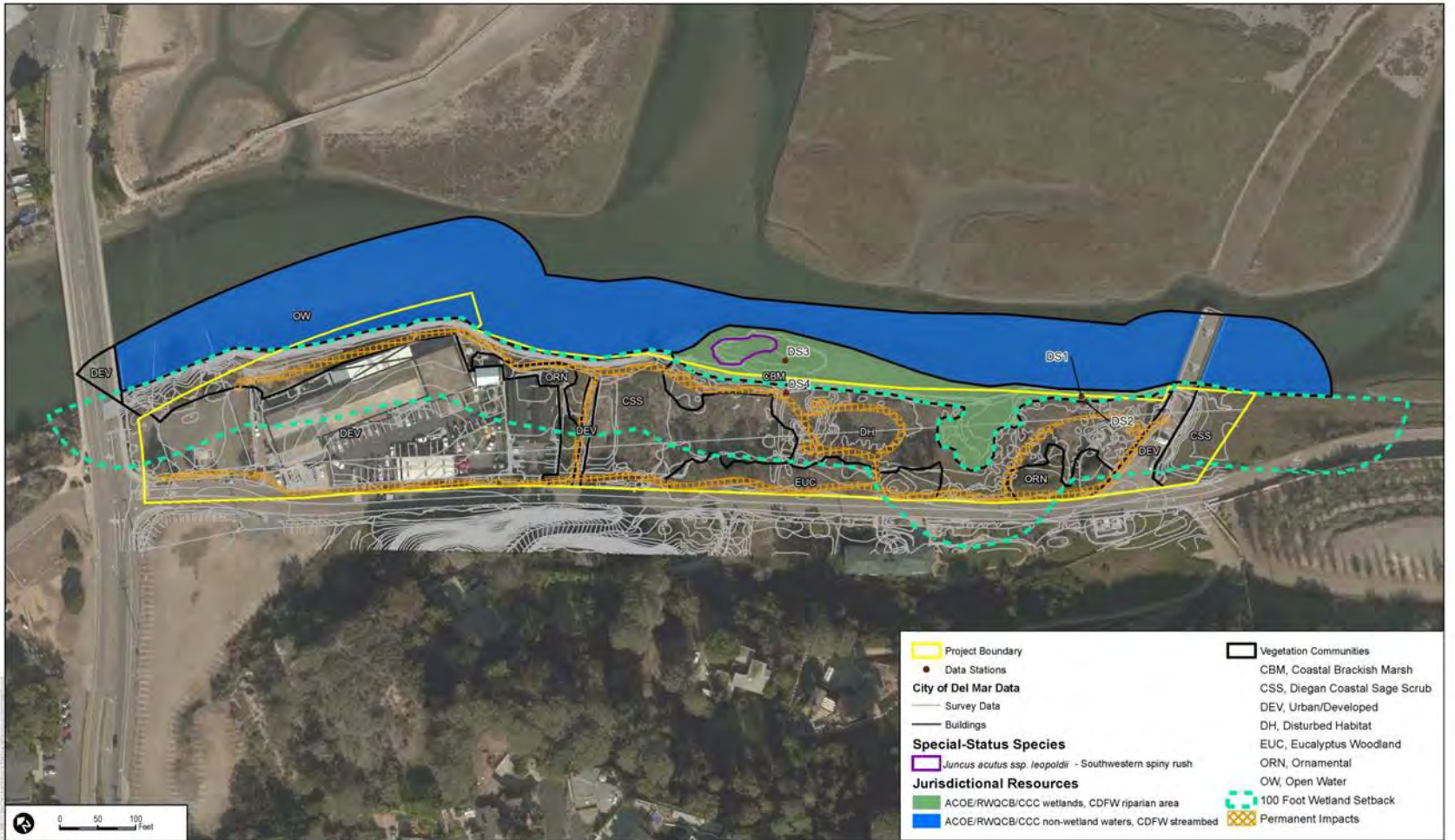


EXHIBIT NO. 2

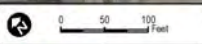
APPLICATION NO.

6-15-0742

Site Location



- Project Boundary
- Data Stations
- City of Del Mar Data**
- Survey Data
- Buildings
- Special-Status Species**
- Juncus acutus* ssp. *leopoldii* - Southwestern spiny rush
- Jurisdictional Resources**
- ACOE/RWQCB/CCC wetlands, CDFW riparian area
- ACOE/RWQCB/CCC non-wetland waters, CDFW streambed
- Vegetation Communities
- CBM, Coastal Brackish Marsh
- CSS, Diegan Coastal Sage Scrub
- DEV, Urban/Developed
- DH, Disturbed Habitat
- EUC, Eucalyptus Woodland
- ORN, Ornamental
- OW, Open Water
- 100 Foot Wetland Setback
- Permanent Impacts



DUDEK

SOURCE: Bing Maps 2015, SANGIS 2014, City of Del Mar 2015

7797-02

River Path Del Mar Extension Project

Biological R

EXHIBIT NO. 3

APPLICATION NO.
6-15-0742

Biological Resources
and Impacts Map

California Coastal Commission

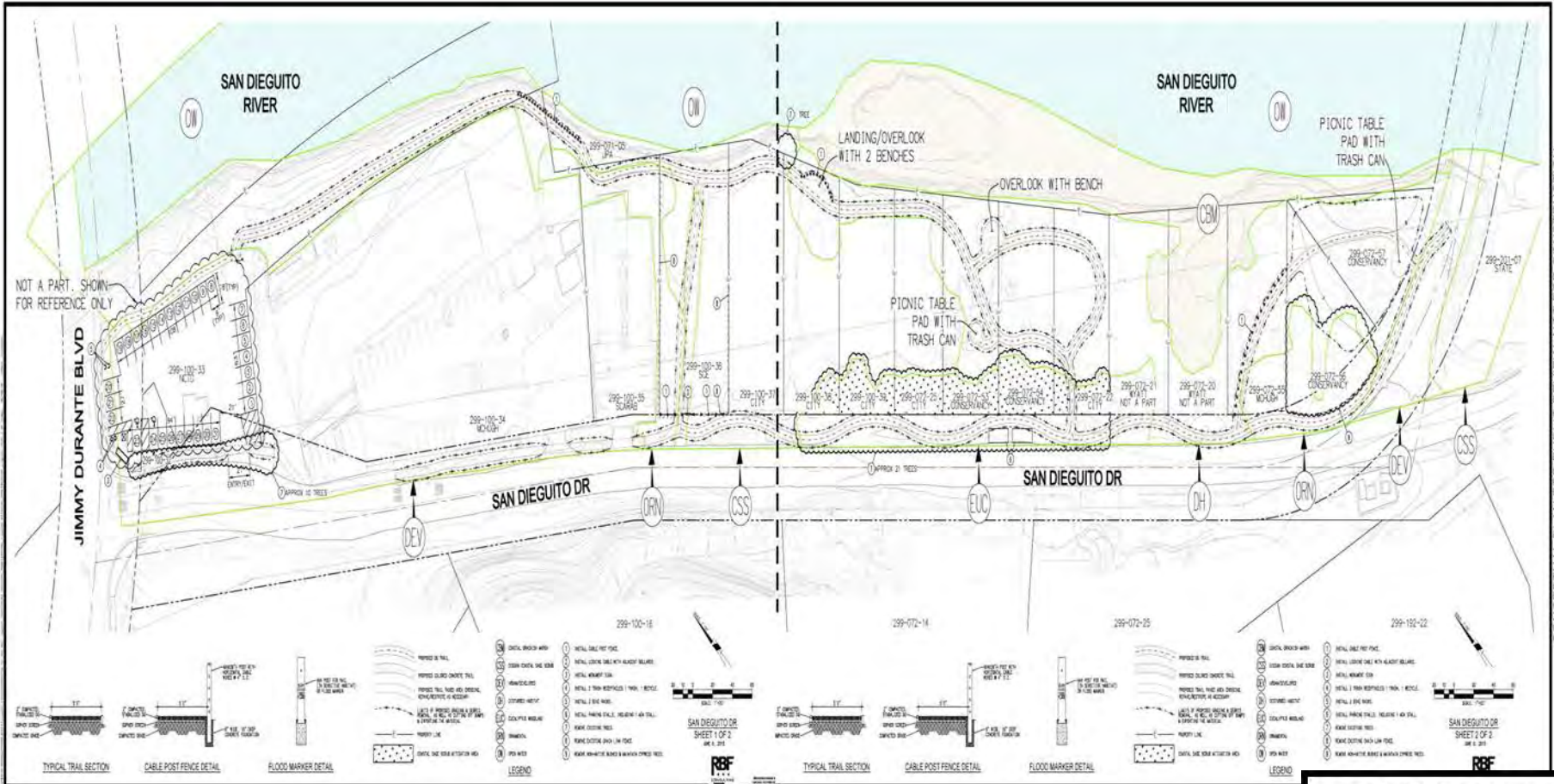


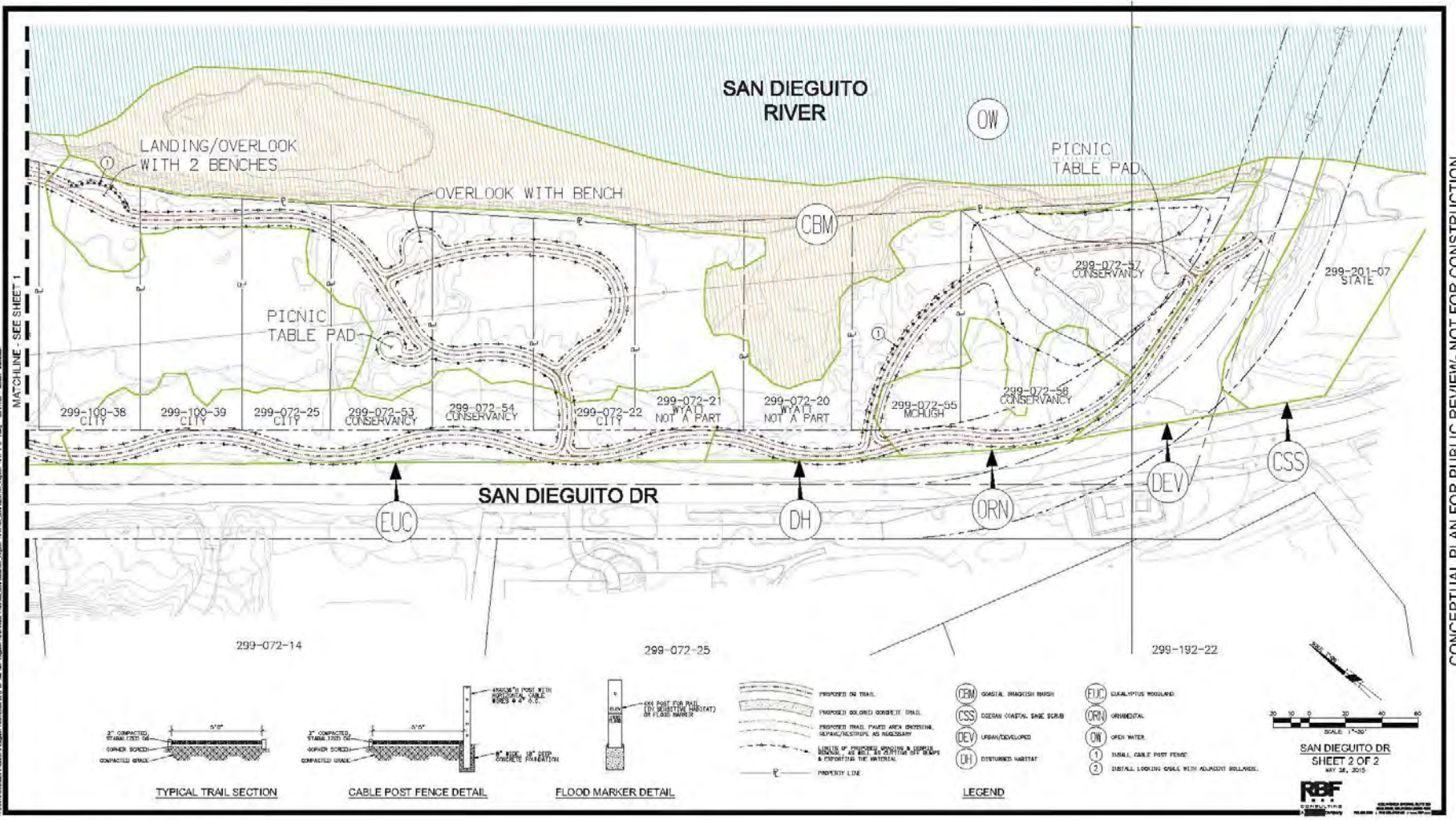
EXHIBIT NO. 4

APPLICATION NO.
6-15-0742

Site Plans

Page 1 of 3

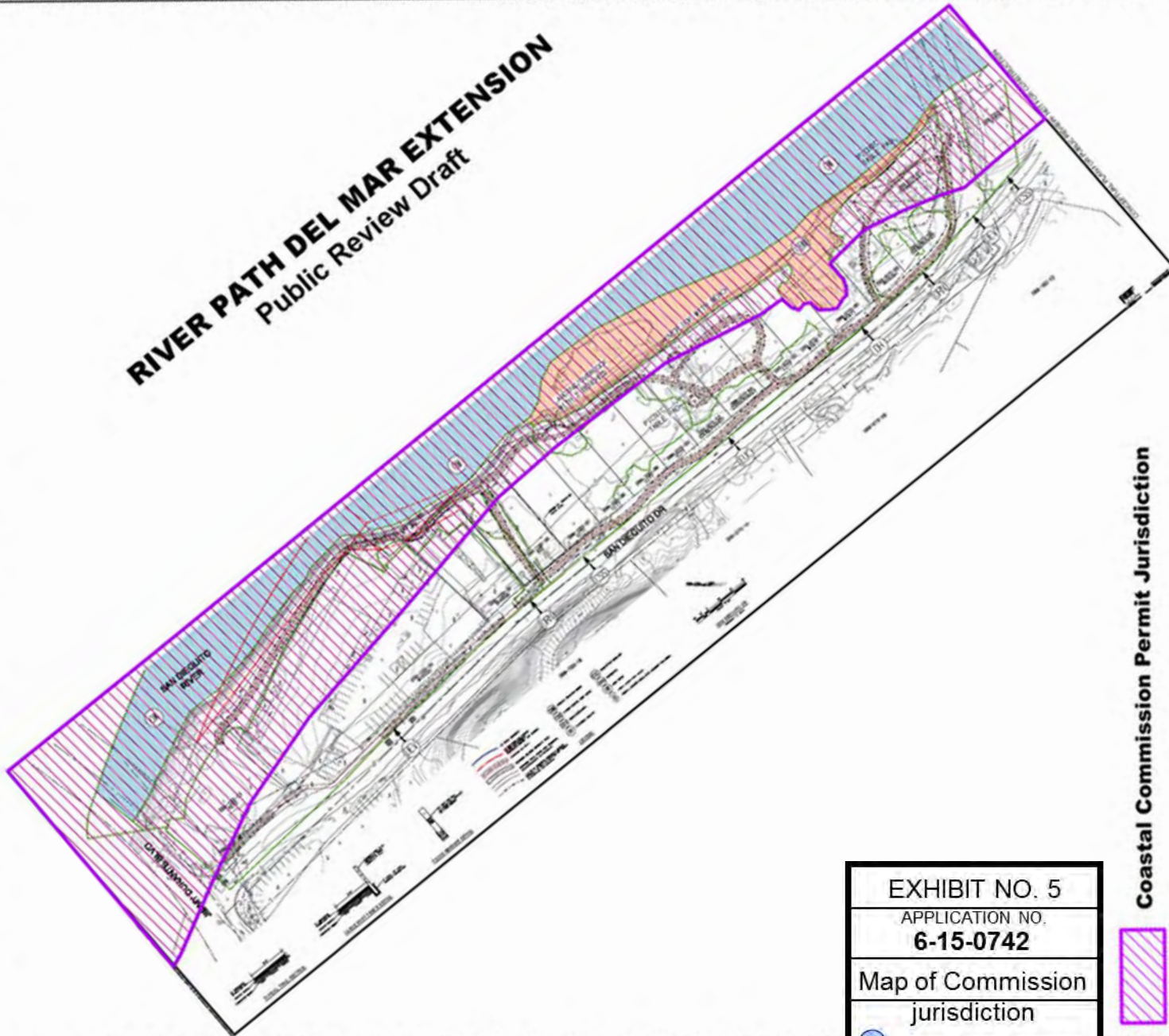
California Coastal Commission



CONCEPTUAL PLAN FOR PUBLIC REVIEW- NOT FOR CONSTRUCTION

RIVER PATH DEL MAR EXTENSION

Public Review Draft



Coastal Commission Permit Jurisdiction



EXHIBIT NO. 5
APPLICATION NO.
6-15-0742

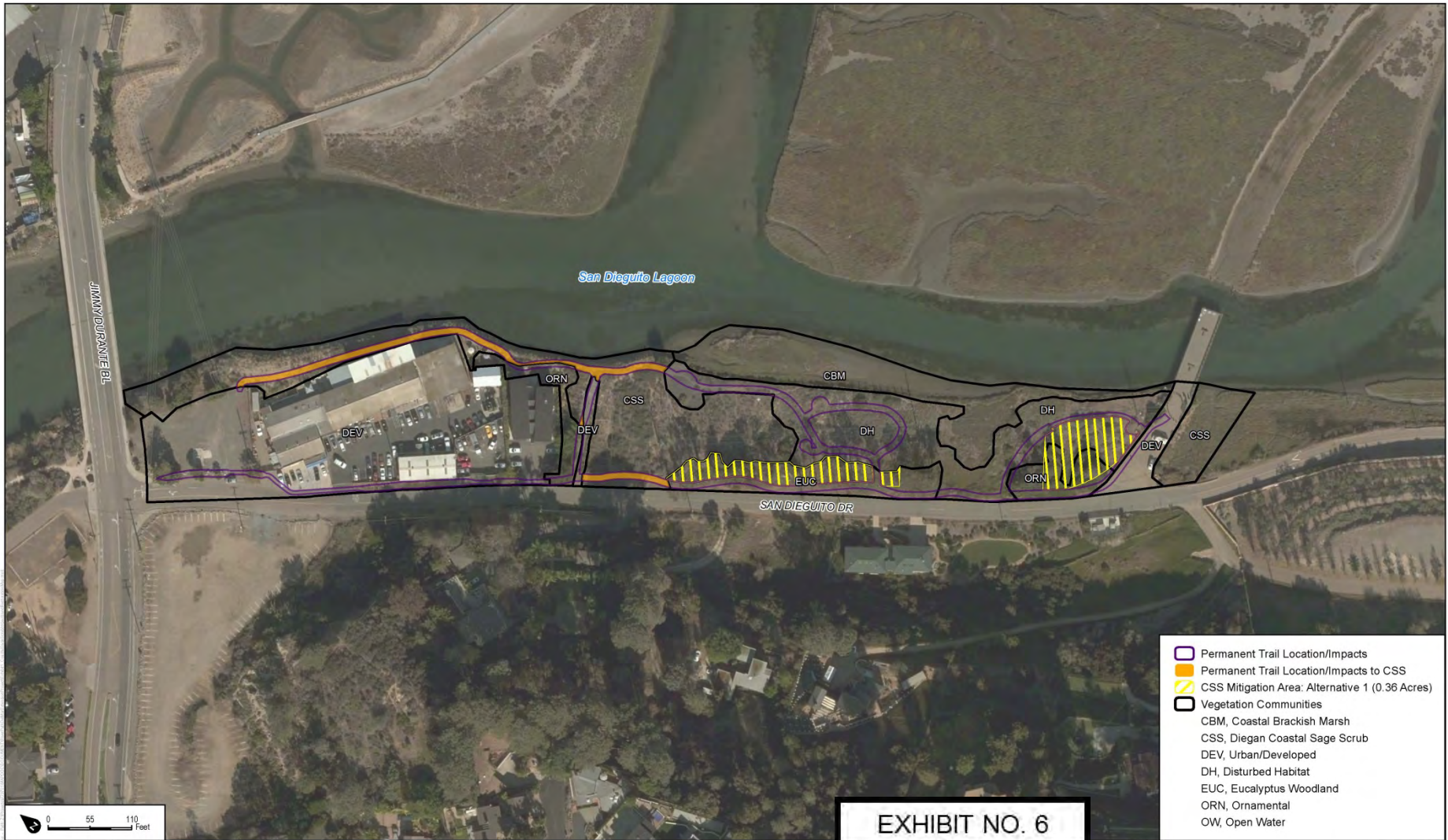
Map of Commission
jurisdiction



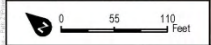
California Coastal Commission



For illustrative purposes only.



- Permanent Trail Location/Impacts
- Permanent Trail Location/Impacts to CSS
- CSS Mitigation Area: Alternative 1 (0.36 Acres)
- Vegetation Communities
 - CBM, Coastal Brackish Marsh
 - CSS, Diegan Coastal Sage Scrub
 - DEV, Urban/Developed
 - DH, Disturbed Habitat
 - EUC, Eucalyptus Woodland
 - ORN, Ornamental
 - OW, Open Water



SOURCE: Bing Maps, 2015; City of Del Mar, 2015.
 River Path Del Mar Extension Project



EXHIBIT NO. 6
 APPLICATION NO.
6-15-0742

**Impact and
 Restoration Plan**

California Coastal Commission

EXHIBIT 1
 Coastal Sage Scrub Impacts and Restoration Map



EXHIBIT NO. 7

APPLICATION NO.

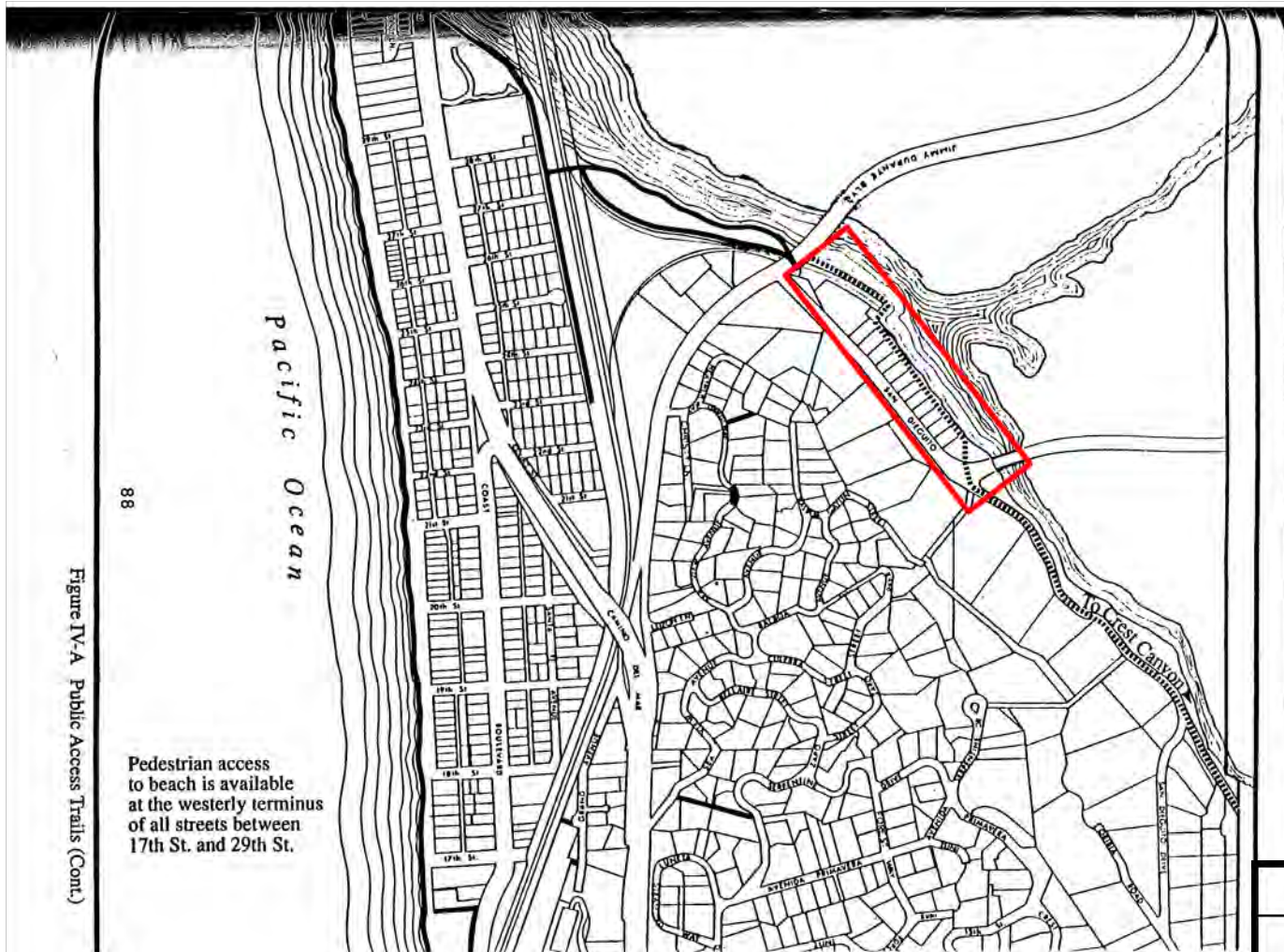
6-15-0742

Site Photo



California Coastal Commission

LUP FIGURE IV-A PUBLIC ACCESS TRAILS



88

Figure IV-A Public Access Trails (Cont.)

Pedestrian access to beach is available at the westerly terminus of all streets between 17th St. and 29th St.

EXHIBIT NO. 8
APPLICATION NO. 6-15-0742
City's LCP Public Trails Exhibit
 California Coastal Commission

Del Mar trail Easements
(NW to SE)

Owner	APN
NCTD	299-100-33
McHugh	299-100-34
JPA	299-071-05
SCARAB*	299-100-35
SCE	299-100-36
City of Del Mar	299-100-37
City of Del Mar	299-100-38
City of Del Mar	299-100-39
City of Del Mar	299-072-25
SDRV Conservancy	299-072-53
SDRV Conservancy	299-072-54
City of Del Mar	299-072-22
McHugh	299-072-55
SDRV Conservancy	299-072-56
SDRV Conservancy	299-072-57

*Offer to dedicate access easement recorded as Instrument No. 92-0590669;
acceptance recorded as Instrument No. 2005-0057244

(by landowner name)	Owner	APN
1	City of Del Mar	299-100-37
	City of Del Mar	299-100-38
	City of Del Mar	299-100-39
	City of Del Mar	299-072-25
	City of Del Mar	299-072-22
2	McHugh	299-100-34
	McHugh	299-072-55
3	NCTD	299-100-33
4	SCARAB*	299-100-35
5	SCE	299-100-36
6	SDRP JPA	299-071-05
7	SDRV Conservancy	299-072-53
	SDRV Conservancy	299-072-54
	SDRV Conservancy	299-072-56
	SDRV Conservancy	299-072-57

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

PORTION OF LOT 828 OF ARDEN HEIGHTS, NO. 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913 BEING DESCRIBED AS FOLLOWS:

PARCEL 1 – EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE NORTHEASTERLY CORNER OF ARDEN HEIGHTS NO.4 ACCORDING TO MAP THEREOF NO. 1343; THENCE NORTH 64°54'41" EAST 206.97 FEET TO THE EASTERLY TERMINUS OF THE 235.43 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, IN THE CENTER LINE OF COUNTY ROAD SHOWN ON ROAD SURVEY MAP NO. 923, AND KNOWN AS SAN DIEGUITO DRIVE, SAID CENTER LINE CURVE HAVING A CENTRAL ANGLE OF 71°19'45" AND A LENGTH OF 293.09 FEET; THENCE NORTH 40°20'54" WEST 360.78 FEET; THENCE NORTH 33°49'09" WEST 56.11 FEET TO A POINT HEREAFTER REFERED TO AS "POINT A"; THENCE SOUTH 52°22'15" WEST 13.36 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 1**, SAID POINT ALSO BEING THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 152.50 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 56°23'13" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°29'08" AN ARC DISTANCE OF 30.57 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 28.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 69°49'56" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 140°18'47" AND AN ARC DISTANCE OF 69.79 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 20°34'45" WEST; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°39'43" AND AN ARC DISTANCE OF 18.73 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°19'32" AND AN ARC DISTANCE OF 5.18 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25°49'09" AND AN ARC DISTANCE OF 28.16 FEET;; THENCE NORTH 37°40'19" WEST 5.03 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 31°03'29" WEST; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 28°05'47" AND AN ARC DISTANCE OF 28.20 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32°23'55" AND AN ARC DISTANCE OF 2.83 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°58'34" AND AN ARC DISTANCE OF 12.02 FEET;; THENCE NORTH 52°22'15" EAST 5.43 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 74°26'10" WEST; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°44'14" AND AN ARC DISTANCE OF 10.62 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°14'23" AND AN ARC DISTANCE OF 7.00 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°03'22" AND AN ARC DISTANCE OF 18.61 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 23.50 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 31°05'41" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 141°03'30" AND AN ARC DISTANCE OF 57.86 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 147.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 67°50'19" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°18'55" AND AN ARC DISTANCE OF 29.13 FEET; THENCE NORTH 52°22'15" EAST 5.01 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 1**.

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

THE ABOVE DESCRIBED PARCEL CONTAINS 819 SQUARE FEET OR 0.02 ACRES, MORE OR LESS. ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

PARCEL 2 – EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE AFORE MENTIONED "POINT A"; THENCE NORTH 33°49'09" WEST 112.21 FEET; THENCE SOUTH 52°23'20" WEST 10.93 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 2**; THENCE CONTINUEING SOUTH 52°23'20" WEST 5.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 80°50'04" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°39'15" AND AN ARC DISTANCE OF 29.76 FEET;; THENCE NORTH 38°49'11" WEST 67.44 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°18'01" AND AN ARC DISTANCE OF 29.78 FEET;; THENCE NORTH 11°31'10" WEST 31.49 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 57.62 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 47°39'07" AND AN ARC DISTANCE OF 47.92 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°37'30" AND AN ARC DISTANCE OF 18.14 FEET;; THENCE NORTH 52°19'36" EAST 5.02 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 47°01'45" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°12'01" AND AN ARC DISTANCE OF 16.26 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 62.62 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 47°39'07" AND AN ARC DISTANCE OF 52.08 FEET;; THENCE SOUTH 11°31'10" EAST 7.66 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 47°31'06" AND AN ARC DISTANCE OF 4.15 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°45'29" AND AN ARC DISTANCE OF 31.68 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 56°09'23" AND AN ARC DISTANCE OF 4.90 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°23'00" AND AN ARC DISTANCE OF 14.43 FEET;; THENCE SOUTH 38°49'11" EAST 67.44 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°11'56" AND AN ARC DISTANCE OF 29.67 FEET TO THE **TRUE POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 1304 SQUARE FEET OR 0.03 ACRES, MORE OR LESS. ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

SAID BEARINGS ARE IN TERMS OF THE CALIFORNIA COORDINATE SYSTEM, NAD 83, ZONE 6 (EPOCH 1991.35) PER CITY OF DEL MAR HORIZONTAL CONTROL.

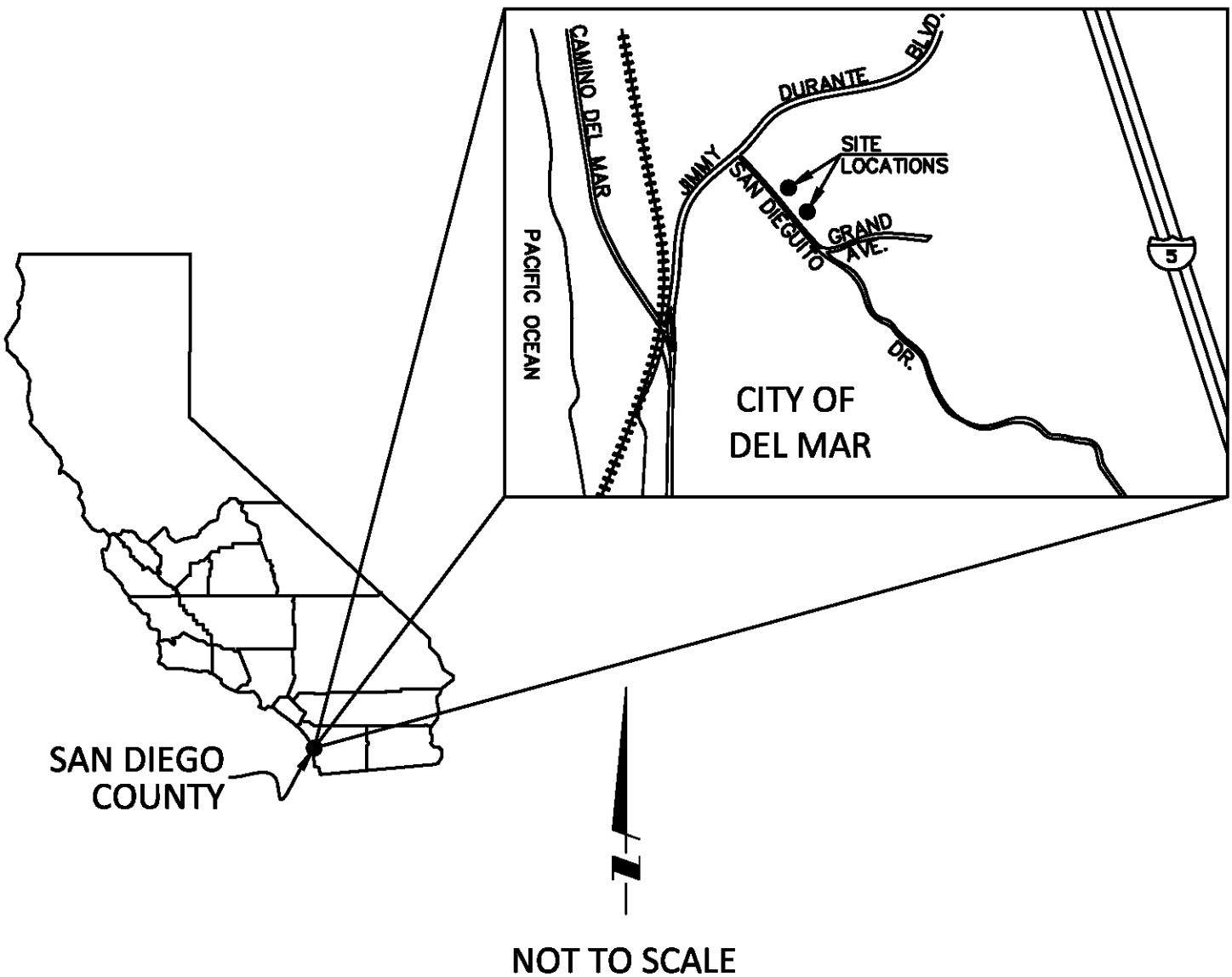
THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.



Daniel J. McCroskey *3/31/2015*
Daniel J. McCroskey, PLS 7098 DATE

EXHIBIT "B"

VICINITY MAP



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10390 Commerce Center Drive, Suite C-190
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909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-100-37 - 299-100-39,
APN 299-072-22, & APN 299-072-25
City of Del Mar

County of San Diego State of California

Date: 03/31/2015

Drawn: S.G.O.

Checked: D.J.M.

J.N.: 14616

Sheet 1 of 4



EXHIBIT "B"

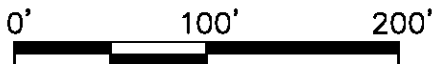
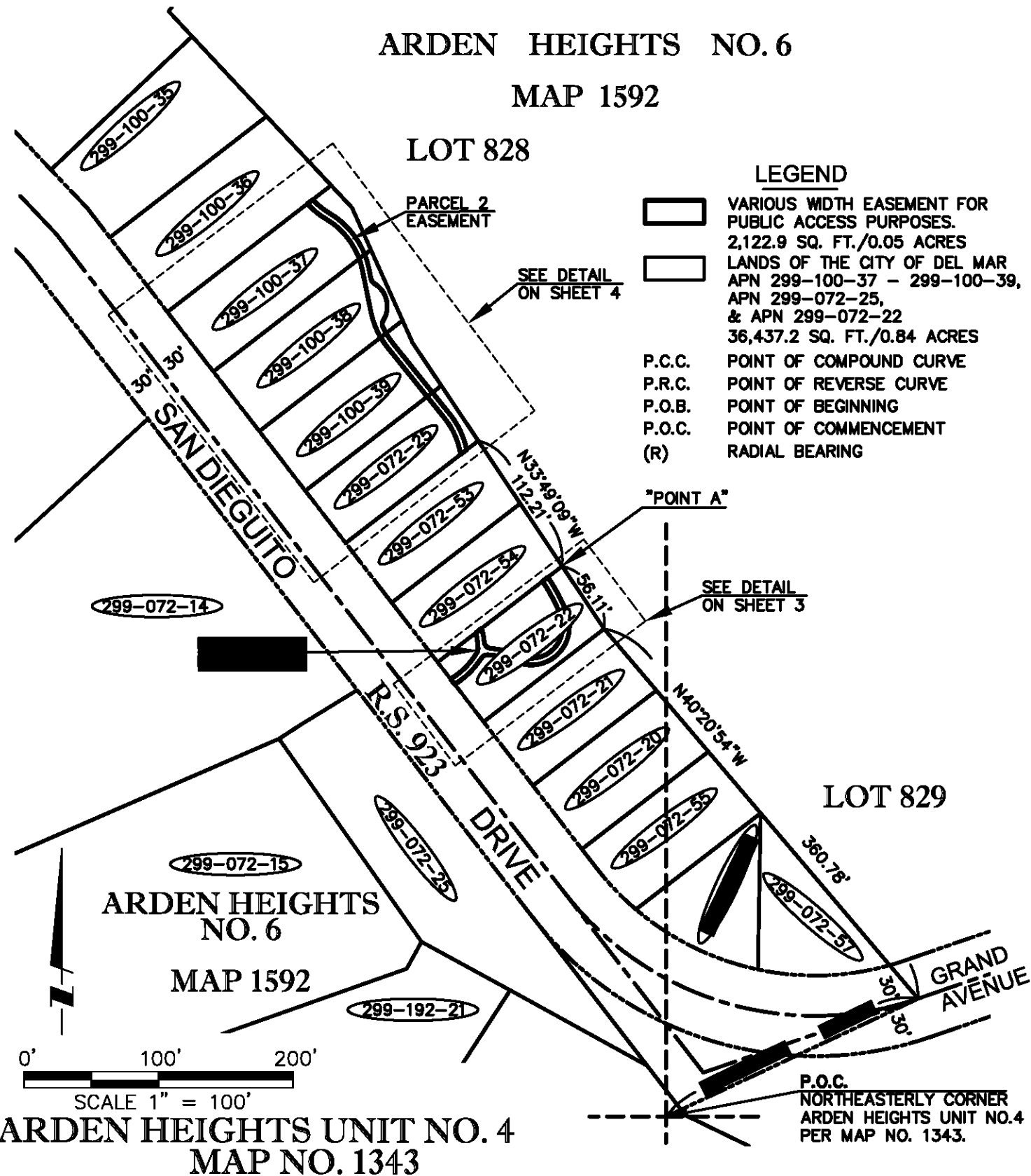
ARDEN HEIGHTS NO. 6

MAP 1592

LOT 828

LEGEND

-  VARIOUS WIDTH EASEMENT FOR PUBLIC ACCESS PURPOSES. 2,122.9 SQ. FT./0.05 ACRES
-  LANDS OF THE CITY OF DEL MAR
APN 299-100-37 - 299-100-39,
APN 299-072-25,
& APN 299-072-22
36,437.2 SQ. FT./0.84 ACRES
- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING



SCALE 1" = 100'

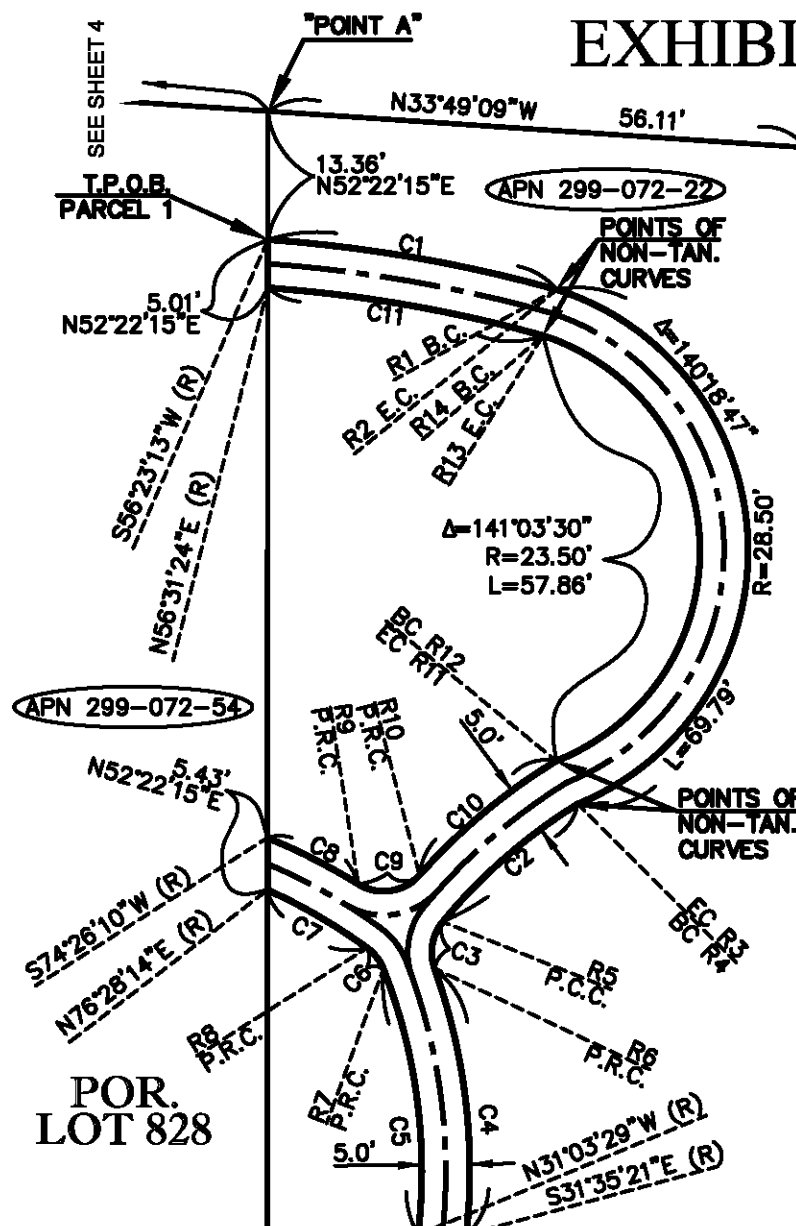
ARDEN HEIGHTS UNIT NO. 4
MAP NO. 1343

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EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-100-37 - 299-100-39,
APN 299-072-22, & APN 299-072-25
City of Del Mar
County of San Diego State of California

Date: 03/31/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 2 of 4

EXHIBIT "B"



AR DEN
HEI GHTS
NO. 6
MAP 1592

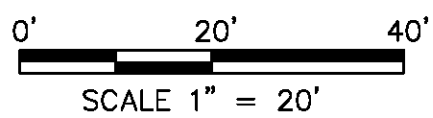
RADIAL DATA BEARING

R1	N67°52'21"E
R2	S69°49'56"W
R3	S30°08'42"W
R4	S20°34'45"W
R5	S01°55'02"W
R6	N57°24'30"W
R7	N59°09'17"W
R8	N88°26'48"E
R9	N84°10'24"E
R10	S03°56'00"W
R11	N20°59'22"E
R12	N31°05'41"E
R13	N70°02'11"E
R14	S67°50'19"W

CURVE DATA

C1	11°29'08"	152.50'	30.57'
C2	18°39'43"	57.50'	18.73'
C3	59°19'32"	5.00'	5.18'
C4	25°49'09"	62.50'	28.16'
C5	28°05'47"	57.50'	28.20'
C6	32°23'55"	5.00'	2.83'
C7	11°58'34"	57.50'	12.02'
C8	09°44'14"	62.50'	10.62'
C9	80°14'23"	5.00'	7.00'
C10	17°03'22"	62.50'	18.61'
C11	11°18'55"	147.50'	29.13'

- LEGEND**
- VARIOUS WIDTH EASEMENT FOR PUBLIC ACCESS PURPOSES. CITY OF DEL MAR. 819.3 SQ. FT./0.02 ACRES
 - LANDS OF THE CITY OF DEL MAR. 36,446.1 SQ. FT./0.84 ACRES
 - P.C.C. POINT OF COMPOUND CURVE
 - P.R.C. POINT OF REVERSE CURVE
 - P.O.B. POINT OF BEGINNING
 - P.O.C. POINT OF COMMENCEMENT
 - (R) RADIAL BEARING

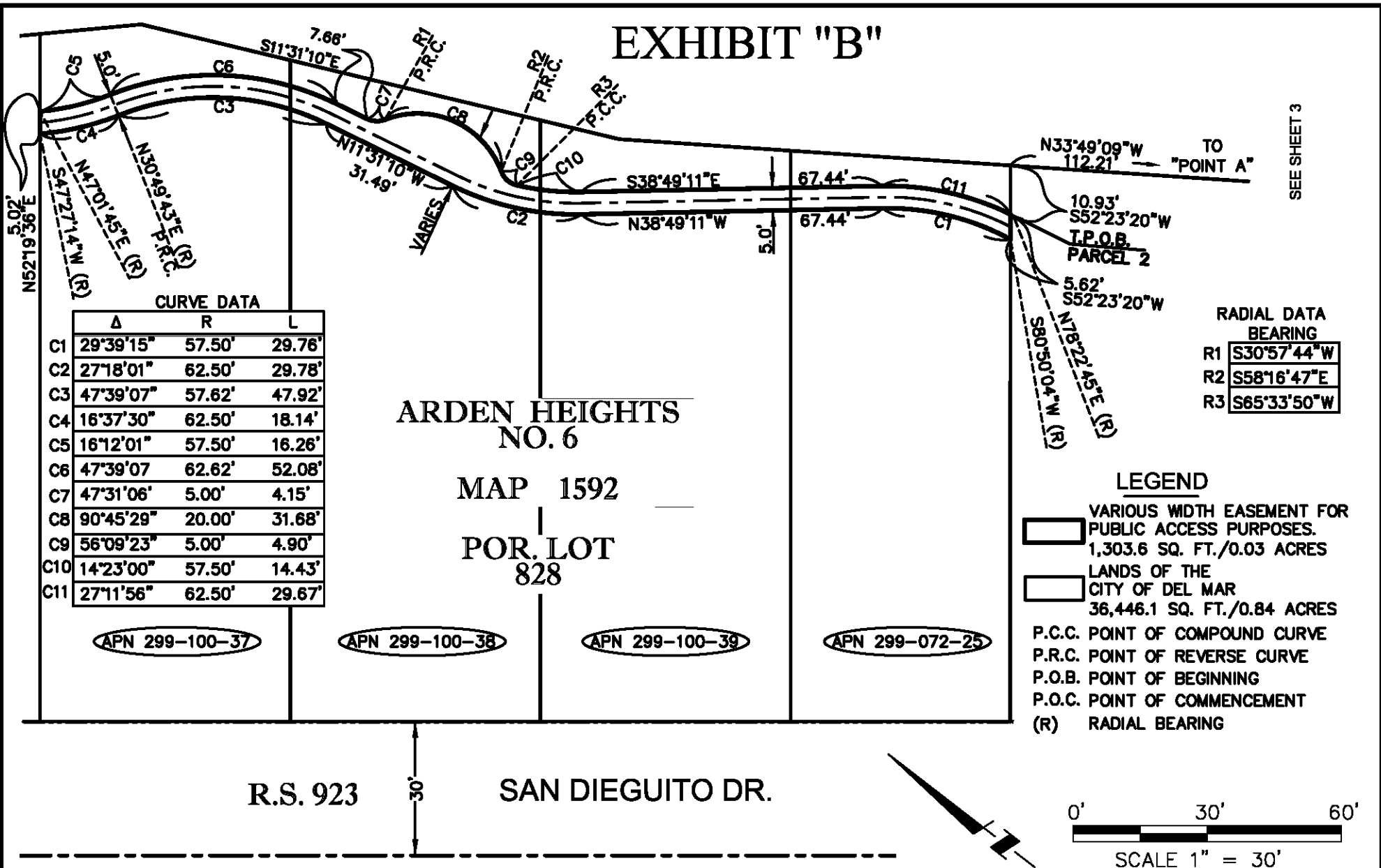



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EASEMENT FOR PUBLIC ACCESS PURPOSES OVER
 APN 299-100-37 - 299-100-39,
 APN 299-072-22, & APN 299-072-25
 City of Del Mar
 County of San Diego State of California

Date: 03/31/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 3 of 4

EXHIBIT "B"



SEE SHEET 3

CURVE DATA

	Δ	R	L
C1	29°39'15"	57.50'	29.76'
C2	27°18'01"	62.50'	29.78'
C3	47°39'07"	57.62'	47.92'
C4	16°37'30"	62.50'	18.14'
C5	16°12'01"	57.50'	16.26'
C6	47°39'07"	62.62'	52.08'
C7	47°31'06"	5.00'	4.15'
C8	90°45'29"	20.00'	31.68'
C9	56°09'23"	5.00'	4.90'
C10	14°23'00"	57.50'	14.43'
C11	27°11'56"	62.50'	29.67'

RADIAL DATA BEARING

R1	S30°57'44"W
R2	S58°16'47"E
R3	S65°33'50"W

- LEGEND**
- VARIOUS WIDTH EASEMENT FOR PUBLIC ACCESS PURPOSES. 1,303.6 SQ. FT./0.03 ACRES
 - LANDS OF THE CITY OF DEL MAR 36,446.1 SQ. FT./0.84 ACRES
 - P.C.C. POINT OF COMPOUND CURVE
 - P.R.C. POINT OF REVERSE CURVE
 - P.O.B. POINT OF BEGINNING
 - P.O.C. POINT OF COMMENCEMENT
 - (R) RADIAL BEARING

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EASEMENT FOR PUBLIC ACCESS PURPOSES OVER
 APN 299-100-37 - 299-100-39,
 APN 299-072-22, & APN 299-072-25
 City of Del Mar
 County of San Diego State of California

Date: 03/31/2015
 Drawn: S.G.O.
 Checked: D.J.M.
 J.N.: 14616
 Sheet 4 of 4

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

PORTION OF LOT 828 AND 829 OF ARDEN HEIGHTS, NO. 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913 BEING DESCRIBED AS FOLLOWS:

PARCEL 1 – EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE NORTHEASTERLY CORNER OF ARDEN HEIGHTS NO.4 ACCORDING TO MAP THEREOF NO. 1343; THENCE NORTH 64°54'41" EAST 206.97 FEET TO THE EASTERLY TERMINUS OF THE 235.43 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, IN THE CENTER LINE OF COUNTY ROAD SHOWN ON ROAD SURVEY MAP NO. 923, AND KNOWN AS SAN DIEGUITO DRIVE, SAID CENTER LINE CURVE HAVING A CENTRAL ANGLE OF 71°19'45" AND A LENGTH OF 293.09 FEET; THENCE NORTH 64°54'41" EAST 206.97 FEET; THENCE NORTH 40°20'54" WEST 180.89 FEET TO A POINT HEREAFTER REFERED TO AS "POINT A"; THENCE SOUTH 52°23'37" WEST 39.64 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 1**; THENCE CONTINUING SOUTH 52°23'37" WEST 6.12 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 117.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 16°21'15" WEST; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44°36'12" AND AN ARC DISTANCE OF 91.47 FEET; THENCE NORTH 37°40'19" WEST 5.07 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 122.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 28°38'13" EAST; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 46°40'30" AND AN ARC DISTANCE OF 99.79 FEET TO **THE TRUE POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 479 SQUARE FEET OR 0.01 ACRES, MORE OR LESS. ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

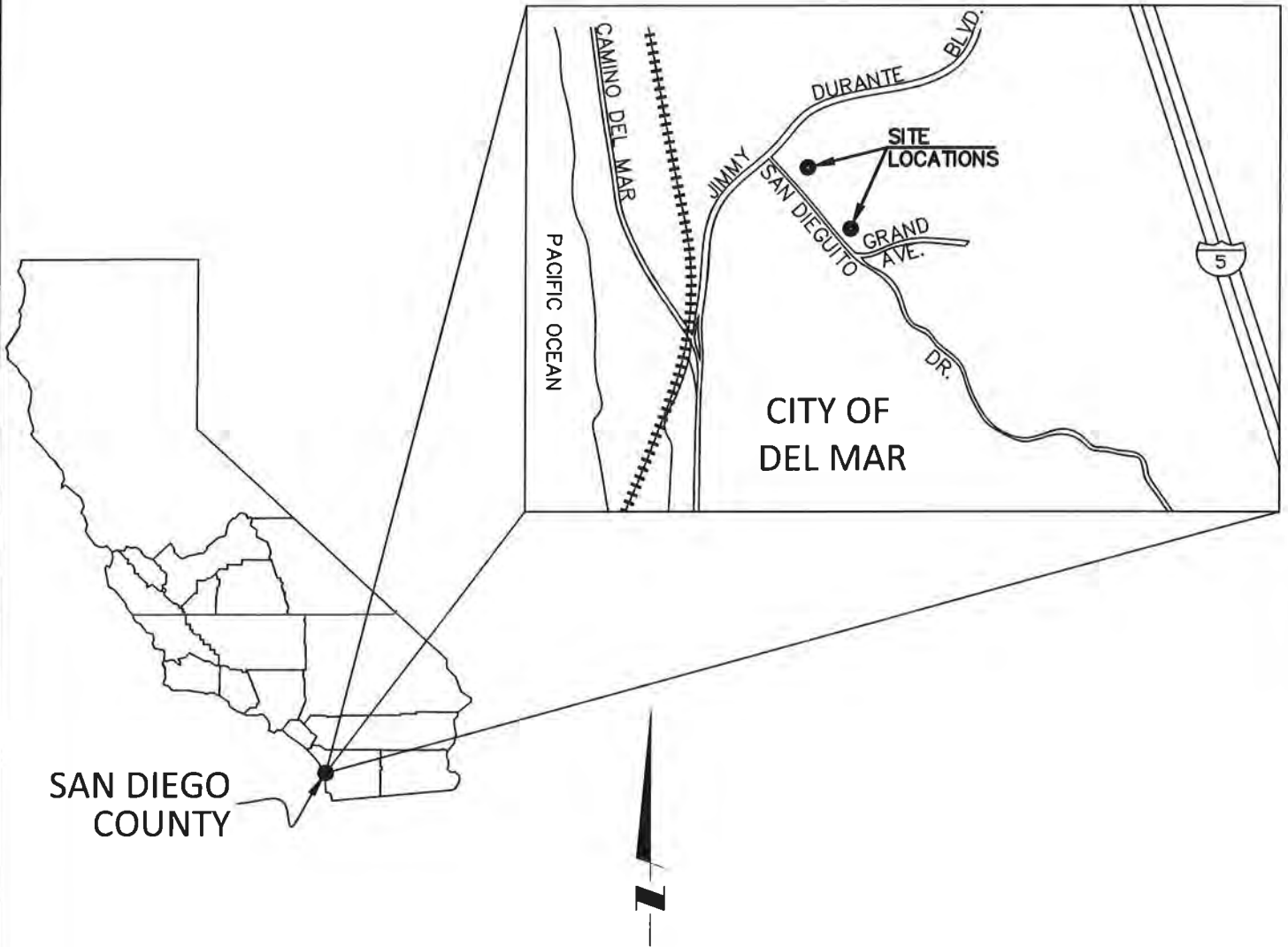
PARCEL 2 – EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE AFORE MENTIONED "POINT A"; THENCE NORTH 40°20'54" WEST 360.78 FEET; THENCE NORTH 33°49'09" WEST 256.12 FEET; THENCE NORTH 24°10'19" WEST 110.00 FEET; THENCE NORTH 43°02'19" WEST 199.84 FEET; THENCE NORTH 36°49'51" EAST 28.10 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 2**; THENCE NORTH 13°07'50" WEST 18.91 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°59'04" AND AN ARC DISTANCE OF 20.71 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1407.70 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 36°38'46" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°32'19" AND AN ARC DISTANCE OF 13.24 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 52.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 65°58'55" WEST; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'15" AND AN ARC DISTANCE OF 9.98 FEET; THENCE SOUTH 13°07'50" EAST 14.71 FEET; THENCE SOUTH 36°49'51" WEST 6.53 FEET TO THE TRUE POINT OF BEGINNING OF PARCEL 2.

THE ABOVE DESCRIBED PARCEL CONTAINS 158 SQUARE FEET, MORE OR LESS. ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

EXHIBIT "B"

VICINITY MAP



NOT TO SCALE



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EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-072-55 & APN 299-100-34
City of Del Mar
County of San Diego State of California

Date: 04/01/2015

Drawn: S.G.O.

Checked: D.J.M.

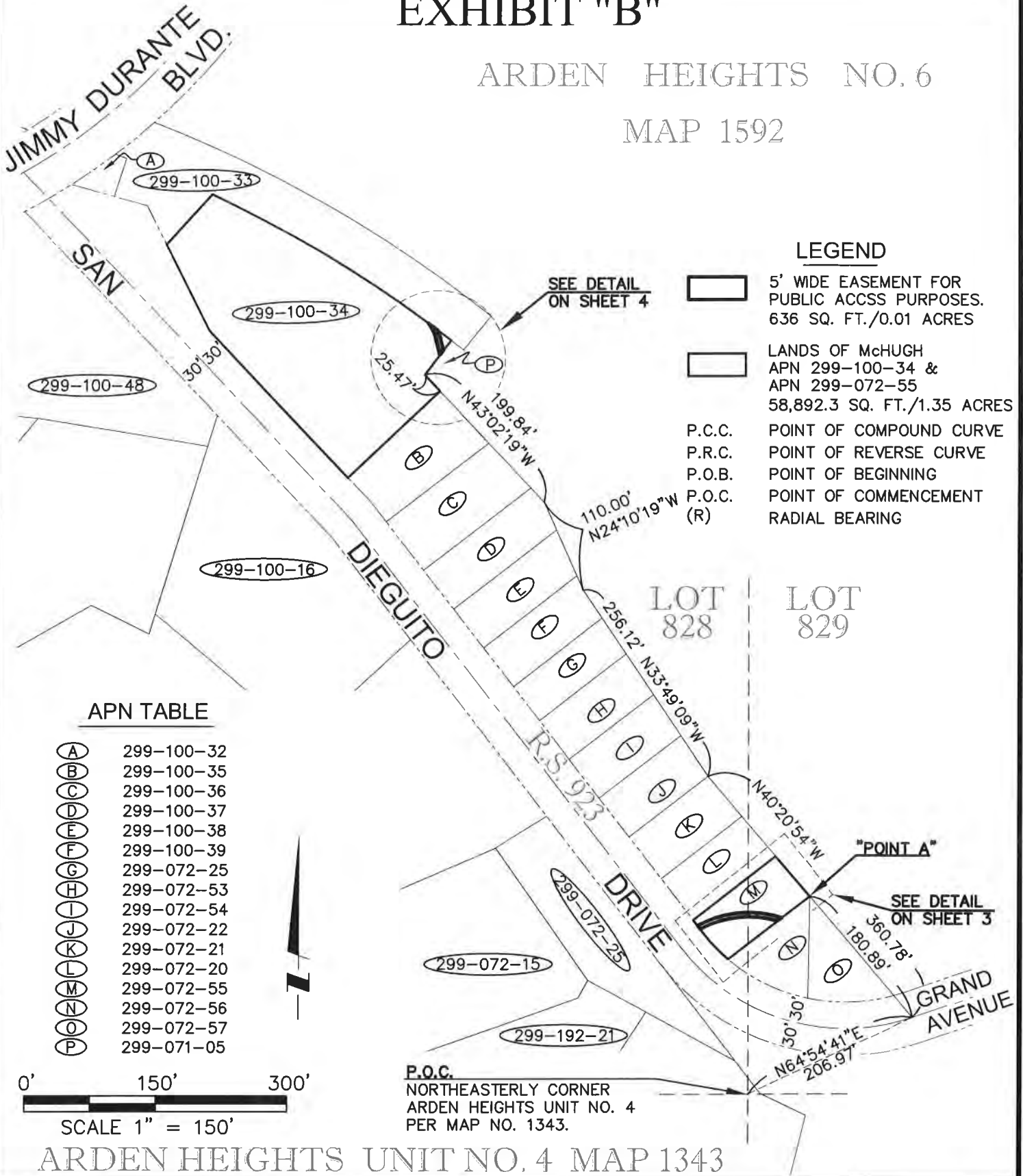
J.N.: 14616

Sheet 1 of 4

EXHIBIT "B"

ARDEN HEIGHTS NO. 6

MAP 1592



ARDEN HEIGHTS UNIT NO. 4 MAP 1343



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EASEMENT FOR PUBLIC ACCESS PURPOSES OVER APN 299-072-55 & APN 299-100-34

City of Del Mar

County of San Diego

State of California

Date: 04/01/2015

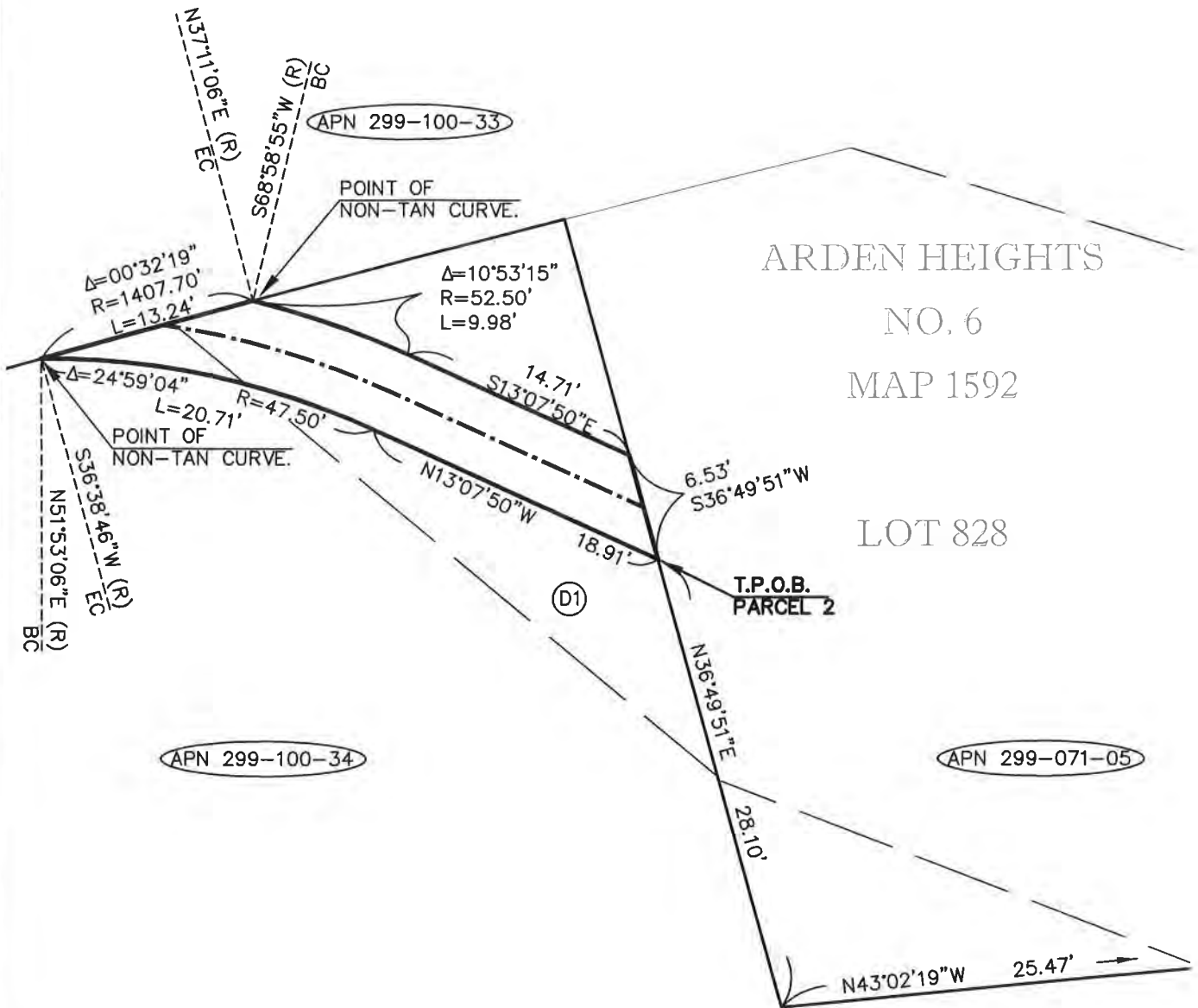
Drawn: S.G.O.

Checked: D.J.M.

J.N.: 14616

Sheet 2 of 4

EXHIBIT "B"



SEE SHEET 2

LEGEND

- VARIOUS WIDTH EASEMENT FOR PUBLIC ACCESS PURPOSES. 157.83 SQ. FT./0.00 ACRES
- LANDS OF THE MCHUGH APN 299-100-34 51,740.7 SQ. FT./1.19 ACRES
- SCE MAINTENANCE EASEMENT
- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING

RECORD REFERENCES

- (D1) SO. CAL. EDISON MAINTENANCE EASEMENT RECORDED ON 10/19/2006 IN DOC. NO. 2006-0741942, O.R.



SCALE 1" = 10'



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EASEMENT FOR PUBLIC ACCESS PURPOSES OVER
APN 299-072-55 & APN 299-100-34

City of Del Mar

County of San Diego

State of California

Date: 04/01/2015

Drawn: S.G.O.

Checked: D.J.M.

J.N.: 14616

Sheet 4 of 4

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

PORTION OF LOT 828 OF ARDEN HEIGHTS, NO: 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913 BEING DESCRIBED AS FOLLOWS:

EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE NORTHEASTERLY CORNER OF ARDEN HEIGHTS NO.4 ACCORDING TO MAP THEREOF NO. 1343; THENCE NORTH 64°54'41" EAST 206.97 FEET TO THE EASTERLY TERMINUS OF THE 235.43 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, IN THE CENTER LINE OF COUNTY ROAD SHOWN ON ROAD SURVEY MAP NO. 923, AND KNOWN AS SAN DIEGUITO DRIVE, SAID CENTER LINE CURVE HAVING A CENTRAL ANGLE OF 71°19'45" AND A LENGTH OF 293.09 FEET; THENCE NORTH 40°20'54" WEST 360.78 FEET; THENCE NORTH 33°49'09" WEST 256.12 FEET; THENCE NORTH 24°10'19" WEST 110.00 FEET; THENCE NORTH 43°02'19" WEST 199.84 FEET; THENCE NORTH 36°49'51" EAST 49.49 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 1407.70 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 37°58'37" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°49'31" AN ARC DISTANCE OF 19.46 FEET TO THE **TRUE POINT OF BEGINNING**; SAID POINT BEING THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1407.70 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 37°11'05" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°32'19" AN ARC DISTANCE OF 13.24 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 51°53'06" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°23'52" AND AN ARC DISTANCE OF 6.13 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 197.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°59'10" AND AN ARC DISTANCE OF 34.42 FEET; THENCE NORTH 55°29'57" WEST 109.95 FEET; THENCE NORTH 57°42'19" WEST 54.95 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 302.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°08'13" AND AN ARC DISTANCE OF 74.64 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 7.50 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 76°57'59" AND AN ARC DISTANCE OF 10.07 FEET;; THENCE SOUTH 51°48'52" WEST 5.62 FEET; THENCE NORTH 38°11'08" WEST 5.00 FEET; THENCE NORTH 51°48'52" EAST 5.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 12.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 32°15'40" EAST; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 78°41'33" AND AN ARC DISTANCE OF 17.17 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 297.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°08'13" AND AN ARC DISTANCE OF 73.40 FEET;; THENCE SOUTH 57°42'19" EAST 55.05 FEET; THENCE SOUTH 55°29'57" EAST 110.04 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 202.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°59'10" AND AN ARC DISTANCE OF 35.29 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 52.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°29'41" AND AN ARC DISTANCE OF 19.70 FEET; TO THE **TRUE POINT OF BEGINNING**.

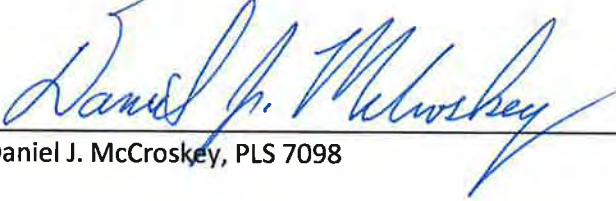
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SAID BEARINGS ARE IN TERMS OF THE CALIFORNIA COORDINATE SYSTEM, NAD 83, ZONE 6 (EPOCH 1991.35) PER CITY OF DEL MAR HORIZONTAL CONTROL.

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.

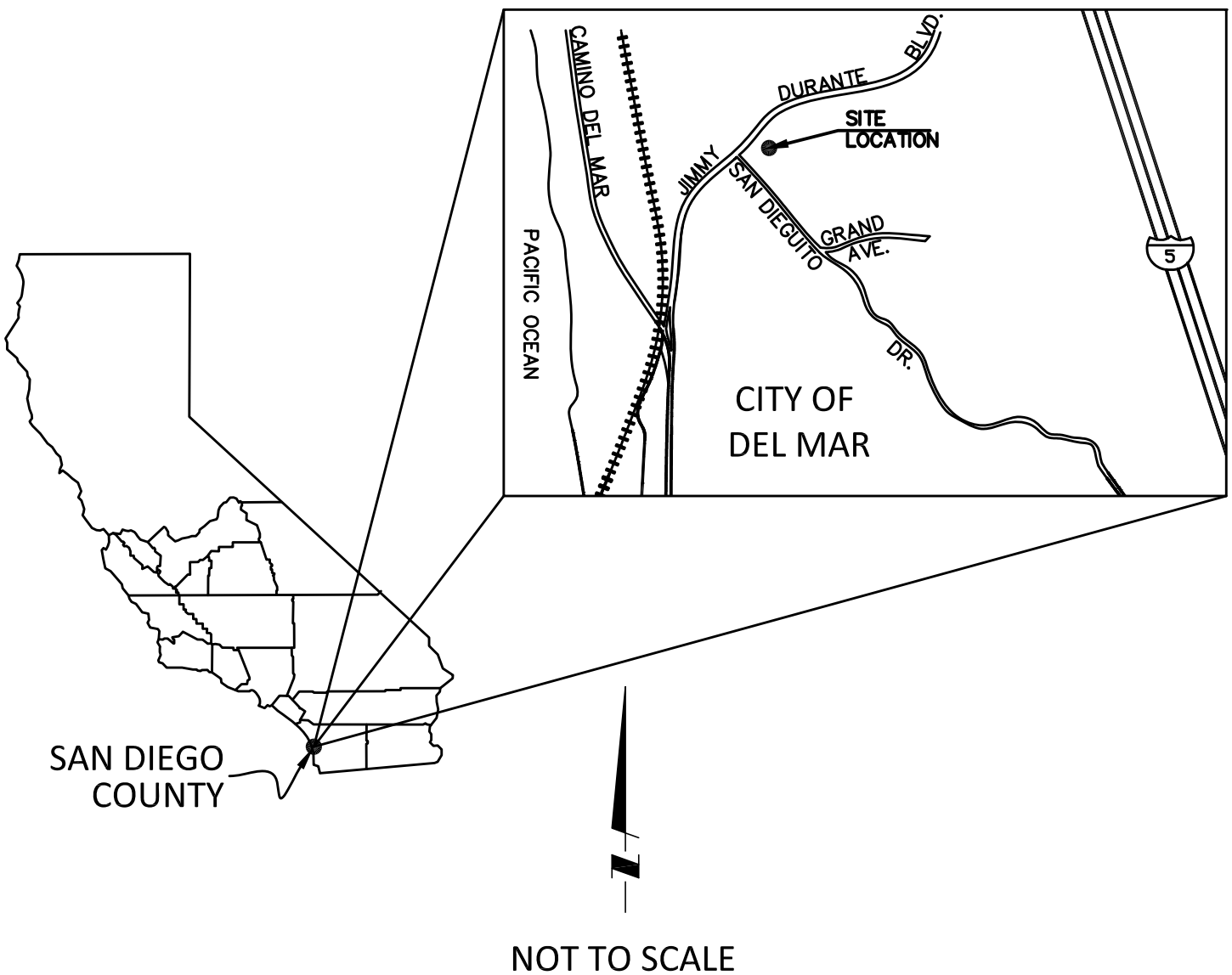

Daniel J. McCroskey, PLS 7098


DATE



EXHIBIT "B"

VICINITY MAP



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EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-100-33
City of Del Mar
County of San Diego State of California

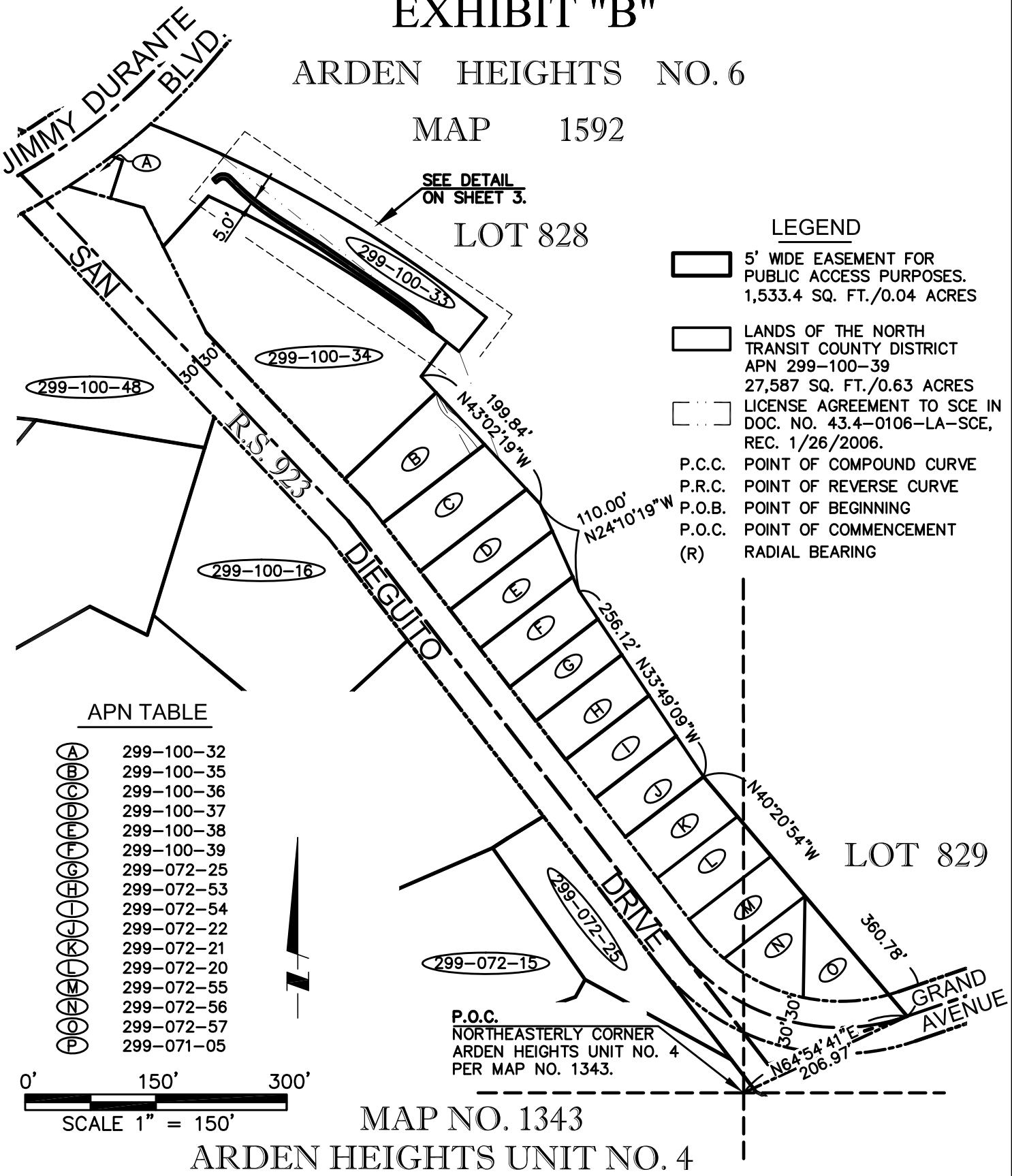
Date: 03/31/2015
Drawn: S.G.O.
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J.N.: 14616
Sheet 1 of 3

EXHIBIT "B"




ARDEN HEIGHTS NO. 6

MAP 1592

LOT 828



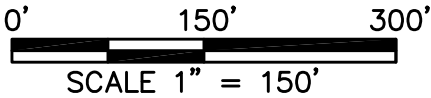
LEGEND

-  5' WIDE EASEMENT FOR PUBLIC ACCESS PURPOSES. 1,533.4 SQ. FT./0.04 ACRES
-  LANDS OF THE NORTH TRANSIT COUNTY DISTRICT APN 299-100-39 27,587 SQ. FT./0.63 ACRES
-  LICENSE AGREEMENT TO SCE IN DOC. NO. 43.4-0106-LA-SCE, REC. 1/26/2006.
- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING

APN TABLE

(A)	299-100-32
(B)	299-100-35
(C)	299-100-36
(D)	299-100-37
(E)	299-100-38
(F)	299-100-39
(G)	299-072-25
(H)	299-072-53
(I)	299-072-54
(J)	299-072-22
(K)	299-072-21
(L)	299-072-20
(M)	299-072-55
(N)	299-072-56
(O)	299-072-57
(P)	299-071-05

P.O.C.
NORTHEASTERLY CORNER
ARDEN HEIGHTS UNIT NO. 4
PER MAP NO. 1343.



MAP NO. 1343

ARDEN HEIGHTS UNIT NO. 4



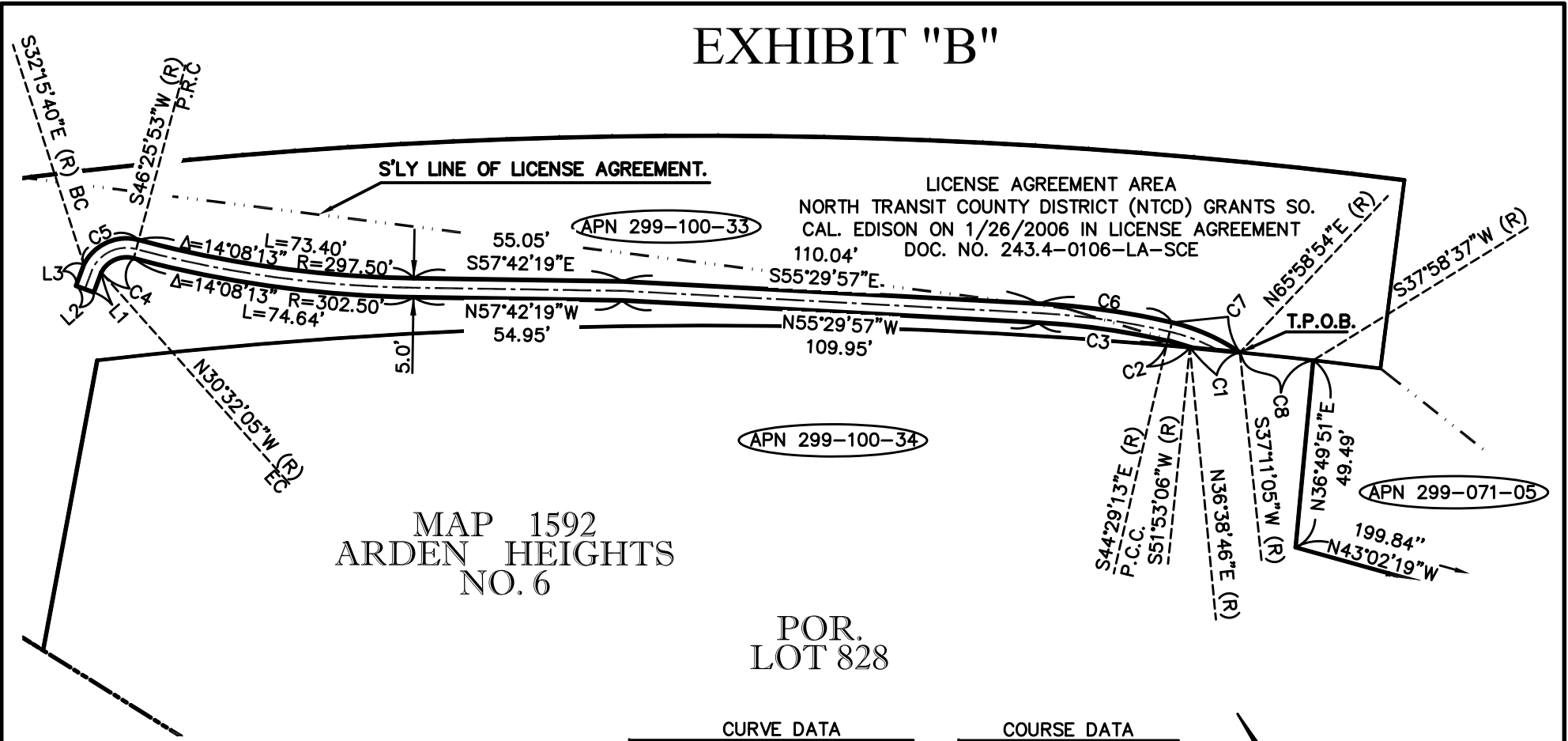
TOWILL | Surveying, Mapping
and GIS Services
10390 Commerce Center Drive, Suite C-190
Rancho Cucamonga, CA 91730-5858
909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-100-33

City of Del Mar
County of San Diego State of California

Date: 03/31/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 2 of 3




EXHIBIT "B"



MAP 1592
ARDEN HEIGHTS
NO. 6

POR.
LOT 828

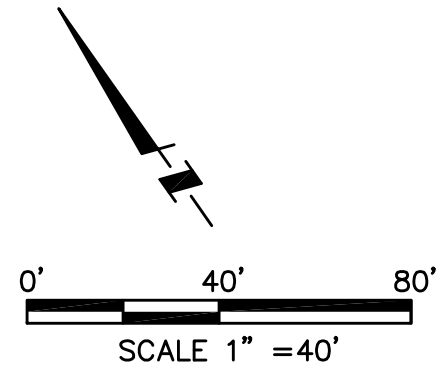
LEGEND

-  5' WIDE EASEMENT FOR PUBLIC ACCESS PURPOSES. 1,533.4 SQ. FT./0.04 ACRES
-  LANDS OF THE NORTH TRANSIT COUNTY DISTRICT APN 299-100-39 27,587 SQ. FT./0.63 ACRES
-  LICENSE AGREEMENT TO SCE IN DOC. NO. 43.4-0106-LA-SCE, REC. 1/26/2006.

- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING

CURVE DATA			
	Δ	R	L
C1	00°32'19"	1407.70'	13.24'
C2	07°23'52"	47.50'	6.13'
C3	09°59'10"	197.50'	34.42'
C4	76°57'59"	7.50'	10.07'
C5	78°41'33"	12.50'	17.17'
C6	09°59'10"	202.50'	35.29'
C7	21°29'41"	52.50'	19.70'
C8	00°49'31"	1407.70'	19.46'

COURSE DATA	
BEARING	L
L1	S51°48'52"W 5.62'
L2	N38°11'08"W 5.00'
L3	N51°48'52"E 5.91'



TOWILL | Surveying, Mapping and GIS Services
10390 Commerce Center Drive, Suite C-190
Rancho Cucamonga, CA 91730-5858
909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS PURPOSES OVER
APN 299-100-33
City of Del Mar
County of San Diego State of California

Date: 03/31/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 3 of 3

ATTACHMENT C-4
Lennon OTD

For City Council Report dated July 7, 2003

JUL 07 2003 ITEM

96

13

RECORDING REQUESTED BY AND RETURN TO:
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

RECEIVED
2. 28. 92

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IRREVOCABLE OFFER TO DEDICATE PUBLIC LATERAL ACCESS EASEMENT

AND

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT AND
DECLARATION OF RESTRICTIONS (hereinafter referred to as the "Offer") is made
this 28th day of January, 1992, by James Lennon and
Nzizwe Siwundhla, (hereinafter referred to as the
"Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain
real property located in the County of San Diego, State of
California, and described in the attached EXHIBIT A (hereinafter referred to
as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone
as defined in §30103 of the California Public Resources Code (hereinafter
referred to as the "California Coastal Act of 1976"); and

III. WHEREAS, the California Coastal Act of 1976 (hereinafter referred
to as the "Act") creates the California Coastal Commission (hereinafter
referred to as the "Commission") and requires that any coastal development
permit approved by the Commission must be consistent with the policies of
the Act set forth in Chapter 3 of Division 20 of the Public Resources Code;
and

IV. WHEREAS, pursuant to the Act, Grantor applied to the California
Coastal Commission for a permit to undertake development as defined in
§30106 of the Public Resources Code on the Property within the coastal zone

97

1 of San Diego County; and

2 V. WHEREAS, a coastal development permit number 6-91-245 (hereinafter
3 referred to as the "Permit") was granted on November 12, , 1991, by the
4 Commission in accordance with the provision of the Staff Recommendation and
5 Findings, attached hereto as EXHIBIT B and hereby incorporated by reference,
6 subject to the following condition:

7
8 2. Lateral Public Access. Prior to the issuance of the coastal
9 development permit, the landowner shall execute and record a document, in a
10 form and content acceptable to the Executive Director, irrevocably offering to
11 dedicate to a public agency or private association approved by the Executive
12 Director, an easement for lateral public access and passive recreational use
13 along the northeasterly property line adjacent to the San Dieguito Lagoon as
14 shown on Exhibits #2 and #3. The document shall provide that the offer of
15 dedication shall not be used or construed to allow anyone, prior to acceptance
16 of the offer, to interfere with any rights of public access acquired through
17 use which may exist on the property. Such easement shall be a minimum of
18 seven feet in width and shall run along the entire width of the property.

19 The document shall be recorded free of prior liens which the Executive
20 Director determines may affect the interest being conveyed, and free of any
21 other encumbrances which may affect said interest. The offer shall run with
22 the land in favor of the People of the State of California, binding all
23 successors and assignees, and shall be irrevocable for a period of 21 years,
24 such period running from the date of recording. The recording document shall
25 include legal descriptions of both the applicant's entire parcel and the
26 easement area.
27

19 VI. WHEREAS, the Property is a parcel located between the first public
20 road and the shoreline; and

21 VII. WHEREAS, under the policies of §30210 through §30212 of the
22 Public Resources Code, public access to the shoreline and along the coast
23 is to be maximized, and in all new development projects located between the
24 first public road and the shoreline shall be provided; and

25 VIII. WHEREAS, the Commission found that but for the imposition of the
26 above condition, the proposed development could not be found consistent with
27 the public access policies of §30210 through §30212 of the Public Resource

1 Code and that, therefore, in the absence of such a condition, a permit could
2 not have been granted; and

3 IX. WHEREAS, Grantor has elected to comply with the Condition and
4 execute this Offer so as to enable Grantor to undertake the development
5 authorized by the Permit; and

6 NOW THEREFORE, in consideration of the granting of the Permit to
7 the Grantor by the Commission, Grantor hereby irrevocably offers to dedicate
8 to the People of the State of California, a lateral access easement in gross
9 and in perpetuity over the Property as follows:

10 1. DESCRIPTION. The easement offered hereby affects that portion of
11 the Property along the northeasterly property line adjacent to the San
12 Dieguito Lagoon, such easement being a minimum of seven feet in width and
run along the entire width of the property.

13 and as specifically described in EXHIBIT C, attached hereto and incorporated
14 herein by reference.

15 2. PURPOSE. The easement is for the purpose of allowing public
16 pedestrian lateral access and passive recreational use along the shoreline.

17 3. DECLARATION OF RESTRICTIONS. This offer of dedication shall not be
18 used or construed to allow anyone, prior to acceptance of the Offer, to
19 interfere with any rights of public access acquired through use which may
20 exist on the Property. After acceptance, Grantor shall not interfere with the
21 public's use of the easement nor take any action inconsistent with such use,
22 including, without limitation, constructing or improving the Property within
23 the easement area in a manner inconsistent with the public's use or enjoyment
24 thereof. Grantor shall retain all normal rights and incidents of ownership
25 of the underlying fee interest in the Property not inconsistent with the
26 easement. Grantor shall not be bound to undertake any supervision or
27 maintenance to provide for the public purposes hereunder. Prior to the

1 opening of the accessway, the Grantee, in consultation with the Grantor, may
2 record additional reasonable terms, conditions, and limitations on the use
3 of the Property in order to assure that this Offer for public access is
4 effectuated.

5 4. DURATION, ACCEPTANCE AND TRANSFERABILITY. This irrevocable offer
6 of dedication shall be binding upon the owner and the heirs, assigns, or
7 successors in interest to the Property described above for a period of 21
8 years. This Offer may be accepted by any agency of the State of California,
9 a political subdivision, or a private association acceptable to the Executive
10 Director of the Commission (hereinafter referred to as the "Grantee"). Such
11 acceptance shall be effectuated by recordation by the Grantee of an acceptance
12 of this Offer in the form attached hereto as EXHIBIT D. Upon such recordation
13 of acceptance, this offer and terms, conditions, and restrictions shall have
14 the effect of a grant of lateral access easement in gross and perpetuity
15 that shall run with the land and be binding on the heirs, assigns, and
16 successors of the Grantor. After acceptance, this easement may be transferred
17 to and held by any entity which qualifies as a Grantee under the criteria
18 hereinabove stated. Acceptance of the Offer is subject to a covenant which
19 runs with the land, providing that the Grantee may not abandon the easement
20 until such time as Grantee effectively transfers said easement to an entity
21 which qualifies as a Grantee under the criteria hereinabove stated.

22 5. REMEDIES. Any act, conveyance, contract, or authorization by
23 Grantor whether written or oral which uses or would cause to be used or
24 would permit use of the easement contrary to the terms of this Offer will be
25 deemed a breach hereof. The Grantor, any Grantee of this easement and any
26 offeree of this Offer may pursue any and all available legal and/or equitable
27 remedies to enforce the terms and conditions of the Offer and easement and


1 their respective interest in the property. In the event of a breach, any
2 forbearance on the part of any such party to enforce the terms and provisions
3 hereof shall not be deemed a waiver of enforcement rights regarding any
4 subsequent breach.

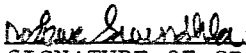
5 6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid
6 all real property taxes and assessments levied or assessed against the
7 Property. It is intended that this irrevocable offer and the use restrictions
8 contained herein shall constitute enforceable restrictions within the meaning
9 of a) Article XIII, §8, of the California Constitution; and b) §402.1 of
10 the California Revenue and Taxation Code or successor statute. Furthermore,
11 this Offer, easement and restrictions shall be deemed to constitute a
12 servitude upon and burden to the Property within the meaning of §3712(d) of
13 the California Revenue and Taxation Code, or successor statute, which
14 survives a sale of tax-deeded property.

15 7. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions,
16 obligations, and reservations contained in this Offer shall be binding upon
17 and inure to the benefit of the successors and assigns of both the Grantor
18 and the Grantee, whether voluntary or involuntary.

19 8. SEVERABILITY. If any provision of this Offer is held to be invalid,
20 or for any reason becomes unenforceable, no other provision shall be thereby
21 affected or impaired.

22
23 Executed on this 29 day of January, 1992, at
24 San Diego

25
26 
27 JAMES LENIVON
TYPE OR PRINT NAME ABOVE

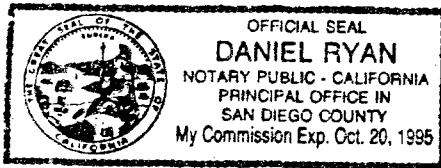

SIGNATURE OF GRANTOR
Debora Serradilla
TYPE OR PRINT NAME ABOVE

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**** NOTE TO NOTARY PUBLIC **** If you are notarizing the signatures of persons signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgement) as explained in your Notary Public Law Book.

STATE OF CALIFORNIA)
)ss
COUNTY OF SAN DIEGO)

On this 28 day of JANUARY, in the year 1992, before me DANIEL RYAN, a Notary Public, personally appeared JAMES LENNON NOZIZWE, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/she/they executed it.



[Signature]
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA)
)ss
COUNTY OF _____)

On this _____ day of _____, in the year 19____, before me _____, a Notary Public, personally appeared _____, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/she/they executed it.

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit Number 6-91-245 on November 12, 1991, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

DATED: 2/26/92

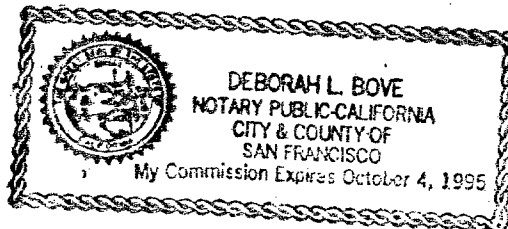
John Bowers
John Bowers, Staff Counsel
California Coastal Commission

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On February 26, 1992 before me, Deborah L. Bove, A Notary Public personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Deborah L. Bove



That portion of Lot 828 of ARDEN HEIGHTS, NO. 6, in the County of San Diego, State of California, according to Map thereof No. 1592, filed in the Office of the County Recorder of San Diego County, July 18, 1913, described as follows:

Beginning at the Northeasterly corner of ARDEN HEIGHTS, NO. 4, according to Map thereof No. 1343; thence North $64^{\circ}21'15''$ East 207.37 feet to the Easterly terminus of the 235.43 foot radius curve concave Northeasterly, in the center line of County Road shown on Road Survey Map No. 923, and known as San Dieguito Drive, said center line curve having a central angle of $71^{\circ}19'45''$ and a length of 293.99 feet; thence North $41^{\circ}02'30''$ West 361.10 feet to the most Northerly corner of the 2nd Parcel of land described in deed to Pearl Kidd, recorded June 1, 1950 as Document No. 61024, in Book 3642, Page 81 of Official Records; thence North $34^{\circ}15'50''$ West 256.00 feet; thence North $24^{\circ}45'50''$ West 110.00 feet; thence North $43^{\circ}45'50''$ West 93.08 feet to the TRUE POINT OF BEGINNING; thence North $43^{\circ}45'50''$ West 81.27 feet to the most Easterly corner of the parcel of land described in Deed to Sidney E. Briggs, recorded November 2, 1949 as Document No. 101402 in Book 3372, Page 213 of Official Records; thence along Southeasterly line of said Briggs' land South $46^{\circ}02'40''$ West 174.00 feet to the center line of said County Road, shown on Road Survey Map No. 923, thence along said center line of Road, South $43^{\circ}57'20''$ East 37.87 feet and South $38^{\circ}15'50''$ East 25.95 feet to a line which bears South $51^{\circ}44'10''$ West from the TRUE POINT OF BEGINNING; thence North $51^{\circ}44'10''$ East 177.15 feet to the TRUE POINT OF BEGINNING.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

Filed: October 7, 1991
49th Day: November 25, 1991
180th Day: April 4, 1992
Staff: EL-SD
Staff Report: October 21, 1991
Hearing Date: November 12-15, 1991

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-91-245

Applicant: James A. Lennon

Description: Construction of a two-story, 3,280 sq.ft. office building on a 12,673 sq.ft. riverfront parcel. The first level of the structure will be open, except for stairways and a mechanical equipment room, to allow potential flood flows through the floodplain site.

Lot Area	12,673 sq. ft.
Building Coverage	3,189 sq. ft. (26%)
Pavement Coverage	3,904 sq. ft. (34%)
Landscape Coverage	2,514 sq. ft. (16%)
Unimproved Area	3,066 sq. ft. (24%)
Parking Spaces	11
Zoning	NC
Plan Designation	North Commercial
Ht' abv fin grade	26 feet

Site: 2201 San Dieguito Drive, Del Mar, San Diego County.
APN 299-100-35

Substantive File Documents: City of Del Mar LCP Land Use Plan, certified with Suggested Modifications
CCC File #6-88-241
Design Review Permit DRB-87-60
Reduced Setback Variance V-87-19

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any

significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Flood Protection Prior to the issuance of the coastal development permit, the applicant shall submit evidence in the form of documentation from a registered structural engineer that the proposed structure is designed to comply with all current Federal Emergency Management Agency requirements to assure that the structure will withstand flooding impacts associated with the 100-year floodplain and that such compliance shall be accomplished without the use of fill to create a higher finish grade. The documentation shall also indicate that the construction method will not result in the change of flood flows or flood flow elevations either up-or downstream from the site. Said evidence shall be subject to the review and written approval of the Executive Director.

2. Lateral Public Access. Prior to the issuance of the coastal development permit, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an easement for lateral public access and passive recreational use along the northeasterly property line adjacent to the San Dieguito Lagoon as shown on Exhibits #2 and #3. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be a minimum of seven feet in width and shall run along the entire width of the property.

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel and the easement area.

3. Trail Plan. Prior to the issuance of the coastal development permit, the applicant shall submit a plan for the construction of the proposed public pathway along the northeastern property line. The plans shall indicate the type of construction materials to be used and may include the provision of a low fence (36" high maximum) along the outside (lagoonward) perimeter of the path to deter access to or across the adjacent slope and wetland area. Any fencing materials used shall be compatible with the surrounding natural

environment. Said plan shall be subject to the review and written approval of the Executive Director in consultation with the Department of Fish and Game.

4. Exterior Treatment/Lighting. Prior to the 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 structure. Said materials shall be composed of earth tones and non-reflective glass so as to minimize the project's contrast with the adjacent natural wetlands and hillside habitat. The plan shall also prohibit the use of high intensity lighting devices (spot lights) aimed directly at the northeastern face of the structure or the adjacent lagoon.

5. Applicant's Assumption of Risk. Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The applicant proposes to construct a two-story, 3,200 sq. ft., office structure on a 12,673 sq. ft. site along the San Dieguito Lagoon in Del Mar. The building would actually contain two structures attached via stairways and walkways. The project site is located along the northeast side of San Dieguito Drive adjacent to the southerly channel of the San Dieguito River/Lagoon. The property lies within the 100-year floodplain as mapped by Federal Emergency Management Agency (FEMA) and adjacent to the floodway of the river as mapped by the same agency. Coastal Development Permit #6-88-241 was approved over three years ago for the identical project. However, the special conditions were never fulfilled and the permit has expired.

The site is flat, having been disturbed by past grading activity and is used in part, as a storage area for an auto tow service. Elevations on the site range from 9 feet to 11 feet (MSL). Directly to the northeast of the site, (off-site) the topography drops away some 6 feet in elevation as a steep bank, partially covered with rock and concrete rubble. Several varieties of wetland indicator plant species cover the lower portions of the uncovered areas of the slope. At the bottom of the slope lies a tidal channel of the San Dieguito Lagoon.

The lagoon supports a wide variety of habitat including some species listed as

rare or endangered on the Federal and State lists. The lagoon is one of the 19 wetland areas identified as a priority acquisition area as referenced in Section 30233 of the Coastal Act. Again, the slope itself and the wetlands of the lagoon are located to the northeast, off-site. To the southwest of the site and the adjacent San Dieguito Drive a steep sloping, largely undisturbed hillside rises to the south and west.

The proposed two-story structure incorporates an innovative design to minimize the hazards from flood flows. The first floor of the structure, save for stairways and a mechanical equipment room will be vacant and open. A series of ports in the walls of the first floor would allow water flows through the structure. The second story of the structure will contain 3,200 sq. ft. of office space. A total of eleven off-street parking spaces would be provided in an at grade parking area between the structure and San Dieguito Drive, the two lane roadway which provides access to the site from Jimmy Durante Boulevard, located to the northwest.

Several older corrugated steel and concrete block structures used for storage or light manufacturing and auto repair exist in the immediate area. These structures were constructed prior to the Coastal Act and were thus not subject to the Commission's review. Such buildings exist on the property to the northwest of the site between it and Jimmy Durante Boulevard, and one such structure exists to the southeast as well. Beyond that to the southeast, the remainder of the area immediately along the shoreline is vacant.

In an effort to provide for the protection of the biological and visual resources of the lagoon, the City of Del Mar, in concert with the State Coastal Conservancy, is in the process of trying to acquire the properties located immediately along the lagoon. In fact, there was at one time an effort to acquire the subject property for just such a purpose. However, since the applicant's purchase of the site several years ago, the City and Conservancy have ceased attempts for acquisition of the site and have, instead, concentrated on acquisition of the block of vacant lagoonside properties beginning three properties to the southeast.

2. Preservation of Sensitive Wetland Habitat. The project site lies adjacent to the wetlands of the San Dieguito River/Lagoon. Although no environmentally sensitive habitat exists on the site itself, the wetlands of the lagoon are located between 9 and 18 feet to the northeast of the site on adjacent property. As proposed, the structure would incorporate a varying setback of between 40 and 46 feet from the wetlands area. 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 water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that

protect riparian habitats, and minimizing alteration of natural streams.

Also, Section 30240 states, in part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Pursuant to these policies of the Act, the Commission has found that the provision of an adequate development-free buffer area is essential to the preservation of sensitive wetland habitat. Generally, that buffer area has been established at 100 feet in width. However, in situations where a full 100-foot wide buffer could not be accommodated or is not considered necessary after consultation with the Department of Fish and Game, due to site specific criteria, a buffer of a lesser width has been accepted. These specific criteria include factors such as the existence of a significant topographical elevation differential, or other physical barriers such as a substantial bank of vegetation.

In the subject case, provision of a full 100-foot buffer is made very difficult due to several conflicting site development constraints. First, the project site is 170 feet deep from the northeastern property line to San Dieguito Drive. Additionally, towards the western, upland side, a 10-foot wide easement runs across the site for overhead power lines. Discussions with the holders of the easement, San Diego Gas and Electric Company have revealed that under the terms of the easement granted, no permanent buildings may be placed or constructed within 10 feet of the overhead lines which run through the easement. Those lines are between 20 and 25 feet overhead. Because the site is located within the floodplain, construction methods warrant the use of only the second floor of the structure for habitable (lease) area further limiting use of the site. Finally, the southwestern portion of the site is encumbered by an easement to the County of San Diego (transferred to the City of Del Mar) for the widening of San Dieguito Drive.

Thus, the buildable area is very limited, absent an authorization by the easement holders to construct in what is otherwise an unbuildable area. The existing use of the SDG&E easement for the overhead power lines make that unlikely for this easement. Discussion with City of Del Mar representatives at the time of the prior permit approval indicated that, while there were no current plans for the expansion of San Dieguito Drive, vacation of the roadway easement or the granting of permission to build within the easement area would require substantial review which the City was not undertaking. That situation has not changed.

In order to afford protection to the nearby sensitive resources of San Dieguito Lagoon, the Commission finds that an increased setback should be provided between all portions of the structure and the wetland boundary. A special condition of the previous permit (Coastal Development Permit #6-88-241) required revised plans showing a 50-foot setback, based on the California Department of Fish and Game (DF&G) recommendation. Said plans have

been recently submitted and are now part of the subject application, along with detailed drainage plans which had also been required in the prior permit. Based on the DF&G recommendation, and its previous action, the Commission finds that the use of a wetland setback of less than 100-feet can be found to be acceptable in this case due to the unique development constraints which exist on the site. It also finds the submitted drainage plans adequate to protect the adjacent lagoon from sedimentation. Therefore, the Commission finds the project, as conditioned to address other concerns discussed in the following findings, consistent with Coastal Act Sections 30231 and 30240.

3. Floodplain Hazards/New Development. Coastal Act Section 30253 calls for new development to be designed to minimize risks to life and property, assure structural integrity and not contribute to the destruction of the surrounding area. The project site is located within the 100-year flood plain of the San Dieguito River as determined by the Federal Emergency Management Agency. The applicant has designed the structure to be compatible with the threat of flooding by limiting the habitable area to the elevated second floor of the structure. As proposed, the first floor of the structure, save for ventilation devices and other similar equipment, would be left open to allow flood water flows through the building. No use of fill to elevate the level of the site or building site is proposed. The only grading proposed is that for trenching for foundations.

To assure consistency with the the Coastal Act policies calling for minimization of risks, Special Condition #1 has been attached. The special condition requires the applicant to submit evidence, from a registered structural engineer that the proposed project design will meet the standards of the FEMA regulations in terms of flood protection and will not in and of itself result in the displacement of flood waters which might effect the flood flows of up-or downstream properties. The condition also requires that the establishment of the elevation of the structure's habitable area be accomplished without the use of fill grading.

As conditioned, the Commission finds that the project will be consistent with Coastal Act policy 30253. Also, as designed and conditioned, the proposed structure is fully consistent with the City of Del Mar's LCP Land Use Plan, which was certified with suggested modifications by the Coastal Commission in July, 1991. However, because there remains an inherent risk to construction within the 100-year floodplain, Special Condition #5 has been attached. The special condition requires the applicant to record a deed restriction recognizing this risk and waiving any liability on the Commission's part for allowing this development. Pursuant to Section 13166(a)(1) of the Commission's administrative regulations, an application may be filed to remove Special Condition #5 from this permit if the applicants present newly discovered material information regarding the existence of any hazardous condition which was the basis for the condition, if they could not with reasonable diligence have discovered and produced such information before the permit was granted.

4. Scenic Resources/Visual Impact. Section 30251 of the Coastal Act is applicable to the proposed development and states, in 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 landforms, [and] to be visually compatible with the character of surrounding areas,....

The project site is located adjacent to the wetlands of San Dieguito Lagoon which has been subject to on-going restoration to enhance its biological and scenic resources. The site is visible from Interstate 5 to the east, portions of Jimmy Durante Boulevard to the north, and from the lagoon itself. The area to the west of the site which provides the backdrop of views from these locations is comprised largely of an undisturbed steep sloping hillside.

To protect the scenic resources of the area from the impacts of the two-story structure proposed, Special Condition #4 requires the submittal of a plan for the exterior construction materials to be used in the project. The condition specifies that the exterior materials shall be of earthen tones to minimize the visual impacts of the structure. It also requires the use of non-reflective glass and prohibits the use of high intensity lighting devices which would illuminate the northeasterly side of the structure or be aimed directly at the adjacent lagoon. In addition to satisfying the concerns of preserving scenic resources of the area, this provision will also minimize adverse impacts to the animal species which frequent the adjacent wetlands. A detailed landscaping plan already found acceptable to the DF&G has been submitted and is part of the proposed development. Therefore, the Commission finds the proposal, as conditioned, consistent with Section 30251 of the Act.

5. Public Access. Coastal Act Section 30212 states, in part:

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

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or...

The project site is located between the San Dieguito Lagoon coastal waters, and San Dieguito Drive, the closest public roadway. In fact, however, Interstate 5, much further to the east, is actually the designated first public roadway, since San Dieguito Drive is not a through street. Pursuant to this policy and the overall desire for public access along the lagoon shore, the San Dieguito Lagoon Resource Enhancement Plan, approved by the Commission, calls for the provision of public access opportunities along the lagoon's south shore. In its approval of the subject project, the City of Del Mar required that a public access path be provided along the northeasterly

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property line. Attached Special Conditions #2 and #3 reflect the same concern on the part of the Commission for the provision of public access opportunities with the redevelopment of the site.

Special Condition #2 requires the recordation of a 7-foot wide public access easement along the northeasterly property line, in the same alignment as required at the local level. With this alignment, the pathway would be located between 8 and 15 feet back from the top of the slope leading to the lagoon. Under the terms of the condition, the recording document is to be of a form and content acceptable to the Executive Director.

Special Condition #3 requires the applicant to construct an access path in the easement area and to provide plans for such construction. The condition further specifies that the construction plans may include the placement of a fence along the lagoonward side of the pathway so as to limit access to the adjacent slope and wetland areas, if such a fence is acceptable to the DF&G. To assure that any approved fence will not affect the scenic resources of the area, the condition limits the height of the fence to a maximum of 36 inches. Consistent with the City of Del Mar Design Review Permit #DRB-87-60, the trail must be constructed by the applicant concurrent with the approved commercial structures and prior to final inspection. As conditioned, the Commission finds the project consistent with Section 30212 and all other Chapter 3 policies of the Coastal Act.

6. Local Coastal Planning. Section 30604 (a) requires that a coastal development permit shall be issued only if the Commission finds that the 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 subject site is zoned NC and designated as North Commercial in the Del Mar Community Plan and LCP Land Use Plan; the proposed development is consistent with those designations. In addition, the Coastal Commission, in July, 1991, certified the City of Del Mar's LCP Land Use Plan (LUP) with suggested modifications; the certified LUP includes the San Dieguito Lagoon Enhancement Plan, which allows commercial development in this location. The project, as conditioned, is fully consistent with the Commission's recent action on the LUP. As conditioned, the project should not prejudice the ability of the City of Del Mar to prepare and implement a fully certifiable Local Coastal Program.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

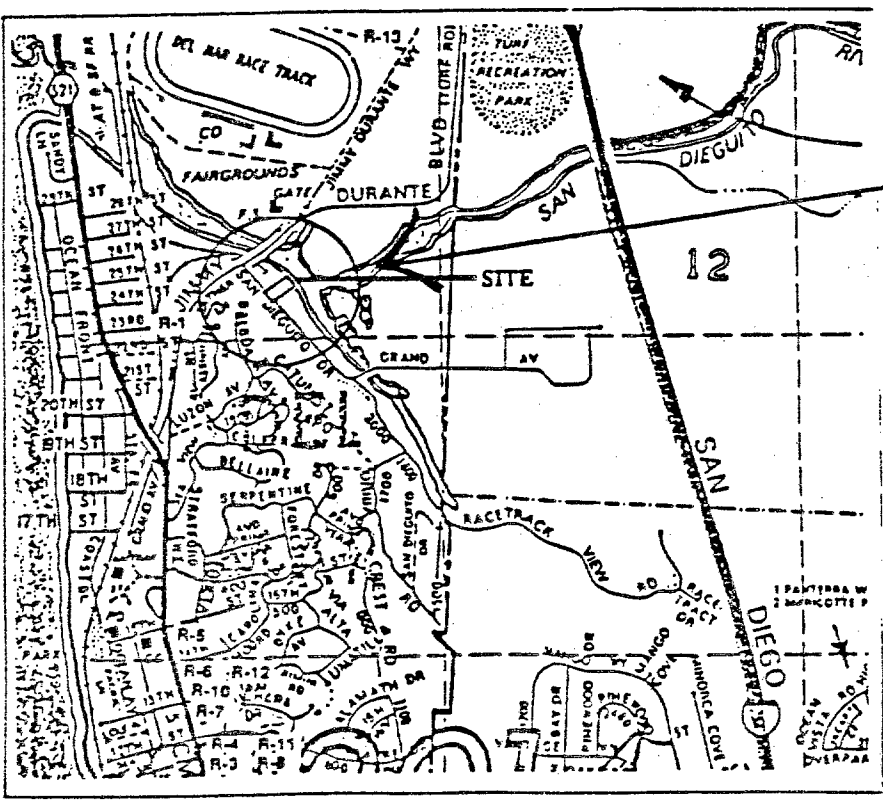
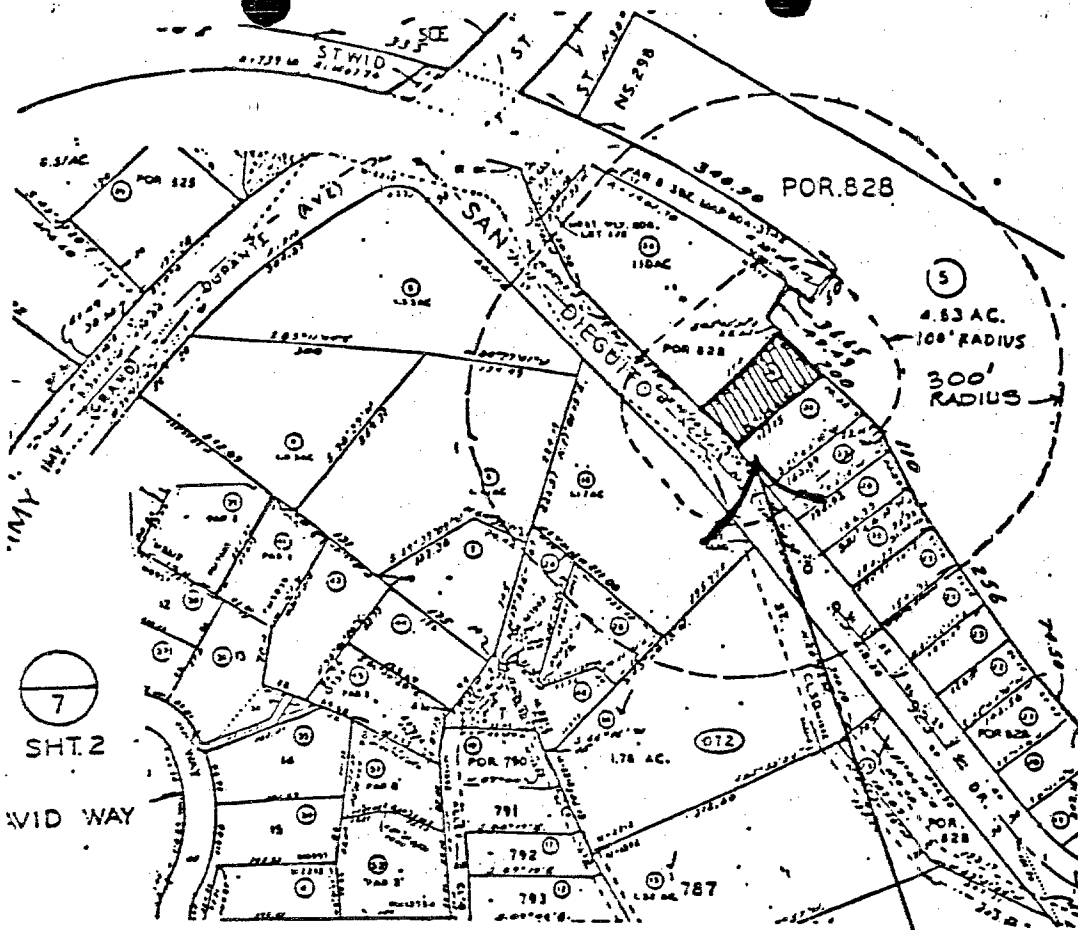
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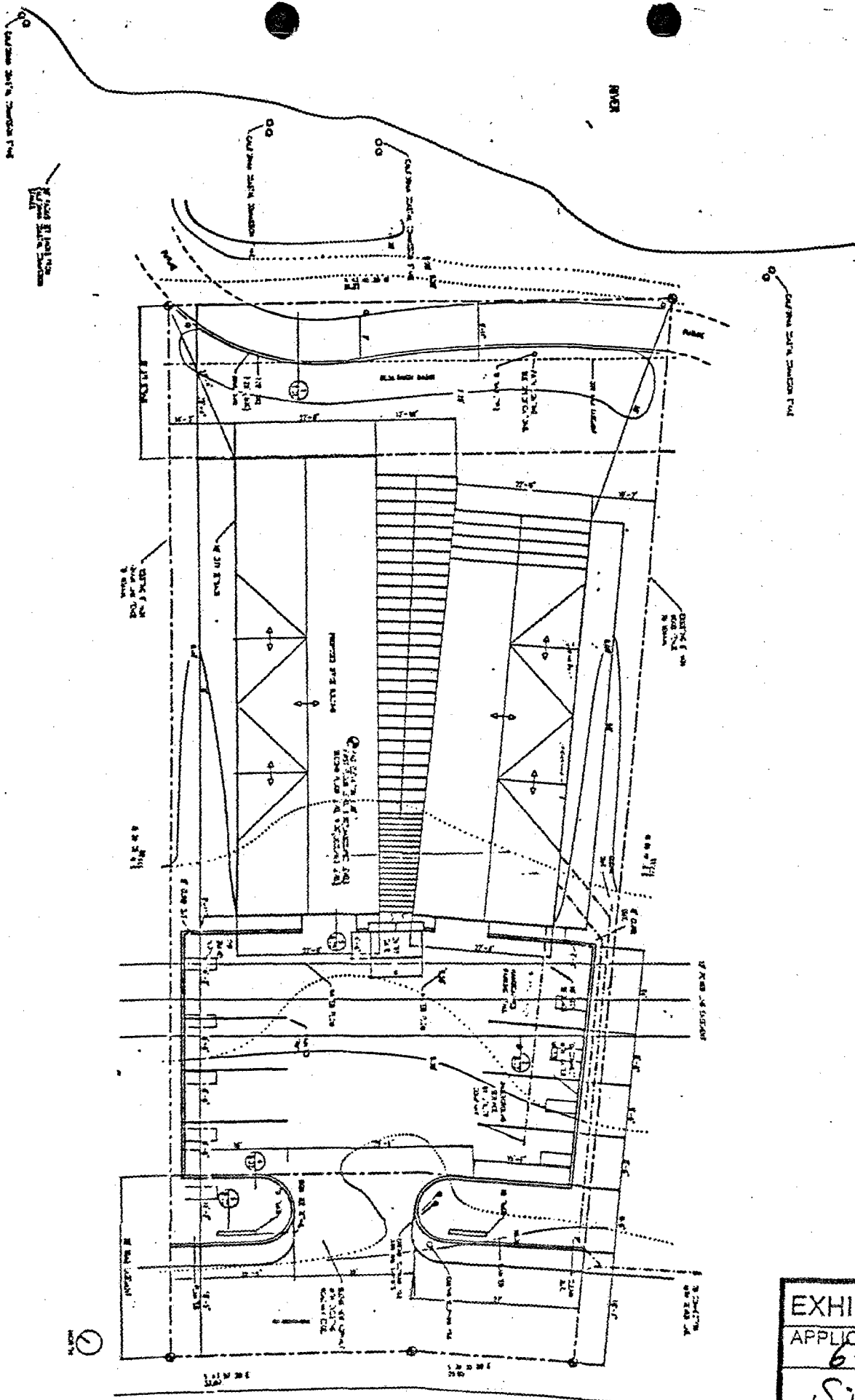
WID WAY



Site

EXHIBIT NO.	1
APPLICATION NO.	6-77-245
Vicinity Maps	
California Coastal Commission	

114



10

112

JUL 07 2003

ITEM

13

EXHIBIT NO.
APPLICATION NO. 6-71-24
Site Pla
California Coastal C

EXHIBIT C

2205

LEGAL DESCRIPTION

THE NORTHEASTERLY 9.92 FEET OF THAT PORTION OF LOT 828 OF ARDEN HEIGHTS, NO. 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF ARDEN HEIGHTS, NO. 4, ACCORDING TO MAP THEREOF NO. 1343; THENCE NORTH $64^{\circ}21'15''$ EAST, 207.37 FEET TO THE EASTERLY TERMINUS OF THE 235.43 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, IN THE CENTER LINE OF COUNTY ROAD SHOWN ON ROAD SURVEY MAP NO. 923, AND KNOWN AS SAN DIEGUITO DRIVE, SAID CENTER LINE CURVE HAVING A CENTRAL ANGLE OF $71^{\circ}19'45''$ AND A LENGTH OF 293.09 FEET; THENCE NORTH $41^{\circ}02'30''$ WEST, 361.10 FEET TO THE MOST NORTHERLY CORNER OF THE SECOND PARCEL OF LAND DESCRIBED IN DEED TO PEARL KIDD, RECORDED JUNE 1, 1950, A DOCUMENT NO. 61024, IN BOOK 3642, PAGE 81 OF OFFICIAL RECORDS; THENCE NORTH $34^{\circ}15'50''$ WEST, 256.00 FEET; THENCE NORTH $24^{\circ}45'50''$ WEST, 110.00 FEET; THENCE NORTH $43^{\circ}45'50''$ WEST, 93.08 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH $43^{\circ}45'50''$ WEST, 81.27 FEET TO THE MOST EASTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN DEED TO SIDNEY E. BRIGGS, RECORDED NOVEMBER 2, 1949 AS DOCUMENT NO. 101402 IN BOOK 3372, PAGE 213 OF OFFICIAL RECORDS; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID BRIGGS' LAND, SOUTH $46^{\circ}02'40''$ WEST, 174.00 FEET TO THE CENTER LINE OF SAID COUNTY ROAD, SHOWN ON ROAD SURVEY MAP NO. 923; THENCE ALONG SAID CENTER LINE OF ROAD, SOUTH $43^{\circ}57'20''$ EAST, 37.87 FEET AND SOUTH $38^{\circ}15'50''$ EAST, 25.95 FEET TO A LINE WHICH BEARS SOUTH $51^{\circ}44'10''$ WEST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH $51^{\circ}44'10''$ EAST, 177.15 FEET TO THE TRUE POINT OF BEGINNING.

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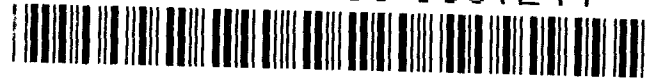
2209

DOC # 1992-0590669
17-SEP-1992 01:13 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
ANNETTE EVANS, COUNTY RECORDER

RF:	27.00	FEES:	77.00
AF:	49.00		
MF:	1.00		

DOC # 2005-0057244



JAN 21, 2005 4:35 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 0.00
PAGES: 5



PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

FB
5P
1/17

City of Del Mar

AND WHEN RECORDED MAIL TO:

City Clerk
City of Del Mar
1050 Camino del Mar
Del Mar, CA 92014

THIS SPACE FOR RECORDER'S USE ONLY

**ACCEPTANCE OF A GRANT OF INTEREST IN REAL PROPERTY IN THE FORM OF
AN EASEMENT FOR PUBLIC ACCESS**

Resolution #2003-40 of the Del Mar City Council

Assessor's Parcel No: (299-100-35)

(Please fill in document title(s) on this line)

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

RESOLUTION 2003-40

A RESOLUTION OF THE CITY OF DEL MAR, STATE OF CALIFORNIA ACCEPTING A GRANT OF INTEREST IN REAL PROPERTY IN THE FORM OF AN EASEMENT FOR PUBLIC ACCESS FOR PROPERTY LOCATED AT 2195 SAN DIEGUITO DRIVE, DEL MAR CALIFORNIA (APN 299-100-35)

WHEREAS, the City of Del Mar has a certified Local Coastal Program which promotes the goal of providing access to the shoreline; and

WHEREAS, On September 17, 1992, Grantors, James Lennon and Nzizwe Siwundhla, in fulfillment of a requirement of Coastal Development Permit No. 6-91-245, recorded an Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions (hereinafter referred to as, "Offer to Dedicate") as Instrument No. 1992-0590669, Pages 2185-2209 of the official records of the County Recorder of San Diego County.

WHEREAS, said Offer to Dedicate has not been accepted by any agency to date; and

WHEREAS, said Offer to Dedicate was recorded on September 17, 1992, and will automatically terminate if it is not accepted within twenty-one (21) years from the date of recordation; and

WHEREAS, there is some uncertainty as to the exact location of the mean high tide; and

WHEREAS, the City of Del Mar wishes to protect the public land and public access to the fullest extent possible by accepting this and other offers of dedication for public access, regardless of the size of the interest, if any, along the shoreline in favor of the public; and

WHEREAS, City staff has reviewed said Offer to Dedicate and has determined that acceptance of the Offer to Dedicate by the City would be beneficial to the City and the public in general; and

WHEREAS, said Offer to Dedicate has been presented to this City Council for its consideration and acceptance, and

WHEREAS, City staff has reviewed the Offer to Dedicate and recommends that the Offer to Dedicate be accepted.

NOW THEREFORE, BE IT RESOLVED that the City of Del Mar, a political subdivision of the State of California, hereby accepts the interest in real property conveyed by the Offer to Dedicate recorded on September 17, 1992 as Instrument No. 1992-0590669, Pages 2185-2209 of the Official Records of the County Recorder of San Diego County by its duly authorized officer.

BE IT FURTHER RESOLVED that this Resolution shall be filed for record at the San Diego County Recorders Office.

PASSED AND ADOPTED by the City Council of the City of Del Mar at a regular meeting held this 7th day of July, 2003.



DAVE DRUKER, Mayor
City of Del Mar

ATTEST:


MERCEDES MARTIN, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss
CITY OF DEL MAR)

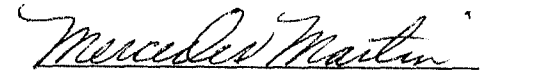

I, MERCEDES MARTIN, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution 2003-40, adopted by the City of Del Mar, California, at a Regular Meeting held the 7th day of July 2003, by the following vote:

AYES: Councilmembers Abarbanel, Crawford, Finnell; Mayor Druker

NOES: None

ABSENT: Councilmember Earnest

ABSTAIN: None


MERCEDES MARTIN, City Clerk


RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
CALIFORNIA COASTAL COMMISSION
89 S. California St., Suite 200
Ventura, CA 93001-2801

STATE OF CALIFORNIA OFFICIAL BUSINESS
Document entitled to free recordation
Pursuant to Government Code §27383

CDP 6-91-245
Lennon

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions dated January 28, 1992, executed by James Lennon and Nzizwe Siwundhla and recorded on September 17, 1992, as Instrument Number 1992-0590669 is hereby accepted by the City of Del Mar, a political subdivision of the State of California, on the date of recoding, pursuant to authority conferred by resolution of the City Council of the City of Del Mar adopted on July 7, 2003, and the Grantee consents to recordation thereof by its duly authorized officer.

CITY OF DEL MAR

By: Lauraine Biecke-España

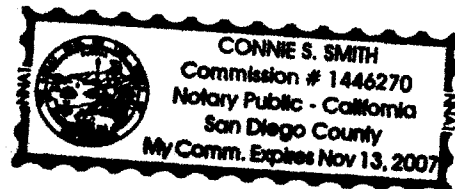
Its: CITY MANAGER

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On 1/13/05, before me, Connie S. Smith, a Notary Public, personally appeared Lauraine Biecke-España personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to within the instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Connie S. Smith

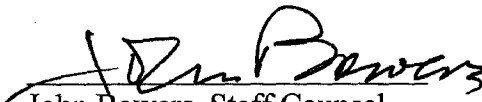


ACKNOWLEDGMENT BY CALIFORNIA COASTAL COMMISSION
OF ACCEPTANCE OF IRREVOCABLE OFFER TO DEDICATE
PUBLIC LATERAL ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS

This is to certify that the City of Del Mar is a political subdivision of the State of California, and a public agency acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Irrevocable Offer to Dedicate Public Lateral Access Easement and Declaration of Restrictions executed by James Lennon and Nzizwe Siwundhla on January 28, 1992, and recorded on September 17, 1992, in the office of the County Recorder of San Diego County as Instrument Number 1992-0590669.

Dated: Jan. 10, 2005

California Coastal Commission


John Bowers, Staff Counsel

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

On 01.10.05, before me, Jeff G. Staben, a Notary Public, personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to within the instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jeff G. Staben



EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

PORTION OF LOT 828 OF ARDEN HEIGHTS, NO. 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913 BEING DESCRIBED AS FOLLOWS:

EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE NORTHEASTERLY CORNER OF ARDEN HEIGHTS NO.4 ACCORDING TO MAP THEREOF NO. 1343; THENCE NORTH 64°54'41" EAST 206.97 FEET TO THE EASTERLY TERMINUS OF THE 235.43 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, IN THE CENTER LINE OF COUNTY ROAD SHOWN ON ROAD SURVEY MAP NO. 923, AND KNOWN AS SAN DIEGUITO DRIVE, SAID CENTER LINE CURVE HAVING A CENTRAL ANGLE OF 71°19'45" AND A LENGTH OF 293.09 FEET; THENCE NORTH 40°20'54" WEST 360.78 FEET; THENCE NORTH 33°49'09" WEST 256.12 FEET; THENCE NORTH 24°10'19" WEST 110.00 FEET; THENCE NORTH 43°02'19" WEST 22.76 FEET; THENCE SOUTH 52°19'36" WEST 17.34 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE SOUTH 52°19'36" WEST 5.02 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 47°27'14" EAST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°55'31" AND AN ARC DISTANCE OF 2.10 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 202.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°49'38" AND AN ARC DISTANCE OF 20.59 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 93°07'31" AND AN ARC DISTANCE OF 8.13 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 52.50 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°47'51" AND AN ARC DISTANCE OF 13.56 FEET;; THENCE SOUTH 66°52'43" WEST 45.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 97.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 20°16'35" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°13'19" AND AN ARC DISTANCE OF 24.20 FEET;; THENCE SOUTH 55°43'30" WEST 45.48 FEET; THENCE NORTH 37°40'19" WEST 5.01 FEET; THENCE NORTH 55°43'30" EAST 45.77 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 102.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 34°29'34" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°08'46" AND AN ARC DISTANCE OF 25.31 FEET;; THENCE NORTH 66°52'43" EAST 45.21 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 47.50 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°38'38" AND AN ARC DISTANCE OF 13.80 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 80°51'45" AND AN ARC DISTANCE OF 7.06 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 202.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°08'11" AND AN ARC DISTANCE OF 25.22 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 37.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°12'02" AND AN ARC DISTANCE OF 7.99 FEET;; THENCE NORTH 52°19'36" EAST 5.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 42.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 54°04'29" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°26'02" AND AN ARC DISTANCE OF 9.22 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 197.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°07'46" AND AN ARC DISTANCE OF 59.05 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT FOR PUBLIC ACCESS PURPOSES

OF 57.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°21'00" AND AN ARC DISTANCE OF 2.36 FEET TO THE **TRUE POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 1034 SQUARE FEET OR 0.02 ACRES, MORE OR LESS. ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

SAID BEARINGS ARE IN TERMS OF THE CALIFORNIA COORDINATE SYSTEM, NAD 83, ZONE 6 (EPOCH 1991.35) PER CITY OF DEL MAR HORIZONTAL CONTROL.

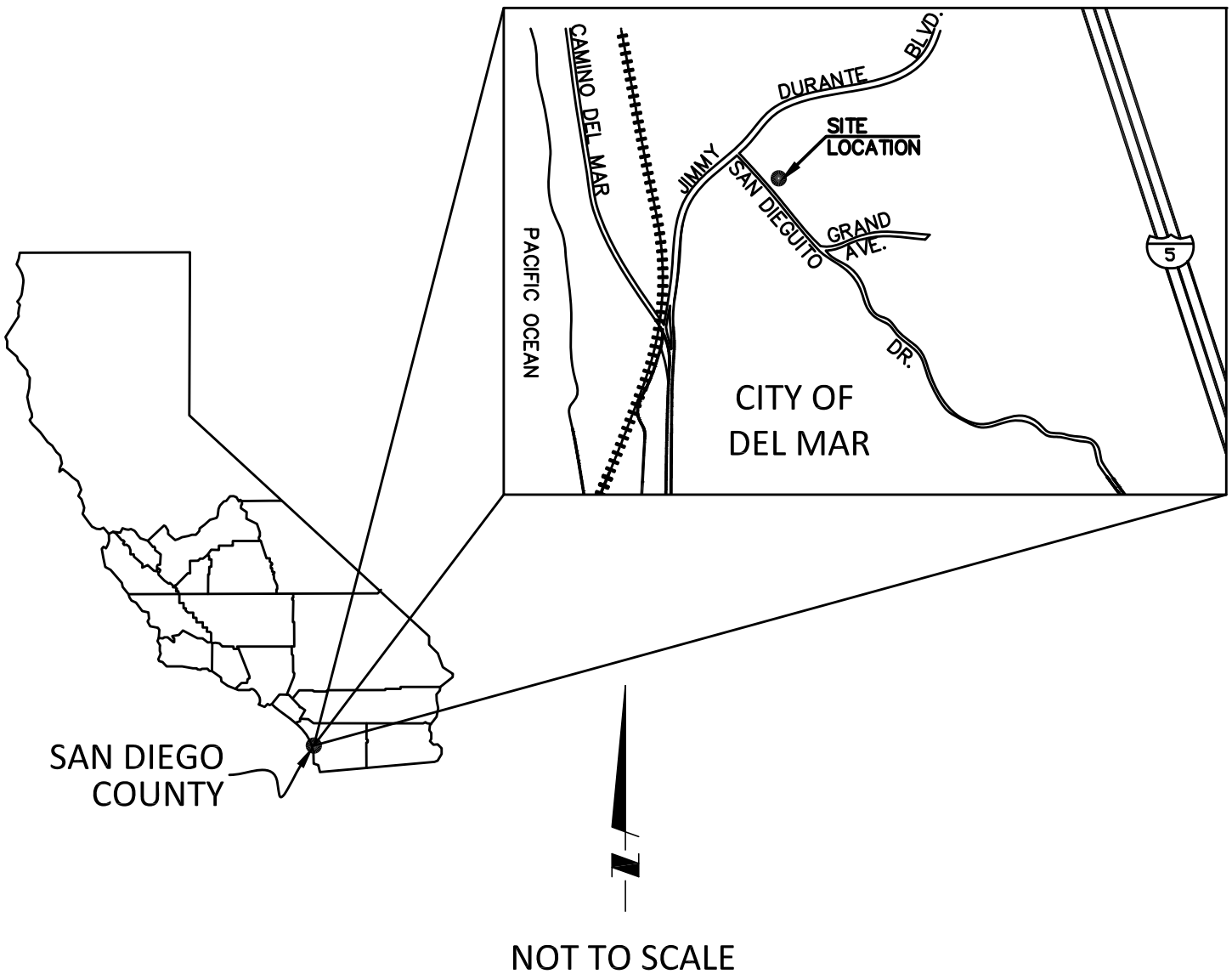
THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.



Daniel J. McCroskey *3/31/2015*
Daniel J. McCroskey, PLS 7098 DATE

EXHIBIT "B"

VICINITY MAP



TOWILL | Surveying, Mapping
and GIS Services
10390 Commerce Center Drive, Suite C-190
Rancho Cucamonga, CA 91730-5858
909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS

PURPOSES OVER

APN 299-100-36

City of Del Mar

County of San Diego

State of California

Date: 03/31/2015

Drawn: S.G.O.

Checked: D.J.M.

J.N.: 14616

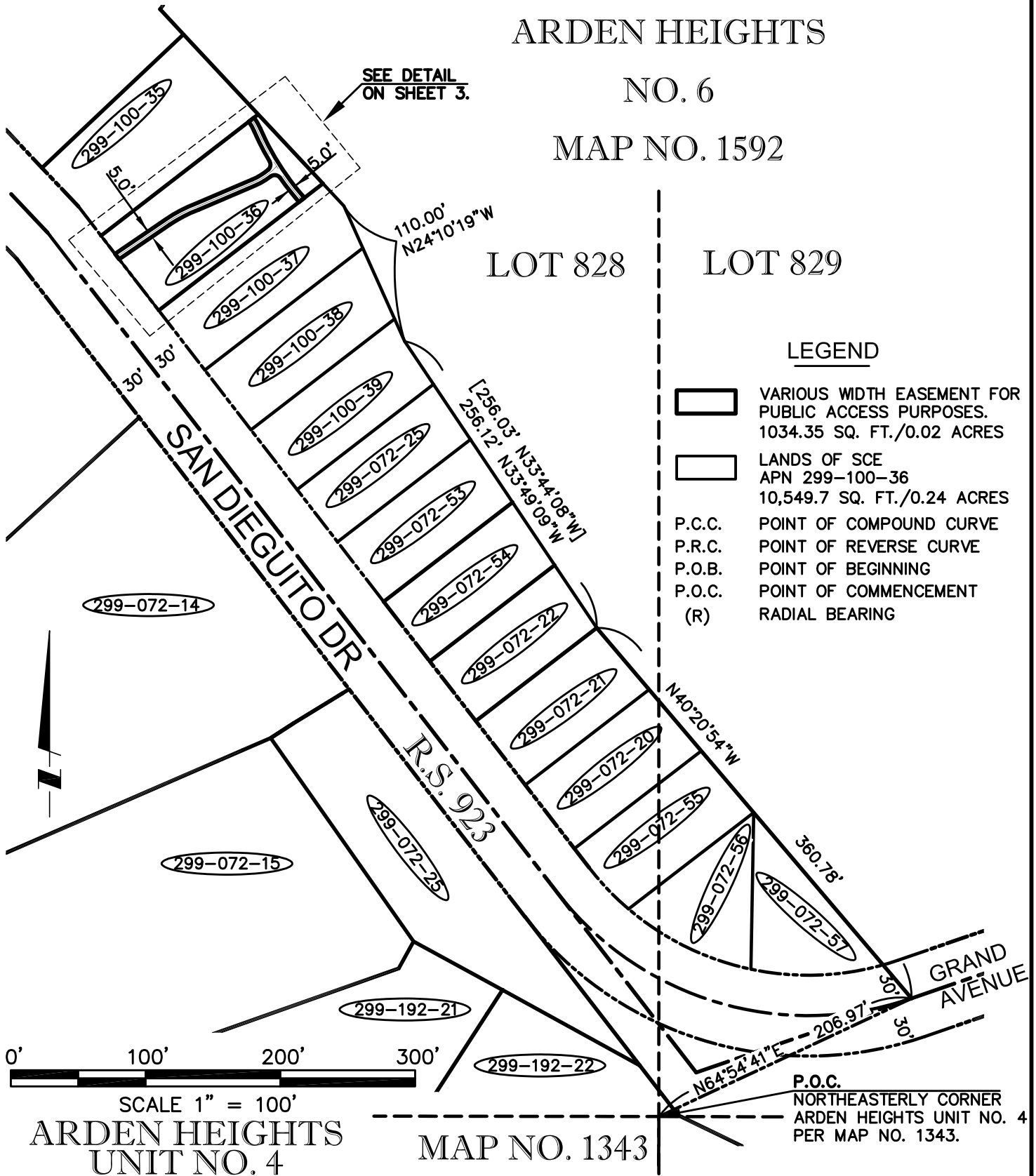
Sheet 1 of 3

EXHIBIT "B"

ARDEN HEIGHTS

NO. 6

MAP NO. 1592



TOWILL | Surveying, Mapping and GIS Services
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 Rancho Cucamonga, CA 91730-5858
 909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS PURPOSES OVER APN 299-100-36
 City of Del Mar
 County of San Diego State of California

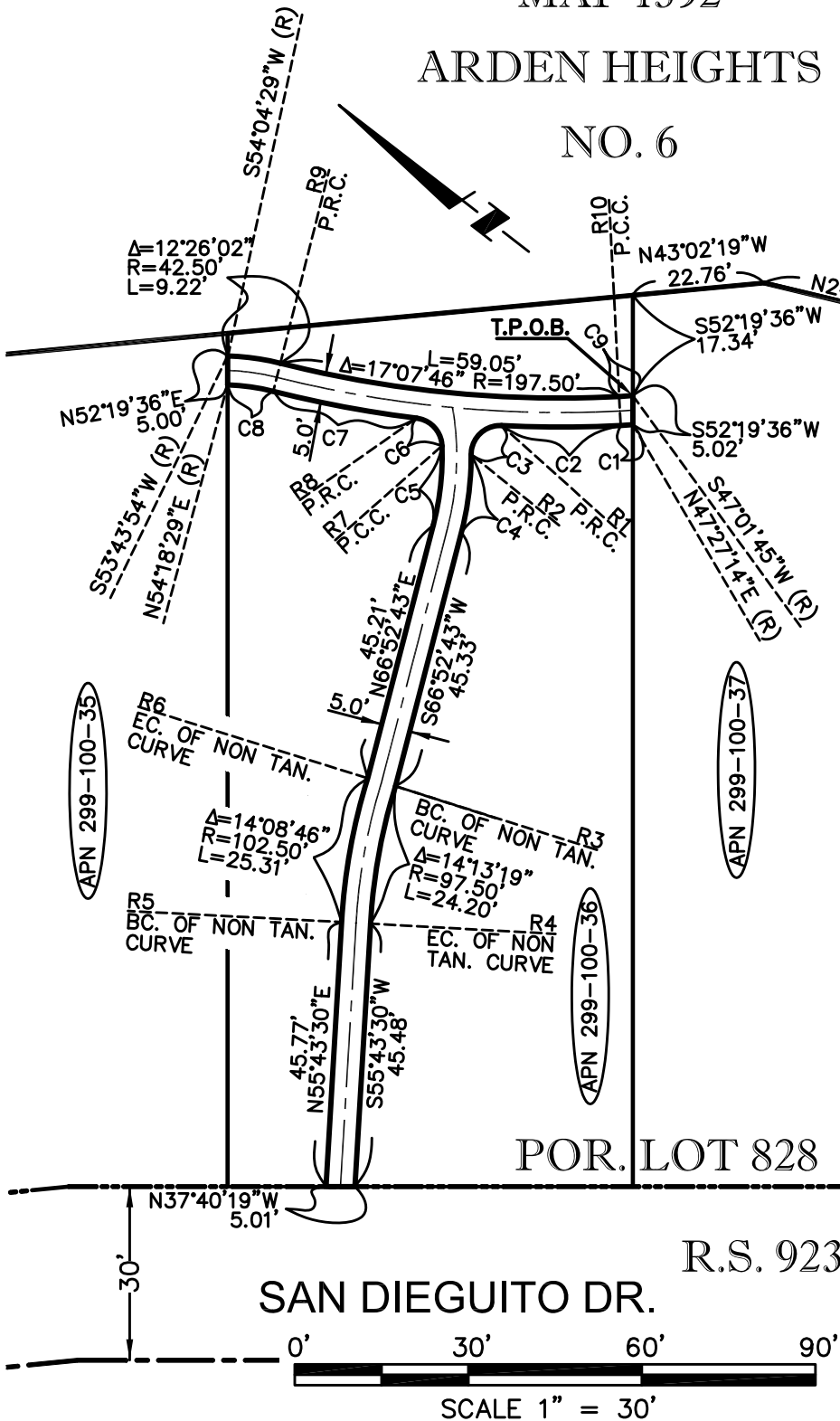
Date: 03/31/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 2 of 3

EXHIBIT "B"

MAP 1592

ARDEN HEIGHTS

NO. 6





RADIAL DATA BEARING

R1	S55°12'22"W
R2	N37°55'08"W
R3	S20°16'35"E
R4	N34°29'53"W
R5	S34°29'34"E
R6	N20°20'48"W
R7	S39°45'55"E
R8	N59°22'20"E
R9	S66°30'31"W
R10	N49°22'45"E

CURVE DATA

	Δ	R	L
C1	01°55'31"	62.50'	2.10'
C2	05°49'38"	202.50'	20.59'
C3	93°07'31"	5.00'	8.13'
C4	14°47'51"	52.50'	13.56'
C5	16°38'38"	47.50'	13.80'
C6	80°51'45"	5.00'	7.06'
C7	07°08'11"	202.50'	25.22'
C8	12°12'02"	37.50'	7.99'
C9	02°21'00"	57.50'	2.36'

LEGEND

-  5' WIDE EASEMENT FOR PUBLIC ACCESS PURPOSES. 1034 SQ. FT./0.02 ACRES
-  LANDS OF SCE APN 299-100-36 10,549.7 SQ. FT./0.24 ACRES
- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING



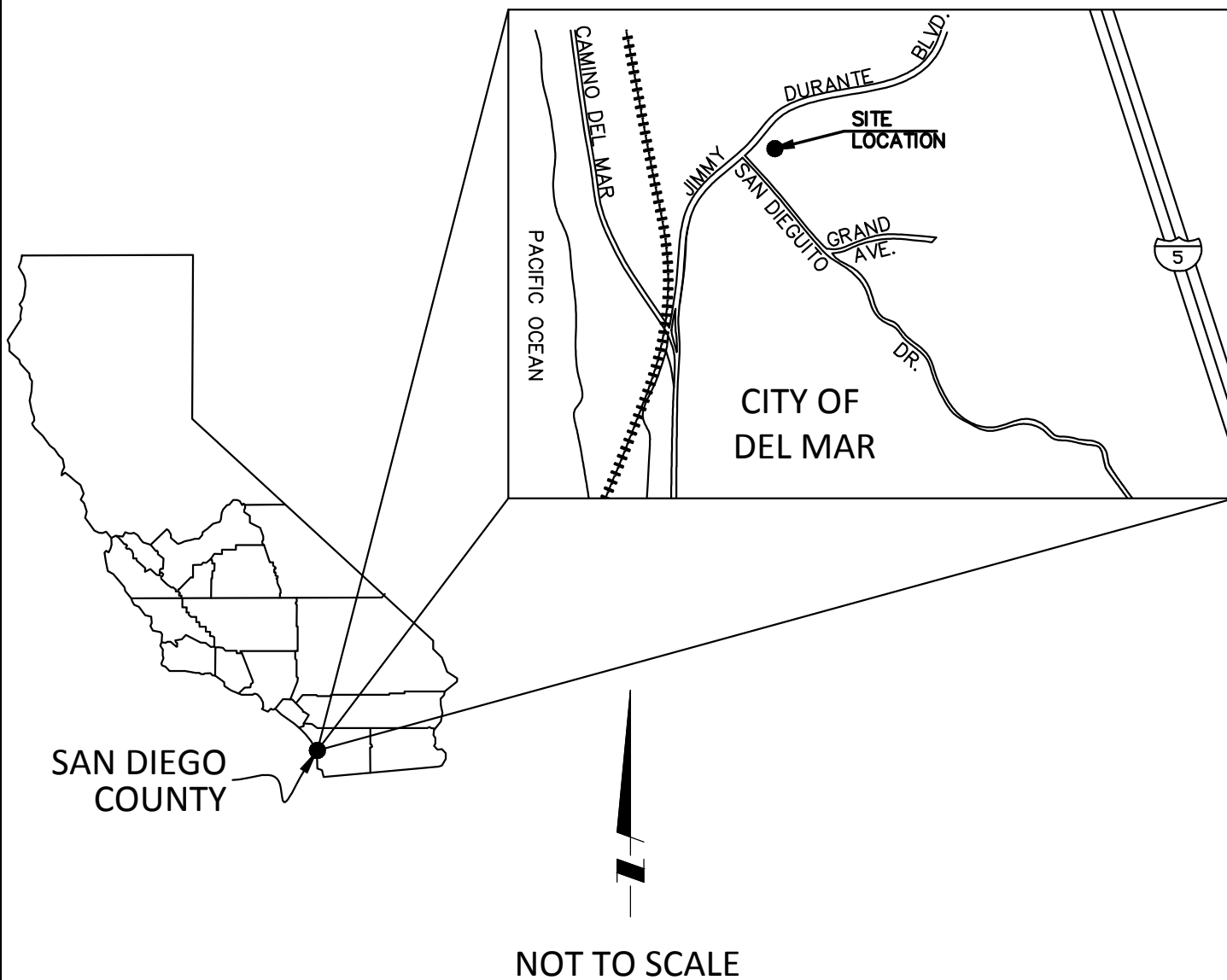
TOWILL | Surveying, Mapping and GIS Services
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EASEMENT FOR PUBLIC ACCESS PURPOSES OVER APN 299-100-36
 City of Del Mar
 County of San Diego State of California

Date: 03/31/2015
 Drawn: S.G.O.
 Checked: D.J.M.
 J.N.: 14616
 Sheet 3 of 3

EXHIBIT "B"

VICINITY MAP



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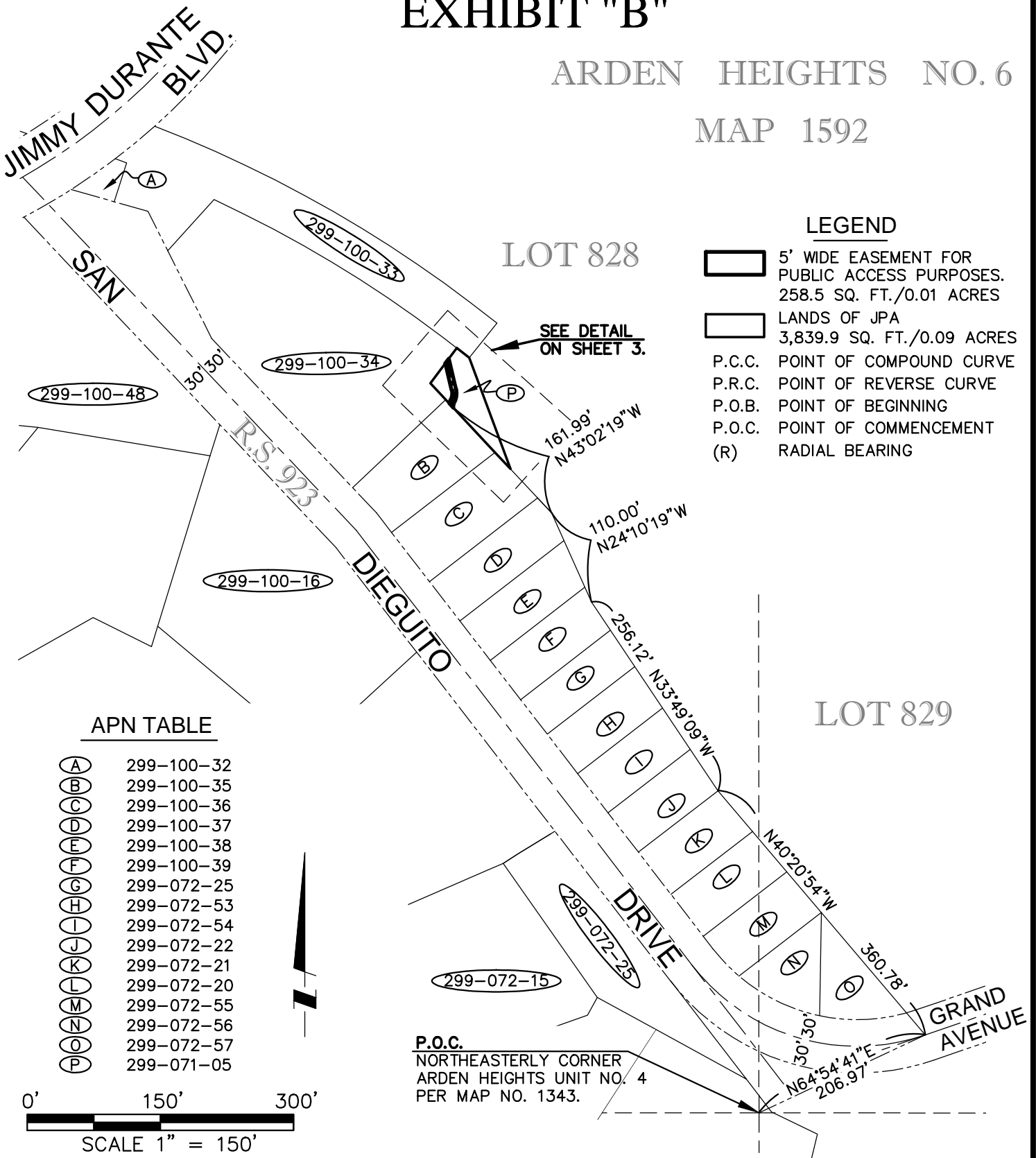
EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-071-05
City of Del Mar
County of San Diego State of California

Date: 04/01/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 1 of 3

EXHIBIT "B"

ARDEN HEIGHTS NO. 6

MAP 1592



MAP 1343 ARDEN HEIGHTS UNIT NO. 4



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EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-071-05

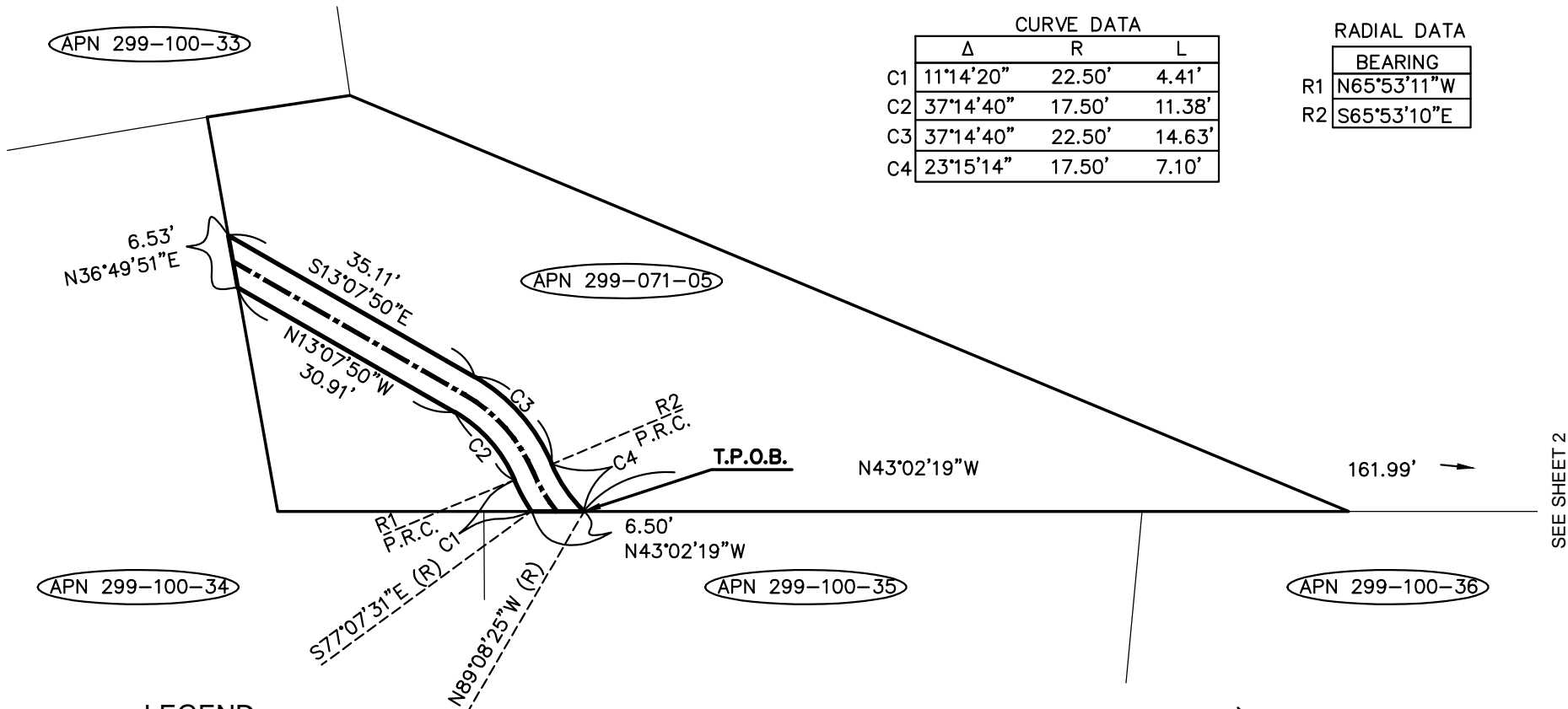
City of Del Mar
County of San Diego State of California

Date: 04/01/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 2 of 3

EXHIBIT "B"



CURVE DATA			
	Δ	R	L
C1	11°14'20"	22.50'	4.41'
C2	37°14'40"	17.50'	11.38'
C3	37°14'40"	22.50'	14.63'
C4	23°15'14"	17.50'	7.10'

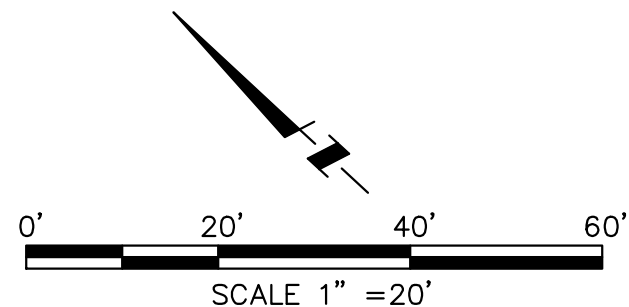
RADIAL DATA	
	BEARING
R1	N65°53'11"W
R2	S65°53'10"E



SEE SHEET 2

LEGEND

-  5' WIDE EASEMENT FOR PUBLIC ACCESS PURPOSES. 258.5 SQ. FT./0.01 ACRES
-  LANDS OF JPA 3,839.9 SQ. FT./0.09 ACRES
- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- (R) RADIAL BEARING



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EASEMENT FOR PUBLIC ACCESS PURPOSES OVER
 APN 299-071-05
 City of Del Mar
 County of San Diego State of California

Date: 04/01/2015
 Drawn: S.G.O.
 Checked: D.J.M.
 J.N.: 14616
 Sheet 3 of 3

RECORDING REQUESTED BY:

City of Del Mar

WHEN RECORDED, PLEASE MAIL TO:

City of Del Mar
Att: City Clerk
1050 Camino del Mar
Del Mar, CA 92014

MAIL TAX STATEMENTS TO:

[Exempt per GC6103]

SPACE ABOVE FOR COUNTY RECORDER'S USE

APNs: 299-072-53, 299-072-54;
299-072-56, and 299-072-57

TRAIL EASEMENT

The San Dieguito River Valley Land Conservancy, a California nonprofit corporation (“Grantor”) grants, and the City of Del Mar, a municipal corporation (“Grantee”) accepts, a perpetual, non-exclusive easement to construct, operate, and maintain a public recreational trail (“Trail Easement”) over, under, along and across all that real property situated in the City of Del Mar, County of San Diego, State of California described as follows (“Easement Area”).

(See Exhibits A and B attached hereto)

This grant of easement is subject to the following terms and conditions:

1. Grantee shall be solely responsible for installation of trail improvements and maintenance of the Easement Area, including all trail facilities and improvements. Further, Grantee shall clean-up any trail related litter and debris within the Easement Area and Grantor’s property and shall repair any damage to Grantor’s property resulting from use of the public trail authorized by this Trail Easement or the exercise of the easement rights granted herein.

2. Grantor reserves the right to use all of its property outside of the Easement Area in any manner that does not unreasonably interfere with the public trail purposes for which this Trail Easement is being granted, including, but not limited to, habitat restoration and enhancement projects.

3. The Easement Area may be relocated if (i) the relocated portion is of equal or greater size and maintains the same trail connectivity, and (ii) the relocation is approved by both parties. Either party may request relocation of the Easement Area, and approval of such requests shall not be unreasonably withheld. Relocation of the Easement Area shall be documented in a

signed and recorded amendment to this Trail Easement. The party that requests an Easement Area relocation shall be responsible for relocation of trail improvements to the new area unless the parties agree otherwise in writing.

4. Grantee shall save, indemnify and hold harmless Grantor against any liability, loss, cost, damage and expense caused by or arising from (i) an act(s) or omission(s) of Grantee, its employees, agents, contractors, successors and assigns or (ii) the location and existence of the trail, whether dangerous, defective or otherwise; including, but not limited to any such loss, cost, damage, liability and expense arising from damage to or destruction of real and personal property or injury to or death of any person; provided, however, that Grantee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of Grantor, its agents, officers, or employees. Grantee shall also hold harmless Grantor against damage to or destruction of the trail caused by an act(s) of a third party(s).

5. All terms and conditions of this Trail Easement shall be binding upon the parties, their successors and assigns and shall run with the land.

GRANTOR

SAN DIEGUITO RIVER VALLEY LAND CONSERVANCY

By: Peter Shapiro
Name: PETER M. SHAPIRO
Title: PRESIDENT

Dated: 7/14/15

GRANTEE

CITY OF DEL MAR

By: _____
Name: _____
Title: _____

Dated: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Diego)

On July 14, 2015, before me, Cheryl Ann Moulton, Notary Public, personally appeared Peter M. Shapiro, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Cheryl Ann Moulton
Signature Notary Public



Place Notary Seal Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, 2015, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature Notary Public

Place Notary Seal Above

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT

PORTION OF LOT 828 OF ARDEN HEIGHTS, NO: 6, IN THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1592, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1913 BEING DESCRIBED AS FOLLOWS:

PARCEL 1 – EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE NORTHEASTERLY CORNER OF ARDEN HEIGHTS NO.4 ACCORDING TO MAP THEREOF NO. 1343; THENCE NORTH 64°54'41" EAST 206.97 FEET TO THE EASTERLY TERMINUS OF THE 235.43 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY, IN THE CENTER LINE OF COUNTY ROAD SHOWN ON ROAD SURVEY MAP NO. 923, AND KNOWN AS SAN DIEGUITO DRIVE, SAID CENTER LINE CURVE HAVING A CENTRAL ANGLE OF 71°19'45" AND A LENGTH OF 293.09 FEET; THENCE NORTH 64°54'41" EAST 206.97 FEET; THENCE NORTH 40°20'54" WEST 180.89 FEET TO A POINT HEREAFTER REFERED TO AS "POINT A"; THENCE SOUTH 52°23'37" WEST 38.95 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 1**, SAID POINT ALSO BEING THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 116.34 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 18°10'48" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°44'04" AN ARC DISTANCE OF 54.28 FEET; THENCE SOUTH 44°21'23" EAST 36.45 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 45.94 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 52°19'58" AND AN ARC DISTANCE OF 41.96 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 31.23 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 07°04'06" AND AN ARC DISTANCE OF 3.85 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 205.43 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 03°26'48" WEST; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°30'00" AND AN ARC DISTANCE OF 5.38 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 3.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 60°33'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 61°39'20" AND AN ARC DISTANCE OF 3.23 FEET;; THENCE SOUTH 88°53'41" WEST 3.64 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 7.39 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 00°00'00" WEST; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 180°00'00" AND AN ARC DISTANCE OF 23.22 FEET;; THENCE NORTH 88°53'41" EAST 3.44 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 3.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 102°21'53" AND AN ARC DISTANCE OF 5.36 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 40.94 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 30°53'11" AND AN ARC DISTANCE OF 22.07 FEET;; THENCE NORTH 44°21'23" WEST 36.42 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 111.34 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 44°53'54" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 28°29'12" AND AN ARC DISTANCE OF 55.36 FEET;; THENCE NORTH 52°23'37" EAST 6.11 FEET TO THE **TRUE POINT OF BEGINNING OF PARCEL 1**.

THE ABOVE DESCRIBED PARCEL CONTAINS 873 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

EXHIBIT "A"

LEGAL DESCRIPTION – EASEMENT

PARCEL 2 – EASEMENT FOR PUBLIC ACCESS PURPOSES

COMMENCING AT THE AFORE MENTIONED "POINT A"; THENCE NORTH 40°20'54" WEST 179.89 FEET; THENCE NORTH 33°49'09" WEST 56.11 FEET; THENCE SOUTH 52°22'15" WEST 14.15 FEET TO THE TRUE POINT OF BEGINNING OF PARCEL 2; THENCE CONTINUING SOUTH 52°22'15" WEST 5.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 213.44 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 54°29'10" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 16°14'16" AND AN ARC DISTANCE OF 60.49 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 53.46 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 35°39'41" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°41'32" AND AN ARC DISTANCE OF 18.37 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 86°06'41" AND AN ARC DISTANCE OF 7.51 FEET;; THENCE SOUTH 19°51'29" WEST 23.56 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 27.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 69°10'20" AND AN ARC DISTANCE OF 33.20 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33°45'01" AND AN ARC DISTANCE OF 36.82 FEET;; THENCE SOUTH 52°22'15" WEST 5.43 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 76°28'14" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°47'06" AND AN ARC DISTANCE OF 35.91 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 32.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32°42'16" AND AN ARC DISTANCE OF 18.55 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°11'27" AND AN ARC DISTANCE OF 4.99 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 17.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°54'52" AND AN ARC DISTANCE OF 19.83 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25°34'34" AND AN ARC DISTANCE OF 2.23 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 6.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 277°33'29" AND AN ARC DISTANCE OF 29.07 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 2.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 87°46'53" AND AN ARC DISTANCE OF 3.06 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 12.50 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 38°04'10" AND AN ARC DISTANCE OF 8.31 FEET; TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 2.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 114°39'59" AND AN ARC DISTANCE OF 4.00 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 32.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°16'46" AND AN ARC DISTANCE OF 9.80 FEET;; THENCE NORTH 19°51'29" EAST 40.51 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 57.50 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 29°01'25" AND AN ARC DISTANCE OF 29.13 FEET;; THENCE NORTH 52°23'20" EAST 5.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 62.50 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 78°22'45" WEST; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31°28'44" AND AN ARC DISTANCE OF 34.34 FEET;; THENCE SOUTH 19°51'29" WEST 2.22 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS

EXHIBIT "A"


LEGAL DESCRIPTION – EASEMENT

OF 5.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 73°35'33" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°31'35" AND AN ARC DISTANCE OF 7.81 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 58.46 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°18'46" AND AN ARC DISTANCE OF 6.44 FEET; TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 78°57'56" AND AN ARC DISTANCE OF 6.89 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 9.40 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 54°27'35" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 176°17'38" AND AN ARC DISTANCE OF 28.92 FEET;; THENCE SOUTH 35°20'11" WEST 0.46 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 5.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°29'12" AND AN ARC DISTANCE OF 7.29 FEET; TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 218.46 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 42°01'04" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°25'11" AND AN ARC DISTANCE OF 47.35 FEET TO THE TRUE POINT OF BEGINNING OF PARCEL 2.

THE ABOVE DESCRIBED PARCEL CONTAINS 1588 SQUARE FEET OR 0.04 ACRES, MORE OR LESS. ALL AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

SAID BEARINGS ARE IN TERMS OF THE CALIFORNIA COORDINATE SYSTEM, NAD 83, ZONE 6 (EPOCH 1991.35) PER CITY OF DEL MAR HORIZONTAL CONTROL.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.


Daniel J. McCroskey, PLS 7098

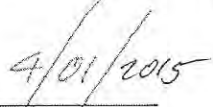
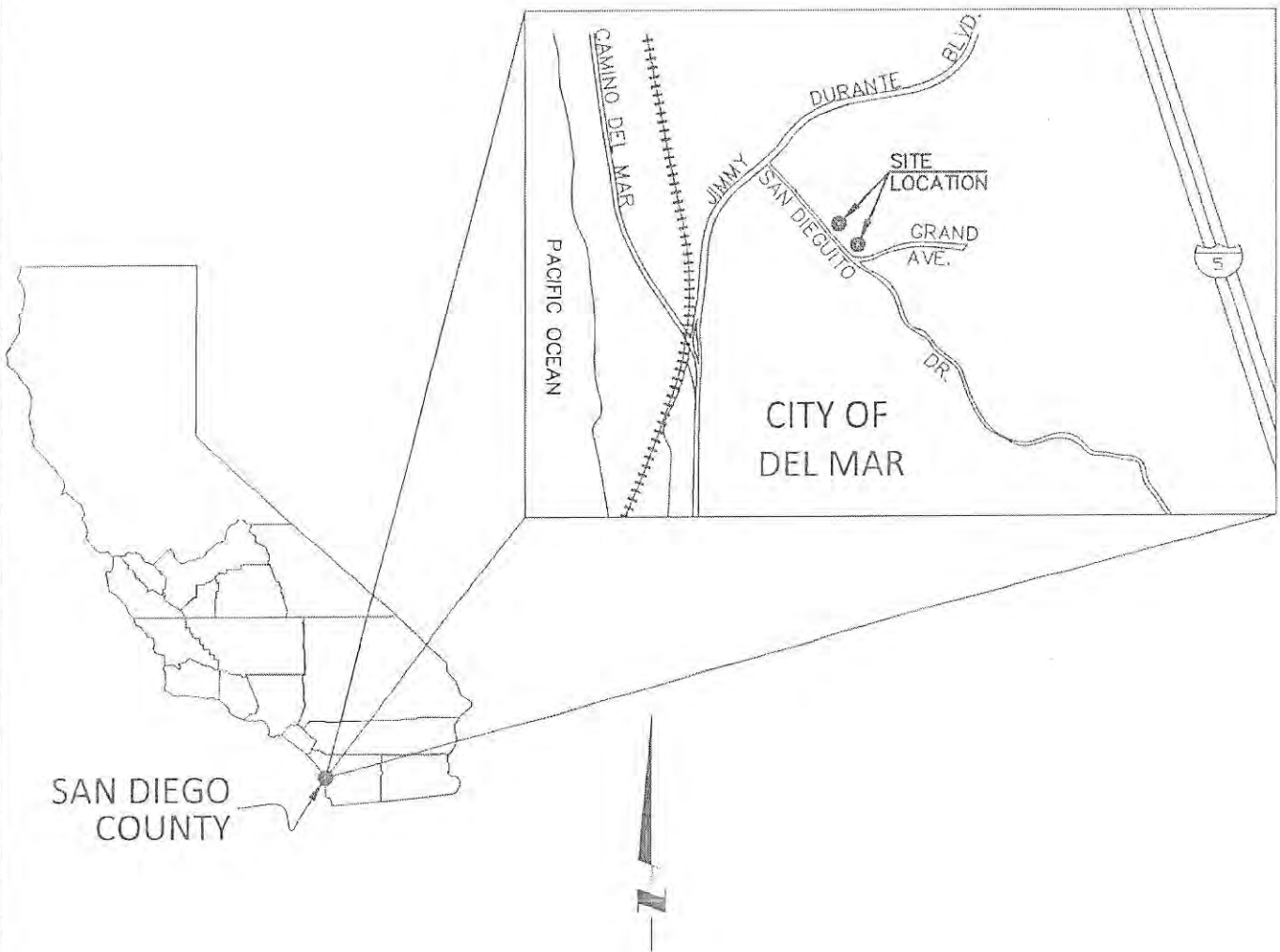

DATE



EXHIBIT "B"

VICINITY MAP



NOT TO SCALE



TOWILL | Surveying, Mapping
and GIS Services
10390 Commerce Center Drive, Suite C-190
Rancho Cucamonga, CA 91730-5858
909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-072-53, APN 299-072-54,
APN 299-072-56 & APN 299-072-57
City of Del Mar

County of San Diego State of California

Date: 04/01/2015

Drawn: S.G.O.

Checked: D.J.M.



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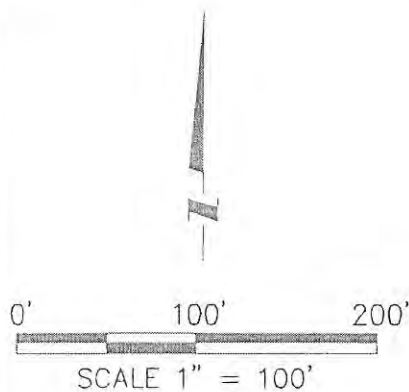
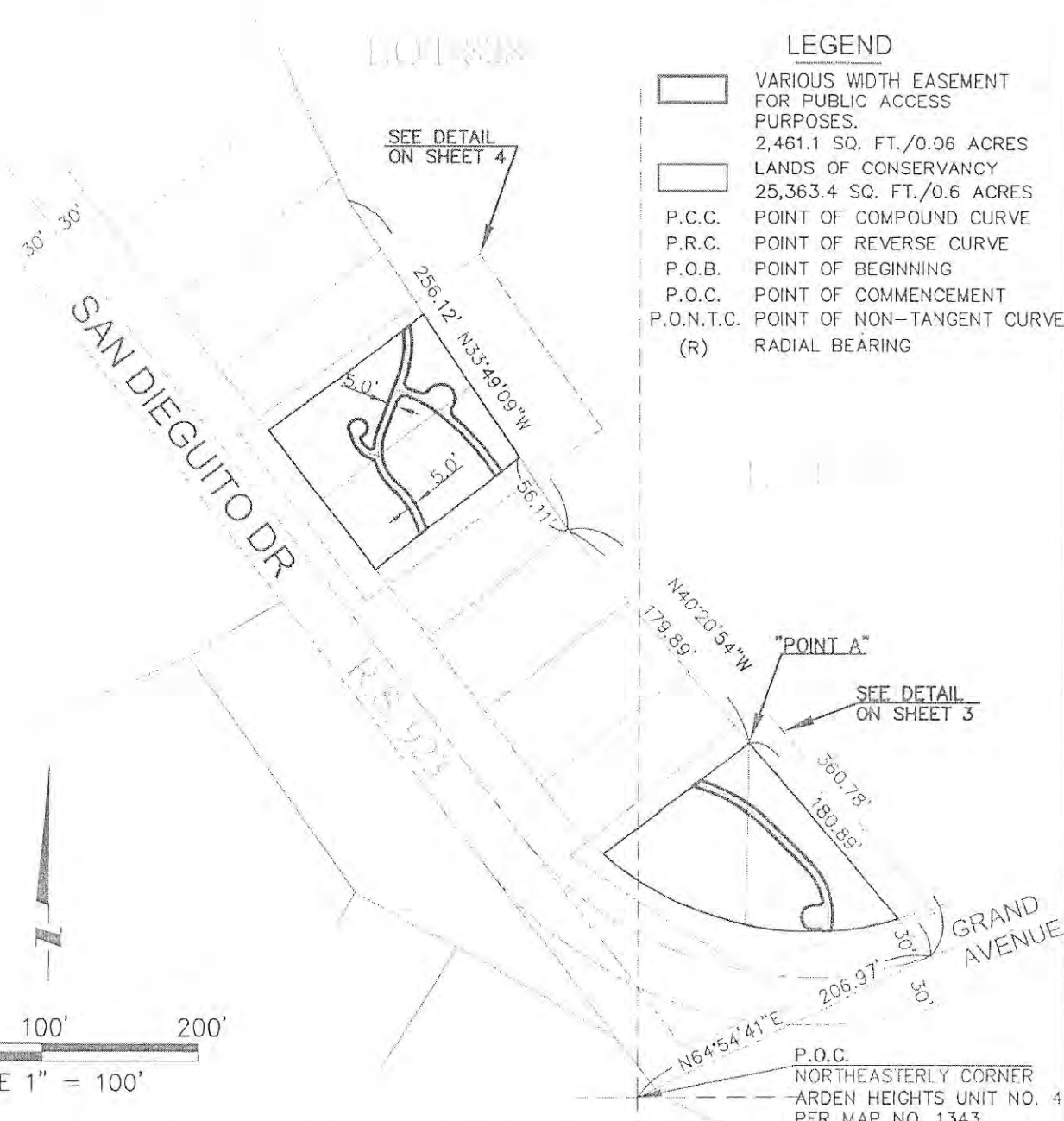
Sheet 1 of 5

EXHIBIT "B"

ARDEN HEIGHTS
NO. 1

LEGEND

-  VARIOUS WIDTH EASEMENT FOR PUBLIC ACCESS PURPOSES.
-  LANDS OF CONSERVANCY
- P.C.C. POINT OF COMPOUND CURVE
- P.R.C. POINT OF REVERSE CURVE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- P.O.N.T.C. POINT OF NON-TANGENT CURVE
- (R) RADIAL BEARING



MAP 1343 ARDEN HEIGHTS UNIT NO. 1

P.O.C.
NORTHEASTERLY CORNER
ARDEN HEIGHTS UNIT NO. 4
PER MAP NO. 1343.



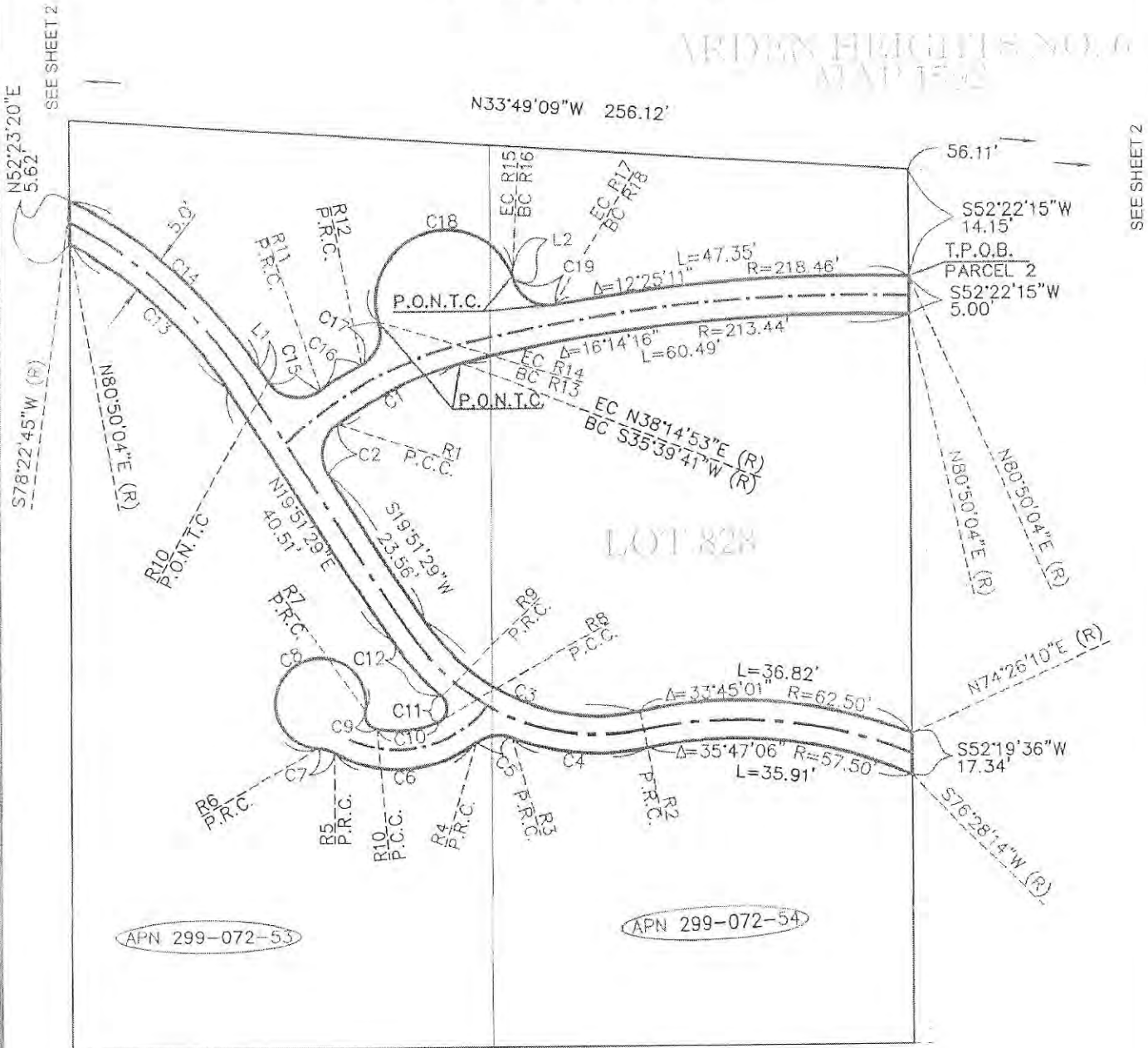
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EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-072-53, APN 299-072-54,
APN 299-072-56 & APN 299-072-57
City of Del Mar
County of San Diego State of California

Date: 04/01/2015
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Sheet 2 of 5

EXHIBIT "B"

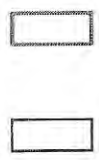
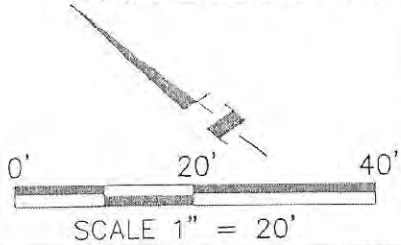
ARDEN HEIGHTS NO. 6
MAP 1502



SAN DIEGUITO DR.

R.S. 923

LEGEND



VARIOUS WIDTH EASEMENT
FOR PUBLIC ACCESS
PURPOSES.
1,587.7 SQ. FT./0.04 ACRES

LANDS OF CONSERVANCY
25,363.4 SQ. FT./0.6 ACRES

P.C.C. POINT OF COMPOUND CURVE
P.R.C. POINT OF REVERSE CURVE
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
P.O.N.T.C. POINT OF NON-TANGENT CURVE
(R) RADIAL BEARING

NOTE: SEE SHEET 5 FOR COURSE, CURVE AND RADIAL DATA.



TOWILL | Surveying, Mapping
and GIS Services
10390 Commerce Center Drive, Suite C-190
Rancho Cucamonga, CA 91730-5858
909.303.7960 / Fax 909.303.7965

EASEMENT FOR PUBLIC ACCESS
PURPOSES OVER
APN 299-072-53, APN 299-072-54,
APN 299-072-56 & APN 299-072-57
City of Del Mar
County of San Diego State of California

Date: 04/01/2015
Drawn: S.G.O.
Checked: D.J.M.
J.N.: 14616
Sheet 4 of 5

EXHIBIT "B"

	CURVE DATA		
	Δ	R	L
C1	19°41'32"	53.46'	18.37'
C2	86°06'41"	5.00'	7.51'
C3	69°10'20"	27.50'	33.20'
C4	32°42'16"	32.50'	18.55'
C5	57°11'27"	5.00'	4.99'
C6	64°54'52"	17.50'	19.83'
C7	25°34'34"	5.00'	2.23'
C8	277°33'29"	6.00'	29.07'
C9	87°46'53"	2.00'	3.06'
C10	38°04'10"	12.50'	8.31'
C11	114°39'59"	2.06'	4.00'
C12	17°16'46"	32.50'	9.80'
C13	29°01'25"	57.50'	29.13'
C14	31°28'44"	62.50'	34.34'
C15	89°31'35"	5.00'	7.81'
C16	06°18'46"	58.46'	6.44'
C17	78°57'56"	5.00'	6.89'
C18	176°17'38"	9.40'	28.92'
C19	83°29'12"	5.00'	7.29'
C20	52°19'58"	45.94'	41.96'
C21	07°04'06"	31.23'	3.85'
C22	01°30'00"	205.43'	5.38'
C23	61°39'20"	3.00'	3.23'
C24	180°00'00"	7.39'	23.22'
C25	102°21'53"	3.00'	5.36'
C26	30°53'11"	40.94'	22.07'

	RADIAL DATA	
	BEARING	
R1	N15°58'10"E	
R2	S40°41'09"W	
R3	S73°23'25"W	
R4	N16°11'58"E	
R5	S81°06'50"W	
R6	N55°32'16"E	
R7	S26°54'16"E	
R8	S65°18'51"W	
R9	S27°14'42"W	
R10	S73°35'33"E	
R11	S16°52'53"W	
R12	N23°11'38"E	
R13	S55°46'18"E	
R14	S54°27'35"E	
R15	S58°09'57"E	
R16	N54°39'49"W	
R17	S41°50'59"W	
R18	S42°01'04"W	
R19	N44°54'52"E	
R20	N45°38'37"E	
R21	N89°05'30"W	
R22	N03°26'48"W	
R23	S01°56'47"E	
R24	S60°33'02"W	
R25	N00°00'00"W	
R26	N76°31'48"E	

	COURSE DATA	
	BEARING	L
L1	S19°51'29"W	2.22'
L2	S35°20'11"W	0.46'
L3	S88°53'41"W	3.64'
L4	N88°53'41"E	3.44'



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Sheet 5 of 5