

CALIFORNIA COASTAL COMMISSION  
South Coast  
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## RECORD PACKET COPY

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Staff: John T. Auyong  
Staff Report: November 3, 1995  
Hearing Date: November 14-17, 1995  
Commission Action:

STAFF REPORT: REGULAR CALENDAR

**TH 10c**

APPLICATION NO.: 5-95-219

APPLICANT: City of Newport Beach AGENT: H. Andriette Culbertson  
Fletcher Jones Motorcars

PROJECT LOCATION: 3300 Jamboree, at the northeast corner of the intersection of Jamboree and Bayview Way (between Jamboree, State Route 73 Freeway, and San Diego Creek); City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Construction of an automobile dealership on the San Diego Creek North site consisting of 153,914 square feet of enclosed area in three buildings and 21,460 square feet of deck/covered outdoor canopy area comprised of indoor showroom/outdoor display, service, parts, and sales areas, related offices, indoor food establishment, signage, and parking structure. A total of 576 parking spaces would be provided divided among service, employee, and customer spaces. The proposed buildings would be primarily two stories and up to 30 feet high, with one small third story security office area 41 feet above the centerline of the frontage road. Also proposed are a buffer wall between a proposed service road and the adjacent on-site wetland, a drain pipe leading to an adjacent off-site wetland mitigation site, landscaping incorporating native vegetation adjacent to the wetlands, low intensity and directional lighting, and 0.2 acres of off-site riparian habitat creation. An off-site coastal sage scrub enhancement/restoration project in the mouth of Big Canyon is proposed. Not included as part of this project is the construction of the extension of Bayview Way easterly of Jamboree Road nor the future construction of the Jamboree Flyover (JR-5) ramp connecting to the San Joaquin Hills Transportation Corridor.

Lot area:	9.63 acres (419,483 square feet)
Building coverage:	2.0 acres
Pavement coverage:	4.9 acres
Landscape coverage:	1.7 acres
Parking spaces:	576 (443 service, 47 customer, 86 employee)
Zoning:	Planned Community
Plan designation:	Professional/Administrative
Height:	41 feet above centerline of frontage road

LOCAL APPROVALS RECEIVED: Certification of Environmental Impact Report No. 155; General Plan Amendment 95-1(D); Local Coastal Program Amendment No. 39; Amendment No. 823 (Planned Community District Regulations for San Diego Creek North and Jamboree/MacArthur); Ordinance No. 95-42 (Amendment to Development Agreement No. 6 -- Circulation Improvement and Open Space Agreement between the City of Newport Beach and The Irvine Company); Ordinance 95-43 (Development Agreement No. 9 between the City of Newport Beach and Fletcher Jones Motorcars); Traffic Study No. 108; Use Permit No. 3565.

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SUBSTANTIVE FILE DOCUMENTS: Environmental Impact Report No. 155; Circulation Improvement and Open Space Agreement as proposed to be amended by the City and The Irvine Company; Preliminary Geotechnical Report dated May 5, 1995 (Work Order 500322) prepared for City of Newport Beach - Public Works by Pacific Soils Engineering, Inc..

\*STAFF NOTE

Prior to action on this permit application, the Commission is scheduled to act on the associated amendment to the Circulation Improvement and Open Space Amendment listed on the meeting notice as D-5-93-01-A, Item No. Thursday 9.

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed development with special conditions regarding hazards, wetlands and LSIAs, and cultural resources. Some of the special conditions incorporate by reference the City's conditions and mitigation measures, as shown in Appendix A of this staff report (Exhibit "C" to City's Resolution of Approval 95-102), and as summarized below.

<u>Coastal Act Topic</u>	<u>Special Condition # &amp; Page #</u>	<u>Findings P. #</u>	<u>City Mitigation Measure/Condition</u>	<u>Page # of Appendix A of Staff Report</u>
LSIAs	1.a. 4	4	G.4., G.6., G.7.	pps. 16-18
Wetlands				
Buffers	3.b. 5	5	G.1., G.2., G.5.	pps. 13-15, 18
Lighting	8.a. 6	6	G.3.	p. 15
			Conditions 30, 41	pps. 22-24
Moise	10 7	7	F.1., F.2.,	p. 12
			Condition 31	p. 23
Water Quality	6 6	6	B.5., B.7., B.8	pps. 1-11
			B.10., B.14.,	
			B.16., B.17.,	
			C.1 through C.10,	
			C.12 through C.14,	
			Conditions 29, 37,	pps. 22-24
			42	
Cultural Resources	7.a. 6	6	H.1. through H.10	pps. 19-21
Visual Resources				
Lighting	8.a. 6	6	G.3.	p. 15
			Conditions 30, 41	pps. 22-24
Signage	9.a. 6	6	Conditions 32, 33	p. 23

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including but not limited to the public access and recreation policies of Chapter 3, 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, is located between the sea and the first public road nearest the sea and is in conformance with the public access and public recreation policies 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

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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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.

III. SPECIAL CONDITIONS

1. Submittal of Approved Interim Habitat Loss Mitigation Plan

Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, the following:

- a. an Interim Habitat Loss Mitigation Plan ("IHIMP"), as conceptually described in both the October 23, 1995 letter with attachments from Patricia Temple of the City of Newport Beach to Linda Dawes of the United States Fish and Wildlife Service ("USFWS") and Mitigation Measures G.4., G.6., and G.7. of the City of Newport Beach's approval of Environmental Impact Report No. 155 (Exhibit C of Resolution 95-102); and
- b. written evidence that the IHIMP required in Special Condition 1.a. above has been approved by the USFWS and provides .

2. Deed Restriction (Interim Habitat Loss Mitigation Plan)

Prior to issuance of the coastal development permit, the applicants as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, for the site described in the Interim Habitat Loss Mitigation Plan required in Special Condition No. 1. above, which provides the following:

- a. Permit the applicant, its agents, and/or the accepting agency, non-profit organization or private association to enter the property, create, restore, enhance and maintain habitat, revegetate portions of the area, and fence the newly created/restored/enhanced/vegetated area in order to protect such habitats;
- b. Restrict all development, vegetation clearance, fuel modification and grading within the easement except that necessary to establish/maintain the habitat; and
- c. Permit the Coastal Commission and its staff to enter and inspect for purposes of determining compliance with coastal development permit 5-95-219.

The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free and clear of all prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

3. Protection of Adjacent Wetlands

a. Deed Restriction

Prior to issuance of the coastal development permit, the applicants as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which provides the following:

- i. that the on-site freshwater marsh, as identified on the landscape plans contained in the file for coastal development permit 5-95-219, shall be restricted to habitat restoration, habitat enhancement, habitat maintenance, habitat protection, open space, and view preservation uses only; and.
- ii. that the landowner agrees to cooperate with the parties responsible for the maintenance of both the on-site freshwater marsh wetland and the adjacent saltwater marsh wetland being constructed between Jamboree Road, San Diego Creek, and the proposed extension of Bayview Way, in regards to mitigating any unforeseen impacts on said wetlands resulting from the development as described and conditioned herein.

The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free and clear of all prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

b. Incorporation of City Conditions

Mitigation Measures G.1., G.2., and G.5. of the City of Newport Beach's approval of Environmental Impact Report No. 155 (Exhibit C of Resolution 95-102), regarding the staking of the on-site wetland, shall be incorporated by reference as a condition of this coastal development permit.

4. Riparian Habitat Creation

Prior to issuance of the coastal development permit, the applicants shall submit, subject to the review and approval of the Executive Director, (1) a revised plan, for the proposed creation of 0.2 acres of riparian habitat in Upper Newport Bay or the mouth of Big Canyon which shall be similar in nature to the on-site mulefat vegetation and shall be connected to or integrated with existing riparian habitat, and (2) evidence of said plan's approval by the California Department of Fish and Game.

5. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, subject to the review and approval of the Executive Director, plans signed by the geotechnical consultant indicating that the recommendations in the Preliminary Geotechnical Report dated May 5, 1995 (Work Order 500322) prepared for City of Newport Beach - Public Works by Pacific Soils Engineering, Inc. have been incorporated into the plans for the project. The plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any changes to the plans approved by the Commission which the Executive Director determines to be substantial shall require an amendment to this permit or a new coastal development permit.

6. Water Quality

To minimize adverse impacts on water quality resulting from erosion, run-off, and other factors generated by the development described and conditioned herein, the measures described in Mitigation Measures B.5., B.7., B.8., B.10., B.14., B.16., B.17., C.1. through C.10. inclusive, and C.12. through C.14. inclusive of the City of Newport Beach's approval of Environmental Impact Report No. 155 (Exhibit C of Resolution 95-102), and the measures described in Conditions Nos. 29, 37, and 42 of Use Permit No. 3565 (as approved by the City of Newport Beach on September 11, 1995) shall be incorporated by reference into this coastal development permit.

7. Cultural Resources

- a. The measures described in Mitigation Measures II.1. through II.10. inclusive of the City of Newport Beach's approval of Environmental Impact Report No. 155 (Exhibit C of Resolution 95-102) shall be incorporated by reference into this coastal development permit.
- b. The applicants shall agree to consult with the State Historic Preservation Office and the State Native American Heritage Commission in the event that cultural resources are found on-site to develop an appropriate mitigation plan.

8. Lighting

- a. To minimize adverse visual impacts and adverse impacts to on-site and adjacent natural areas, the measures described in Mitigation Measure G.3. of the City of Newport Beach's approval of Environmental Impact Report No. 155 (Exhibit C of Resolution 95-102), and the measures described in Conditions Nos. 30 and 41 of Use Permit No. 3565 (as approved by the City of Newport Beach on September 11, 1995) shall be incorporated by reference into this coastal development permit.
- b. Prior to issuance of the coastal development permit, the applicants shall submit, subject to the review and approval of the Executive Director, a copy of the lighting plans described in Special Condition No. 8.a above.

9. Noise

To minimize impacts to on-site and adjacent natural areas, the measures described in Mitigation Measures F.1. and F.2. of the City of Newport Beach's approval of Environmental Impact Report No. 155 (Exhibit C of Resolution 95-102), and the prohibition described in Condition No. 31 of Use Permit No. 3565 (as approved by the City of Newport Beach on September 11, 1995) shall be incorporated by reference into this coastal development permit.

10. Evidence of Legal Ability to Develop

Prior to issuance of the permit, the applicants shall submit evidence, in a form and content acceptable to the Executive Director, documenting the applicants' legal ability to undertake the on-site and off-site development as described and conditioned herein.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares:

A. Project Description

The City of Newport Beach and Fletcher Jones Motorcars as co-applicants are proposing the construction of an automobile dealership on a 9.63 acre triangular shaped piece of vacant land at 3300 Jamboree Road. The subject site is located easterly of the intersection of Jamboree Road and Bayview Way and is bounded by Jamboree Road to the northwest, the existing Route 73 freeway and San Joaquin Hills Transportation Corridor (SJHTC) under construction to the northeast, and San Diego Creek to the south. The subject site is currently comprised of three parcels of land, one each owned by The Irvine Company, the California Department of Transportation (Caltrans), and the Transportation Corridor Agencies which is building the adjacent SJHTC. The subject site is commonly referred to as San Diego Creek North, one of The Irvine Company properties identified in the Circulation Improvement and Open Space Agreement (CIOSA) entered into between the City of Newport Beach and The Irvine Company. The CIOSA contains provisions for the development of the subject site.

The subject site currently is not owned by the applicants. The ownership is divided amongst The Irvine Company, the California Department of Transportation (Caltrans), and the Transportation Corridor Agencies (TCA). Respectively, these entities own 5.1 acres, 2.8 acres, and 1.1 acres. The applicants have entered into Memorandums of Understanding which provide for the applicants obtaining ownership of the parcels in question.

The proposed automobile dealership would consist of three buildings set into the raised portion of the subject site. The main building would contain the indoor showroom, sales area, parts warehouse, service/repair area, related office/employee areas, an 1,800 square foot restaurant, and a small third floor security office. The main building would be 142,030 square feet of enclosed area and 21,460 square feet of deck area and covered outdoor "canopy" display/service/car delivery area.

The main building would be two stories topped by a 63,500 square foot roof deck garage and a small third story security office area. The two story area would be 30 feet high, and the third story portion would be 41 feet above the centerline of the frontage road. The two remaining buildings at the rear of the property (along the Route 73 freeway) would contain car wash and related facilities. One building would be one story, 14 feet high, and contain 1,440 square feet. The second building would be two stories, 24 feet high, and contain 10,444 square feet. A total of 576 parking spaces would be provided, with 443 spaces provided for service use, 86 employee spaces, and 47 customer spaces.

The proposed landscaping plan would include native plants such as Catalina Ironbark, Mulefat, Saltbush, California Sycamore, White Alder, and Cottonwood along those areas of the proposed project adjacent to either the on-site marsh wetland or the off-site TCA mitigation wetland. The lighting for the proposed dealership would be low intensity or directed away from the wetlands. Also proposed is a wall comprised of a section consisting of a 6 foot high masonry wall topped by 2 feet of chainlink fencing, and a section of 8 foot high black vinyl coastal chainlink fence clothed with flowering vines such as trumpet vine. The proposed wall would serve as a buffer wall between a proposed service road and the adjacent on-site wetland. Also proposed would be a drain pipe leading from the outdoor display lot to the adjacent off-site TCA wetland mitigation site.

Removal of three separate patches of on-site mulefat vegetation totalling 0.08 acres is proposed. Also proposed would be similar off-site vegetation creation/enhancement in Upper Newport Bay. An off-site coastal sage scrub enhancement/restoration project in the mouth of Big Canyon is further proposed and would be developed in conjunction with the U.S. Fish and Wildlife Service (USFWS) as part of the action taken on a USFWS 404(d) permit for removal ("take") of 2.1 acres of on-site coastal sage scrub. The proposed coastal sage scrub site would be 4.3 acres.

Not included as part of this project is the construction of the extension of Bayview Way easterly of Jamboree Road nor the future construction of the Jamboree Flyover (JR-5) ramp which would be located over the western edge of the subject site connecting to the San Joaquin Hills Transportation Corridor.

#### B. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

The environmental impact report (EIR) prepared for the proposed development identified 2.1 acres of coastal sage scrub vegetation on site. The on-site coastal sage scrub is not connected to other coastal sage scrub vegetation off-site. All 2.1 acres of coastal sage scrub would be removed as part of the proposed development. The applicants are proposing a coastal sage scrub restoration/enhancement project comprising 4.3 acres connected to other coastal sage scrub areas at the mouth of Big Canyon on land owned by the City and adjacent to the Upper Newport Bay Ecological Reserve. The proposed project is being developed based on the U.S. Fish and Wildlife Service's (USFWS) action on a 404(d) permit for the removal of the on-site coastal sage scrub.

The Commission has recognized coastal sage scrub as being valuable because it is used for habitat by the California gnatcatcher, a species listed as threatened by the federal government and considered a target species in the State's Natural Communities Conservation Planning (NCCP) planning process. The NCCP program was established by the state's Natural Community Conservation Planning Act of 1991. The California Department of Fish and Game (DFG) is the principal state agency implementing the NCCP program. Because the NCCP program includes goals for protection of significant environmentally sensitive habitat areas (ESHA), the goals of the NCCP and the Coastal Act Section 30240 are mutually compatible.

Although directed to preserving habitat for the gnatcatcher, the more important function of the NCCP process is to preserve habitat used by many species, i.e. multi-species habitat planning. To plan for the permanent protection of coastal sage scrub on a comprehensive, regional basis, some areas may be disturbed or developed only provided that other, more meaningful and significant habitat areas or corridors can be preserved through the NCCP process. Throughout Orange County, the DFG has identified areas of critical biological importance to be preserved through their inclusion within proposed reserve, special linkage, or non-reserve open space areas because they contain especially valuable habitat, including coastal sage scrub vegetation highly suited for gnatcatcher habitat.

The subject site is adjacent to, but is not included in the proposed reserve, special linkage, or non-reserve open space areas for the NCCP program. However, the mouth of Big Canyon, where the proposed coastal sage scrub restoration project would occur, has been identified through the NCCP process as a proposed non-reserve open space area. Since the coastal sage scrub on San Diego Creek North has not been identified for inclusion in one of these areas afforded special protection, but the Big Canyon coastal sage scrub creation project has been so identified, the Big Canyon site would be considered the ESHA in the context of the NCCP program. In the regional context of the NCCP program, the removal of the 2.1 acres of fragmented, isolated coastal sage scrub would not be considered significant provided the previously described restoration project at the mouth of Big Canyon is preserved.

The EIR acknowledged that a nesting pair of California gnatcatchers was last seen on the subject site sometime in 1994. However, no gnatcatchers were documented on site at the time the biological site survey was conducted in March of 1995 as part of the EIR preparation. In the response to comments on the EIR, it was concluded that the on-site coastal sage scrub is neither critical to the survival of the gnatcatcher nor especially valuable because of the disturbed and fragmented nature of the on-site coastal sage scrub.

A separate EIR was prepared for a variety of different sites, including the subject site, as part of the Circulation Improvement and Open Space Agreement (CIOSA) entered into by the City of Newport Beach and The Irvine Company. The EIR for the CIOSA only mentioned on-site coastal sage scrub once in the technical appendices and not at all in the main EIR. The EIR proposed no coastal sage scrub mitigation measures for the subject site.

The DFG has provided separate comments on the coastal sage scrub on-site (see Exhibit). The DFG states that the on-site coastal sage scrub is remnant and supports the proposed coastal sage scrub mitigation site which it states would be connected to other coastal sage scrub patches.

Since the off-site coastal sage scrub restoration/enhancement project in the mouth of Big Canyon would be considered ESHA in the regional context of the MCCP program and is critical to preserving valuable habitat, it is important that the coastal sage scrub proposed to be restored/enhanced be protected against any significant disruption of habitat values, consistent with Section 30240 of the Coastal Act. Therefore, a condition is being imposed requiring protection of the proposed restoration/enhancement in perpetuity. A condition is also being imposed for the submission of the detailed plan for the restoration/enhancement project and documentation of its approval by the USFWS service.

Therefore, as conditioned, the Commission finds that the removal of the on-site coastal sage scrub in conjunction with the proposed development is consistent with Section 30240 of the Coastal Act.

#### C. Marine Resources

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.

Section 30233 of the Coastal Act states, in relevant part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

Further, the CIOA approved by the Coastal Commission, as it relates to the subject San Diego Creek North site, states in relevant part that "no encroachment or loss of wetlands is approved . . ." (see Exhibit C).

The proposed project would have impacts on the adjacent wetlands, including the on-site marsh, the Transportation Corridor Agencies (TCA) mitigation site, San Diego Creek, and Upper Newport Bay (into which San Diego Creek drains), which is one of the 19 coastal wetlands referenced in Section 30233(c) of the Coastal Act. The impacts would result from runoff contaminated by construction activities and sediment transport, parked vehicles, and other factors.

At the eastern corner of the triangular shaped subject site is an approximately 0.72 acre marsh. The marsh would not be diked, dredged, or filled for purposes of the proposed development. However, the proposed development would be immediately adjacent to the marsh and could result in impacts resulting from runoff, lighting, and noise.

The value of California's coastal wetlands lies in their biodiversity. Further, it is thought that 75% of Southern California's historic wetlands have been lost (Dennis and Marcus, 1984). To prevent impacts to wetland and riparian habitat from adjacent development, the Commission has historically required 100 foot wide buffer areas. However, only a 6 foot high wall topped by a 2 foot high chain link fence is proposed as a buffer. In the response to comments to the environmental impact report (EIR) it is concluded that the proposed wall would adequately buffer impacts from the proposed project. To ensure that the on-site marsh is not impacted, however, a condition is necessary which requires the applicants to record a deed restriction limiting the on-site marsh area only to uses which further the habitat values of the marsh.

Impacts to the wildlife and resource values of the on-site marsh resulting from noise and lighting generated by the proposed development would be lessened through noise reduction measures and by installing lighting which is directed away from the marsh or is of low intensity. Therefore, it is necessary that the Commission incorporate by reference the mitigation measures adopted by the City in it's approval of the project EIR no. 155 regarding impacts from noise and light.

The applicants propose a pipe which would drain runoff from the outdoor display area into the adjacent wetland being constructed as mitigation for wetland impacts caused by the construction of the San Joaquin Hills Transportation Corridor tollroad. This drain would contain pollutant traps such as grease and oil filters to minimize pollutants entering into this wetland. Drains in areas such as service bays and car washes which would generate high levels of oil, chemicals, and other pollutants, would route runoff directly into the sewer system rather than into storm drains which dump into San Diego Creek or Upper Newport Bay.

Polluted runoff entering into wetlands would adversely impact the habitat values of the wetlands. Therefore, to minimize impacts from runoffs to the adjacent off-site wetland resources, it is necessary to impose conditions incorporating the City's conditions of approval regarding the reduction of polluted runoff from the site.

The vegetation map of the environmental impact report (EIR) shows three areas of mulefat scrub on the project site totalling 0.08 acres. On page 4.7-23, the EIR states that while mulefat scrub is usually considered a riparian community, its primary function on the project site is as a component of the more prevalent upland scrub types and is not riparian or wetland habitat on this specific site. Therefore, removal of the on-site mulefat in this particular instance would not constitute diking, filling, or dredging of wetlands pursuant to Section 30233 of the Coastal Act.

The California Department of Fish and Game (DFG) has provided comments on the on-site mulefat vegetation. The DFG states that the on-site mulefat patches are not connected to other wetlands habitat, and that they have occurred due to previous site modifications. The DFG further states it would not require a streambed alteration agreement for removal of the mulefat. Nevertheless, the DFG states that mitigation for the mulefat's removal could occur on-site or off-site and should ensure that there would be no net loss of habitat value. The applicants are proposing to provide riparian habitat at an off-site location in the nearby Upper Newport Bay Ecological Reserve. The permit is being conditioned for the submittal of the final details of the proposed habitat creation project.

Therefore, as conditioned, the proposed development is consistent with Sections 30231 and 30233 of the Coastal Act regarding water quality and wetlands, respectively.

#### C. Hazards

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The triangular shaped subject site is two-tiered, consisting of a basically level terrace area along Jamboree Road, with basically level areas adjacent to San Diego Creek and the Route 73 freeway about 20 feet lower than the Jamboree side. The proposed project includes 160,000 cubic yards of grading (export) to create a building pad.

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A preliminary geotechnical report dated May 5, 1995 (Work Order 500322) was prepared for the City of Newport Beach - Public Works by Pacific Soils Engineering, Inc. regarding the subject site. The report describes the subsurface materials at the subject site as being comprised of fill or colluvium consisting of moist, clayey sand. The fill or colluvium is overlain on marine terrace deposits consisting of poorly graded sand. Intermixed were Newport Bay Bay deposits consisting of moist to saturated, stiff to very stiff, plastic clay.

The report concludes that the subject site is suitable from a geotechnical standpoint for the proposed development if the report's recommendations are incorporated into the design and construction of the proposed development. Recommendations include removal of loose fill and replacement with compacted fill, information for design of shallow spread and continuous footings, incorporation of a shrinkage factor of 10 to 15 percent into the site grading plan, and the overfilling of fill slopes not less than two feet measured perpendicular to the slope face.

To assure geologic stability and structural integrity and minimize risks from geologic hazards, a special condition must be imposed which requires the submission of plans approved by the geotechnical consultant which incorporate the recommendations contained in geotechnical report dated May 5, 1995. (Work Order 500322 was prepared for the City of Newport Beach - Public Works by Pacific Soils Engineering, Inc.) Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act regarding hazards.

**F. Public Access/Recreation**

Section 30212.5 of the Coastal Act states:

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 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, . . .

The subject site is located between the nearest public roadway and the waters of San Diego Creek. As approved by the Commission on June 10, 1993, the Circulation Improvement and Open Space Agreement (CIOSA) between the City and The Irvine Company designates the subject site for open space/public facilities, permits park-and-ride facilities and "[p]assive and active public recreation facilities such as hiking, biking, scenic outlooks, picnicking and equestrian trails," and deletes the office uses allowed under the City's certified Land Use Plan (LUP) portion of the City's not yet fully certified Local Coastal Program (LCP).

The proposed development would preclude use of the site for the park-and-ride and most types of recreation facilities permitted under the CIOSA as approved by the Commission on June 10, 1993. However, the standard of review for the proposed development is conformity with the Chapter 3 policies of the Coastal Act, including the public access and recreation policies.

While the permitted park-and-ride facility would likely be intended for use by Newport Beach residents to commute to employment outside of the coastal zone, a park-and-ride facility on the subject site could also theoretically be used as a parking reservoir for coastal zone visitors travelling on the adjacent Route 73 freeway who would park at the subject site, and take non-automobile transportation to the City's visitor-serving areas.

However, the subject site is a few miles from the City's primary visitor serving commercial areas on the Balboa Peninsula seaward of Pacific Coast Highway (State Route One). Thus, a park-and-ride facility at San Diego Creek North would likely be underutilized as a place for coastal zone visitors to park and take non-automobile transportation to the City's main visitor areas.

In addition, the environmental impact report (EIR) prepared for the proposed development concludes that the site is probably inappropriate for use as a neighborhood, community, or urban level park because of its location isolated and separated from residential areas by Jamboree Road, a wide major arterial road, the Route 73 freeway, and San Diego Creek.

Further, on August 4, 1994, the Commission approved coastal development permit no. 5-93-382 for the County of Orange's plan to develop a regional park, including a 100 space parking lot, around Upper Newport Bay across Jamboree from the subject site. Also, adjacent to the subject site along the Route 73 freeway and San Joaquin Hills Transportation Corridor tollroad under construction, the tollroad agency would build a bicycle path which would provide access and recreation opportunities. In addition, the subject site is at the edge of the coastal zone.

Therefore, the Commission finds that the subject site would not be suitable for visitor serving commercial recreation uses, is not necessary to support coastal recreation uses, and adequate public facilities, public access opportunities, and public recreation opportunities exist nearby. Therefore, the Commission finds that the proposed development as proposed would not be inconsistent with the public recreation and public access policies of Chapter Three of the Coastal Act.

## 2. Parking

When private development does not provide adequate on-site parking, patrons of the development are forced to use public parking that should be available to general visitors to the coastal zone. The lack of available public parking can discourage coastal zone visitors and otherwise adverse impact public access.

The Commission has regularly used parking standards to determine whether development would provide adequate on-site parking. For an automobile sales establishment, the standard is 1 space for each 500 square feet of gross floor area, except floor area used exclusively for storage or loading, plus 1 space for each 1,000 square feet of outdoor sales, display, or service area. For a restaurant, the standard is one space for each 50 square feet of public service area (areas where the public can dine or wait to dine).

A specific breakdown for exclusive storage or service areas was not provided. However, the total 153,914 square feet of gross floor area of all three proposed buildings including exclusive storage and service areas would only require approximately 308 parking spaces. The 20,360 square feet of covered "canopy" outdoor sales area would require 20 parking spaces. The proposed indoor restaurant facility containing 900 square feet of public service area would require 18 parking spaces. The total parking demand for the proposed development is thus 346 spaces.

The proposed development would provide 576 parking spaces, exceeding the parking required based on the Commission's regularly used parking standards. Since adequate parking would be provided, significant adverse impacts to public access would not result from the parking situation. Therefore, the Commission finds that, as submitted, the proposed development would be consistent with Section 30252 of the Coastal Act regarding parking.

## G. Cultural Resources

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The environmental impact report (EIR) prepared for the project states on that cultural resources site CA-ORA-57(77)H is within the project area. While surface resources were not encountered, the potential remains for unknown subsurface resources to be uncovered during grading activities as acknowledged in the EIR.

The City has adopted mitigation measures as part of the EIR approval to require a monitor to be present during on-site grading activities. The monitor would have the express authority to halt work temporarily for 48 hours if cultural resources are unearthed during the course of grading. Therefore, the permit is being conditioned for the adoption by reference of the City's mitigation measures.

The permit is further being conditioned to require that the State Office of Historic Preservation and the State Native American Heritage Commission be contacted for their input if cultural resources are found. Therefore, as conditioned, the Commission finds that the proposed project would be consistent with Section 30244 of the Coastal Act.

#### H. Visual Impacts

Section 30251 of the Coastal Act states:

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. New development in highly scenic area such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project is located adjacent to San Diego Creek on one side but otherwise is in an urbanized area. Across San Diego Creek would be the Baypointe condominium project approved on August 10, 1995 by the Commission under coastal development permit application 5-95-058. Directly across Jamboree Road is a Marriott Suites hotel. On the eastern side of the subject site is the Route 73 freeway and the construction of the San Joaquin Hills tollroad.

The proposed project would not block views along San Diego Creek to Upper Newport Bay. In addition, the proposed project would be visually compatible with the existing development nature of the surrounding areas. While 160,000 cubic yards of grading would occur, no significant natural landforms exist on-site.

Thus, the Commission finds the proposed project to be consistent with Section 30251 of the Coastal Act.

"I." Evidence of Legal Ability to Develop

Consistent with Section 30601.5 of the Coastal Act, the applicants must evidence their legal ability to develop a site. Currently, the applicants have no legal interest in the development site other than Memorandums-of-Understanding with the current owners providing for the applicants to obtain eventual ownership of the site. Therefore, it is necessary for a condition to be imposed, prior to permit issuance, which requires the applicants to provide evidence of their legal ability to develop the site as conditioned herein.

J. Local Coastal Program

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter Three policies of the Coastal Act.

The Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. However, no implementation plan has yet been certified by the Commission. As currently certified by the Commission, the City's LUP designates San Diego Creek North for "Administrative, Professional and Financial Commercial" land use and permits 112,000 square feet of building area. The LUP also designates a 2.5 acre reserve for a fire station.

The proposed development would not be a use permitted under the current designation. The proposed development would be permitted under the "Retail and Service Commercial" LUP land use designation. Therefore, the proposed development would be inconsistent with the LUP as currently certified.

However, the difference between office commercial use and retail commercial use would not be significant in this case. In addition, the City has approved an LUP amendment to change the designation to "Retail and Service Commercial" use. The City is in the process of submitting this LUP amendment to the Commission for action. Further, the proposed project has been conditioned to be consistent with the Chapter Three policies of the Coastal Act.

Therefore, the Commission finds that approval of the proposed project as conditioned would not prejudice the ability of the City of Newport Beach to prepare an LCP consistent with the Chapter 3 policies of the Coastal Act.

K. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

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The subject site is located in an urban zone. Infrastructure necessary to serve the site exists in the area. The proposed project has been conditioned in order to be found consistent with the ESMA, Marine Resources, Public Access and Recreation, Cultural Resources, and Visual Resources policies of the Coastal Act. Mitigation measures; including requirements for maintenance of structural Best Management Practices, conservation easements for the off-site coastal sage scrub habitat creation, maintenance of the on-site wetland, contacting the appropriate agencies in the event of the discovery of cultural resources, and incorporation of certain City mitigation measures will minimize all adverse impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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ATTACHMENTS TO STAFF REPORT

Appendix A

1. Selected Mitigation Measures contained in Exhibit C of City of Newport Beach City Council Resolution 95-102 and Selected Conditions of City approval of Use Permit 3565

Exhibits

- A. Vicinity Map
- B. Aerial Photograph of site
- C. October 23, 1995 letter with attachments from Patricia Temple of the City of Newport Beach to Linda Dawes of the United States Fish and Wildlife Service regarding the proposed Interim Habitat Loss Mitigation Plan
- D. Memo from the California Department of Fish and Game (from Patricia Wolf to John T. Auyong dated )
- E. Plans/Rendering
- F. Site Plan
- G. Ownership Exhibit
- H. Vegetation Map
- I. Letter from Gene William Foster of the Transportation Corridor Agency ("TCA") to Don Webb/Attention Emmet Berkery of the City of Newport Beach dated October 30, 1995 regarding on-site runoff draining into the TCA wetland.

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Section B "Earth Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
3. <del>Prior to issuance of a grading permit, the applicant or successor in interest shall demonstrate to the City of Newport Beach Building Department that all facilities will be designed and constructed as specified in the City adopted version of the Uniform Building Code.</del>	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
4. <del>Development of the site shall be subject to a grading permit to be approved by the Building and Planning Departments. The application for grading permit shall be accompanied by a grading plan and specifications and supporting data consisting of soils engineering and engineering geology reports or other reports if required by the building official.</del>	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
5. The grading plan shall include a complete plan for temporary and permanent drainage facilities, to minimize any potential impacts from silt, debris, and other water pollutants.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
6. <del>The grading plan shall include a description of haul routes, access points to the site, watering, and sweeping program designed to minimize impact of haul operations.</del>	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
7. An erosion, siltation and dust control plan shall be submitted prior to issuance of grading permits and be subject to the approval of the Building Department and a copy shall be forwarded to the California Regional Water Quality Control Board, Santa Ana Region.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department; California Regional Water Quality Control Board, Santa Ana Region

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Section B "Earth Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
8. The velocity of concentrated run-off from the project site shall be evaluated and erosive velocities controlled as part of the project design.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
9. Grading operations and drainage requirements shall meet the standards set forth in the City's Building Code (Appendix Chapter 70 - Excavation and Grading, Sections 7001-7019) and the Building Department's General Grading Specifications.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
10. The erosion control measures shall be completed on any exposed slopes within thirty days after grading, or as approved by the Building Department.	Mitigation Monitoring	Grading Plan Specifications	Within 30 days after grading or as approved by the Building Department	Building Department
11. Fugitive dust emissions during construction shall be minimized by watering the site for dust control, containing excavated soil on-site until it is hauled away, and periodically washing adjacent streets to remove accumulated materials.	Mitigation Monitoring	Grading Plan Check and Field Inspection	Prior to issuance of grading permits and during grading and construction	Planning Department, Building Department
12. Prior to the issuance of any building permits a specific soils and foundation study shall be prepared and approved by the Building Department.	Mitigation Monitoring	Soils and Foundation Study	Prior to the issuance of any building permit(s)	Building Department

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Section B "Earth Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
13. Sites where the potential for liquefaction has been identified, or any other site where the potential for liquefaction may be encountered during subsequent investigations, shall be further evaluated by a geotechnical consultant to verify the low potential for liquefaction. The evaluation shall include subsurface investigation with standard penetration testing or other appropriate means of analysis for liquefaction potential. The project geotechnical consultant shall provide a statement concerning the potential for liquefaction and its possible impact on proposed development. If necessary, the geotechnical consultant shall provide mitigation measures which could include mechanical densification of liquefiable layers, dewatering, fill surcharging or other appropriate measures. The Geotechnical Consultant's report shall be signed by a Certified Engineering Geologist and a Registered Civil Engineer and shall be prepared to the satisfaction of the Building Department prior to issuance of Grading Permit. Grading and building plans shall reflect the recommendations of the study to the satisfaction of the Building Department.	Mitigation Monitoring	Geotechnical Report	Prior to issuance of any grading permit(s)	Building Department
14. Any necessary diversion devices, catchment devices, or velocity reducers shall be incorporated into the grading plan and approved by the Building Department prior to issuance of grading permits. Berms or other catchment devices shall be incorporated into the grading plans to divert sheet flow runoff away from areas which have been stripped of natural vegetation. Velocity reducers shall be incorporated into the design, especially where drainage devices exit to natural ground.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Planning Department, Building Department

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Section B "Earth Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
15. All fill slopes shall be properly compacted during grading in conformance with the City Grading Code and verified by the project Geotechnical Consultant. Slopes shall be planted with vegetation upon completion of grading. Conformance with this measure shall be verified by the Building Department prior to the issuance of occupancy permits.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any occupancy permit(s)	Building Department
16. Berms and brow ditches shall be constructed to the satisfaction and approval of the Building Department. Water shall not be allowed to drain over any manufactured slope face. Top-of-slope soil berms shall be incorporated into grading plans to prevent surface runoff from draining over future fill slopes. Brow ditches shall be incorporated into grading plans to divert surficial runoff from ungraded natural areas around future cut slopes. The design of berms and brow ditches shall be approved by the Building Department prior to issuance of grading permits.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department
17. Prior to the issuance of grading permits, appropriate artificial substances shall be recommended by the project landscape architect and approved by the Building Department for use in reducing surface erosion until permanent landscaping is well established. Upon completion of grading, stripped areas shall be covered with artificial substances approved by the Building Department.	Mitigation Monitoring	Landscape Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department

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MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
20. The project geotechnical consultant and/or civil engineer shall prepare written site-specific reviews of the tentative tract maps and grading plans addressing all salient geotechnical issues, including groundwater. These reports shall provide findings, conclusions and recommendations regarding near-surface groundwater and the potential for artificially induced groundwater as a result of future development, and the effects groundwater may have on bluffs, slopes and structures. The reports shall also address the potential for ground subsidence on the site and properties adjacent to the sites if dewatering is recommended. The geotechnical consultant and/or civil engineer's reports shall be signed by a Certified Engineering Geologist and Registered Civil Engineer and shall be completed to the satisfaction of the Building Department prior to issuance of a grading permit.	Mitigation Monitoring	Grading Plan Check/ Geotechnical Consultant	Prior to issuance of any grading permit(s)	Building Department
C. <u>WATER RESOURCES</u>				
1. Prior to issuance of any grading permit, an erosion, siltation, and dust control plan shall be submitted, and shall be subject to the approval of the Building Department.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Building Department

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Section C "Water Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
2. Prior to the issuance of any grading permit, the design engineer shall verify that the discharge of surface runoff from development of any site will be performed in a manner so that increased peak flows from the site will not increase erosion immediately downstream of the system. As part of this review, the velocity of concentrated runoff from the project shall be evaluated, and erosive velocities controlled as part of the final project design. This report shall be reviewed by the Planning Department and approved by the Building Department.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Planning Department, Building Department
3. Erosion control measures contained in the erosion siltation and dust control plan shall be implemented on any exposed slopes within 30 days after grading, or as otherwise directed by the Building Department.	Mitigation Monitoring	Grading Plan Specifications, and Field Inspection	Within 30 days after grading, or as directed by the Building Department	Building Department
4. Any existing on-site drainage facilities shall be improved as required, or updated concurrent with grading and development, to the satisfaction of the Public Works and Building Departments. Improvement plans shall be approved by the Public Works Department prior to issuance of a grading permit.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department, Public Works Department
5. Prior to the issuance of grading permits, the applicant (or applicant's grading contractor) shall provide to the Building and Public Works Departments haul route plans that include a description of haul routes, access points to the sites, and watering and sweeping program designed to minimize impacts of the haul operation. These plans shall be reviewed and approved by the Public Works Department. Copies of the plans shall be submitted to the City's Planning Department.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Planning Department, Building Department, Public Works Department

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### Section C "Water Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<p>6. Prior to the issuance of grading permits, the applicant shall incorporate the following erosion control methods into grading plans and operations to the satisfaction of the Building Department.</p> <p>a. An approved material such as straw, wood chips, plastic or similar materials shall be used to stabilize graded areas prior to revegetation or construction.</p> <p>b. Airborne and vehicle borne sediment shall be controlled during construction by: the regular sprinkling of exposed soils and the moistening of vehicles loads.</p> <p>c. An approved material such as riprap (a ground cover of large, loose, angular stones) shall be used to stabilize any slopes with seepage problems to protect the topsoils in areas of concentrated runoff.</p>	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of grading permit(s)	Building Department
<p>7. Prior to the issuance of grading permits, the project geotechnical consultant and/or civil engineer shall develop a plan for the diversion of stormwater away from any exposed slopes during grading and construction activities. The plan shall include the use of temporary right-of-way diversions (i.e., berms or swales) located at disturbed areas or graded right-of-ways. The plan will be approved by the Public Works and Building Departments, and implemented during grading and construction activities.</p>	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department, Public Works Department

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MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
8. The applicant shall provide a temporary gravel entrance located at every construction site entrance. The location of this entrance shall be incorporated into grading plans prior to the issuance of grading permits. To reduce or eliminate mud and sediment carried by vehicles or runoff onto public rights-of-way, the gravel shall cover the entire width of the entrance, and its length shall be no less than 50 feet. The entrance plans shall be reviewed and approved by the Public Works and Building Departments concurrent with review and approval of grading plans.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department, Public Works Department
9. The applicant shall construct filter berms or other approved devise for the temporary gravel entrance. The berms shall consist of a ridge of gravel placed across graded right-of-ways to decrease and filter runoff levels while permitting construction traffic to continue. The location of berms shall be incorporated into grading plans prior to the issuance of grading permits. The plans shall be reviewed and approved by the Public Works and Building Departments.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department, Public Works Department
10. During grading and construction, the applicant shall provide a temporary sediment basin located at the point of greatest runoff from any construction area. The location of this basin shall be incorporated into grading plans. It shall consist of an embankment of compacted soils across a drainage. The basin shall not be located in an area where its failure would lead to loss of life or the loss of service of public utilities or roads. The plan shall be reviewed and approved by the Building Department.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department

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MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<p>12. Structural BMP Controls. Prior to the issuance of any Grading Permit, the project proponent shall ensure that the project includes implementation of appropriate structural Best Management Practices (BMPs) to reduce the extent of pollutants in stormwater flows from the site. Said structural BMPs shall meet the approval of the Public Works Department. The following structural BMPs will be incorporated at the project site:</p> <ul style="list-style-type: none"> <li>All automotive maintenance areas will be covered with a roof and will drain to the sewer system rather than the storm drain.</li> <li>All trash enclosures will be covered.</li> <li>Car wash areas will be covered and drain to the sewer system rather than the storm drain.</li> <li>Parking lot and display area catch basins will be provided with grease and oil filters.</li> </ul> <p>Maintenance of the selected structural BMPs will be required throughout the life of the project to ensure proper operation.</p>	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Building Department, Public Works Department

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MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<p>13. Non-Structural BMP Controls. Prior to the issuance of certificates of use and occupancy, the project proponent shall submit an operations plan that ensures that the project operation shall include non-structural BMPs, including the following:</p> <ul style="list-style-type: none"> <li>• Periodic cleaning (i.e., street sweeping)</li> <li>• Routinely cleaning on-site storm drain manholes and catch basins</li> <li>• Source control surveys of all on-site industrial facilities</li> <li>• Controlling washdown of non-stormwater discharges from project development facilities</li> <li>• Providing information to employees on disposal of waste oil, grease, and pesticide containers</li> <li>• Carefully controlling pesticide and fertilizer usage</li> <li>• Providing covered areas for trash receptacles, or enclosed features to prevent direct contact with precipitation</li> <li>• Efficient landscaping irrigation</li> <li>• Common area litter control</li> <li>• Housekeeping of loading docks.</li> </ul> <p>All non-structural BMPs shall meet the approval of the Public Works Department.</p>	Mitigation Monitoring	Operations Plan Check, and Field Inspection	Prior to issuance of any certificate(s) of use and occupancy	Public Works Department

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MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
14. Water Quality Management Plan. Prior to the issuance of any building permit, consistent with the Drainage Area Management Plan (DAMP) prepared by the County of Orange for compliance with their municipal storm water NPDES permit requirement, the project proponent shall prepare a Water Quality Management Plan (WQMP). Said WQMP shall meet the approval of the Public Works Department. The WQMP shall indicate the proposed structural and non-structural, permanent stormwater quality control measure to be utilized for the project, shall identify the potential pollutant source on the project, and shall describe how the project implements the objectives outlined in the DAMP.	Mitigation Monitoring	Water Quality Management Plan Approval	Prior to issuance of any building permit(s)	Public Works Department
15. Prior to issuance of a grading permit, the final plan of water, sewer and storm drain facilities shall be approved by the Public Works Department. Any systems shown to be required by the review shall be the responsibility of the developer, unless otherwise provided for through an agreement with the property owner or serving agency.	Mitigation Monitoring	Grading Plan Check	Prior to issuance of any grading permit(s)	Public Works Department
D. <u>TRAFFIC AND CIRCULATION</u>				
1. Prior to approval of building permits, the project should contribute, on a fair share basis, towards the cost of the improvement at the intersection of Jamboree Road/Bristol Street North. Said contributions shall meet with the approval of the Director of Public Works.	Mitigation Monitoring	Payment of Fees	Prior to approval of any building permit(s)	Public Works Department, Director
E. <u>AIR QUALITY</u>				

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MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
1. Standard dust control practices dictated by SCAQMD Rule 403 shall be followed.	Mitigation Monitoring, SCAQMD requirements	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Planning Department, Building Department
2. The applicant shall specify the use of concrete, emulsified asphalt, or asphaltic cement, none of which produce significant quantities of VOC emissions.	Mitigation Monitoring	Plan Check, and Field Inspection	Prior to issuance of any building permit(s)	Planning Department, Building Department
3. To avoid exceedance of SCAG's threshold of significance for NOx emissions, construction export operations are limited to a maximum of ten hours per day, including one hour of down time.	Mitigation Monitoring	Grading Plan Specifications and Field Inspection	Prior to issuance of any grading permit(s)	Planning Department, Building Department
F. <u>NOISE</u>				
① Any rooftop or other mechanical equipment shall be sound attenuated in such a manner as to achieve a maximum sound level of 55 dBA at the property line.	Mitigation Monitoring	Plan Checks, and Field Inspection	Prior to issuance of any building or construction permit(s)	Planning Department, Building Department
② Any mechanical equipment and emergency power generators shall be screened from view, and noise associated with said installations shall be sound attenuated so as not to exceed 55 dBA at the property line. The latter shall be based upon the recommendations of a licensed engineer practicing in acoustics, and shall be approved by the Planning Department.	Mitigation Monitoring	Plan Checks, and Field Inspection	Prior to issuance of any building or construction permit(s)	Planning Department, Building Department

5-95-219 Appendix A "City Mitigation Measures/conditions" p. 12 of 24

Exhibit C to City Council  
Resolution 95-102

MITIGATION MONITORING AND REPORT SUMMARY  
DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155  
SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP  
AUGUST 31, 1995

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
3. Pursuant to the City of Newport Beach Noise Ordinance Section 10.28.040, construction adjacent to existing residential development shall be limited to the hours of 7:00 a.m. to 6:30 p.m. Monday through Friday, and 8:00 a.m. through 6:00 p.m. on Saturday. Construction shall not be allowed outside of these hours Monday through Saturday or at any time on Sundays and federal holidays. Verification of this shall be provided to the Planning Department.	Mitigation Monitoring	Grading Plan Check, Construction Plan Checks, and Field Inspection	Prior to issuance of any demolition, grading, or building permit(s)	Planning Department
G. <u>BIOLOGICAL RESOURCES</u>				
1. Final project design will include measures to buffer the project from adjacent wetland areas, including the SJHTC mitigation site and the existing wetland adjacent to the southeast corner of the project. The final buffer design shall be approved by the California Department of Fish and Game and the California Coastal Commission. While a combination of landscaping and the presence of the Bayview extension may be considered adequate to buffer the project from the SJHTC mitigation site, additional measures will likely be required for the nearer existing wetland site. Design measures to be considered include a five foot high concrete block wall or equivalent barrier that will preclude human access from the project site and reduce the effects of human activity.	Mitigation Monitoring	Grading Plan Check, and Field Inspection	Prior to issuance of any grading permit(s)	Planning Department, Building Department, California Department of Fish and Game, California Coastal Commission
2. Impacts resulting from the use of non-native, invasive plant species will be mitigated by developing a landscape plan that avoids the use of non-native invasive plants. A landscape plan prepared with consideration of the following information must be approved by the City prior to the issuance of building permits:	Mitigation Monitoring	Landscape Plan Check, and Field Inspection	Prior to issuance of any building permit(s)	Planning Department

5-95-219 Appendix A "City mitigation measures/conditions"

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# Exhibit C to City Council Resolution 95-102

## MITIGATION MONITORING AND REPORT SUMMARY DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155 SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP AUGUST 31, 1995

### Section G "Biological Resources"

MITIGATION MEASURE #2	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<p><i>Prohibited Species</i></p> <p>All non-native plants that are potentially invasive via airborne seeds, or that are particularly difficult to control once escaped, will be prohibited from all parts of the project. Such species include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Tree-of-heaven (<i>Allantbus</i> spp.)</li> <li>• Giant reed (<i>Arundo donax</i>)</li> <li>• Garland chrysanthemum (<i>Chrysanthemum coronarium</i>)</li> <li>• Pampas grass (<i>Cortaderia</i> spp.)</li> <li>• Brooms (<i>Cytisus</i> spp.)</li> <li>• Bermuda buttercup (<i>Oxalis pes-caprae</i>)</li> <li>• Fountain/Kikuyu grass (<i>Pennisetum</i> spp.)</li> <li>• German ivy (<i>Senecio milanoides</i>)</li> <li>• Tamarisk (<i>Tamarix</i> spp.).</li> </ul> <p><i>Permitted Species</i></p> <p>Some invasive, exotic species are known to be controllable in well managed situations. Such species may be used in project landscaping if a City approved biologist approves the species and proposed use. For example, areas that are separated from existing wetland areas by a substantial area of paving could be planted with hybrid bermuda grass. Non-native, invasive species that could be used under these circumstances include, but are not limited to, the following:</p>				

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**MITIGATION MONITORING AND REPORT SUMMARY**  
**DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155**  
**SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP**  
**AUGUST 31, 1995**

Section G "Biological Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<ul style="list-style-type: none"> <li>• Hottentot-fig (<i>Carpobrotus edulis</i>)<sup>1</sup></li> <li>• Bermuda grass (<i>Cynodon dactylon</i>)<sup>2</sup></li> <li>• Myoporum (<i>Myoporum laetum</i>)</li> <li>• Pepper trees (<i>Schinus</i> spp.)</li> <li>• Cape Honeysuckle (<i>Tecomaria capensis</i>)<sup>1</sup></li> <li>• Periwinkle (<i>Vinca</i> spp.).</li> </ul>				
<p>3. The effects of night lighting on adjacent natural areas, including the SJHTC mitigation site, will be reduced by the design of lighting that is either low intensity or highly directional.</p> <p>Prior to the issuance of building permits, a lighting plan shall be approved by the City, demonstrating that appropriate lighting will be installed for the display area, parking lots and areas adjacent to wetlands to minimize spillage into the habitat areas. The plan will include, but not be limited to, lighting directed onto the project site, and the use of soft light intensity fixtures.</p> <p>Prior to the issuance of any certificate of use and occupancy, the project proponent shall provide evidence, meeting the approval of the City, that the installed lighting meets the objectives of the plan. If necessary, shields on the back of lights or other screening shall be placed to cut off light beyond project area.</p>	<p>Mitigation Monitoring</p>          <p>Mitigation Monitoring</p>	<p>Lighting Plan Check, and Field Inspection</p>          <p>Lighting Plan Check, and Field Inspection</p>	<p>Prior to issuance of any building permit(s)</p>          <p>Prior to issuance of any certificate(s) of use and occupancy</p>	<p>Planning Department</p>          <p>Planning Department</p>

**1 Should be prohibited in areas adjacent to natural open spaces.**

<sup>2</sup> Hybrid Bermuda grass, which is sterile or produces only sterile seed, should be permitted in landscaped areas, when surrounded by an appropriate hardscape buffer or an apron of non-invasive plant species (to prevent vegetative spread into natural areas).

Exhibit C to City Council  
Resolution 95-102

MITIGATION MONITORING AND REPORT SUMMARY  
DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155  
SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP  
AUGUST 31, 1995

Section G "Biological Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
4. Prior to the issuance of grading permits for the project, a detailed Interim Habitat Loss Mitigation Plan (IHLMP), incorporating Mitigation Measures 7-5 and 7-6, shall be prepared by the City and submitted to the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) for approval. The purpose of these measures is to increase the amount and quality of scrub habitat that can be utilized by the California gnatcatcher and other species that require this habitat. This will both compensate for the project induced loss of potential breeding habitat and increase the potential for wildlife movement by increasing the size of important populations.	Mitigation Monitoring	Approval of Interim Habitat Loss Mitigation Plan	Prior to issuance of any grading permit(s)	Planning Department, U.S. Fish and Wildlife Service, California Department of Fish and Game

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Resolution 95-102

MITIGATION MONITORING AND REPORT SUMMARY  
DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155  
SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP  
AUGUST 31, 1995

Section G "Biological Resources"

MITIGATION MEASURE #4	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<p>The specific habitat replacement and exotic weed removal measures to be incorporated into the detailed IHLMP, including the actual acreage, may be modified with the approval of the California Department of Fish and Game and the U.S. Fish and Wildlife Service. The detailed IHLMP will include the following elements:</p> <ul style="list-style-type: none"> <li>• Overview/Objective</li> <li>• Plant Palettes and Planting Densities</li> <li>• Planting Methods and Timing</li> <li>• Site Preparation</li> <li>• Exotic Weed Removal</li> <li>• Irrigation</li> <li>• Maintenance</li> <li>• Performance Standards</li> <li>• Monitoring</li> <li>• Remedial Measures.</li> </ul> <p>The implementation of these measures will occur at the first feasible opportunity, with consideration of site preparation and plant propagule collection requirements.</p>				

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Exhibit C to City Council  
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MITIGATION MONITORING AND REPORT SUMMARY  
DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155  
SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP

Section G "Biological Resources" AUGUST 31, 1995

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
5. Prior to final design, the limit of the wetland area adjacent to the project will be staked in the field by a qualified person, and this limit will be surveyed and placed on the base map used to prepare the final plans. Prior to initiation of clearing and/or other construction activity, this limit will be clearly marked in the field with staking and ribbon, rope or fencing, and the contractor(s) will be advised by the City inspector that this area is not to be disturbed for any reason. This area will be monitored by the City during regular inspections to ensure that there is no encroachment.	Mitigation Monitoring	Approval of IILMP, Grading Plan Check, and Field Inspection	Prior to approval of Grading Plan	Planning Department, Building Department
6. An approximately 3.5 acre portion of the City owned property in the Big Canyon area adjacent to Upper Newport Bay shall be restored/converted to coastal sage scrub habitat. The goal of the additional habitat creation is to increase the California gnatcatcher population by at least one pair.	Mitigation Monitoring	Approval of IILMP	Prior to issuance of grading permit(s)	Planning Department
7. As part of the Big Canyon restoration effort, the City will implement a three year program for the removal of pampas grass and myoporum from City property in the mouth of Big Canyon. The first year will concentrate on initial removal at an appropriate time of year, i.e., prior to seed formation. The following two years will consist of spot removal of new seedlings or rosette sprouts.	Mitigation Monitoring	Approval of IILMP	Prior to issuance of grading permit(s)	Planning Department
H. <u>CULTURAL/SCIENTIFIC RESOURCES</u>				

5-95-219 Appendix A "City Mitigation Measures/Conditions" p. 18 of 24

# Exhibit C to City Council Resolution 95-102

## MITIGATION MONITORING AND REPORT SUMMARY DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155 SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP

AUGUST 31, 1995

### Section H "Cultural/Scientific Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
<p>1. City Council Policy K-5 outlines the City's requirements with respect to archaeological resources. The following specific measures are recommended in conformance with Policy K-5.</p> <p>A. A qualified archaeologist shall be present during pregrade meetings to inform the project sponsor and grading contractor of the results of any previous studies. In addition, an archaeologist shall be present during grading activities to inspect the underlying soil for cultural resources. If significant cultural resources are uncovered, the archaeologist shall have the authority to stop or temporarily divert construction activities for a period of 48 hours to assess the significance of the find.</p>	Mitigation Monitoring	Grading Plan Specifications, and Field Inspections	Prior to issuance of any grading or construction permit(s)	Planning Department
<p>B. In the event that significant archaeological remains are uncovered during excavation and/or grading, all work shall stop in that area of subject property until an appropriate data recovery program can be developed and implemented. The cost of such a program shall be the responsibility of the project sponsor.</p>	Mitigation Monitoring	Grading Plan Specifications, and Field Inspection	Prior to approval of any grading permit(s)	Planning Department
<p>C. Prior to issuance of any grading permits, the applicant shall waive the provisions of AB 952 related to City of Newport Beach responsibilities for the mitigation of archaeological impacts in a manner acceptable to the City Attorney.</p>	Mitigation Monitoring	Letter from Applicant to City	Prior to issuance of any grading permit(s)	Planning Department, City Attorney

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# Exhibit C to City Council Resolution 95-102

## MITIGATION MONITORING AND REPORT SUMMARY DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155 SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP

AUGUST 31, 1995

### Section H "Cultural/Scientific Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
2. Any sites uncovered shall be mitigated pursuant to Council Policy K-5. Where further testing or salvage is required, the applicant shall select a City approved, qualified archaeologist to excavate a sample of the site. All testing and salvage shall be conducted prior to issuance of grading permits or use of an area for recreational purposes. A written report summarizing the findings of the testing and data recovery program shall be submitted to the Planning Department within 90 days of the completed data recovery program.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
3. The applicant shall donate all archaeological material, historic, or prehistoric, recovered during the project to a local institution that has the proper facilities for curation, display and study by qualified scholars. All material shall be transferred to the approved facility after laboratory analysis and a report have been completed. The appropriate local institution shall be approved by the Planning Department based on a recommendation from the qualified archaeologist.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
4. A pre-grade reconnaissance of the area shall be made by a qualified paleontologist to assess whether any significant fossils currently are exposed. Any fossils observed and deemed significant shall be salvaged.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
5. A qualified paleontologist shall be retained to monitor and, if necessary, salvage scientifically significant fossil remains.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
6. The paleontologist shall have the power to temporarily divert or direct grading efforts to allow the evaluation and any necessary salvage of exposed fossils.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department

5-95-219 Appendix A "City Mitigation Measures/Conditions" p. 20 of 24 24

# Exhibit C to City Council Resolution 95-102

## MITIGATION MONITORING AND REPORT SUMMARY DRAFT ENVIRONMENTAL IMPACT REPORT NO. 155 SAN DIEGO CREEK NORTH AUTOMOBILE DEALERSHIP AUGUST 31, 1995

### Section H "Cultural/Scientific Resources"

MITIGATION MEASURE	IMPLEMENTING ACTION	METHOD OF VERIFICATION	TIMING OF VERIFICATION	RESPONSIBLE PARTY(S)
7. Monitoring shall be on a full-time basis during grading in geologic units of high paleontologic sensitivity.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
8. Spot-checking of low sensitivity sediments shall be conducted by a qualified paleontologist. Should significant fossils be observed during grading in these units, full-time monitoring may be required.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
9. All collected fossils shall be donated to a museum approved by the City of Newport Beach Planning Department.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department
10. A final report summarizing findings, including an itemized inventory and contextual stratigraphic data, shall accompany the fossils to the designated repository; an additional copy shall be sent to the appropriate Lead Agency.	Mitigation Monitoring	Grading Plan Specifications, and Field Check	Prior to issuance of any grading permit(s)	Planning Department

## CITY OF NEWPORT BEACH

August 24, 1995

ROLL CALL		Use Permit 3565 (conditions)	INDEX
		<p>standards. All handicap parking shall be designated with a sign and pavement marking.</p> <p><del>27.</del> That the monument signs, slopes, walls and landscaping along the Jamboree Road frontage shall be considered in the site distance requirements. The Bayview Way and Jamboree Road intersection shall be designed to provide sight distance of 50 miles per hour.</p> <p><del>28.</del> That all unloading and loading of vehicles shall be done on-site.</p> <p><del>29.</del> That site access shall be provided for emergency access per City Fire/Marine and Public Works standards.</p> <p><del>30.</del> That on-site fire hydrants shall be provided as required in the Uniform Building Code and Fire/Marine standards.</p> <p><del>31.</del> That all buildings shall be fully sprinklered per NFPA 13 and Fire/Marine standards unless otherwise determined by the Fire Department and Building Department.</p> <p><del>32.</del> That the applicant shall provide fire protection equipment and devices associated with special hazards presented in design of the facility and protect those hazards as prescribed in the Uniform Building Code and nationally recognized standards as approved by the Fire/Marine Departments.</p> <p><del>33.</del> That all automobile servicing, repair, washing and detailing shall be conducted within the building.</p> <p>29. That all wash water shall drain into the sanitary sewer system and that grease traps shall be provided in all drains where petroleum residues may enter the sewer system, unless otherwise approved by the Building Department and the Public Works Department.</p> <p>30. That the illumination of any open automobile display area or roof top parking area shall be designed and maintained in such a manner as to</p>	<p>"City Mitigation Measures/Conditions"</p> <p>p. 22 of 24</p> <p>5-95-219 Appendix A</p>

## CITY OF NEWPORT BEACH

August 24, 1995

ROLL CALL		Use Permit 3565 (conditions)	INDEX
		<p>eliminate direct light and glare on adjoining properties southerly and westerly of the site. A timing device shall turn off any light facing towards the residential properties or neighboring properties at 10:00 p.m. every night. Said design features shall be incorporated into a lighting plan prepared and signed by a Licensed Electrical Engineer, with a letter from the engineer stating that, in his opinion, that these requirements have been met. That the lighting and illumination plan for the roof top parking area shall be subject to the approval of the Planning Director.</p> <p>31. That no outdoor loudspeaker or paging system shall be permitted in conjunction with the proposed operation unless otherwise approved the Planning Department.</p> <p>32. That no windshield signs shall be permitted, and that all signs shall meet the requirements of Chapter 20.06 of the Municipal Code.</p> <p>33. That no banners, pennants, balloons, wind signs, moving signs, or flashing or animated electrical signs shall be displayed.</p> <p><del>34. That a Use Permit shall be required for the establishment of a restaurant that is open to the general public, within the facility.</del></p> <p><del>35. That the project comply with the Uniform Building Code, disabled access, and energy regulations.</del></p> <p><del>36. Health Department approval is required for the food establishment located within the project.</del></p> <p>37. That where grease may be introduced into the drainage systems, grease interceptors shall be installed on all fixtures as required by the Uniform Plumbing Code, unless otherwise approved by the Building Department and the Utilities Department.</p> <p><del>38. That all employees shall park on-site.</del></p>	<p>5.95-219 Appendix A "City Mitigation Measures/conditions" p. 23 of 24</p> <p>175</p>

## CITY OF NEWPORT BEACH

August 24, 1995

ROLL  
CALL

Use Permit 3565 (conditions)

INDEX

~~39.~~ That the hours of operation shall be limited between 6:00 a.m. and 10:00 p.m. daily

~~40.~~ That all trash areas shall be screened from adjoining properties and streets.

41. That the project shall be designed to eliminate light and glare spillage on adjacent uses.

42. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department and the Public Works Department.

~~43.~~ That Coastal Commission approval shall be obtained prior to issuance of any grading or building permits unless otherwise approved by the Public Works Department and the Planning Department.

~~44.~~ That the Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

~~45.~~ That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

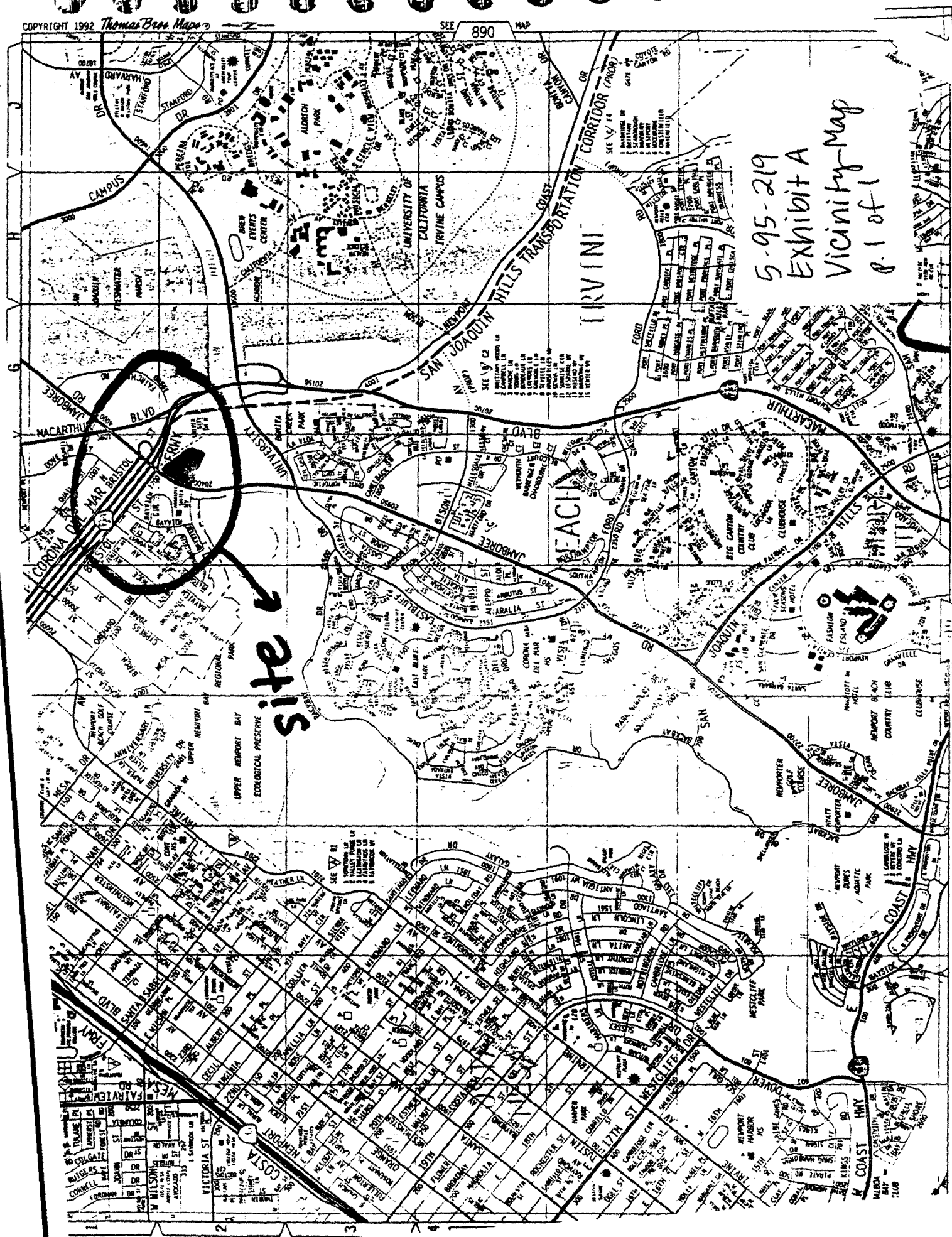
Development Agreement No. 6 (CIOSA):

Adopt Resolution No. 1403 recommending City Council approval of Revisions to Development Agreement No. 6.

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"City Mitigation Measures/Conditions"  
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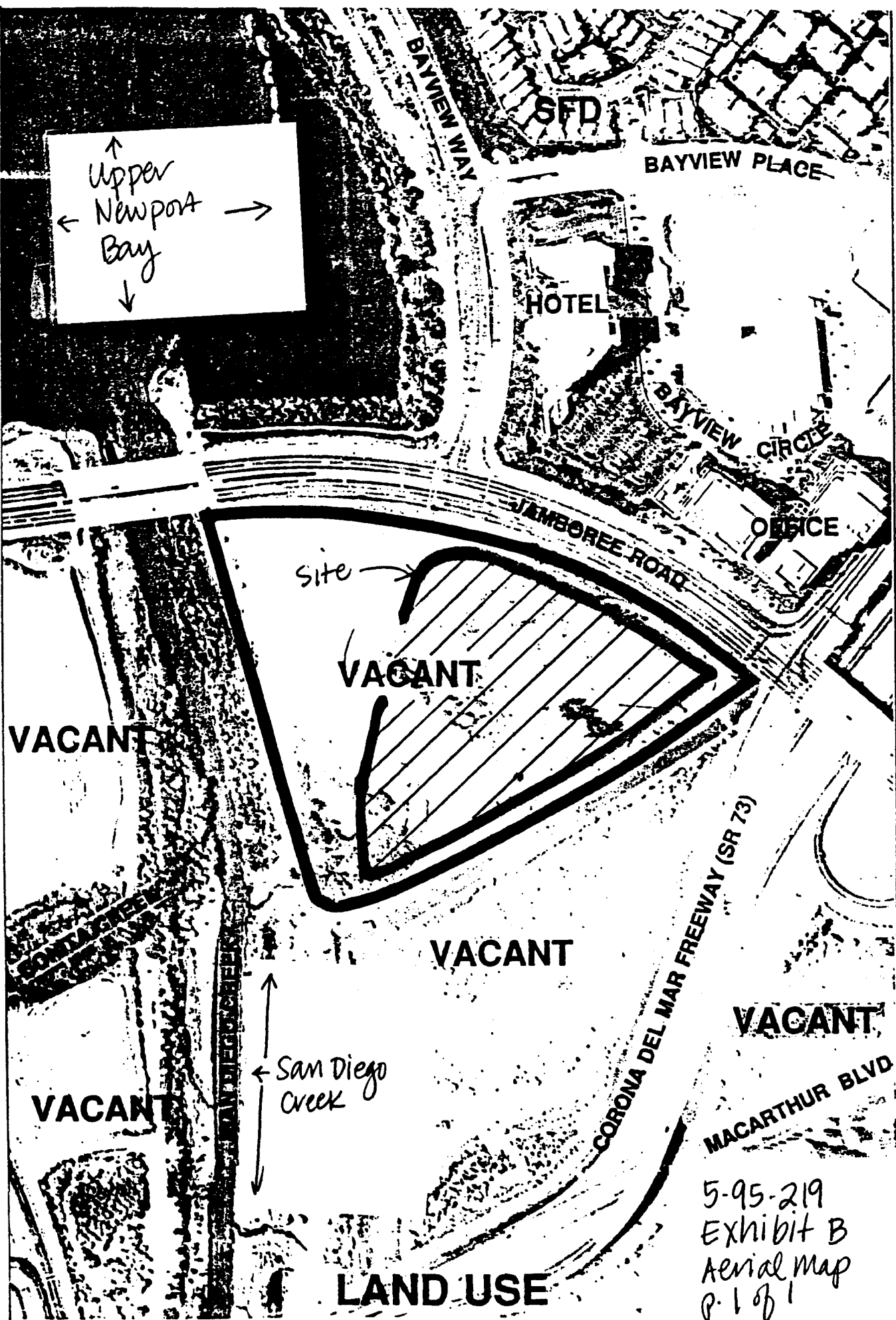
5-95-219  
Exhibit A  
Vicinity Map  
p. 1 of 1

site



AP & I  
SFD - S  
SFA - S  
MFR -  
R & SC  
R & EC  
W - Wa

↑  
Upper  
Newport  
Bay  
↓



site →

VACANT

VACANT

VACANT

VACANT

VACANT

← San Diego Creek

LAND USE

5-95-219  
Exhibit B  
Aerial map  
P. 1 of 1

M

BO

R



# CITY OF NEWPORT BEACH

PLANNING DEPARTMENT  
(714) 644-3225

RECEIVED

October 23, 1995

OCT 30 1995

Ms. Linda Dawes  
U.S. Fish and Wildlife Service  
2730 Loker Avenue West  
Carlsbad, California 92008

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Subject: Fletcher Jones Automobile Dealership (San Diego Creek North) NCCP 4(d) Rule Findings

Dear Ms. Dawes:

This letter is intended as a request for approval of the conceptual Interim Habitat Loss Mitigation Plan (IHLMP) for loss of 2.1 acres of scrub habitat for the Fletcher Jones Automobile Dealership project, in compliance with the NCCP and 4(d) rule processes. The project site has also been referred to as San Diego Creek North. In addition to the IHLMP, this letter transmits findings pursuant to the 4(d) Special Rule for Incidental Take of the California gnatcatcher. The project was addressed in the *San Diego Creek North Automobile Dealership DEIR* State Clearinghouse #95041038, Draft Environmental Impact Report (EIR), June 19, 1995.

Based on discussions with the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game, the City of Newport Beach has developed some specific mitigation measures as part of the Fletcher Jones Automobile Dealership project, as compensation for the loss of 2.1 acres of scrub habitat that were utilized previously by California gnatcatchers. A nesting pair was of California gnatcatchers was recorded in the remnant coastal sage scrub on site in 1994 (Theresa Bruckenstein pers. comm.). In March, 1995, LSA conducted a three visit survey of the site, using tape recordings; no California gnatcatchers were found.

The Fletcher Jones Automobile Dealership is not included in the preliminary reserve design for the Coastal Subregion NCCP. However, it is immediately adjacent to the San Diego Creek corridor, which is part of a special linkage between the preliminary reserve and important habitat in Upper Newport Bay.

The project EIR establishes specific mitigation measures that will minimize the project's effects on adjacent portions of the NCCP reserve and habitat in non-reserve open space. The EIR mitigation measures relevant to biology on the proposed project are summarized below.

- Final project design will include measures to buffer the project from adjacent wetland areas, including the SJHTC mitigation site and the existing wetland adjacent to the southeast corner of the project. The final buffer design shall be approved by the California Department of Fish and Game and the California Coastal Commission.

City Hall • 3300 Newport Boulevard • P.O. Box 1768 • Newport Beach, California 92659-1768

5-95-219 Exhibit C p. 1 of 9 "Proposed Interim Habitat Loss Mitigation Plan"

- Impacts resulting from the use of non-native, invasive plant species will be mitigated by developing a landscape plan that avoids the use of non-native invasive plants. A landscape plan prepared with consideration of information on exotic invasive plants must be approved by the City prior to the issuance of building permits.
- The effects of night lighting on adjacent natural areas, including the SJHTC mitigation site, will be reduced by the design of lighting that is either low intensity or highly directional. Prior to the issuance of building permits, a lighting plan shall be approved by the City, demonstrating that appropriate lighting will be installed for the display area, parking lots, and areas adjacent to wetlands to minimize spillage into the habitat areas.
- Prior to final design, the limit of the wetland area adjacent to the project will be staked in the field by a qualified person, and this limit will be surveyed and placed on the base map used to prepare the final plans. Prior to initiation of clearing and/or other construction activity, this limit will be clearly marked in the field with staking and ribbon, rope or fencing, and the contractor(s) will be advised by the City inspector that this area is not to be disturbed for any reason. This area will be monitored by the City during regular inspections to ensure that there is no encroachment.
- Prior to the issuance of grading permits for the project, a detailed Interim Habitat Loss Mitigation Plan (IHLMP) shall be prepared by the City and submitted to USFWS and CDFG for approval. Two specific habitat replacement and exotic weed removal measures, to be incorporated into the detailed IHLMP, are included in the FEIR. As provided for in the FEIR, these may be modified with the approval of CDFG and USFWS. Based on more detailed mitigation site planning and in-field consultation with the Department and the Service, these measures have been modified to state the following:
- An approximately 4.56 acre area of City-owned property in the Big Canyon area adjacent to Upper Newport Bay shall be enhanced/restored/converted to coastal sage scrub habitat values. The areas and typical treatments are shown in the attached Figures 1-3. The treatments include the following:
  - 2.94 acres will be restored/converted to coastal sage scrub habitat that conforms with the City Fire Department's desire to minimize future fire hazards. This will be accomplished by planting "cells" of typical coastal sage scrub habitat. These cells will be bounded by denser plantings of Fire Department approved shrubs that occur in coastal sage scrub habitat, e.g., coyote bush and bladderpod.
  - 0.97 acre will be enhanced through weed removal and additional plantings of coastal sage scrub species. These enhancement plantings will also entail the creation of fire buffer cells.
  - 0.65 acre in fuel modification zones on City property will be enhanced through weed removal and plantings of Fire Department approved coastal sage scrub species in densities that conform with fuel modification requirements.

As part of the Big Canyon restoration effort, the City will implement a three year program for removal of invasive non-native weeds on City-owned property in the mouth of Big Canyon. Target species will include, but not be limited to, the following:

- Selloa Pampas grass (*Cortaderia selloana*)
- Pampas grass (*Cortaderia jubata*)
- Hottentot-fig (*Carpobrotus edulis*)
- Castor bean (*Ricinus communis*)
- Russian thistle (*Salsola tragus*)
- Cardoon (*Cynara cardunculus*)
- Crystalline iceplant (*Mesembryanthemum crystallinum*)
- Small-flowered iceplant (*Mesembryanthemum nodiflorum*)
- Australian saltbush (*Atriplex semibaccata*).
- Tamarisk (*Tamarix* spp.)
- Giant reed (*Arundo donax*)

Prior to, or at the end of this program, the City will grant a conservation easement to the California Department of Fish and Game for the mouth of the Big Canyon area. This conservation easement will allow the Department to include the area as part of the Upper Newport Bay Ecological Reserve management program. Concurrent with the granting of the easement to the Department, the City will affirm its intention to ensure the long-term viability of the area as wildlife habitat. This affirmation could take the form of a cash contribution from the City to the Department, or some other mutually agreed upon form of assistance.

These mitigation measures have been developed as a conceptual Interim Habitat Loss Mitigation Plan, pursuant to the NCCP interim process guidelines and 4(d) Special Rule. The findings of consistency with the NCCP program are attached. The mitigation measures and draft NCCP findings were provided in the DEIR for a 45 day public review period. The City has adopted these findings with certification of the Final EIR. The USFWS has 30 days to request modifications to the City's findings.

Thank you for your time and contributions to processing this project through the interim take 4 (d) guidelines.

Sincerely,



Patricia Temple  
Planning Manager

Attachments: NCCP Findings

cc: Bill Tippetts, CDFG  
Tim Neely, EMA  
Art Homrighausen, LSA Associates, Inc.

5-95-219 Exhibit C p. 3 of 9

**NCCP FINDINGS - FLETCHER JONES AUTOMOBILE DEALERSHIP  
(SAN DIEGO CREEK NORTH)**

***BACKGROUND***

The following mandatory findings, as specified in the NCCP Process Guidelines, must be made for any project involving the loss of CSS resources or affecting the County's NCCP program:

- 1) The proposed habitat loss is consistent with the interim loss criteria in the Conservation Guidelines.
  - a) The habitat loss does not cumulatively exceed the five percent guideline for loss of CSS within a subregion.
  - b) The habitat loss will not preclude connectivity between areas of high habitat values.
  - c) The habitat loss will not preclude or prevent the preparation of the subregional NCCP.
  - d) The habitat loss has been minimized and mitigated to the maximum extent practicable, in accordance with the Interim Mitigation Criteria of the NCCP Process Guidelines.
- 2) The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild.
- 3) The habitat loss is incidental to otherwise lawful activity.

***PROJECT SPECIFIC FINDINGS***

***Consistency with Interim Loss Criteria***

***Cumulative Loss***

The project will not result in cumulative exceedance of the five percent guideline for the loss of coastal sage scrub in the Coastal/Central Subregion. When added to the total loss approved to date (subsequent to the March, 1993, listing of the gnatcatcher) of approximately 609 acres, the maximum loss of 2.1 acres of scrub habitat associated with this project will bring the total loss to 611.1 acres, which is 1.7 percent of the 36,614 acres of coastal sage scrub in the Coastal/Central NCCP Subregion.

5-95-219 Exhibit C p. 4 of 9

### *Connectivity*

Most of the contiguous patches of coastal sage scrub habitat in the Coastal Subregion are in the San Joaquin Hills, and occur to the southeast of the project. However, a wildlife connection between the San Joaquin Hills and Upper Newport Bay has generally been considered to be important by biologists in the area for a number of years. The primary importance of the connection is to maintain access to Upper Newport Bay by coyotes, which principally inhabit the San Joaquin Hills. Coyotes are important for the control of mesopredators (smaller predators) that can adversely affect the ecological relationships in Upper Newport Bay. In addition, Upper Newport Bay supports a relatively isolated population of California gnatcatchers, and it is desirable to maintain a potential link between the populations of Upper Newport Bay and the San Joaquin Hills. Therefore, the Bonita Creek and San Diego Creek corridors are currently included in the NCCP Preliminary Reserve design and special linkage areas.

The project is immediately adjacent to the San Diego Creek corridor. Without mitigation, the project could potentially adversely affect the utility of this connection for wildlife in general and the California gnatcatcher in particular.

### *Effect on NCCP Planning*

The project specific mitigation measures will minimize the project effects on adjacent portions of the NCCP reserve, and enhance habitat in non-reserve open space that is adjacent to the Upper Newport Bay portion of the reserve. Thus, these measures will contribute to permanent implementation of portions of the NCCP through the connectivity and open space conservation measures. The project does not adversely affect the preparation of the subregional NCCP. The project does not impact currently planned regionally important open spaces. The project area is not included in the proposed reserve design currently being reviewed. The adjacent creek area is an integral part of the habitat linkage system that is included as part of the current reserve design. Therefore, the development of the project does not compromise reserve design.

### *Effect on Survival and Recovery of the Species*

The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild. It is fully anticipated that implementation of the NCCP program will adequately provide for the survival of the California gnatcatcher, such that the threat to this species will be removed. As noted above, the project, with mitigation measures, does not preclude connectivity, or preclude or prevent the preparation of the subregional NCCP. The proposed mitigation measures will enhance the survival of the species with respect to the NCCP program.

5-95-219 Exhibit C p. 5 of 9

*Incidental Habitat Loss*

The purpose of the project is to develop a commercial area. The loss of scrub habitats is a necessary, incidental effect of the project.

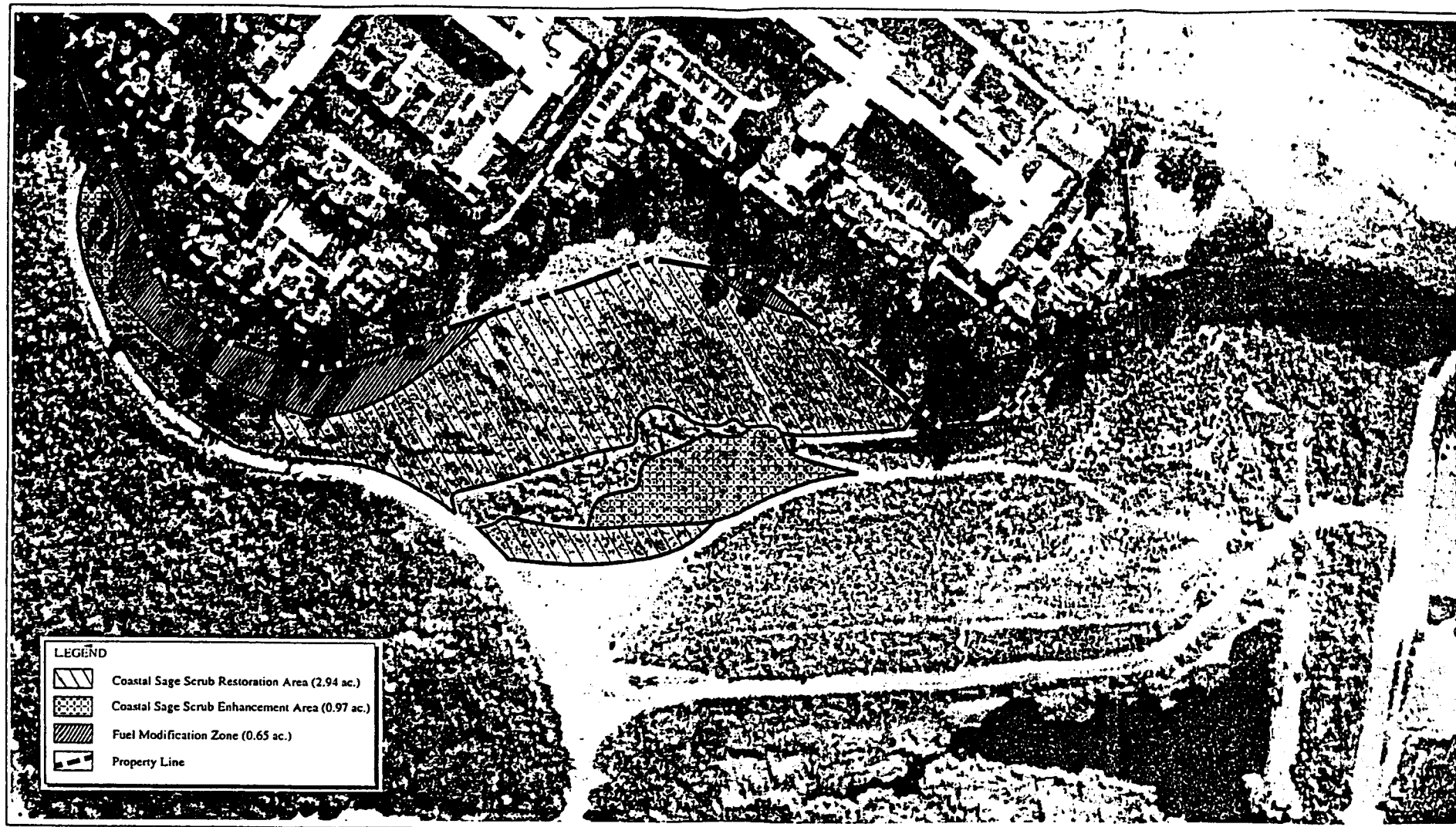


Figure 1

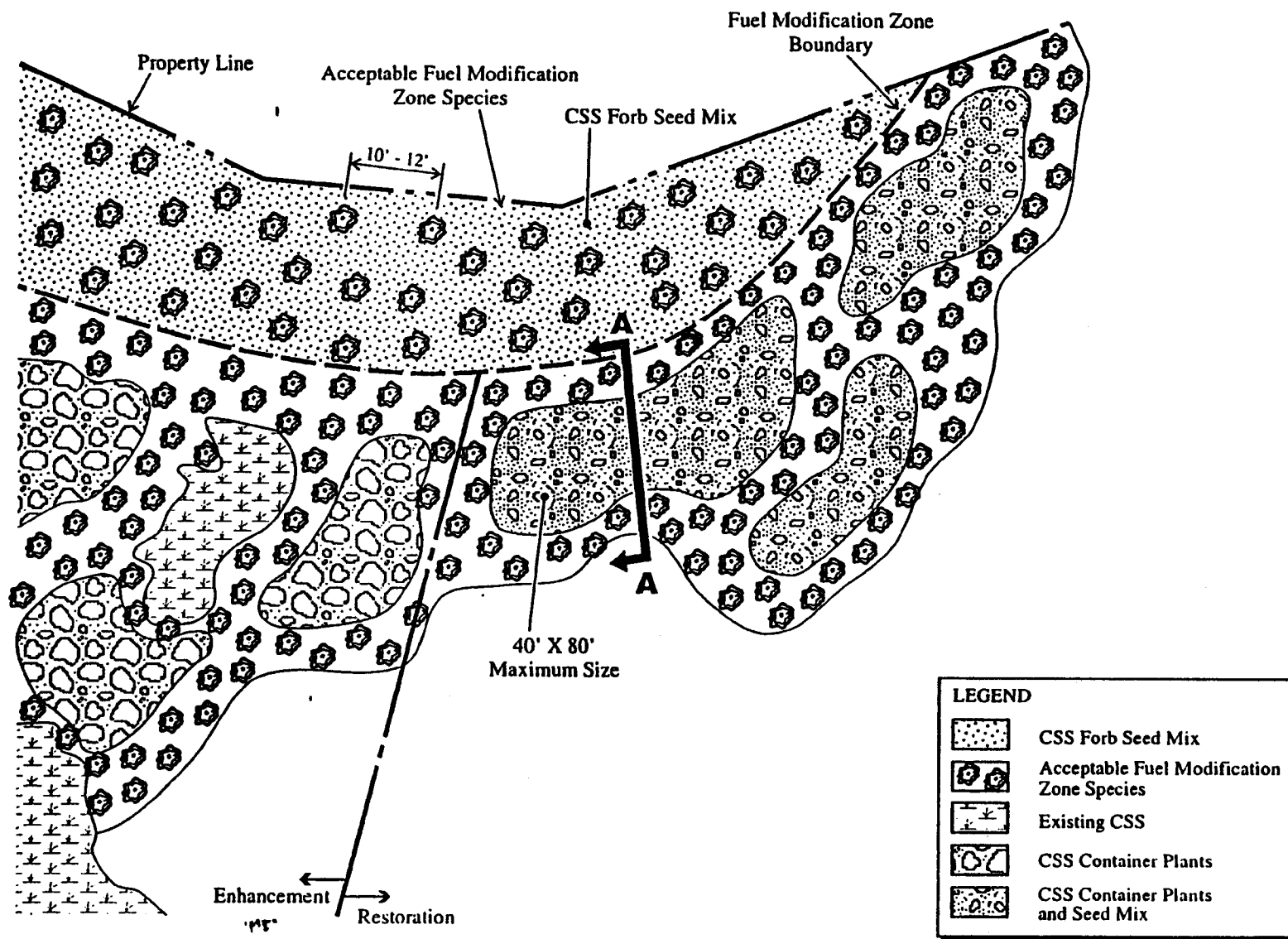
Big Canyon  
Coastal Sage Scrub Mitigation Area

10/23/95(CN10501)

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LSA

5-95-219  
EXHIBIT C  
p. 7 of 9

Exhibit C p. 8 of 9  
5-95-219



9/29/95(CNB501)

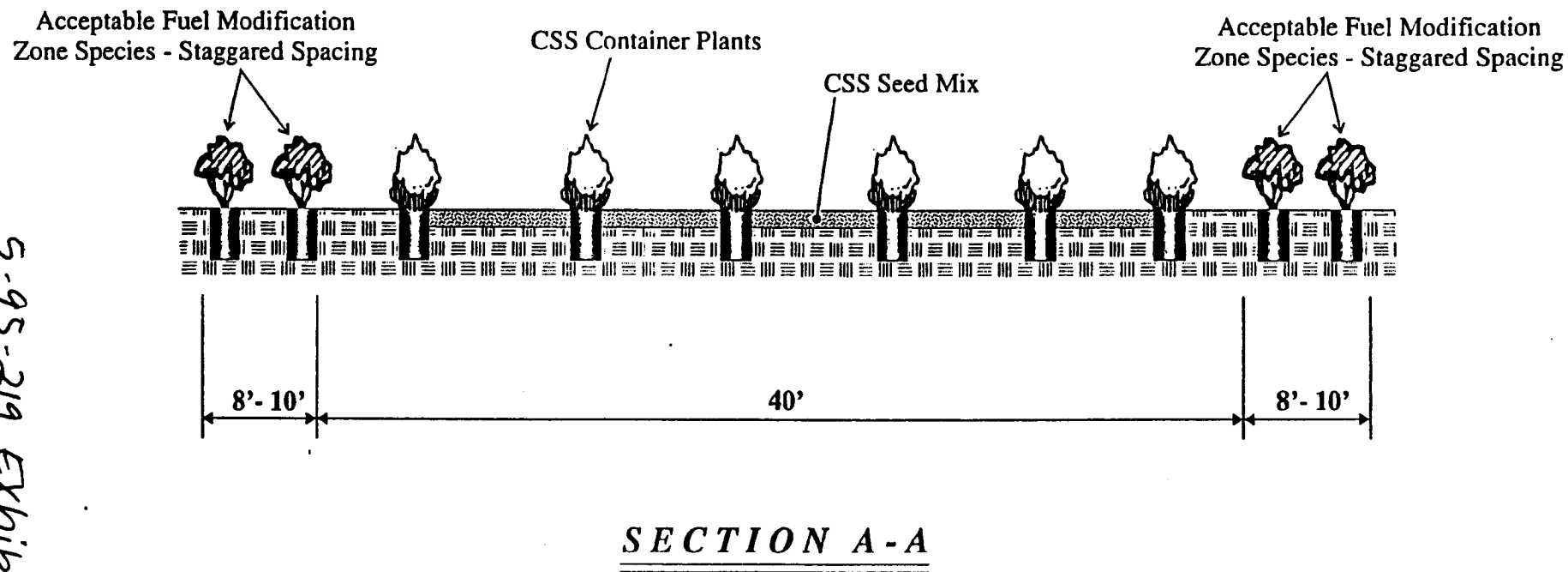
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**LSA** Not to Scale

Figure 2

Schematic Planting Plan

P. 9 of 9  
S-95-219 Exhibit C



10/2/95(CNB501)

Figure 3

V  
**Memorandum**

To : Mr. John T. Auyong, Staff Analyst  
California Coastal Commission  
South Coast Area Office  
245 W. Broadway, Suite 380  
Long Beach, California 90802-4416

**RECEIVED** Date September 21, 1995

SEP 26 1995

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

From : Department of Fish and Game - Region 5

Subject : Fletcher Jones Motorcars-CDP Application 5-25-219, Newport Beach, Orange County

The California Department of Fish and Game (Department) received the Environmental Impact Report (EIR) for this project in June 1995 and was not able to provide comments. However, it is our understanding that the Coastal Commission has received a Coastal Development Permit application and is interested in the Department's comments regarding some of the wetland and coastal sage scrub resources on site.

The EIR reports a total of 0.08 acres of mulefat vegetation in three separate locations on the site. These mulefat habitat patches are not connected with any other wetland habitats on site or in the immediate vicinity. It appears that these patches have occurred due to previous site modifications associated with unrelated construction activities.

The Department will not require a Streambed Alteration Agreement, pursuant to the Fish and Game Code Section 1603, for the removal of this habitat. Mitigation for removal of the 0.08 acres may either be accomplished on site or at an appropriate off site location. The appropriate mitigation ratio should ensure that there will be no net loss of habitat value.

There will be a total of 2.1 acres of coastal sage scrub (CSS) habitat removed as a result of project implementation. The Department supports the off site replacement of 3.5 acres of this habitat type in Big Canyon. The CSS on the project site is remnant. The CSS restoration area in Big Canyon will be connected with other patches of CSS which are occupied by California gnatcatchers (*Poliopitila californica californica*).

Should you have any questions regarding this memo, please contact Ms. Cheryl Heffley, Wildlife Biologist, at (310) 694-3578.

*Patricia Wolf*

Patricia Wolf  
Acting Regional Manager

cc: See attached list

5-95-219 Exhibit D p. 1 of 2

Mr. John T. Auyong  
September 21, 1995  
Page Two

cc: Department of Fish and Game:  
Mr. William E. Tippetts-San Diego  
Mr. Scott Harris-Long Beach  
Mr. Troy Kelly-UNBER  
Ms. Cheryl Heffley-La Habra

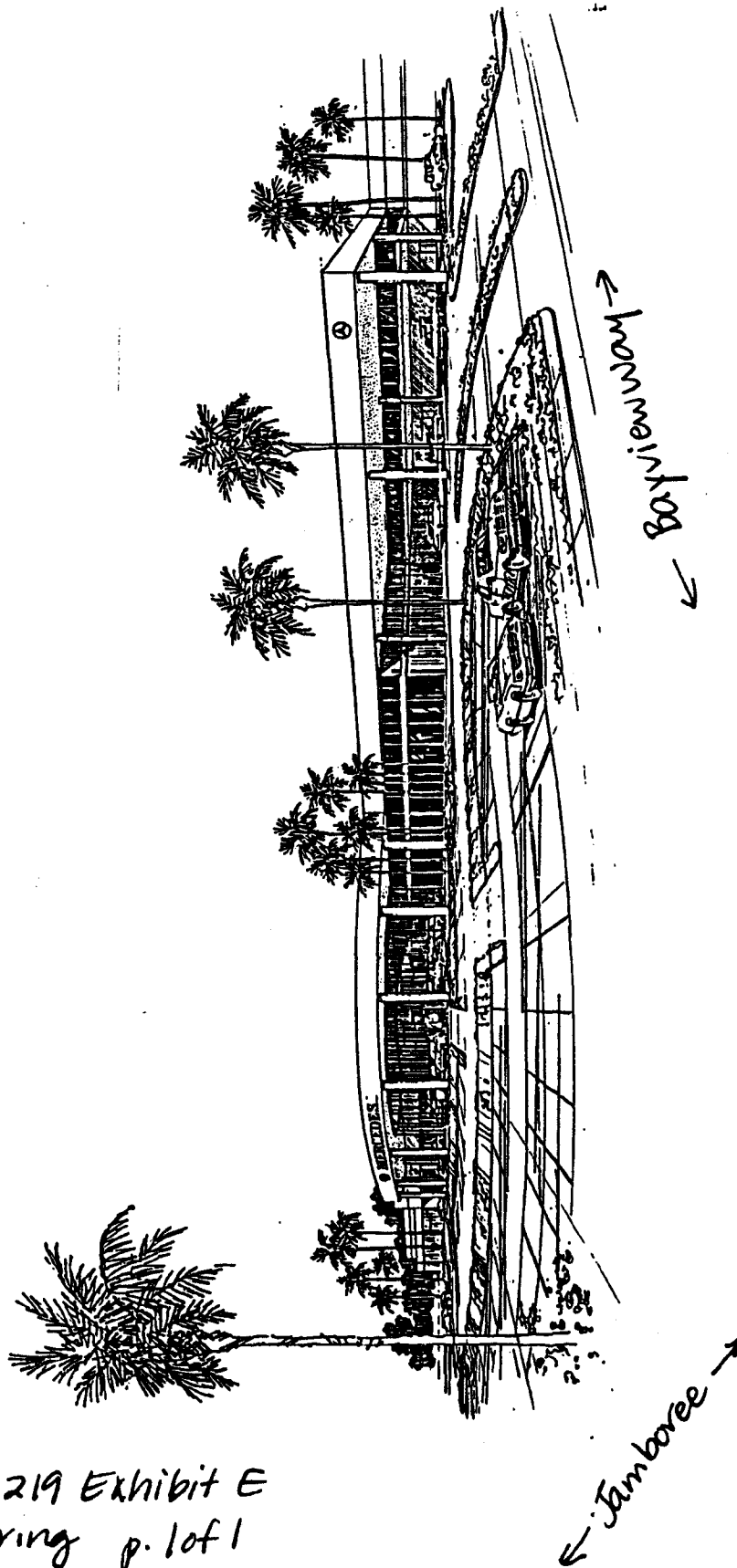
U.S. Fish and Wildlife Service  
Carlsbad, California  
Mr. Pete Sorenson  
Ms. Linda Dawes

Ms. Patricia Lee Temple  
City of Newport Beach  
Newport Beach, California

Ms. M. Andriette Culbertson, Esq.  
Culbertson, Adams & Associates  
Aliso Viejo, California

5-95-219 Exhibit D p. 2 of 2

5-95-219 Exhibit E  
Rendering p. 1 of 1

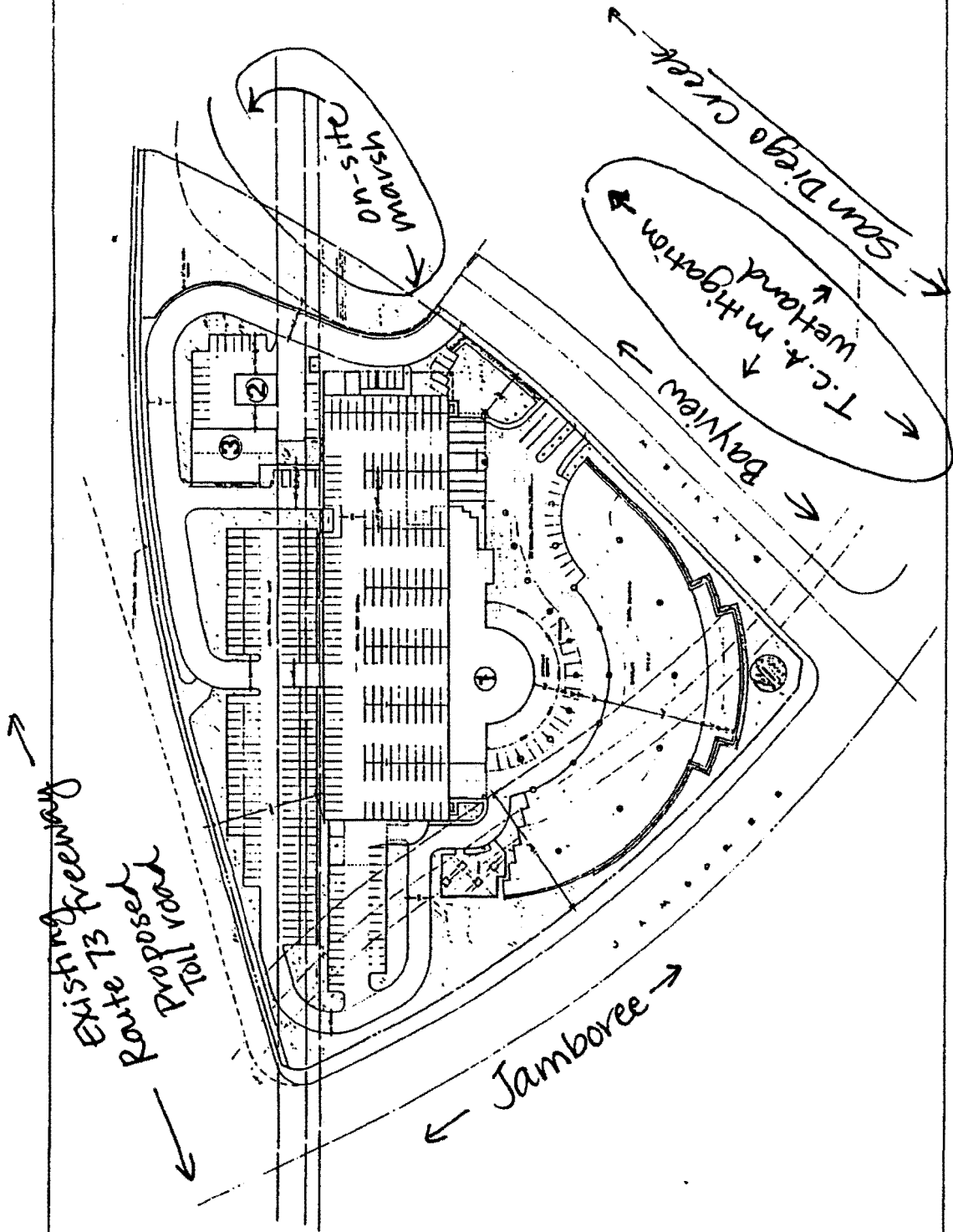


Source: Harris, Pettit & Kent  
6/15/95(CN8501)

Figure 3-6

LSA

Conceptual Project Rendering



5-95-219 Exhibit F  
Site Plan p. 1 of 1

Source: Harris, Pellett & Kent.  
4/15/95 (CNB501)

← N

LSA  
Scale in Feet  
70 140

Figure 3-3

Proposed Site Plan

← Toward Newport Bay

e

# EXHIBIT "B"

SKETCH TO ACCOMPANY LEGAL DESCRIPTION OF PARCELS  
A, B AND C, IN THE CITY OF NEWPORT BEACH, COUNTY OF  
ORANGE, STATE OF CALIFORNIA

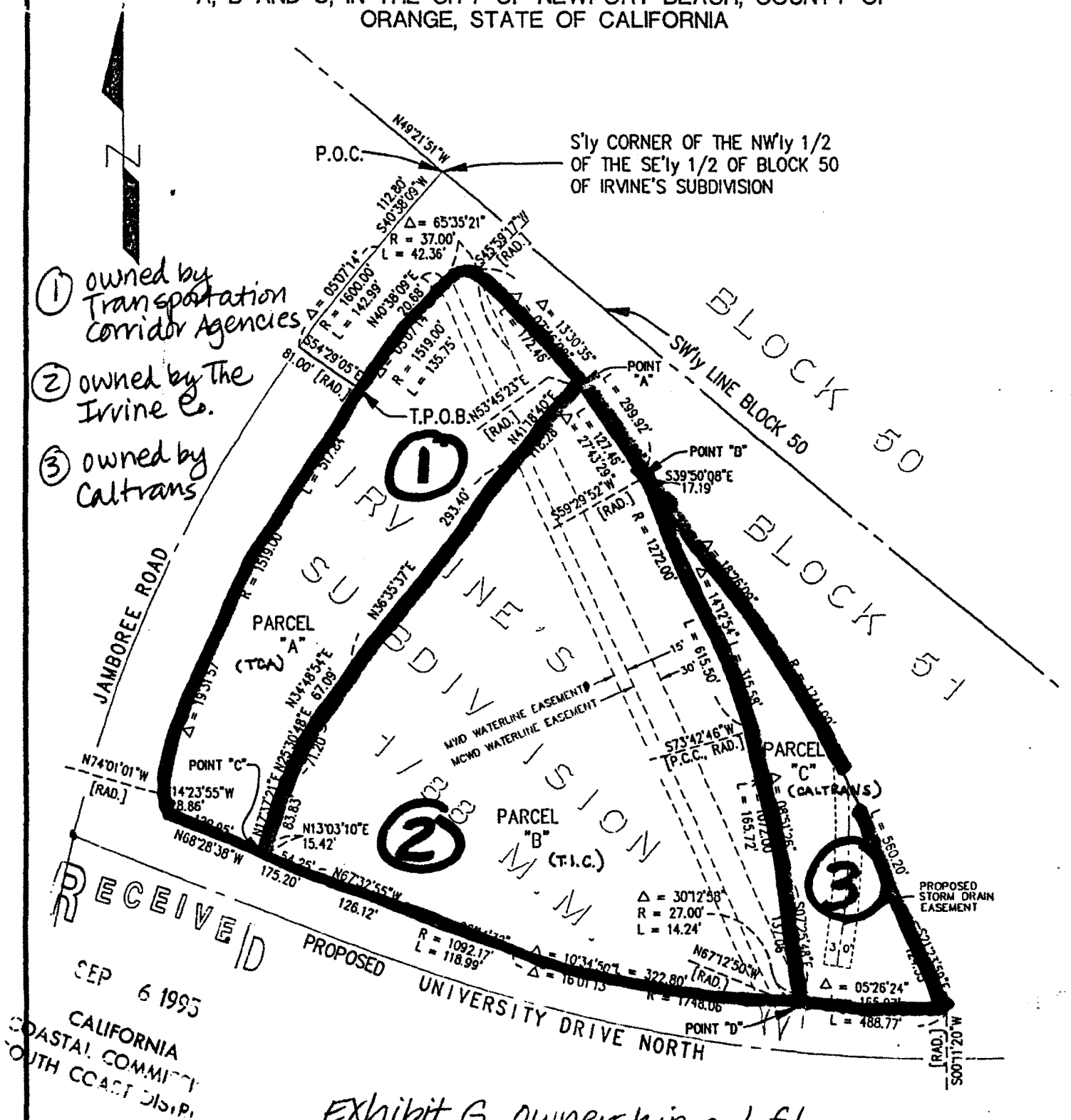


Exhibit G Ownership p. 1 of 1

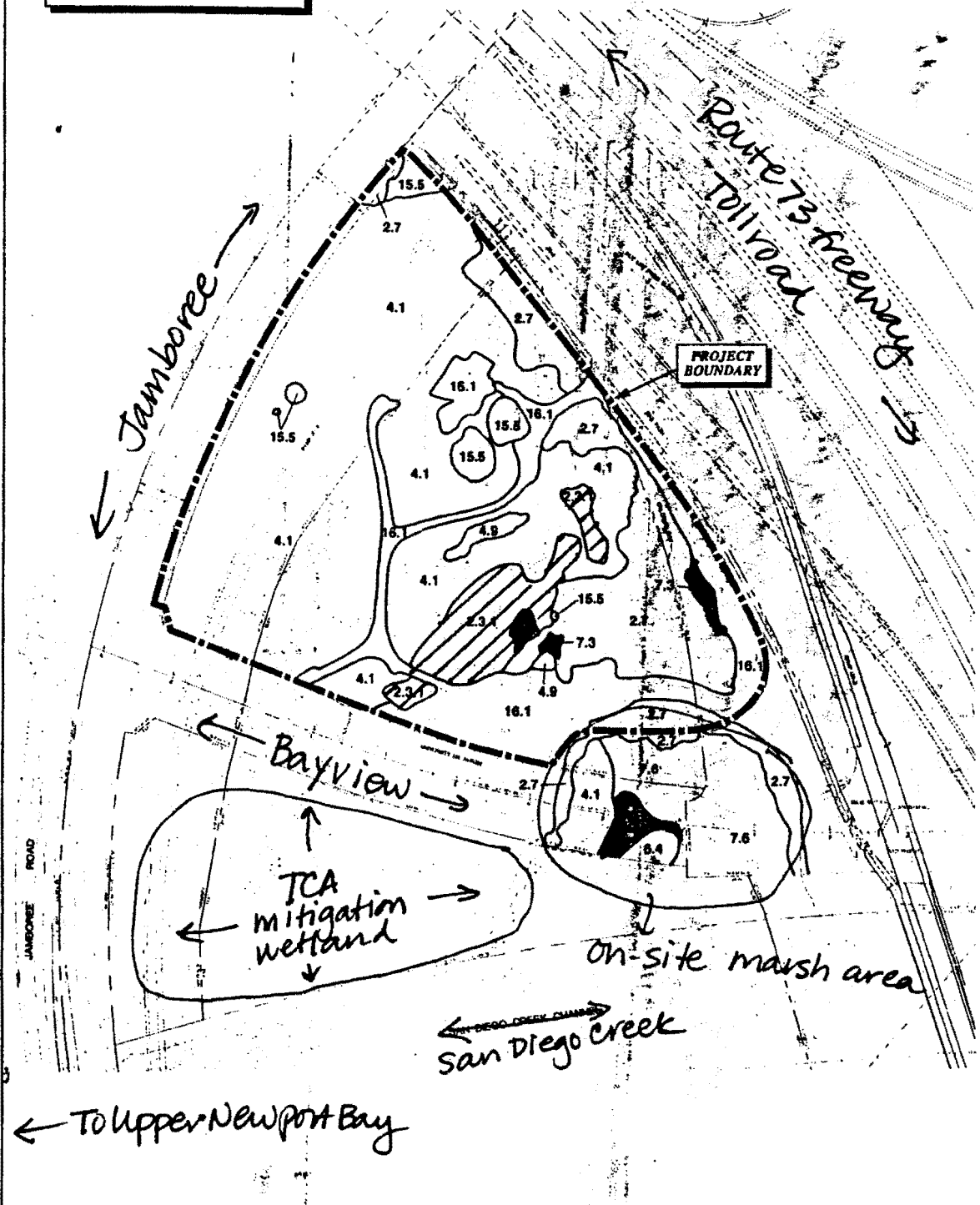
5-95-219

**FAX: 714/727-7097**

0606.053  
EXHD\_ABC.DWG  
8/11/95

LEGEND

- 2.3.1 - Sagebrush-Buckwheat Scrub
- 2.7 - Chenopod Scrub
- 4.1 - Annual Grassland
- 4.9 - Alkali Grassland
- 6.4 - Coastal Freshwater Marsh
- 7.3 - Mulefat Scrub
- 7.6 - Southern Arroyo Willow Forest
- 15.5 - Ornamental Landscaping
- 16.1 - Disturbed



6/13/95(CNB501)

Figure 4.7.1

N

5-95-219 Exhibit H, Vegetation Map

p. 1 of 1

Look at DCR  
for Det 1

Vegetation Map

5-95-219 Exhibit I p. 1 of 1

San Joaquin Hills  
Corridor Agency

Foothill/Eastern  
Corridor Agency

Chairman:  
Patricia Bates  
Laguna Niguel

Chairman:  
Scott Diehl  
San Clemente

October 30, 1995



TRANSPORTATION CORRIDOR AGENCIES

William Woollett, Jr.  
Chief Executive Officer

Walter D. Kneufzen  
Executive Vice President  
Finance & Administration

Gregory G. Henk  
Executive Vice President  
Design & Construction

RECEIVED

Mr. Don Webb  
Public Works Director  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92658-8915

NOV 1 1995

CALIFORNIA  
COASTAL COMMISSION  
OUTH COAST DIST

Attention: Emmet Berkery, PE  
Subject: Review of the Proposed Discharge of Storm Drainage from the Fletcher Jones Site into the SJHTC Salt Water Marsh Mitigation

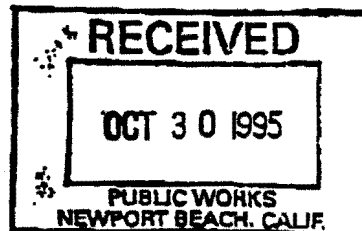
Dear Mr. Webb:

This letter briefly summarizes the TCA's review of a conceptual drainage plan which proposes to discharge the on-site run-off from an 8 acre development into the salt water marsh mitigation site which is being created for the San Joaquin Hills Transportation Corridor. In our review of this plan we have considered that there is an alternative proposal which would discharge directly into San Diego Creek rather than through the SJHTC Mitigation Site. We believe that the proposal to drain through the Salt Water Marsh (rather than directly into San Diego Creek) provides the greater environmental benefit. We have reached this conclusion because we believe that any discharge directly into San Diego Creek would increase the potential to erode the levees which form the perimeter of the mitigation site. Accordingly, we have focused our review on the plans and hydrology calculations for "Alternate A" (prepared by K.W. Lawler and Associates, Inc.).

We have reviewed the hydrology report for the proposal and find that the calculations are reasonable and appropriate to the area. It is the TCA's opinion that the quantity of run-off (approximately 30 cubic feet per second) combined with the storm frequency (25 years) are such that the salt water habitat will not be adversely affected. We have also considered the water quality which is proposed to be discharged into the mitigation site and we believe BMP measures and oil/water separators proposed can be listed to insure that the discharge will be compatible with the mitigation habitat. In addition to oil/water separators proposed, the TCA has used other means to mitigate water quality impacts on our corridor project; if you wish to consider these as alternatives we will provide you with the details of these designs. While we require a review of the details of the drainage system; we are confident that "Alternate A" can be designed to be compatible with our mitigation site and we are committed to working cooperatively with the City on their review of the developer's proposals.

Sincerely,

Gene William Foster, PE  
Corridor Manager



201 E. SANDPONT AVENUE, SUITE 200, P.O. BOX 28870, SANTA ANA, CA 92799-8870 714/436-9800 FAX 714/436-9848  
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Mission Viejo • Orange • Newport Beach • Santa Ana • San Clemente • San Juan Capistrano • Tustin • Yorba Linda