

CALIFORNIA COASTAL COMMISSION
South Coast
245 West Broadway Ste 380
Long Beach, CA 90802
(310) 590-5071

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RECORD PACKET COPY

November 3, 1995

TO: Coastal Commissioners and Interested Parties

FROM: Chuck Damm, South Coast District Director
John T. Auyong, Staff Analyst

SUBJECT: DS-93-01A
Public hearing and action on the first amendment to the
Circulation Improvement and Open Space Agreement between
the City of Newport Beach and The Irvine Company

SYNOPSIS

On June 10, 1993, the Commission approved the Circulation Improvement and Open Space Agreement (CIOSA) between the City of Newport Beach (City) and The Irvine Company, pursuant to California Government Code Section 65869 which provides that a development agreement is not valid for any development project in an area for which a local coastal program (LCP) is required to be prepared and certified unless the Commission approves such development agreement by formal Commission action. The land use plan (LUP) portion of the City's LCP was certified by the Commission in May 1982. However, the implementation plan portion still must be prepared and remains to be submitted for formal Commission action.

The CIOSA was entered into to provide The Irvine Company with certain development entitlements in exchange for dedications of land and payments for circulation improvements. The CIOSA covered nine different sites owned by The Irvine Company. On September 11, 1995, the City of Newport Beach City Council approved Ordinance 95-42 adopting an amendment to the CIOSA. The City Council also adopted Resolution 95-105 approving Planning Commission Amendment No. 823 which changes the Planned Community District Regulations (PC Texts) associated with the proposed CIOSA amendment.

The proposed CIOSA amendment would affect the site known as San Diego Creek North which consists of 14.7 acres. The proposed amendment would (1) delete the permitted park-and-ride facility and fire station from the PC Texts for San Diego Creek North, (2) change the PC Text development designation for a portion of San Diego Creek North from Open Space to Retail and Service Commercial, (3) amend a portion of CIOSA Exhibit "D" to change the development acreage on San Diego Creek North from 0 acres to 9.6 acres, (4) amend a portion of CIOSA Exhibit "E" to delete the requirement for The Irvine Company to dedicate 8.6 acres of land on San Diego Creek North for open space/public facilities uses on-site (such as a permitted park-and-ride facility and a fire station), (5) amend the "Category 2" provisions for San Diego Creek North, and (6) allow the remaining 5.1 acres (14.7-9.6) to be used for a wetland mitigation site and Bayview Way street (see Table 1).

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.

SUMMARY OF CHAPTER 3 ISSUES

The Chapter 3 issues raised by the proposed CIOSA amendment include ESHA and wetland protection, and public access and recreation.

SUMMARY OF STAFF RECOMMENDATION

The Commission may not deny a development agreement, or amendment thereto, and then approve it with conditions or suggested modifications. The Commission may only deny in whole or approve in whole a development agreement, or amendment thereto, as submitted. Staff is recommending approval of the proposed development agreement amendment as submitted, consistent with the Chapter Three policies of the Coastal Act.

I. STAFF RECOMMENDATION

Staff recommends that the Commission approve the proposed amendment to the CIOSA as submitted as it is in conformance with the Chapter 3 policies of the Coastal Act.

A. Motion

I move that the Commission approve as submitted the first amendment to the Circulation Improvement and Open Space Agreement between the City of Newport Beach and The Irvine Company.

Staff Recommendation

Staff recommends a YES vote, and the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

B. Resolution to Approve, As Submitted, the Amendment to the CIOSA

The Commission hereby APPROVES the first amendment to the Circulation Improvement and Open Space Agreement as submitted for the reasons discussed below and that the submittal meets the requirements of and conforms to the policies of Chapter 3 of the Coastal Act to the extent necessary and that it will not have significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. FINDINGS AND DECLARATIONS FOR APPROVAL AS SUBMITTED

A. AMENDMENT DESCRIPTION - BACKGROUND

1. Background - Previous Commission Action

Pursuant to California Government Code Section 65869, a development agreement is not valid for any development project in an area for which a local coastal program (LCP) is required to be prepared and certified unless the Commission approves such development agreement by formal Commission action. The land use plan (LUP) portion of the City's LCP was certified by the Commission in May 1982. However, the implementation plan portion still must be prepared and remains to be submitted for formal Commission action. Thus, on June 10, 1993, the Commission approved the Circulation Improvement and Open Space Agreement (CIOSA) between the City of Newport Beach (City) and The Irvine Company.

The CIOSA was entered into to provide The Irvine Company with certain development entitlements on properties it owns in exchange for dedications of land to the City and payments to the City for circulation improvements. The CIOSA covers nine sites owned by the Irvine Company. Each site is covered by specific Planned Community District Regulations (PC Texts) referenced by the CIOSA. The PC Texts specify the type and intensity or density of development permitted on each site.

Prior to Commission action on the approved development agreement, an addendum was attached to the CIOSA to bring the CIOSA into conformance with the Chapter 3 policies of the Coastal Act. The addendum divided the nine sites between Category 1 sites (those with specifically defined principal permitted uses and development envelopes) and Category 2 sites (those with a range of principal permitted uses or no specifically delineated building envelopes).

The proposed CIOSA amendment would affect the site known as San Diego Creek North. San Diego Creek North, comprising 14.7 acres, is designated as a Category 2 site. In regards to San Diego Creek North, the CIOSA addendum provided for the "[d]eletion of office uses allowed by the approved Newport Beach LUP." Further, the CIOSA addendum provided that:

"No encroachment or loss of wetlands is approved and no other habitat-related findings are made other than that the habitat protection/restoration designation for the San Diego Creek North area bordering San Diego Creek is consistent with an in furtherance of Coastal Act Sections 30231 and 30233."

2. Description of Proposed Amendment

The proposed amendment would modify Exhibit "D" of the CIOSA to change the "DEVELOPMENT" column designation for San Diego Creek North from "Open Space" to "Retail/Service Commercial." Exhibit "D" would be further modified to change the "DEVELOPMENT AREA (ACRES)" column designation for San Diego Creek North from "--0--" to "9.6."

In addition, the proposed CIOSA amendment would delete the requirement for The Irvine Company to dedicate 8.6 acres to the City for open space purposes. The proposed CIOSA amendment specifically would modify Exhibit "C" of the CIOSA to change the "OPEN SPACE ACRES TO BE DEDICATED" column's designation for San Diego Creek North from "8.6" to "0," add a new footnote #5 which states that "8.6 acres will be dedicated to the City for commercial land use," and change the "TIMING OF DEDICATION" column's footnote for San Diego Creek North from footnote #3 to footnote #5.

Further, the proposed amendment would modify Exhibit "I", the CIOSA addendum, to add a clause to the section on Category 2 sites which requires that "[t]he impact of commercial development on the San Diego Creek North site will be subject to future CEQA/Coastal Development Permit requirements with full discretionary review." Further, the proposed change to the CIOSA addendum would rescind the original CIOSA addendum provision to delete the offices uses allowed by the approved Newport Beach LUP.

Regarding the Planned Community District Regulations (PC Text) for San Diego Creek North, the proposed amendment would modify the subject PC Text to redesignate 9.6 acres of the site for "Retail and Service Commercial" uses, delete "Park and ride facility" and "Fire station" as permitted uses, add new permitted uses for the new "Retail and Service Commercial" designation, and allow automobile sales and repair uses and restaurant uses subject to a Use Permit in the "Retail and Service Commercial" areas. The remaining 5.1 acres not designated for "Retail and Service Commercial" uses would be 2.0 acres (unchanged) for a wetland mitigation site, and 3.1 acres for road uses (Bayview Way).

B. ANALYSIS OF THE PROPOSED AMENDMENT

1. Land and Marine Resources

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on 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.

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 limits the diking, filling, and dredging of open coastal waters to 8 specified uses.

The proposed CIOA amendment would not change the 2.0 acres of natural open space designation for the wetlands project being created on San Diego Creek North as mitigation for impacts resulting from the adjacent construction of the San Joaquin Hills Transportation Corridor project. Thus, this wetland would still be protected under the CIOA as amended, consistent with Section 30233 of the Coastal Act and the CIOA addendum. The proposed CIOA amendment would also specifically state that the "impact of commercial development on San Diego Creek North will be subject to future CIOA/Coastal Development Permit requirements with full discretionary review." Therefore, impacts from allowable development and consistency of on-site development with the Coastal Act will be addressed during the coastal development permit application process.

The 9.63 acres of open space which would be redesignated under the proposed amendment currently allows a fire station and a park-and-ride facility as permitted uses. Therefore, the open space which would be deleted is not open space for habitat protection purposes, but open space which could have been developed, albeit with public facilities uses and not with retail and service commercial uses.

However, 2.1 acres of isolated, fragmented coastal sage scrub has been identified on-site. 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) 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 (ESIA), 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 avoidance or created by mitigation 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. San Diego Creek North is adjacent to, but is not included in one of these identified areas.

Depending on the specific location of future development on San Diego Creek North, the coastal sage scrub on-site may be impacted. The impacts to coastal sage scrub resulting from future allowable development, required mitigation, and consistency of future development with Section 30240 of the Coastal Act in the context of the MCCP process may be addressed during the coastal development permit review process, to which San Diego Creek North would be subject under the proposed CIOISA amendment as previously described.

Therefore, the Commission finds that the proposed CIOISA amendment as submitted would be consistent with Sections 30231, 30233, and 30240 of the Coastal Act regarding water quality, wetlands, and ESHAs, respectively.

2. Public Access - Recreation

Section 30210 of the Coastal Act states:

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

Section 30212.5 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.

The subject site is located between the nearest public roadway and the waters of San Diego Creek. The CIOISA amendment proposes to delete park-and-ride and fire station facilities as permitted "open space/public facilities" uses from the PC Texts for San Diego Creek North. The PC Text would also redesignate 9.63 acres of the open space/public facilities area to "retail and service commercial." "Passive and active public recreation facilities such as hiking, biking, scenic outlooks, picnicking and equestrian trails" would remain as permitted uses under the retail and service commercial designation.

Since the CIOSA amendment would not remove recreational activities as permitted uses from San Diego Creek North, the amendment as proposed would be consistent with Sections 30210, 30222 and 30223 of the Coastal Act. While the park-and-ride facility which is proposed to be deleted as a permitted use could serve as a place for coastal zone visitors to park and visit Upper Newport Bay, on August 4, 1994, the Commission approved coastal development permit no. 5-93-382 for a 100 space parking lot as part of the approved Upper Newport Bay Regional Park nearby. Further, 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.

Therefore, the Commission finds that the proposed CIOSA amendment as submitted would be consistent with Sections 30210, 30212.5, 30222 and 30223 of the Coastal Act regarding public access and recreation.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Section 21080.5 of the California Environmental Quality Act (CEQA) the Resources Agency has certified the Commission's regulatory program as being functionally equivalent to the standard CEQA review process. Pursuant to SB 1873, which amended the California Environmental Quality Act, the Coastal Commission is the lead agency in terms of meeting CEQA requirements for local coastal programs. In addition to making a finding that the amendment is in full compliance with CEQA, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(i) of the Public Resources Code requires that the Commission not approve or adopt an ICP:

... 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.

The Commission finds, for the reasons discussed in this report, there are no feasible alternatives or mitigation measures available that could substantially reduce adverse environmental impacts.

As submitted, the proposed CIOSA amendment would not result in impacts to the on-site wetland, nor would impacts to coastal sage scrub identified as part of the NCCP process be impacted by development authorized pursuant to the proposed amendment. Recreational opportunities would not be significantly impacted by the proposed amendment. Further, the impacts of a specific project proposal on San Diego Creek North would be addressed through the Commission's coastal development permit review process. Therefore, the Commission finds that the proposed CIOSA amendment as submitted would not result in significant adverse environmental impacts and would be consistent with the requirements of the Coastal Act to conform to CEQA.

5577f:jta

TABLE 1

ACREAGE BREAKDOWN
FOR
SAM DIEGO CREEK NORTH

	<u>Existing</u>	<u>Proposed</u>
Natural Open Space (TCA Mitigation Wetland)	2.0	2.0
Open Space/Public Facilities (Park-and-Ride, Fire Station, Dayview Way, other permitted)	12.7	3.07
Retail and Service Commercial (Proposed Car Dealership, Permit Application 5-95-219)	-0-	9.63
<hr/>		
Total Site	14.7	14.7

ORDINANCE NO. 95-42

6-12-95 7:21g

AN ORDINANCE OF THE CITY OF NEWPORT BEACH
ADOPTING THE FIRST AMENDMENT TO THE
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
NEWPORT BEACH AND THE IRVINE COMPANY, INC. WITH
RESPECT TO THE CIRCULATION IMPROVEMENT AND
OPEN SPACE AGREEMENT (CIOSA)
(DEVELOPMENT AGREEMENT NO. 6)

The City Council of the City of Newport Beach DOES ORDAIN as follows:

SECTION 1. The City Council finds and declares that:

a. The State Legislature and the City Council have determined that the lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public; and

b. Assurance that an applicant may proceed with a project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development; and

c. California Government Code Section 65864 et seq. authorizes cities to enter into development agreements with any person having a legal or equitable interest in real property for the development of the property; and

d. Chapter 15.45 of the Newport Beach Municipal Code provides requirements and procedures for the amendment of development agreements; and

e. The First Amendment to Development Agreement No. 6 has been prepared in compliance with state law and the Newport Beach Municipal Code; and

f. In compliance with state law and city ordinance, a duly noticed public hearing was held by the City Council to consider First Amendment to Development Agreement No. 6; and

D5-93-01A EXHIBIT A
City approval of Development agreement amendment
p. 1 of 8

g. The City Council finds that First Amendment to Development Agreement No. 6 is in compliance with the California Environmental Quality Act and Guidelines promulgated thereunder; and

h. The City Council finds that said First Amendment to Development Agreement No. 6 is in conformance with the Newport Beach General Plan.

SECTION 2. First Amendment to Development Agreement No. 6 (Ordinance No. 95-42) is hereby adopted and made a part hereof by this reference.

SECTION 3. Copies of said Development Agreement are on file in the offices of the City Clerk and Planning Department of the City of Newport Beach.

SECTION 4. This Ordinance shall be published once in the official newspaper of the City, and the same shall be effective thirty (30) days after the date of its adoption.

This Ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 28th day of August, 1995, and was adopted on the 11th day of Sept., 1995, by the following vote, to wit:

AYES, COUNCIL MEMBERS EDWARDS, WATT,

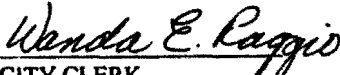
DEBAY, HEDGES, COX, GLOVER, O'NEIL

NOES, COUNCIL MEMBERS NONE

ABSENT COUNCIL MEMBERS NONE


MAYOR

ATTEST


CITY CLERK



C:\MSOFFICE\WINWORD\CCO\FA\DA6A-ORD.DOC

D5-93-01A Exhibit A p. 2 of 8

EXEMPT RECORDING REQUEST PER
GOVERNMENT CODE # 6103

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663-3884

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CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

FIRST AMENDMENT
TO THE
CIRCULATION IMPROVEMENT AND OPEN SPACE AGREEMENT
(Pursuant to Government Code Sections 65864-65869.5)

This FIRST AMENDMENT ("Amendment") to the CIRCULATION IMPROVEMENT AND OPEN SPACE AGREEMENT (the "CIOSA") is entered into this ___ day of _____, 1995, by and between the charter city ("City") and The Irvine Company, a Michigan corporation, ("Company"). City and Company are sometimes collectively referred to herein as the "Parties."

RECITALS

A. On June 30th, 1993, City and Company entered into the CIOSA, an agreement authorized pursuant to Government Code section 65867 and Chapter 15.45 of the Newport Beach Municipal Code. The CIOSA was recorded as Document No. 93-0479122 of the Official Records of Orange County, California. The CIOSA was entered into pursuant to Government Code section 65867 and Chapter 15.45 of the Newport Beach Municipal Code.

B. Along with other property owned by Company and described therein, the CIOSA applies to that area of City known as San Diego Creek North ("SDC North"). The CIOSA restricts use of SDC North to open space/ public facilities, consistent with City's Ordinance No. 92-39.

C. - City and Company are now in agreement that SDC North should be made available for use as the possible future site of an automobile dealership, consistent with the standards and requirements set forth in Exhibit "A" hereto, to the extent that SDC North is not required for the San Joaquin Hills Transportation Corridor. Accordingly, City and Company desire to enter into this Amendment amending the CIOSA to permit development of SDC North with an automobile dealership.



CERTIFIED AS A TRUE AND CORRECT COPY

Wanda E. Paggio
CITY CLERK OF THE CITY OF NEWPORT BEACH

DATE: 10-31-95

D5-93-01A
Exhibit A p. 3 of 8

AGREEMENT

NOW, THEREFORE, for good and valuable consideration received by each part from the other, City and Company agree as follows:

1. Exhibit "D" to the CIOSA is hereby amended by changing the "DEVELOPMENT" column for SDC North from "Open Space" to "Open Space/Retail and Service Commercial," and the "DEVELOPMENT AREA (ACRES)" column for SDC North from "-0-" to "9.6."
2. Exhibit "E" to the CIOSA is hereby amended by changing the "OPEN SPACE ACRES TO BE DEDICATED" column for SDC North from "8.6" to "0." with an added footnote indicating dedication for commercial purposes.
3. Exhibit "I" to the CIOSA is hereby amended changing the Category 2 site limitations and related constraints map for San Diego Creek North.

WHEREFORE, this Amendment is entered into effective the date first written above.

CITY OF NEWPORT BEACH, a
Municipal corporation

THE IRVINE COMPANY, a Michigan
corporation

By: _____
Mayor

By: _____
Gary H. Hunt
Executive Vice President

ATTEST:

City Clerk

By: _____
Peter D. Zeughauser
Vice President & General
Counsel

APPROVED AS TO FORM:

Robert H. Burnham
City Attorney

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COASTAL COMMISSION
SOUTH COAST DISTRICT

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EXHIBIT "D"

CIRCULATION IMPROVEMENT AND OPEN SPACE AGREEMENT
DEVELOPMENT AREA

DATE: 11/24/92

#	PROPERTY	DEVELOPMENT	DEVELOPMENT AREA (ACRES)
1.	SAN DIEGO CREEK SOUTH	Residential - 300 D.U.	18.4
2.	SAN DIEGO CREEK NORTH	Open Space Retail and Service Commercial	-0- 9.6
3.	JAMBOREE/MAC ARTHUR	Open Space	-0-
4.	UPPER CASTAWAYS	Residential - 151 D.U.	26.0
5.	BAYVIEW LANDING	Restaurant - 10,000 S.F. or Health Club - 40,000 S.F. or Senior Residential - 120 D.U.	5.0
6.	NEWPORTER NORTH	Residential - 212 D.U.	30.0
7.	BLOCK 800	Residential - 245 D.U.	6.4
8.	CORPORATE PLAZA WEST	Office - 94,000 S.F.	9.0
9.	FREEWAY RESERVATION North Area South Area	Residential - 36 D.U. Residential - 12. D.U.	7.5 3.5
10.	NEWPORTER KNOLL	Open Space	-0-
11.	NEWPORTER RESORT	Hotel - Additional 68 Rooms	onsite
12.	NEWPORT VILLAGE (from library to San Miguel)	Open Space	-0-
	TOTAL		115.4

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COASTAL COMMISSION
SOUTH COAST DISTRICT

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EXHIBIT "E"

CIRCULATION IMPROVEMENT AND OPEN SPACE AGREEMENT

OPEN SPACE DEDICATION

DATE: 11/24/92

#	PROPERTY	OPEN SPACE ACRES TO BE DEDICATED (4)	TIMING OF DEDICATION
1.	SAN DIEGO CREEK SOUTH	2.4	(3)
2.	SAN DIEGO CREEK NORTH	-0-	(5)
3.	JAMBOREE/MAC ARTHUR	4.7	(3)
4.	UPPER CASTAWAYS	30.6	(2)
5.	BAYVIEW LANDING	11.1	(1)
6.	NEWPORTER NORTH	47.2	(2)
7.	BLOCK 800	-0-	N/A
8.	CORPORATE PLAZA WEST	-0-	N/A
9.	FREEWAY RESERVATION North Area	17.3	(2)
	South Area	-0-	N/A
10.	NEWPORTER KNOLL	12.0	(1)
11.	NEWPORTER RESORT	-0-	± N/A
12.	NEWPORT VILLAGE (from library to San Miguel)	12.8	(4)
	TOTAL	138.1	

- (1) Open Space to be dedicated upon Effective Date of Agreement.
- (2) Open Space to be dedicated upon issuance of first building permit.
- (3) Open Space shall be offered for dedication upon issuance of last building permit of all projects contained in this Agreement. The Company may elect to waive this condition.
- (4) Open Space area to be dedicated upon issuance of first building permits for both Upper Castaways and Newporter North.
- (5) 8.6 acres will be dedicated to the City for commercial land use.

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CATEGORY 2

Definition. Category 2 sites have either a range of principal permitted uses or no specific delineation of a "development envelope" and "maximum extent of grading for non-public uses." (F through H)

Sites included in this category are:

- F. Jamboree/MacArthur
- G. San Diego Creek North
- H. Newporter Resort

Future Discretionary Review: All uses on Jamboree/MacArthur and San Diego Creek North would be subject to future CEQA/Coastal Development Permit review. Thus, for purposes of future Coastal Act and LCP review of Jamboree/MacArthur and San Diego Creek North, approval of the Development Agreement and Development Agreement Addendum provides the following:

- Deletion of office uses allowed by the approved Newport Beach LUP;
- Other public facility uses identified for each site in the Development Agreement PC text as found to be within the scope of the approved Newport Beach LUP but, due to absence of analysis of potential impacts and absence of development envelope/maximum grading maps, such uses are subject to full future discretionary review;
- No encroachment or loss of wetlands is approved and not other habitat-related findings are made other than that the habitat protection/restoration designation for the San Diego Creek north area bordering San Diego Creek is consistent with and in furtherance of Coastal Act Sections 30231 and 302233.

The Impacts of the additional hotel rooms on the Newporter Resort would be subject to future CEQA/Coastal Development Permit requirements with full discretionary review.

The impact of commercial development on the San Diego Creek North site will be subject to future CEQA/Coastal Development Permit requirements with full discretionary review.

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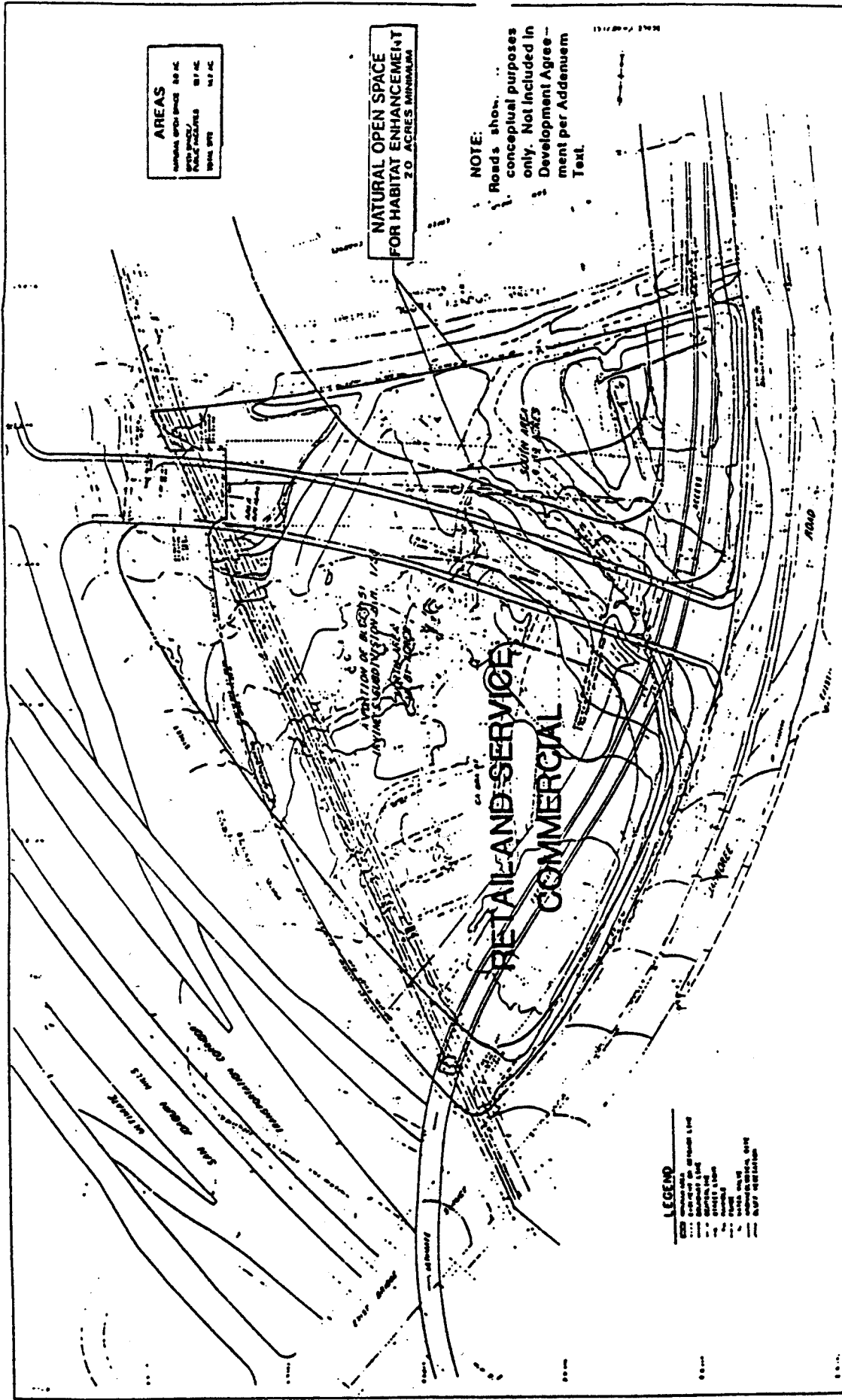
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SOUTH COAST DISTRICT



CONSTRAINTS MAP
SAN DIEGO CREEK NORTH • NEWPORT BEACH • CALIFORNIA

DS-93-01A Exhibit A p. 8 of 8

copy on file

**EXHIBIT 1
AMENDMENT NO. 823**

**SAN DIEGO CREEK NORTH
AND JAMBOREE/MACARTHUR
PLANNED COMMUNITY DISTRICT REGULATIONS**

Prepared for:
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

Prepared by:
The Irvine Company
550 Newport Center Drive
Newport Beach, CA 92658-8904

DRAFT

*D5-93-01A Exhibit B
proposed changes to
San Diego Creek
North
Planned
Community District Regulations*

Adopted _____
Ordinance No. _____
Amendment No. _____

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[initials]

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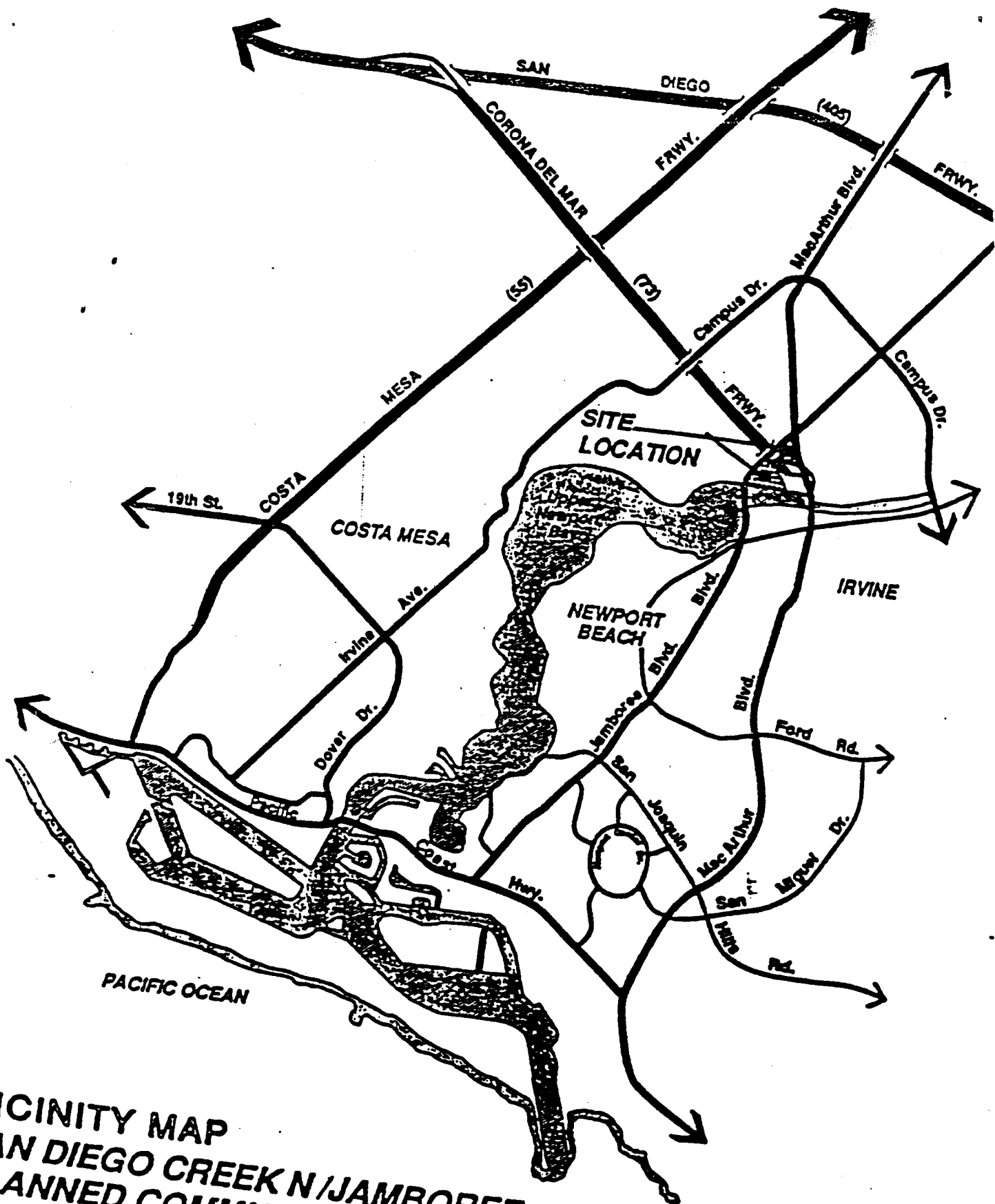
INTRODUCTION

PURPOSE AND INTENT



The 'San Diego Creek North and Jamboree/MacArthur Planned Community (P-C) Districts Regulations have been developed in compliance with the City of Newport Beach General Plan. This P-C has also been developed pursuant to Chapter 20.51 of the Newport Beach Municipal Code.

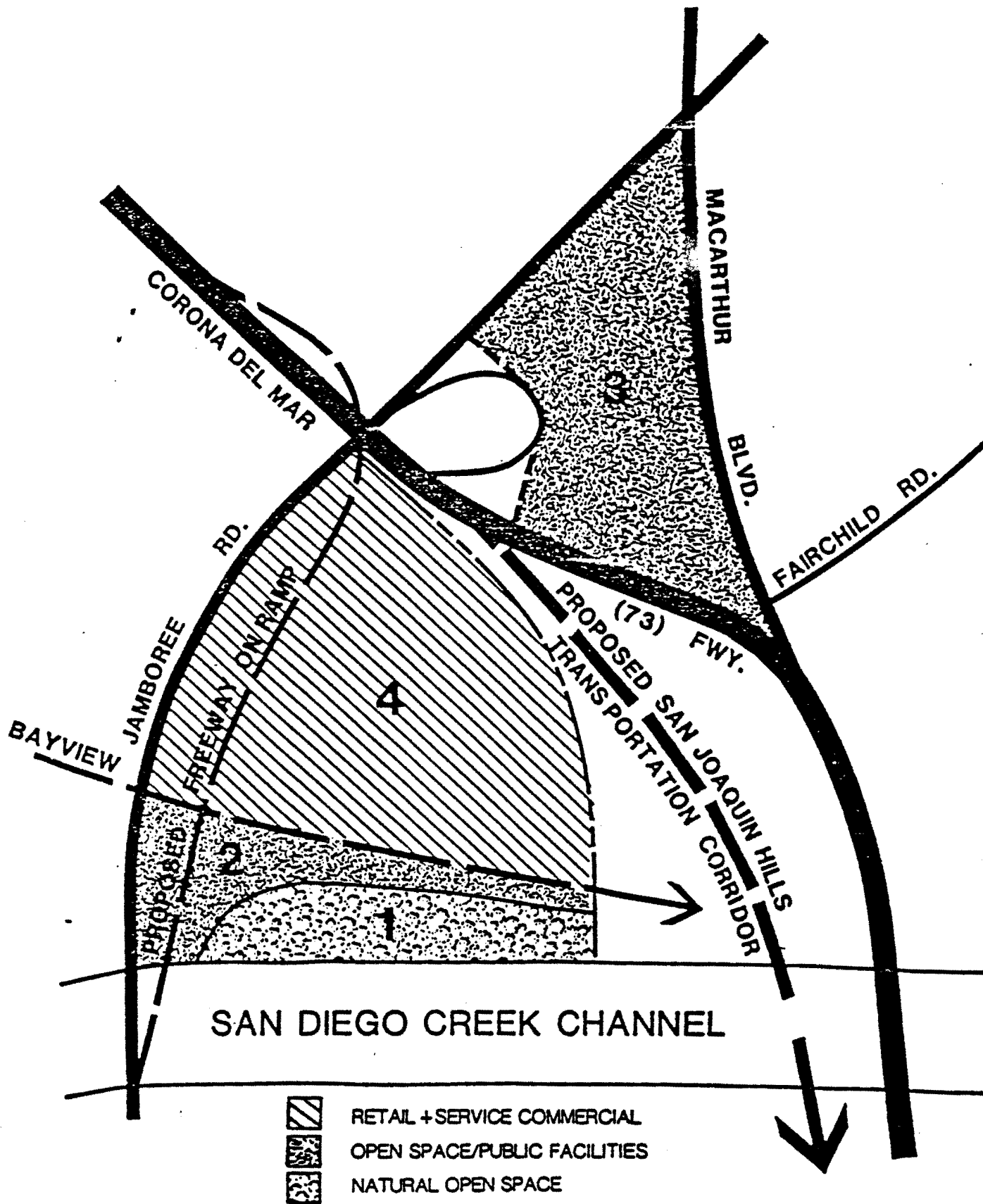
The intent of these District Regulations is to provide for the retention of the sites as open space and public facilities areas with selected permitted uses; and the establishment of an area for an automobile dealership facility with sales and repair; support retail and food uses.

D5-93-01A . EXHIBIT B p. 3 of 14



**VICINITY MAP
 SAN DIEGO CREEK N/JAMBOREE - MAC ARTHUR
 PLANNED COMMUNITY DISTRICT**

NOT TO SCALE 42


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SECTION I

GENERAL NOTES

1. WATER SERVICE

Water within the Planned Community will be furnished by the City of Newport Beach.

2. GRADING AND EROSION

Grading and erosion control shall be carried out in accordance with the provisions of the City of Newport Beach Grading Ordinance and shall be subject to permits issued by the Building and Planning Departments.

SECTION II

PERMITTED USES

The following are permitted uses within the natural open space area (Area 1):

1. Preservation and restoration of existing habitat and wetlands.
2. Habitat and wetland creation and enhancement.
3. Ecological and agricultural research.
4. Utilities
5. Equestrian, pedestrian and bicycle trails.

The following are permitted uses within the open space/public facilities area (Area 2):

1. Preservation and restoration of existing habitat and wetlands.
2. Passive and active public recreation facilities such as hiking, biking, scenic outlooks, picnicking and equestrian trails.
3. Biotic gardens.
4. Other uses that the Planning Commission finds compatible with the natural amenities of this parcel.
5. Transportation corridors, appurtenant facilities, arterial highways and vehicular access to the other permitted uses.
6. Utilities and water tanks.
7. Fuel modifications zones.

~~8. Park and ride facility.~~

~~9. Fire station.~~

108. Drainage and flood control facilities.

119. Any grading necessary for the permitted uses.

1210. Off-site directional sign.

1311. Enhanced landscaped corner.

The following are permitted uses within the open space/public facilities area (Area 3):

1. Preservation and restoration of existing habitat and wetlands.
2. Passive public recreation uses.
3. Biotic gardens.
4. Other uses that the Planning Commission finds compatible with the natural amenities of this parcel.
5. Transportation corridors, appurtenant facilities, arterial highways and vehicular access to the other permitted uses.
6. Utilities and water tanks.
7. Fuel modifications zones.
8. Drainage and flood control facilities.
9. Any grading necessary for the permitted uses.
10. Off-site directional signs.
11. Enhanced landscaped corner.

The following are permitted uses within the retail service commercial area (Area 4):

1. Accessory support retail
2. Specialty Food Establishments in accordance with Title 20 of the Newport Beach Municipal Code.
3. Signs in accordance with the Newport Beach Municipal Code.
4. Preservation and restoration of existing habitat and wetlands.
5. Passive and active public recreation facilities such as hiking, biking, scenic outlooks, picnicking and equestrian trails.
6. Biotic gardens.
7. Other uses that the Planning Commission finds compatible with the natural amenities of this parcel.
8. Transportation corridors, appurtenant facilities, arterial highways and vehicular access to the other permitted uses.
9. Utilities and water tanks.
10. Fuel modifications zones.
11. Drainage and flood control facilities.
12. Any grading necessary for the permitted uses.
13. Off-site directional signs.
14. Enhanced landscaped corner.

THE FOLLOWING ARE PERMITTED USES SUBJECT TO THE SECURING OF A USE PERMIT:

1. Automobile sales facilities, subject to the securing of a use permit.
2. Automobile repair facilities only in conjunction with new or used cars sales facilities as the primary use, subject to the securing of a use permit.
3. Restaurants, subject to the securing of a use permit.

FIGURE III

STATISTICAL ANALYSIS

San Diego Creek North and Jamboree/MacArthur

<u>Type</u>	<u>Area</u>	<u>Acreage (Net)</u>
Open Space	1	2.0
Open Space/Public Facilities	2	12.7 <u>3.07</u>
San Diego Creek North Total		14.7
Open Space	3	4.7
<u>Retail and Service Commercial</u>	4	<u>9.63</u>
Jamboree/MacArthur Total		4.7
San Diego Creek North & Jamboree/MacArthur TOTAL		<u>19.4</u>

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SECTION I. STATISTICAL ANALYSIS

Block 500

1. Project Area
Net Acreage 19.66
2. Percentage of Site Coverage
 - a. Building Footprint 20% maximum
 - b. Landscape 30% minimum
3. Maximum building floor area will not exceed 397,046 square feet.
4. The square footage of individual building sites are subject to adjustment as long as the limitations on total development are not violated. Any adjustment in the square footages for each building site shall be reviewed and approved by the Planning Director.

SECTION I. STATISTICAL ANALYSIS

Block 500

1. Project Area
Net Acreage 19.66
2. Percentage of Site Coverage
 - a. Building Footprint 20% maximum
 - b. Landscape 30% minimum
3. Maximum building floor area will not exceed 398,112 square feet.
4. The square footage of individual building sites are subject to adjustment as long as the limitations on total development are not violated. Any adjustment in the square footages for each building site shall be reviewed and approved by the Planning Director.

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