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CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

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

Staff: LJM-SD
 Staff Report: 10/21/96
 Hearing Date: 11/12-15/96

REVISED FINDINGS

APPEAL NO.: A-6-ENC-96-34-R

LOCAL GOVERNMENT AND DECISION: City of Encinitas
 Approved With Conditions

APPLICANT: West Village Inc./Peter Fletcher

PROJECT LOCATION: 160 South Rancho Santa Fe Road, Encinitas, San Diego
 County. APN 259-191-14, 25

PROJECT DESCRIPTION: Deposition of approximately 750 cubic yards of fill
 within the 100-year floodplain on an approximately 9 acre site
 containing an existing 60,000 sq. ft. commercial center.

APPELLANTS: San Elijo Lagoon Conservancy/Gregory Dennis

DATE OF COMMISSION ACTION: August 14, 1996

COMMISSIONERS ON PREVAILING SIDE: Belgard, Flemming, Giacomini, Pavley,
 Randa, Rick, Staffel, Steinberg, Wan, Wear and Chairman Calcagno.

SUMMARY OF COMMISSION ACTION:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action to approve the deposition of the proposed 750 cubic yards of fill within the 100-year floodplain with requirements that the applicant submit final grading plans approved by the City of Encinitas and that the applicant implement and comply with the submitted mitigation and monitoring program for impacts to wetlands resulting from the fill.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program (LCP); Appeal Application; City of Encinitas Resolution Nos. 96-16, PC-95-34, OL-95-06; Environmental Initial Study Case No. 95-150 DR/CDP/EIA for West Village Center by Helix Environmental Planning, Inc. dated July 28, 1995; Conceptual Mitigation Plan for the Fletcher Property by Sweetwater Environmental Biologists, Inc. dated November 4, 1994; City of Encinitas Agenda Reports for Community Advisory Board (CAB), Planning Commission and City Council meetings dated July 25, 1995, September 5, 1995, November 30, 1995 and February 14, 1996; Coastal Development Permit Nos. 6-84-368/Fletcher, 6-85-418/Fletcher and 6-93-155/County of San Diego; Wetland Delineation Report for West Village Center dated May 24,

1996 by Dudek & Associates, Inc.; Wetland Mitigation and Revegetation Plan for West Village Center dated August 9, 1996 by Dudek Associates, Inc.; Rancho Santa Fe Road Bridge at Escondido Creek Remedial Grading Plan by Nasland Engineering dated stamped received June 5, 1996.

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development, as conditioned, will be in conformity with the adopted Local Coastal Program, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Grading Plan. Prior to the issuance of the coastal development permit, the applicant shall submit final project grading plans for review and written approval of the Executive Director. Said plans shall first be approved by the City of Encinitas and be in substantial conformance with the submitted alternate remedial grading plan by Nasland Engineering, dated May 31, 1996.

2. Mitigation/Monitoring. The applicant is required to implement a mitigation and monitoring program for wetland impacts as detailed in the Wetland Mitigation and Revegetation Plan for West Village Center prepared by Dudek and Associates, Inc., dated August 9, 1996. Said plan, which is based on the Wetlands Delineation Report for West Village Center by Dudek and Associates, dated May 24, 1996, requires that wetlands impacts be mitigated at a ratio of 1.5 to 1.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The proposed development involves the deposition of up to 750 cubic yards of fill within the 100-year floodplain on an approximately 9 acre site that contains an existing approximately 60,000 sq. ft. commercial center. The fill is proposed to be placed within the 100-year floodplain of Escondido Creek in an area of the commercial center site that does not contain any existing buildings, but which contains

landscaping (bermuda grass and other non-native plant species) and wetlands. The applicant has indicated that the fill is necessary to address on-site drainage concerns.

The 9 acre project site, which is comprised of two parcels, is located on the south side of Rancho Santa Fe Road, just east of Manchester Avenue in the City of Encinitas. The existing approximately 60,000 sq. ft. commercial center currently occupies one parcel in its entirety and a portion of the second parcel. The remaining area of the second parcel contains the landscaped area where the fill is proposed and wetlands/pasture land. Surrounding uses include vacant land and Escondido Creek to the south and east, an elementary school, school offices and a convenience store to the north and the commercial center and Manchester Avenue to the west.

In 1984, the Commission approved CDP #6-84-368/Fletcher, for the demolition of existing buildings, grading consisting of 28,225 cubic yards of material (including 26,100 cubic yards of imported fill) and street and storm drain improvements on this site. The permit was approved with conditions which required the development to be revised to eliminate all grading within the 100-year floodplain and recordation of a waiver of liability, requiring the applicant to acknowledge that the site may be subject to hazard and damage from flooding and to assume the liability from this hazard. The conditions were satisfied and the permit was released (ref. Exhibit #3 attached).

Then, in September of 1985, the Commission approved CDP #6-85-418/Fletcher for the construction of an approximately 62,250 sq. ft. commercial center on the site in seven one- and two-story buildings. The permit also included approval of construction of some parking and landscape improvements for the center within the 100-year floodplain. This permit was approved with conditions requiring the submittal of a sign program for the center and recordation of a waiver of liability for the development, again requiring the applicant to acknowledge that the site may be subject to hazard from flooding and to assume the liability from this hazard. Subsequently, the conditions were satisfied, the permit was released and the center was constructed.

Subsequently, in February of 1994, the Commission approved CDP #6-93-155/County of San Diego for the construction of a new bridge over Escondido Creek (La Bajada Bridge). The bridge was to replace an existing "dip" crossing which frequently flooded during storm events. This permit was approved by the Commission subject to a number of special conditions, which included mitigation for all unavoidable impacts to wetlands. To accommodate construction of the bridge and its approach, the eastern-most portion of the site subject to this appeal, was needed, and obtained by the County utilizing its power of eminent domain. As a result of the bridge construction, Rancho Santa Fe Road adjacent to the site was elevated. The applicant contends that the bridge construction has "damaged" his property by altering on-site drainage in the easternmost parking lot and landscaped area (where the subject development is proposed) which has led to site drainage from the eastern parking lot to be directed east to the landscaped area, instead of to the existing catch basin for the parking lot. This redirection of a portion of the parking lot drainage has led to ponding of water in a low spot of the landscaped/floodplain area of the site.

The City of Encinitas received approval of its LCP in November of 1994 and began issuing coastal development permits on May 15, 1995. In May of 1995, the applicant sought approval of a coastal development permit from the City of Encinitas for construction of a 2,000 sq. ft. retail structure, with the proposed fill, describing it as necessary to protect the existing commercial center from flooding. At that time, Commission staff provided written comments to the City outlining specific LCP consistency concerns raised by the proposed development. The proposed development was originally approved by the City's Olivenhain Community Advisory Board (CAB) on September 5, 1995 and that decision was appealed to the City of Encinitas PLanning Commission and subsequently to the City Council. The City Council approved the development on February 14, 1996, finding the project to be an incidental public service project and consistent with Land Use Element Policy 8.2 in that the project "is necessary to protect the existing commercial center from flood impacts due to the location of the 100-year floodplain...."

Because the subject development is located within 100 feet of a wetlands, it falls within the Commission's appeal jurisdiction. On March 4, 1996, the development approval of the City was appealed to the Coastal Commission who, at their April 11, 1996 meeting, found that a substantial issue exists with regard to the reason for the appeal and recommended a de novo hearing be scheduled. The de novo hearing took place on May 7, 1996, at which the Commission denied the project because of its inconsistency with several provisions of the City's LCP. On June 3, 1996 the applicant filed a request for reconsideration of the Commission's denial of the project stating that new information was now available that has the potential of changing the Commission's original decision. The hearing on reconsideration occurred on July 12, 1996 at which time the Commission agreed to reconsider the project.

Since the reconsideration hearing, the applicant revised the project to delete the proposed 2,000 sq. ft. retail structure and reduce the amount of fill from approximately 1,900 cubic yards to 750 cubic yards. As such, the development at this time only involves the placement of approximately 750 cubic yards of fill within the floodplain. Because the proposal is an appeal of a local decision, the standard of review is the certified LCP.

2. Floodplain Development. Because of its potential for adverse impacts on both down- and up-stream areas and habitats, fill of floodplains is severely limited in the City's LCP. Policy 8.2 on Page LU-19 of the City's certified LUP pertains to floodplain development within the City and states, in part:

[...] No development shall occur in the 100-year floodplain that is not consistent and compatible with the associated flood hazard. Only uses which are safe and compatible with periodic flooding and inundation shall be considered, such as stables, plant nurseries, a minimum intrusion of open parking, some forms of agriculture, and open space preservation, as appropriate under zoning, and subject to applicable environmental review and consistency with other policies of this plan. No grading or fill activity other than the minimum necessary to accommodate those uses found

safe and compatible shall be allowed. [...] Exceptions from these limitations may be made to allow minimum private development (defined as one dwelling unit per legal parcel under residential zoning, and an equivalent extent of development under non-residential zoning) only upon a finding that strict application thereof would preclude minimal reasonable use of the property. Exceptions may also be made for development of circulation element roads, other necessary public facilities, flood control projects where no feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development, [...]

In addition, Section 30.34.040(b)(2) of the City's Implementation Plan also pertains to floodplain development and states, in part:

Within the 100-year floodplain, permanent structures and/or fill for permanent structures, roads and other public improvements consistent with the Land Use Element will only be allowed if the applicant can demonstrate the following:

- a. The development is capable of withstanding periodic flooding, and does not require construction of flood protective works,...
- b. Existing environmentally sensitive habitat areas will not be significantly adversely affected.
- c. The development will not result in a net reduction of existing riparian habitat areas within the floodplain.
- d. The design of the development incorporates the findings and recommendations of a site specific area watershed hydrologic study...
- e. There will be no significant adverse water quality impacts to downstream wetlands, lagoons and other environmentally sensitive habitat areas.

The proposed fill is to occur on an approximately 9 acre site that contains an existing approximately 60,000 sq. ft. commercial center. The fill is proposed in the eastern-most portion of the site, which is currently an undeveloped area that does not contain any buildings, but is comprised of various public utility and landscape improvements and an area identified as wetlands. According to the County of San Diego Floodplain Maps and exhibits provided by the applicant, the proposed fill will occur entirely within the 100-year floodplain of Escondido Creek.

As noted previously, in 1994, the Commission approved the construction of the "La Bajada" Bridge over Escondido Creek on Rancho Santa Fe Road (ref. CDP #6-93-155) adjacent to the subject site. In order to accommodate the new bridge and its approach, a portion of the subject site adjacent to Rancho Santa Fe Road was needed, and obtained by the County of San Diego utilizing its power of eminent domain. As a result of the bridge construction, Rancho Santa Fe Road adjacent to the site was elevated. The applicant contends that

the bridge construction has "damaged" his property by altering on-site drainage in the easternmost parking lot and landscaped area (where the subject development is proposed) which has led to some additional site drainage from the eastern parking lot to be directed east to the landscaped area, instead of to existing catch basins for the parking lot and onto Rancho Santa Fe Road. This redirection of a portion of the parking lot drainage has led to some ponding of water in a low spot of the landscaped/floodplain area of the site.

Prior to the bridge construction, the elevation of the easternmost portion of the site was very close to that of the adjacent road. As such, most drainage which would collect on the landscaped area would typically flow off-site onto the road. In addition, the easternmost driveway was also at a similar elevation, with site drainage from the parking lot being directed either onto Rancho Santa Fe Road, into the existing catch basin for the parking lot or onto the landscaped area to the east. Since construction of the bridge, some site drainage is now flowing onto the landscaped area within the 100-year floodplain rather than being directed to a catch basin or flowing onto Rancho Santa Fe Road and the applicant contends that this has affected use of the center in that this area which has been used for special events and other informal gatherings such as outdoor art exhibits, landing hot air balloons, etc.

The applicant has proposed, as a means of addressing the on-site drainage concern, deposition of approximately 750 cubic yards of fill which would raise a portion of the landscaped area out of the 100-year floodplain, with the remaining area sloped gradually to the east. In this way, the applicant could continue to use this area in the same way it has always been used without threat of flooding or ponding. As stated previously, no buildings are proposed.

The deposition of fill within the 100-year floodplain on an incremental basis, can, cumulatively, constrict the floodplain and limit the ability of the geography to handle flood waters, which can lead to potential flood and erosion impacts both down- and upstream. As such, the City's LCP requires that any proposed floodplain development include the recommendations of an hydrologic study. Although no hydrologic analysis was submitted for the project, a letter from the applicant to the City of Encinitas stated that the applicant's engineer used the hydrologic analysis performed by the County of San Diego for the La Bajada Bridge. Based on this review, the applicant's engineer made the determination the the proposed fill would not adversely affect up or downstream areas.

In the case of the proposed development, the proposed fill is consistent with LUP Policy 8.2. The development is consistent and compatible with the associated flood hazard because it consists only of fill, not structures, and it will help to protect existing public works improvements located in this area (storm drain, sewer, lights, etc.) and allow use of the landscaped area as it has occurred in the past (i.e., as an open grassy area). In addition, the subject site is unique in that the proposed fill will be placed in a small "valley" area between two man-made slopes (the fill slope for Rancho Santa Fe Road and a berm that covers the existing storm drain pipe for Manchester

Avenue). Due to construction of the storm drain berm in the past and the bridge approach most recently, the subject site is almost entirely isolated from the rest of the floodplain and as such, has minimal, if any, floodplain value. In addition, because of this isolation and lack of slope, the site does not drain properly and therefore, the 750 cubic yards of fill has been proposed to correct the problem. Based on information presented by the applicant, placement of the 750 cubic yards of fill in this area is the minimal necessary to affect positive drainage for this area. As such, in this particular case, the Commission finds that placement of the proposed small amount of fill (750 cubic yards) within the floodplain will help to protect existing public utility improvements, allow use of the center and landscaped area to continue without the threat of flood, and not adversely impact up- or downstream resources. The proposed fill can also be found consistent with the above cited LCP policies and ordinances as it is compatible with the associated flood hazard, it will remain as an open grassy area (which is similar to the agriculture and open space uses that are listed as acceptable in the floodplain) and, the fill is not proposed to accommodate a structure or even a public improvement, but only to correct on-site drainage.

However, because the project has been revised since originally approved by the City and, will have to go back for City review (substantial conformance), Special Condition #1 has been attached. This condition requires that the applicant submit final grading plans that have been first reviewed and found acceptable by the City of Encinitas. Therefore, the Commission finds that approval of the proposed development, as conditioned, is consistent with all applicable provisions of the City's LCP pertaining to floodplain development.

3. Wetlands. In light of the dramatic loss of wetlands (over 90% loss of historic wetlands in California) and their critical function in the ecosystem, and in response to Section 30233 of the Coastal Act, the City's LCP contains very detailed policies and ordinances relative to wetlands protection. The following LCP provisions are the most applicable to the subject development. Policy 10.6 on Page RM-18/19 of the certified LUP states, in part:

The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act and the Coastal Commission Regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. There shall be no net loss of wetland acreage or resource value as a result of land use or development, and the City's goal is to realize a net gain in acreage and value whenever possible.

Within the Coastal Zone, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted 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 newly permitted uses and activities:

- a. Nature study, aquaculture, or other similar resource dependent activities.
- b. Restoration purposes.
- c. Incidental public service projects.
- d. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

[...]

Practicable project and site development alternatives which involve no wetland intrusion or impact shall be preferred over alternatives which involve wetland intrusion or impact. Wetland mitigation, replacement or compensation shall not be used to offset impacts or intrusion avoidable through other practicable project or site development alternatives. When wetland intrusion or impact is unavoidable, replacement of the lost wetland shall be required through the creation of new wetland of the same type lost, at a ratio determined by regulatory agencies with authority over wetland resources, but in any case at a ratio of greater than one acre provided for each acre impacted so as to result in a net gain. [...]

In addition, Section 30.34.040(B)(3)(a) of the City's Implementation Plan contains similar language as above, limiting wetland fill to projects involving nature study, restoration, incidental public services and mineral extraction.

As stated previously, the project site is located within the floodplain of Escondido Creek, one of the two major creeks which drain into San Elijo Lagoon, an environmentally sensitive habitat area and regional park that is managed jointly by the California Department of Fish and Game and the San Diego County Parks and Recreation Department. The creek in this location supports several native wetland and riparian habitats that include Southern Willow Riparian Scrub, Cismontane Alkali Marsh, and Coastal and Valley Freshwater Marsh.

The applicant has submitted a wetlands delineation, which was recently completed for the project site (ref. Wetland Delineation Report by Dudek & Assoc. dated May 24, 1996) to assess the amount, if any, of wetlands on the project site. The study documented that a "narrow artificial/emergent wetland" occurs on the site covering approximately 240 sq. ft. (0.005 acres) at the base of the fill slope for the bridge. The report also states that the wetland is of low quality, topographically isolated from the main drainage of Escondido Creek and is being artificially supported from parking area drainage and irrigation runoff from the surrounding ornamental landscaping. Based on this study, the proposed development would fill all of the approximately 240 sq. ft. of wetlands.

As cited above, fill of wetlands within the City's Coastal Zone is limited to only four types of newly permitted uses and activities. These include nature

study, restoration projects, incidental public service projects and mineral extraction. The subject development is proposed as an incidental public service project. In order for the proposed fill to be considered such, the Commission must find the impacts to be temporary and/or incidental or secondary to the pre-existing public service purpose. According to the applicant, the proposed fill is necessary to correct on-site drainage problems that were caused by construction of the adjacent bridge. Because the documented drainage concerns on the site can be directly attributed to the bridge construction, which, when approved by the Coastal Commission was found to be an incidental public service project (correct flooding of a public roadway), the proposed development can also be considered a incidental public service project. In other words, the proposed development, which involves the placement of fill and impact to wetlands to correct on-site drainage problems, would not have been necessary if not for the construction of the bridge. As stated previously, prior to construction of the bridge, the drainage from the road did not flow onto the site in this location. However, since the road was elevated to construct the bridge, the runoff from the fill slope now flows onto the landscaped area of the site where it ponds (drainage from the road itself is now collected and directed through storm drain improvements). As such, in this particular case, the proposed development can be considered an incidental public service project tied to the bridge construction.

Once it has been determined that the project is an allowable use within a wetland, LCP policies and ordinances also require that the project be found to represent the least environmentally damaging alternative. In the case of the subject development, the proposed fill will permanently displace approximately 240 sq. ft. of marginal wetlands. While other alternatives have been reviewed that do not involve fill within the 100-year floodplain (resurface a portion of the eastern parking lot and install small drainage swale at the base of the fill slope for the bridge), similar wetland impacts would still occur. In addition, according to the applicant's engineer, such alternatives would not adequately address the on-site drainage problem because of the isolation of the site from the remainder of the floodplain and the creek and the lack of slope to allow positive site drainage off-site. As such, the Commission finds that the proposed development to correct the on-site drainage problem created by the adjacent bridge construction, represents the least environmentally damaging feasible alternative.

However, the City's LCP also requires that for any impacts to wetlands that cannot either be avoided or eliminated, mitigation shall occur through creation of new wetlands, at a ratio determined by regulatory agencies with authority over wetland resources. The LCP also states that the ratio must be greater than one acre provided for each acre impacted so as to result in a net gain. As such, the City, in their approval of the project, required mitigation for wetland impacts to occur at a ratio of 1.5:1. The applicant has submitted a mitigation and revegetation plan for the site (ref. Wetland Mitigation and Revegetation Plan for West Village Center by Dudek & Assoc., Inc., dated August 9, 1996) that calls for the creation, on site (southeast of the proposed fill), of 327 sq. ft. of wetlands as mitigation for impacts to wetlands resulting for the proposed development. This equates to a mitigation ratio of 1.5:1, consistent with the City's approval and LCP requirements.

This mitigation is appropriate because the proposed mitigation site is in a location which will be self-sufficient over the long-term and will support wetland vegetation easily once graded and planted.

The Commission finds such a ratio, in this particular case, to be adequate and, according to the applicant and the City, is based on input from the California Department of Fish and Game. Special Condition #2 has been proposed to require the applicant to comply with and implement the mitigation and monitoring program outlined in the report submitted by the applicant which calls for on-site mitigation for all wetland impacts at a ratio of 1.5:1 and monitoring and maintenance of the mitigation site for a six-month period.

In summary, the proposed development, which involves the fill of approximately 240 sq. ft. of wetlands, has been found to be a permitted use under the City's LCP. In addition, based on the above discussion, because of the uniqueness of the site and isolation of the wetlands from other areas, the proposed fill has also been found to represent the least environmentally damaging alternative. Additionally, as conditioned, adequate mitigation for wetland impacts will be provided and the mitigation site maintained and monitored for a six-month period. Therefore, the Commission finds the proposed development, as conditioned, is consistent with the City of Encinitas certified Local Coastal Program related to protection of wetlands.

4. Public Access. The project site is located adjacent to and south of Rancho Santa Fe Road, which in this area of the City delineates the Coastal Zone boundary, as well as the first public roadway. As the proposed development will occur between the first public roadway and the sea (San Elijo Lagoon in this case), pursuant to Section 30.80.090 of the City's LCP, a public access finding must be made that such development is in conformity with the public access and public recreation policies of the Coastal Act.

While the proposed development is located several miles inland of the coast, public access and recreational opportunities, in the form of hiking trails, do exist in the area, providing access along Encinitas Creek and into the San Elijo Lagoon Ecological Reserve and Regional Park, southwest of the subject site. There are currently no such trails existing or planned on or adjacent to the subject site. The development will not impede access to the lagoon or to any public trails. Therefore, construction of the proposed project would have no adverse impacts on public access or recreational opportunities, consistent with the public access policies of the LCP and the Coastal Act.

5. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case such a finding can be made.

The subject site is zoned and planned for general commercial and rural residential uses in the City's certified LCP. The fill is proposed on a portion of the site designated for general commercial uses. The proposed

project is consistent with that designation. However, the subject site is also located within the Special Study Overlay Zone which is used to indicate those areas where development standards may be more stringent to minimize adverse impacts from development. In addition, the proposed development is subject to the Floodplain Overlay Zone. This is applied to areas within the Special Study Overlay Zone where site-specific analysis of the characteristics of a site indicate the presence of a flood channel, floodplain or wetlands. The subject site has been identified to be within the 100-year floodplain and to contain wetlands.

Based on the above discussion, the Commission finds that because of the uniqueness of the site, its isolation from the remainder of the floodplain and wetlands, the proposed floodplain fill can be found consistent with all applicable policies and ordinances of the City of Encinitas certified LCP pertaining to floodplain development and protection of wetlands.

6. California Environmental Quality Act (CEQA). Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit to be supported by a finding showing the permit 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.

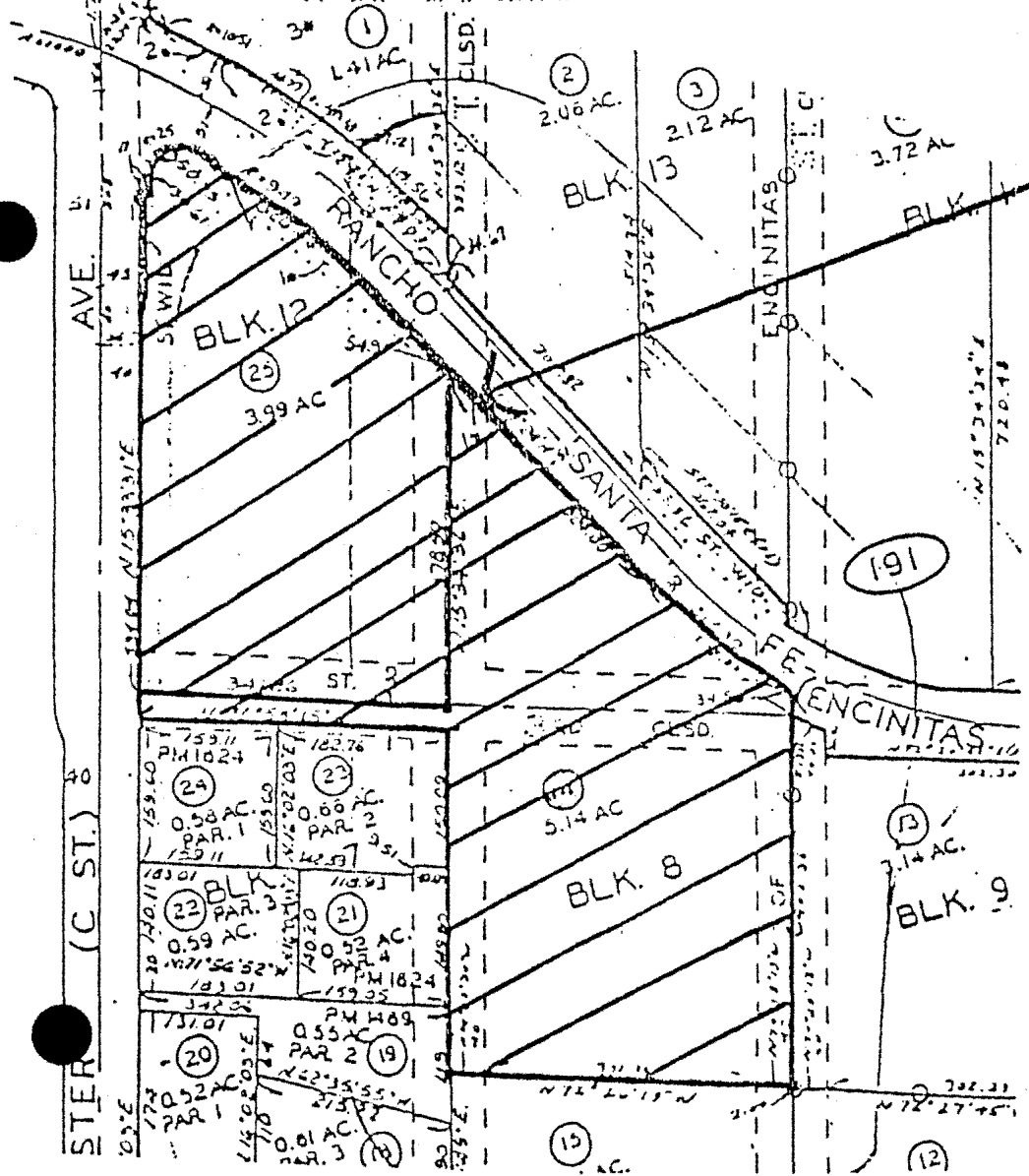
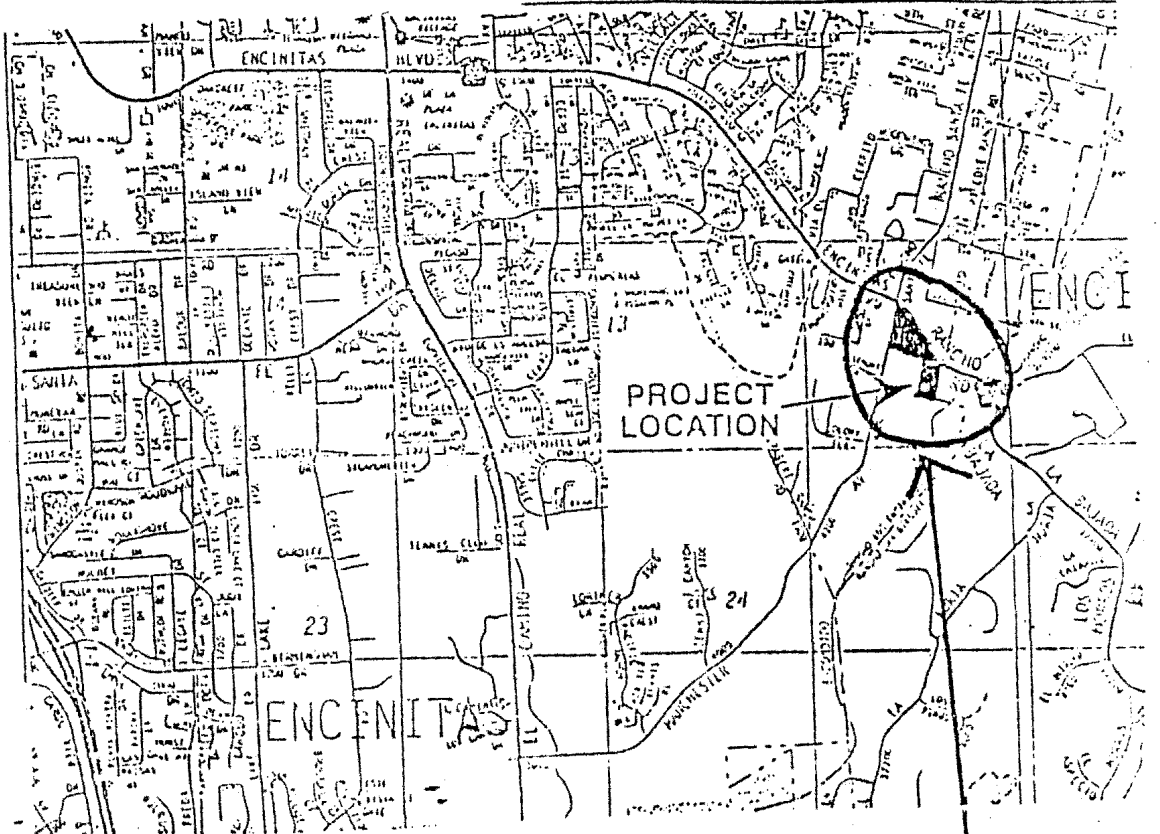
As stated previously, the development as proposed would result in impacts to coastal resources in the form of floodplain fill and impacts to sensitive resources. The project has been conditioned to minimize all adverse environmental impacts and to be found consistent with the certified LCP. As conditioned, 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, as conditioned to eliminate and/or mitigate all identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

(2050r)



Subject Site



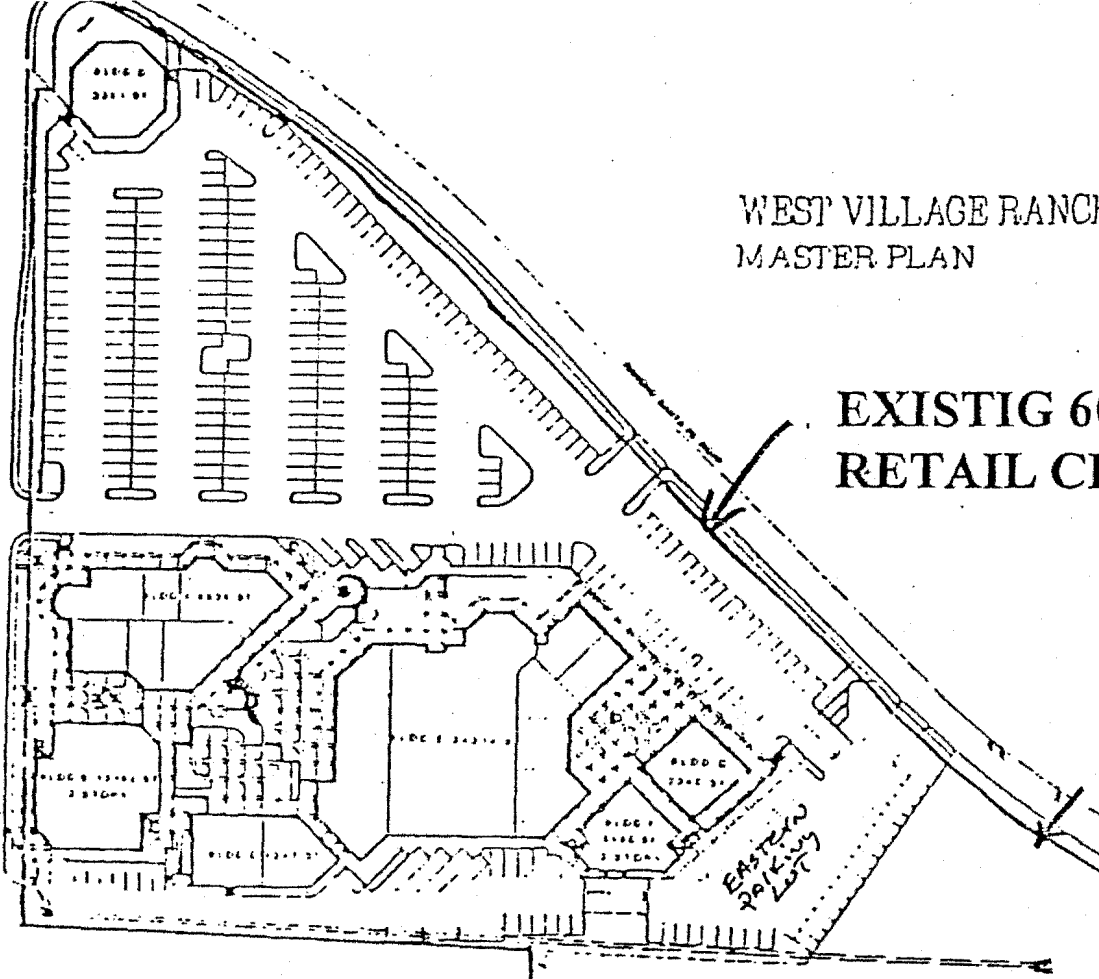
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EXHIBIT NO. 1
 APPLICATION NO.
A6-ENC-96-34-R
 Location Maps

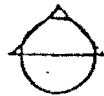
WEST VILLAGE RANCHO SANTA FE
MASTER PLAN


EXISTING 60,000 SQ. FT.
RETAIL CENTER

PROPOSED LOCATION
OF FILL



SITE PLAN



 California Coastal Commission	EXHIBIT NO. 2
	APPLICATION NO.
	A6-ENC-96-34-R
	Site Plan

California Coastal Commission
SAN DIEGO COAST DISTRICT
6154 Mission Corge Road, Suite 220
San Diego, CA 92120
(714) 280-6992

FILED: July 9, 1984
49th DAY: August 27, 1984
180th DAY: January 6, 1985
STAFF: MP:am
STAFF REPORT: August 13, 1984
HEARING DATE: August 21-24, 1984

REGULAR CALENDAR

STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-84-368

Applicant: Peter T. Fletcher

Description: Demolition of existing buildings. Construction of street improvements on El Camino Real and Encinitas Blvd. Grading of site (including 26,100 cubic yards of imported fill) totaling approximately 28,225 cubic yards. Construction of underground storm drain.

Lot area	9.13 acres
Zoning	C-32, RR2, A-70
Plan designation	Neighborhood Commercial, Residential (2 duu), Impact Sensitive Area

Site: Southeast corner of Encinitas Boulevard and Manchester Avenue, Encinitas, San Diego County. APN 259-191-25; 259-191-14

Substantive File Documents: County of San Diego San Dieguito Land Use Plan (conditionally certified);
San Dieguito Implementing Ordinances (draft)

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

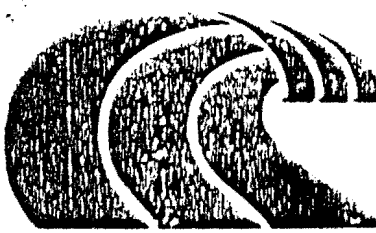
Staff is recommending approval of the proposed project with special conditions to assure consistency with the floodplain development and habitat protection.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development



COMMISSION ACTION ON AUG 23 1984

- Approved as Recommended
- Denied as Recommended
- Approved with Changes
- Denied
- Other

EXHIBIT NO. 3
APPLICATION NO. A6-ENC-96-34-R
1984 Permit For Grading
1 of 7
California Coastal Commission

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will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See page 4.

III. Special Conditions.

The permit is subject to the following conditions:

1. Floodplain Development. Prior to the transmittal of a coastal development permit for this project, the applicant shall submit a revised site and grading plan for review and acceptance in writing by the Executive Director. Said revised plan shall show the deletion of all grading within the 100-year floodplain shown on the applicant's submitted grading plan. Activity within the 100-year floodplain will be limited to removal of existing buildings and installation of storm drain.

2. Waiver of Liability. Prior to transmittal of a coastal development permit, the applicant shall submit to the Executive Director a deed restriction for recording, free of prior liens except for tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site may be subject to extraordinary hazard from flooding and the applicants assume the liability from these hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards, and (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of flooding.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Proposed Project. The applicant proposes to remove existing structures and grade a site for future development. Manchester Avenue and Encinitas Boulevard will be improved as part of this site preparation and a storm drain and energy dissipator will be installed to drain Manchester Avenue to the east.

The project site is located in a developing neighborhood commercial and residential area at the eastern boundary of the coastal zone. Office and commercial development exists to the west and northwest with residential development to the south and southwest; and, agriculture-related uses to the north. The southwestern and eastern portions of the project site are part of Escondido Creek which also forms a portion of the extreme eastern basin of San Elijo Lagoon. Portions of the project site contain significant riparian vegetation and wetland habitat although development is not proposed for those areas.

The portions of the site where development is proposed have existing agricultural and storage buildings, although the buildings are proposed to be removed. Some of the existing buildings and some of the area to be graded is located within the 100-year floodplain of Escondido Creek. The proposed project will involve fill of one to six feet in depth over the site with up to six feet of fill within the floodplain.

2. Consistency with Coastal Act Policies. The most applicable Coastal Act policies for this project are Sections 30250(a), 30251, 30240 and 30253(1). The proposed project is consistent with Sections 30250(a) and 30251 in that the project will be located in an existing developing area and the site is being prepared for eventual uses which will be consistent with surrounding development. The project also will result in minimal landform alteration (except as noted below).

The only aspect of the project which is not consistent with Coastal Act policies and requires special conditions in order to produce consistency is the grading and fill activity within the floodplain. Such activity has the potential of significant impacts on habitat and hydrology in that fill may eliminate habitat and result in increased flood flows and sedimentation by the removal of area which can act as flood water holding areas during high storm flows. The Commission finds that floodplain fill can result in situations which do not protect environmentally sensitive habitat areas and do not minimize risks to life or property. Only as conditioned can the Commission find that the proposed development is consistent with Coastal Act Sections 30240 and 30253(1).

3. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a local coastal program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act.

The County of San Diego's San Dieguito Land Use Plan (LUP) has been certified by the Commission. The implementing ordinances have been submitted for Commission review. The LUP policies state that:

"The County will prohibit any development or other significant disruption of the Encinitas Creek and Escondido Creek riparian habitat"

"The County will preserve the function of Batiquitos and San Elijo Lagoons and their immediately adjacent uplands as a viable wetland ecosystem and habitat for resident and migratory wildlife by prohibiting actions which:

1. Involve wetland fill or increase sedimentation into wetlands
2. Adversely decrease stream flow into the wetlands
3. Reduce tidal interchange
4. Reduce internal water circulation, or
5. Adversely affect existing wildlife habitats

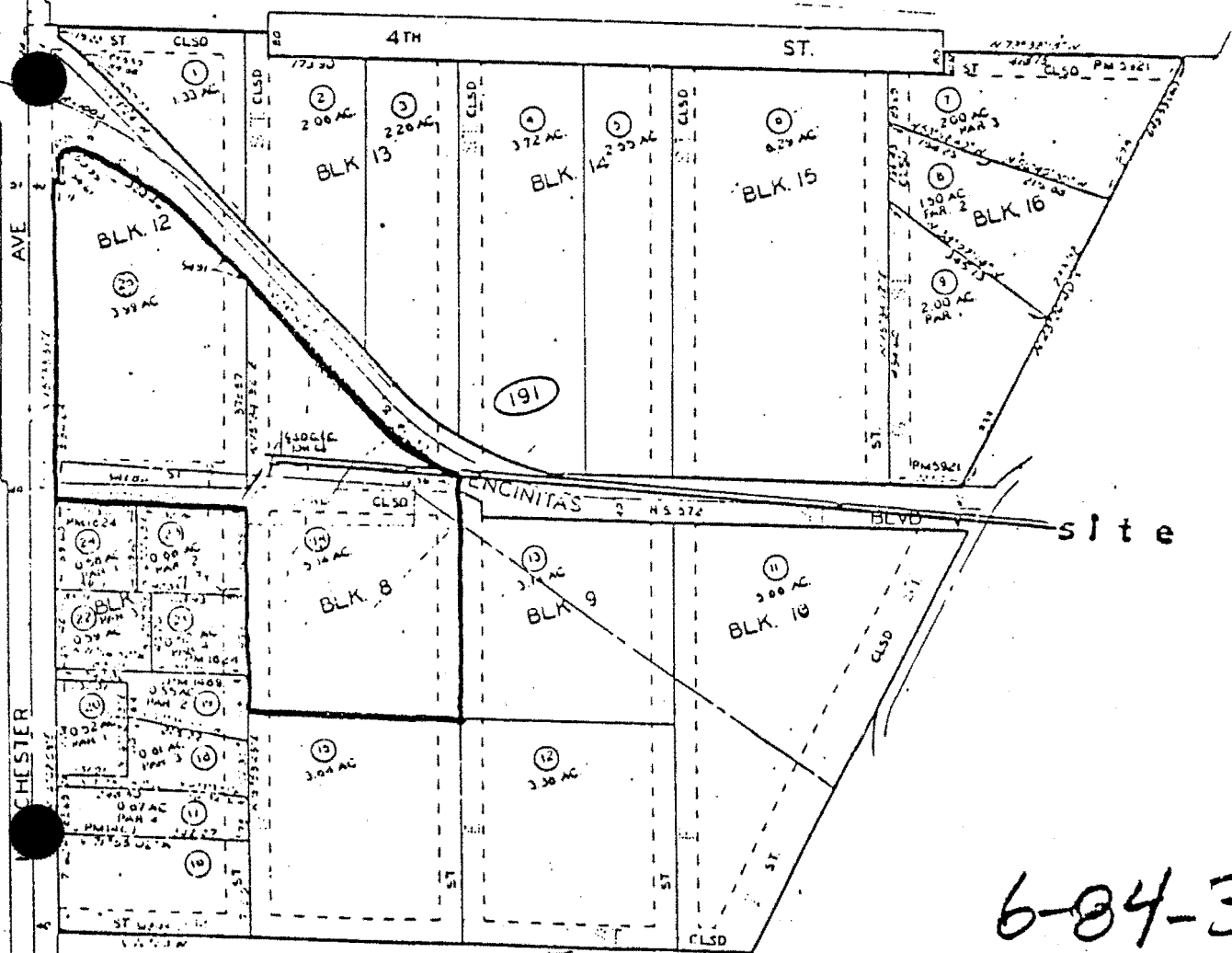
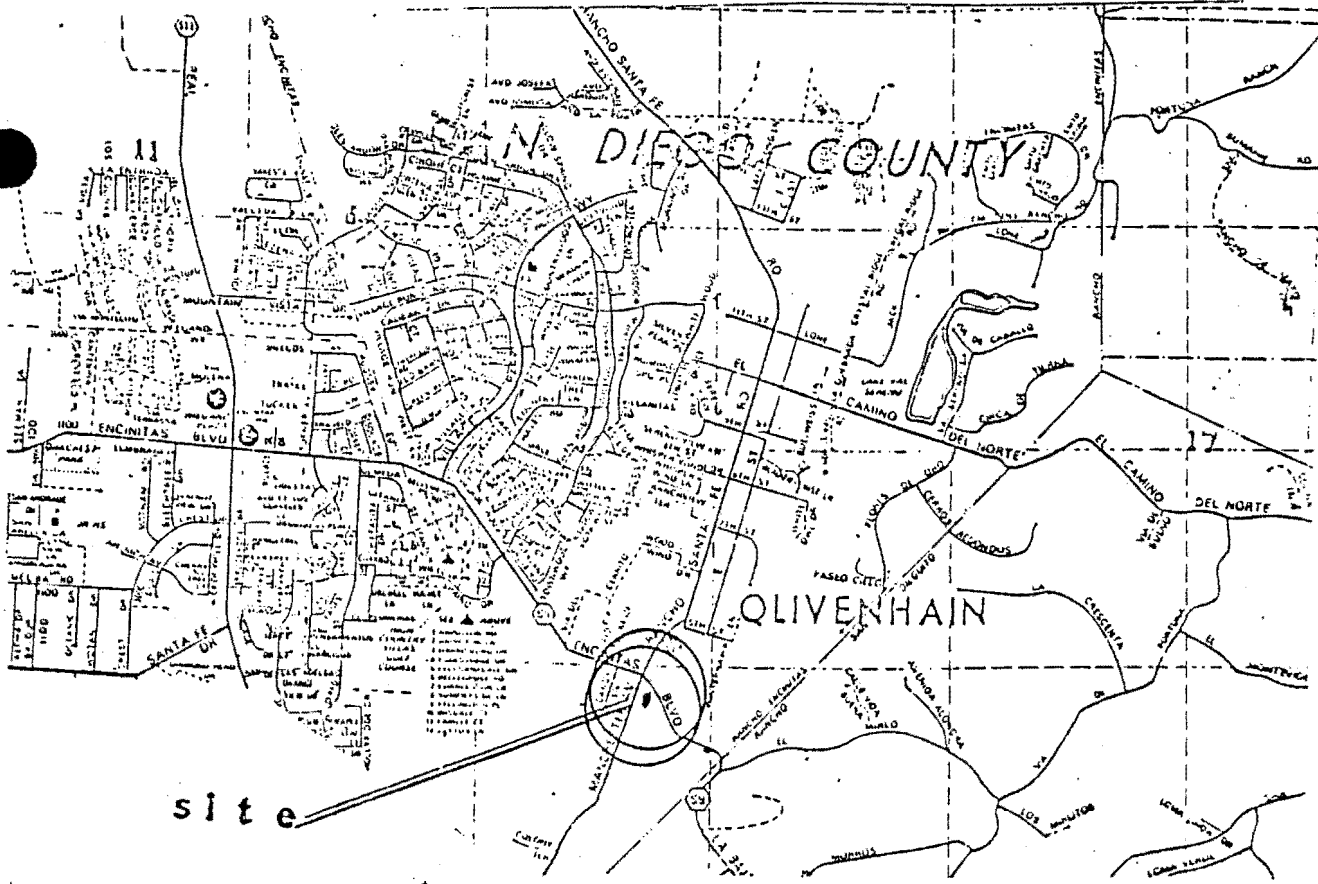
and by encouraging public acquisition of privately held portions of the lagoons and surrounding recreation-suitable areas."

The draft implementing ordinances are generally consistent with the LUP policies; and, would require discretionary review for any activity within the Impact Sensitive area (floodplain and an upland 100-foot area). Activity which would not be allowed would be any involving wetland fill, increased sedimentation, decrease of stream flow, or impacts on habitat or scenic values. Within the Impact Sensitive area, very low density (one dwelling unit per 4, 8 or 20 acres) would be allowed based upon a site plan review to ascertain and minimize impacts. The presently proposed fill and grading in the floodplain is not associated with any specific development proposal and is found to be premature.

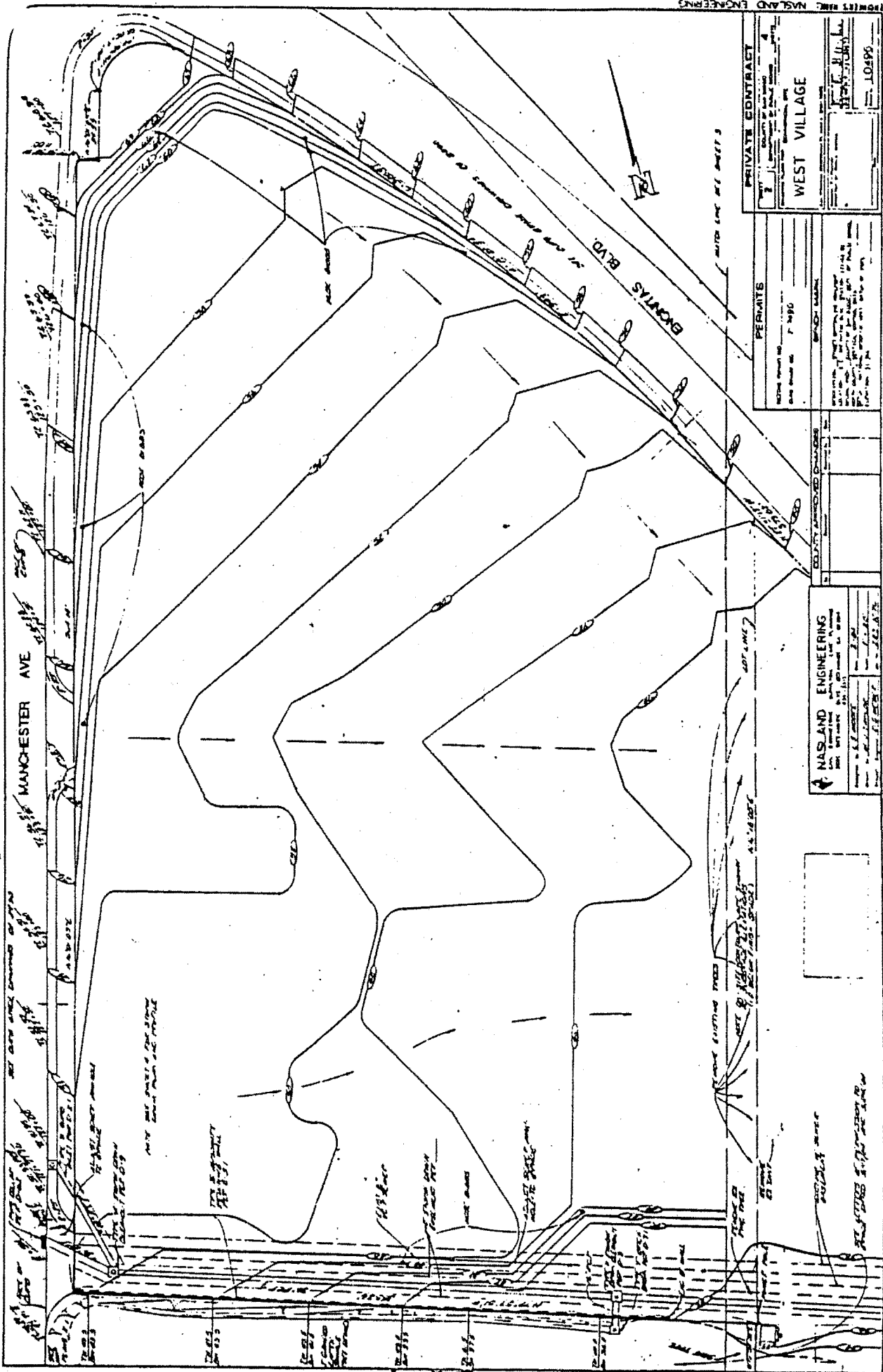
The proposed project, as conditioned, would be consistent with the LUP policies as it would eliminate development within the 100-year floodplain and any potential impacts on habitat or hydrology. Approval of the proposed project would not prejudice the County's LCP preparation abilities.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



6-84-368



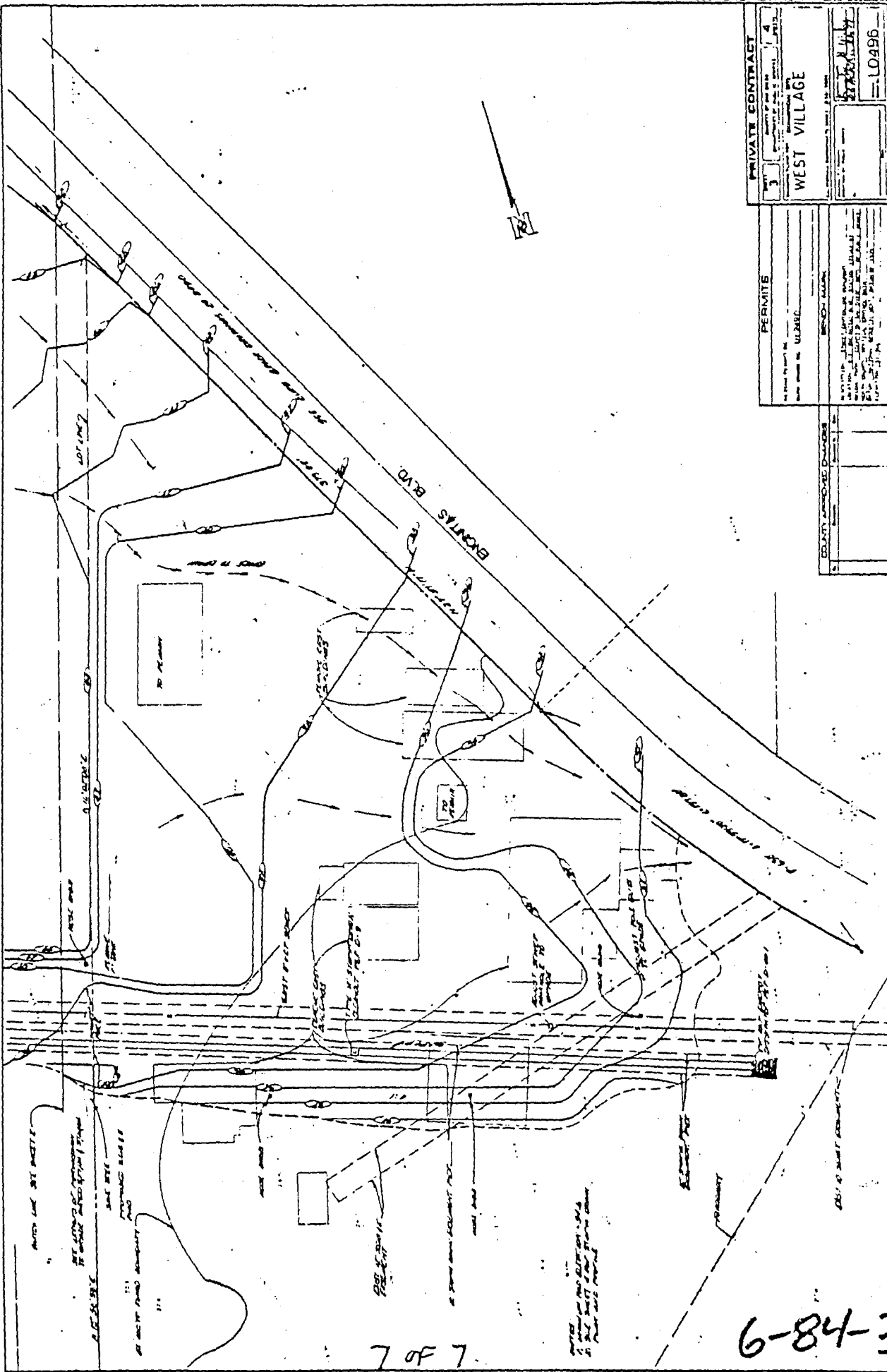
PRIVATE CONTRACT	
Contract No. _____	Date _____
WEST VILLAGE	
Project Location: _____	
Project No. 10496	

PERMITS	
Issue Date: 7-19-90	Expiry Date: _____
Issued to: _____	
Issued by: _____	

BOUNDARY ADJUSTMENT CHANGES	
Description: _____	
Date: _____	

NISLAND ENGINEERING	
Professional Seal: _____	
Address: _____	
Phone: _____	

6-84-368



PRIVATE CONTRACT	
NO. 3	DATE 1/1/1996
WEST VILLAGE	
PROJECT NO. 10496	

PERMITS	COUNTY APPROVED DRAWINGS
APPROVED BY: [Signature]	DATE: [Date]
APPROVED BY: [Signature]	DATE: [Date]

COUNTY APPROVED DRAWINGS
DATE: [Date]



A.C.S. 97

Rancho Santa Fe Road

La Bajad. Bridge

Bridge Fill Slope

Project Site

Existing Eastern Parking Lot

Existing Commercial Center

12' SIDE EASEMENT
85-016351, DATED 1-1-80
TYPE 18 WEIR WALL
PER S/D. DWG. DR-32
REMOVE EXIST. GRADE TO DRAIN
1/2" MIN

12' 197' RCP @ 0.8%

EXISTING MANHOLE
ADJUST TO GRADE

SAW-CUT-MAKE
SMOOTH TRANSITION
GR. 374
LE. 515
comp. BASIN

Grading Plan

(Approx. 750 cubic yards)

EXHIBIT NO. 4
APPLICATION NO.
A6-ENC-96-34-F
Grading Plan
California Coastal Commission