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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-96-18

Applicant: Carlsbad Partners, Ltd. Agent: Paul Klukas

Description: Approval of 11-lot master tentative map for 281.2 acre site (three residential, one commercial and seven open space lots). In addition, the development also involves 729,000 cubic yards of balanced grading, infrastructure improvements that include the widening of El Camino Real, two bridge crossings over Encinitas Creek, internal circulation improvements and storm drain and other drainage facilities, dedication and construction of public trails, payment of a mitigation fee for agricultural conversion and on-site mitigation for impacts to environmentally sensitive habitat areas.

Lot Area	281.2 acres
Zoning	PC (PLanned Community)
Plan Designation	Community Commercial/Medium-High Residential/Office/Open Space

Site: 281.2 acre lot located on the southwest corner of El Camino Real and La Costa Avenue, Carlsbad, San Diego County. APN 255-021-05, 06, 07, 08; 216-122-24, 36, 37; 255-011-08, 09, 10, 11, 12

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development with a number of special conditions which address a mitigation fee for conversion of agricultural lands, submittal of final mitigation and monitoring plans for wetland impacts, construction and preservation of public access trails, grading and erosion controls, and future development. This permit application accompanies, and is contingent upon, approval of Carlsbad Local Coastal Program Amendment #1-96F (Green Valley Master Plan), also scheduled for the May 1996 Commission hearing.

Substantive File Documents: Certified City of Carlsbad Local Coastal Program East Batiquitos Lagoon/Hunt Properties Segment; Carlsbad LCPA 1-96F; Green Valley Master Plan (Reduced Project Alternative) dated January 23, 1996;

Final Program Environmental Impact Report for the Green Valley Master Plan and Master Tentative Map by Coleman Planning Group; City of Carlsbad Resolution Nos. 96-37, 3855, 3856, 3857, 3858, 3859, 3860, 3861; GDP #6-89-347/Hunt Properties Inc.

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 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. Conversion of Agricultural Land. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, evidence that payment of the agricultural mitigation fee, as proposed by the applicant, has been received by the State Coastal Conservancy, consistent with the provisions of the Carlsbad East Batiquitos/Hunt Properties Local Coastal Program segment.

2. Final Wetlands/Riparian Mitigation Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final wetland mitigation plan for all salt marsh and riparian impacts associated with the proposed project (3.12 acres of impact to riparian habitat and .57 acres of impact to coastal salt marsh. The final mitigation plan shall be developed in consultation with the California Department of Fish and Game and U.S. Fish & Wildlife Service, be in substantial conformance with the mitigation plan submitted with this application and at a minimum shall include:

a. Preparation of a detailed site plan of the wetland/riparian impact area(s), clearly delineating all areas and types of impact (both permanent and temporary), and identification of the exact acreage of each impact so identified. In addition, a detailed site plan of the mitigation site shall also be included.

b. Preparation of a baseline ecological assessment of the impact area(s) and any proposed mitigation sites prior to initiation of any activities.

Such assessment shall be completed by a qualified biologist and at a minimum shall include quantified estimates of the biological resources and habitat types at each site, description of the functions of these resources and habitats and the associated values. Results of the ecological assessment of the wetland impact area shall form the basis of the goals, objectives, and performance standards for the mitigation project.

c. The mitigation plan shall include clearly defined goals, objectives, and performance standards for the mitigation project. Each performance standard shall state in quantifiable terms the level and/or extent of the attribute necessary to reach the goals and objectives. Sustainability of the attributes should be a part of every performance standard.

d. All mitigation shall occur on-site. All salt marsh impacts shall be mitigated at a ratio of four to one (4:1) and all riparian impacts shall be mitigated at a ratio of three to one (3:1). That is, for each square foot of impact associated with the project, there shall be four/three new square feet of wetlands created. In addition, said mitigation shall only involve upland suitable for conversion to wetlands. Restoration of identified temporary impacts areas associated with the project can count as 1:1 towards the above required mitigation ratios.

e. A minimum 50 foot buffer shall be provided from all existing and newly created riparian habitat.

3. Final Monitoring Program. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director in consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service as appropriate, a final detailed monitoring program designed by a qualified wetland biologist. Said monitoring program shall be in substantial conformance with the approved Mitigation Plan required in Special Condition #2 above and shall at a minimum provide the following:

a. Submittal, upon completion of the mitigation site, of "as built" plans. Description of an as built assessment to be initiated within 30 days after completion of the mitigation project. This description shall include identification of all attributes to be evaluated, the methods of evaluation, and a timeline for completion of an as-built assessment report. This report shall describe the results of the as-built assessment including a description of how the as-built project differs from the originally planned project.

b. A description of all attributes to be monitored along with the methods and frequency of monitoring. This description shall include a rationale for the types of data collected and how those data will be used. The description shall also clearly state how the monitoring data will contribute to the evaluation of project performance.

c. A description of provisions for augmentation, maintenance, and remediation of the mitigation project, throughout the monitoring period or in perpetuity as appropriate.

d. Annual reports on the monitoring program shall be submitted to the Executive Director for approval for a period of five years. Each report shall include copies of all previous reports as appendices. Each annual report shall also include a "Performance Evaluation" section where information and results from the monitoring program are used to evaluate the status of the mitigation project in relation to the performance standards.

e. At the end of the five year period, a comprehensive monitoring report prepared in conjunction with a qualified wetland biologist shall be submitted to the Executive Director for review and approval. This comprehensive report shall consider all of the monitoring data collected over the five-year period in evaluating the mitigation project performance. If the report indicates that the mitigation has been, in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original program which were not successful. The revised mitigation program, if necessary, shall be processed as an amendment to their coastal development permit.

4. Grading and Erosion Control. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, in consultation with the California Department of Fish and Game, final grading plans approved by the City of Carlsbad. Said plans shall incorporate the following:

a. All grading activity shall be prohibited between October 1st and April 1st of any year. Prior to commencement of any grading activity, the permittee shall submit a grading schedule which indicates that the grading will be completed within the permitted time frame designated in this condition and that any variation from the schedule shall be promptly reported to the Executive Director.

b. All areas disturbed by grading shall be planted within 60 days of the initial disturbance and prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins and silt traps, shall be utilized in conjunction with plantings to minimize soil loss from the graded areas. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation developed in consultation with the Department of Fish and Game), subject to Executive Director approval.

5. Drainage/Runoff Control. Prior to the issuance of a coastal development permit, the applicant shall submit final drainage and runoff

control plans approved by the City of Carlsbad. Said plans shall be designed by a licensed engineer qualified in hydrology and hydraulics, and assure no increase in peak runoff rate from the developed site over runoff that would occur from the existing undeveloped site, as a result of a ten-year frequency storm over a six-hour duration (10 year, 6 hour rainstorm). Runoff control shall be accomplished by such means as on-site detention/desilting basins. Energy dissipating measures at the terminus of outflow drains shall be constructed. The runoff control plan, including supporting calculations, shall be submitted to, reviewed and approved in writing by the Executive Director.

6. Final Improvement Plans. Prior to the issuance of the coastal development permit, the applicant shall submit final improvement plans approved by the City of Carlsbad for proposed on-site improvements associated with the proposed development (widening of El Camino Real, two bridge crossings, interior street and storm drain systems). Said plans shall be subject to the review and written approval of the Executive Director, and construction shall subsequently take place consistent with the approved plans.

7. Other Permits. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, copies of all other required state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

8. Future Development. This permit is for the subdivision of 281.2 acres, site preparation, including rough grading, construction of roads and trails, utility and drainage improvements, and mitigation for impacts to environmentally sensitive habitat areas. All other development proposals for the site, including, but not limited to further subdivisions, construction of residential or commercial structures or other structures, shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit or an amendment to this permit.

9. Final Landscape Plans. Prior to the issuance of the coastal development permit, the applicant shall submit a final landscape plan indicating the type, size, extent and location of all plant materials, any proposed irrigation system and other landscape features. Drought tolerant native and naturalizing plants shall be utilized to the maximum extent feasible. Said plan shall be developed in consultation with the Department of Fish and Game to assure species inherently noxious to environmentally sensitive species are avoided and shall be submitted to, reviewed and approved in writing by the Executive Director.

10. Recordation of Public Trail Access Easement. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, evidence of compliance with the following:

a. Revision to the Master Tentative Map for Green Valley (C.T. 92-08) to include notes to the effect that the pedestrian, trail and/or access easements shown on the Tentative Map shall be for use by the general public, and that easements for the identified trails shall be dedicated to the City of Carlsbad on the final subdivision map (Master TM 92-08) which includes the easement area, or an irrevocable offer to dedicate such trail easements shall be given to the City on or before the date such final map is recorded in the Office of the County Recorder.

b. Submittal of evidence of compliance with either the easement dedications or recordation of the offers to dedicate trail easements, prior to issuance of the coastal development permit for site development of Master TM 92-08 which contains the trail easements.

11. Future Public Access Trail Improvements. Implementation of the Trail Plan for the Green Valley Master Plan (ref. Exhibit #3 attached), shall occur concurrent with site development of the planning areas which contain the trail easements, and improvements, including trailhead parking and signage, shall be installed and made available to the general public prior to occupancy of any development within the Green Valley site, as proposed by the applicant.

12. Open Space Deed Restriction. Prior to the issuance of the coastal development permit, the applicant shall record a restriction against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall prohibit any development, including but not limited to, alteration of landforms, removal of vegetation or the erection of structures of any type, except for construction of trail improvements in the upper one-half of the proposed 50 ft. wetlands buffer, trailhead parking, necessary storm drain and desiltation/pollution basins, fill slopes to accommodate the widening of El Camino Real, two bridge crossings to provide access to the site from El Camino Real and grading and planting to accomplish proposed mitigation for impacts to sensitive habitat areas, in the area shown on the attached Exhibit "5" and generally described as the steep, natural hillside on the western portion of the site and the Encinitas Creek Riparian corridor and its 50 ft. buffer on the eastern portion of the property. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review and written approval of the Executive Director.

13. LCP Effective Certification. Approval of the coastal development permit is conditioned upon certification of Local Coastal Program Amendment #1-96(F). Accordingly, prior to issuance of the coastal development permit, the applicant shall obtain a written statement of the Executive Director of the Coastal Commission confirming that the Coastal Commission has effectively certified LCPA #1-96(F) in accordance with California Code of Regulations title 14, section 13544.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed development involves approval of a master tentative parcel map to subdivide a 281.2 acre site into 11-lots to create three residential lots, one commercial lot and seven open space lots. In addition, the proposal also involves infrastructure improvements that include the widening of El Camino Real, construction of two bridge crossings over Encinitas Creek, internal circulation improvements, storm drain and other drainage improvements, grading consisting of approximately 729,000 cubic yards of balanced cut and fill. The application also proposes to construct public trails through the site, offer public access easements for the trails to the City, construct the trails concurrent with site development, and open the trails to public use prior to the occupancy of any development on the site. Because the proposal also involves impacts to environmentally sensitive habitat areas, mitigation for such impacts is also proposed. The applicant has also proposed to pay an agricultural mitigation fee for the conversion of agricultural lands on the site to urban development, pursuant to Section 30171.5 of the Coastal Act.

The subject site consists of approximately 281.2 acres and is located on the southwest corner of El Camino Real and La Costa Boulevard in an area of the City of Carlsbad commonly referred to as "Green Valley". Except for a small commercial structure located adjacent to El Camino Real in the northeastern portion of the site, the entire site is vacant. The site is essentially comprised of three distinct areas: (1) a substantial riparian woodland corridor that runs along the entire eastern boundary of the site adjacent to El Camino Real; (2) directly west of the riparian corridor is a gently sloping area that has historically been utilized for agricultural purposes; and (3) an inland bluff area consisting of naturally-vegetated steep slopes make up the western portion of the site.

The proposed development does not include any residential or commercial development. As such, Special Condition #8 has been proposed to notify the applicant that this permit is for subdivision, grading, road and utility improvements and biological mitigation and that any other development proposals, including, but not limited to, future residential and commercial construction, shall require review by the Commission or its successor agency.

In 1989, grading which resulted in the fill of approximately 3.62 acres of riparian woodland habitat and impacts to 1.65 acres of mixed chaparral and coastal sage scrub vegetation occurred on the subject site. The impacts involved fill of riparian habitat in the southeastern portion of the site to construct an unauthorized access road from El Camino Real, through Encinitas Creek, to the agricultural fields and grading of upland habitat in the southwestern portion of the site. This development occurred without approval of a coastal development permit in an apparent violation of the Coastal Act.

Subsequently, in 1990, the Commission approved CDP #6-89-347 for the restoration of 3.62 acres of riparian and 1.65 acres of upland habitat on the

subject site which were disturbed by the illegal agricultural and grading operations. This permit was approved with conditions which required impacts to riparian habitat to be mitigated at a ratio of 3:1 (2:1 creation and 1:1 restoration) and that the mitigation sites be dedicated to a public agency for open space conservation. However, the conditions were never satisfied and the permit subsequently expired. Although the permit conditions were never satisfied, the proposed project does include removal of the previously deposited fill and mitigation for all previous impacts to the riparian habitat at a ratio of 3:1.

The subject site is located within the area of Carlsbad governed by the East Batiquitos Lagoon/Hunt Properties Land Use Plan segment. The Green Valley Master Plan, which is scheduled for Commission review at the same hearing as this permit, will serve as the implementation plan for this LUP segment. Together, the East Batiquitos Lagoon/Hunt Properties LUP segment and the Green Valley Master Plan will serve as the standard of review for the proposed development.

2. No Waiver of Violation. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

3. Environmentally Sensitive Habitat Areas/Steep Slopes. Policy C of the LUP pertains to environmentally sensitive habitat areas and states, in part:

3. Green Valley Riparian Corridor -

The riparian corridor (approximately 40 acres) shall be constrained from all development. In addition, a 50-foot wide buffer area shall be preserved in open space upland of the boundaries of the riparian corridor. Unless otherwise specified herein, development within the buffer area shall be limited to the construction of a pedestrian path with fencing or other improvements deemed necessary to protect the riparian habitat in the upper (upland) half of the buffer area. Any alteration of the riparian corridor shall be limited to the following and shall require Carlsbad approval, a Coastal Development Permit, Stream Alteration Agreement, and COE permit:

- a. Access - A maximum of two (2) crossings shall be permitted to provide access to the developable portions of the Green Valley. The access crossings shall be designed to minimize adverse impacts to the habitat value of the riparian corridor and shall be mitigated by the creation and maintenance of new riparian habitat area at a ratio of three sq. ft. of new riparian area for each one sq. ft. of disturbance associated with construction of the accessways. All

mitigation required shall be located on site and contiguous with the existing riparian corridor.

- b. Flood and sediment control projects - shall be allowed adjacent to the riparian corridor provided such projects do not involve any removal of riparian habitat or diversion of non-flood water flows upon which the habitat is dependent provided there are no less environmentally damaging feasible alternatives and/or public health, safety, and welfare or protection of the lagoon is found to be a mutually exclusive higher priority.

[...]

The above environmentally sensitive areas shall be protected from any significant disruptive impacts..... For the environmentally sensitive areas of Green Valley, recordation of an open space easement over the riparian corridor, and recordation of open space deed restrictions over the riparian buffer area and steep slope areas constrained from development shall be required as conditions of development at the time of review of the required Master Plan for the area under the coastal development permit process.

In addition, the Green Valley Master Plan contains similar provisions for protection of the site's environmentally sensitive habitat areas. These include requirements to preserve and protect the riparian corridor and natural hillside and provide mitigation for all unavoidable impacts to these areas that include 3:1 for riparian impacts and 4:1 for Southern coastal salt marsh impacts.

As stated previously, the subject site is physically made up of three distinct areas: Encinitas Creek and a substantial riparian corridor make up the eastern portion of the site (approximately 40 acres). The western approximately 122 acre portion of the site is made up of a steep inland hillside that is vegetated with native upland habitat. The middle section of the site is made up of a gently sloping area that has been historically utilized for agricultural purposes.

Approximately 162 acres of the 282.1 acre Green Valley property currently contains environmentally sensitive habitat areas. These areas include natural upland vegetation consisting of Southern maritime chaparral and Diegan coastal sage scrub as well as wetland and riparian habitat consisting of Southern coastal salt marsh and Riparian woodland. The chaparral sage scrub occurs as a large stand on the inland bluff system that makes up the western portion of the site and is contiguous with similar chaparral off-site to the south and west. There is also some sage scrub habitat found in small isolated stands on the property adjacent to El Camino Real. The riparian and wetland habitats are located within an approximately 400 ft. wide corridor that surrounds Encinitas Creek in the eastern portion of the site. In addition, the site also contains some areas of Southern coastal salt marsh adjacent to the riparian corridor.

The proposed development involves grading of approximately 279,000 cubic yards of material to accommodate future commercial and residential development. The grading is proposed to occur within the central portion of the site on flatter and previously disturbed land. No grading or other development is proposed within the inland bluff area and as such, no impacts to the sensitive chaparral habitat or steep slopes will occur, consistent with the certified LCP.

In addition, the proposal includes the widening of El Camino Real and two bridge crossings over Encinitas Creek to gain access to the site that both involve grading and fill of riparian, salt marsh and sage scrub habitat. Although impacts to sensitive habitat from these road improvements will occur, the improvements were reviewed and found acceptable by the Commission in review of the LCP. However, the LCP only permits the two crossings and widening of El Camino Real if impacts to sensitive resources have been minimized to the maximum extent feasible and mitigation for all unavoidable impacts is provided. In the case of the proposed development, the El Camino Real will be widened to add an additional southbound traffic lane, a bike lane and sidewalk and other improvements. The proposed width is consistent with the width provided for in the certified LUP and impacts to sensitive resources are proposed to be mitigated on site with the appropriate ratios called for in the LCP.

Relative to the two road crossings over Encinitas Creek to gain access to the site (Levante Street and Calle Barcelona), impacts to sensitive resources have also been minimized. While the EIR states that elimination of one of the crossings (Levante Street) would significantly reduce impacts to wetlands, documentation has been provided which supports the need for two crossings. Without two crossings, one used primarily for residential access and the other for access into the commercial center, public safety concerns are raised in that fire department response times may be increased above acceptable levels and a secondary emergency access from the site would not be provided. As such, because two crossings are necessary to provide safe access to the site, and the LCP provides for such crossings, they can be found acceptable. However, pursuant to the certified LCP, it must also be found that impacts have been reduced to the maximum extent feasible.

The two crossings include bridge crossings over the creek, which in addition to reducing habitat impacts, allows wildlife movement along the Encinitas Creek corridor to occur unimpeded. The applicant is proposing to utilize a bridge design that was recommended by the Department of Fish and Game as providing the best results for wildlife movement. As such, the Commission finds the road crossings have reduced impacts to sensitive habitat areas to the maximum extent feasible.

The final requirement of the LCP relative to these road improvements is that for all unavoidable impacts, on-site mitigation must be provided. The applicant is proposing mitigation for impacts to riparian habitat at a 3:1 ratio and impacts to salt marsh at a 4:1 ratio, again both consistent with the certified LCP. However, to assure that mitigation measures assure a no net

loss of habitat in both quality and quantity, Special Condition #2 has been proposed. This conditions requires the applican to submit a detailed mitigation program for mitigation of all wetland impacts. In addition, Special Condition #3 has been proposed to require the submittal of a detailed monitoring program to measure the success of the mitigation plan. With a requirement that annual monitoring reports be submitted and remediation measures required if cited performance standards are not met, the Commission can be assured of a successful mitigation program.

The City has required the existing riparian corridor, natural hillside and proposed mitigation area be protected from future development through recordation of open space easements. However, because the Commission is not a party to such easements, to assure no development occurs in these areas in the future, Special Condition #12 has been proposed. This condition requires the applicant to record an open space deed restriction over these areas thereby resticting development in these areas to the minor developments proposed and permitted in this application (trails, sedimentaion basins, etc.).

The applicant has indicated that other permits are being pursued through various state and federal agencies having jurisdiction over this project. Thus, conditions of approval and/or mitigation measures may be required from these agencies. As such, Special Condition #7 has been proposed. This condition requires the applicant to submit copies of any discretionary permits obtained from other state or federal entities. Should any project modifications be required as a result of any of these permits, the applicant is further advised that an amendment to this permit may be necessary to incorporate such mitigation measures into the project.

In summary, while impacts to environmentally sensitive resources will occur, such impacts have been minimized and limited to those uses permitted in the LCP. In addition, full on-site mitigation is proposed. Therefore, given the proposed conditions, the Commmission finds the proposed development is consistent with the resource protection policies of the certified LCP.

4. Agriculture. The proposed developable portions of the subject site (approximately 85 acres) consist of lands which have been previously utilized for agricultural purposes. According to the EIR for the Master Plan, there are no prime agricultural soils on the subject site. Because the proposed development involves the conversion of nonprime agricultural lands to urban development, payment of an agricultural conversion mitigation fee is required pursuant to LCP policies. Specifically, Policy B of the certified LUP and Section A(13), under General Community Development Guidelines of the Green Valley Master Plan state that conversion of non-prime agricultural lands to urban uses shall be consistent with the Coastal Act Section 30171.5, which requires payment of a mitigation fee.

Section 30171.5 of the Coastal Act states:

(a) The amount of the mitigation fee for development on nonprime agricultural lands in the coastal zone of the City of Carlsbad that lie outside of the areas described in subdivision (f) of Section 30170 and

subdivision (b) of Section 30171 shall be determined in the applicable segment of the local coastal program of the City of Carlsbad, but shall not be less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), per acre. All mitigation fees collected under this section shall be deposited in the State Coastal Conservancy Fund.

(b) All mitigation fees collected pursuant to this section are hereby appropriated to, and shall be expended by, the State Coastal Conservancy in the following order of priority:

- (1) Restoration of natural resources and wildlife in Batiquitos Lagoon.
- (2) Development of an interpretive center at Buena Vista Lagoon.
- (3) Provision of access to public beaches in the City of Carlsbad.
- (4) Any other project or activity benefiting natural resources in the coastal zone in the City of Carlsbad that is provided for in the local coastal program of the City of Carlsbad.

(c) Not less than 50 percent of collected and bonded mitigation fees shall be expended for the purpose specified in paragraph (1) of subdivision (b).

(d) Other than to mitigate the agricultural conversion impacts for which they are collected, none of the mitigation fees collected pursuant to this section shall be used for elements of a project which cause the project to be in compliance

Implementation of the proposed project would permanently eliminate approximately 85 acres of land previously used for agriculture and does not include any future agricultural use of the site. As such according to the LCP provisions, a mitigation fee is required to be paid. As such, the applicant has proposed as part of the development, to pay the agricultural mitigation fee to the State Coastal Conservancy. Special Condition #1 has been proposed to memorialize the applicants proposal and require evidence that the mitigation fee has been paid, prior to the issuance of the coastal development permit. Therefore, with payment of the mitigation fee as proposed by the applicant, the Commission finds the proposed development is consistent with the agriculture provisions of the certified LCP.

5. Visual Resources/Recreational Opportunities. Policy F of the certified LUP states that the scenic and visual qualities of the area are of great value to the region. The Green Valley Master Plan also has numerous provisions for the protection of scenic resources that include specific building height and setback requirements for future development, grading restrictions, and the provision of landscaping. In addition, the Green Valley Master Plan has specific requirements for the provision of public pedestrian/bicycle trails within and through the Green Valley site.

The topography of the site is varied, with the interior developable portion of the site being relatively flat and consisting primarily of previously

cultivated agricultural fields adjacent to the densely vegetated riparian woodland corridor that surrounds Encinitas Creek along the eastern boundary of the site. The westernmost portion of the site consists of steep natural hillsides that extend as high as 370 feet MSL near the southwestern boundary. La Costa Avenue separates the project site from Batiquitos Lagoon to the north while El Camino Real forms the eastern boundary of the site.

Although portions of the site are visible from El Camino Real and La Costa Avenue, the existing substantial riparian corridor provides a natural screen from views from these roads. The steep natural hillside that makes up the western portion of the site is highly visible from these roadways. However, no grading or disturbance of these hillsides is proposed. While substantial grading is proposed with this development, the grading, in and of itself, will not be highly visible. In addition, the project does propose to widen the riparian corridor to provide mitigation for impacts to sensitive habitat areas (as discussed in a previous section) as well as provide a 50 foot wide landscaped buffer that will provide additional site screening. Additionally, at the time when residential and commercial development is proposed, it will be required to meet height and setback standards provided for in the master plan as well as provide additional landscape screening.

However, as stated above, the subject development does propose some landscape improvements. These include landscaping along the two bridge crossings as well as within the 50 ft. buffer area. To ensure that the proposed landscape improvements are compatible with and avoid species that could invade the adjacent habitat area, Special Condition #9 has been proposed. This condition requires the submittal of final landscape plans for the development that have been developed in consultation with the Department of Fish and Game. Given the proposed condition, the Commission finds the proposed development is consistent with the visual resource provisions of the certified LCP.

Relative to recreational opportunities, the proposed development includes the provision of a public trail system that will run from the southern portion of the site (in the upper half of the riparian corridor buffer) and end at La Costa Avenue to the north (ref. Exhibit #3 attached). The proposed development also includes the provision of trailhead parking (six parking spaces) and signage directing the public to the trails. The City has required the applicant to dedicate the trail (easement) to the City as part of its approval of the development to assure it will remain a public trail in perpetuity. Special Condition #10 requires the applicant to submit, prior to the issuance of the permit, evidence that such a dedication has occurred.

The applicant has also proposed that the trail system be constructed at the time of site development, consistent with the requirements of the LCP. In addition, if there is any delay in the City accepting the dedication of the trail easement, the applicant has also proposed to open the trail to the public prior to the occupancy of any structures on the site. Special Condition #11 has been proposed to reiterate this proposal.

Given that public trail improvements are included with the proposed development, include dedication to the City of the trails, construction of the

improvements and provisions that they be opened and available for use by the public prior to the occupancy of structures, the Commission finds the proposed development is consistent with the recreational provisions of the certified LCP.

6. Drainage and Erosion Control. Policy D of the certified LUP contains specific language pertaining to drainage and erosion control for the site that include requirements for drainage and runoff control plans and restrictions on grading during the rainy season. In addition, the Green Valley Master Plan contains similar provisions including detailed requirements for the location and design of desiltation/pollution control basins.

The 282.1 acre subject site is located at the southwest corner of La Costa Avenue and El Camino Real in the City of Carlsbad. Along the eastern boundary of the site is Encinitas Creek. The creek, which enters the site from the south and ultimately drains to Batiquitos Lagoon to the north, is surrounded by an approximately 400 ft. wide riparian corridor. The majority of the site drainage is from west to east into Encinitas Creek and then to Batiquitos Lagoon to the north. Due to a development in the area surrounding it and other factors, Batiquitos Lagoon has suffered extensive siltation impacts, reducing the biological productivity of the lagoon.

As stated above, to address such concerns, the LCP policies do not permit grading to occur during the rainy season (October 1 to April 1 of any year) in areas that naturally drain to lagoons or other environmentally sensitive habitat areas. The reason for such a restriction is because grading that occurs on lots adjacent to wetlands result in runoff from the unprotected soils causing downstream sedimentation. In this particular case, the proposed development involves approximately 729,000 cubic yards of grading. As such, there exists a very high potential for increased erosion at the site, that could adversely affect the existing riparian corridor on-site and Batiquitos Lagoon off-site.

As such, Special Condition #4 has been proposed. This condition requires the applicant to submit grading and erosion control plans for the project that limit grading to the non-rainy season and require the installation of all temporary and permanent erosion control measures prior to the onset of the rainy season. In addition, to further protect downstream resources from impacts of the development, and assure that flow velocities resulting from the project do not increase over those of the land in an undeveloped state, Special Condition #5 has been proposed. This condition requires the submittal of runoff control plans, which document that no increase in peak runoff rate from the developed site would occur as a result of a ten-year frequency storm over a six-hour duration (10 year, 6 hour rainstorm). Such a plan shall document that runoff control shall be accomplished by on-site detention/desilting basins and that energy dissipating measures be constructed at the terminus of all outflow drains.

In summary, as conditioned, the proposed development provides adequate protection of downstream resources from runoff and sedimentation. Therefore, the Commission finds the proposed development, as conditioned, consistent with all applicable policies and standards of the certified East Batiquitos Lagoon/Hunt Properties LCP segment.

7. Local Coastal Planning. Sections 30170(f) and 30171 of the Coastal Act were special legislative amendments which required the Commission to adopt and implement a Local Coastal Program for portions of the City of Carlsbad and County islands prior to specific statutory dates. The subject property is located within the area governed by the East Batiquitos Lagoon/Hunt Properties LCP segment.

The East Batiquitos Lagoon/Hunt Properties Land Use Plan segment was approved, with suggested modifications, by the Commission in 1988. Subsequently, the suggested modifications were accepted. The Green Valley Master Plan has been submitted for Commission review as the Implementation Plan for LUP segment. However, the LCP Amendment to adopt the Green Valley Master Plan is to be reviewed by the Commission at the same hearing as this project. As the LCP is the standard of review for this development, Special Condition #14 has been proposed to notify the applicant that approval of this development is conditioned upon certification of the Green Valley Master Plan as the implementing document for the East Batiquitos Lagoon/Hunt Properties LUP.

The subject site is zoned Planned Community, which requires development to be reviewed subject to a master plan that includes unique regulations which are responsive to the character of a particular property. The proposed project is consistent with the Green Valley Master Plan which has been proposed as the implementation plan for the site. The site is planned for Community Commercial, Office, Medium-High Density Residential and Open Space. While no office uses are proposed in the master plan, the proposed project, which proposes grading and site improvements to accommodate commercial and residential development, is consistent with this designation.

The proposal includes open space lots for the steep natural hillsides and riparian corridor of Encinitas Creek as required by the LCP. With the attached special condition regarding the preservation of agriculture, preservation of public access, protection of environmentally sensitive habitat areas, etc., the Commission finds the subject subdivision and grading will be consistent with the all applicable policies of the certified City of Carlsbad East Batiquitos Lagoon/Hunt Properties LCP segment

8. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits 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 discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the habitat preservation, agricultural and erosion policies of the Coastal Act as well as with the East Batiquitos Lagoon/Hunt Properties segment of the City's LCP. Mitigation measures will reduce all impacts to a

less than significant level. There are no feasible alternatives or additional mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, 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.

(6108R)

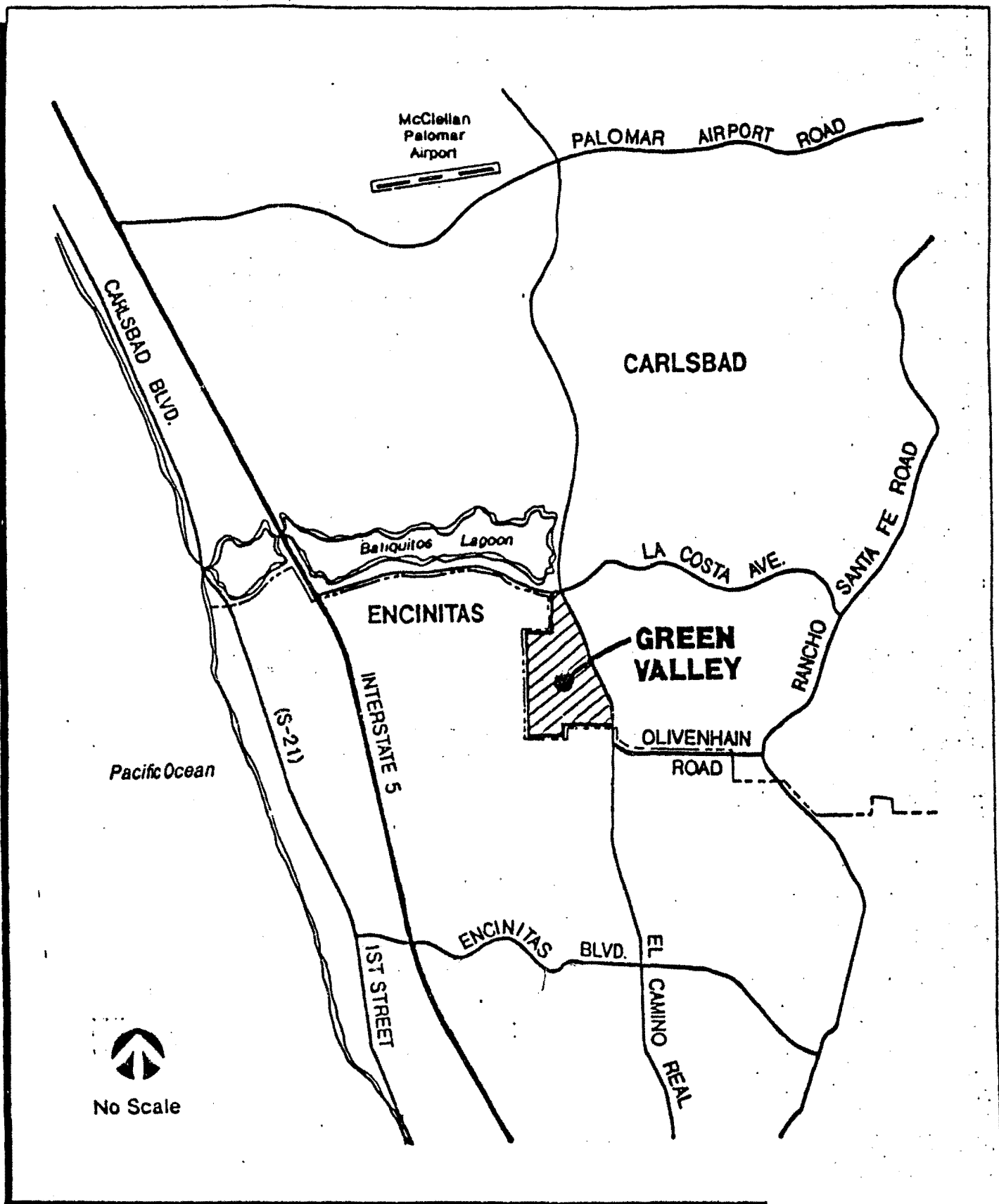


EXHIBIT NO. 1
APPLICATION NO. 6-96-18
VICINITY MAP
California Coastal Commission

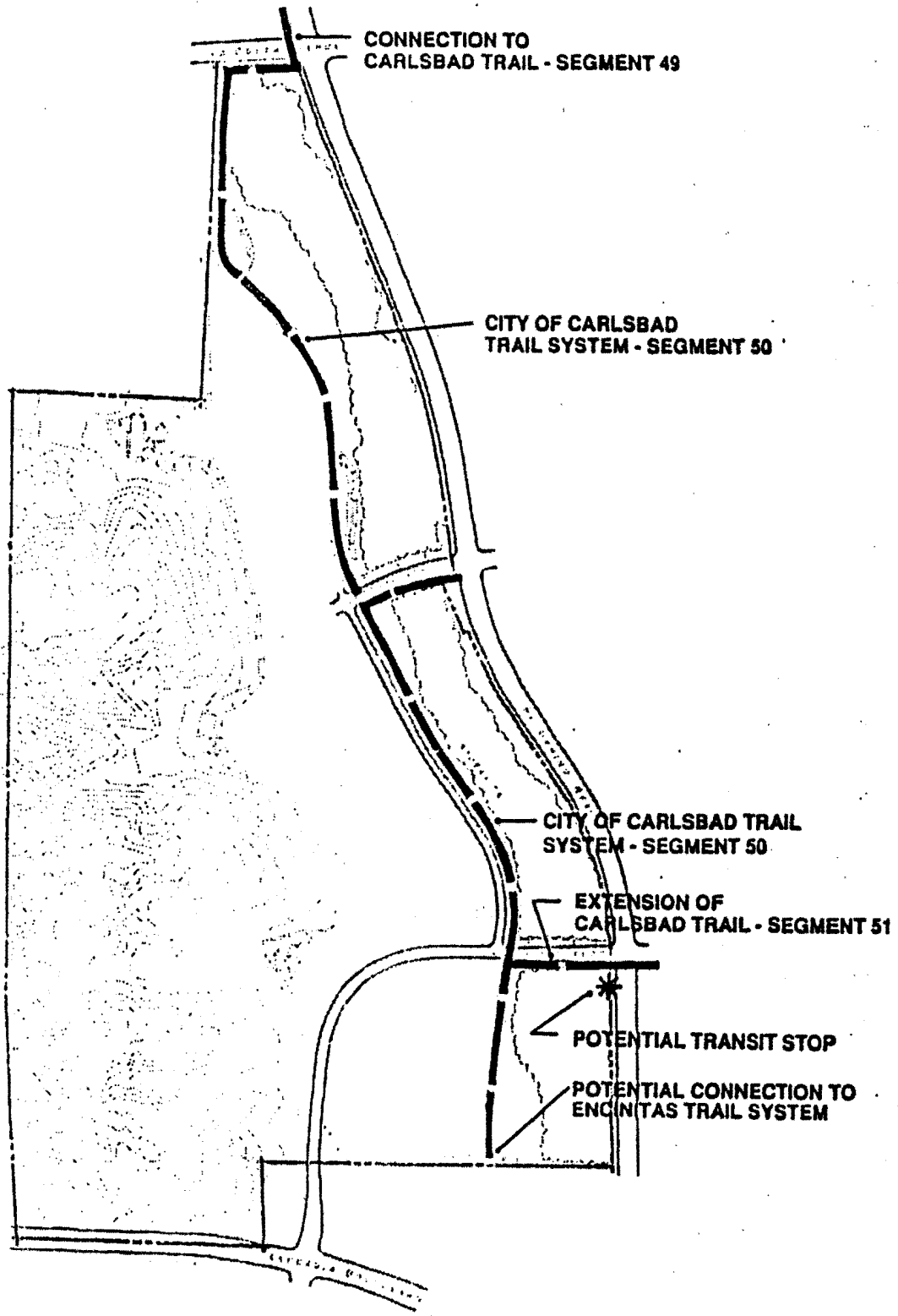


EXHIBIT NO. 3
APPLICATION NO. 6-96-18
Trail Plan
California Coastal Commission

BATIQUITOS LAGOON

La COSTA Ave

OPEN SPACE & 'RED BARN'

EL CAMINO REAL

Bridge crossing

RIPARIAN WOODLAND - OPEN SPACE

Future SINGLE FAMILY RESIDENTIAL

CITY OF ENCHITUS

UPLAND BLUFFS - OPEN SPACE

Bridge crossing

Future COMMUNITY RETAIL



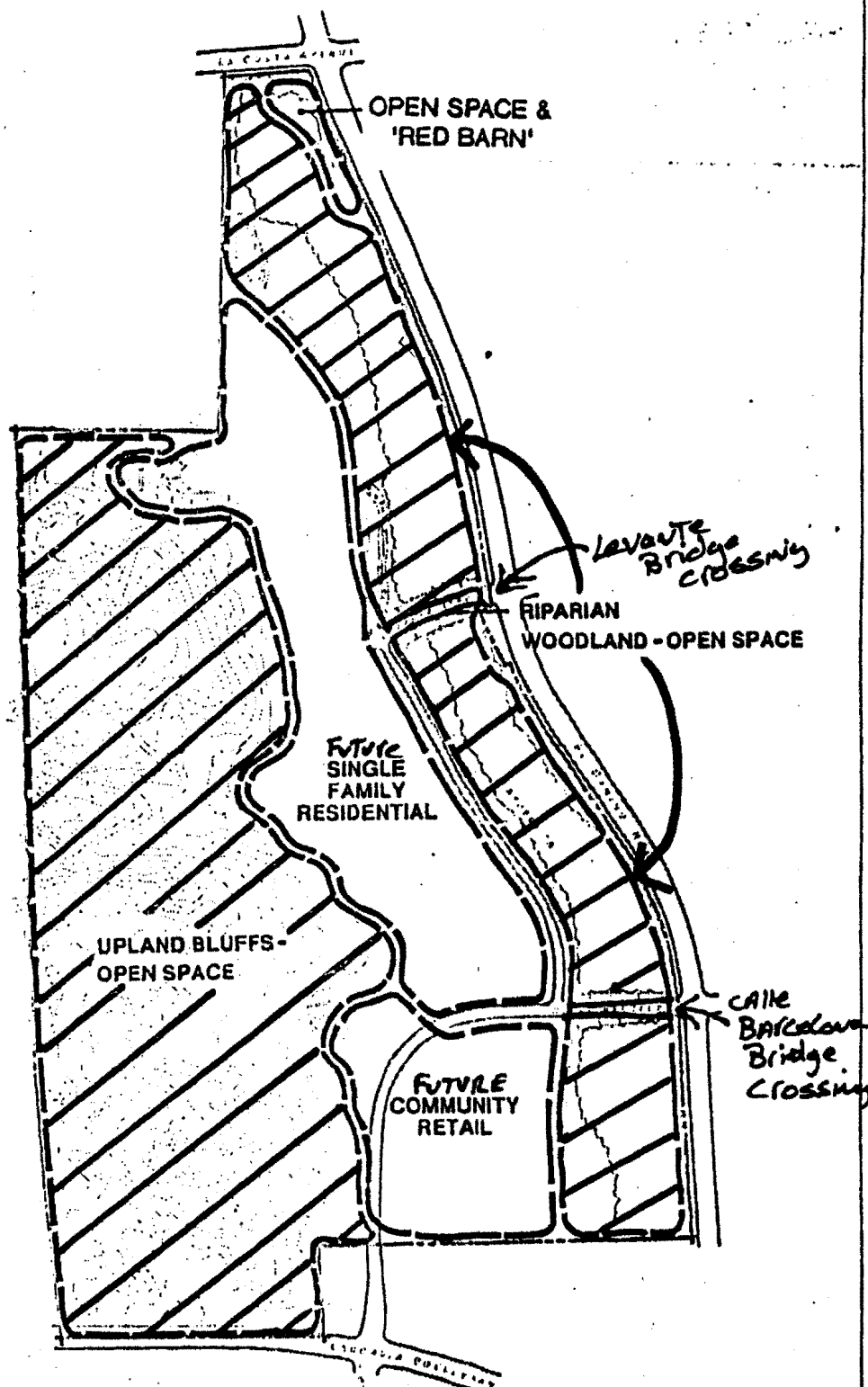
EXHIBIT NO. 4

APPLICATION NO.

6-96-18

Site Plan

California Coastal Commission



- OPEN SPACE
Deed Restriction Area

EXHIBIT NO. 5
APPLICATION NO. 6-96-18
open space Deed Restriction
California Coastal Commission

