

CALIFORNIA COASTAL COMMISSION

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Staff: LJM-SD
Staff Report: 4/18/96
Hearing Date: 5/7-10/96



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STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approved with Conditions

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

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: Construction of a 2,000 sq. ft. retail structure on an approximately 9 acre site containing an existing approximately 60,000 sq. ft. commercial center with site grading to include approximately 1,800 cubic yards of fill and direct impact to approximately 4,600 sq. ft. of wetlands.

APPELLANTS: San Elijo Lagoon Conservancy/Gregory Dennis

STAFF NOTES:

On April 11, 1996, the Commission found that substantial issue exists with respect to the grounds on which the subject appeal was filed. The subject report is the staff recommendation on the de novo hearing.

SUMMARY OF STAFF'S PRELIMINARY RECOMMENDATION:

Staff is recommending that the proposed project be denied because it is inconsistent with several provisions of the City's LCP pertaining to floodplain development and protection of wetlands in that the proposed 2,000 sq. ft. retail structure and approximately 1,800 cubic yards of fill are not permitted uses within a wetland or 100-year floodplain, do not constitute the least environmentally damaging alternative, are not necessary to achieve minimal reasonable use of the site and are not necessary to protect existing structures. In addition, there are other development alternatives available to increase the square footage of the existing commercial center that do not include floodplain fill or fill of wetlands.

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.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Denial.

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

II. FINDINGS AND DECLARATIONS.

1. Project Description/History. The proposed development involves the construction of a 2,000 sq. ft. retail structure on an approximately 9 acre site that contains an existing approximately 60,000 sq. ft. commercial center. The structure is proposed to be located within the 100-year floodplain of Escondido Creek in an undeveloped area of the commercial center site which contains landscaping (bermuda grass and other non-native plant species) and wetlands (cismontane alkali marsh). To prepare the site for development to accommodate the structure, approximately 1,800 cubic yards of fill is proposed. Based on a biological study of the site prepared for the Army Corps of Engineers, the project will require fill of approximately 4,600 sq. ft. of wetlands (cismontane alkali marsh).

The project site is located on the south side of Rancho Santa Fe Road, just east of Manchester Avenue in the City of Encinitas. 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 approximately 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 from flooding and to assume the liability from this hazard. The conditions were satisfied and the permit was released.

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 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. The applicant contends that construction of the bridge and its approach, which raised the road elevation adjacent to the subject site, has subjected the site to damage from flooding and the proposed fill and 2,000 sq. ft. building are necessary to protect the existing commercial center from flooding caused by the bridge construction.

2. Floodplain Development. Because of the potential for adverse impacts on both down- and upstream 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 the 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.

As stated, the proposed 2,000 sq. ft. retail structure is to occur on an approximately 9 acre site that contains an existing approximately 60,000 sq. ft. commercial center. The structure is proposed in the eastern-most portion of the site, which currently is undeveloped containing landscape improvements (lawn, trees and irrigation) and an area identified as wetlands. According to County of San Diego Floodplain Maps and exhibits provided by the applicant, the proposed fill to accommodate the 2,000 sq. ft. retail structure 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 site subject 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 project construction has "damaged" his property by causing some retention of storm water to occur in a low spot within the landscaped/wetland area of the site. The applicant also contends that the proposed project is necessary to protect the existing commercial center from increased flood impacts caused by the construction of the bridge.

While sheetflow drainage from the fill slope associated with the bridge may incrementally add to the overall amount of storm water on the subject site, this in and of itself, has not increased the flood potential for the site. In fact, according to an exhibit provided by the applicant, the 100-year

floodplain area has been somewhat reduced on the subject site since construction of the bridge and the only portion of the site that is subject to 100-year inundation (before and after the bridge project) is a small portion of the eastern parking lot for the existing commercial center and the landscaped/wetland area where the proposed retail structure is proposed.

The deposition of fill within the 100-year floodplain can constrict the floodplain and limit the ability of the geography to handle flood waters, which can then lead to potential flood and erosion impacts both down- and upstream. As such, the above-cited LCP provisions clearly limit development within the 100-year floodplain. The LCP does allow for some exceptions to this restriction for, among other things, flood control projects to protect existing structures. The applicant contends that it is this exception that authorizes the proposed development as consistent with the City's LCP. Thus, the applicant does not assert that the fill and construction of a retail structure is a use consistent with periodic flooding. Instead, the applicant asserts that fill and construction of the retail structure is necessary to protect other existing structures from flooding caused by the construction of the adjacent La Bajada Bridge.

However, in this particular case, the Commission finds that the proposed fill is not needed to protect existing structures, but only to create a building pad to accommodate the proposed retail structure. Based on the exhibits contained within the file, no permanent existing structures or buildings are subject to 100-year flood inundation. A flood potential for the portion of the parking lot and landscape improvements has always existed on the eastern-most portion of the site. However, the landscape and parking area were permitted by the Commission in this location when it approved construction of the existing retail center as uses consistent with periodic flooding. Thus, they do not need to be protected and the applicant was required to acknowledge such as a condition of the commercial center permit in 1985. As such, the proposed development is not a flood control project necessary to protect existing structures.

In addition, there are engineering solutions available to address the applicant's concerns with the increased potential for ponding on the site that do not include fill of the floodplain. In fact, in talking with the County Engineering staff, it was stated that a means to address the site drainage concerns raised by the applicant has already been installed. On existing right-of-way, at the base of the fill slope for the bridge, the County Department of Public Works has installed a small drainage swale to allow the drainage from the applicant's site to flow southeast to Escondido Creek. As such, according to the County Engineering staff, ponding on the applicants site is no longer a concern.

As noted above, the LCP states that only development consistent with periodic flooding shall be permitted within the 100-year floodplain, such as stables, plant nurseries, some limited parking, open space and some agricultural uses. The applicant does not claim that the proposed 2,000 sq. ft. retail structure is consistent with periodic flooding. Clearly, the retail structure is not a use consistent with periodic flooding. In addition, the proposed structure is

not similar to the type of uses the LCP cites as examples of development that are consistent with periodic flooding. Each of these uses allows the land to continue to contain and absorb flood waters. The proposed fill and construction of the retail structure would not allow this to occur, but would actually reduce the floodplain area in this location which could, in fact, result in potential flooding and damage of other up- and downstream properties. Therefore, the fill and construction of the 2,000 sq. ft. retail structure is not consistent with periodic flooding.

The City's LCP Policy cited above also states that exceptions to the floodplain limitations, to allow "minimal private development" may be made "only upon a finding that strict application thereof would preclude minimal reasonable use of the property...." In the case of the subject site, the applicant has already obtained approval for and constructed an approximately 60,000 sq. ft. commercial retail center, parking and landscaping. As noted in a previous section of this report, in review of the original approval of grading for the existing commercial center, the Commission required the applicant to revise the project to eliminate all grading within the 100-year floodplain. As such, as early as 1984, the applicant was aware of the constraints of the site and, has already attained substantial use of the site through construction of the existing 60,000 sq. ft. retail center. As such, an exception to the LCP floodplain restrictions to allow minimal reasonable use of the site is not a valid argument.

The proposed project also raises Implementation Plan inconsistencies. Specifically, the City's Floodplain Ordinance only permits permanent structures and fill within the 100-year floodplain if: (1) the structure has been found to be consistent with the LUP, (2) the design of the development incorporates the findings and recommendations of a site specific hydrologic study and, (3) the development has been found to be capable of withstanding periodic flooding so as to not require the construction of flood protective works. In this particular case, even if the proposed project could be found to be consistent with the LUP, the other two requirements of the implementing ordinance have not been satisfied. Specifically, in review of the City's file, no site specific hydrologic study was included for the proposed project. 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 project to find that the project would not adversely affect up or downstream areas. However, in talking with the County Engineering staff, it was stated that the La Bajada Bridge project hydrologic analysis did not consider fill of the subject site as proposed with this project and its effects on up and downstream resources. As such, the project is inconsistent with the City's Implementation Plan in that a site specific hydrological analysis was not prepared for the proposed development to determine its effects, if any, on both up- and downstream areas and resources.

In addition, the Floodplain Ordinance also only allows floodplain development when existing environmentally sensitive areas will not be significantly adversely affected. The area of the subject site where the proposed development is to occur has been delineated as wetlands and therefore, is

considered an environmentally sensitive area. The subject area, although currently landscaped, has been determined to be wetlands pursuant to the definition of such utilized by the Army Corps of Engineers, and are also consistent with the definition of wetlands contained in the Coastal Act. In the case of the subject development, to accommodate the 2,000 sq. ft. retail center, approximately 1,800 cubic yards of fill is required which will permanently fill approximately 4,600 sq. ft. of wetlands (cismontane alkali marsh). As such, the proposed project will adversely affect an environmentally sensitive area, inconsistent with the City's LCP pertaining to floodplain development.

In summary, the proposed development is inconsistent with the City's LCP pertaining to floodplain development in that it is not a permitted use within the 100-year floodplain, is not necessary to protect existing structures, includes substantial grading beyond the minimal necessary to support the project, the design does not incorporate the findings of a site specific hydrologic study and, the project adversely impacts an environmentally sensitive area. For these reasons, the Commission finds that the proposed 2,000 sq. ft. retail structure and 1,800 cubic yards of fill is inconsistent with the provisions of the City's LCP pertaining to floodplain development and therefore, must be denied.

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.

Based on review of the wetlands delineation prepared for the Army Corps of Engineers (ACOE), Commission staff has determined that wetlands, as defined in the LCP (cismontane alkali marsh), are present on the site and that the proposed 2,000 sq. ft. retail structure and approximately 1,800 cubic yards of grading to accommodate it, would permanently fill approximately 4,600 sq. ft. of these wetlands. While the vegetation area that will be impacted by the proposed development consists mostly of non-native grass species that are irrigated and mowed as a lawn on a regular basis, the area has been delineated as wetlands. In other words, although wetland plant species are not prevalent, the wetland delineation (for the ACOE) did find the site to have the proper hydrology and soils necessary to classify it as a wetland. In addition, this area is also consistent with the definition of wetlands contained in both the City's LCP and the Coastal Act. Additionally, aside from having value as habitat, wetlands within the 100-year floodplain are useful in other ways. They can also provide limited flood protection (in that the vegetation can help to reduce flood velocities) as well as help to control sedimentation. As such, although the wetlands impacted by the project may be of a low function and value currently (according to the biologist who prepared

the mitigation plan for the applicant), they still provide an important function. In addition, neither Section 30233 of the Coastal Act nor the City's LCP differentiate between low quality and high quality wetlands; all wetlands are provided the same protection.

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 proposed 2,000 sq. ft. retail structure and 1,800 cubic yards of fill do not qualify as any of the permitted uses within a wetland pursuant to the City's LCP. The City's findings for approval of the project state that the retail project is considered an incidental public service project because it serves to protect existing development (the existing 60,000 sq. ft. retail center) from 100-year flood inundation caused by the recently completed La Bajada Bridge project (ref. CDP #6-93-155/County of San Diego) which raised a portion of the road adjacent to the subject site. The City's findings state that the bridge project has increased the potential for 100-year flood impacts on the site and as such, the retail structure is necessary to protect the existing center from the increased potential for flooding.

However, as discussed in the previous section, the 100-year floodplain area on the site has actually been reduced on the subject site since construction of the bridge. In addition, the only portion of the site that is subject to 100-year inundation (before and after the bridge project) is a small portion of the eastern parking lot for the existing commercial center and the landscaped/wetland area where the proposed retail structure is proposed. Based on the exhibits contained within the file, no permanent existing structures or buildings would be subject to 100-year flood inundation.

Additionally, a flood hazard potential has always existed on the eastern most portion of the site and as such, the Commission in approving the construction of the retail center in 1984/85, required the applicant revise the project to eliminate grading within the floodplain and to record a waiver of liability acknowledging the site was subject to flood hazard. As noted previously, filling of the 100-year floodplain can constrict the floodplain and limit the ability of the land to absorb and contain flood waters. This can lead to potential flooding and erosion impacts to areas both up- and downstream. As such, the City's finding that the proposed retail structure can be considered an incidental public service project because it provides flood protection to the existing commercial center is not based on fact and, if approved, would be an adverse precedent for development within a wetland and floodplain.

Even if the proposed retail structure was a permitted use within a wetland, the proposed project is not the least environmentally damaging alternative, as required by LCP policies and ordinances. Specifically, the proposed project will fill approximately 4,600 sq. ft. of wetlands to accommodate the retail structure. The proposed project is to be constructed on the eastern-most portion of a 9 acre site which currently contains an existing approximately 60,000 sq. ft. retail center, parking, landscape improvements and wetlands. As noted previously, the proposed 2,000 sq. ft. retail structure is not required to allow minimal reasonable use of the site and the area where the

retail structure is proposed to be constructed is within the 100-year floodplain. This area of the site was specifically excluded from development by the Commission in its original approval for construction of the center because of its potential for environmental impacts. The same potential environmental impacts still exist.

There are other site development alternatives available to add square footage to the existing center that do not include floodplain fill nor fill of wetlands. These include the no project alternative which would leave the site as it currently exists. Another alternative would be to construct the proposed 2,000 sq. ft. retail structure on a different area of the site, such as the existing parking lot (outside of the 100-year floodplain). This would be feasible, even if it involved the elimination of some parking spaces because the applicant has submitted a parking analysis for the center which documents that the center currently contains more parking than is required under current LCP standards. Specifically, based on the parking analysis submitted by the applicant, the existing commercial center currently has 52 parking spaces more than is required by current LCP standards. Finally, another feasible alternative would be to construct a second-story addition to one of the existing structures on the site, thereby increasing the center square footage, while avoiding wetland and floodplain fill. As such, the proposed development is not consistent with the City's LCP in that it is not the least environmentally damaging alternative, as impacts to wetlands can be avoided through other site development alternatives.

In addition, even if the proposed development could be found a permitted use within wetlands, the City's LCP requires mitigation for wetland impacts to occur through creation of new wetlands of the same type, at a ratio determined by regulatory agencies with authority over wetland resources. The ratio must be greater than one acre provided for each acre impacted so as to result in a net gain. Although the City, in their approval of the project, required mitigation for wetland impacts to occur at a ratio of 1.5:1, the proposed mitigation plan for the project only includes replacement at a 1:1 ratio. As such, the proposed mitigation is inconsistent with LCP policies related to required mitigation.

In summary, the proposed development is inconsistent with several provisions of the certified LCP in that the proposed retail structure and fill is not a permitted use within a wetland, is not the least environmentally damaging alternative and, proposed mitigation for impacts are not at a ratio of greater than 1:1. In addition, development in this same area was eliminated in a prior Commission issued coastal development permit. Although according the applicant's biologist the wetlands affected by the proposed development are not of high quality and currently function as a landscaped area, they are still wetlands and are afforded protection in the City's LCP. Thus, the Commission finds that the proposed development, which will fill approximately 4,600 sq. ft. of wetlands, is inconsistent with the City of Encinitas certified Local Coastal Program related to protection of wetlands and therefore, must be denied.

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, 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 recreational 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 2,000 sq. ft. retail center 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 cannot be made.

The City of Encinitas received approval of its LCP in November of 1994 and began issuing coastal development permits on May 15, 1995. 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. Because the subject development is located within 100 feet of a wetlands, it falls within the Commission's appeals 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 subject report is for the de novo hearing.

The subject site, is zoned and planned for general commercial and rural residential development in the City's certified LCP. The subject 2,000 sq. ft. retail structure is proposed on a portion of the site designated for general commercial development and 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 wetland. The subject site has been identified to be within the 100-year floodplain and impact wetlands.

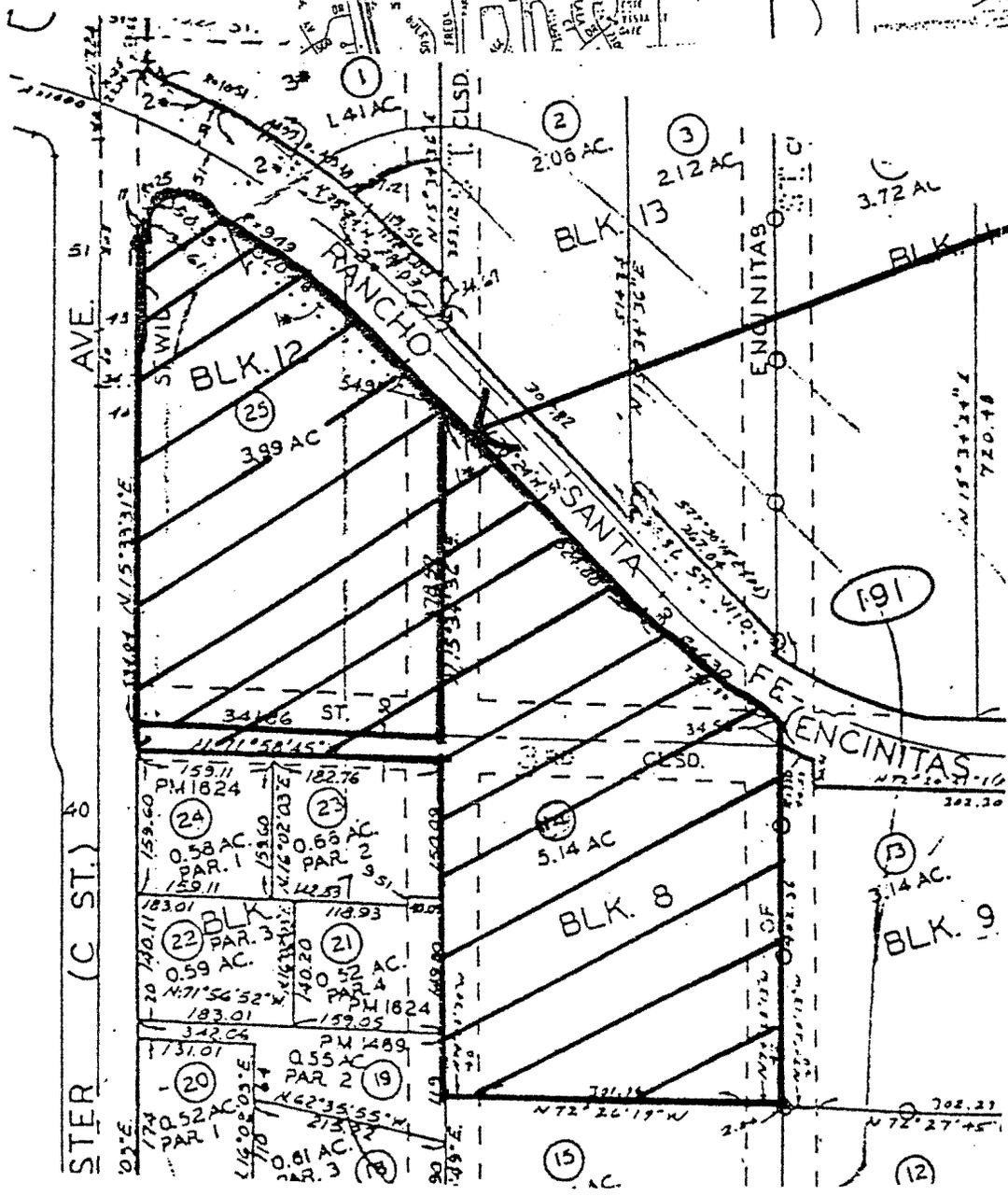
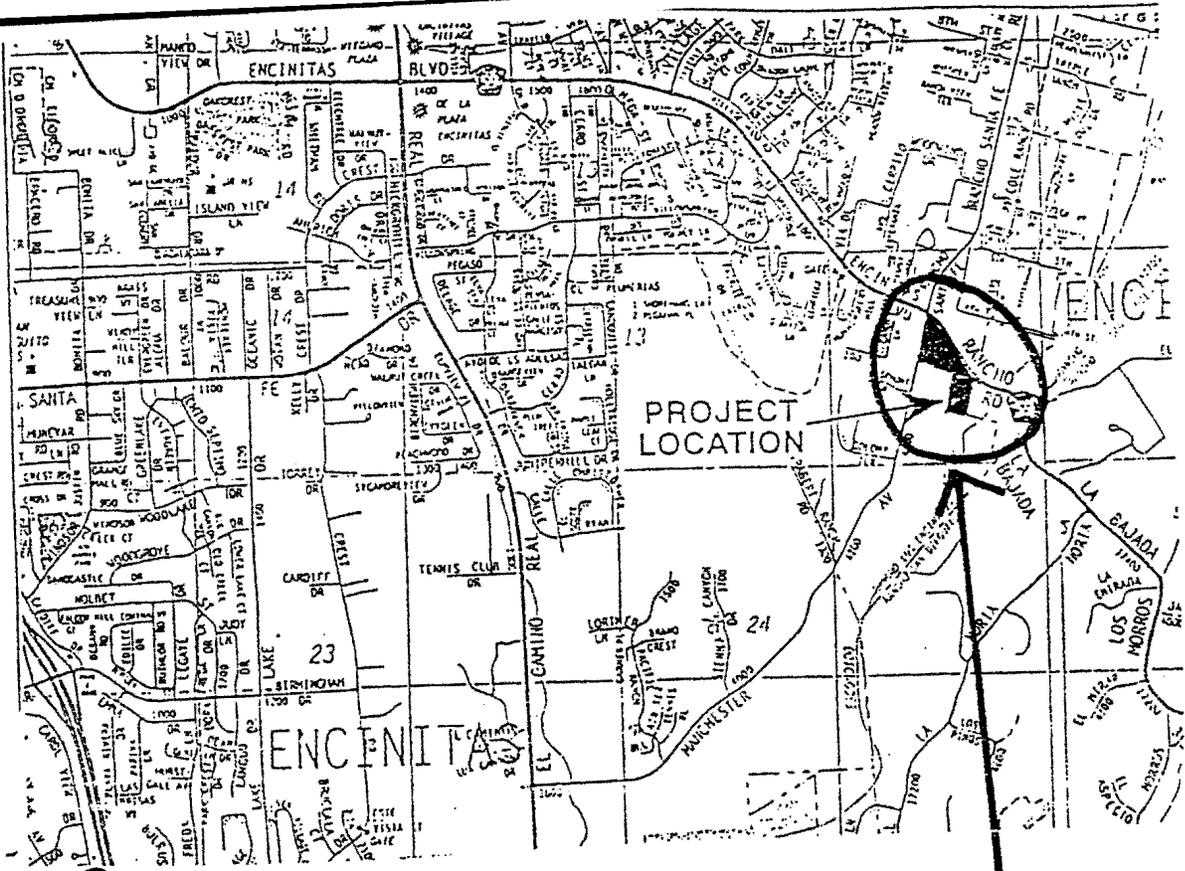
As noted in the previous sections of this report, the proposed development which includes both fill of the 100-year floodplain and wetlands is inconsistent with several policies of the City's certified LUP as well as with the provisions of the Floodplain Overlay Zone. The proposed 2,000 sq. ft. retail structure is not a permitted use with the 100-year floodplain or wetlands, is not necessary to protect existing development and is not the least environmentally damaging alternative. In addition, if fill of this wetland area were to be permitted, it could set an adverse precedent for fill of other wetland areas within the City, which cumulatively, could lead to loss of important habitat for any of the threatened and endangered species that are found in and around Escondido Creek and San Elijo Lagoon. As such, the Commission finds the proposed development must be denied.

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 previously stated, the proposed development will result in impacts to coastal resources in the form of adverse impacts to wetlands and inappropriate fill within the 100-year floodplain. There are feasible alternatives available which would substantially lessen any significant adverse impacts which the proposal will have on the environment.

These feasible alternatives include the no project alternative which would allow the existing commercial center to operate as it always has, with some parking, landscaping and sidewalks in the eastern-most portion of the site, subject to possible inundation in a 100-year storm event. In addition, there are other development alternatives available to add square footage to the center that do not include fill within the 100-year floodplain or impacts to wetlands. Such alternatives could include construction of the proposed 2,000 sq. ft. retail building within the existing parking lot (outside the 100-year floodplain). Such a proposal would eliminate some existing parking, however, according to a parking analysis submitted by the applicant, the center currently provides more parking than is required by current LCP standards. In addition, 2,000 sq. ft. of retail area could also potentially be added as an addition to one of the existing single-story buildings on the site.

As currently proposed, the subject development, which proposes fill within the 100-year floodplain and impacts to wetlands is not the least environmentally damaging alternative and cannot be found consistent with the requirements of the City of Encinitas LCP, nor with the requirements of the Coastal Act to conform to CEQA. Thus, the proposed project must be denied.



Subject Site



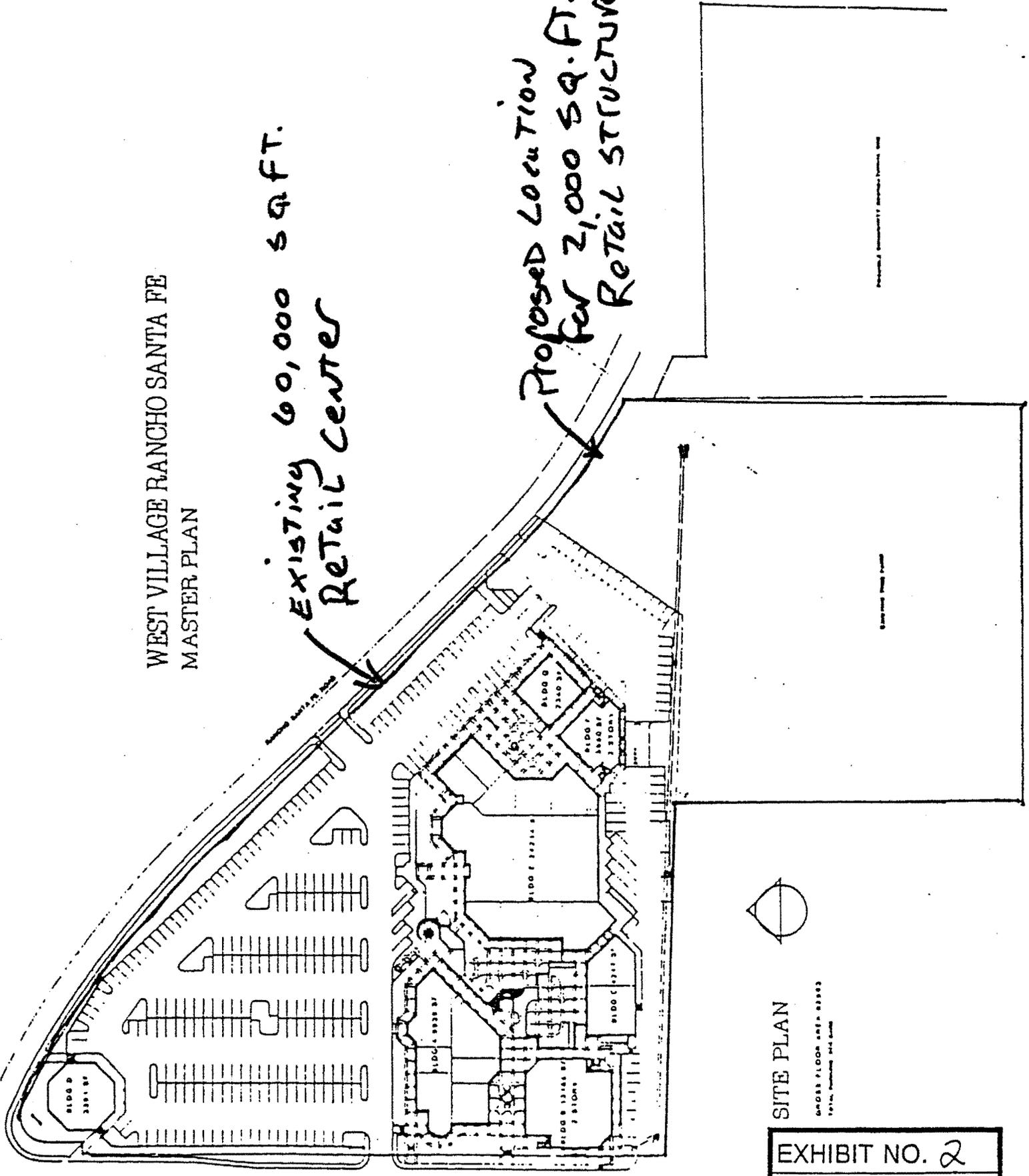
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EXHIBIT NO. 1
 APPLICATION NO.
 116-ENC-96-34
 LOCATION MAP
 California Coastal Commission

WEST VILLAGE RANCHO SANTA FE
MASTER PLAN

Existing 60,000 sq. ft.
Retail Center

Proposed Location
for 21,000 sq. ft.
Retail Structure



SITE PLAN

SCALE: 1" = 100' (SEE SHEET AG-ENC-96-34)
DATE: 10/19/96

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

California Coastal Commission
SAN DIEGO COAST DISTRICT
6154 Mission Gorge 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 dua), 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. 4
APPLICATION NO. AG-ENC-96-34
1984 Permit for Grading
 California Coastal Commission

1 of 7

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

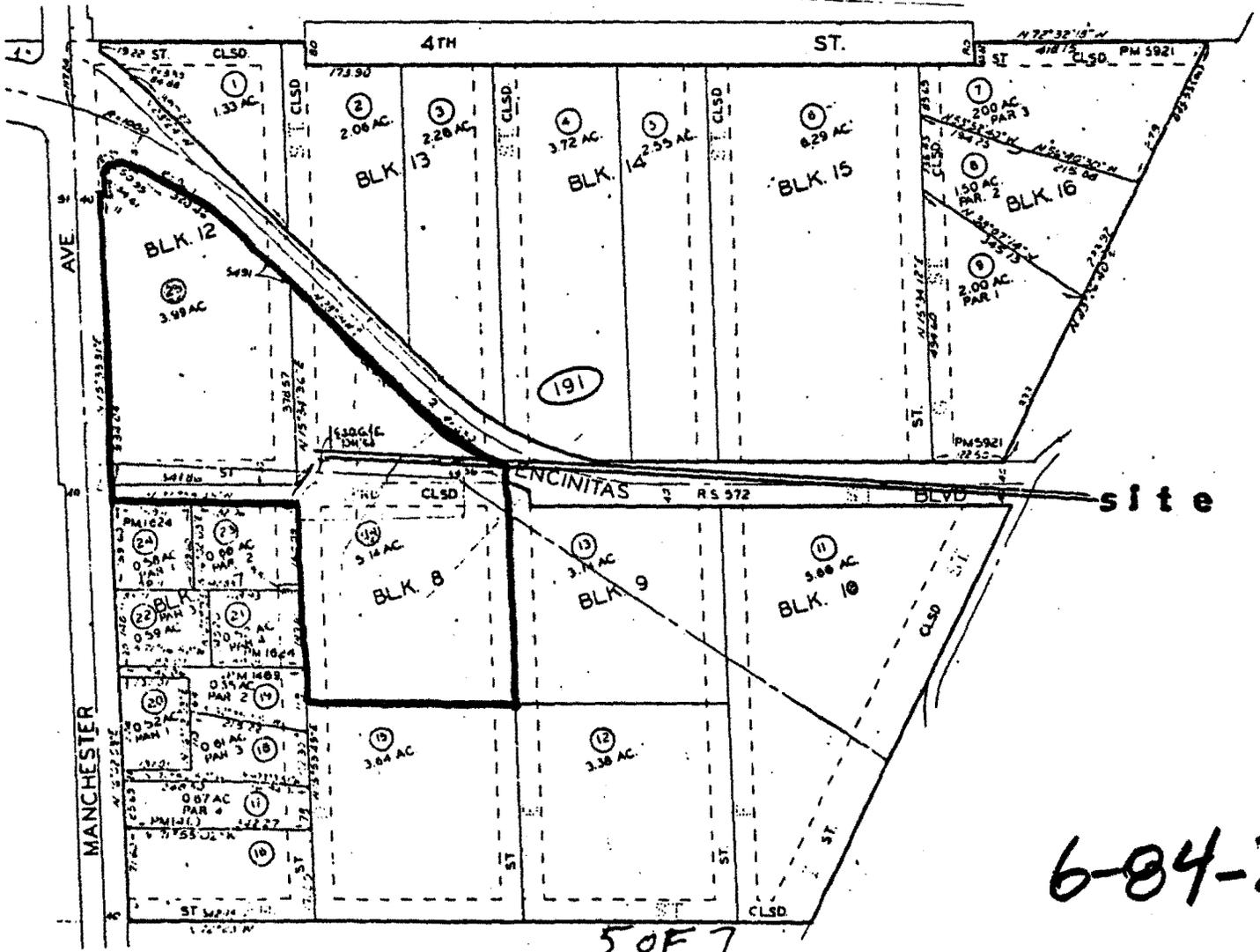
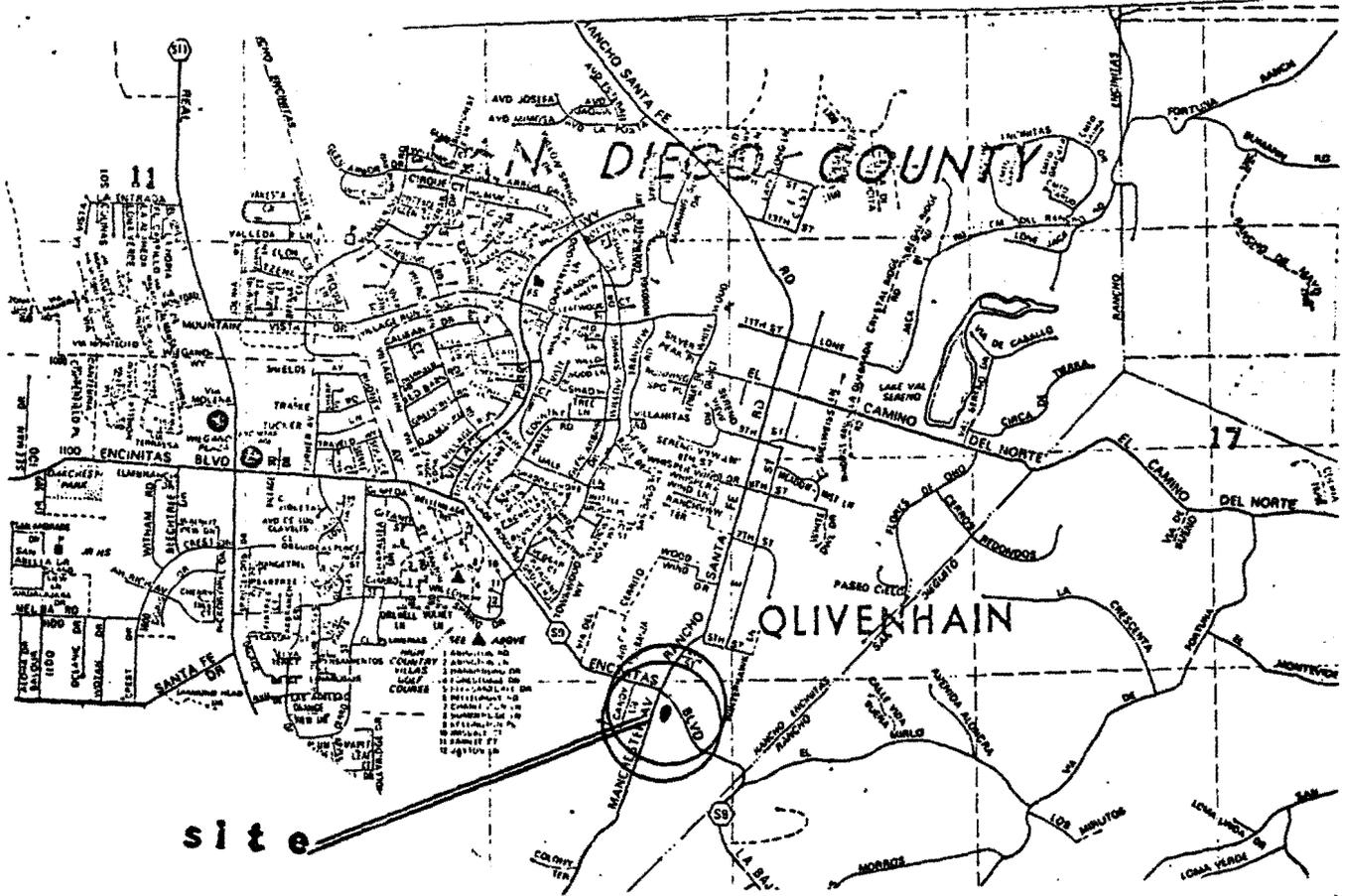
and by encouraging public acquisition of privately held portions of the lagoons and surrounding recreation-suitable areas."

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

CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST DISTRICT
1333 CAMINO DEL RIO SOUTH, SUITE 123
SAN DIEGO, CA 92108-3520
(619) 297-9740

Filed: August 12, 1985
49th Day: September 30, 1985
180th Day: February 9, 1986
Staff: PW-SD-C
Staff Report: September 10, 1985
Hearing Date: September 25-27, 1985



STAFF REPORT: CONSENT CALENDAR

hand as RC

Application No.: 6-85-418

Applicant: Peter T. Fletcher

Description: Construction of neighborhood commercial center containing approximately 62,250 gross square feet of space in seven one- and two-story buildings.

Lot Area	9 acres (392,040 sq. ft.)
Building Coverage	53,617 sq. ft. (14%)
Pavement Coverage	116,444 sq. ft. (30%)
Landscape Coverage	50,946 sq. ft. (13%)
Unimproved Area	171,033 sq. ft. (43%)
Parking Spaces	332
Zoning	C32, S86, A70
Plan Designation	Neighborhood Commercial and Impact Sensitive
Ht abv fin grade	35 feet

Site: Southeast corner of Rancho Santa Fe Road and Manchester Avenue, Encinitas, San Diego County. APN 259-191-14 and -25.

Substantive File Documents: Certified County of San Diego San Dieguito LCP Land Use Plan
Certified (with suggested modifications) San Dieguito LCP Implementing Ordinances
CCC #6-84-368

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to

COMMISSION ACTION ON SEP. 27 1985

- Approved as Recommended
- Denied as Recommended
- Approved
- Denied

EXHIBIT NO. 5
APPLICATION NO. 16-ENC 96-34
1985 PERMIT TO DEVELOP CENTER
California Coastal Commission

1 OF 6

the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following special conditions:

1. Signs. Prior to the transmittal of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director a detailed sign plan for the subject development proposal in substantial conformance with the Commission's Regionwide Interpretive Guidelines on signs.

2. Applicant's Assumption of Risk. Prior to the 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 applicants 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 those 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, as a consequence of approval of the project; and (c) the applicants understand that construction in the face of such 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. Detailed Project Description And History. Proposed is the demolition of an existing metal storage shed and produce stand and the construction of an approximately 62,000 square foot shopping center on a previously graded nine acre site. The proposed structures will be both one- and two-story, and will be a maximum of 35 feet high. About 51,000 square feet of the total nine acres will be landscaped (about 13%). A total of 322 parking spaces will be provided to serve the proposed development.

The site of the proposed development was graded and received other site improvements, including two storm drains, under CCC Permit #6-84-368. This permit was issued subject to special conditions regarding a limitation on grading or other forms of development within the 100-year floodplain and the Commission's usual assumption of risk requirements for the applicant. These conditions were satisfied prior to the transmittal of the permit.

The project site is located in an area that has been planned by the County of San Diego for Neighborhood Commercial and Impact Sensitive uses, and has been zoned C32, S86 and A70. The site is bordered on the west by an office/commercial development, on the south and east by vacant land, and on the north by vacant land and a non-conforming trucking facility. The floodway which drains into San Elijo Lagoon passes beyond the southeast corner of the subject property.

2. Consistency with Chapter 3 Policies of the Coastal Act. Section 30233 of the Coastal Act requires that new development minimize risks to life and property in areas of high geologic, flood and fire hazard. The subject development proposal involves the construction of a commercial center very near to the boundary of the 100-year flood plain. Based upon FEMA mapping, a portion of the project's parking and landscaping will be located within the floodplain, but not in the floodway itself. Although the paving will alter the character of the floodplain, the area involved is small, devoid of any sensitive habitat and isolated within a backwater flooding area.

The remainder of the project, that is the commercial structures themselves, will be at least 100 feet away from the limits of the 100-year floodplain. Additionally, the building pads for these structures have been raised during the grading authorized under Permit 6-84-368. However, even though the structures are located on raised pads and are completely outside the floodplain, the Commission cannot guarantee that there will be no risk associated with flooding experienced by the applicant, future owners or the general public. For this reason, the special condition requiring the recordation of an applicant's assumption of risk has been proposed, requiring the applicant to acknowledge this potential factor. Therefore, the Commission finds that the subject proposal is consistent with Section 30253 of the Act.

Section 30251 of the Act requires that the scenic and visual qualities of coastal areas be maintained. One method of maintaining the visual qualities of an area is to control the proliferation of on- and off-premises signs. For this reason, special condition #1 has been proposed. At the time of this writing, the details of the applicant's sign plan have not been finalized. The special condition would require that a sign program involving relatively small monument signs and facade signs be employed, preserving the semi-rural nature of the area. Therefore, the Commission finds that the subject development proposal is consistent with Section 30251 of the Coastal Act.

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.

In this case, such a finding can be made. As stated above, the subject development proposal is consistent with the applicable policies of Chapter 3 of the Coastal Act. In addition, the proposed commercial development is to be located on those portions of the site that are both zoned and planned for

commercial uses, with the exception of the parking and landscaping at the easternmost portions of the property. These areas are designated "Impact Sensitive," but the uses proposed for these areas are allowed under the Impact Sensitive zoning classification.

The project site is also located within the County of San Diego's Coastal Resource Protection (CRP) overlay zone. The effect of this zone is to preserve natural vegetation and landforms, particularly on slopes in excess of 25%. The site is flat, and have been previously graded. All vegetation has been removed. Therefore, the policies of the CRP zone are not applicable to the subject proposal. Given that the proposal is consistent with the plan and zone classifications attached to the project site by the County of San Diego, the Commission finds that the subject proposal will not prejudice the ability of the County of San Diego to prepare a certifiable Local Coastal Program for the San Dieguito communities.

STANDARD CONDITIONS:

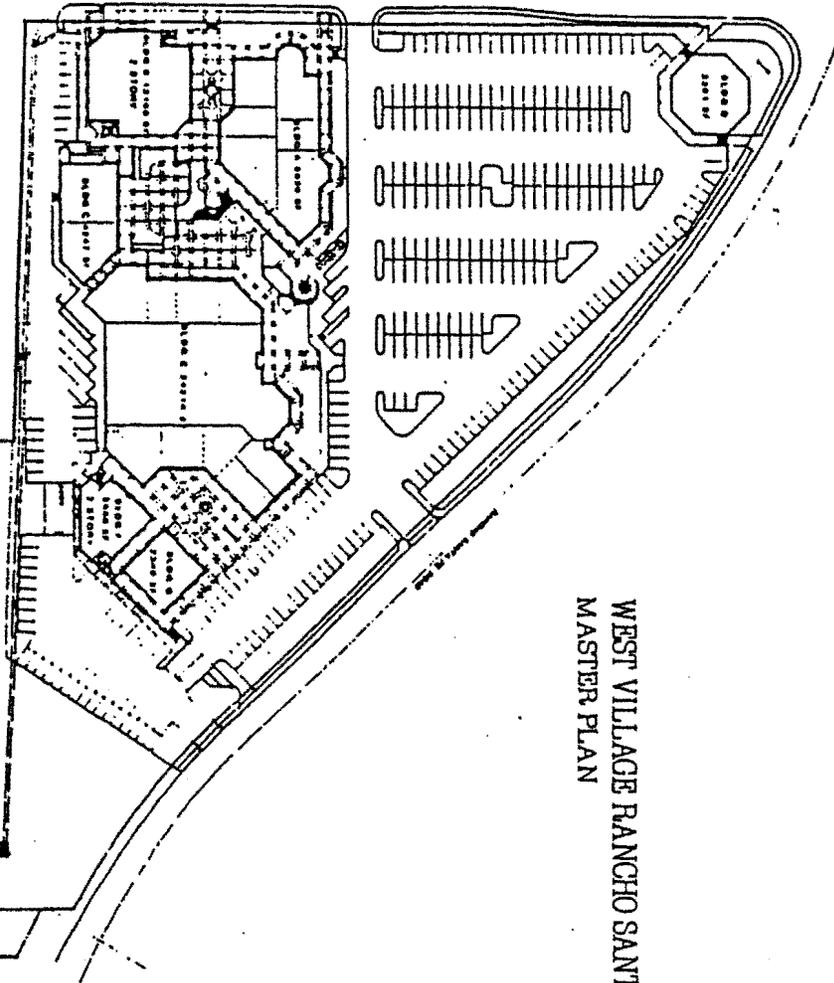
1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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.

(5418R)

WEST VILLAGE RANCHO SANTA FE
 MASTER PLAN

SITE PLAN

WOODS FLOOR AREA 10,000
 TOTAL MASTER PLAN AREA



6-85-418

			INNIS - TENNEBAUM ARCHITECTS <small>634 INDIAN STREET, DOCK B, SAN DIEGO, CALIFORNIA 92101 13-0108</small>	CONSULTANT 	PROJECT NUMBER DRAWN BY DATE DRAWN	REVISIONS <table border="1"> <tr> <th>NO.</th> <th>DATE</th> </tr> <tr> <td> </td> <td> </td> </tr> </table>	NO.	DATE								
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SHEET	WEST VILLAGE	PROJECT ARCHITECT														

6 of 6

March 29, 1996

California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108-1725

RECEIVED

MAR 31 1996

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Case # A-6-ENC-96-34

Dear Commission Members:

I am unable to attend the California Coastal Commission hearing scheduled for April 9, 1996 in the city of Carmel due to work obligations in my capacity as Chairman of the Visual Arts Department at the University of California at San Diego. I hope that my comments can, none the less, be considered in regards to the issue at hand.

I urge you to uphold the Commission's staff analysis and recommendation that a substantive issue exists with regard to the appeal by the San Elijo Lagoon Conservancy's argument that the Fletcher Properties proposal to grade and fill wetland, within the 100 year floodplain, for the purpose of building a retail nursery is in contradiction to existing coastal management guidelines and procedures. I have opposed the project application from the outset for the reason that the project is within a designated 100 year flood plain that, even with the construction of the new La Bajada bridge, is still subject to regular and extreme flooding. The deposition of fill material in the quantities called for in the project within the flood plain clearly constricts the flood plain and the ability of the geography to handle flood waters without impacting downstream habitat which is home to several endangered and increasingly besieged species of bird, animal, and plant -- as well as increasing flood damage risk to private property. As this is the second application in less than a year to propose the filling of floodplain and wetland west of the La Bajada bridge, this application cumulatively constitutes a serious alteration of geography, that should have in no way been considered without preliminary environmental review by the appropriate agencies -- California Department of Fish & Game, California Coastal Commission, U.S. Fish & Wildlife Service, as well as U.S. Army Corps of Engineers. The considerations of the local CAB (Olivenhain) does not constitute serious and informed evaluation of the geographic, hydrological, and habitat of this project and its impact on the immediate environment.

In this last regard, it is extremely disturbing to find that the San Elijo Lagoon Conservancy was not even appraised of the meetings or discussions that the Olivenhain CAB conducted on this project. That a decision was reached by the CAB, with knowledgeable exclusion of information that representatives of the San Elijo Lagoon Conservancy could have provided, is a clear indication of the flaws existing in the review process to date. Further, I find that the isolated posting and positioning of the "application notice" on the Fletcher property to have been consciously attempting to minimize public awareness and comment on the project.

1 OF 2

EXHIBIT NO. 6
APPLICATION NO. A6-ENC-96-34
LETTER IN SUPPORT OF STAFF RECOMMEND.
California Coastal Commission

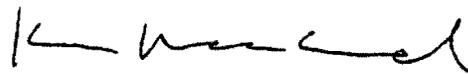
Given the extreme sensitivity of habitat west of the La Bajada bridge, and indeed, in the vicinity of the La Bajada bridge all together, it is tantamount that every project application be treated in the strictest and most thorough manner. Impact on the habitat of the Fletcher properties, which includes the shopping center as well as flood plain property that includes Escondido Creek, has increased dramatically in the last four years: stream side willow and tule vegetation on the Fletcher properties was pruned and cleared on several acres in 1992 without the needed permits or oversight from the California Department of Fish & Game. One of the Fletcher flood plain parcels is now used as a hot air balloon launching site on a regular weekly basis; the impact of this activity on the surrounding habit is intense and extreme. The "flower nursery" will further impact the property with increased human activity and its by products. This is on top of increased activity from the schools as well as other business properties on the north side of the bridge. The density here is at its limit and beyond. To now propose a permanent and commercial move into the flood plain is clearly outside of reasonable and mandated guidelines, and should be halted.

In 1984, when the West Village shopping center was first proposed, clear restrictions were placed on any future development into the flood plain, and acknowledged by the developer, Fletcher Properties. To now propose, in effect, to amend that original agreement through the arguments presented should be seen for what it is: an attempt to circumvent that original agreement and understanding. San Elijo Lagoon Conservancy has quite rightly called foul to a flawed recommendation process that failed to uphold California Coastal Commission standards and procedures.

As a property owner down stream from the proposed project, and one who recently under went stringent California Coastal Commission review of my proposal to build a single family residence outside of the 100 year floodplain (I could not build within 100 feet of the nearest identifiable wetland plant community, which meant dedicating 80 feet of my property to open space) I feel very strongly that the Fletcher proposal should undergo the same stringent review as I underwent in my project. The City of Encinitas, through its Olivenhain CAB committee and the Encinitas Planning Commission, has not upheld a like standard of review in its assumptions of the duties and responsibilities of the California Coastal Commission.

This differing standard of review, coupled with a disregard for informed public input; an inconsistent application of permitted development criteria; questionable "need" to develop within bonafide wetland and 100 year floodplain; substantial alteration and impact on the existing habitat; all clearly underscore the San Elijo Lagoon Conservancy's contention that a substantive issue does exist in this case and should be upheld. The application for development in the 100 year floodplain should be turned down.

Sincerely,



Kim MacConnel
4098 Manchester Ave
Encinitas, Ca 92024
619- 534-0174