

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

Filed: March 19, 1996
49th Day: May 7, 1996
180th Day: September 15, 1996
Staff: LRO-SD
Staff Report: June 3, 1996
Hearing Date: July 9-12, 1996



REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Fr 7b

Application No.: 6-96-46

Applicant: Mrs. Christa M. McReynolds Agent: Robert C. Ladwig

Description: Residential subdivision (Mar Vista) creating 49 residential lots, including 47,000 cy. of grading on 34.3 acres; project includes creation of a 19.2 acre open space lot, construction of local public roadways, sidewalks, curbs, gutters, and installation of drainage facilities. Residential construction is not included in this permit.

Lot Area	34.3 acres
Zoning	R-1-7500-Q
Plan Designation	One-family Residential (w/Qualified Development overlay)

Site: South of Palomar Airport Road, east of Paseo del Norte and north of Camino de las Ondas, Carlsbad, San Diego County.
APN 211-040-14

Substantive File Documents: Certified City of Carlsbad Mello II Segment LCP; City of Carlsbad Mitigated Negative Declaration - 10/3/95; City of Carlsbad Planning Commission Resolution #s 3872, 3873, 3874, 3875, 3876, 3877; City Council Resolution #96-77; Mooney and Associates Biological Report - dated 6/95 and 8/95; RECON letter (Biology and Gnatcatcher Surveys) - 6/20/96; Letter from the U.S. Fish and Wildlife Service - 3/6/96; and, CDP #s 6-95-141/ Toyohara and 6-95-141/Carlsbad Municipal Water District.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project as impacts to disturbed coastal sage scrub habitat are minimal (0.05 acres off-site) for construction of an access road to the site and the impacts will be mitigated. Special conditions address preservation of sensitive resources as open space; grading/erosion control and drainage/runoff control plans; construction timing and staging areas; mitigation for conversion of former agricultural lands to urban uses; a brush management program requiring no clearcutting of sensitive vegetation in open space areas; and, future development. It is believed the conditions are acceptable to the applicant.

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. 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 alteration of landforms, removal of vegetation or the erection of structures of any type, except the sewer and drainage facilities herein approved, in the area shown on the attached Exhibit "5", and generally described as follows: the dual criteria slopes and coastal sage scrub/riparian scrub area as shown on the Slope Analysis dated 1/20/95. 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.

2. 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 Department of Fish and Game, final grading plans approved by the City of Carlsbad. Grading activities shall be permitted between October 1st and February 15th subject to the following criteria:

a. All temporary and permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

b. All areas disturbed, but not completed, during the dry season, including graded pads, shall be stabilized in advance of the rainy season. 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 construction site. 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, subject to Executive Director approval.

3. Drainage/Runoff Control. Prior to the issuance of the 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 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 basin(s). Energy dissipating measures at the terminus of outflow drains shall be constructed. The runoff control plan including supporting calculations shall be submitted to and determined adequate in writing by the Executive Director.

4. Construction Timing/Staging Areas/Access Corridors. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule shall also include plans for the location of access corridors to the construction sites and staging areas. Access corridors and staging areas shall be located in a manner that has the least impact on coastal resources. No staging areas or access corridors shall be located within the environmentally sensitive habitat areas on the west and north portions of the site.

5. Agricultural Conversion. 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 an agricultural mitigation fee for converted agricultural lands to urban uses has been received by the City of Carlsbad, consistent with the provisions of the Carlsbad Mello II LCP.

6. Brush Management Program. Prior to the issuance of the coastal development permit, the applicant shall submit for review and approval of the Executive Director, a brush management program. The plan shall include a site plan showing a 60 foot distance beyond all planned structures on lots adjacent to areas of native vegetation, designating those areas subject to selective thinning and pruning. The plan shall indicate that clear-cut vegetation removal for brush management purposes shall not be permitted within required open space areas pursuant to Special Condition #1. Any approved clearing shall be conducted entirely by manual means and shall be the absolute minimum for reduction of fire hazards.

7. Future Development. This permit is for construction of residential bulding pads including grading, landscaping, construction of local public streets, sidewalks, curbs, gutters, and storm drains. Construction of residences on any of the proposed lots 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The applicant is proposing a tentative map for a residential subdivision including the creation of 49 residential lots, ranging in size from 7,500 sq.ft. to 35,298 sq.ft., and a 19.2-acre open space lot. Grading will consist of 47,000 cy. of balanced cut and fill to construct building pads, internal roads, sidewalks, curbs and gutters, storm drains and infrastructure improvements. Residential construction on the building pads is not proposed with this permit application and will be subject to a future coastal development permit.

As part of the subject proposal, the applicant is requesting an extension of time to perform necessary grading to February 15th, with installation of appropriate erosion and runoff control devices. Generally, grading is prohibited during the rainy season between October 1st and April 1st of any year under the certified LCP.

The subject property is a vacant parcel located south of Palomar Airport Road, east of Interstate-5, in an area of Carlsbad that has been used for agricultural purposes in the past. The site is currently being cultivated with bean crops. The area of the parcel proposed for the residential subdivision is limited to that area of the site that has historically been farmed and generally described as the eastern half of the parcel. The site is immediately adjacent to the Emerald Ridge West residential subdivision, which is being processed concurrently with the subject project under CDP #6-96-53, and which is located on the same mesa top that is presently being used for agricultural purposes. The surrounding neighborhood is largely undeveloped with vacant land to the north, east and south. Multi-family residential development exists to the west.

The western half and northern area of the site consists of a canyon that contains approx. 8.5 acres of on-site steep slopes and native vegetation which is proposed to be placed in open space as a part of the subject proposal. The area to the north includes Encinas Creek. Presently Poinsettia Community Park, which is immediately to the south of the site, is under construction. The proposed project also includes the construction of "A" Street off of Calle Serena (formerly Cherry Blossom Drive) to the south to provide access to the subject site, as well as interior roads within the subdivision. Calle Serena will receive access off of Hidden Valley Road, which was approved by the Commission pursuant to CDP #6-94-131/Toyohara in March, 1995 to be extended from Camino de las Ondas to Palomar Airport Road; construction of Hidden Valley Road is presently underway.

2. Sensitive Habitat Areas. Relevant policies which address protection of environmentally sensitive habitat areas include Policy 3-1 of the certified Mello II LCP, "Slopes and Preservation of Vegetation" which states:

Certain areas of the Carlsbad coastal zone have very high habitat value. These areas are not suitable for farming. These areas exhibit a large number and diversity of both plant and animal species, several of which are threatened because of extensive conversion of mixed chaparral and coastal sage scrub habitats to urban or agricultural uses. Also, well-established and well-maintained vegetation is a major deterrent to soil erosion and attendant difficulties.

Unless specifically addressed in other policies of this Land Use Plan, the vegetation on steep slopes shall be maintained so that natural habitats are preserved and soil erosion is minimized.

The policies of the certified Mello II segment of the City's LCP also contain the following language regarding the development of steeply sloping hillsides with native vegetation:

Grading and Erosion Control

- a) For those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following shall apply:
 - 1) Slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. For existing legal parcels, with all or nearly all of their area in slope area over 25% grade, encroachment shall be permitted, however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

The subject site is located in the area subject to the Mello II segment of the City of Carlsbad's LCP and the Coastal Resource Protection Overlay Zone. Steep slope areas are afforded special status due to the presence of naturally occurring chaparral/coastal sage scrub which provides valuable natural habitat. The LCP regulations pertaining to steep slopes as drafted by the City and certified by the Commission protect those slopes of 25% grade and greater that contain coastal sage scrub and chaparral vegetation.

As noted previously, the eastern half of the property is presently being used for agriculture. Most of the site contains very gently sloping topography that rises from west to east. The western half of the property consists of a finger canyon which continues north and connects with Canyon de las Encinas. The flat developable areas of the site are bordered by steep slopes along the west and north. According to information contained in the mitigated Negative Declaration for the subject project, six vegetation types were identified on

the property consisting of ruderal/agriculture on the mesa; pampas grass, diegan coastal sage scrub, and southern mixed chaparral along the steeper slopes; and riparian southern willow scrub and baccharis/mule fat in the canyon.

As part of the environmental review process, a biological resource field survey was prepared for the project by RECON, dated January 1995 and updated June, 1995. In addition, a biological survey report was done for the adjacent property (Emerald Ridge West) by Brian Mooney and Associates, dated August 1995. The "threatened" coastal California gnatcatcher was observed in the Diegan coastal sage scrub and the mule fat scrub along the west side of the site. The studies conclude that all of the sensitive plant species would be preserved in the proposed 19.24 acre open space lot. As such, the habitat areas for this sensitive bird species will be preserved.

A slope encroachment analysis and vegetation survey dated 1/20/95 for the subject proposal indicates that about 24% (8.5 acres) of the total site area (34.3 acres) are 25% grade or greater and contain mixed chaparral and coastal sage scrub plant communities (dual criteria slopes). All high-quality CSS habitat in this area would be preserved in open space.

As further identified in the biology report, the only sensitive habitat proposed to be impacted consists of 0.05 acres of off-site disturbed coastal sage scrub habitat (CSS) for purposes of constructing the extension of Calle Serena (formerly Cherry Blossom Road) which will provide access to the site from future proposed Hidden Valley Road to the east of the site. (The proposed encroachment, is the same 0.05 acres of impacted CSS discussed in CDP #6-96-53/Emerald Ridge West, which is being processed concurrently with the subject permit). The proposed access road will extend west across the Emerald Ridge West subdivision just east of the subject site. As noted previously, the extension of Hidden Valley Road is presently under construction.

The project has been conditioned by the City to mitigate the off-site 0.05-acre CSS impact by acquiring, for preservation, comparable quality habitat at a ratio of 1:1. The applicant has proposed to mitigate this impact by purchasing 0.05 acres of Coastal Sage Scrub habitat within the high quality, coastal sage scrub area found in the Carlsbad Highlands mitigation bank. The proposed mitigation has been reviewed and endorsed by the U.S. Fish and Wildlife Service (USFWS). In addition, in its approval of the proposed development, the City found the project consistent with the Hillside Ordinance in that the proposed grading avoids steep slopes, manufactured slopes will not exceed 30 feet in height and will follow the natural contours, grading volumes will not exceed 7,900 cy. per graded acre, roads will be curvilinear and follow the natural contours, and future homes would be set back from the edge of the hillside.

The City has used its "Zone 20 Specific Plan" as the standard of review for this project. That plan provides a master plan for the buildout of the City's Zone 20 planning area, which contains the subject parcel and surrounding parcels of mostly vacant land, and a number of environmentally sensitive areas. While the Zone 20 Plan has been approved at the local level, it has

not been submitted to the Commission for review and certification of its consistency with the Coastal Act. Thus, the policies of the Mello II LCP are the standard of review. As noted in this report, the Commission finds the proposed impacts to disturbed coastal sage scrub off-site for an interior roadway (Street "A") leading from Calle Serena (formerly Cherry Blossom Road) are acceptable, as the area is not high-quality habitat and the proposed impacts are being mitigated to the satisfaction of the USFWS.

It should also be mentioned that a sewer line has been approved under CDP #6-95-141 which will provide service not only for the Mar Vista subdivision but also Emerald Ridge West, Sambi Seaside Heights, portions of Greystone Homes and the community park (Poinsettia Park). The sewer will run down the north rim of the developable area to an existing manhole in Encinas Creek and will follow a ravine from the top of the slope to the bottom. A proposed storm drain will follow the same alignment as the sewer. The alignment was found to be the least environmentally damaging alternative as no native habitat or sensitive species would be impacted.

The Mello II LCP also prohibits development in wetlands, pursuant to Policy #3-7, unless there is no feasible less environmentally damaging alternative. The northwestern portion of the site contains riparian vegetation associated with Encinas Creek. However, this area will remain in open space and will not be disturbed as a result of the proposed project. As such, the proposed development will be consistent with the certified LCP.

Brush management for fire safety is proposed for the subject project. A 60-foot setback along the rear of Lots 2 through 21 and 29 through 31 for purposes of native habitat protection and fire suppression is required by the City. No development is permitted in the 60-foot buffer area. Pursuant to the City's Landscape Technical Manual, selective thinning and clearing consistent with Zone 2 and Zone 3 brush management requirements is permitted. The manual identifies three brush management zones, each 20 feet in width, where vegetation removal and thinning is required to protect homes from fire hazard when they are proposed to be located next to mature, naturally vegetated areas. Although it is the Commission's practice to allow selective thinning in open space areas as part of brush management to protect homes from fire hazard, the Commission has historically found that Zone 1 clearcutting requirements must not occur in open space areas. However, in this particular case, there is no native vegetation in the designated Zones 2 or 3 for the proposed subdivision as each lot will observe a 60-foot setback from such areas.

Special Condition #6 requires the applicant to submit a brush management plan showing a 60 foot distance beyond all planned structures on lots adjacent to native vegetation. The plan shall indicate that clearcut vegetation removal for brush management purposes shall not be permitted within proposed open space areas. Any approved clearing shall be conducted entirely by manual means and shall be the absolute minimum for the reduction of fire hazards. The Commission recognizes that each case must be considered on a site specific basis and the City of Carlsbad Fire Department has found that a 60-foot structural setback from open space is acceptable to mitigate fire hazard. The

City has conditioned the project such that no removal of vegetation can occur in the open space area. However, the Commission itself has historically prohibited clearcutting in open space areas and as such has conditioned the project to this effect, as described above.

Regarding grading and erosion control, approximately 47,000 cubic yards of grading is proposed to be balanced on-site, resulting in cut and fill slopes of up to 19 feet in height. The grading of the property has the potential to indirectly impact sensitive off-site resources located in Canyon de las Encinas. The City's approval requires all building pad and street areas that are graded and remain vacant or undeveloped for a period of more than six months after the grading operation is completed to be seeded and adequately irrigated to reduce erosion and visual impacts. The applicant has also requested as part of the subject proposal to extend the grading period for the proposed project into the rainy season between October 1st and February 15th to allow sufficient time to complete necessary grading associated with the project. The USFWS has also recommended that grading and construction of the proposed project be limited to the non-breeding season of the gnatcatcher between August 1 and February 15. According to the Service, minimizing impacts associated with noise within the remaining areas of coastal sage scrub during grading and construction may help to reduce disturbance to the gnatcatcher.

The City of Carlsbad permits grading to occur within the restricted time period provided that drainage and erosion control devices are in place. The applicant thus proposes to install temporary desiltation basins at the beginning of grading activities, along with temporary erosion control devices and installation of erosion control planting. Drainage from the subdivision will be collected in a drainage system and discharged with proper energy dissipation. Lot drainage will be directed away from new slopes. In this particular case, since the drainage from the site will discharge to Encinas Creek rather than to a much larger ecosystem such as a lagoon, the extension of time for grading into the rainy season can be found acceptable and has been permitted in similar projects. In addition, since the extension of time to complete all grading activities requested by the applicant coincides with the time frame that USFWS would recommend that grading and construction occur, extension of the grading period should not adversely affect the sensitive wildlife habitat or biological resources downstream in the area, provided that all erosion control devices are in place well in advance of the onset of grading activities.

Regarding drainage and runoff control, the LCP addresses protection of downstream impacts to sensitive areas. It requires that runoff rates from developed sites not exceed natural runoff rates resulting from a 10 year storm of moderate intensity. Additionally, to mitigate drainage impacts from project sites, adequate devices must be installed for drainage and erosion control, and urban pollutant basins must be provided. To comply with these water quality standards, the City has required the applicant to install erosion control devices pursuant to the requirements of the Mello II LCP. Special Conditions #2 and #3 require the submittal of final grading, drainage, and erosion control plans designed to avoid erosion and subsequent

sedimentation impacts to the sensitive resources associated with drainage from the developed site. Special Condition #3 further requires final drainage plans designed to assure no increase in the peak rate of runoff associated with the developed site when compared to undeveloped conditions. These requirements are consistent with the language contained in the Carlsbad LCP and past Commission precedent.

In order to identify staging areas and access corridors so that sensitive habitat areas are not disturbed for this purpose, Special Condition #4 requires final plans for the location of access corridors to the construction sites and staging areas. Access corridors and staging areas shall be located in a manner that has the least impact on coastal resources. No staging areas or access corridors shall be located within the environmentally sensitive habitat areas located along the naturally vegetated areas on the west and north areas of the site.

In summary, the proposed project will avoid all impacts to dual criteria slopes and the applicant has proposed a mitigation plan for the 0.05 acres of disturbed coastal sage scrub impacts off-site that will result from construction of "A" Street. As such, the Commission finds the project, as conditioned, complies with the slope preservation and environmentally sensitive habitat area provisions of the Mello II LCP.

3. Agriculture. The level portions of the project site support agricultural use and the site is located in the Coastal Agricultural Overlay Zone (Site II) of the Mello II segment of the City's LCP. The soils of the site, however, are not regarded as prime Class I or II agricultural soils. The Mello II LCP requires mitigation when non-prime coastal agricultural land is converted to urban land uses. Sections 30241 and 30242 of the Coastal Act concern the protection of agricultural lands. In 1981, when the Carlsbad Mello II LCP segment was certified by the Commission, the two major concerns were preservation of agricultural uses and protection of environmentally sensitive habitats. Regarding agricultural preservation, a major issue was minimizing agricultural versus urban impacts by developing stable urban/agricultural boundaries. For the most part, the certified LCP accomplished this objective by concentrating development along I-5, Palomar Airport Road, and the El Camino Real transportation corridors and preserving the interior areas, where public infrastructure is lacking, for continued agricultural use.

Major amendments to the LCP certified by the Commission in 1985 significantly changed the policies of the LCP regarding agricultural preservation. Those amendments essentially allowed for conversion of almost all the agriculturally-designated lands within the City's Mello I and Mello II segments. The LCP provides three mitigation options for such conversions for projects in Site II of the Coastal Agricultural Overlay Zone: (1) "Prime Land Exchange"; (2) "Determination of Agricultural Feasibility"; and (3) "Agricultural Conversion Mitigation Fee".

The implementing ordinances of the LCP, as modified in 1985, contain the specific requirements for implementing the three options of the LCP. The

applicant has chosen the third option for conversion which provides for the payment of an agricultural mitigation fee of between \$5,000 and \$10,000 per each net converted acre of non-prime agricultural land. The funds accrued from the mitigation fees are to be used in the restoration and enhancement of natural resources, public access opportunities, and preservation of agricultural lands in Carlsbad.

The mitigation fee requirement is triggered at the time that a coastal development permit for "urban development" is considered. Specifically, subsection 21.070-c calls for such fees to be paid "prior to the issuance of building permits for the project". As noted, the subject property is in the (C-A) zone and is, thus, subject to the requirements of the LCP regarding agricultural lands. The proposed use clearly constitutes an urban conversion. The City's approval requires payment of between \$5,000 to \$10,000/acre as a mitigation fee. The City will determine the exact amount of the fee prior to final approval of the tentative map. The Commission finds this option acceptable provided evidence is submitted that the fee has been paid, consistent with the provisions of the attached Special Condition #5. Only as conditioned can the Commission find the subject project and conversion of agricultural lands consistent with the agricultural policies of the certified Mello II LCP.

4. Visual Impacts. Section 30251 of the Coastal Act and the certified Mello II LCP state that new development must be sited and designed to not adversely impact scenic features. The project site is located in the southern portion of the City of Carlsbad. This area is primarily agricultural land surrounded by either existing medium density residential projects or planned medium density residential projects. Due to existing development to the west which is at a somewhat higher elevation than the subject site, development on this site is not visible from Interstate-5 or the beaches to the west. However, the site is visible from Palomar Airport Road to the north, which is designated as a scenic roadway in the City's General Plan, and contains the Qualified Development Overlay zone. Through application of this overlay zone, it can be assured that future proposed residential development on the site will be designed in a manner to protect the scenic views from this roadway.

When the City and Commission review the site development plans for future development of homes on the property, subject to a future coastal development permit, special design measures will be implemented as a result of the overlay, which may include the following: reduced building height along the top of the ridgelines, varying rooflines and roof massing, increased landscape screening, earth tone roof and building wall material and colors, increased building separation, and enhanced rear building elevations for those homes that will be visible from Palomar Airport Road. Therefore, the Commission finds that the subject development is consistent with the visual resource policies of the certified Mello II LCP.

5. 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. In reviewing development

proposals, the Commission must essentially act like local government and assess whether a project is consistent with the implementing zone and other policies of the certified LCP. In this case, such a finding can be made for the proposed development, as conditioned.

The project site was rezoned from PC (Planned Community) to One-Family Residential with the Qualified Development Overlay (R-1-7500-Q) pursuant to LCP Amendment #2-96B to the Mello II segment of the City's certified LCP, approved by the Commission in June, 1996. The site is planned for residential uses (Residential Medium at 4 to 8 dwelling units per acre) in the City of Carlsbad's certified Local Coastal Program (LCP). The proposed project density, at 2.84 du/a, is consistent with these designations. As noted by the City, in this case, the new zone of R-1-7500-Q is more restrictive than the former PC zone as it contains more development standards with regard to the siting of new development on individual lots. Therefore, the Commission finds the subject proposal consistent with the certified LCP and project approval should not prejudice the City's ability to continue to implement its certified LCP.

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

The proposed project has been conditioned in order to be found consistent with the policies of the certified LCP which address hillside development and protection of environmentally sensitive areas. Mitigation measures, including conditions addressing preservation of naturally vegetated steep slopes in open space; mitigation for coastal sage scrub and riparian impacts; grading and erosion control; drainage/runoff control; construction timing/staging and access corridors; payment of agricultural conversion fees; and, a brush management program, will minimize all adverse environmental impacts. As conditioned, the proposed project complies with the slope preservation and environmentally sensitive habitat area provisions of the Mello II LCP. 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 certified LCP to conform to CEQA.

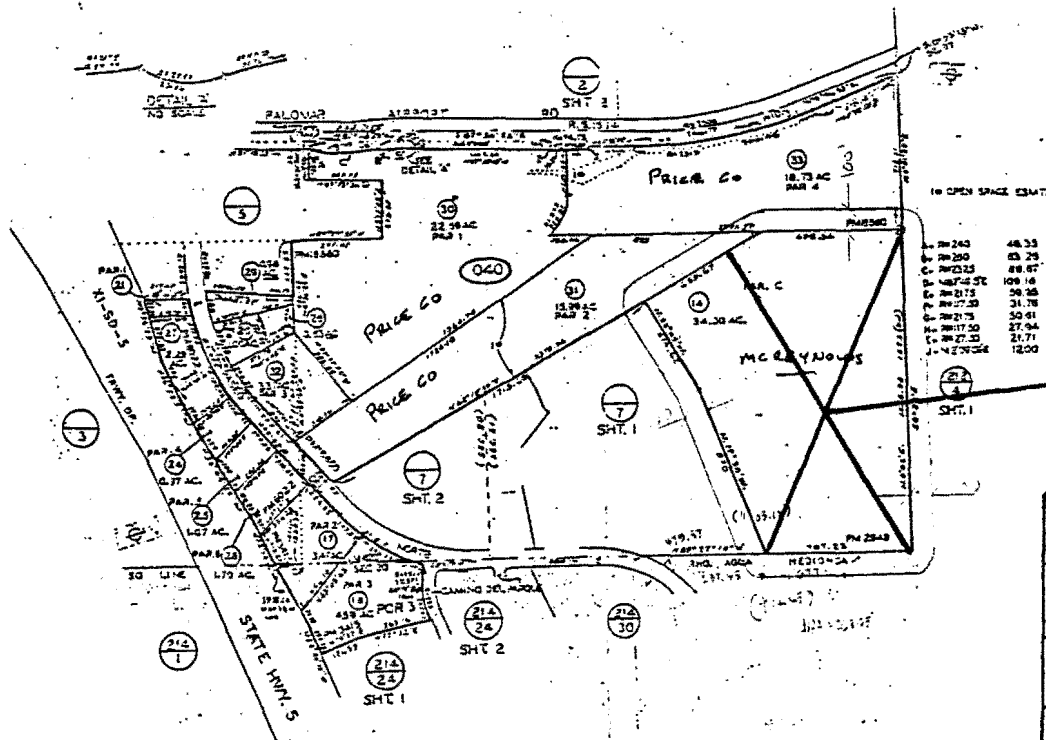
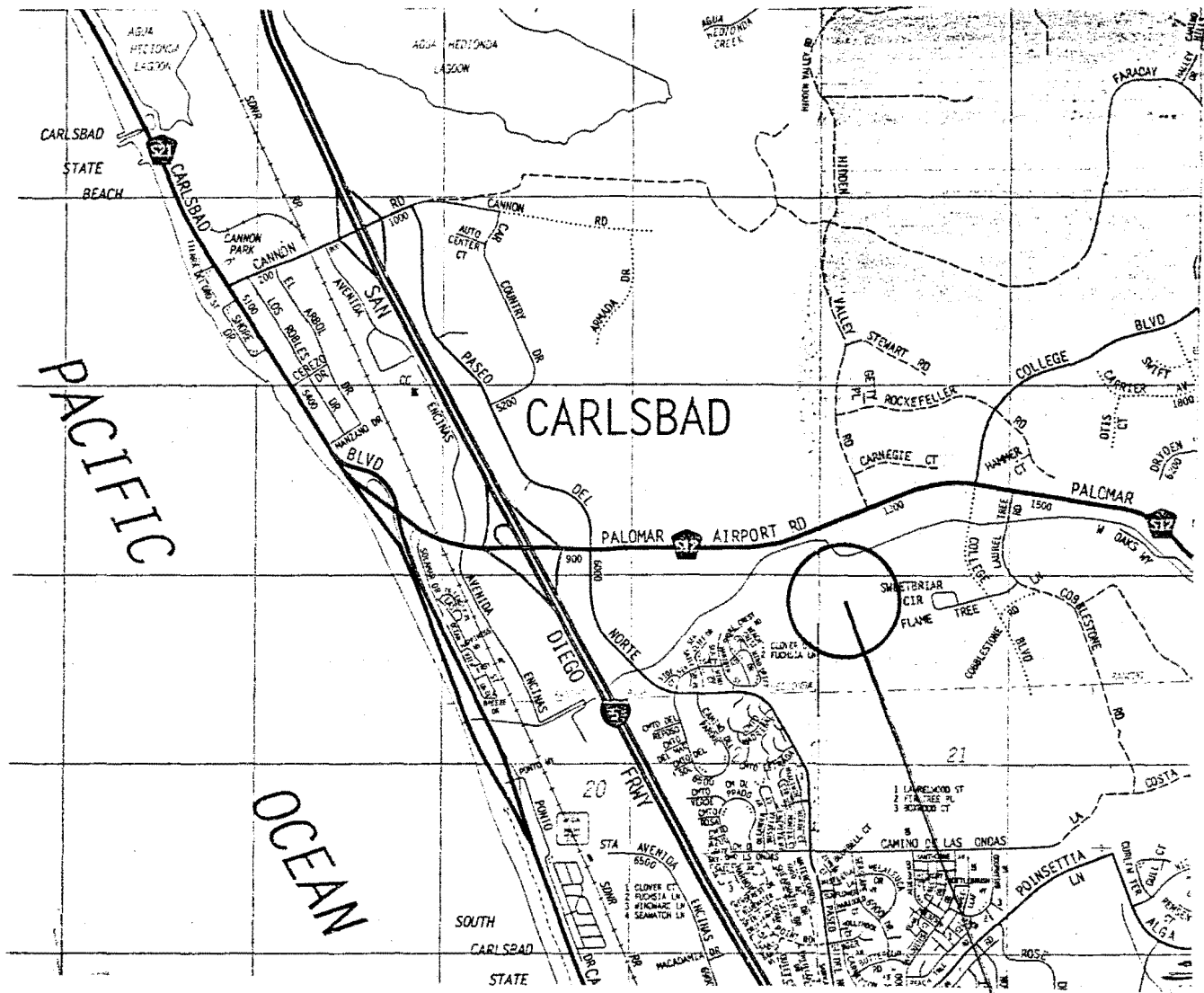
STANDARD CONDITIONS:

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.

(6046R)



16 OPEN SPACE CONT.	
PA. 245	48.33
PA. 246	83.29
PA. 247	48.67
PA. 248	109.16
PA. 249	39.88
PA. 250	31.78
PA. 251	50.91
PA. 252	27.94
PA. 253	21.71
PA. 254	12.00

EXHIBIT NO. 1

APPLICATION NO.
16-96-46

Location Maps

California Coastal Commission

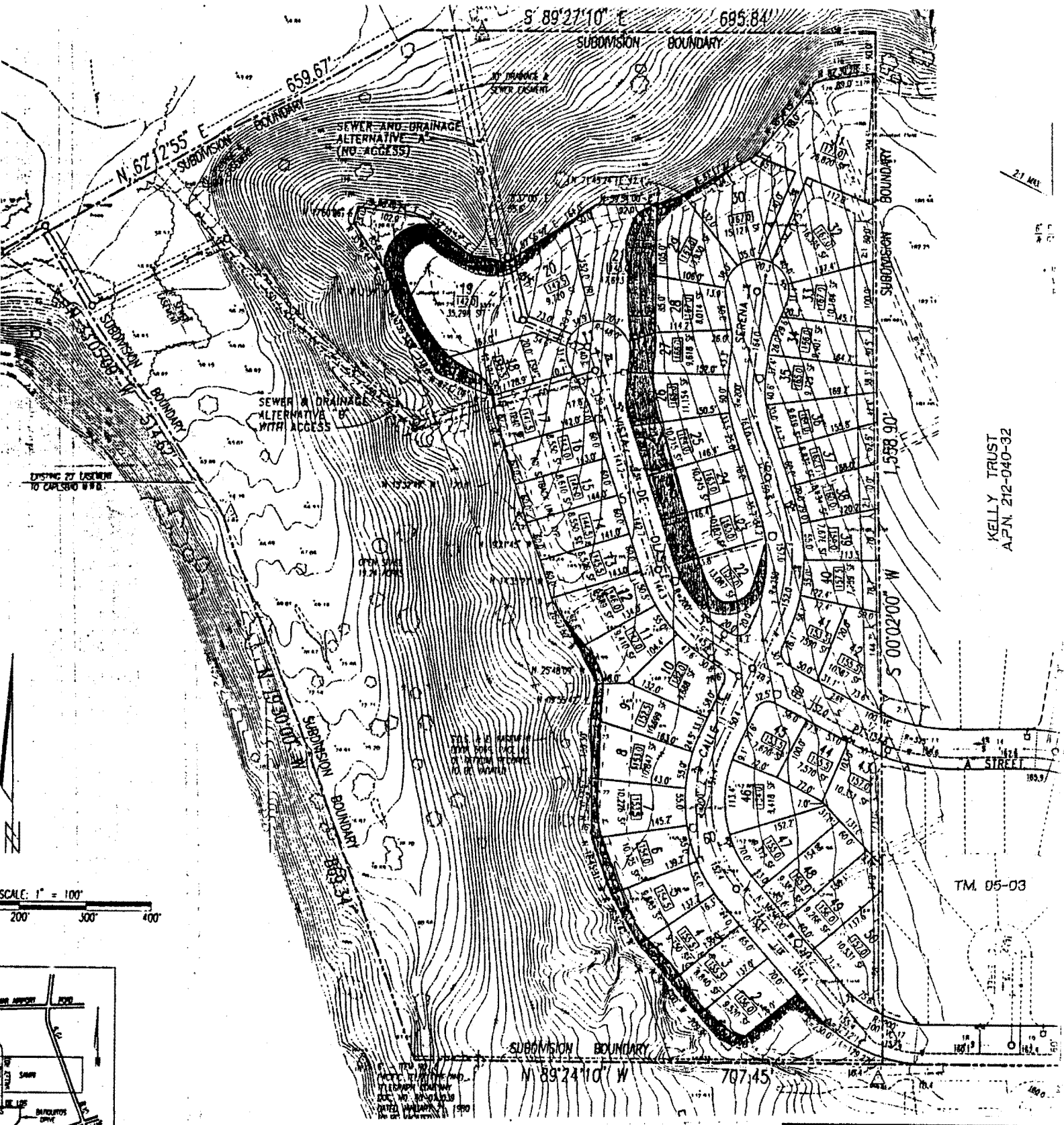


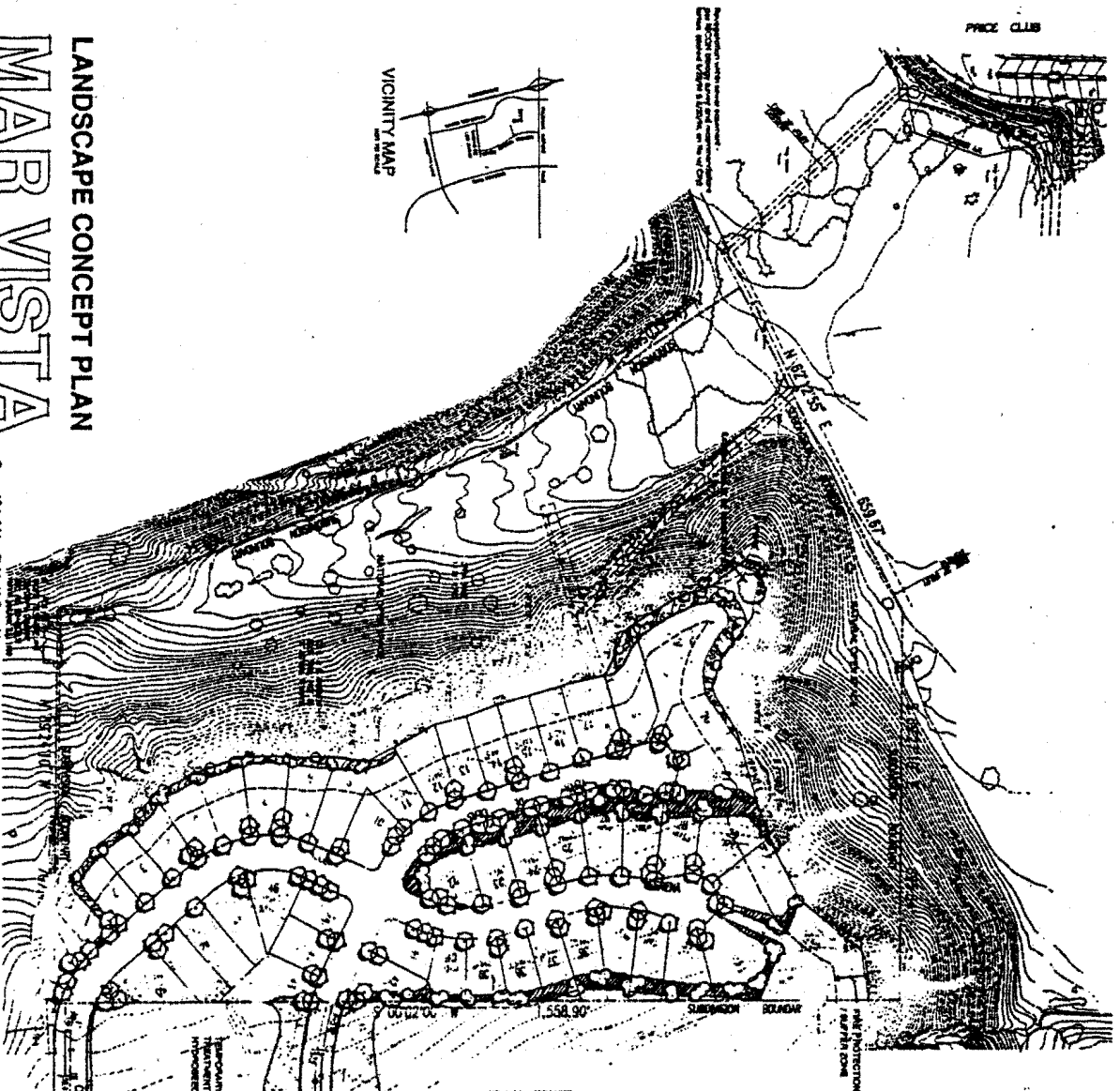
EXHIBIT NO. 2
 APPLICATION NO.
 6-96-46
 TENTATIVE MAP
 California Coastal Commission

LANDSCAPE CONCEPT PLAN
MAR VISTA

Owner/Developer: **Charm Investments**

Project: **CONSTITIA COASTALITY PARK**
APN: 246-40-08
246-800-00

VICINITY MAP



KELLY TRUST
APA 212-040-92

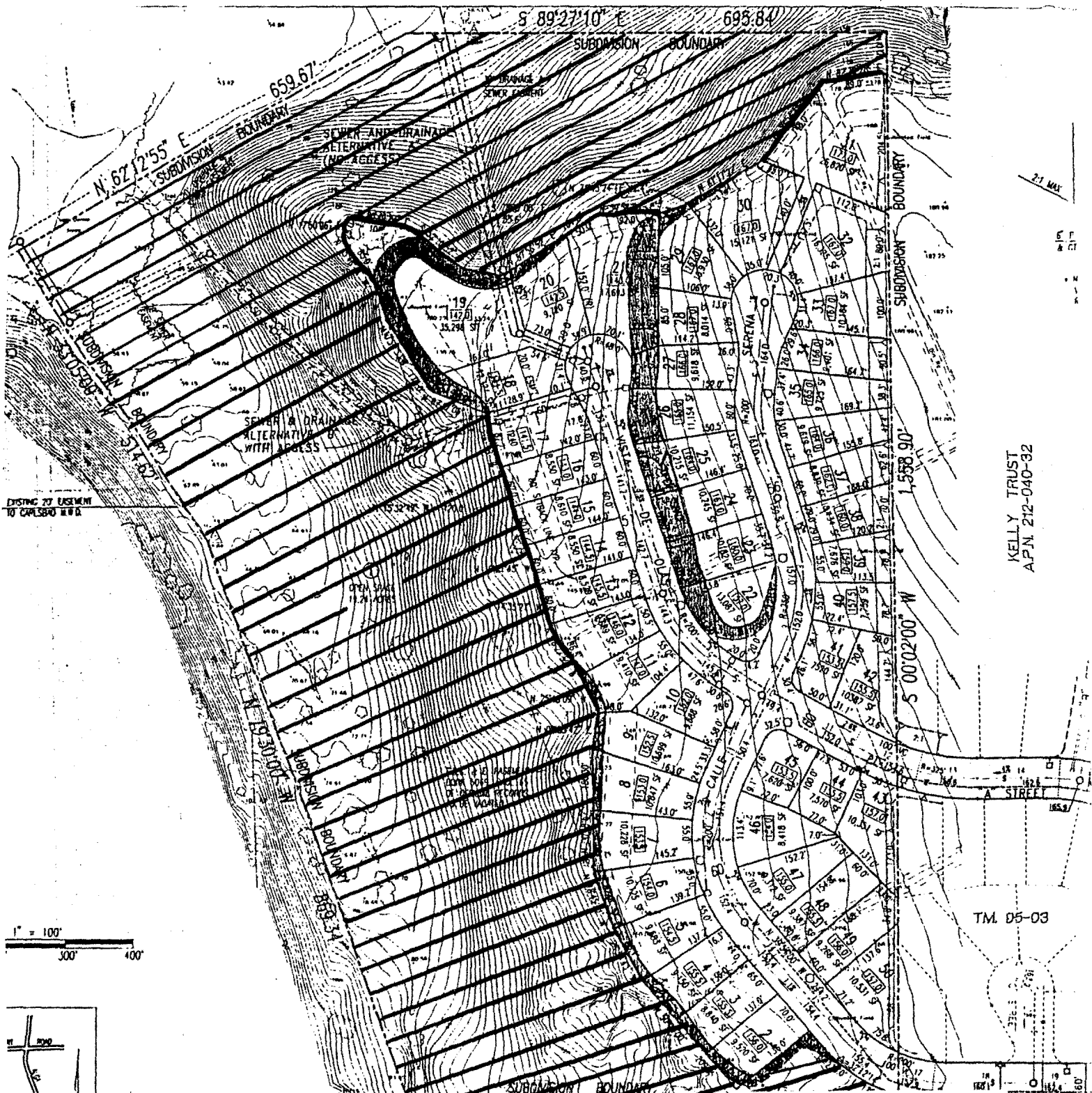
- PLANT PALETTE**
- Plant 1: (Symbol) **Plant 1** (Symbol) **Plant 2** (Symbol) **Plant 3** (Symbol) **Plant 4** (Symbol)
 - Plant 5: (Symbol) **Plant 5** (Symbol) **Plant 6** (Symbol) **Plant 7** (Symbol) **Plant 8** (Symbol)
 - Plant 9: (Symbol) **Plant 9** (Symbol) **Plant 10** (Symbol) **Plant 11** (Symbol) **Plant 12** (Symbol)
- Notes: (1) All plants are to be installed in accordance with the City of San Diego's Planting Standards. (2) All plants are to be installed in accordance with the City of San Diego's Planting Standards. (3) All plants are to be installed in accordance with the City of San Diego's Planting Standards.

- Notes:**
1. Landscaping shall be installed in accordance with the City of San Diego's Planting Standards.
 2. All plants are to be installed in accordance with the City of San Diego's Planting Standards.
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- Site Protection:**
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ADL Planning Associates

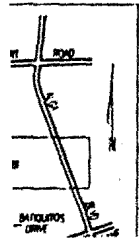
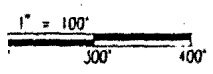
EXHIBIT NO. 4
APPLICATION NO.
6-96-46
CONCEPTUAL LANDSCAPE PLAN
California Coastal Commission



EXISTING 20' EASEMENT TO CARLSBAD H.W.D.

KELLY TRUST
A.P.N. 212-040-32

TM 05-03



THIS IS THE
TELEGRAPH ROUTE
S.C. NO. 30-04-03
DATED JANUARY 21, 1980

EXHIBIT NO. 5
APPLICATION NO. 6-96-46
OPEN SPACE DEED RESTRICTED AREA
California Coastal Commission