

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-40

Applicant: Ernesto and Lorie Chapa

Agent: William and Dottie Gaynor

Description: Minor subdivision of a .98 acre lagoon-front parcel into two lots as follows: Parcel A = 23,425 sq.ft. (gross)/21,508 sq.ft. (net); Parcel 2 = 19,133 sq.ft. (gross)/13,087 sq.ft. (net) and construction of two, two-story single family residences, one per lot, totaling 3,582 sq.ft. and 2,736 sq.ft., respectively. The applicant also proposes to record an offer to dedicate a 25-foot wide easement for lateral public access along the lagoon shoreline.

Lot Area	42,558 sq. ft.
Building Coverage	4,830 sq. ft. (11%)
Pavement Coverage	5,446 sq. ft. (13%)
Landscape Coverage	24,182 sq. ft. (57%)
Unimproved Area	8,100 sq. ft. (19%)
Parking Spaces	4
Zoning	RD-M
Plan Designation	RM (6 dua)
Project Density	2.0 dua
Ht abv fin grade	25 and 30 feet

Site: South side of Harrison Street just west of Adams Street on the north shore of Agua Hedionda Lagoon, Carlsbad, San Diego County. APN 206-120-17

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the project with a number of special conditions addressing impacts to public access, biological resources and visual impacts. The conditions require submittal of final plans which update the exact location of the wetlands

boundary and mean high tide line, to be determined in consultation with the California Department of Fish and Game. The wetlands boundary was determined to be at the 10-foot contour by the California Department of Fish and Game in 1988. The conditions also require that existing offers to dedicate public lateral access and open space easements, which were recorded in connection with a prior permit that expired, be replaced with new documents which reflect the applicants proposal to offer to dedicate a 25-foot wide lateral easement along the lagoon front. The applicant is also required to record a deed restriction to create a 100-foot open space buffer between the development and wetlands. Also requires is a revised landscaping plan which mitigates the visual impact of the proposed structures from public views with a deed restriction to assure future improvements require a coastal development permit, and submittal of drainage and erosion control plans which address project impacts to water quality and marine resources.

Substantive File Documents: Certified Agua Hedionda Land Use Plan; Carlsbad Hillside Development Permit; CDP #6-88-416

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 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 attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. Prior to issuance of the coastal development permit, the applicant shall submit final site and building plans that have been revised to include the following:

a) a delineation of the current location of the mean high tide line, and the current

location of the northernmost boundary of the wetlands determined in consultation with the California Department of Fish and Game. The location of the wetlands boundary and mean high tide line shall be staked in the field so as to allow a site inspection by the Executive Director. Said plans shall be reviewed and approved in writing by the Executive Director;

b) a delineation of the proposed public access easement to provide lateral access along the entire lagoon frontage width of the property to extend 25-feet upland of the mean high tide line, which is understood to be ambulatory from day to day.

c) Provision of a 100-foot buffer along the entire lagoon frontage width of the property measured (northward) from the southern property line to 100 feet upland of the wetlands boundary. No improvements shall be permitted within the buffer area with the exception of drainage improvements, and a future public trail with its associated improvements, including upland fencing and/or landscaping.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Lateral Public Access. Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the lagoon shoreline. The easement shall be located along the entire width of the property along the Agua Hedionda Lagoon shoreline and shall extend 25-feet upland of the mean high tide line shown on the site plan as approved pursuant to Special Condition No. 1 of CDP #6-98-40. The mean high tide line is understood to be ambulatory from day to day.

The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. It shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area.

3. Open Space Deed Restriction. No development, as defined in Section 30106 of the Coastal Act, shall occur in the area extending from the southern property line to 100

feet upland of the wetlands boundary as shown on the site plan approved pursuant to Special Condition #1 of #6-98-40 except for:

Native drought-resistant, fire retardant vegetation, drainage improvements, and a future public trail with its associated improvements, including upland fencing and/or landscaping to demarcate public/private use.

PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director which reflects the restrictions stated above on the proposed development in the designated open space. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. **Revised Landscape Plan**. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a revised landscape plan, which has been approved by the City of Carlsbad, which shall incorporate the following:

a. The plan shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. The required 100-foot buffer shall be planted with native, drought-resistant, fire-retardant landscaping acceptable to the Executive Director in consultation with the Department of Fish and Game.

c. The revised landscape plan shall indicate the placement of a minimum of one specimen size tree (24-inch box minimum) for every 10 feet of property along the south-facing portion of the lots and arranged to maximize screening of the structures from views from Agua Hedionda Lagoon and Interstate 5. A minimum of 3 trees per lot shall be provided lagoonward of the building pad for proposed residence. The required trees shall be planted within 60 days of completion of residential construction and be maintained in good growing condition for the life of the residences. The plan shall also include the use of species which do not reach sufficient height to block public views from Adams Street. Said landscaping shall be designed to mitigate the visual impact of the structure as viewed from the lagoon and public access trail, while preserving views from the home.

d. The landscaped buffer planted along Harrison Street shall not reach sufficient height to block public views from the street. Maintenance requirements to assure no blockage of public views shall be incorporated into the approved plan.

e. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, that reflects the above requirements. The restriction shall provide that landscaping shall be implemented in accordance with plans approved pursuant to Special Condition #4 of CDP #6-98-40. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Drainage/Runoff/Sedimentation Control. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and written approval of the Executive Director, final drainage and runoff control plans for the project designed by a licensed engineer qualified in hydrology and hydraulics, which shall assure no increase in peak runoff rate from the developed site over runoff from the natural site, as a result of a ten-year frequency storm over a six-hour duration (10 year, 6 hour rainstorm). The plan shall document that runoff from the impervious surfaces of the site will be collected and discharged at a non-erosive velocity and elevation. Energy dissipating measures at the terminus of any proposed outflow drains shall be constructed. Any vegetation removed to install approved run-off control measures shall be replanted with native vegetation. The applicant shall also submit a written commitment indicating that all devices shall be installed and maintained by the applicant in accordance with the approved plan.

6. Grading and Erosion Control. Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and written approval of the Executive Director, final grading plans which shall conform to the following requirements:

a) No grading activities shall be allowed during the rainy season (the period from October 1st to March 31st of each year). All disturbed areas will be replanted immediately following grading and prior to the beginning of the rainy season. Prior to commencement of any grading activity, the permittee shall submit a grading schedule to the Executive Director.

b) The installation of temporary and permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

c) All areas disturbed, but not completed, during the construction 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.

7. Height of Structures/Future Development. The height of the residences shall not exceed the centerline of Harrison Street, which is at elevation 55-ft. Mean Sea Level. The subject permit is only for the development described in coastal development permit No. 6-98-40. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the area governed by coastal development permit No. 6-98-14. Accordingly, any future improvements to the existing single family residence, which are proposed within the area governed by coastal development permit No. 6-98-40 shall require an amendment to permit No. 6-98-40 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the certified local government.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal-Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required. All other development proposals for the site shall require review and approval by the Coastal Commission, or a certified local government, 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/Permit History. Minor subdivision of a .98 acre lagoon-front parcel into two lots as follows: Parcel A = 23,425 sq.ft. (gross)/21,508 sq.ft. (net); Parcel 2 = 19,133 sq.ft. (gross)/13,087 sq.ft. (net) and construction of two, two-story single family residences, one per lot, totaling 3,582 sq.ft. and 2,736 sq.ft., respectively. Also proposed are drainage improvements consisting of a concrete brow ditch and an earth swale with berm. There is an existing rip rap energy dissipater at the southeast corner of the property where additional rap rap is proposed. Public street improvements are also proposed including installation of a curb, gutter and sidewalk along the parcel's frontage of Harrison Street. The applicant also proposes to record an offer to dedicate a 25-foot lateral public access easement along the lagoon front and to record a deed restriction that reflects a 100-foot buffer between the wetlands along the lagoon edge and development.

The subject site is a triangular-shaped parcel which has approx. 240 feet of frontage on Harrison Street and 34 feet of frontage on the lagoon. The site slopes down to the lagoon from Harrison Street with the difference in elevation of approx. 60 feet. The

parcel immediately west of the site is vacant but has in the past been informally used for parking for the marina located southwest of the site. The site immediately to the east of the site is vacant. However, the Commission has approved residential development in this area over the past several years. The areas east of Adams Avenue and north of Harrison Street are well developed residential areas; however, there are still many vacant lots east of the subject site and immediately adjacent to the north shore of Agua Hedionda Lagoon.

The site is designated Residential Low Medium (0-4 dua) and zoned R-1-15000 in the certified Agua Hedionda Land Use Plan. The applicant has received Hillside Development Permit and Minor Subdivision approval from the City of Carlsbad.

A past permit approved on the site, CDP #6-88-416/Bristol Cove Partners, was for a four-unit condominium building. That permit required the applicant to record an offer to dedicate fee title to the wetlands portion of the property along with an open space deed restriction to protect the property prior to acceptance of the offer. Recordation of an offer to dedicate an open space easement was also required to cover the area between the wetland boundary and the approved grading and structures.

It appears that the easements extended from the southern property line which is in close proximity to the +2.0 ft. MSL elevation, and extended upland for an approx. distance of 100 ft.. There is also information contained in the permit file (letter dated 10/12/88 from the California Department of Fish and Game) which indicates the location of the wetland boundary. That letter verifies that the wetland boundary was determined to be at the 10-foot contour line.

2. Public Access. Public access along and to the waters of Agua Hedionda Lagoon is very important because of the recreational nature of the lagoon. It is the only lagoon in San Diego County where water sports are permitted. The following Coastal Act sections are applicable to the proposed project.

Section 30210

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act state in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, [or] (2) adequate access exists nearby....

Pursuant to these Sections of the Act, the certified Agua Hedionda Land Use Plan contains a detailed set of public access policies.

Policy 7.1

Bicycle routes, and accessway facilities such as bike racks, benches, trash containers and drinking fountains shall be installed at the locations indicated on Exhibit I.

Policy 7.2

Pedestrian accessways shall be located as shown on Exhibit J. [Reference Ex. #4]

Policy 7.3

All pedestrian trails shall be constructed to a minimum width of 5 feet. Combination bicycle/pedestrian easements and lateral easements shall be a minimum 25 feet in width.

Policy 7.6 (in part)

Access to and along the north shoreline of the lagoon shall be made continuous to the maximum extent feasible, and shall be provided as a condition of development for all shoreline properties. All accesses shall be designed in such a manner as to allow for reasonable use by any member of the general public and shall be designed to accommodate bicycle as well as pedestrian use....

Policy 7.8

Design of Access Easements, Buffer Areas, and Adjacent Development

All accessways should be designed to enhance recreational use, and should include adequate open spaces for light and air, adequate signing, inviting design, and provision of adequate buffer areas and buffer landscaping to minimize conflicts with adjacent private property. All lateral public access easements

shall be at least 25 feet in width landward of the mean high tide line, unless infeasible due to extreme topographic limitation. The portion of the easement which is actually developed for access purposes may be less than the complete 25-foot width, provided that the developed area is sufficient to reasonably accommodate anticipated access demand. To meet these objectives, the following design criteria shall apply to all structures proposed to be located within 100 feet of any access easement or other public recreational area:

- a) All portions of such structures shall be set back from the point nearest any public use area a distance equivalent to twice the height of the structure above finished grade; and
- b) New development shall provide landscaping adequate to minimize visual intrusion upon public use areas.

Most of the north shore lagoon-fronting lots, between Agua Hedionda Lagoon and Adams Street, the designated first coastal roadway in the area, are undeveloped between I-5 and Bristol Cove. Some of the hillside lots contain coastal sage scrub on the hillsides and wetland vegetation near the water's edge. They are also within the public viewshed. Because much of the north shore of the lagoon is undeveloped the majority of the public access path called for in the certified Agua Hedionda LUP has yet to be constructed. The LUP states the north shore trail is to be constructed by individual private developments as a condition of approval of obtaining a coastal development permit if the City or another organization does not build it. The LUP requires that both the recordation of a public access easement and the physical construction of that part of the trail be provided. The LUP identifies that both pedestrian and bicycle access shall be provided along the north shore of Agua Hedionda Lagoon with a 10-foot wide trail being provided within a 25-foot wide easement upland of the mean high tide line. The LUP also identifies other access related requirements for new development, including design criteria for all structures proposed to be located within 100 feet of any access easement. To date, lateral access easements have been required on several north shore sites between Adams Street and the lagoon with only two sites having constructed their segment of the public access path called for in the LUP.

The project site is located between Agua Hedionda Lagoon and Harrison Street, west of Adams Street. Vertical public access is available to the west at Snug Harbor and to the east at Hoover Street. Also, the Agua Hedionda LUP indicates that formalized vertical access points should be provided in general areas where it exists today. As vertical access exists and is planned for in a certified LUP, the Commission is able to find that adequate vertical access is available in the general vicinity of the site.

The Commission must also address lateral public access along the lagoon shore for that portion of the site that fronts the lagoon. The City did not require any specific requirements related to access easements or trail improvements because there are two

existing offers to dedicate easements recorded on the property from the earlier permit approved by the Commission addressing open space and lateral public access. However, because the development that was approved under CDP #6-88-416 was never constructed, albeit the deed restrictions were recorded, new restrictions related to access and open space must be recorded for the subject development. The applicant considered the previously recorded offers to dedicate to be part of the project and has proposed to replace those with an offer to dedicate a lateral public access easement that extends from the mean high tide line to an area 25 feet upland of the mean high tide line with the subject application, and an open space buffer.

Since the applicant has proposed to offer to dedicate a 25-foot lateral access easement, the Commission did not conduct the prescriptive rights analysis or other analyses for purposes of requiring the dedication. However, to ensure the applicant implements the proposal, Special Condition #2 requires that the offer to dedicate a 25-foot lateral public access easement be recorded prior to issuance of the permit. The condition confirms that the easement area shall be for lateral public access and passive recreational use along the lagoon shoreline and shall extend upland 25-feet from the mean high tide line which is understood to be ambulatory from day to day. The applicant has not determined the exact location of the mean high tide line; however, a wetlands boundary determination was made on the site in the past by the California Department of Fish and Game. There is adequate area on the subject site to accommodate the proposed site plan and the required open space buffer and access easement; thus, in this particular case, it is acceptable to have this determination completed after the permit is approved by the Commission, but prior to issuance of the permit.

Because the applicant is proposing to dedicate a lateral public access easement, the Commission finds the project is consistent with the public access and recreational policies of Chapter 3 of the Coastal Act. The special conditions attached are to ensure the project is implemented as proposed.

3. Environmentally Sensitive Habitat/Wetlands. The project site is located along the north shore of the inner basin of Agua Hedionda Lagoon. Coastal Act Sections 30231 and 30240 call for the preservation of sensitive habitat areas, including wetlands. Agua Hedionda in particular has been identified as one of 19 high priority coastal wetland acquisition areas, as referenced in Section 30233 of the Act.

Section 30240

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed

to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30240 provides that environmentally sensitive habitat areas be protected against any significant disruption of habitat values. Pursuant to these policies, the certified Agua Hedionda Land Use Plan contains a policy regarding preservation of Agua Hedionda's upland areas.

Policy 4.4

Recognizing the unique environmental features of the lagoon and its environs and the sensitivity of the area to soil erodibility and sedimentation, development shall be regulated as follows:

- a. Development on existing subdivided lots having all of their area in slopes of 25% or greater shall be permitted, but grading shall be limited to minimal site preparation for pole-type footings. Driveway/parking areas shall be limited in size and shall be restricted to an area adjacent to the local streets. On-site vegetation shall not be disturbed beyond the minimal area needed to be cleared for the construction process, which shall be clearly delineated on approved site plans.
- b. Development, grading and landform alteration in steep slope areas (25%) shall be restricted. Exceptions may include encroachments by roadway and utilities necessary to reach developable areas. The maximum allowable density may be modified through setbacks, plan review, or other requirements of this plan and applicable city regulations.
- c. Use of the Planned Development Ordinance (PD) and cluster development shall be required in areas containing environmentally sensitive resources, extensive steep slope areas and significant natural landform features.

The project site is a lagoon-fronting hillside lot but does not contain any coastal sage scrub habitat. The only vegetation on site consists of weeds and a few trees.

Approximately 14% of the subject site contains steep slopes which are defined as slopes greater than 25% grade; however, these are not natural slopes and are manufactured slopes which are adjacent to the concrete foundation of a former residence on the property that was destroyed by fire. According to the project engineer, the original contours of the site contain no steep slopes.

Development on the project site is somewhat constrained by the site's proximity to the lagoon and the site's location in a public viewshed. Coastal Act policies 30230 and 30231, which provide for protection of coastal lagoons, support a requirement that development

on this site be set back 100-feet from the wetland boundary to ensure that the lagoon environment will not be adversely affected. In addition, the scenic policies of the Coastal Act and the LUP require that no development exceed the centerline of Adams or Harrison Streets to ensure that the public viewshed will not be adversely affected. These policies support locating the house down the slope and away from the street. The applicant has designed the proposed residences such that the garages, the structures closest to the street, will be below the centerline of Harrison Street, consistent with protection of the lagoon water quality and the public viewshed.

Pursuant to Sections 30230, 30231 and 30240 of the Coastal Act, the Commission has in the past required a 100-foot buffer between new development and the water's edge of a coastal lagoon. Historically, the Commission requires that buffer areas remain undeveloped to provide physical space between development and environmentally sensitive areas like Agua Hedionda Lagoon. This intervening space acts as a distance barrier between human activity and the resource, as well as a transitional habitat area for species using the lagoon. It also functions as a percolating medium where the water from the lagoon is allowed an area to absorb into the ground, etc. For these reasons, there is less of a chance that adverse impacts associated with development (i.e., runoff and siltation associated with grading and site preparation, construction debris, debris generated by residential use, etc.) in this area will find its way into the lagoon. The Commission has permitted minor drainage improvements and low intensity public improvements within buffer areas. Special Condition No. 3, requires that the applicant record a deed restriction that prohibits development in an area extending 100 feet upland of the wetlands boundary. The open space deed restriction, would however, specifically allow for some improvements in the buffer area to include a public trail, fencing, etc. However, such improvements would be subject to a future amendment to the permit and would be required to be upland from the lagoon so as not to deter public access near the lagoon shoreline.

As noted above, pursuant to information contained in the permit file, a wetlands boundary determination was completed in 1988 by the California Department of Fish and Game. The wetlands boundary was determined to be at the 10-foot contour line. the lateral access easement and open space easement were then required to be upland from this line, and were recorded, as such. Staff attempted to obtain information regarding the current wetlands boundary. Although the applicant has not had a current wetlands boundary determination completed nor an assessment of the mean high tide line, he indicated that in a conversation with the City of Carlsbad Engineering Department, the subject site has been monitored on an on-going basis and that the site conditions are the same today as they were ten years ago in terms of the wetland boundary. Commission staff subsequently confirmed this information by phone with City staff.

For this reason, the Commission is approving the project subject to completion of a survey to confirm the current wetlands boundary. Special Condition No. 1 requires the applicant to have the site surveyed, in consultation with the California Department of Fish and

Game. the results of the survey shall be staked in the field and verified by the Executive Director. The area extending from the southern property line to 100 feet upland of the wetlands boundary shall be subject to an open space deed restriction which will allow for future trail improvements and a landscape barrier or fencing to demarcate the public and private areas.

Policy 7.8 of the LUP provides that a setback from the inland extent of the public access easement be provided equivalent to twice the height of the structures. This policy was included in the LUP so that an adequate setback would be provided between private/public areas to provide a greater sense of privacy for both the property owner and coastal visitors, consistent with Coastal Act Section 30214(a)(4). The proposed building height of the residences are 25 and 30 feet, respectively, therefore, a 60-foot setback should be provided between the residence and the easement. Because the inland extent of the access easement will vary from day-to-day (it is ambulatory) it is difficult to identify just where the inland extent of the easement would be at any given time. The proposed residences are over 100 feet from the ten-foot contour line which is likely inland of the mean high tide line. Therefore, the 60-foot setback is provided.

As noted previously, it was determined in a past permit on the site that the wetlands boundary was at the 10-foot contour line. Both open space and lateral access easements were recorded on the site. An assessment of the current accuracy of the wetlands boundary will be performed by the applicant with the California Department of Fish and Game. The site plan does not include any grading or installation of improvements within the existing buffer area, with the exception of the proposed drainage improvements. Special Condition #3 requires the buffer to be reserved as open space.

As noted, the site plan indicates that several drainage improvements are proposed within the buffer (rip rap energy dissipaters). Construction of these improvements is consistent with policies 30230, 30231 and 30240 of the Coastal Act. The applicant has submitted a preliminary drainage plan but it does not include calculations indicating that the drainage improvements are at the appropriate elevation to reduce concentrated runoff and erosion. The amount of runoff and the appropriate location of the discharge point are important to assure the drainage system has been designed to not exceed existing natural levels of runoff which would contribute to additional erosion and sedimentation to the lagoon. The project engineer has indicated that the proposed erosion control improvements can and will be designed to assure that water is collected and discharged at a non-erosive velocity. However, without final plans to this effect, a special condition must be attached requiring final plans. Thus, the Commission finds that final drainage plans must be submitted. The final plan must include calculations and such additional drainage improvements necessary to assure that runoff will not exceed pre-project natural levels. The Commission finds that drainage improvements shown on the preliminary plans are allowed within the buffer if all disturbed areas are replanted with native plants as required mitigation. If however, the engineer finds that additional erosion control measures beyond those shown on the preliminary plans are necessary to ensure that run-off rates do not exceed current rates,

the applicant will be required to obtain an amendment to this permit. Since this permit will not be issued without plans showing an engineer's conclusion that existing run-off rates will not be exceeded, any required permit amendment will have to be obtained before this permit can be issued.

The proposal also includes roughly 710 cubic yards of balanced grading for construction of a crib wall and driveway and 530 cubic yards for public street improvements. Special Condition #6 specifically prohibits grading during the rainy season when the potential of erosion and sedimentation are greatest. The rainy season is identified as the period from October 1 to April 1 of each year. Each of the plans is to be subject to the review and written approval of the Executive Director. As conditioned, the Commission finds the project consistent with the Section 30240 of the Coastal Act and the applicable policies of the Agua Hedionda Land Use Plan regarding protection of environmentally sensitive resources.

4. Scenic Preservation. Because Agua Hedionda Lagoon and the viewshed surrounding the lagoon is both an environmentally sensitive area and major recreational resource, it was the subject of a detailed LCP Land Use Plan prepared by the City and certified by the Coastal Commission. In response to Section 30251 of the Coastal Act, one of the issues addressed in the Land Use Plan was the preservation of views from Harrison and Adams Streets. These streets are designated scenic corridors which run along the north shore of the lagoon. The policies of the LUP require that development of the lots which lie between these streets and Agua Hedionda Lagoon be designed so as to preserve the public views.

The policies call for the view preservation to occur through either: (a) the siting of structures at elevations below that of the street adjacent to the property or (b) the preservation of one third of the width of the parcel as a "view corridor". The preferred method for preserving such views lies in the siting of all (portions of) structures on a site at an elevation which is below that of the elevation of the adjacent scenic roadway. This would allow passers-by to see over the structure(s) to the lagoon and surrounding areas.

In this case the roof line of the proposed residence is proposed at elevation +52.0 and +55.0 ft., respectively, which is below the elevation of the centerline of Harrison Street (+60.0 ft.) adjacent to the project site. Thus, the project conforms with the LUP requirement. The City of Carlsbad's approval includes a condition which requires that future development be constructed below the level of Harrison Street. Adams Street is also a scenic view corridor and Harrison is treated the same since it is the first coastal road. Views from Adams Street will not be blocked through the subject proposal because the site is at a lower elevation than Adams Street. Special Condition #7 is attached regarding the maximum height for future structures on the lot. The special condition notifies the applicant and future property owners through recordation of a deed restriction of the need for future permits for subsequent development of the site.

Landscaping is also important in minimizing visual impacts. The applicant has submitted a preliminary landscape plan. Although the preliminary landscaping plan indicates installation of numerous trees along the Harrison Street frontage, further mitigation of the visual impact of the structures as seen from I-5, the future public trail and the south shore of the lagoon, must be required. For this reason, the Commission is requiring through a revised landscape plan that special emphasis shall be placed on the use of trees to screen the homes while preserving views from the homes. The revised landscape plan shall indicate the placement of one specimen size tree (24-inch box minimum) for every 10 feet of south-facing pad area lagoon-ward of the proposed building site, arranged to maximize screening of the structures from views from Aqua Hedionda Lagoon and Interstate 5. The required trees shall be planted within 60 days of completion of residential construction and be maintained in good growing condition for the life of the residences. The plan shall also include the use of species which do not reach sufficient height to block public views from Harrison or Adams Streets. Maintenance requirements to assure no blockage of public views must be incorporated into the approved plan. As conditioned, the Commission finds the project consistent with Section 30251 of the Coastal Act and the applicable policies of the Agua Hedionda Land Use Plan regarding scenic preservation.

5. Local Coastal Planning. Section 30604 (a) 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 Agua Hedionda Land Use Plan (LUP) designates the site for residential development. The project is consistent with that designation. As conditioned, the project is also consistent with the policies of the Agua Hedionda Land Use Plan regarding scenic resources, habitat preservation and the provision of public access, and should not prejudice the ability of the City of Carlsbad to prepare a fully certifiable Local Coastal Program for its Agua Hedionda Lagoon segment.

6. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit, as conditioned, is 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 to be found consistent with the resource, visual and public access protection policies of the Coastal Act. The attached mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** 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.

tu 18a

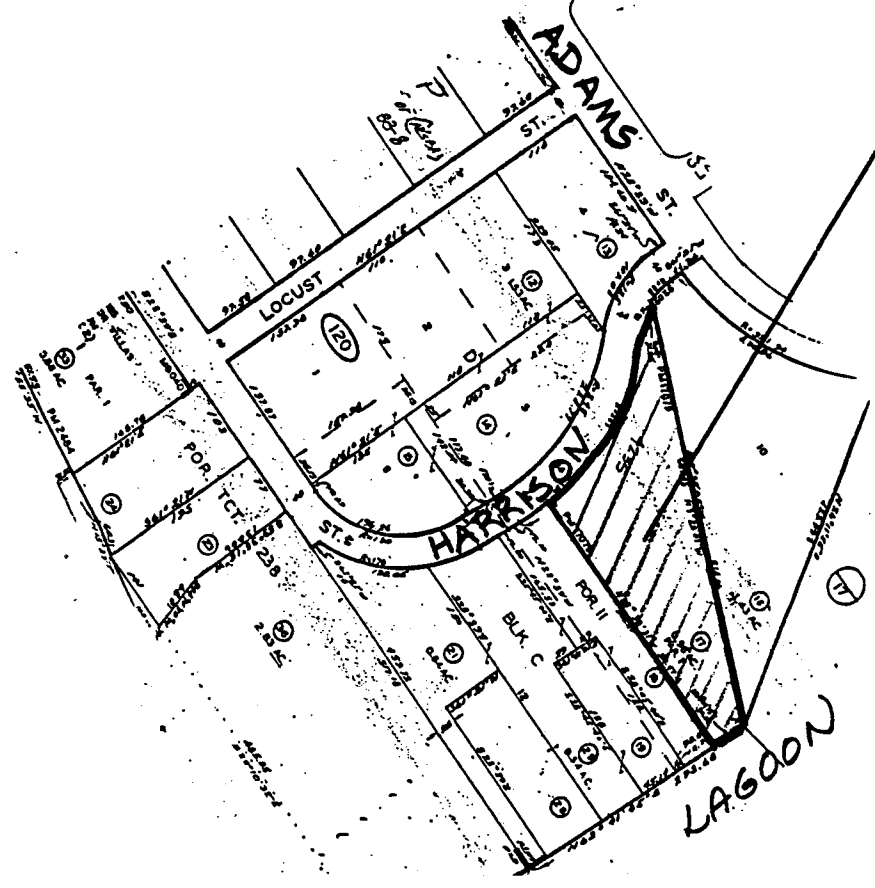
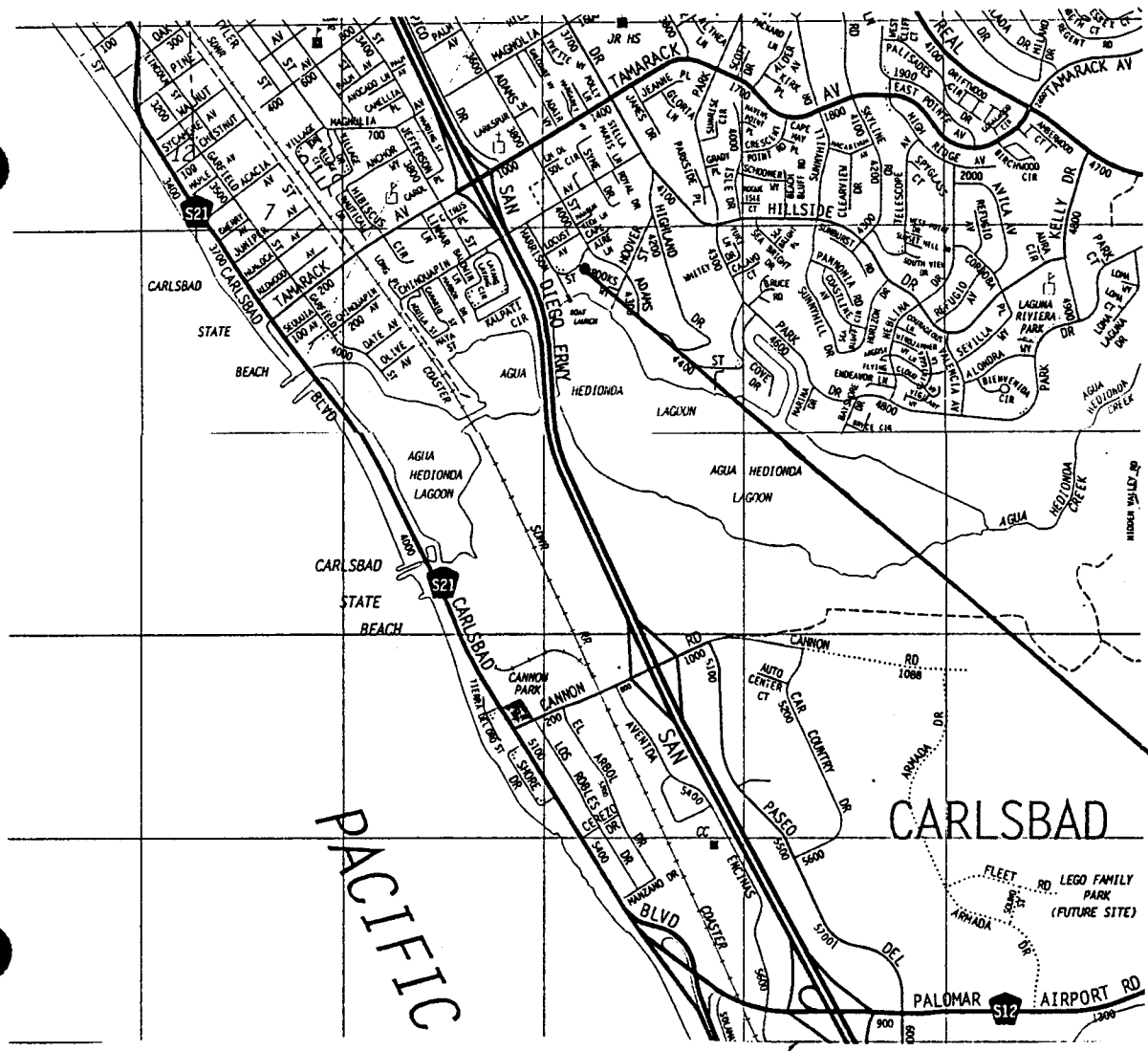
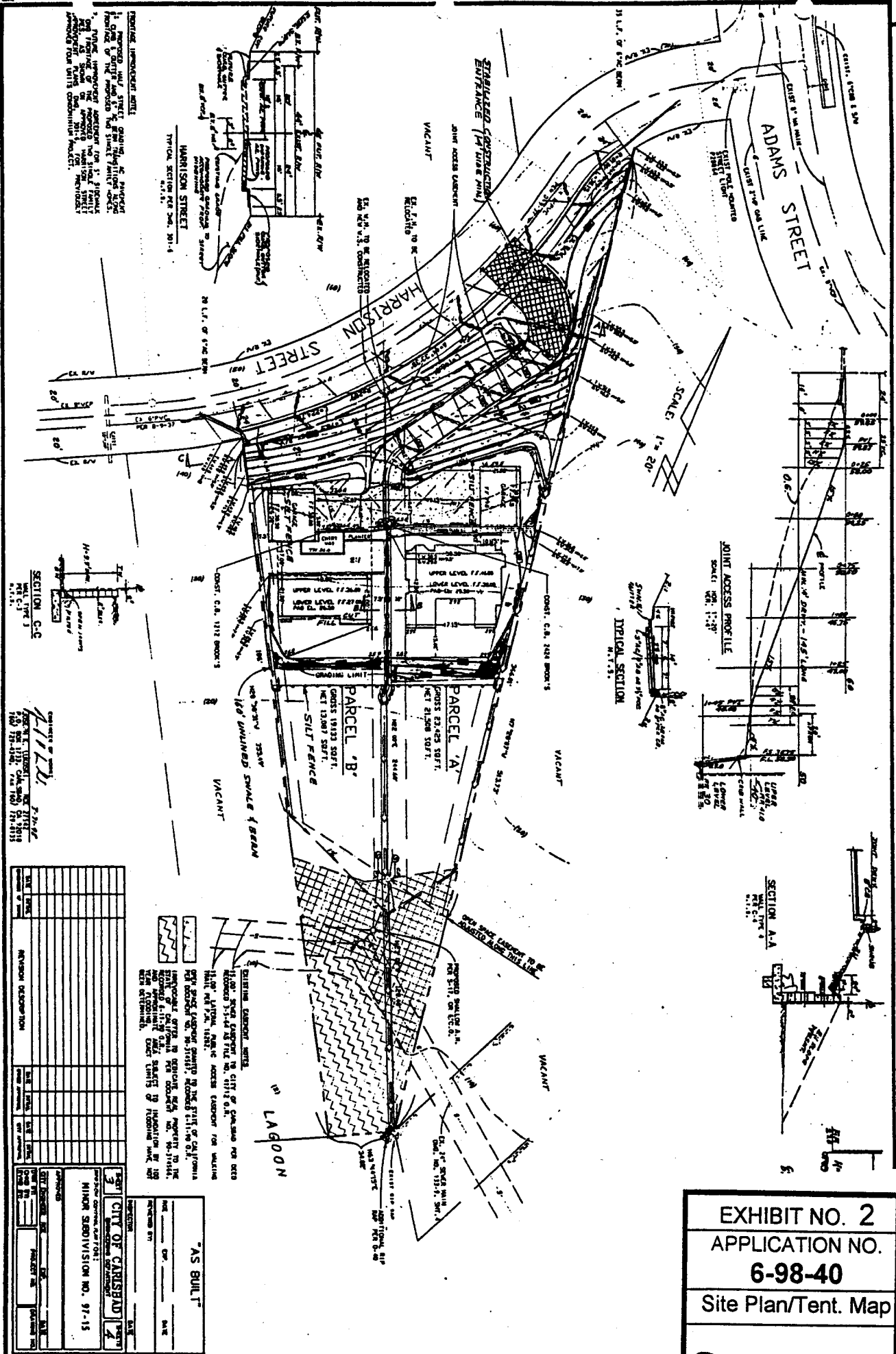


EXHIBIT NO. 1
 APPLICATION NO.
 6-98-40
 Location Maps

California Coastal Commission



PROPOSED IMPROVEMENTS: ADJUST TO PROPOSED 1/2" GRADE AND 1/2" SLOPE. THE PROPOSED IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE CITY OF CARLSBAD, CALIFORNIA, PUBLIC WORKS DEPARTMENT, STANDARD SPECIFICATIONS FOR PAVEMENT FOR VARIOUS CONDITIONS.

HARRISON STREET
TYPICAL SECTION FOR 24" x 36" x 14"

JOINT ACCESS PROFILE
SCALE: 1/8" = 1'-0"

TYPICAL SECTION
SCALE: 1/8" = 1'-0"

SECTION A-A
SCALE: 1/8" = 1'-0"

SECTION C-C
SCALE: 1/8" = 1'-0"

CONTRACT NO. 7-27-96
DATE: 10/12/96
CITY OF CARLSBAD
150 W. 11TH ST. CARLSBAD, CA 92008

NO.	DESCRIPTION	DATE	BY

EXISTING CURB AND GUTTER TO BE RECONSTRUCTED TO THE CITY OF CARLSBAD AND DEEP RECONSTRUCTED SIDEWALK IS FILED NO. 11712 O.R. FILED FOR 7/24/96. THESE IMPROVEMENTS TO THE CITY OF CARLSBAD ARE SUBJECT TO THE CITY OF CARLSBAD'S STANDARD SPECIFICATIONS FOR PAVEMENT FOR VARIOUS CONDITIONS.

"AS BUILT"

DATE: _____ BY: _____

REVISION BY: _____ DATE: _____

APPROVED BY: _____ DATE: _____

PROJECT NO. _____

CITY OF CARLSBAD
ENGINEERING DEPARTMENT
DIVISION NO. 97-15





EXHIBIT NO. 2
APPLICATION NO.
6-98-40
Site Plan/Tent. Map

California Coastal Commission

PEDESTRIAN ACCESS PLAN

EXHIBIT J

LEGEND

-  STUDY AREA
-  PLANNING AREA
-  PEDESTRIAN TRAIL
-  FACILITIES

AGUA HEDIONDA LCP

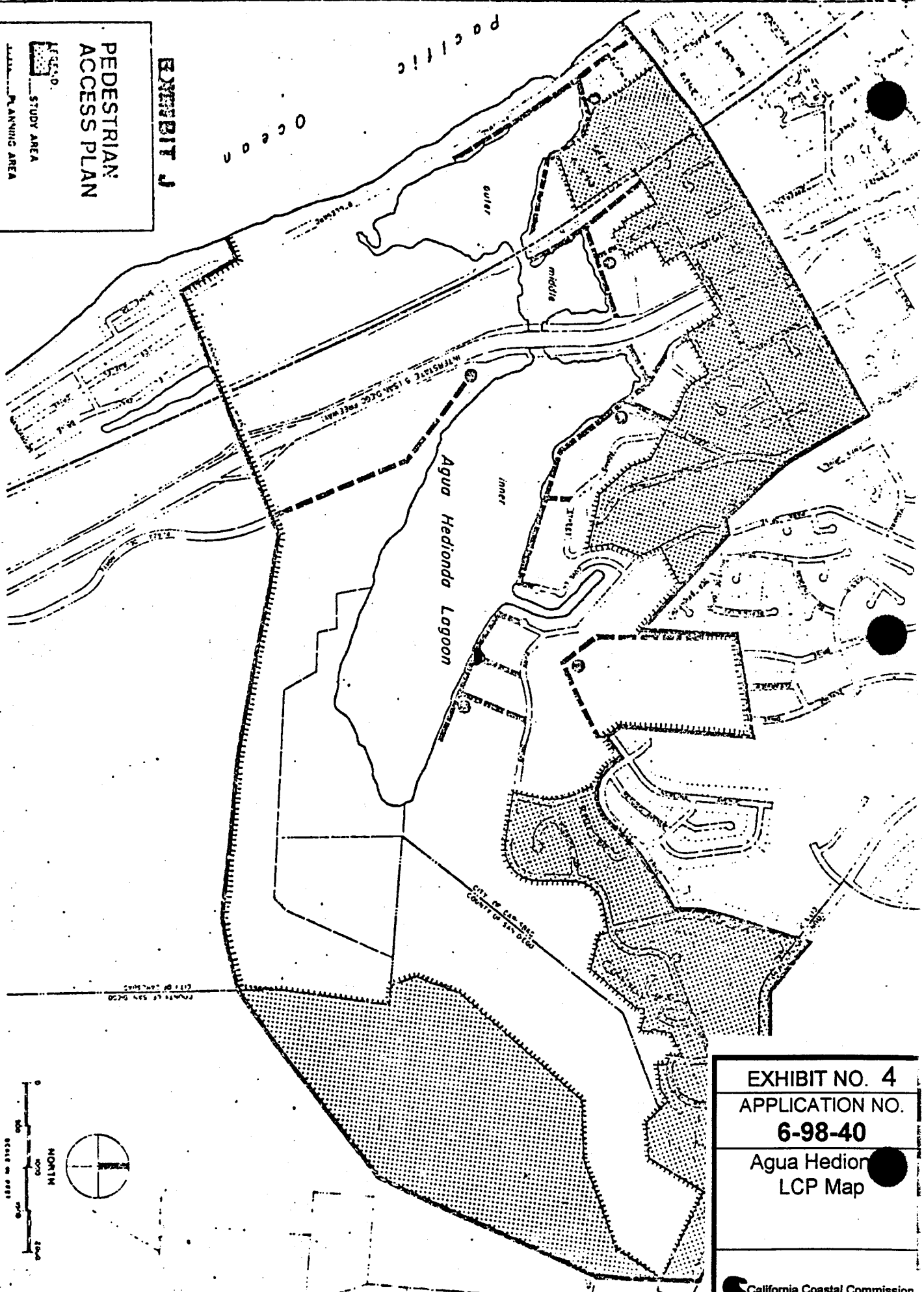



EXHIBIT NO. 4
APPLICATION NO.
6-98-40
 Agua Hedionda
 LCP Map

 California Coastal Commission