

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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Hearing Date: 1/13-15/ 1999

RECORD PACKET COPYREGULAR CALENDARSTAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-61

Applicant: City of Oceanside

Agent: Jerry Hittleman

Description: Channelize a 900-foot segment of Loma Alta Creek west of Interstate 5 to increase the holding capacity of the creek at the location of historic flooding. The proposed project would occur in a portion of the creek that is partially channelized. Excavation of the sides of the existing channel and replacing the sloping sides with cement vertical walls is proposed. The base of the walls would extend 7.5 feet into the channel on both sides, sloping slightly to a central semi-natural bottom channel measuring 35 feet wide created over a concrete base. The bottom would be 18 inches deep and backfilled and revegetated with native cattails and bulrush. Cement connectors would join the two sides of the channel every 50 feet and will also serve to retain sediment.

Site: Loma Alta Creek, Oceanside, San Diego County.

Substantive File Documents: Certified Oceanside Local Coastal Program, CDP #6-97-23

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development with special conditions that require final construction and mitigation plans to mitigate habitat impacts to Loma Alta Creek, that future maintenance provisions to the project may be subject to further Commission review and that all required state and federal discretionary permits are obtained.

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. Sensitive Habitat/Conformance with Final Construction and Mitigation Plans.

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval, final construction and mitigation plans approved by the City of Oceanside and the California Department of Fish and Game in substantial conformance with the preliminary construction plans dated 11/24/97 by Hunsaker and Associates and the mitigation plan dated November 4, 1998 by Recon. Any proposed changes to the approved final plans shall be reported to the Executive Director. No change to the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

2. Maintenance Activities/Future Development. Any future maintenance activities and/or vegetation removal may require an amendment to this permit or a separate coastal development permit and the applicant shall be responsible for contacting the Commission office to gain that determination prior to commencement of work.

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

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of Oceanside is proposing to channelize a 900-foot segment of Loma Alta Creek west of Interstate 5 to increase the holding capacity of the creek at the location of historic flooding. The proposed project would occur in a portion of the creek that is partially channelized. Excavation of the sides of the existing channel and replacing the sloping sides with cement vertical walls is proposed. The base of the walls would extend 7.5 feet into the channel on both sides, sloping slightly to a central semi-natural bottom channel measuring 35 feet wide over a concrete base. The bottom would be 18 inches deep and backfilled and revegetated with native cattails and bulrush. Cement connectors would join the two sides of the channel every 50 feet and will also serve to retain sediment.

The creek is proposed to be channelized from approximately 20 feet east of the Coast Highway bridge and continue upstream (east) 900 feet until it meets an existing extent of a channelized portion of Loma Alta Creek. West of the Coast Highway bridge, the creek's banks and channel bottom are earthen after approximately 20 feet of concrete bottom and bank protection downstream of the existing bridge. Loma Alta Creek eventually empties into Loma Alta Lagoon and then the Pacific Ocean. Recent floods occurred in 1993, 1995, and 1998 and each has required emergency response by the Office of Emergency Services and the City of Oceanside. This flooding has caused extensive property damage, including the loss of 35 homes in 1995.

In CDP #6-97-23, the Commission approved the widening/redesign of the Coast Highway bridge crossing of Loma Alta Creek within the creek to provide greater flood control. Although the City of Oceanside has a certified LCP, this project is within the Coastal Commission's original jurisdiction; therefore, a coastal development permit is required for the proposed project. The standard of review of the project is Chapter 3 policies of the Coastal Act.

2. Flood Control/Sensitive Habitat. Section 30233 of the Coastal Act provides that no diking, filling, or dredging of open coastal waters, wetlands, estuaries and lakes shall only be permitted for specific uses, including incidental public service projects, and where there is no feasible less environmentally-damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30236 of the Coastal Act addresses the types and extent of activities permitted in rivers and streams and provides:

Section 30236.

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for

protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

In addition, Section 30240 of the Act states:

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

The City of Oceanside's Local Coastal Program (LCP) was certified in 1985. The LCP's Land Use Plan, Section V, identifies the Loma Alta Creek as "Environmentally Sensitive Habitat Areas". Under Section V, there are three "Findings" for Loma Alta Creek, as follows:

1. The biological resources of Loma Alta Creek and slough within the Coastal Zone are quite limited. The only significant stand of vegetation is a large stand of *Myoporum laetum*, an introduced plant, adjacent to the slough. (Note: the slough is located west of the railroad trestle and is not located within the area of construction).
2. The water quality of Loma Alta Creek has not been tested, but is believed to be poor. It is possible that the water is entrophied due to its dark green color and stagnant appearance. The water contains a large amount of urban pollutants due to the vast expanses of pavement which drain directly into the creek and slough.
3. Existing development near the creek is susceptible to flood hazards. Flood control measures may need to be taken to protect existing structures.

Under "Objectives" within Section V, it states:

1. The City shall provide adequate flood protection to existing development in the vicinity of Loma Alta Creek in a manner which preserves the remaining resources of the creek.

There are two "Policies" for the Loma Alta Creek, listed within Section V:

1. It is the policy of the City to prohibit filling in Loma Alta Creek.

1. Removal of existing vegetation shall not be permitted in Loma Alta Creek except where essential for flood control purposes. In such instances, the City will obtain the necessary clearance from the State Department of Fish and Game prior to commencing work.

The project represents one in a series of improvements identified within the City's management plan for the Loma Alta Creek Watershed. The project is proposed to alleviate seasonal flooding problems which have resulted in damage to the residential, commercial and industrial properties located adjacent to the creek.

The flooding problem on Loma Alta Creek stems from two separate hydrological conditions: 1) the diminished capacity of the creek to contain flood waters at the point of flooding; and 2) the uncontrolled rate of water flow into the flood danger area. The Loma Alta Creek flood control project is designed to resolve both of these concerns through two phases. The proposed channelization phase will increase the capacity of the creek to accommodate flows associated with a 40-year flood event. The existing situation along the lower Loma Alta Creek provides for a flood of no more than a 10-year frequency. The detention phase of the project, outside the coastal zone, is proposed to be designed to regulate the flow of flood waters into the flood hazard area. The overall project is anticipated to provide 100-year flood protection to the flood hazard areas. Due to the urgent need for partial flood protection in the flood hazard area in the developed vicinity of Loma Alta Creek, the channelization portion of the project is proposed prior to the final design of the detention basin component.

This project calls for the channelization of a portion of the drainage channel to reduce flooding hazard for public safety purposes and for protection of existing residential and commercial uses in the area. Thus, the project represents a substantial alteration of Loma Alta Creek and, as such, pursuant to Section 30236, is only permitted for flood control provided adequate mitigation measures are used. Additionally, the drainage channel will be impacted incidental to this public service project. Therefore, the fill in the creek is allowable under Section 30233 (a) where there is no less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse effects.

As noted above, the Oceanside LCP prohibits removal of existing vegetation in Loma Alta Creek except where essential for flood control purposes. In such instances, the City must obtain the necessary clearance from the State Department of Fish and Game prior to commencing work. The project would impact approximately 0.43 acre of channel bottom, 1.02 acres of earthen and/or earthen bank, and 0.02 acre of willow riparian habitat (2-3 trees).

The ACOE has indicated that none of the impacted areas are considered sensitive habitat. The proposed soft bottom channel will provide 0.67 acres of emergent wetland habitat after construction. In addition, to compensate for the direct impacts of the project, the

City proposes to create 1.44 acres of additional intertidal habitat from upland areas at Buccaneer Park in Loma Alta Lagoon, west of the project area. Mitigation for the loss of 0.02 acres of willow scrub is proposed through the planting of 0.06 acres of native riparian trees along the bank adjacent to the channel and within the project right-of-way. Preliminary comments from the California Department of Fish and Game have indicated that the proposed mitigation is acceptable. In CDP #6-97-23, the Commission approved the soft bottom approach within the creek channel to mitigate project impacts.

Special Condition #1 requires final construction and mitigation plans approved by the City of Oceanside and the California Department of Fish and Game to be in substantial conformance with the preliminary construction and mitigation plans submitted with the application and the future streambed alteration agreement approved by the Department of Fish and Game. Any proposed changes to the approved plan shall be reported to the Executive Director. No change to the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

Special Condition #2 specifies that if any future maintenance is proposed, the need for a coastal development permit and any appropriate mitigation will be addressed. Special Condition #3 requires copies be submitted of all other required state or federal discretionary permits. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

In addition, the submitted mitigation plan, "Biological Technical Report for Channel Improvements Upstream of the Coast Highway Bridge", prepared by Recon, and dated November 4, 1998, identifies that the proposed mitigation will replace the existing functions and values lost in Loma Alta Creek by increasing the capacity of the lagoon to hold water and provide an additional 1.44 acre area for sediments and some vegetation to improve water quality. In addition, the sediments that accumulate in the channel upstream of the lagoon in the project area will provide a substrate that allows seasonal vegetation to establish, which will also help to improve water quality. Although habitat values for the creek remain low, the increased area of the lagoon could benefit the California Least Tern and other birds through an increase in available foraging area.

The Commission finds that, as conditioned above, the proposed project can be found consistent with Section 30233 as an incidental public service purpose where impacts to the creek bottom and riparian vegetation are adequately mitigated. Also, the proposed project can be found consistent with Section 30236 as a flood control project that incorporates the best mitigation measures feasible. Therefore, as conditioned, the project will not result in any significant permanent impacts and; as a maintenance project to an existing flood control channel, it can be found consistent with Sections 30233, 30236 and 30240 of the Coastal Act as well as the site-specific resource protection policies of the certified Oceanside LCP.

3. Local Coastal Planning. Two policies of the certified Oceanside LCP require protection of Loma Alta Creek from adverse impacts associated with flood control. One provides that removal of existing vegetation shall not be permitted in Loma Alta Creek except where essential for flood control purposes. In such instances, the City will obtain the necessary clearance from the State Department of Fish and Game prior to commencing work. In this case, the proposed project is to maintain an existing flood control channel and, as conditioned, will receive clearance from the State Department of Fish and Game to implement the project subject to a number of mitigation measures which have been incorporated into this coastal development permit. Therefore, the Commission finds that the subject proposal is consistent with the policies of the certified Oceanside LCP.

4. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the flood control and habitat protection policies of the Coastal Act. Mitigation measures, including implementation of a mitigation plan and compliance with future maintenance provisions 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 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.

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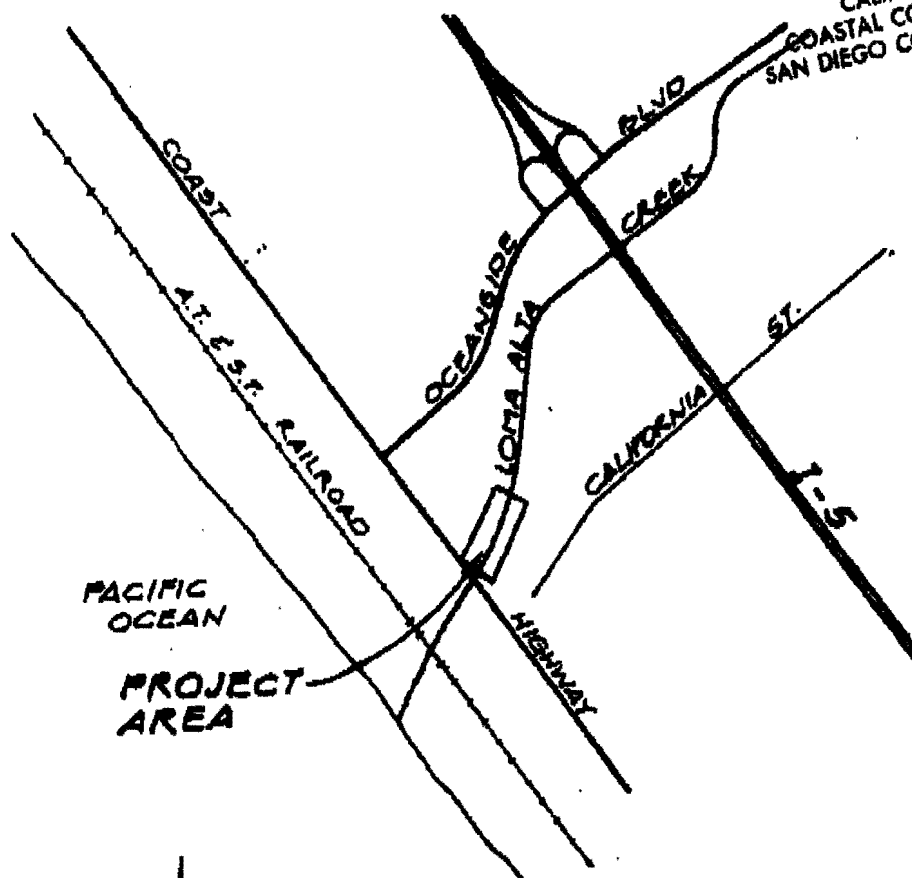
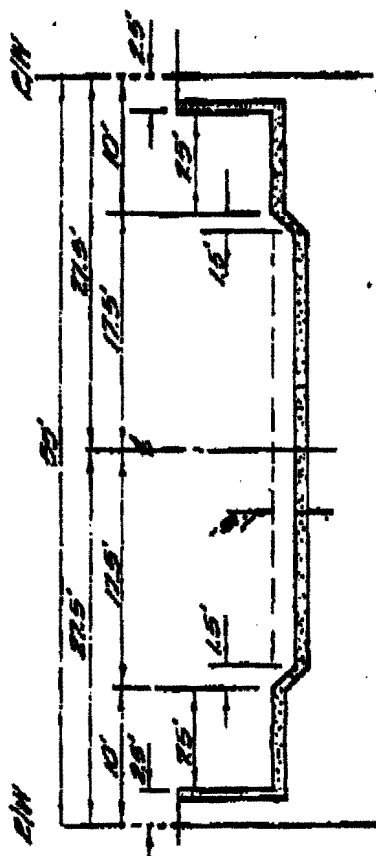
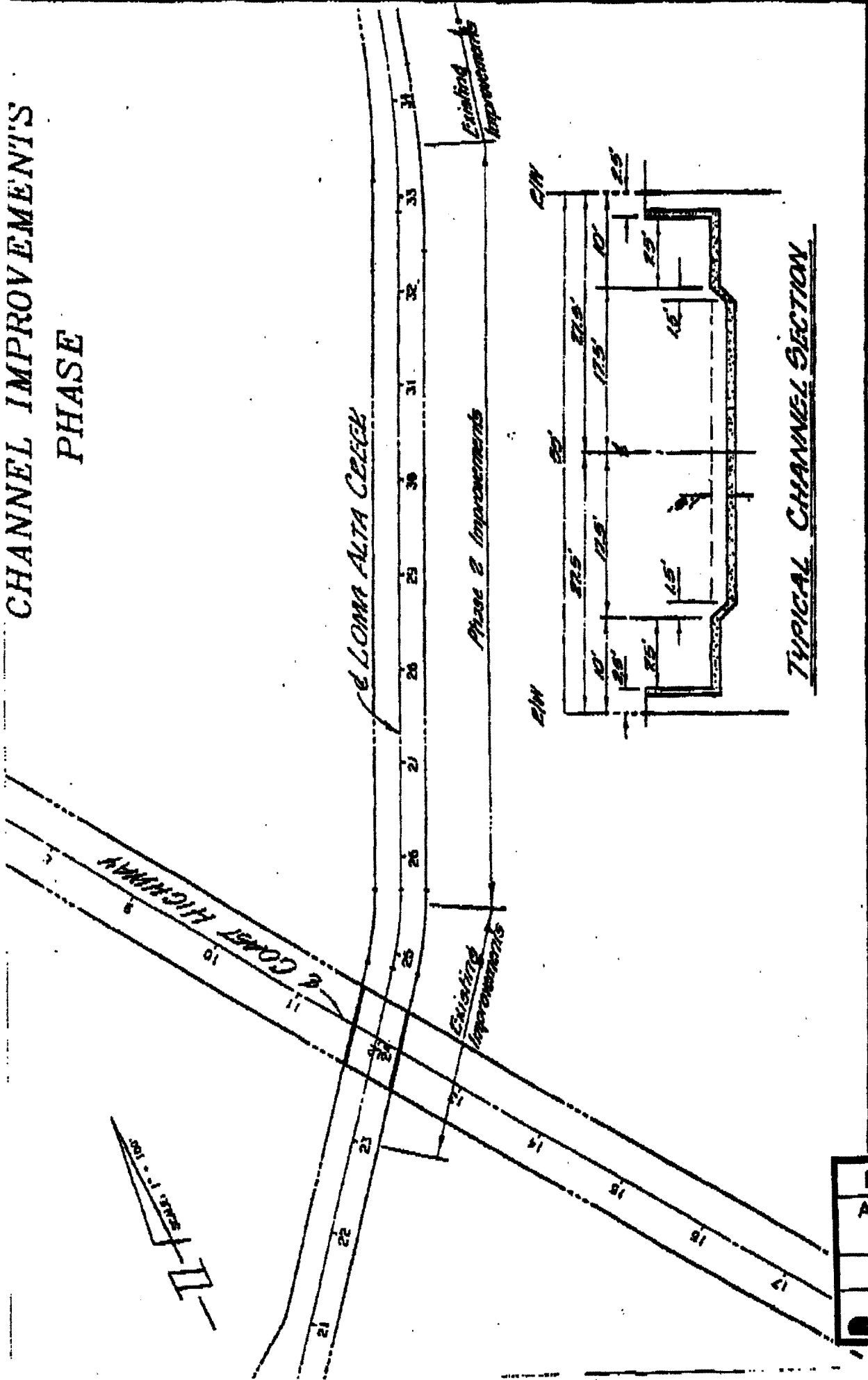
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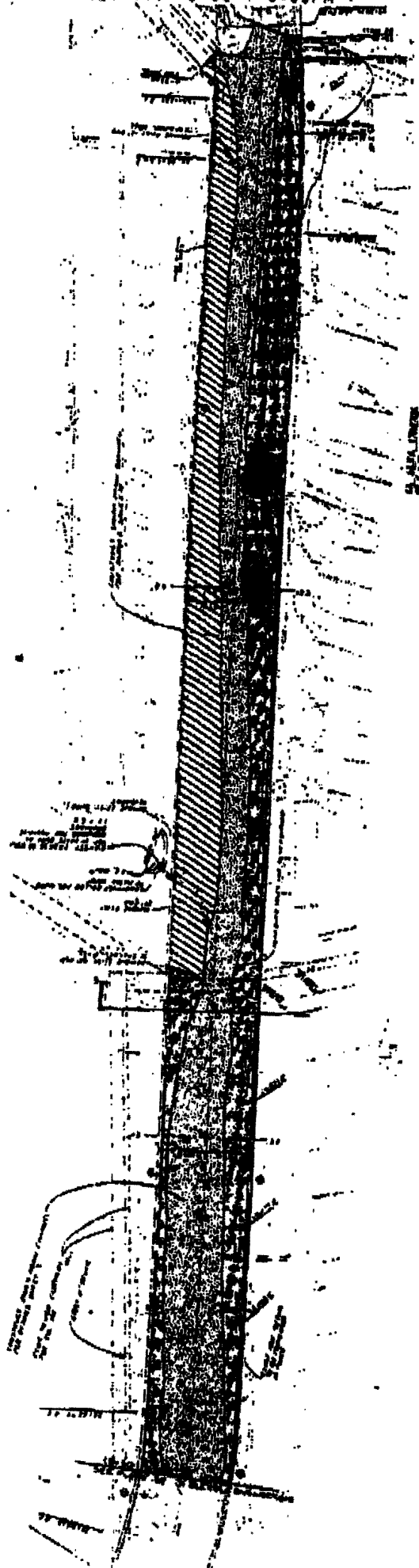
EXHIBIT NO. 1
APPLICATION NO.
6-98-61
Location Map
California Coastal Commission

CHANNEL IMPROVEMENT'S PHASE



SHEET 4 of 4

EXHIBIT NO. 2
APPLICATION NO. 6-98-61
Site Plan
California Coastal Commission



Wetland
Reef
Channel bottom
Concrete



EXHIBIT NO. 3

APPLICATION NO.

6-98-61

Existing Vegetation

Sheet 3 of 4
Existing Vegetation