

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036

**Wed 22b**

Filed: 11/1/99
49th Day: 12/20/99
180th Day: 4/29/00
Staff: GDC-SD
Staff Report: 11/18/99
Hearing Date: 12/7-10/99

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approval With Conditions

APPEAL NO.: A-6-ENC-99-140

APPLICANT: Outback Growers

PROJECT DESCRIPTION: Construction of four greenhouses totalling 14,700 sq. ft., two pedestrian foot bridges over an existing on-site streambed, two gravel driveways and parking areas on an approximately 7.6 acre lot.

PROJECT LOCATION: West side of Saxony Road, approximately 1/2 mile south of La Costa Avenue, Encinitas, San Diego County. (APN: 216-110-14)

APPELLANTS: Saxony Preserve; California Coastal Commissioners Cecilia Estolano and Sara Wan

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program (LCP); Appeal Applications dated October 28, 1999 and November 1, 1999; City of Encinitas Planning Commission Resolution No. PC-99-13; CDP 98-278.

I. Appellants Contend That:

The appellants contend that the City's decision is inconsistent with several provisions of the City's LCP related to wetland and riparian corridor preservation, brush management

policies, requirements to consult with U.S. and California resources agencies involving new development in areas containing environmentally sensitive habitat, design review requirements for development within a designated watershed, and related to prohibitions against altering a natural stream in order to accommodate private development.

II. Local Government Action.

The coastal development permit was approved by the City of Encinitas Planning Commission on April 8, 1999. The decision was appealed at the local level by Saxony Preserve on April 23, 1999 and on August 18, 1999 the City Council denied the appeal request. Several special conditions were attached which require, among other things, a 30 foot fuel management buffer around the greenhouses which cannot encroach into open space easement without additional City review, a 7 foot setback from the top of the streambed ravine, limitation on number of employees and hours of operation and use of Best Management Practices.

III. Appeal Procedures.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within identified appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will hold a public hearing on the merits of the project at a subsequent Commission hearing. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of

Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

Staff Recommendation On Substantial Issue.

Staff recommends that the Commission determine that SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal was filed, pursuant to PRC Section 30603.

MOTION: I move that the Commission determine that Appeal No. A-6-ENC-99-140 raises no substantial issue with respect to the grounds on which the appeal has been filed under section 30603 .

Staff recommends a NO vote. Failure of the motion will result in adoption of the following resolution and findings. The Commission will then hear the application de novo. The motion passes only by affirmative vote of a majority of Commissioners present.

RESOLUTION:

The Commission hereby finds that Appeal No. A-6-ENC-99-140 presents a substantial issue with respect to the grounds on which the appeal has been filed under section 30603 of the Coastal Act regarding consistency with the Certified Encinitas Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Findings and Declarations.

1. Project Description. The proposed development involves the construction of four greenhouses totaling up to 14,700 sq. ft., two pedestrian bridges over a streambed, two gravel driveways and parking areas on a 7.6 acre lot located on the west side of Saxony Road approximately ½ mile south of La Costa Avenue in Encinitas. The 7.6 acre parcel is in the process of being subdivided into four parcels and the proposed development will occur only within future lot #4. The property (i.e., the 7.6 acre parcel) contains both steep slopes (containing environmentally sensitive habitat) and generally flat areas that are located at the western base of a canyon (Saxony Canyon) and also contains a seasonal stream, 15 to 20 feet deep, traversing north/south through the property. The proposed development will be sited on a semi-flat area of the property that is mowed on a regular

basis and therefore contains little or no vegetation. No grading is proposed. The City has indicated that the property has historically been used for agricultural purposes. The greenhouses will be located as close as seven feet from the edge of the top banks of the seasonal stream and the two pedestrian bridges will traverse over the stream in order to provide access to some of the greenhouses. The applicant's submitted biological assessment of the subject property has identified the presence of hydrology within the streambed and three arroyo willows which are obligate wetlands species (Dudek and Associates letter dated November 25, 1998). Subsequent biological surveys performed by opponents to the project has identified additional wetland resources.

The Commission's appeals jurisdiction includes this permit because the proposed development would be located within 100 feet of a stream that is designated as a "blue-line" intermittent seasonal stream on both the 1898 and 1975 U.S.G.S. quadrangle maps. The site is zoned rural residential (RR1) which allows agricultural and horticultural production with the approval of a minor use permit. A tentative residential subdivision map has previously been approved by the City (91-192 TM on February 11, 1993) to create four lots on the subject 7.6 acre parcel and a coastal development permit for the subdivision was approved by the City on August 17, 1998. The subdivision map has not yet been recorded. In addition, the Commission has recently discovered that in approving the coastal development permit for the subdivision, City failed to identify the permit as being appealable to the Coastal Commission. Therefore, the effectiveness of the City's permit is undetermined at this time.

2. Channelization and Alterations of Streams. The applicant proposes to construct greenhouses as close as 7 feet from the banks of a designated blue-line stream. In addition, the project involves the construction of two pedestrian bridges which will span the stream to provide access to some of the green houses. The appellants contend that the City's approval is inconsistent with the LCP which limit the alteration of streams. Land Use (LU) Policy 8.2 of the LUP states that:

Development within coastal and floodplain areas identified in the Land Use and Resource Management Elements must be limited, designed to minimize hazards associated with development in these areas, and to preserve area resources. Within the floodway, channelizations, dams, or other substantial alterations or rivers or streams shall incorporate the best mitigation measures feasible, and be limited to necessary water supply projects, flood control projects where no feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development, and other development where the primary function is the improvement of fish and wildlife habitat. . . .

The location of greenhouses within 7 feet of the banks of the stream raises concerns relating to possible threats to the development from scouring or other erosion of the banks in the future which might necessitate future channelization of the stream to protect the development. In addition, the placement of footbridges over the stream may involve footings that may alter the streamcourse, cause erosion or have shading impacts to

vegetation. As cited above, LU Policy 8.2 limits the alteration and channelization of streams to specific uses, none of which are those involved with the subject development. Therefore, the City's approval of the greenhouses and footbridges raises substantial issue regarding LU Policy 8.2.

3. Wetlands. The appellants contend that approval of the subject greenhouse project by the City is inconsistent with provisions of the City's certified LCP pertaining to the protection of wetlands. As previously mentioned, the applicant's biologist has indentified the presence of hydrology and three wetland obligate plants within the designated blue line stream and, therefore, the stream may contain wetlands. Resource Management (RM) Policy 10.6 of the City's certified LUP provides for protection of wetlands:

The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act and the Coastal Commission regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

In addition, Policy 10.6 requires:

Identification of wetland acreage and resource value shall precede any consideration of use or development on sites where wetlands are present or suspected.

The City's approval raises substantial issues relating to the presence of wetlands. Although the City had received documentation indicating the presence of hydrology and of at least three wetland obligate arroyo willows within the streambed, the City accepted the applicants contention that wetlands were not present consistent with the three parameter definition used by the Army Corps of Engineer; wetland vegetation, wetland soils and hydrology. However, in this case, Policy 10.6 also requires that such determination must also be consistent with the requirements of the Coastal Act and Coastal Commission regulations. Coastal Commission regulations only require the presence of one of the three wetlands parameters in order to delineate wetlands. Because wetlands were suspected to be present, the City should have required a formal wetlands delineation to identify and map any wetland resources before approving the subject permit.

In addition, if wetlands are delineated, RM Policy 10.6 requires they be protected through the application of a buffer and an open space easement (or other device):

The City shall also control use and development in surrounding areas of influence to wetlands with the application of buffer zones. At a minimum, 100-foot wide buffers shall be provided upland of salt water wetlands, and 50-foot wide buffers

shall be provided upland of riparian wetlands. Unless otherwise specified in this plan, use and development within the buffers areas shall be limited to minor passive recreational uses with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area when feasible.

In this case, without requiring a wetlands determination the City's approval also raises substantial issue relating to the need for an appropriate wetlands buffer to separate any development from the wetland resources.

4. Preservation of Riparian Corridors. The appellants contend that the City's approval raises substantial issue regarding its consistency with the LCP policies regarding preservation of riparian corridors. RM Policy 10.4 states, in part:

The City will develop a program to acquire or preserve the entire undeveloped riparian corridor within the City that drains into the San Elijo Lagoon and Batiquitos Lagoon. . . .

The onsite seasonal stream which traverses through the subject property is identified by the applicant's biologist as a "riparian (not wetland) corridor" (Letter from Harold Wier of Dudek & Associates, dated November 25, 1998). This streamcourse which drains into Batiquitos Lagoon is one of few remaining undeveloped riparian corridors within the City of Encinitas. As such, the proposed development raises substantial issue relating to the LCP requirement of acquiring and preserving these areas.

5. Brush Management. The appellants contend that the City's approval raises substantial issue relating to the LCP's requirements of protecting environmentally sensitive habitat. PS policy 1.13 of the LUP requires the applicants to design development such that needed brush clearance be limited so as to avoid significant impacts to areas of native vegetation:

In areas identified as susceptible to brush and wildfire hazard, the City shall provide construction standards to reduce structural susceptibility and increase protection. Brush clearance around structures for fire safety shall not exceed a 30-foot perimeter in areas of native or significant brush, . . .

The subject greenhouses are proposed be located 30 feet from an open space easement which contains coastal sage scrub, an environmentally sensitive habitat. However, one of the conditions of approval requires the applicant to also provide fire/fuel breaks to the satisfaction of the local fire department and allows for future review by the City should the brush clearance requirements involve clearance within the open space easement. Because fire departments increasingly require fire clearance areas up to 100 feet from combustible structures, the subject approval may result in additional brush clearance requirements by the fire department which could result in the removal of vegetation within the open space easement. Therefore, the City's approval raises a substantial issue

in that the proposed locations of the greenhouses may result in impacts to sensitive habitat due to brush management requirements.

6. Resource Agencies Consultation. The appellants contend that the City's approval raises substantial issue relating to the LCP requirement that the City consult with U.S. Fish and Wildlife Service and the California Department of Fish and Game whenever development is proposed within designated Special Study Overlay areas containing environmentally sensitive habitat. RM Policy 10.5 requires that:

The City will control development design on Coastal Mixed Chapparral and Coastal Sage Scrub environmentally sensitive habitats by including parcels containing concentrations of these habitats within the Special Study Overlay designation. [. . .]

In addition, all new development shall be designed to be consistent with multi-species and multi-habitat preservation goals and requirements as established in the statewide Natural Communities Conservation Planning (NCCP) Act. Compliance with these goals and requirements shall be implemented in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game. . . .

The subject property is located within the City's Special Study Overlay and contains environmentally sensitive habitat. The City's approval and information contained in the Extended Initial Study for the proposed subdivision indicates the presence of Coastal Sage Scrub (Extended Initial Study Saxony Road Subdivision, Lorenz & Associates, April 1992). While the amount of Coastal Sage Scrub is not identified, the property abuts a very large native vegetated area (Saxony Canyon). In addition, the applicant for the subject development has indicated that the open space areas which were required for the subdivision approval to protect the Coastal Sage Scrub is approximately 2 acres. However, there is no information in the City's approval that documents the City consulted with either the U. S. Fish and Wildlife Service or California Department of Fish and Game in consideration of the subject development. The applicant has advised Commission staff that the Dept. of Fish and Game and the Army Corps of Engineer are currently in the process of evaluating the subject development, particularly as it relates to the construction of the bridges which are proposed to span over the stream. Therefore, the City's approval raises substantial issue related to its consistency with RM Policy 10.5 which requires consultation with resource agencies in advance of City approval of development within the Special Study Overlay areas.

7. Protection of Viewsheds. The appellants contend that the City's approval is inconsistent with the LCP policies which require that development located within designated view corridors/viewsheds be subject to design review standards. Policy 4.6 requires that:

The City will maintain and enhance the scenic highway/visual corridor viewsheds.

In addition, RM Policy 4.7 requires:

The City will designate the following view corridors as scenic highway/visual Corridor viewsheds:

- Saxony Road, from Leucadia Blvd., north to La Costa Ave. . .

The development site is located on the west side of Saxony Road between Leucadia Blvd. an La Costa Avenue. In addition, RM Policy 4.8 states that:

It is intended that development would be subject to the design review provisions of the Scenic/Visual Corridor Overlay Zone for those locations within Scenic View Corridors, along scenic highways and adjacent to significant viewsheds and vista points with the addition of the following design criteria:

[. . .] Development that is allowed within a viewshed area must respond in scale, roof line, materials, color, massing, and location on site to the topography, existing vegetation, and colors of the native environment.

The City's approval for the proposed greenhouses and bridges failed to include any design review either in terms of coloring or landscaping requirements and, therefore, it raises substantial issue relating to the viewshed protection requirements of the LCP.

In summary, the City's approval raises substantial issue with regard to conformance with the Certified LCP relating to the protection of wetlands, riparian corridors and environmentally sensitive habitat, consultation with U.S. and California resource agencies regarding development within the Special Study Overlay area, design review of development located within designated viewsheds, and prohibition on channeling or altering streams.

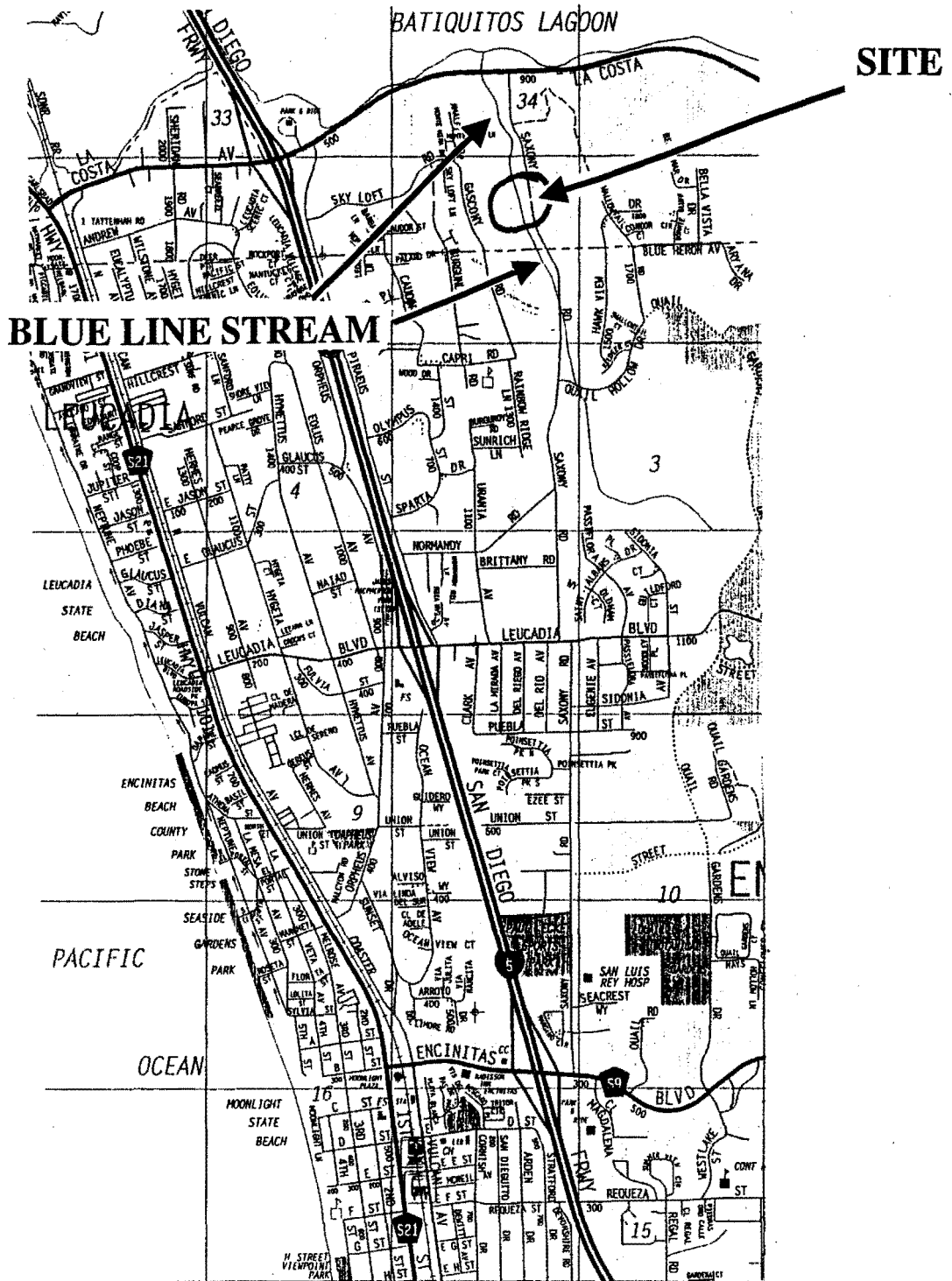

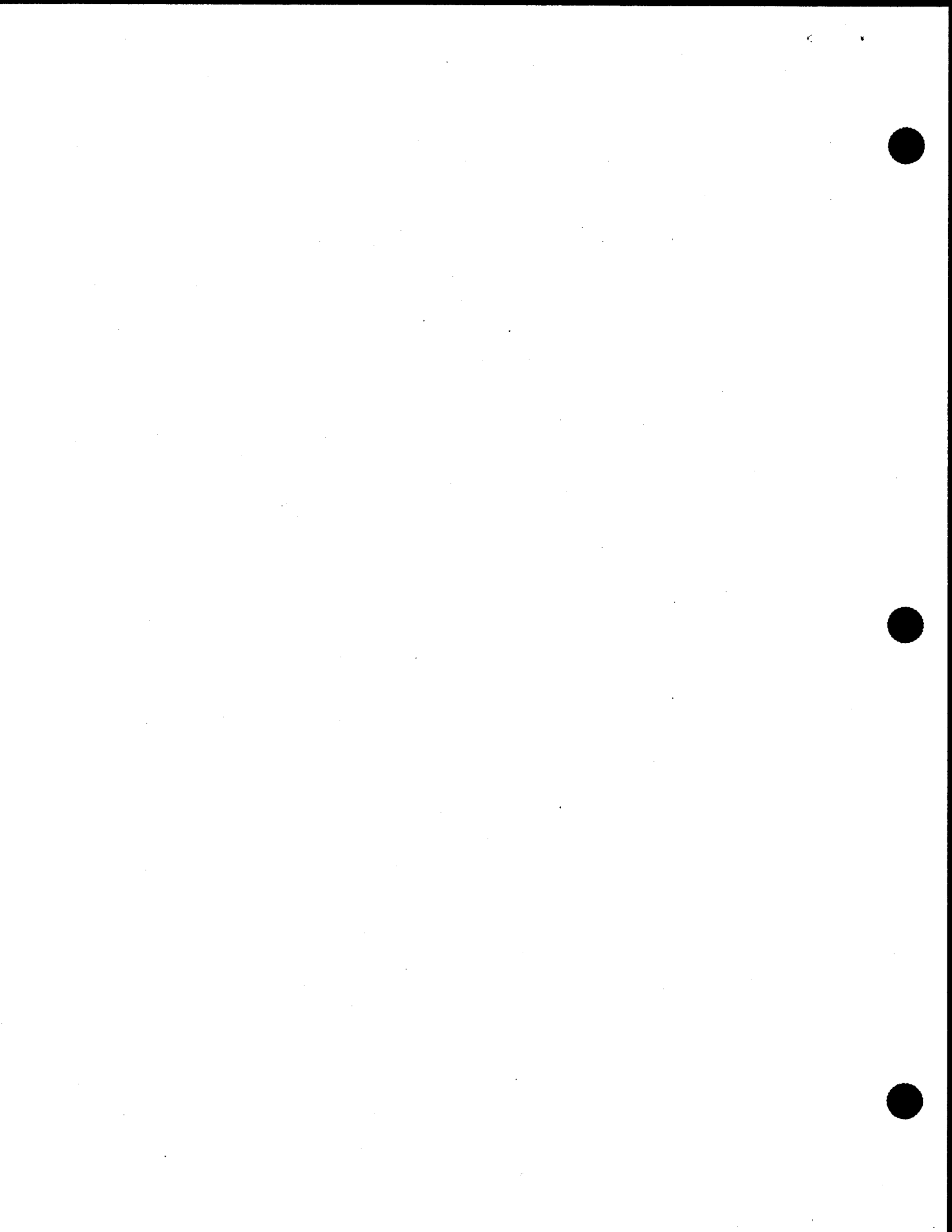
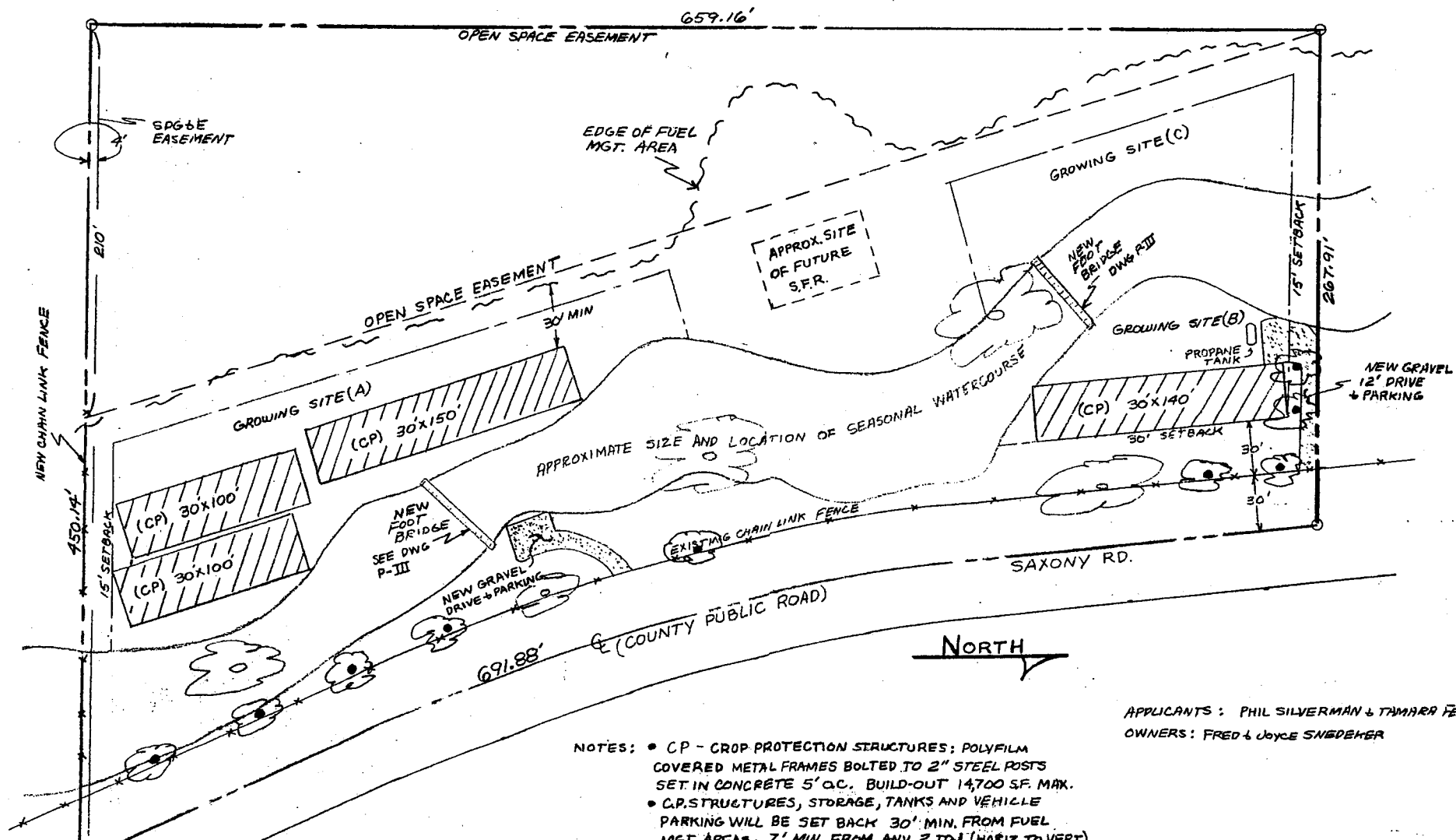


EXHIBIT NO. 1
APPLICATION NO.
A-6-ENC-99-140
Location Map
 California Coastal Commission





- NOTES:
- CP - CROP PROTECTION STRUCTURES; POLYFILM COVERED METAL FRAMES BOLTED TO 2" STEEL POSTS SET IN CONCRETE 5' OC. BUILD-OUT 14,700 SF. MAX.
 - CP STRUCTURES, STORAGE, TANKS AND VEHICLE PARKING WILL BE SET BACK 30' MIN. FROM FUEL MGT. AREAS, 7' MIN FROM ANY 2 TO 1 (HORIZ TO VERT) MAX. SLOPE AT THE EDGE OF THE RAVINE AND WITHIN RECD PROPERTY LINE SET BACKS.
 - GROWING SITES WILL BE DEVELOPED AS CROPS REQUIRE.
 - ACACIA (GOLDEN WATTLE) TO BE PLANTED ALONG SAXONY RD. AND TO N. SIDE OF PROPERTY AS SHOWN BY REMAINING VEGETATION TO REMAIN IN NATURAL STATE.
 - SITE TOPO. AND ELEVATION CONTOURS ARE SHOWN IN DWG P-II.

APPLICANTS: PHIL SILVERMAN & TAMARA FEDORKA
 OWNERS: FRED & JOYCE SNEDEHER

SITE PLAN - 98-278 MIN/CDP		
SCALE: 1" = 40'	APPROVED BY:	DRAWN BY PDS.
DATE: 11-30-98		REVISED 3-14-99
PROJECT: OUTBACK GROWERS SAXONY RD. HORTICULTURAL SITE		
CITY OF ENCINITAS LOT #4 OF TRM 91-192 (APN 216-110-14)		DRAWING NUMBER P-I

EXHIBIT NO. 2
 APPLICATION NO.
A-6-ENC-99-140

Site Plan
 On Proposed Lot 4
 Only

California Coastal Commission



CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036

**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)Name: Commissioner Cecilia EstolanoMailing Address: 2892 Grand View AvenueVenice, Ca 90291Phone Number: (310) 305-3769**SECTION II. Decision Being Appealed**

1. Name of local/port government: Encinitas
2. Brief description of development being appealed: Construction of four greenhouses totalling 14,700 sq. ft., two foot bridges and two gravel driveways and parking areas.
3. Development's location (street address, assessor's parcel no., cross street, etc:) West side of Saxony Road, approximately 1/2 mile south of La Costa Avenue in Encinitas. (APN: 216-110-14)
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-ENC-99-140DATE FILED: November 1, 1999DISTRICT: San Diego

EXHIBIT NO. 3
APPLICATION NO. A-6-ENC-99-140
Copies of Appeal Applications
Page 1 of 25
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other

Date of local government's decision: September 16, 1999

Local government's file number (if any): 98-278 MIN/CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Philip Silverman and Tamara Fedorka
1904 Balboa Avenue
Del Mar, Ca 92014

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Saxony Preserve
c/o Hiroo Kirpalani
1701 Gascony Road
Leucadia, Ca 92024

Kevin Johnson
Johnson and Edwards, LLP
402 W. Broadway, Ste. 1140
San Diego, Ca 92101

See Attachment "B" for additional list of names of interested parties.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHMENT "A"

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date November 1, 1999

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Outback Growers Appeal
Attachment A

The coastal permit approved by the City of Encinitas allows for the construction of four greenhouses totalling up to 14,700 sq. ft., two foot bridges over a streambed and two gravel driveways and parking areas on a 7.6 acre lot located on the west side of Saxony Road approximately ½ mile south of La Costa Avenue in Encinitas. The Commission's appeals jurisdiction includes the subject parcel because it is located within 100 feet of a stream (Saxony Creek). The site is zoned rural residential (RR1) which allows agricultural and horticultural production with the approval of a minor use permit. A tentative residential subdivision map has previously been approved by the City to create 4 lots on the subject 7.6 acre parcel, however, a coastal development permit for the subdivision has not been processed or approved. Saxony Creek, a seasonal intermittent stream and riparian corridor, traverses generally north/south through the subject property. The proposed greenhouses will be located immediately adjacent to the banks of Saxony Creek and the two foot bridges will traverse over the creek in order to provide access to some of the greenhouses. The applicant's submitted biological assessment of the subject property has identified the presence of hydrology within the streambed and "almost no" wetland vegetation "with the exception of" three arroyo willows (Dudek and Associates letter dated November 25, 1998). Subsequent biological surveys performed by opponents to the project has identified additional wetland resources.

As approved by the City, the development appears to be inconsistent with several policies contained in the certified local coastal program. Specifically, the development, as approved by the City is inconsistent with the following Land Use Plan (LUP) policies:

Resource Management (RM) Policy 10.6 of the City's certified LUP provides for protection of wetlands:

The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act and the Coastal Commission regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

In addition, Policy 10.6 requires:

Identification of wetland acreage and resource value shall precede any consideration of use or development on sites where wetlands are present or suspected.

The City's approval raises substantial issues relating to the presence of wetlands. Although the City had received documentation indicating the presence of hydrology and of at least three wetland obligate arroyo willows within the streambed, the City accepted the applicants contention that wetlands were not present consistent with the three parameter definition used by the Army Corps of Engineer; wetland vegetation, wetland

soils and hydrology. However, in this case, Policy 10.6 also requires that such determination must also be consistent with the requirements of the Coastal Act and Coastal Commission regulations. Coastal Commission regulations only require the presence of one of the three wetlands parameters in order to delineate wetlands. Because wetlands were suspected to be present, the City should have required a formal wetlands delineation to identify and map any wetland resources before approving the subject permit.

In addition, if wetlands are delineated, RM Policy 10.6 requires they be protected through the application of a buffer and an open space easement (or other device):

The City shall also control use and development in surrounding areas of influence to wetlands with the application of buffer zones. At a minimum, 100-foot wide buffers shall be provided upland of salt water wetlands, and 50-foot wide buffers shall be provided upland of riparian wetlands. Unless otherwise specified in this plan, use and development within the buffers areas shall be limited to minor passive recreational uses with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area when feasible.

Because it appears that wetlands may be present on the subject property, the City's approval raises concerns related to the lack of a buffer and open space easement to protect the wetland resources.

Land Use (LU) Policy 8.2 of the LUP limits channelization or substantial alteration of streams:

Development within coastal and floodplain areas identified in the Land Use and Resource Management Elements must be limited, designed to minimize hazards associated with development in these areas, and to preserve area resources. Within the floodway, channelizations, dams, or other substantial alterations or rivers or streams shall incorporate the best mitigation measures feasible, and be limited to necessary water supply projects, flood control projects where no feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development, and other development where the primary function is the improvement of fish and wildlife habitat. . . . [emphasis added]

The location of the proposed greenhouses and foot bridges immediately adjacent to Saxony Creek also raises concerns related to future development of the 7.6 acre lot. The City's approval describes the development as occurring on "lot 4" of the previously approved tentative map and even requires that the greenhouses maintain a 15 foot setback from the north and south "property lines of lot 4". The City's staff report for the subject permit identifies that the previously approved tentative map for the four lot subdivision required that the "sides of the water course will be reinforced prior to the development of the site as residential." While this tentative map has not received a coastal development permit, the alteration of the watercourse (Saxony Creek) for future development appears to be inconsistent with LU Policy 8.2 which limits such alteration to protecting existing

development. Therefore, the construction of the proposed greenhouses and foot bridges may prejudice the City's ability to limit alteration of Saxony Creek consistent with the LCP.

In addition, the City approval of the proposed development appears to be inconsistent with RM Policy 10.4 which states the following:

The City will develop a program to acquire or preserve the entire undeveloped riparian corridor within the City that drains into the San Elijo Lagoon and Batiquitos Lagoon. . . .

Saxony Creek which is identified by applicant's biologist as a "riparian (not wetland) corridor" (Letter from Harold Wier of Dudek & Associates, dated November 25, 1998) traverses north/south through the subject property. Saxony Creek which drains into Batiquitos Lagoon is one of few remaining undeveloped riparian corridors within the City of Encinitas. As such, the proposed development (and subsequent subdivision) for this site may be inconsistent with the LCP.

In addition, the City's approval may be inconsistent with PS policy 1.13 of the LUP which requires the city to design development such that needed brush clearance be limited so as to avoid significant impacts to areas of native vegetation. The proposed greenhouses will be located no closer than 30 feet from an open space easement which contains environmentally sensitive habitat. However, one of the conditions of approval requires the applicant to also provide fire/fuel breaks to the satisfaction of the local fire department. Because fire departments increasingly require fire clearance areas up to 100 feet from combustible structures, the subject approval may result in additional brush clearance requirements by the fire department which could result in the removal of vegetation within the open space easement. Therefore, the City's approval raises concerns that the proposed locations of the greenhouses may result in impacts to sensitive habitat due to brush management requirements.

Finally, RM Policy 10.5 of the LUP requires that:

The City will control development design on Coastal Mixed Chaparral and Coastal Sage Scrub environmentally sensitive habitats by including parcels containing concentrations of these habitats within the Special Study Overlay designation. [. . .]

In addition, all new development shall be designed to be consistent with multi-species and multi-habitat preservation goals and requirements as established in the statewide Natural Communities Conservation Planning (NCCP) Act. Compliance with these goals and requirements shall be implemented in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game. . . .

The subject property is located within the City's Special Study Overlay and contains environmentally sensitive habitat. However, there is no information in the City's approval that documents the City consulted with either the U. S. Fish and Wildlife

Service or Calif. Dept. of Fish and Game. The City's approval includes information which indicates that mitigation measures were incorporated into the previously approved 4-lot tentative map at the subject site which addressed impacts to coastal sage and that, therefore, no additional review is warranted for the subject development. As previously mentioned, the 4-lot tentative map has not received a coastal development permit and, since it lies within an appealable jurisdiction, the Commission has not been afforded an opportunity to review any impacts to environmentally sensitive habitat at the subject site. In any event, RM Policy 10.5 requires the City to consult with these resource agencies for all new developments within the Special Study Overlay.

In summary, the City's approval of the four greenhouses adjacent to, and two bridges over, Saxony Creek appears to be inconsistent with wetland preservation and brush management policies of the LUP, may prejudice the City's ability to implement the LCP related to the future coastal permit for the 4-lot subdivision and the preservation of Saxony Creek as a natural stream, and may be inconsistent with requirements to consult with U.S. and California resources agencies involving new development in areas containing environmentally sensitive habitat.

(G:\San Diego\GARY\Appeals\Outback Growers Appeal.doc)

Attachment B

Harold Wier
Dudek & Associates
605 Third St.
Encinitas, Ca 92024

Colin Chambers
1670 Hawk View Drive
Encinitas, Ca 92024

Tom Pelky
1737 Gascony Rd.
Encinitas, Ca 92024

Edith Brown
1743 Hawk View Drive
Encinitas, Ca 92024

Thomas Parham
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Lorraine Camenzum Wolfe
1736 Hawk View Drive
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Chris Kolb
1911 Saxony Road
Encinitas, Ca 92024

Babala DeMasters
1180 Via De Felicita
Encinitas, CA 92024

Fred Snedeker
645 Rancho Santa Fe Rd.
Encinitas, Ca 92024

Bill Weedman
City of Encinitas
505 So. Vulcan Avenue
Encinitas, Ca 92024

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036

**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)Name: Commissioner Sara WanMailing Address: 22350 Carbon Mesa RoadMalibu, Ca 90265Phone Number: (310) 456-6605**SECTION II. Decision Being Appealed**

1. Name of local/port government: Encinitas
2. Brief description of development being appealed: Construction of four greenhouses totalling 14,700 sq. ft., two foot bridges and two gravel driveways and parking areas.
3. Development's location (street address, assessor's parcel no., cross street, etc): West side of Saxony Road, approximately 1/2 mile south of La Costa Avenue in Encinitas. (APN: 216-110-14)
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-ENC-99-140DATE FILED: November 1, 1999DISTRICT: San Diego

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other

Date of local government's decision: September 16, 1999

Local government's file number (if any): 98-278 MIN/CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Philip Silverman and Tamara Fedorka
1904 Balboa Avenue
Del Mar, Ca 92014

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Saxony Preserve
c/o Hiroo Kirpalani
1701 Gascony Road
Leucadia, Ca 92024

Kevin Johnson
Johnson and Edwards, LLP
402 W. Broadway, Ste. 1140
San Diego, Ca 92101

See Attachment "B" for additional list of names of interested parties.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

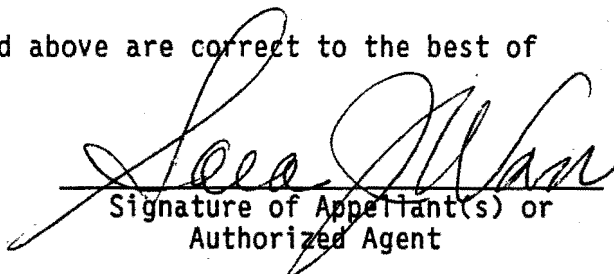
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHMENT "A"

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date November 1, 1999

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Outback Growers Appeal
Attachment A

The coastal permit approved by the City of Encinitas allows for the construction of four greenhouses totalling up to 14,700 sq. ft., two foot bridges over a streambed and two gravel driveways and parking areas on a 7.6 acre lot located on the west side of Saxony Road approximately ½ mile south of La Costa Avenue in Encinitas. The Commission's appeals jurisdiction includes the subject parcel because it is located within 100 feet of a stream (Saxony Creek). The site is zoned rural residential (RR1) which allows agricultural and horticultural production with the approval of a minor use permit. A tentative residential subdivision map has previously been approved by the City to create 4 lots on the subject 7.6 acre parcel, however, a coastal development permit for the subdivision has not been processed or approved. Saxony Creek, a seasonal intermittent stream and riparian corridor, traverses generally north/south through the subject property. The proposed greenhouses will be located immediately adjacent to the banks of Saxony Creek and the two foot bridges will traverse over the creek in order to provide access to some of the greenhouses. The applicant's submitted biological assessment of the subject property has identified the presence of hydrology within the streambed and "almost no" wetland vegetation "with the exception of" three arroyo willows (Dudek and Associates letter dated November 25, 1998). Subsequent biological surveys performed by opponents to the project has identified additional wetland resources.

As approved by the City, the development appears to be inconsistent with several policies contained in the certified local coastal program. Specifically, the development, as approved by the City is inconsistent with the following Land Use Plan (LUP) policies:

Resource Management (RM) Policy 10.6 of the City's certified LUP provides for protection of wetlands:

The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act and the Coastal Commission regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

In addition, Policy 10.6 requires:

Identification of wetland acreage and resource value shall precede any consideration of use or development on sites where wetlands are present or suspected.

The City's approval raises substantial issues relating to the presence of wetlands. Although the City had received documentation indicating the presence of hydrology and of at least three wetland obligate arroyo willows within the streambed, the City accepted the applicants contention that wetlands were not present consistent with the three parameter definition used by the Army Corps of Engineer; wetland vegetation, wetland

soils and hydrology. However, in this case, Policy 10.6 also requires that such determination must also be consistent with the requirements of the Coastal Act and Coastal Commission regulations. Coastal Commission regulations only require the presence of one of the three wetlands parameters in order to delineate wetlands. Because wetlands were suspected to be present, the City should have required a formal wetlands delineation to identify and map any wetland resources before approving the subject permit.

In addition, if wetlands are delineated, RM Policy 10.6 requires they be protected through the application of a buffer and an open space easement (or other device):

The City shall also control use and development in surrounding areas of influence to wetlands with the application of buffer zones. At a minimum, 100-foot wide buffers shall be provided upland of salt water wetlands, and 50-foot wide buffers shall be provided upland of riparian wetlands. Unless otherwise specified in this plan, use and development within the buffers areas shall be limited to minor passive recreational uses with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area when feasible.

Because it appears that wetlands may be present on the subject property, the City's approval raises concerns related to the lack of a buffer and open space easement to protect the wetland resources.

Land Use (LU) Policy 8.2 of the LUP limits channelization or substantial alteration of streams:

Development within coastal and floodplain areas identified in the Land Use and Resource Management Elements must be limited, designed to minimize hazards associated with development in these areas, and to preserve area resources. Within the floodway, channelizations, dams, or other substantial alterations or rivers or streams shall incorporate the best mitigation measures feasible, and be limited to necessary water supply projects, flood control projects where no feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development, and other development where the primary function is the improvement of fish and wildlife habitat. . . . [emphasis added]

The location of the proposed greenhouses and foot bridges immediately adjacent to Saxony Creek also raises concerns related to future development of the 7.6 acre lot. The City's approval describes the development as occurring on "lot 4" of the previously approved tentative map and even requires that the greenhouses maintain a 15 foot setback from the north and south "property lines of lot 4". The City's staff report for the subject permit identifies that the previously approved tentative map for the four lot subdivision required that the "sides of the water course will be reinforced prior to the development of the site as residential." While this tentative map has not received a coastal development permit, the alteration of the watercourse (Saxony Creek) for future development appears to be inconsistent with LU Policy 8.2 which limits such alteration to protecting existing

development. Therefore, the construction of the proposed greenhouses and foot bridges may prejudice the City's ability to limit alteration of Saxony Creek consistent with the LCP.

In addition, the City approval of the proposed development appears to be inconsistent with RM Policy 10.4 which states the following:

The City will develop a program to acquire or preserve the entire undeveloped riparian corridor within the City that drains into the San Elijo Lagoon and Batiquitos Lagoon. . . .

Saxony Creek which is identified by applicant's biologist as a "riparian (not wetland) corridor" (Letter from Harold Wier of Dudek & Associates, dated November 25, 1998) traverses north/south through the subject property. Saxony Creek which drains into Batiquitos Lagoon is one of few remaining undeveloped riparian corridors within the City of Encinitas. As such, the proposed development (and subsequent subdivision) for this site may be inconsistent with the LCP.

In addition, the City's approval may be inconsistent with PS policy 1.13 of the LUP which requires the city to design development such that needed brush clearance be limited so as to avoid significant impacts to areas of native vegetation. The proposed greenhouses will be located no closer than 30 feet from an open space easement which contains environmentally sensitive habitat. However, one of the conditions of approval requires the applicant to also provide fire/fuel breaks to the satisfaction of the local fire department. Because fire departments increasingly require fire clearance areas up to 100 feet from combustible structures, the subject approval may result in additional brush clearance requirements by the fire department which could result in the removal of vegetation within the open space easement. Therefore, the City's approval raises concerns that the proposed locations of the greenhouses may result in impacts to sensitive habitat due to brush management requirements.

Finally, RM Policy 10.5 of the LUP requires that:

The City will control development design on Coastal Mixed Chaparral and Coastal Sage Scrub environmentally sensitive habitats by including parcels containing concentrations of these habitats within the Special Study Overlay designation. [. . .]

In addition, all new development shall be designed to be consistent with multi-species and multi-habitat preservation goals and requirements as established in the statewide Natural Communities Conservation Planning (NCCP) Act. Compliance with these goals and requirements shall be implemented in consultation with the United States Fish and Wildlife Service and California Department of Fish and Game. . . .

The subject property is located within the City's Special Study Overlay and contains environmentally sensitive habitat. However, there is no information in the City's approval that documents the City consulted with either the U. S. Fish and Wildlife

Service or Calif. Dept. of Fish and Game. The City's approval includes information which indicates that mitigation measures were incorporated into the previously approved 4-lot tentative map at the subject site which addressed impacts to coastal sage and that, therefore, no additional review is warranted for the subject development. As previously mentioned, the 4-lot tentative map has not received a coastal development permit and, since it lies within an appealable jurisdiction, the Commission has not been afforded an opportunity to review any impacts to environmentally sensitive habitat at the subject site. In any event, RM Policy 10.5 requires the City to consult with these resource agencies for all new developments within the Special Study Overlay.

In summary, the City's approval of the four greenhouses adjacent to, and two bridges over, Saxony Creek appears to be inconsistent with wetland preservation and brush management policies of the LUP, may prejudice the City's ability to implement the LCP related to the future coastal permit for the 4-lot subdivision and the preservation of Saxony Creek as a natural stream, and may be inconsistent with requirements to consult with U.S. and California resources agencies involving new development in areas containing environmentally sensitive habitat.

Attachment B

Harold Wier
Dudek & Associates
605 Third St.
Encinitas, Ca 92024

Colin Chambers
1670 Hawk View Drive
Encinitas, Ca 92024

Tom Pelky
1737 Gascony Rd.
Encinitas, Ca 92024

Edith Brown
1743 Hawk View Drive
Encinitas, Ca 92024

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CALIFORNIA COASTAL COMMISSION

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



OCT 29 1999

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

SAXONY PRESERVE, BY AND THROUGH JOHNSON & EDWARDS LLP
402 WEST BROADWAY, SUITE 1140
SAN DIEGO, CALIFORNIA 92101 (619) 696-6211
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF ENCINITAS

2. Brief description of development being appealed: 14,700 SQ. FEET OF GREENHOUSES IN RURAL RESIDENTIAL 1 ZONING DISTRICT

3. Development's location (street address, assessor's parcel no., cross street, etc.): WEST SIDE OF SAXONY ROAD, SOUTH OF LA COSTA AVENUE, ENCINITAS

4. Description of decision being appealed:
- a. Approval; no special conditions: _____
 - b. Approval with special conditions: XXX
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-ENC-99-140

DATE FILED: 11/1/99

DISTRICT: San Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: 10-13-99

7. Local government's file number (if any): 98-278MIN/CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
OUTBACK GROWERS (PHILIP SILVERMAN AND TAMARA FEDORKA)
1904 BALBOA AVENUE
DEL MAR, CALIFORNIA 92014

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) FRED SNEDEKER, ALLIANCE ENGINEERING OF CALIFORNIA, INC.
P.O. BOX 282147
ENCINITAS, CALIFORNIA 92024-2147

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHMENT

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed Jared Phil Hanson
Appellant or Agent JOHNSON & EDWARDS LLP BY JARED PHIL HANSON
ATTORNEYS FOR APPELLANT SAXONY PRESERVE
Date 10/28/99

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed Hiroo Kirpalani
Appellant SAXONY PRESERVE BY HIROO KIRPALANI
Date 10/28/99

GROUNDS FOR APPEAL

The City of Encinitas ("the City") approved the subject project, finding it consistent with a prior mitigated negative declaration adopted in 1993 for an earlier, completely different project. The new project, however, does not comply with the Local Coastal Plan ("LCP") and has new, different and significant impacts on the environment which require a new environmental impact report ("EIR.")

The subject property was identified in the Focused Planning Area for the City's Multiple Habitat Conservation Program ("MHCP.") The area is mapped as a "high sensitivity area" in "Figure 2 – Natural Resource Sensitivity" of the Resource Management Element ("RM-34") of the Encinitas City Plan. (Exhibit "A.") Similarly, "Resource Management Figure 1 – Special Study Overlay," appearing on RM-32, identifies the subject property as having a special study overlay. (Exhibit "B.")

The Resource Management Element of the General Plan includes a number of goals and policies that stress the importance of protecting natural resources. These goals include Goals 1-4, 7-10, 13, 14 and policies. See also RM-34 and RM-38.

These provisions are all part of the LCP and therefore must be strictly adhered to for the City to be in compliance with the California Coastal Act. The subject project, however, is inconsistent with these goals and policies in numerous respects.

Many of new and significant environmental impacts were provided to the City in a letter and report from Robert T. Patton, a consulting biologist, dated September 15, 1999 (Exhibit "C") and a letter from Pacific Environmental Consulting dated September 16, 1999 (Exhibit "D"). Mr. Patton's letter discussed the ways in which the biological conditions and resources on the site had changed since the initial study in 1993. Mr. Patton also provided the City a letter and map identifying the location of several California Gnatcatchers, which are listed as federally threatened, recently seen on the property. (Exhibit "E.")

The letter from Pacific Environmental Consulting, written by Alan B. Thum, Ph.D., discusses the biological significance of the property in relation to Batiquitos Lagoon and stresses the importance of preserving intact the contiguous vegetation communities. It notes that permitting development in the middle of the canyon could jeopardize the ecological integrity of the canyon and, in effect, its function as a wildlife corridor and refuge for sensitive species. The Pacific letter also supports appellant's contention that the subject property qualifies as a wetlands and that a full wetland delineation study of the property needed to be done.

Additional new and unmitigated impacts include the following:

1. The greenhouse project with required thirty-foot buffers from designated open space under the original tentative map is incompatible with the open space easements. In order for the subject greenhouses to fit on the property, and not be built over the water courses, the thirty-foot buffer requirement will require the removal of coastal sage scrub within the open space areas.

2. The creation of pads for the greenhouse areas will require grading and the installation of a parcel-wide drainage system. The grading is likely to affect not only the open space slopes, but also the vegetation thereon.

3. The greenhouse structures will be built too close to the large water course going through the property. The installation of structural poles into soils which have not been analyzed for their structural stability will create a risk of undermining the sides of the water course. The location, size and structural components of the greenhouses may have to be materially changed in order to avoid both water course impacts and open space/coastal sage scrub impacts.

4. The foot bridges are also new additions to the project. They have not been previously studied. The specific structural features of the foot bridges need to be considered prior to approval of the map. The bridges themselves can become a risk to the integrity of the sides of the water course. This could result in adverse hydrological impacts.

If the hydrology in the water course is changed substantially, there could be major scouring effects which need to be identified and mitigated. Not only could hydrological changes expand the size of the water course, but the resulting sedimentation will affect property owners downstream and the Batiquitos Lagoon. There is an issue about whether additional sedimentation catchment basins should be required as mitigation for the project.

5. The proposed project is inconsistent with Municipal Code §64.08.10, Water Course Protection. That section reads in relevant part:

No person shall commit or cause to be committed any of the following acts unless a written permit has first been obtained from the Director of Engineering Services and/or the appropriate State or Federal agencies, if applicable; carry out development within 30' of the centerline of any creek or 20' of the top of a bank, whichever is the greater distance from the top of the bank.

There has been no showing of necessity to deviate from these standards.

It should also be noted that ongoing operations on the site and immediately adjacent to the water course will predictably result in degradation of the water course itself including direct or indirect destruction of vegetation and the discharge of debris and waste products directly or indirectly into the water course.

6. There has been no consideration of the likelihood of storm water run-off going into the greenhouses, picking up contaminants on the floors of the greenhouses and then sweeping them into the water course. There are no mitigation requirements for this phenomenon and a simple deferral to best management practices is not reasonable or appropriate. This problem creates a serious risk of toxins threatening the water quality in the Batiquitos Lagoon and the ocean.

7. The canyon area is contiguous with the other open space habitat, yet no consideration has been given to the value of the area as a wildlife habitat and migration corridor. Local residents report frequent sightings of owls, bobcats, coyotes, foxes, possum, raccoons and other mammals.

It is important to remember that almost the entire Saxony Canyon area is basically dedicated open space with the exception of some operations close to La Costa. From simply walking the property, one can see it is full of extensive native vegetation, both on the slopes and in and around the water course. (See Exhibit "C.") It is probable that in order to protect the resources of the property, the greenhouses should be reduced in size and located further away from the water course.

8. There is a storm drain on Saxony Road which apparently drains directly into the water course within the project area. The amount of water from that drain has not been analyzed nor, of course, has the amount of water that will run off as a result of over 14,700 square feet of installed roofing space. Also not analyzed are the impacts of run-off after the working areas around the greenhouses are stripped of vegetation and compacted by foot traffic?

City ordinances and the General Plan require careful consideration and review in advance of the hydrological consequences of the project. This is particularly important since the area is officially designated as subject to flooding. When the area does flood, what will be the impact upon the greenhouses? The City and Planning Commission have also failed to properly require that drainage for the site be designed to handle all the water which comes onto the site and through the site, not just water that falls on the site.

9. There is no mention in the Conditions regarding landscaping on the project. There should be specific conditions placed on the type and location of plantings that can occur. There should also be strict prohibitions on the occurrence of accidental plantings wherein exotic species end up growing on the site and/or their seeds run down the water course to grow.

10. As part of any pollution prevention program, there should be a requirement for periodic testing of the water in the water course for the presence of contaminants that may emanate from the greenhouse operations. Once again, this requirement should not be deferred to a later point in time because the applicant, predictably, will take the position that he cannot afford it and insist at the same time that the project go forward.

Under the California Environmental Quality Act ("CEQA") and applicable CEQA Guidelines, deferral of mitigation is not appropriate. Detailed studies of many of the project's most significant impacts have been improperly deferred.

11. Moreover, the contention that the project will be used only for hobby purposes is simply not believable. There is no provision that once the 14,700 square feet of greenhouses is constructed, that the owner/operators will not come back and ask to have a commercial operation or to have someone sublease to run a commercial operation. How could the City possibly say no to such a request?

It defies common sense that people who have a "hobby" interest would need such large greenhouses; in fact, a few hundred square feet of greenhouses would seem to be more than adequate for a hobby greenhouse operation.

Realistically, it must be assumed that, once built, there will be a future effort to turn the "hobby" into a commercial operation. This should be anticipated and the reasonably predictable effects should be studied at this time before the project is approved. Otherwise, the applicant is improperly "project splitting" under CEQA.

The project appears to be basically a "foot in the door" which will then predictably intensify. Once the grading has occurred and the structures are built, it will be functionally very difficult, if not impossible, to stop conversion to a full-time commercial operation.

Future additional impacts associated with an expanded commercial operation would include truck and automobile traffic, noise pollution, increased pesticide and fertilizer use, the presence of more people and the hydrological impacts of a much more destructive use of the property.

Also, the development of more intense operations will create a greater directed impact on the quality of the coastal sage scrub and the water course. These impacts will negatively impact the California Gnatcatchers on the site.

12. The City and Planning Commission did not rule out the use of lighting in the greenhouses. There should be an express condition that lighting will occur within the greenhouses. The impacts of bright 24-hour lighting upon the neighbors and dark skies in and above the canyon would be flatly unaccountable.

13. We also note from the plans submitted that there is a "Growing Site C" which is apparently being reserved for future use. What are the plans for growing there and what exactly is being approved based on the plans that have been submitted? These issues are required by CEQA to be considered.

14. There has also been incomplete review of the installation of utilities on the site, particularly as they would relate to the water course. If electricity is going to be run into the greenhouses, what will be the location of the lines? They should not be strung over the water course and would perhaps be best if run across the bridges to the extent that the bridges are determined to be appropriate structures in the area. There should be no overhead utilities. Also, there has been no consideration of what the water source for the project will be.

15. Appellant believes that the subject water course has wetlands within it. (See Exhibit "D.") The water course is wet or damp all year round and has extensive vegetation ranging from large scrub oak all the way to small native species. Pacific's letter dated April 23, 1999 reported that "a large portion of the stream bed was either damp or saturated from water flow." (Exhibit "F;" see

also letter from Pacific dated May 25, 1999 [Exhibit "G"]) There is also anecdotal evidence of underground springs in the area.

We note that on page 2 of the letter from Dudek (the planning consultants hired by the project applicant and not by the City) the following statement appears: "The quality of the habitat in the channel is very low for wetland dependent species." That is, there are wetland dependent species in the channel, as verified in the Pacific letter of September 16, 1999 (Exhibit "D.")

The letter from Dudek does not explain what portions of the subject water course were inspected. Further, the statement in paragraph 2 of page 1 that the water course "likewise supports scant vegetation" is simply wrong. (See Exhibit "C.")

The Dudek report does acknowledge that the consultant has not seen any groundwater data on the site which, of course, is an issue both with respect to the presence of wetlands and also with respect to the vulnerability of the groundwater to contamination to toxins which may be absorbed into the soils. The depth of the water table, as well as any underground springs, should be determined and evaluated from an impacts perspective.

The Dudek letter also refers to the jurisdiction of the Army Corps of Engineers and the California Department of Fish and Game. Of note is reference to possible removal of willow trees in the water course to accommodate proposed construction. These issues should be looked at in advance, prior to actual approval of the subject permit.

No one has evaluated the possible need for shoring up the sides of the water course as a result of activities immediately adjacent thereto. An example of how an agricultural operation degrades a riparian water course occurred on the Perrydise Farm property on El Camino Real, near Manchester. There, a fully vegetated water course was heavily degraded in the course of a few years of operation.

The subject water course should be reviewed again from the standpoint of its wetland status because the Dudek report is internally inconsistent and unclear. It contains a number of admissions in terms of the presence of actual wetland species as well as the acknowledgment that hydrological conditions are characteristic of a wetland. Moreover, many of its observations and conclusions are flatly contradicted by substantial other evidence. (See, e.g., Exhibits C, D, F and G.)

In this regard, Appellant is aware of nothing in the Encinitas General Plan or Municipal Code which would distinguish between a high quality and a low quality wetland. Indeed, careful attention to prospective hydrological impacts and the preservation of the water course itself could very well result in enhancement of the wetland characteristics and species found in the water course.

It should be remembered again that this entire area is surrounded by open space and this water course drains directly into the Batiquitos Lagoon. Further, "wetlands" is defined in the Encinitas Municipal Code as follows:

30.04 WETLANDS: Pursuant to section 30121 of the Public Resources Code as amended, "wetlands" shall mean lands within the coastal zone which may be covered periodically or permanently with shallow water and includes saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fins."

This definition on its face includes the riparian habitat on the property.

16. The original project, which was the subject of the 1993 environmental study, involved only a single home whose prospective footprint was not on any of the areas where they now want to build greenhouses. This suggests that, not only will there be new impacts, but that the future plan is to have 15,000 square feet of greenhouses plus a large custom home on the subject lot.

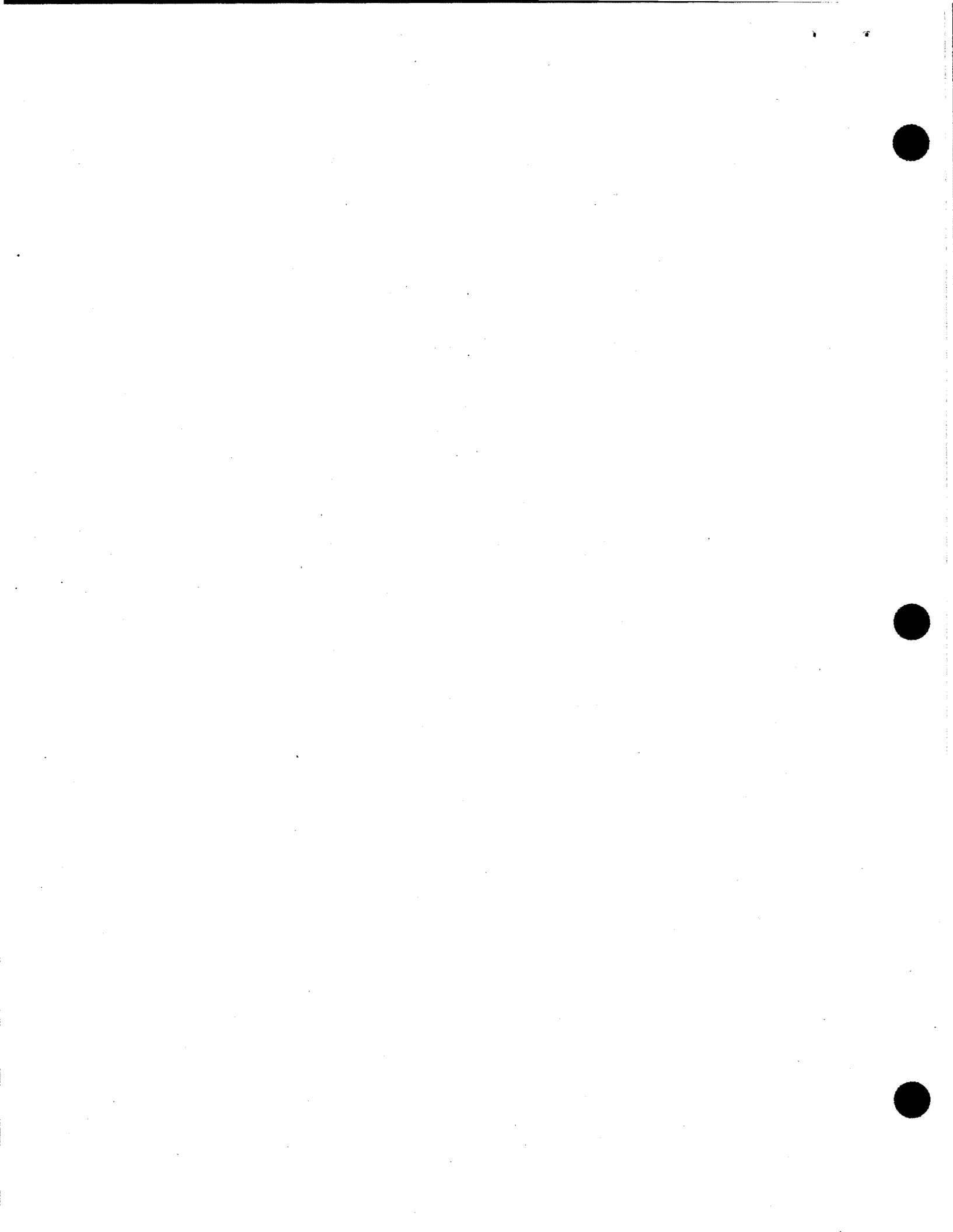
This would result in over-densification of the subject parcel. Almost all of the buildable space will eventually be covered with some type of construction. This is incompatible with the neighborhood and it is inconsistent with the zoning in the area. It is also inconsistent with the property's location in a "high sensitivity area" and special study overlay. (Exhibits "A" and "B.")

17. The presence of greenhouses in the area is substantially inconsistent with the residential character of the community. It is acknowledged, of course, that there are some agricultural related structures closer to the Lagoon. Nevertheless, the presence of greenhouses, particularly if they are not properly kept up, will be unattractive and will negatively impact property values.

Similarly, unkept and unattractive structures will negatively affect the views of residents in the area. There should be mandatory conditions regarding cloaking the greenhouses with suitable native vegetation.

In summary, the project approved by the City is directly inconsistent with multiple policies in the Municipal Code and the Encinitas General Plan -- in particular, the Resources Element of that document, including Goals 1-4, 7-10, 13, 14 and underlying policies. See also RM-34 and RM-38. It is therefore inconsistent with the LCP.

Moreover, CEQA requires that an EIR be performed whenever there is substantial evidence in the record that there may be a significant impact on the environment. In this case, a new project has been brought forward which, as discussed above, has multiple and significant impacts upon the environment that have not been studied for purposes of avoidance or mitigation. CEQA therefore requires an EIR for the project.



Philip D. Silverman and Tamara Fedorka

1904 Balboa Ave.

Del Mar, CA 92014

(858) 755-1344

November 10, 1999

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

RECEIVED

NOV 12 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT


Re: A-6-ENC-99-140

Honorable Commissioners,

I am writing in response to the above referenced appeal submitted by Commissioner Wan Commissioner Estolano and the Saxony Preserve group. My wife Tamara and I are the applicants on this project to use previously designated agricultural land along Saxony Road in Encinitas (City) California and erect up to 14,700 square feet of crop protective structures. Based on the zoning, environmental documentation, nature of the proposed use, findings of the City's Local Coastal Plan and the unanimous approval by the City Planning Commission we urge you find NO SIGNIFICANT ISSUE is brought forth by this appeal.

According to the City of Encinitas zoning regulations, the proposed use for Agricultural and Horticultural Production is considered a residential use, and is permitted with a Minor Conditional Use Permit in all residential zones. The City's General Plan is full of citations which support the continued operation of nursery facilities in the community. The RR-1 development standards allow up to 44,060 square feet of lot coverage (35% of the net acreage) on the subject property. However, with this application (Exhibit A), we are requesting approval for only 14,700 square feet of enclosures, or 12% of the net acreage. Based on concerns expressed by the Planning Commission, we have located the structures to a minimum of 7 feet from the edge of the ravine that traverses the property to allow sufficient set back to ensure edge stability and minimize disturbance of ravine habitat. In addition the structures are more than 50 feet away from the two willow trees that constitute the only wetland-type vegetation on the property. We will also maintain a minimum distance of 30 feet from the edge of an open space easement located along the western slopes of the property for fire control. No grading will be required.

The subject property is part of a larger 7.6 acre parcel which was approved for subdivision by the Planning Commission on February 11, 1993 through Resolution 93-04 (Exhibit B) and Tentative Parcel Map (TPM) 91-192. An Extended Initial Study and Environmental Assessment (EIA) checklist were prepared in association with the parcel map and a Mitigated Negative Declaration was issued with requirements that designated

EXHIBIT NO. 4
APPLICATION NO. A-6-ENC-99-140
Applicant's Response
 California Coastal Commission

open space areas be delineated with fencing, and that no plants will be disturbed in the protected area (Exhibit C). In accordance with the mitigation measures described in the Negative Declaration, our project will be located within already disturbed agricultural use areas (see 1953 aerial photograph Exhibit D) on the site. Contrary to statements in the appeal a Coastal Development Permit was issued on August 17, 1998 for this subdivision. In addition, we have consulted with the California Department of Fish and Game and Army Corps of Engineers who have indicated that the proposed use and mitigation measures are consistent with their requirements, and that there will be no significant adverse impacts resulting from the proposed crop protection structures. The owner of the property, Frederick Snedeker, has requested and received extensions on this TPM which are valid until August 17, 2000.

Wetlands

In our application for the Minor Use Permit, dated October 12, 1998 (Exhibit A), we requested that the City make an immediate determination as to the current wetland status of the ravine. If a wetland-required 50 foot setback was needed, making the property unusable, we requested that the permit process be stopped. Since the City must rely on expert opinion, we retained the services of Dudek and Associates to examine the ravine. In a letter dated November 25, 1998, (Exhibit E) Dudek reports that the site "contains almost no hydrophytic or wetland vegetation, and hence is not a wetland by Army Corps of Engineers standards." This letter also indicates compliance with Encinitas' General Plan, Resource Management Policy 10.6. which embodies wetlands definitions set forth in the Coastal Act and Coastal Commission Regulations. The City concluded in early December 1998 that no wetlands exist and allowed us to continue the permit process.

Habitat

Upon comparing the Biological Study (Exhibit F) done as part of the EIA performed for the minor subdivision with the biological studies performed by the appellants (see appeal document) the latter supports the former and nothing has changed since 1993. City Staff reports for the three appeals to the Planning Commissions and two appeals to the City Council thoroughly discuss full consideration of all current natural resource overlays and the City's Multiple Habitat Conservation Plan (MHCP). They find that our project is in full compliance. Please remember that all growing sites will be on already disturbed lands.

Tamara and I have operated similar facilities in the City of Encinitas for over 10 years. Although there are examples of poorly maintained horticulture operations in the City, this is not our practice. We have a history of keeping our facilities well maintained, and free of unsightly storage and excessive traffic. There is no nighttime lighting associated with our growing techniques.

More importantly, I am a member along with many other flower growers in the Encinitas area of a committee to study container crop run-off and to implement guidelines of Best

Management Practices (BMP) for floriculture operations. This committee in association with the University of California Cooperative Extension (UCCE) and the San Diego County Flower and Plant Association, of which we are members, is unique in all of California. It was established to voluntarily set standards to manage nonpoint source pollution of the local ocean/lagoon contributing water-ways by all growers in the area. Our new growing area (the first in Encinitas in many years) will be used to set an example of techniques to be followed. We already have consulted with the San Diego Natural Resources Conservation Service (NRCS) to begin implementation of optimizing irrigation scheduling and efficiency and use of a tailwater recovery systems. In addition we will be trial testing "bottom-up irrigation" which uses an absorptive mat technique to water potted plants. With UCCE advice we are implementing programs to manage nutrients (fertilizer application will be by injection), optimize soil characteristics for better water retention and providing an integrated pest management program. In short we are not only going to use BMP at this facility, we hope to be a prototype for all to follow.

As with any roof surface the structures will be fitted with gutters to catch rainwater and direct it to an approved drainage course to be defined by the Corps of Engineers and the City of Encinitas Engineering Staff.

The footbridge proposed to access the western portion of the site was chosen because it is far less intensive than a vehicle bridge. The inconvenience of not having delivery vehicles right at the crop site was traded-off in favor of wildlife in the area. Foremost is the fact that this small operation, unlike any other use of the land, will be unobtrusive to the surroundings. There is no machinery, no lighting, no night-time activity and for most of the time no people (between 5 PM - 7 PM).

There are many items in the appeal documents that require comment as follows:

Appeals from Commissioners Wan and Estolano

The following introductions to each paragraph below refer to specific topics presented in the appeals:

Subdivision CDP....A subdivision CDP was issued on August 17, 1998.

"Saxony Creek"...To our knowledge, and confirmed by the City Planner Bill Weedman, the ravine that transverses our property has never been called "Saxony Creek". There is no evidence on any map or historical record that we know of that indicates use of any name for this ephemeral watercourse.

RM Policy 10.6, protection of wetlands....See wetland discussion on page 2.

LU Policy 8.2, channelization limits....The argument that revetment or other control of the streambed is only permissible to protect existing development and that the crop protection structures may thus allow the City to do such revetment work is totally unfounded. The crop protection structures are not considered buildings and do not require building permits. They can not be used as an "existing" subterfuge.

RM Policy 10.4, acquisition and protection of riparian corridor....The City has made an offer to purchase this property that was unacceptable to the owner.

PS Policy 1.13, limiting brush clearance....The argument that the 30 foot set-back from the open space easement will surely be expanded because "fire departments increasingly require fire clearance up to 100 feet" is false conjecture. This 30 foot distance was established only for fire concerns by the Encinitas Fire Department with the understanding that the material used (metal frames covered with polyfilm) is not combustible nor are plants a source of combustion.

RM Policy 10.5, control development on Coastal Mixed Chaparral....No brush cutting will be necessary for this project. All agricultural structures will be wholly within existing disturbed prior agriculture use areas. The City did in fact consult with California Department of Fish and Game (testimony by City Staff at Planning Commission Hearings) in regard to sensitive habitat. In any case, we are presently in discussion with the Department of Fish and Game and U.S. Army Corps of Engineers and they are fully informed regarding the project as of this writing.

Appeal from Saxony Preserve

The specific issues of the appeal follow (refer to line items in their appeal): Note that the appellants use the term "greenhouse" throughout their argument. The crop protection structures are not buildings. They are completely portable frames covered with polyfilm, not permanent structures.

- 1) Greenhouses will not fit on the lot....This is totally untrue. No vegetation will be removed. The crop protection structures will be built-out in 5 foot increments to within the set-backs required, and no further.
- 2) Grading and parcel-wide drainage will be required....There will be no grading. There are no pads. The structures will ride the contours of the land. Drainage, designed and approved by a Professional Engineer (PE) and within C of E non-jurisdictional guidelines, will be employed to control any hardscape run-off into the ravine.
- 3) Greenhouse supports too close to the ravine....The structures are light weight 2 inch metal frames set into the ground with polyfilm covering. No building permits are required because the structural loads are recognized as being insignificant to any supporting soils as well as safe for human occupation.

4) Foot bridges will be a risk to the watercourse...Because the foot bridge (only one on the south end of the lot will be required) will need to be constructed for pedestrian use it will require full structural analysis and permitting by the City Building Department. In the interest of personal safety no bridge supports would be accepted by the supervising PE that would cause watercourse embankment failure and thus subsequent bridge failure.

5) MC 64.08.10 requires 20' set-back.... This assumes that this is a running stream or creek, which it is not.

6) Storm water run-off will flow through the greenhouses and contaminate the ravine.... As part of the Best Management Practices, a drainage plan provides a containment swale outside the structures that prevents storm water entry across the growing surfaces.

7) No consideration of wildlife habitat....See habitat discussion on page 2.

8) No storm water analysis....This is totally untrue. There is a complete 100 year hydrological study done for this ravine. (summary-Exhibit C) Also see 2) above in regard to structure drainage.

9) No landscaping plan...Untrue. Landscaping is shown on Drawing P-I.

10) Water testing in watercourse is required....Not true. As part of the BMP program for this operation, no tail water will be allowed in the ravine what-so-ever.

11) This is a large commercial venture....We used the term "hobby" in our application to denote the small size of our operation compared to larger commercial operations (typically greater than 100,000 sq. ft) in the Encinitas area. The San Diego Flower and Plant Association defines any growing operation less than 20,000 square feet as "a family farm" (hobby..same thing) If the appellants wish to call our 14,700 (max.) operation "commercial" so be it.

12) There will be lighting used 24 hours a day...Untrue. Lighting is not permitted per paragraph SCG in resolution 99-13.

13) A growing site C is indicated but not defined...Growing site C is planned for an outside vegetable garden or orchard. It is part of the statement in our application that indicates "some plants will be grown outside", without protective structures.

14) Utility lines may be run overhead...Untrue. The City requires all utilities be installed underground. Water, electric, telephone, cable and sewer are in the street. (Saxony Road). Water and electric service will be carried to the west side of the ravine through approved conduit under the foot bridge decking.

15) Appellant believes watercourse is a wetlands....The wetlands issue is discussed on page 2 above.

16) There will be too much building on the site....The Extended Initial Study (summary-Exhibit C) fully examined use of all disturbed lands. Only using 14,700 of allowable 44,000 square feet.

17) Greenhouses will lower property values....This is the root of the problem that disturbs the appellants and the true reason for their concerns. Again, this project is totally compatible with zoning in the City of Encinitas.

Summary

We are implementing our project per the City's 1993 approval of the Minor Subdivision TPM and 1998 CDP that allows, by zoning, horticultural use for this site. These approvals were granted after a complete Extended Initial Study and compliance with the certified LCP. This included: biological (wetlands and habitat), archeological, geological and hydrological surveys which used definitions, overlays and conditions present at that time. A Mitigated Negative Declaration was issued, including setting aside over 2 acres as open space. Extensions to the TPM make it currently valid and we were issued a Minor Use Permit and CDP by the City of Encinitas on October 15, 1999.

We are certain the Commission would realize the importance of preserving agriculture in the coastal zone. Thank you for your consideration of this matter. We again urge you to dismiss this appeal by finding no significant issue. If you have any questions or need additional information, please do not hesitate to contact either Tamara or myself at (858) 755-1344.

Sincerely,



Philip D. Silverman

Applicant

ENGINEER / ARCHITECT

Name: PHILIP D. SILVERMAN
(Last, First, Middle Initial or Firm Name)

Phone: (019) 755-1344

Address: 1904 BALBOA AVE.

City DEL MAR

State CA Zip 92014

****PLEASE ATTACH A DESCRIPTION OF THE PROPOSED USE / PROJECT TO THIS APPLICATION.**

Have you had a pre-application meeting? Yes No

If yes, name of planner:

BILL WEEDMAN (TELEPHONE)

Has construction or use of the property for which this permit is requested started? Yes No

If yes, explain:

I am able and intend to proceed with actual construction work and/or division of land in accordance with plans submitted herein within ONE months after approval. I acknowledge that an application for a tentative map or tentative parcel map is not deemed received pursuant to Government Code 65920 et seq. until environmental review is complete. All other application types are not deemed received until responses from interested agencies are received by the City.

I understand that if the project or any alternatives are located on a site which is included on any of the Hazardous Waste and Substances lists compiled by the Secretary for Environmental Protection pursuant to Section 65962.5 of the Government Code, then a Hazardous Waste and Substances Statement must be submitted with this application. (Information that must be included in this statement can be obtained from the Community Development Department.)

I further understand that all fees and deposits submitted with this application will be refunded only as provided for by the ordinances and regulations in effect at the time of the request.

Signature, Owner or Authorized Agent (Attach letter of authorization)

Date

Please Print or Type Signator's Name

APPLICANTS STATEMENT OF INTEREST

We are plant growing hobbyist. We have owned or leased horticultural use properties in the City of Encinitas for the last 10 years and sold our last facility in December 1998. Since then we have been looking for a new opportunity. We became aware that the subject property might become available. That portion of the property, defined as Lot 4 of TPN 91-192, is especially desirable because its size will support a quantity of crops. Further, its open-space surroundings will minimize the impact of growing operations on future neighboring residences. We also feel that a return of this property to agricultural use will be a beneficial, low impact, adjunct to the mix of existing horse corrals, low density residential and small farm use already in this valley.

Although a Final Map has not been issued, time is of the essence. We want to be assured that we will be granted a Minor Use Permit for horticultural use prior to concluding a purchase of Lot 4 when it is properly recorded. We, therefore, are applying with the owners consent for the MUP on APN 216-110-014 with the understanding that the project will be entirely within the boundaries of Lot 4 of the Final Map.

DESCRIPTION OF PROPOSED USE

We intend to grow potted ornamental and color plants which we will sell to off-site farmers markets or organizations. To this end we will begin by clearing weeds from the flat area depicted as site (A) on the attached site plan. We will erect metal "hoops" to form a frame within this area (as shown on the site plan) and cover with polyfilm to create a protected growing shelter. Plants will then be propagated on wire-mesh benches and on the ground both in and around this covered area. We will do the same with areas (B) and (C) in the future. This will depend on getting access to these sites over the watercourse ravine and as the need arises. In addition we may grow some plants in the ground in these areas. In all cases drip irrigation systems will be used to conserve water and minimize run-off.

This will not be a commercial growing operation at any time. There will only be the two of us with no additional workers, large vehicles or support buildings. We intend to build our own residence on the property at some later date within 5 years.

EIR's AND WETLAND DEFINITION

It is our understanding that an extensive environmental and biological study was done on this property to support the findings of the Planning Commissions approval of the subdivision. Lands and protective covenants were specifically set aside to mitigate any

impact of using the land right to the edge of the watercourse. This is further supported by the fact that building pads are included in the approved TPM that are closer than the 50ft buffer normally required if "wetlands" existed. Further it is our understanding that the large habitat mitigation area in the SW corner (coastal scrub) more than compensates for the already existing cleared flat areas on the property.

Because of these understandings we request that this application for Minor Use Permit be examined first for the determination that a wetland buffer is not required and that any EIR requirements have been met through prior studies. If this is not the case we can not use the land as intended. Further, we can not financially afford to pursue a lengthy battle for approval. We would, if such is the case, respectfully ask that you discontinue further efforts and refund our fees.

APPLICATION SUPPLEMENT
CITY OF ENCINITAS
COMMUNITY DEVELOPMENT DEPARTMENT



Design Review MUP/MIN
 TM/TPM Variance Other: _____

1. Project Description. (Describe proposed project. Describe what you are requesting).

TO ERECT METAL FRAME, POLYFILM COVERED CROP PROTECTION STRUCTURES AND TO DEFINE HORTICULTURE AREAS FOR THE PURPOSE OF CULTIVATING POTTED PLANTS FOR "HOBBY" USE AND/OR OFF-SITE SALE.

- a. building sq. ft. 11,000 MAX garage sq. ft. DNA
- b. exterior material/color CLEAR/WHITE POLY FILM (6 MIL)
- c. window material/color SAME AS B
- d. door material/color SAME AS B
- e. roof material/color SAME AS B
- f. Landscaping Percentage _____
- g. Standards: _____

DENSITY	CODE REQUIREMENTS	PROJECT
Density Range Mid-Range		
Net lot area	<u>1.0 ACRE</u>	<u>2.89 ACRE</u>
Lot Width	<u>110 FT.</u>	<u>660 FT.</u>
Cul-de-sac lot width	<u>—</u>	<u>—</u>
Panhandle lot width	<u>—</u>	<u>—</u>
Lot Depth	<u>150 FT.</u>	<u>268 FT.</u>
Front Yard Setback	<u>30'</u>	<u>30'</u>
Interior Side Yard Setback	<u>15'</u>	<u>15'</u>
Exterior Side Yard Setback	<u>15'</u>	<u>15'</u>
Rear Yard Setback	<u>25'</u>	<u>25'</u>
Lot Coverage	<u>—</u>	<u>—</u>
Building Height	<u>18'</u>	<u>13'</u>
Off-Street Parking	<u>—</u>	<u>YES</u>
FAR	<u>—</u>	<u>—</u>

Community Area LEUCADIA/QUAICHALAW Thomas Bros Pg 1

General Plan Designation No. _____ State Coastal Zone? Yes No

Number of Proposed Residential Units: Attached 0 Detached 1

Number of Lots 1 Acres: Gross NA Net 2.89 91-192 TPM/EIA

Related Case?: Yes No If yes, provide previous Case No. _____

2. Existing Conditions. (Describe the existing conditions of the site: i.e., topography, road/alley conditions, access, vegetation, structures, fencing, lot size, drainage and the like).

The site is presently completely vacant of any buildings, roads, driveways or cultivated plants. It consists of a gently to moderate sloping land draining into a 15 to 20 foot deep ravine/seasonal watercourse that runs diagonally across the length of the property. The east side fronts on Saxony Road and the property is secured along the road by a temporary chain link fence. A triangular shaped open-space easement area takes up the entire back SW corner of the land. This easement and the watercourse contain coastal scrub and wetland vegetation that are protected by title restrictions. All other areas (approx. 2.89 acre net) are semi-flat, free of vegetation and ready for agricultural or greenhouse use with little or no site clearing or grading necessary.

3. Surrounding Conditions. (Describe the surrounding conditions: i.e., existing structures and relationship to project, # of units, lot sizes, vehicular access, topography, use type and the like).

The surrounding properties are also completely vacant and along with the subject property form a large north sloping valley surrounded by steeper hills. The tops of these hills are developed with single family residences on R zoned lots. The valley is served by only one county road running through the center. All the land in the valley, except for the subject property (to the best of our knowledge) is restricted by title as open space mitigation land for the developments on the ridges. Further to the south on Saxony road are many RR1 properties with greenhouses, horse corrals and SFR's. To the North is a large farm and vegetable stand. This valley had obviously been used for agriculture in the recent past.

	General Plan Designation	Zoning Designation	Existing Use
Subject Parcel:		RR-1	VACANT
North:			MITIGATION LANDS
South:			MITIGATION LANDS
East:			MITIGATION LANDS
West:			MITIGATION LANDS

4. Project/parcel history. (Describe any past actions taken on this site or project or any other actions taken on development of the site.)

This approximate 7.6 acre parcel of land is defined as Assessors Parcel Number 216-110-014. The owners applied to the City of Encinitas for approval of a minor subdivision (4 lots) of this parcel in 1991. Complete engineering, environmental, biological and hydrological studies were conducted on the property and submitted to the City as part of the application. A Tentative Parcel Map (TPN 91-192) was approved by the Planning Commission, City of Encinitas on February 11, 1993 per Resolution No. PC93-04. The approval expired in 1995 but has since been extended. The conditions required per PC93-04 (i.e.: concrete curb installation, open space easement definition, survey markers etc.) for issuance of the Final Map have not been completed. However, they are scheduled to complete by the end of 1998.

RESOLUTION NO. PC93-04

A RESOLUTION OF THE
PLANNING COMMISSION
OF THE CITY OF ENCINITAS APPROVING
TENTATIVE PARCEL MAP FOR
A FOUR LOT SUBDIVISION
FOR PROPERTY LOCATED APPROXIMATELY
1300 FT SOUTH OF LA COSTA AVE
ON THE WESTERLY SIDE OF SAXONY RD
AND LEGALLY DESCRIBED HEREIN
(CASE NO: 91-192 TPM/EIA)

WHEREAS, a request for consideration of a Tentative Parcel Map, was filed by Frederick Snedeker to allow for the subdivision of approximately 7.6 acres into 4 single family residential parcels for property located approximately 1300 ft. south of La Costa Ave., legally described as:

(See Attachment "A")

WHEREAS, public hearings were conducted on the application on November 5, 1992, and January 7, 1993 by the Leucadia CAB, at which time the Board voted to deny the application; and

WHEREAS, a public hearing was held by the Encinitas Planning Commission on January 11, 1993, at which time the Planning Commission voted to approve the application; and

WHEREAS, the Planning Commission considered, without limitation:

1. The Leucadia CAB staff reports dated October 28, and December 31, 1992, with attachments, as well as the Planning Commission staff report dated February 4, 1993;
2. The application dated received October 29, 1991;

3. The Tentative Map dated received February 3, 1993;
4. Oral evidence submitted at the hearing;
6. The Draft Negative Declaration with associated studies prepared by Craig Lorenz & Associates dated April 1, 1992;
7. An additional biological report from Dudek & Associates, dated received February 1, 1993, and

WHEREAS, the Planning Commission made the following findings pursuant to Title 24 of the Encinitas Municipal Code:

(SEE ATTACHMENT "B")

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Encinitas that application 91-192TPM/EIA is hereby approved subject to the following conditions:

(SEE ATTACHMENT "C")

BE IT FURTHER RESOLVED by the Planning Commission of the City of Encinitas that:

The Planning Commission hereby accepts the Extended Initial Study by Lorenz & Assoc., and also accepts the additional biological study by Dudek & Assoc. as an addendum to the Initial Study, all which have been reviewed in the independent judgement of the Planning Commission and found to be adequate, and a negative

declaration is hereby certified, pursuant to the California Environmental Quality Act (CEQA).


PASSED AND ADOPTED this 11th day of February, 1993, by the following vote, to wit:

AYES: Jacobson, Lanham, Rotscheck

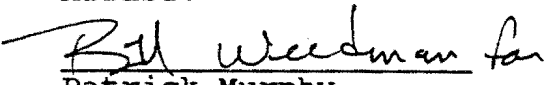
NAYS: None

ABSENT: Bagg, Schafer

ABSTAIN: None


Alice Jacobson,
Vice-Chairperson, Planning Commission
City of Encinitas

ATTEST:


Patrick Murphy
Secretary

ATTACHMENT "A"

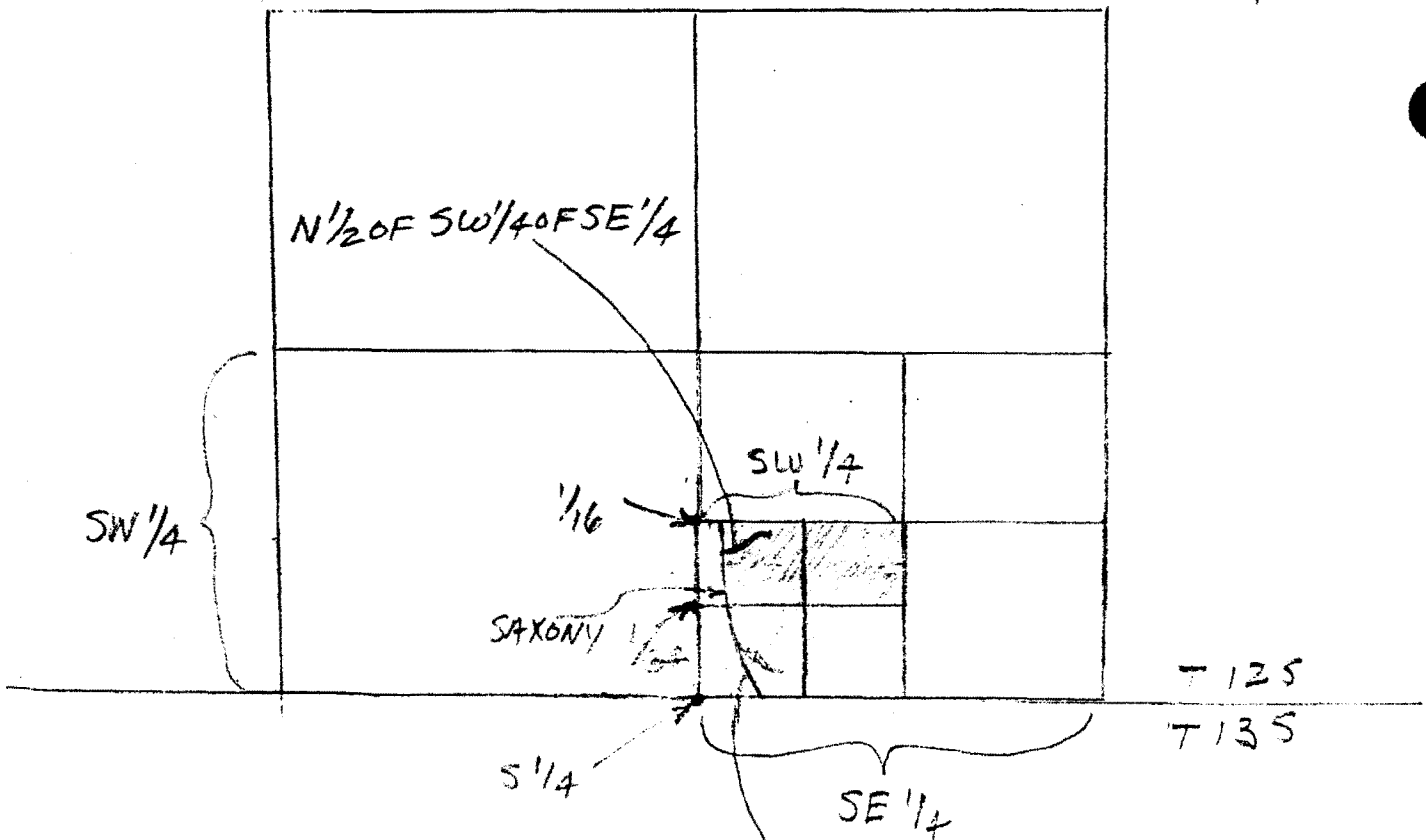
LEGAL DESCRIPTION

RESOLUTION NO. PC-93-04

CASE # 91-192TPM/EIA

All those portions of the North one-half of the Southwest Quarter of the Southeast Quarter and of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter, in Section 34, Township 12 South, Range 4 West, San Bernardino Meridian, in the County of San Diego, State of California, according to the United States Government Survey approved May 3, 1883, lying Westerly of the center line of the County Road as shown on Map of County Road Survey No. 1317, a plat of which is on file in the Office of the County Surveyor of said San Diego County.

SEC 34



SW 1/4 OF SW 1/4 OF SE 1/4

ATTACHMENT "B"

FINDINGS FOR A TENTATIVE PARCEL MAP (TITLE 24)

RESOLUTION NO. PC-93-04

(Case # 91-192TPM/EIA)

I. Findings for a Tentative Map:

- a. That the proposed map is consistent with applicable general and specific plans as specified in Section 65451 of the Subdivision Map Act.

Facts: There is no applicable specific plan. The General Plan allows a density range of .75 - 1 dwelling units per acre in the Rural Residential 1 designation.

Discussion: The project density is .88 dwelling units per acre, within the allowable density range of the RR-1 Zone.

Conclusion: The Planning Commission finds that the proposed map is consistent with the General Plan subject to the required specific and standard conditions contained in the approved resolution.

- b. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

Facts: Chapter 24.12 of the Municipal Code sets forth design standards for subdivisions and Chapter 30.16 of the Municipal Code sets forth technical standards, such as lot width and depth requirements, in the RR-1 zone.

Discussion: No specific plans apply to the project. The proposed lot dimensions, access, and all other design criteria satisfy City standards for the RR-1 zone contained in Chapters 24.12 and 30.16 of the Encinitas Municipal Code.

Conclusion: The Planning Commission finds that the project conforms to the General Plan since all technical requirements are met per the City's Subdivision Ordinance and Municipal Code.

- c. That the site is physically suitable for the type of development.

Facts: The project site contains both steeply sloping areas as well as relatively flat areas.

Discussion: The flatter portions of each proposed lot are capable of containing future homes, as discussed in the project biological report.

Conclusion: The Planning Commission finds that the subject site is physically suitable for future development with detached single-family development since the soils report, site assessments, biological study, and other information submitted with the application do not indicate site constraints to development.

- d. That the site is physically suitable for the proposed density of development.

Facts: The project will result in a density of .88 du/ac. The RR-1 Zone allows a density of up to 1 dwelling per acre.

Discussion: The project density, in addition to being within the allowable range for the zone, is suitable since project (subdivision) design indicates that the allowed single-family homes can easily be accommodated within the building envelopes which will result.

Conclusion: The Planning Commission finds that the proposal will result in an acceptable density since the project density will be within the allowed range and project design indicates that adequate building envelopes will result for the single-family detached development permitted in the RR-1 zone.

- e. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat.

Facts: An Extended Initial Study was performed by staff in conjunction with Craig Lorenz and Associates, dated April 1, 1992. Additional biological information was submitted to the City on February 1, 1993, from qualified biologists from Dudek & Assoc.

Discussion: The Initial Study found that with incorporation of the mitigation measures recommended therein and made conditions of this approval, including mitigations related to creation of an open space easement, the project would not result in any significant adverse impacts to the environment, and a Mitigated Negative Declaration was therefore recommended.

The additional biological report (of Dudek & Assoc.) cited above indicates that the creation of a limited fuel

management zone within the open space area would be acceptable.

Conclusion: The Planning Commission finds that with incorporation of the mitigation measures set forth in the Initial Study from Craig Lorenz and Associates dated April 1, 1992, the project will not result in any significant adverse environmental impacts. The Commission further finds that the additional biological study submitted from Dudek & Associates, dated February 1, 1993, supports the applicant's requested fuel management area, and it is determined that this modification is not substantially inconsistent with the findings of the Initial Study. A Negative Declaration is thus certified in conjunction with the project.

- f. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts: The applicant has obtained commitments of sewer and water availability and all public utilities and services are available to serve the project, although extensions to the site and/or annexations may be required for some utilities.

Discussion: All applicable services required by the subdivision can be provided, therefore, the project will not cause serious public health problems.

Conclusion: The Planning Commission finds that since all necessary services can be provided for the subdivision, and since no other adverse health impacts can be identified with the project, the subdivision is not likely to cause any adverse health impacts.

- g. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Facts: All easements of record are required to be identified on the tentative map.

Discussion: No easements have been identified on the subject property with which any of the lots or subsequent development thereon would conflict.

Conclusion: The Commission finds that the proposed subdivision will have no conflict with any easements since no easements have been identified on the subject property with which the proposed map would create conflicts.

- h. The Final or Parcel Map is in substantial compliance with the previously approved Tentative Map.

Conclusion: Not applicable for consideration of the Tentative Parcel Map.

- i. The City Council and the authorized agency have not acted in accordance with Section 66747.5 of the act relating to land projects.

Conclusion: The City Council has not acted to revert the subject property to acreage.

- j. In accordance with Sections 66473 and 66472.5 of the Map Act, the Map complies with the conditions or requirements imposed by Title 24 and the Map Act.

Facts: The subdivision is required to meet all Map Act and Municipal Code standards in effect at the time the application was deemed to be complete.

Discussion: Staff and the Authorized Agency have identified no provisions of The Act (in effect at the time the application was deemed to be complete) with which this proposed tentative map would not comply. The map complies with all standards contained in Title 24 of the Municipal Code, including the design standards contained in Chapt. 24.12.

Conclusion: The Planning Commission finds that the proposed subdivision meets all the Map Act and Municipal Code standards in effect at the time the application was deemed to be complete.

- k. The proposed subdivision is entirely within the corporate boundaries of the City.

Conclusion: The subject property is entirely within City boundaries.

- l. The property is served by an on-site sewage disposal system and the health Department has certified that the system is satisfactory to support the proposed subdivision.

Conclusion: The applicant has submitted an availability letter from the Leucadia County Water District.

ATTACHMENT "C"

CONDITIONS FOR A TENTATIVE PARCEL MAP

RESOLUTION NO. PC-93-04

CASE # 91-192TPM/EIA

A. GENERAL CONDITIONS

- (1) This approval will expire on February 11, 1995, at 5:00 p.m. unless the conditions have been met or an extension has been approved by the Authorized Agency.
- (2) This approval may be appealed to the City Council within 10 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.
- (3) The project is approved as submitted, on the plans dated received by the City on February 1, 1993, and on file with the Community Development Department, and shall not be altered without review and approval by the Authorized Agency.
- (4) Permits or findings of exemption shall be obtained from the State Coastal Commission and any other applicable Government agencies.
- (5) All cost recovery fees associated with the processing of the subject application shall be paid to the Department of Community Development prior to the authorization of final map by the Authorized Agency.
- (6) Prior to authorization of final map, all appropriate conditions of approval contained herein shall be completed to the satisfaction of the Director of Community Development. Other conditions shall be satisfied prior to final inspection.
- (7) The project has been found to be exempt from Section 711.4 of the State Fish and Game Code, since this application approval contains sufficient mitigations to potential impacts to wildlife resources.

B. SPECIAL CONDITIONS

- (1) The proposed open space easement to be designated on the final map shall be specifically identified with a detailed legal description to be provided by the applicant for review by the City Engineer. Staff and a qualified biologist, selected by the City, shall review

the proposed designation for approval. Said easement shall be recorded in the form of a covenant to specify that no construction, clearing or other activities shall be permitted in said easement, except as indicated below under fuel management. The covenant shall also provide language informing any future property owners that all reasonable efforts shall be made to keep pets out of the open space area.

- (2) The proposed "fuel management" area to be designated on the final map shall be specifically identified with a detailed legal description to be provided by the applicant for review by the City Engineer. Staff and a qualified biologist shall review the proposed designation for approval. Prior to final map, the applicant shall also submit a statement of desired treatment of the fuel management area, to include the exact nature of fuel management activities to be allowed, and also to submit a list of desired plantings contemplated for the fuel management area. Said statement shall be reviewed by staff and a qualified biologist, and shall also be recorded in the form of a covenant.
- (3) The excavation shall be staked, with inspection provided by a qualified biologist to determine what plant materials, if any, are to be protected. Any plant materials so identified (which might be harmed during the excavation) shall be replaced at a 2:1 ratio.

APPLICANT SHALL CONTACT THE FIRE DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

C. FIRE

- (1) Prior to delivery of combustible building materials on site, water and sewer systems shall satisfactorily pass all required tests and be connected to the public water and sewer systems. In addition, the first lift of asphalt paving shall be in place to provide a permanent all weather access for emergency vehicles. Said access shall be maintained to the satisfaction of the Fire District.
- (2) Address numbers shall be placed in a location that will allow them to be clearly visible from the street fronting the structure. The height of the numbers shall conform to Fire District Standards. Where structures are located off a roadway on long driveways, a monument marker shall be placed at the entrance where the driveway intersects the main roadway. Address numbers shall be affixed to this monument.

- (3) Future structures shall be protected by an automatic fire sprinkler system installed to the satisfaction of the Fire District, unless otherwise exempted by the Municipal Code / or Fire Codes.
- (4) Prior to final recordation, the applicant shall submit to the Community Development Department a letter from the Fire District stating that all development impact, plan check and/or cost recovery fees have been paid or secured to the satisfaction of the Fire District.
- (5) Grade: The gradient for a fire apparatus roadway shall not exceed 20%. The angle of departure and approach shall not exceed the maximum allowed by the Fire Chief.
- (6) All automatic gates across fire access roadways shall be equipped with a fire department approved emergency key operated switch that will override all command functions and open the gate. Gates accessing four or more residential lots shall also be equipped with emergency traffic control activating strobe sensors which will activate and open the gate upon the approach of emergency apparatus. All automatic gates shall be tested by the fire department prior to their being left in a closed position.
- (7) The applicant shall submit a letter from the Encinitas Fire Protection District stating satisfaction with the type, number, and location of fire hydrants. A letter from the water agency serving the area shall be provided that states the required fire flow is available. Provisions shall be made to insure maximum water pressure does not exceed 250 psi. Fire hydrants shall be of a bronze type. A two-sided blue reflective road marker shall be installed on the road surface to indicate the location of the fire hydrant for approaching fire apparatus.
- (8) The applicant shall submit to the Planning Dept. a letter from the Fire District that required fire/fuel breaks have been provided to the satisfaction of the Fire District.

APPLICANT SHALL CONTACT THE ENGINEERING DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITIONS:

D. GRADING

- (1) No grading permits shall be issued for this subdivision prior to recordation of the final map.

- (2) The developer shall obtain a grading permit prior to the commencement of any clearing or grading of the site.
- (3) The grading for this project is defined by Chapter 23.24 of the Encinitas Municipal Code. Grading shall be performed under the observation of a civil engineer whose responsibility it shall be to coordinate site inspection and testing to ensure compliance of the work with the approved grading plan, submit required reports to the City Engineer and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.
- (4) No grading shall occur outside the limits of the SUBDIVISION unless a letter of permission is obtained from the owners of the affected properties.
- (5) A separate grading plan shall be submitted and approved and a separate grading permit issued for the borrow or disposal site if located within the City limits.
- (6) All newly created slopes within this project shall be no steeper than 2:1.
- (7) A soils/geological/hydraulic report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work:
 1. Prior to final map approval; or
 2. At first submittal of a grading plan.
- (8) Prior to hauling dirt or construction materials to any proposed construction site within this project, the developer shall submit to and receive approval from the City Engineer for the proposed haul route. The developer shall comply with all conditions and requirements the City Engineer may impose with regard to the hauling operation.

E. DRAINAGE CONDITIONS

- (1) The developer shall exercise special care during the construction phase of this project to prevent any offsite siltation. The developer shall provide erosion control measures and shall construct temporary desiltation/detention basins of type, size and location as approved by the City Engineer. The basins and erosion control measures shall be shown and specified on the grading plan and shall be constructed to the satisfaction of the City Engineer prior to the start of any other grading operations. Prior to the removal of any basins or facilities so constructed the area served shall be protected by additional drainage facilities, slope

erosion control measures and other methods required or approved by the City Engineer. The developer shall maintain the temporary basins and erosion control measures for a period of time satisfactory to the City Engineer and shall guarantee their maintenance and satisfactory performance through cash deposit and bonding in amounts and types suitable to the City Engineer.

- (2) A drainage system capable of handling and disposing of all surface water originating within the subdivision, and all surface waters that may flow onto the subdivision from adjacent lands shall be required. Said drainage system shall include any easements and structures as required by the City Engineer to properly handle the drainage.
- (3) The proposed project falls within areas indicated as subject to flooding under the National Flood Insurance Program and is subject to the provisions of that program and City ordinance.
- (4) The developer shall pay the current local drainage area fee prior to approval of the final map for this project or shall construct drainage systems in conformance with the Master Drainage Plan and City of Encinitas Standards as required by the City Engineer.
- (5) Concentrated flows across driveways and/or sidewalks shall not be permitted.
- (6) The existing drainage course traversing the property must be secured with appropriate improvements against erosion, if the property is to be used for residences. The proposed improvements, per the approved tentative map, must be installed to the satisfaction of the City Engineer.

F. Street Conditions

- (1) The developer shall make an offer of dedication to the City for all public streets and easements required by these conditions or shown on the TENTATIVE MAP. The offer shall be made BY A CERTIFICATE ON THE FINAL MAP for this project. All land so offered shall be granted to the City free and clear of all liens and encumbrances and without cost to the City. Streets that are already public are not required to be rededicated.
- (2) Five feet (5') shall be dedicated by the developer along the subdivision frontage based on a center line to right-of-way width of 30 feet and in conformance with City of Encinitas Standards.

- (3) Prior to any work being performed in the public right-of-way, a right-of-way construction permit shall be obtained from the City Engineer's Office and appropriate fees paid, in addition to any other permits required.
- (4) Plans, specifications, and supporting documents for all improvements shall be prepared to the satisfaction of the City Engineer. Prior to approval of the final map, the Subdivider shall install, or agree to install, and secure with appropriate security as provided by law, improvements shown on the tentative map and the following improvements to City Standards to the satisfaction of the City Engineer:

Portland Cement Concrete Curb and Gutter, curb face 20 feet from centerline, and Asphalt Concrete pavement to match existing pavement.

G. Utilities

- (1) The developer shall comply with all the rules, regulations and design requirements of the respective utility agencies regarding services to the project.
- (2) The developer shall be responsible for coordination with S.D.G & E, Pacific Telephone, and Cable TV authorities.
- (3) All proposed utilities within the project shall be installed underground including existing utilities unless exempt by the Municipal Code.
- (4) The developer shall be responsible for the relocation and undergrounding of existing public utilities, as required.

H. STANDARD MAP CONDITIONS (Chapter 24.16 of the Muni. Code)

- (1) This project is approved specifically as 1 single phase.

EXHIBIT C

EXTENDED INITIAL STUDY
SAXONY ROAD SUBDIVISION
Case No. 91-192 TPM/EIA
City of Encinitas, California

Prepared for:

CITY OF ENCINITAS
Community Development Department
527 Encinitas Boulevard
Encinitas, California 92024

Prepared by:

CRAIG R. LORENZ & ASSOCIATES
7565 Acama Street
San Diego, California 92126

April, 1992

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
1.0	<u>INTRODUCTION</u>	1
	1.1 Project Location	1
	1.2 Environmental Setting	1
	1.3 Project Description	7
2.0	<u>POTENTIAL SIGNIFICANT EFFECTS</u>	10
	2.1 Soils/Geotechnical	10
	2.2 Archaeological Resources	11
	2.3 Biological Resources	12
3.0	<u>MITIGATION MEASURES AND MONITORING PROGRAM</u>	14
	3.1 Soils/Geotechnical	14
	3.2 Archaeological Resources	15
	3.3 Biological Resources	16
4.0	<u>CONCLUSION AND RECOMMENDATION</u>	18
5.0	<u>REFERENCES</u>	19
6.0	<u>APPENDIX</u>	20

LIST OF FIGURES

<u>FIGURE</u>	<u>TITLE</u>	<u>PAGE</u>
1	Regional Location	2
2	Project Site and Vicinity	3
3	Ground Photographs of Project Site and Vicinity (Sheets 1 - 3)	4
4	Project Tentative Map - Case No. 91-192 TPM/EIA	8

LIST OF TABLES

<u>TABLE</u>	<u>TITLE</u>	<u>PAGE</u>
1	Surrounding Land Use, Zoning, and Existing Uses - Saxony Road Project	9

1.0 INTRODUCTION

1.1 Project Location

The 7.63 acre project site is located west and adjacent Saxony Road in the City of Encinitas, California (Figures 1 and 2). The Assessor's Parcel No. is 216-110-014.

1.2 Environmental Setting

The subject property is situated at the base of a steep and narrow, north-trending canyon which cuts the mesa on the south side of Batiquitos Lagoon. The irregularly-shaped property was previously disturbed by agricultural uses which resulted in some resculpturing of the canyon floor to enhance the growing area and to facilitate a staging area. An existing natural channel drains the valley, flowing northward through the property to the lagoon. The adjacent properties have also been impacted by previous agricultural activities. The sides of the canyon are very steep and precipitous, resulting in the accumulation of substantial slope wash on the canyon floor.

Elevations within the proposed development areas range from 100 feet to 34 feet above mean sea level. Drainage is by sheet flow into the aforementioned ravine which eventually empties into the Batiquitos Lagoon. No improvements were observed on site during this investigation; vegetation consisted of dense chaparral on the slopes and within the arroyo and wild grasses on the flatter terrain (Refer to Figure 3 (Sheets 1-3)).

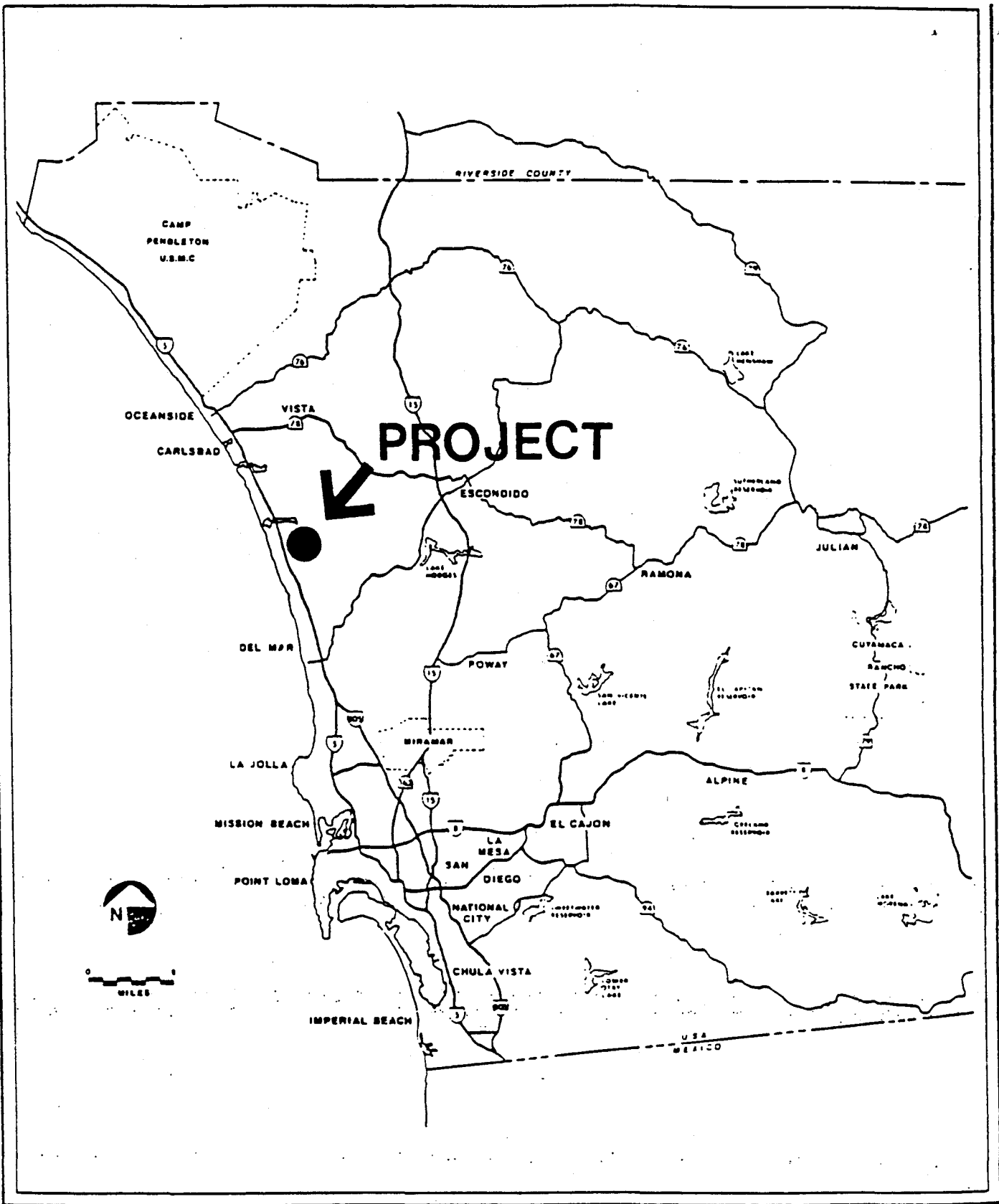


Figure 1 Regional Location

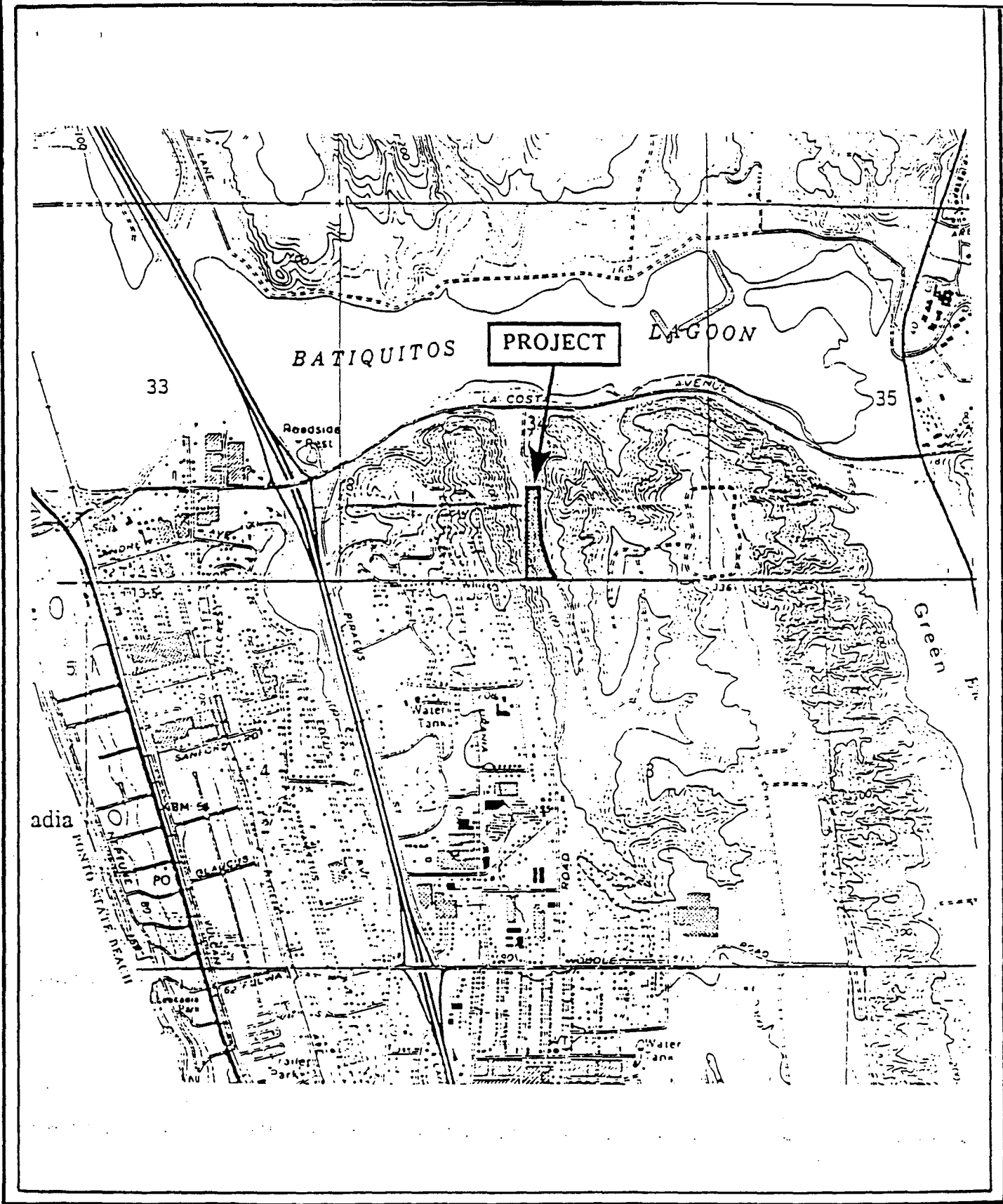
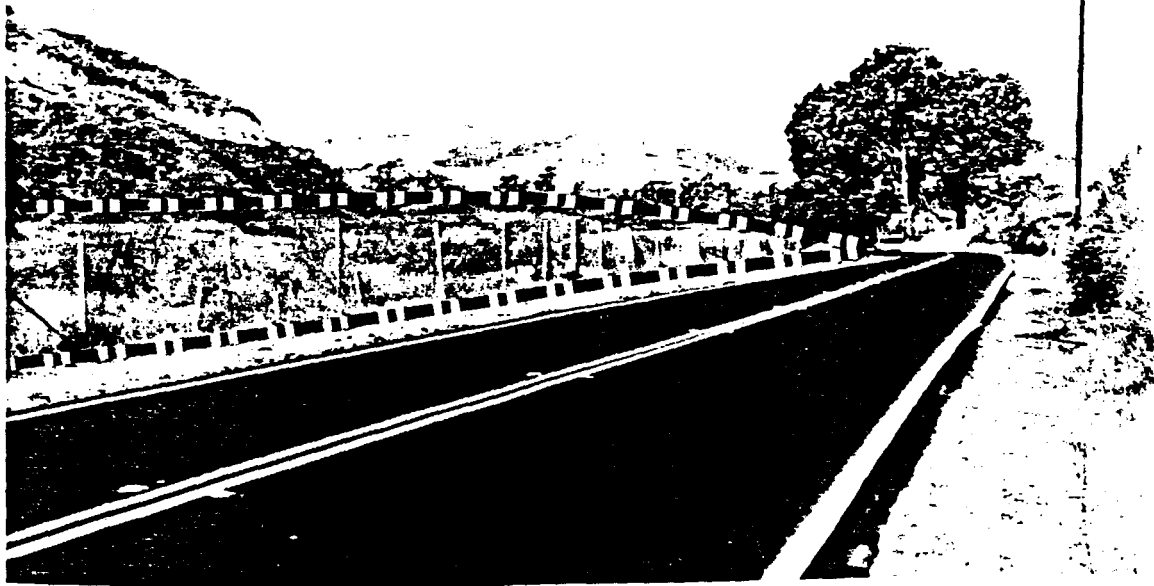


Figure 2 Project Site and Vicinity



↑ View of Site from Saxony Road looking North. ↓

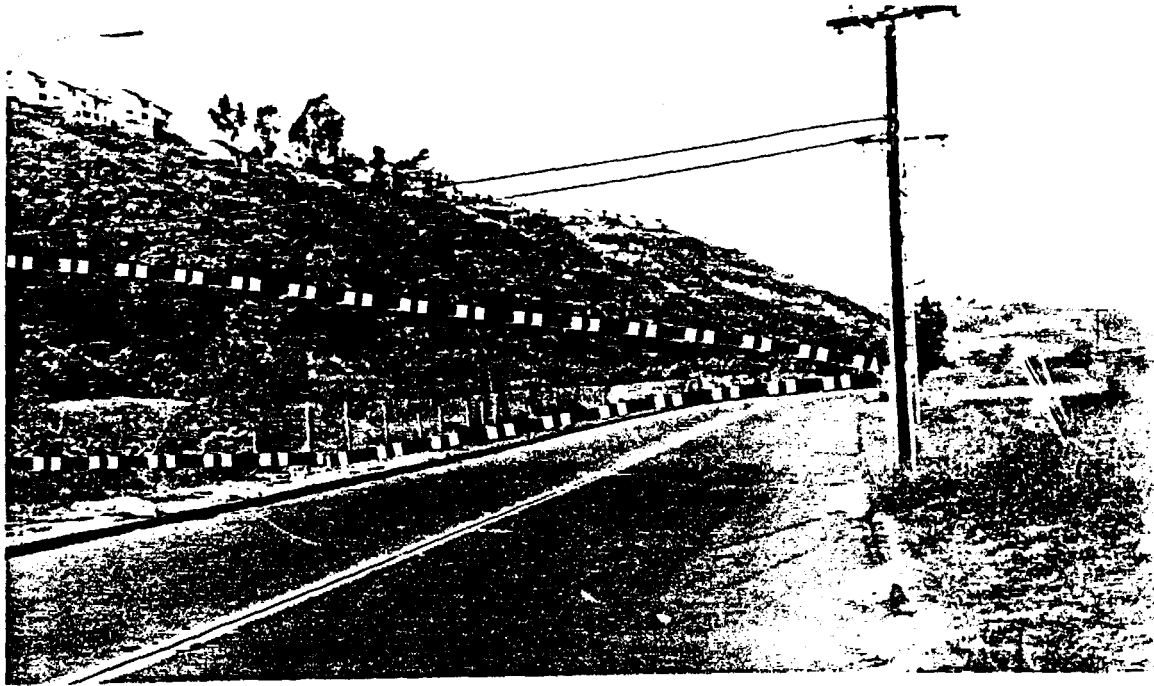
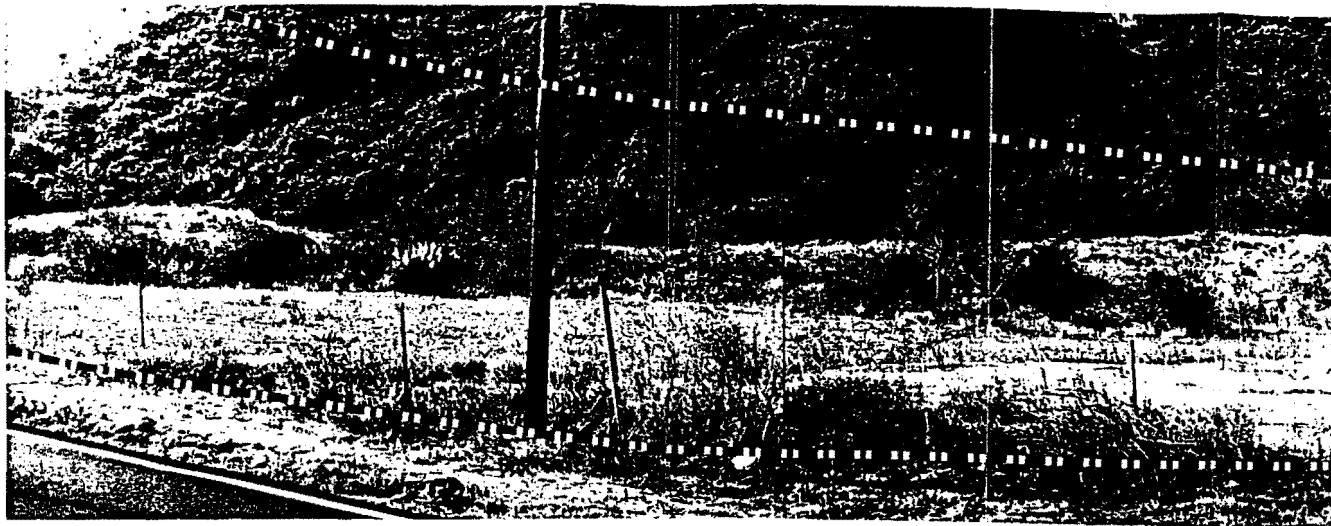


Figure 3 Ground Photographs of Project Site and Vicinity
(Sheet 1 of 3)



↓ View of Site from Saxony ↑
Road looking West.

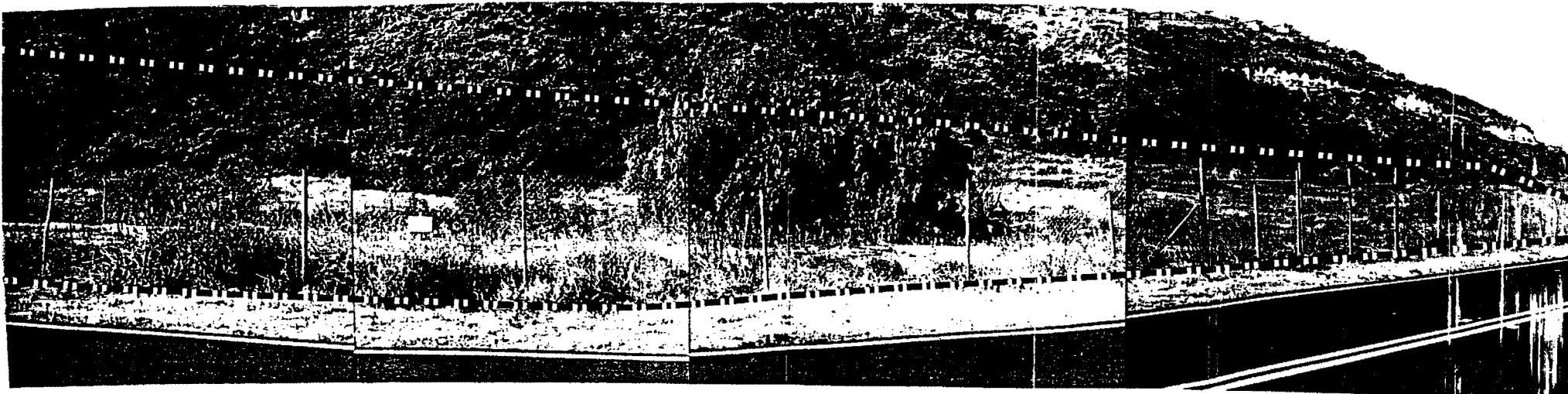


Figure 3 Ground Photographs of Project Site and Vicinity
(Sheet 2 of 3)

1.3 Project Description

The proposed project consists of 7.63 acres located in the northern area of the City of Encinitas, California. The project lies in a canyon on the west side of Saxony Road, south of La Costa Avenue and Batiquitos Lagoon. The proposed project will subdivide the existing parcel into four lots, consisting of one 4.04-acre lot, two 1.2-acre lots, and one 1.19-acre lot. The project objective is the development of the property for residential use, with single family lots to be sold and developed on an individual basis with separate driveways taking access to Saxony Road (Refer to project Tentative Map - Figure 4).

A seasonal watercourse traverses the site from south to north towards Batiquitos Lagoon. Drainage from the site enters this watercourse at several locations and has historically been subject to erosion caused by a combination of concentrated runoff from local improvements and erosion-sensitive on-site soil conditions. Initial site improvements would consist of the widening and street frontage improvements to Saxony Road, with the accompanying installation of underground utilities (water, sewer, electrical), and on-site storm drainage facilities within the watercourse.

The existing City General Plan Designation for the property is Rural Residential with RR-1 Zoning. The proposed project land use and density is consistent with both the General Plan and Zoning designations for the site; the four (4) lot density conforms with the "Maximum-Range Density" allowed for the site under the applicable City of Encinitas development standards. Surrounding land use designations, zoning, and existing uses are described in Table 1.

TABLE 1

SAXONY ROAD SUBDIVISION
Surrounding Land Use, Zoning, and Existing Uses*

<u>Location</u>	<u>General Plan Designation</u>	<u>Zoning</u>	<u>Existing Uses</u>
NORTH	Rural Residential	RR-1	Open space lot
SOUTH	Rural Residential	RR-1	Undeveloped
EAST	Rural Residential	RR-1	Open space lot
WEST	Rural Residential	RR-1	Open space lot/ Single-Family Homes Above Hillside Area

*NOTE: See Ground Photographs - Figure 3

2.0 POTENTIAL SIGNIFICANT EFFECTS

2.1 Soils/Geotechnical

A preliminary geotechnical/soil investigation was completed for the proposed project by WESTERN SOIL AND FOUNDATION ENGINEERING, INC., dated March 21, 1991 (Appendix A). The findings and conclusions of this report are as follows:

"No evidence suggesting the presence of geologic hazards other than any mentioned above that would preclude the development of this proposed project were observed in our subsurface exploration. We did, however, observe expansive and poorly soil consolidate soil materials. Recommendations concerning these conditions are presented in the following sections of this report. During the grading operation, a Registered Geotechnical Engineer must inspect the site for adverse geologic conditions."

2.2 Archaeological Resources

A complete archaeological investigation of the project site was conducted by Brian F. Smith and Associates in March, 1992 (Refer to complete Technical Report - Appendix B). The findings and conclusions of this report are as follows:

"The field reconnaissance of the project was conducted by Brian F. Smith, archaeological consultant and principal investigator, and Larry Pierson, staff archaeologist, on March 6, 1992. The reconnaissance was conducted utilizing linear transects spaced at ten-meter intervals and oriented from north to south throughout the project. The existing conditions facilitated a thorough and complete survey of the existing ground surface in the impacted areas of the project. A small portion of very steep slope covered by native coastal sage/scrub vegetation located in the southwestern portion of the property was not traversed due to the impenetrability of the vegetation, the hazardous topography, and the unlikelihood of finding archaeological resources on such a steep slope.

Although the survey did not result in the discovery of any unrecorded historic or prehistoric sites within the project, the field survey did reveal that a substantial quantity of slope wash from the canyon sides and redistribution of soils caused by cultivation may mask archaeological resources. Such resources are known to occur with a high frequency around Batiquitos Lagoon and the immediate environs. This characteristic suggests the possibility, however, slight, that archaeological materials could be buried under the slope wash. However, since the survey did not reveal any evidence of an archaeological site within the project or buried beneath the soil, the possibility of the presence of buried cultural resources is extremely remote.

2.3 Biological Resources

A complete biological investigation of the project site was performed by Vincent N. Scheidt, Consulting Biologist, in February 1992 (Refer to complete Technical Report - Appendix C). The findings and conclusions of this report are as follows:

"The approximately 7.6-acre Saxony Road Tentative Parcel Map project site in the City of Encinitas was surveyed for sensitive biological resources in February of 1992. Three plant communities are found on the site. These are Diegan Coastal Sage Scrub, Southern Willow Scrub, and Disturbed Vegetation. The first two of these are considered sensitive habitats. Three sensitive species were observed on or immediately adjacent to the site. These are Coronado Skink, Summer Holly, and California Gnatcatcher.

Development of the Saxony Road Tentative Parcel Map property as a result of an approval of the project application could result in several direct and indirect impacts to significant biotic resources found on and near this property. These impacts would result from eventual homesite construction, compliance with fire department brush management requirements, filling or alteration of the onsite drainage, etc. A "worst-case" scenario is examined when determining potential impacts. In other words, an assumption is made that all areas not protected within a "hands-off" dedicated biological open space easement might be totally or partially degraded at some time in the future. While this may or may not actually occur, the analysis herein is required to assume its potential. Impacts are assessed at a level which is **significant** or **less than significant** under provisions of the California Environmental Quality Act. Potential adverse impacts include the following:

- (1) The loss of the site's sensitive Diegan Coastal Sage Scrub and Southern Willow Scrub habitats. These losses would have a level of impact, individually and cumulatively, which is **significant**. Wetland losses,

including the loss of willow habitat, generally require review and permitting by state and federal resource agencies.

- (2) The cumulative loss of potential habitat for a number of sensitive vertebrates, which, while not found during the February survey, may occur on-site and would be detectable during summer months. This loss would be considered either **significant** or **less than significant**, depending on the resource of concern.
- (3) Indirect impacts to California Gnatcatcher, a "high-profile" sensitive species found in close proximity to the site. Development of the subject property could result in encroachment impacts, including potential predation by domestic cats, etc. Any impacts to this declining species would be considered **significant**.
- (4) The loss of the disturbed vegetation on-site is considered **less than significant**, although it will contribute to the general loss of open space in the area."

3.0 MITIGATION MEASURES AND MONITORING PROGRAM

3.1 Soils/Geotechnical

Mitigation Measures

The primary site conditions which are likely to impact the proposed development include the presence of compressible fill soils, topsoils, Alluvium/Colluvium deposits, and the stability of natural and proposed slopes. All recommendations presented in the original geotechnical investigation report, dated March 21, 1991, prepared by WESTERN SOIL AND FOUNDATION ENGINEERS, INC. (Appendix A), shall be incorporated into the design and construction of the project. Grading plans for individual lot development shall adhere to the recommendations of this report, as augmented where necessary by additional site specific geotechnical investigations, at the time of application for building permits. Compliance with the above conditions shall be evaluated by the City Engineer prior to issuance of a grading permit(s) for the overall project and/or individual lots.

3.2 Archaeological Resources

Mitigation Measures

"The proposed project does not represent a significant impact to known cultural resources. Therefore, no further archaeological studies will be necessary. No mitigation measures will be required as part of the implementation of the project because no potential impacts were identified."

3.3 Biological Resources

Mitigation Measures

"Implementation of the following recommendations will reduce the level of adverse impacts which could result from project approval to a level which is less than significant under provisions of CEQA:

Development shall be restricted to that portion of the site currently supporting the disturbed habitat along the lower, flat areas. The remainder of the property shall be conserved as a biological preserve through the dedication of an easement over the area for the conservation of biological resources (Refer to Figure 4 - Appendix C). This will effectively protect all of the extant Coastal Sage Scrub habitat, and myriad native plants and animals found on this site. It will also allow continued wildlife corridor use of this property by vertebrates, including California Gnatcatchers and other sensitive species, residing in the region following site development. The edge of the easement area abutting the developed area should be fenced with a permanent three-strand barbed wire, chain link, or split-rail type fence to clearly define the edge of the open space. Vegetation removal or addition, brushing, or any other degradations shall not be permitted in the open space. Any and all fuel management which may be required by the fire department must not occur within the open space easement. No provision for vegetation removal or thinning for this purpose may be placed within the conditions of the open space. This may require setting all future structures a minimum distance from the edge of the easement.

Because the proposed project will result in the crossing of an existing streambed which supports limited riparian vegetation, the applicant shall contact the California Department of Fish and Game and Army Corps of Engineers in order to obtain a Streambed Alteration Agreement (1600 series) and Section 404 Permit, respectively, as necessary. Any agreements or permits

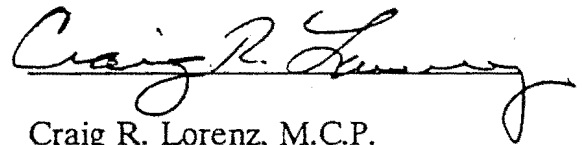
obtained shall include provisions to prevent siltation impacts to Batiquitos Lagoon and compensate for losses of existing, on-site habitat through revegetation, as required by these agencies.

No other mitigation is considered necessary."

4.0 CONCLUSION AND RECOMMENDATION

Research and review of the project plans, the Environmental Information Form, the previously-described technical studies (listed in the References Section of this report), as well as a field investigation of the project site and surroundings, have failed to disclose any environmental effects not mitigated by project design, standard conditions for its implementation, and the recommendations presented herein.

On the basis of this Extended Initial Study, we conclude that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures have been added to the project to insure that all potential impacts are either eliminated or reduced to a level of insignificance. All mitigation measures listed are in addition to any City or Coastal Commission mitigation fees imposed during the project processing. We recommend preparation of a Negative Declaration.



Craig R. Lorenz, M.C.P.
Craig R. Lorenz & Associates
April, 1992

5.0 REFERENCES

1. * A Geotechnical Investigation of the Snedecker Property, Saxony Road, Encinitas, California, Job # 91-9, WESTERN SOIL AND FOUNDATION ENGINEERING, INC., dated March 21, 1991 (Appendix A).
2. * An Archaeological Survey of the Saxony Road Lot Split Project, City of Encinitas, TPM # 91-192, Brian F. Smith and Associates, dated March 31, 1992 (Appendix B).
3. A Biological Investigation and Report on the Saxony Road Lot Split, TPM # 91-192, Vincent N. Scheidt, Consulting Biologist, dated April, 1992 (~~Appendix C~~).

4. * HYDROLOGY APPENDIX D

SAE
EXHIBIT F

* THESE DOCUMENTS ARE
IN THE SAN DIEGO C.C. OFFICE.

6.0 APPENDIX

CEQA DOCUMENTATION

Appendix I - Environmental Initial Study Checklist Form and Explanation Sheet

Appendix II - Determination Based on Extended Initial Study

Appendix III - Negative Declaration (Draft)

TECHNICAL REPORTS

Appendix A - Preliminary Soils/Geotechnical Investigation Report

Appendix B - Archaeological Survey Report

Appendix C - Biological Survey Report

APPENDIX I

ENVIRONMENTAL CHECKLIST FORM

I. BACKGROUND

1. Name or Proponent: Frederick L. Snedeker
2. Address and Phone Number of Proponent: 1005 "B" Kyceia, Encinitas, California (619) 942-3430
3. Date of Checklist Submitted: April 26, 1992
4. Agency Requiring Checklist: City of Encinitas
5. Name of Proposal, if applicable: N/A

II. ENVIRONMENTAL IMPACTS

(Explanations of all "yes" and "maybe" answers are required on attached sheets.)

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
1. Earth. Will the proposal result in:			
a. Unstable earth conditions or in changes in geologic substructures?	___	___	<u>X</u>
b. Disruptions, displacements, compaction or overcovering of the soil?	<u>X</u>	___	___
c. Change in topography or ground surface relief features?	<u>X</u>	___	___
d. The destruction, covering or modification of any unique geologic or physical features?	___	___	<u>X</u>
e. Any increase in wind or water erosion of soils, either on or off the site?	___	<u>X</u>	___
f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	___	___	<u>X</u>
g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?	___	___	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
2. Air. Will the proposal result in:			
a. Substantial air emissions or deterioration of ambient air quality?	---	---	<u>X</u>
b. The creation of objectionable odors?	---	---	<u>X</u>
c. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally?	---	---	<u>X</u>
3. Water. Will the proposal result in:			
a. Changes in currents, or the course of direction of water movements, in either marine or fresh waters?	---	---	<u>X</u>
b. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?	<u>X</u>	---	---
c. Alterations to the course or low of flood waters?	<u>X</u>	---	---
d. Change in the amount of surface water in any water body?	---	---	<u>X</u>
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?	---	---	<u>X</u>
f. Alteration of the direction or rate of flow of ground waters?	---	---	<u>X</u>
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	---	---	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
h. Substantial reduction in the amount of water otherwise available for public water supplies?	_____	_____	<u>X</u>
i. Exposure of people or property to water related hazards such as flooding or tidal waves?	_____	_____	<u>X</u>
4. Plant Life. Will the proposal result in:			
a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?	<u>X</u>	_____	_____
b. Reduction of the numbers of any unique, rare or endangered species of plants?	<u>X</u>	_____	_____
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	_____	_____	<u>X</u>
d. Reduction in acreage of any agricultural crop?	_____	_____	<u>X</u>
5. Animal Life. Will the proposal result in:			
a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)?	<u>X</u>	_____	_____
b. Reduction of the numbers of any unique rare or endangered species of animals?	<u>X</u>	_____	_____
c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?	<u>X</u>	_____	_____
d. Deterioration to existing fish or wildlife habitat?	<u>X</u>	_____	_____
6. Noise. Will the proposal result in:			
a. Increases in existing noise levels?	_____	_____	<u>X</u>
b. Exposure of people to severe noise levels?	_____	_____	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
7. Light and Glare. Will the proposal produce new light and glare?	___	___	<u>X</u>
8. Lane Use. Will the proposal result in a substantial alteration of the present or planned land use of an area?	___	___	<u>X</u>
9. Natural Resources. Will the proposal result in:			
a. Increase in the rate of use of any natural resources?	___	___	<u>X</u>
10. Risk of Upset. Will the proposal involve:			
a. A risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	___	___	<u>X</u>
b. Possible interference with an emergency response plan or an emergency evacuation plan?	___	___	<u>X</u>
11. Population. Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	___	___	<u>X</u>
12. Housing. Will the proposal affect existing housing, or create a demand for additional housing?	___	___	<u>X</u>
13. Transportation/Circulation. Will the proposal result in:			
a. Generation of substantial additional vehicular movement?	___	___	<u>X</u>
b. Effects on existing parking facilities, or demand for new parking?	___	___	<u>X</u>
c. Substantial impact upon existing transportation systems?	___	___	<u>X</u>
d. Alterations to present patterns of circulation or movement of people and/or goods?	___	___	<u>X</u>
e. Alterations to waterborne, rail or air traffic?	___	___	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	—	—	<u>X</u>
14. Public Services. Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:			
a. Fire protection?	—	—	<u>X</u>
b. Police protection?	—	—	<u>X</u>
c. Schools?	—	—	<u>X</u>
d. Parks or other recreational facilities?	—	—	<u>X</u>
e. Maintenance of public facilities, including roads?	—	—	<u>X</u>
f. Other governmental services?	—	—	<u>X</u>
15. Energy. Will the proposal result in:			
a. Use of substantial amounts of fuel or energy?	—	—	<u>X</u>
b. Substantial increase in demand upon existing sources or energy, or require the development of new sources of energy?	—	—	<u>X</u>
16. Utilities. Will the proposal result in a need for new systems, or substantial alterations to the following utilities:	—	—	<u>X</u>
17. Human Health. Will the proposal result in:			
a. Creation of any health hazard or potential health hazard (excluding mental health)?	—	—	<u>X</u>
b. Exposure of people to potential health hazards?	—	—	<u>X</u>
18. Aesthetics. Will the proposal result in the obstruction of an scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	—	—	<u>X</u>

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
19. Recreation. Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?	—	—	<u>x</u>
20. Cultural Resources.			
a. Will the proposal result in the alteration of or the destruction of of prehistoric or historic archaeological site?	—	<u>X</u>	—
b. Will the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object?	—	<u>X</u>	—
c. Does the proposal have the potential to cause a physical change which would affect unique ethnic cultural values?	—	—	<u>X</u>
d. Will the proposal restrict existing religious or sacred uses within the potential impact area?	—	—	<u>X</u>
21. Mandatory Findings of Significance.	—	—	<u>X</u>
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)	—	—	<u>x</u>

- | | <u>Yes</u> | <u>Maybe</u> | <u>No</u> |
|---|------------|--------------|-----------|
| c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.) | — | — | <u>X</u> |
| d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | — | — | <u>X</u> |

III. Discussion of Environmental Evaluation
(Narrative description of environmental impacts.)

IV. Determination
(To be completed by the Lead Agency.)

On the basis of this initial evaluation: SEE EXTENDED INITIAL STUDY

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION WILL BE PREPARED. SEE MITIGATION MEASURES IN
EXTENDED INITIAL STUDY REPORT.

I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

April 20, 1992
Date

Craig R. Lorenz
Signature Craig R. Lorenz M.C.P.
For City of Encinitas

APPENDIX I - EXPLANATION

ENVIRONMENTAL CHECKLIST FORM (Explanations of "Yes" and "Maybe" Answers)

1. Earth

- b. Grading for public street, driveways, and building pads will displace and disrupt soils and could cause their compaction. Paving will overcover soils.
- c. Grading to accommodate the public street, driveways, and structures will alter natural topography.
- e. Grading for the public street and to accommodate structures will result in cut and fill banks susceptible to erosion (Refer to Extended Initial Study Sections 2.1 and 3.1).

3. Water

- b. Compaction of soils would result in decreased absorption rates. Construction of the building pads and driveways will cause a change in drainage pattern on the site. Structural construction and paving will create impervious surfaces, such as driveways and roofs, causing an increase in both the rate and amount of surface runoff (Refer to Extended Initial Study Sections 2.1 and 3.1).

4. Plant Life (a. and b.)

5. Animal Life (a., b., c., and d.)

The project will result in significant, but mitigable impacts to flora and fauna on-site (Refer to Extended Initial Study - Sections 2.3 and 3.3).

20. Cultural Resources (a. and b.)

The project may have the slight, but remote potential to impact undisclosed subsurface archaeological resources (Refer to Extended Initial Study - Sections 2.2 and 3.2).

APPENDIX III

CITY OF ENCINITAS

NEGATIVE DECLARATION

SAXONY ROAD PARCEL MAP - CASE NO. 91-192 TPM/EIA

Project Title

West side of Saxony Road, south of La Costa Avenue

Location

Four (4) Lot Tentative Parcel Map, Individual Lot Sales

Description

Applicant: Frederick L. Snedeker

Project Sponsor

FINDING:

Based upon information provided in the Initial Study, along with Comments and Responses to the Notice of Preparation of a Negative Declaration which have been presented to the City Council/Planning Commission/Community Advisory Board, City of Encinitas, at a duly called meeting on _____, the Council/Commission/Board finds that the project will not have a significant effect on the environment.

MITIGATION MEASURES:

Mitigation measures included in the project as a condition of project approval to avoid potentially significant effects include:

REFER TO EXTENDED INITIAL STUDY - FINDINGS AND RECOMMENDATIONS TO REDUCE IMPACTS TO A NON-SIGNIFICANT LEVEL SUPPORTING NEGATIVE DECLARATION

A copy of the Initial Study has been attached to substantiate the finding.

Date

Mayor, City Council
Chairman, Planning Commission
Chairman, Community Advisory Board
City of Encinitas

MB/04/BP2-144WP5 (7-12-90/3)

APPENDIX III

NEGATIVE DECLARATION

TO: STATE CLEARINGHOUSE
Agency
Address

FROM: City of Encinitas
527 Encinitas Blvd.
Encinitas, CA 92024

PROJECT TITLE: Saxony Road Parcel Map - Case No. 91-192 TPM/EIA

PROJECT APPLICANT: Frederick L. Snedeker

A determination has been made by the City of Encinitas staff based on an initial study that:

- The project COULD NOT have a significant effect on the environment; therefore, a NEGATIVE DECLARATION will be prepared for the project.
- The project COULD have a significant effect, but revisions to the project plans made by the applicant and/or an enforceable commitment from the applicant to include mitigation measures would reduce impacts to less-than-significant levels; therefore, a NEGATIVE DECLARATION will be prepared for the project.

Any comments you may wish to make regarding the action are hereby invited. Comments must be received in the offices of the Community Development Director, City of Encinitas within 30 days of receipt of this Notice.

The description, location, and the probable environmental effects are contained in the attached materials. A copy of the Initial Study is attached, which includes mitigation measures, if any, to avoid potentially significant effect.

Please send your response to Community Development Department at the address shown above. We will need the name of a contact person in your agency.

Date _____

Signature _____
Title Community Development Director
Telephone (619) 944-5060

EXHIBIT D.

EXHIBIT D

JANUARY 1953 AERIAL PHOTOGRAPH OF PROJECT SITE

Top is North. Project site is outlined at left of center.
Y Intersection of Saxony Road and La Costa Blvd is at top left.



EXHIBIT E

1/25/98 NOV 25 1998 02:56PM CITY OF ENCINITAS (760)942-8430

DUDEK
& ASSOCIATES, INC.

Engineering, Planning,
Environmental Sciences and
Management Services

Corporate Office:
805 Third Street
Encinitas, California 92024

PAGE 2 OF 3
P. 1/2
760.942.5147
Fax 760.832.0164

25 November 1998

Fred Snedeker
Alliance Engineering of California, Inc.
P.O. Box 292147
Encinitas, CA 92029-2147

Dear Mr. Snedeker:

At your request, Biologist Sherri L. Miller and I completed a field evaluation of the drainage that traverses the Saxony Road Subdivision in Encinitas. The purpose of the survey was to determine if a wetland exists on the property.

The onsite drainage is deeply incised and evidently very rapidly down-cutting; it measures approximately 4 feet wide at the bottom and is approximately 10-15 feet below the surrounding grade. The drainage bottom is nearly devoid of vegetation, apparently due to the active scouring in the channel bottom. The sides of the drainage are very steep, and likewise support scant vegetation. The drainage contains almost no hydrophytic or wetland vegetation, and hence is not a wetland by U. S. Army Corps of Engineers standards, i.e., only one of the three required wetland parameters is met - wetland hydrology. With the exception of three willows, there is no wetland in the drainage; overall, the vegetation is representative of native and ruderal upland habitats but not wetland.

No area of the channel is wetland by Corps of Engineers standards. The channel is within Corps jurisdiction and discharge of dredged or fill material is subject to the Clean Water Act Section 404 permit process because the channel represents "other waters of the United States."

My conclusion also is that none of the habitat on the site is wetland as would be determined by applying the City of Encinitas' General Plan Policy 10.6, and therefore, a buffer would not be required. For reference, this policy and the Coastal Act definition that is referred to by Policy 10.6 are provided below:

Policy 10.6: The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act and the Coastal Commission Regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

Coastal Act Section 20124: "Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include salt water marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Mr. Fred Snelker

Re: Field Evaluation Report - Saxony Road Subdivision, Encinitas, California

The onsite streambed does not contain wetland vegetation or any of the wetland habitat types referred to in the Coastal Act definition and the soils on the property only would be wet or saturated for very brief periods during any year, even a very rainy year. I have not seen any groundwater data, however, based on what I observed of plant life and soils. I would be very surprised if groundwater occurred within 5-10 feet of the bottom of the streambed. There is no evidence that the streambed is transitional between aquatic and terrestrial habitats, as referred to by the City's policy, except in the sense that, as a riparian (not wetland) corridor, it is transitional between the truly aquatic habitats of Batiquitos Lagoon approximately 1 mile to the north, and upland and riparian habitats to the south.

The quality of the habitat in the channel is very low for wetland-dependent species. Only one obligate hydrophyte was observed, i.e., arroyo willow, and this was in very low numbers. It is evident that water flows in the drainage only intermittently, and does not stand there for any significant period.

Any activities that would result in deposition of dredge or fill material in any part of the drainage, although not a wetland, would be subject to the jurisdiction of the Corps of Engineers via Section 404 of the Clean Water Act and the California Department of Fish and Game via Section 1603. Both agencies regulate physical alterations within streambeds. Although not proposed at this time, removal of the willow trees may be an activity that the CDFG would choose to regulate and require mitigation for; if any construction within the drainage is anticipated, both agencies should be contacted and the appropriate permitting avenues identified. It is anticipated that individual crossings or bank stabilization, for instance, may be permitted by the Corps under the streamlined Nationwide Permit Program, and by the CDFG with a minimum of documentation, review and mitigation.

Very truly yours,

DUDEK & ASSOCIATES, INC.

Harold A. Wier

Harold A. Wier
Botanist/Biological Sciences Manager

HAW/tsf



November 23, 1998

**A BIOLOGICAL RESOURCES
SURVEY REPORT FOR
THE SAXONY ROAD
TENTATIVE PARCEL MAP PROJECT
CASE # 91-192
CITY OF ENCINITAS**

prepared for

Craig R. Lorenz and Associates
7565 Acama Street
San Diego, CA 92126
(619) 578-9361

prepared by

Vincent N. Scheidt
Biological Consultant
3158 Occidental Street
San Diego, CA 92122
(619) 457-3873

April 1992



Vincent N. Scheidt, M.A.
Environmental Biologist

SUMMARY

The approximately 7.6-acre Saxony Road Tentative Parcel Map project site in the City of Encinitas was surveyed for sensitive biological resources in February of 1992. Three plant communities are found on the site. These are Diegan Coastal Sage Scrub, Southern Willow Scrub, and disturbed vegetation. The first two of these are considered sensitive habitats. Three sensitive species were observed on or immediately adjacent to the site. These are Coronado Skink, Summer Holly, and California Gnatcatcher. Future development of the subject property could result in significant impacts to sensitive species and habitats, as defined under provisions of CEQA. Conceptual mitigation measures are discussed. These include an amendment to the project application to conserve biological resources within an open space easement and other measures. The applicant may be required to secure a Streambed Alteration Agreement in conjunction with the California Department of Fish and Game and Section 404 Permit with the U.S. Army Corps of Engineers.

Figure 1. Regional Location - The Saxony Road Tentative Parcel Map Site.

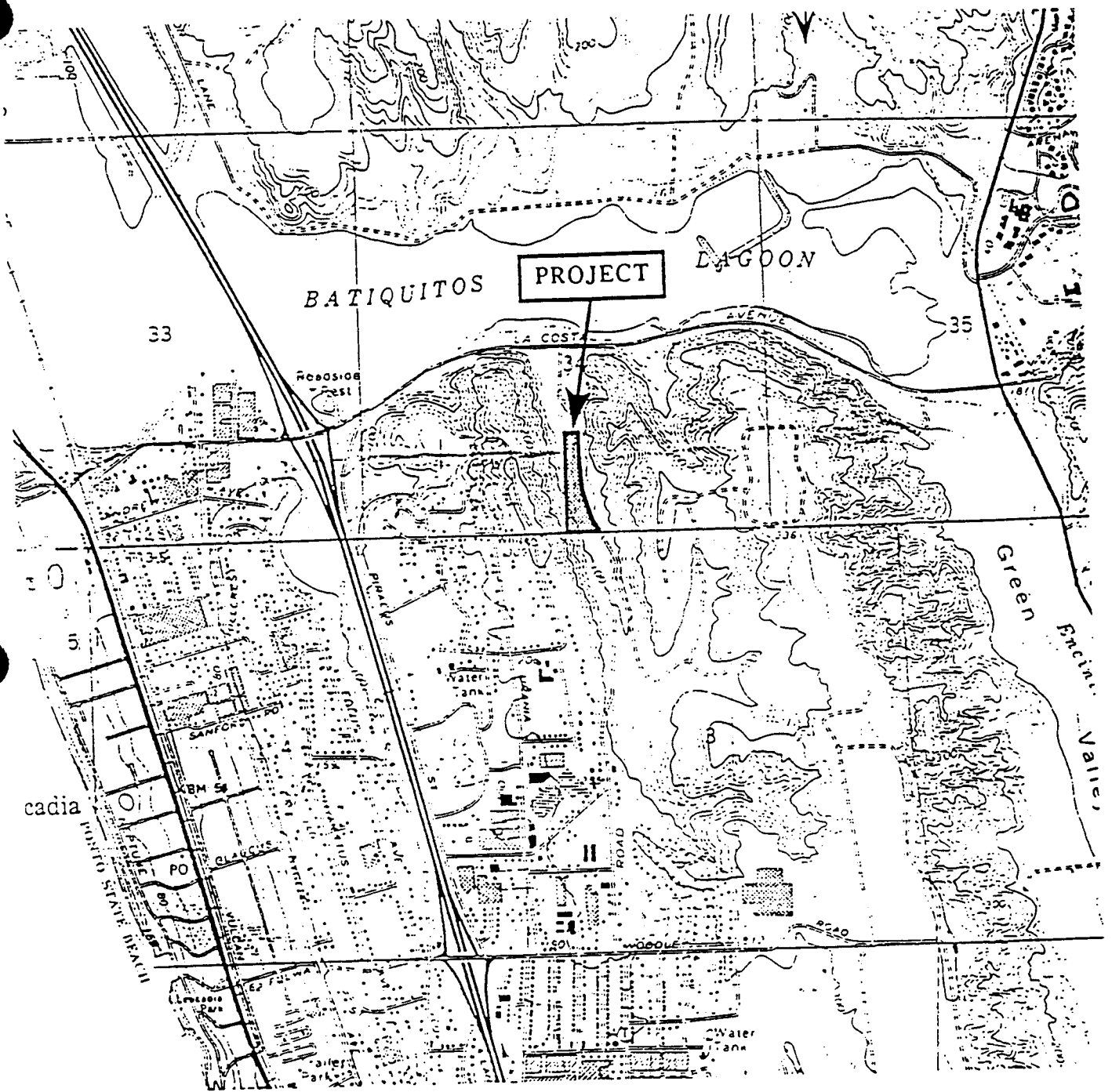




Figure 2. Current Aerial Photograph - The Saxony Road Tentative Parcel Map Site.

INTRODUCTION

This report presents the findings of a biological reconnaissance survey of the 7.63-acre Saxony Road Tentative Parcel Map project site located west of and adjacent to Saxony Road in the City of Encinitas. The subject property is being considered for a four way lot-split, producing lots of approximately 1 acre each. These will be sold as custom residential lots, hence, most impacts to biological resources would be the eventual result of future site development and brush clearing, etc. by future property owners. The current project applicant is proposing to place an improved, graded earthen channel within the floodway of a minor drainage which crosses the site in order to stabilize the slope banks and allow access to the western portions of the property. This will result in certain direct impacts to biological resources.

The field reconnaissance survey for this report was focused to search for, locate, and identify rare, endangered, or otherwise sensitive flora, fauna, and plant associations (habitats) which could occur here. To this end, all sensitive biological resources known from the site's vicinity were considered when conducting the field survey.

PROJECT DESCRIPTION AND PRESENT LAND USE

The Saxony Road Tentative Parcel Map project is a proposal for a minor subdivision which, if approved, would create four legal residential lots from 7.63 acres of presently vacant land. The subject property lies on both sides of a minor drainage to the west of Saxony Road in the City of Encinitas near La Costa Boulevard (Figure 1). Elevations on the Saxony Road Tentative Parcel Map site range between approximately 34 feet above sea level at the northern end, and 188 feet at the highest point on the southwestern corner. The property is irregular in shape, with relatively flat, former agricultural land and open vegetation in striking contrast with steep slopes and very dense brush along the western slope of the property (Figure 2). A minor drainage crosses the property from south to north; this eventually drains into Batiquitos Lagoon a short distance to the north near the intersection of La Costa Blvd. The majority of the site was in a partially disturbed state at the time of the field survey, with signs of

regular mowing to control brush accumulation on lower, flatter slopes. Surrounding the property on all sides are similar vacant parcels, although residential homes are present above the site to the west.

SURVEY METHODS AND LIMITATIONS

The Saxony Road Tentative Parcel Map site was surveyed on foot by the author and Holger T. Bartz, assistant biologist, on 28 February 1992 between the hours of 12:00 and 15:30. Air temperatures ranged between approximately 70 degrees and 74 degrees Fahrenheit with high thin clouds over otherwise clear skies. A light northwesterly breeze was present for most of the survey period.

The property was walked following an irregular route, and approximately 80% of the site was inspected directly. The remainder of the property was inspected with binoculars, due to the density of the vegetation on the uppermost slopes. All habitats were visited and thoroughly inspected and inventoried during the survey period. Additional time was spent in areas of biological diversity, such as around the drainage and at the interface between the undisturbed brush and the open, weedy areas.

Animals encountered were identified onsite with the aid of 10 x 25 and 7 x 35 power binoculars as needed. Some species were detected on the basis of characteristic scats, tracks, dens, and/or calls observed. No trapping was conducted, thus limiting the effectiveness of the survey to a degree. Further limitations to the completeness of this survey were imposed by temporal and seasonal factors. Additional animals, particularly nocturnal mammals, would have been detected at other times or using other survey techniques.

Plants observed were identified *in situ*, or on the basis of characteristic samples collected and returned to the laboratory. Limitations to the completeness of the floral inventory were similarly imposed by seasonal factors. Surveying in spring-early summer months would probably increase the total site flora by 20 percent or more.

Nomenclatural sources used in this report are standard regional field guides and monographs, including Munz (1974) (*flora*), Unitt (1984) (*birds*), Stebbins (1985) (*herpetofauna*), Burt and Grossenheider (1976) (*mammals*), and Holland (1986) (*vegetation*).

RESULTS OF THE SURVEY - FLORA/VEGETATION

Fifty-eight species of native and naturalized plants were identified on the Saxony Road Tentative Parcel Map property. All plants observed onsite are listed in Table 1. Most are relatively common sage scrub, riparian or grassland species. One the plants observed offsite but nearby - Summer Holly - is considered regionally sensitive. This is discussed in detail subsequently.

Three plant communities are found on the Saxony Road Tentative Parcel Map site. These are Diegan Coastal Sage Scrub, Southern Willow Scrub, and disturbed vegetation. The first two of these are considered sensitive. Plant communities are illustrated in Figure 3.

Diegan Coastal Sage Scrub

Diegan Coastal Sage Scrub is the characteristic Southern California plant community which was once abundant all along the south coast to inland foothill locations. Over most of its range, this community has been eliminated within the last few decades. The scrub on the subject site is indicated by the presence of a number of plant species characteristic of this community, including Lemonade-berry (*Rhus integrifolia*) - which forms a strongly dominant element - Flat-top Buckwheat (*Eriogonum fasciculatum*), California Sagebrush (*Artemisia californica*), California Sunflower (*Encelia californica*), and various others. Several coastal chaparral elements are present in this habitat, including Mission Manzanita (*Xylococcus bicolor*), Mojave Yucca (*Yucca schidigera*), and Coastal Scrub Oak (*Quercus dumosa*). This latter species is under taxonomic review, and will be considered for federal Endangered Species candidacy in the near future. The presence of chaparral elements indicates the transitional nature of the habitat on this steep, mesic, east-facing slope. Native Diegan Coastal Sage Scrub on this site is in relatively good shape overall, especially on the upper-most slopes. Lower areas of the site appear to have supported more open sage scrub

vegetation prior to agricultural conversion many years ago. This community is contiguous offsite to the south, west, and east across Saxony Road. Vegetative density is very high onsite, and the canopy cover averages about 90% in most areas. A number of sensitive species of animals are associated with sage scrub habitats, although the small size of the Diegan Coastal Sage Scrub on this site limits its value to a degree. It is, however, part of a larger, area-wide system, and warrants consideration from that perspective. Diegan Coastal Sage Scrub is considered a significant biological feature of the subject site.

Southern Willow Scrub

Southern Willow Scrub is a riparian wetland community strongly dominated by native willows. In this case, patchy areas of riparian habitat are indicated by the presence of willow (*Salix* sp.), Western Ragweed (*Ambrosia psilostachya*), and Mexican Elderberry (*Sambucus mexicanus*) within an understory of native and non-native upland herbs and grasses. The poorly-developed habitat on this site is broken and discontinuous along the eroded drainage which crosses the site. In the absence of this eroded channel, the riparian habitat in this area would likely not be present at all. The quality of the riparian habitat is low, although it functions as an important part of the overall site ecosystem, providing roosting and nesting areas for birds and other wildlife.

Disturbed, Weedy Vegetation

Disturbed areas on the Saxony Road Tentative Parcel Map site are found on both sides of the bisecting drainage on flatter areas which were formerly used for agriculture. Dominant species in this area include Tocalote (*Centaurea melitensis*), Perennial Mustard (*Brassica geniculata*), Brome Grasses (*Bromus rubens*), and numerous other weeds. This areas undoubtedly supported Diegan Coastal Sage Scrub vegetation prior to being brushed for plantings many years ago. Because the land is presently laying fallow, several species of Diegan Coastal Sage Scrub plants are rapidly reclaiming the open ground. These include Flat-top Buckwheat, California Sagebrush, and California Sunflower. If left in an undisturbed state, Coastal Sage Scrub would become re-established on this site within a decade.

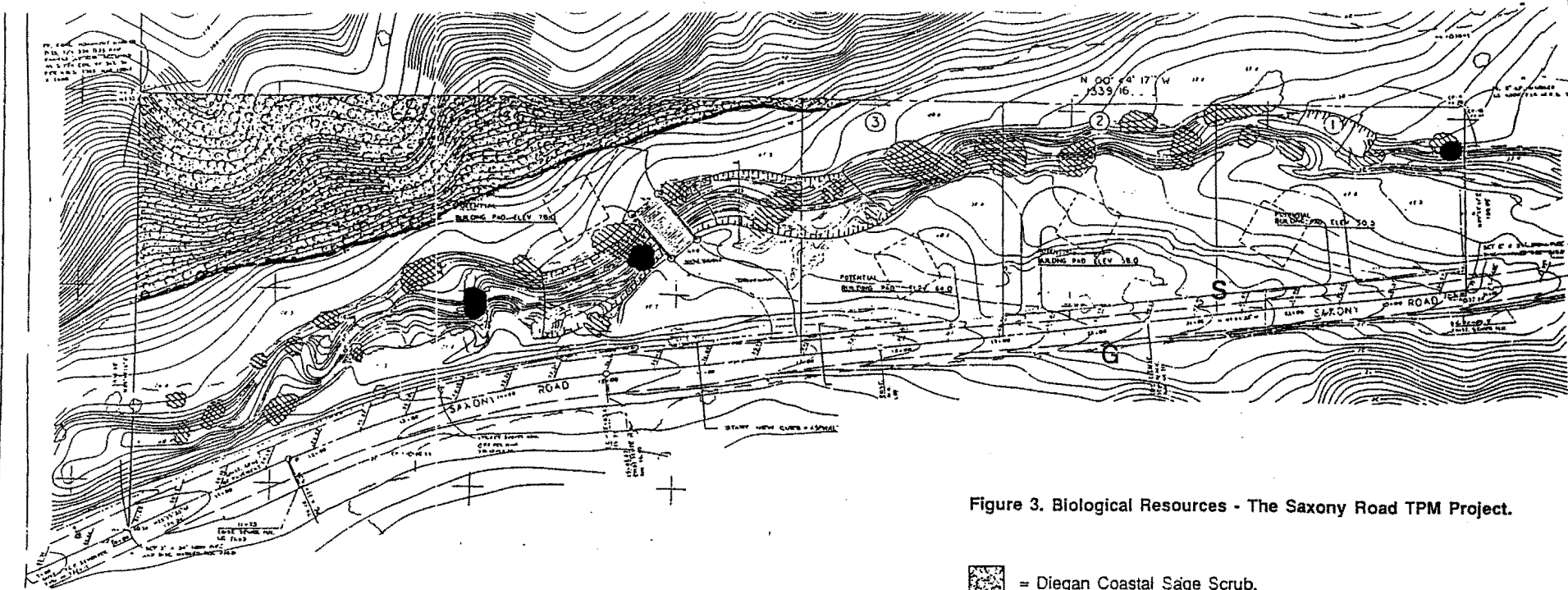






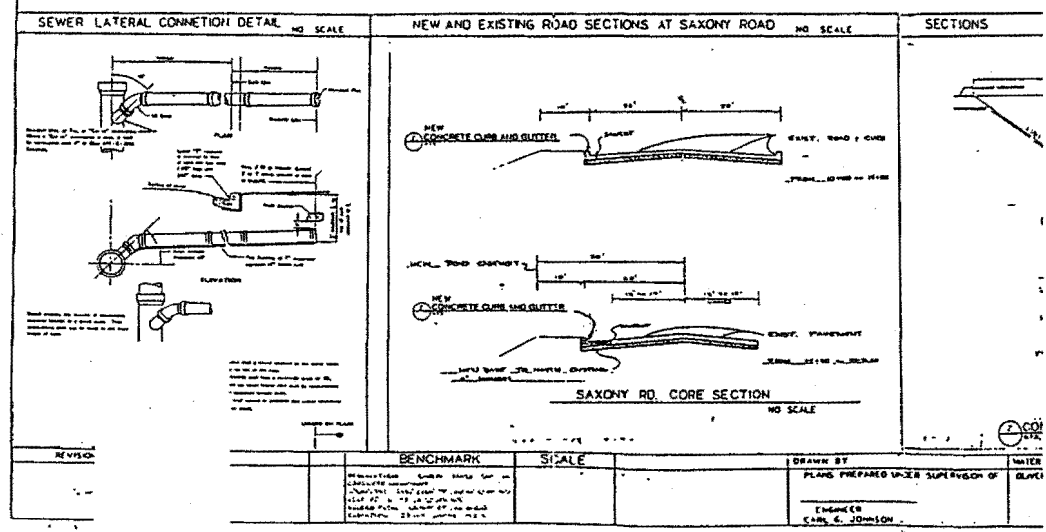


Figure 3. Biological Resources - The Saxony Road TPM Project.

-  = Diegan Coastal Sage Scrub.
- Southern Willow Scrub:
-  = Arroyo Willow
-  = Mexican Elderberry shrub (within drainage)
-  = Disturbed Vegetation.
-  = Coronado Skink
-  = California Gnatcatcher



not shown: Summer Holly (offsite to the west on the steep slopes)

RESULTS OF THE SURVEY - FAUNA

Twenty vertebrate taxa were observed on the Saxony Road Tentative Parcel Map project property. These are listed in Table 2. Most are common local resident species. Two of the animals detected are considered sensitive species; these are Coronado Skink and California Gnatcatcher. Other sensitive species could occur here, based on habitat suitability. Their non-detectability is principally a function of the season of the survey. Sensitive vertebrates observed on or adjacent to the site or known from the vicinity of this property are discussed in subsequent sections.

Fish

No fish were observed on the Saxony Road Tentative Parcel Map site, nor would any be expected to occur here, based on a lack of permanent water habitat.

Amphibians

No amphibian were observed on the subject site during the course of the survey. Spring amphibians expected to occur on this site include Pacific Treefrog, Western Toad, Slender Salamander, and possibly others. These species are known to occur in habitat similar to that present on the site. No sensitive amphibians would be expected on or nearby this property.

Reptiles

Three species of generally common reptiles were observed during the course of the survey. These are Side-blotched Lizard (*Uta stansburiana*), Western Fence Lizard (*Sceloporus occidentalis*), and Coronado Skink (*Eumeces skiltonianus*). The first two species are undoubtedly common on the site, although they were not observed in large numbers. This is a function of the season of the survey. A single Coronado Skink was seen; this species is considered sensitive and is discussed in detail subsequently. Other reptiles which might be expected to occur here include Common Gopher Snake, Common Kingsnake, Western Rattlesnake, Striped Racer, Southern Alligator Lizard, Ringneck Snake, and others. Most of these are not readily detectable in February, the month of the field survey.

Mammals

Five species of common mammals were detected on the subject site. These are Coyote, Valley Pocket Gopher, Desert Cottontail Rabbit, California Ground Squirrel, and woodrat. Coyote (*Canis latrans*) scat was observed in an open area of the site near the southwestern corner. Characteristic burrows of the Valley Pocket Gopher (*Thomomys bottae*) were seen in many disturbed areas onsite. Abundant scat of the Desert Cottontail (*Sylvilagus auduboni*) was also observed onsite in many areas. A single California Ground Squirrel (*Spermophilus beecheyi*) was seen adjacent to the drainage. A nest characteristic of the woodrat (*Neotoma* sp.) was seen at the base of a large shrub at the base of the steep hillside. Many more additional mammals utilize the site on at least an occasional basis. These include various bats, deer mice, Western Vole, skunks, opossum, and others.

Birds

Twelve species of birds were observed on the Saxony Road Tentative Parcel Map project site. Please refer to Table 2 for complete listing. Most of the birds observed are common species in this area. One sensitive species, California Gnatcatcher (*Polioptila californica*), was observed directly across the street from this site. This bird is seriously threatened in San Diego County and throughout its existing range. Essentially no suitable California Gnatcatcher habitat is found on the subject site at present. No avian nesting activities were observed, although nesting likely occurs on this site. A substantial number of additional bird species may be expected to occur in the vicinity of the site. These include various songbirds, raptors, and others. Because of the heterogeneity of the vegetation on this site, the avifauna which uses this property on at least an occasion could be relatively extensive.

RESULTS OF THE SURVEY - SENSITIVE RESOURCES

Plants

No sensitive plant were observed on the Saxony Road Tentative Parcel Map project site. Because of the site's limited size, none would be expected in substantial numbers in any case. One sensitive shrub was seen in the immediate vicinity of the property, however. This is Summer Holly:

***Comarostaphylis diversifolia* / Summer Holly.**

CNPS RED code: 2-2-2.

Summer Holly (*Comarostaphylis diversifolia*) is an attractive, tall shrub with serrated leaves and rough-textured, bright red, berry-sized fruit. The distribution of this uncommon chaparral species is limited to Orange and Riverside Counties south into northern Baja California. Summer Holly generally occurs in dense chaparral, often on more mesic, north-facing hillsides. This species is considered to be "endangered in a portion of its range" and "rare outside California", as well as "confined to several populations or one extended population." (CNPS, 1988).

Several specimens of this rare shrub were seen on the steep hillside immediately above the subject property. Because of the density of the vegetation on this slope, exhaustive surveying of the onsite scrub was not possible, and Summer Holly may occur in the onsite habitat. If present, this species would be restricted to the steepest upper slope areas of the Saxony Road project site.

Other sensitive plant species are known to occur in the general vicinity of this property. These are listed and discussed in Table 3. None of these are expected to occur onsite.

Animals

One sensitive animal - Coronado Skink - was observed on the Saxony Road Tentative Parcel Map project site. In addition, one other sensitive animal - California Gnatcatcher - was observed immediately offsite to the east across Saxony Road. Other sensitive animals known from the general vicinity of this property are listed and discussed in Table 3.

***Eumeces skiltonianus interparietalis* / Coronado Skink**

Federal Endangered Species Candidate: Category 2.

Western Skink is a small, shiny, burrowing and ground-dwelling lizard found in a variety of habitats. This species is widely distributed over the western United States. The subspecies *interparietalis* is restricted in distribution to San Diego County and adjacent Baja California. Although regionally restricted, this lizard is abundant where it occurs, and it is frequently found in fallow agricultural fields, old dumpsites, and even in urban backyards. Because of this, the Coronado Skink is in no immediate danger of becoming endangered or threatened.

A single mature specimen of this elusive species was seen beneath a piece of debris on the subject site. Coronado Skinks are undoubtedly abundant on the property, although they are rarely seen

except beneath trash during the cooler winter months. Because of its great abundance in San Diego County, Coronado Skink is not considered a significant resource of the subject property.

***Polioptila californica* / California Gnatcatcher**

"Species of Local Concern" (Tate, 1986).

"Declining" (Unitt, 1984).

Federal and State Endangered Species proposed listing: 9/91.

The California Gnatcatcher is a colorful and unmistakable small resident passerine restricted to coastal scrub habitats. It is generally gray, black, and white, although some brownish coloration is present on the back of the wings during winter months. Juveniles are also brownish. Mature specimens are about half the size of a sparrow. California Gnatcatchers prefer areas dominated by California Sagebrush, Flat-top Buckwheat, and Laurel Sumac at scattered locations. The species is considered a "Species of Local Concern" by the National Audubon Society (Tate, 1986). Many local ornithologists consider it a highly endangered species, and it is currently proposed for listing as a Federal and State Endangered Species. As few as 400 pair of this species may remain in San Diego County, all within coastal scrubs.

A concerted effort was made to search for this species on the project site, and a single pair was observed offsite across Saxony Road towards the northeastern end of the property. Searching for this diminutive bird involved slowly walking the entire area of potential habitat (sage scrub) while listening for the bird's distinctive call. Recorded calls of this species were played on a hand-held mini-cassette recorder to elicit response from any resident specimens. Although the habitat on the subject site is not presently appropriate for this species, ideal habitat is present offsite on the east side of Saxony Road; most of the coastal sage scrub vegetation in that area contains an appropriate plant mixture. Current data suggest that a minimum of 12-15 or more acres of suitable habitat are required to maintain a single pair of gnatcatchers in a viable state. Based on this acreage calculation, no resident pairs of gnatcatchers could occur on the subject site in any case, although, if in an undisturbed state, this site could function to provide partial habitat for one pair. California Gnatcatchers are considered a very significant biological resource of the project area.

POTENTIAL IMPACTS OF THE PROPOSED PROJECT

Development of the Saxony Road Tentative Parcel Map property as a result of an approval of the project application could result in several direct and indirect impacts to significant biotic resources found on and near this property. These impacts would result from eventual homesite construction, compliance with brush management requirements, filling or alteration of the onsite drainage, etc. A "worst-case" scenario is examined when determining potential impacts. In other words, an assumption is made that all areas not protected within a "hands-off"

dedicated biological open space easement might be totally or partially degraded at some time in the future. While this may or may not actually occur, the analysis herein is required to assume its potential. Impacts are assessed at a level which is **significant** or **less than significant** under provisions of the California Environmental Quality Act. Potential adverse impacts include the following:

- (1) The loss of the site's sensitive Diegan Coastal Sage Scrub and Southern Willow Scrub habitats. These losses would have a level of impact, individually and cumulatively, which is **significant**. Wetland losses, including the loss of willow habitat, generally require review and permitting by state and federal resource agencies.
- (2) The cumulative loss of potential habitat for a number of sensitive vertebrates, which, while not found during the February survey, may occur onsite and would be detectable during summer months. This loss would be considered either **significant** or **less than significant**, depending on the resource of concern.
- (3) Indirect impacts to California Gnatcatcher, a "high-profile" sensitive species found in close proximity to the site. Development of the subject property could result in encroachment impacts, including potential predation by domestic cats, etc. Any impacts to this declining species would be considered **significant**.
- (4) The loss of the disturbed vegetation onsite is considered **less than significant**, although it will contribute to the general loss of open space in the area.

PROPOSED MITIGATIONS

Implementation of the recommendation which follows will reduce the level of adverse impacts which could result from project approval to a level which is less than significant under provisions of CEQA:

Development shall be restricted to that portion of the site currently supporting the disturbed habitat along the lower, flat areas. The remainder of the property shall be conserved as a biological preserve through the dedication of an easement over the area for the conservation of biological resources (Figure 4). This will protect effectively all of the extant Coastal Sage Scrub habitat, and myriad native plants and animals found on this site. It will also allow continued wildlife corridor use of this property by vertebrates, including California Gnatcatchers and other sensitive species, residing in the region following site development. The edge of the easement area abutting the developed area should be fenced with a permanent three-strand barbed wire, chain link, or split-rail type fence to clearly define the edge of the open space. Vegetation removal or addition, brushing, or any other degradations shall not be permitted in the open space. Any and all fuel management which may be required by the fire department must not occur within the open space easement. No provision for vegetation removal or thinning for this purpose may be placed within the conditions of the open space. This may require setting all future structures a minimum distance from the edge of the easement.

Because the proposed project will result in the crossing of an existing streambed which supports limited riparian vegetation, the applicant shall contact the California Department of Fish and Game and Army Corps of Engineers in order to obtain a Streambed Alteration Agreement (1600 series) and Section 404 Permit, respectively, as necessary. Any agreements or permits obtained shall include provisions to prevent siltation impacts to Batiquitos Lagoon and compensate for losses of existing, onsite habitat through revegetation, as required by these agencies.

No other mitigation is considered necessary.

Table 1. Floral Checklist - The Saxony Road Tentative Parcel Map Site, Encinitas.

Scientific Name	Common Name
<i>Acacia longifolia</i> *	Golden Wattle
<i>Ambrosia psilostachya</i>	Western Ragweed
<i>Artemisia californica</i>	California Sagebrush
<i>Artemisia dracunculus</i>	Dragon Sagewort
<i>Baccharis pilularis</i>	Coyote Brush
<i>Brassica nigra</i> *	Black Mustard
<i>Brassica rapa</i> *	Field Mustard
<i>Brassica geniculata</i> *	Perennial Mustard
<i>Bromus rubens</i> *	Foxtail Brome
<i>Centaurea melitensis</i> *	Tocalote
<i>Conium maculatum</i> *	Poison Hemlock
<i>Conyza</i> sp. *	Horseweed
<i>Cortaderia</i> sp. *	Pampas Grass
<i>Cynodon dactylon</i> *	Bermuda Grass
<i>Datura meteloides</i>	Jimsonweed
<i>Diplacus puniceus</i>	Red Monkeyflower
<i>Elymus condensatus</i>	Giant Wild Rye
<i>Encelia californica</i>	California Encelia
<i>Eriogonum fasciculatum</i>	Flat-top Buckwheat
<i>Eucalyptus globulus</i> *	Blue Gum
<i>Foeniculum vulgare</i> *	Wild Anise
<i>Galium angustifolium</i>	Narrow-leaf Bedstraw
<i>Gnaphalium californicum</i>	California Cudweed
<i>Gnaphalium beneolens</i>	Cudweed
<i>Haplopappus squarrosus</i>	Hazardia

Table 1. Floral Checklist - The Saxony Road Tentative Parcel Map Site (pg 2).

Scientific Name	Common Name
<i>Haplopappus venetus</i>	Isocoma
<i>Heteromeles arbutifolia</i>	Toyon
<i>Heterotheca grandiflora</i> *	Telegraph Weed
<i>Hypochoeris glabra</i> *	Smooth Cat's-tongue
<i>Lotus scoparius</i>	Deerweed
<i>Malacothamnus fascicularis</i>	Bush Mallow
<i>Malosma laurina</i>	Laurel Sumac
<i>Medicago polymorpha</i> *	Bur Clover
<i>Mesembryanthemum chrystallinum</i>	Ice Plant
<i>Mesembryanthemum edule</i> *	Hottentot Fig
<i>Myoporum laetum</i> *	Bastard Sandlewood
<i>Nicotiana glauca</i> *	Tree Tobacco
<i>Opuntia littoralis</i>	Prickly Pear
<i>Opuntia ficus-indica</i> *	Indian Fig
<i>Phacelia cicutaria hispida</i>	Caterpillar Phacelia
<i>Potentilla glandulosa</i>	Cinquefoil
<i>Raphanus sativus</i> *	Wild Radish
<i>Rhamnus crocea</i>	Redberry
<i>Rhus integrifolia</i>	Lemonadeberry
<i>Ribes speciosum</i>	Fuschia-flowering Gooseberry
<i>Rumex crispus</i> *	Curly Dock
<i>Salix</i> sp.	Willow
<i>Salsola iberica</i> *	Russian Thistle
<i>Salvia mellifera</i>	Black Sage
<i>Sambucus mexicanus</i>	Elderberry

Table 1. Floral Checklist - The Saxony Road Tentative Parcel Map Site (pg 3).

Scientific Name	Common Name
<i>Schinus molle</i> *	Peruvian Peppertree
<i>Scrophularia californica</i>	Bee Plant
<i>Sisymbrium altissimum</i> *	Tumble Mustard
<i>Sonchus oleraceus</i> *	Sow Thistle
<i>Stephanomeria virgata</i>	Stephanomeria
<i>Stipa</i> sp.	Stipa
<i>Xanthium strumarium</i> *	Cocklebur
<i>Yucca schidigera</i>	Mojave Yucca

Total = 58 plants. * = non-native species.

Table 2. Fauna Checklist - The Saxony Road Tentative Parcel Map Site.

Scientific Name	Common Name
<u>Birds</u>	
<i>Apheiecoma coerulescens</i>	Scrub Jay
<i>Archilochus anna</i>	Anna's Hummingbird
<i>Callipepla californica</i>	California Quail
<i>Carpodacus mexicanus</i>	Housefinch
<i>Chamaea fasciata</i>	Wrentit
<i>Melospiza melodia</i>	Song Sparrow
<i>Mimus polyglottos</i>	Mockingbird
<i>Pipilo crissalis</i>	California Towhee
<i>Polioptila californica</i>	California Gnatcatcher
<i>Psaltriparus minimus</i>	Bushtit
<i>Sayornis saya</i>	Say's Phoebe
<i>Zenaida macroura</i>	Mourning Dove
<u>Mammals</u>	
<i>Canis latrans</i>	Coyote
<i>Neotoma sp.</i>	Woodrat
<i>Spermophilus beecheyi</i>	California Ground Squirrel
<i>Sylvilagus auduboni</i>	Desert Cottontail
<i>Thomomys bottae</i>	Valley Pocket Gopher
<u>Reptiles</u>	
<i>Eumeces skiltonianus</i>	Coronado Skink
<i>Sceloporus occidentalis</i>	Western Fence Lizard
<i>Uta stansburiana</i>	Side-blotched Lizard

 Total = 20 species of vertebrates detected.

TABLE 3. SENSITIVE SPECIES KNOWN TO OCCUR WITHIN A FEW MILES OF THE SAXONY ROAD TENTATIVE PARCEL MAP SITE, BUT NOT OBSERVED.

***Acacia minuta* / Coastal Scrub Acacia**

CNPS RED code 3-3-1.

This species is a distinctive perennial which would have been observed and identified if encountered. It is extremely rare in California. Not expected onsite, based on a lack of observations.

***Acanthomintha ilicifolia* / San Diego Thorn-mint**

CNPS RED code 2-3-3.

California "Endangered".

Federal category C2.

This annual species occurs on habitat which is not present on this site (heavy clay soils). It was not detectable at survey time. Not expected onsite, based on a lack of suitable habitat.

***Adolphia californica* / California Adolphia**

CNPS RED code 1-2-1.

This species is a distinctive perennial which would have been observed and identified if encountered. Not expected onsite, based on a lack of observations.

***Ambrosia pumila* / San Diego Ambrosia**

CNPS RED code 3-2-2.

Federal category C2.

This species is a distinctive, herbaceous plant which would have been observed and identified if encountered. Not expected onsite, based on a lack of observations.

***Artemisia palmeri* / Palmer Sagewort**

CNPS RED code 2-2-1.

This species is a distinctive perennial which would have been observed and identified if present. Not expected onsite, based on a lack of observations.

***Astragalus tener* var. *titi* / Coastal Dunes Milk Vetch**

CNPS RED code 3-2-2.

California "Endangered".

Federal category C2.

This species occurs on habitat not present on the site (sandy flats and dunes). Not expected onsite, based on a lack of suitable habitat.

***Baccharis vanessae* / Encinitas Baccharis**

CNPS RED code 2-3-3.

California "Endangered".

Federal category C2.

This species is a distinctive perennial which would have been observed and identified if encountered. It could occur in some areas of the dense slope vegetation; however, it is not expected onsite, based on a lack of observations.

***Brodiaea orcuttii* / Orcutt's Brodiaea**

CNPS RED code 1-3-2.

Federal category C2.

This bulbiferous species occurs on habitat which is not present on this site (heavy clay soils). It was not detectable at the time of the survey. Not expected onsite, based on a lack of suitable habitat.

***Chorizanthe orcuttiana* / Orcutt's Spineflower**

Presumed extinct; last seen: 1967?

This diminutive, annual herb is possibly extinct. It occurred on sandy soils. Not expected onsite, based on a lack of suitable habitat.

TABLE 3. SENSITIVE SPECIES KNOWN TO OCCUR WITHIN A FEW MILES OF THE SAXONY ROAD TENTATIVE PARCEL MAP SITE, BUT NOT OBSERVED (CONT).

***Chorizanthe parryi* var. *fernandina* / San Fernando Valley Spineflower**

Presumed to be extinct; last seen: 1940.

This diminutive, annual herb is presumed extinct. It occurred on sandy soils. It would not have been detectable at the time of the survey, however. Not expected onsite, based on a lack of suitable habitat.

***Corethrogyne filaginifolia* var. *incana* / San Diego Sand Aster**

CNPS RED code 1-2-2.

This species occurs in habitat which is present on the site (sandy soils). Not expected onsite, based on a lack of suitable habitat.

***Dudleya viscida* / Sticky Dudleya**

CNPS RED code 3-2-3.

Federal category C1.

This species is a distinctive perennial which would have been identified if encountered. Not expected onsite, based on a lack of observations.

***Eryngium aristulatum* var. *parishii* / San Diego Coyote Thistle**

CNPS RED code 1-3-2

California "Endangered".

Federal category C1.

This species is a distinctive annual which occurs in habitat not present onsite (vernal pools). Not expected onsite, based on a lack of suitable habitat.

***Erysium ammophilum* / Coast Wallflower**

CNPS RED code 1-2-3.

Federal category C2.

This species is a distinctive biennial or perennial which occurs in habitat not present onsite (sandy areas). Not expected onsite, based on a lack of suitable habitat.

***Euphorbia misera* / Cliff Spurge**

CNPS RED code 2-2-1.

This species is a showy perennial which would have been observed and identified if encountered. Not expected onsite, based on a lack of observations.

***Frankenia palmeri* / Palmer's Frankenia**

CNPS RED code 3-3-1.

Federal category C2.

This species is a showy perennial which occurs in habitat not present onsite (salt marsh, alkali areas). Not expected onsite, based on a lack of suitable habitat.

***Harpagonella palmeri* / Palmer's Grappling Hook**

CNPS RED code 1-2-1.

This annual species occurs on habitat which is not present on this site (heavy clay soils). It was not detectable at the time of the survey. Not expected onsite, based on a lack of suitable habitat.

***Iva hayesiana* / San Diego Marsh Elder**

CNPS RED code 2-2-1.

This species is a distinctive perennial which is found in habitat present on this site (riparian areas). It would have been identified if encountered, however. Not expected onsite, based on a lack of observations.

TABLE 3. SENSITIVE SPECIES KNOWN TO OCCUR WITHIN A FEW MILES OF THE SAXONY ROAD TENTATIVE PARCEL MAP SITE, BUT NOT OBSERVED (CONT).

***Juncus acutus* var. *sphaerocarpus* / Spiny Rush**

CNPS RED code 1-2-2.

This species is a distinctive perennial which is found in habitat present on this site (riparian areas). It would have been identified if encountered, however. Not expected onsite, based on a lack of observations.

***Lotus nuttallianus* / Nuttall's Lotus**

CNPS RED code 2-3-1

Federal category C3c

This species occurs on habitat not present on the site (sandy flats and dunes). Not expected onsite, based on a lack of suitable habitat.

***Muilla clevelandii* / San Diego Goldenstar.**

CNPS RED code 2-2-2.

Federal category C2.

This bulbiferous species occurs on habitat which is not present on this site (heavy clay soils). It was not detectable at the time of the survey. Not expected onsite, based on a lack of suitable habitat.

***Myosurus minimus apus* / Little Mousetail.**

CNPS RED code 2-3-2.

Federal category C2.

This species occurs on habitat not found on the site (vernal pools). Not expected onsite, based on a lack of suitable habitat.

***Navarretia fossalis* / Prostrate Spineflower**

CNPS RED code 2-3-2

Federal category C2.

This species occurs on habitat not found on the site (vernal pools). Not expected onsite, based on a lack of suitable habitat.

***Ophioglossum lusitanicum* ssp. *californicum* / California Adder's Tongue Fern**

CNPS RED code 1-2-2.

Federal category C3c.

This species occurs on habitat not found on the site (vernal pools, mesic seeps). Not expected onsite, based on a lack of suitable habitat.

***Orcuttia californica* / California Orcutt Grass**

CNPS RED code 2-3-2.

California "Endangered".

Federal category C1.

This species occurs on habitat not found on the site (vernal pools). Not expected onsite, based on a lack of suitable habitat.

***Suaeda esteroa* / Salt Marsh Suaeda**

CNPS RED code 1-1-1.

This species is a showy perennial which occurs in habitat not present onsite (salt marsh, alkali areas). Not expected onsite, based on a lack of suitable habitat.

***Rana aurora draytoni* / California Red-legged Frog**

"Fully Protected" (CDFG, 1988).

This species is likely extirpated in San Diego County, and would not be expected onsite, based on a lack of recent sightings. It occurs in aquatic riparian areas. Not expected, based on lack of suitable habitat.

TABLE 3. SENSITIVE SPECIES KNOWN TO OCCUR WITHIN A FEW MILES OF THE SAXONY ROAD TENTATIVE PARCEL MAP SITE, BUT NOT OBSERVED (CONT).

***Thamnophis couchi hammondi* / Two-striped Garter Snake**

"Threatened" (San Diego Herpetological Society, 1980).

"Fully Protected" (CDFG, 1988).

This species occurs in aquatic riparian habitats. It was not detectable at the time of the survey, however. Not expected, based on lack of suitable habitat.

***Cnemidophorus hyperythrus beldingi* / Orange-throated Whiptail**

"Threatened" (San Diego Herpetological Society, 1980).

"Fully Protected" (CDFG, 1988).

This species occurs in open areas in sage scrub and chaparral vegetation. It was not detectable at the time of the survey. The scrub on this site appears to dense for inhabitation by this species. Not expected, based on lack of suitable habitat.

***Phrynosoma coronatum blainvillei* / San Diego Coast Horned Lizard**

"Endangered" (San Diego Herpetological Society, 1980).

"Fully Protected" (CDFG, 1988).

This species occurs in open areas in sage scrub and chaparral vegetation. It was not detectable at the time of the survey. The scrub on this site appears to dense for inhabitation by this species. Not expected, based on lack of suitable habitat.

***Buteo lineatus* / Red-shouldered Hawk**

"Blue-list" (Tate, 1986).

"Fully Protected" (CDFG).

***Accipiter cooperii* / Cooper's Hawk**

"Blue-list" (Tate, 1986).

"Fully Protected" (CDFG).

***Tyto alba* / Barn Owl**

"Blue-list" (Tate, 1986).

"Fully Protected" (CDFG).

These and other sensitive raptors may forage on the subject property on an occasional basis. No nesting habitat is present, however, and no specimens would be totally dependent on resources provided by the site. No signs of any of these species were seen during the survey.

***Lanius ludovicianus* / Loggerhead Shrike**

"Blue-list" (Tate, 1986).

This species may forage on this property on occasion. Nesting habitat is present, although no signs of this species were seen.

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29 January 1993

Mr. Fred Snedecker
Alliance Engineering of California, Inc.
P.O. Box 232147
Encinitas, California 92023-2147

RE: *Habitat Analysis of the Saxony Road Tentative Parcel Map, City of Encinitas, San Diego County, California.*

Dear Mr. Snedecker:

In response to your request, biologists from Dudek and Associates, Inc., conducted a reconnaissance-level biological survey of the property located on the west side of Saxony Road in the northern portion of the City of Encinitas. The survey was conducted by Brock A. Ortega and John W. Brown, Ph.D., on 28 January 1993, from 2:00-4:00 p.m. The primary goal of the survey was to characterize and describe the vegetation communities present. Although focused surveys for sensitive species were not conducted, all sensitive species observed were recorded. The results of the survey are described below.

SCRUB HABITAT

The scrub community that occupies most of the moderately steep slopes above (west of) the site, including the southwestern corner of the property, is most appropriately referred to as southern mixed chaparral. It is a tall (1.5-3.0), dense, impenetrable shrub community dominated (75-80% cover) by lemonadeberry (*Rhus integrifolia*), with exceedingly smaller amounts (1-5% cover) of toyon (*Heteromeles arbutifolia*), Mojave yucca (*Yucca schottii*), fuchsia-flowered gooseberry (*Ribes speciosum*), black sage (*Salvia mellifera*), red-bush monkey-flower (*Diplacus puniceus*), and California sagebrush (*Artemisia californica*). Along the disturbed eastern edge of the scrub community there are considerably more individuals of mesa bushmallow (*Malacothamnus fasciculatus*), a species that typically thrives in disturbed scrub areas. Single individuals of two sensitive plant species were observed in southern mixed chaparral on-site: scrub oak (*Quercus dumosa*) and California adolphia (*Adolphia californica*).

In coastal southern California there are five general shrub habitat categories: chamise chaparral, dominated by chamise (*Adenostoma fasciculatum*), a species that is absent from the site; southern maritime chaparral, which occurs on sandstone and is characterized by Del Mar manzanita (*Arctostaphylos glandulosa* var. *crassifolia*), wart-stemmed ceanothus (*Ceanothus verrucosus*), Del Mar sand-aster (*Corethrogyne filaginifolia* ssp. *linifolia*), and scrub oak (*Quercus dumosa*); southern mixed chaparral, which is a comparatively heterogenous community; Diegan coastal sage scrub, a non-sclerophyllous vegetation type; and maritime succulent scrub, a coastal sage scrub community with a greater abundance and diversity of cacti and succulents than Diegan coastal sage scrub. The shrub community on-site differs from typical coastal sage scrub (which is present on the lower slopes directly across Saxony Road from the site) in its predominance



of tall, sclerophyllous or evergreen shrubs. By contrast, coastal sage scrub and maritime succulent scrub are characterized by a predominance of low, soft, aromatic, drought-deciduous shrubs.

The lemonadeberry-dominated shrub community present on-site is the source of considerable controversy and confusion in regards to its appropriate name under the Holland (1986) vegetation classification system. An objective poll taken by biologists at DUDEK indicated that local biologists are split (50/50) on whether it is best referred to as coastal sage scrub or chaparral. However, based on personal communications with Dr. Robert Holland (formerly of the California Department of Fish and Game), Dr. Paul Zedler (San Diego State University, Biology Department), Todd Keeier-Wolf (California Department of Fish and Game), and Dr. John O'Leary (San Diego State University, Geography Department), coastal plant communities that are dominated by tall, woody, evergreen shrubs (sclerophylls) are best classified as chaparral. * Hence, these vegetation experts recommend the term chaparral for the type of community present on the Saxony Road site.

All native plant communities found in coastal southern California have been reduced significantly in acreage. Hence, by virtue of its geographic distribution in western San Diego County, lemonadeberry-dominated southern mixed chaparral is an uncommon and depleted plant community.

Southern maritime chaparral is a sensitive plant community found in the vicinity of the project area that is similar to the shrub community found on site. As with coastal sage scrub, there is little consensus on a definition of southern maritime chaparral. However, most local biologists agree that this community typically develops on sandstone soil and includes some or all of the following indicator species: Del Mar manzanita (*Arctostaphylos glandulosa* var. *crassifolia*), wart-stemmed ceanothus (*Ceanothus verrucosus*), Del Mar Mesa sand-aster (*Corethrogyne filaginifolia* var. *linifolia*), scrub oak (*Quercus dumosa*), sea-dahlia (*Coreopsis maritima*), and a few others. Because all but scrub oak are absent from the Snedecker property, the scrub habitat on-site would not be considered southern maritime chaparral.

In conclusion, the shrub community present on the Saxony Road property does not represent Diegan coastal sage scrub and is highly unlikely (based on known habitat preferences) to support the primary target species toward which current conservation efforts are directed, i.e., California gnatcatcher (*Polioptrila californica*), coastal cactus wren (*Camplorhynchus brunnicapillus couesi*), orange-throated whiptail (*Cnemidophorus hyperythrus*), and San Diego horned lizard (*Phrynosoma coronatum*). Likewise, the shrub community on-site does not represent the sensitive southern maritime chaparral.

RIPARIAN HABITAT

The drainage that traverses the site is a deeply eroded gully with steep walls. Although it certainly represents "waters of the U.S." under the jurisdiction of the U.S. Army Corps of Engineers, very little of the drainage is considered wetlands because of the lack of wetland species. The majority of the plants present along the upper edge of the drainage are upland species characteristic of coastal sage scrub and southern mixed chaparral. The dominants

include Mexican elderberry (*Sambucus mexicanus*), fuchsia-flowered gooseberry, and toyon, with patches of coyotebush (*Baccharis pilularis*) and California sagebrush. The steep slopes of the drainage support few species, most of which are the same as those cited above. With the exception of three or four willows (*Salix* sp.), there is little hydrophytic vegetation in the bottom of the drainage. A variety of birds was observed in the drainage area, including the blue-gray gnatcatcher (*Poliophtila caerulea*), a species considered locally "declining" by Everett (1979).

Holland (1986) describes southern willow scrub, the riparian community that most closely approximates that on-site, as "dense, broadleaved, winter-deciduous riparian thickets dominated by several *Salix* species, with scattered emergent [Fremont cottonwood] *Populus fremontii* and [western sycamore] *Platanus racemosa*. Most stands are too dense to allow much understory development." Because of the lack of cover by willows and the absence of cottonwoods and sycamores, this description is not consistent with the habitat present in the drainage on-site.

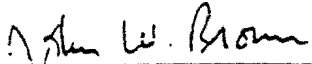
DISTURBED HABITAT

The highly disturbed habitat between the drainage and the dense scrub habitat is dominated by non-native grasses and weeds, with scattered small (less than 0.5 m tall) individuals of California sagebrush and coyotebush. It is likely that this comparatively level habitat at the toe of the slope formerly supported coastal sage scrub similar to that present across the street from the site.

Likewise, the disturbed patch of habitat that encroaches into the scrub community, proposed as a brush management zone, is likely to have supported coastal sage scrub previously. This area supports low, sparse vegetation, primarily California sagebrush, mesa bushmallow, black sage, and introduced grasses. Although the vegetation in this patch is recovering, it represents an exceedingly small and isolated patch of coastal sage scrub. Maintenance of this patch as a brush management area is unlikely to affect surrounding wildlife use or surrounding habitat quality, as long as local native species are used as fire-retardant plantings.

As mentioned previously, this report presents the results of a reconnaissance-level survey and is not a substitute for focused species-specific surveys. If you have any questions, please free to call me at (619) 942-5147.

Very truly yours,
DUDEK & ASSOCIATES, INC.



John W. Brown, Ph.D.
Biological Resources Specialist

RESERVED

OCT 18 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RESOLUTION PC 99-13

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF ENCINITAS
APPROVING A MINOR USE PERMIT & COASTAL DEVELOPMENT PERMIT
FOR A HORTICULTURAL GROWING BUSINESS
FOR PROPERTY LOCATED ON SAXONY ROAD

CASE NO. 98-278 CDP; APN: 216-110-14

WHEREAS, a request for consideration of a Minor Use Permit and Coastal Development Permit was filed by Philip Silverman and Tamara Fedorka to allow for 14,700 square feet of greenhouse space for horticultural production, in accordance with Chapter 30.74, Use Permits, and Chapter 30.80 Coastal Development Permits of the Encinitas Municipal Code for the property located in the Rural Residential 1 zone, legally described as:

ALL THOSE PORTIONS OF THE NORTH ONE-HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, IN SECTION 34, TOWNSHIP 12 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES SURVEY APPROVED MAY 3, 1883, LYING WESTERLY OF THE CENTER LINE OF THE COUNTY ROAD AS SHOWN ON MAP OF COUNTY ROAD SURVEY NO. 1317, A PLAT OF WHICH IS ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR OF SAID SAN DIEGO COUNTY.

WHEREAS, the Planning Commission conducted a noticed public hearing on the application on March 11, 1999 and April 8, 1999, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning Commission considered, without limitation:

1. The March 11, 1999 and April 8, 1999 agenda report(s) to the Planning Commission with attachments;
2. The General Plan, Local Coastal Program, Municipal Code, and associated Land Use Maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing;
5. Project plans consisting of 3 sheets, including Site Topo and Site Plan (dated revised 3-14-99) and footbridges (DWG# P-III dated 3-15-99), all dated received by the City

of Encinitas on March 22, 1999. Also reviewed was a photograph of a typical footbridge to illustrate the appearance of the proposed footbridges; and

WHEREAS, the Planning Commission made the following findings pursuant to Chapter 30.74 Use Permits and Chapter 30.80 Coastal Development Permits, of the Encinitas Municipal Code:

(SEE ATTACHMENT "A")

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Encinitas hereby approves application 98-278 MIN/CDP subject to the following conditions:

(SEE ATTACHMENT "B")

BE IT FURTHER RESOLVED that the Planning Commission, in its independent judgment, finds the project to be consistent with the Mitigated Negative Declaration prepared for 91-192 TPM and adopted as complete by the Planning Commission on February 11, 1993. This project will not individually or cumulatively have an adverse effect on wildlife resources as defined in Section 711.2 of the Fish and Game Code, and, therefore, a Certificate of Fee Exemption shall be made with De Minimus Impact Findings.

PASSED AND ADOPTED this 8th day of April, 1999, by the following vote, to wit:

AYES: Bagg, Birnbaum, Crosthwaite, Jacobson, Patton.

NAYS:

ABSENT:

ABSTAIN:

Alice Jacobson
Alice Jacobson,
Chair of the Encinitas Planning Commission

ATTEST:

Sandra Holder
Sandra Holder
Secretary

NOTE: This action is subject to Chapter 1.04 of the Municipal Code, which specifies time limits for legal challenges.

Condition G3 was added by the Planning Commission at a noticed public hearing on September 16, 1999 in order to correct an administrative error.

Bw:outbackcoast10/15/99

EXHIBIT NO. 5
APPLICATION NO.
A-6-ENC-99-140
Resolution of Approval for Greenhouses
Page 1 of 6
California Coastal Commission

ATTACHMENT " A "

Resolution PC 99 - 13
Case No. 98-278 MIN/CDP

FINDINGS FOR A USE PERMIT

STANDARD: In accordance with Section 30.74.070 of the Municipal Code, a use permit application shall be approved unless findings of fact are made, based upon the information presented in the application or during the hearing, which support one or more of the following conclusions:

1. The location, size, design or operating characteristics of the proposed project will be incompatible with or will adversely affect or will be materially detrimental to adjacent uses, residences, buildings, structures or natural resources, with consideration given to, but not limited to:
 - a. The inadequacy of public facilities, services and utilities to serve the proposed project;
 - b. The unsuitability of the site for the type and intensity of use or development which is proposed; and
 - c. The harmful effect, if any, upon environmental quality and natural resources of the city;

Facts: Pursuant to Municipal Code Chapter 30.09, agricultural and horticultural production is allowed in the RR-1 zone with the approval of a Minor Use Permit. The subject property is a 7.6-acre parcel of land which has an approved Tentative Parcel Map (91-192 TPM). The proposed project is located on parcel 4 (2.89 acres) of the approved Tentative Parcel Map.

Discussion: The Planning Commission has conducted an analysis of the application and has determined the site is suitable for the type and intensity of the proposed use. Currently, the property is unimproved with a history of agricultural uses and regularly tilled soil. The Engineering Department has reviewed the proposed application and has concluded that no grading will be needed to accommodate the greenhouses other than potential brush clearing. No public facilities, services or utilities will be required to be extended to the site since all public facilities, services or utilities are in the public rights of way adjacent to the site.

There was an Environmental Analysis done with the approval of the Tentative Parcel Map that resulted in the adoption of a mitigated Negative Declaration. The original Environmental Initial Study conducted by Craig R. Lorenz & Associates was reviewed to determine if it adequately addressed any potential impacts associated with the greenhouse request. Dudek & Associates did an additional evaluation of the property on November 25, 1998, and a determination was made that all potential significant impacts have been

addressed and properly mitigated and no additional environmental review would be required.

Conclusion: The Planning Commission has conducted an analysis of the application and, based on the mitigation measures accepted by the applicant, has determined the project could not have any significant impacts upon environmental quality and natural resources of the city which could result from the proposed use.

2. The impacts of the proposed project will adversely affect the policies of the Encinitas General Plan or the provisions of the Municipal Code; and

Facts: Pursuant to Municipal Code Chapter 30.09, agricultural and horticultural production is allowed in the RR-1 zone with the approval of a Minor Use Permit. The subject property is a 7.6-acre parcel of land which has an approved Tentative Parcel Map (91-192 TPM). The proposed project is located on parcel 4 (2.89 acres) of the approved Tentative Parcel Map.

Discussion: General Plan Resource Management Element Goal 11 recognizes the important contribution of agricultural and horticultural land uses in the local economy and emphasizes the need to maintain these activities.

Conclusion: The Planning Commission has reviewed the application and has determined the proposed use will not in any way adversely affect the policies of the Encinitas General Plan or the provisions of the Municipal Code.

3. The project fails to comply with any other regulations, conditions, or policies imposed by the Municipal Code.

Conclusion: The Planning Commission has reviewed the application and has determined the required findings for the use permit can be made, and the project is consistent with the Municipal Code and General Plan.

FINDINGS FOR A COASTAL DEVELOPMENT PERMIT

STANDARD: Section 30.80.090 of the Municipal Code provides that the authorized agency must make the following findings of fact, based upon the information presented in the application and during the Public Hearing, in order to approve a coastal development permit:

1. The project is consistent with the certified Local Coastal Program of the City of Encinitas; and
2. The proposed development conforms with Public Resources Code Section 21000 and following (CEQA) in that there are no feasible mitigation measures or feasible alternatives available which would substantially lessen any significant adverse impact that the activity may have on the environment; and

3. For projects involving development between the sea or other body of water and the nearest public road, approval shall include a specific finding that such development is in conformity with the public access and public recreation policies of Section 30200 et. Seq. of the Coastal Act.

Facts: The City's General Plan and Municipal Code are applicable components of the City's Local Coastal Plan. The project consists of horticultural production on a vacant lot in the Rural Residential - 1 (RR-1) zone. Pursuant to Municipal Code Chapter 30.09, agricultural and horticultural production is an authorized use within the RR-1 zone with an approved Minor Use Permit.

Discussion: General Plan Resource Management Element Goal 11 recognizes the important contribution of agricultural and horticultural land uses in the local economy and emphasizes the need to maintain these activities.

Conclusion: No aspect of the project has been identified which could have an adverse impact on coastal resources or any natural resources. Since the project complies with all applicable provisions of the City's Municipal Code, Planning Commission finds that the project is consistent with the certified Local Coastal Program of the City of Encinitas and that required finding #2 is not applicable since no significant adverse impact is associated with the project. Finding #3 is not applicable since the project does not involve development between the sea or other body of water and the nearest public road and therefore does not impact public access to coastal resources.

ATTACHMENT "B"

Resolution PC 99 - 13

CONDITIONS OF APPROVAL

Project No: 98-278 MIN/CDP
Applicant: Outback Growers, Philip Silverman and Tamara Fedorka
Subject: Minor Use Permit and Coastal Development Permit for the construction of 14,700 square feet of greenhouse space for horticultural production on a vacant lot located within the Rural Residential - 1 (RR-1) Zoning District.

SC1 SPECIFIC CONDITIONS:

SC2 This approval will expire on April 8, 2001 at 5:00 p.m., two years after the approval of this project, unless the conditions have been met or an extension of time has been approved pursuant to the Municipal Code.

SC5 This project is conditionally approved as set forth on the application and revised project plans consisting of 3 sheets, including Site Topo and Site Plan (dated revised 3-14-99) and footbridges (DWG# P-III dated 3-15-99), all dated received by the City of Encinitas on March 22, 1999. Also reviewed was a photograph of a typical footbridge to illustrate the appearance of the proposed footbridges, all designated as approved by the Planning Commission on April 8, 1999, and shall not be altered without express authorization by the Community Development Department.

SCA The project approval is for the placement of greenhouses and does not set conditions for the placement of a single family residence, which will require a separate Coastal Development Permit prior to building permit submittal. It is understood that the total square footage of the greenhouses will not exceed 14700 square feet; there will be four 30 foot wide structures, the length of each building may vary from that shown on the plans since it will be necessary to maintain the setbacks outlined in SCB, below, and the structures are built in 5 ft. increments.

SCB A 30 foot fuel management buffer will be maintained from all greenhouse structures and shall not encroach into the established open space easement without further environmental review. A fuel management buffer from the future building pad of the single family residence can not be determined until an exact plan indicating the proposed footprint is submitted. The greenhouse structures shall be 15 ft. from the north and south property lines and 7 ft. from the top of the ravine on the property. The parking shall also maintain the 7-ft. setback from the ravine as well as the front yard setback from Saxony Road. There will be no footings for the greenhouses, only a pipe inserted into the ground to serve as a sleeve for the structural elements of the greenhouse frames.

- SCC Pesticide use shall be in accordance with County of San Diego Department of Agriculture guidelines and regulations.
- SCD The footbridge construction plans shall include structural calculations for the bridge and footings and calculations for channel stability and potential scouring impacts. All calculations shall be reviewed and approved by the Engineering Services Department.
- SCE The applicant has agreed that service vehicles, which are operated by the applicant or the applicant's agents, will not be in excess of 2 axles.
- SCF If portable sanitation facilities are provided on the site, they shall be placed inside of the greenhouse in order to screen them from public view.
- SCG The applicant has agreed that no more than two people will be working on the site under normal operational conditions. The hours of operation will be from 7:00 a.m. to dusk. No lights other than low wattage security lights activated by motion sensors will be on the property.
- SCH The applicant shall use Best Management Practices (BMP) in the construction and operations of the facility. The applicant shall submit a BMP plan to the NPDES administrator for review and approval. Items that shall be addressed shall include, but are not limited to:
- A detailed list of pesticides, fertilizers, and other chemicals used in the operation of the facility. The list shall contain expected quantities to be used and stored.
 - Personnel shall be certified to use pesticides, fertilizers, or other chemicals if required by manufacturer specifications.
 - Storage of pesticides, fertilizers, and other chemicals shall be in a locked shed or other facility acceptable to the NPDES administrator. Storage shed may require a spill containment area. The storage shed shall be enclosed within the greenhouse structures.
 - BMP plan shall denote drainage of undisturbed lands and allow for the conveyance of storm waters around the facility or the parking areas. Any fields or yards under the use of pesticides, fertilizers and other chemicals may require onsite retention with a capacity for a 2-year storm or as approved by the NPDES administrator.
- SCI The applicant, in carrying out the project, shall at all times comply with all local, state and federal laws and regulations including, but not limited to, environmental laws and regulations.

G1 **STANDARD CONDITIONS:**

CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION (S):

- G2 This approval may be appealed to the City Council within 15 calendar days from the date of this approval in accordance with Chapter 1.12 of the Municipal Code.

- G3 This project is located within the Coastal Appeal Zone and may be appealed to the California Coastal Commission pursuant to Coastal Act Section 30603 and Chapter 30.04 of the City of Encinitas Municipal Code. An appeal of the Planning Commission's decision must be filed with the Coastal Commission within 10 days following the Coastal Commission's receipt of the Notice of Final Action. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the Coastal Commission, San Diego Coast District office.
- G4 Prior to start of construction, the applicant shall cause a covenant regarding real property to be recorded. Said covenant shall set forth the terms and conditions of this grant of approval and shall be of a form and content satisfactory to the Community Development Director.
- G5 Approval of this request shall not waive compliance with any sections of the Municipal Code and all other applicable City regulations in effect at the time of start of construction unless specifically waived herein.
- G12 Prior to any use of the project site pursuant to this permit, all conditions of approval contained herein shall be completed or secured to the satisfaction of the Community Development Department.
- U1 At all times during the effective period of this permit, the responsible party shall obtain and maintain in valid force and effect, each and every license and permit required by a governmental agency for the operation of the authorized activity.
- U2 In the event that any of the conditions of this permit are not satisfied, the Community Development Department shall cause a noticed hearing to be set before the authorized agency to determine whether the City of Encinitas should revoke this permit.
- U3 Upon a showing of compelling public necessity demonstrated at a noticed hearing, the City of Encinitas, acting through the authorized agency, may add, amend, or delete conditions and regulations contained in this permit.
- U4 Nothing in this permit shall relieve the applicant from complying with conditions and regulations generally imposed upon activities similar in nature to the activity authorized by this permit.
- U5 Nothing in this permit shall authorize the applicant to intensify the authorized activity beyond that which is specifically described in this permit.
- U7 Any future modifications to the approved project will be reviewed relative to the findings for substantial conformance with a use permit contained in Section 30.74.105 of the Municipal Code. Modifications beyond the scope described therein will require submittal and approval of an amendment to the use permit by the authorized agency.

E1 **ENGINEERING CONDITIONS:**

CONTACT THE ENGINEERING SERVICES DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION (S):

EG1 **Grading Conditions**

- EG3 The developer shall obtain a grading permit and/or an erosion control plan approval prior to the commencement of any clearing or grading of the site.
- EG4 The grading for this project is defined in Chapter 23.24 of the Encinitas Municipal Code. Grading shall be performed under the observation of a civil engineer whose responsibility it shall be to coordinate site inspection and testing to ensure compliance of the work with the approved grading plan, submit required reports to the Engineering Services Director and verify compliance with Chapter 23.24 of the Encinitas Municipal Code.
- EG5 No grading shall occur outside the limits of the project unless a letter of permission is obtained from the owners of the affected properties.
- EG7 All newly created slopes within this project shall be no steeper than 2:1.
- EG8 A soils/geological/hydraulic report (as applicable) shall be prepared by a qualified engineer licensed by the State of California to perform such work. Such report shall be submitted and approved: **Prior to final map approval/Prior to building permit issuance/At first submittal of a grading plan, as applicable.**
- ED2 The developer shall exercise special care during the construction phase of this project to prevent any offsite siltation. The developer shall provide erosion control measures and shall construct temporary desiltation/detention basins of type, size and location as approved by the Engineering Services Director. The basins and erosion control measures shall be shown and specified on the grading plan and/or an erosion control plan and shall be constructed to the satisfaction of the Engineering Services Director prior to the start of any other grading operations. Prior to the removal of any basins or facilities so constructed the area served shall be protected by additional drainage facilities, slope erosion control measures and other methods required or approved by the Engineering Services Director. The developer shall maintain the temporary basins and erosion control measures for a period of time satisfactory to the Engineering Services Director and shall guarantee their maintenance and satisfactory performance through cash deposit and bonding in amounts and types suitable to the Engineering Services Director.
- ED3 A drainage system capable of handling and disposing of all surface water originating within the parcel, and all surface waters that may flow onto the parcel from adjacent lands, shall be required. Said drainage system shall include any easements and structures as required by the Engineering Services Director to properly handle the drainage.

- ED4 The proposed project falls within areas indicated as subject to flooding under the National Flood Insurance Program and is subject to the provisions of that program and City Ordinance.
- ED5 The developer shall pay the current local drainage area fee prior to approval of the final map for this project or shall construct drainage systems in conformance with the Master Drainage Plan and City of Encinitas Standards as required by the Engineering Services Director.
- ED7 Concentrated flows across driveways and/or sidewalks shall not be permitted.
- ES3 If required by the Municipal Code, the developer shall make an offer of dedication to the City for all public streets and easements required by these conditions or shown on the **site development plan**. The offer shall be made **prior to issuance of any building permit** for this project. All land so offered shall be granted to the City free and clear of all liens and encumbrances and without cost to the City. Streets that are already public are not required to be rededicated.
- ES5 Prior to any work being performed in the public right-of-way, a right-of-way construction permit shall be obtained from the Engineering Services Director and appropriate fees paid, in addition to any other permits required.
- ES8 The design of all private streets and drainage systems shall be approved by the Engineering Services Director prior to **approval of the Final Map/issuance of any grading or building permit** for this project. The structural section of all private streets shall conform to City of Encinitas Standards based on R-value tests. The standard improvement plan check deposit is required.

EU1 **Utilities**

- EU2 The developer shall comply with all the rules, regulations and design requirements of the respective utility agencies regarding services to the project.
- EU3 The developer shall be responsible for coordination with S.D.G. & E., Pacific Telephone, and other applicable authorities.
- EU4 All proposed utilities within the project shall be installed underground including existing utilities unless exempt by the Municipal Code.

F1 **FIRE CONDITIONS:**

CONTACT THE ENCINITAS FIRE DEPARTMENT REGARDING COMPLIANCE WITH THE FOLLOWING CONDITION (S):

- F2 **ACCESS ROADWAY DIMENSIONS:** Fire apparatus access roadways shall have an unobstructed paved width of not less than 24 feet and an unobstructed vertical clearance

of not less than 13 feet 6 inches. EXCEPTION: Access to one (1) single family residence shall not be less than 16 feet of paved width.

- F11 **FIRE HYDRANTS & FIRE FLOWS:** The applicant shall provide fire hydrants of a type, number, and location satisfactory to the Encinitas Fire Department. A letter from the water agency serving the area shall be provided that states the required fire flow is available. Fire hydrants shall be of a bronze type. A two-sided blue reflective road marker shall be installed on the road surface to indicate the location of the fire hydrant for approaching fire apparatus.
- F12 **FUEL MODIFICATION ZONES:** The applicant shall provide and maintain fire/fuel breaks to the satisfaction of the Encinitas Fire Department.
- F13 **ADDRESS NUMBERS:** Address numbers shall be placed in a location that will allow them to be clearly visible from the street fronting the structure. The height of the address numbers shall conform to Fire Department Standards.
- F14 **ADDRESS NUMBERS FOR STRUCTURES LOCATED OFF ROADWAY:** Where structures are located off a roadway on long driveways, a monument marker shall be placed at the entrance where the driveway intersects the main roadway. Permanent address numbers with height conforming to Fire Department standards shall be affixed to this marker.