

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-124

Wed 76

Applicant: BRE Properties

Agents: Nancy Lucast; Janay
Kruger; Joe Wong

Description: Redevelopment of an approximately 40-acre site located partially within the coastal zone, including approximately 30,000 cu.yds. of grading necessary for reclamation of an existing sand mining operation and construction of 348 apartments, recreation and fitness buildings, retaining walls, installation of sewer and water lines, 818 parking spaces, on-and off-site road improvements to Carmel Creek Road and on-site creation of a 0.12-acre mitigation site to address off-site wetland impacts associated with the road improvements.

Lot Area	1,230,688 sq. ft. (coastal zone portion only)
Building Coverage	184,072 sq. ft. (15%)
Pavement Coverage	298,501 sq. ft. (24%)
Landscape Coverage	229,697 sq. ft. (19%)
Unimproved Area	518,418 sq. ft. (42%)
Parking Spaces	818
Zoning	MF-2/OS
Plan Designation	Low Medium Density Residential/Open Space
Project Density	8.7 du/a
Ht abv fin grade	43 feet

Site: Southern terminus of Carmel Creek Road, south of Route 56 in Carmel Valley Neighborhood 8, North City, San Diego, San Diego County.
APN 307-051-06

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed residential development with a number of special conditions. The project raises concerns over potential impacts to biological and

visual resources and water quality. Off-site road improvements will impact .04 acres of existing riparian and freshwater marsh vegetation; on-site mitigation is proposed and is further addressed in Special Conditions #1 and 2. There is some existing coastal sage habitat on undisturbed steep slopes, and the project includes the restoration of other slope areas with native vegetation. The resulting habitat areas, proposed to be retained in open space, are addressed in Special Conditions #3 and #4. Portions of the site will be visible, although at a distance, from public streets, including State Route 56, and public recreational areas located to the north in Carmel Valley; protection of visual resources is addressed through landscaping requirements in Special Condition #5. Special Conditions #6, #7 and #8 address water quality; they require payment into the Los Penasquitos Lagoon Enhancement Fund and submittal of final erosion control plans and a Best Management Practices program. Water quality impacts are also addressed in the proposal itself, which includes both temporary and permanent erosion control features consistent with the local approvals and other required state and federal permits. Finally, Special Condition #9 requires the applicant to identify any sites required for the disposal of excess graded materials.

Substantive File Documents: Certified Carmel Valley Neighborhood 8 Precise Plan and City of San Diego LCP Implementing Ordinances;
SCH No. 97091020 (Environmental Impact Report);
CDFG Streambed Alteration Agreement No. 5-223-98;
ACOE Sec. 404 Permit Authorization No. 982008200-DZ

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Redesigned/Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans for the permitted development; some of the required plans are further address in subsequent conditions. Said plans shall reflect a redesign of the project to obtain a minimum fifty (50) foot buffer between the proposed wetlands creation area (mitigation site) and all development (i.e., buildings, parking areas, pavement, etc.), except the grading required to prepare the wetland, buffer and adjacent development areas. The plans shall also identify the location of a fence around the wetlands area sufficient to prevent intrusion by people and domestic animals. Required final plans shall include:

- a. Site plan, building plans and elevations;
- b. Plans for the Carmel Creek Road improvements;
- c. Grading, drainage and runoff control plans;
- d. A landscaping plan; and
- e. A mitigation and monitoring plan/program.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Mitigation and Monitoring Plan/Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final revised mitigation and monitoring plan designed by a qualified wetland biologist. Said program shall be in substantial conformance with the "Wetland Creation Plan" submitted with this application by RECON, dated May 6, 1998, but shall be revised to include the following:

- a. Revised exhibits reflecting the redesign and fencing required in Special Condition #1 above;
- b. Submittal, within 30 days of completion of construction (i.e., grading and planting) at the mitigation site, of an as-built assessment of the mitigation project that includes as-built plans, to determine if the project has been built as proposed.
- c. Substitution of the performance standards required in Condition #19 of streambed alteration agreement No. 5-223-98 from the California Department of Fish and Game for the standards in Table 3 on Page 11 of the May 6, 1998 plan.

- d. Submittal of annual monitoring reports to the Executive Director of the Coastal Commission, the California Department of Fish and Game and the U.S. Army Corps of Engineers, as well as to the City.

The permittee shall undertake mitigation and monitoring in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Conservation and Open Space Easement. No development, as defined in Section 30106 of the Coastal Act shall occur in the 0.12-acre wetlands mitigation site and fifty-foot buffer as shown in Exhibit No. 3 except for maintenance activities conducted in accordance with the approved monitoring program.

PRIOR TO THE ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to the U.S. Army Corps of Engineers, to another public agency, or to a private association approved by the Executive Director, an open space and conservation easement for the purpose of habitat conservation. Such easement shall be located on, and include the fifty-foot buffer around, the 0.12-acre wetlands mitigation site, as shown in Exhibit No.3. The recorded document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.

The offer shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

4. Open Space Deed Restriction. No development, as defined in Section 30106 of the Coastal Act shall occur on the natural, undisturbed and manufactured, restored/revegetated steep slopes outside the development area of the site as shown in Exhibit No. 4 except for:

- a. minor regrading/recontouring of portions of the existing manufactured slopes,
- b. restoration/replanting of the existing manufactured slopes,

AND

- c. installation of drainage facilities on portions of the existing manufactured slopes.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a detailed final landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. The plan shall be reviewed in consultation with the resource agencies identified below and shall include the following specific features:

- a. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible;
- b. Only native plant materials acceptable to the California Department of Fish and Game (CDFG), U.S. Fish and Wildlife Service (Service) and U.S. Army Corps of Engineers (Corps) shall be used within the created wetlands, its buffer area, the desiltation/detention basin, and adjacent to undisturbed steep slopes;
- c. Restoration/revegetation of the existing manufactured slopes shall include only native plant materials compatible with the plant communities on adjacent natural areas; and
- d. For visual purposes, special emphasis shall be placed on the treatment of all portions of the site which would be visible from public roads and recreation areas in Carmel Valley. Said treatment shall include complete revegetation of the north-facing manufactured slopes and provision of a row of trees which, at maturity, will serve to break up large expanses of wall or roof within the identified viewshed.

The permittee shall undertake development in accordance with the approved final landscaping plan and submit a written commitment that all planted materials shall be maintained in good growing condition. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for

review and written approval, final grading and erosion control plans that have been approved by the City of San Diego. The approved plans shall incorporate the following requirements:

- a. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.
- b. Landscaping shall be installed on all cut and fill slopes prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved landscaping plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required

7. Water Quality/ Best Management Practices (BMPs). PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a BMP program for the proposed development. At a minimum, the program shall incorporate the following requirements:

- a. All storm drain inlets shall have stenciling that prohibits the disposal of trash in the drains;
- b. Solid waste shall be removed regularly and trash receptacles shall be placed adjacent to all parking areas and common facilities;
- c. Containers for collection of recyclable materials shall be placed in a common location (in or near the recreation building, for example); and
- d. Street sweeping shall occur at least once a week.

The submitted program shall include, at a minimum, a site plan that shows the location of all storm drains, trash receptacles, and recycling containers; and schedules for street sweeping and trash removal. The program shall also include a copy of the stenciling that will be placed on the curb of each storm drain inlet.

The permittee shall undertake the development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No change to the plan shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

8. Lagoon Enhancement Fund. PRIOR TO THE ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence for the review and written approval of the Executive Director, that the \$16,683.48 contribution to the Los Penasquitos Lagoon Enhancement Fund, as required in the special conditions of the local approvals and thus proposed herein, has been paid.

9. Disposal of Graded Spoils. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or amendment to this permit shall be obtained prior to the disposal. If no export is required (i.e., if grading is balanced on site), written confirmation of this fact is sufficient to satisfy this condition.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing redevelopment of an approximately 40-acre site, currently used for sand mining. After the reclamation activities described below conclude, the applicant proposes construction of 348 apartment units in sixteen two- and three-story buildings. These will contain a mix of one-, two- and three-bedroom apartments. The development includes the provision of 818 parking spaces, which will be provided in a combination of attached garages, covered carports and surface parking. Also proposed is a fitness building and a recreation building, which will include the leasing offices for the complex; these buildings are both one story in height. Proposed accessory improvements include retaining walls, installation of sewer and water lines, landscaping and on-and off-site improvements to Carmel Creek Road, including terminating the road in a cul-de-sac at the northwestern corner of the site. Finally, the proposal includes the on-site creation of a .12-acre wetland mitigation site to address off-site wetland impacts associated with the road improvements and construction of a desiltation basin adjacent to the created wetlands.

The subject property is located in Carmel Valley Neighborhood 8. The site is in a deferred certification area of the City of San Diego. Recently, the City of San Diego submitted Local Coastal Program (LCP) Amendment #3-98, which incorporates the site into the LCP. The Commission certified the amendment with suggested modifications in March 1999. The modifications have not yet been accepted by the City and therefore certification of the amendment is not yet effective. Accordingly, the Commission retains coastal development permit authority and must review the development for consistency with Chapter 3 policies of the Coastal Act, with the LCP as guidance. The LCP

amendment designates approximately seventeen acres of the site for multi-family residential development and the remainder for open space.

Currently the property is the site of a sand-mining operation and overall gives the appearance of a bowl or pit surrounded by very steep, manufactured and natural slopes. The application includes the minor regrading of existing manufactured slopes and revegetation as necessary to reclaim the areas now being mined and make the site suitable for the proposed residential development. A total of approximately 30,000 cu.yds. of grading (26,500 in the coastal zone) is proposed. Although the application indicates the grading will be balanced on-site, more recent conversations with the applicant indicate there may be excess graded materials. Special Condition #7 addresses this possibility and requires the applicant to identify, and demonstrate appropriate permits for, any off-site disposal areas. The area to be left in permanent open space (approximately twenty-two acres) will include both the remaining undisturbed, natively-vegetated steep slopes (which occur mostly along the western and eastern edges of the site, and restored slope areas which are currently part of the mining operation; some minor drainage facilities will be constructed at the base of restored slopes to control drainage onto the developable portion of the site..

Approximately two-thirds of the site is within the coastal zone, including nearly all the area to be developed. The coastal zone boundary, as shown on Exhibit No. 2 (site plan - development area), cuts diagonally across the site, trending from the southwest towards the northeast, with the coastal zone being that portion of the site north of the line. Buildings 1-11 and 15-18 are entirely within the coastal zone and at least portions of Buildings 12-14 are also within the coastal zone. Accessory improvements such as driveways, parking spaces and landscaping, the wetland creation site, desiltation basin, and approximately half the designated open space are within the coastal zone. Portions of Buildings 12-14, along with some proposed landscaping, driveways and a few parking spaces, all located in the more southern portion of the site, are outside the coastal zone, along with the remaining half of the area designated as open space.

2. Wetlands/Sensitive Biological Resources. The following Chapter 3 policies of the Coastal Act apply to the subject proposal and state in part:

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities....

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Section 30240:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Although there are areas of coastal sage and maritime chaparral habitat on the property, all proposed improvements will occur in the portions of the site previously disturbed by the sand mining operation. All the naturally vegetated steep slopes are proposed to be permanently retained in open space. Moreover, significant areas of disturbed land, particularly in the southern portion of the site (i.e., primarily outside the coastal zone), are being restored and revegetated. These slopes will also be retained as open space. Thus, the proposed development will not encroach into any areas of existing sensitive hillside habitat. Potential construction impacts to nesting birds have been addressed in the permit issued by CDFG (No. 5-223-98).

The project will result, however, in permanent impacts to 0.04 acres of existing riparian/freshwater marsh habitat, due to the construction of required off-site road

improvements. Carmel Creek Road is the only access to the project site and exists as a narrow, unpaved street at this southern terminus. It is a four-lane major street north of, and at its interchange with, State Route 56, which is about a third of a mile north of the subject site. Just slightly south of the interchange, the pavement narrows significantly, and the unstriped, paved road cannot accommodate more than a single line of traffic in each direction; the pavement ends approximately 500 feet northwest of the subject site. The applicant proposes to widen the street to accommodate the residential traffic that will be generated by the proposed development and to allow for emergency vehicles to access the site. The street would be widened to a width of forty feet, within a sixty-foot right-of-way. The recently approved LCP amendment provides for Carmel Creek Road will continue south of State Route 56 as a two-lane collector street, and will cul-de-sac at the subject site.

There is a drainage course which runs along the west side of the existing dirt road; the drainage area supports a mixture of riparian and exotic vegetation, plus a few cattails. The principal water source for the drainage appears to be the truck-washing operation which is conducted in conjunction with the sand mining on the subject site. The drainage channel has been modified in the past and is approximately four feet deep and ten feet across, with side slopes that appear to have been engineered. However, since the dirt road exists in a natural depression between hills, it is likely that some water would flow intermittently in this general area even without the assistance of the mining activities.

The proposed road improvements will impact (remove) 0.04 acres of the existing drainage channel with its mixture of wetland and exotic vegetation. As such, Section 30233 of the Coastal Act is applicable. As cited above, under the Coastal Act, disturbance and/or fill of wetlands is severely constrained. Coastal Act Section 30233(a) sets forth a three-part test for all projects involving the fill of coastal waters and wetlands. These are:

- 1) That the project is limited to one of the eight stated allowable uses;
- 2) That the project has no feasible less environmentally damaging alternative;
- and,
- 3) That adequate mitigation measures have been provided to minimize adverse environmental effects.

In this particularly case, the proposed development meets the above requirements. The widening and paving of an existing road, which has been certified as a circulation element road in past Commission LCP actions, is considered an incidental public service project, which is one of the above-cited permitted uses. Without the proposed road improvements, the site cannot be developed with residential uses. Moreover, there is existing private development immediately to the northeast of the existing dirt road, such that the road cannot be widened in that direction. Therefore, the only alternative is to widen the road to the southwest, where the drainage course exists. The decision to end the road in a cul-de-sac on the subject site also significantly reduces potential adverse impacts on environmentally sensitive lands. Several planning documents certified by the Commission prior to its recent action on the updated Neighborhood 8 Precise Plan

identified Carmel Creek Road as a four-lane collector street crossing the entire subject site from north to south and connecting with Carmel Mountain Road/El Camino Real to the south in the Sorrento Hills community. Improving the road along that previously certified alignment would have resulted in the removal of many acres of sage and chaparral habitats and the fragmentation of Multiple Species Habitat Area lands. It would almost certainly have resulted in greater direct wetland impacts as well, since the roadway would be much wider (four lanes instead of two) where the proposed wetland impacts will occur. Thus, terminating the road at the subject site, and reducing it in size from four lanes to two, minimizes wetland impacts and results in the least environmentally damaging alternative.

As noted, once the proposed impacts have been found to be permitted and minimized, all remaining unavoidable impacts must also be mitigated. To mitigate for the removal of wetland species, the applicant is proposing to create a 0.12-acre wetlands within the subject property near the entrance of the development site. The area will be appropriately graded and planted with riparian and freshwater marsh species, and a portion of the property's drainage will be directed into the mitigation site to provide a water source. From the wetlands, drainage will flow into the proposed desiltation basin and from there into the municipal storm drain system. Thus, the created wetland is intended to not only provide replacement habitat at a 3:1 ratio, but also to filter runoff and thus improve downstream water quality. The 3:1 mitigation ratio is typically applied to impacts on riparian vegetation, which constitutes the majority of impacted species in this proposal. Mitigation ratios for freshwater marsh have varied significantly in past Commission actions, with anywhere from 1:1 up to 4:1 mitigation required, based on site-specific circumstances and the marsh species being impacted. In this case, cattails are the only freshwater species present and the drainage course overall is considered to be of relatively low quality, due to the presence of many exotics (pampas grass and eucalyptus, among others). Thus, the Commission finds that adequate mitigation is proposed, consistent with past Commission precedent for impacts to riparian wetlands and buffers.

The Commission has typically found that development within 100 feet of wetlands (freshwater or saltmarsh) or 50 feet of riparian vegetation areas will adversely impact the wetland. The wetlands impacted by the off-site road improvements consist of mostly riparian and exotic vegetation, with a few cattails present as well. The purpose of establishing a buffer area between wetlands and development is to reduce the amount of human and domestic animal intrusion into sensitive vegetation, to reduce the impact of human activity on native wildlife species, to provide an area of land which can filter drainage and runoff from developed areas before it impacts the wetlands, and to provide an upland resting retreat area for some wetland animal species.

The proposed mitigation site is surrounded by naturally vegetated steep slopes to the south and west, the proposed desiltation basin to the north and residential development to the east. The on-site steep slopes are to be retained as open space, and are part of a larger area of open space (MHPA) lands extending to the west and south. The desiltation basin to be located just north of the created wetlands will serve as a buffer in that direction.

However, to the east, the nearest proposed apartment building is located within a few feet of the proposed wetland site, at most ten or twelve feet from the top of the created wetlands side slope. A significant elevational difference between habitat and active use areas can sometimes support a reduced buffer width; in this case, as currently designed, there would only be a four-foot elevational difference between the lowest wetland elevation and the graded pad for the residential structure. The Commission finds this is not a sufficient elevational difference to act as a vertical buffer and thus warrant a reduced horizontal buffer between the created wetlands and residential uses. Special Condition #1 requires the project to be redesigned to provide a minimum fifty-foot buffer on all sides of the created wetlands. This can be achieved by relocating the closest residential structure, reducing the size of that structure or realigning the wetlands itself. In addition, the condition requires that the created wetlands be fenced, to minimize intrusion by people and pets.

Another concern is raised by the "Wetland Creation Plan" submitted as part of the application. The plan identifies appropriate mitigation ratios, an appropriate mix of species, and a five-year monitoring program. However, the performance standards included in the submitted plan are inconsistent with the standards required in the streambed alteration permit issued by CDFG. The submitted plan proposes a 90% survival rate the first year, then only 85% survival for the next four years of the five-year monitoring period. The CDFG permit requires only 80% survival the first year, but 100% survival thereafter. Also, the submitted plan requires coverage rates ranging from 40% in the second year to 65% at the end of five years. The CDFG permit requires 75% cover after three years and 90% after five years for the life of the project. The Commission finds it appropriate for the applicant to meet these higher standards in order to fully mitigate for permitted impacts. Thus, Special Condition #2 requires submittal of a final plan fully consistent with CDFG requirements. The condition also requires that the Coastal Commission and other permitting resource agencies receive copies of the annual monitoring reports and that the final plan include the redesign required to achieve the fifty-foot buffer.

To ensure that the created wetlands are preserved, all future development in the wetlands must be prohibited. To ensure development does not occur, there should be either a deed restriction or open space easement covering the mitigation site. The Corps has issued a nationwide permit authorization under Section 404 of the Clean Water Act addressing the proposed development in a wetland. The Corps permit requires the applicant to place a wildlife conservation easement in favor of the Corps in perpetuity on the 0.12-acre mitigation site. Therefore, an easement is part of the proposed project. Accordingly, Special Condition #3 of this permit reflects this aspect of the project and requires that the applicant demonstrate that an offer to dedicate an easement has been recorded before the coastal development permit is issued.

Special Condition #4 prohibits development on all the steep slopes on the site and requires the applicant to record a deed restriction that reflects this prohibition. This is consistent with the certified land use plan designation and zoning, which both identify these areas as open space. Although the proposed residential development, including all

Zone 1 brush management areas, does not encroach onto any portion of the existing undisturbed naturally-vegetated steep slopes, the development proposed is very intense and will result in over eleven acres of new impermeable surfaces. Furthermore, the proposal includes the minor recontouring and revegetation of the existing manufactured slopes as part of the reclamation activities required to convert the site from a sand mining operation to residential use. The Commission finds that both the natural and restored steep slope areas must be protected from future development. By requiring recordation of a deed restriction, the Commission ensures that all future owners of the site are aware of the restriction on development of the steep slopes. This will preserve the biological resources of the slopes, as well as address the slopes' importance from visual and water quality perspectives, which will be discussed in the following findings.

In summary, the proposed development involves impacts to existing wetland species and development adjacent to areas of naturally vegetated, undisturbed steep slopes. The wetland impacts have been found to be a permitted use under 30233 of the Act and impacts to wetland resources have been minimized and mitigated at an appropriate ratio. In addition, through the attached special conditions, the provision of a wetland buffer, revisions to the applicant's mitigation and monitoring program and preservation in perpetuity of the site's steep slope areas are assured. Also, a component of Special Condition #5 (Landscaping Plan) requires that plantings adjacent to the created wetlands and naturally vegetated areas be of native materials compatible with those areas. Therefore, as conditioned, the project can be found consistent with Sections 30233 and 30240 of the Coastal Act.

3. Visual Resources. The following policy of the Coastal Act addresses visual resources, and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The subject site is located about a third of a mile south of State Route 56 and the Carmel Valley Resource Enhancement Plan (CVREP) area along Carmel Creek. North of the freeway and enhancement area (i.e., further from the subject site) is located the existing, intense urban development of Carmel Valley Neighborhoods 4, 5 and 6. The site itself is currently being mined for sand, and much of the property is disturbed. It consists primarily of the mining pit surrounded by very steep, unvegetated manufactured side slopes. The East and west perimeters of the site contain some naturally-vegetated, undisturbed slopes, much of which is within a utility easement which runs north and south along the eastern edge of the property. The proposal is to construct the residential

structures on the relatively flat base of the mining pit, and, aside from restoration of the manufactured slopes, the "walls" of the pit will not be altered.

Because the site is surrounded by slopes in nearly all directions, the proposed structural improvements will not be visible except from the north/northwest, where portions of the site can be seen from the areas described previously. At present, the view from the north/northwest is mostly of the denuded slopes forming the southern "wall" of the mining operation. Thus, future views will be primarily of those same slopes, which will be restored and revegetated. However, it is possible that the roofs or upper parts of a few residential structures may be visible as well. It should be noted that the identified viewing areas are some distance away (a third of a mile and more). Special Condition #5 requires submittal of a final landscaping plan that will emphasize revegetation of the manufactured, north-facing slopes and the provision of trees to break up any large expanses of wall or roof which may be visible from the identified public viewshed areas to the north/northwest. The submitted conceptual plan includes a significant number of trees and shrubs in this area, which is also the part of the site where the desiltation basin and created wetlands are proposed. However, the conceptual plan does not identify appropriate native species nearby the created wetlands which will be non-invasive and compatible with wetland resources, and does not call out revegetation of the manufactured slopes with native plant communities. The final plan submitted to the Executive Director in compliance with the special condition will be reviewed in consultation with the resource agencies, to assure that no inappropriate plant materials have been selected. The Commission finds, however, that as conditioned, potential impacts on visual resources are minimized to the maximum extent feasible. Therefore, the Commission finds the development, as conditioned, consistent with Section 30251 of the Act.

3. Water Quality/Resource Protection.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project site is located upstream from the environmentally sensitive habitat area of the CVREP project and, approximately two miles to the west, Los Penasquitos Lagoon. The major portion of the project site is currently used for mining purposes and contains no sensitive natural resources. There are existing, unvegetated and manufactured steep slopes surrounding the mining pit, which are proposed for restoration as part of the subject development. There are also some areas of naturally vegetated, undisturbed

slopes, located on the eastern and western perimeters of the site. At present, there are no permanent improvements on-site (i.e., no paving, structures or other impermeable surfaces). Stormwater runoff can percolate into the soil over the entire site, thus minimizing any off-site, downstream impacts from erosion.

When completed, the proposed development will result in over eleven acres of new impermeable surfaces due to paving for driveways and surface parking areas and the construction of eighteen structures (sixteen apartment buildings and two recreational buildings). Although revegetation of the existing manufactured slopes will help prevent erosion onto the site itself, the addition of over eleven acres of impermeable surfaces could significantly modify existing drainage and runoff patterns and rates which could affect downstream properties and resources. In addition, runoff from the project site during construction could result in increased sedimentation entering the lagoon. After project completion, trash, dirt and oil from the development could ultimately discharge into the lagoon as well, via proposed and existing storm drain improvements on-site and in Carmel Creek Road.

The U.S. Environmental Protection Agency has identified a series of Best Management Practices (BMPs) to manage runoff from new development and prevent pollution from entering coastal waters. Some of these measures include:

- restrictions on slope development
- erosion and sediment control plans
- dust controls
- scheduling of projects so that clearing and grading are conducted during the time of minimum erosion potential
- management of pet excrement
- storm drain stenciling in appropriate areas
- sweeping, vacuuming and washing of residential/urban streets and parking lots
- water outlet protection (consider flow, discharge rate and velocity in outlet design)
- detention ponds, filtration basins, sand filters and oil/water separators
- preservation of existing vegetation and landscaping plans that include species that will not compete with existing vegetation

The portion of the project site proposed for development is generally flat and none of the undisturbed steep slopes will be graded. However, approximately 30,000 cu.yds. of grading will occur overall. A small portion of the grading is associated with restoring the manufactured slopes around the mining pit, but most of it is needed to prepare level pads suitable for the construction of buildings. There are primarily two ways in which the proposed development could potentially increase the amount of sediment entering the CVREP enhancement area and potentially the lagoon, two miles further downstream. The first is through construction activities when loose soils on the site could be washed downstream during storms. Secondly, the increase in impermeable surfaces after project completion could result in the discharge from the existing storm drain system inland of the lagoon reaching an erosive velocity.

To address construction impacts, the City, in conditions of its local approvals, has applied the grading and erosion control regulations approved by the Commission in the certified LCP; these appear sufficient to assure adequate protection of downstream resources during the construction process. In addition, because the project involves more than five acres, the applicant is required to obtain a stormwater construction permit from the Regional Water Quality Control Board. Construction impacts are also addressed, though in a limited fashion, by the CDFG and Corps permits. Special Condition #6 requires submittal of a final grading/erosion control plan which implements best management practices and the erosion control methods required in the local approvals. The plan must be approved by the City of San Diego, prior to issuance of the coastal development permit.

To address permanent impacts of the completed project, the applicant has included a detention/desiltation basin in the development, which will collect and retain site runoff. The facility is designed to release flows at non-erosive velocities into an existing storm drain system in Carmel Creek Road, which was sized to accommodate this development. Thus, increased runoff from the new impermeable surfaces will be appropriately discharged such that erosion of downstream resources will not occur. Drainage calculations included in the Technical Appendices of the project EIR demonstrate that the proposed drainage system, with the inclusion of the detention/desiltation basin, will result in peak runoff rates from the site at equal or lower levels than runoff from the predeveloped site (the site as it exists today).

The potential discharge of pollutants into the identified downstream enhancement area and lagoon is also associated with the proposed development. However, the created wetlands, in conjunction with the desiltation basin, will serve to reduce the pollutant level leaving the developed site. A significant portion of site runoff will be first directed into the created wetlands, then into the desiltation basin, providing a two-step approach to allow a greater amount of pollutants and sediments to settle out before final discharge. In addition, Special Condition #7 requires the applicant to implement a series of BMPs on a permanent basis to reduce the amount of pollutants entering the drainage system in the first place. These include weekly street sweeping, curb inlet stenciling and the provision of an adequate number of trash and recyclable containers for use by future site residents. These features are intended as a minimum; the applicant may add other BMPs as appropriate in the final plan submitted in compliance with the condition.

Finally, Special Condition #8 requires evidence that the applicant has contributed to the Los Penasquitos Lagoon Enhancement Fund consistent with the conditions of the local approvals. This requirement is placed on all development within the coastal zone of the Los Penasquitos Lagoon watershed. Even with the special conditions identified above, development will have some degree of adverse effects on Los Penasquitos Lagoon. As noted in other permits (e.g. 6-82-100, Genstar; 6-82-106-A, Fieldstone; 6-83-13, Baldwin; and, A-69-81 Village Properties) and in the findings of the predecessor Regional Commission to deny the North City Land Use Plan, development will increase the amount and rate of runoff; and will increase the amount of urban pollutants in runoff.

In addition, even with controls over the rate of runoff, as addressed above and assured through the applicant's provision of a detention/desiltation basin, a greater net volume of runoff will result because less water will percolate into the ground. The combined result will provide the potential for a substantial increase in sedimentation.

In order to mitigate the effects of runoff, the Commission sponsored a study of Los Penasquitos Lagoon entitled "Stream and Lagoon Channels of the Los Penasquitos Watershed, California, with an Evaluation of Possible Effects of Proposed Urbanization" by Karen Prestegaard; a recommendation was made to increase the tidal prism of the lagoon by restoring channels cut off by construction of the railroad across the lagoon. It was recommended that this would enhance the capability of the lagoon to maintain an open mouth. It was also reasoned that a lagoon that was open more of the year would be better flushed and more capable of absorbing the increased load of pollutants. Commission staff worked with North City West developers to analyze the costs of a minimal improvement project along the lines recommended in the Prestegaard study and establish a proportional share that could be allocated to the overall expected buildout in North City West. The calculated fair share has been established, and certified in the City's LCP, at one-half cent per square foot of surface area graded and three cents per square foot of new impervious surface (buildings and paving) created by each project. The City approval included a requirement to pay into this fund, with the total contribution calculated at \$16,683.48. Because the fee was required in the local approval, it is part of the proposed project.

Thus, as conditioned, the proposed project will implement best-management practices regarding the management and reduction of non-point source urban pollution, and runoff from the development will not adversely impact water quality or have a significant adverse impact on downstream resources. Therefore, the project can be found consistent with Sections 30231 and 30240 of the Coastal Act.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

The area of the project site proposed for residential development (approximately 17 acres) is designated Low Medium Density Attached Residential in the recently-certified Carmel Valley Neighborhood 8 Precise Plan, a component of the North City LCP segment. The remaining 22+ acres of the total 39.9-acre site is designated as open space. Existing zoning is the same, with the developable portion of the site zoned MF-2 and the remainder OS. The proposed development is fully consistent with these designations. As just stated, an amended land use plan for Carmel Valley Neighborhood 8 has recently been certified; however, the City has not yet assumed permit authority over the subject site. Thus, the Commission is processing the coastal development permit, with Chapter 3 of the Coastal Act being the standard of review. As discussed in previous findings, the development has been found consistent, as conditioned, with all applicable Chapter 3

policies of the Coastal Act. Therefore, the Commission finds that approval of the proposal, with the attached special conditions, will not prejudice the ability of the City of San Diego to continue implementation of its fully certified LCP.

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

As discussed herein, the proposed project, with the inclusion of the special conditions, will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the biological resources, visual resources and water quality policies of the Coastal Act. There are no feasible alternatives or mitigation measures available that would substantially lessen any significant adverse impact that the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

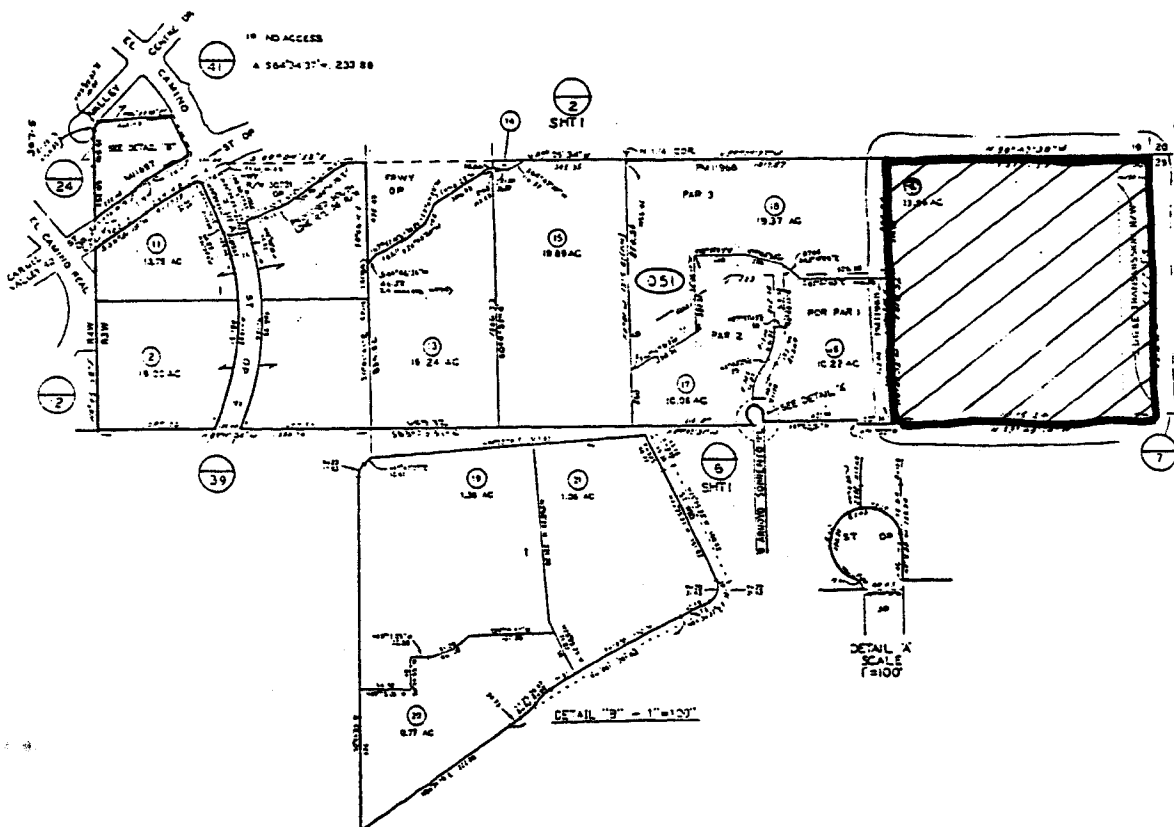
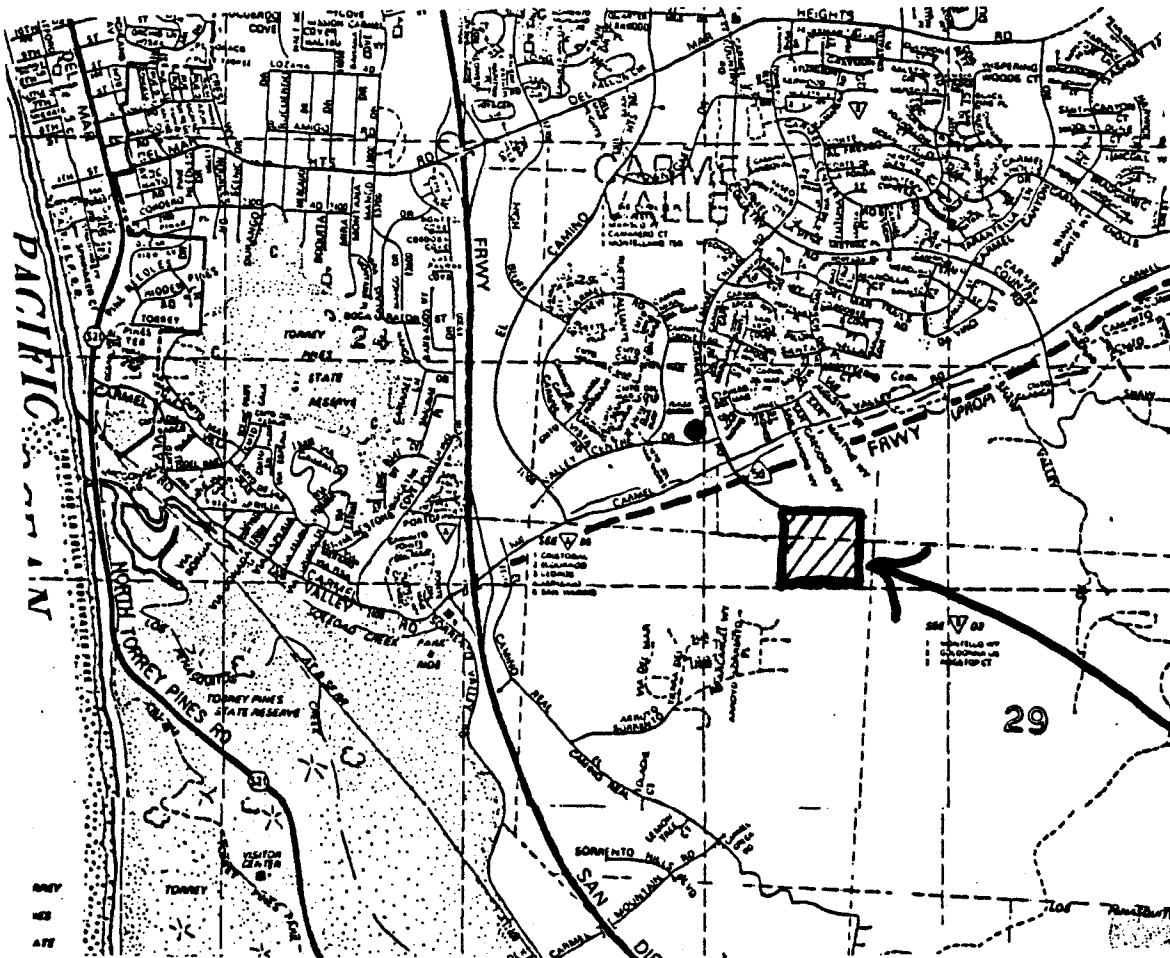
STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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6-98-124



6-98-124

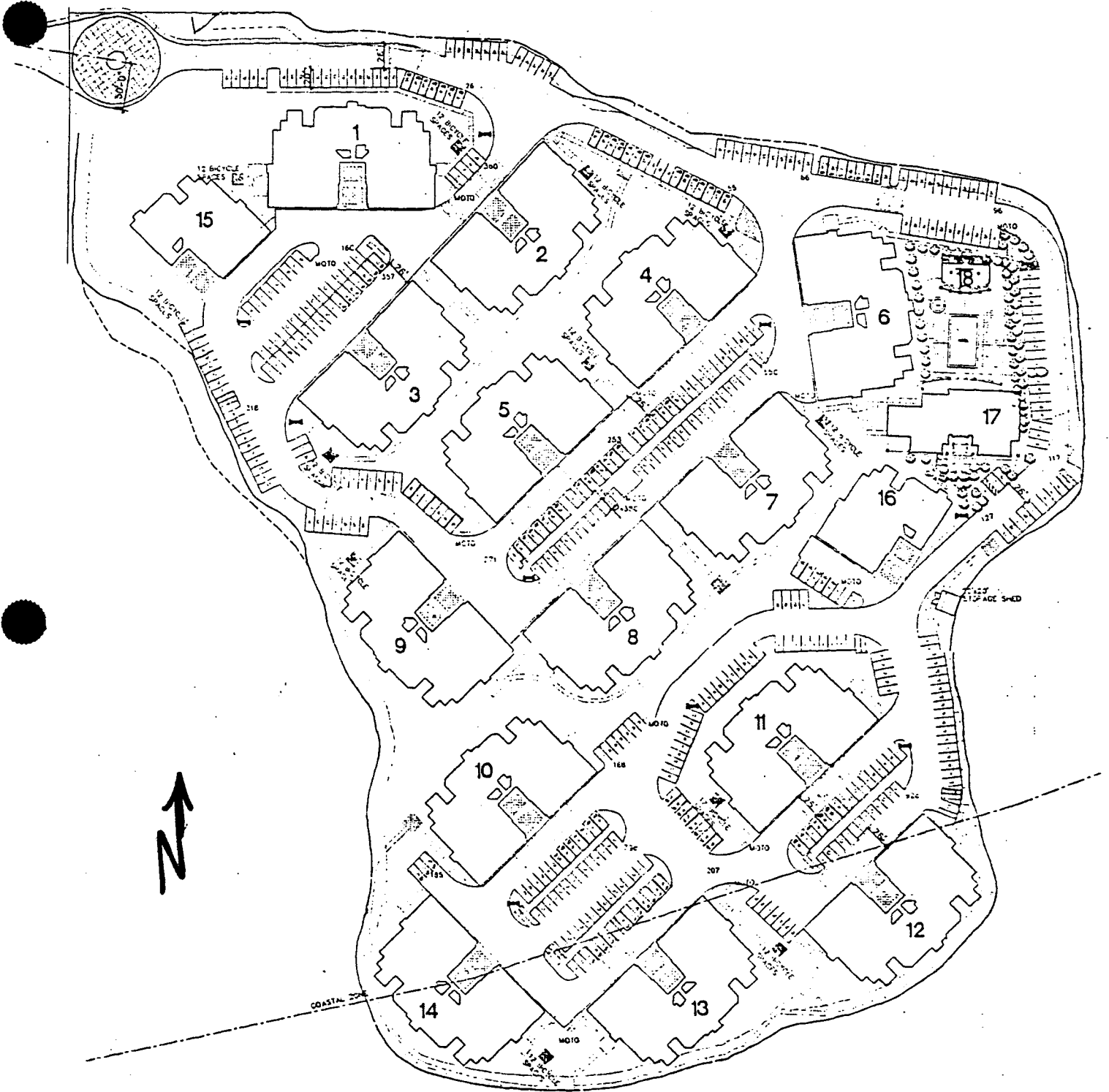


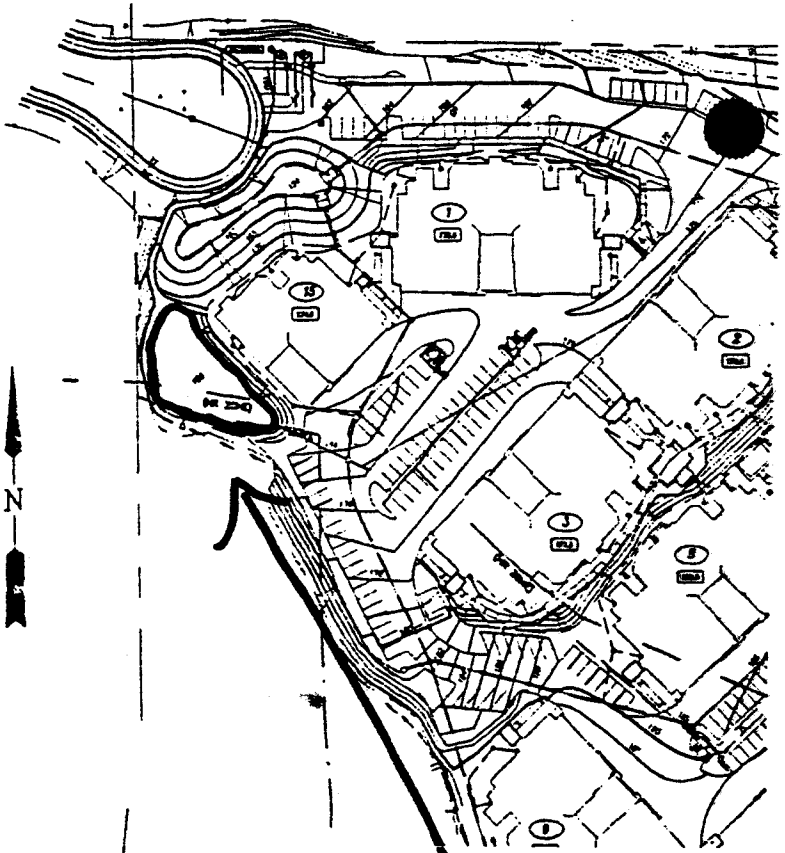
EXHIBIT NO. 2
APPLICATION NO.
6-98-124
Site Plan
Development Area
California Coastal Commission

6-98-124

* the mitigation area &/or surrounding uses must be redesigned to achieve a 50' buffer

* the easement area will include both the wetlands and the buffer

* a new exhibit w/b needed for the deed restriction



General Location in NW corner of site

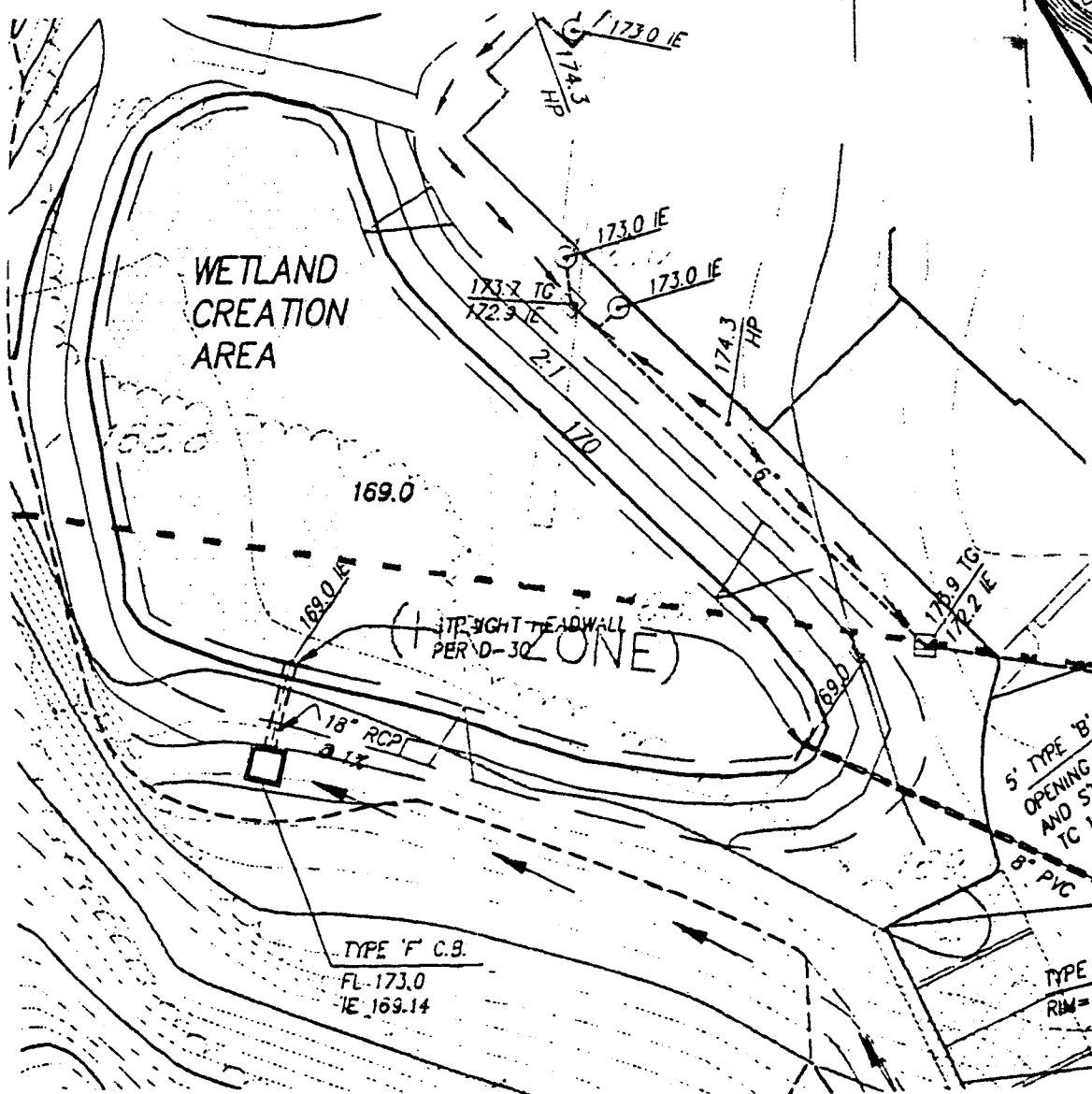


EXHIBIT NO. 3
APPLICATION NO. 6-98-124
Wetlands Easement
California Coastal Commission

This is a detailed architectural site plan for a residential complex. The central feature is a cluster of large, multi-story apartment buildings with varied rooflines and setbacks. These buildings are interconnected by a series of wide, paved walkways and staircases, suggesting a pedestrian-friendly design. The entire development is enclosed by a thick, irregular boundary line, which appears to represent a perimeter wall or gate. Outside this boundary, there are several key infrastructure elements: a circular water tank in the upper left, a rectangular sewage treatment plant in the lower right, and multiple parking areas. Landscaping is indicated throughout the plan with symbols for trees, shrubs, and grassy areas. Numerous text labels provide specific details about the project, including building types, utility locations, and landscape features. A scale bar at the bottom center shows a distance of 100 feet, and a north arrow is located in the upper right corner. The overall style is that of a technical drawing from a mid-20th-century architectural firm.

 - Open Space

California Coastal Commission

6-98-124

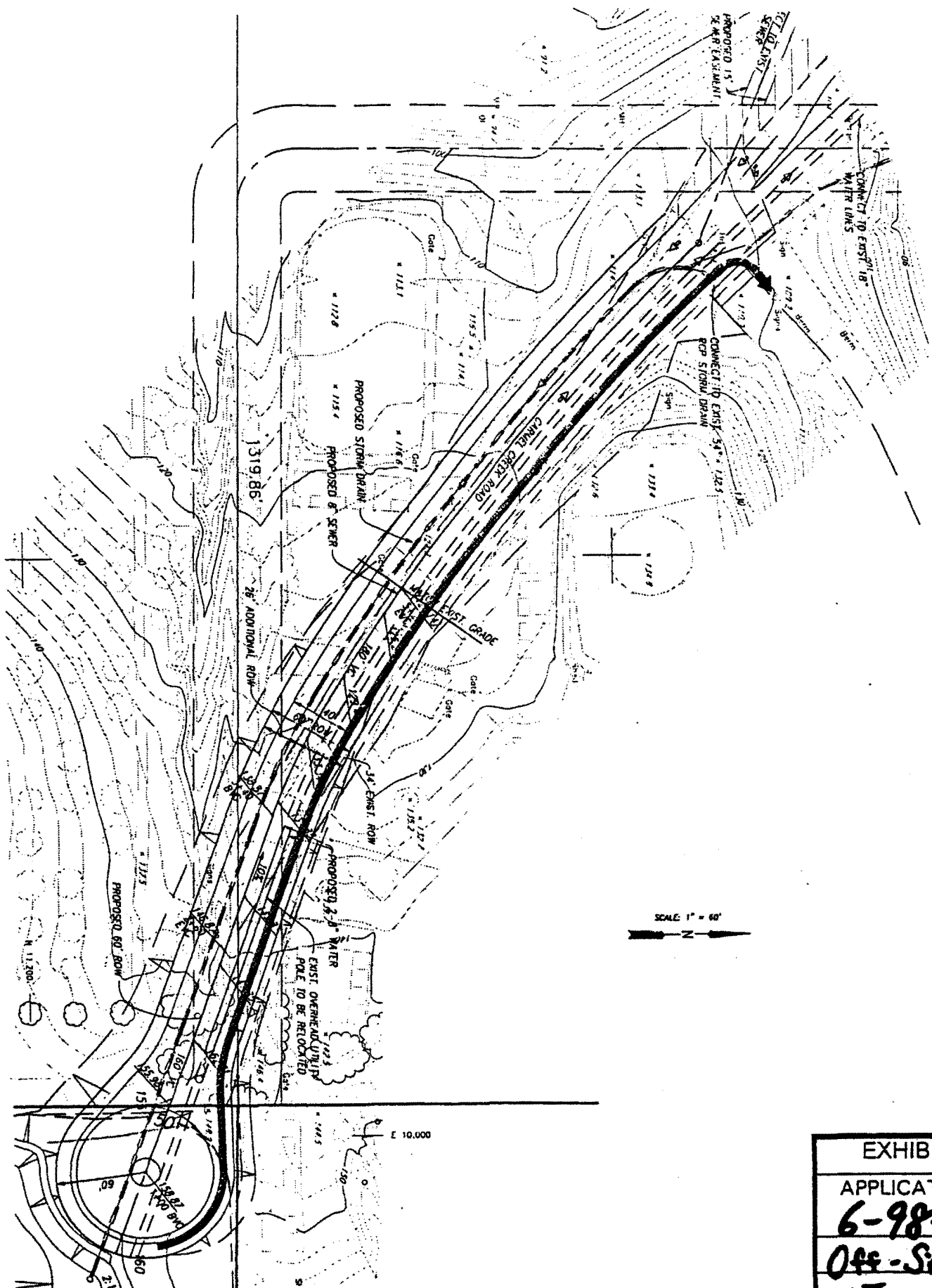


EXHIBIT NO. 5
APPLICATION NO. 6-98-124
Off-Site Road
Improvements
California Coastal Commission