

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



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Staff: WNP -SD
Staff Report: May 21, 1999
Hearing Date: June 7-11, 1999

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-32

Applicant: City of Oceanside Agent: Bill Teas

Description: Construction of an 8 foot wide, approximately 1,600-foot long paved segment of bikeway along the southern side of the San Luis Rey River.

Site: South side of San Luis Rey River, between Coast Highway and San Diego Northern Railroad right-of-way, Oceanside, San Diego County.

Substantive File Documents: City of Oceanside Certified Local Coastal Program;
Coastal Development Permit RC-7-98.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed development subject to special conditions, which would mitigate the project's impact at this sensitive location. Because the bike path is proposed within 100-feet of the San Luis Rey River, issues are raised regarding its impact on sensitive plants and animals along the river and its proposed location near the river. To resolve these issues, special conditions are recommended which require restricting development to the period of July 15 - March 15 of any year to assure no development will occur within the breeding season of the endangered avian least Bell's Vireo; final construction and mitigation plans for the bike trail in substantial conformance with the preliminary plans; reservation of a 100-buffer upland from the river's edge as open space that would allow public access improvements (bike trail and signage) and a fence to restrict inappropriate uses within the buffer; and, installation of bollards or similar devices as a means to protect the brackish marsh located under and near the railroad bridge as it crosses the south side of the San Luis Rey River.

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 condition:

1. Seasonal Construction Restrictions. Prior to issuance of the coastal development permit, the applicant shall submit a construction schedule to the Executive Director for review and written approval. Said schedule shall include documentation that no construction activity will occur between March 15 and July 15 of any year.

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

2. Final Revised Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final construction plans for the proposed project. Said final construction plans shall be in substantial conformance with the submitted revised plans dated 5/12/99 by Transtech which document a new alignment for the pike path such that it does not cross under the railroad bridge adjacent to Pacific Street except that they shall be revised as follows, in consultation with the California Department of Fish and Game:

- a. Bollards or a similar barrier to prevent bicycles, but allow for continued pedestrian use, shall be installed adjacent to the bike path near the railroad bridge as it crosses the south side of the San Luis Rey River;

- b. Low, open type fencing shall be installed adjacent to the bike path, between the bike path and the San Luis Rey River.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved 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.

3. Final Mitigation Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final mitigation plans for impacts to disturbed coastal sage scrub habitat impacted by the proposed bike path which have first been approved by the City of Oceanside and the California Department of Fish and Game and which are in substantial conformance with the preliminary mitigation plan dated January, 1999 by Dudek and Associates.

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

4. Open Space Deed Restriction. No development, as defined in section 30106 of the Coastal Act shall occur within 100-feet of the water's edge of the south side of the San Luis Rey River as shown in Exhibit #4 except for:

- (1) removal of non-native and invasive vegetation, planting and enhancement of native vegetation as identified in the proposed mitigation plan, the paved bike path in the upper half of the buffer, fencing, public access signage and bollards permitted herein

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(s) 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.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant proposes to construct a section of bike trail that would extend along the southern side of the San Luis Rey River in the City of Oceanside. The 1,600-foot long segment of bikeway is a segment of the San Luis Rey River Recreational Trail, which extends inland of the coastal zone. Within the coastal zone, the trail proceeds under Coast Highway and then west along the south side of the San Luis Rey River within existing dirt trails to the railroad tracks where it will connect with Cleveland Street and ultimately the Oceanside Transit Center.

The bike trail will be constructed of asphalt and be 8-foot wide and approximately 1,600 feet in length. The proposed construction corridor is 12-foot wide: 8 feet for the paved trail and a 2-foot shoulder on each side. Other components of the bikeway (safety fence, emergency access road) are outside the Commission's permit jurisdiction.

Approximately 250 cubic yards of grading is proposed to construct the bike trail within the Commission's jurisdiction. A mitigation plan is proposed to mitigate project impacts.

The City of Oceanside has a certified LCP. However, the project is within the Commission's original jurisdiction area and thus the standard of review is Chapter 3 policies of the Coastal Act with the certified LCP used as guidance.

2. Environmentally Sensitive Habitats. 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.

In addition, Section 30240 of the Coastal Act provides for the protection of sensitive habitats and parklands, and states:

(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.

The project site is the elevated floodplain of the San Luis Rey River with elevations varying between 5 to 12 feet mean sea level. Most of the site is disturbed and the majority of the former native plant communities are no longer present. Dirt roads and trails traverse the site. Property directly to the south of the project site is vacant with a

motel and mobile home park further to the south, on top of a terraced site west of Coast Highway. Residential and commercial uses are located east and west of the portion of the trail along the railroad tracks.

There are several plant communities/habitats within the project site (southern willow scrub and freshwater marsh along the margins of the San Luis Rey River, disturbed wetlands adjacent to the railroad bridge crossing of the river, open water in the river channel, disturbed coastal sage scrub habitat bordering the edges of existing dirt access roads, disturbed habitat from previous temporary road access and off-highway vehicle activity, developed habitat along the railroad easement and ornamental plantings along the southerly margins of the project area). While the bike path will follow along the south side of the river, no direct impacts to wetlands will result from the proposed development. However, because the proposed bike path will formalize bicycle access there is a concern that bicycles may go off the formal bike path and into sensitive areas adjacent to wetlands (brackish marsh) located immediately adjacent to the project site to the west. Special Condition #5 requires a revised site plan which indicates bollards or a similar barrier to prevent bicycles but not interfere with existing pedestrian access will be installed adjacent to the bike path near the railroad bridge as it crosses the south side of the San Luis Rey River. This will prevent intrusion into the brackish marsh located just off-site of the project site.

The proposed bike path will be an average of 100 feet from the river and approximately 80-100 feet from existing residential and commercial uses to the south. At its closest point, the proposed bike path will be as close as 50 feet from the river near the easternmost section of the trail. The proposed bike path will also be located approximately 15-20 feet lower in elevation compared to improved property to the south. The biological study submitted with the application identifies that the regional significance of the biological resources in the project area is low, however the existing habitat, while highly disturbed, serves as a biological buffer between the adjacent commercial/residential development to the south and the riparian habitat to the north along the river. The existing habitat serves as a transition zone between wetland and upland habitats and may serve as a wildlife corridor for movement along the margins of the river.

According to the biological consultant who drafted the mitigation plan (Dudek and Associates), although no riparian or wetland impacts will occur as a result of the proposed development, revegetation and enhancement of 0.12 acres of disturbed southern willow scrub and freshwater marsh habitat is proposed because these areas are near areas that are proposed for revegetation and enhancement. This work will be achieved through exotic plant removal; container plantings and seeding with appropriate seed mixes and will occur near the water's edge. Also proposed is the revegetation and enhancement of 1.33 acres of existing disturbed coastal sage scrub and disturbed habitat through removal of exotics and seeding with a CSS seed mix. This is intended to provide an overall enhancement of the currently degraded coastal sage scrub habitat and will help address the control of exotics and weeds on the area.

Another component of the proposed mitigation will be the seeding of the perimeter slopes created by the project with a transitional native seed mix, which will be compatible with the adjacent native habitats and revegetated areas. A 3-year maintenance and monitoring program is proposed to measure the progress and establishment of the revegetation/enhancement effort and to evaluate achievement of established success criteria. Special Condition #2 has been attached to require final mitigation plans for the proposed bike path in substantial conformance with those submitted with the application.

The Commission and other resource agencies have typically found that development must be setback at least 100 feet from the edge of any marsh or wetland habitat in order to protect the biological values of the habitat. This buffer area is important because it serves to reduce the amount of human activity on sensitive wildlife species, provides an area which can filter drainage and runoff from developed areas before it impacts wetlands and provides an upland resting area for some wetland animal species. However, in some cases, the Commission has found that nature trails/bikepaths can be located within the upper half of the required buffer without disrupting habitat values. The alignment of the bikepath adjacent to the San Luis Rey River will vary from 50- feet to 100- feet from the edge of the river. However, all construction will occur within the existing disturbed areas and no direct impacts to wetland or other sensitive habitat is proposed. In addition, human intrusion by pedestrians and bicyclists currently exists in the area. The Commission finds that given the existing conditions, locating the bikepath closer than 100 feet from the river will not significantly disrupt habitat values of the San Luis Rey River.

However, while the Commission can accept the bike path within the upper half of the 100-foot buffer, Special Condition #4 requires that the buffer must be preserved as open space to preserve the habitat values along the river corridor that will be further enhanced by the proposed mitigation program. This buffer must be fenced between the bike path and the river to ensure human and animal intrusion will not disrupt the habitat values of the buffer.

The development of the bike path will result in impacts to 0.07 acres of disturbed coastal sage scrub (CSS), 1.31 acres of disturbed habitat, and 0.19 acre of ruderal habitat. While impacts to CSS will occur as a result of the proposed development, the Department of Fish and Game (DFG) has determined the impacts to be acceptable, provided mitigation is provided. Because the CSS proposed to be impacted is highly disturbed, isolated from other such habitat and is not considered habitat for any sensitive biological species, it is not considered to be environmentally sensitive habitat and its removal will not disrupt any habitat values. Thus, the proposed impacts can be found consistent with Coastal Act policies. However, the DFG will require mitigation for this impact by requiring it be replaced at a 1:1 ratio through the acquisition of mitigation credits of coastal sage scrub habitat in an approved conservation bank.. Additionally, as noted above, its removal will be mitigated on-site by the proposed revegetation and enhancement of 1.33 acres of existing disturbed coastal sage scrub.

The California Department of Fish and Game (CDFG) has determined that the project is located within a non-core area of the Multiple Habitat Conservation Programs' (MHCP) study area. Measures approved by the City to mitigate the project's biological impacts include: the avoidance and monitoring of the onsite southern willow scrub habitat that supports a Nuttall's lotus population during construction; fencing of significant biological areas to prevent encroachment during construction of the bike trail and revegetation of the area between the completed bike trail and the river with native species. CDFG recommends the incorporation of the following mitigation measures: An appropriate construction season to avoid impacts to least Bell's vireos is from September 15 to March 15. Special Condition #1 has been attached to prohibit construction during the identified breeding period.

The project site is located mostly within the 100-year floodplain, is relatively flat and contains minor natural and manmade drainage areas that flow towards the San Luis Rey River. The trail alignment would also drain to the river. However, construction and operational impacts are minimal because of the narrow width of the bike trail and its relatively low intensity of use by non-polluting vehicles. Project plans have been submitted to the Regional Water Quality Control Board (RWQCB) who has reviewed the surface runoff. RWQCB staff has given no recommendations for any additional best management practices. In any event, the City has conditioned the project to implement material and best management practices during site grading and non-structural post-construction BMPs such as a public education program (providing signage prohibiting dumping of any kind). Additionally, the City's Erosion Control Ordinance and Storm Water Ordinance will be followed to further ensure erosion and sedimentation will be minimized so that water quality will be maintained. Thus, the Commission finds the overall water quality will not be adversely impacted by the proposed project, consistent with the above policies of the Coastal Act.

The City has required that all construction areas adjacent to sensitive habitat shall be delineated with orange plastic fencing to ensure protection during construction, and that all staging areas shall occur off-site or on an area that does not contain native plant habitats.

Thus, since no encroachment into wetland areas is proposed, construction is limited to non-breeding periods, a mitigation plan is proposed which would mitigate project impacts, a 100-buffer from the river's edge is being reserved as open space that would allow public access improvements (bike trail and signage) and a fence to restrict inappropriate uses within the buffer, the Commission finds the proposal, as conditioned, consistent with Sections 30231 and 30240 of the Act.

3. Public Access/Recreation. Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public

safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

In addition, Section 30212 of the Coastal Act states:

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

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected.

In addition, Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

These policies address the public's right of access to the sea and public recreational sites, and require that access considerations be given high priority in reviewing any development proposals. In addition, lower cost recreational facilities should be encouraged and provided. The proposed development is one segment of the San Luis Rey River Recreational Trail, which is an inland trail that goes along the riverbank and connects to a trail in the Camp Pendleton Marine Base. The completed bikeway will enable tourists and residents expanded recreational opportunities and afford expanded opportunity for low cost coastal recreational activity including access and views to scenic areas. In summary, the proposed development will significantly increase public recreational opportunities in this area. Therefore, the Commission finds the proposal consistent with all public access and recreation policies of the Coastal Act.

4. 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. As conditioned, such a finding can be made for the proposed project.

The City of Oceanside has a certified LCP. However, the proposed development will occur within an area where the Commission retains permit jurisdiction. As such, Chapter 3 policies of the Coastal Act are the standard of review. The property is zoned Open Space within the certified Oceanside Local Coastal Program and the bike path is consistent with this designation. As conditioned, the development has been found consistent with all applicable Chapter 3 policies of the Coastal Act. The Commission, therefore, finds that approval of the proposed development, as conditioned, will not

prejudice the ability of the City of Oceanside to continue to implement its certified Local Coastal Program.

5. 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 will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the environmentally sensitive habitat and public access and recreation policies of the Coastal Act. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project 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.

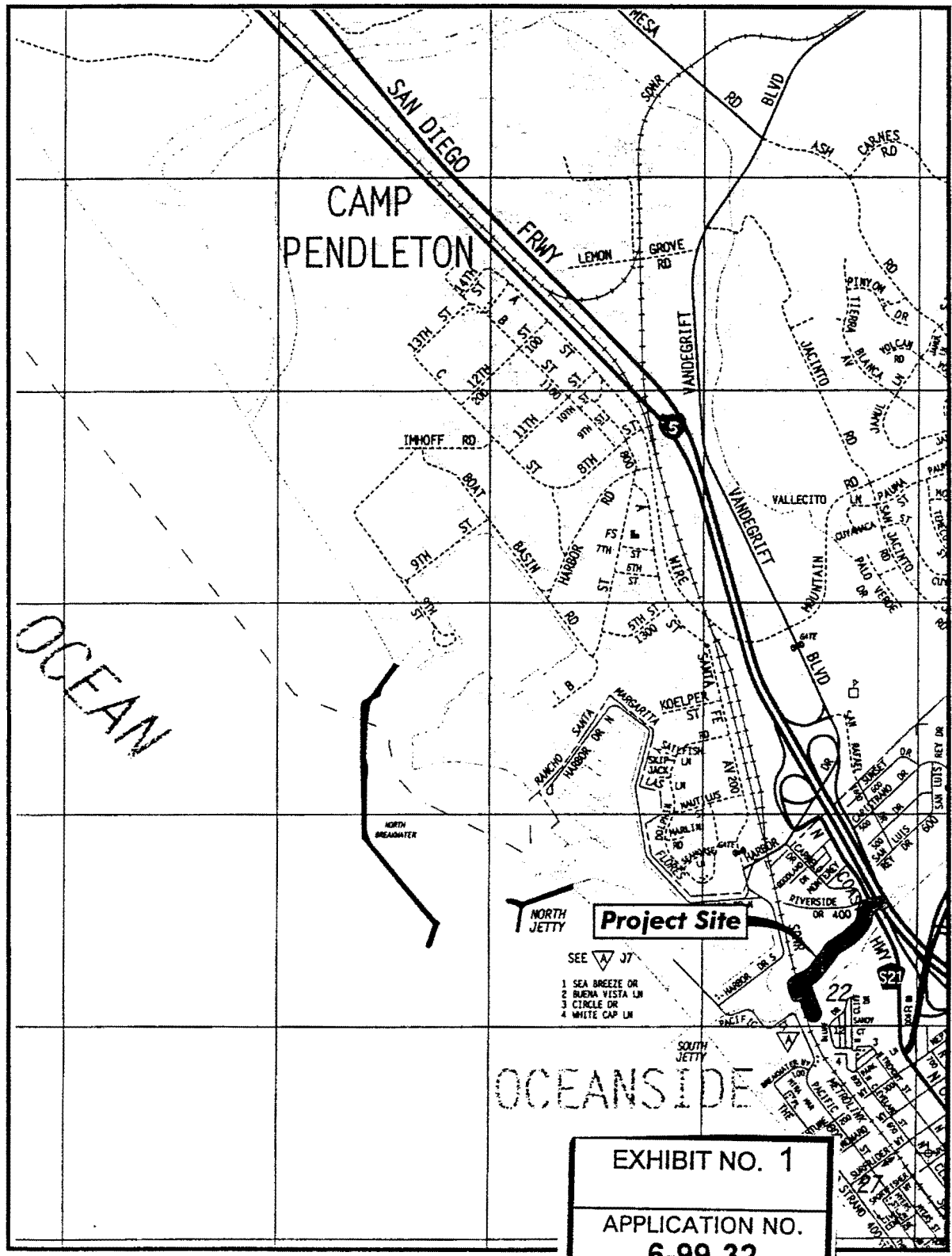
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Th 11g



THOMAS BROS. LOCATION MAP, PAGE 1085 SAN LUIS REY RIVER TRAIL

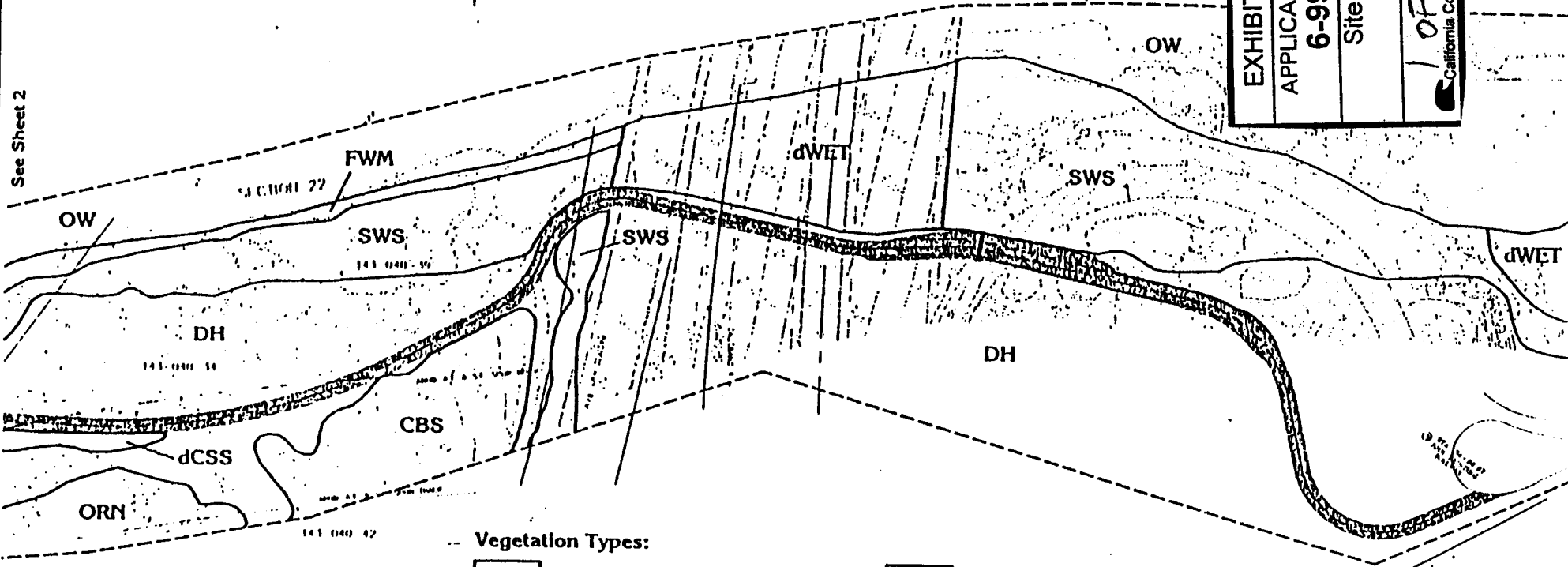


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| EXHIBIT NO. 1 |
| APPLICATION NO. 6-99-32 |
| Location Map |
| California Coastal Commission |



~~XXXX~~ Proposed Limits of Grading

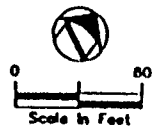
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| EXHIBIT NO. 2 |
| APPLICATION NO. 6-99-32 |
| Site Plan |
| 1 OF 3 California Coastal Commission |



Vegetation Types:

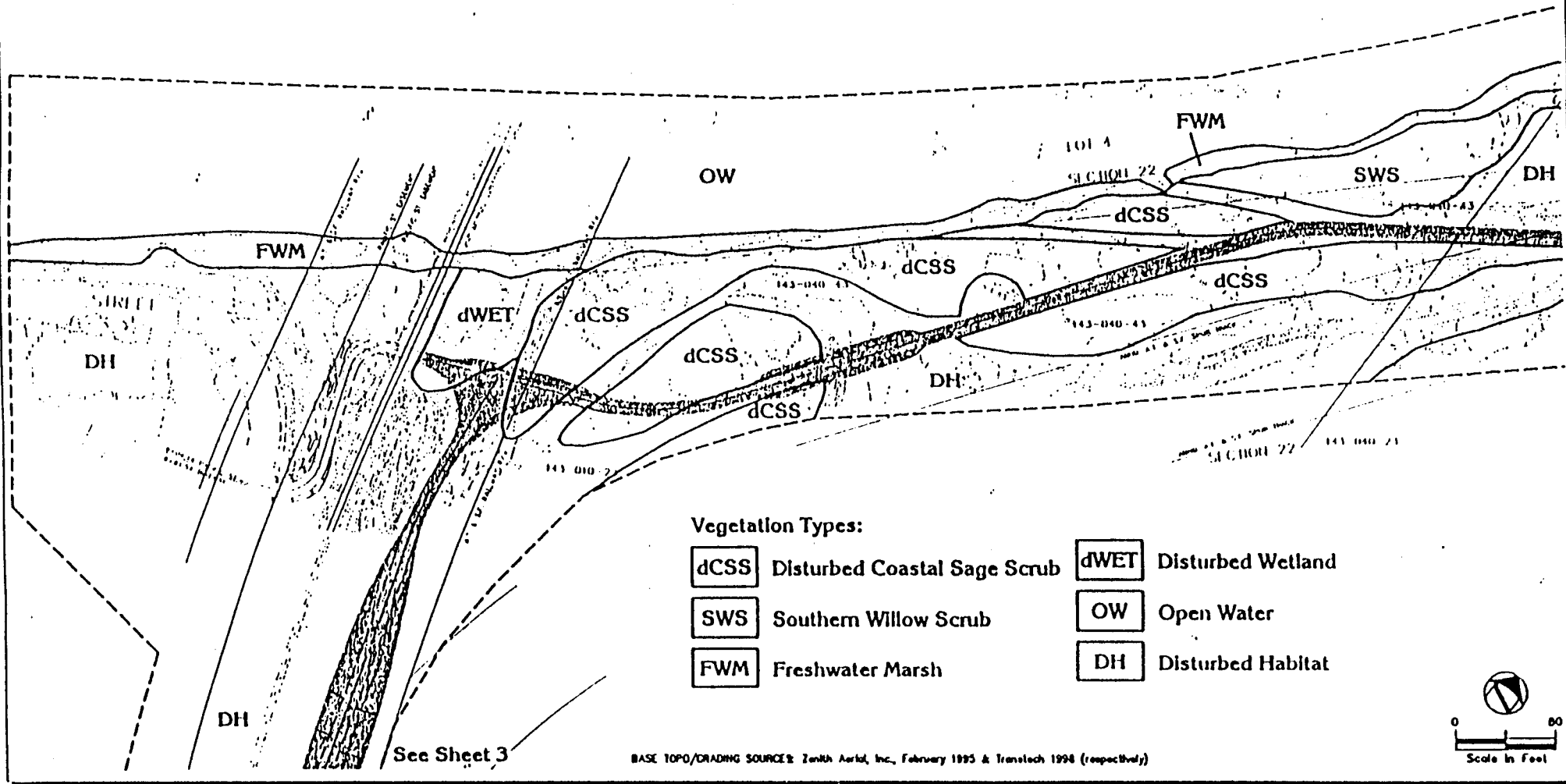
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|--|--------------------------------|
| dCSS Disturbed Coastal Sage Scrub | dWET Disturbed Wetland |
| CBS Coyote Brush Scrub | OW Open Water |
| SWS Southern Willow Scrub | ORN Ornamental Planting |
| FWM Freshwater Marsh | DH Disturbed Habitat |

BASE TOPO/GRADING SOURCES: Terith Aerial, Inc., February 1995 & Translok 1998 (respectively)



City of Oceanside, San Luis Rey River Bike Trail - Biological Resources Report
 Vegetation Map With Proposed Limits of Grading - Sheet 1 **FIGURE 3a**

~~FIGURE~~ Proposed Limits of Grading



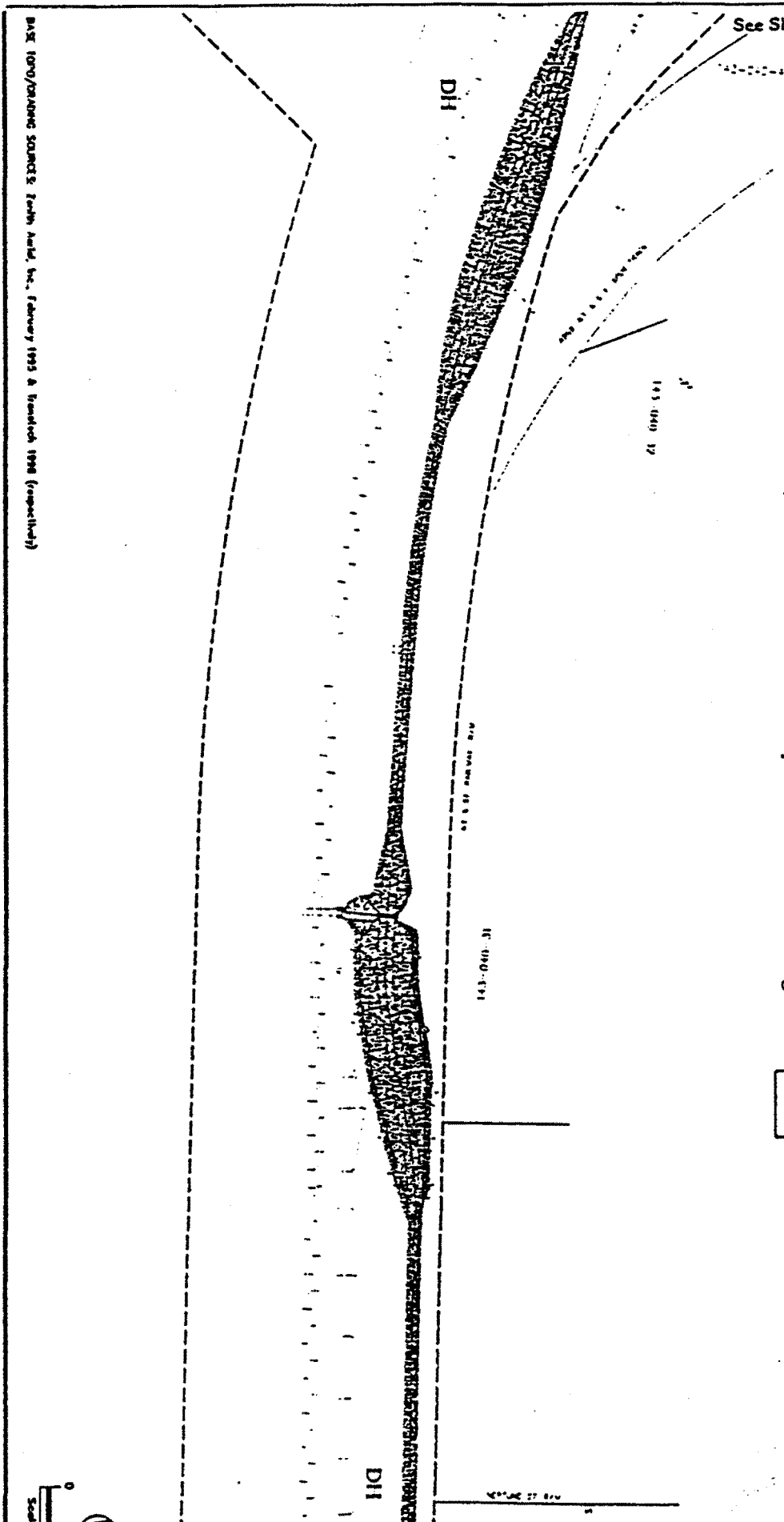
City of Oceanside, San Luis Rey River Bike Trail - Biological Resources Report
 Vegetation Map With Proposed Limits of Grading - Sheet 2

See Sheet 2

Proposed Limits of Grading

Vegetation Types:

DH Disturbed Habitat



DATE 10/07/2010/2010/2010 SOURCE: Earth Analyst, Inc., February 1995 & December 1998 (collectively)

City of Oceanside, San Luis Rey River Bike Trail - Biological Resources Report
Vegetation Map With Proposed Limits of Grading - Sheet 3