

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Th 9h

Application No.: 6-99-82

Applicant: City of San Diego, Park and
Recreation DepartmentAgent: Robin Stribley
Mike Morrow

Description: Construction of three wetland treatment ponds on 1.9 acres within Famosa Slough to collect and filter storm drain influent; the proposal includes the removal of 0.55 acres of existing freshwater marsh and willow scrub habitat with replacement of same within completed project.

Site: Southern end of Famosa Slough, north of Valeta Street, Peninsula, San Diego, San Diego County. APN 449-870-03

Substantive File Documents: Certified Peninsula Community Plan and City of San Diego LCP Implementing Ordinances; Famosa Slough Enhancement Plan; CCC File #6-95-128

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed development with special conditions addressing appropriate wetland mitigation, and requiring submittal of mitigation/planting plans, a construction schedule and copies of other state and federal approvals.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the

ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans of the permitted treatment wetland ponds. Said plans shall be in substantial conformance with the preliminary plans labeled "Famosa Slough Multiple Detention Basins," date stamped as received in the Commission's San Diego office on July 12, 1999. 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 mitigation and monitoring plan designed by a qualified wetland biologist. Said program shall be in substantial conformance with the general monitoring parameters included in the "Famosa Slough Enhancement Plan" approved in concept by the Coastal Commission in February, 1996. It shall address both the treatment wetland ponds and the riparian mitigation area and shall, at a minimum, provide for the following:

- a. A revised exhibit (site plan) conceptually identifying the location where freshwater marsh and riparian mitigation will occur shall be submitted to the Executive Director prior to issuance of the coastal development permit. A minimum of 18 willows shall be included in the mitigation program, along with a variety of other riparian species and riparian vegetation shall occupy an area of not less than 0.35 acres. The plan is subject to refinement, based on item b. below, with respect to the location of specific vegetation, but not with respect to the overall amount of vegetation or the aerial extent of the mitigation area;
- b. A written commitment to complete the riparian mitigation site within one year of creation of the treatment wetland ponds, using data acquired during that first year to analyze groundwater levels and flow patterns to determine optimum placement

of riparian vegetation shall be submitted to the Executive Director prior to issuance of the coastal development permit;

- c. Within 30 days of completion of construction of the wetland treatment ponds, an as-built plan, verifying that the project has been built according to the approved final plans shall be submitted to the Executive Director;
- c. Prior to construction of the riparian mitigation site, a final plan for its construction, shall be submitted for the review and written approval of the Executive Director;
- d. Within 30 days of completion of construction of the riparian mitigation site, an as-built plan, verifying that the project has been built according to the approved final plans, shall be submitted to the Executive Director;
- e. Monitoring reports on the extent of coverage, rate of growth and species composition of all created wetland areas shall be submitted to the Executive Director on an annual basis for five years following project completion;
- f. The monitoring program shall include provisions for augmentation and maintenance of the restoration efforts, including specific performance standards, designed to assure 90% coverage in a five year period. The program shall include criteria to be used to determine the quality and extent of the revegetation efforts, which shall include, but not be limited to, survival rates and species composition;

AND

- g. At the end of the five year period, a more detailed report prepared in conjunction with a qualified wetland biologist shall be submitted to the Executive Director. This report shall include a description of all maintenance activities required during the five-year monitoring program and an analysis of the success of said maintenance. If the report indicates that the mitigation has been, in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original program which were not successful. The revised mitigation program, if necessary, shall be processed as an amendment to their coastal development permit.

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. Timing of Construction/Staging Areas/Access Corridors. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit

to the Executive Director for review and written approval, final staging and access corridor plans for the proposed development. Said plans shall include the following:

- a. A construction schedule which indicates that construction activities may not occur during the breeding seasons of identified sensitive species;
- b. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public beach parking areas, vehicular traffic flow on coastal access routes (West Pt. Loma Boulevard, in this instance) and pedestrian access to areas of Famosa Slough not directly involved in construction of the project;

AND

- c. Use of public beach parking areas for staging/storage areas shall not be permitted.

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.

4. Other Permits. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, copies of all other required local, state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of San Diego's Parks and Recreation Department is proposing to construct three wetland treatment ponds in Famosa Slough. The project site is located at the southern end of Famosa Slough, an existing approximately 20-acre wetland resource area located partially within the Peninsula Community and partially within Mission Bay Park; the subject site is in the Peninsula Community. The ponds will be located just north of an existing unimproved parking lot on the north side of Valeta Street. The proposal includes excavation of the ponds, creation of berms/access roads for ongoing pond maintenance, installation of drainage facilities to direct existing stormwater discharges into the ponds and a system of pipes connecting the three ponds and outletting into the main body of the slough. Excavated materials in excess of what is needed to create the berms will be placed on the existing parking lot to level it out – no other parking lot improvements are proposed. The whole

development site is 1.9 acres. This includes the parking lot (.34 acres), the proposed ponds, berms and access roads (1.19 acres), and .37 acres of revegetation area. Excavation and construction of the treatment wetland ponds will result in direct impacts to 0.4 acres of freshwater marsh and to a 0.16 acre area of mixed riparian and non-native vegetation. The applicant proposes mitigation within the overall footprint of the project, by planting approximately 0.5 acres of freshwater marsh within and adjacent to the ponds and planting 0.35 acres of riparian grove/willow scrub around the ponds' perimeters.

The project is one component of the Famosa Slough Enhancement Plan, which was reviewed by the Commission and approved in concept in 1996, pursuant to Coastal Development Permit #6-95-128. The Commission at that time gave specific approval for several relatively small components (fencing, trails, signage and exotics removal) and one major feature, installation of new hydraulic gates to regulate tidal flow in the slough. At the same time, the Commission identified a number of key components which would require separate action by the Commission in the future, since plans for those components were not available when the overall plan was presented, but supported the overall enhancement goals of the plan. Special Condition #1 requires submittal of final plans in substantial conformance with the preliminary plans submitted with the application.

Famosa Slough is a tideland area and is thus within the Coastal Commission's area of original permit jurisdiction. Development is reviewed by the Commission with Chapter 3 of the Coastal Act being the standard of review.

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

Section 30230.

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

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.

The overall project site is comprised of a number of habitat types, including disturbed fields (non-native grasses), urban disturbed land (the parking lot and a channelized storm drain) exotic/invasive ornamentals, freshwater marsh and southern willow scrub. In addition, there is existing residential development and tennis courts located just outside the southern portions of Famosa Slough, immediately adjacent to portion of the proposed development. Construction of the project will require removal of existing freshwater marsh (mostly cattails with some bullrush) located in the storm drain channels entering

the slough from under Valeta Street and removal of an area identified as riparian (six willow trees and several non-native species, mostly Brazilian pepper).

The proposed project raises issues under Section 30233 of the Coastal Act since it will directly impact existing wetlands. 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. As a restoration project, the development is allowed in wetlands under Section 30233(7). There is no way to construct the treatment wetland ponds without impacting existing freshwater marsh habitat, since the purpose of the ponds is to collect the stormwater entering the area and treat it to remove sediments and pollutants before it enters the main body of the slough. The riparian impacts are also unavoidable, if the ponds are to be large enough and configured appropriately to fulfill their purpose. The resource agencies are supporting the project and accept the mitigations proposed. In fact, the Regional Water Quality Control Board (RWQCB) is a financial sponsor of the proposal.

The applicant is proposing to mitigate the loss of 0.4 acres of existing freshwater marsh (mostly cattails, some bullrush) through planting freshwater marsh species in the created ponds and adjacent areas. The new freshwater marsh area will comprise 0.5 acres, which is compatible with the Commission's usual mitigation ratio of 1:1 for habitat that is primarily cattails. The applicant proposes to mitigate the loss of 0.16 acres of riparian vegetation with 0.35 acres of new riparian area. Although this falls short in aerial extent of the Commission's usual requirement for 3:1 mitigation of riparian impacts, the actual loss of six willow trees will be compensated through the planting of at least 18 willows in the new riparian area. It must be noted that the area the applicant has identified as existing southern willow scrub habitat is actually a mixture of riparian and non-native species. There are only six willow trees, no other riparian species, and the greater aerial extent of the existing habitat is occupied by Brazilian peppers. Moreover, the project has additional habitat benefits in that the non-native grasses and exotic/invasive ornamentals within the project footprint will be removed, along with the Brazilian pepper trees and any other non-native vegetation.

It should be noted that the City will need to maintain the ponds in order to maximize their function as water quality treatment sites. Portions of the freshwater marsh vegetation within the ponds will be removed periodically, as they become saturated with pollutants. The freshwater marsh vegetation existing at this time, however, is already removed periodically for vector control to reduce the mosquito population. Currently, a portion of the vegetation is removed each year and other portions left in place; the removal/retention

occurs in alternating strips so the habitat continues to function well. The City intends to use this same methodology for pond maintenance, in that only a portion of the vegetation would be removed at any one time. Thus, maintenance of the created ponds will be virtually the same as what occurs now within the existing freshwater marsh habitat.

Two special conditions address the biological aspects of the proposed development. Condition #2 requires submittal of a final mitigation/monitoring program to address biological impacts. The final plan should be consistent with the general monitoring parameters outlined in the Famosa Slough Enhancement Plan and also with the specific performance criteria and provisions outlined in the condition. Finally, the plan requires submittal of all monitoring reports to the Executive Director. Condition #3 requires submittal of a final construction schedule, documenting consistency with the seasonal restrictions imposed by the other resource agencies. The restrictions are imposed to prevent construction activities at those times and in those places where it could adversely affect several threatened and endangered species that use the project area for breeding and foraging. In addition, the condition requires a plan clearly delineating staging and storage areas for project implementation.

In summary, the Commission finds that the proposed restoration project is a permitted use within a wetland pursuant to Section 30233 of the Coastal Act and impacts to 0.4 acres of existing freshwater wetlands and 0.16 acres of southern willow scrub are adequately compensated by the creation of 0.5 acres of freshwater marsh and 0.35 acres of riparian grove/willow scrub habitats. The 0.35 acres of riparian habitat will include a minimum of 18 willow trees, which will provide in-kind mitigation for the six willows lost through project implementation at a 3:1 ratio. In addition, other riparian species will be planted in the mitigation site to provide a more natural riparian community than existed previously, and all existing non-native vegetation within the project footprint will be removed. Thus, although the identified impacts are unavoidable, they have been reduced to the maximum extent feasible and adequately mitigated. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the cited resource protection policies of the Coastal Act.

3. Water Quality. The following Coastal Act policy is applicable to the proposed development and states:

Section 30231

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 at the southern end of Famosa Slough, an existing wetland resource area, and is proposed as a means to improve water quality in the slough and downstream San Diego River. There are three storm drain outfalls at the southern end of the slough, two of them entering the slough from under Valeta Street and the third entering the slough from the Point Loma Tennis Club adjacent to the east of the slough. Stormwaters and surface runoff entering the slough in this area is not treated or detained in any way and deposits quantities of sediment, trash and pollutants in the slough. Although the area surrounding the slough is fully built-out, there are nearby natural landforms which contribute sediments; trash and pollutants from domestic pets, fertilizers, pesticides, etc. also accumulate in the storm drains and are washed downstream.

The proposed development will create a series of three treatment wetland ponds designed to detain the stormwater inflows to allow sediments to settle out. The freshwater marsh vegetation which will be planted in the ponds will absorb and contain the pollutants. The vegetation (cattails and bullrush) will be periodically cleared out and replanted as it becomes saturated with pollutants, so that the contaminants do not re-enter the slough and to aid in vector control. Inflows will move slowly from pond to pond, then out into the main body of the slough in a much cleaner condition than occurs now. The proposed treatment wetlands are not anticipated to have any adverse impacts on existing water quality. In fact, water quality should be significantly improved through the ponds' operation. The additional surface water storage area and wetland vegetation's pollution-removal capabilities are expected to have a beneficial effect and serve to minimize sedimentation. Therefore, the Commission finds that the development, as conditioned to address other concerns, is consistent with Section 30231 of the Act.

4. Public Access. Many policies of the Coastal Act address the provision, protection and enhancement of public access opportunities, particularly access to and along the shoreline. In the subject inland area, the following policies are most applicable, and state, in part:

Section 30210

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

Section 30213

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

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Famosa Slough is within the highly urbanized Point Loma/Ocean Beach area of San Diego, and West Point Loma Boulevard, which separates the main body of the slough from the northern channel connecting with the San Diego River, is a major coastal access route to the municipal beaches west of the site. Implementation of the proposed development will not require any closures of West Point Loma Boulevard, nor will it affect beach access in any way.

The slough includes public trails and interpretive signage and provides a low-cost form of public recreation. Access to the public trails in the northern part of the slough will remain open during construction, but the actual area surrounding the construction site will be temporarily closed to public use, and the public parking lot north of Valeta Street is proposed for construction staging and storage. However, the parking lot is several miles inland from the beach and is used only to access the southern end of the slough, and by nearby residents as additional off-street parking area. There is adequate parking available for slough visitors along Famosa Boulevard and at several cul-de-sacs along the western edge of the slough. Thus access to the portions of the slough not directly impacted by project construction will not be affected by the proposed development.

Moreover, the construction impacts will be temporary in nature and are scheduled to occur outside the summer beach season. Special Condition #3 requires submittal of a final plan delineating the construction staging/storage areas and also requiring submittal of a construction schedule which incorporates the seasonal restrictions imposed by other agencies to protect biological resources. The Commission thus finds that the proposed project will not have a significant adverse impact on existing public access in the area, even during construction. Therefore, the Commission finds the development, as conditioned to address other concerns, consistent with the cited access policies of the Coastal Act.

5. 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 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 within a highly urbanized area of the City of San Diego and provides a needed area of open space. The proposed development will remove existing

non-native species and replace them with the proposed vegetated treatment ponds and native riparian areas. Upon completion of the project, the overall area will not look significantly different than it does today, but will be somewhat more natural in appearance with the removal of exotic plants. Construction impacts on visual resources will be short term and unavoidable. Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Act.

6. 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, such a finding can be made for the proposed development, as conditioned.

Famosa Slough is designated as Open Space in the certified Peninsula Community Plan and zoned as Park. The proposed improvements are fully consistent with those designations. The site is within the Commission's area of original jurisdiction, and is being reviewed under Chapter 3 of the Coastal Act. The preceding findings have demonstrated that the proposal, as conditioned, is consistent with all applicable Chapter 3 policies. Additional permits are likely required from other state and federal agencies, including the U.S. Army Corps of Engineers, California Department of Fish and Game and the RWQCB. Special Condition #4 requires submittal of these permits and advises that amendments to this permit could be required if the other agencies significantly modify the project through their approval processes. Therefore, the Commission finds that approval of the development, as conditioned, should not prejudice the ability of the City of San Diego to continue implementation of their fully certified LCP.

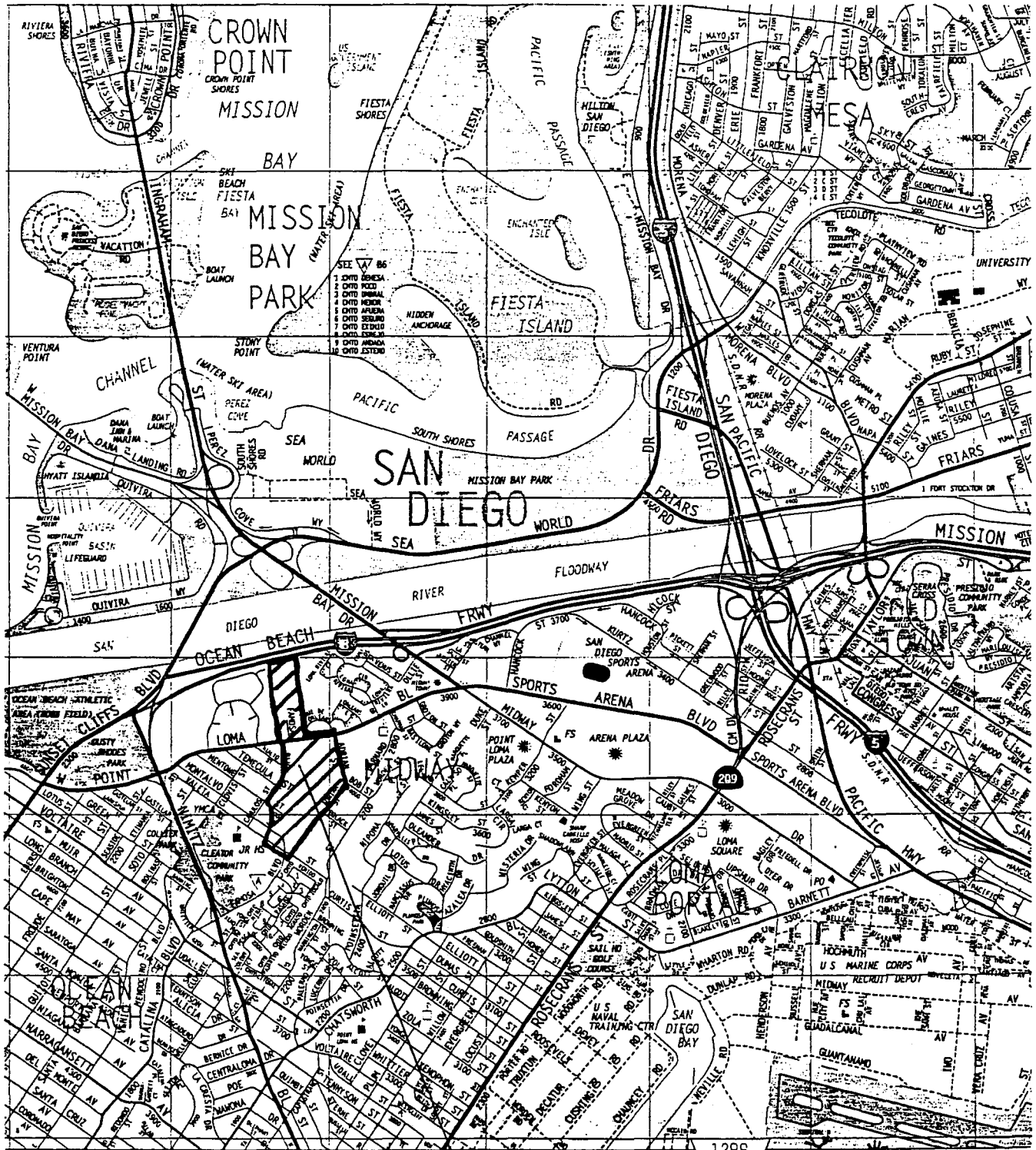
7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental 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, as conditioned, has been found consistent with the biological and marine resources, water quality, visual resource and public access policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which 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.

Th 9h



SITE

EXHIBIT NO. 1

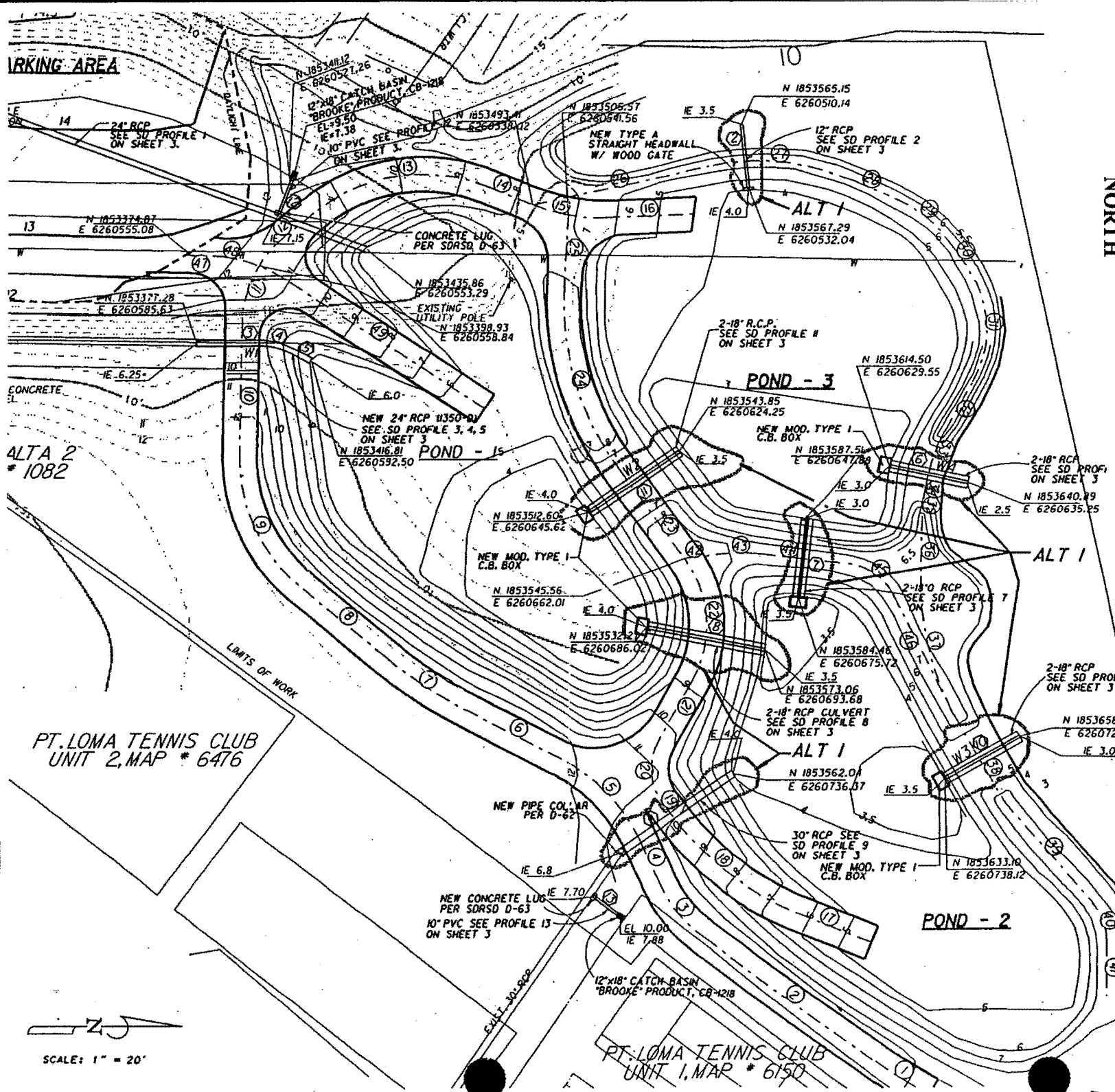
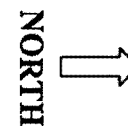
APPLICATION NO.

6-99-82

Location Map

California Coastal
Commission

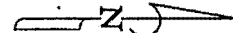
WORKING AREA




ALTA 2
1082

PT. LOMA TENNIS CLUB
UNIT 2, MAP # 6476

PT. LOMA TENNIS CLUB
UNIT 1, MAP # 6150



SCALE: 1" = 20'

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|  California Coastal Commission | EXHIBIT NO. 2 |
| | APPLICATION NO. |
| | 6-99-82 |
| | Site Plan |