

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-101

Applicant: City of San Diego, Engineering
and Capital Projects

Agent: Jennifer Maxwell

Description: Removal of berms and fill and the restoration of 12.5 acres of historic riparian wetlands within a 16.51 acre site to create a mitigation bank; the project includes grading, installation of drainage facilities, planting and irrigation and realignment of the sewer access road/park trail to within the existing sewer easement. Also proposed is mitigation for project impacts and long-term monitoring.

Site: 4358 Sorrento Valley Boulevard, Los Penasquitos Canyon Preserve, North City, San Diego, San Diego County. APN 310-051-06

Substantive File Documents: Certified City of San Diego North City Land Use Plan and Implementing Ordinances; Biological Resources Report and Impact Analysis (Dudek, July, 1999)

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed restoration project, which will create a mitigation bank for the City of San Diego. The project raises issues with regard to wetland impacts, as small areas of existing wetland and upland vegetation will be converted to different habitat types. Impacts will also occur due to the realignment of an existing unpaved park road, which is used for sewer maintenance, ranger access and by the public for recreational (hiking, biking) purposes. However, the realigned road will be more protective of wetland resources than current conditions. To address the identified concerns, staff recommends special conditions requiring submittal of final grading and revegetation plans and copies of approvals from other agencies.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-99-101 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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 to the Executive Director for review and written approval, final grading and drainage plans for the construction of the riparian wetlands and realigned sewer access road. The plans shall be in substantial conformance with the preliminary plans titled *Los Penasquitos Canyon Preserve (El Cuervo Wetland) Revegetation*, which were submitted on July 19, 1999 with the permit application.

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. Revised/Final 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 enhancement and monitoring plan designed by a qualified wetland biologist and acceptable to the U.S. Army Corps of Engineers (ACOE), U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (CDFG). Said program shall be in substantial conformance with the plan identified as *Los Penasquitos Canyon Preserve Conceptual Wetland Mitigation Plan El Cuervo Wetland Area* dated April, 1998, and the corrected pages 30-34 dated June 9, 1998, but shall be revised to include the following:

- a. an updated restoration site plan reflecting the creation/restoration of 12.5 acres, rather than the 10.5 acres previously identified;
- b. an updated revegetation plan reflecting the increase in restoration area;
- c. corrections to any narrative descriptions, tables, figures, etc., needed to clarify the increase in restoration area;
- d. submittal, within 30 days of completion of construction (i.e., planting and road realignment) at the restoration site, of an as-built assessment of the project that includes as-built plans, to determine if the project has been built as proposed; and
- e. addition of the Executive Director of the Coastal Commission, as a recipient of annual monitoring reports and other notifications (specifically with respect to Sections 6.4, 6.6.1, 6.6.2 and 7.1 of the plan).

The permittee shall undertake mitigation and monitoring in accordance with the approved program prior to, or concurrent with, the occurrence of the subject wetland impacts. 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. Temporary 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 temporary erosion control plans that have been developed in consultation with the City of San Diego Engineering Department, U.S. Army Corps of Engineers (ACOE), U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (CDFG). The plans shall incorporate all temporary measures (e.g., geo-fabric blankets, spray tackifiers, silt fences, fiber rolls, straw mulch, hay bales, gravel bags) during site preparation, grading and project construction that are necessary to reduce erosion to the maximum extent feasible. The

plans shall demonstrate that such erosion control measures will be in place at all times during site preparation, grading and construction, and shall also incorporate a procedure to mobilize crews, equipment, and staging areas for BMP installation, with timing of deployment based on the forecast percentage of rainfall occurrence.

The permittee shall undertake development in accordance with the approved temporary erosion control plans. Any proposed changes to the approved grading and erosion control 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.

4. Construction Access/Staging Area/Project Timing. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans showing the locations, both on- and off-site, which will be used as staging and storage areas for materials and equipment during the construction phase of this project. The staging/storage plan shall be subject to review and written approval of the Executive Director. Use of environmentally sensitive wetland and upland habitat areas for the temporary storage of equipment or materials shall not be permitted. The plan shall also indicate that no construction activities may occur between March 15th and September 15th of any year, to protect habitat of the least bell's vireo during its breeding season.

5. 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, including permits for road realignment required by the U.S. Army Corps of Engineers (ACOE) and the California Department of Fish and Game (CDFG). 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.

6. Prohibition of Future Development. This permit is for restoration of 12.5 acres of wetlands, including realignment of an existing, unpaved park road and implementation of a five-year maintenance and monitoring program. The applicant shall not undertake any other future development or construction activities within the restoration area.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/Background Information. The City of San Diego is proposing a wetland restoration project within a portion of Los Penasquitos Canyon Preserve. The 16.51-acre site is located near the confluence of Penasquitos and Lopez Creeks, just east of the historic El Cuervo adobe. Aerial photographs from 1928/1929 show that at that time, the area consisted of a braided floodplain and riparian vegetation. However, the site was filled for agricultural purposes at a later date, which removed

much of the riparian vegetation and realigned the creek itself, according to a 1953 aerial photograph. Also, at some time during the past, sewer improvements serving urban development to the north, east and south of the canyon preserve were installed in the park and a series of park maintenance roads/access trails were developed.

The applicant is proposing to restore approximately 12.5 acres of wetland habitat by removing existing berms and fill, recontouring the site and revegetating with riparian species. Also, the proposal would enhance the remaining upland area of the site through the removal of exotic vegetation. In addition, although the main portion of Penasquitos Creek will remain in its present alignment, secondary creek alignments would be restored similar to historic configurations. Finally, an existing, unpaved sewer access road, which also serves as a park maintenance road and public access trail for hikers and bikers, would be realigned from its current location to within the actual sewer easement. The road will be elevated slightly above the surrounding restored wetlands, and culverts will be installed along the road alignment to allow the creek to once again adopt its historic braided pattern.

Los Penasquitos Canyon Preserve is an area of deferred certification, where the Coastal Commission retains permit jurisdiction. Although a draft master plan for the park has been prepared, it has not completed local review or been submitted to the Coastal Commission for certification as part of the City's LCP. Thus, Chapter 3 of the Coastal Act is the standard of review for the proposed development.

The proposed project was initially presented as a mitigation project to compensate for impacts to riparian vegetation incurred approximately one mile downstream in conjunction with the emergency clearance of vegetation in the Sorrento Creek Channel, into which Penasquitos Creek empties. To address an ongoing flooding problem that affected both public streets and private industrial development, the City issued itself an emergency coastal development permit in 1997 for the clearance of vegetation in Sorrento Creek. The City also obtained permits from the ACOE and CDFG. However, to date, the City has not processed a follow-up regular coastal development permit for the emergency work, as is required under the City's certified LCP. Although the process was initiated, the matter has not been set for hearing or approved at the local level at this time. The follow-up permit will be appealable to, or by, the Coastal Commission, which has not yet had any opportunity to review the emergency work that occurred two winters ago.

Both the ACOE and CDFG permits for channel clearance required mitigation for impacts to riparian habitat in Sorrento Creek. Those agencies have accepted the currently-proposed restoration project as full and appropriate mitigation for the 1997 impacts to riparian habitat. However, the channel clearance project also impacted 0.10-acre of salt marsh within CDFG jurisdiction that has not been mitigated as yet and that may be the subject of future Commission review. The ACOE and CDFG permits require a total of 9.8 acres of riparian mitigation; the applicant proposes restoration/creation of 12.5 acres total. Since the Commission has not yet had an opportunity to review the channel clearance project, even though it occurred in an appealable area, it would be premature for the Commission to accept the proposed project as full mitigation for that

development. Therefore, the City has amended its application to propose the subject restoration project as a mitigation bank; whether or not mitigation credits from this bank will be applied to the channel clearance project in the future will be determined when the City's follow-up permit is processed.

2. Environmentally Sensitive Habitats/Biological Resources. According to the applicant's submitted biological survey, the proposed restoration project will result in impacts to several wetland and upland habitats, including impacts to southern willow scrub, mule fat scrub, freshwater marsh, brackish marsh, isocoma scrub and annual grasslands. Most of these impacts occur from converting one type of habitat to another in order to recreate historic flow patterns and develop a more functional wetland complex. Also, some minor impacts occur where newly created wetlands are joined to existing habitat. The applicable Coastal Act policies are cited below, and state in part:

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.

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; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary

navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(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.

The proposed project raises issues under all these Coastal Act policies. The project site is historic wetlands that have been significantly altered over time until they no longer function as wetlands. Earlier this century the area was filled and bermed to allow agriculture, constraining a formerly-braided streambed in a single, more channelized alignment. The property is now owned by the City of San Diego and dedicated for park purposes, such that agriculture has not occurred on the site for many years. Much of the area now consists primarily of annual grasslands, isocoma scrub and ruderal vegetation. The proposed development would excavate the site to historic elevations and restore wetland functions to the area.

The proposed project raises issues under Section 30233 of the Coastal Act in two respects. First, the project will occur within historic, though non-functioning wetlands, since the entire project site consisted of riparian wetlands prior to its being filled for agricultural use. However, this occurred decades before the Coastal Commission came into being and the site is now addressed in its current condition (i.e., abandoned agricultural fields). Second, constructing the restoration project, which includes the removal of fill, realignment of the existing unpaved park road, conversion of some

existing habitat areas to other forms of wetland habitat, and minor edge effects occurring where existing and restored habitats meet, will directly impact approximately 0.27 acres of existing wetlands. This includes impacts to 0.072 acres of southern willow scrub, 0.135 acres of mule fat scrub and 0.061 acres of freshwater marsh. The project will also remove a few isolated, individual sycamores.

The applicant's biological survey had also initially indicated impacts to 0.642 acres of brackish marsh. There is a significant amount of brackish marsh habitat in the general area of the restoration activities, although located just west of the actual project. However, further investigation has indicated that the area of potential impacts to brackish marsh, as depicted on the survey maps, is an area more correctly identified as "disturbed wetlands (ruderal)," the designation given the surrounding area where most of the restoration occurs. This correction has been corroborated by the Commission's staff biologist in a December 9, 1999 site visit. Thus, the proposed project will not result in any impacts to existing brackish marsh habitat.

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 particular case, the proposed development, with the special conditions attached hereto, meets the above requirements. The sole purpose of the project is to restore wetlands. Restoration work is allowed in wetlands under Section 30233(a)(7). There is no way to recreate the historic wetlands without impacting some existing habitats, although the restoration has been designed to avoid most areas of existing wetland habitat, even to the point of designing the restored stream channels to flow between (and thus retain) existing individual willows. The resource agencies have strongly supported the project, since it will result in increases to both the size and function of riparian areas. Thus, although some impacts are unavoidable, they have been reduced to the maximum extent feasible.

The sewer access road/park trail is not only required for sewer access, but is necessary for emergency and routine patrolling access for park rangers. In addition, it is used by the public for recreational hiking and biking. The impacts resulting from relocation of the existing sewer maintenance road are allowed under Section 30233(a)(7) because the road is being relocated in order to allow for restoration of the wetlands. The existing road is not aligned over the sewer easement itself, such that, whenever sewer maintenance is required, temporary access must be created across existing habitats to reach the sewer easement. Realigning the road within the easement will eliminate this intermittent impact to wetlands, which has resulted in periodic degradation and destruction of the existing

wetland habitat. Moreover, the existing road is at the same elevation as the surrounding wetlands, meaning that it is flooded throughout most of the rainy season and wetland species have grown within the actual roadbed. Because the road is often impassable, hikers and bikers stray from the delineated path and make new trails through existing sensitive habitat areas adjacent to the road. By elevating the realigned, unpaved road slightly above the surrounding wetlands (one to two feet), it will remain usable year round except during the most severe flooding situations, greatly reducing the likelihood of individuals creating informal trails through viable habitat. Realignment of the road will also allow the existing dirt roadbed to be restored to functioning wetlands. Thus, realignment of the road will preclude future disturbances to wetland habitat to accommodate sewer maintenance activities, will greatly reduce the likelihood of the public straying from the designated trail into sensitive habitat and will allow restoration of historic stream flow patterns and riparian corridors in an expanded, fully-functioning wetland complex.

Once it has been determined that the proposal is a permitted use and impacts to wetlands have been minimized to the maximum extent feasible, the third criteria needed for the Commission to find a development consistent with Section 30233 of the Act is that the proposal provide adequate mitigation. This criteria is met for the impacts occurring to existing riparian communities and freshwater marsh. The project will impact a total of 0.072 acres of southern willow scrub, but will create/restore a total of 6.61 acres. The project impacts 0.135 acres of mule fat scrub, but creates/restores 1.49 acres. Since both of these are riparian communities, a total impact to 0.207 acres of riparian habitat will be mitigated through the restoration of 8.1 acres; this significantly exceeds the 3:1 mitigation ratio typically required by the Coastal Commission. With respect to freshwater marsh, 0.061 acres of impact will be mitigated by 2.31 acres of creation/restoration. The Commission has required various mitigation ratios for freshwater marsh in the past, ranging from 1:1 to 4:1; however, the updated Land Development Code, as approved by the Coastal Commission with suggested modifications which were accepted by the City, requires 4:1 mitigation for freshwater marsh impacts. The applicant's proposal greatly exceeds this ratio. Thus, the project results in over 9.5 acres of excess new wetland habitat (total acreage created/restored minus mitigation for the impacts of the restoration project itself) that can be "banked" towards the City's future mitigation needs.

The applicant's proposal includes on-site mitigation for all project impacts, and also includes maintenance and monitoring for five years to assure the project is successful. Special Condition #2 requires submittal of final restoration and revegetation plans. Although these should be generally consistent with the preliminary plans submitted with the permit application, they must be modified in a few respects. Namely, the applicant has expanded the amount of wetlands being created from 10.5 acres to 12.5 acres. This was done to address additional wetland impacts, that were not identified previously, attributable to the proposed restoration activities. Finally, the plan must include submittal of as-built drawings after construction is complete, and include the Commission's Executive Director as a recipient for required monitoring reports and other forms of notification.

There is also a concern regarding possible construction impacts to the least bell's vireo, a federally listed avian species. Portions of the site are adjacent to potential vireo habitat. Special Condition #4 requires, among other things, submittal of a plan documenting that no construction activities will occur between March 15th and September 15th of any year, to protect potential vireo habitat during the breeding season. In addition, there is always a concern that necessary staging and storage areas be appropriately sited. The condition provides that staging/storage areas cannot be located within any wetland or sensitive upland area. The environmental document prepared by the City identifies that a portion of the existing, paved parking lot southwest of the project site will be used for staging/storage. Although the Commission does not typically allow use of public parking areas for such purposes, in this case it is the preferred location. The site is well removed from beaches and shoreline parks, and the parking lot is only used by visitors to the preserve itself. Since the project must be constructed during winter months, public parking demand is at its lowest. Moreover, this is a large parking lot and typically has many empty spaces. For all these reasons, use of this area is preferred to the more sensitive areas of the preserve. The City's confirmation of the parking lot as the staging/storage area will satisfy this component of the condition.

Part of the proposal is to restore historic flow patterns, reversing some of the channelizing effect that occurred when portions of the previously braided streambed was altered and filled for agricultural use. The Commission finds that this project component is consistent with, and supported by, Section 30231 of the Act. However, the project requires grading to remove the fill, realign the access road and recontour the terrain to create sustainable wetlands. The actual construction activities, which must be conducted during the winter season to avoid the breeding season of the least bell's vireo, could temporarily result in increased runoff from the site until the wetland vegetation is firmly established. Therefore, Special Condition #3 requires the applicant to utilize a number of temporary erosion control measures to mitigate the impacts of construction.

With respect to Section 30240 of the Coastal Act, the proposed development will impact 3.214 acres of isocoma scrub and 5.964 acres of annual grasslands by converting these areas to wetland habitat. Remaining areas of isocoma scrub, which is a precursor to coastal sage habitat, will be enhanced through the removal of exotic vegetation. Although most of these existing upland habitats will be lost due to the proposed development, the overall project goal is to restore and expand functioning wetlands. Thus, the project will result in a larger distribution of higher value habitats, namely a significant increase in functional riparian area. The Commission finds the proposal, as conditioned, consistent with Section 30240 of the Act since it will restore and enhance sensitive habitat areas, both wetlands and uplands.

In summary, the proposal, as conditioned, can be found consistent with the cited resource protection policies of the Coastal Act. Construction impacts to downstream resources due to grading activities (i.e., runoff and sedimentation) must be controlled through a required erosion control plan. Moreover, the final project will result in enhanced marine resources, since the additional riparian and marsh areas will serve to filter out pollutants

and sediments before they reach downstream water bodies (Los Penasquitos Lagoon and the Pacific Ocean). In both ways, the Commission finds the proposal consistent with Section 30231. With respect to Section 30233 consistency, the project is an allowed use in wetlands, impacts have been avoided and reduced to the extent possible, and all remaining impacts are adequately mitigated. Finally, the project will create new wetland habitats and enhance existing uplands, consistent with Section 30240. Therefore, the Commission finds the proposal, as conditioned, consistent with the cited Coastal Act policies.

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 within the Los Penasquitos Canyon Preserve, just east of the confluence of Penasquitos and Lopez Creeks. The proposed wetland restoration and sewer road realignment is not anticipated to have any adverse impacts on existing water quality. All surfaces will continue to be permeable, since the road is not proposed to be paved. There will be culverts installed along the new road alignment to enhance the free flow of water across the site. In addition to providing adequate site drainage, the culverts will direct water into portions of the restored wetlands south of the realigned road, aiding in the establishment of wetland vegetation. With the proposed permanent drainage facilities (i.e., the culverts under the realigned road) wet weather will result in less impact to the road than currently occurs. Since the road is only used occasionally by vehicles for sewer and park maintenance purposes, it should not contribute any significant amounts of pollutants to the watershed and, in any case, the uses will not increase over what already occurs on the existing road.

However, adverse impacts could result from the construction phase of the development, since the removal of fill and recontouring of the site will result in temporarily exposed soils. Moreover, the construction must occur during the wetter months of the year since it is prohibited during the breeding season of the least bell's vireo (March 15th to September 15th). Special Condition #3, which was discussed in the previous finding, requires the applicant to provide erosion control measures to prevent any construction-related erosion impacts. These measures will minimize, if not eliminate, any potential adverse impacts from project construction on the water quality of the adjacent streams

and downstream Los Penasquitos Lagoon. The Commission finds that, as conditioned, the development 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.

There are a number of unimproved road/trails running through the preserve, some within, or in close proximity to, the project site. These are used by State Parks, the City's Metropolitan Wastewater Department and the public, with the entire area being fully accessible. The preserve is a popular location for mountain biking and horseback riding, and is also well used by hikers. The existing condition and location of the sewer access road, which is the primary route for moving through the preserve, has led to much off-road traffic by hikers and bikers, to the detriment of surrounding sensitive habitats. The realigned, raised road will better serve recreational users, since it will be less prone to flooding than the existing road; thus, it will also better direct recreational traffic away from sensitive resource areas.

Access to this area will likely be constrained and at least intermittently unavailable during construction and the applicant proposes to post signs to alert the public to stay out of the revegetation areas of the project to protect the newly created and existing habitats. Since the project must be constructed during the cooler, wetter months of the year to avoid the vireo's breeding season, intermittent restrictions on access will be less significant than if they were to occur during the warmer, dryer months when the preserve sees its highest public use. The Commission finds the temporary impacts on public access acceptable, since the finished project will increase coastal resources and thus

provide a more enjoyable recreational experience for the public. Therefore, the Commission finds the proposed development, as conditioned to require construction outside the prime recreational time of the year, consistent with the cited public access and recreation policies of the 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 in an undeveloped area of the North City portion of the City of San Diego. Los Penasquitos Canyon Preserve provides a natural, open space area within an otherwise intensely developed industrial and residential area. The only formal improvements in the preserve are parking lots, trails and the remnants of several historic structures. The project site is located east of an historic adobe and just east of the confluence of Penasquitos and Lopez Creeks. Most of the area is vegetated with native wetland and upland species, although there are several areas, like the subject site, that were modified to accommodate past agricultural and ranching activities. These areas are identified for potential restoration in the future. Upon completion of the proposed project, the area will more closely resemble the historic configurations of this portion of the preserve and wetland functions will have been restored to approximately 12.5 acres of land. Visually, the project will not result in a significant difference over current conditions, although most would consider the increase in wetland habitat an aesthetic improvement over existing conditions; however, the general "openness" of the area will not significantly change. 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, as conditioned, such a finding can be made.

Los Penasquitos Canyon Preserve is a publicly-owned, open space area, dedicated for both resource protection and public recreation. Although the City has prepared a draft master plan for the preserve, this has neither undergone full public review at the local level nor been submitted to the Coastal Commission for certification as part of the City's LCP. Thus, the Los Penasquitos Canyon Preserve remains an area of deferred certification, where the Commission retains coastal development permit authority and Chapter 3 is the standard of review. Nonetheless, the proposed restoration plan is fully

consistent with the draft master plan, and is indeed a priority project under that plan. As discussed in previous findings, the proposal, as conditioned, is also fully consistent with Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, with the attached conditions, should not prejudice the ability of the City to complete a certifiable plan for the preserve and continue implementation of its LCP in other areas of the City.

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.

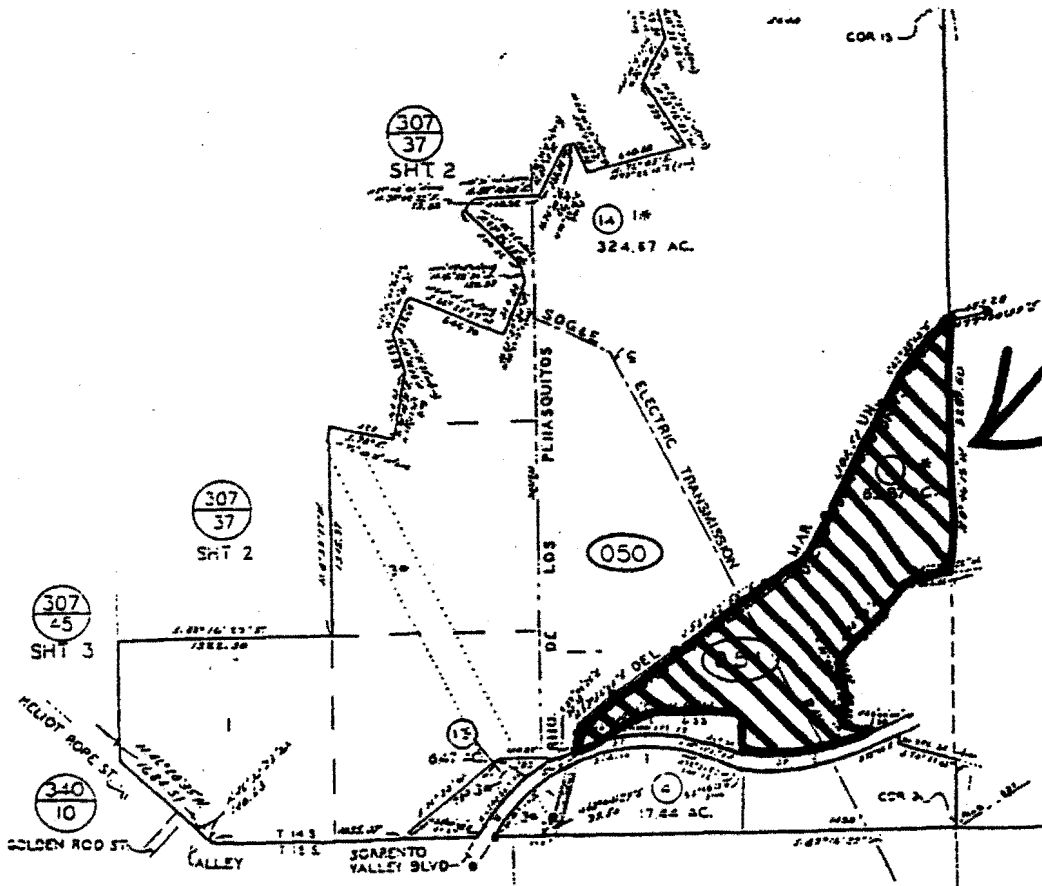
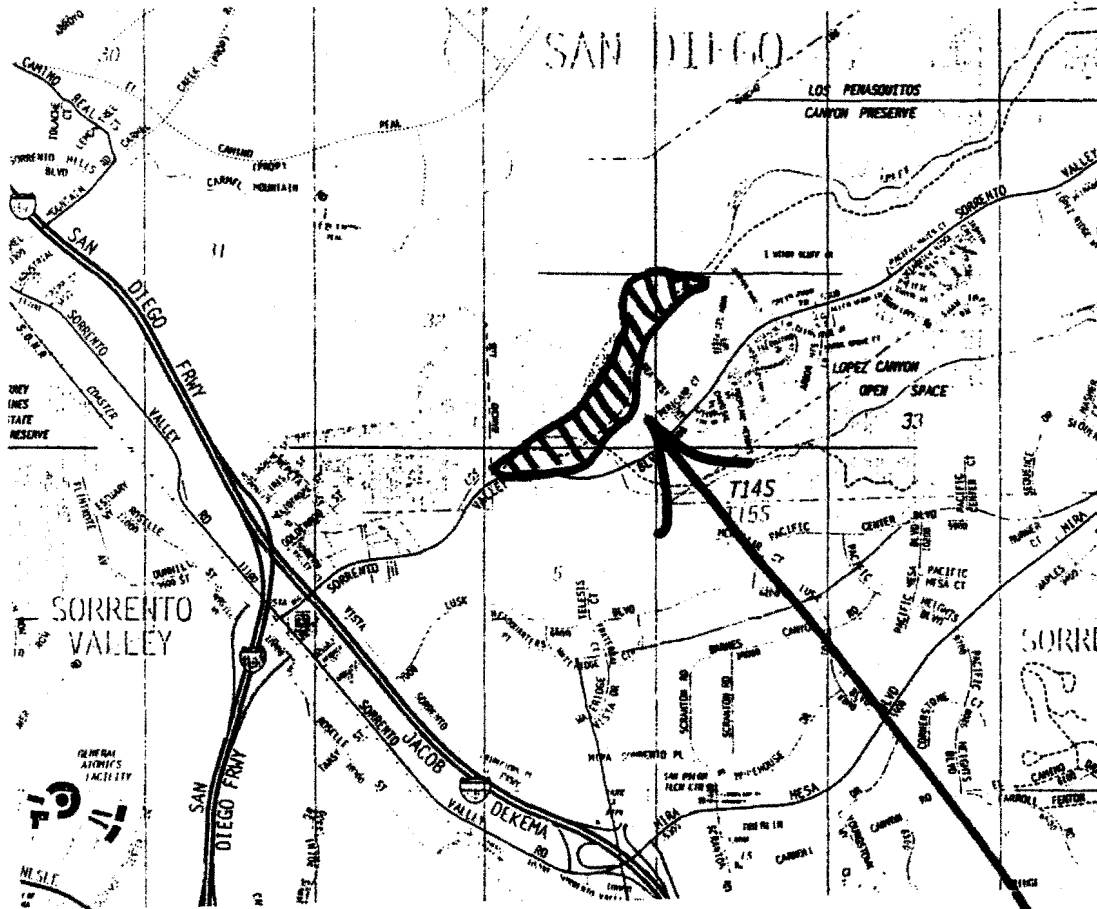
As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the biological and marine resources, water quality, visual resource and public access policies of the Coastal Act. There are 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.

6-99-101



Site

EXHIBIT NO. 1
APPLICATION NO.
6-99-101
Vicinity Maps
California Coastal Commission

6-99-101

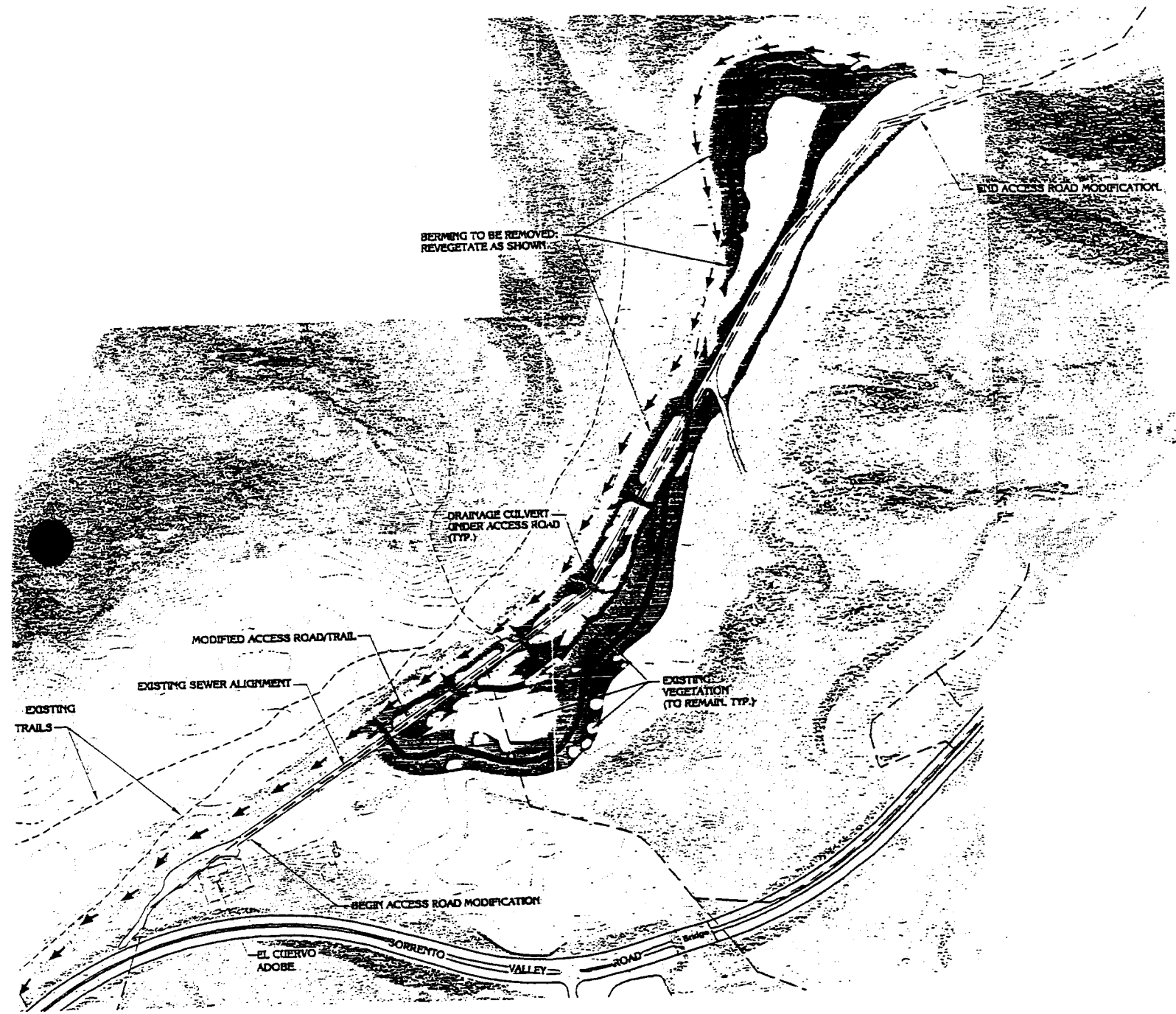


EXHIBIT NO. 2

APPLICATION NO.

6-99-101

Site Plan

California Coastal Commission

