

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-1725

(619) 767-2370

**RECORD PACKET COPY****Wed 24a**

Staff: GDC-SD  
Staff Report: August 24, 2000  
Hearing Date: September 12-15, 2000

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-99-24-A1

Applicant: McMahon Development Group

Agent: Ron McMahon  
Cynthia Davis**Original**

Description: Construction of a two-story, approximately 25,600 sq. ft. office building over subterranean parking and installation of a boxed concrete culvert within an existing drainage channel with surface parking on top, on a vacant approximately 38,768 sq. ft. lot.

**Proposed**

Amendment: Removal of existing rip-rap from drainage channel and surrounding banks and construction of bridge with grated light openings over channel, revegetation with native species of channel bed and banks under bridge and installation of rip-rap energy dissipaters within drainage channel.

Site: 500 Stevens Avenue, Solana Beach, San Diego County  
APN#298-112-16

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STAFF NOTES: Section 13166 of the Commission's Code of Regulations requires the Executive Director to reject applications for amendments to permits if it is determined that the proposed amendment would lessen or avoid the intended effect of the approved or conditionally approved permit. The Commission's original approval for the proposed commercial development required the applicant to avoid all development within the existing open drainage channel on the subject property. Although the subject request would "lessen or avoid" the intended effect of that earlier approval, the Commission at its October 1999 hearing authorized the applicant to submit an amendment for its review of a proposed bridge over the channel that would potentially avoid direct impacts to wetlands or stream.

Summary of Staff's Preliminary Recommendation: The proposed development involves the dredge and fill of .07 acres of wetlands and alteration of up to .2 acres of stream/disturbed wetland habitat, the construction of a bridge over an existing open drainage channel to provide parking area for the previously proposed office building, the placement of two rip-rap energy dissipaters totalling an area of approximately 1,350 sq. ft. within the stream and the revegetation of approximately .08 acres under the proposed

bridge. The bridge is proposed to include light openings to allow for limited lighting of the proposed revegetation site below. The proposed impacts to wetlands and stream alteration associated with the proposed amendment request are inconsistent with several policies of the Coastal Act. Feasible alternatives are available that allow for development of the commercial building with parking that avoids the need to fill wetlands or alter the existing open channel. Therefore, staff is recommending denial of the proposed permit amendment.

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Substantive File Documents: Certified County of San Diego Local Coastal Program; City of Solana Beach General Plan and Zoning Ordinance; City of Solana Beach Development Review Permit #99-14; Mitigated Negative Declaration and Initial Study for McMahon Development dated 1/7/99; Biological Analysis by REC Engineering-Environmental dated September 14, 1998; Biological Update by REC Engineering-Environmental dated December 1, 1998; Memorandum from John Dixon dated September 22, 1999; Dept. Fish and Game "Agreement Regarding Proposed Stream or Lake Alteration" No. 5-039-99 (unsigned) Hydraulic Analysis for 500 Stevens Avenue by Rick Engineering dated December 8, 1999; Habitat and Mitigation Assessment for Solana Beach Corporate Center by REC Consultants dated January 27, 2000; Letter from City of Solana Beach Engineering Department dated March 13, 2000; CDP #6-90-213, 6-90-293, 6-93-197 and 6-99-24.

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PRELIMINARY STAFF RECOMMENDATION:

- I. **MOTION:** *I move that the Commission approve proposed amendment to Coastal Development Permit No. 6-99-24-A1 for the development as proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT AMENDMENT:

The Commission hereby denies the proposed amendment to the coastal development permit on the grounds that the development as amended will not conform with the policies of Chapter 3 of the Coastal Act and will 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 amendment would not comply with the California Environmental Quality Act because there are feasible

mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the amended development on the environment.

## II. Findings and Declarations.

The Commission finds and declares as follows:

1. Site History/Amendment Description. In October 1999, the Commission approved the construction of a two-story office building with subterranean parking on the subject 38,768 sq. ft. lot (CDP #6-99-24/McMahon). The applicant had originally requested a two-story office building with subterranean parking along with a boxed culvert to be placed on site within the Stevens Creek drainage channel in order to create an additional parking area for the office complex above the culvert. The boxed culvert would have resulted in the loss of approximately .07 acres of wetlands and approximately .13 acres of disturbed riparian habitat within the drainage channel. During the Commission hearing of October 1999, the applicants proposed a revision to the project that involved the construction of a bridge over Stevens Creek with a grated light opening feature that potentially could provide illumination to the wetlands within Stevens Creek and not result in direct impacts to the wetlands. However, since the October Commission hearing represented the 270<sup>th</sup> day since the application was filed, the Commission was unable to postpone the matter to allow staff adequate time to evaluate the revised project. The Commission approved the proposed office building with special conditions, which prohibited development within or over the Stevens Creek drainage channel and authorized the Executive Director to accept a future amendment application for the proposed bridge with light openings.

The proposed amendment involves the removal of existing rip-rap within the bed and banks of Stevens Creek drainage channel within the subject property, construction of a bridge over the channel to create a parking lot above, revegetation of a portion of the channel bed and banks, and installation of rip-rap energy dissipaters within the channel. The proposed development will impact approximately .07 acres of wetlands and approximately .13 acre of banks within the channel associated with the removal all existing rip-rap within the channel on the subject property some of which lies up to 6 feet below ground. As a result, all existing wetlands and stream resources will be removed. To mitigate the impacts of the rip-rap removal, construction of the bridge which has shading impacts to the stream and installation of two rip-rap energy dissipaters, the applicant proposes to revegetate an area of approximately .08 acre under the bridge with a hydroseed mix of several low light sensitive native, non-invasive wetland occurring plant species. The bridge design includes an open grate feature to allow light to pass beneath the bridge to accommodate plant growth in the area proposed to be revegetated.

In 1976, prior to the effective date of the Coastal Act of 1976, the prior landowner, pursuant to approval by the County of San Diego, placed rip-rap along the sides and bottom of the portion of Stevens Creek within the subject property. The Commission previously approved the subdivision creating the subject parcel (ref. CDP #6-90-293 and 6-93-197/Goudy) and the construction of a 16,800 sq. ft. office building on the property

(ref. CDP #6-90-213/Goudy). The previously approved office building included the installation of a storm drain system within Stevens Creek and fill of the creek to enable parking for the development. At the time of approval, however, wetlands had not been identified within the creek. The office building was not constructed and that permit has subsequently expired.

The site is located on the southeast corner of Stevens Avenue and Academy Drive in the City of Solana Beach. Stevens Creek (which is identified as a blue-line stream on a 1924 reprint of a 1904 USGS Map), runs north/south through the eastern side of property, eventually flowing into San Dieguito Lagoon. The project site is located within an area that was previously covered by the County of San Diego's Certified Local Coastal Program (LCP). However, the County LCP was never effectively certified and therefore is used as guidance with Chapter 3 Policies of the Coastal Act used as the standard of review.

2. Wetlands/Streambed Alteration. Section 30233 of the Coastal Act states, in part:

(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. . . .

In addition, Section 30231 of the 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 30236 of the Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

The subject development site is an approximately 38,768 sq. ft. lot with an approximately 40 to 50 foot-wide section of the Stevens Creek drainage channel running through the eastern portion of the site from north to south. The majority of Stevens Creek from Interstate 5 southwest to San Dieguito Lagoon is filled and channelized with only a small portion immediately north and south of the subject site remaining as an open channel. An approximately 50,000 sq. ft. office building is located immediately adjacent to the project site on the north side of Academy Drive and a mixture of retail and office uses lie immediately south of the development site. In each of those cases, the creek consists of an open and earthen channel with only the banks of the creek and an approximately 6 foot-high chain-link fence serving as a buffer separating the development from Stevens Creek. In the case of the subject site, the downward sloping bank within Stevens Creek is approximately 20 feet wide on either side and consists of rip-rap covered with limited non-native vegetation. An approximately 6 foot-high chain-link fence also encloses the creek. The upland subject property consists of a generally flat lot void of vegetation such that a natural buffer does not exist.

The applicant proposes to remove all existing failed or buried rip-rap material from within Stevens Creek in order to return the channel "to a stable cross-sectional geometry capable of supporting vegetative growth". ("Hydraulic Analysis of the 500 Stevens Avenue Property", by Rick Engineering dated December 8, 1999). In addition, the applicants propose to construct a bridge over the creek channel to create a parking area, install two rip-rap energy dissipaters within the channel bed and revegetate approximately .08 acre area under the proposed bridge with a hydroseed mixture of low-

light tolerant plant species. One proposed rip-rap dissipater involves approximately 900 sq. ft. of rip-rap placed on the north end of the creek adjacent to Academy Drive to reduce the energy created by the boxed culvert which the City will require the applicants to construct under Academy Drive if the proposed amendment is approved (ref. Exhibit #6 attached). Another approximately 450 sq. ft. rip-rap dissipater is also proposed on the southerly side of the subject property within Stevens Creek to further control the water flows from the City required improvements under Academy Drive. The City will require the applicant to construct the boxed culvert and rip-rap structures because, as a result of this amendment request, the City will be unable to access, clean or maintain the existing open storm drains that lie adjacent to this site under Academy Drive. This requirement was a condition of approval for the original office building project which initially included a request to construct a boxed culvert within the applicants property in order to a construct additional parking area (Development Review Permit #99-14). The City advised the Commission in writing (letter from Chandra Collure, City Engineer dated March 13, 2000) that the requirement imposed by the City for the construction of a boxed culvert under Academy Drive was required because the applicant was proposing a boxed culvert on their own property which would "impede maintenance and operation of the existing 3-84" diameter corrugated metal pipes under Academy Drive." In subsequent conversation with Commission Staff, the City has advised if no development is permitted within the Stevens Creek drainage channel (such as the proposed bridge), then the City would no longer require the applicant to install a boxed culvert under Academy Drive or install the associated rip-rap dissipaters within the channel (telephone conversation between City Engineer, Chandra Collure and Coastal Staff, July 18, 2000).

The applicant has previously asserted that the creek is not a wetland for several reasons. First, a "Biological Update" letter prepared by REC Civil Engineering-Environmental dated December 1, 1998, states that since their initial biological analysis of September 14, 1998 which identified the presence of wetland species, all vegetation had been removed from the site by City of Solana Beach work crews and that therefore, "riparian habitat is no longer onsite." A site inspection performed in May of 2000 by Commission staff documented that the vegetation was once again re-established within Stevens Creek. However, on July 13, 2000 Commission staff was informed by the applicant that mowing of all vegetation within the subject property lines within Stevens Creek had once again occurred during approximately the first week of July 2000. (The applicant asserts that the City performed the work; the City denies the assertion. Since mowing of approximately 2000 sq. ft. of major vegetation containing environmentally sensitive habitat may constitute development under the Coastal Act, the matter will be resolved at a later date through the Commission's enforcement procedures.) Secondly, the applicant contended that since the entire creek bed and banks within the subject property are completely lined with rip-rap, the area cannot be identified as wetlands.

A recent biological assessment performed for the subject amendment request by the applicant includes the following descriptions:

Stevens Creek onsite is an open channel culverted on both the upstream and downstream end of this drainage. The channel is completely fenced in and the

vegetation appears to be routinely maintained. Minimal riparian vegetation occurs in the channel between maintenance cycle, with the majority of the plant species as non-native. The dominant plant within the drainage is willow weed (*Polygonum lapathifolium*) a non-native plant introduced from Europe. Other species which occurred within the drainage but to much lesser extent include, fennel, castor bean, cattail, umbrella sedge, mustard, cottonwood saplings, goldenbush, palm trees, ice plant, white clover and a single willow tree. [ . . ]

Based on the existing conditions onsite, the project will impact 0.07 acres of streambed and 0.13 acre of upland banks. [ . . ]

The entire creek bed is strewn with rip-rap which was encountered by the geo-technical crew to a depth of six feet. This rip-rap has had some siltation develop within the interstitial areas between the rocks. Some shallow rooted, low growth plants can become established within the area. [ . . ] ("Habitat and Mitigation Assessment for the Solana Beach Corporate Center", by REC Consultants, dated January 27, 2000)

Although underlined with rip-rap, the portion of Stevens Creek within the applicant's property is a wetland under the Coastal Act. The Coastal Act defines the term "wetland" as ". . . lands within the coastal zone that may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens." The creek on the subject site meets this Coastal Act definition because there is a source of water and wetland vegetation. The identification of a source of water and wetland vegetation has been confirmed by both the applicant's biological analysis (Exhibit #5) as well as by the Commission's ecologist/wetlands coordinator.

The Commission's ecologist/wetlands coordinator has previously reviewed the biological information supplied by the applicant and has also visited the subject site. His review which is attached to the staff report as Exhibit #4, indicates that Stevens Creek is "an historic stream that has been drastically altered by urban development". He identifies that Stevens Creek within the subject site is lined with rip-rap on its sides and bottom but that the rip-rap has been partially filled with soil supporting the growth of vegetation. His review of the applicant's vegetation survey from September 1998 found 7 species that "are characteristically found in wet areas". He concludes that based on the "presence of a preponderance of hydrophytes", the wet area met the definition of wetlands under the Coastal Act. He indicates that although mowing or other destructive maintenance would create an atypical situation, if left undisturbed "riparian vegetation would probably develop along the edges of the flow channel, and channel itself would probably continue to support obligate wetland plants so long as it continued to receive urban runoff" and would "probably develop vegetation which would provide insects, birds and perhaps amphibians an island of moderate habitat value in this urban setting." Thus, although recently mowed, the Stevens Creek drainage on this site is a wetland under the definition of the Coastal Act and, thus, subject to the protection afforded by Section 30233 of the Act.

Section 30233 of the Act limits the fill or dredging of wetlands and coastal waters (including streams) to eight enumerated uses. Dredging of wetlands to accommodate a parking structure/bridge is not one of the eight allowable uses permitted under Section 30233 of the Act. Further, although the applicant's biological assessment describes the area as containing "minimal riparian vegetation" and "routinely maintained", Section 30233 the Coastal Act does not distinguish between degraded and pristine wetlands; it applies to all wetlands. Thus, the development proposal under the subject amendment is not consistent with Section 30233 of the Act.

In addition, the Commission's ecologist/wetlands coordinator has performed a biological assessment of the Stevens Creek drainage channel (Exhibit #4) which includes a determination that Stevens Creek is a natural stream:

What is now called Steven's Creek shows up as a blue-line stream on the 1924 reprint of a 1904, 1:250,000 scale USGS map. The area was surveyed in 1891 and 1898-1902. Given San Diego's Mediterranean climate and the tiny water shed, this creek was probably a seasonal stream, wet in the winter and spring and dry the rest of the year. It probably supported some riparian vegetation – plants with deep roots that could tolerate the annual dry season. It probably did not have significant perennial wetland vegetation in the herbaceous layer, but may have supported some annual wetland species during the rainy season. Were the stream in its 1904 condition (which was probably already considerably altered by grazing), we would probably be treating it as a riparian corridor, not as a wetland.

The Department of Fish and Game (DFG) also recognizes the Stevens Creek drainage channel as a stream and at the time the applicant was proposing a boxed culvert within the stream, required a streambed alteration agreement that included a requirement to mitigate for the proposed fill of the stream at a rate of 2:1. The Commission has been informed by the applicant that DFG is in the processing of reviewing the applicant's subject amendment request. To date the Commission has not received copies of any update to the Streambed Alteration Agreement or other written comments from the DFG concerning the proposed amendment.

As cited previously, Section 30236 of the Coastal Act prohibits the channelization and other substantial alteration of rivers and streams except under three limited circumstances: 1) water supply projects; 2) flood control projects to protect existing structures and; 3) developments whose function is to improve fish and wildlife habitats. None of these circumstances are present in this case. In addition, there are feasible alternatives available that would allow development of the commercial office building while avoiding fill of the channel or wetlands. Thus, the subject amendment request does not represent the least environmentally damaging alternative. Therefore, the proposed dredging and fill of wetlands in order to construct a parking structure/bridge is inconsistent with Sections 30233 and 30236 of the Coastal Act and the amendment request is denied.



3. No Waiver of Violation. During review of the subject amendment request, Commission staff was informed that all existing vegetation within Stevens Creek on the subject development site had been mowed during, approximately, the first week of July 2000. The Commission notes that although development may have taken place prior to the submission of this permit request, consideration of the request by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Commission action upon the permit does not constitute a waiver of any legal action with regard to the alleged violation of the coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

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. In this case, such a finding cannot be made.

The subject site is designated and zoned Office Professional by the City of Solana Beach General Plan and Zoning Ordinance. The originally approved office building proposal which avoided impacts to onsite wetlands and stream was consistent with this designation. The proposed development amendment would result in direct impacts to wetlands and stream resources which would be inconsistent with applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed amendment request could prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program.

5. California Environmental Quality Act (CEQA). Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit 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 stated previously, the development as proposed would result in impacts to wetland and stream resources through the removal of existing rip-rap and the installation of new rip-rap dissipaters. In addition, there are feasible alternatives to the proposed development. These feasible alternatives include development of the site as previously approved by the Commission for an office building that is redesigned to eliminate the need to construct a parking area within or above Stevens Creek. This alternative would eliminate all impacts to the wetland and stream resources. In addition, the proposed development is not the least environmentally damaging alternative which is a requirement of the Coastal Act to conform to CEQA. Thus, the proposed project must be denied.

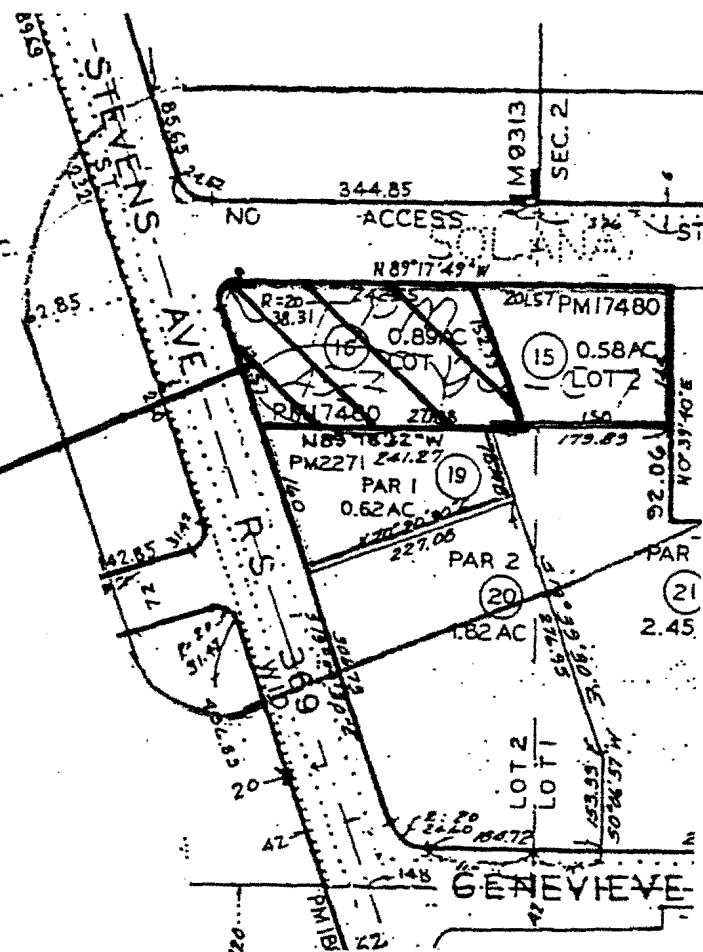

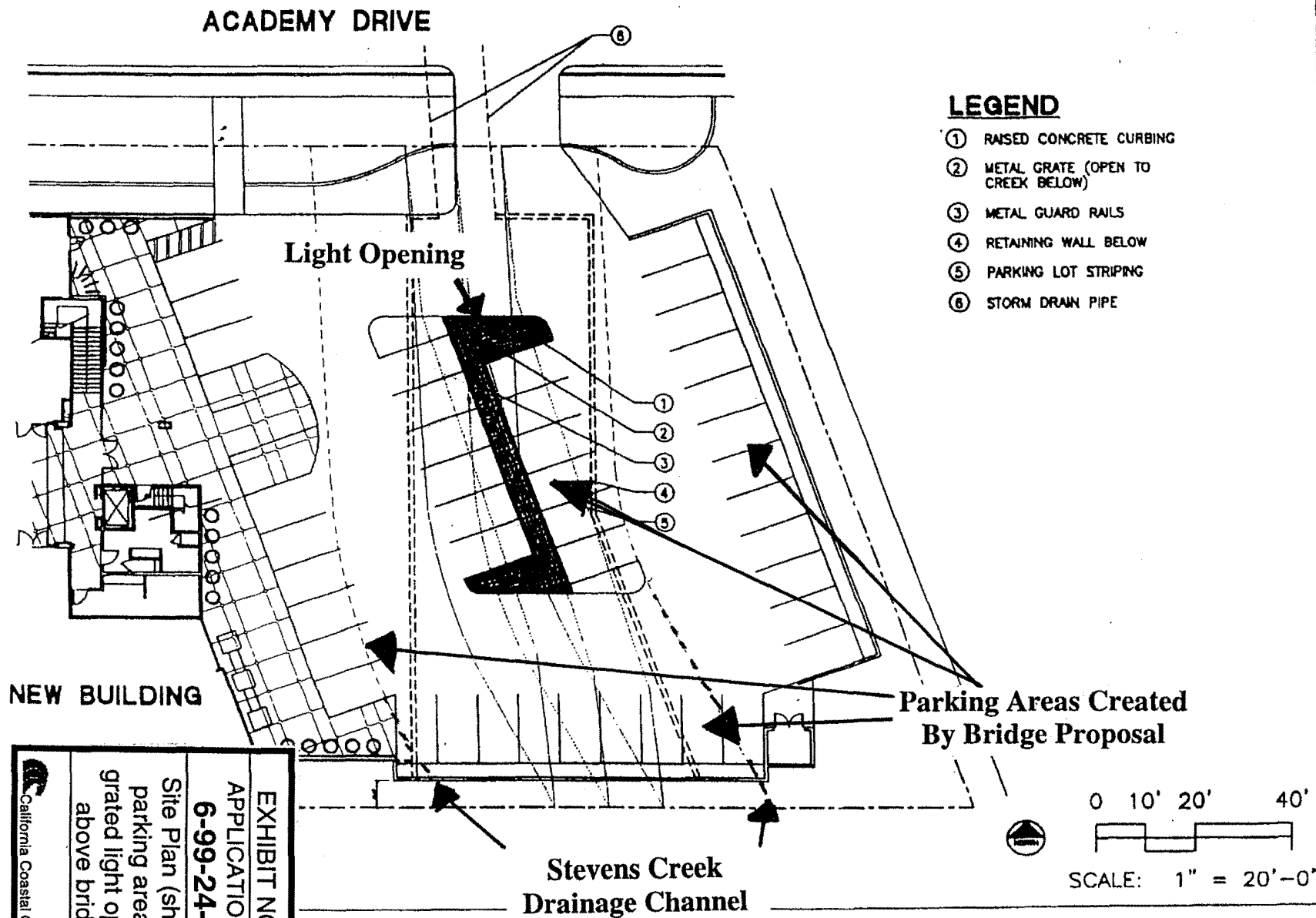


EXHIBIT NO. 1
APPLICATION NO. <b>6-99-24-A1</b>
Location Map
 California Coastal Commission

# Exhibit D



PLANNING ARCHITECTS ASSOCIATES ARCHITECTS

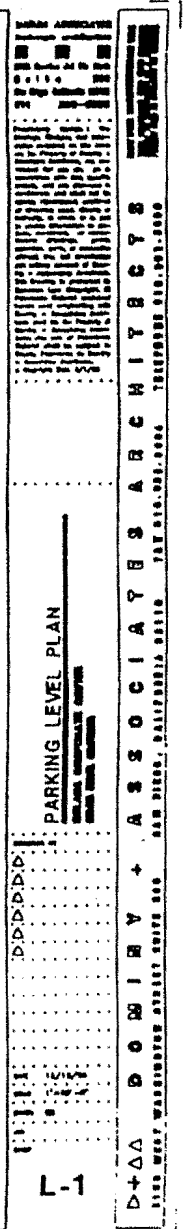
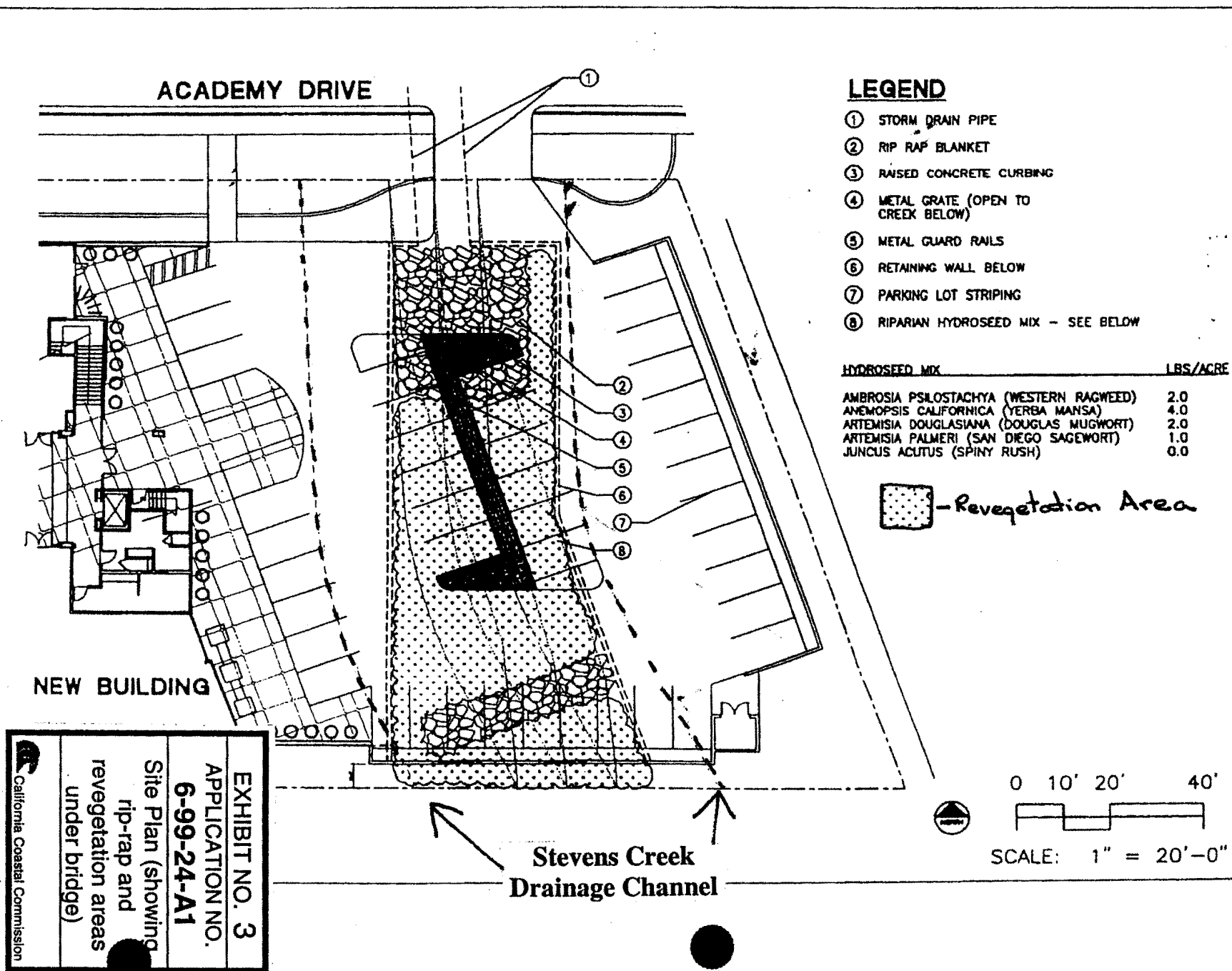
PARKING LEVEL PLAN

ASSOCIATES ARCHITECTS

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# Exhibit E



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
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## MEMORANDUM

TO: Gary Cannon, Lee McEachern, Amy Roach, Sherilyn Sarb

FROM: John Dixon

SUBJECT: Steven's Creek – McMahon Project

DATE: September 22, 1999

This memo is a response to Lee's request that I summarize my understanding of the biological status of Steven's Creek, particularly of that portion that passes through the McMahon property.

First, it is important to acknowledge that this is a natural stream – not a constructed drainage channel. What is now called Steven's Creek shows up as a blue-line stream on the 1924 reprint of a 1904, 1:250,000 scale USGS map. The area was surveyed in 1891 and 1898-1902. Given San Diego's Mediterranean climate and the tiny water shed, this creek was probably a seasonal stream, wet in the winter and spring and dry the rest of the year. It probably supported some riparian vegetation – plants with deep roots that could tolerate the annual dry season. It probably did not have significant perennial wetland vegetation in the herbaceous layer, but may have supported some annual wetland species during the rainy season. Were the stream in its 1904 condition (which was probably already considerably altered by grazing), we would probably be treating it as a riparian corridor, not as a wetland.

During the past 95 years, this stream has been substantially altered. The upper portion of the stream enters a culvert on the west side of I-5 and disappears under fill supporting a parking lot and shopping center. On a July 12, 1999 site visit, we searched the east side of I-5, but found no remnants of the stream. The land is relatively level and completely built-out. At the terminus of the culvert, there is a small area of standing water and wetland vegetation. This appears to be maintained by urban runoff. From this ponded area south to Academy drive, the stream occupies a broad, grassy channel which is completely enclosed by a chain-link fence. In July, it was dry and appeared to have been recently mowed. Just north of Academy Drive, the stream bed is lined in concrete and receives runoff from nearby urban development. It passes under Academy Drive in 3 corrugated steel culverts. South of Academy Drive to the next cross street the sides and bottom of the stream have been lined with rip rap. The rip rap has been partially filled in with soil, especially around the flow channel, probably due to sedimentation. Farther south the stream enters an open concrete box culvert which becomes closed and goes underground beyond La Colonia Park. In July, the stream channel across the McMahon property had standing water. The vegetation had been cut fairly recently.

EXHIBIT NO. 4  
APPLICATION NO.  
**6-99-24-A1**

Memo from  
Commission's  
Ecologist/Wetlands  
Coordinator

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California Coastal Commission

The wet area around the flow channel supports wetland vegetation. In a letter report from Elyssa Robertson of REC to Ron McMahon of McMahon Development Group it is stated that on August 31, 1998, the dominant plant in the drainage was willow weed, which is a non-native, obligate wetland plant. Appendix A of that report is a list of 33 plant species that were observed on the site. Of these, 15 are not listed in the "National List of Plant Species That Occur in Wetlands: California (Region 0)" and are presumed upland species and one has no indicator status. The remaining species are known to occur in wetlands. Of those, 10 are either equally likely to be found in uplands or are generally found in uplands. On the other hand, seven species are characteristically found in wet areas. These include willow and cottonwood trees, willow weed, and cattails. The actual area that has a preponderance of hydrophytic vegetation apparently has never been determined. In a letter to Gary Cannon dated May 28, 1999, Denise Dixon of REC wrote that all vegetation is removed quarterly by the City of Solana Beach. She concluded that, "Since the site is maintained routinely and dominated by non-native plants, the wetland plant parameter is not met." This, of course, is an unjustified conclusion. The non-native or native status of plants is immaterial to a wetlands determination. Mowing or other destructive maintenance creates an atypical situation, but does not mean an area is not a wetland. In fact, based on the presence of a preponderance of hydrophytes, the wet area around the flow channel would no doubt delineate as wetlands based on the definition in the California Coastal Commission Regulations (Section 13577).

In summary, this drainage is an historic stream that has been drastically altered by urban development. The portion of the stream that crosses the McMahon property has been armored with rip rap some time in the past. Currently, the flow channel has standing water even during the dry summer months due to urban runoff, probably from nearby irrigation of lawns. The channel is dominated by upland mostly non-native plants characteristic of disturbed areas. However, the wet area surrounding the flow channel supports wetland species. If the area was not periodically cut, riparian vegetation would probably develop along the edges of the flow channel, and the channel itself would probably continue to support obligate wetland plants so long as it continued to receive urban runoff. In its "maintained" state, the channel provides standing water but has little other habitat value. Were it left alone, it would probably develop vegetation which would provide insects, birds and perhaps amphibians an island of moderate habitat value in this urban setting.

**HABITAT AND MITIGATION ASSESSMENT  
FOR THE  
SOLANA BEACH CORPORATE CENTER**

**Prepared by:**

REC Consultants Inc.  
9517 Grossmont Summit Drive  
La Mesa CA 91941  
619-466-0107

**Prepared for:**

McMahon Development Co.  
380 Stevens Ave  
Solana Beach CA 92075

January 27, 2000

**RECEIVED**

JAN 28 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 5

APPLICATION NO.

**6-99-24-A1**

Applicant's  
Habitat/Mitigation  
Assessment

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California Coastal Commission

## Introduction

The 1.3 acre parcel located at Academy Drive in the City of Solana beach was surveyed for biological resources and a letter report was prepared. In addition to the biological resources report, a wetland delineation report was prepared. Stevens' Creek traverses the site in a disturbed form. Originally the project proposed to culvert the stream and mitigate through restoration of Stevens Creek immediately downstream. Approvals for this plan were received from the California Department of Fish and Game (CDFG), Army Corps of Engineers (ACOE), and Regional Water Quality Control Board (RWQCB). After several meetings and attending public hearings, the California Coastal Commission (CCC) determined that culverting the creek would impact wetland habitat based on the CCC's definition of wetlands. The project was approved to include a change to the plan that no impacts to the bed of the creek would occur. A revised plan has been prepared that bridges the stream without direct impacts to the streambed. The streambed, however will be shaded resulting in indirect impacts. This indirect impact has been proposed to be mitigated through the use of grates and revegetation of the creek. The grates will allow for sunlight to reach the creek bed and the revegetation effort will provide riparian habitat for wildlife. The following report describes the revegetation effort, the viability of the plant life to survive, and monitoring efforts.

This revised plan has been presented to the CDFG and the RWQCB with verbal approval (written approval expected shortly). The California Coastal Commission has requested that this report include specific information items (CCC January 13, 2000). These specific items include the following:

- Identify and Quantify Existing Habitat.
- Propose Mitigation for the loss of any existing habitat by its removal or implementation of the proposal.
- Quantify the area proposed for planting in square feet.
- Analyze the biological values of the proposed habitat in contrast to what is existing.
- Assess the likelihood of its short and long term survival utilizing the proposed lighting scheme.
- Discuss how viability and success of plantings is defined and should include a specific monitoring and maintenance program to ensure its long term survival.



## **Existing Conditions within Stevens Creek onsite**

Because the majority of the site is a dirt lot, the analysis of existing conditions focuses on the creek area. The area of Stevens Creek was originally described in the Biological Resources Report for this project (REC September 14, 1998), updated in a letter dated December 1, 1998 to document maintenance activities within the creek, and further detailed within a wetland delineation report dated May 28, 1999.

Stevens Creek onsite has been altered in the past in configuration and through the placement of rip rap. In addition, the City of Solana Beach maintains the vegetation within this portion of the creek through vegetation removal four times per year. When the area is maintained, little to no vegetation exists. Although water is present within the drainage, the results of a hydrology analysis prepared by Rick Engineering found that much of that water was urban runoff. At the time of the September 1998 review of the site, the creek was between maintenance cycles and was described in that report and is discussed here.

Stevens Creek onsite is an open channel culverted on both the upstream and downstream end of this drainage. The channel is completely fenced in and vegetation appears to be routinely maintained. Minimal riparian vegetation occurs in the channel between maintenance cycles, with the majority of the plant species being non-native. The dominant plant within the drainage is willow weed (*Polygonum lapathifolium*) a non native plant introduced from Europe. Other species which occurred within the drainage but to a much lesser extent include, fennel, castor bean, cattail, umbrella sedge, mustard, cottonwood saplings, goldenbush, palm trees, ice plant, white clover, and a single willow tree. The vegetation onsite is weedy with sporadic native vegetation, low growing, and not well developed. Therefore, this drainage does not support any significant biological resources for wildlife. Approximately 0.2 acres of this drainage habitat occurs onsite. This acreage encompasses the banks which is dominated by upland, non-wetland plants. The area where water was observed and the willow weed was dominant equals 0.07 acres (approximately 20 feet X 160feet).

The project proposes to construct a bridge over the creek bed. Since there is the potential for indirect impacts associated with shading of the creek, grates are proposed within the parking areas to allow sunlight to reach the creek bottom. The project also proposes to install two rip rap dissipaters to slow the water down as it enters and leaves the bridge area. These dissipaters will help eliminate erosion onsite and siltation downstream. Based on the existing conditions onsite, the project will impact 0.07 acres of streambed, and 0.13 acres of upland banks.

## **Proposed Mitigation**

Mitigation for the impacts due to shading include both the inclusion of the grates for sunlight, and the installation of plant material under the bridge. To ensure that water quality remains high as it passes under the bridge and to promote plant growth, the project proposes to install grates in the concrete floor of the bridge. The grates will allow

sunlight to penetrate the bridge and reach the creek bed. This will not only improve water quality but will allow for plant growth.

In addition to the grates to allow sunlight to reach the creek bed, the project proposes to hydroseed the creek bed with a native riparian understory mix. The mix was selected to mimic understory conditions of riparian forests which can be heavily shaded. Since portions of the area hydro-seeded will be shaded at some point it was determined that a mix that was compatible to natural shaded conditions should be used. Although these plants grow sufficiently in full sunlight they are also often found within the dense woodlands of the San Diego riverine systems. This mix has been applied to the area below several low bridges of the Mission Valley Trolley adjacent to the San Diego River. These bridges are shaded all day and in some areas dense vegetation occurs on both sides not allowing light penetration from the sides (see photos attached). Although the areas are shaded, these species have germinated and are doing well. The project site is not expected to develop into a high quality lush riparian woodland, rather will be indicative of understory growth and still provide food and protective source for wildlife.

The hydroseed mix proposed includes the following species:

*Ambrosia psilostachya* (Western ragweed)  
*Anemopsis californica* (Yerba mansa)  
*Artemisia douglasiana* (Douglas mugwort)  
*Artemisia palmeri* (San Diego Sagewort)  
*Juncus acutus* (Spiny rush)

It is anticipated that other species will voluntarily germinate within this area as well. These may include species such as *Typha* sp. (cattail), *Baccharis glutinosa* (mulefat) and *Haplopappus* sp. (Goldenbush). This hydroseed mix will be placed on site as indicated on attachment E and will cover approximately 0.08 acre of area beneath the bridge.

### **Habitat Comparison Analysis**

The current condition of Stevens Creek both onsite and downstream is presented in the attached photos. Although the site is maintained four times per year, the likelihood of a high quality habitat developing on this site is low. The entire creek bed is strewn with rip rap which was encountered by the geo-technical field crew to a depth of six feet. This rip rap has had some siltation develop within the interstitial areas between the rocks. Some shallow rooted, low growth plants can become established within this area. Currently when left un-maintained the area is dominated by a noxious weedy species that can be difficult to eradicate. It is unlikely that native species would have the ability to out-compete this non-native species without additional assistance. The proposed project will not create a high quality riparian woodland, however, this habitat would not be expected to occur here if the project was not constructed. In addition, the habitat that will be created will be dominated by native plants, rather than the non-native weed, which will in turn provide better habitat for wildlife in the form of food sources, refuge locations, and nesting material.

### **Assess the likelihood of its short and long term survival utilizing the proposed lighting scheme**

The species that were chosen for the seed mix are typical species which can grow in highly shaded conditions of riparian forests in San Diego county. Each of these species can grow in varying and often difficult conditions including shaded, brackish, and poor soil conditions. It is anticipated that these species will germinate and will develop into an understory habitat. It is not expected that this area will become lush with 100% ground cover, but should, at a minimum cover 50%. The lighting from the grates should provide sufficient light to achieve the threshold of 50%. The grate is simulated in a north south direction with wider points at both ends. Given that the sun moves from east to west, this will allow for the sunlight to penetrate the bridge at different angles throughout the day. It is not anticipated that all areas will receive sunlight, but that enough sunlight will penetrate to generate shaded conditions.

### **Viability and Success of Plantings**

The planting proposed as part of this project will be required to meet certain success standards. These standards will include percent germination of seed and percent cover of plant growth. To ensure that the area meets the success standards species some maintenance may be required. This will primarily be for removal of weedy species which may germinate such as the willow weed. Weed removal should be conducted by a reputable landscape company familiar with native plants. Weed removal should be conducted at least once per month for the first six months and four times per year for each subsequent year.

For the site to be successful at least 70% of the hydroseed must germinate and a minimum of 50% of ground cover should be achieved. This will be determined through quadrat sampling once per year for three years. Quadrat sampling will provide an aerial extent of ground cover by vegetation within random sample plots in the area. If at the end of three years 50% ground cover is achieved the site will be deemed successful.



## CITY OF SOLANA BEACH

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August 8, 2000

California Coastal Commission  
San Diego District  
7575 Metropolitan Drive, Ste 103  
San Diego, CA 92108-4402  
Fax: (619) 767-2384

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

### RE: COVERING STEVENS CREEK ADJACENT TO ACADEMY DRIVE

To Whom It May Concern:

This letter is to serve as an acknowledgement that if Stevens Creek is covered directly to the north or south of Academy Drive, the City of Solana Beach shall require the party responsible for said covering to upgrade the existing drainage structures under Academy Drive to a new box culvert. In addition, the developer of either side of Academy Drive shall provide creek access from the covered portion via an access door. The reason for this requirement is the City maintenance crew must be able to enter the channel under Academy Drive and have complete through access from both the north and the south openings. If the channel is left uncovered on both sides of Academy Drive, no new box culvert under Academy Drive will immediately be necessary. If anyone has any questions, please feel free to call me at (858) 720-2470.

Chandra Collure  
City Engineer

cc: Cynthia Davis, MDG (fax: 350-0220)

cl

EXHIBIT NO. 6  
APPLICATION NO.  
**6-99-24-A1**  
Letter From City



California Coastal Commission