

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

767-2370



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 Hearing Date: October 8-10, 2002

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-48

Applicant: Solana Beach Towne Centre Investments

Agent: John Chamberlain

Description: After-the-fact lot line adjustment affecting four existing lots. Also proposed is the construction of two office buildings totalling approximately 119,576 sq.ft. including 712 parking spaces in surface lots, a one-level subterranean parking structure and recontouring and realignment of Stevens Creek on an approximately 9.82 acre site containing two office buildings totalling approximately 93,480 sq. ft.

	<u>Existing</u>	<u>Total Proposed</u>
Lot Area	427,758 sq. ft.	427,758 sq. ft.
Building Coverage	45,302 sq. ft. (11 %)	133,294 sq. ft. (31 %)
Pavement Coverage	125,888 sq. ft. (29 %)	141,134 sq. ft. (33 %)
Landscape Coverage	67,518 sq. ft. (16 %)	125,888 sq. ft. (30 %)
Unimproved Area	189,050 sq. ft. (44 %)	27,442 sq. ft. (6 %)
Parking Spaces	338	712
Zoning	Office Professional	
Plan Designation	Office Professional	
Ht abv fin grade	30 ½ ft.	47 ft.

Site: 380-462 Stevens Avenue and 622-689 San Roldofo, Solana Beach, San Diego County. APN(s) 263-421-16, 17 and 298-112-31 and 32

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed development with special conditions. The proposed development involves the substantial alteration of Stevens Creek by filling a good portion of the creek and relocating the streamcourse in order to accommodate portions of the new structures and parking areas. While no impacts to wetlands are involved, staff has determined that the proposed development is not a permitted use under Section 30236 and thus recommends the project be revised to eliminate all fill of the creek and its banks. In addition,

conditions have been attached to require an open space restriction be placed over that portion of Stevens Creek which lies within the subject property, the implementation of Best Management Practices, a final sign program, landscaping plans and an assumption of risk associated with building adjacent to a stream. With these conditions, impacts of the proposed development will be minimized or mitigated, consistent with Chapter 3 policies of the Coastal Act.

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance; Final EIR of the Proposed Solana Beach Town Centre Theatre/Office Project by RECON dated June 15, 1999; City of Solana Beach "Development Review Permit/Lot Line Adjustment/Structure Development Permit #17-97-27"; Letter from City of Solana Beach regarding "Site Plan Revisions to Solana Beach Towne Centre Office Project" dated March 14, 2002; Wetland Delineation letter to John Chamberlain from Gerry Scheid (RECON) dated January 18, 1999; "Wetland Delineation for the Proposed Solana Beach Towne Centre" Development by RECON dated February 28, 2001; "Wetland Delineation for the Proposed Solana Beach Towne Centre" Development by RECON dated November 30, 2001; "Solana Beach Corporate Centre CDP Application for Modified Project" from P&D Environmental, dated May 13, 2002; Dept. Fish and Game Streambed Alteration Agreement Notification #5-045-00; Letter from Dept. of Fish and Game dated March 6, 2002 by Tamara Spear; Letter from Dept. of Fish and Game dated June 21, 2002 by Donald R. Chadwick; CDP Nos. 6-83-34 and 6-84-436/Lomas Santa Fe Dev., 6-99-24 and 6-99-24-A1/McMahon Dev.

I. PRELIMINARY STAFF RECOMMENDATION:

MOTION:

I move that the Commission approve Coastal Development Permit No. 6-02-48 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and 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 either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) 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 Revised Plans. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final revised grading, site, landscaping, and building plans for the proposed development that have been approved by the City of Solana Beach. Said plans shall be in substantial conformance with the plans submitted with this application by Rick Engineering dated 10/10/01 but shall be revised as follows:

a. No fill or other development, including grading, concrete, or structures shall occur within bed or banks of Stevens Creek (as depicted in the open space area shown on attached Exhibit #3).

b. Fencing shall be installed between the proposed development site and the top of the bank of the adjacent Stevens Creek drainage channel.

c. Drought tolerant native or non-invasive plant materials shall be utilized.

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

2. Drainage and Polluted Runoff Control Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans approved by the City of Solana Beach, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of all outflow drains.
- (c) Drainage from all roofs, parking areas, driveway area, and other impervious surfaces on the building pad shall be directed through vegetative or other media filter devices effective at removing and/or treating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.
- (d) Opportunities for directing runoff into pervious areas located on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized.
- (e) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment to this coastal development permit or a new coastal development permit is legally required to authorize such work.
- (f) All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.
- (g) Parking lots susceptible to stormwater should be swept with a vacuum regenerative sweeper on a regular basis.

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

plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Open Space Restriction.

A. No development, as defined in section 30106 of the Coastal Act shall occur in the area generally described as Stevens Creek as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit or through a separate coastal development permit: any necessary flood control maintenance performed by the City of Solana Beach or other habitat improvement project.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #3 attached to this staff report.

4. Sign Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a comprehensive sign program, documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall or free-standing pole or roof signs shall be allowed.

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

5. Assumption of Risk. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

6. Lot Tie Agreement/Shared Parking Agreement. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval either:

1. A Lot Tie Agreement approved by the City of Solana Beach documenting that each of the four subject lots will remain in common ownership, or

2. A Shared Parking Agreement approved by the City of Solana Beach ensuring that the aggregate number of parking spaces on the project site will be shared among the four subject lots on the project site as necessary to accommodate the existing and proposed uses on each lot.

The permittee shall undertake the development in accordance with the approved Lot Tie Agreement or Shared Parking Agreement. Any proposed changes to the approved Lot Tie Agreement or Shared Parking Agreement shall be reported to the Executive Director. No changes to the Lot Tie Agreement or Shared Parking Agreement shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

8. Condition Compliance. Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed development involves after-the-fact lot line adjustments affecting four existing lots. Also proposed is the construction of two, three-story, approximately 47 ft.-high office buildings totalling approximately 119,576 sq. ft, approximately 77,000 cu. yds. of grading, parking lots (including surface and subterranean), landscaping and recontouring and realignment of Stevens Creek to accommodate the new development on a 9.82 acre site. The site currently contains two office buildings which total approximately 93,480 sq. ft., surface parking lots and landscaping. The applicant has indicated that the existing site contains 338 surface parking spaces and the proposed development will result in a total of 712 parking spaces on the project site.

The site is located on the east side of Stevens Avenue between San Rodolfo and Academy Drive, approximately ¼ mile west of Interstate 5 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. Stevens Creek at this location is an approximately 660 ft.-long, 90 ft.-wide open channel containing minimal vegetation. The applicant proposes to fill approximately one-half of the existing onsite portion of Stevens Creek, realign and enlarge the streambed to the east of its existing location and enhance the stream with vegetation and drainage improvements. The drainage improvements include removal of an existing 36" low-flow diversion pipe which currently diverts dry weather flows past the project site to Academy Drive, thus eliminating these low flows from this portion of Stevens Creek.

The Commission has previously approved two developments on the subject site. In 1983 the Commission approved CDP #6-83-34 for the existing office building on the northwest corner of the site (southeast corner of Stevens Avenue and San Rodolfo). In 1984 the Commission approved CDP #6-84-436 for the existing office building located at the southwest corner of the site (northeast corner of Stevens Avenue and Academy Drive). In both cases the applicants were not proposing impacts to Stevens Creek located on the eastern portion of the site and the Commission did not identify any adverse impacts to Stevens Creek from the developments.

The City of Solana Beach, which incorporated in 1986, does not have a Local Coastal Program. The Chapter 3 policies of the Coastal Act are the standard of review.

2. Streambed Alteration. Section 30236 of the Coastal 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 approximately 9.82 acres and currently contains two existing office buildings with landscaping and parking lots. The proposed development involves fill of approximately one-half of the onsite portion of Stevens Creek in order to accommodate portions of two office buildings including subterranean parking, parking lots and drainage improvements. The applicant also proposes to realign the existing streambed, redirect upstream runoff that currently is diverted around Stevens Creek such that it flows through the realigned stream and revegetate the open areas with native species in order to improve water quality. While the majority of Stevens Creek within the subject site does not contain wetlands, a small portion of the site at the north end of the channel contains hydrophytic plants which are not proposed to be impacted by the subject proposal. However, the alteration of a stream to accommodate commercial development is not one of the three permitted uses for stream alteration identified in Section 30236 of the Coastal Act.

Stevens Creek, an historic stream that has been altered by urban development, runs north/south through the eastern side of property. A biological assessment prepared for the applicant identifies that "[e]arly topographic maps depict a USGS 'intermittent blue-line stream' traversing the site in 1953. . ." ("Solana Beach Corporate Centre CDP Application for Modified Project" by P&D Environmental, dated May 13, 2002). According to a report prepared by another biologist representing the applicant, the previous natural alignment of the creek was shifted to the east and channelized in the 1970's as part the development of an adjacent commercial center ("Wetland Delineation for The Proposed Solana Beach Towne Centre", by RECON, dated November 30, 2001). These improvements occurred prior to the enactment of the Coastal Act of 1976. The majority of Stevens Creek from Interstate 5, southwest to San Dieguito Lagoon is filled and channelized with only a small portion within the subject site and to the south remaining as an open channel. Because of historic urban development, the above-ground portion of Stevens Creek today commences on the northeast corner of the subject development site. Stevens Creek within the subject site consists of open earthen channel area approximately 660 feet-long and 90 feet-wide that is mostly dry throughout the year except during and following storm events. Some ponding does occur, however, at the north end of the stream where the upstream storm drains connect to the site. Low flow and urban runoff during the dry season is diverted at the upstream end of the open channel by a 36-inch pipe that directs low flows from within the channel to a concrete apron on the north side of Academy Drive which is the southern border of the subject site. Runoff from this pipe (and storm water runoff from the open channel) is then directed through pipes under Academy Drive to the open channel area south of Academy Drive.

Because low flow and dry season urban runoff is diverted to bypass this section of Stevens Creek, vegetation throughout most of the stream is limited to what the applicant's biologist describes as "non-native grasses and weeds." However, the

biologist has identified "a few hydrophytic plants occur near the outlet culvert on the north side of the property." The applicant's biologist further notes that "[t]he herbaceous vegetation and open nature of the channel do provide some limited water quality benefits." ("Wetland Delineation for The Proposed Solana Beach Towne Centre", by RECON, dated November 30, 2001.) The Commission's ecologist/wetlands coordinator visited the site about three years ago and observed the northern end of the channel from outside the chain link fence. At that time there was standing water present and vegetation that appeared from a distance to be cattails. He has also examined photographs of the northern end of the channel taken through the fence. There currently appear to be cattails and umbrella sedge growing in that area. Cattails are an obligate wetland species and most species of umbrella sedge are Facultative Wetland or Obligate wetland species.

In addition, the applicant asserts, and Commission staff has previously confirmed, that the City of Solana Beach has historically mowed and removed vegetation within Stevens Creek in order to control downstream flooding. If the City changes its vegetation clearance practices or if the low-flow diversion pipe is capped sometime in the future, Stevens Creek through the subject site has the potential to have increased riparian habitat over that which currently exists.

Because of the degraded and altered nature of Stevens Creek, the applicant asserts that Stevens Creek is not a stream and, therefore, Section 30236 of the Coastal Act is not applicable. The applicant contends that the natural alignment of Stevens Creek is actually west of its present location and that the existing channel is a man-made drainage facility which their biologist describes as "composed of shallow sediments over rip-rap that support mainly low growing herbaceous plant species such as grasses and weeds." However, their biologist has identified that "[a]n ordinary high water mark is evident in the central portion of the channel marking the limits of the non-wetland jurisdictional area of the U.S. Army Corps and the lateral extent of the streambed under CDFG jurisdiction." In addition, the biology report concludes that Stevens Creek at the subject site contains a "state streambed":

Although the channel is man-made and no federal or state wetlands are within the Stevens Creek flood control channel, the channel is a federal non-wetland jurisdictional water and state streambed. Therefore the applicant must apply for a 404 permit from the USACE, a 401 Water Quality Certification from the Regional Water Quality Control Board, and a 1603 Streambed Alteration Agreement from CDFG to verify agency jurisdiction over the channel. ("Wetlands Delineation for the Proposed Solana Beach Towne Centre Development" by RECON, dated November 30, 2001)

In addition, the Department of Fish and Game (DFG) previously asserted that Stevens Creek at the subject location is a stream. DFG previously approved a Streambed Alteration Agreement, signed by the applicant, for an earlier withdrawn proposal involving impacts to the wetlands located at the north end of Stevens Creek within the subject property. The Agreement identified the subject site as "Stevens Creek, a tributary to San Dieguito River" and required that the impacts be mitigated. In review of the

subject development, DFG has prepared two letters advising the applicant that since the project will no longer impact wetlands and will not adversely affect existing fish and wildlife resources, a Streambed Alteration Agreement is unnecessary (See Exhibits #4 and #5). However, the letters do not assert that Stevens Creek is not a stream. Instead both letters confirm DFG's jurisdiction over the area involving both the existing channel and any newly created channel as proposed by the applicant.

The Commission's ecologist/wetlands coordinator has previously researched Stevens Creek and concluded that Stevens Creek in its present location is a 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. (ref. CDP No. 6-99-24 and 6-99-24-A/McMahon Dev.)

At a minimum, Stevens Creek within the subject property meets the definition of a stream because it consists of a streambed with banks and conveys water. Section 13577(a) of the Commission's Code of Regulations provides some direction at determining the extent of streams. While pertinent primarily to the question of appeals jurisdiction boundaries, the section provides a description for a "bank of a stream":

The bank of a stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream.

The applicant relies on a provision of Section 13577(a) of the Commission's Regulations to argue that Stevens Creek is not a stream within the meaning of the Coastal Act. Section 13577 provides:

For purposes of Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976, the precise boundaries of the jurisdictional areas described therein shall be determined using the following criteria:

(a) Streams. Measure 100 feet landward from the top of the bank of any stream mapped by USGS on the 7.5 minute quadrangle series, or identified in a local coastal program. . . . For purposes of this section, channelized streams not having significant habitat value should not be considered. (emphasis added)

The opening sentence of Section 13577(a) refers to streams mapped by USGS or identified in an LCP. Stevens Creek is not depicted on the most recent USGS maps, but

it would be an appropriate stream to be depicted in any future LCP for Solana Beach. As explained above, Stevens Creek is an historic stream that has been significantly altered, but not totally obliterated.

The applicant contends that Stevens Creek is without significant habitat value such that it is not a stream pursuant to Section 13577(a) of the Commission's Code of Regulations. Although the course and banks of Stevens Creek have been altered over the years, it is not a concrete-lined culvert devoid of habitat value. In addition, because of periodic unauthorized removal of vegetation, much of the vegetation within Stevens Creek has not been afforded an opportunity to grow or mature. However, as explained above, the upper portion of the stream on the property supports wetland vegetation. Because an earlier proposal involved fill of the upper portion of the stream containing wetlands, the Department of Fish and Game at that time required the applicant to obtain a Streambed Alteration Agreement. The Streambed Alteration Agreement identified that the earlier proposal "may substantially adversely affect" a range of birds, mammals, amphibians, and insects associated with wetland habitat in the stream. Because Stevens Creek has significant habitat value, it does not fall within the exception established by the last sentence of Section 13577(a).

Stevens Creek at this location is approximately 90 feet wide with a lower streambed that conveys water and banks on either side which separates the streambed from upland areas and confines water to within the bed. Therefore, the Commission concludes that, while Stevens Creek may contain limited resources at this time, probably due to the water diversion and regular mowing/maintenance by the City of Solana Beach, it is nonetheless a stream as previously found by DFG and the applicant's prior consultant. Any substantial alteration of Stevens Creek, therefore, is subject to Section 30236 of the Coastal Act.

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. The applicant proposes to fill approximately one-half of that portion of Stevens Creek that lies within the subject site in order to accommodate two office buildings totalling approximately 119,576 sq. ft. and parking lots. While the applicant proposes to realign the existing streambed and enhance the realigned stream with drainage improvements and native plantings, the function of the overall proposed development is the construction of the commercial buildings and associated improvements, not the improvement of fish and wildlife habitat. Therefore, the proposed development is not habitat restoration or any of the other permitted uses for stream alterations as identified in Section 30236 of the Act.

The proposed development can be found consistent with the Coastal Act only if the project is revised to eliminate all proposed development in the creek. Special Condition #1 requires the applicant to revise the project to avoid all development in Stevens Creek. This condition can be accomplished by reducing the size of the office buildings, only

constructing a single structure, and/or reducing the surface area taken up by parking and landscaping. The Commission finds that the proposed development can be approved if revised, rather than denied altogether, because although there is more than one way to redesign the project to eliminate alteration of Stevens Creek, none of these options have the potential for adverse impacts on coastal resources. The site is not located near the shoreline and any proposed redesign will not affect public access to the shoreline and, as discussed later in this report, will not affect visual resources in the surrounding area. In addition, any future redesign would still require review and approval by the City of Solana Beach to ensure full compliance with local zoning requirements.

In the future the applicant or future landowners might seek to make improvements to the structure(s) that affect the creek or seek to channelize the creek to protect the approved structure(s) from flooding. It would be inconsistent with Section 30236 to allow construction of a structure that will subsequently require fill of the stream to protect against flooding. Therefore, the Commission finds that the applicant must record a deed restriction indicating that no development may occur in Stevens Creek. Only if the applicant and future landowners are placed on notice that the creek cannot be filled will the proposed development be consistent with the wetland protection policies of the Coastal Act. Accordingly, Special Condition #3 prohibits all development from occurring within Stevens Creek except for permitted maintenance of the channel by the City of Solana Beach for flood control purposes. To ensure that any future owners receive notice of this condition, Special Condition #7 requires the applicant to record the conditions of this permit as covenants, conditions, and restrictions on the use of the property.

The proposed development also involves an after-the-fact lot line adjustment involving four lots. The lot line adjustments were recorded in approximately July of 2000 without benefit of a coastal development permit. The lot line adjustments occurred in preparation for the proposed commercial development. Although the lot line adjustments do not increase the number of lots over what previously existed, the proposed lot line adjustments have the potential to adversely affect Stevens Creek which would be inconsistent with Section 30250 of the Act. The previous lot line configuration involved one large lot containing an office building along with most of the overall site's parking spaces and three smaller lots on the northern side of the site, one of which contains an office building. The effect of the proposed after-the-fact lot line adjustment will be to place each existing office building on an individual lot, place most of the available surface parking areas into a single lot and leave one lot vacant (four lots total).

However, the proposed lot line adjustment will also result in a lot that has insufficient parking to support the existing approximately 50,313 sq. ft. office building located on the south side of the subject site. Currently the lot containing the approximately 50,313 sq. ft. building also contains the building's required 168 parking spaces (along with the majority of off-site parking spaces for the other existing office building located on the northwest corner of the subject site). The City of Solana Beach Zoning Ordinance requires 1 parking space per 300 sq. ft. of office use for structures in excess of 40,000 sq. ft. The Commission's Regional Interpretative Guidelines used prior to certification of an LCP also requires 1 parking space per 300 sq. ft. of office space. In approving the

existing office buildings on the subject site (CDP No. 6-83-34 and 6-84-436/Lomas Santa Fe Dev.), the Commission required 1 parking space be provided for 300 sq. ft. of office use. Following the proposed lot line adjustment, only approximately 11 parking spaces will remain on the reconfigured lot that contains the approximately 50,313 sq. ft. office building. Because the newly reconfigured lot would be fully occupied by the existing office building, approximately 11 parking spaces and required setbacks and driveway access areas, the only new parking that could be created on the lot to accommodate the existing office building itself would involve development into Stevens Creek which, as noted above, would be inconsistent with Sections 30236 and 30250 of the Coastal Act. The concern is not that public access could be adversely affected by a lack of parking because any overflow parking from the office building would not impact areas used by the public for beach parking. Rather, the concern is that in the future if the existing parking arrangements that support the building today is terminated, a future property owner may request development of parking into Stevens Creek which would be inconsistent with 30236 of the Act.

However, in this case the City has required the applicant to provide the City with a "Lot Tie Agreement" or a recorded "Shared Parking Agreement" such that the four lots affected by the boundary adjustment will either remain under common ownership or will, via a Shared Parking Agreement, share the aggregate parking of all four lots. The purpose of the Lot Tie Agreement or Shared Parking agreement is to ensure that the number of parking spaces needed for the onsite businesses is calculated based on the entire 9.82 acre site and not on individual lots. Therefore, along with the open space deed restriction over Stevens Creek prohibiting future development into Stevens Creek, the Commission can be assured that all necessary parking for the existing approximately 50,313 sq. ft. office building and any new developments will be accommodated throughout the 9.82 acre site outside of Stevens Creek. To assure that the Lot Tie Agreement or Shared Parking Agreement is not changed or terminated in the future without Commission approval, Special Condition #6 has been attached which requires the submission of the final Lot Tie Agreement or Shared Parking Agreement approved by the City for Commission review and acceptance.

With the proposed redesign to avoid encroachment into the Stevens Creek, an open space restriction to assure no development other than permitted flood control maintenance occurs in the stream and the Lot Tie Agreement or Shared Parking Agreement that provides for onsite parking in perpetuity such that parking will not be needed within Stevens Creek, the proposed development is consistent with Section 30236 of the Coastal Act.

3. Water Quality/Riparian Buffer. 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.

Although Special Condition #1 requires that the project be redesigned to avoid all encroachment into Stevens Creek, it does not require a buffer around the creek. Section 30231 of the Act requires that biological productivity and quality of coastal waters, and streams be protected from the adverse effects of new development through the control of runoff and the maintenance of "natural vegetation buffer areas". However, in this case, Stevens Creek at the subject site is not currently surrounded by natural vegetation that could serve as a buffer. Currently the site is surrounded by Academy Drive to the south and the existing office buildings and parking lots to the west. Stevens Creek is protected, however, by an approximately 6 foot-high chain-link fence that completely surrounds the open channel area to inhibit human intrusion and approximately 40 feet of stream banks on either side of Stevens Creek. Special Condition #1 requires that the fence remain around Stevens Creek in order to continue to protect the stream from human activities such as dumping of trash that could pollute the water course. In addition, Special Condition #1 requires a final landscape plan be submitted that restricts landscaping to drought-tolerant native or non-invasive vegetation such that downstream resources will not be adversely affected by the introduction of non-native or invasive species.

Although the Stevens Creek drainage channel is not a pristine natural creek, polluted runoff entering the channel from the proposed development site can harm vegetation growing within the open channel area onsite as well as downstream. In addition, Stevens Creek carries water to San Dieguito Lagoon and eventually into the Pacific Ocean. Polluted runoff entering the channel can have harmful effects on marine life downstream, and may pose a risk to human health which can result in beach closures, limiting public access and recreational opportunities if not controlled or managed properly. Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the

Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in Special Condition No. 2, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Special Condition No. 2 specifically requires the applicant to implement a drainage and runoff control plan which includes BMPs designed to treat, infiltrate, or filter stormwater runoff from each runoff event up to and including the 85th percentile, 24-hour runoff event and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs. At a minimum, these BMPs include directing drainage from all parking lot areas susceptible to runoff, used for motor vehicle parking, through structural BMPs such as vegetative or other media filter devices effective at removing and/or mitigating pollutants, sweeping the parking lots susceptible to stormwater with a vacuum regenerative sweeper on a regular basis, on-going maintenance of the drainage and filtration system and replacement and repair of such structures in event of failure.

Directing runoff through landscaping for filtration of on-site runoff in this fashion is a well established BMP for treating runoff from development such as the subject proposal. In these ways, potential problems are treated at the source such that most pollutants never enter the storm water system. With implementation of BMPs, the potential water quality impacts resulting from the proposed development will be reduced to the maximum extent feasible. Therefore, as conditioned, the Commission finds the proposed development consistent with Sections 30231 of the Coastal Act.

4. New Development. Section 30250 states, in part:

- a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In addition, Section 30253 of the Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. . .

The subject development, as conditioned, will be located immediately adjacent to Stevens Creek an historic stream. As indicated previously, because of concerns of flooding in areas adjacent and downstream of Stevens Creek, the City periodically maintains Steven Creek by removing vegetation. Although the risk of flooding in this area is low, the risk of flooding cannot be eliminated entirely. Therefore, in order to find the development consistent with section 30253 of the Coastal Act, the Commission finds that the applicant

and future property owners must be made aware of the flooding potential and must assume the risk of property damage from flooding. Accordingly, Special Condition #5 has been attached which requires the applicant to assume all risks involved with development adjacent to Stevens Creek and to agree to indemnify the Commission in the event that third parties bring an action against the Commission based upon damage resulting from the approved development. Special Condition #7, which requires the applicant to record the conditions of this permit, assures that future owners of the property will receive notice of the assumption of risk condition.

In summary, the proposed development, as conditioned above, will assure that all risks associated with developing adjacent to Stevens Creek will be assumed by the property owner consistent with Sections 30250, 30253 and 30236 of the Coastal Act.

5. Public Access/Traffic. Section 30252 of the Coastal Act states, in part, that:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation

The Coastal Act requires that new development provide for adequate parking facilities or substitute means of serving the development with public transportation so as not to compete with or preclude the public's access to the coastal area by usurping public parking spaces. In addition, traffic congestion along public access routes generated by new development can interfere with public access opportunities. The subject development site is located approximately one block south of Lomas Santa Fe Drive at Stevens Avenue and Academy Drive. This intersection is approximately ½ mile from the intersection of Interstate 5 and Lomas Santa Fe Drive and approximately 1 inland mile from the shoreline. Lomas Santa Fe is the only major east/west coastal access route that leads directly from Interstate 5 to the shoreline within Solana Beach. The main beach access and beach parking in the City is Fletcher Cove which is located at the west end of Lomas Santa Fe Drive. As such, traffic congestion on this roadway and the I-5/Lomas Santa Fe Drive intersection has the potential to affect public access to the coast.

The applicant has prepared a traffic analysis for the subject development which demonstrates that while traffic along Lomas Santa Fe Drive is currently congested during morning and evening commuting peaks, the traffic generated by the proposed development will not adversely affect public access to the beach because most beach access occurs outside of peak traffic periods for Lomas Santa Fe Drive and the proposed development ("Traffic Impact Analysis for Solana Beach Towne Centre Office/Theatre Project" by Linscott, Law & Greenspan Engineers, dated January 20, 1999). According to studies done for the County of San Diego and information supplied by the applicant, the highest periods of beach use typically occurs between 11:00 a.m. and 3:00 p.m.

Therefore, the concern with the proposed development is whether traffic generated by the project will adversely impact beach bound traffic around these times.

In addition to existing conditions, the applicant's traffic study also provides an analysis of the potential change in Level of Service (LOS) along Lomas Santa Fe Drive resulting from the proposed development and any pending developments that could affect traffic on Lomas Santa Fe Drive. In addition to the applicant's study, Commission staff has reviewed two traffic studies prepared for adjacent or nearby development proposals that will affect traffic along Lomas Santa Fe Drive (Ref. "Traffic Impact Analysis - Santa Fe Christian Schools Expansion", by Linscott, Law & Greenspan dated March 1, 2001 and "Traffic Study for Solana Beach Corporate Center" by Darnell & Associates dated September 21, 2001).

According to all three of the reviewed traffic studies, peak traffic in the morning (7:00 to 9:00 a.m.) and evening (4:00 p.m. to 6:00 p.m.) at Lomas Santa Fe Drive and Interstate 5 is currently in excess of Level of Service (LOS) "D" which is the minimum standard provided for in the City of Solana Beach's Circulation Plan. Following completion of the subject development and all pending nearby developments (ref. CDP Nos. 6-02-59/Solana Corporate Center and 6-99-146/Santa Fe Christian School), the traffic studies document that the LOS will change to LOS "E" and potentially "F" at the on and off-ramps to I-5 in both the morning and evenings. Therefore, traffic congestion at peak periods will worsen over what currently exists.

However, the question for the Commission is whether the increased traffic congestion at morning and evening peak periods will affect the public's ability to access the beach and whether the proposed development makes it worse. Based on a review of the applicant's traffic analysis and that of others, the proposed development will not adversely affect the public's ability to get to the beach. First, although these traffic studies document that the cumulative effect of all pending development in proximity to Lomas Santa Fe west of I-5 will be at an unacceptable LOS (at least according to City standards) at the I-5 and Lomas Santa Fe intersections at peak morning and evening times, the effect will only be temporary. The City is currently planning and is close to completing funding for improvements to the I-5/Lomas Santa Fe Drive interchange in order to alleviate this congestion. Construction is anticipated to occur as soon as 2005 and its construction, according to all the previously-cited traffic reports, is predicted to result in acceptable LOS along Lomas Santa Fe Drive at all times. In addition, the City has required the applicant to contribute funding to the I-5/Lomas Santa Fe Drive improvements and has required their participation in other roadway improvements leading to Lomas Santa Fe Drive to mitigate traffic impacts associated with the project.

Secondly, although this intersection will be highly congested in the weekday mornings and evenings until the Lomas Santa Fe Drive and I-5 interchange upgrade occurs, public access to the beach occurs after the morning commute hours and/or on weekends. It is estimated that peak beach use is from 11:00 a.m. to 3:00 p.m. daily. Therefore, most traffic to the beach along Lomas Santa Fe Drive will occur between approximately 10:00 a.m. to noon daily. Since Lomas Santa Fe Drive will continue to operate with an

acceptable LOS during these hours following completion of the proposed development, it is not anticipated that the subject project will result in adverse impacts to beach access along Lomas Santa Fe Drive. It can be argued, however, that beachgoers could be affected by the increase in traffic during the peak evening commute of 4:00 p.m. to 6:00 p.m. if beachgoers leave the beach after 4:00 p.m. However, as has been demonstrated by the various cited traffic studies, Interstate 5 at both south and northbound ramps currently operate at an unacceptable LOS during the evening peak. It is assumed that most current beach users are aware of this problem and either leave the beach early or take alternative routes to avoid the I-5/Lomas Santa Fe intersection. Therefore, as the evening peak LOS worsens, it is anticipated that beachgoers will avoid the I-5/Lomas Santa Fe Drive intersection at those times. Based on these assumptions, the proposed development will not adversely affect the ability of the public to access the shoreline.

In addition to traffic, new development has the potential to usurp public parking spaces if new development does not have adequate onsite parking to serve the development. As proposed, the approximately 119,576 sq.ft. office buildings will include 712 parking spaces which the City has determined is adequate to support the proposed development. In addition, if the applicant reduces the size of the office buildings in order to avoid impacts to Stevens Creek, even less parking will be required. However, in any case, even if parking were insufficient for the proposed development, any overflow parking onto the public street would not affect the ability of the public to access the beach since the surrounding streets in this area are not used for beach parking, which is located approximately 1 mile to the west.

In summary, while the proposed development may cumulatively result in adverse impacts to traffic along Lomas Santa Fe Drive, a major coastal access route, during the morning and evening peak commute periods, the effect will probably be only temporary until the Lomas Santa Fe Drive and I-5 interchange improvements are completed. In addition, most public access to the Solana Beach shoreline occurs outside of these peak traffic times such that public access to the shoreline will not be adversely affected. Therefore, the Commission finds the proposed development consistent with Section 30252 of the Coastal Act.

6. Visual Impacts. Section 30251 of the Coastal Act states, in part that:

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

The proposed development is not located within or visible from any significant public view corridors. There are no visual impacts anticipated to the surrounding community since the proposed structure is compatible in design and scale to other existing structures on the subject 9.82 acre site as well as other commercial structures along Stevens

Avenue. The applicant has indicated that landscaping is also proposed. Therefore, Special Condition #1 requires the submission of final landscape plans that will serve to make the proposed development more compatible with surrounding development. The landscape condition also limits landscaping to drought-tolerant native and non-invasive species so that downstream resources will not be adversely affected. In addition, the applicant did not submit a sign program for the proposed office buildings although the City does require it before building permits can be issued. Typically the Commission and the City restrict the size, number and extent of signage of commercial developments to protect against visual blight that could result from excessive or large signage. As such, Special Condition #4 is attached which requires the submission of a comprehensive sign program that details that only monument or facade signs are proposed and that prohibits tall freestanding signs. With this condition, the Commission can be assured that any proposed signage will not adversely affect the visual character of the surrounding community and will be consistent with other commercial signage restrictions in the area.

In summary, the proposed development is not located within an area that will affect public views and, as conditioned, has been designed to be compatible with surrounding development. With the submission of a detailed landscape plan and sign program the potential for impacts to the visual quality of the surrounding area have been reduced to the maximum extent possible. Therefore, the Commission finds that the proposed development, as conditioned, consistent with Section 30251 of the Coastal Act.

7. Unpermitted Development. The proposed boundary adjustments involving the subject four lots has already occurred without the necessary coastal development permit(s). The applicant is requesting after-the-fact approval for the four-lot boundary line adjustment. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition #8** requires that the applicant satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

The Commission notes that although development has taken place prior to the submission of this permit application, consideration of the application 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 violations of the Coastal Act; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

8. 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.

The subject site is designated and zoned Office Professional by the City of Solana Beach General Plan and Zoning Ordinance. The proposed development is consistent with this

designation. The site is not located within any sensitive coastal resource overlay area as identified in the previously certified County LCP. In addition, the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and, as conditioned, no adverse impacts to coastal resources are anticipated. Therefore, the Commission finds the proposed project, as conditioned, should not prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program.

9. 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, as conditioned, 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.

The proposed project has been conditioned in order to be found consistent with the stream alteration, water quality and visual resource policies of the Coastal Act. Mitigation measures, including redesign of the project to avoid fill of the stream, open space deed restriction, drainage and runoff control plans, landscaping plans, and signage program will minimize all adverse environmental impacts. As conditioned, there are no less feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds the proposed project is the least environmentally-damaging alternative and is 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.

5. 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.

(G:\San Diego\Reports\2002\6-02-048 Solana Towne Centre Final stfpt.doc)

Site

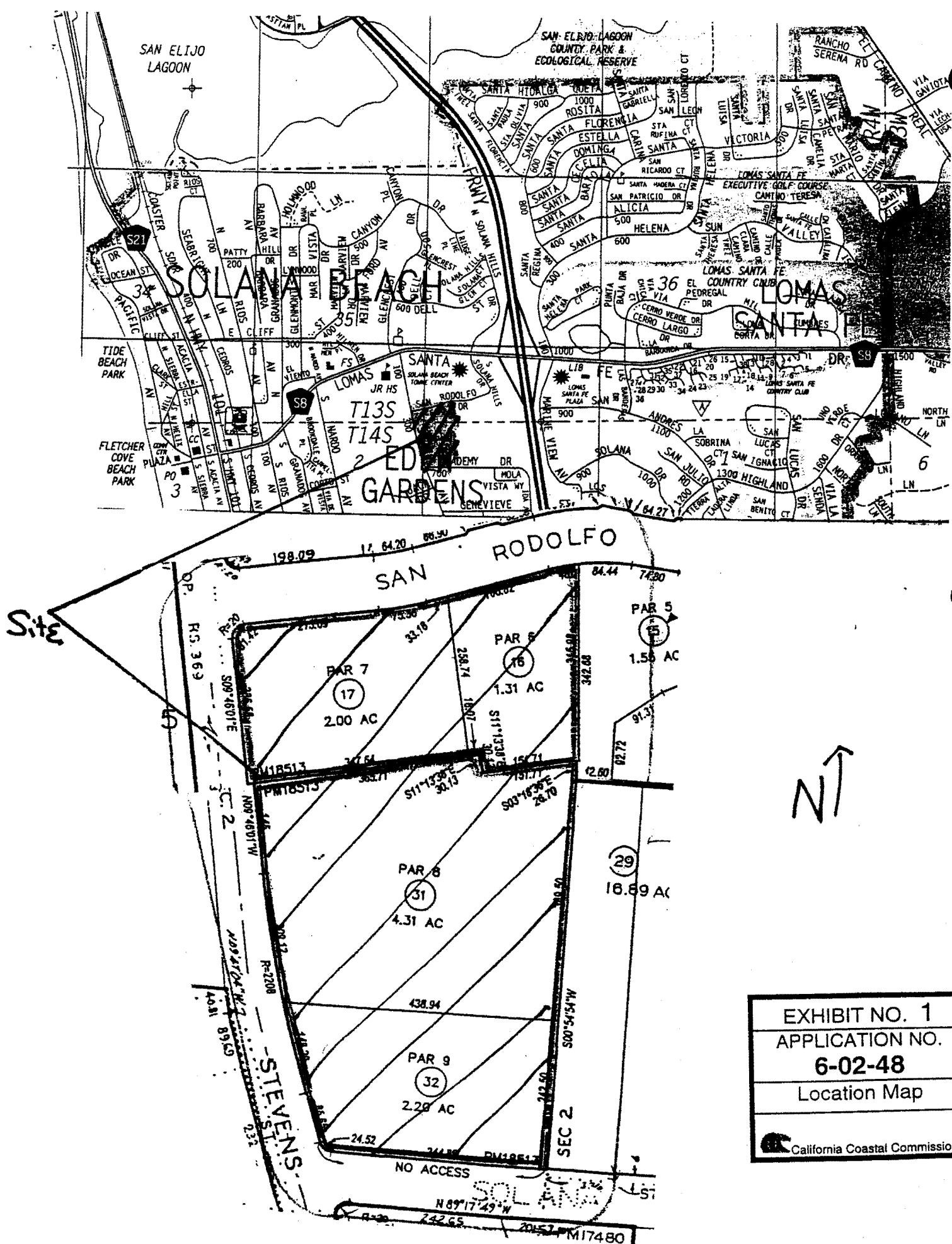



EXHIBIT NO. 1
APPLICATION NO.
6-02-48
Location Map
 California Coastal Commission

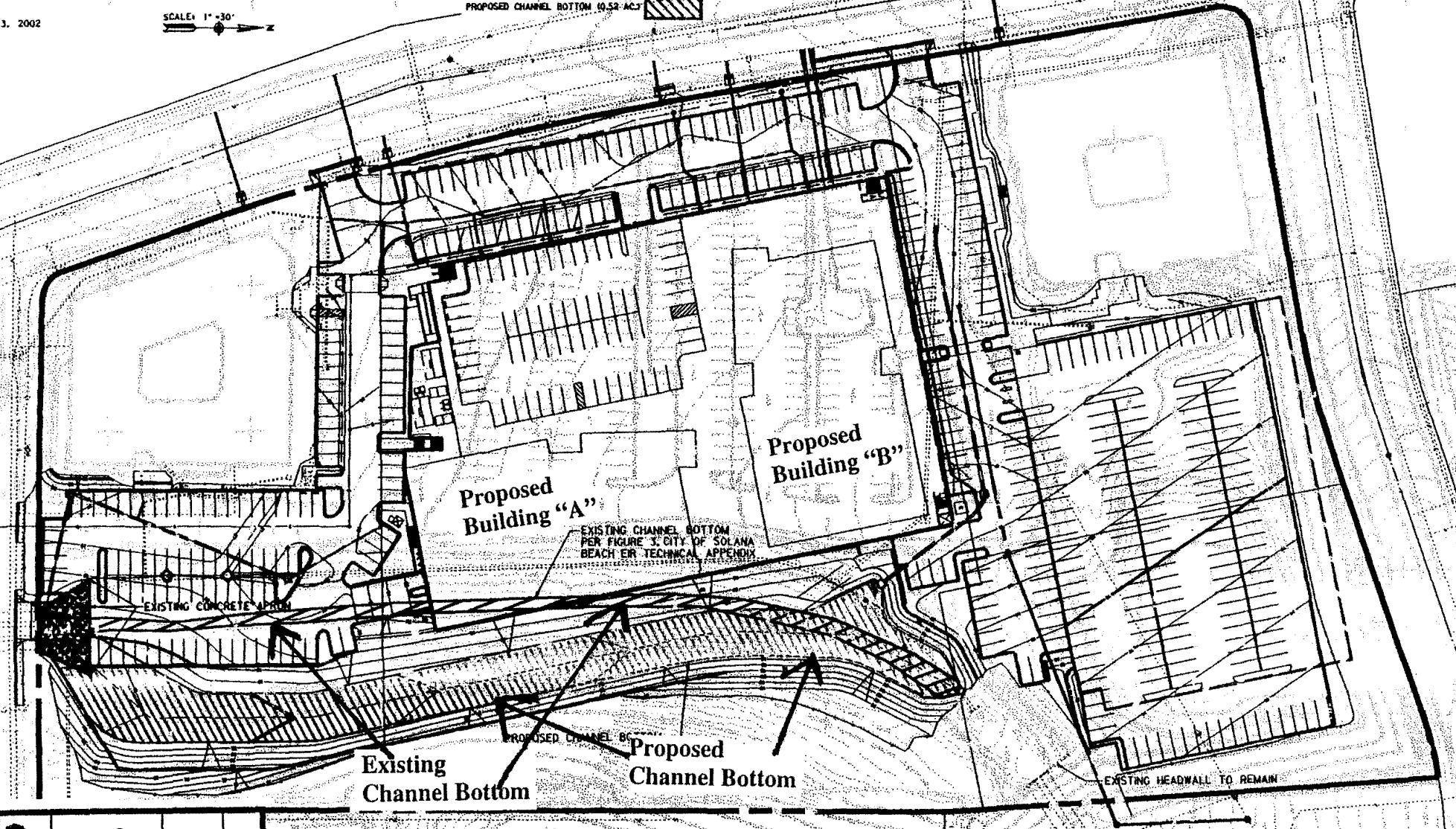
SOLANA BEACH CORPORATE CENTER

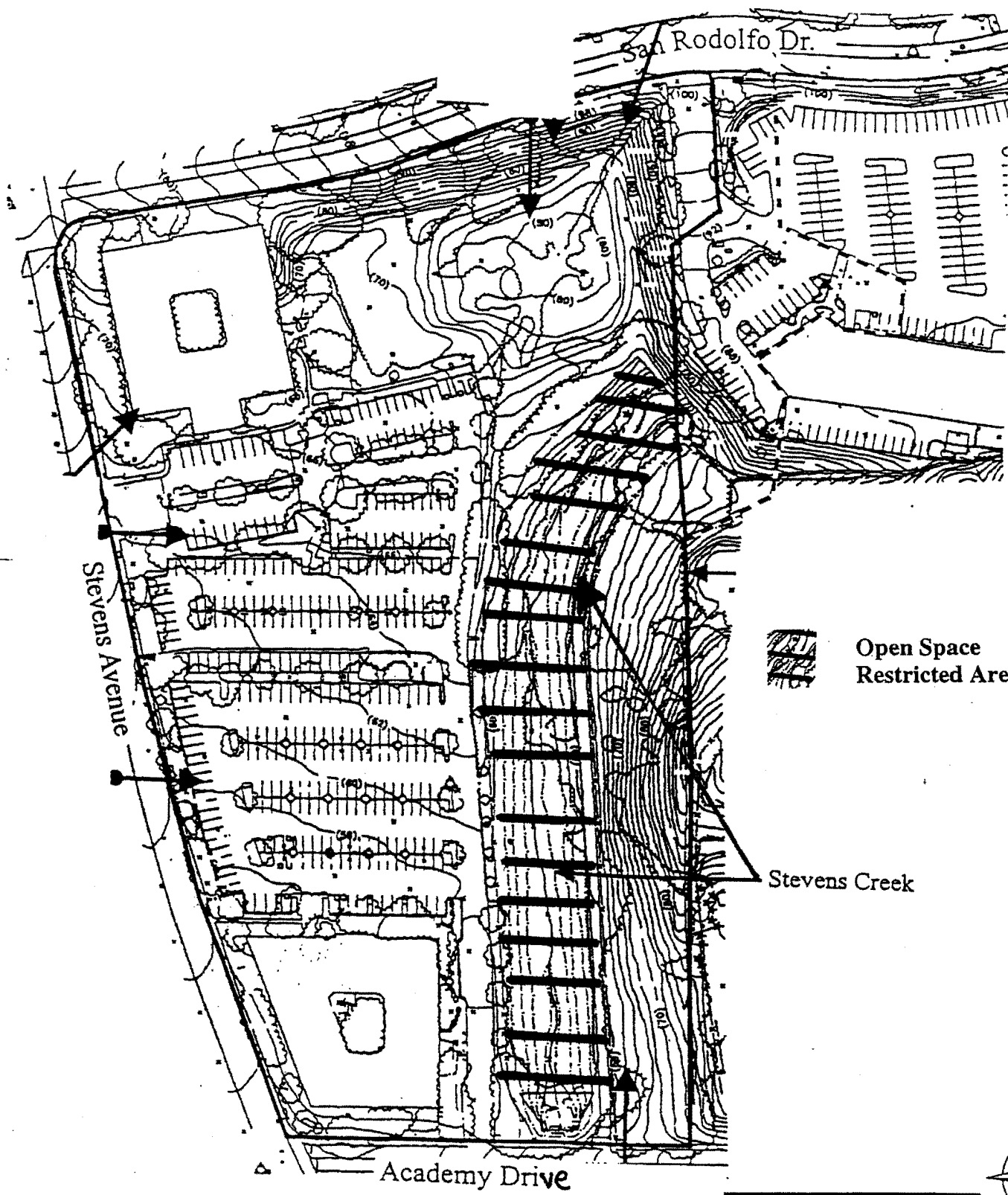
MAY 3, 2002

SCALE: 1" = 30'

EXISTING CHANNEL BOTTOM (0.24 AC.)

PROPOSED CHANNEL BOTTOM (0.52 AC.)





 Open Space
Restricted Area

Stevens Creek

Academy Drive



EXHIBIT NO. 3
APPLICATION NO.
6-02-48
Existing Site Plan with Depicted Open Space Restricted Area
 California Coastal Commission

6-02-048

STATE OF CALIFORNIA-THE RESOURCES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF FISH AND GAME

South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 487-4201
FAX (858) 487-4289



March 6, 2002

John Chamberlain
American Assets, Inc.
11455 El Camino Real, Suite 200
San Diego, CA 92130-2045

Re: Solana Beach Towne Centre Development Project, Streambed Alteration Agreement #R5-2001-0394

Dear Mr. Chamberlain:

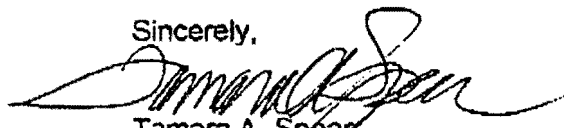
This is in response to the Streambed Alteration Agreement Notification Package, #R5-2001-0394, that you submitted to the Department of Fish and Game (Department) for the Solana Beach Town Centre Development Project. Project activity includes the modification of 0.14 acre of man-made flood control channel by shifting the channel to the east, recontouring the sides and creating an earthen channel bottom planted with native wetland species. The project is located east of Stevens Avenue and north of Academy Drive in the City of Solana Beach, San Diego County.

Based on the Department's review of the information you submitted, the Department has determined that a Lake or Streambed Alteration Agreement is not required for your project or activity because, although the project is within Fish and Game jurisdiction, the activity you described in your notification package will not substantially adversely affect existing fish or wildlife resources.

As a result, you may begin your project or activity if you have obtained all other necessary permits. If the project changes from that stated in the notification package specified above, a new notification shall be submitted to the Department of Fish and Game.

Nothing in this letter authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. This letter does not constitute the Department's endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

Sincerely,



Tamara A. Spear
Environmental Specialist III

EXHIBIT NO. 4

APPLICATION NO.

6-02-48

Letter from Fish and
Game

California Coastal Commission

DEPARTMENT OF FISH AND GAME

South Coast Region
4949 Viewridge Avenue
San Diego, CA 92123
Tel. No. (858) 467-4201
FAX No. (858) 467-4299



June 21, 2002

RECEIVED

JUN 25 2002

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Gary Cannon
California Coastal Commission
7575 Metropolitan Drive, Ste 103
San Diego, CA 92108

Subject: Solana Beach Towne Centre Development Project--Notification No. R5-2001-0394
(Your ref: Application #6-02-48, Solana Beach Corporate Center)

Dear Mr. Cannon;

The proposed subject project does not substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the Department that would substantially adversely affect an existing fish or wildlife resource. Therefore, the applicant/operator is not required to enter into an agreement concerning the alteration of lake or stream pursuant to Section 1603 of the Fish and Game Code. The facility functions as a peak-storm-flow flood channel.

Please be aware that at the completion of the project, as proposed, the newly created stream will be subject to the notification requirements of Section 1600 *et seq.* of the Fish and Game Code, and it is highly probable that any substantial alteration of the created stream will require an agreement with the Department.

Sincerely,

Donald R. Chadwick
Senior Environmental Scientist

cc: John Chamberlain, American Assets, Inc.

EXHIBIT NO. 5

APPLICATION NO.

6-02-48

Additional Letter from
Fish and Game

California Coastal Commission