

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Staff: EL-SD
Staff Report: April 16, 2002
Hearing Date: May 7-10, 2002

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-157

Applicant: City of Del Mar

Agents: Bob Scott/Pam Drew

Description: Improvement of an existing, informal trail located between the Del Mar Public Works Yard and the San Dieguito River, and extension of the trail eastward to Jimmy Durante Boulevard. The project includes surfacing a five-foot wide trail with decomposed granite to be ADA accessible, creation of two viewing areas and a picnic area, installation of new drainage facilities and fencing, removal of exotic vegetation and landscaping with native wetland and coastal sage scrub habitats..

Lot Area	2.60 acres
Landscape Coverage	1.00 acres
Unimproved Area	1.60 acres
Zoning	Floodway
Plan Designation	Floodway

Site: South bank of the San Dieguito River/Lagoon, from the railroad right-of-way to Jimmy Durante Boulevard, Del Mar, San Diego County.
APNs 299-030-02 and 03; 299-071-03

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of this public access improvement, with special conditions addressing landscaping and construction scheduling to assure that plants are restricted to non-invasive native species compatible with the surrounding resources, and that construction does not occur during the bird breeding season in the adjacent river channel/lagoon. This is a public access improvement that has no direct impacts on any coastal resources. The trail does go through the buffer area for the adjacent salt marsh vegetation, but the trail already exists and is in use on an informal basis. This project is similar to other ones where the Commission has allowed a reduced buffer for public passive recreation, nature study and educational purposes.

Substantive File Documents: Certified City of Del Mar Local Coastal Program; CCC
File #6-97-068

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-157 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. Landscaping Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, a final landscaping plan. Said plan shall be in substantial conformance with the draft landscape plan submitted by Cornerstone Studios on October 15, 2001, and shall including the following:

- a. A plant palette showing use of only drought tolerant native or non-invasive plant materials.
- b. A planting schedule that indicates that the planting plan shall be implemented after the first rainfall, in the autumn immediately following completion of the trail improvements, to avoid the need for temporary irrigation.
- c. A written commitment by the applicant that all required plantings shall be maintained in good growing conditions (including regular removal of exotics by hand), and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the approved plan.
- d. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the landscape 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. Construction Schedule. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, specifying that project construction shall not occur during the bird breeding season (March through August) unless the applicant has written permission from the California Department of Fish and Game (CDFG) and the U. S. Fish and Wildlife Service (Service). The applicant shall submit evidence that this seasonal restriction has been incorporated into construction bid documents.

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

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of Del Mar is proposing to improve an existing informal trail along the southern bank of the San Dieguito River Channel/Lagoon, from the railroad right-of-way east to Jimmy Durante Boulevard. The proposal calls for a five-foot wide, ADA accessible, decomposed granite (d.g.) trail following an old road to the Public Works Yard in the eastern half of the project. Three accessory amenities will be located within the eastern half of the site, consisting of two viewing areas and a picnic area. None of the facility will be paved, but it will be recontoured and covered with d.g. surfacing to allow disabled persons to access the entire eastern half of the site and all three amenity areas. An additional component of the project is to remove non-native vegetation throughout the project site, and to replace it with native, drought-tolerant or non-invasive species appropriate for the area. Drainage improvements are also proposed.

The existing trail within the western half of the project site is located between the Public Works Yard and the river. The trail is narrow, probably not more than two feet wide in any location, the surface is quite rough, and the location is just inland from the berm along the riprapped river bank of the San Dieguito River. Most of the berm is vegetated with exotics, but a few salt marsh plants grow between the rocks on the river bank itself. The project boundary is the top of the slope, so there is no proposal to encroach onto any sensitive habitat. Other than landscaping, the City is not proposing any improvement in this part of the site.

The City of Del Mar has an effectively certified Local Coastal Program (LCP), and has been issuing coastal development permits since the end of September, 2001. However, this area of the City is an area of original jurisdiction, within the floodway of the San Dieguito River and subject to tidal influence. Thus, the coastal development permit is processed by the Commission and Chapter 3 of the Coastal Act is the legal standard of review. The certified LCP is used for guidance.

2. Environmentally Sensitive Resources/Wetlands. The subject proposal does not result in any encroachment on, or impacts to, nearby wetland habitat. Thus, the following Coastal Act policy applies:

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed project site is a linear property parallel and adjacent to the San Dieguito River Channel/Lagoon. Although much of the riverbank has been reinforced with riprap, and there is an earthen berm along the top, salt marsh vegetation still grows along the bank between the rocks. In some locations, this vegetation comes all the way to the top of the bank, and is even found on the berm in a couple locations. No trail improvements are proposed in those areas where wetland species are so close. Thus, the issue here is not one of direct wetland impacts, but indirect impacts caused by a potentially insufficient buffer between human activity and sensitive habitat.

The proposal places the trail improvements where an informal trail already exists. The eastern half of the site is significantly wider than the western half, and the trail is set back an average of approximately 40 feet from the river berm, and nowhere less than 25 feet. The proposed overlooks and picnic area extend north from the trail towards the river, and observe only a 5-foot setback from the berm in two locations. Within this portion of the site, however, wetland vegetation is not growing up the seaward side of the berm, although there are a few scattered individuals of salt marsh species at the bottom of the river bank. With the river bank providing an elevational difference of 8 to 9 feet, the buffer is a minimum of 13 feet from the bottom of the bank in its closest location.

The situation is different in the western half of the project. Here, the project site is as narrow as 9 feet from the top of the berm and no-where is it greater than approximately 20 feet in width, with sparse wetland vegetation climbing the bank in several locations. However, within this area, the City is not proposing any trail improvements, and the existing trail will remain in its current narrow and rough condition. Within this area of the project, the applicant proposes only to remove exotic vegetation and replant with natives, especially along the fence that separates the Public Works Yard from the trail. Exotics removal and future weed control will be conducted by hand, with care taken not to disturb any individual salt marsh plants existing in the area. In addition to improving the biological resources in the area, the planting is intended to shield pedestrians on the existing trail from views of the Public Works Yard.

The City would like to make trail improvements in this area as well, but recognizes the constraints of the narrow site and existing sensitive plants. Should the Public Works Yard be relocated in the future, as the City would like to see happen, more space will be available for formalizing the trail and adding appropriate park amenities.

With respect to the subject project, the Commission finds that there are no direct impacts on existing wetland resources. There is, however, significantly less buffer between salt marsh plants and public improvements than is typical, since the Commission usually requires a minimum 100-foot buffer. The Commission finds it acceptable to reduce the buffer to a minimum of 13 feet in this instance for the following reasons: 1) the Commission has historically allowed passive public recreational uses in the inland half of buffers (i.e., within 50 feet of the resource); 2) the actual trail improvements in the eastern portion of the site maintain a 40-foot setback in all but a few instances, although the viewing areas and picnic site are closer; 3) the western portion of the site cannot accommodate a 100-foot buffer because the entire property is only approximately 20 feet in width, but no trail improvements are proposed in this area, so the trail (which sees a fair amount of use) remains in its current condition; 4) U.S. Fish and Wildlife Service and California Department of Fish and Game are supporting the reduced buffer as adequate to protect the resources in this area; 5) this part of the river channel/lagoon shoreline is fortified with riprap, such that the banks support a few individual plants, but nothing approaching an actual marsh system; and, 6) the project can best provide public educational opportunities (nature study) when the public can actually see the resources. In addition, the Commission's staff resource ecologist as reviewed the proposal and found it to be acceptable.

Along with circulation of the environmental document, the preliminary plans included a concept landscaping plan, which was made up of native species, but some that were invasive. The plan was modified in response to some of the comments received on the environmental document, but was still not ideal. The City has recently received a grant to design the landscaping improvements as a separate contract from the path itself, and has retained the services of a resource specialist to design the plan. For this reason, the landscaping plan is still under preparation; the plan depicted on Exhibits 2 and 3 shows the original landscaping plan and is presented here only as a means to show the other components. Special Condition #1 requires submittal of a final landscaping plan and establishes parameters consistent with past Commission actions and with the direction given by other resource agencies.

Because avian nesting activities do occur in the general region, the timing of construction was also raised by the resource agencies as a serious concern. Special Condition #2 requires submittal of a final construction schedule demonstrating that construction will not occur during the bird nesting season in the river channel; the season was identified by California Department of Fish and Game as March through August.

In summary, the Commission finds the proposed public access improvements will not have adverse impacts on existing biological resources. Some components of the proposal will actually increase the value of nearby wetlands. The project provides direct benefits to the existing resources by removing exotic vegetation; enhancing the existing native vegetation communities, and channeling people along the top of the river bank. Where comfortable trails exist, people are less apt to carve out their own in more sensitive places, like the side slopes of the river channel. Moreover, low fencing is

planned to demarcate the edge of the trail. Therefore, the Commission finds the proposal, as conditioned, consistent with Section 30240 of the Act.

3. Public Access and Recreation. The following Coastal Act policies are most applicable to this issue, and state in part:

Section 30210.

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

Section 30212.

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

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

Section 30212.5.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213.

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

In addition to resource benefits, a major purpose of the subject proposal is to enhance the recreational experience of persons already using the informal trail. It is also intended to provide an additional recreational opportunity to alleviate overcrowding at other venues (like the beaches and City parks). This project also partially fulfills the desire of the City, as expressed in its certified LCP, to have a continuous public trail along the southern side of the river channel/lagoon. This project also provides an opportunity for passive recreation to persons with disabilities, as the improved trail segment, overlooks and picnic area are all designed to meet ADA standards. As conditioned to address other concerns, the Commission finds the proposed development consistent with the cited policies of the Coastal Act.

4. Water Quality/Drainage. The following Coastal Act policies are most pertinent to this issue, and state:

Section 30230

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

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project site is directly adjacent to the San Dieguito River Channel/Lagoon. Because of higher ground all around, site runoff currently percolates into the ground, or ponds, on site. The proposed development includes four new drainage features to aid in faster soil absorption. The City proposes to drill four, 3-foot diameter, 10-foot deep augered holes, fill them with drain rock and install grates on the surface. This will help direct runoff deep into the ground and eliminate the occasional ponding that occurs on the site. No other drainage facilities are proposed.

These plans were reviewed by the Commission's Water Quality Unit and determined to be adequate in this instance. The project does not propose any paving, so there will be no increase in impervious surfaces, and thus no increase in the rate or volume of runoff. As conditioned to address other concerns, the Commission finds the proposed development consistent with the cited policies of the Coastal Act.

5. Visual Resources. Section 30251 of the Act addresses visual resources, and states in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and 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 eastern portion of the project site is quite heavily vegetated at this time, but much of the understory vegetation consists of exotic plants that threaten to invade sensitive areas and usurp existing native vegetation. The western portion of the site has only low-lying non-native grasses and a few trees and shrubs. The applicants propose to retain all mature trees on the site, whether native or not, but will remove all non-native undergrowth and replace it with native drought-tolerant or non-invasive native species. Because the large vegetation will remain, the lower vegetation will be replaced, and the proposed access improvements are all surface amenities, the site will not look significantly different after development than at present. The proposed planting will screen the Public Works Yard, which is an industrial/construction type of enterprise, from view. This will enhance the setting and make the trail/park improvements seem more natural. As conditioned to address other concerns, the Commission finds the proposed development consistent with the cited policy of the Coastal Act.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

The access provisions of the City's LCP call for a continuous public trail along the south side of the San Dieguito River Channel/Lagoon. The subject project will improve an existing portion of that trail, and is consistent with the certified City of Del Mar LCP. The entire site is zoned and designated Floodway in the LCP, because it is near enough to the sea to be tidally influenced. Thus, it is an area of original jurisdiction, where the Commission retains permit authority and Chapter 3 of the Coastal Act is the standard of review. As demonstrated in the previous findings, as conditioned, the Commission finds the proposal fully consistent with all applicable Chapter 3 policies. Therefore, the Commission finds that project approval, with the attached special conditions, will not prejudice the ability of the City to continue implementation of its LCP in all areas where it has jurisdiction.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with

the biological resources, visual resources, water quality and public access/recreation policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and 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.

6-01-157

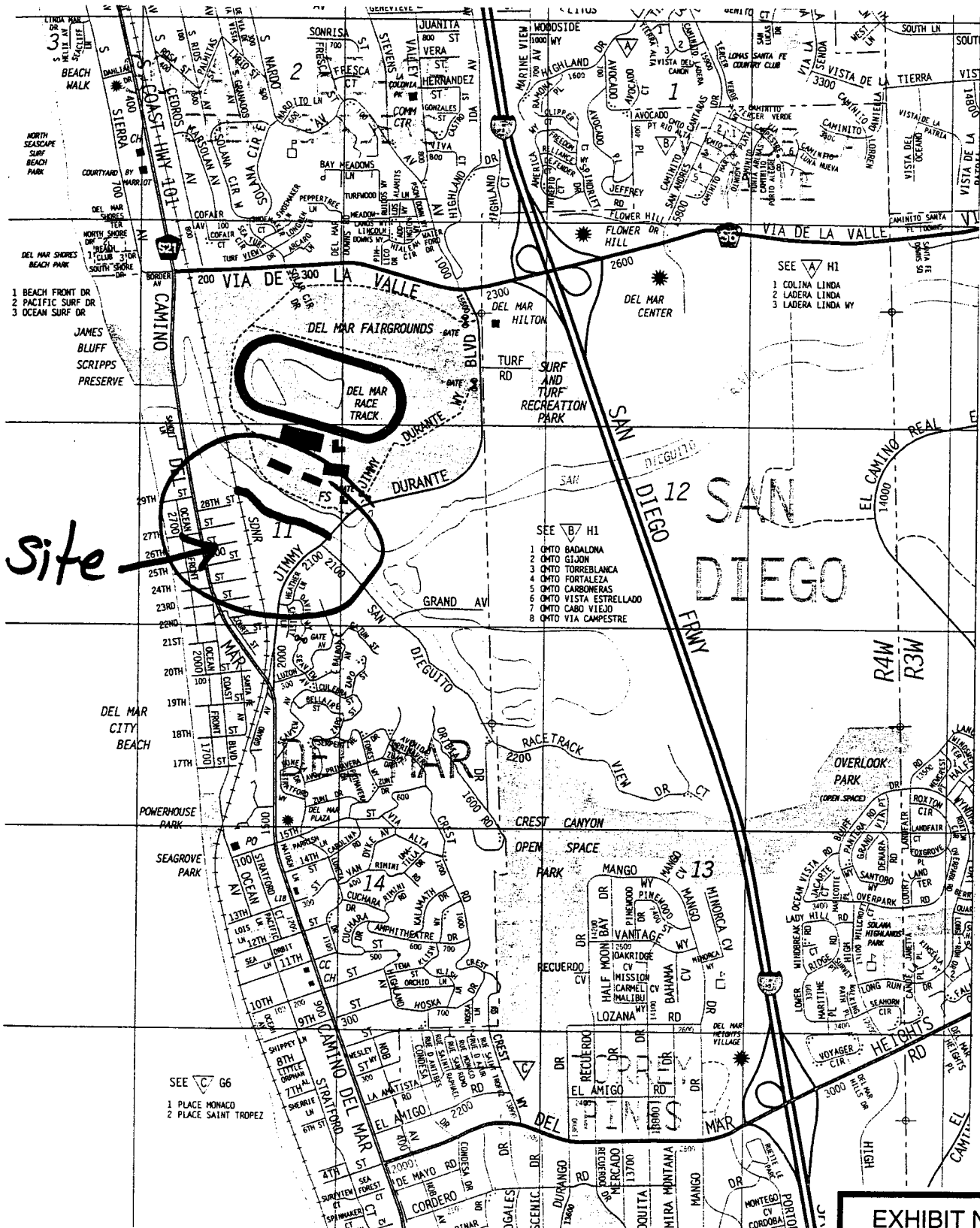



EXHIBIT NO. 1
APPLICATION NO.
6-01-157
Location Map
 California Coastal Commission

6-01-157

DEPT. of LAND & NATURAL RESOURCES
CALIFORNIA COASTAL COMMISSION

Match ↑

NEW FENCE LOCATION

EXISTING FOOTPATH
NO IMPROVEMENTS

ADA ACCESSIBLE PICNIC
TABLE ON STABILIZED
B.G. PATH

ADA ACCESSIBLE VIEWING AREA
WITH LARGE FLAT BOULDER FOR
SITTING AND STABILIZED B.G. SURFACE

TOP OF EXISTING BANK
NO LANDSCAPE IMPROVEMENTS
ON INTERIOR SIDE OF BANK

ADA ACCESSIBLE VIEWING AREA
WITH LARGE FLAT BOULDER FOR
SITTING AND STABILIZED B.G.
SURFACE

5' WIDE ADA ACCESSIBLE
PATH OF STABILIZED
SURFACE

USE EXISTING ROCK TO CREATE
A NATURAL LOOKING BARRIER
TO VEHICLES

EXISTING LAND

LARGE EVERGREEN SHRUBS
FOR EROSION CONTROL,
SCREENING AND HABITAT VALUE

12' HT. SAGE PLANTING
AS A GROUND COVER
AND FIRE SLOPE/EROSION
CONTROL

PAVED ACCESS ROAD

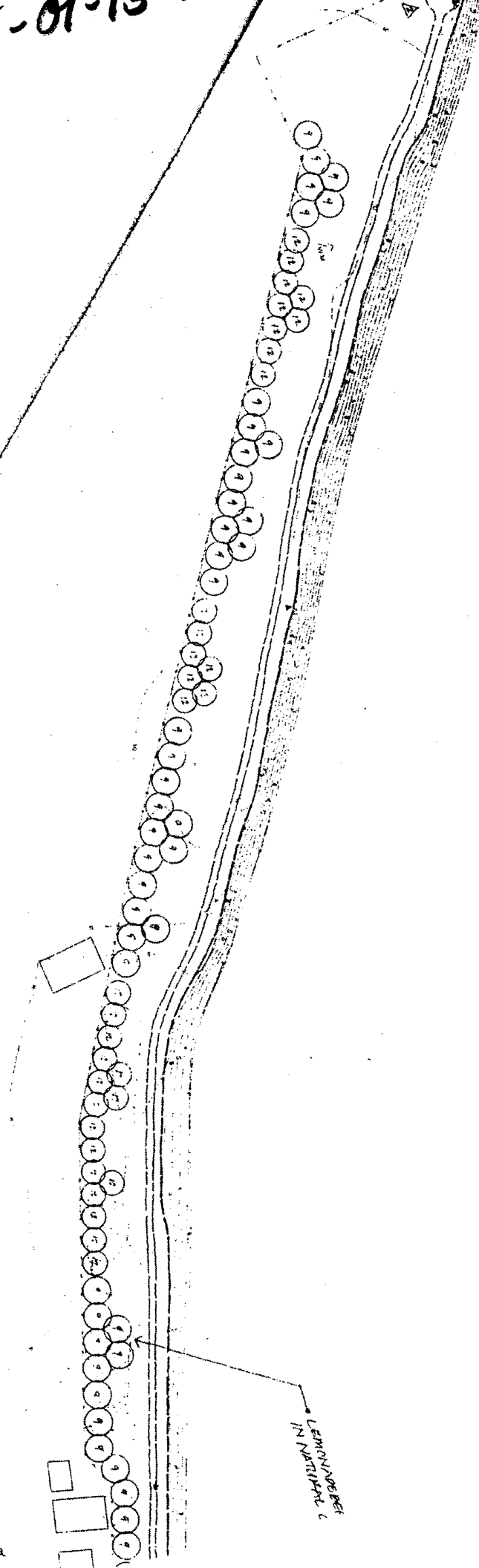
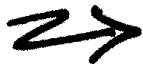
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USE EXISTING ROCK and
NEW Boulders TO CREATE
A NATURAL LOOKING BARRIER
TO VEHICLES

EXHIBIT NO. 2
APPLICATION NO.
6-01-157
Site Plan
Eastern 1/2
California Coastal Commission

6-01-13

RR ROW



LEMONADEST
IN NATURAL

EXHIBIT M
APPLICATION
6-01-13
Site F
West
California C

