

**CALIFORNIA COASTAL COMMISSION**

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**W 4a**

Filed: February 25, 2005  
49th Day: April 15, 2005  
180th Day: August 24, 2005  
Staff: FSY-LB FSY  
Staff Report: June 23, 2005  
Hearing Date: July 13-15, 2005  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-05-072**RECORD PACKET COPY****APPLICANT:** Castillo Del Mar, Attn: Terry Hirshag**AGENT:** Environmental & Regulatory Specialists, Inc.**PROJECT LOCATION:** Doheny State Beach (North Creek), City of Dana Point, County of Orange

**PROJECT DESCRIPTION:** Remove non-native vegetation along a 450-foot reach of North Creek located in Doheny State Beach and replant with native riparian vegetation. In addition, an existing sand dune restoration project near the project site will be expanded by 1,200 square feet.

**LOCAL APPROVALS RECEIVED:** City of Dana Point Approval-In-Concept dated February 24, 2005.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicant is proposing restoration of North Creek with native riparian vegetation and expansion of an existing sand dune restoration project area. The major issues of this staff report concern hazards, water quality, recreation and public access.

Staff is recommending **APPROVAL** of the proposed project with **Three (3) Special Conditions** regarding: **1)** construction responsibilities; **2)** timing of construction; and **3)** conformance with the habitat restoration and monitoring plan.

The proposed development is taking place at Doheny State Beach in the City of Dana Point, which is a certified area under the Dana Point Specific Plan/Local Coastal Program. However, the proposed development is located upon filled tidelands. Therefore, the development is within the Commission's original permit jurisdiction under Coastal Act Section 30519(b) and must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the certified Dana Point LCP may be used for guidance.

**SUBSTANTIVE FILE DOCUMENTS:** Letter from California State Department of Parks and Recreation to Pioneer Builders dated May 5, 2004; *Habitat Restoration and Monitoring Plan, North Creek Restoration Project, Dana Point, Orange County, California* prepared for Castillo Del Mar by Environmental & Regulatory Specialists, Inc. dated July 2004; *Findings of Biological/Wetlands Evaluation, North Creek Urban Runoff Diversion Project, City of Dana Point, Orange County, California* prepared for the City of Dana Point, Public Works Department by LSA Associates, Inc. dated July 26, 2002; United States Army Corp of Engineers (USACOE) Nationwide Permit Authorization dated September 30, 2005; San Diego Regional Water Quality Control Board

(RWQCB) 401 Permit (File No. 03C-045); San Diego Regional Water Quality Control Board (RWQCB) Cleanup and Abatement Order No. R9-2003-0158; San Diego Regional Water Quality Control Board (RWQCB) Addendum No. 2 and No. 3 to Cleanup and Abatement Order No. R9-2003-0158; and California Department of Fish and Game (DF&G) Revised Streambed Alteration Agreement (5-2003-0138).

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#### **LIST OF EXHIBITS**

1. Location Map
  2. Aerial Map
  3. Site Plan
  4. Palm Relocation Map
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#### **STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

#### **MOTION:**

*I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION:**

### **I. APPROVAL WITH CONDITIONS**

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**

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 this permit is reported to the Commission. 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.

### **III. SPECIAL CONDITIONS**

#### **1. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- C. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- D. All mechanized machinery shall be removed from the beach at the end of the working day. No storage of mechanized equipment is allowed on the beach;
- E. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the ocean.
- F. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

#### **2. Timing of Construction**

No construction shall occur during the "peak use" beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

**3. Conformance with Habitat Restoration and Monitoring Plan**

The applicant shall conform with the *Habitat Restoration and Monitoring Plan, North Creek Restoration Project, Dana Point, Orange County, California* prepared for Castillo Del Mar by Environmental & Regulatory Specialists, Inc. dated July 2004. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The subject site is located at North Creek within Doheny State Beach in the City of Dana Point, Orange County (Exhibits #1-2). North Creek is a small perennial creek that flows from the entrance of Doheny State Beach to the west for approximately 520-feet until it terminates on Doheny State Beach. The creek receives urban runoff from the City of Dana Point and much of the runoff entering the creek has been diverted away from the creek in order to minimize the extent of urban runoff reaching the beach. At the end of the creek, the County of Orange has built a sandbag barrier that is maintained during the Summer season. The barrier prevents water from entering the beach area. Periodically, the County of Orange pumps the water to prevent overtopping of the barrier. The creek is a naturalized storm drain channel and is incised approximately 3 to 5-feet and no overbank flooding occurs. Volunteer restoration efforts in the past have resulted in the removal of extensive iceplant and other non-natives, and planting of riparian and riparian-upland transition natives. Exotic vegetation such as crab grass and myoporum are still present along the creeks banks. Native species such as California bulrush and Mexican rush are also found within the wetted perimeter of the banks. The non-native species are either found between the native species along the edge of the creek bank or behind these native plants. A small sand dune restoration project is located on the northwest side of the sandbag berm crossing.

The proposed restoration to take place at this site is required by the San Diego Regional Water Quality Control Board (RWQCB) Cleanup and Abatement Order No. R9-2003-0158 to mitigate wetland impacts relating to the Castillo Del Mar (TT 16197) project (located outside the coastal zone) in the City of Dana Point, CA. The restoration plan will partially satisfy restoration requirements for unauthorized impacts to 0.066 acre of Waters of the U.S. and the State of California on TT 16197. The plan proposes the restoration of 0.132 acres of riparian habitat in North Creek within Doheny State Beach. The plan includes the removal of non-native plant species and the establishment of native vegetation to increase habitat and improve water quality through weed removal, active seeding and planting and five (5) years of maintenance and monitoring (Exhibit #3). The riparian area will be maintained and monitored until the success criteria are met. The restoration work will take place along an approximately 450-foot reach of the creek and the exotic removal and replanting will encompass approximately 10-feet of creek bank on both sides of the creek for a total of 9,000 square feet. An existing below ground irrigation system is present, but it is unknown whether it is functional. An above ground temporary replacement may be installed if necessary to assist in the initial establishment of the vegetation in the riparian area, and potentially on the restored sand dunes (discussed on the next page) for a period of 2-3 years. Irrigation will be shut off permanently when it is determined that the plants are

no longer dependent upon the artificial irrigation source. Furthermore, ten (10) adult Washington Fan palm trees will be relocated from North Creek to locations within Doheny State Beach as specified by State Parks (Exhibit #4). No new palm trees will be planted. Additionally, the restoration plan area will include the portion of North Creek currently impacted by the adult Washington Fan palms trees.

In addition to the riparian community, an existing sand dune restoration project will be expanded by 1,200-feet (60-foot x 20-foot area) (Exhibit #3). The sand dune project is located on the south side of the creek near a sand bag barrier installed by the County of Orange to prevent urban runoff from entering the beach. The sand dune restoration area will consist of the removal of exotic vegetation directly adjacent to the existing restoration project as well as upstream to the project, and active planting of native dune species. Currently, non-native grasses occupy the restoration area. The area will be protected from foot traffic by expanding an already existing rope barrier to the newly restored areas.

The total area where non-native vegetation will be removed is 10,200 square feet. This same acreage will be replanted with native vegetation as discussed above. It is anticipated that the North Creek restoration areas will have sufficient hydrology to be self-sustaining upon plant establishment. A private restoration contractor will assist in the establishment of the riparian community.

The proposed project will not have an adverse effect on public access. While the construction will take place on North Creek located within Doheny State Beach, public access to the beach will remain in the remaining portions of Doheny State Beach.

#### **B. HAZARDS**

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

#### **C. BIOLOGICAL RESOURCES**

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

#### **D. WATER QUALITY**

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going

best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

**E. RECREATION**

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

**F. PUBLIC ACCESS**

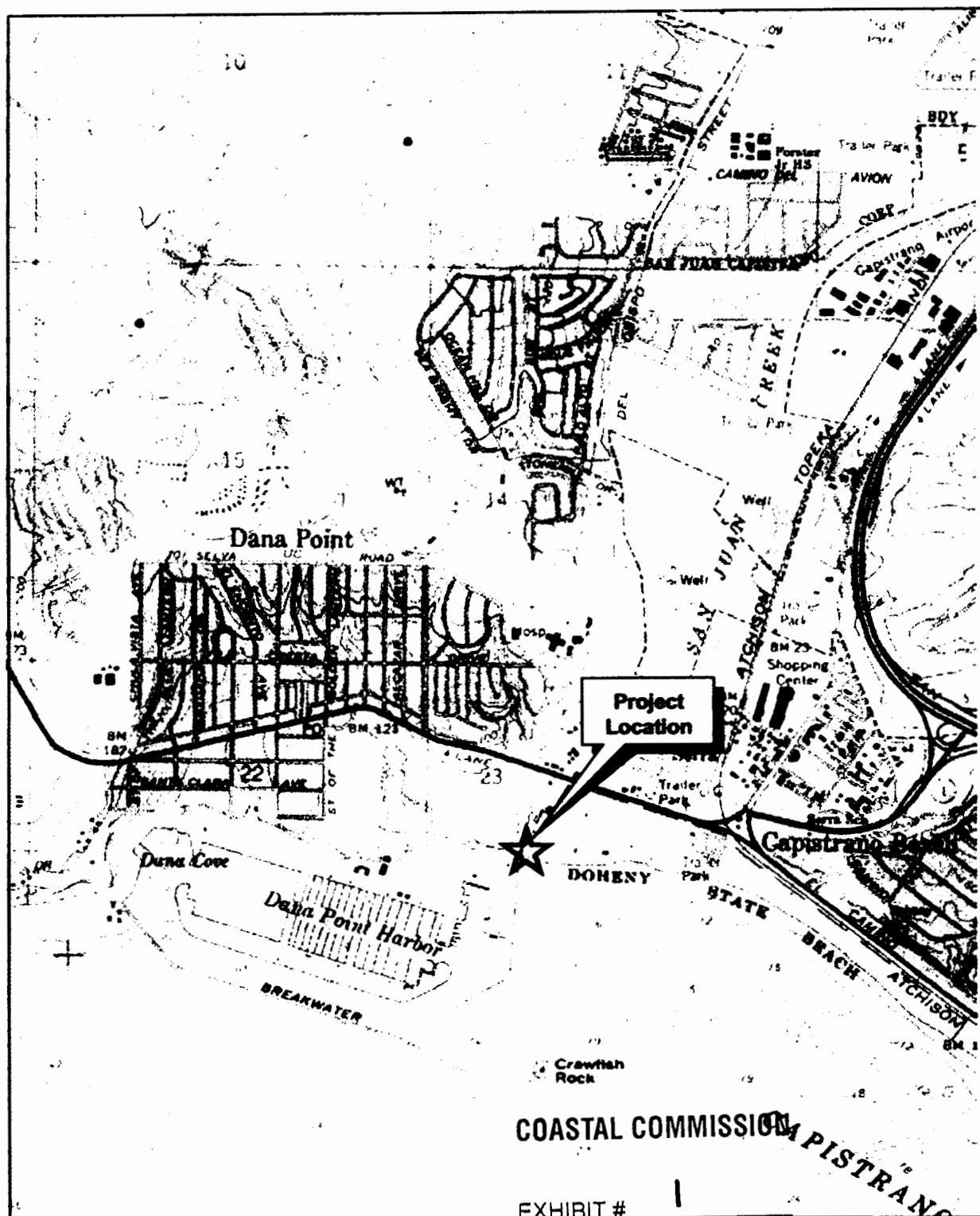
As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**G. LOCAL COASTAL PROGRAM**

The proposed development is occurring at Doheny State Beach in the City of Dana Point. Doheny State Beach is a certified area under the Dana Point Specific Plan/Local Coastal Program. However, the proposed development is located upon filled tidelands. Therefore, the development is within the Commission's original permit jurisdiction under Coastal Act Section 30519(b) and must be evaluated for consistency with the Chapter 3 policies of the Coastal Act. The policies of the certified Dana Point LCP may be used for guidance.

**H. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



USGS 7.5' Series Dana Point Topographic Quadrangle 1968, Revised 1975

EXHIBIT # 1

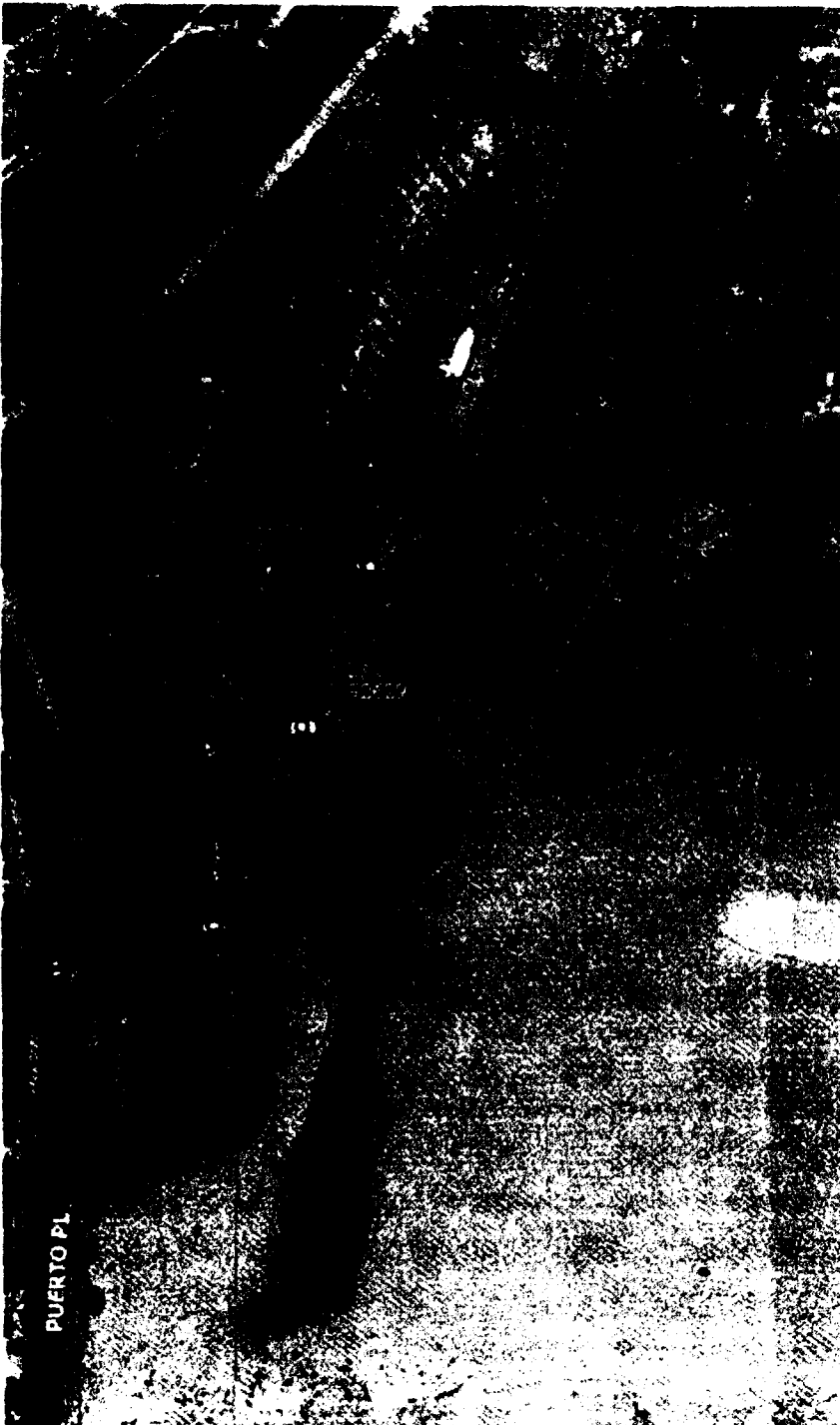
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Environmental & Regulatory  
Specialists, Inc.

USGS Topographic Map

Figure 3



Legends:

Street Map

== Freeways

Highways

— Major Roads

Minor Roads

Water

City Boundary

—

Parcels

Parcel Outlines



**COASTAL COMMISSION**

EXHIBIT # 2

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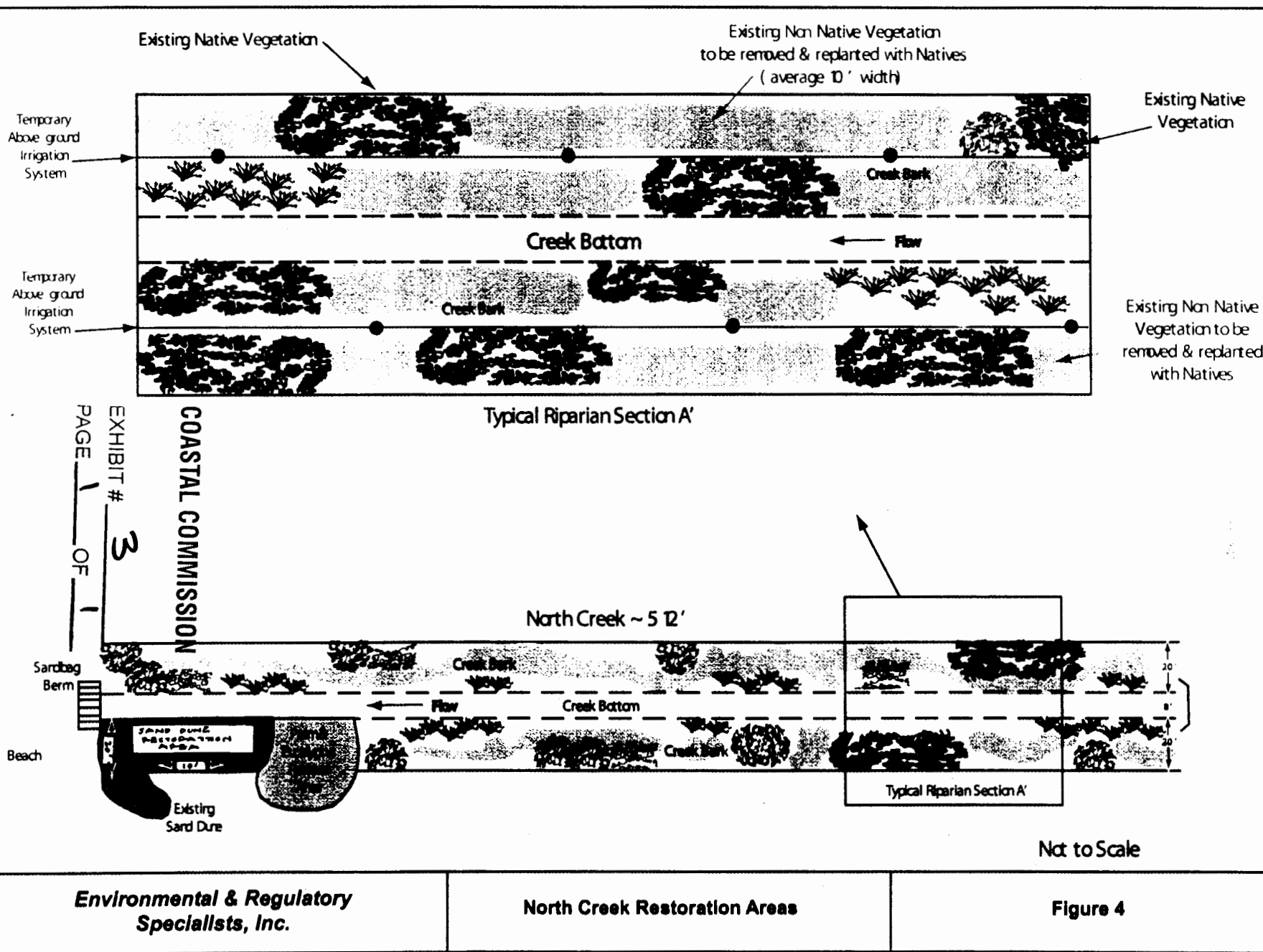
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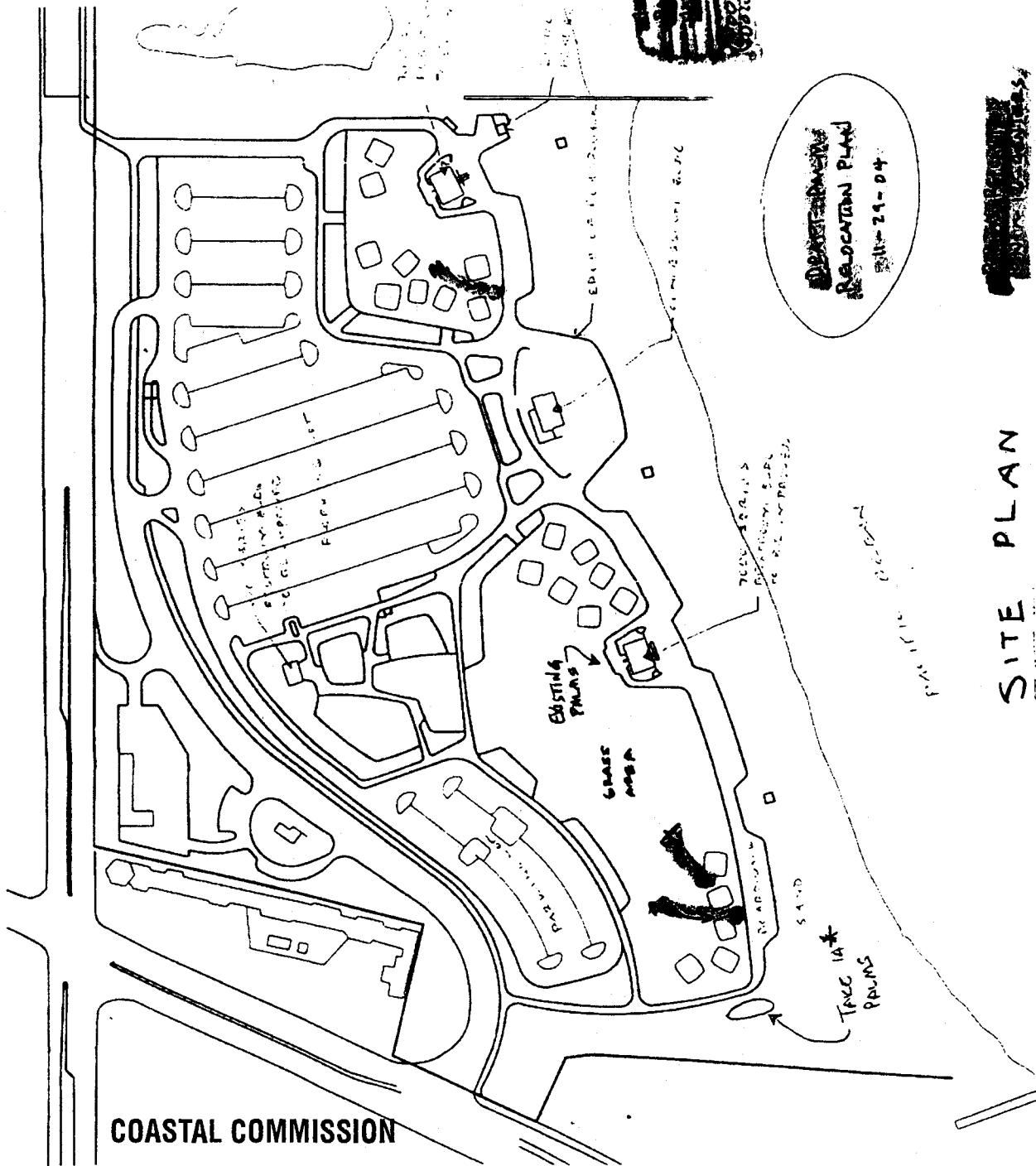
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EXHIBIT # 4  
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