

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Tu 11b

Filed: May 10, 2007
49th Day: June 28, 2007
180th Day: November 6, 2007
Staff: Ellen Lirley-SD
Staff Report: June 28, 2007
Hearing Date: July 9-13, 2007

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-088-A2

Applicant: San Dieguito River Park Joint Powers Authority

Original Description: Implementation of the San Dieguito Wetland Restoration Plan, including creation and/or restoration of approximately 165 acres of wetland habitat, dredging of the lagoon mouth to maintain an open inlet, construction of least tern nesting sites, and construction of public access trails and treatment ponds.

Proposed Amendment: Removal of approximately 4,000-5,000 cu/yds. of material along an 800' long, 60' wide road and berm.

Site: North/northeast of Grand Avenue Bridge, north of San Dieguito Drive, Del Mar and North City, San Diego, San Diego County.

Substantive File Documents: Cities of Del Mar and San Diego certified LCPs

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed amendment with special conditions addressing temporary wetland impacts and monitoring/exotic removal of the graded area. The project is within the geographic extent of the overall San Dieguito Wetland Restoration Plan, but was not a specific component of that plan. However, the proposed removal of a road and berm will expand wetland habitat and remove an existing barrier between historic wetland areas. The expected temporary wetland impact and potential for invasion of exotic species are the only issues raised by the proposal; these are resolved through the recommended special conditions. The site is an area of filled tidelands, and Chapter 3 of the Coastal Act is the legal standard of review.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-04-088 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Post Construction Surveys. The existing condition of the wetland vegetation and substrate at the project site has been documented. The extent of impacts to the vegetation and substrate shall be assessed and documented in a post-construction survey 90 days after the completion of the project to determine actual impacts. If no impacts have occurred, no mitigation will be necessary. This will allow for the potential of natural restoration. Mitigation measures will be necessary if any impacts are detected by the 90-day post-construction survey, as follows.

- a. If the 90-day post-construction survey identifies that temporary impacts remain, the area shall be revegetated at a 1:1 ratio.
- b. If the 90-day post-construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1.

- c. The following goals, objectives, and performance standards for any necessary restoration:
- d. Full restoration of all wetland impacts that are identified as temporary, beyond the 90 day self-recovery period. Restoration of temporarily impacted areas shall include at a minimum, restoration to before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland species.
- e. Success criteria and final performance monitoring shall provide at least a 90% coverage of areas disturbed by construction activities within 1 year of completion of construction activities.
 1. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards.
 2. Submittal, within 30 days of initial restoration work, of post-restoration plans demonstrating that the revegetated areas have been established in accordance with the approved design and construction methods.
 3. A survey taken 1 year after revegetation identifying the quantity and quality of the restored plants. If the survey demonstrates the revegetation has been unsuccessful, in part or in whole, the survey shall include a plan for remediation and further surveys / reports until the site(s) are fully restored.
- f. All surveys, reports or other documentation of the post-construction impacts shall be submitted to the San Diego office of the Coastal Commission within 30 days of completion.

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

2. Monitoring/Invasive Removal. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a plan for monitoring the graded area where the berm is removed. The plan shall include, at a minimum, the following:

- A schedule for site monitoring, including vegetation surveys conducted semi-annually the first two years, then annually thereafter;
- A description of the survey methods to be employed;
- A commitment to remove all invasive/exotic species found during each survey period; and

- Monitoring/exotic removal shall last for five years unless self-restoration of the berm site occurs sooner. Self-restoration shall be considered adequate if wetland species have successfully colonized the site to the degree of quantity/cover and species composition of the surrounding wetland areas.
- Monitoring reports shall be submitted to the Executive Director annually for five years, or until biological monitors of the overall restoration project determine the above criteria have been met.

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

3. Prior Conditions of Approval. All terms and conditions of the original approval of Coastal Development Permit #6-04-88 and as specifically modified herein, shall remain in full force and effect and apply to the subject amendment.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The San Dieguito Wetland Restoration Plan was proposed primarily as mitigation for adverse impacts occurring through operation of the San Onofre Nuclear Generating Station (SONGS). Southern California Edison (SCE), the principal owner of SONGS, is required to provide approximately 150 acres of new, or significantly restored, wetland habitat. In actuality, 165 acres of wetlands must be created or restored, since some impacts to existing wetlands will occur through project implementation. The San Dieguito Wetland Restoration Plan encompasses almost the entire San Dieguito River Valley west of El Camino Real, although SCE is only responsible for a portion of that. Other portions will be implemented by the San Dieguito River Park Joint Powers Authority (JPA).

The restoration has been under construction for several months, and is expected to take approximately three years to complete. Part of the project is to remove the northern half of the existing Grand Avenue Bridge, that extends north from San Dieguito Drive to access a portion of the river valley. Beyond the bridge a path/road continues in an easterly direction along an elevated berm. With the original project implementation, access to that area is being removed to protect the newly created habitats, but a viewing area with interpretive signage will be built at the bridge's new terminus. As currently approved, the project would remove the northern portion of the bridge, but leave the elevated path on the northern side.

The proposed amendment would permit the approximately 800' long road supported on a berm to be graded down level with the ground on either side of it. With public access removed from that part of the river valley to protect the newly created habitat areas to the east of the project site, the berm serves no purpose; if removed, it will eliminate an existing barrier between two areas of historic wetlands, that are currently somewhat overrun by invasive species migrating from the berm itself. The area of temporary impact is expected to restore itself, consistent with its condition prior to invasion by exotic species. The project site is within the overall geographic scope of the larger restoration project, but removal of the road/berm itself had not previously been a project component. The approximately 4,000-5,000 cu.yds. of material removed in the operation will be exported to one of the identified upland disposal sites being used for the original project.

The berm is in an area of filled tidelands where the Coastal Commission retains coastal development permit authority permanently. Chapter 3 of the Coastal Act is the legal standard of review, but the LCPs for the Cities of Del Mar and San Diego are used as guidance, as the berm extends into both jurisdictions.

2. Biological Resources/Water Quality. The following Coastal Act policies related to biological resources and water quality are most applicable to the proposed development, and state, in part:

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.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and

where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

... (6) Restoration purposes. ...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division. ...

Section 30240

(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 existing road/berm does not contain any sensitive vegetation; the existing vegetation on the berm is non-native and invasive, and some has already spread into the adjacent wetlands, degrading them to some degree. The berm has historically been used by the public to access an area of mixed wetlands and uplands. Although never used by a large number of people, the area accessed by the berm, and the berm itself, was popular with local residents for walking dogs; there is also some indication the area has been used by transients. In its current condition it interferes with natural wetland function by separating two areas of historic wetlands, and also encourages the spread of non-native, invasive species into those adjacent wetlands.

The overall restoration project includes dredging a large area north of the site to create a new open water basin, with a least tern nesting site to be created south of the new basin. The bridge and berm are currently used by construction workers to access the dredge site, but operations in this part of the restoration project are nearing completion. Once the work requiring this access is complete, the northern portion of the Grand Avenue Bridge will be removed. However, as the project was initially proposed and approved, the existing berm would remain. It will serve no purpose, and likely has adverse impacts on adjacent habitat areas, but its removal was never identified as a project component. The proposed amendment corrects that oversight, and removal of the berm will advance the overall project objectives.

However, because the berm is surrounded by existing, though not highly functional, wetlands, some temporary impacts are anticipated for worker and equipment access to remove the berm. These impacts will consist of trampling by people and machinery, and

will be minimized through placement of plywood or mats to absorb some of the weight. No vegetation will actually be removed. The maximum anticipated impact is approximately one third of an acre; however, this calculation was made by overlaying a 1997 vegetation map on the project site. The Commission's contract scientist who provides oversight to the restoration project as a whole has visited this specific area and expects any temporary impacts to be far less than the older survey would indicate. The area has been invaded by several invasive, weedy species, including mustard, to the extent that much of the area immediately surrounding the berm no longer supports wetland vegetation or performs wetland functions.

Since some temporary impact is nonetheless anticipated, Special Condition #1 requires a survey of the project site following construction to determine the actual extent of impacts. The condition allows ninety days for natural recovery, then calls for planting of appropriate wetland species if recovery is not occurring. Although the prior survey can be used to establish pre-project conditions, the applicant may prefer to do a current biological survey before undertaking the project. This may serve to reduce the baseline calculations and minimize the impacts that may ultimately require mitigation in the form of planting. If ultimately planting is required to adequately mitigate the temporary impacts, removal of non-native species shall occur in an ongoing manner until success criteria are attained. The applicant may want to remove exotics during the 90-day natural recovery period, since this will better facilitate natural recruitment, and further reduce the likelihood of the applicant being obligated to perform extensive mitigation.

Special Condition #2 requires submittal of a monitoring program to assure that the area where the berm is removed does not get overtaken by invasive/exotic species. The program calls for semi-annual vegetation surveys for the first two years after project completion, then annual surveys thereafter until the success criteria is attained. At the time of the surveys, all invasive/exotic vegetation is to be removed. Said monitoring shall last for five years, unless successful colonization with wetland species, at levels comparable to surrounding natural wetland areas, occurs sooner. Since the overall restoration project requires biological monitoring for the life of the project, an affirmative determination by said monitors will satisfy this condition.

With respect to water quality, the proposed road/berm removal will improve surface waters in at least two ways: first, an expansion of wetland areas will increase the overall restoration project's ability to filter pollutants; and second, removal of the berm will eliminate a potential source of eroded sediments. The minor removal of approximately 4,000-5,000 cu.yds. of berm material is completely within the scope of the overall project, which includes the use of heavy earth-moving equipment to dredge an approximately 45-acre basin to a depth of -6 NGVD just north of the project site.

In summary, although some temporary wetland impacts are expected to occur in conjunction with removing the subject berm, Special Condition #1 adequately addresses that issue. Also, the proposal is expected to have a relatively small, but beneficial effect, on water quality. Because it is a restoration activity creating additional wetlands, it is an allowed use in wetlands. Therefore, as conditioned, the Commission finds the proposed

berm removal a positive addition to the overall restoration plan, and consistent with the cited Chapter 3 policies.

3. Public Access. The following Coastal Act policies addressing public access are most applicable to the proposed development, and state, in part:

Section 30210

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

Section 30213

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

Section 30604(c)

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The road/berm proposed for removal has been used in the past by the public to access the interior areas of San Dieguito Lagoon west of I-5, via use of the Grand Avenue Bridge that crosses one of the existing tidal channels of the lagoon. Although the berm itself was not previously proposed for removal in the overall restoration plan, implementation of the overall plan will eliminate any ability of the public previously had to reach the road/berm. Other features of the restoration plan have eliminated much of the area that used to be available to the public in any event. Moreover, the whole issue of public access throughout the restoration area has been addressed in the original permit, which includes a new public trail system around the perimeters of the restoration site. Thus, removal of the subject berm will not have any adverse impacts on public access beyond what has already been addressed through the larger project. Therefore, the Commission finds that removal of the road/berm, with the attached special condition, is consistent with the cited Chapter 3 policies of the Coastal Act.

4. Visual Resources. Section 30251 of the Coastal Act addresses the preservation and enhancement of 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 San Dieguito River Valley provides visual relief from the surrounding commercial and residential areas. Public views to, and throughout, the valley are significant resources requiring protection under the Coastal Act. The proposed project will not significantly alter the area's visual amenities beyond the visual alterations occurring through implementation of the overall restoration plan. The proposed development will grade an existing berm down to the level of surrounding lands. Over time, the area will establish wetland vegetation similar to surrounding areas, to the point that it will blend in with surrounding wetlands. Moreover, the site is surrounded by other components of the overall restoration plan. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30251 of the Coastal Act.

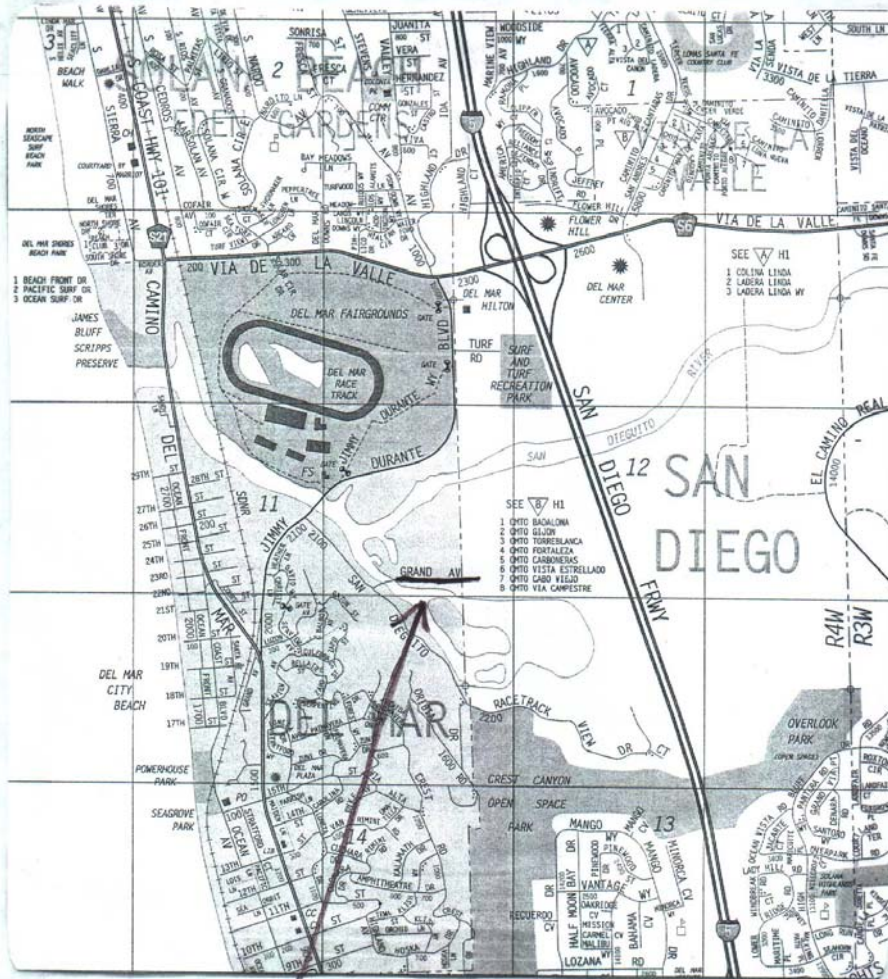
5. Local Coastal Planning. The Cities of Del Mar and San Diego have fully certified LCPs and issue their own coastal development permits (CDPs) throughout most of their coastal zone areas. However, the subject site is an area of filled tidelands within wetlands; this area remains under the Coastal Commission's jurisdiction, and Chapter 3 of the Coastal Act is the legal standard of review. Part of the proposed project is located in the Torrey Pines Community of North City in the San Diego LCP, with the rest in the Del Mar. Both LCPs call for protection and enhancement of natural resource areas, and the overall restoration plan was found consistent with both LCPs. The proposed project only increases the resource value of the area, and is thus consistent with both LCPs. Therefore, the Commission finds that the proposal, as conditioned, will not prejudice either City's ability to continue implementation of its certified LCP.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits, or permit amendments, to be supported by a finding showing the permit or amendment, 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 Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing temporary wetland impacts will minimize all adverse environmental impacts. As conditioned, there are no 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 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.

(G:\San Diego\Reports\Amendments\2000s\6-04-088-A2 San Dieguito Restoration stfrpt.doc)

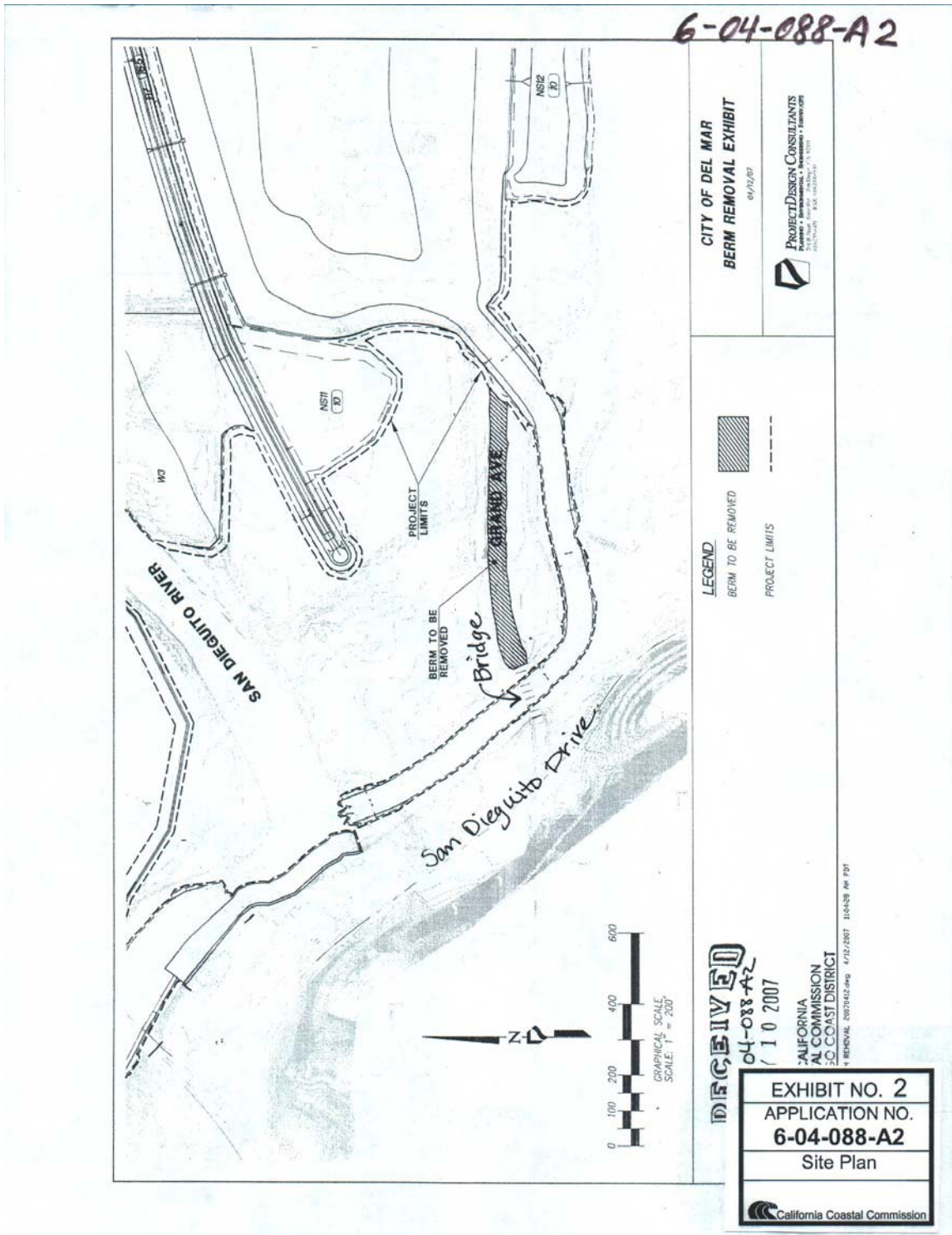
6-04-088-A2



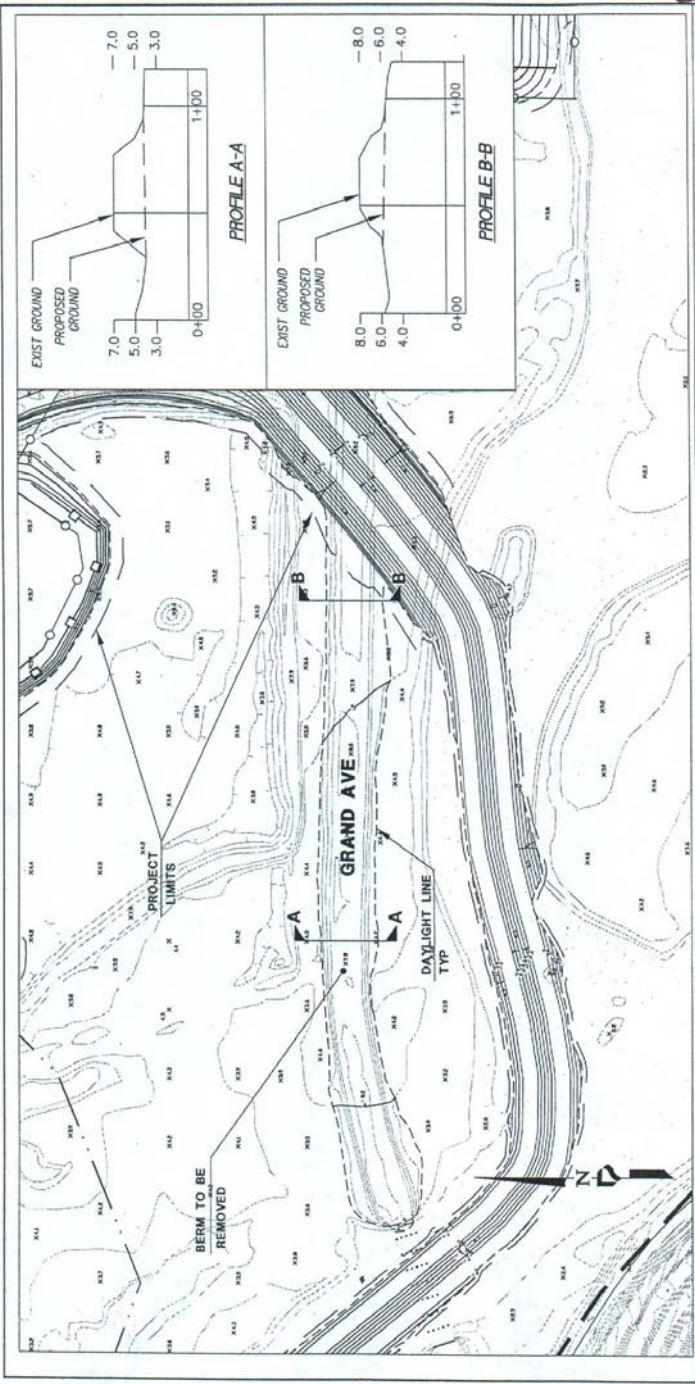
site

EXHIBIT NO. 1
APPLICATION NO.
6-04-088-A2
Location Map

 California Coastal Commission



6-04-088-A2



CITY OF DEL MAR
BERM REMOVAL GRADING EXHIBIT
05/29/07



LEGEND
PROJECT LIMITS
DAYLIGHT LINE



100% REMOVAL 20070412.dwg 4/12/2007 10:44:28 AM P21

EXHIBIT NO. 3
APPLICATION NO.
6-04-088-A2
Cross-Sections

California Coastal Commission