

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



August 15, 2016

Edmund Pert
Regional Manager
South Coast Region
California Department of Fish and Wildlife

Re: Protection and Conservation of the Burrowing Owl (*Athene cunicularia*) on Newport
Banning Ranch

Dear Mr. Pert,

The Commission is scheduled to consider the pending application for a permit for the development project known as Newport Banning Ranch (NBR), located near the 1500 Block of Pacific Coast Highway, partially in Newport Beach and partially within unincorporated Orange County, at its meeting next month in Newport Beach.

According to Section 30006.5 of the California Coastal Act, as quoted below, the Commission should interact with the scientific community when engaging in development decisions:

The Legislature further finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should, in addition to developing its own expertise in significant applicable fields of science, interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to decision making ...

In addition, Coastal Act Section 30336 states that;

The commission ... shall cooperate with and assist other public agencies in carrying out this division. Similarly, every public agency, including regional and state agencies and local governments, shall cooperate with the commission and shall, to the extent their resources permit, provide any advice, assistance, or information the commission may require to perform its duties and to more effectively exercise its authority.

Pursuant to these Coastal Act guidelines, we are reaching out to the California Department of Fish and Wildlife (CDFW) for input, based on your biological expertise, on protection and conservation of over-wintering burrowing owls (*Athene cunicularia*) known to occur at the NBR

site. As you are aware, burrowing owls are identified as an S3 rare species¹ and a California Species of Special Concern by your agency, a bird of conservation concern by the US Fish and Wildlife Service, and as a sensitive species by the Bureau of Land Management. Protocol level winter burrowing owl surveys have identified burrowing owls associated with ground squirrel burrows on the NBR site near a vernal pool complex in 2009, 2010, and 2015, in the center of the southern mesa in 2008 and 2014, and on the mesa in the southeast corner of the property in 2008 (see attached exhibit). Based on the consistency of wintering burrowing owl use, Commission ecologists found the area near the vernal pool complex to rise to the level of environmentally sensitive habitat or ESHA and recommended a 50 m (164 foot)² protective buffer (see attached exhibit), however this determination did not address foraging habitat for the one to three burrowing owls overwintering on the site³.

On June 24, 2016, the Commission received a letter from Dr. Peter H. Bloom, ornithologist and burrowing owl expert, in which he concludes that the project, if approved by the Commission pursuant to the staff recommendation, will result in the extirpation of over-wintering burrowing owls from the site. He states:

Importantly, no surveys have attempted to determine specific foraging areas used by wintering owls on Banning Ranch. The published literature and my own observations lead me to conclude that Burrowing Owls can be expected to utilize all of the available grassland/vernal pool and open grass/scrub habitats within the uplands of Banning Ranch. Any significant reduction, fragmentation, or degradation of potentially suitable Burrowing Owl foraging habitat would threaten the long term survival and existence of these individuals, as well as an unknown number of Burrowing Owls that can be expected to occur there during migration (migrants are seldom detected during the kinds of surveys that have been conducted at Banning Ranch).

He goes on to say:

What is important for the persistence of Burrowing Owls is that the set-aside for owl foraging include, to the maximum extent possible, large and contiguous areas of vernal pools; native or non-native grasslands, and other open, sparsely vegetated habitats. Project planning to date falls far short of this standard.

In response to Dr. Bloom's letter, Commission ecologists are considering the need to designate additional acreage for protection as burrowing owl foraging habitat. Such habitat could consist of native purple needlegrass grassland (PNGG), non-native grassland, and ruderal habitat. The attached exhibit depicts the purple needlegrass grassland on site based on the 2013 and 2015

¹ S3: Vulnerable, at moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.

² California Department of Fish and Game. April 14, 2008. Guidance for Burrowing Owl Conservation. Habitat, Conservation, and Wildlife Branch, Bay Delta Region. Sacramento, CA.

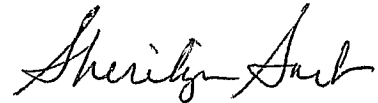
³ Engel, J. Sept. 25, 2015. ESHA and Wetland Determination for Banning Ranch, Orange County, California (CDP 5-13-032). Memorandum to Amber Dobson, Coastal Program Analyst. AND Dixon, J. and J. Engel. April 29, 2016. Site-specific analysis of wetlands and ESHA on Banning Ranch. Memorandum to Amber Dobson, Coastal Program Analyst.

August 15, 2016

Dudek vegetation maps and an analysis by the Commission ecologists that removed small fragmented patches of PNGG. The other grassland category includes annual European grassland, salt grass flats, and ruderal or disturbed areas.

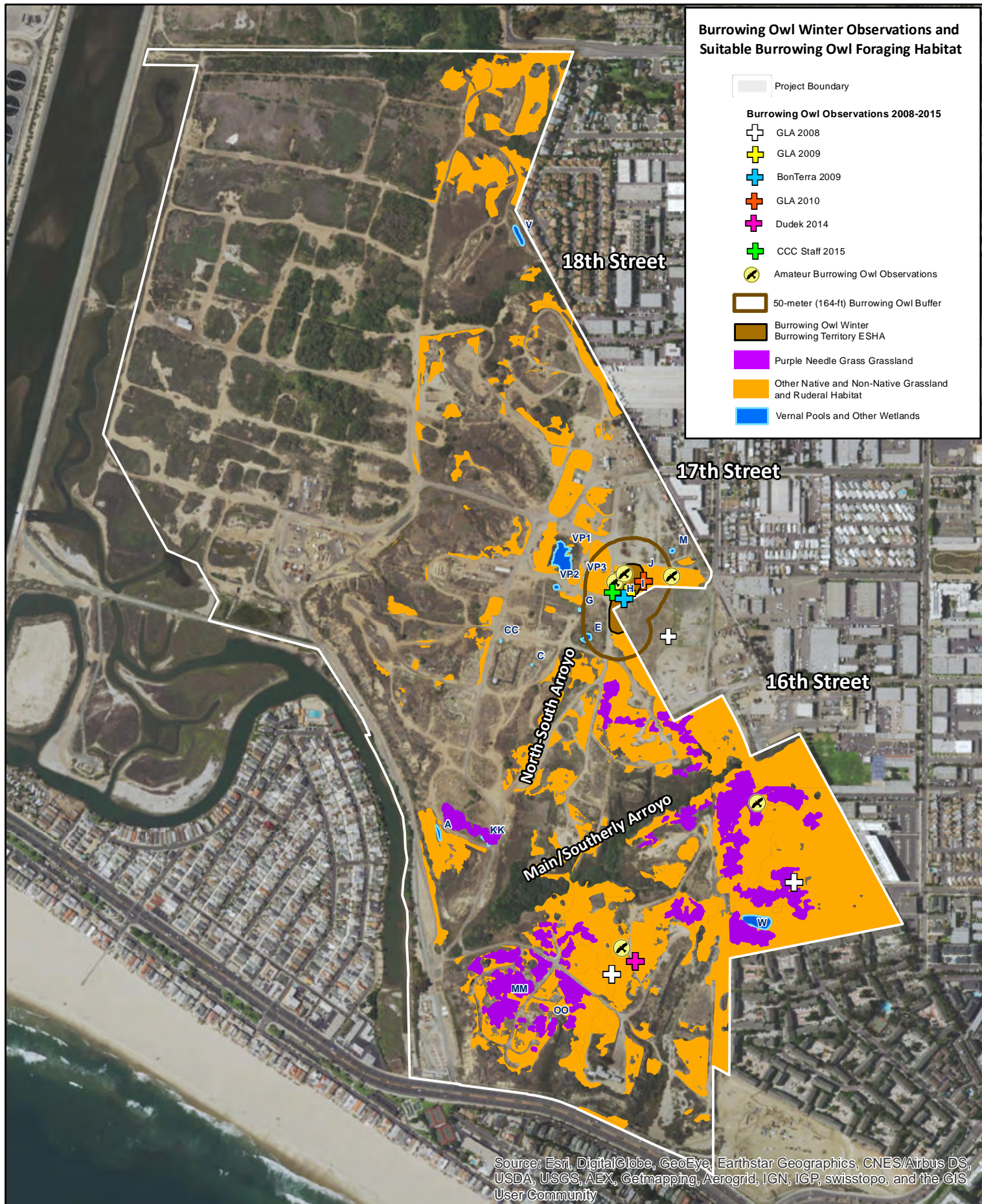
Given the CDFW 2008 *Guidance for Burrowing Owl Conservation* and 2012 *Staff Report on Burrowing Owl Mitigation* guidelines for protecting and conserving burrowing owls, we are seeking your opinion on the appropriate extent and location of foraging area necessary to support one or more over-wintering burrowing owls on the NBR site. To the extent possible, your response by August 25, 2016, to be available for the Commission hearing as early as September 7, 2016 will be greatly appreciated. Thank you for taking the time.

Sincerely,



Sherilyn Sarb
Deputy Director

cc: Jack Ainsworth, CCC
Karl Schwing, CCC
Alex Helperin, CCC
Jonna Engel, CCC
Amber Dobson CCC
Chris Yelich Brooks Street
Michael Mohler Brooks Street



Burrowing Owl Winter Observations and Suitable Burrowing Owl Foraging Habitat

- Project Boundary
- Burrowing Owl Observations 2008-2015**
 - GLA 2008
 - GLA 2009
 - BonTerra 2009
 - GLA 2010
 - Dudek 2014
 - CCC Staff 2015
 - Amateur Burrowing Owl Observations
- 50-meter (164-ft) Burrowing Owl Buffer
- Burrowing Owl Winter Burrowing Territory ESHA
- Purple Needle Grass Grassland
- Other Native and Non-Native Grassland and Ruderal Habitat
- Vernal Pools and Other Wetlands

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



August 25, 2016

Ms. Sherilyn Sarb, Deputy Director
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Sherilyn.Sarb@coastal.ca.gov

**Subject: Request for consultation regarding the protection and conservation of
Burrowing Owl (*Athene Cunicularia*) on Newport Banning Ranch**

Dear Ms. Sarb:

The Department of Fish and Wildlife (Department) has received your August 15, 2016 letter requesting technical support from the Department relating to conservation of burrowing owls on the proposed Newport Banning Ranch (NBR) site. Specifically, you requested input, based on our biological expertise, of the "appropriate extent and location of foraging area necessary to support one or more over-wintering burrowing owls on the NBR site." Your letter also referenced a June 24, 2016 letter to the California Coastal Commission (Coastal Commission) from Dr. Peter H. Bloom, which we also reviewed.

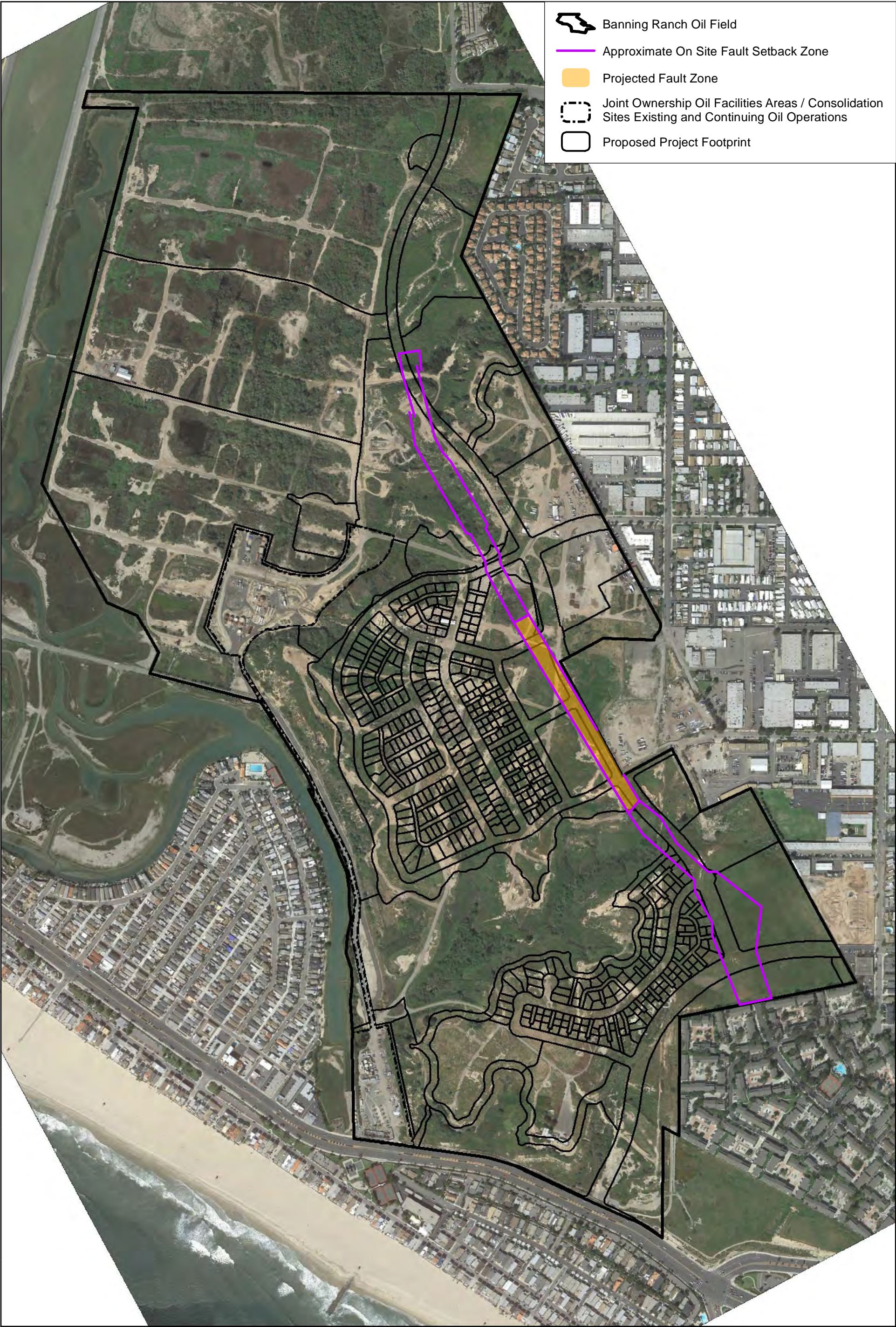
We evaluated your request for consistency with the Department's 2012 Staff Report on Burrowing Owl Mitigation (Burrowing Owl Staff Report; Department of Fish and Wildlife, 2012). When evaluating site-specific impacts, the Burrowing Owl Staff Report recommends a three-step process including: 1) a habitat assessment; 2) protocol surveys; and 3) an impact assessment. As a component of the impact assessment, the Burrowing Owl Staff Report recommends the evaluation include a determination of impact significance (see Burrowing Owl Staff Report, p.7). To date, the Department is unaware of a complete burrowing owl impact assessment for the currently proposed Newport Banning Ranch project and site that includes the distribution and utilization of the site by burrowing owls for foraging, over-wintering, and other site-specific factors. The lack of this information prevents us from making recommendations on site- and project-specific features or project elements related to burrowing owl site use and the appropriate extent and location of foraging habitat.

With regard to Dr. Bloom's letter, his assessment recommendations are consistent with the data collection and analysis process recommended in the 2012 Burrowing Owl Staff Report. Thank you for your letter and for reaching out to the department on this matter. Please contact Gail Sevens at Gail.Sevens@wildlife.ca.gov or (858) 467-212 if you would like to discuss the matter further.

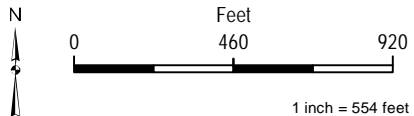
Sincerely,

Edmund Pert
Regional Manager
South Coast Region

ec: Erinn Wilson, CDFW



- Banning Ranch Oil Field
- Approximate On Site Fault Setback Zone
- Projected Fault Zone
- Joint Ownership Oil Facilities Areas / Consolidation Sites Existing and Continuing Oil Operations
- Proposed Project Footprint

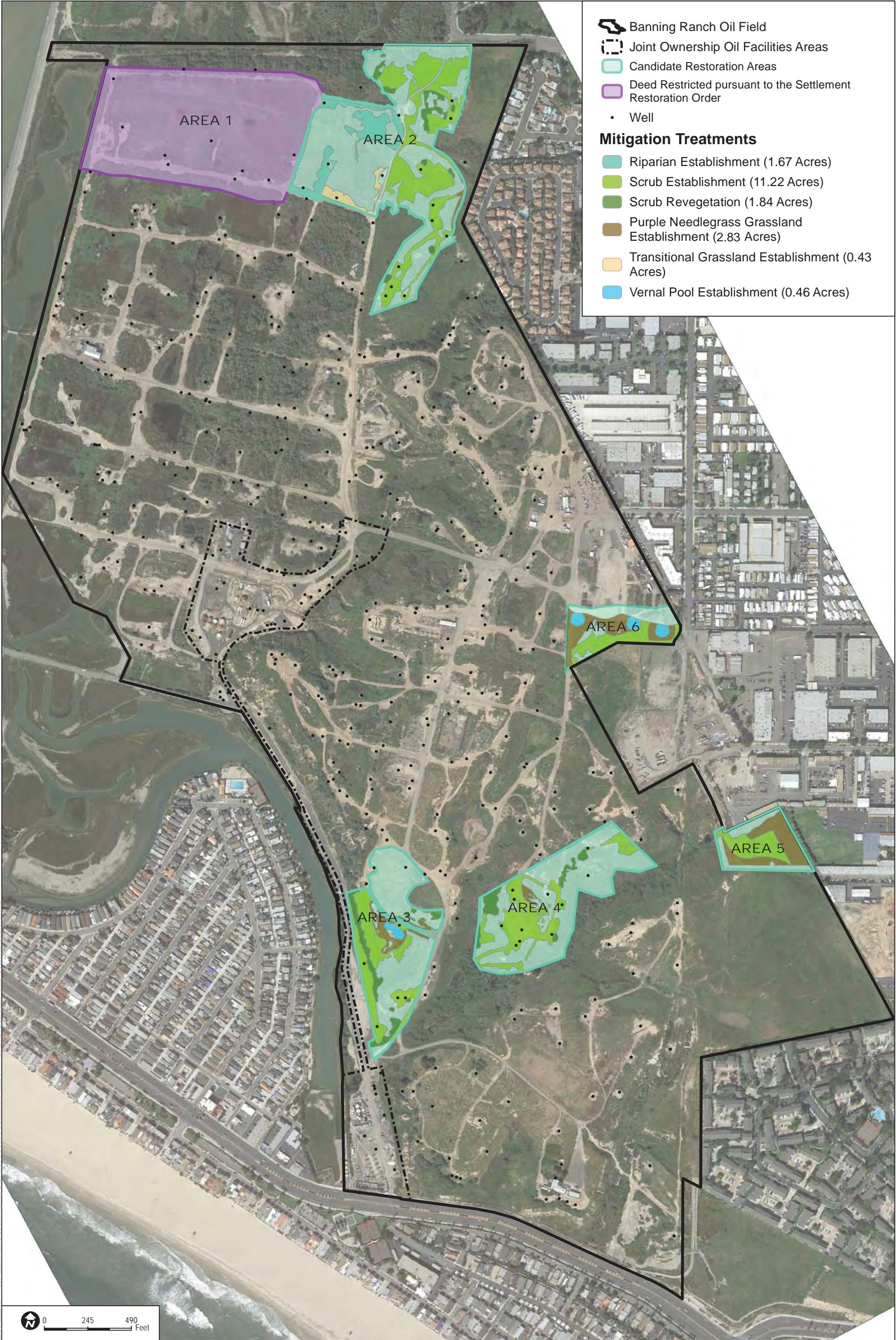


SOURCE: Aerial and Fault data provided by Fusco Engineering
NEWPORT BANNING RANCH

Projected Newport Mesa Fault Zone

5-15-2097, EXHIBIT 14

Date: 5/14/2013 - Created by: slucarelli - Last saved by: slucarelli - Path: \\HOTR-DATA\GISdata\Projects\72480\MAPDOC\MAP5\Constraints\Fault_Map.mxd



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SOURCE: Dudek (2015),
Aerial provided by Fusco Engineering

Newport Banning Ranch



RESORT VIEW FROM PACIFIC COAST HIGHWAY



RESORT ARRIVAL

FORMA

Fusco Engineering

Robert Hidey Architects

RESORT INN VIEWS

NEWPORT BANNING RANCH

Newport Banning Ranch, LLC



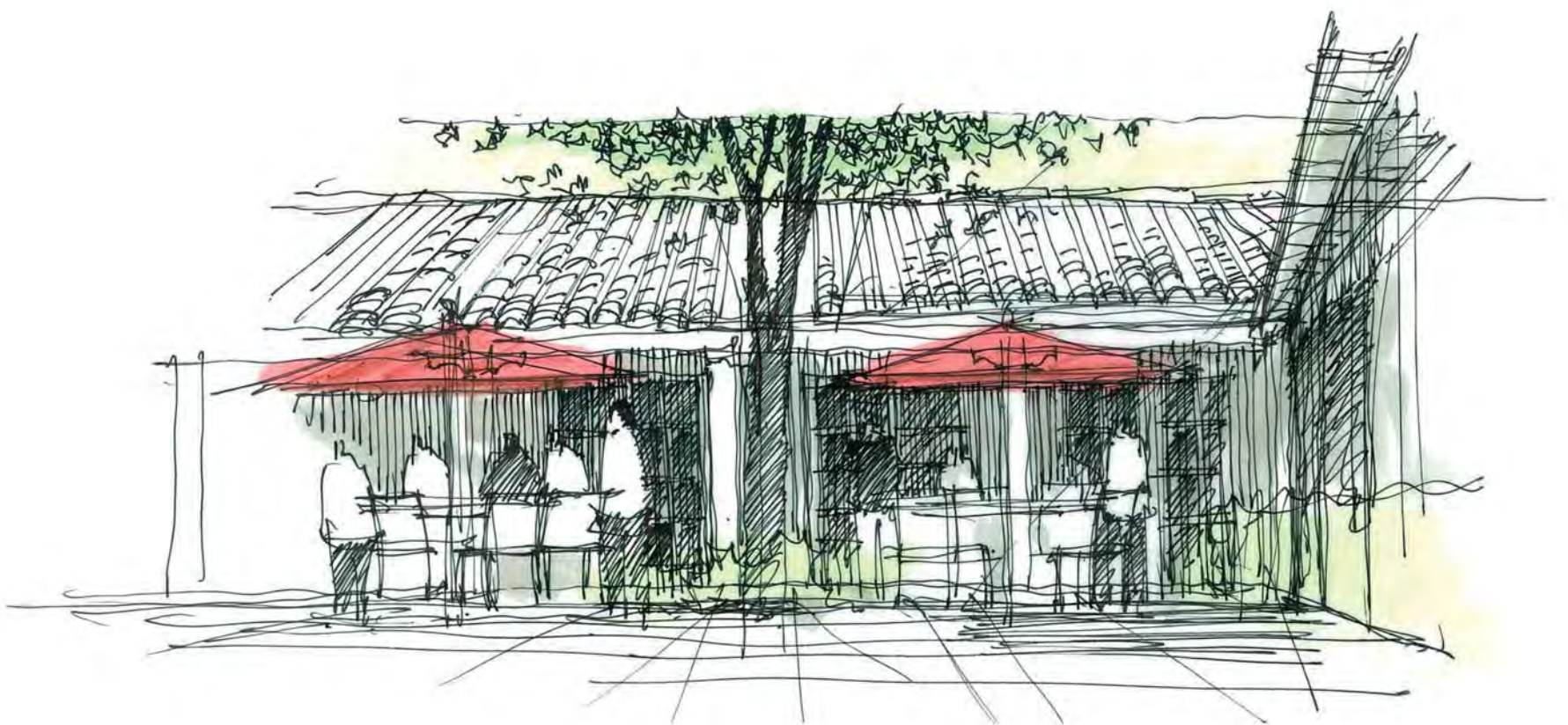
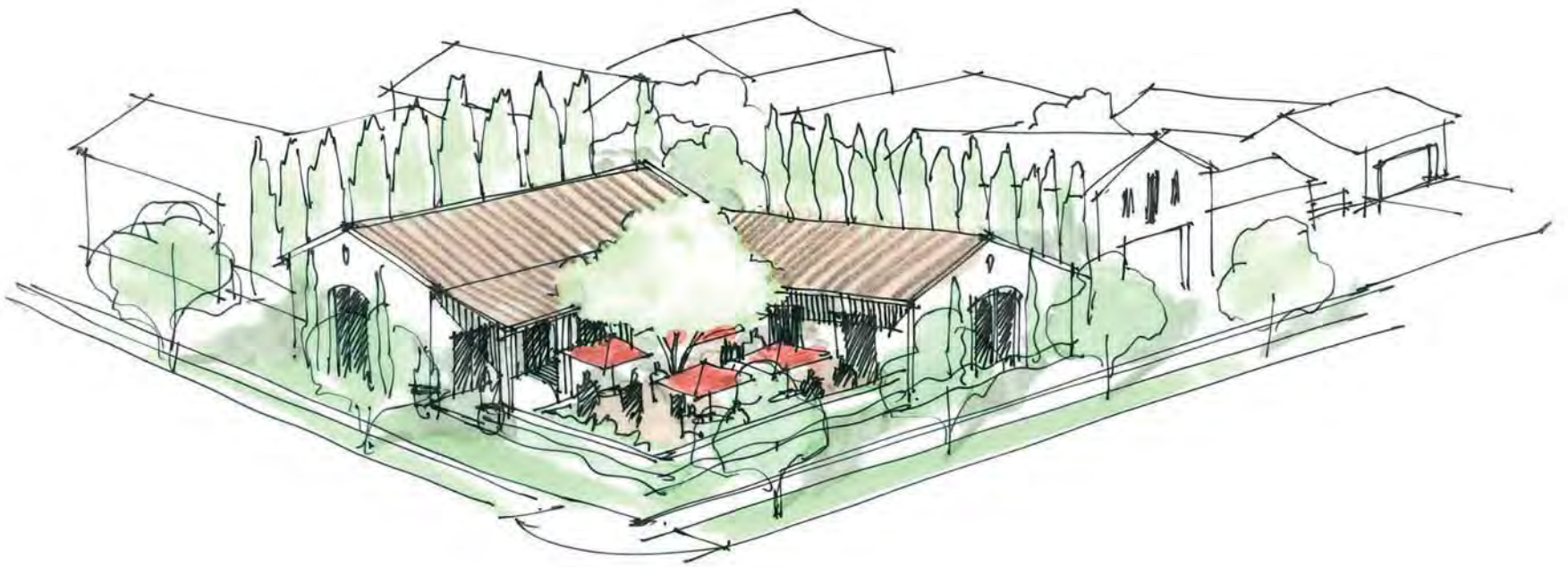
FAMILY VILLAGE NORTH - GRAND ALLEE



URBAN COLONY - VILLAGE GREEN



URBAN COLONY - RETAIL



FORMA

Fuscoe Engineering

Robert Hidey Architects

NEIGHBORHOOD STORE

NEWPORT BANNING RANCH

Newport Banning Ranch, LLC

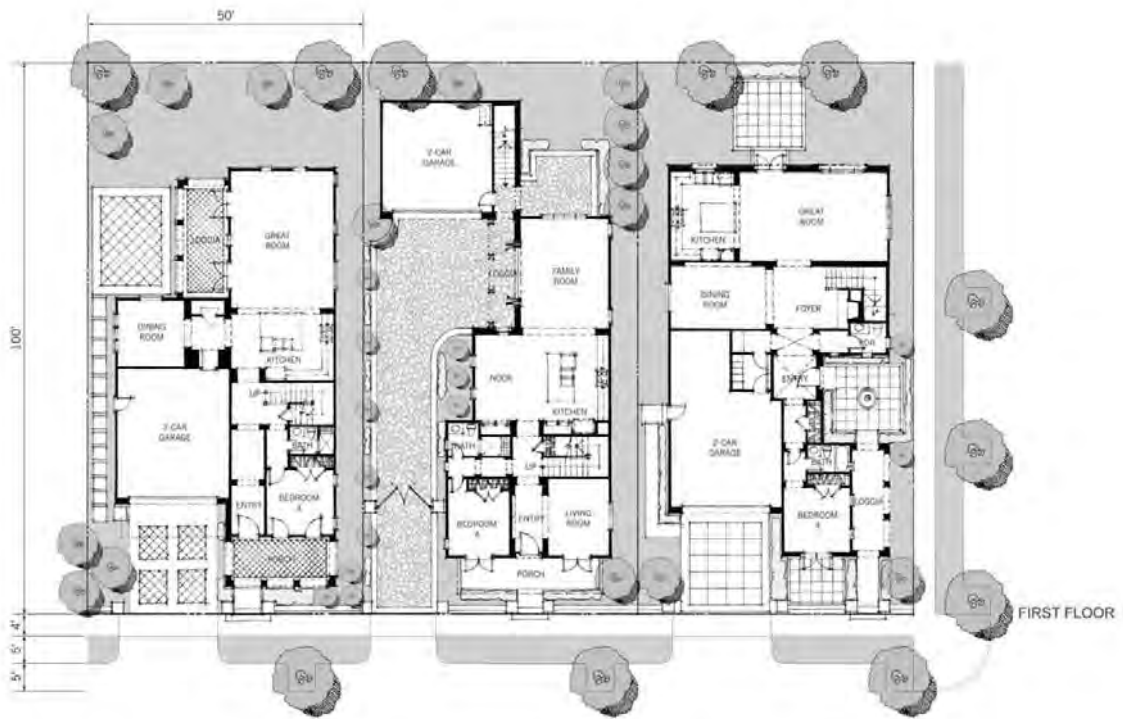
NEWPORT BEACH, CA

5-15-2097, EXHIBIT 16

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SECOND FLOOR



FIRST FLOOR



FORMA
Fusco Engineering
Robert Hidey Architects

TRADITIONAL HOMES
NEWPORT BANNING RANCH
NEWPORT BEACH, CA

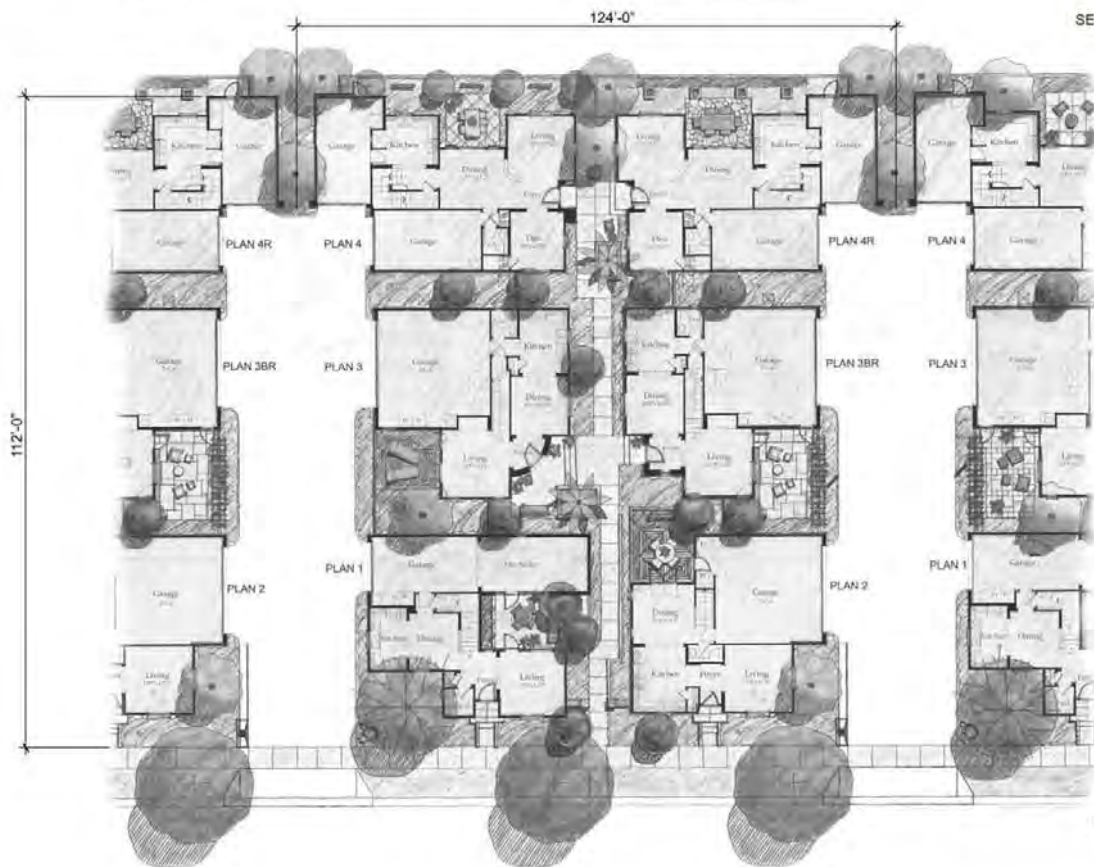
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5-15-2097, EXHIBIT 16
NEWPORT BANNING RANCH, LLC
PROJECT 08018 02 : 03/26/2009

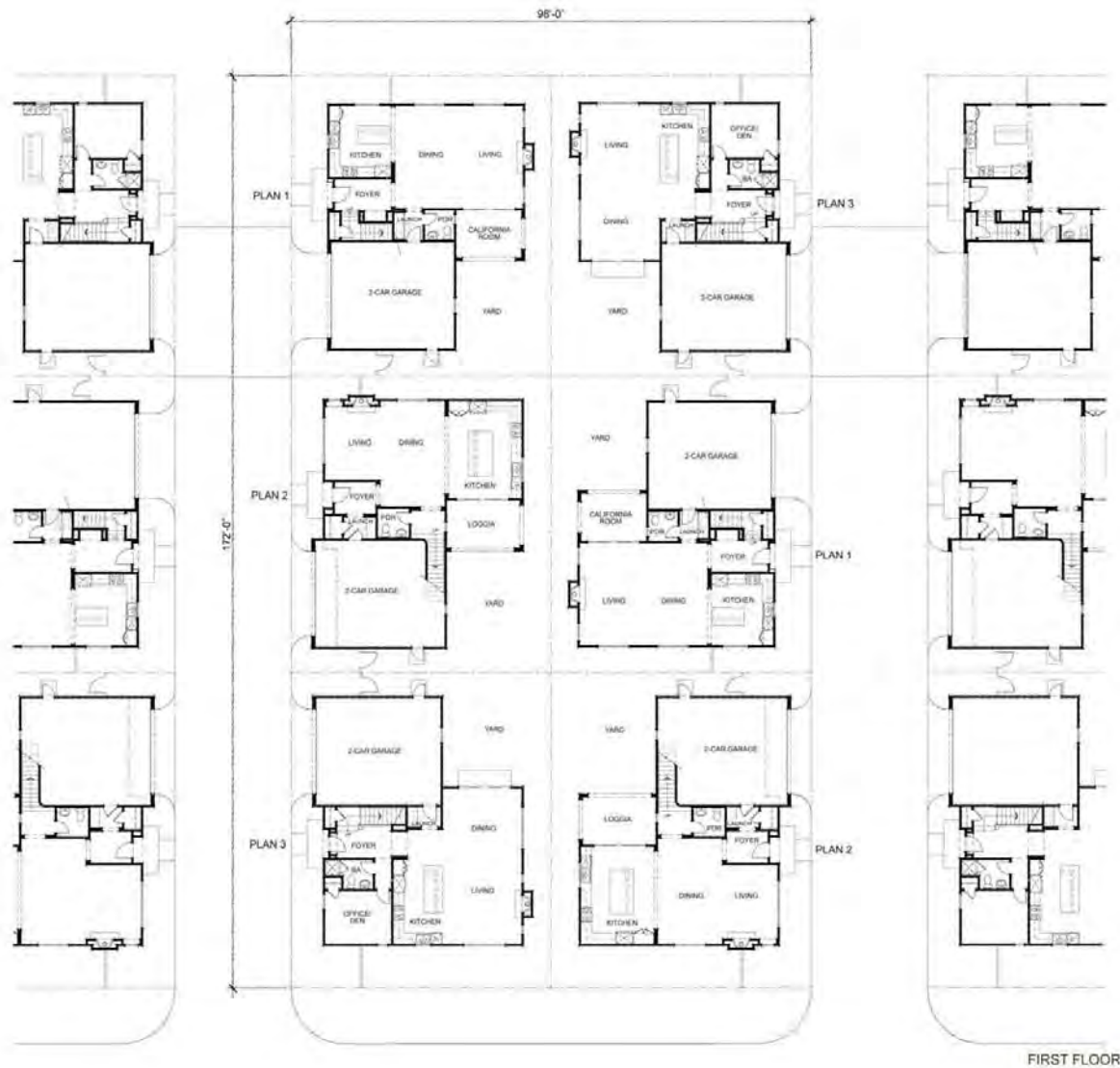




SECOND FLOOR



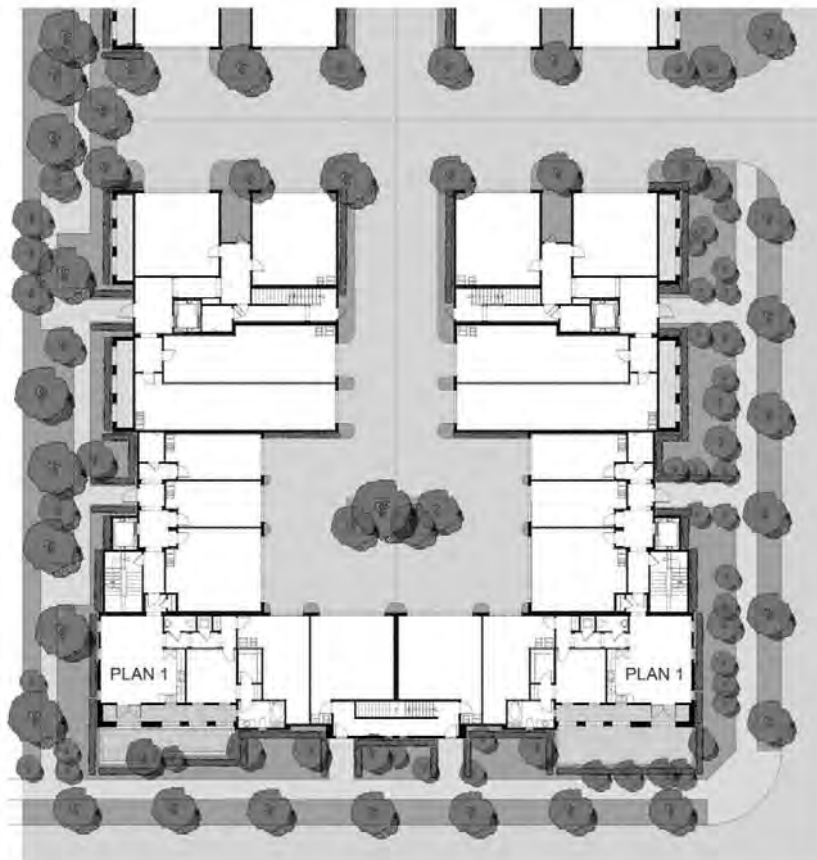
FIRST FLOOR







SECOND FLOOR



FIRST FLOOR

FORMA

Fusco Engineering

Robert Hidey Architects

VILLAGE FLATS

NEWPORT BANNING RANCH

NEWPORT BEACH, CA



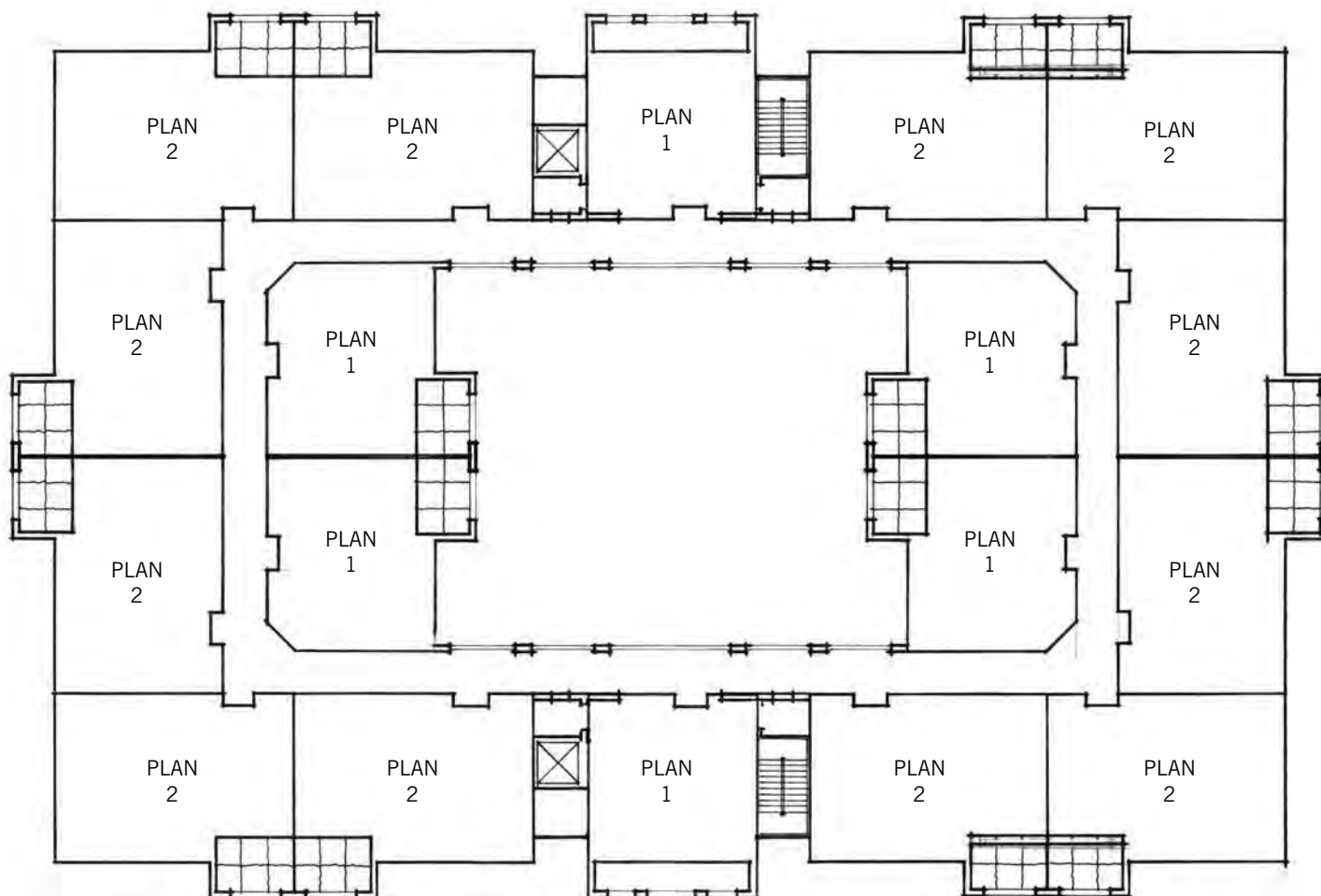
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NEWPORT BANNING RANCH, LLC

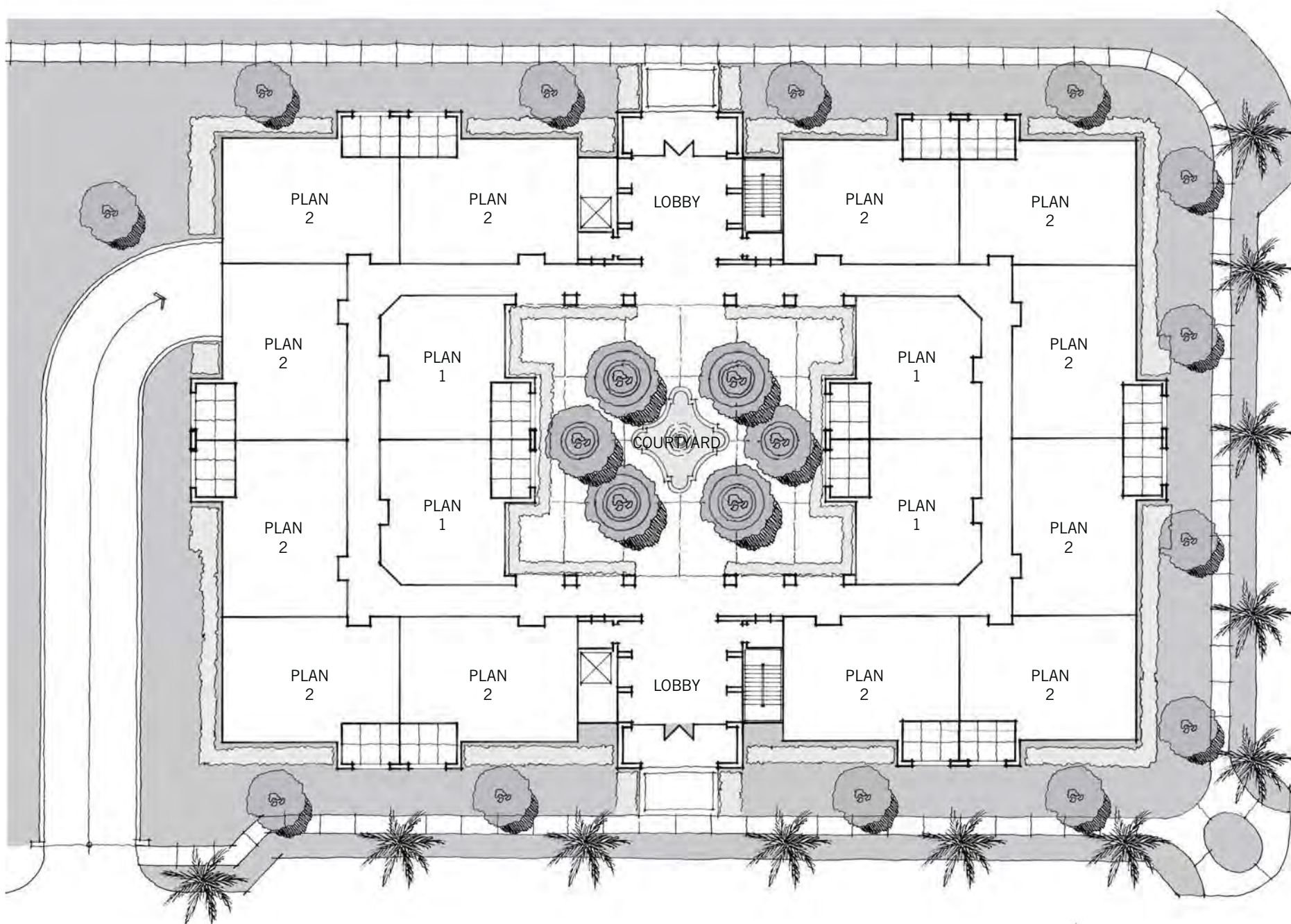
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5-15-2007, EXHIBIT 16

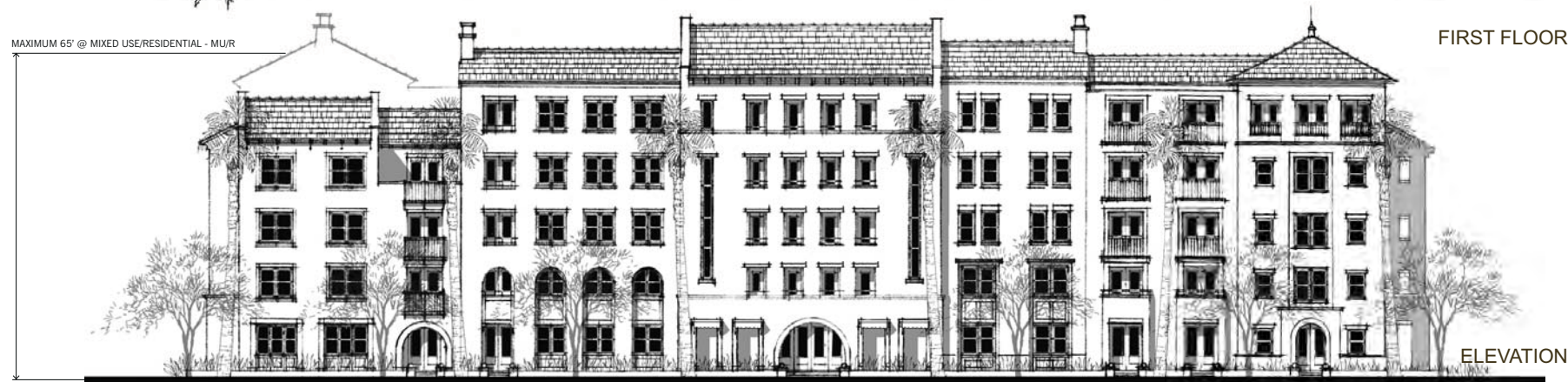
Page 9 of 18



TYPICAL FLOOR ABOVE



FIRST FLOOR



FORMA

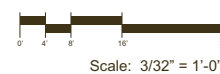
Fusco Engineering

Robert Hidey Architects

URBAN FLATS

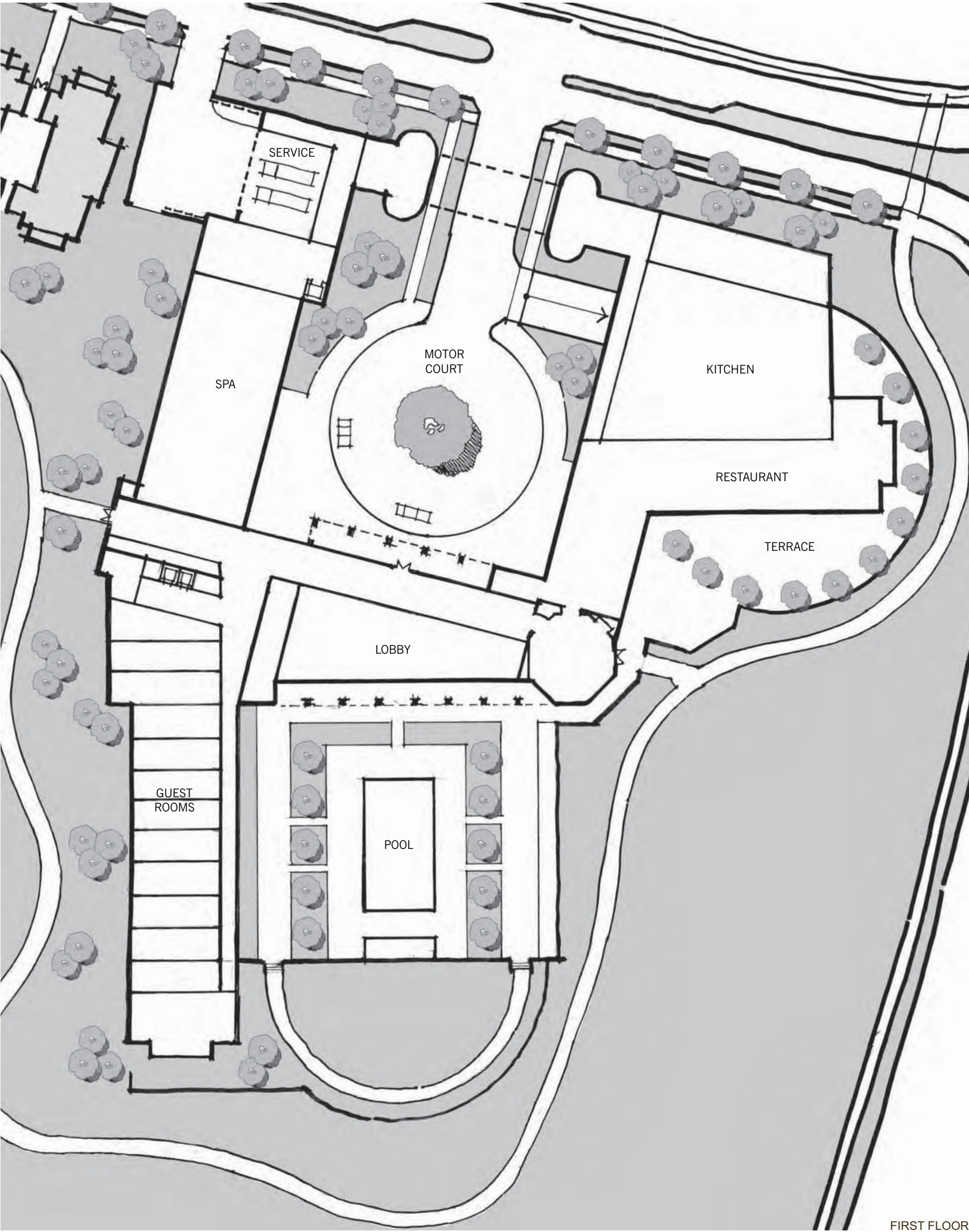
NEWPORT BANNING RANCH

Newport Banning Ranch, LLC



5-15-2097, EXHIBIT 16

Page 10 of 18



FIRST FLOOR



ELEVATION

FORMA

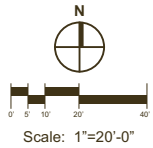
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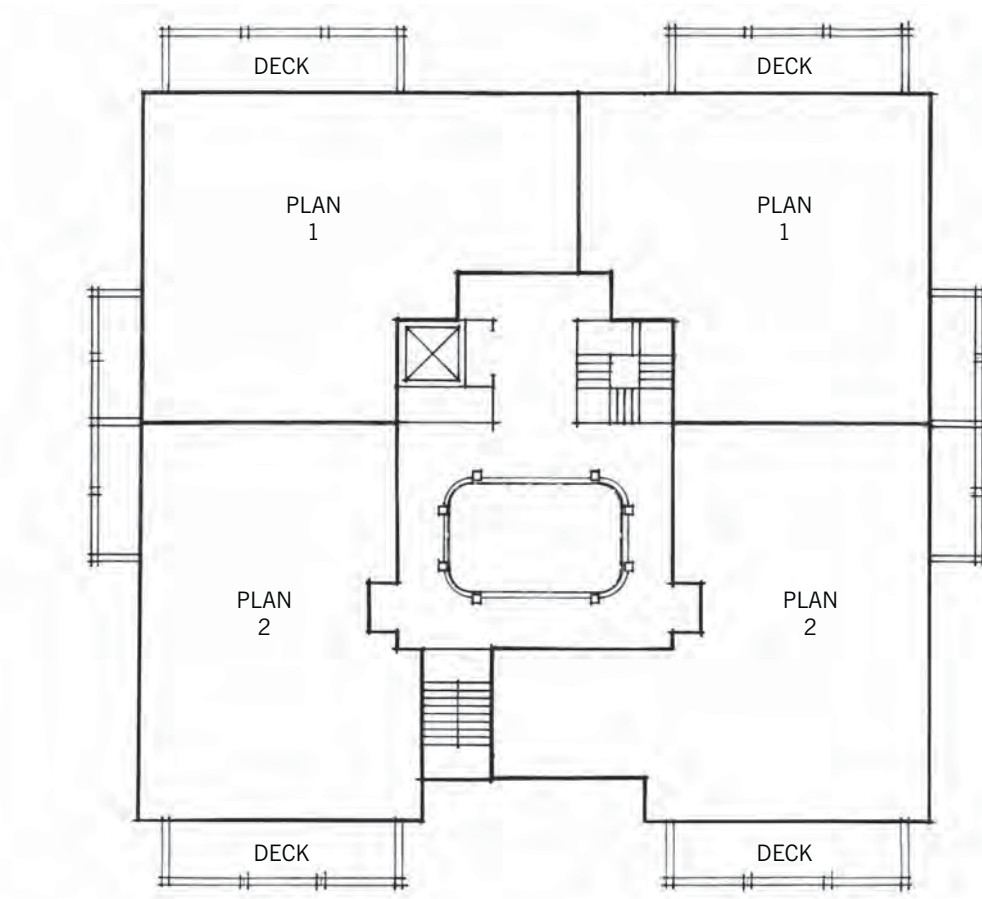
Robert Hidey Architects

RESORT INN

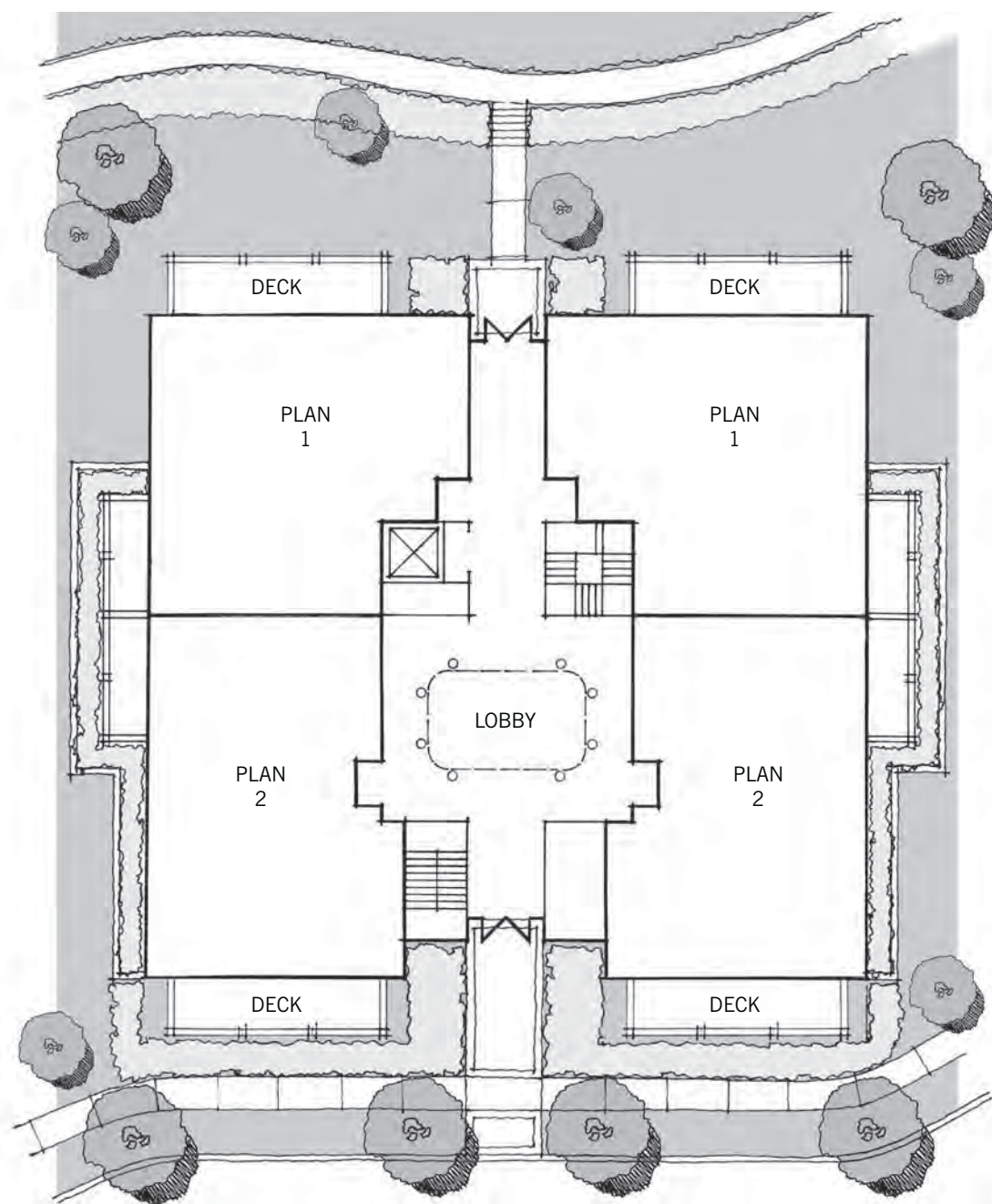
NEWPORT BANNING RANCH

Newport Banning Ranch, LLC





TYPICAL SECOND FLOOR



FIRST FLOOR



ELEVATION

FORMA

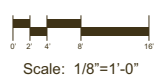
Fusco Engineering

Robert Hidey Architects

RESORT FLATS

NEWPORT BANNING RANCH

Newport Banning Ranch, LLC



Newport Banning Ranch

Product Type Building Heights

Low Density Residential



Product Type Name: Traditional Homes
Maximum Allowed Height: 36'



Product Type Name: Coastal Homes
Maximum Allowed Height: 36'

Newport Banning Ranch

Product Type Building Heights

Low Medium Density Residential



Product Type Name: Beach Cottages
Maximum Allowed Height: 45'



Product Type Name: Motor Court Homes
Maximum Allowed Height: 45'



Product Type Name: Garden Court Homes
Maximum Allowed Height: 45'

Newport Banning Ranch

Product Type Building Heights

Medium Density Residential



Product Type Name: Village Flats
Maximum Allowed Height: 45'

Newport Banning Ranch

Product Type Building Heights

Mixed Use



Product Type Name:	Urban Lofts
Maximum Allowed Height:	60'

Newport Banning Ranch

Product Type Building Heights

Resort Residential



Product Type Name:
Maximum Allowed Height:

Resort Flats
50'

Newport Banning Ranch

Product Type Building Heights

Resort



Product Type Name:
Maximum Allowed Height:

Resort Inn
50'

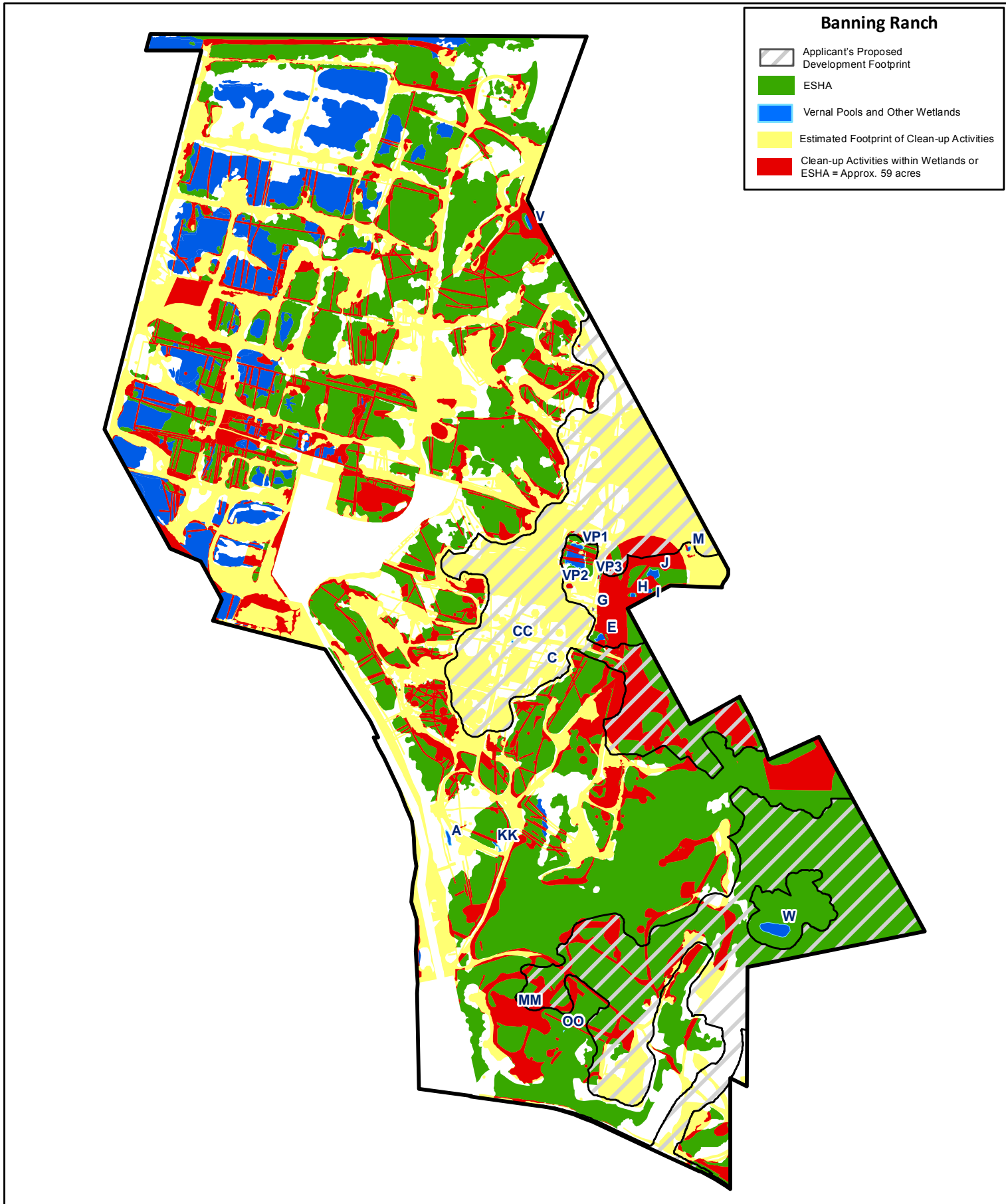


Exhibit 18 - Estimated Oilfield Clean-Up Disturbance Areas



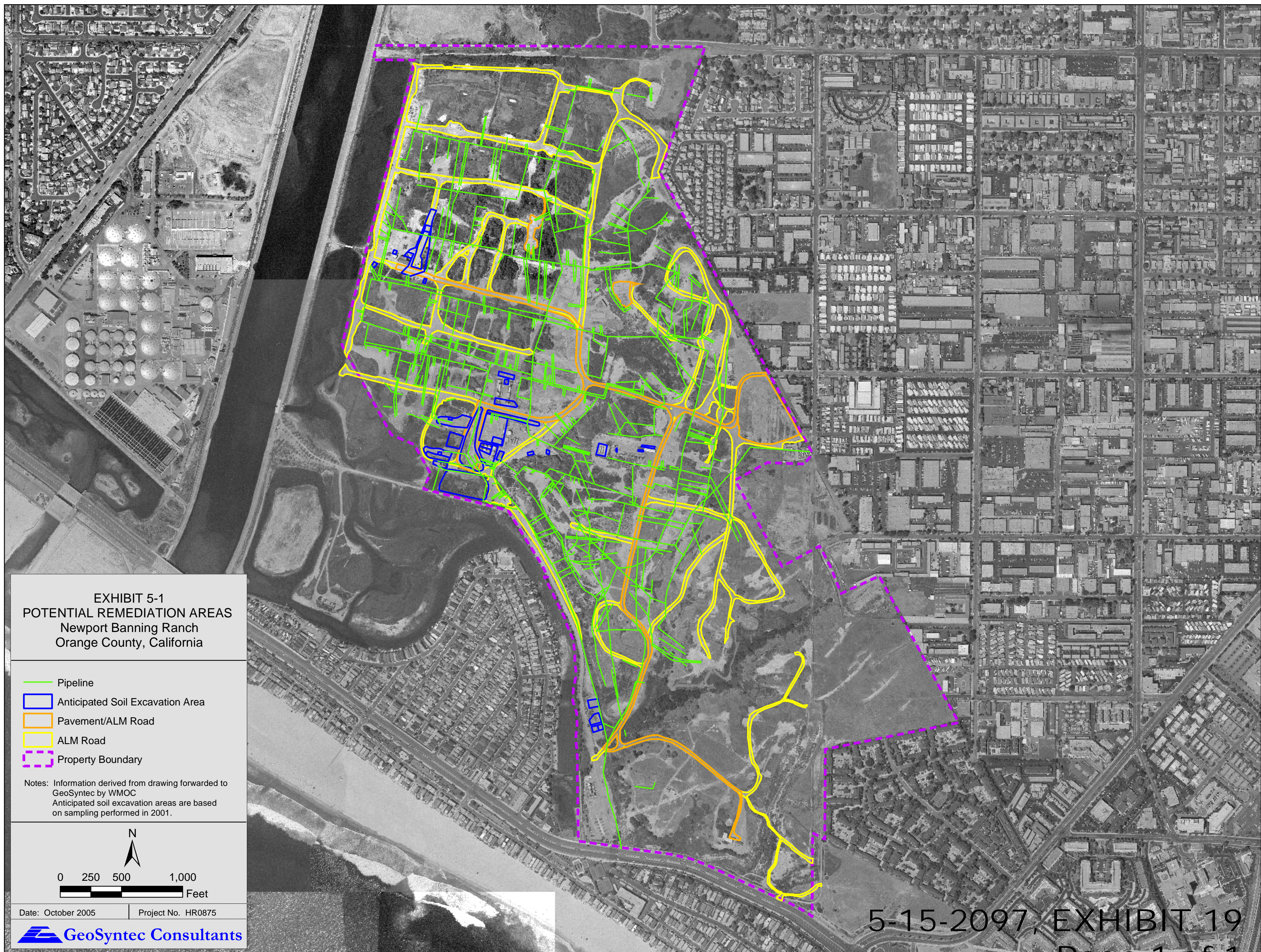
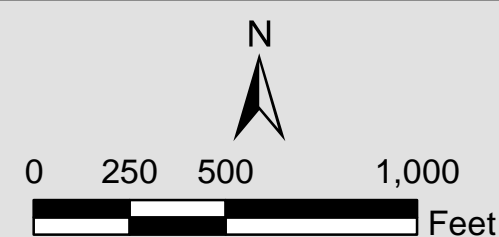


EXHIBIT 5-1
POTENTIAL REMEDIATION AREAS
Newport Banning Ranch
Orange County, California

- Pipeline
- Anticipated Soil Excavation Area
- Pavement/ALM Road
- ALM Road
- Property Boundary

Notes: Information derived from drawing forwarded to
GeoSyntec by WMOOC
Anticipated soil excavation areas are based
on sampling performed in 2001.



Date: October 2005 Project No. HR0875

GeoSyntec Consultants

5-15-2007, EXHIBIT 19
Page 1 of 1

Field Verification Point: 11608
Clean-up Target: Gravel



Field Verification Point: 13667
Clean-up Target: Gravel



Field Verification Point: 11265
Clean-up Target: Asphalt-Like Material



Field Verification Point: 11652
Target: Asphalt-Like Material



Clean-up Sites in ESHA

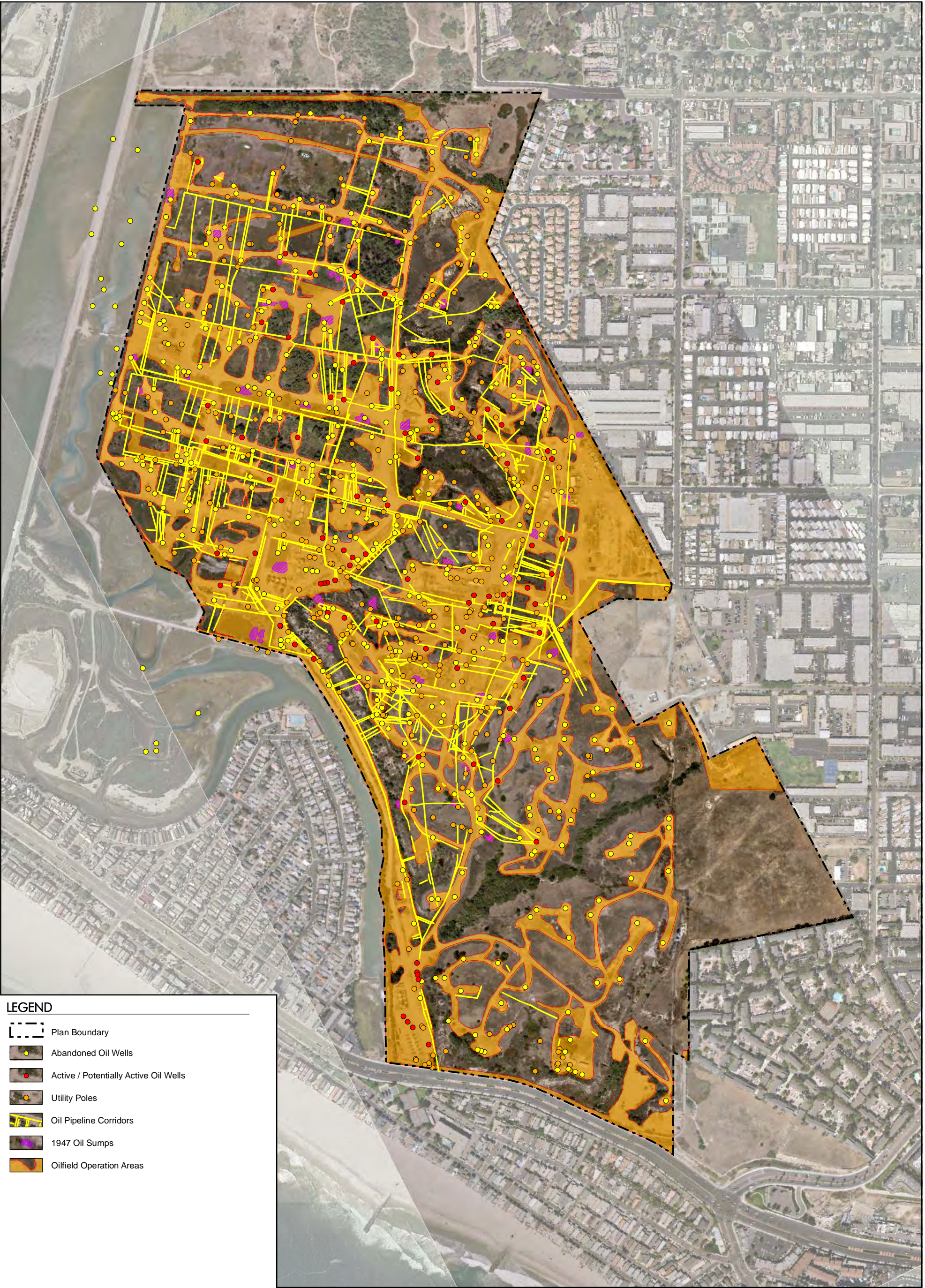
Field Verification Point: 9294

Target: Asphalt-Like Material



Field Verification Site: 17628
Target: Oil contaminated soil





LEGEND

- Plan Boundary
- Abandoned Oil Wells
- Active / Potentially Active Oil Wells
- Utility Poles
- Oil Pipeline Corridors
- 1947 Oil Sumps
- Oilfield Operation Areas

PLACEHOLDER

EXHIBIT 22

Open Space and Conservation Areas

Will be published as soon as it is available