

**CALIFORNIA COASTAL COMMISSION**

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# Th6a

Filed:	4/10/12
180th Day:	10/7/12
Staff:	J. Del Arroz-LB
Staff Report:	7/19/12
Hearing Date:	8/9/12

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-12-070

**Applicants:** City of Newport Beach Public Works Dept.  
City of Irvine Public Works Dept.

**Location:** Jamboree Road at MacArthur Blvd, Newport Beach and City of Irvine, Orange County (APN 447-242-007; 445-132-009; 445-132-011; 445-132-018)

**Project Description:** Widen Jamboree Road, construct retaining wall, planter walls, landscape medians, sidewalk, drainage outfall

**Staff Recommendation:** Approval with conditions.

### SUMMARY OF STAFF RECOMMENDATION:

The applicants are proposing improvements to an existing roadway consisting of widening the roadway, construction of retaining walls and a new drainage outfall, and improvements to landscaped medians, and removal and construction of a sidewalk. The major issue of this staff report concerns construction adjacent to sensitive habitat areas and wetlands.

Staff is recommending APPROVAL of the proposed project with FOUR (4) SPECIAL CONDITIONS regarding: 1) Avoidance of Special Status Species; 2) Landscaping Plan; 3) Construction Access and Staging; and 4) Construction Materials and Debris.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits.

The City of Irvine does have a certified Local Coastal Program. However, they have exercised the provisions in Coastal Act Section 30601.3 regarding consolidated permit processing. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Newport Beach Land Use Plan and Irvine Local Coastal Program may be used for guidance.

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### APPENDICES

Appendix A - Substantive File Documents

### EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Site Plan

### I. MOTION AND RESOLUTION

**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 of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*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 of the Coastal Act. 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**

This permit is granted subject to the following 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.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Avoidance of Special Status Species.** An appropriately trained biologist shall monitor the proposed development for disturbance to sensitive species or habitat area. At minimum, monitoring shall occur once a week during any week in which construction occurs. Daily monitoring shall occur during development which could significantly impact biological resources such as grading or construction that could result in disturbances to special status species, including the Least Bell's Vireo and the Yellow-Breasted Chat. Based on field observations, the biologist shall advise the applicant regarding methods to minimize or avoid significant impacts, which could occur upon sensitive species or habitat areas. The applicant shall not undertake any activity, which would disturb sensitive species or habitat area unless specifically authorized and mitigated under this coastal development permit or unless an amendment to this coastal development permit for such disturbance has been obtained from the Coastal Commission.

#### 2. **Landscaping Plan**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final landscaping plans prepared by an appropriately licensed professional which demonstrates the following:

(1) The plan shall demonstrate that:

(a) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;

(b) Where possible, landscaped areas adjacent to identified riparian habitat shall be planted and maintained for habitat protection and habitat enhancement. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent or nearby native plant areas, all landscaping shall consist of native species appropriate to the habitat type. Native plants shall be from local stock wherever possible. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

(c) Temporary above ground irrigation to allow the establishment of the plantings is allowed. The landscaping plan shall show all the existing vegetation and any existing irrigation system along with notations regarding all changes necessary thereto to comply with the requirements of this special condition.

(2) The plan shall include, at a minimum, the following components:

(a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and

(b) a schedule for installation of plants.

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

### **3. Construction Access and Staging Plan**

**A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a construction and staging plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to sensitive habitat areas.

(1) The plan shall demonstrate that:

(a) Construction equipment or activity shall not occur outside the staging area

(b) No upland areas vegetated with native plants shall be used for staging or storage areas.

(c) Construction access shall not result in impacts to riparian or wetland habitat

(2) The plan shall include, at a minimum, a site plan that depicts:

(a) Limits of the staging area(s)

(b) Construction corridor(s)

(c) Construction site

(d) Location of construction fencing

(e) Location of sensitive habitat areas to be avoided

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

### **4. Storage Of Construction Materials, Mechanized Equipment And Removal Of Construction Debris**

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

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) 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;
- (4) 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 coastal waters; and
- (5) 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.

**B.** Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

**IV. FINDINGS AND DECLARATIONS:**

**A. PROJECT LOCATION & DESCRIPTION**

The subject site is located near the intersection of Jamboree Road and MacArthur Boulevard, approximately 0.4 miles north of Upper Newport Bay, in the cities of Newport Beach and Irvine. The proposed improvements would occur on Jamboree Road between Bristol Street North and Centerpointe Drive.

The portion of the project site within the City of Newport Beach is located on the south side of Jamboree Road, within a small gully that has a designation of Open Space in the City of Newport Beach certified Land Use Plan. The portion of the project site within the City of Irvine is composed of Commercial development located to the northwest and east.

The proposed project consists of: 1) widening to the east side of Jamboree Road to provide an additional north bound traffic lane and a new southbound turn left turn lane; 2) new retaining wall, gutter, and drainage outfall to the east side of Jamboree Road just south of the intersection of Jamboree and MacArthur; 3) traffic signal modification to the lights at the southwest and southeast corners of MacArthur and Jamboree Road and to the light at the southwest corner of the intersection of Jamboree Road and Centerpointe Road; 4) medians east of MacArthur Blvd will be removed and reconstructed; 5) removal and reconstruction of a retaining wall at the southeast corner of Jamboree and MacArthur; 6) new sidewalks and retaining walls between the intersection of Jamboree and MacArthur to Jamboree and Centerpointe; 7) Landscaping improvements, grading, curb ramps, and relocation or adjustment of utility lines.

Jamboree Road would be expanded on its east side, adjacent to an area where the applicant has identified riparian and wetland habitat. Vegetation in this area consists of riparian willow scrub and quail brush scrub. No sensitive species have been identified within the willow scrub or quail brush scrub. However, the applicant has identified the area of riparian scrub as qualifying as an environmentally sensitive habitat area (ESHA) because it serves as suitable nesting and foraging habitat for the Least Bell's Vireo.

Coastal Act Section 30240 requires protection of environmentally sensitive habitat areas from significant disruption of habitat values, and requires development located adjacent to ESHA to be sited and designed to prevent impacts which would significantly degrade those areas. Coastal Act Section 30231 requires that the biological productivity of wetlands be maintained, and where feasible, restored.

The existing public sidewalk and road is located within close vicinity to the riparian scrub and wetland. The proposed project would result in the removal of the existing public sidewalk and its replacement with an additional traffic lane supported by a retaining wall. The existing public sidewalk is located between approximately 11 and 17 feet from the riparian scrub habitat, and approximately 30-50 feet from the wetland habitat. The proposed project would be located in approximately the same footprint as the existing development. The project would result in temporary grading approximately 1.5 feet closer to the riparian habitat, and would result in permanent development consisting of the curb and retaining wall to be located less than a foot closer to the riparian scrub and wetland.

The applicant has identified that the riparian habitat adjacent to the project site is potentially suitable for special status species, including the Least Bell's Vireo. Therefore, the Commission imposes Special Condition 1, requiring pre-construction surveys for the presence of special status species. No impacts are proposed to the riparian scrub and wetland habitat adjacent to the site. To ensure that no incidental impacts occur, the Commission imposes Special Conditions 3 and 4, requiring construction the submittal of construction staging and fencing plans, and storage and removal of construction debris for the review and approval of the Executive Director. The applicant proposes to install native landscaping in order to provide additional visual screening between the area of riparian scrub and the proposed development to further enhance and protect the ESHA and wetland habitat adjacent to the project site. To ensure that such plantings are consistent with the continuance of the adjacent riparian and wetland habitat, the Commission imposes Special Condition 2, requiring the submittal of a landscaping plan for the review and approval of the executive director.

As conditioned, the proposed development would result in only a minor change to the footprint of development, and will not result in significant impacts to the adjacent riparian and wetland habitat. Additionally, the applicant has proposed to install additional native vegetation to protect and enhance adjacent habitat. Therefore, as conditioned, the proposed project would not result in impacts adjacent to ESHA that would significantly degrade ESHA, and would maintain biological productivity of wetlands. Therefore, as conditioned, the proposed project is consistent with Coastal Act Sections 30240 and 30231.

#### **C. DEVELOPMENT**

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. Therefore, the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

#### **D. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

#### **E. LAND/HABITAT**

The proposed development will have no significant adverse impact on adjacent habitat, recreation areas, or parks. Therefore, the Commission finds that the project conforms with Section 30240(b) of the Coastal Act.

**F. 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 32031 of the Coastal Act.

**G. LOCAL COASTAL PROGRAM**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. At the October 2005 Coastal Commission Hearing, the certified LUP was updated. Since the City only has an LUP, the policies of the LUP are used only as guidance. The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

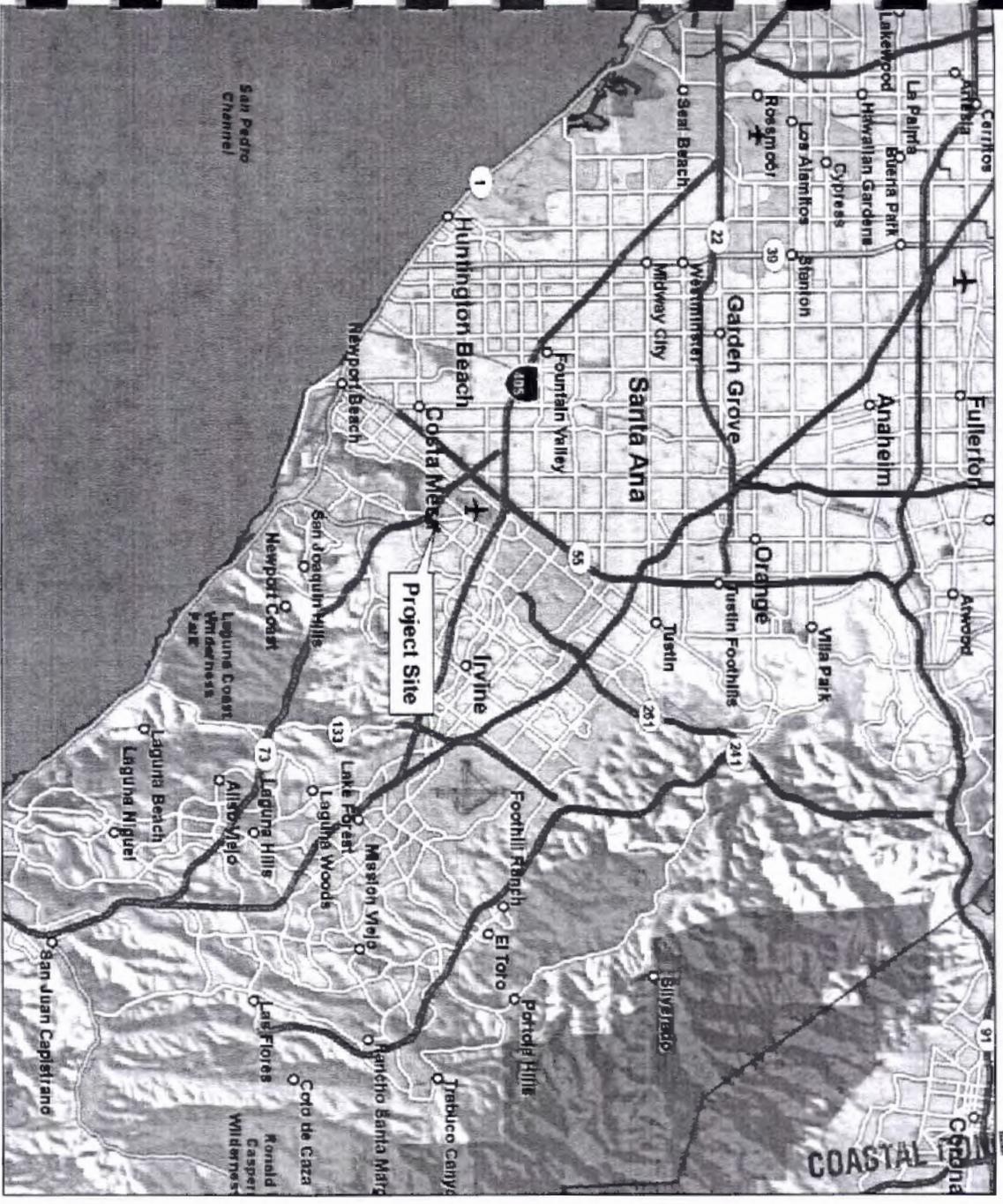
The City of Irvine does have a certified Local Coastal Program, certified in 1982. However, they have exercised the provisions in Coastal Act Section 30601.3 regarding consolidated permit processing. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Newport Beach Land Use Plan and Irvine Local Coastal Program 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.

**APPENDIX A SUBSTANTIVE FILE DOCUMENTS**

City of Newport Beach Certified Land Use Plan  
City of Irvine Certified Local Coastal Program  
Draft Mitigated Negative Declaration dated July 2010 prepared by Ultrasystems Environmental Inc.



Legend  
Project Boundary

Figure 1  
Regional Map

Japan, UNEP-WCMC, 2009

between North Bristol Street  
(Irvine)

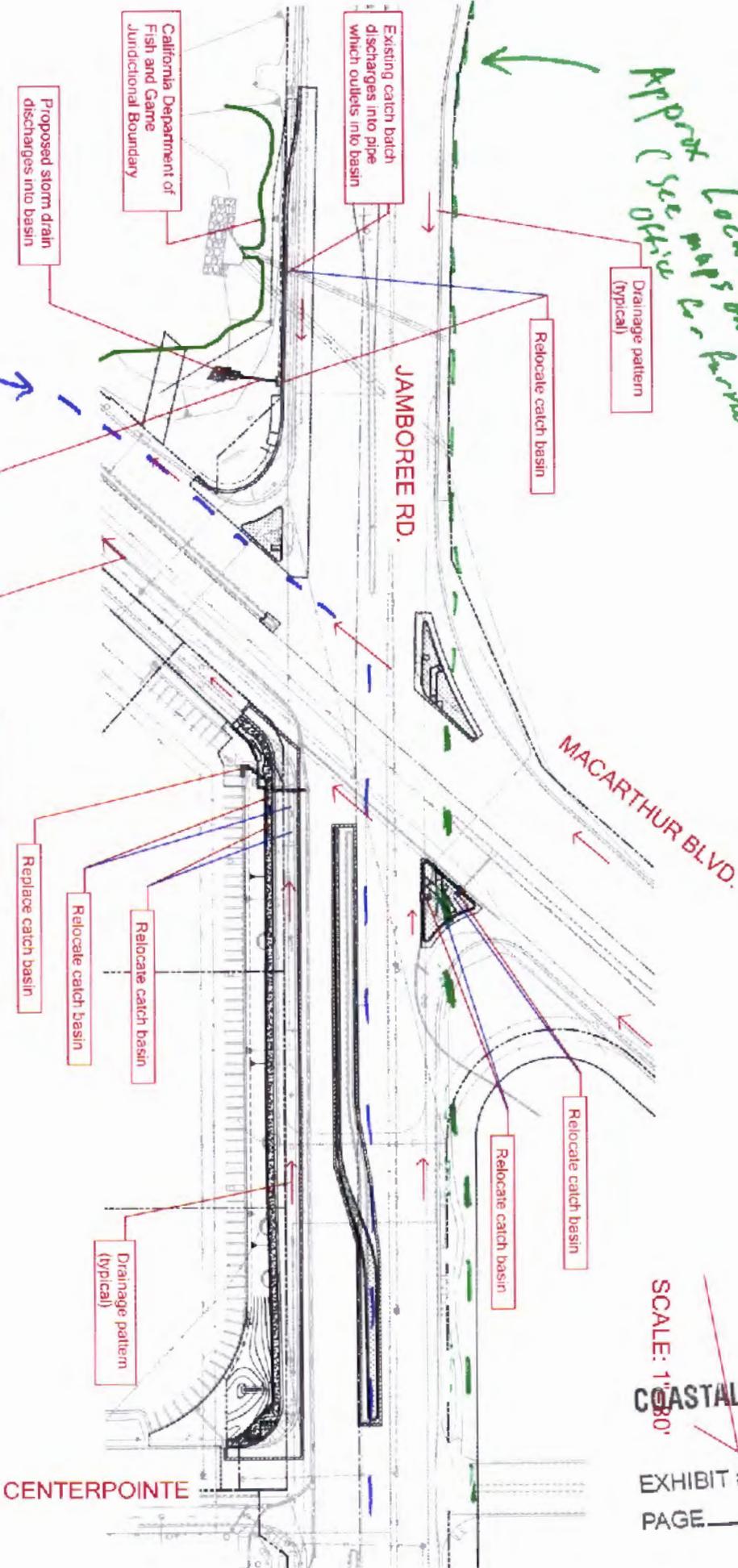
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*Approx location of City Boundary Newport !! Irvine Road !!*

**DRAINAGE PATTERN EXHIBIT**



SCALE: 1"=80'

**COASTAL COMMISSION**

EXHIBIT # 2

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