

**CALIFORNIA COASTAL COMMISSION**

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

**TU 182****RECORD PACKET COPY**

Filed: Feb. 11, 1998  
49th Day: April 1, 1998  
180th Day: August 10, 1998  
Staff: SFR-LB  
Staff Report: Feb. 19, 1998  
Hearing Date: March 10-13, 1998  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-98-012

APPLICANT: City of Newport Beach

AGENT: Richard Hoffstadt

PROJECT LOCATION: South side of Pacific Coast Highway at the intersection of Pacific Coast Highway and Newport Center Drive, Newport Beach, County of Orange. The storm drain begins just south east of Malabar and runs on the south side of Pacific Coast Highway for about 1,300 feet to Zahma Drive where the storm drain passes under Pacific Coast Highway and heads generally easterly to Avocado Avenue. The portion of the project from the inland (north) side of Pacific Coast Highway to Avocado is outside the coastal zone.

PROJECT DESCRIPTION: The construction of an approximately 1,300 feet long 66 inch reinforced concrete pipe (RCP) storm drain within an existing utility easement. One southbound lane of Pacific Coast Highway may be closed to allow construction work in the utility easement. Following construction, the easement landscaping will be restored to its pre-existing condition.

LOCAL APPROVALS RECEIVED: Approval in Concept 27-98 from the City of Newport Beach.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan. Environmental Impact Report for Coast Highway/MacArthur Retail Project dated September 15, 1995.

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## **SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with two special conditions. The first special condition is for a copy of a Caltrans Permit and the other is for limiting the hours when construction activities can occur that would result in a lane closure on Pacific Coast Highway. The applicant is in concurrence with the special condition.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

### **I. Approval with Conditions.**

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

### **II. Standard Conditions.**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction 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. **Compliance.** All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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. Caltrans Permit Required**

Prior to issuance of the coastal development permit, the applicant shall submit a Caltrans permit, for the review and approval of the Executive Director which authorizes the applicant to close one lane of Pacific Coast Highway during the hours specified in special condition number two below.

#### **2. Pacific Coast Highway Lane Closure**

To minimize adverse impacts on coastal access resulting from the construction of the storm drain, the applicant shall comply with the following requirements concerning the closing of any lanes on Pacific Coast Highway:

- a) No lane closures shall be permitted on weekends or holidays from May 23 through September 7, 1998.
- b) Construction activity during weekdays from May 23 through September 7, 1998 requiring a lane closure shall be limited to the following hours 9:00 AM to 3:30 PM and the hours of 8:00 PM to 6:00 AM. No more than one lane can be closed at any time.

### **IV. Findings and Declarations.**

The Commission hereby finds and declares as follows:

**A. Project Description**

The applicant proposes to construct approximately 1,300 feet of 66 inch reinforced concrete pipe (RCP) on the south side of Pacific Coast Highway where Pacific Coast Highway and Newport Center Drive intersect (Exhibit 1). The storm drain begins just south east of Malabar and runs on the south side of Pacific Coast Highway within an existing utility easement (Exhibit 2) for about 1,300 feet to Zahma Drive where the storm drain passes under Pacific Coast Highway and heads generally easterly to Avocado Avenue. The portion of the project from the inland (north) side of Pacific Coast Highway to Avocado is outside the coastal zone. Following the completion of construction, the easement landscaping will be restored to its pre-existing condition. The project site is located approximately one-half mile inland from Newport Harbor.

The purpose of this storm drain construction is to increase existing storm drain capacity to relieve the load on existing upstream storm drain systems that are unable to handle existing drainage. The new storm drain will be connected to the El Paseo storm drain.

This proposed storm drain improvement is included in an environmental impact report for the "Coast Highway/MacArthur Retail Project". This EIR covers the proposal of the Irvine Company to construct a 10 acre retail project which is just outside the coastal zone. The EIR did not identify the storm drain portion of the project as raising significant environmental concerns.

The applicant proposes to start construction in May 1998. The applicant anticipates that the closure of one southbound lane of Pacific Coast Highway may be required. The applicant anticipates that the project will be completed by June 15, 1998.

**B. Public Access**

One of the strongest legislative mandates of the Coastal Access is the preservation of coastal access. Section 30211 of the Coastal Act mandates that development shall not interfere with the public's right of access to the sea. In this case, Pacific Coast Highway is a major arterial route used by the public to visit the coast. The proposed project may result in the closure of one lane of traffic on Pacific Coast Highway which would obstruct the public's ability to access the coast.

The EIR notes that the City of Newport Beach receives an annual influx of visitors during the summer months. That rental housing occupancy increases during the summer, as does retail commercial activity particularly in the beach areas of the City which are frequented by out of town visitors. The immediate project vicinity, including Corona Del Mar, experiences high vehicular and pedestrian traffic volumes during the summer months. However, because of Newport Beach's unique recreational opportunities, large harbor and marina facilities, and its coastal amenities, the City attracts people year round and maintains a generally strong commercial base as a result.

The applicant anticipates that construction activity related to the storm drain may necessitate the closure of one southbound lane of Pacific Coast Highway. An unrestricted closure of a traffic lane, especially during the summer months, would have an adverse impact on the public's ability to use Pacific Coast Highway to reach the recreational beaches and the sea.

The project applicant, to minimize, the adverse impact of a lane closure on the public's ability to reach the coast proposes to complete all construction work by June 15, 1998. However, this is still within the Commission's defined peak summer period which runs from the beginning of the Memorial Day weekend to the end of the Labor Day weekend. The applicant contends that work can not be completed by the beginning of the Memorial Day weekend because of scheduling requirements. Further, the applicant believes that this portion of Pacific Coast Highway is not heavily used for beach access (Exhibit 3) and that school would still be in session further minimizing the use of the road for coastal access.

In reviewing the alternatives with Commission staff for minimizing adverse impacts to coastal access, the applicant has indicated that construction can still be completed by June 15, 1998 even if all lanes on Pacific Coast Highway are kept open on weekends and during the afternoon on weekdays. This can be accomplished by undertaking some of the work at night.

The peak summer season for visiting the coast is fifteen weeks long. The project as modified through the special conditions outlined below would avoid a lane closure on weekends and holidays during the peak summer season. This would avoid significant impacts in the public's ability to utilize Pacific Coast Highway to access the coast. The weekday lane closure would be allowed from 9:00 AM to 3:30 PM and 8:00 PM to 6:00 AM. By 9:00 AM most commuters would have arrived at work and morning traffic tends to be lighter than afternoon traffic. The EIR notes that the intersection capacity utilization (ICU) values for the intersection of Newport Center and Coast Highway at the AM peak were .38 and the PM peak was .46. For the intersection of Coast Highway and Avocado the AM peak was .46 and the PM peak was .51 (1992-1993 data). All these ICU figures are within the definition of Level A service. Reopening the lane in the

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(City of Newport Beach)

afternoon at 3:30 PM would restore the free flow of traffic. Additionally, allowing construction at night allows Pacific Coast Highway to be kept open during the daytime. Finally, many schools are still in session up to June 15 which would lessen the number of beach goers during the work week. The last school day before the summer break for the City of Newport beach is June 18, 1998.

To assure that the project minimizes adverse impacts to coastal access the Commission finds it necessary to impose a special condition to assure that any lane closure which may occur will be limited to the hours of 9:00 AM to 3:30 PM and 8:00 PM to 6:00 AM on weekdays and that all lanes be kept open on weekends and holidays during the peak summer season. Thus, as conditioned the Commission finds that the proposed development would be consistent with the public access policies of the Coastal Act.

**D.    Legal Interest**

Section 30601.5 of the Coastal Act states that when an applicant for a coastal development permit is not the owner of a fee interest in the property on which the proposed development is to be located that applicant must demonstrate a legal entitlement to undertake the project. In this case Pacific Coast Highway is owned by Caltrans and the work is being proposed by the City of Newport Beach. The City of Newport Beach has applied for the required Caltrans permit but has not yet received it. To assure that the lane closure can be implemented on Pacific Coast Highway, as proposed, the applicant must submit a copy of the Caltrans permit to the Commission prior to the issuance of this permit. Only as conditioned for the submittal of a Caltrans permit allowing the applicant to close one lane of traffic on Pacific Coast Highway consistent with special condition number two can the Commission find the project consistent with Section 30601.5 of the Coastal Act.

**E. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. The project as conditioned is consistent with the Chapter 3 policies of the Coastal Act. The proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

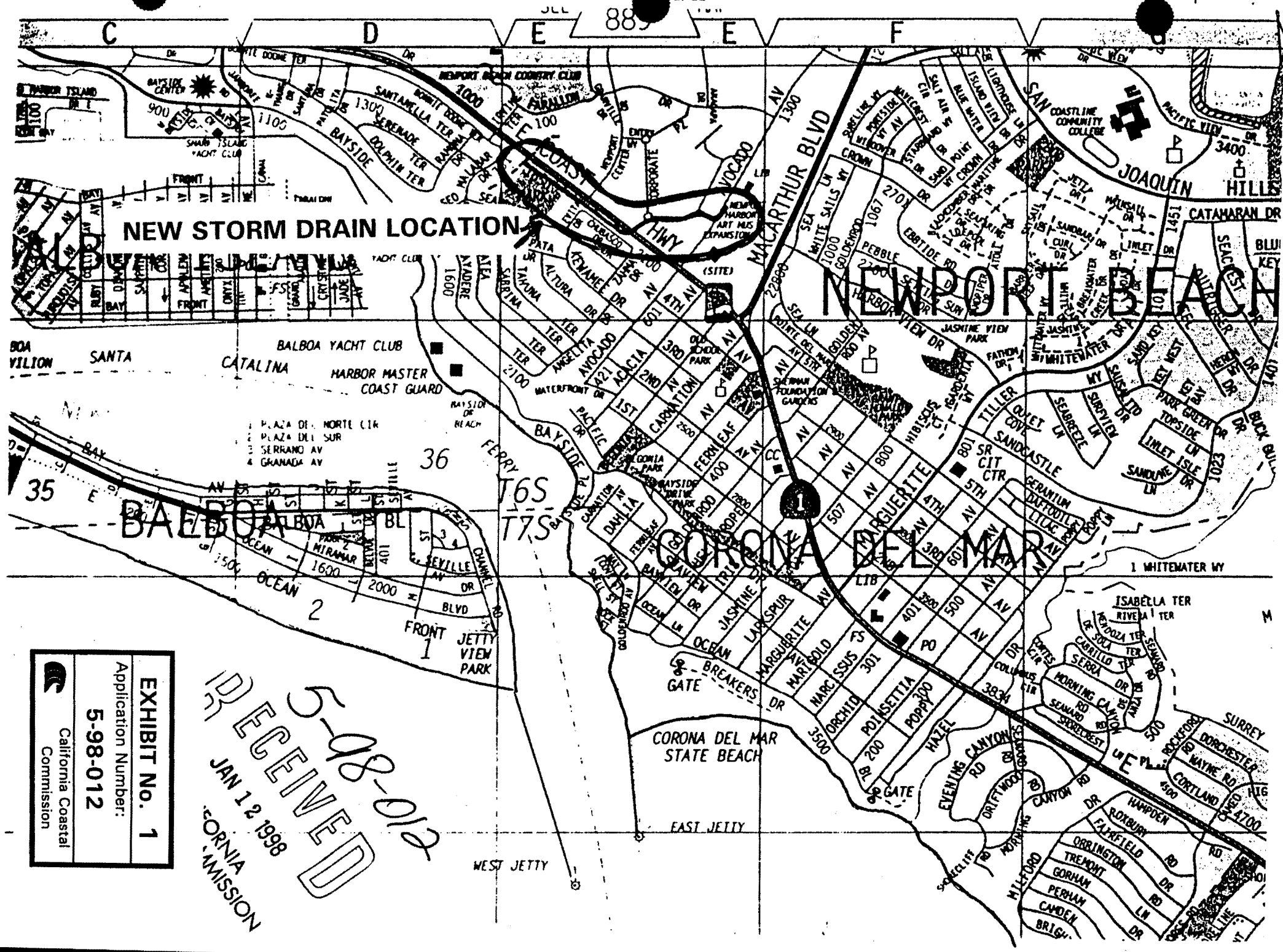
**F. California Environmental Quality Act**


Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The project is located in an existing urbanized area. Development already exists on the subject site which is a public utility easement. The proposed development has been conditioned to assure that the project will not have a significant adverse impact on coastal access. The project has been conditioned: for the submission of a Caltrans permit, to limit the closure to one lane on Pacific Coast Highway on weekdays, and to keep all lanes open on weekends and holidays during the summer season. The proposed development is consistent with the Chapter 3 policies of the Coastal Act. The project as proposed is the least environmentally damaging alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

# VICINITY MAP

JUL 88



 <p>California Coastal Commission</p>	<p><b>EXHIBIT No. 1</b></p>
	<p>Application Number: <b>5-98-012</b></p>

RECEIVED  
JAN 12 1998  
CORONA COMMISSION



**SITE PLAN**

MACARTHUR

NEWPORT BEACH  
CENTRAL LIBRARY

BOULEVARD

CORONA DEL  
MAR PLAZA

AVENUE

AVOCADO

HIGHWAY

COAST

EAST

NEWPORT  
CENTER  
DR.

PROPOSED STORM DRAIN

**EXHIBIT No. 2**

Application Number:

**5-98-012**

California Coastal  
Commission



# CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT  
P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915  
(714) 644-3311

February 5, 1998

California Coastal Commission  
South Coast Area  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4302

RECEIVED  
FEB 8 1998  
CALIFORNIA  
COASTAL COMMISSION

ATTENTION: Steven Rynas

SUBJECT: Coastal Development Permit No. 5-98-012 for Storm Drain Construction

Dear Mr. Rynas,

The City is requesting a Coastal Permit to construct a storm drain from Avocado Avenue northerly of East Coast Highway to south of East Coast Highway approximately 600' westerly of Newport Center Drive.

The purpose of this storm drain construction is to increase existing storm drain capacity to relieve the load on existing upstream systems that are unable to handle existing drainage. The new storm drain will connect to the El Paseo storm drain constructed last year from East Coast Highway and Newport Bay to provide needed capacity to handle upstream drainage.

The proposed storm drain will be constructed totally within dedicated street rights-of-way and public utility easements.

The proposed storm drain is scheduled to begin construction in May 1998, provided all necessary permits have been obtained. A lane closure may be required on south bound Coast Highway leaving two of the three south bound lanes open. It is anticipated that all work in Coast Highway will be completed by June 15, 1998. Beach traffic should not be significantly impacted as this stretch of Coast Highway is not heavily used by beach users and it is anticipated that all work within the East Coast Highway right-of-way will be completed by June 15, 1998. The proposed storm drain construction across Coast Highway will not require any street closures as it is being bored across Coast Highway.

The vegetation disturbed by the storm drain construction will be restored to its previous condition.

The Water Quality Control Board does not require the issuance of any additional permits as this project is covered under the City's Municipal Storm Water Permit Order No. 96-31 N.P.D.E.S No. CAS618030. A copy of the City's N.P.D.E.S permit is attached along with a letter from the Regional Water Quality Board stating that an additional permit is not required.

Attached are the following items:

1. EIR for Corona del Mar Plaza development.

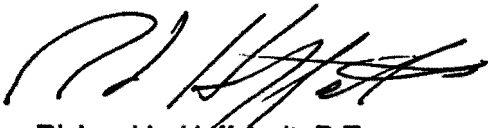
3300 Newport Boulevard, Newport Beach

<b>EXHIBIT No. 3</b>
Application Number: <b>5-98-012</b>
 California Coastal Commission

2. Copy of City of Newport Beach Municipal Storm Water Permit, Order No. 96-31, NPDES No. CAs618030.
3. Letter from Regional Water Quality Control Board regarding stormwater permit dated February 5, 1998.

If you have any questions or need additional information, please feel free to call me at (714) 644-3311.

Sincerely,



Richard L. Hoffstadt, P.E.  
Development Engineer

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