

RECORD PACKET COPY

Tue 3a

San Diego Coast District

CONSENT CALENDAR

Tuesday, July 11, 2000

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6-00-46

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 3111 CAMINO DEL RIO NORTH, SUITE 200
 SAN DIEGO, CA 92108-1725
 (619) 491-8036



Tue 3a

Filed: April 12, 2000
 49th Day: May 31, 2000
 180th Day: October 9, 2000
 Staff: GDC-SD
 Staff Report: June 22, 2000
 Hearing Date: July 11-14, 2000

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-00-46

Applicant: Carlitos De Peralta

Description: After-the-fact fill and grading of backyard involving approximately 600 cu. yds. of grading and installation of an approximately 8 foot-wide, 175 foot-long rip-rapped lined drainage channel on site of an existing two-story single family residence.

Lot Area	24,393 sq. ft.
Building Coverage	2,700 sq. ft. (11%)
Pavement Coverage	1,200 sq. ft. (05%)
Landscape Coverage	20,493 sq. ft. (84%)
Parking Spaces	2
Zoning	Estate Residential 2 du/ac
Plan Designation	Estate Residential 2 du/ac

Site: 641 Marine View Avenue, Solana Beach. APN: 298-390-33

I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

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

STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

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.

Substantive File Documents: Certified County of San Diego Local Coastal Program; City of Solana Beach General Plan and Zoning Code; City Resolution No. 2000-15 DRP; "Drainage Study for DeParalta Residence", Stevens-Cresto Engineering, Inc., August 26, 1999; CDP Nos. 6-86-608 and 6-87-467-W

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Landscaping Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a detailed landscape plan for the proposed development that has been approved by the City of Solana Beach. Said plan shall indicate the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant, non-invasive plant materials, and low-flow irrigation systems shall be utilized. The plans shall include landscaping consisting of trees and ground cover and include the following elements:

- a. Landscaping of all graded areas.
- b. Special emphasis shall be given to landscaping within the banks and bottom of the rip-rapped channel.

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

2. Final Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a drainage and runoff control plan that has been approved by the City Solana Beach documenting that the runoff across the development site shall be directed into pervious areas on the site (landscaped areas), for infiltration and/or percolation in a non-erosive manner.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director.

No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Final Grading/Erosion Control Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final grading and erosion control plans that have been approved by the City of Solana Beach. The approved plans shall incorporate the following requirements:

- a. All temporary and permanent erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. All areas disturbed, but not completed, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Assumption of Risk. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the after-the-fact grading of the backyard of an existing single-family residence and the new construction of an approximately 8 foot-wide, 175 foot-long rip-rapped lined channel along the north side of the property to control flooding. The grading consists of approximately 600 cu. yds. of uncompacted fill which was placed on the subject property in approximately 1995 without approvals from either the City of Solana Beach or the Coastal Commission. The subject site, although not located within a stream or floodplain, is subject to flooding during the rainy season. The applicant has submitted information documenting that the subject site is subject to annual flooding from surrounding streets and development. The applicant proposes to re-grade and compact the existing unpermitted fill in order to elevate and flatten the backyard as a flood control measure. The Commission previously approved the subdivision creating the subject lot in December 1986 (CDP #6-86-608) and the existing single family residence in October 1987 (Waiver #6-87-467-W).

The project site is located on Marine View Drive east of Interstate 5 in the City of Solana Beach. The site is located within an area that was previously covered by the County of San Diego's Certified Local Coastal Program (LCP). However, the County LCP was never effectively certified and, therefore, is used as guidance with Chapter 3 Policies of the Coastal Act used as the standard of review.

2. New Development/Visual Resources. Section 30250 (a) of the Coastal Act requires that new development be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it or in other areas with adequate public services, and where it will not have significant adverse impacts, either individually or cumulatively, on coastal resources. In addition, Section 30251 of the Act requires in part, that new development be designed to protect views to and along the ocean and that it be visually compatible with the character of the surrounding area.

The project site is located in an established residential neighborhood approximately one mile inland of the shoreline, east of Interstate 5. While the development site will be visible from Interstate 5 for a brief period, the project is not visible from any scenic vistas or viewpoints identified in the certified County of San Diego LCP. In addition, Special Condition #1 has been attached which requires the submittal of a detailed landscape plan to assure that the graded and drainage areas be adequately landscaped with appropriate plant materials in order to treat run-off which flows through the site. With this landscaping provision, potential adverse impacts to coastal resources will be minimized to the maximum extent feasible. Therefore, the Commission finds that the proposed development does not pose any significant visual impacts, consistent with Section 30251 and all other applicable Chapter 3 policies of the Coastal Act.

3. Runoff/Water Quality. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters, streams, etc. be maintained by, among other means, controlling runoff. The project site is currently developed with a two-story single family residence. The proposed development involves approximately 600 cu. yds. of grading and the construction of a rip-rapped channel. A drainage study prepared for the

proposed development documents that the site experiences flooding during the winter season because of concentrated flows coming from surrounding streets, culverts and ditches ("Drainage Study for DeParalta Residence", Stevens-Cresto Engineering, Inc., August 26, 1999). The study indicates that storm drains have not been installed in this area of Solana Beach. While the property appears to experience seasonal flooding, the site is not located in a stream or floodplain. The City's approval for the subject development required the applicant to provide on-site drainage facilities which would slow flows (which are entering the site from surrounding streets and development) prior to being discharged from the site to a maximum velocity of five foot per second (fps) in order to prevent scouring on adjacent properties. The City's engineer has approved the applicant's proposed 8 foot-wide, 175 foot-long rip-rapped channel on the subject property as consistent with that requirement. As indicated earlier, the proposed grading and compaction of earth is proposed to further control flooding of the applicant's backyard. Although the project site is not immediately adjacent to any wetland or sensitive resource that could be adversely impacted by runoff from the site, sediment and other runoff from the proposed development could affect water quality of coastal waters.

In order to reduce the potential for adverse impacts to water quality resulting from runoff from the proposed development, Special Condition Nos. 1, 2 and 3 have been attached. Special Condition #1 requires the installation of drought tolerant landscaping on the proposed graded and drainage areas consisting of trees and ground cover with special emphasis to the inclusion of plants within the proposed drainage channel. Special Condition #2 requires the submission of final drainage plans which incorporate the landscaping requirements of Special Condition #1 and which documents that runoff across the development site is directed into the landscaped areas for infiltration, prior to being conveyed off-site. Directing on-site runoff through landscaping for filtration in this fashion is a well-established Best Management Practice for treating runoff from small developments such as the subject proposal. In addition, because the applicant proposes to grade and compact approximately 600 cu. yds. of fill immediately adjacent to a proposed drainage channel, the Commission finds that the proposed project must take steps to reduce the potential for sediment to affect water quality. Accordingly, Special Condition #3 requires the applicant to submit final grading and erosion control plans that provide for permanent and temporary erosion control measures for the proposed development to reduce or prevent sediments from adversely affecting downstream resources. As conditioned, the proposed landscaping and erosion controls will serve to reduce any impacts to water quality from the project to insignificant levels. Therefore, the Commission finds the proposed project consistent with Section 30231 of the Coastal Act.

4. Flood Hazard. Section 30253 of the Coastal Act requires that new development:

- (1) Minimize risks to life and property in areas of high geologic, flood, or fire hazard. . .

The subject development will be located in the back and side yard of an existing two-story single family residence. The applicant's engineer has documented that the property

is subject to seasonal flooding from the concentrated flows from the surrounding streets and development ("Drainage Study for DeParalta", op cit.). While the proposed improvements are designed to control and minimize the potential for flooding, the risk of flooding cannot be eliminated entirely. Therefore, in order to find the development consistent with section 30253 of the Coastal Act, the Commission finds that the applicant and future property owners must be made aware of the flooding potential and must assume the risk of property damage from flooding. Accordingly, Special Condition #4 has been attached which requires the applicant to record a deed restriction assuming all risks involved with development and agree to indemnify the Commission in the event that third parties bring an action against the Commission based upon damage resulting from the approved development.

5. No Waiver of Violation. The applicant has imported and graded approximately 600 cu. yds. of fill in the backyard of the existing residence without the benefit of a coastal development permit. The Commission notes that although development has taken place prior to the submission of this permit request, consideration of the request by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Commission action upon the permit does not constitute a waiver of any legal action with regard to the alleged violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

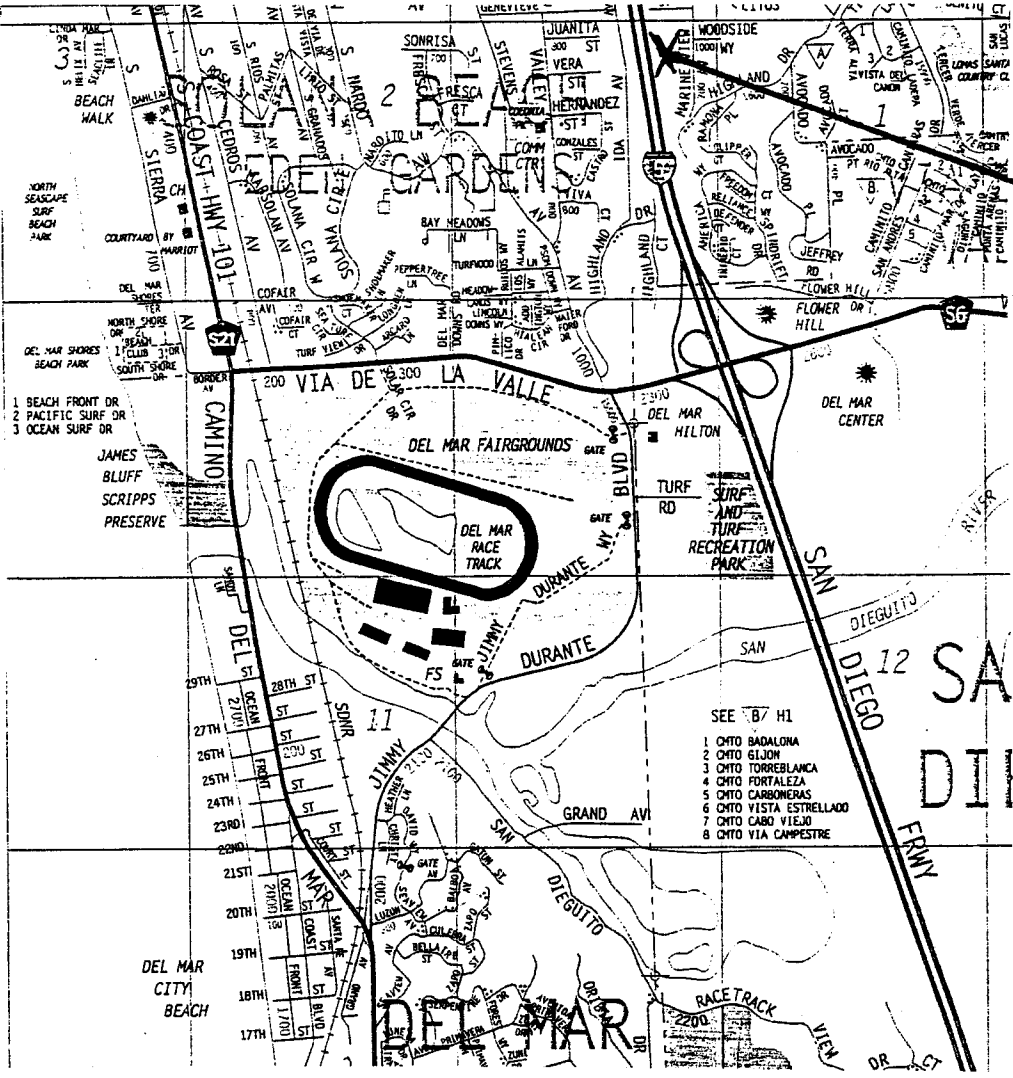
The site is currently zoned and designated for Residential use in the previously certified County of San Diego LCP and in the City of Solana Beach General Plan and Zoning Ordinance. The proposed development is consistent with that designation. As conditioned, the project will be consistent with all applicable Chapter 3 policies of the Coastal Act. No adverse impacts to any coastal resources are anticipated as a result of the proposed development. Therefore, as conditioned, the Commission finds the proposed development will not prejudice the ability of the City of Solana Beach to prepare a certifiable local coastal program.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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.

As discussed herein, the proposed project will not cause significant adverse impacts to the environment. Specifically, the project, as conditioned, has been found consistent with the water quality, flood hazard and visual protection policies of the Coastal Act. There are no feasible alternatives or additional mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

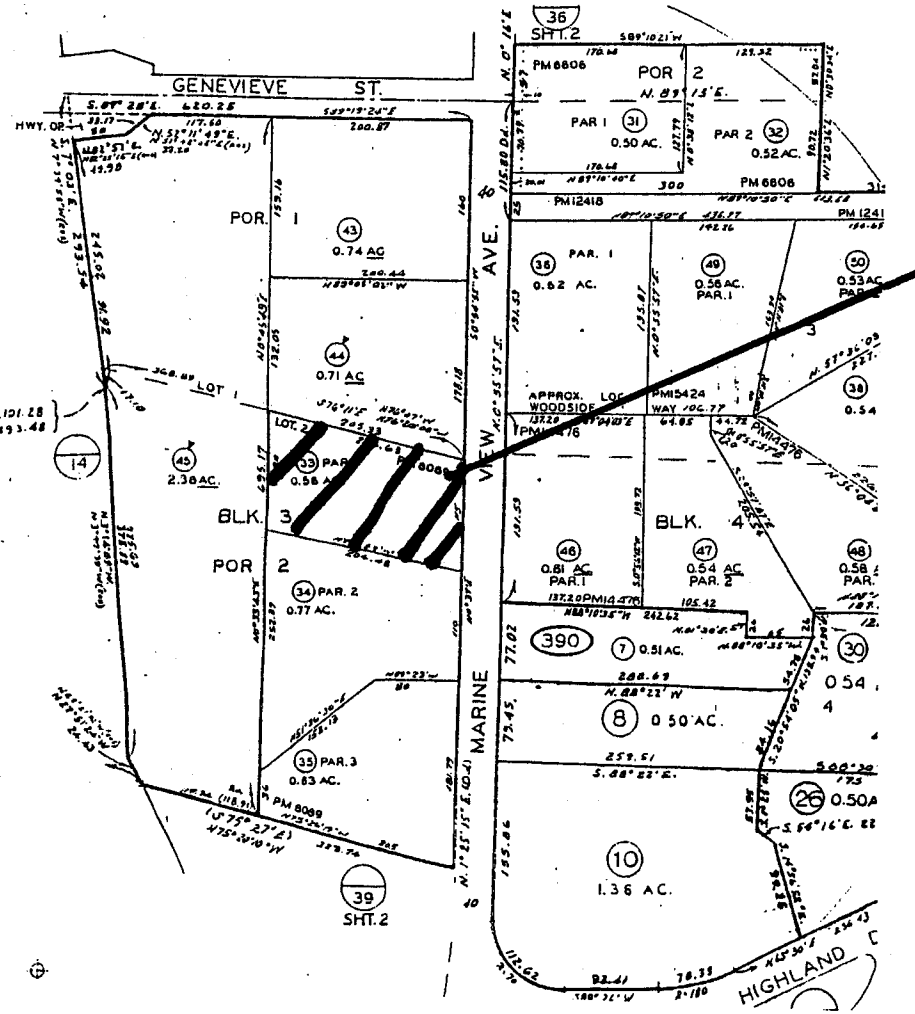
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. 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. Compliance. All development must occur in strict compliance with the proposal as 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 or 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.



Site

- SEE B7 H1
- 1 QMTO BADALONA
 - 2 QMTO ELIJAH
 - 3 QMTO TORREBLANCA
 - 4 QMTO FORTALEZA
 - 5 QMTO CARBONERAS
 - 6 QMTO VISTA ESTRELLADO
 - 7 QMTO CABO VIEJO
 - 8 QMTO VIA CAMPESTRE

Interstate 5

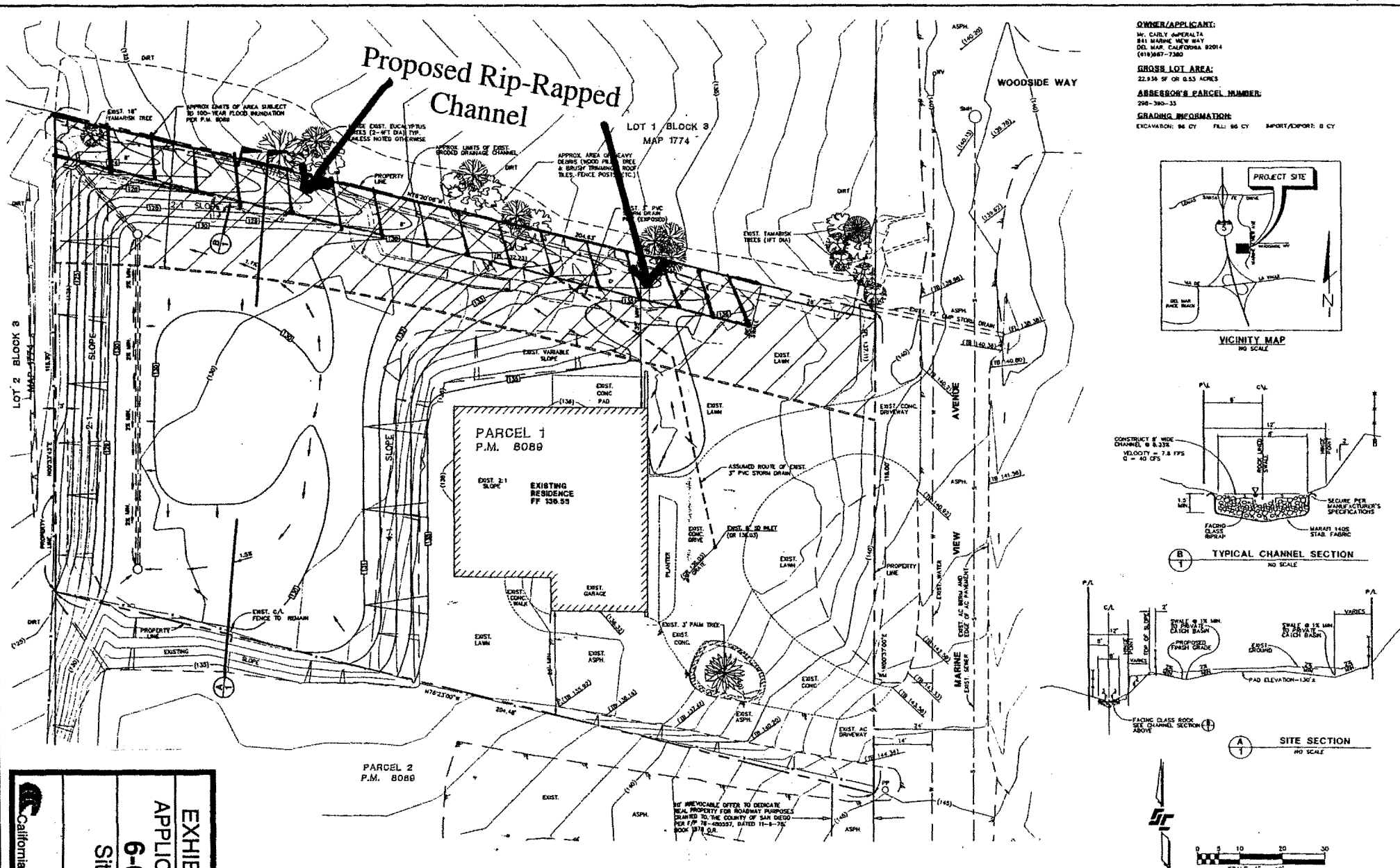


Site

N ↑

EXHIBIT NO. 1
APPLICATION NO.
6-00-46
Location Map
California Coastal Commission

Proposed Rip-Rapped Channel

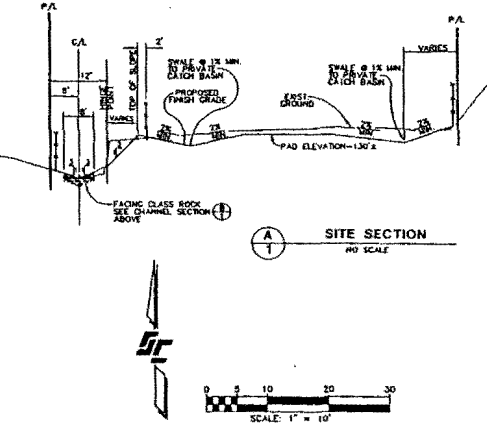
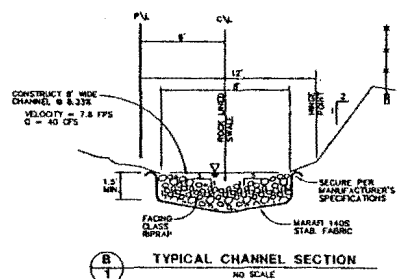
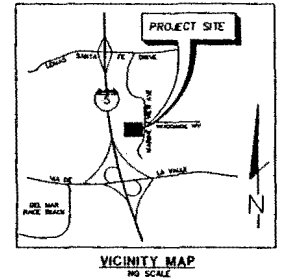


OWNER/APPLICANT:
 MC. CARLY SUPERLTA
 841 MARINE VIEW WAY
 DEL MAR, CALIFORNIA 92014
 (619)267-7280

GROSS LOT AREA:
 22,934 SF OR 0.53 ACRES

ASSessor's PARCEL NUMBER:
 794-290-13

GRADING INFORMATION:
 EXCAVATION: 86 CY FILL: 86 CY IMPORT/EXPORT: 0 CY



California Coastal Commission

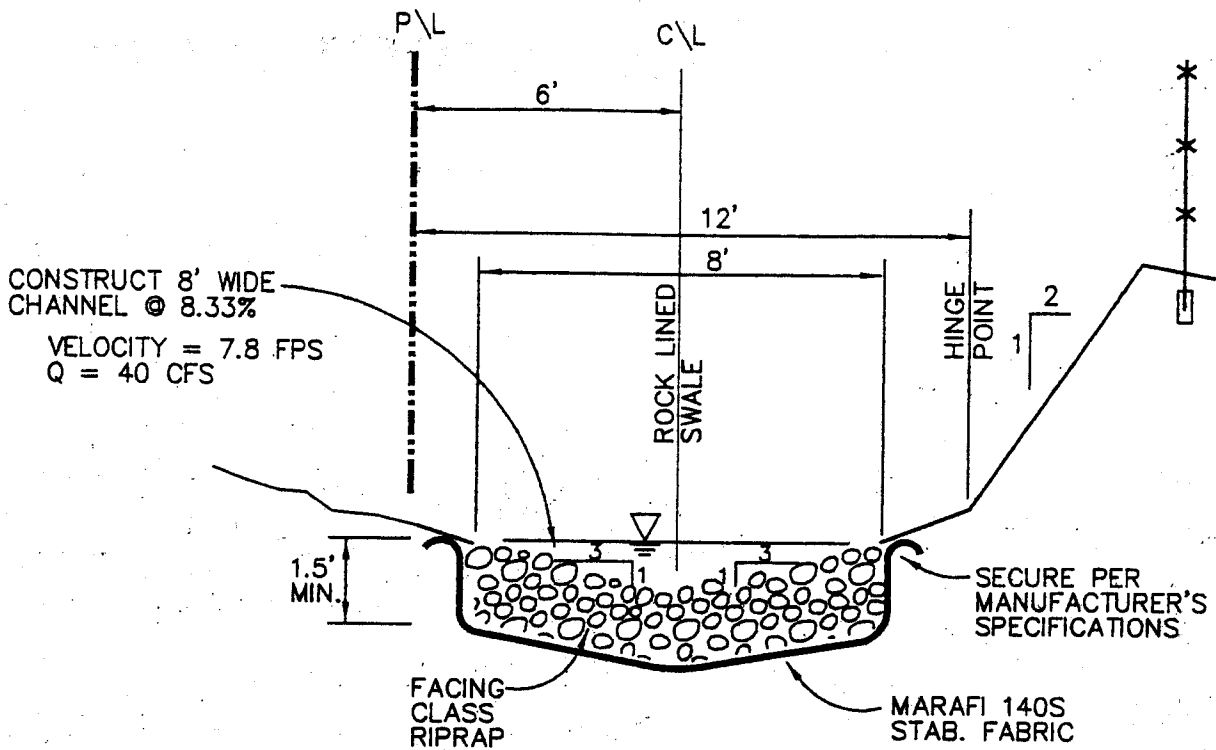
EXHIBIT NO. 2

APPLICATION NO.

6-00-46

Site Plan

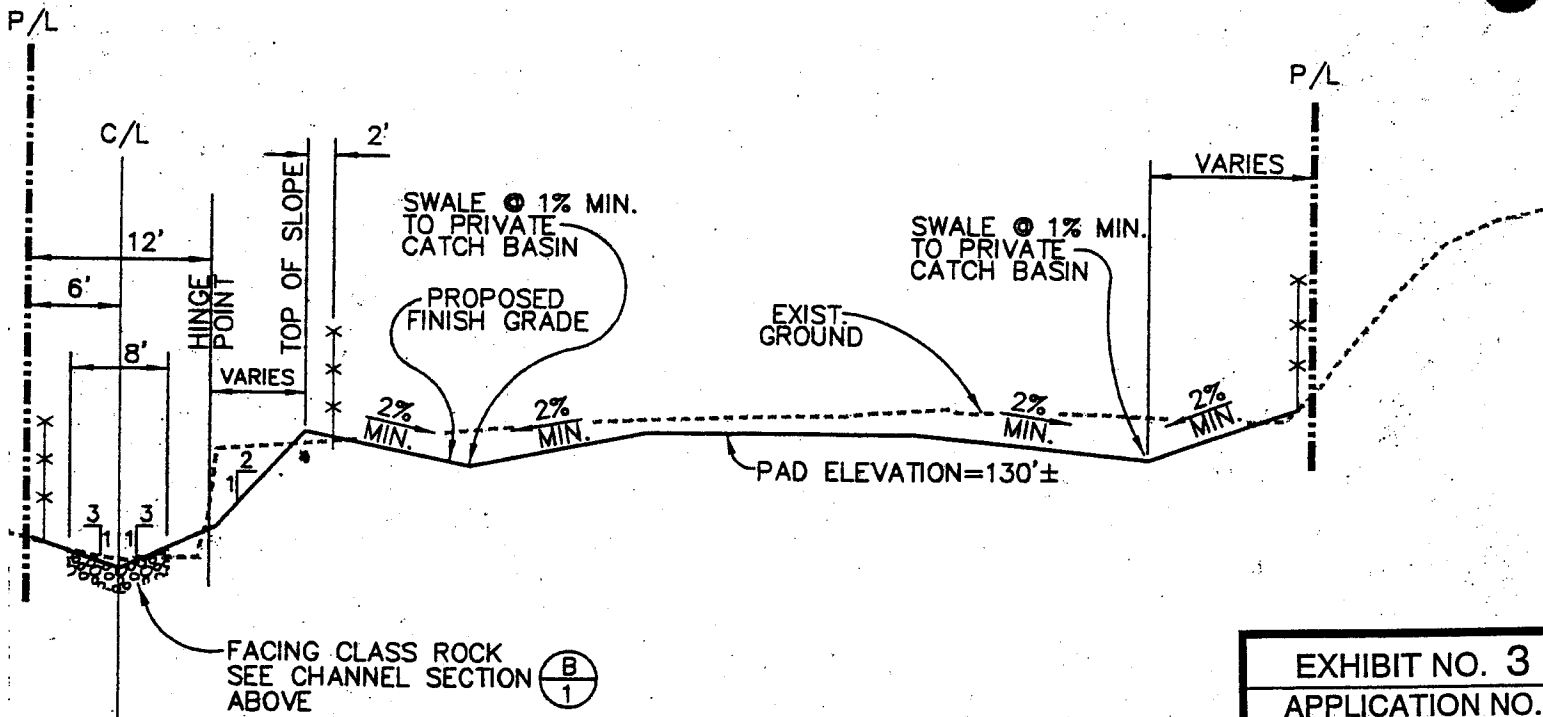
ENGINEER OF WORK		CITY APPROVED CHANGES		APPROVED FOR CONSTRUCTION		CITY OF SOLANA BEACH	
By: _____	Date: _____	By: _____	Date: _____	By: _____	Date: _____	DESCRIPTION: S. & S. COUNTY SURVEY CORRIDOR, MONUMENT 'SAR' LOCATION, S.D. STREET MONUMENT INTERSECTION SAR IMPROVEMENTS	ENGINEERING DEPARTMENT
Drawn By: BEM	Revised: r.c.c. 3/20/02	Drawn By: _____	Revised: _____	Drawn By: _____	Revised: _____	DATE: 11/14/01	DRAWING NO.
RECOMMENDED FOR APPROVAL				APPROVED FOR CONSTRUCTION		CITY OF SOLANA BEACH	
By: _____				By: Chandra P. Dokure, City Engineer		ENGINEERING DEPARTMENT	
Date: _____				Date: _____		DRAWING NO.	
RECOMMENDED FOR APPROVAL				APPROVED FOR CONSTRUCTION		CITY OF SOLANA BEACH	
By: _____				By: Chandra P. Dokure, City Engineer		ENGINEERING DEPARTMENT	
Date: _____				Date: _____		DRAWING NO.	
DESCRIPTION: S. & S. COUNTY SURVEY CORRIDOR, MONUMENT 'SAR' LOCATION, S.D. STREET MONUMENT INTERSECTION SAR IMPROVEMENTS							
DATE: 11/14/01							



B
1

TYPICAL CHANNEL SECTION

NO SCALE



A
1

SITE SECTION

NO SCALE

EXHIBIT NO. 3
 APPLICATION NO.
 6-00-46

Cross-Section
 Proposed Drainage
 Channel and Graded
 Area

RECEIVED

MAY 1 2000