

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
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 SAN DIEGO, CA 92108-4402  
 767-2370

## RECORD PACKET COPY



# Thu 15a

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 49th Day: July 6, 2001  
 180th Day: November 14, 2001  
 Staff: EL-SD  
 Staff Report: September 20, 2001  
 Hearing Date: October 9-12, 2001

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-00-170

Applicant: City of Del Mar Engineering Dept. Agent: Ernesto Aguilar

Description: Various street, storm drain and public safety improvements, replacements and repairs, including construction of curb inlets, percolation basins, low-flow diverters and energy dissipaters, along with the minor widening of street pavement, not resulting in additional travel lanes.

Site: Various streets, easements and alleys within the city, including Crest Road, Camino del Mar, Coast Boulevard and Ocean Front Avenue, extending from just south of 15<sup>th</sup> Street north to 27<sup>th</sup> Street, Del Mar, San Diego County.

Substantive File Documents: Certified City of Del Mar LCP Land Use Plan and Implementing Ordinances

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed street and stormdrain improvements, with special conditions restricting construction on, or west of, Camino del Mar during the summer months, and requiring final plans demonstrating consistency of new facilities with the Commission's water quality standards. The main goal of the subject development is to upgrade facilities and improve storm drain water quality.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 6-00-170 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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 THE PERMIT:**

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 the certified City of Del Mar Local Coastal Program. 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.**

See attached page.

**III. Special Conditions.**

The permit is subject to the following conditions:

1. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule and construction documents shall specify that no construction will take place for the project components located on: Camino del Mar, Coast Boulevard, and Ocean Front Avenue (reference Exhibit No. 2), between Memorial Day weekend and Labor Day of any year. Notes on the schedule and documents shall state that access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (no street closures or use of public parking as staging areas).

The permittee shall implement the development in accordance with the approved plans and construction schedule. Any proposed changes to the approved plans or schedule shall be reported to the Executive Director. No changes to the plans or schedule 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 and Polluted Runoff Control Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review

and approval of the Executive Director, final drainage and runoff control plans in substantial conformance with the plans titled *2001 Street and Drainage Project*, by Powell/PBSJ (submitted May 15, 2001), and shall include supporting calculations. The plans shall be prepared by a licensed engineer and shall demonstrate that the proposed structural Best Management Practices (BMPs) have been designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.

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.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of Del Mar is engaged in an ongoing upgrade of its street and storm drain systems, and annually proposes those projects it expects to complete that calendar year. The 2001 Street and Drainage Project is the subject of this permit application. It identifies eight separate projects which require a coastal development permit, including:

- 1) Coast Boulevard at 21<sup>st</sup> Street – construction of curb inlet and percolation basin;
- 2) Coast Boulevard at 20<sup>th</sup> Street – construction of curb inlet and percolation basin;
- 3) between Crest Road and Via Alta – construction of cleanout, percolation basin, energy dissipater, and 240 linear feet of new 18” storm pipe;
- 4) Ocean Front Avenue at 20<sup>th</sup> Street – widen existing pavement on 20<sup>th</sup> Street by 8 feet for a distance of 100 feet, installation of 100 feet of curb and gutter on 20<sup>th</sup> Street and construction of 81 feet of concrete swale down center of Ocean Front Avenue between 20<sup>th</sup> and 21<sup>st</sup> Streets;
- 5) alley east of Camino del Mar at 27<sup>th</sup> Street – construction of concrete swale and catch basin along center of alley, and repaving of alley;
- 6) east of Camino del Mar at 27<sup>th</sup> Street – 60 linear foot extension of storm drain and installation of curb inlet;
- 7) Camino del Mar near North Beach – construction of a storm drain low-flow diverter and 60 linear feet of sanitary pipe; and

8) Camino del Mar between 26<sup>th</sup> and 27<sup>th</sup> Streets -- construction of 220 linear feet of curb and gutter along the east side of Camino del Mar.

In addition, replacement of 510 linear feet of deteriorated curb and gutter, repair of 75 linear feet of existing brow ditch and installation of a speed bump are also included in the project description. However, these improvements are exempt from coastal development permit requirements, as repair and maintenance activities.

The City of Del Mar has a fully certified Local Coastal Program (LCP) and permit authority is delegated to the City as of September 26, 2001. Since that delegation of authority will occur prior to this item being acted upon by the Coastal Commission, the certified LCP, not Chapter 3 of the Coastal Act, is the legal standard of review.

2. Water Quality. Chapter 3, Section D of the certified Land Use Plan (LUP) addresses this water quality issues and states the following:

**Goal III-C**

Protect resources and property located downstream from hillside and bluff areas from damage due to uncontrolled runoff.

**Policy III-10**

Minimize damage from runoff from all projects within the City by:

- a. Ensuring that storm drains are designed and provided in such a manner to carry the entire amount of intercepted storm runoff estimated to occur during a storm having a return period of ten years;
- b. Ensuring the provision of adequate storm drain inlet capacity for the anticipated storm runoff from developed areas within the identified watersheds of San Dieguito and Los Penasquitos Lagoons.
- c. Ensuring that new development is accompanied by the provision of drainage control measures which control and direct storm flow runoff into existing storm drain systems or into natural drainage courses when approved by the City Engineer and provide new storm drains as necessary to protect from unrestricted flows and runoff.
- d. Applying the grading, erosion and sedimentation control regulations of the Lagoon Overlay Zone and the Bluff, Slope and Canyon Overlay Zone of Chapter VI of this Land Use Plan to those projects located within such overlay zones.

In addition, the City shall continue the design and implementation of a comprehensive storm drain system using existing and new measures to assure

that the combination of storm drain system capacity and allowable street overflow will adequately carry runoff from a 50-year frequency storm without damaging adjacent property or coastal bluff areas.

Also, the Bluff, Slope and Canyon, Lagoon and Coastal Bluff Overlay Zones in the certified Implementation Plan (IP) all include the following language:

All permits shall be subject to the submittal of a polluted runoff control plan. The required plan shall incorporate the use of structural and non-structural Best Management Practices (BMPs), to the extent necessary, to minimize the discharge of pollutants carried by runoff from urban development into surface water drainage, and to maintain post-development peak runoff rate and average volume at levels similar to pre-development levels. The plan shall include, but not be limited to, the following Best Management Practices (BMPs), as applicable: silt traps, catch basins, oil/grit separators, street sweeping and cleaning program, low-maintenance landscape and pesticide management plan, solid waste management and public education program. Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs. The plan shall include a monitoring component to ensure long-term maintenance of BMPs as relevant, and to allow for continued evaluation of the effectiveness of the polluted runoff control plan in meeting the goals of the LUP regarding the protection and enhancement of sensitive resources.

The Commission is concerned that appropriate hydrocarbon filters and other measures are implemented in new projects to assure that the water quality of downstream resources (i.e., the ocean and San Dieguito Lagoon, in this instance) are not adversely affected. The City's engineering department has indicated that the proposed street and drainage projects comply with the City's NPDES Municipal Storm Water Program which includes several Best Management Practices (BMPs), monitoring programs, Illicit Connection/Illegal Discharge Detection Programs, ordinances and other measures. BMP elements already part of Del Mar's ongoing operations include the following: installation of tiles at all curb inlets indicating "No Dumping", street sweeping, and regular maintenance of storm drains and grates on the inlets.

The City has also indicated that an innovative BMP proposed for the project is the installation of three percolation basins. These basins increase the percolation of low flow nuisance water into the ground. Hydrocarbons will be removed as the storm water percolates through the soil and geotechnical fabric in the basin. The increased percolation rate prevents the low flow run off from being conveyed into the gutters and storm drainage infrastructure. With incorporation of the new percolation basins, the City will have seven operational low flow percolation basins.

One concern the Commission has is assuring that the proposed facilities have been sized and designed appropriately to meet current water quality standards. The standards generally applied by the Coastal Commission, and incorporated into the certified IP, require facilities to be able to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs. Staff has received verbal assurances that the proposed facilities meet that standard, but does not yet have plans and calculations which document this. Thus, Special Condition #2 requires submittal of final plans, clearly demonstrating that this standard has been met, or exceeded.

In summary, with the incorporation of Best Management Practices proposed herein by the applicant, and continued implementation of the City's ongoing operations, it can be assured that drainage and runoff from the newly proposed drainage improvements will not result in adverse impacts to water quality and/or downstream resources. The City is currently, and will continue with the new facilities approved herein, to monitor and maintain the percolation basins. Therefore, the Commission finds the proposed development, as conditioned, consistent with the goals, policies and regulations of Del Mar's certified LCP.

3. Public Access and Recreation. Chapter IV, Section B, and Chapter 30.61 of the certified Del Mar LCP include many goals and policies addressing various public access issues. Since the adverse impacts associated with this application would be temporary ones during the construction period, the following LUP goal and IP regulation seem most applicable to the subject proposal:

**Goal IV-A.**

Provide physical and visual access to coastal recreation areas for all segments of the population without creating a public safety concern, overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

**30.61.010 Purpose.**

The purpose of this Chapter is to ensure that physical access is provided to coastal recreation areas for the general public without creating a public safety concern, overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

Except for the project between Crest Road and Via Alta (Item #3 in the project description), all of the proposed improvements will take place on or west of Camino del Mar (which is Old Highway 101 in Del Mar). Projects west of Camino del Mar raise potential concerns with coastal access. All of these project sites are located from one to three blocks from the ocean; therefore, construction activities on these streets during the peak beach-use season could have a significant adverse impact on public access. The

applicant has submitted a proposed construction schedule, which would begin the project after Labor Day and complete it before the end of the year. However, since unexpected delays can occur, Special Condition #1 has been attached, which requires the City to submit a final construction schedule indicating that no work will take place on these projects during the summer months (Memorial Day to Labor Day). In addition, Special Condition #1 requires notes on construction bid documents notifying the contractor that access corridors and staging areas shall be located in a manner that has the least impact on public access and public parking spaces (no use of public parking, no closure of streets). Therefore, as conditioned, the Commission finds the project consistent with the cited sections of the certified LCP.

4. Growth Inducement. Chapter II, Section B of the certified Del Mar LCP is applicable to this issue and states, in part:

**Goal II-A.**

Preserve and enhance Del Mar's small town atmosphere with its harmonious blending of architecture, landscape and natural landforms in proximity to a beautiful shoreline.

**Policy II-1.**

Maintain the existing small-scale character of the community and permit only one- and two-story, low intensity development with a maximum allowable height of 26 feet....

Given that the proposed development, in part, involves drainage improvements through the installation and/or replacement of storm drain pipes, inlets, and percolation basins, the question arises as to whether the project will be growth inducing. In other words, it must be determined whether or not the improvements to the existing drainage system are being proposed to serve existing development or whether they will accommodate new development. In this particular case, the proposed improvements are largely proposed to maintain runoff water quality by decreasing nuisance flow from areas where standing water is present after rainfall. Another project feature is to increase the percolation rate of low flow runoff off so that less runoff will ultimately be conveyed through the storm drain infrastructure to the ocean and/or river channel. Also, no installation of service to vacant parcels or installation of capacity beyond that needed to serve developments permitted or exempted under the Coastal Act is proposed. There is little vacant land in the City of Del Mar in any case, such that most projects being proposed address redevelopment of already built lots. Thus, the proposed improvements are not found to be growth inducing, and the Commission finds that the proposed project, as conditioned, is consistent with the City of Del Mar certified LCP.

5. Local Coastal Planning. Section 30604 (a) 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 City of Del Mar has a fully certified LCP. However, permit authority is delegated to the City as of September 26, 2001. Since this application was filed prior to delegation of authority and the Commission will vote on the project after permit authority has been transferred, pursuant to Section 13546(b) of the California Code of Regulations, the Commission will continue its review of the project, utilizing the City's certified LCP as the standard of review.

The areas proposed for improvements are all in City right-of-ways and existing utility easements and are proposed to extend existing storm drain pipes, install new inlets, and construct percolation basins and curbs and gutters to eliminate standing nuisance drainage. The areas where the improvements will take place are largely built out, and the project is not considered to be growth-inducing in nature. The project, as conditioned, is in conformance with Del Mar's effectively-certified LCP, and therefore the Commission finds that approval of the project should not prejudice the City's ability to implement its Local Coastal Program.

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 to be supported by a finding showing the permit, 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 public access and water quality policies of the certified LCP. Mitigation measures, including conditions addressing public access and water quality, 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 can be found consistent with the requirements of the certified LCP 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. 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.

6-00-170

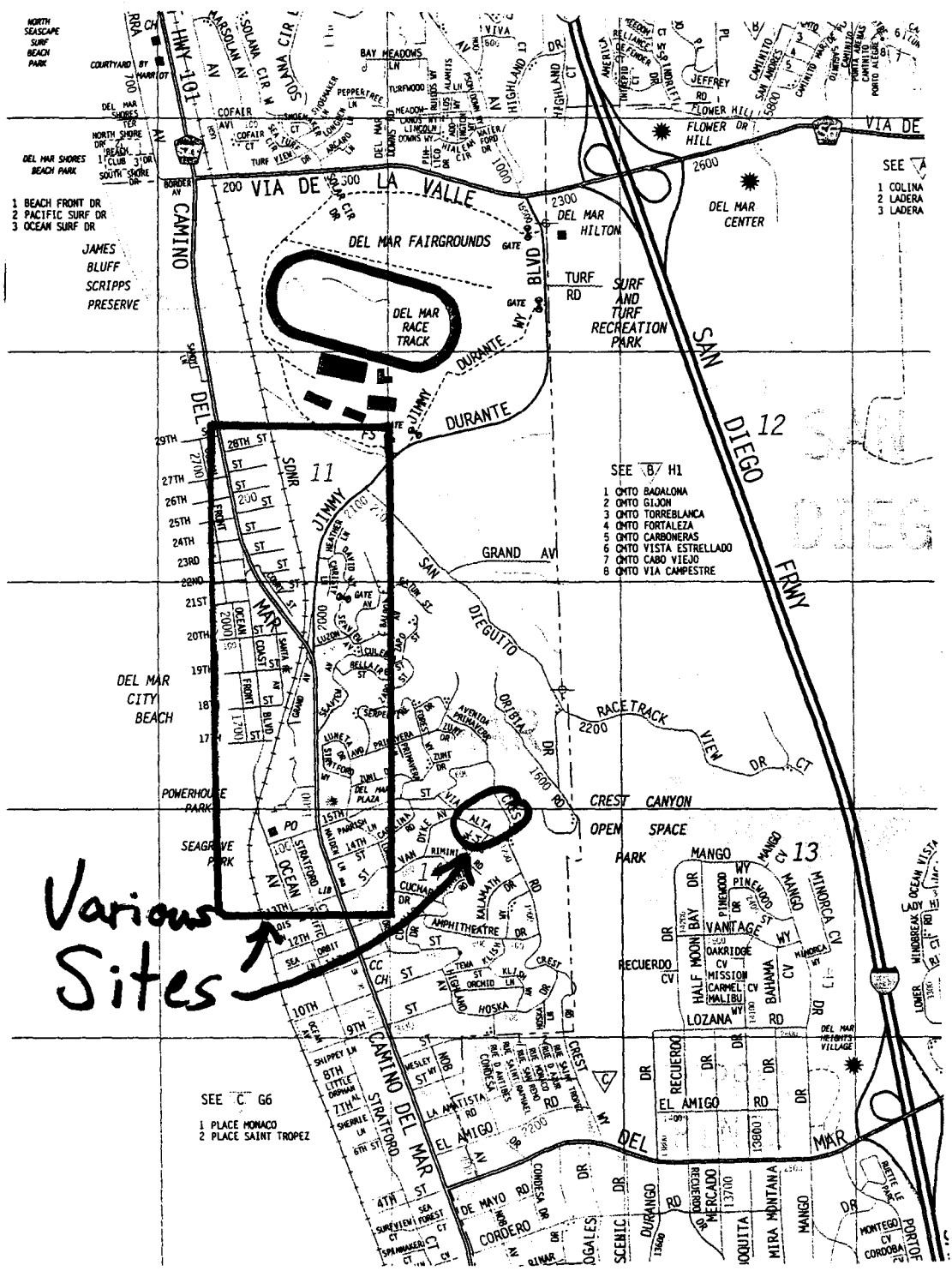


EXHIBIT NO. 1
APPLICATION NO.
6-00-170
Location Map
California Coastal Commission

Seasonal construction prohibitions

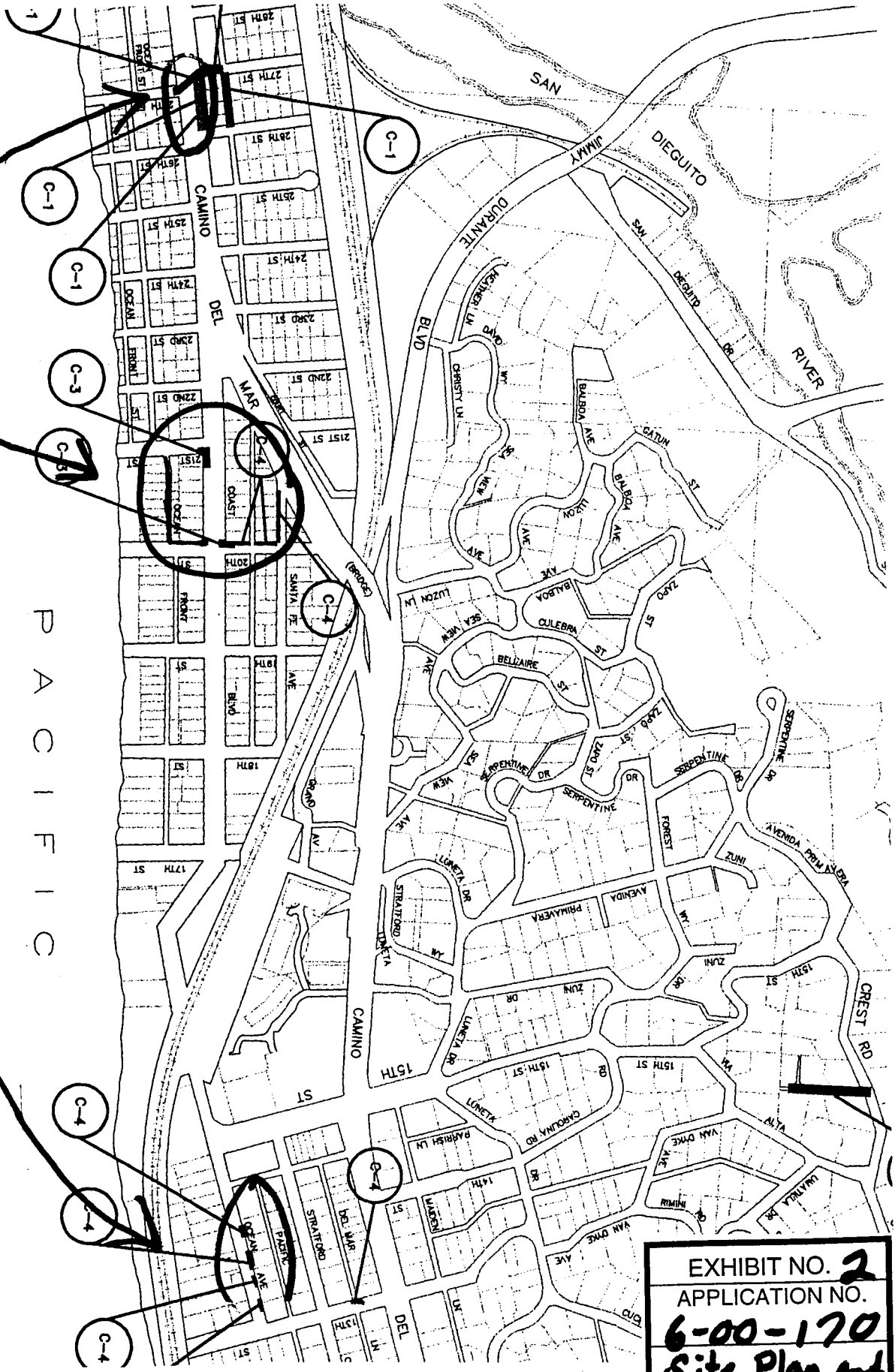
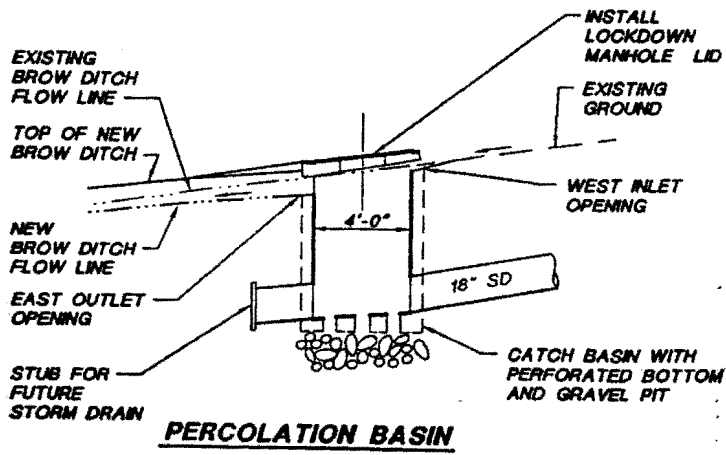


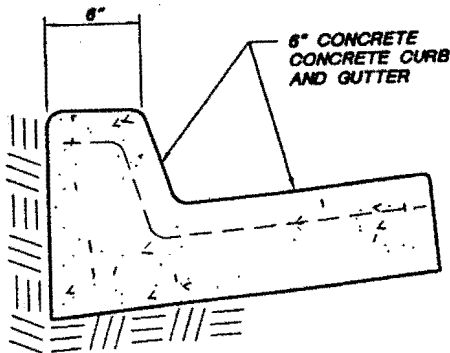
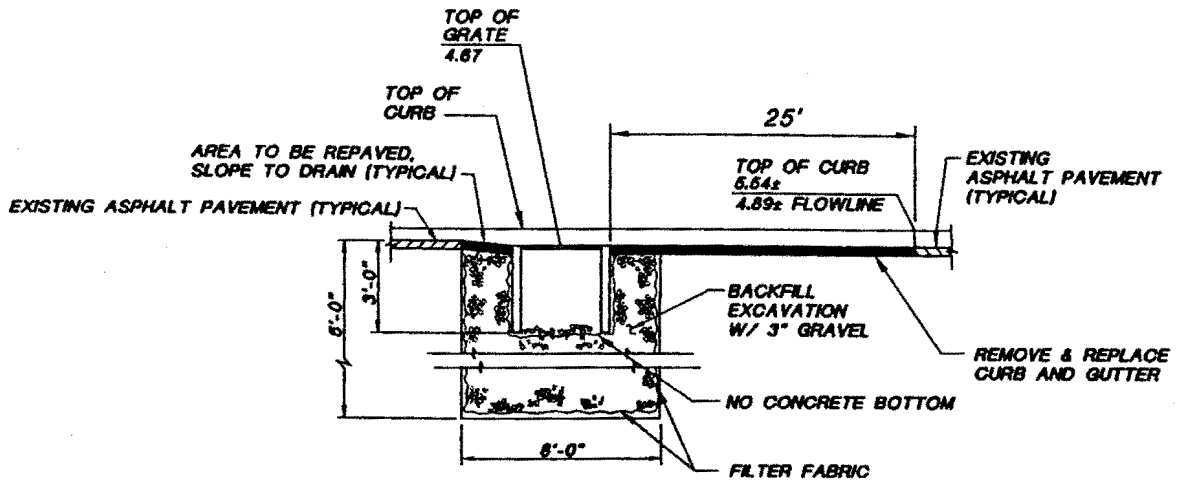
EXHIBIT NO. 2  
 APPLICATION NO.  
**6-00-170**  
**Site Plan and**  
**Restrictions**  
 California Coastal Commission

6-00-170



**PLAN - DRAINAGE STRUCTURE "DR-1"**

1" = 10'



**TYPICAL CURB AND GUTTER**  
 NO SCALE

EXHIBIT NO. 3
APPLICATION NO.
6-00-170
Typical Cross Section
California Coastal Commission