

**CALIFORNIA COASTAL COMMISSION**

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 Staff: EL-SD  
 Staff Report: April 25, 2001  
 Hearing Date: May 8-11, 2001

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-064

Applicant: North San Diego County Transit  
 Development Board

Agents: Hayley Peterson  
 Martin Minkoff  
 Mark T. Evans

Description: Installation of approximately 2.5 miles of new passing track, 15 feet west of the centerline of the existing main track. Also proposed are two turnouts, extension of existing culverts, replacement of two existing bridges with culverts, construction of two retaining walls, excavation and grading, and the installation of two new train dispatcher control points and related signaling equipment.

Site: Within North County Transit District right-of-way, from south of Balboa Avenue to just north of Tecolote Creek, from Mile Post (MP) 260.5 to MP 263.0, between the existing mainline track and Interstate 5 (I-5), San Diego, San Diego County. APNs 424-572-10, 424-140-70, 425-034-10, 425-150-60, 425-293-10, 430-080-30, 430-660-40, 430-670-80, 436-020-380, 436-020-020, and 436-180-240

Substantive File Documents: Certified City of San Diego LCP, including the Land Development Code Biology Guidelines

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development. The proposal to add a section of side track is intended to allow currently scheduled trains to operate more efficiently. A special condition requires submittal of erosion control plans to address permanent and temporary impacts.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 6-01-64 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 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. 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. Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final erosion control plans which shall incorporate the following:

A. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

B. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized to minimize soil loss from the construction site.

The permittee shall undertake development in accordance with the approved erosion control plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an 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 applicant is proposing to construct 2.5 miles of passing track parallel to, and approximately 15 feet west of, the existing main line. Other project components include the construction of two #24 turnouts to move trains off of and back onto the main track, extension of several existing drainage culverts under the proposed track and installation of two new train dispatcher control points and related signaling equipment. Two short bridges over drainage ditches may potentially be replaced with culverts, to eliminate the applicant's bridge maintenance responsibilities. Approximately 5,800 cu.yds. of material will be excavated and 27,500 cu.yds. of fill imported, to raise the site for the new track level with the existing track. The project will also require construction of two new retaining walls at the toe of the fill slope west of the proposed track. The retaining walls will be approximately 900 and 600 feet in length and range from approximately 6 to 12 feet in height. The development is projected to take approximately nine months to complete and all materials will be staged and stored within the right of way.

The site is located within existing NCTD right-of-way, east of I-5, between Tecolote Creek and Balboa Avenue. The railroad right-of-way forms the coastal zone boundary in this area. The right-of-way occupies the far western fringes of the Linda Vista and Clairemont communities. Because so little of the communities are geographically in the coastal zone, the City has not included them in its LCP. Therefore, coastal development permit jurisdiction remains with the Coastal Commission, and Chapter 3 of the Coastal Act is the standard of review.

2. Visual Resources. Section 30251 of the Coastal Act addresses visual resources, and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....

The project site is located east of I-5 and west of Morena Boulevard, paralleling both roads. Mission Bay Park is located just west of I-5, so the general area is scenic;

however, the water views are afforded to motorists on I-5 looking westward, away from the railroad tracks. Moreover, the project consists of the installation of an additional track adjacent to, and at the same elevation as, the existing main track; both tracks, existing and proposed, would be lower in elevation than either I-5 to the west or Morena Boulevard to the east. Other things associated with the normal operation of trains, such as lights, signals, etc. may occur, but these would not be visual impairments. Thus, the new development will have no significant effect on existing visual resources. The Commission finds the proposed development, as conditioned to address other concerns, is consistent with Section 30251 of the Act.

3. Biological Resources. The following Coastal Act policies are most applicable to the proposed development:

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In wetland areas only, entrance channels for new or expanded boating facilities....
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities....

**Section 30240**

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed development is proposed to be aligned in a narrow corridor between the existing railroad track to the east and I-5 to the west. There are no developments between I-5 and Morena Boulevard (east of the existing track) except improvements associated with the railroad operations. There is existing residential and commercial development along most of the east side of Morena Boulevard, although there are a few vacant areas as well. East of the railroad right-of-way, and thus outside the coastal zone, Morena Boulevard follows a similar parallel alignment with the train tracks and I-5. Prior to its construction, a number of culverts and bridges were built along the railroad track to convey runoff from canyons located east of Morena Boulevard's current alignment. Although all these culverts at one time conveyed significant amounts of stormwater runoff under the railroad track to Mission Bay, only one culvert currently conveys any amount of water; this culvert/stormdrain is located near the northern end of the proposed passing track. All other inland runoff is captured by the existing drainage system in Morena Boulevard such that the culverts under the railroad track remain primarily dry. Because the railroad tracks sit in a depression between Morena Boulevard and I-5, some small amounts of surface runoff from the side slopes undoubtedly collect in the old culverts following significant storms.

The applicant's biology report, submitted with the permit application, identified the presence of a small area of freshwater marsh vegetation as follows:

The outlet area of the culvert that presently conveys water is lined with sprayed-on concrete. Some soil has collected on the surface of this concrete liner. This soil supports a few narrow-leaved cattails. The slopes of the channel support an assortment of non-native species, including Mexican fan palm, pampas grass, and bottle-brush.

A site inspection has confirmed that there are approximately half a dozen cattails growing on 2 to 3 inches of soil, which has settled on an approximately five or six square foot area of the concrete culvert (about one cattail per square foot). The area is located just west of the existing track where the culvert daylight into an open concrete channel. The proposed development will extend this culvert, and all the others, far enough to the west to go under the proposed passing track. Thus, any existing vegetation in the currently open part of the channel will be removed through implementation of the project.

A combination of many different factors have led the Commission to the determination that the half dozen cattails identified at this site, although hydrophytic plants, do not constitute a wetland within the meaning of the Coastal Act. These include the fact that, although water may collect here occasionally due to surface runoff, there is no obvious source of water supporting the site. Under the definition of wetlands provided in Section 13577(b) of the Commission's regulations, wetlands are typically, although not necessarily, sustained by the presence of the water table at or near the surface of the land. Such is not the case here. In addition, the area does not connect with any wetland resources, nor is there any opportunity for the approximately six square feet of cattails to expand or proliferate, as they are completely surrounded by concrete and nonnative upland vegetation. No wetland functions (i.e., wildlife habitat, water filtration, etc.) occur in this location, wedged between existing railroad tracks and an interstate freeway. Moreover, when the water evaporates, it is doubtful whether the cattails will survive. Additionally, the railroad periodically maintains an existing access road west of the existing track (in roughly the location of the proposed passing track); this routine and ongoing maintenance is necessary for successful operation of the railroad, and it results in the periodic removal of all vegetation whenever the dirt road is regraded. The combination of all of these factors supports the Commission's determination that the few isolated specimens of freshwater hydrophytic vegetation that have emerged in the concrete culvert do not constitute a wetland. Thus, removal of this vegetation is not inconsistent with Sections 30233 and 30240 of the Coastal Act.

Likewise, the City of San Diego certified LCP's Biology Guidelines, which can be looked to for guidance, states the following regarding this type of situation:

Areas that contain wetland vegetation, soils or hydrology created by human activities in historically non-wetland areas do not qualify as wetlands under this definition unless they have been delineated as wetlands by the Army Corps of Engineers, and/or the California Department of Fish and Game. Artificially created "wetlands" consist of the following: wetland vegetation growing in brow ditches and similar drainage structures outside of natural drainage courses, ...

Neither resource agency has identified the subject area of cattails as a wetland, nor asserted any regulatory jurisdiction over it. Under the City of San Diego LCP, therefore, this vegetation would not be considered to constitute a wetland. The Commission therefore finds that the proposed development, as conditioned to address other concerns, is consistent with Sections 30233 and 30240 of the Act.

4. Erosion Control/Water Quality. The following Coastal Act policy is applicable to the proposed development and states:

**Section 30230**

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or

economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

### Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Also, Section 30240 of the Coastal Act, cited previously, calls for the protection of sensitive habitat by, among other means, regulation of development in adjacent areas. The project site is not immediately adjacent to any sensitive habitat areas or bodies of water. However, all site runoff will drain downhill towards Mission Bay, which is located approximately 1,000 feet away, or towards Tecolote Creek, located approximately 200 feet south of the project terminus. Tecolote Creek carries year-round flows and discharges into Mission Bay.

The project will not result in any significant increase in impervious surfaces, since the new track will be laid on a permeable base; the project does include two, one-foot-thick retaining walls which will occupy a small amount of ground. To address any potential permanent drainage issues, all the existing culverts will be extended to the west under the new track. Since only one of the dozen or so culverts carries any flow (and that one very intermittently), there are no major concerns about ongoing runoff during the operational life of the project.

However, the construction impacts could have adverse impacts on downstream resources. The project includes approximately 5,800 cu.yds. of excavation and the import of approximately 27,500 cu.yds. of fill to prepare a level base and match the elevation of the existing track. This amount of earthwork could produce significant runoff if the site is not appropriately protected. Special Condition #1 requires submittal of an erosion control plan addressing all runoff issues. In addition, the applicant has indicated that Best Management Practices (BMPs) will be implemented to assure construction related activities do not result in water quality impacts. The applicant has also indicated that, on a daily basis, other BMPs are implemented to assure trash and other debris within its right-of-way is collected and removed. With the condition, the Commission finds the proposed development consistent with all applicable Coastal Act policies.

5. Growth Inducing Impacts. The following policy of the Coastal Act provides, in part:

**Section 30250**

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. ...

Any proposed increase in public services carries the potential to induce growth in surrounding less developed areas by making necessary services available. The railroad provides a public service, and growth often occurs along rail corridors, especially near stations. This particular project does not include any new stations and is located in an already built-out area. The installation of two and one-half miles of passing track is intended to allow the current system to run more efficiently, and its purpose is not to increase the number of trains. It is necessary for smooth operation of the current train schedule, with or without other rail improvements which may be proposed in the future, and the proposed development is not part of the larger "double-tracking" project currently being planned. The proposed passing track itself could not accommodate a significant increase in train traffic. Any future increase in train traffic could only occur in the context of the "double tracking" project that the applicant is currently evaluating. Thus, the proposed passing track project is not by itself growth inducing. Any growth-inducing effects related to a possible future "double-tracking" project can be fully evaluated at the time that project comes before the Commission. Therefore, the Commission finds the proposal, as conditioned to address other concerns, consistent with Section 30250 of the Act.

6. Public Transit. The following policies of the Coastal Act are applicable to the proposed development:

**Section 30252**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service ...

**Section 30253**

New development shall:

....

(4) Minimize energy consumption and vehicle miles traveled.

The proposed development is intended to increase the reliability and convenience of train service, including public transportation provided to coastal communities by the Coaster



commuter rail line and Amtrak's Surfliner. The project should thus enhance coastal access by facilitating the provision of transit service. By making public transportation more convenient and attractive for people who might otherwise drive, this development may also reduce energy consumption and vehicle miles traveled. Therefore, the Commission finds the proposed development, as conditioned to address other concerns, consistent with Sections 30252 and 30253 of the Act.

7. 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, such a finding can be made.

The project site is designated as General Industrial/Transportation Corridor in the City's General Plan and zoned M-1P. The location is within the geographic boundaries of the Linda Vista and Clairemont Community Plans, which are not part of the City's certified LCP. There is very little land in these two communities within the coastal zone, and most of that is occupied by the railroad right-of-way. Thus, the City has chosen not to make Linda Vista and Clairemont LCP segments, but to leave coastal development permit jurisdiction with the Coastal Commission, although the requirements of the certified LCP, including the Implementation Plan ordinances can be used for guidance. Thus, Chapter 3 of the Coastal Act is the standard of review, and the proposed development has been found consistent, as conditioned, with all applicable policies of the Act. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue implementation of its certified LCP in other areas.

8. 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, as conditioned, the project has been found consistent with the policies of the Coastal Act addressing runoff control and water quality. There are no feasible alternatives or 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. **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.

6-01-64

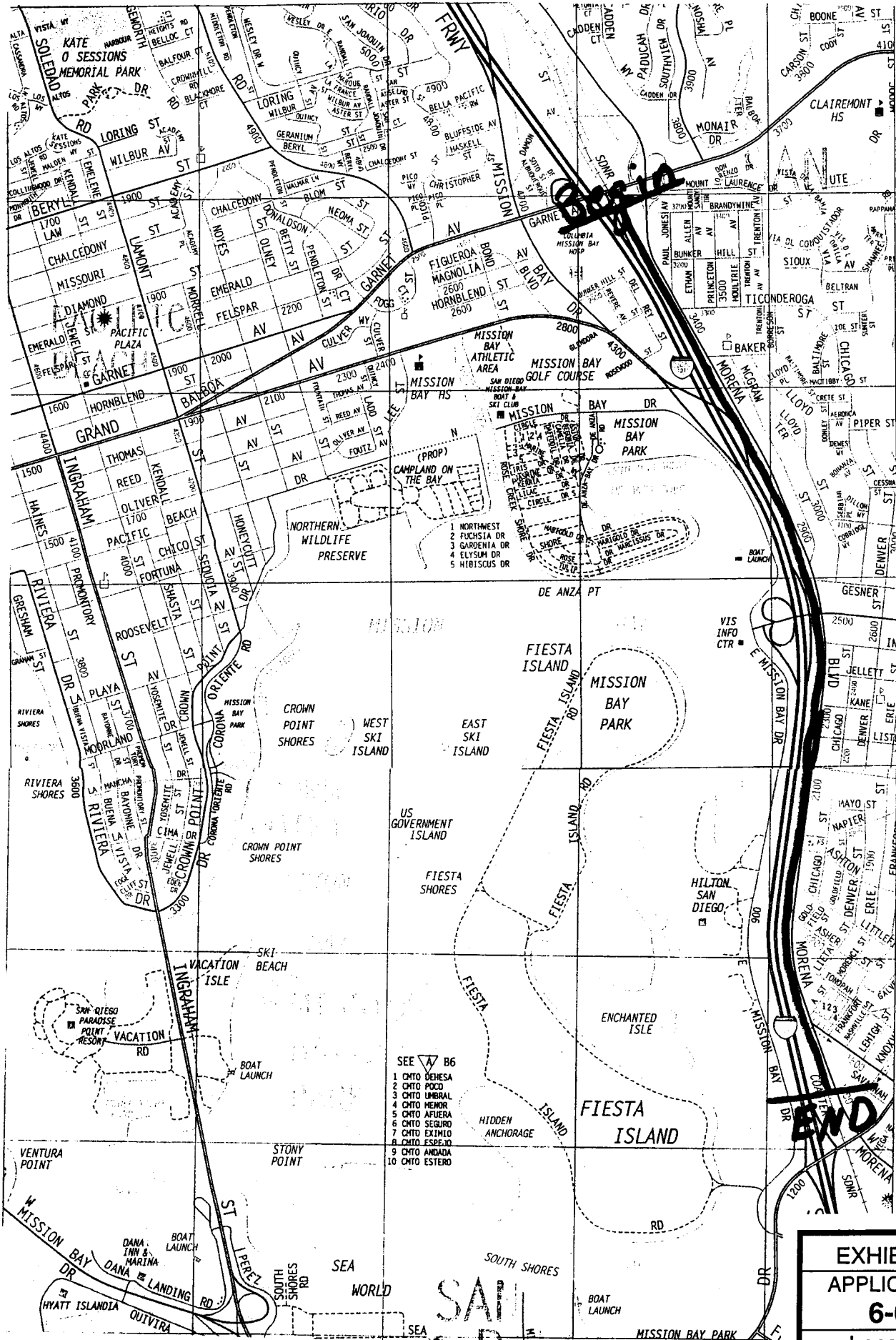


EXHIBIT NO. 1  
 APPLICATION NO.  
**6-01-64**  
 Location Map

6-01-64

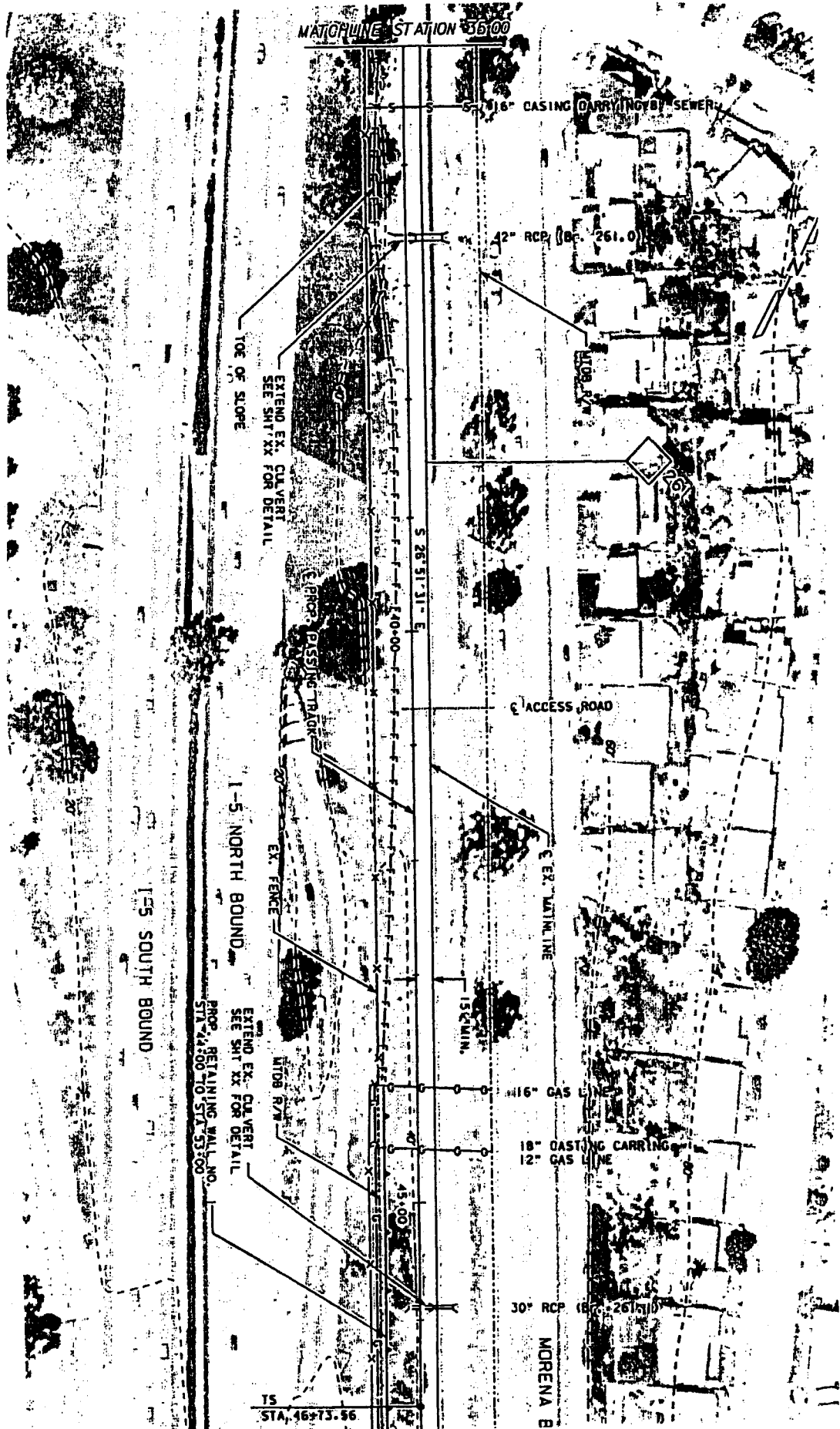


EXHIBIT NO.
APPLICATION NO.
<b>6-01-64</b>
Typical Site Plan

6-01-64

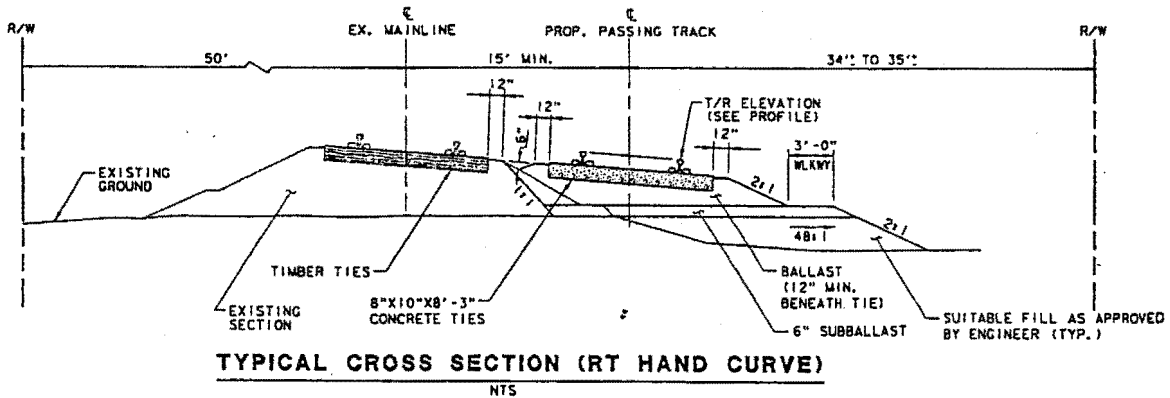
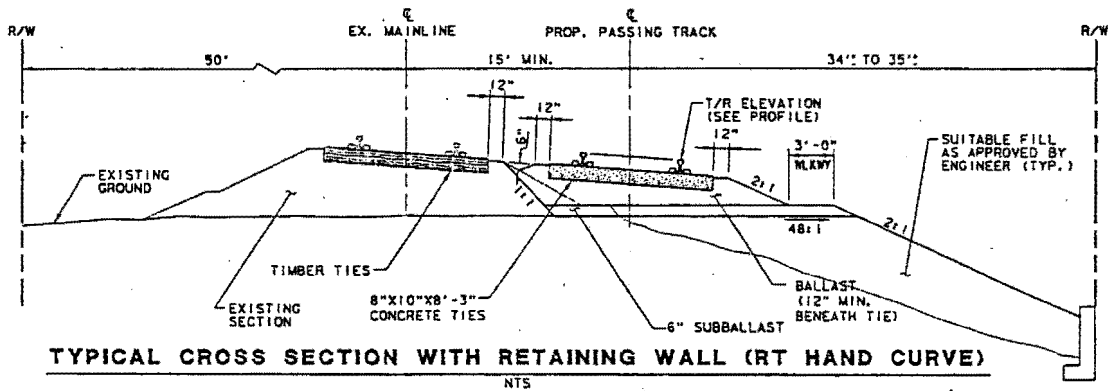
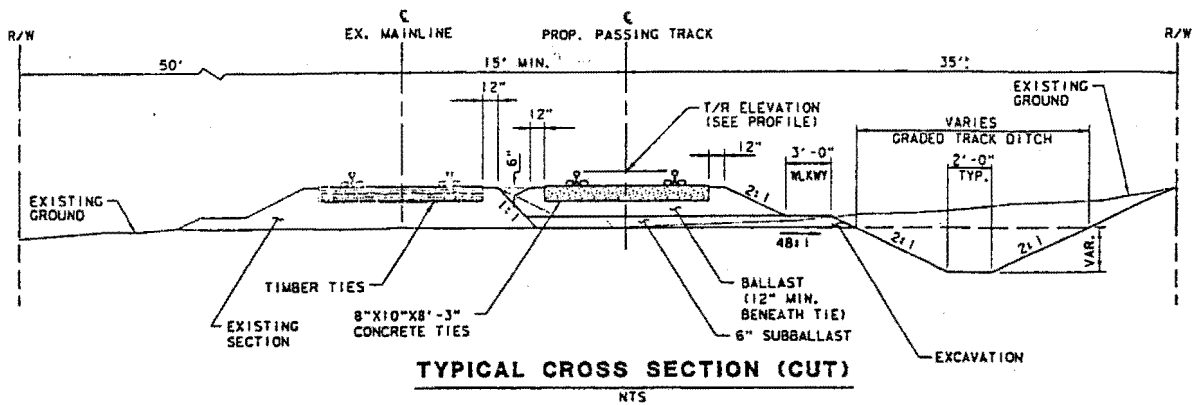



EXHIBIT NO. 3
APPLICATION NO.
<b>6-01-64</b>
Cross-Sections
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