

CALIFORNIA COASTAL COMMISSION RECORD PACKET COPY

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Staff: KFS-LB *[Signature]*
Staff Report: November 19, 1998
Hearing Date: December 8-11, 1998
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-98-372

APPLICANT: WMC Development

AGENT: Steve Dobbie & Associates

PROJECT LOCATION: 539 Via Lido Soud, City of Newport Beach, Orange County

PROJECT DESCRIPTION: Demolition of an existing 30-foot long cast-in-place seawall. The seawall will be replaced by a seawall system composed of pre-cast concrete panels tied to a concrete anchor beam. No seaward encroachment will occur as a result of this development. Approximately 50 cubic yards of fill will be imported to backfill the area behind the proposed replacement seawall.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept 1819-98.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach, Local Coastal Program-Land Use Plan, effectively certified May 18, 1982; Coastal Development Permits: 5-96-102 (Rafferty), 5-97-117 (Donahue), 5-97-236 (Wagner); 5-98-305 (Newport Harbor Yacht Club); Letter from Strata-Tech, Inc. to WMC Development dated October 28, 1998; *Response to Coastal Commission Review.*

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed development with three special conditions: 1) the applicant shall obtain permission from the Regional Water Quality Control Board prior to issuance of a coastal development permit; 2) the applicant shall minimize land disturbing activities to sand and intertidal areas to protect water quality and the marine environment; and 3) the applicant shall dispose of construction debris at an approved legal disposal site.

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, located between the nearest public roadway and the shoreline, 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 effects 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 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 this permit is reported to the Commission. 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 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 or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, 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. Permission from the Regional Water Quality Control Board

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, written evidence from the Regional Water Quality Control Board (RWQCB) demonstrating that RWQCB has reviewed and approved the proposed project. If RWQCB requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

2. Construction Responsibilities and Debris Removal

To protect water quality and the marine environment the applicant shall minimize disturbances to sand and intertidal areas. Disturbances shall be minimized by the following: (a) no local sand, cobbles, or shoreline rocks, shall be used for construction material; (b) storage of all construction materials and equipment landward of the beach, preferably on an impervious surface and in a manner which prevents their movement via runoff, or any other means, into coastal waters; (c) no machinery may be placed in the intertidal zone at any time; (d) removal of any and all construction equipment, materials and debris from upland and intertidal areas at the conclusion of construction.

3. Location of Debris Disposal Site

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone a coastal development permit or an amendment to this permit shall be required before disposal can take place.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to demolish and reconstruct an existing seawall located on a residential lot at 539 Via Lido Soud, Newport Beach, Orange County (Exhibit 1). Presently, there is a 30 foot long, cast-in-place concrete seawall, on the bayfront side of the subject property (Exhibit 2). The top of the existing wall is + 5.78 feet. This wall will be replaced with a seawall system consisting of pre-cast concrete panels. These panels will be tied to a new concrete anchor beam to be located approximately 25 feet landward and parallel to the proposed seawall. The new seawall will be constructed in the same location and will be the same length. However, the top of wall elevation is increasing from + 5.78 feet to +9.5 feet to meet present City of Newport Beach engineering standards and to raise the grade along the bayside property line to be level with adjacent properties. Approximately 50 cubic yards of fill will be imported to backfill the area immediately landward of the seawall. As a result the lot will be level with existing grade on the adjacent, flat lots. No seaward encroachment will occur as a result of these proposed developments.

The subject site located between the sea and the first parallel public roadway and is a bay front lot. The land use designation for the site is *Single Family Detached Residential*. The land use designation for the harbor area seaward of the U.S. Bulkhead line is *Water*.

B. Protective Structures and Hazards

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act states in part:

New development shall:

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

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area...

In August 1998 the Commission approved a waiver of coastal development permit requirements (5-98-253) for the demolition and reconstruction of a single family residence at the subject site. Site conditions include an existing, aging cast-in-place concrete seawall. No work was proposed on the existing seawall under the previous application. However, an evaluation conducted subsequent to the prior application by Strata-Tech, Inc. discovered that while a seawall is needed to protect the structural integrity of the lot from tidal activity, the existing seawall is not geotechnically adequate, compared to present standards. Due to age, poor quality concrete, inadequate steel reinforcement, and deficient tieback systems, aging concrete seawalls in Newport Beach, such as the one at the subject site, are commonly replaced when redevelopment occurs on bayfront lots. The proposed development will replace the deteriorated seawall with a new system composed of pre-cast concrete panels tied with anchor rods to a landward concrete anchor beam. The Commission has approved several seawalls using this technology in the City of Newport Beach including 5-96-102 (Rafferty), 5-97-117 (Donahue), 5-97-236 (Wagner); and 5-98-305 (Newport Harbor Yacht Club). These seawall systems have been deemed superior to the existing aging seawalls in both material quality and engineering design. Since a replacement seawall is being installed, City engineering standards require that new or replacement seawalls be at the existing height established for the area. The existing seawall is lower (+ 5.78 feet) than the established height of adjacent seawalls (+ 9.5 feet). Therefore the proposed seawall will be constructed with an elevation of + 9.5 feet to match adjacent existing conditions. The proposed seawall will have the same location as the existing seawall and will therefore not have any additional impact upon shoreline processes.

According to a report by Strata-Tech, Inc. of Buena Park, California titled *Geotechnical Investigation for Proposed Residential Structure* dated April 28, 1998 (W.O. 115298), the proposed development will occur in an area of seismic risk, similar to most properties in southern California. Design and construction recommendations were made by the geotechnical consultant in this report which will improve the durability of the proposed structures. These recommendations include load values to be used for structure design and construction guidelines regarding sequence, materials, and soil compaction. The geotechnical consultant states that the site is suitable for the proposed development so long as their recommendations are incorporated into the design of the proposed project and they are implemented in the field. In addition the applicant has submitted materials prepared by the structural engineering firm, William M. Simpson of Newport Beach, California. These materials included structural calculations used to design the proposed seawall. The applicant has submitted plans which have been reviewed and certified by both the geotechnical consultant and the structural engineer as substantially conforming with their recommendations.

A seawall is required at the subject site to protect the structural integrity of the lot from tidal activity. However, the existing seawall does not meet present engineering standards and poses a risk to life and property because lot stability may be threatened by failure of the aging, poorly designed and constructed existing seawall. The proposed development will protect lot stability and reduce risks to life and property with a structurally superior seawall system. This development will not have any adverse impacts upon shoreline processes because there will be no change from the existing structural footprint. Therefore, the Commission finds that the proposed development, as submitted, conforms with Section 30235 and 30253 of the Coastal Act.

C. Coastal Access and Recreation

Section 30212 of the Coastal Act states in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby...

(b) For purposes of this section, "new development" does not include:

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

Section 30604(c) of the Coastal Act states:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3.

The proposed development, which occurs between the nearest public road and the sea, includes the reconstruction of a seawall that will not occur seaward of the existing wall. Therefore, the proposed development is not subject to the access requirements of section 30212 of the Coastal Act. As a note, existing vertical public access is available 40 feet east of the site at the end of Via Orvieto. There is no established lateral public access in the vicinity. Since the proposed project involves the reconstruction of existing facilities, neither the existing access situation nor the intensity of use of the site will be changed. The proposed development will not have an impact on existing coastal access or recreation in the area. Therefore, the Commission finds that the project is consistent with the public access and recreation policies of the Coastal Act.

D. Water Quality and the Marine Environment

The proposed project is the reconstruction of an existing seawall adjacent to and occasionally partially inundated by coastal waters. Due to the proposed project's location near or in the water, the proposed work may have adverse impacts upon water quality and the marine environment.

Section 30230 of the Coastal Act states:

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 of the Coastal Act states:

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.

The applicant has submitted information to the California Department of Fish and Game for their review and comment. This package of information states that an eelgrass inspection has been performed by the City of Newport Beach which declared that no eelgrass will be affected by the proposed project. No comments contrary to the opinion of the City have been received from CDFG regarding biological resources at the site. In addition, the proposed seawall will replace an existing seawall preceded by a small sandy beach which is only occasionally inundated by coastal waters. Photographs and an inspection by Commission Staff have shown that no substantial marine life utilize the existing seawall as a holdfast. Therefore, no substantial marine life will be affected by the proposed project.

In order to assess impacts upon water quality, the proposed project was submitted to the California Regional Water Quality Control Board (RWQCB) for their review and approval. At this time, no response has been provided to the Commission. Therefore the Commission requires, per special condition number one, that prior to issuance of the coastal development permit, the applicant submit for review and approval of the Executive Director, written evidence from the Regional Water Quality Control Board (RWQCB) demonstrating that RWQCB has reviewed and approved the proposed project. If RWQCB requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

Due to the proximity of the project site to coastal waters and the fact that construction of the proposed project will require the use of heavy machinery and require the stockpiling of construction materials the Commission finds it necessary to identify, at minimum, the permittee's responsibilities regarding project construction. Mining of shoreline resources for seawall backfill could result in damage to marine resources. In addition, if stored improperly, hazardous substances (i.e. fuel and lubricants, etc.) present in heavy machinery or stockpiled materials, could be released into the marine environment. In order to protect the marine environment from degradation, special condition number two requires that no local sand, cobbles, or shoreline rocks be used for construction material, that all construction materials and equipment are stored landward of the seawall, on impervious surfaces only, that all construction materials or waste are stored in a manner which prevents their movement via runoff, or any other means, into coastal waters, that no machinery may be placed in the intertidal zone at any time, and that any and all construction equipment, materials and debris are removed from upland and intertidal areas at the conclusion of construction. In addition, demolition of existing structures will generate debris that will not be recycled into the proposed development. Since the applicant has not identified a disposal site and in order to prevent impacts to coastal waters, special condition number three requires that all demolition debris be disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone shall require an amendment to this permit or a new permit.

The proposed project will maintain the present use and is not expected to create additional adverse impacts on marine resources. Additionally, the permit has been conditioned to require approval by the Regional Water Quality Control Board prior to issuance of a coastal development permit. In addition, the Commission finds it necessary to identify the permittee's responsibilities regarding construction and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms with Sections 30230 and 30231 of the Coastal Act.

E. Land Use Plan

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 Newport Beach Land Use Plan was effectively certified on May 19, 1982. The proposed development is consistent with the policies of the certified Land Use Plan. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) 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)(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 project is located in an existing harbor in an urbanized area. Development already exists on the subject site. The project site does not contain any known sensitive marine resources, therefore the impacts arising from the proposed project will be minimal. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with the resource protection policies of the Coastal Act: project approval from the Regional Water Quality Control Board; restrictions on the placement of construction materials and use of on-site resources as construction material; and restriction of material disposal to a land facility. As conditioned, no feasible alternatives or feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and is consistent with CEQA and the policies of the Coastal Act.

5-98-3721



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SEP 3 1964
CALIFORNIA COASTAL COMMISSION

EXHIBIT No. 1
Application Number:
5-98-372
California Coastal

