CALIFORNIA COASTAL COMMISSION

South Coast Area Office Oceangate, Suite 1000 g Beach, CA 90802-4302 562) 590-5071

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Filed:

December 8, 1998 January 26, 1999

49th Day: 180th Day:

June 6, 1999

Staff:

KFS-LB

Staff Report: Hearing Date: December 17, 1998 January 14, 1999

Commission Action:

APPLICATION NUMBER:

5-98-398

RECORD PACKET COPY

APPLICANT:

WMC Development

PROJECT LOCATION:

2323 Bayside Drive, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Demolish a single family residence and replace it with a 6,634 square foot two-level single family residence with partial basement, covered patio and 3-space garage on a bayside bulkheaded lot. No work is proposed on the existing bulkhead and no grading is proposed.

STAFF REPORT: REGULAR CALENDAR

Lot Area:

6.098 square feet (buildable area landward of

seawall/bulkhead)

10,054 square feet (total area of lot including property

seaward of seawall/bulkhead)

Building Coverage:

2,688 square feet Pavement Coverage: 1,910 square feet

Landscape Coverage: 1,500 square feet

Parking Spaces:

4 (3 covered, 1 uncovered tandem) R-1 (single family detached residential)

Zoning:

Ht above final grade: 29 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept 1878-98; City of Newport Beach Modification Permit 4793.

SUBSTANTIVE FILE DOCUMENTS: Coastal development permit 5-90-390 (Pacific Bell); coastal development permit 5-92-117 (Michler); Geotechnical Investigation of Proposed Residential Development at 2323 Bayside Drive, City of Newport Beach...dated July 10, 1998 by Strata-Tech, Inc. of Buena Park (W.O. 119498)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed development with a special condition requiring conformance of the final design and construction plans to the geotechnical report submitted by the applicant.

The subject site is located in a view-sensitive area and the proposed project represents an increase in height as compared to the existing structure. As of the date of this staff report it is not known whether there are any objections. In addition, it is not known whether the applicant objects to the special condition.



5-98-398 (WMC Development) Page 2 of 6

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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. <u>Notice of Receipt and Acknowledgment.</u> 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.
- 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. <u>Interpretation.</u> Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections.</u> The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
- 6. <u>Assignment.</u> 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

Conformance of Design and Construction Plans to Geotechnical Report

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed

5-98-398 (WMC Development) Page 3 of 6

professional has reviewed and approved all final design and construction plans including foundations, grading and drainage plans and certified that each of those final plans incorporates all of the recommendations contained in the engineering geologic report Geotechnical Investigation of Proposed Residential Development at 2323 Bayside Drive, City of Newport Beach, dated July 10, 1998 by Strata-Tech, Inc. of Buena Park (W.O. 119498) approved by the California Coastal Commission for the project site.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not 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 hereby finds and declares:

A. Project Description and Location

The applicant proposes to demolish an existing single family residence and construct a new two-level, 6,634 square foot single family residence at 2323 Bayside Drive in Newport Beach (Exhibit 1 and 2). The project includes a partial basement, covered patio and 3-space garage, with accommodation for a fourth vehicle in an uncovered tandem parking space. The proposed house will be 29 feet high at maximum point, 24 feet high from the centerline of Bayside Drive (the frontage road). There is an existing bulkhead/seawall with a deck cantilever and planters, and small stairway descending to the water which will remain inplace, undisturbed. No work is authorized on the bulkhead, deck cantilever, planters, or stairway. No grading is proposed.

The property is located in the Corona del Mar area of Newport Beach and fronts Newport Harbor. The subject site is between the sea and first public roadway paralleling the sea.

B. Previous Commission Action on the Site

5-90-390 (Pacific Bell)

On June 14, 1990 the Commission granted coastal development permit 5-90-390 to Pacific Bell to perform work on existing submarine cables located along the southern property line of the subject site and encroaching into a City managed right-of-way. Work occurred both on the subject site and in the City right-of-way. The project involved placing an 84 foot long, six (6) inch deep concrete cap over three (3) submarine telephone cables which had become exposed. This work occurred seaward of the existing bulkhead in a tidally influenced sandy/rocky area. No special conditions were imposed by the Commission.

5-92-117 (Michler)

On June 9, 1992 the Commission approved administrative coastal development permit 5-92-117 granted to John and Sylvia Michler. This permit approved the demolition of an existing single family residence and construction of a new three-story, 5,880 square foot single family residence with two attached two-car garages. The proposed house would have been 29 feet high at maximum point and 19 feet high from the centerline of the frontage road.

5-98-398 (WMC Development) Page 4 of 6

The Commission imposed one special condition requiring submission of final plans which conformed to the geologic recommendations suggested by the applicant's geotechnical consultant. The special condition required that the plans be reviewed by the geotechnical consultant and found to be in substantial conformance with their recommendation. The condition also required that any substantial change to the plans would require an amendment to the permit or a new coastal development permit.

According to the present property owner the existing house at the subject site is at least thirty years old. Therefore, no work occurred under permit 5-92-117.

C. Hazards

Section 30253 of the Coastal Act states in relevant 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 or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed development will occur on a previously developed lot. In order to assure that geologic conditions at the site would support the proposed development the following geotechnical investigation was performed at the subject site: Geotechnical Investigation of Proposed Residential Development at 2323 Bayside Drive, City of Newport Beach...dated July 10, 1998 by Strata-Tech, Inc. of Buena Park (W.O. 119498). During their investigation, the geotechnical consultant discovered that artificial fill occurs across the lot. Records of previous site grading could not be found, therefore the geotechnical consultant could not assure that the existing fill is engineered to present standards. As a result the geotechnical consultant has made a recommendation to use a caisson grade beam foundation which does not rely upon the condition of surficial soils to support the foundation. Recommendations were also provided for load values to be used for the foundation design. Drainage and construction guidelines regarding sequence and materials were also provided. The geotechnical consultant concluded that the site was suitable for the proposed development provided the recommendations included in their report were incorporated into the design of the project and implemented in the field.

To affirm that the proposed development will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area and to assure that risks to life and property are minimized, the Commission finds that the applicant shall, as a condition of approval, incorporate the geologist's recommendations into the final design and construction plans of the proposed project. Therefore, as conditioned, the Commission finds that the proposed project is consistent with section 30253 of the Coastal Act.

5-98-398 (WMC Development) Page 5 of 6

D. 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...

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 demolition and construction of a single family residence. Neither vertical nor lateral public access exists on the subject property. In addition there is no established lateral public access in the vicinity. However, there are several opportunities for public access to the coast located near the proposed development. Bayside Drive County Beach is accessible via the Orange County Sheriff/Harbor Patrol Bureau located approximately a half mile to the northwest of the proposed development (Exhibit 1). This area allows the launching of small boats by the public. Also, public access is available at China Cove Beach and Rocky Point Cove located a mile to the southeast. Finally, a street end access point located adjacent to the south side of the property offers an overlook to the harbor (Exhibit 3). Since the proposed project involves the reconstruction of an existing single-family residence, 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.

The proposed development is occurring within an existing urbanized area and will not change the use or intensity of use of the site. In addition, existing public access is available in the area and the proposed development will not change the condition of public access in the area. Therefore the Commission finds that the proposed development is consistent with the public access and recreation provisions of the Coastal Act.

E. Visual Resources

Section 30251 of the Coastal Act states in relevant 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.

Ocean Boulevard in the Corona Del Mar area of Newport Beach is identified in the City's certified land use plan as an area where coastal views are to be protected. The land use plan states:

5-98-398 (WMC Development) Page 6 of 6

Where coastal views from existing roadways exist, any development on private property within the sight lines from the roadway shall be sited and designed to maximize protection of the coastal view. This policy is not intended to prohibit development on any site.

The land use plan then identifies the coastal view areas (i.e. Ocean Boulevard, among others) to which this policy applies. The subject site does not occur within the identified protected area. However, public coastal views are visible when driving northerly on Bayside Drive while descending an incline which begins at Carnation Avenue and dips toward the subject site (see Exhibit 3). The proposed development is higher than the existing residence (see Exhibit 2, page 2) and may obscure a portion of the existing view. However, the proposed development is consistent with previously approved development at the site (5-92-117), the City's height limitation (see Exhibit 2, page 9) and the height of existing structures in the area. In addition, the proposed development will not significantly decrease any existing coastal views from the roadway. Also, public coastal views are available to and along the bay from a street end overlook adjacent to the subject property. The proposed development will not obscure any views available from this vantage point.

The proposed development is consistent with the City's height limitation and the height of existing development and will not result in a significant impact upon existing public views. Therefore the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act.

F. 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).

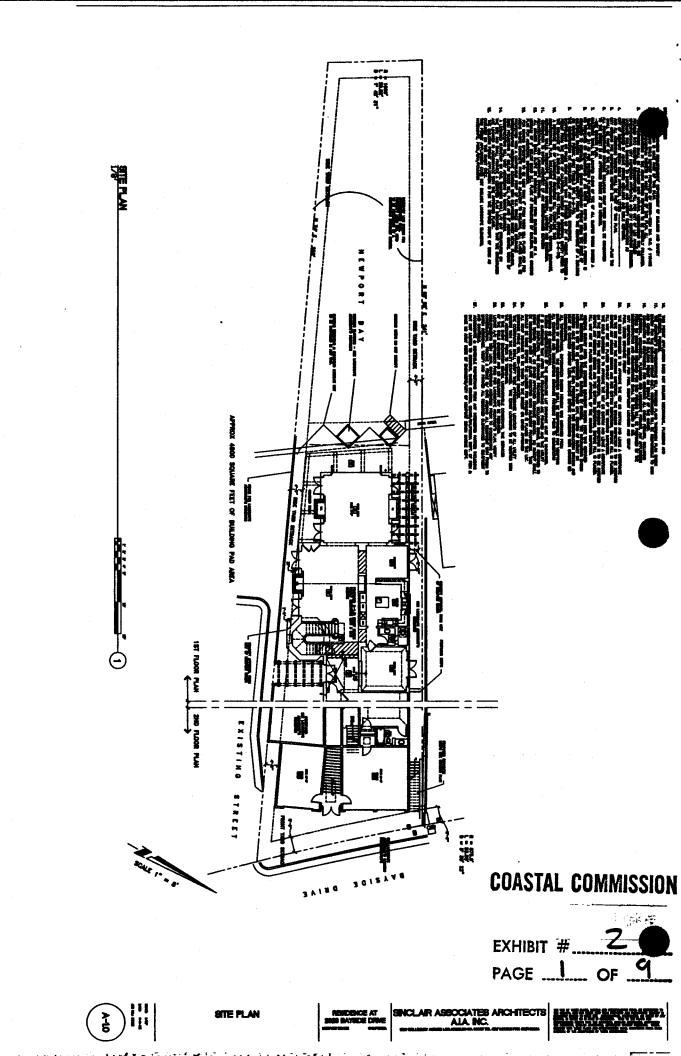
G. California Environmental Quality Act

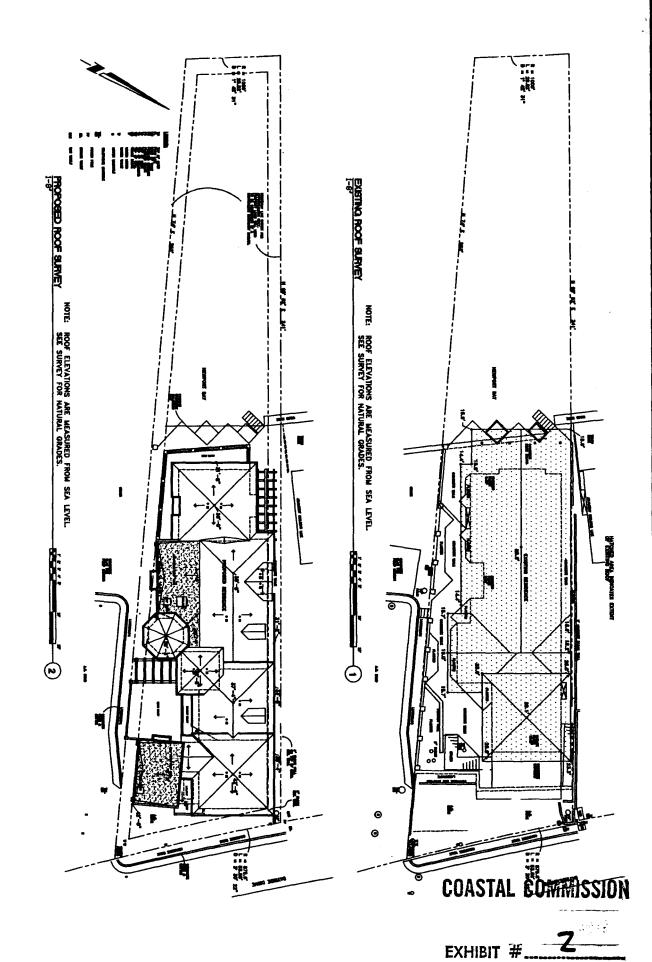
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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 adjacent to an existing harbor in an urbanized area. Development already exists on the subject site. In addition, the proposed development has been conditioned, as follows, to assure the proposed project is consistent with the hazard abatement policies of the Coastal Act: conformance with geotechnical recommendations. 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 consistent with CEQA and the Chapter Three policies of the Coastal Act.

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