APPLICATION NUMBER: 5-99-452

APPLICANT: City of Newport Beach

AGENT: William Patapoff, City of Newport Beach Public Works Department

PROJECT LOCATION: In the public rights-of-way within Bayside Drive and County Road to a drainage easement at 2323 Bayside Drive, City of Newport Beach (Orange County)

PROJECT DESCRIPTION: Installation of approximately 160' of 18" reinforced concrete pipe, a reinforced concrete junction structure, and five (5) differently sized catch basins with grates and the connection of these improvements to an existing 24" reinforced concrete pipe for drainage through a new bulkhead opening next to the County Road street end.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept no. 6274-99.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; Coastal Development Permits 5-99-288 (City of Newport Beach); 5-98-398 (WMC Development); 5-98-012 (City of Newport Beach); 5-96-162 (City of Newport Beach); 5-96-026 (City of Newport Beach); 5-95-013 (City of Newport Beach); Letter from the Governor's Office of Planning and Research State Clearinghouse to the City of Newport Beach dated December 8, 1999 titled Bayside Drive Storm Drain Improvement Project - SCH# 99111039; Mitigated Negative Declaration (SCH#: 99111039) prepared by the City of Newport Beach and adopted by the Newport Beach City Council on December 13, 1999.

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes to improve runoff collection along Bayside Drive through the installation of a new 160' long, 18' wide concrete pipe and 5 catch basins with grates, and the connection of these features to an existing pipe that will drain through an existing bulkhead into Newport Harbor. The project will not impede coastal access as Bayside Drive is a local, residential roadway and project construction will not occur during peak beach use season. The major issue of this staff report is water quality.

Staff recommends APPROVAL of the proposed development subject to three special conditions which 1) require use of construction best management practices (BMPs); 2) require debris disposal site to be located outside of coastal zone; 3) require implementation of structural best management practices (BMPs).
STAFF RECOMMENDATION:

Staff recommends that the Commission APPROVE the permit application with special conditions.

MOTION:

I move that the Commission approve CDP #5-99-452 pursuant to the staff recommendation.

Staff recommends a YES vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

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, is located between the nearest public road and the sea and is in conformity with the public access and public recreation policies of the Coastal Act, 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. STORAGE OF CONSTRUCTION MATERIALS, MECHANIZED EQUIPMENT AND REMOVAL OF CONSTRUCTION DEBRIS

The permittee shall comply with the following construction-related requirements:

(a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;

(b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;

(c) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and Newport Harbor and a pre-construction meeting to review procedural and BMP guidelines;

(d) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone, pursuant to Special Condition No. 2.

2. LOCATION OF DEBRIS DISPOSAL SITE

The applicant shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

3. STRUCTURAL BEST MANAGEMENT PRACTICES

(a) The applicant shall implement structural Best Management Practices (BMP's) which will serve to minimize pollutant loads contained in runoff prior to entering the storm water conveyance system and Newport Harbor. The BMPs shall include, but are not limited to:

(i) Installation of filtration devices effective at trapping and/or mitigating contaminants such as petroleum hydrocarbons, heavy metals and particulates, in addition to trash and large debris. Selected BMPs shall be of a design capacity capable of treating the volume of runoff produced from each and every storm event up to and including 0.75 inch of rainfall in a 24-hour period.

(ii) Routine maintenance, including inspection and regular cleaning of approved BMPs, to ensure their effectiveness prior to, and during, each rainy season from November 1st through April 31st of each year. Debris and other water
pollutants contained in BMP device(s) will be contained and disposed of in a proper manner on a regular basis. All BMP traps/separators and/or filters must be cleaned prior to the start of the winter storm season, no later than October 15th each year. The BMP's shall be maintained to uphold their functionality.

(b) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a plan indicating the type(s) of BMPs to be installed, and the locations where the BMPs will be installed.

(c) The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND LOCATION

The City of Newport Beach Public Works Department is proposing to improve the storm drain system along Bayside Drive in the City of Newport Beach, Orange County (Exhibits 1 and 2). Specifically, the proposed project includes the following elements: installation of approximately 160' of 18" reinforced concrete pipe, a reinforced concrete junction structure, and five (5) differently sized catch basins with grates and the connection of these improvements to an existing 24" reinforced concrete pipe for drainage through a new bulkhead opening next to the County Road street end (Exhibit 3).

The proposed improvements are designed to improve storm runoff collection and to provide protection to existing residences along Bayside Drive. Currently, there is an existing 60" reinforced concrete pipe (RCP) that drains into the Newport Harbor through an existing bulkhead outlet at the County Road street end. The newly proposed 24" discharge line will parallel the existing 60" RCP to allow for increased discharge capacity. The applicant (Public Works Department City Engineer) states that the proposed project is necessary to decrease the potential of flooding nearby homes and the Bayside Drive roadway during heavy rainstorms.

The proposed new storm drain outlet into Newport Harbor at the terminus of County Road will be cut through the existing bulkhead. The 24" outlet will not be equipped with a tidal gate, as the proposed improvement will be a closed system between the bulkhead outlet and Bayside Drive and Bayside Drive lies approximately ten feet above the proposed bulkhead outlet. In addition, the existing bulkhead outlet is located at a lower elevation (below mean high tide line) than the proposed bulkhead outlet and has not experienced problems during high tide. The City Engineer states that the lack of a tidal gate at the new outlet will not pose any threat of damage to life or property.

There is rock along the base of the existing bulkhead. Additional erosion protection will not be required at the base of the discharge point because discharges will normally occur at water level. This storm drain outlet is similar to the design of other storm drain outlets throughout Newport Harbor.
The new storm drain improvements will require trenching, excavation and disposal of approximately 60 cubic yards of soil. The applicant has not identified the location of soil disposal, but has indicated that it will be outside of the coastal zone. Once the RCP storm drain is placed in the trench, the trench will be backfilled with engineered material and resurfaced with asphalt.

Presently, storm water runoff along Bayside Drive discharges to Newport Harbor through the existing outlet. The proposed project will redirect runoff through the new catch basins and 24" pipe to a supplemental discharge point in the Newport Harbor. Although the capacity of the storm drain will be increased, there will be no change to the quantity of storm water discharges. In addition, the proposed storm drain improvements will not accommodate additional development or increase development intensity in the service area. The area is already fully developed. Instead, the proposed storm drain improvement is necessary to upgrade the capacity of the existing storm drain system in order to accommodate a 10-year frequency storm event. The increase in capacity of the existing storm drain will relieve storm-related flooding of the street which occurs under present conditions.

The proposed work is expected to take approximately 6 weeks to construct and is anticipated to be completed during the spring season. No post-construction impacts to coastal access will result from the proposed project.

B. WATER QUALITY

Section 30230 of the Coastal Act states, in pertinent part:

*Marine resources shall be maintained, enhanced, and where feasible, restored.*

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.*

Section 30232 of the Coastal Act states, in pertinent part:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.*

Newport Harbor (Lower Newport Bay) is a critical coastal water body on the federal Clean Water Act 303(d) list of “impaired” water bodies. The designation as “impaired” means the quality of the water body cannot support beneficial recreation and aquatic uses. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Newport Harbor, for increased scrutiny as a higher priority watershed under its Watershed Management Initiative.
1. Construction Impacts to Water Quality

The Negative Declaration states that construction-related impacts upon water quality will be mitigated through the implementation of National Pollution Discharge Elimination System (NPDES) Best Management Practices. The RWQCB did not comment on the Negative Declaration and informed the applicant and Commission staff that no further RWQCB review is required.

The applicant has proposed the following best management practices during construction: street sweeping and the placement of sandbags around storm drain inlets to prevent debris from entering the storm drain system and Newport Harbor. Dewatering will not be required during installation of the proposed storm drain improvement.

Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion or which may be discharged into coastal water via rain would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged to coastal waters may cause turbidity which can shade and reduce the productivity of eelgrass beds and foraging avian and marine species ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition No. 1 outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Finally, since the applicant has indicated that the contractor will have the discretion of selecting a disposal site at the time of construction, Special Condition No. 2 requires that the applicant dispose of all demolition and construction debris at an appropriate location outside of the coastal zone and informs the applicant that use of a disposal site within the coastal zone will require an amendment or new coastal development permit.

Only as conditioned for appropriate storage of construction materials and equipment, and for location of an appropriate debris disposal site does the Commission find that the proposed development is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

2. Post-Construction Impacts to Water Quality

The proposed development will increase the capacity of the existing storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, and pesticides are often contained within urban runoff entering the storm water system. The discharge of polluted runoff into Newport Harbor would have significant adverse impacts on the Harbor’s water quality.

The Negative Declaration states that the proposed development would not result in a net increase in the quantity of storm water discharged to coastal waters. The storm waters that will be discharged through the new storm drain and outlet to Newport Harbor are of the same type and quantity as that presently discharged through the existing, parallel outlet. Therefore, while the capacity of the storm drain system is increasing, the area drained is not increasing. Also, the amount of pollutants carried through the system is not increasing. Rather, the proposed storm drain improvements and additions will redistribute existing storm water within the existing system in order to allow City streets to clear storm water more rapidly after storm events. The Commission finds that the proposed development will not result in additional pollutants entering the Harbor,
since the total amount of runoff will not be increased by the proposed storm drain improvement and addition.

While the proposed pipe would only redistribute existing runoff and not increase it, pollutants carried in the existing runoff affect the water quality of Newport Harbor. The proposed pipe is new development, which affords an opportunity to improve water quality. The Harbor is considered an "impaired" water body, and much of the pollutants entering the Harbor come from inland developed areas outside the coastal zone, or from other sources within the coastal zone besides the proposed or existing pipes, such as from boats in the harbor. Therefore, the Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from continued entry of existing pollutants into the Harbor. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative adverse impacts to coastal water quality.

Installation of structural BMP's would reduce pollutants, such as trash, motor oil and grease that are normally carried into coastal waters via storm drains. By catching the pollutants before they enter the storm drains, structural BMP's would reduce pollutant levels in runoff entering Newport Harbor through the proposed pipe, thus minimizing to the extent feasible, cumulative adverse impacts upon water quality of Newport Harbor.

The applicant proposes to install storm water filtration devices in the new catch basins. These filtration devices may include, but are not limited to, grease/oil separators and inlet trash racks. In addition, the applicant is proposing to stencil the new storm drain inlets to help reduce illicit dumping and encourage proper disposal of polluted substances and other material. The implementation of such BMP's would reduce the cumulative adverse impact existing polluted runoff has upon Newport Harbor. The Commission finds, however, that major pollutants such as petroleum hydrocarbons, heavy metals, and organophosphates commonly found in urban runoff, are not specifically addressed by the measures proposed. Therefore, in order to find the development consistent with Coastal Act sections 30230, 30231, and 30232 it is necessary to impose Special Condition Three (3), which requires the applicant to incorporate Best Management Practices effective at mitigating pollutants of concern, highlighted above.

Only as conditioned does the Commission find the proposed development to be consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

C. PUBLIC ACCESS

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the first public road and the sea include a specific finding regarding the conformity of the proposed development with the public access and recreation policies of Chapter 3 of the Coastal Act. A portion of the proposed development, the storm drain outlet, is located between the first public road and the sea.

Section 30212 of the Coastal Act states, in relevant 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.

Bayside Drive and County Road will be restricted to the public during construction of the proposed storm drain improvement. The proposed work is expected to take approximately 6 weeks to
construct and is anticipated to be completed during the spring season. Work will occur during typical construction hours (7:00 a.m. - 7:00 p.m.) and will not occur on Sundays.

While the proposed project will result in temporary lane closures along Bayside Drive and County Road, no significant impacts to coastal access will occur. This segment of Bayside Drive serves primarily local, residential traffic and is not considered a major coastal accessway. County Road is a landscaped right-of-way that is not accessible to vehicular traffic, but leads to a bulkheaded point along Newport Harbor. No access to a sandy beach or lateral accessway along the shoreline is provided via County Road. Vertical public coastal access in the project vicinity is provided at Bayside Drive Beach located less than ½ mile north of the subject site.

Visual coastal access exists at the subject site. During construction, views may be obstructed by equipment. Upon completion of the project, however, no visual impacts will remain, as all of the proposed storm drain improvements will exist below grade. The proposed storm drain outlet will be installed within an existing bulkhead at the terminus of County Road. Therefore, the temporary closure of Bayside Drive and County Road will not result in any adverse impacts upon physical public access, but may have a minimal impact on visual access to the coastline.

Upon completion, the proposed storm drain improvement will not interfere with existing coastal access conditions at the subject site. In addition, adequate access exists nearby. Therefore, the Commission finds the proposed development is consistent with Section 30212 of the Coastal Act.

D. GROWTH INDUCEMENT

Section 30254 of the Coastal Act states, in relevant part:

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division...

The Negative Declaration states that the proposed storm drain improvement will not increase the development potential of the area served by the proposed improvements. The project is located in a fully developed residential neighborhood of the City. Increasing the capacity of the storm water system will not be pivotal to increasing development density in this area. Therefore, the Commission finds the proposed development will not be growth-inducing and is consistent with Section 30254 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

The Commission certified the Land Use Plan for the City of Newport Beach on May 19, 1982. As conditioned, the proposed development is consistent with the policies contained in the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program 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 of the Commission's 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 proposed project has been conditioned for consistency with the marine resource protection policies of Section 30230 of the Coastal Act. Mitigation measures, in the form of special conditions require 1) use of construction best management practices (BMPs); 2) identification of a debris disposal site; and 3) implementation of structural best management practices. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.
1. All work detailed on these plans to be performed under contract shall, except as otherwise stated in the city's standard special provisions, or in this contract's special provisions, be constructed in accordance with the "Standard Specifications for Public Works Construction," 1997 edition, and supplements to date.

2. Existing underground utilities are shown as per available records. The contractor shall be responsible for verifying the actual location and elevation in the field prior to beginning construction.

3. Trench shoring shall be in accordance with Cal-OSHA requirements.

4. Contractor shall coordinate his work with the 2323 Bayside Drive private residence contractor, WMC Development. WMC's telephone number is (949)723-9100.

CONSTRUCTION NOTES

1. Bore 24" hole in existing bulkhead, and protect existing reinforcing in place. Existing reinforcing shall be bent into item 2. Extreme caution shall be exercised to avoid contamination in the bay with debris.

2. Construct connection to curb inlet per City of Newport Beach standard plan no. STD-303-L

3. Construct 18" RCP (20000) per City of Newport Beach standard plan no. STD-106-L

4. Construct 24" RCP (20000) per City of Newport Beach standard plan no. STD-106-L

5. Construct junction structure No. 1 per City of Newport Beach standard plan no. STD-310-L

6. Construct catch basin No. 5 per Los Angeles County Flood Control District DWG No. 2-D164 (number of grates and W per plans) Construct grate per Los Angeles County Flood Control District DWG no. 2-D227

7. Construct concrete pipe collar per City of Newport Beach standard plan no. STD-313-L

8. Sawcut existing curb and gutter and remove

9. Sawcut existing pavement and remove

10. Sawcut existing sidewalk and remove

11. Replace existing depressed curb, gutter, driveway approach and other existing improvements in kind.
2319 BAYSIDE DRIVE

2323 BAYSIDE DRIVE
(NEW RESIDENCE UNDER CONSTRUCTION)
NOTES:

1. TOPOGRAPHIC DATA PROVIDED BY THE CITY OF NEWPORT BEACH

CONSTRUCTION NOTES:

3. CONSTRUCT 18" RCP (20000) PER CITY OF NEWPORT BEACH STANDARD PLAN NO. STD-106-L

6. CONSTRUCT CATCH BASIN NO. 5 PER LOS ANGELES COUNTY FLOOD CONTROL DISTRICT DWG NO. 2-D164 (NUMBER OF GRATES AND W PER PLANS). CONSTRUCT GRATE PER LOS ANGELES COUNTY FLOOD CONTROL DISTRICT DWG NO. 2-D227

7. CONSTRUCT CONCRETE PIPE COLLAR PER CITY OF NEWPORT BEACH STANDARD PLAN NO. STD-313-L

8. SAWCUT EXISTING CURB AND GUTTER AND REMOVE

9. SAWCUT EXISTING PAVEMENT AND REMOVE