

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
767-2370



Tue 8a

Filed: 4/2/02
49th Day: 5/21/02
180th Day: 9/29/02
Staff: LRO-SD
Staff Report: 4/18/02
Hearing Date: 5/7-10/02

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

RECORD PACKET COPY

APPEAL NO.: A-6-LJS-02-58

APPLICANT: City of San Diego

PROJECT DESCRIPTION: Abandonment of existing sewer pump station, removal of an adjacent wastewater settling tank and construction of a new 1,200 sq.ft. pump station; construction and replacement of a portion of existing force main; installation of new parallel force main; construction of sewer influent line; removal and replacement of existing storm drainage line; replacement of existing coastal access stairway; expansion of the observation point and viewing area and reconfiguration and augmentation of existing rip rap revetment.

PROJECT LOCATION: Western terminus of Bird Rock Avenue (public right-of-way), La Jolla, San Diego, San Diego County.

APPELLANTS: Commissioners Patrick Kruer and Patricia McCoy

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms; Certified La Jolla-La Jolla Shores LCP Addendum; Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Hearing Officer dated 3/13/02; Geotechnical and Coastal Evaluation Pump Station No. 19 by Group Delta Consultants, Inc. dated 10/30/00; CDP# F2183

Appellants Contend That: The appellants contend that the development, as approved by the City, may be inconsistent with the certified LCP as well as with the public access and recreation policies of the Coastal Act. Specifically, the appellants contend that the development is inconsistent with the shoreline hazards policies of the certified LCP pertaining to blufftop development standards, alteration of landforms and previously conforming uses. The appellants also contend the development is inconsistent with the public access policies of the certified LCP and the Coastal Act as it relates to the existing rip rap at the foot of the proposed reconfigured stairway (ref. attached appeal - Exhibit #3). In addition, the City did not adequately address the consistency of a newly proposed storm drain with the policies of the certified LUP that require that drainage facilities be equipped with energy dissipating devices to minimize erosion.

II. Local Government Action.

The coastal development permit was approved by the Hearing Officer on 3/13/02. The conditions of approval address, in part, the following: building height; outdoor lighting; conformity with geotechnical study including geotechnical engineer on site during construction; construction of ocean-facing retaining wall such that it is visually compatible with surrounding coastal bluffs; landscaping.

III. Appeal Procedures.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the

merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-LJS-02-58 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-6-LJS-02-58 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Findings and Declarations.

1. Project Description/Permit History. Proposed is the abandonment of an existing pump station, removal of an adjacent wastewater settling tank and the construction of a new 1,200 sq. ft. subterranean pump station in the location of an existing 1920's era wastewater settling tank. The existing sewer pump station is located at the streetend on the face of a coastal bluff. The City intends to abandon this pump station in place. Minor modifications to the pump station are proposed but it is not clear from the City's file how much renovation or changes are proposed to the existing pump station. However, the City also proposes to grade the bluff face north of the existing pump station to accommodate a ventilation system for the new pump station. Also proposed is the construction and replacement of a portion of an existing force main, construction of a new parallel force main and removal and replacement of an existing storm drain. Presently there is a public access stairway that is connected to the pump station which descends in elevation down to the beach from the street-end to provide public access to the beach. The existing stairway has several flights of stairs and landings before it reaches the beach (ref. Exhibit No. 4). The proposal also includes the removal and replacement of this existing coastal access stairway with a stairway that has fewer landings and only two flights of steps. In addition, portions of an existing rip rap revetment at the toe of the existing public access stairway is proposed to be reconfigured and augmented, as can be seen from the coastal access stairway plan (ref. Exhibit No. 3). In connection with the replacement of the stairs the City also proposes to expand an observation point and viewing area at the street-end immediately above the pump station.

As noted above, the settling tank in the street was built in the 1920's. The existing pump station was constructed in 1950 as part of a public stairway to the beach. The settling tank was taken out of service when the new trunk sewer line was installed on La Jolla Boulevard. The pump station receives wastewater flow from the approximate area bounded by Folsom Drive to the north, Beaumont Avenue to the east and Midway Street to the south. The station does not meet current standards and codes and the existing mechanical and electrical equipment are near the end of their useful life. In order to meet current standards, the existing station is proposed to be abandoned and replaced. The new pump station will be about 40 ft. long by 30 ft. wide by 20 ft. deep and located adjacent to and east (and away from the bluff edge) of the existing pump station. Also proposed is a back-up emergency power generator and a larger wet well providing for more emergency storage. A new ventilation system is also proposed in order to meet the requirements of the National Fire Protection Association.

The project site consists of the public right-of-way and face of the coastal bluff and beach at the western terminus of Bird Rock Avenue (near Dolphin Avenue) in the La Jolla community of the City of San Diego. At the foot of the existing stairway there is existing rip rap on the beach. An existing concrete block seawall exists on the bluff face to the north of the pump station/stairway and a gunite coating exists on the bluff face to the south of the pump station/stairway.

2. Shoreline Hazards/Alteration of Landforms/Scenic Quality. The proposed development involves the replacement of an existing sewer pump station that is presently non-conforming in that it is situated directly on the face of a coastal bluff without any setbacks from the bluff edge. The certified LCP specifically prohibits this type of development on the face of the coastal bluff. However, the pump station was built in the 1950's at a time when there were no required blufftop setbacks. As such, it is a legal non-conforming structure or, in the terminology used in the City's LCP, a "previously conforming structure". A new sewer pump station will be located away from the bluff edge further inland underground in the right-of-way of Bird Rock Avenue near Dolphin Place. The newly proposed sewer pump station will be located underground below the right-of-way of Bird Rock Avenue in the approximate location of the existing settling tank which is proposed to be removed. It will extend in a westerly direction up to the approximately the location of the eastern wall of the existing sewer pump station. However, the City proposes to abandon in place and retain the existing sewer pump station which is located on the bluff face and simply reconfigure the existing stairway that traverses it. The City has indicated that to remove the existing sewer pump station would result in damage to the integrity of the coastal bluff. Specifically, the proposed structural design includes leaving certain walls and footings of the existing pump station in place since these walls and their underlying foundations act as a retaining wall for the bluffs. In written information submitted by the City, a statement is made that disturbance (i.e., removal) of these walls and their underlying foundations is not recommended and is to be minimized. So, instead, the City proposes to retain the existing structure on the bluff face and modify it such that it incorporates a new ventilation system for the new sewer pump station, an observation point on top for viewing the ocean and improved access stairway to the beach. Pipes will also be installed such that the intake/out-take for the newer pump station to be sited further inland, will be connected to the existing pump station.

The appellants contend that the development as approved by the City is inconsistent with the shoreline hazards provisions of the certified LCP as they relate to blufftop setbacks and alteration of natural landforms. The existing sewer pump station is presently situated on the face of a coastal bluff and does not observe a setback from the coastal bluff edge and, as such, it is considered a previously-conforming structure. However, the City failed to address improvements to/renovation of this previously-conforming structure or the continuation of a previously-conforming structure and/or use.

The City's analysis does not provide information on the extent of the proposed renovation in order to determine whether the structure must comply with the current geologic setback requirements. Instead, the City allowed the previously conforming structure to remain in its current location, on the bluff face, and allowed structural modifications to the structure such that a portion of it will be used in connection with the new pump station located further inland. The City's analysis did not address the extent of demolition of the pump station to accommodate the new pump station or whether or not retention of the this structure is consistent with the certified LCP. The City's analysis did not discuss the status of the previously conforming structure nor its consistency with the certified LCP.

In addition, the City failed to include an analysis of alternatives for the pump station in the context of the overall upgrade to the City's sewer system. More specifically, this type of analysis should address the necessity of locating such a pump station at this site or whether alternative sites would be more appropriate including the abandonment and removal of existing obsolete pump stations and the consolidation of one or more pump stations into a single pump station. As noted previously, the City intends to grade portions of the bluff face north of the existing sewer pump station and structurally modify portions of the existing pump station to connect a ventilation system to the new sewer pump station. However, the City did not address alternative locations for the siting of the pump station further inland away from the coastal bluff than it is presently proposed. Also, the City's analysis did not include information regarding the removal of the existing settling tank and how this affects the geologic stability of the bluff. Alternatives to shoreline protection for the pump station and access stairway were also not addressed.

As stated, the proposed project includes grading and alteration of the bluff face to accommodate the new pump station, however the coastal development permit did not include findings which specifically addressed the proposed grading and its consistency with ESL regulations for Sensitive Coastal Bluffs which are part of the Land Development Code (LDC) and the certified LCP. Specifically, those policies, include, in part:

Section 143.0143 Development Regulations for Sensitive Coastal Bluffs

Coastal development on premises containing sensitive coastal bluffs, as identified on Map Drawing No. C-713, [...] is subject to the following regulations and the Coastal Bluffs and Beaches guidelines in the Land Development Manual.

- (a) No development is permitted on the face of a *sensitive coastal bluff*, except as permitted in Section 143.01043(g) and (h), and the *coastal bluff face* shall be preserved as a condition of permit approval.
- (b) On the portion of a *premises* where *development* is permitted, the proposed *grading* shall minimize the alteration of natural landforms and graded areas shall topographically resemble natural landforms of the surrounding area.

In addition, Section 143.0143(h) of the City's LDC also addresses drainage facilities and states the following:

Essential public facilities including drainage facilities, stairways, ramps, and other physical beach access facilities may be permitted on a coastal bluff face only if identified in an approved land use plan or if located in areas historically used by the public. These facilities shall be designed to minimize impacts to the bluff face and beach area.

The City proposes to grade and alter portions of the bluff face north of the existing pump station in order to accommodate the proposed ventilation ducts for the new pump station which is inconsistent with the above cited section. The City also failed to address how the proposed grading was minimized. In addition, the City failed to address alternatives that would minimize impacts to the bluff face and the beach.

3. Public Access. The proposed development raises concerns with regard to consistency with the public access policies of the Coastal Act and the certified LCP. Specifically, the certified La Jolla-La Jolla Shores LCP states the following:

La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved.

New development should not prevent or unduly restrict access to beaches or other recreational areas.

"The City's beach and parkland along the shoreline should be expanded wherever possible."

"Construction, grading, or improvements of any sort, except those mentioned in this plan, should be discouraged at beach areas. Public access to the shoreline should be increased (or improved) wherever possible." [emphasis added]

"Vertical Access

...In all new development between the nearest coastal roadway and the shoreline the City will make a determination of the need to provide additional vertical access easements based upon the following criteria:

[...]

e) public safety hazards and feasibility of reducing such hazards. [...]"

In addition, Section 30211 of the Coastal Act is applicable and states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

As noted previously, the subject site is at the terminus of Bird Rock Avenue in the La Jolla community of the City of San Diego. A public access stairway leads down the face of the bluff from the streetend seaward of the existing pump station to the beach below. There is existing rip rap at the base of the coastal bluff and at the toe of the stairs. Currently, people must climb over the existing rip rap to get to the beach area. The beach below the subject site (and to the south) is a small rock/cobble beach bounded by steep

bluffs that is only accessible at low tides. The streetend is a dedicated accessway. The next nearest public access point to the south is at Tourmaline Surfing Park, approximately 1 ½ miles away. The nearest accessway to the north is at Camino de la Costa (north of Costa Place) approximately ¾ miles away. The proposed project also includes expansion of an observation point toward the east by approximately 128 sq.ft. along Bird Rock Avenue to comply with applicable provisions of the Americans with Disabilities Act (ADA). Approximately 72 sq.ft. of additional viewing area is proposed on the north side of the pump station. Railing is also proposed around the sides of the observation area where none now currently exists.

Also proposed is the replacement of the existing stairway that traverses the existing pump station. The new stairs will also be designed to accommodate the new ventilation system. Construction of the northernmost vent and replacement of the stairs will require limited grading of the existing bluff north of the staircase and wing walls. Currently, the stairway has four flights of stairs and three landings as it weaves back and forth down to the beach below. The City proposes to reconfigure the stairway such that it largely consists of two-and-a-half flights of stairs with less turns and three landings (ref. Exhibit No. 4). The City intends to remove portions of the existing rip rap and then augment and reconfigure the rip rap at the toe of the stairway to accommodate the new stairway.

The certified La Jolla-La Jolla Shores LCP states that Bird Rock Avenue is a dedicated street end and identifies the concrete stairway that leads down the bluff to rip rap shoreline below. The site is described as "excellent" for tidepooling that is used for study by school classes. Commission staff has visited the site and confirmed that at low tide conditions the entire area consists of tidepools which are frequented by members of the public. The community plan recommendations call for maintenance of the existing stairway and railing. The subarea description indicates that revetments were installed along this shoreline in an effort to protect blufftop developments and identifies the lack of sandy beaches. Lateral access is difficult where rip rap exists but the LUP indicates that lateral access is available during low tides. The subarea maps show this entire shoreline as having "limited or intermittent lateral access". Sea Rose Place, a dedicated "paper street" provides a lateral public access easement along the entire shoreline in the Bird Rock area including the toe of the bluff at the subject site.

There have been a number of previous Commission actions regarding development along the shoreline west of this site. In particular, a few permits were issued for gunniting of the coastal bluffs to stop bluff retreat and/or coastal erosion. For example, CDP #F2183 was approved in April, 1975 which permitted the placement of gunite on the coastal bluff south of the subject site at the southwest corner of Bird Rock Avenue and Dolphin Place. A geotechnical report contained in that permit file indicates that the existing rip rap on the beach seaward of the subject site and along this entire shoreline was placed in approximately 1966 by the U.S. Army Corps of Engineers to "prevent the undercutting of the cliff due to wave erosion".

While the intent of the City's project to replace the existing public access stairway is to improve public access, based on review of the project plans, this will not be the case.

The City approval did not adequately address alternatives regarding location and design of the pump station and access stairway that would allow removal of some or all of the existing rip rap revetment at the foot of the proposed reconfigured stairway, nor did it consider other forms of shoreline protective devices, if necessary, which would improve public access in this location. As noted previously, as part of the proposal to reconfigure the existing public access stairway, the City proposes to remove the existing rip rap at the toe of the stairs and to then replace it and augment it. As such, upon completion of the project, when the public uses the stairway, they will still have to climb over an even greater area of rip rap boulders in order to get to the beach. The placement of this new rip rap at the toe of the reconfigured public access stairway is a significant impediment to public access along the beach, especially given that the certified LCP specifically identifies this area as being ideal for tidepooling. One will have to climb over the rip rap at the foot of the public access stairway in order to reach the water's edge or to tidepool. Although the plans suggest that new rock will be placed and that modification of the rock will be required to construct the proposed improvements, the City failed to address this issue in its review, or to make findings as to the type or extent of such modifications or the ability to remove or reconfigure the proposed new rock to facilitate public access to the beach seaward of the stair. The City also failed to address a new stairway design that could eliminate or significantly reduce the need for the new rip rap at the base such that public access will be enhanced. For example, the City did not analyze whether or not a seawall could have been incorporated into the design of the stairway instead which would greatly reduce the encroachment of shoreline protection on the beach and eliminate or significantly reduce the amount of new rip rap at the toe of the stairway. This failure to address the ability to improve public access in this location appears to be inconsistent with the policies of the certified La Jolla-La Jolla Shores. Therefore, the Commission finds the proposed development raises a substantial issue with regard to the conformity of the development with the public access policies of the Coastal Act and the certified LCP.

4. Drainage. In addition, regarding the storm drain, the replacement of the storm drain that discharges toward the beach appears to be inconsistent with an LUP policy directing drainage away from the bluff edge or into special drainage facilities that have been equipped with energy dissipating devices to minimize erosion, and with the policy in the ESL regulations for sensitive coastal bluffs Section 143.0143(d) which states the following:

(d) All drainage from the improvements on the premises shall be directed away from any coastal bluff and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or a public right-of-way designated to carry surface drainage run-off. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the coastal bluff.

In addition, as cited earlier in this report, Section 143.0143(h) of the City's LDC also addresses drainage facilities and states the following:

Essential public facilities including drainage facilities, stairways, ramps, and other physical beach access facilities may be permitted on a coastal bluff face only if identified in an approved land use plan or if located in areas historically used by the public. These facilities shall be designed to minimize impacts to the bluff face and beach area.

The City approval did not address alternatives to replacing the existing storm drain which discharges mid-bluff or whether or not structural improvements or other BMPS are necessary to improve water quality if such bluff discharge is unavoidable. The City also did not address alternatives to the storm drain improvements that would minimize impacts to the bluff face and beach.

The findings of the City's coastal development permit also did not address the potential for a low-flow diversion system within the proposed new pump station. This appears to be inconsistent with stormwater management and discharge provisions of the LDC and the LUP policy which states:

"The ocean and submerged lands within the jurisdictional limits of San Diego should be preserved in their natural state. Plant and marine life in tidepools and offshore waters should be protected from environmental degradation."

In addition, the City did not evaluate the impacts of having stormwater discharge and drain toward an area with tidepools. Therefore, the Commission finds the proposed development raises a substantial issue with regards to the conformity of the development with the drainage provisions of the certified LCP.



California Coastal Commission



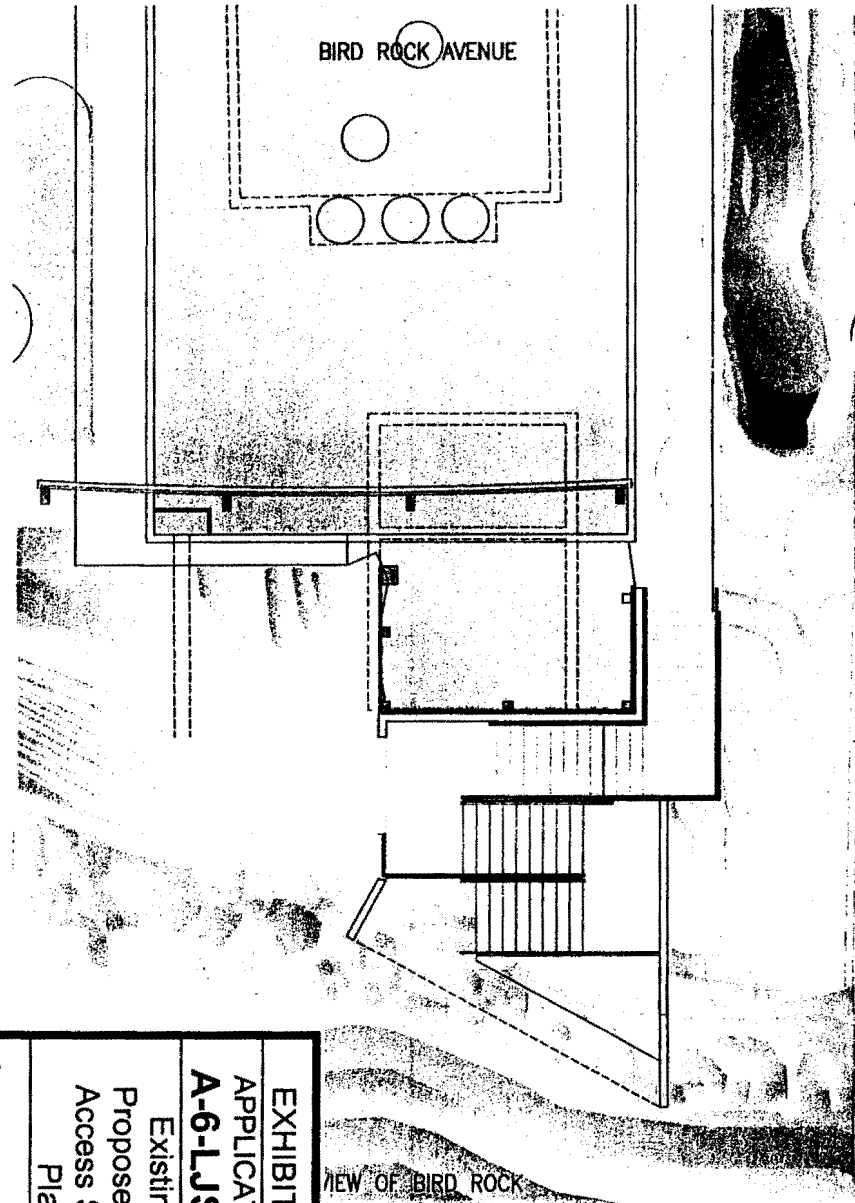
TEIRA TECH
 1001 E. 12th Street, Suite 200
 San Diego, California 92101
 (619) 533-5188 (619) 533-5176 FAX



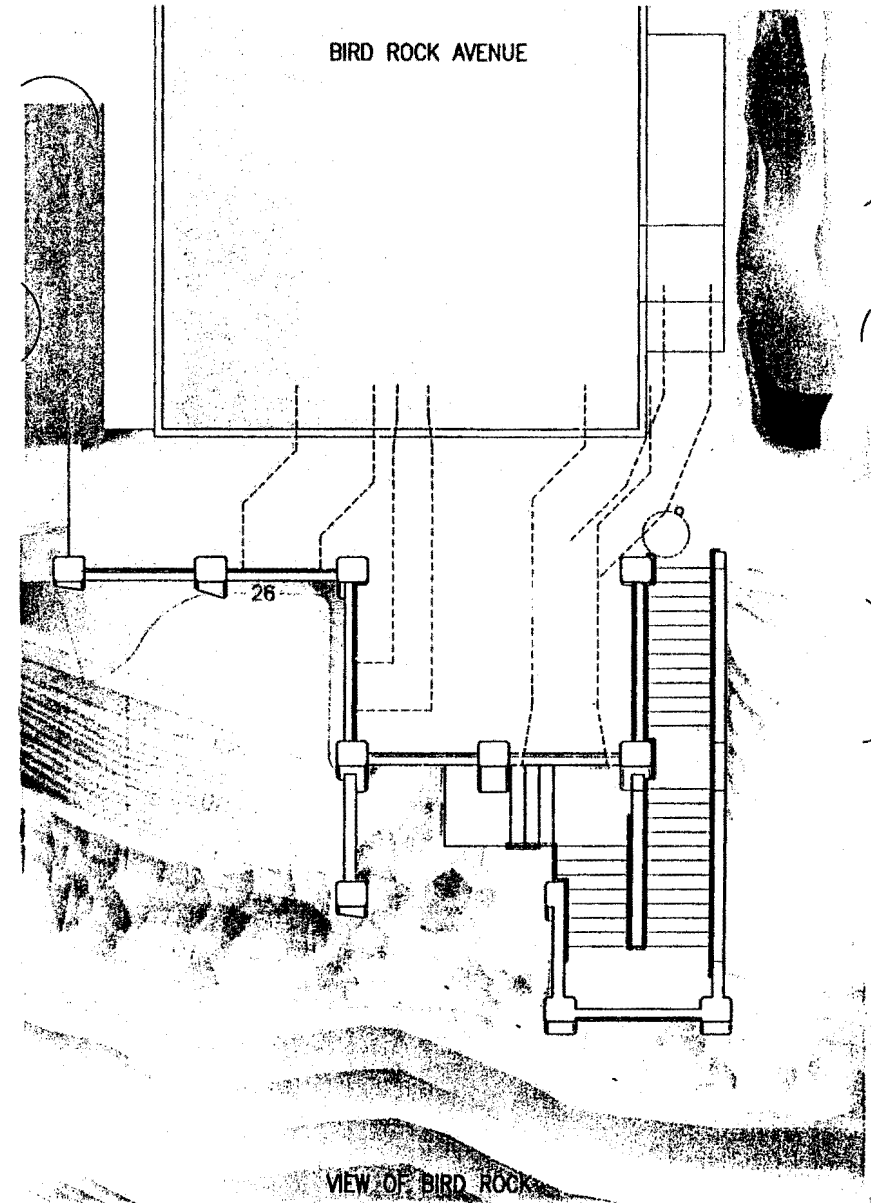
Water and Wastewater Facilities Division
 Engineering and Capital Projects
 800 B Street, Suite 200 MS 908A
 San Diego, California 92101
 (619) 533-5188 (619) 533-5176 FAX



Platt/Whitelaw Architects, Inc.
 1001 E. 12th Street, Suite 200
 San Diego, California 92101
 (619) 260-1818 (619) 632-3611 FAX



EXISTING STAIR/SITE CONDITIONS PLAN 1
 NO SCALE A-1



PROPOSED STAIR / SITE PLAN 2
 NO SCALE A-1

Sewer Pump Station 19 coastal access exhibit

| | |
|--|---|
| | EXHIBIT NO. 4 |
| | APPLICATION NO. |
| | A-6-LJS-02-58 |
| | Existing and Proposed Public Access Stairway Plans |



TETRA TECH

10000 E. Riverway Dr., Suite 200
San Diego, CA 92108
Phone: (619) 533-5176 FAX: (619) 533-5176



Water and Wastewater Facilities Division

Engineering and Capital Projects

601 B Street, Suite 200, MS 903A

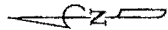
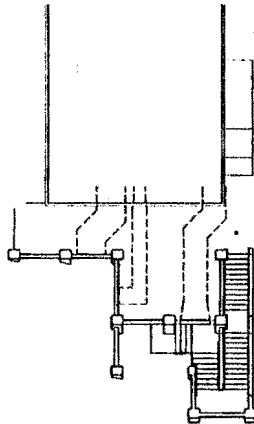
San Diego, California 92101

(619) 533-5176 (619) 533-5176 FAX



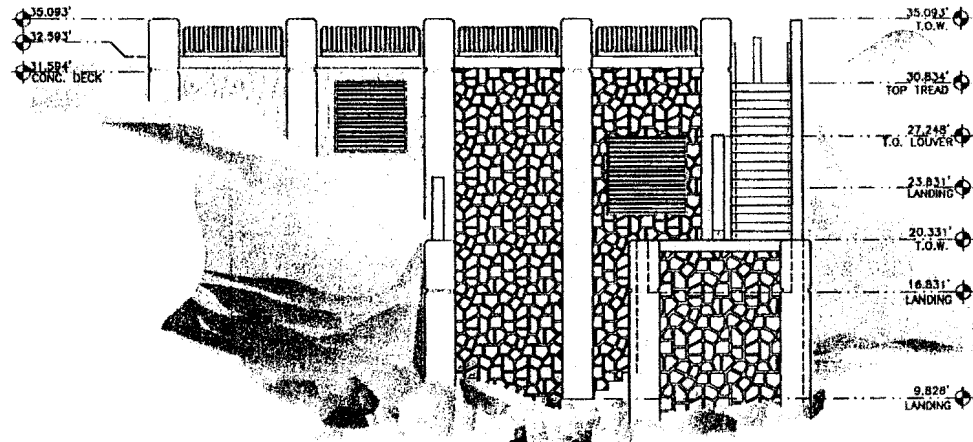
Platt/Whitelaw Architects, Inc.

10000 E. Riverway Dr., Suite 200
San Diego, CA 92108
Phone: (619) 533-5176 FAX: (619) 533-5176



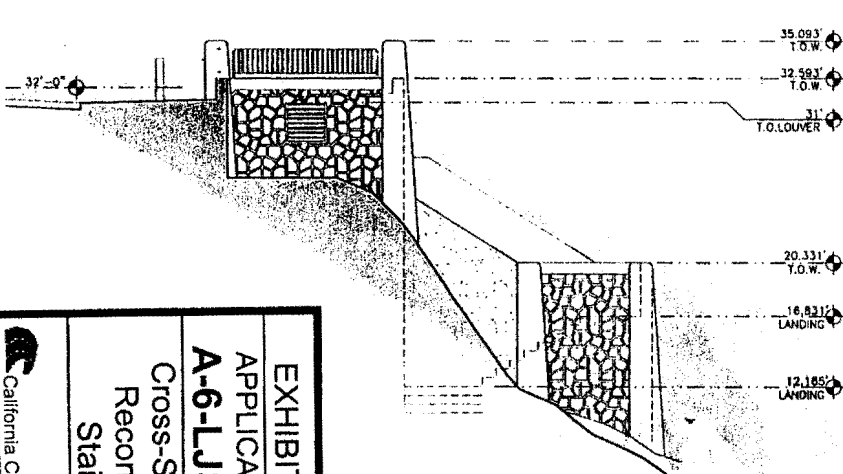
PROPOSED STAIR / SITE PLAN
FIG. 100-1001

1
A-2



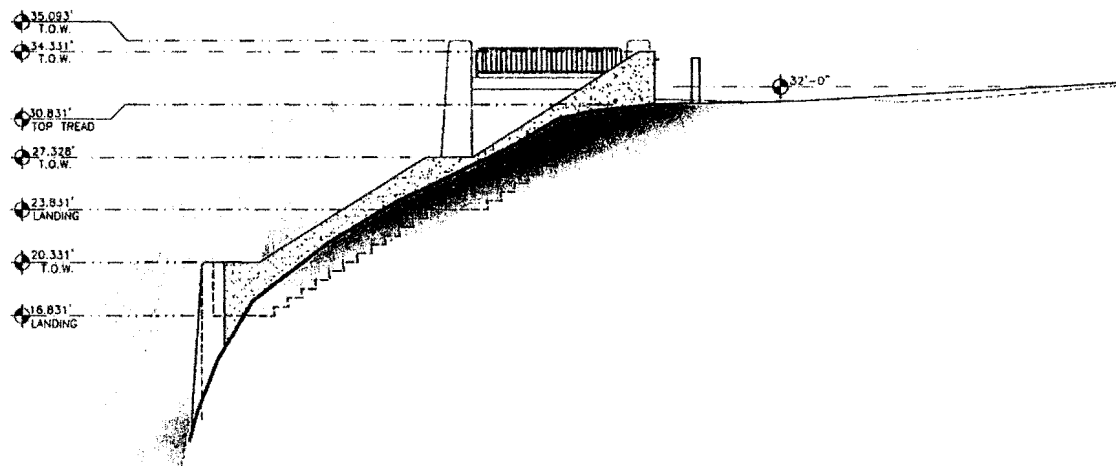
PROPOSED STAIR WEST ELEVATION
FIG. 100-1002

2
A-2



PROPOSED STAIR NORTH ELEVATION/SECTION
FIG. 100-1003

3
A-2



PROPOSED STAIR SOUTH ELEVATION/SECTION
FIG. 100-1004

4
A-2

| | |
|--|--|
| | EXHIBIT NO. 5 |
| | APPLICATION NO. |
| | A-6-LJS-02-58 |
| | Cross-Section of Reconfigured Stairway |

Sewer Pump Station 19 - coastal access exhibit

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
17575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: 2445-5th Avenue, Suite 400
San Diego, CA 92101

Phone Number: 619/231-3637

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Abandonment of existing sewer pump station and removal of an adjacent wastewater settling tank and construction of a new, 1,200 sq.ft. pump station; construction and replacment of a portion of existing force main; installation of new parallel force main; construction of sewer influent line; removal and replacement of existing storm drainage line; replacement of existing coastal acces stairway; and expansion of the observation point and viewing area.
3. Development's location (street address, assessor's parcel no., cross street, etc): 201 Bird Rock Avenue (public right-of-way), La Jolla, San Diego (San Diego County)
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A6-LJS-02-058

DATE FILED: 4/2/02

DISTRICT: San Diego

[This appeal form is identical to an appeal form also signed and dated 4/2/02 by Commissioner Patricia McCoy contained in the permit file. Only this copy is reproduced herein as an exhibit to the staff report.]

| |
|-------------------------------|
| EXHIBIT NO. |
| APPLICATION NO. |
| A-6-LJS-02-58 |
| Appeals |
| California Coastal Commission |

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☒ Other: Hearing Officer

Date of local government's decision: 3/13/02

Local government's file number (if any): CDP/SDP 1377

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Julie Ballesteros, Associate Engineer

City of San Diego - Engineering and Capital Projects Dept. - MS 908A

600 'B' Street, Suite 800

San Diego, CA 92101

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE Attachment A dated 4/2/02

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: _____

Appellant or Agent

Date: _____

4/2/02

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Bird Rock Pump Station Appeal

Attachment A

4/2/02

Proposed is the abandonment of an existing pump station, removal of an adjacent wastewater settling tank and the construction of a new 1,200 sq. ft. pump station. Also proposed is the construction and replacement of a portion of an existing force main, construction of a new parallel force main, removal and replacement of an existing storm drain, removal and replacement of an existing coastal access stairway and expansion of an observation point and viewing area. The project site is the public right-of-way and face of the coastal bluff and beach at the western terminus of Bird Rock Avenue (at Dolphin Avenue) in the La Jolla community of the City of San Diego. The existing stairway extends in a westerly direction down towards the beach. There is an existing concrete block seawall on the bluff face to the north and a gunite coating of the bluff face to the south. An existing riprap revetment is located at the base of the existing stairway.

The proposal raises several potential issues with regard to consistency with the certified City of San Diego LCP and the public access and recreation policies of the Coastal Act which were not adequately addressed in the City's approval of the coastal development permit.

Specifically, the City approval did not adequately address alternatives regarding location and design of the pump station and access stairway that would allow removal of some or all of the existing riprap revetment, nor did it consider other forms of shoreline protective devices, if necessary, which would improve public access in this location. The existing riprap is a significant impediment to public access along the beach and at the foot of the stairs. Although the plans suggest that new rock may be placed and that modification of the rock will be required to construct the proposed improvements, the City failed to address this issue in its review, or to make findings as to the type or extent of such modifications or the ability to remove or reconfigure the rock to facilitate public access to the beach seaward of the stair. This failure to address the ability to improve public access in this location appears to be inconsistent with the policies of the certified La Jolla-La Jolla Shores LCP which state the following:

"The City's beach and parkland along the shoreline should be expanded wherever possible."

"Construction, grading, or improvements of any sort, except those mentioned in this plan, should be discouraged at beach areas. Public access to the shoreline should be increased (or improved) wherever possible." [emphasis added]

"Vertical Access

...In all new development between the nearest coastal roadway and the shoreline the City will make a determination of the need to provide additional vertical access easements based upon the following criteria:

[...]

e) public safety hazards and feasibility of reducing such hazards. [...]"

In addition, regarding the storm drain, the replacement of the storm drain that discharges toward the beach appears to be inconsistent with an LUP policy directing drainage away from the bluff edge or into special drainage facilities that have been equipped with energy dissipating devices to minimize erosion, and with the policy in the ESL regulations for sensitive coastal bluffs Section 143.0143(d) which states the following:

(d) All drainage from the improvements on the premises shall be directed away from any coastal bluff and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or a public right-of-way designated to carry surface drainage run-off. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the coastal bluff.

The City approval did not address alternatives to replacing the existing storm drain which discharges mid-bluff or whether or not structural improvements or other BMPS are necessary to improve water quality if such bluff discharge is unavoidable. The findings of the City's coastal development permit also did not address the potential for a low-flow diversion system within the proposed new pump station. This appears to be inconsistent with stormwater management and discharge provisions of the LDC and the LUP policy which states:

"The ocean and submerged lands within the jurisdictional limits of San Diego should be preserved in their natural state. Plant and marine life in tidepools and offshore waters should be protected from environmental degradation."

The existing sewer pump station is presently situated on the face of a coastal bluff and does not observe a setback from the coastal bluff edge and, as such, it is an existing previously-conforming structure. The findings of the City's coastal development permit did not address improvements to/substantial renovation of this previously-conforming structure and its consistency with Sections 127.0105 and 127.0106 of the previously-conforming structure regulations in the LDC. Also, the proposed project includes grading and alteration of the bluff face to accommodate the new pump station, however the coastal development permit did not include findings which specifically addressed the proposed grading and its consistency with ESL regulations for Sensitive Coastal Bluffs which are part of the Land Development Code (LDC) and the certified LCP.

The approved development appears to be inconsistent with the following policies of the certified La Jolla-La Jolla certified LUP:

“La Jolla’s relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved.”

“La Jolla’s physical assets should be protected in future development and redevelopment; particularly with respect to the shoreline, significant canyons steep slopes. Ocean views should be maintained...and open space retained wherever possible.”

(G:\San Diego\LEE\Bird rock appeal.doc)

