

**CALIFORNIA COASTAL COMMISSION**

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Staff: MV-LB  
Staff Report: 12/18/03  
Hearing Date: 1/14-16/04  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-03-103  
**APPLICANTS:** GART & RONDA SUTTON  
**AGENT:** Ernest Velarde, Architect  
**PROJECT LOCATION:** 111 Bayside Place, Newport Beach, Orange County

**PROJECT DESCRIPTION:** Demolition of an existing single family residence and construction of a new 4,436 square foot, two story, 29 feet high at maximum point from existing grade, single family residence with an attached 713 square foot, 3 car garage. Also proposed are repairs to existing bulkhead and replacement of an existing 5' by 40' cantilevered deck.

**LOCAL APPROVALS RECEIVED:** City of Newport Beach Approval Concept (No. 0053-2003) dated February 18, 2003.

**SUMMARY OF STAFF RECOMMENDATION:**

The applicant is proposing to demolish and re-construct a single family residence at a harbor front site. The major issue of this staff report concerns assuring that the applicant is aware that future improvements at the site will require additional review; that proper construction methods be employed during repairs to the existing bulkhead and reconstruction of the cantilevered deck; and, that site drainage employ appropriate measures to assure protection of water quality. Staff is recommending **APPROVAL** of the proposed project subject to three special conditions which 1) alert the applicant to the requirement that future development at the site will require an amendment to this permit or approval of a new coastal development permit; 2) requires submittal of a revised drainage and run-off control plan assuring water quality protection; and 3) requires appropriate construction methods to further protect water quality.

**SUBSTANTIVE FILE DOCUMENTS:** City of Newport Beach certified Land Use Plan.

**STAFF RECOMMENDATION:**

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

**MOTION:** I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

**I. APPROVAL WITH CONDITIONS**

The Commission hereby APPROVES a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. STANDARD CONDITIONS**

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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-03-103. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-03-103. Accordingly, any future improvements to the single family house and bulkhead authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-03-103 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

#### 2. Drainage and Run-Off Control Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a drainage and runoff control plan showing roof drainage and runoff from all impervious areas directed to dry wells or vegetated/landscaped areas. Vegetated landscaped areas shall only consist of plants native to coastal Orange County or non-native drought tolerant plants which are non-invasive.
- B. 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 required.

#### 3. Construction Responsibilities and Debris Removal

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- (b) Any and all construction material shall be removed from the site within 10 days of completion of construction.
- (c) Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone.
- (d) If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity.

- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.
- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.

#### **IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

##### **A. PROJECT DESCRIPTION**

The applicant is proposing to demolish an existing single family residence and construct a new 4,436 square foot, two story, 29 feet high at maximum point from existing grade, single family residence with an attached 713 square foot, 3 car garage and a 500 square foot roof deck. Also proposed are repairs to the existing bulkhead and replacement of an existing 40' deck cantilevered 5' beyond the bulkhead.

The subject site is a harbor front, bulkheaded lot. The site is located within a private, gated community between the sea and the first public road. No public access currently exists at the subject site. The nearest public access exists at Bayside Drive Beach approximately  $\frac{1}{4}$  mile northwest of the subject site and at Corona del Mar State Beach, approximately  $\frac{1}{2}$  mile southeast of the subject site. The proposed development, demolition and construction of a single family residence, will have no impact on existing public access in the vicinity.

As stated above, a bulkhead exists at the subject site. The bulkhead is proposed to be repaired in its existing location. Proposed bulkhead repairs include new concrete deadman and tiebacks, and new concrete coping along the top of the existing bulkhead. The bulkhead work is proposed to occur entirely from the landward side of the property. This is possible because the existing residence is proposed to be demolished entirely. However, if it becomes apparent that additional work on the bulkhead is necessary, such development would need to be reviewed for consistency with the Chapter 3 policies of the Coastal Act. Therefore, a special condition is imposed which makes the applicant aware that any future development at the site, including work on the existing bulkhead, requires an amendment to this permit or a new coastal development permit.

The applicant is also proposing to replace an existing cantilevered deck. The proposed deck will have the same dimensions as the existing deck. Most of the existing residences along the private Bayside Place also have cantilevered decks. In addition, this area was subject to adjudication in the 1920's which determined the private and public property boundary. Pursuant to that adjudication the water area seaward of the bulkhead over which the deck will cantilever is owned by the applicant. The proposed deck replacement is similar in function to the other cantilevered decks associated with residential development in the immediate vicinity (Bayside Place). Thus the proposed deck

replacement will have no adverse impact on coastal access or resources in the project vicinity, and is consistent with the Chapter 3 policies of the Coastal Act.

The applicant has submitted plans depicting various water quality drainage improvements. However, each of the three plans submitted depict different water quality measures and it is not clear whether the measures shown on each plan are proposed and if so, how they would interact with each other. For example, site plan/lower level plan (sheet 1, not dated but received in the Commission office on March 13, 2003) includes four "gravel filled pits for onsite disposal of water runoff from roof, decks, patios, walkways, driveway and planting areas." The four pits are shown at the base of the driveway. But no indication is given as to how the site drainage will be directed to these pits. In addition, plans by Toal Engineering, sheet 1 of 1, received in this office on November 8, 2003, depict an "18 inch drainbox with fossil filter Flogard catch basin insert" located on the seaward side of the residence. New drain lines are shown which would drain the seaward approximately two thirds of the site to this drainbox. And a third plan, site plan/lower level plan (sheet 1, received in this office on September 24, 2003) do not show any of the above, but do indicate that all landscaping will be in pots or raised planters. The measures depicted on these plans appear to be good, but it must be clarified whether all measures depicted are actually proposed, and how they will interact together. This is necessary to assure site drainage for the proposed project will be in conformance with Sections 30230 and 30231 of the Coastal Act which require that water quality be protected, and where feasible, enhanced. Therefore a special condition is imposed which requires that a drainage and runoff control plan be submitted that shows roof drainage and runoff from all impervious areas will be directed to dry wells or vegetated/landscaped areas.

#### **B. DEVELOPMENT**

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

#### **C. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

#### **D. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned,

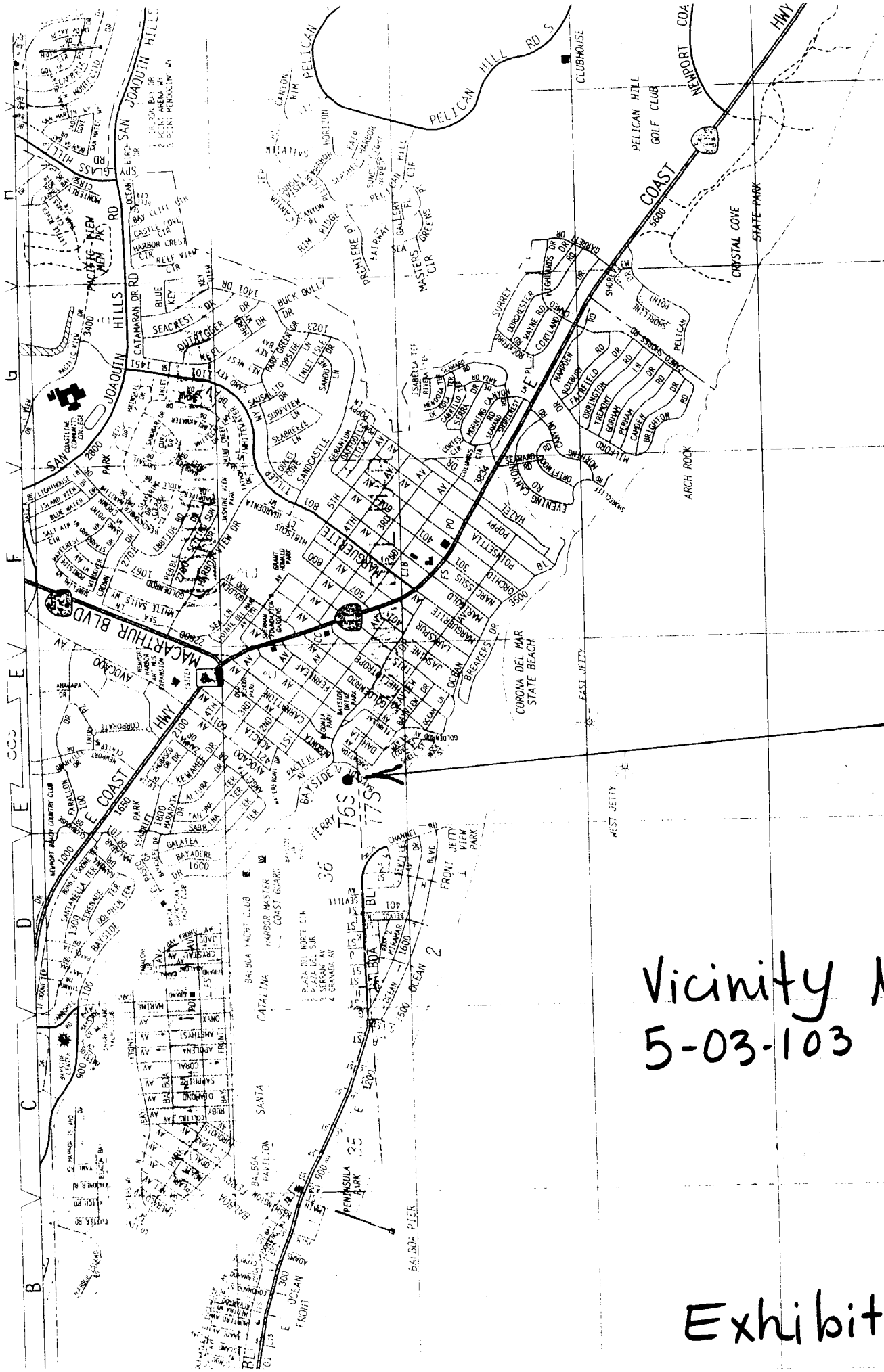
incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

#### **E. LOCAL COASTAL PROGRAM**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on January 9 1990. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



# 111-BAYSIDE PLACE  
CORONA DEL MAR

Vicinity Map  
5-03-103

ERNEST VELARDE, A.I.A.  
ARCHITECT  
1750 SO. COAST HWY #8  
LAGUNA BEACH, CA 92651

Exhibit A

