

RESOLUTION NUMBER R- 311873

DATE OF FINAL PASSAGE JUL 10 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING SITE DEVELOPMENT PERMIT
NO. 1673361 FOR VIA ESPRILLO STORM DRAIN
REPLACEMENT PROJECT NO. 230855.

WHEREAS, the City of San Diego Public Works Department (Permittee) performed emergency repair work consisting of replacement of 100 linear feet of 36-inch diameter Corrugated Metal Pipe (CMP) with 42-inch diameter Reinforced Concrete Pipe (RCP) and replacement of 105 linear feet of 48-inch diameter CMP with a 48-inch diameter RCP, installation of 4 cleanouts, 8 concrete cutoff walls, 2 high energy dissipaters, and implementation of a revegetation plan to stabilize the adjacent sloped area at 16450-16464 Via Esprillo, APN 678-080-09, 678-272-10, and 678-272-16, in the Rancho Bernardo Community Plan area, in the IP-2-1 (Industrial-Park) zone; and

WHEREAS, the aforementioned emergency work was authorized under Emergency Site Development Permit (No. 939438, December 20, 2011) and all work has been completed, including slope revegetation; and

WHEREAS, Permittee has subsequently filed an application for a Site Development Permit in accordance with SDMC section 143.0126 due to the encroachment into 0.0007 acre of environmentally sensitive land (wetlands) by rip-rap; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the

decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on JUL 10 2018 testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1673361:

SITE DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0505

A. Findings for all Site Development Permits:

1. The proposed development will not adversely affect the applicable land use plan. The project site is located in the Rancho Bernardo Community Plan area, in the IP-2-1 (Industrial–Park) zone. In 2010/2011, the winter storms severely damaged an existing storm drain structure, undermined an adjacent slope and caused a parking lot to partially collapse into the hillside. The City of San Diego’s General Plan and associated community plan supports infrastructure such as the storm drain structure. These structures are designed to properly channelize storm water runoff en route to a natural body of water and away from the streets, slopes and private property. Storm water systems are essential public services that are allowed in the land use designation for this site.

The project is also consistent with the policies of Section G (Storm Water Infrastructure) of the City’s General Plan by providing and maintaining a storm water conveyance system structure that is compliant with the federal Clean Water Act and the California Water Quality Control Board National Pollutant Discharge Elimination System (NPDES) Permit standards. Repair of the damaged storm drain included the repair of a severely damaged slope and adjacent parking lot. The repaired storm water conveyance reduced erosion and stabilized the associated slopes and industrial property. Therefore, the project will not adversely affect any applicable land use plans.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The Via Esprillo Storm Drain Replacement Project was necessary under emergency circumstances to repair a failing slope which compromised the storm drain structure. Storm water infrastructure facilities are designed to divert rainwater runoff from paved street surfaces to a designated area. These types of structures are intended to protect the built environment from unplanned flooding and water damage which can cause a negative impact on the public’s health, safety, and welfare. The replacement of this structure and the slope

rehabilitation addressed the emergency before further damage occurred. Appropriate best management practices (BMP's) were utilized to further protect areas adjacent to the work area from further damage and threat to life and property. Therefore, this project will not have a detrimental impact to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code. The project complies with the applicable regulations of the Land Development Code (LDC), however, due to the nature and location of this emergency repair of essential public infrastructure, wetland impacts occurred and were unavoidable. The project requires a deviation pursuant to the guidelines that govern impacts to wetlands. The area of the slope failure as well as the immediate surrounding area were analyzed to determine the vegetation communities impacted by the storm damage and the repair efforts. The damaged storm drain has been replaced and the underlying slope and parking lot above have been rebuilt and revegetated. All impacted vegetation was replaced pursuant to the associated revegetation/erosion control plan which was prepared specifically for this project and recommended by the Biological Resource Report (Atkins June 2011) in accordance with the City's Land Development Manual and Landscape Standards. The revegetation is complete.

The project is considered an Essential Public Project (EPP) pursuant to Land Development Code Section 143.0150 (d)(1)(A) and (B)(ii), and repaired an eroding hillside that damaged and further threatened the property on top of the slope and other infrastructure. Therefore, no feasible alternative exists that would have avoided impacts to ESL. Therefore, the project complies with the regulations of the LDC, including any allowable deviations.

B. Supplemental Findings – Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project was completed as an emergency. It replaced an existing storm drain, repaired a slope which had eroded and threatened an existing sewer main, and damaged a private parking lot above. The existing storm drain outfalls into the canyon, taking advantage of gravity to convey gathered storm water down and away from the street and buildings. The project will continue to drain the storm water into the canyon in the same manner. The eroded slope and the area disturbed by the construction of the new storm drain structure was revegetated pursuant to the associated revegetation/erosion control plan prepared specifically for this project and recommended by the Biological Resource Report (Atkins June 2011) in accordance with the City's Land Development Manual and Landscape Standards.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The reconstruction/replacement of the existing storm drain and eroded slope required excavation of a trench down the slope in order to safely install the new storm drain pipeline. Storm water BMP's, as recommended in a Water Pollution Control plan, were implemented during construction. The trench was back filled and the disturbed soils were revegetated upon the completion of construction.

These measures ensured that the natural slope was maintained during the project construction and completed revegetation processes will protect the slope from future erosion. The project avoided undue geologic risk by commissioning a geotechnical report and incorporating the results into the design plans. The project will not result in undue risk from flood hazards because the storm drain will convey water away from the impervious street surfaces and channel it into a controlled structure to avoid potential flood hazards and damaging erosion. This storm drain will not present a fire hazard as it will be constructed of non-combustible materials, it will be almost entirely underground, and it will convey water. Therefore, the development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands. The project was designed to safely accommodate the repair of the damaged and deteriorated storm drain, and to repair an undermined slope and partially collapsed parking lot, and, minimize the impact on environmentally sensitive lands. The reconstruction/replacement of the existing storm drain and eroded slope required excavation of a trench down slope just wide enough to safely install the new storm drain pipeline. Storm water BMP's, as recommended in a Water Pollution Control plan, were implemented during construction to prevent further erosion and slope damage. These measures ensured that the natural slope was maintained during project construction and revegetation, pursuant to the approved revegetation plan, protected the slope from future erosion and restored impacted environmentally sensitive lands. The proposed development was sited to repair a specific asset on a specific site, and designed to prevent or minimize adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan. The emergency repair area is not within or adjacent to the City's Multi-Habitat Planning Area (MHPA) and is classified as urban developed on the City's Multiple Species Conservation Plan (MSCP) maps. Therefore, the work would not be inconsistent with the MSCP Subarea Plan or the Adjacency Guidelines.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. The Via Esprillo Storm Drain Replacement Project is approximately ten miles from the nearest beach or local shoreline. Therefore, the project did not contribute to the erosion of any public beach or adversely impact the local shoreline sand supply.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development. The eroded slope and the area disturbed by the repair and construction of the new storm drain structure was revegetated pursuant to the associated revegetation/erosion control plan prepared specifically for this project and recommended by the Biological Resource Report (Atkins June 2011) in accordance with the City's Land Development Manual and Landscape Standards. The revegetation was mitigated for the permanent impacts to 0.0002 acre and 0.0005 acre of non-wetland waters of the U.S. through the restoration and revegetation of 0.02 acre of palustrine wetland and riparian scrub habitat as described in the approved mitigation plan dated

October, 7 2011 and October, 18 2011. The biological report analyzed the project impacts and identified appropriate agency mitigation measures which included flagging off the limits of work, construction materials shall be located in upland areas, and all disturbed areas shall be revegetated. Based on the requirements and concurrence of the City of San Diego, U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board have agreed those measures have been satisfied.

C. Supplemental Findings--Environmentally Sensitive Lands Deviations

1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands. The project was conducted under emergency circumstances and repaired a slope which had already failed and compromised the existing storm drain structure, slope and private property. The emergency required the repair of an existing failed corrugated metal storm drain pipe and adjacent slope which were damaged during winter rains in late December 2010/2011 also resulting in an additional 30 feet of slope to collapse into the canyon below. If left unrepaired, further erosion of the slope would have continued to occur threatening a sewer main and private parking lot.

The project included the construction of an energy dissipater structure and rip-rap. Both features work in concert to reduce the energy of water flowing downhill to the bottom of the slope. These project features reduced the water's erosive forces that would otherwise damage natural land features downstream. The rip-rap slows down the flow by its placement and location, and by allowing the water to spread out slower through the crevices between the rocks. Stability of the large rocks that make up the rip-rap is an important safety and construction feature. All efforts were made for the dissipater structure and rip-rap to avoid the adjacent wetland. However, project designers and contractors were not able to avoid a minimal 0.0007 acre wetland impact due to the partial encroachment of rip-rap in the wetland.

The project is considered an Essential Public Project (EPP) pursuant to Land Development Code Section 143.0150 (d)(1)(A) and (B)(ii), and repaired an eroding hillside that threatened the property on top of the slope and other infrastructure, so a "no-project" option was not a feasible outcome. Therefore, no feasible alternative exists that would have avoided impacts to ESL.

2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. The project was conducted under emergency circumstances and repaired a slope which had already failed and compromised the existing storm drain structure. The emergency required the repair of an existing failed corrugated metal storm drain pipe and adjacent slope which were damaged during winter rains in late December 2010/2011 also resulting in an additional 30 feet of slope to collapse into the canyon below. If left unrepaired, further erosion of the slope would have continued to occur threatening a sewer main and private parking lot.

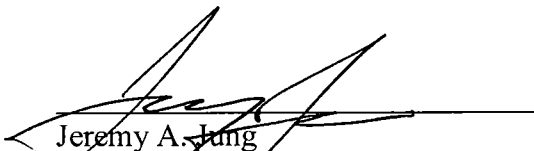
Immediate action was taken to protect the adjacent property, existing sewer main and the remaining hillside. The repair of the storm drain structure and the rehabilitation of the slope were the minimum necessary to resolve the failure. The extent of the slope and property damage were

due, at least in part, to the length and steepness of the slope. The project included the construction of an energy dissipater structure and rip-rap. Both features work in concert to reduce the energy of water flowing downhill to the bottom of the slope. These project features reduce the water's erosive force that would otherwise damage natural land features downstream. The rip-rap slows down the flow by its placement and location, and by allowing the water to spread out slower through the crevices between the rocks. Stability of the large rocks that make up the rip-rap is an important safety and construction feature. All efforts were made for the dissipater structure and rip-rap to avoid the adjacent wetland. However, project designers and contractors were not able to avoid a minimal 0.0007-acre wetland impact due to the partial encroachment of rip-rap in the wetland.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Site Development Permit No. 1673361 is granted to the Public Works Department, Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Jeremy A. Jung
Deputy City Attorney

JAJ:cw
02/20/18
Or.Dept: DSD
CC No.: N/A
Doc. No.: 1690271

Attachment: Site Development Permit

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION
501**

**WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501**

WBS NUMBER: B-11015.07.01

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SITE DEVELOPMENT PERMIT (SDP) NO.1673361
16450-64 VIA ESPRILLO STORM DRAIN REPLACEMENT PROJECT NO. 230855 MMRP
CITY COUNCIL**

This Site Development Permit No. 1673361 is granted by the City Council of the City of San Diego to the Public Works Department, Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0505(a) – (c). The Project site is located at assessor parcel numbers (APN) 678-080-09, 678-272-10, and 678-272-16 on the slope of a canyon located west of Via Esprillo near 16464 Via Esprillo in the PI-2-1 zone of the Rancho Bernardo Community Plan area.

Subject to the terms and conditions set forth in this Permit, permission is granted to Permittee for the Project which consisted of emergency work that replaced storm drain outfall pipe and related storm drain facilities and implemented a revegetation plan to stabilize the sloped area adjacent the pipe replacement alignment, as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated July 10, 2018, on file in the Development Services Department, which work was previously approved by Emergency Site Development Permit.

The Project included:

- a. Replacement of approximately 100 linear feet of 36 inch corrugated metal (CMP) storm drain outfall pipe with 42-inch diameter Reinforced Concrete Pipe (RCP); replacement of 105 linear feet of 48 inch CMP Storm Drain outfall pipe with a 48-inch diameter RCP; and
- b. Replacement of 8 concrete cutoff walls, 4 cleanouts, 2 high energy dissipaters; and
- c. Revegetated the disturbed areas in compliance with the prepared and approved Revegetation/Erosion Control Plan in accordance with the City's Land Development Manual and Landscape Standards.

STANDARD REQUIREMENTS:

1. This permit must be utilized within 10 years after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 10 year period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by July 10, 2028.
2. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
3. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Permittee and any successor(s) in interest.

4. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
5. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
6. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

APPROVED by the City Council of the City of San Diego on July 10, 2018 and R-2018-364.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Angela Nazareno
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

DEPARTMENT.

CITY OF SAN DIEGO, PUBLIC WORKS

Owner/Permittee

By _____
SHAWN KRAUSE
PROJECT ENGINEER, PUBLIC WORKS

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Passed by the Council of The City of San Diego on JUL 10 2018, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 10 2018

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Sty Road*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 311873