CALIFORNIA COASTAL COMMISSION
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Th6d

Filed: 2/2/12
180th Day: 7/31/12
Staff: Meg Vaughn-LB
Staff Report: 3/22/12
Hearing Date: 4/11-13/12
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: **5-12-019**

APPLICANT: **Robert & Teresa Nichols**

AGENT: **Gregory S. Reid, PE**

PROJECT LOCATION: **4022 Diablo Circle, Huntington Beach, Orange County**

PROJECT DESCRIPTION: Repairs to existing seawall/bulkhead consisting of installation of 7/16 inch thick carbon fiber reinforced vinyl ester resin sheetpile panels (sheet pile) along the toe of the existing seawall footing to address the current and prevent future development of voids beneath the seawall footing across the 50 foot width of the subject property. A total of 19, two-inch square interlocks are proposed to connect the panels. The panels are proposed to extend approximately 5 feet into the harbor bottom. After panel installation, grout is proposed to be injected into the voids beneath the footing and around the wood piles supporting the seawall. Prior to installation of the sheetpile panels, the existing concrete over-pour along the toe of the footing is proposed to be removed to allow the installation of the panels to be flush with the vertical face of the existing seawall footing. The proposed removal of concrete overpour will restore 10.95 square feet of soft bottom that is intended to mitigate the 2.71 square feet of soft bottom that will be impacted by the installation of the panels.

LOCAL APPROVALS RECEIVED: City of Huntington Beach Approval in Concept, 2/2/12.

SUMMARY OF STAFF RECOMMENDATION:

The issues raised by the proposed project and addressed in this staff report relate to impacts upon the marine environment due to soft bottom habitat impacts and the use of plastic construction material. The project will impact 2.71 square feet of soft bottom habitat that will be mitigated through the restoration of 10.95 square feet of soft bottom habitat on-site, of which a minimum of 5.42 square feet (2:1 mitigation ratio) will be reserved specific to the subject project. No rock/toe-stone is proposed. The project has been conditioned to monitor the plastic sheetpile panels and to amend this permit or apply for a new permit if new information identifies an environmentally superior alternative to plastic. Also as conditioned, the project will not result in significant adverse impacts on water quality or marine habitat. In addition, due to the absence of eelgrass in the project area, and as conditioned, adverse impacts upon eelgrass are not anticipated either. A caluerpa taxifolia survey was conducted at the site and none was found.

Staff recommends **APPROVAL** of the proposed development with special conditions which require: 1) preparation of a Bulkhead Monitoring Plan providing for periodic inspections assessing the continued integrity of the bulkhead's sheetpile reinforcement; 2) applicant to consider the use of alternatives to plastic should such alternative become available in the future; 3) that the mitigation

be carried out as proposed; 4) conformance with specific construction responsibilities and debris removal to avoid impacts upon water quality and marine resources; 5) preparation of a pre-construction eelgrass survey to confirm the absence of eelgrass; 6) the applicant to carry out project as proposed including restoration of soft bottom habitat; 7) acknowledgement that permit approval is not a waiver of any public rights at the site.

List of Exhibits

1. Vicinity Map
2. Project Plans
3. Email from CDFG

I. 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: 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. SPECIAL CONDITIONS

1. BULKHEAD MONITORING PLAN

A. The permittee shall maintain the bulkhead reinforcement in good condition throughout the life of the development. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a Bulkhead Monitoring Plan, for the review and approval of the Executive Director. The permittee and his successors in interest shall be responsible for carrying out all provisions of the approved Bulkhead Monitoring Plan for as long as the bulkhead reinforcement remains in place. The monitoring plan, at a minimum, shall provide for:

1. Regular inspections by a qualified person familiar with bulkhead structures who is able to document via photos and provide written descriptions based on personal observation whether any cracks, breaks or deterioration have occurred. These inspections shall be performed at least every 2 years.

    a. The inspections shall examine the exposed portions of the bulkhead reinforcement (to the mud line) for signs of weakness or possible failure, including, but not limited to cracking, bending, splitting, splintering, or flaking. All weak or potential failure areas should be marked on an as-built plan of the bulkhead reinforcement, and there should be photographs and text to explain the nature and extent of each weakness.

    b. If deterioration is observed as described above, then the sheetpile/bulkhead shall be inspected by a qualified, licensed engineer. Based on a thorough inspection, the engineer shall draw conclusions and make recommendations regarding the continued stability of the bulkhead and any measures necessary to arrest and/or repair deterioration of the plastic or other construction materials. The engineer's conclusions and recommendations shall be forwarded to the Executive Director of the Coastal Commission.

B. Inspection reports shall be prepared and conveyed to the Executive Director within 30 days of the inspection work. These reports shall provide information on and photographs from the date of the inspection, the name and qualifications of the person performing the inspection, and an overall assessment of the continued integrity of the bulkhead reinforcement. If the inspection identifies any areas where the bulkhead reinforcement has been damaged, the report shall identify alternatives to remedy the damage.

C. In the event that any sections of the bulkhead reinforcement are damaged or flaking, the permittees shall notify the Commission within 10 days; and in such event, within 30 days of such notification, submit to the Commission a complete application for any coastal development permit amendment, or new permit, necessary for the repair or replacement of the bulkhead reinforcement.

2. ALTERNATIVES TO PLASTIC

By acceptance of this permit, the applicant agrees to submit an application for an amendment to this permit or a new coastal development permit if the Executive Director determines there is new

information available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are available. The amendment or new coastal development permit shall include measures to eliminate or significantly reduce the adverse impacts of the plastic including, if necessary, the replacement of the bulkhead.

3. MITIGATION

By acceptance of this permit, the applicant shall assure that the mitigation shall be carried out as proposed at the subject site and that a minimum of 5.42 square feet of mitigation area (2:1 mitigation ratio) shall be reserved as mitigation specific to the subject project and shall not be allowed to serve as mitigation for any other project.

4. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

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

(a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to inundation or dispersion in the waters of the harbor;
(b) All debris and trash will be disposed in suitable trash containers on land at the end of each construction day;
(c) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
(d) No machinery or construction materials not essential for project improvements shall be allowed at any time in the waters of Huntington Harbour;
(e) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
(f) 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;
(g) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss;
(h) Discharge of any hazardous materials into Huntington Harbour is prohibited;
(i) Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from heavy machinery, pile drivers or construction equipment or power tools into the waters of the Huntington Harbour. The applicant and the applicant's contractors shall have adequate equipment available to contain any such spill immediately.

5. EELGRASS SURVEY

A. **Pre Construction Eelgrass Survey**. A valid pre-construction eelgrass (Zoestera marina) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special

condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

B. **Post Construction Eelgrass Survey**. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

6. CONFORM WITH PROPOSED PLAN

The applicant shall conform to the plans dated 1/11/12, received in the Commission's office on 1/17/12, including the restoration of 10.95 square feet of soft bottom habitat on-site as shown on the 1/11/12 project plans and as described in the *Pre-Construction Marine Biological Assessment for a Seawall Repair Project at 4022Diablo Circle, Huntington Beach, CA 92649*, prepared by Coastal Resources Management, Inc., dated 1/12/12. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. PUBLIC RIGHTS

The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND LOCATION

The applicant is proposing to repair/reinforce an existing bulkhead/seawall adjacent a residential lots that fronts on Huntington Harbour. The proposed reinforcement includes installation of 7/16th inch thick, marine grade carbon fiber reinforced vinyl ester resin sheetpile panels immediately adjacent to the existing footing of the existing bulkhead (see exhibit 2). The top of each panel of sheet pile is proposed to be anchored with bolts into the bulkhead footing to provide support. The proposed project also includes nineteen, 2-inch by 2-inch carbon fiber reinforced vinyl ester resin interlocks to connect each of the sheetpile panels together. The proposed sheet pile will extend approximately 5 feet in depth beneath the existing footing into the harbor bottom and will extend across the entire 50 foot width of the subject property. The sheetpiles are proposed to mitigate the current and prevent future development of voids beneath the seawall footing. The proposed sheetpile panels are intended to serve as a barrier to protect the existing wood piles at the base of the existing bulkhead. After the sheetpile panels are installed, grout will be injected into the voids beneath the footing and around the existing wood piles that support the existing bulkhead/seawall. (See exhibit 2 project plans). No rock/toe-stone is proposed.

The proposed sheetpile panels will be installed using a modified driving hammer from a waterside work platform. No spuds or anchors or other bottom disturbing activities are associated with the work platform. The hammer size and impact is less than that needed to drive steel or PVC sheetpiles due to the material properties of the carbon fiber reinforced vinyl ester resin sheetpiles. Each sheet pile has an interlocking mechanism that acts as a guide to keep the pile aligned while driving and provides for a mechanical attachment at each joint. The sheet piles will attach to the wall footing and extend the entire 50 foot length of the property. The piles will terminate at each end of the property. Due to the relatively thin nature of the piles (7/16th inch thick), no special termination or transition is required. Any future protection, repair, or replacement of the bulkheads at the adjacent properties can progress unimpeded by the protective measure as proposed at the subject site.

The proposed placement of the sheetpile panels and interlocks would result in displacement of 2.71 square feet of soft bottom habitat. To mitigate the loss of soft bottom habitat, the applicant proposes to remove the concrete overpour adjacent to the bulkhead which dates from the time of the bulkhead's original construction in approximately the 1960s. The amount of concrete to be removed totals 10.95 square feet. Thus, the proposed mitigation would restore an additional 8.24 square feet of soft bottom habitat at the subject site.

The subject site is located within Huntington Harbour in the City of Huntington Beach, Orange County (Exhibit A vicinity map). Huntington Harbour was developed in the 1960s. It is developed primarily with single family residences which are supported by cast in place, concrete seawall/bulkheads constructed during the original development of Huntington Harbour. The majority of development in Huntington Harbour is dependant upon these types of bulkheads. The existing bulkhead systems in Huntington Harbour were constructed at approximately the same time,

primarily using similar bulkhead designs. Many of these bulkheads are now approaching ages of 40 to 50 years, and thus are in need of repair.

The City has a certified Local Coastal Program. However, because the proposed development is located seaward of the mean high tide line (seaward of the existing bulkhead), the project falls within the Commission's retained permit jurisdiction. No public access currently exists at the project site. The nearest public access in the area is at a small pocket beach located at the Davenport Drive bridge (approximately one block south) and also at Sunset County Beach located approximately 1 mile to the west.

The bulkhead wall is supported by timber piles (see exhibit 2 project plan). Soil has eroded from beneath the existing bulkhead's footing, behind the cutoff wall. As yet, the timber piles have not been exposed, but if the situation is left untreated, the timber piles will be exposed. The applicant's engineering consultant has indicated that undermining of the bulkhead footings does not affect the structural integrity of the wall. The exposure does, however, affect the wood piles supporting the bulkhead wall by allowing access by woodborers. The woodboring organisms feed on the wood piles, which decreases the cross section of the pile, and decreases the pile's ability to support the wall. Damage to the supporting timber piles could lead to bulkhead collapse. If protective measures are not implemented, damage to the bulkhead could result, leading to failure of the bulkhead and damage to the residences landward of the bulkhead. The proposed bulkhead repair is designed to prevent erosion below the footing, protect the timber piles, protect the existing bulkhead, and ultimately, protect the existing residences.

Shoreline Protection

The proposed project involves the fill of coastal waters in the form of the 50 linear feet of 7/16th inch thick sheet piles and nineteen 2-inch by 2-inch interlocks for a total fill amount of 2.71 square feet. The purpose of the proposed fill is to protect the existing residences, which is not one of the seven allowable uses enumerated under section 30233 of the Coastal Act. However, Section 30235 of the Coastal Act requires the Commission to approve seawalls and other similar structures when such protection structures are necessary to protect existing primary structures and provided that the protection structures are designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Alternatives considered were: 1) installation of driven sheet piles with rip rap rock at the base; 2) concrete encasement of the existing wood piles in place; 3) the use of steel sheet piles rather than plastic (ester vinyl resin); 4) placement of filter fabric across the void to be held in place by new rock; and 5) repair of individual piles as they become damaged (do nothing alternative). All of the alternatives other than the proposed project would result in greater impacts to the marine environment. Thus, the proposed project is the least environmentally damaging feasible alternative.

The proposed bulkhead reinforcement is necessary to maintain the existing bulkhead and thus to protect the adjacent single family residences. Therefore, the Commission finds that the proposed project is consistent with Section 30235 of the Coastal Act.

Marine Habitat

Section 30230 of the Coastal Act requires that marine resources shall be maintained, enhanced, and where feasible, restored. Section 30231 requires that the biological productivity and the quality of coastal waters be maintained and, where feasible, restored. In addition, Section 30233 regulates fill of coastal waters. In order to be consistent with Section 30233, a project that involves fill in open coastal waters and/or wetlands must meet the three-prong test: 1) the use must be one of the uses allowed; 2) it must be the least environmentally damaging alternative; and, 3) it must provide adequate mitigation to offset any impacts created by the project.

The proposed development will occur in the waters of Huntington Harbour, in an area that is entirely submerged. The proposed placement of sheet piles and interlocks will result in the permanent coverage of approximately 2.71 square feet of soft bottom habitat and associated benthic (bottom-dwelling) organisms.

i) Fill of Coastal Waters

Section 30233 requires that fill of coastal waters must be 1) an allowable use, 2) the least environmentally damaging feasible alternative, and 3) provide adequate mitigation. As described above, Section 30235 of the Coastal Act requires the Commission to approve seawalls and other similar structures (such as the proposed project) when they are necessary to protect existing structures and otherwise are consistent with 30235. This requirement trumps the allowable use standard of 30233. Thus, the proposed project is an allowable use under the Coastal Act. A number of alternatives to the proposed project were considered and the proposed alternative was found to be the least environmentally damaging, feasible alternative, as described previously.

To mitigate for the loss of soft bottom habitat, the applicant proposes to remove concrete overpour adjacent to the bulkhead. The concrete overpour is excess concrete that overflowed the forms during the original construction of the bulkhead and provides no structural function. The amount of concrete to be removed totals 10.95 square feet. Thus, the proposed mitigation would restore an additional 8.24 square feet of soft bottom habitat at the subject site. The habitat to be impacted at the subject site consists of soft bottom, containing amphipods and hydroids. These species are common to soft bottom habitat throughout the harbor. No sensitive plant or wildlife species are known to occur within this habitat at the subject site. The proposed project and mitigation have been reviewed and accepted by the California Department of Fish & Game (see exhibit 3).

In similar circumstances the Commission has found a mitigation ratio of 2:1 (mitigation to impact) to be acceptable and prefers that mitigation occur on-site. The area of impact would generate a need for 5.42 square feet of mitigation. The applicant has proposed 10.95 square feet of soft bottom mitigation. The applicant has requested that the additional mitigation area (5.53 square feet) be reserved as a mitigation bank for future mitigation needs. Thus, although 10.95 square feet of soft bottom habitat will be restored under the proposed mitigation plan, 5.42 square feet is specifically identified to offset the impacts due to the subject project. Thus, the proposed project is consistent with the requirements of Section 30233 regarding fill of coastal waters in that the project be an allowable use, the least environmentally damaging feasible alternative, and provides adequate mitigation.

ii) Water Quality and Construction Impacts

Due to the proposed project's location in the water, the proposed work may have adverse impacts upon water quality and the marine environment. To address potential adverse impacts to water quality the applicant has proposed a number of Best Management Practices including: monitoring for adherence to the Regional Water Quality Control Board specifications for discharges limiting the dispersion of any turbidity plume for the duration of construction; if regulatory levels are exceeded work shall stop until turbidity decreases and corrective actions (including reducing the rate of construction activities) are implemented; disposal of all debris and trash in suitable containers on land at the end of each construction day; and prohibition of the discharge of hazardous materials into the waters of Huntington Harbour. In addition, the project has been conditioned to prevent the improper storage of construction equipment and materials during construction and to conform with specific construction responsibilities and debris removal procedures. Thus, the proposed project is consistent with the requirements of Sections 30230 and 30231 regarding protection of coastal waters.

iii) Plastic

The Commission has expressed concern about the use of plastic in the marine environment. In past actions, the Commission has accepted plastic for the proposed purpose when monitoring is included and when future alternatives are considered. Consequently the plastic sheet piles must be monitored to ensure that they are maintained in an environmentally safe operating condition and replaced when damage or degradation has occurred. To minimize the potential of the plastic sheet piles breaking apart and entering the water due to damage or deterioration, a special condition is imposed which requires that the project be carefully monitored at least once every two years for the life of the project. Further, the project has been conditioned to require the applicant to submit an application for an amendment to this permit or a new coastal development permit if new information becomes available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are available. The Commission has found such conditions necessary in past actions (5-10-106 (Hernandez); 5-03-078 & 5-03-078-A1 (Buchanan), 5-06-436 & 5-06-438 (Tetra Tech, et al).

iv) Eelgrass

An eelgrass survey was conducted on 10/25/11 and is included as part of the Pre-Construction Biological Survey Assessment, prepared by Coastal Resources Management, dated 1/12/12 and submitted with the application. The survey found no eelgrass within the project vicinity. Due to the ephemeral nature of eelgrass, however, an eelgrass certification is only valid until the next period of active growth. More than a year may elapse before construction commences. Even though the eelgrass inspection indicates that no eelgrass is present, and therefore eelgrass is not expected to be impacted by the proposed project, eelgrass may have established within the project area between the time the survey was conducted and commencement of construction. If eelgrass is present in the project area, adverse impacts from the proposed project could result. Therefore, measures to avoid or minimize such potential impacts must be in place in order for the project to be found consistent with Section 30230 of the Coastal Act. Therefore, the Commission imposes a special condition which requires that a current pre-construction eelgrass survey be conducted within the boundaries of

the proposed project during the period of active growth of eelgrass (typically March through October), and which identifies steps to be taken should eelgrass be found onsite via a future survey.

v. Caulerpa taxifolia

The Pre-Construction Marine Biological Survey Assessment prepared by Coastal Resources Management, dated 1/12/12 also surveyed the site for caulerpa taxifolia. None was found at the subject site. However, caulerpa taxifolia surveys are valid for a limited period of time (90 days for *Caulerpa taxilfolia*). Due to the potential that commencement of construction may not occur during the period the survey remains valid, a special condition is imposed which requires a *Caulerpa taxifolia* survey not more than 90 days prior to commencement of construction. If construction does not occur within the respective time periods, subsequent surveys will be required. A special condition is imposed that identifies the procedures necessary to be completed prior to beginning construction in case the survey expires prior to commencement of construction. In addition, the special condition identifies post-construction procedures.

Conclusion

The proposed bulkhead repair project is necessary to protect the existing, adjacent residence. Section 30235 of the Coastal Act requires the Commission to approve such projects when necessary to protect existing structures and when designed to eliminate or mitigate adverse impacts. A number of alternatives were considered, and the proposed alternative has been found to be the least environmentally damaging alternative. The proposed project includes on-site mitigation that would result in the typically required 2:1 ratio. As proposed and conditioned, measures will be in place to protect water quality during and after construction. Also, as conditioned, surveys will be conducted pre- and post- construction to assure that any un-anticipated impacts to eelgrass that may occur are addressed and to assure that the project will not result in the spread of the invasive algae caluerpa taxifolia. Therefore, as proposed and conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30233 regarding protection of the marine environment.

B. 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, the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. 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. An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is occurring within an area of the Commission's original permit jurisdiction, due to the project location seaward of the mean high tide line. Consequently, the standard of review is the Coastal Act and the City's LCP is used only as guidance. As conditioned, the proposed

development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

D. 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.

APPENDIX A:

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 on which the Commission voted on the application. 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.

APPENDIX B:

Substantive File Documents:

Coastal Development Permits: 5-10-106 (Hernandez); 5-03-078 & 5-03-078-A1 (Buchanan), 5-06-436, 5-06-437, 5-06-438, & 5-06-439 (Tetra Tech, et al); Coastal Development Permit No. 5-01-020 (Tetra Tech).

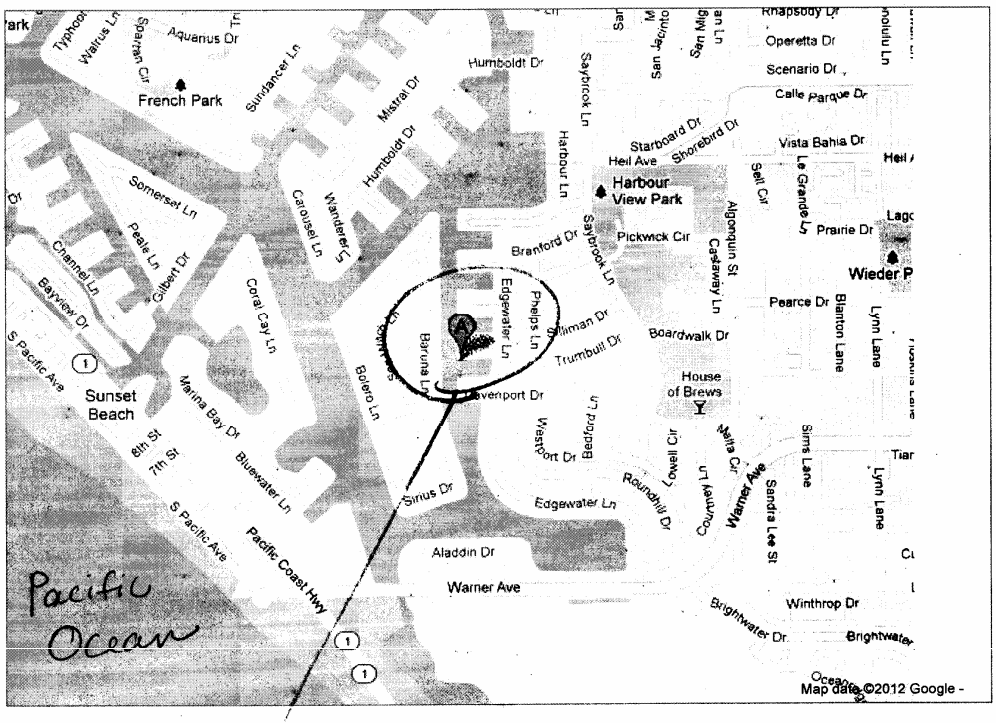
Pre-Construction Marine Biological Assessment (Assessment) was prepared for the proposed project by Coastal Resources Management, Inc., dated 1/12/12

Email communication from California Department of Fish & Game, dated 3/13/12 re proposed project.

City of Huntington Beach certified LCP (used as guidance only in this area of original jurisdiction).

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google



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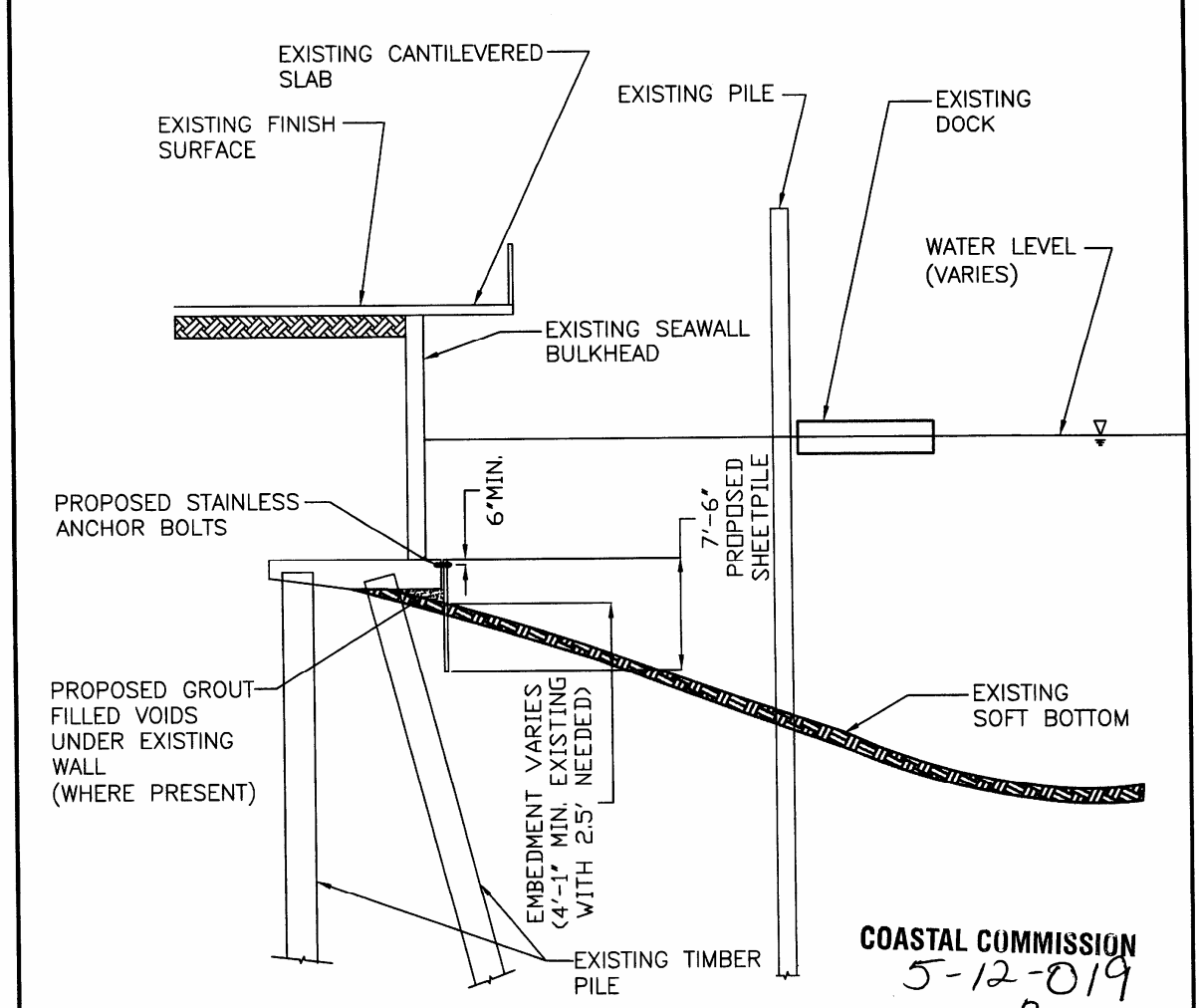

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exeltech	NICHOLS SEAWALL HUNTINGTON BEACH, CA.	Designed by: GSR	Date: 1/11/2012	Job No. 1135-2
	PROPOSED ELEVATION	Drawn by: GSR	Scale: 1"=10'	PAGE 5 OF 5
			Rev.	

From: Loni Adams [LAdams@dfg.ca.gov]
Sent: Tuesday, March 13, 2012 1:09 PM
To: Greg Reid
Cc: Vaughn, Meg@Coastal
Subject: 4022 Diablo Circle CDP Application

Dear Mr. Reid:

The Department of Fish and Game (Department) has reviewed the eelgrass and Caulerpa taxifolia, pre-construction surveys as well as the biological impact assessment dated January 12, 2012. The surveys and assessment are for one proposed seawall replacement at 4022 Diable Circle, Huntington Beach, CA. This project would utilize the same repair approach, have relatively the same environmental site conditions, and would utilize the same best management practices that were utilized on another seawall replacement project at 16812 Baruna Lane. This project was reviewed with no objections by the Department in March of 2011.

The current project proposes to remove existing concrete over pour to restore 10.95 square feet of soft bottom and mitigate 2.71 square feet of soft bottom that will be covered permanently by the installation of the seawall panels. Therefore, a net increase of 8.24 square feet of soft bottom would be restored to Huntington Harbor. The increase in soft bottom is proposed to be incorporated into a mitigation bank. The Department believes that the proposed protective measures and mitigation strategies would avoid and minimize temporary and/or permanent impacts to soft bottom and other marine life and their habitats within the vicinity of the construction area. The Department has no objections to this proposed project as long as the construction of the seawall is implemented using the best management practices and the increased soft bottom area proposed in the impact assessment document. The Department concurs with the plan to conduct pre- and post-construction surveys for eelgrass and Caulerpa taxifolia as per the Southern California Eelgrass Mitigation Policy, revised 2005, and the California Caulerpa Control Protocol, 2008. These policies and protocol are widely used and accepted through out southern California.

Please forward a copy of the biological surveys and monitoring reports related to this construction project to the Department for our review.

Thank you for the opportunity to review and comment on this document.

Sincerely,

Loni Adams
Environmental Scientist
Department of Fish and Game
Marine Region
3883 Viewridge Ave.
San Diego, CA 92123
ladams@dfg.ca.gov
Office: 858-627-3985
Fax: 858-467-4299