

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 9/15/11
49th Day: 11/3/11
180th Day: 3/13/12
Staff: Meg Vaughn-LB
Staff Report: 12/22/11
Hearing Date: 1/11-13/12
Commission Action:

**W7b****STAFF REPORT: CONSENT CALENDAR****APPLICATION NUMBER:** 5-11-224**APPLICANT:** Betty Y. Liang**AGENT:** None**PROJECT LOCATION:** 3532 Venture Drive, Huntington Beach, Orange County**PROJECT DESCRIPTION:** Repair and resurface an existing 44 foot long, concrete deck cantilevered 5 feet beyond the bulkhead. The existing 42 inch high wrought iron railing will be re-used and replaced along the perimeter of the cantilever.**LOCAL APPROVALS RECEIVED:** City of Huntington Beach Approval-In-Concept, dated 9/2/11.**SUBSTANTIVE FILE DOCUMENTS:** City of Huntington Beach certified Local Coastal Program (used as guidance in this area of retained jurisdiction).**SUMMARY OF STAFF RECOMMENDATION:**

Commission staff is recommending **APPROVAL** of the proposed project with **three (3) Special Conditions** regarding: **1)** requiring the to applicant submit evidence of approval from the California State Lands Commission; **2)** notifies the applicant of construction practices and debris removal responsibilities; and **3)** notifies the applicant that approval of this permit does not waive any public rights that may exist at the site.

LIST OF EXHIBITS

1. Location Map
2. Project Plans
3. CSLC Application Processing Reimbursement Agreement 06411

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 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.

III. SPECIAL CONDITIONS:**1. California State Lands Commission Approval**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, applicant shall submit, for the review and approval of the Executive Director, written evidence (such as an approved lease) that the California State Lands Commission (CSLC) has authorized the proposed development which is proposed to occur on/over lands owned and administered by the CSLC.

2. 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.

3. 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 LOCATION AND DESCRIPTION

The applicant proposes to repair and resurface an existing 44 foot long at the bulkhead, tapering to 34 feet long on the channelward side, concrete deck cantilevered 5 feet beyond the bulkhead. The existing 42 inch high, wrought iron railing is proposed to be removed, repaired and re-used along the perimeter of the cantilevered deck.

A gutter system is proposed to catch any runoff from the deck and deck drainage will be directed landward onto the subject lot. No products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye will be used on the deck, therefore, pollutants from those products will not drain to the harbor during or after construction. No bottom disturbing activities are proposed.

The proposed deck would cantilever over the waters of Huntington Harbor. In this area of Huntington Harbor, the water area is owned by the State of California, administered by the California State Lands Commission (CSLC). The applicant has submitted an application for a lease from the CSLC for use of the area over which the deck cantilevers (see exhibit 3), but has not yet received final approval of a lease. Therefore, a special condition is imposed which requires the applicant to submit evidence of approval from the landowner, CSLC, prior to issuance of the coastal development permit. Furthermore, a special condition is imposed stating that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program. However, due to the project location seaward of the mean high tide line, the project is within an area of the Commission's retained permit jurisdiction. Nonetheless, the City's certified Local Coastal Program may be used as guidance. The land use designation at the site is Open Space – Water (OS – W). The site is zoned Open Space Water Recreation. The proposed development is consistent with the City's certified LCP, specifically with Implementation Plan Chapter 213 Open Space District, which allows private cantilevered decks abutting residential uses, and with Chapter 210, which provides standards for cantilevered decks in Huntington Harbor in the Open Space Water Recreation zone.

The proposed deck is associated with the adjacent single family residential use. Most of the Huntington Harbour water frontage is developed with single family homes, many of which also have cantilevered decks and boat docks. Virtually the entire water frontage in Huntington Harbour is supported by bulkheads. The proposed deck is similar in function to the other cantilevered decks associated with residential development within Huntington Harbor. The proposed development is consistent with past Commission actions in the area.

The subject site is located on Trinidad Island in Huntington Harbour. Trinidad Island is publicly accessible via the Trinidad Lane bridge from the mainland. On-street parking is the major source of public parking. In addition, a small public beach flanks Trinidad Lane at the entrance to Trinidad Island, and public fishing docks are located at the ends of Sundancer Lane and Typhoon Lane on Trinidad Island. A public walkway along the bulkhead extends for much of the length of Venture Drive and along Typhoon Lane. In addition, a public park runs through the center of Trinidad Island.

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. 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

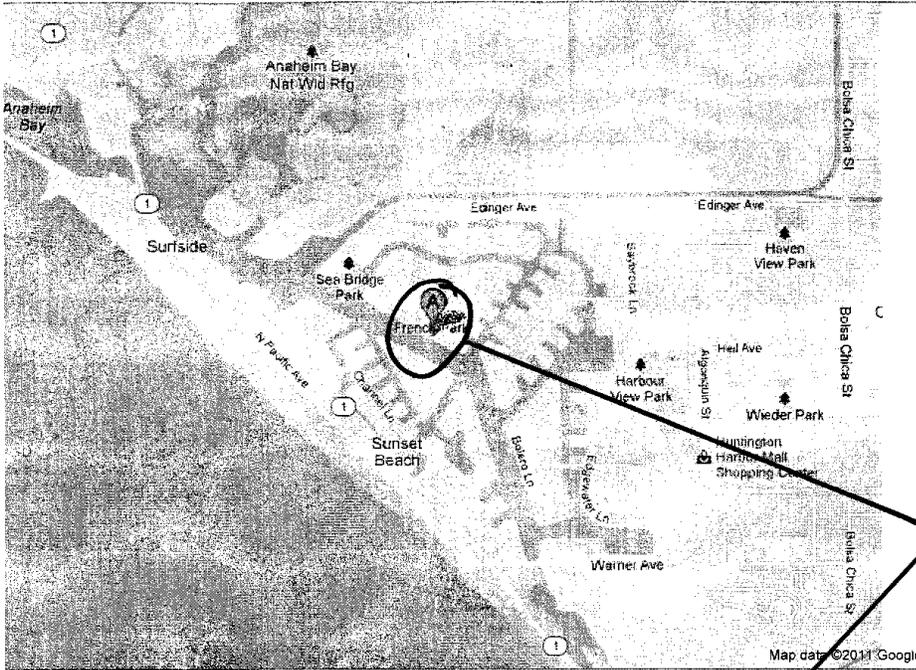
site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

D. LOCAL COASTAL PROGRAM

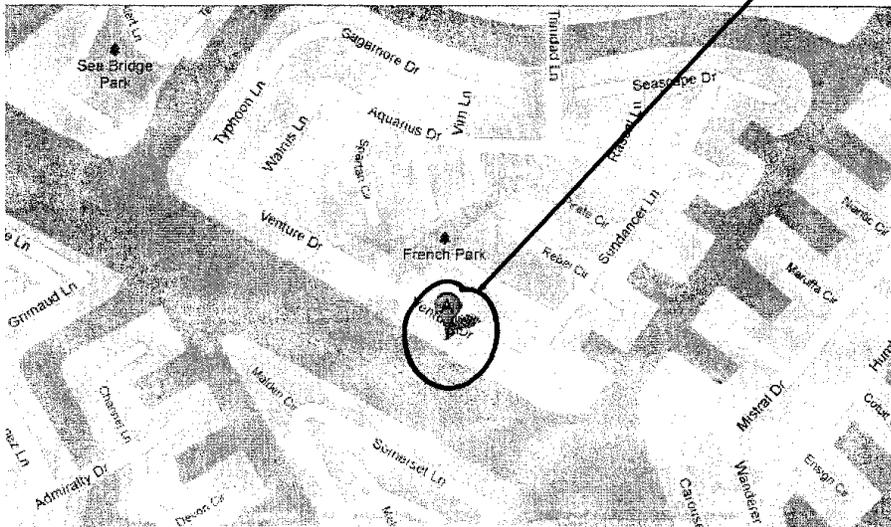
Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability 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.

E. 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.



Project Location



VICINITY Map

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EXHIBIT # 1
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**CALIFORNIA STATE LANDS COMMISSION
APPLICATION PROCESSING REIMBURSEMENT AGREEMENT
Agreement 06411**

1. PARTIES. This Agreement is between Betty Y. Liang (hereinafter 'Applicant'), whose mailing address is 3532 Venture Drive, Huntington Beach, CA 92649, whose Project Manager is N/A, and the California State Lands Commission (hereinafter 'State') whose Project Officer is Spencer Paschall. 11/4

2. AGREEMENT: Applicant agrees to reimburse the State for services (hereinafter 'the Services') reasonably necessary to process the application submitted by Applicant, identified in the State's records as WP5244 (hereinafter 'Application'), for consideration by the California State Lands Commission of project described as Lease: General - Recreational Use, within Orange County(ies). The estimated cost will be \$1,500. Applicant agrees to submit a deposit in the amount of the estimated total cost of the Agreement.

Note: If the total deposit has previously been submitted, no further deposit is necessary at this time.

The State will advise Applicant if actual costs exceed the above estimate by ten percent (10%) or more. Costs in excess of the initial deposit shall be invoiced and mailed to Applicant. Applicant shall notify State within fifteen (15) days of being advised of any estimated cost increase if the Applicant wishes to dispute the costs or terminate the project in accordance with Section 4 of this Agreement. No response shall be deemed agreement to pay the revised estimated costs. No Commission action shall be taken on the application until all amounts due have been paid.

Additional payments shall be mailed to the California State Lands Commission, 100 Howe Avenue, Suite 100 South, Sacramento, CA 95825, within 30 days of receipt of invoice. Should the advance deposits exceed actual costs, a refund will be mailed to the Applicant within sixty days of completion of the transaction, or earlier termination as provided in Section 4 below.

Applicant agrees to indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting from Applicant's performance under this Agreement.

Applicant understands that by entering into this Agreement, the State is not representing that the Application will be approved by the California State Lands Commission or other state, local or federal permitting agencies.

3. TERM. This Agreement shall be effective from 08/31/2011 and shall continue in full force and effect through 08/30/2013, unless terminated earlier pursuant to the provisions contained herein.

4. TERMINATION. Either party may elect to terminate this Agreement at any time upon ten (10) days written notice to the other party. Applicant agrees that in the event of termination of this Agreement by either party, it shall reimburse the State upon its written request one hundred percent (100%) of all costs incurred by the State for the performance of its obligations as described in this Agreement through the termination date.

5. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of California.

STATE OF CALIFORNIA

BY: David W. Brown

David W. Brown
Chief, Fiscal and Information Services

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STAFF COUNSEL REVIEW

EXHIBIT # 3

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BY: Betty Y. Liang 10-22-11

Name BETTY Y. LIANG (date)

Address 3532 Venture Drive
Huntington Beach, CA.
92649