

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application Number: 5-17-0399

Applicant: Santa Catalina Island Company

Agent: Anchor QEA, LLC

Project Location: 302-306 Crescent Avenue, City of Avalon, Los Angeles County.

Project Description: Permanent authorization for repair and replacement of piles supporting the Bluewater Grill and Antonio's Pizzeria under two emergency permits, and additional repair of 7 pier piles and replacement of 7 pile foundations.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The subject site is the wharf supporting the Bluewater Grill and Antonio's Pizzeria in Avalon Bay. The major issues before the Commission relate to public access, water quality and marine resources. Staff is **recommending approval** of the proposed development with **Ten Special Conditions** regarding 1) future improvements return to the Commission for review; 2) timing of construction; 3) use of construction best management practices (BMPs); 4) disposal of construction materials; 5) conformance with Water Quality Management Plan; 6) pressure treated wood in the marine environment; 7) pier pilings and water quality, 8) public rights; 9) resource agency approval; and 10) assumption of risk, waiver of liability and indemnity.

Pursuant to Section 30519 of the Coastal Act, development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The Commission's area of original jurisdiction includes tidelands, submerged lands, and public trust lands, whether filled or unfilled. The proposed project is situated on submerged lands and on filled tidelands within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development in its area of original jurisdiction is the Chapter 3 policies of the Coastal Act. The City of Avalon certified LCP is advisory in nature and may provide guidance. The proposed project does not conflict with Chapter 3 Coastal Act policies or the City of Avalon certified LCP.

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EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Site Plans
- Exhibit 3 – Emergency Permit No. G-5-15-0030
- Exhibit 4 – Emergency Permit No. G-5-17-0031

I. MOTION AND RESOLUTION

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 of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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

This permit is granted subject to the following 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 applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Future Improvements. This permit is only for the development described in Coastal Development Permit No. 5-17-0399. Pursuant to Title 14, California Code of Regulations, Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code, Section 30610(b) shall not apply. Accordingly, any future improvements to the development authorized by this permit that would result in any change to wharf including, but not limited to, repair and maintenance identified as requiring a permit in Public Resources Code, Section 30610(d) and Title 14, California Code of Regulations, Sections 13252(a)-(b), shall require an amendment to Permit No. 5-17-0399 from the Commission or shall require an additional coastal development permit from the Commission.

2. Timing of Construction and Public Access. By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of Crescent Avenue and the wharf's adjacent beaches, or public parking lots resulting from construction activities as required below:

- A. No construction shall occur during the "peak use" beach season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.
- B. Construction work will take place during the City's approved construction hours.

3. Construction Responsibilities and Debris Removal. The permittee shall comply with the following construction related requirements:

- A. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- B. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- C. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- E. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- F. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;

- G. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- H. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- I. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- J. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- K. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- L. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- M. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- N. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- O. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- P. All BMP's shall be maintained in a functional condition throughout the duration of construction activity.

4. Location of Debris Disposal Site. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility.

5. Water Quality Management Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Water Quality Management Plan (WQMP), which incorporates Best Management Practices (BMPs) including, but are not limited to:

1) all equipment shall be inspected for leaks immediately prior to the start of construction operations, and regularly inspected thereafter until project completion. Vehicles and equipment with leaks shall not enter the project/beach area; 2) trash and other debris encountered during demolition and clean-up shall not be disposed of in the ocean, but will be disposed of off-site at an approved landfill; and 3) secure all materials to prevent discharges to receiving waters via wind.

6. Pressure-Treated Wood in the Marine Environment. The permittee shall comply with the following requirements related to the use of pressure-treated wood in the marine environment:

A. Each new pressure-treated pile installed shall be wrapped (with fiberglass, epoxy resin composite, or High-density polyethylene (HDPE) wrap, etc.) extending the entire length of the pile and sealed completely to prevent any leaching of preservative chemicals into coastal waters. Any place where the protective wrap is required to be punctured (e.g., for mounting hardware, attaching cross bracing, or attaching bumpers to fender piles) shall be sealed thoroughly with epoxy suited to the marine environment.

B. Pressure-treated wood used in construction of the project shall meet the American Wood Protection Association's (AWPA) wood preservative standards, specifically AWPA Standard U1, the primary specification for pressure-treated wood.

C. Ammoniacal copper zinc arsenate (ACZA) pressure-treated wood shall be treated to the proper preservative retention standard (i.e., amount of preservative) specified by the AWPA for the appropriate AWPA Use Category. The ACZA pressure-treated wood used for the project shall not have a preservative retention exceeding the minimum specified for the appropriate Use Category, in order to minimize the amount of preservative present in treated wood on-site that may subsequently leach into the marine environment.

D. The ACZA pressure-treated wood shall be inspected on-site to assure it is free of visible surface residues or bleeding of preservatives. If ACZA pressure-treated wood has a noticeable ammonia odor, then it has not been properly processed or aged, and the preservative may thus not be properly fixed, therefore the lumber shall not be used.

E. The ACZA pressure-treated wood shall be stored in a contained area within a continuous, plastic-lined berm on the deck of the materials barge or the staging area. If there is a chance of precipitation, the wood shall be stored under a covered area or tarp to prevent exposure to precipitation or run-on wastes from surrounding areas. No runoff from the pressure treated wood storage area shall be allowed to drain to the marine environment.

F. Whenever possible, cutting or drilling of ACZA pressure-treated wood shall be performed at a site a minimum of 100 feet away from the water, to minimize transport of debris and sawdust by wind to the marine environment. Any resulting sawdust, drill shavings, and wood scraps shall be contained and collected immediately, in order to prevent the discharge of pressure-treated wood to the marine environment. If it is essential that treated wood be cut or drilled in place on the pier, a protective layer shall be installed between the activity and the receiving waters so that all sawdust, shavings, and wood scraps generated during construction will be collected and prevented from entering the water below.

G. The procedures outlined in AWPA Standard M4, Standard for the Care of Preservative-Treated Wood Products, shall be followed when applying a topical (non-pressure treated) preservative to the cut ends of treated wood. Whenever possible, application of a topical

preservative to treated wood shall be performed at a site a minimum of 100 feet away from the water, equipped with containment for potential drips and spills, in order to prevent discharge of the preservative to the environment. The topical preservative shall not be applied during rain events. Any excess topical preservative shall be wiped off, and the preservative shall be allowed to fully dry before the wood is used in construction. If a small amount of touch-up preservative application must be performed over water, then tarps or containers shall be used to capture any potential spills or drips.

H. Existing creosote-treated or ACZA-treated piles at the pier to be removed shall be removed and disposed of at a landfill authorized to accept such chemically treated waste.

7. Pier Pilings and Water Quality. Material used for construction of piers, pilings, docks, dolphins, or slips shall not include timber preserved with creosote, (or similar petroleum-derived products). Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. To prevent the introduction of toxins and debris into the marine environment, the use of plastic wrapped pilings (e.g., PVC Pilewrap) and reinforced plastic for pilings (e.g., high density polyethylene (HDPE) pile armor), shall conform to the following requirements:

A. The material used shall be durable and a minimum of one-tenth of an inch thick.

B. All joints shall be sealed to prevent leakage.

C. Measures shall be taken to prevent ACA, CCA and/or ACZA from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.

D. The fiberglass jackets shall extend a minimum of 18 inches below the mudline, or to the concrete foundation in cases where the pile does not extend below the subsurface.

E. Plastics used to protect concrete or timber piers and docks or for flotation shall be subject to regular inspection to prevent sloughing of plastics into the waterway. A comprehensive inspection and maintenance plan shall be a requirement of any approval for projects involving plastic/or similar material wrapped piles, for the life of the piles.

F. The applicants shall be made responsible for removal of failed docks or materials.

G. If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for new piles or piling replacement, the least environmentally damaging materials and/or methods should be required for such projects, where feasible.

8. Public Rights. The 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.

9. Resource Agencies. The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, the Regional Water Quality Control Board, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

10. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The Santa Catalina Island Company is requesting permanent authorization for repairs made to the wharf that supports the Bluewater Grill and Antonio's Pizzeria, in addition to conducting a phased comprehensive repair and maintenance plan for the wharf to take place over the course of three years ([Exhibit 1](#)). The Commission most recently authorized the emergency repair of three piles, pile wrap, and fiberglass jackets, and installation of 10 cross braces to the eastern portion of the wharf under the Bluewater Grill in May of 2017 (Emergency CDP No. G-5-17-0031), which was completed in June 2017 ([Exhibit 4](#)). The remaining work is proposed to be conducted in three phases, and includes repairing 7 piles using the splice method, installing four girder braces, replacing 7 concrete footings with new concrete footing foundations, new wrapped timber posts/spliced piles, repairing 10 pile wraps, and replacing approximately 300 steel brackets ([Exhibit 2](#)). No work is proposed to the deck above, or the associated structures. All newly placed piles will be treated with ammoniacal copper zinc arsenate (ACZA), and wrapped in High-density polyethylene wrap.

The project site is the existing wharf that supports two restaurant structures, the Bluewater Grill and Antonio's Pizzeria, in the City of Avalon on Catalina Island ([Exhibit 1](#)). The wharf is approximately 162 feet long, and extends approximately 58 feet over Avalon Bay. Surrounding the subject wharf is the public beach (to the southeast), public boardwalk (to the northwest), Crescent Avenue to the west, and Avalon Bay to the east. The site is zoned by the City's Local Coastal Plan as Resort Recreational.

The original wharf has undergone several alterations since it was constructed in 1924, when it served as the home berth for steamer ships that ferried passengers between Avalon and Los Angeles. After the steam ferry service ended in 1975, the pier that extended out into Avalon Bay to service the ships was removed, but the wharf remained. The Commission has approved several coastal development permits for this location, most recently Coastal Development Permit Nos. 5-12-187 and 5-12-188 for the construction of the existing restaurant at 302 Crescent Avenue, and repair of the concrete vertical seawall located under the two restaurant structures, respectively. A coastal development permit is required from the Commission because the proposed development is located within the Commission's area of original jurisdiction.

Damage to the piles of the wharf that support the foundation of the two structures occurred during strong Santa Ana winds in an overnight storm event on December 30 and 31, 2014. As winds swept through Avalon Harbor, strong swells released debris and boats from their moorings in the harbor, impacting the pier's foundation piles. The resulting damage included the loss of two piles, and approximately half of a third pile. Emergency repairs completed in October and November 2015 were authorized under a Commission-issued Emergency Permit (G-5-15-0030), which consisted of placing five 6-inch by 6-inch vertical timber shore screw jacks on ready-mix cement bag foundations to temporarily support the structure and deck ([Exhibit 3](#)). The applicant did not apply for the follow-up coastal development permit as conditioned by the emergency permit and required by the Commission.

According to the applicant, an under-wharf inspection conducted in August 2016 by the applicant revealed that the temporary repairs had completely failed, and all but one of the vertical shore jacks had been lost, which shifted the existing load to the remaining piles, causing additional stress on the remaining piles, resulting in damage to the timber deck and structure above. Minor structural damage consisted of displacement of the deck and guardrail, cracks in the thin-set concrete floor near the landward side of the restaurant, and a horizontal crack in the waterside wall of the structure at the displaced section of the pier deck (*Memorandum to Nicholas Biro, Caldwell Land Solutions Regarding Pile Inspection and Proposed Repairs at Bluewater Grill and Antonio's Pizzeria, by Anchor QEA, LLC, November 4, 2016*). The under-wharf inspection also showed extensive corrosion of connecting brackets and straps, improper sealing methods and inconsistent pile wraps, water damage and marine borer damage, and corroded or deficient concrete foundations which were indicated to have been caused by the deficiency in the seal around existing piles to prevent marine borer activity and dry rot. Failed or abandoned concrete foundations and debris were also found under the wharf, which could cause additional damage if loosened during future storm events.

The applicant applied for a second emergency coastal development permit in May 2017 for the most critical repairs necessary to maintain the structural integrity of the pier and the associated structures (G-5-17-0031), and at the direction of staff, also applied for a comprehensive Coastal Development Permit 5-17-0399 for the emergency work and the rest of the phased work proposed. As stated, the repairs made pursuant to Emergency Permit G-5-17-0031 included the repair of 3 piles with new wrap and new fiberglass jackets, and the addition of 10 cross braces, which were completed in the beginning of June 2017.

As stated, the remaining work is proposed to be conducted in three phases. The first phase of construction is proposed to focus on the eastern portion of the wharf (under 306 Crescent Ave.), and includes the repair of six piles utilizing the splice method, repair of seven pile wraps, and

replacement of 46 steel brackets, straps, and associated bolts. The second phase is proposed to include maintenance and repair work to the western portion of the pier (under 302 Crescent Ave.), which consists of replacement of 7 concrete footing foundations and 7 new wrapped timber piles, repair of 1 pile utilizing the splice method, removal of a loose abandoned concrete foundation, and replacement of 14 steel brackets, straps, and associated bolts. Phase three is proposed to finalize the work on the western portion of the wharf, which includes repairing three pile wraps, replacing 240 steel brackets, straps, associated bolts and installation of four girder braces.

All damaged piles are proposed to be repaired utilizing a splicing method where the existing pile is partially cut and a new pile is spliced into the existing pile. All new timber components are proposed to be non-creosote treated, and are anticipated to be treated with Ammoniacal Zinc Arsenate (ACZA), and wrapped in High-density polyethylene wrap. All replacement footings would be cast in place to the original size or smaller than the foundation to be replaced. No eelgrass or invasive algae were observed in the vicinity as documented in both the 2012 and 2015 biological assessments, and are not expected to occur due to the substrate features of this location. The Essential Fish Habitat (EFH) assessment indicated that effects to EFH, as well as ocean bottom habitat, would be only temporary and minimal due to turbidity generated during pile repair during high tide, and disturbance of the rocks in this location. Additionally, according to the habitat assessment, any disturbed habitat below the wharf in this location is likely to recolonize within 1 to 3 years, and impacts to special status species, including marine mammals would also be minimal as no pile driving or other activities that create loud underwater or airborne noises are proposed.

Construction is proposed to take place over the course of three years utilizing a phased approach, and is anticipated to take place intermittently during the fall and winter of 2017 to 2020, Monday through Friday, during the City of Avalon's allowable construction work hours. The staging area will occur on the structure itself, in addition to minor staging located in the City's upland areas so as not to interfere with the public's access to the sidewalk along Crescent Avenue or the public beach. Since the construction will take place during the fall and winter months outside of the peak season, the public's ability to walk along the sidewalk along Crescent Avenue or along the sandy beach during low tide is not anticipated to be impacted. To ensure the construction does not occur during the summer months, the Commission is imposing **Special Condition 2**, which limits construction during the non-peak beach use period.

The applicant has proposed Construction Phase Best Management Practices, which include: 1) floating debris shall be removed from the water and disposed properly; 2) trash and other debris encountered during demolition and clean-up shall not be disposed of in the ocean, but will be disposed of off-site at an approved landfill; 3) the contractor shall avoid covering and disturbing any low-relief boulders that may support higher numbers of intertidal organisms; and 4) equipment operators and all other project workers shall not harass any marine mammals, waterfowl, or fish in the project area. To ensure water quality is sufficiently protected during construction and after construction, the Commission is imposing **Special Conditions 3, 4, 5, 6, and 7**. The Commission also imposes **Special Condition 10** requiring that the permittee acknowledge and assume the potential hazards associated with development in or near the water. The approval of this permit includes special conditions to reduce the potential for adverse impacts on the water quality of Avalon Bay. As conditioned, the proposed pier repair project does not: 1) adversely impact public access to and use of the water; 2) adversely impact public recreational use of the beach; or d)

otherwise adversely affect coastal resources. Therefore, the proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

B. MARINE RESOURCES

The proposed wharf repairs do not result in the additional fill of coastal waters. The proposed development has been conditioned to minimize any significant adverse effect the project may have on the environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

C. PUBLIC ACCESS

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

D. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Avalon certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Avalon LCP on May 21, 1981. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

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, and the project will not have any significant impacts within the meaning of CEQA. 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.