

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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# Th 5c

Staff: M. Vaughn – LB  
Date: June 22, 2017

## ADMINISTRATIVE PERMIT

**Application No.** 5-17-0396

**Applicant:** Zachary Lindborg

**Project Description:** Remove existing 17-foot long deck cantilevered 5 feet beyond the bulkhead and construct new, 43-foot long, concrete deck cantilevered 5 feet beyond the bulkhead.

**Project Location:** 16971 Edgewater Lane, Huntington Beach, Orange County  
APN: 178-323-14

## EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

**Thursday, July 13, 2017**

**California State University Monterey Bay - World Theater Building**

5260 6<sup>th</sup> Avenue

Seaside, CA 93955

**IMPORTANT - Before you may proceed with development, the following must occur:**

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

**BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.**

JOHN AINSWORTH  
Executive Director

By: Meg Vaughn  
Coastal Program Analyst

**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 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 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 term or 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.

**SPECIAL CONDITIONS:** See pages six through eight.

## **EXECUTIVE DIRECTOR'S DETERMINATION (continued):**

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

## **FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION**

### **A. PROJECT DESCRIPTION**

The applicant proposes to remove an existing 17-foot long deck cantilevered 5 feet beyond the bulkhead and construct new, 43-foot long, 215 square foot, concrete deck cantilevered 5 feet beyond the bulkhead, on a residentially zoned, harbor front lot at 16971 Edgewater Lane, in Huntington Harbor in the City of Huntington Beach (**Exhibit 1**). The proposed cantilevered deck includes a 3.5-foot high picket railing along the perimeter of the cantilevered portion of the deck. The cantilevered deck will be set back 5 feet from the extension of the northwest property line and 5 feet eleven inches from the southwest property line.

Most of the Huntington Harbor water frontage is developed with single-family homes, many of which have cantilevered decks and boat docks over public waters, including properties adjacent to the project site. The proposed deck and railing are associated with the adjacent single-family residential use. 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. Virtually the entire water frontage in Huntington Harbor is supported by bulkheads. The project plans are included in **Exhibit 2**.

The proposed deck will be sloped such that all drainage will be directed landward to the lot and ultimately to the City's storm drain system. In addition, soaps, paints, detergents or any products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye will not be used on the deck and so will not be allowed to drain into the harbor waters. All work will occur from the landward side of the deck. No barges or any anchoring will occur. The proposed construction will not disturb harbor waters or harbor bottom sediments. Additionally, **Special Condition 1** requires the applicant to incorporate water quality and best management practices (BMP) measures into the project.

Although cantilevered above the water, the proposed deck would preclude the general public from utilizing the public water area underneath the deck for recreation or navigational purposes. However, the proposed deck will not expand further bayward than the existing deck to be replaced or than other existing decks in the area. There is no sandy beach area along the bulkhead, therefore, in this case, the placement of a deck cantilevered 5 feet beyond the bulkhead would not create any

new impediment to public access as there is no opportunity for the public to walk in front of the bulkhead at this site or immediate area. The nearest public access in the area is the public beach approximately 600 feet north of the site at Davenport Beach Park. The proposed development will not have any significant adverse impact on public access to the coast or to nearby recreational facilities. In this case, there is an existing significant pattern of development of 5-foot wide decks cantilevered over the bulkhead. Thus, the construction of a cantilevered deck at this site and in this location would not be establishing a new pattern of development (nor create an adverse public access condition, as previously mentioned). The Commission imposes **Special Condition 2** 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 or on adjacent public waters.

The proposed deck will be cantilevered over the existing bulkhead. A Bulkhead Condition Report and Sea Level Rise Discussion (Report) was prepared for the proposed development by GeoSoils, Inc., dated June 5, 2017. The Report assessed the condition of the existing bulkhead and states:

*“The bulkhead is in very good condition with no signs of any distress, movement, or scour at the mudline. The weep holes are functioning properly. The construction joints are in good condition. The bulkhead top and face are level and continuous with the bulkhead fronting the adjacent properties.”*

Regarding the expected life of bulkhead effectiveness, the Report states:

*“The bulkhead is in very good condition and has been in place for about 30 years. With maintenance, it is reasonable to assume that the bulkhead could last another 75 years or more. The bulkhead can be modified to adapt to sea level rise (SLR) as discussed later in this report.”*

The Report further indicates that the *“bottom of the deck and top of the bulkhead is safe from harbor water impacts until about the year 2075. This allows for about 3.4 feet of SLR under the highest CCC SLR rate.”*

Finally, the Report states:

*“The proposed deck and the existing bulkhead can be adapted to respond to sea level rise. The deck can be removed and the height of the bulkhead can be extended vertically. The deck can then be reconstructed on the higher bulkhead at an elevation above the potential harbor water impacts. Such a bulkhead extension would not require additional bay-ward encroachment. Based upon the highest SLR projection the deck and bulkhead top will be safe until the year +/-2075. The existing bulkhead can structurally accommodate an increase in height. Bulkhead extension is considered a viable means of mitigating SLR and bay water impacts to the Huntington Harbor bulkheads. An additional 3 feet of height, to elevation +12.4 feet NAVD88, can be easily added to the existing bulkhead, which would protect against even the most conservative high flood risk past the year 2100. Such an adaptation would not result in additional bay-ward encroachment of the bulkhead since it could be added directly on top of the existing bulkhead.”*

The City of Huntington Beach 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 City of Huntington Beach reviewed the proposed plans and issued Approval-in-Concept dated May 3, 2017. In this area of Huntington Harbor, the water area is owned by the State but administered by the City of Huntington Beach.

## **B. PUBLIC ACCESS**

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **C. RECREATION**

The proposed development, as conditioned, does not interfere with public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

## **D. WATER QUALITY**

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for 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. To reduce the potential for post-construction impacts to water quality the Commission requires the continued use and maintenance of post construction Best Management Practices. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act.

## **E. LOCAL COASTAL PROGRAM**

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. 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 may be used as guidance. As conditioned, the proposed development is consistent with Chapter 3 policies of the Coastal Act and with the certified LCP for the area.

## **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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.

## **SPECIAL CONDITIONS:**

This permit is granted subject to the following special conditions:

### **1. Water Quality**

#### **A. Construction Responsibilities and Debris Removal**

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- (5) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- (6) 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;
- (7) Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- (8) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- (9) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- (10) 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;

- (11) 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;
- (12) 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;
- (13) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (14) 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;
- (15) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) 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
- (16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**B. Best Management Practices Program**

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs:

- (1) Boat Cleaning and Maintenance Measures:
  - a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
  - b. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and
  - c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
- (2) Solid and Liquid Waste Management Measures:
  - a. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.
- (3) Petroleum Control Management Measures:
  - a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore

be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;

- b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and
- c. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

**2. 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.

**ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:**

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date of Signing