

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**F6c**

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-17-0300

Applicant: City of Long Beach

Agent: Tetra Tech, Rafael J. Holcombe, P.E.

Location: Bay Shore Beach, 5415 E. Ocean Blvd., Long Beach,
(Los Angeles County)

Project Description: Replace a 900 sq. ft. public swim float with a 1,370 sq. ft. swim float in the same location, re-deck existing 620 sq. ft. pier, and install new gangway and bollard lighting. Construct a 277 sq. ft. ADA-compliant landing and walkway ramp on the beach to access the pier.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The City of Long Beach (applicant) is proposing to replace an existing 900 sq. ft. public swim float with a new 1,370 sq. ft. public swim float, and to construct a 277 sq. ft. ADA-compliant landing and walkway ramp on the beach to access the pier. The proposal also includes re-decking the existing pier, replacing the gangway, and installing new bollard lighting. No pile driving or other bottom-disturbing activities are proposed, and existing eelgrass beds will not be affected by the proposed project.

The proposed development is within the Commission's area of original jurisdiction. Due to its location on the water and on the beach, the project site may be exposed to the hazards of waves, storm conditions, sea level rise or other natural hazards. However, conditions have been imposed in order to minimize potential adverse impacts from the development and for consistency with Chapter 3 of the Coastal Act. As conditioned, the proposed project will enhance public access and provide low cost public recreational opportunities at the beach.

Staff recommends **approval** of the proposed project with **six (6)** special conditions. The special conditions are related to: **1) Revised Plans; 2) Water Quality BMPs; 3) Pre- and Post-Construction Eelgrass Survey(s); 4) Pre-Construction *Caulerpa Taxifolia* Survey; 5)**

Assumption of Risk, Waiver of Liability and Indemnity; 6) Future Development. The applicant agrees with the recommendation.

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EXHIBITS

[Exhibit 1 – Vicinity/Site Map](#)

[Exhibit 2 – Dock Plans](#)

[Exhibit 3 – Pre-Construction Eelgrass Survey Results](#)

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 Local Coastal Program conforming to the provisions of Chapter 3, and the public access and recreation policies of the Coastal Act. 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 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 of 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

This permit is granted subject to the following special conditions:

1. **Revised Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of architectural plans that substantially conform to the project plans by Tetra Tech provided to this office on April 10, 2017 but shall be revised to delete the use of concrete pavement for the proposed ADA-compliant 277 sq. ft. landing and walkway (2.37 cu. yds.) and propose to utilize an alternative material such as geogrid mat, composite boardwalk, or similar less permanent material easily removable if the approved structures are threatened in the future by coastal hazards such as sea level rise and/or shoreline erosion.

The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.

2. **Water Quality - 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.

3. Pre-and Post-Construction Eelgrass Survey(s)

- A. Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre- construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy and Implementing Guidelines” dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. 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 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth

period, 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 “California Eelgrass Mitigation Policy” dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) (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 Wildlife. 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 1.38:1 ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1 (mitigation: impact). Any exceptions to the required 1.38:1 mitigation ratio found within the California Eelgrass Mitigation Policy 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.

4. Pre-construction *Caulerpa Taxifolia* Survey

- A.** Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B.** The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C.** Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - (1) for the review and approval of the Executive Director; and
 - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043), or their successors.
- D.** If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. **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 waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (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 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.

6. **Future Development.** This permit is only for development described in Coastal Development Permit No. 5-17-0300. 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 to the development governed by Coastal Development Permit No. 5-17-0300. Accordingly, any future improvements to the development authorized by this permit, including, but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-17-0300 from the Commission or shall require an additional coastal development permit from the Commission.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves the replacement of an existing 900 sq. ft. public wood swim float, gangway, 620 sq. ft. of pier decking and guardrail with a new 1,370 sq. ft. float, and construction of a new 277 sq. ft. concrete ADA-compliant landing and walkway ramp to access pier from existing sidewalk, and installation of new bollard lighting ([Exhibit #2](#)). The proposed project would utilize the two existing 14” diameter guide piles securing the swim float and the six existing T-piles supporting the access pier. Only the pile caps are proposed to be replaced. The replacement swim float would consist of two 450 sq. ft. prefabricated concrete swim floats connected in the center with a translucent 470 sq. ft. platform to create the new larger 1,370 sq. ft. swim float.

The project is located at Bay Shore Beach, a public beach within Alamitos Bay in the City of Long Beach at 5415 E. Ocean Blvd. The site is a narrow sandy beach facing Alamitos Bay and is developed with a Lifeguard Station, Co-op Pre-School, basketball courts, handball/racquetball courts, roller hockey rink, children’s playground, kayak rental concession, and public restrooms ([Exhibit #1](#)). Multi-family and single-family residences and associated private boat dock systems characterize the surrounding area.

The City of Long Beach has a certified Local Coastal Program. However, due to the project location over public tidelands/submerged lands, 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 certified zoning designation at the project site is Park. The proposed development is consistent with the City’s certified LCP, which limits uses at the site to those uses that are subject to the Common Law Public Trust, such uses are limited to navigation, fishing, commerce, public access, water-oriented recreation, open space and environmental protection. The City of Long Beach Department of Planning and Building reviewed the proposed plans and issued an Approval-in-Concept dated 3/31/17.

The project proposes to replace an existing swim float, gangway, and access pier components (i.e., decking, stringers, guardrail, and pile caps). The only new components proposed are new bollard lighting and a new 277 sq. ft. ADA compliant concrete pavement landing and walkway over sandy beach area in order to connect the existing paved sidewalk with the access pier to the swim float. The paving of a concrete landing and walkway that bisects the sandy beach presents a concern that in the future, beach sand erosion at the site may cause the raised concrete landing and walkway to become a hazard and impede access across the beach should there be a loss of sand beneath the concrete structure. Furthermore, future sea level rise may cause the proposed concrete pavement to be permanently flooded. Therefore, to address these future erosion and rising sea level concerns, the Commission imposes **Special Condition 1** requiring the applicant provide revised project plans proposing an alternative material to the proposed concrete pavement for new walkway connecting the existing sidewalk to the existing swim float access pier to a less permanent material such as a geogrid mat or composite boardwalk that may be easily removed if threatened by coastal hazards.

The proposed replacement swim float and other improvements will be used for public recreation related purposes serving the general public. The proposed development is located on public tidelands and/or within an area subject to public trust doctrine. The proposed project would

continue to provide a public recreational amenity that provides and as improved, increases access to the water. There is direct public pedestrian access to public tidelands at the subject site. From this beach, members of the public may have direct access to the bay waters for swimming or to launch a small vessel such as a kayak.

Alamitos Bay is known to support eelgrass habitat. Eelgrass habitat has been identified as a sensitive marine resource by the CA Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service. Eelgrass habitat provides cover, refuge, foraging grounds and act as nurseries for various marine invertebrates and fish. Therefore, on May 5, 2017, the project site and vicinity was surveyed by Tetra Tech for both eelgrass (*Zostera marina*) and *Caulerpa taxifolia*, an invasive alga that poses a threat to coastal marine life. *Caulerpa taxifolia* was not discovered in the project area or vicinity. Eelgrass was found and the habitat's spatial extent, aerial extent, percent bottom cover and turion (shoot) density were all recorded during the survey. Patches of eelgrass and areas of very sparse eelgrass were found to occur throughout the survey area and encompassed a total vegetative cover of 536 sq. ft. Eelgrass was found near the proposed dock in several locations, as close as within one foot at the southern end of the proposed new larger swim float. Very sparse eelgrass is found underneath the existing access pier and gangway. The gangway is proposed to be replaced and the decking of the access pier is proposed to be replaced, however, none of that work will be in the water and therefore will not result in disturbance/turbulence of soft bottom soils. Based on this survey, the proposed location of the larger swim float, and the fact that project proposed to retain the existing support piles and does not propose any new pile driving, no direct impact to eelgrass will result from the project ([Exhibit #3](#)).

Additionally, the TetraTech survey states:

“Factors affecting the establishment and success of eelgrass beds include depth range, substrate type and slope, available light, salinity, and temperature. The depth range for eelgrass in Alamitos Bay is generally 0-ft MLLW to -7-ft MLLW which is consistent with the depths throughout the project site...the substrate type and slope throughout the survey area appears to be suitable habitat for eelgrass...salinity and temperature appear to be adequate. Some areas of the project site lack sufficient available light. The amount of available light is one of the most important factors affecting the survival, growth, and distribution of eelgrass. Available light is affected by various factors including adjacent structures and over water objects such as the dock.”

The applicant proposes a larger swim float to accommodate a greater number of recreational swimmers. In recognition that the project site meets all the necessary parameters for the expansion of viable eelgrass habitat except for shading caused by the existing 900 sq. ft. swim float structure, the applicant proposes that the additional new 470 sq. ft. expansion be constructed of a translucent decking material so as to not expand the area of shading by the swim float, and thus possibly allow for the expansion of eelgrass habitat underneath the new swim float addition. The applicant is not proposing the use of translucent decking material as a mitigation measure, as no mitigation is required at this time since the project, as proposed, would not result in any direct impacts to eelgrass habitat based on the submitted eelgrass survey.

However, an eelgrass survey is only valid for a 60 day period and a *Caulerpa taxifolia* survey is valid for a 90-day period with the exception of surveys completed in August-October. A survey completed in August - October shall be valid until the resumption of active growth (i.e., March 1). As the item is scheduled to be heard by the Coastal Commission at its August 2017 meeting, the surveys will no longer be valid. Therefore, a subsequent eelgrass and *Caulerpa taxifolia* survey will be required prior to commencement of construction should the coastal development permit application be approved. Therefore, the Commission imposes **Special Conditions No. 2** and **No. 3**, which identifies the procedures necessary to be completed prior to commencement of construction. Also, if any eelgrass or *Caulerpa taxifolia* is found growing at the project site or vicinity, **Special Conditions No. 3** also identifies the procedures necessary to be completed prior to commencement of demolition/construction.

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. The proposed project includes measures to help ensure protection of coastal waters and marine resources during construction. Measures proposed include: floating debris shall be removed from the water and disposed of properly, all construction activities shall occur within the designated project footprint, and silt curtains shall be used during pile replacement. The Regional Water Quality Control Board (RWQCB) has determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used. The applicant has applied for a permit from the U.S. Army Corps of Engineers and the permit is pending coastal development permit approval. To ensure that all impacts (pre- and post- construction) to water quality are minimized, however, and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition No. 1**, which requires, but is not limited to, appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters; and the continued use and maintenance of post construction BMPs.

B. 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; rather, it will encourage and maximize public access. Therefore, as proposed and as conditioned, the project conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. RECREATION

The proposed development, as submitted, does not interfere with public recreational use of coastal resources and conforms with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. LAND/HABITAT

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms to Section 30240(b) of the Coastal Act.

E. MARINE RESOURCES

The proposed recreational floating development and its associated structures do not result in the fill of coastal waters and are an allowable and encouraged marine related use. 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, and 30231 of the Coastal Act.

F. 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 BMPs. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act.

G. HAZARDS

Development adjacent to the ocean or bay is inherently hazardous. Development which may be damaged by waves, exacerbated by sea level rise, should be designed to be removable and safe from hazards and easily removable if necessary. **Special Condition 1** requires revised plans to delete the use of concrete pavement for the proposed ADA-compliant 277 sq. ft. landing and walkway (2.37 cu. yds.) and to instead utilize an alternative material such as geogrid mat, composite boardwalk, or similar less permanent material easily removable if the approved structures are threatened in the future by coastal hazards such as sea level rise and/or shoreline erosion. Thus, to minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to require revised plans and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act.

H. LOCAL COASTAL PROGRAM (LCP)

Pursuant to Section 30519 of the Coastal Act, any development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The proposed project is situated over public tidelands/submerged lands within the Commission's area of original permit jurisdiction. Therefore, a coastal development permit must be obtained from the Commission. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Long Beach certified LCP is advisory in nature and may provide guidance. The City of Long Beach LCP was certified by the Commission on July 22, 1980. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act.

I. 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.

APPENDIX A - SUBSTANTIVE FILE DOCUMENTS

Eelgrass and Caulerpa Survey Bayshore Beach, Long Beach, Los Angeles County prepared by Tetra Tech, dated on May 5, 2017

City of Long Beach LCP