

**CALIFORNIA COASTAL COMMISSION**

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**W8a**

Filed: 6/18/2017  
180th Day: 12/15/2017  
Staff: M.Revell - LB  
Staff Report: 7/27/2017  
Hearing Date: 8/09/2017

**STAFF REPORT: CONSENT CALENDAR**

**Application Number:** 5-17-0167

**Applicant:** City of Seal Beach

**Agent:** Moffatt & Nichol

**Project Location:** Seal Beach Municipal Pier, City of Seal Beach, Orange County.

**Project Description:** Upgrade utility lines on the municipal pier (including water, sewer, gas and electrical lines), and make structural repairs (to cracked concrete encasements, broken piles, handrails, stringers, braces, and some timber decking).

**Staff Recommendation:** Approval with Conditions

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**SUMMARY OF STAFF RECOMMENDATION**

The subject site is the Seal Beach Municipal Pier in the City of Seal Beach. The major issues before the Commission relate to public access, water quality and marine resources. Staff is **recommending approval** of the proposed development with **Seven 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) the debris disposal site to be located outside the coastal zone; 5) conformance with Water Quality Management Plan; 6) pressure treated wood in the marine environment; 7) pier pilings and water quality.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Seal Beach does not have a certified Local Coastal Program. Furthermore, the subject pier extends seaward of the mean high tide line, thus, it is subject to the Commission's original jurisdiction. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

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**EXHIBITS**

- Exhibit 1 – Project Location
- Exhibit 2 – Site Plans
- Exhibit 3 – Emergency Permit No. G-5-16-0054
- Exhibit 4 – Bent Locations on Pier

## 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. 5-17-0167. 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 the Seal Beach Pier 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. 5-17-0167 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 the pier, 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. The majority of construction work will take place between the hours of 7am and 8pm. The pier will be opened to the public (from bent 0 to bent 74, as generally depicted in [Exhibit 4](#)) between the hours of 6am and 10pm except in construction zones for public safety purposes. Work will only take place during the hours of 10pm and 6am to facilitate construction activities impacting the entire width of the pier deck (between bent 0 and bent 74) which would render public access unsafe.

**3. Storage of Construction Materials, Mechanized equipment, and Removal of Construction Debris.** The permittee shall comply with the following construction-related requirements:

A. No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;

B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;

C. 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.

D. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

E. Netting, tarps and/or other forms of barriers shall be installed between the water and the work areas to prevent any unpermitted material from entering the Pacific Ocean.

F. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment

or contaminants associated with construction activity, shall be implemented prior to the onset of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlet protection with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting shall be held to review procedural and BMP/GHP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.

G. Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris, which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone, pursuant to Special Condition No. 4.

**4. Location of Debris Disposal Site.** The applicant shall dispose of all demolition and construction debris resulting from the proposed projects at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

**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.

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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 AWWA 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 plastic sleeves shall extend a minimum of 18 inches below the mudline.

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.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

The City of Seal Beach is proposing to replace utility lines and make structural repairs to the Seal Beach Municipal Pier to prepare for an eventual restaurant tenant (which will require a separate CDP application), and to restore public access to the pier. The pier sustained damage resulting from the electrical fire that occurred on May 20, 2016, and according to the results of structural assessments conducted prior to the fire, also maintains some minor pre-existing damage related to marine animals, storm events, and overall exposure to the elements. The City is proposing to make all necessary repairs as a part of this CDP application. The City is proposing to replace fire-damaged timber cap members, piles, longitudinal cross-bracing, traverse cross-bracing, compromised pile wrap, nails, bents, damaged hand rail, light posts, utilities, and conduits ([Exhibit 2](#)). Additional work proposed to be included as identified in structural inspections prior to the fire include replacement of existing timber decking from bents 69-82, missing or damaged pile wraps, marginal transverse and longitudinal braces, missing or corroded connecting hardware, missing loose blocking, and termite damaged rail; repair of pile wraps by installing a wrap extension or fiberglass sleeves, cracked concrete encasements with fiberglass sleeves and cement grout, damaged handrail sections and posts with splits, missing nails, stringers, and reinforcement of fiberglass sleeves of split timber piles ([Exhibit 2](#)). The utility lines to be replaced include potable water, fire water, sewer, gas and electric. 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, with the exception of a broken pile at Bent 82, which is proposed to be replaced in its entirety with a non-creosote treated 16-inch diameter timber 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. No eelgrass or invasive algae were observed in the vicinity as documented in both the 2015 and 2008 biological assessments, and are not expected to occur due to the turbidity and depth of the water at this location.

The project site is the Seal Beach Municipal Pier in the City of Seal Beach ([Exhibit 1](#)). The pier was constructed in 1906, is approximately 1,865 feet long and serves as a popular destination point for the public to come and enjoy the low cost visitor and recreational facilities since it is surrounded by the

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beach and ocean and it is easily accessible to those people going to the beach. The pier is also located at the end of Main Street in the City's Old Town Area, which is the City's primary visitor serving commercial area. Thus, the pier is a draw for visitors to the commercial district as well. Surrounding the Seal Beach Municipal Pier is the public beach (to the north and the south) and Pacific Ocean; and the 8<sup>th</sup> and 10<sup>th</sup> Street Beach Parking Lots flank the pier and the intersection of Ocean Boulevard and Main Street. The site is zoned by the City's uncertified planning documents as Public Land Use/ Recreation (PLU/R). This zone applies to publicly owned and publicly used buildings, public parklands and public open space areas.

Prior to the fire, the pier was structurally in fair condition, but required localized repairs according to the results of inspections conducted in 2008 and 2015. Such repairs included replacement of various mechanical attachment hardware, splitting timber piles, two concrete encasements, and structural members underneath the main walkway of the pier. These required repairs do not coincide with the area affected by the fire discussed in further detail below.

The electrical fire which originated in the abandoned bait shop at the end of the pier also burned the adjacent vacant restaurant and storage shack. As a result of the fire, some repairs were authorized by a Commission-issued Emergency Permit on May 23, 2016, which was reported to the Commission the following October ([Exhibit 3](#)). To sufficiently protect the water quality of surrounding coastal waters, the Emergency Permit authorized the City to remove all fire damaged decking material and remaining portions of the structures that were in imminent danger of falling into the water. In addition, the Emergency Permit authorized the City to place a temporary fence at the Pier entrance to close public access during the debris removal, and construction best management practices were implemented to ensure the protection of water quality during debris removal activities. After debris removal was conducted, the City moved the fence closer to the end of the pier to prevent access to the damaged area and ensure public safety, while still allowing the public to access a majority of the pier.

Complete construction will take approximately 16 weeks, and is anticipated to take place from December of 2017 to May of 2018 in the evening, Monday through Friday, 7am to 8pm. The pier will be opened to the public (from bent 0 to bent 74) between the hours of 6am and 10pm except in construction zones for public safety purposes. Work will only take place during the hours of 10pm and 6am to facilitate construction activities impacting the entire width of the pier deck (between bent 0 and bent 74) which would render public access unsafe ([See Exhibit 4](#)). The staging area will be located in the 10<sup>th</sup> Street Public Beach Parking lot and will occupy an approximately 6,000 to 8,000 square feet portion of the lot, which will temporarily impact 33 parking spaces, while still leaving approximately 120 spaces available to the public. Since the construction will take place during the winter months outside of the peak season, the public's ability to park is not anticipated to be impacted because of the availability of other adjacent on-street parking, and available parking in adjacent lots. 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) 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. To ensure water quality is sufficiently protected during construction and after construction, the Commission is imposing **Special Conditions 3, 5, 6, and 7**.



**B. 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.

**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; 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.

**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**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

**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. 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.