

CALIFORNIA COASTAL COMMISSION

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Staff: Fernie Sy – LB
Date: April 20, 2018

ADMINISTRATIVE PERMIT

Application No. **5-18-0088**

Applicant: **Irvine Company – California Recreation Company**

Agent: CAA Planning, Attention: Shawna Schaffner

Project

Description: Remove 19,790 square feet of the Balboa Yacht Club Marina's deteriorated dock floats' wood decking and replace with new timber decking in the same configuration and location. No change to existing piles or gangways, and no bottom-disturbing activities are proposed.

Project

Location: 1801 Bayside Drive, Newport Beach (Orange County)

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:

Friday, May 11, 2018 9:00 am
County of Sonoma
Board of Supervisors Chambers
575 Administration Drive
Santa Rosa, CA 95403

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: Fernie Sy
Title: 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 FIVE 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 and replace the 19,790 square feet of deteriorating dock floats' wood decking portion of the Balboa Yacht Club's dock system/marina. The wood decking is proposed to be replaced with new, pre-treated timber decking in the same location and configuration as the existing decking. In addition, the existing decking fasteners, bumper strips and corner bumpers, dock boxes and power centers, all located on the decking, will be removed and replaced with new decking fasteners, bumper strips and corner bumpers, dock boxes and power centers ([Exhibit No. 2](#)). There are approximately 64 boat slips in the existing dock system/marina, depending on how boats are docked. Currently, the slip sizes range from approximately 30 feet to 90 feet in length, with the majority of the slips falling in the 35 to 40-foot range. The sizes and number of slips will not change. There will be no change to the dock system's footprint, which currently exceeds the City's Pierhead line, but is within the City's Project Line. No bottom-disturbing activities are proposed or will occur. Also, no work will occur on the existing piles or gangways, which will remain in place.

The subject site, the Balboa Yacht Club, is located in Newport Bay at 1801 Bayside Drive in the City of Newport Beach, Orange County ([Exhibit No. 1](#)). The dock system/marina serves the members of the Balboa Yacht Club, a private, members-only facility. There is currently no public access available at the Balboa Yacht Club. The nearest public coastal access is located at the harbor-front public beach approximately 200 feet southwest, adjacent to the Newport Beach Harbor Patrol Station on Bayside Drive, and across the channel along the public walkway circling Balboa Island, as well as along the sandy public beach along the Balboa Peninsula approximately 2,000 feet south of the subject site. Because there is no public access to or along the subject site, the project will not impact public access. However, the public does have access within the waters of Newport Bay surrounding the dock system/marina.

The proposed project is located over submerged land situated between the yacht club and the City Pierhead Line, which is area subject to public trust doctrine in Newport Harbor. **Special Condition No. 2** is imposed stating that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the properties and ensures that the public will still have rights to open coastal waters and any other public recreational sites near the project site. The special condition also ensures that the Executive Director's issuance of a permit for the proposed project does not waive any public rights or interest that may exist on the property.

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 (USACOE) 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.

The project as proposed by the applicant does not include any work to the existing piles or the addition of new piles and no bottom-disturbing activity is proposed. Thus, any impacts that might be associated with such activities have not been analyzed as part of this project. If, in the future, any work that includes changes to the existing piles or the addition of new piles or any bottom-disturbing activities are proposed, a separate coastal development permit would be necessary, unless the Executive Director determines that none is legally required. **Special Condition No. 3** clarifies that a separate permit would be needed for such development.

The site has been surveyed by the City of Newport Beach Harbor Resources Division for eelgrass and eelgrass was discovered within 15 feet of the project area. Also in 2016, the City conducted a harbor wide eelgrass survey that also found eelgrass within the project area. However, no adverse impacts to eelgrass are anticipated as the project does not include any in-water construction. Therefore, additional eelgrass surveys are not required in this case.

A pre-construction *Caulerpa taxifolia* survey was completed on May 13, 2015, 2017 as required by the City of Newport Beach Harbor Resources Division and no *Caulerpa taxifolia* was discovered in the project area. However, as the project does not include any in-water construction or bottom-disturbing activities, no additional *Caulerpa taxifolia* survey is required in this case.

The proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development.

B. MARINE RESOURCES

The proposed recreational boat dock development and its associated structures are an allowable and encouraged marine related use. There are no feasible less environmentally damaging alternatives available. As conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms to Sections 30224 and 30233 of the Coastal Act.

C. 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.

D. PUBLIC ACCESS

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

E. LOCAL COASTAL PROGRAM (LCP)

The City of Newport Beach LCP was effectively certified on January 13, 2017. The proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

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.

- 3. Limits of Project.** Consistent with the scope of the project as proposed by the applicant, this permit does not allow any work on piles or any bottom-disturbing activity. Any such work will require a separate coastal development permit.

4. 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.

5-18-0088 (Irvine Company)
Administrative Permit

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