

CALIFORNIA COASTAL COMMISSION

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Staff: M. Vaughn – LB
Date: April 19, 2018

ADMINISTRATIVE PERMIT

Application No. 5-18-0153

Applicant: Paul H. Kaitz

Project Description: Construction of a 40-foot long concrete deck cantilevered 5 feet beyond the bulkhead with a 42-inch high cable railing along the perimeter of the deck.

Project Location: 4062 Diablo Circle, Huntington Beach, Orange County
APN: 178-363-52

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 a.m.
County Administration Center Board of Supervisors Chambers
575 Administration Dr.
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: 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 seven.

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 applicants propose to construct a 40-foot long concrete deck that cantilevers 5 feet beyond the bulkhead. The proposed deck includes a 42-inch high cable railing along the perimeter of the deck. The cantilevered deck will be set back 5 feet from the extension of each of the side property lines. No cantilevered deck currently exists at the site. The project plans are attached as **Exhibit 2**. The subject site is associated with a residentially zoned, harbor front lot at 4062 Diablo Circle, in Huntington Harbour in the City of Huntington Beach (**Exhibit 1**). In December 2017, the City issued Local Coastal Development Permit No. 17-011 for construction of a two-story, 3,873 sq. ft. single-family residence with a 615 sq. ft. garage on a vacant lot.

The proposed deck will be sloped such that drainage from the deck will be directed landward to two catch basins with filtration devices and then directed via pipes to the street and the City's storm drain system. In addition, as proposed by the applicant, 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. During construction, construction materials will be stored on land, away from the harbor. 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 during construction.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). 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 LCP may be used as guidance. In this area of Huntington Harbour, the water area is owned by the State but administered by the City of Huntington Beach. The land use designation at the water portion of the site is Open Space – Water (OS – W) and zoned Open Space Water Recreation. The applicant's property (the land) is designated and zoned for residential use in the certified LCP. 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 Harbour in the Open Space Water Recreation zone. The City of Huntington Beach reviewed the proposed plans and issued Approval-in-Concept dated 3/27/18

Most of the Huntington Harbour water frontage is developed with single-family homes on lots supported by bulkheads, 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 single-family residence permitted to be built on the applicant's property. The proposed deck is

similar in function to the other cantilevered decks associated with residential development within Huntington Harbour. The proposed development is consistent with past Commission actions in the area.

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, 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 shoreline 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 200 feet south of the site at Davenport Beach Park. In addition, public beach access is also available at the sandy ocean beach at Sunset Beach, approximately one half mile west of the subject site.

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 & Cantilever Deck Condition & Coastal Hazards report (Report) was prepared for the proposed development by Streamlinewest Engineering, dated March 2018 (revised). The Report assessed the condition of the existing bulkhead and states:

“Evaluation of the condition of the concrete superstructure (face panel) revealed that the above ground portion of the seawall appears to remain in good condition. No cracking was observed along the face panel. See Photographs 1 and 2. Since there are no indication of voids beneath the footing and the concrete superstructure does not show any signs of deterioration or damage, the existing structure appears to be in good condition and capable of supporting the proposed cantilevered deck.”

The Report further states:

“Upon comparison of the projected sea level rise elevations for the proposed development and the site, it was determined that the proposed deck and residence will not be overtopped by tides for the design conditions (using USACE High projection for SLR and design high tide). If the extreme SLR projections were to occur, it would still take over 65 years before the design high tide begins to overtop the deck and almost 70 years before extreme SLR and the design high tide reaches the finished floor [of the associated residence]. See Attachment D for a table showing the projected SLR over time. Since the extreme SLR could cause coastal impacts before the end of the 75 year design period, the owner should monitor the actual rate of SLR and take corrective actions if levels are anticipated to affect the site. In order to address the potential for impacts from the extreme SLR projections, the potential to further raise the seawall was evaluated. Evaluation of the seawall and site indicate that it is

possible to raise and maintain the seawall within the existing footprint particularly if light weight construction methods like cellular concrete are utilized for backfill. Evaluations show that the seawall and associated improvements could be further raised in the future which would protect the property from high tide events well beyond the year 2100.”

The Report also states:

“Using the design High SLR of 4 feet by the year 2095, the base flood elevation within the harbor adjoining the property could reach an elevation of 12 feet (NAVD88). Comparing this elevation to the proposed site improvements indicates that the potential for site flooding exists if SLR continues. Upon evaluation of the seawall and site improvements, this potential future flood level including 75 years of SLR can be mitigated by the proposed adaptation measure of raising the seawall or constructing a flood wall along the cantilever deck.”

Finally, the Report concludes:

“Due to the relatively low lying (near sea level) nature of the site and surrounding area, future sea level rise should be monitored for impacts and flooding that could affect the site towards the end of the end of a 75 year period. The existing residence was found to not have the proposed cantilevered deck or first floor breached by rising water levels during the design life of the structure using the USACE High SLR prediction. Only the worst case NRC 2012 Curve III prediction resulted in potential future impacts to the site. However, these impacts are not anticipated until closer to the end of a 75 year period. In order to protect the owner's investments at the site, the actual rate of sea level rise should be monitored and corrected actions taken if levels pose a threat. The potential corrective measures that have been identified can be accomplished without expanding the footprint of the structure and any future site improvements or redevelopment should be coordinated with regional efforts since much of the surrounding public and private infrastructure will be subject to the same issues.”

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, 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.

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