

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
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# F5a

Staff: M. Vaughn – LB  
Date: May 17, 2018

## ADMINISTRATIVE PERMIT

**Application No.** 5-18-0082

**Applicants:** Neil & Erika Silverman

**Project Description:** Remove a 70-ft. long concrete deck cantilevered 5 feet beyond bulkhead and replace it with new 38.5-ft. long concrete deck cantilevered 5 feet beyond bulkhead. Includes the repair of minor cracking on the bulkhead face.

**Project Location:** 16777 Bolero Lane, Huntington Harbour, City of Huntington Beach, Orange County APN 178-371-05

## 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, June 8, 2018, 9 a.m.**  
Chula Vista City Council Chambers  
276 Fourth Avenue  
Chula Vista, CA 91910

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 and 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 subject site is a residentially-zoned harbor front lot in Huntington Harbour that is developed with a single-family residence (**Exhibit 1**). The applicants propose to remove a 70-foot long concrete deck that is cantilevered 5 feet beyond the bulkhead, and to construct a new 38½-foot long concrete deck that cantilevers 5 feet beyond the bulkhead. The proposed deck includes an etched or sandblasted, tempered glass railing/windscreen that will be 7 feet high along 15 feet of the deck perimeter and 42 inches high along the remainder of the deck perimeter. The project plans are attached as **Exhibit 2**.

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. The Report assessed the condition of the existing bulkhead and found that the bulkhead is in good condition but needs some repairs. The proposed project includes repairs to address minor, non-structural cracking on the bulkhead face. The Report also states that, if necessary in the future, the bulkhead height can be raised without expanding the bulkhead's existing footprint. Thus, based upon the findings of the Bulkhead Condition Report prepared for the proposed development, no fill of coastal waters will be required, even in the future and considering sea level rise predictions, to support the proposed deck.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). The City of Huntington Beach reviewed the proposed plans and issued Approval-in-Concept dated 1/31/18. In this area of Huntington Harbour, the water area is owned by the State but administered by the City of Huntington Beach. However, due to the project location seaward of the mean high tide line, the project is within an area of the Commission's retained coastal development permit jurisdiction. Nonetheless, the City's certified LCP may be used as guidance. The LCP's land use designation at the site of the proposed deck (not the house) is Open Space – Water (OS – W). The site is zoned Open Space Water Recreation. The proposed development is consistent with the City's certified LCP, specifically with Implementation Plan Chapter 213 Open Space District, which allows private cantilevered decks abutting residential uses, and with Chapter 210, which provides standards for cantilevered decks in Huntington Harbour in the Open Space Water Recreation zone. Section 210.06(T)(1) of the LCP states:

*(T) Waterfront Lots. Projecting decks, windscreens, fencing, patio covers and solariums on waterfront lots may be permitted subject to the development standards set for the in this Chapter, Chapter 245, and Chapter 17.24 and the following requirements:*

- 1) Decks. Decks on waterfront lots may project 5 feet beyond the bulkhead or bulkhead line extended, provided that side yard setbacks required for the main*

- dwelling are maintained*
- 2) *Windscreens. Windscreens may be permitted if constructed of light-weight materials such as plastic, canvas, fiberglass, tempered glass or metal, except for necessary bracing and framing. The maximum height for windscreens shall be seven feet above the finished surface of the deck at the bulkhead line.*

The proposed bulkhead repairs will be conducted above water without in-water work or bottom disturbance. The cracks will be sealed from a small work boat during low tide that will be tied off to the dock at the site. No spuds or anchors will be used. The spall will be repaired from above during the construction of the new deck with the temporary forms being installed to contain the new deck also being used to contain the spall repair work. No spuds, anchors or in-water work will be needed for any of the proposed work, including bulkhead repair and construction of the cantilevered deck.

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 on the 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.

The proposed deck will be sloped such that all drainage will be collected by a stainless steel gutter along the outer perimeter of the deck, and directed landward into two filter boxes with catch basin inserts on the residential lot and, once filtered, will drain into the harbor waters. All work will occur from the landward side of the deck. No barges or any anchoring will occur either for the cantilevered deck or for the bulkhead repairs. The proposed construction will not disturb harbor waters or harbor bottom sediments. Additionally, **Special Condition 1** requires the applicant to incorporate water quality and best management practices (BMP) measures into the project.

Although cantilevered above the water, the proposed deck would preclude the general public from utilizing the public water area underneath the deck for recreation or navigational purposes. However, the proposed deck will not expand further bayward than the existing deck to be replaced or than other decks in the area. In addition, the proposed deck will be reduced in length over the existing deck to be removed, from the existing 70-foot long deck to the proposed 38.5-foot long deck. 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 1,000 feet southeast of the site at Davenport Beach Park. In addition, public beach access is also available at the sandy ocean beach at Sunset Beach, approximately 2,000 feet 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 pattern of development of 5-foot wide decks cantilevered over the bulkheads of other houses in the area. Thus, the replacement 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). **Special Condition 2** states 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.

## **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