

**CALIFORNIA COASTAL COMMISSION**

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# F6b

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Staff: M. Vaughn-LB  
Staff Report: 5/17/2018  
Hearing Date: 6/8/2018

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-18-0164

**Applicant:** Richard Johnson

**Agent:** South Shore Marine

**Project** 16792 Coral Cay Lane, Huntington Harbour, City of Huntington  
**Beach**

**Location:** Orange County (APN 178-653-31).

**Project** Remove and replace U-shaped dock float and gangway  
**Description:** in same location using the four existing piles, with no change in dimensions.

**Staff Recommendation:** Approval with conditions

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## SUMMARY OF STAFF RECOMMENDATION

The applicant is proposing to remove and replace a boat dock float and gangway with no change in dimensions or location. Staff is recommending APPROVAL of the proposed project with three special conditions regarding: 1) water quality protection measures; 2) State Lands Commission approval; and 3) protection of any public rights that may exist at the subject site.

The City of Huntington Beach has a certified Local Coastal Program (LCP), but because the project is located seaward of the mean high tide line, it 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 motion and resolution to carry out the staff recommendation is found on page 3.

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### EXHIBITS

- Exhibit 1 – Vicinity Map and Aerial Photo
- Exhibit 2 – Project Plans

## 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 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 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 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. 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. **State Lands Commission Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, a written determination from the State Lands Commission that:
  - A. No state lands are involved in the development; or
  - B. State lands are involved in the development, and all permits required by the State Lands Commission have been obtained: or
  - C. State lands may be involved in the development, but pending a final determination of state land involvement, and agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination.
3. **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.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION

The applicant proposes to remove and replace a “U” shaped boat dock float and a gangway in-kind with no change to current dimensions or location. Two existing, 16-inch diameter concrete piles and two 14-inch diameter concrete piles will remain in place to secure the new dock float. Project plans are included as **Exhibit 2**. No dredging or bottom disturbance is proposed or permitted. The replacement dock float will continue to be used for recreational boating purposes only.

The subject site is associated with the adjacent single-family residence located at 16792 Coral Cay Lane in Huntington Harbour in the City of Huntington Beach, Orange County (Exhibit 1). Single-family residences and associated private boat dock systems are typical of the surrounding area.

The proposed development is located seaward of the mean high tide and so 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. The proposed project has been approved in concept for the City of Huntington Beach Public Works Department, Permit #1321 (11/16/17).

The proposed dock is located on the area bayward of the associated single family residence. The proposed development would occur on the Main Channel in Huntington Harbour. The Main Channel is administered by the California State Lands Commission (CSLC). Development in this area requires review and approval from CSLC, typically in the form of a lease agreement. However, no evidence of approval from CSLC of the proposed dock project was submitted with the coastal development permit application. **Special Condition No. 2** requires that evidence of approval from the CSLC be submitted, prior to issuance of the coastal development permit.

There is no direct public pedestrian access to public tidelands through the private residential lot at the subject site. However, public pedestrian access is available approximately 1200 feet east of the project site at Davenport Beach Park, a small sandy, public pocket beach within the harbor, and approximately 1,200 feet west of the site at Sunset Beach, a wide ocean-fronting public beach. Small watercraft, such as kayaks, may be launched from Davenport Beach. The proposed replacement of the boat dock float and gangway will not interfere with continued use of these public access areas, and so the proposed project will not create new adverse impacts to public access. In addition, **Special Condition No. 3** 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 property. No bottom disturbing activities are proposed and **Special Condition 1** requires the applicant to implement best management practices during construction and post-construction in order to avoid any significant adverse effects to marine resources and water quality.

An underwater survey conducted by Diveworks on March 2, 2018 documented one 6-inch by 2½-foot patch of eelgrass (*Zostera marina*) northwest of and approximately five feet from the

boat dock float (near the headwalk), but outside the project footprint (**Exhibit 3**). No eelgrass was observed growing immediately under the dock float. In addition, no work is proposed to the harbor bottom, and the impacts to eelgrass resulting from the proposed like-for-like replacement of the dock float will occur. A pre-construction *Caulerpa taxifolia* survey was completed on March 2, 2018. No *Caulerpa taxifolia* was found during the survey.

Construction methods, including the storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters, would result in adverse impacts on water quality and the marine environment. The proposed project includes measures to help ensure protection of coastal waters and marine resources during construction. 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.

Therefore, as proposed and conditioned herein, the Commission finds that the development will not have any significant adverse effects on coastal resources and is consistent with the Chapter 3 policies of the Coastal Act.

#### **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/MARINE RESOURCES**

The proposed private recreational boat dock 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 dock work will not have any significant adverse effect on sensitive marine resources, such as eelgrass. Therefore, the Commission finds that the proposed development, which is to be used solely for recreational boating purposes, conforms with Section 30224 of the Coastal Act.

#### **D. WATER QUALITY**

The proposed work will be occurring in a location where there is a potential for 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 32031 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 the Commission's original permit jurisdiction. The standard of review is Chapter 3 of the Coastal Act and the City's LCP is used only as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

As conditioned, there are no additional feasible alternatives or additional feasible mitigation measures available which will substantially lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified possible impacts, is consistent with CEQA and the policies of the Coastal Act.