

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application Number: 5-17-1043

Applicant: City of Avalon

Agent: Michael Baker International

Project Location: 120 Pebbly Beach Road, City of Avalon, Los Angeles County.

Project Description: Structural rehabilitation of the Cabrillo Mole Ferry Terminal, consisting of repairs to concrete portions of the mole and wharf; replacement of steel grating, steel beams, and their connections to the concrete wharf structure; installation of new pedestrian shade structures, handrails and guardrails; and repair of an eroded gap in the wharf below the mean high tide line with concrete.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The subject site is the Cabrillo Mole Ferry Terminal in the City of Avalon. The major issues before the Commission relate to public access, water quality and marine resources. Staff is **recommending approval** of the proposed development with **Five Special Conditions** regarding: 1) use of construction best management practices (BMPs); 2) conformance with Water Quality Management Plan; 3) resource agency approval; 4) public rights; and 5) assumption of risk, waiver of liability and indemnity.

Pursuant to Section 30519 of the Coastal Act, development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The Commission's area of original jurisdiction includes tidelands, submerged lands, and public trust lands, whether filled or unfilled. The proposed project is situated on submerged lands and on filled tidelands within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development in its area of original jurisdiction is the Chapter 3 policies of the Coastal Act. The City of Avalon certified LCP is advisory in nature and may provide guidance. The proposed project, as conditioned, does not conflict with Chapter 3 Coastal Act policies or the City of Avalon certified LCP.

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EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 –Site Photos
- Exhibit 3 –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 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. **Construction Responsibilities and Debris Removal.** The permittee shall comply with the following construction related requirements:
 - A. 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;
 - B. 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;
 - C. 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;
 - D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
 - E. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
 - F. 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;
 - G. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
 - H. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - I. 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;
 - J. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
 - K. 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;
 - L. The discharge of any hazardous materials into any receiving waters shall be prohibited;

- M. 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;
 - N. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) 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
 - O. All BMP's shall be maintained in a functional condition throughout the duration of construction activity.
2. **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. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.
3. **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 the 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.
4. **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.

- 5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, sea level rise, erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The City of Avalon is proposing to rehabilitate the Cabrillo Mole Ferry Terminal to extend the service life and safety of the mole structure, while maintaining existing Ferry Terminal operations, including vehicular and pedestrian access.¹ The existing 46-foot by 400-foot concrete mole structure and wharf is located on the eastern portion of Avalon Bay in the City of Avalon, (Exhibit 1) and has deteriorated since its original construction in 1968. Proposed repairs include reinforcing existing concrete members and steel grates on the wharf, repair of an eroded void area in the pedestal footing of the wharf with concrete, concrete slab repairs on the mole, railing repairs, and replacement of existing pedestrian shade structures on the mole. Other improvements include new additional shade structures on the northern end of the mole to protect ferry passengers from the elements.

Mole and wharf deck resurfacing will be conducted utilizing a jackhammer and other small scraping equipment to remove existing concrete surfaces on the deck of the mole. New concrete would then be poured on the deck. Portions of the project that are inaccessible to workers on foot will be accessed utilizing a floating barge. The methods proposed for structural repair consist of removal of damaged concrete materials utilizing hand tools, chipping, and sand blasting techniques to expose steel beams and their connections to the wharf, and then patch-work repair utilizing Fiber Reinforced Polymer (FRP). A drop net would be used over the barge to catch debris during removal. The approximately 30 square feet eroded void area in the pedestal footing of the wharf is located below the high tide line, and will require approximately 1.09 cubic yards of concrete grouting applied from a floating barge during low-tide to reduce the impact to surrounding habitat.

The project site is the Cabrillo Mole Ferry Terminal, which is a rock breakwater with a concrete slab surface combined with a concrete wharf structure that extends over the water to accommodate loading and unloading of vessels. The existing ferry terminal consists of three masonry buildings (used for passenger ticketing, kiosks, restrooms), and covered walkways. An existing crane on the wharf is used to load and unload vessels with supplies and equipment. The project site is located on Granted Public Trust Lands, and is managed locally by the City of Avalon. However, since portions of the project are located below the mean high tide line and within state tidelands, a coastal

¹ A mole is a rock breakwater with a concrete slab surface combined with a concrete wharf structure that extends over the water to accommodate loading and unloading of vessels. The defining feature of a mole structure is that water cannot freely flow underneath it, unlike a pier.

development permit is required from the Commission because the project in its entirety is within Coastal Commission jurisdiction.

The mole and wharf structure was originally constructed in 1968, and functions as both a breakwater and the main docks for the cross-channel passenger boats including the Catalina Express, which offers up to 30 daily departures and year-round service to Avalon and Two Harbors, transporting nearly one million passengers annually for the past 36 years. The mole is a cast-in-place, conventionally reinforced concrete structure consisting of twenty-one, 3-foot by 5-foot beams supporting a 12-inch thick concrete slab. Over time, exposures to the elements and storm activity have caused significant rebar corrosion and concrete spalling. The currently degraded condition of the mole and wharf structure presents safety concerns for ferry passengers and pedestrians, which necessitates its repair to ensure safe and reliable future operation of the mole and wharf.

Coastal Act Section 30233 states that the filling of open coastal waters shall only be permitted for certain allowed uses, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. In this case, the proposed project is to repair an existing legal structure that predates the enactment of the Coastal Act. Therefore, the Commission is not authorizing the underlying development but simply determining whether the proposed method of repair and maintenance of the structure is consistent with applicable Coastal Act policies. The first test of 30233, whether the fill is for an allowable use, is thus not applicable in this case, as the fill is required to repair an existing legal use.

The second part of 30233 requires a consideration of alternatives. In this instance, the applicant is proposing to repair an eroded gap in the existing wharf in Avalon Bay, by patching it with 1.09 cubic yards of concrete. The applicant analyzed several alternatives to the proposed project, including: 1) reconstructing the entire mole structure; 2) a “no project” alternative, and 3) the project as proposed. The alternatives analysis concluded that re-building the entire mole structure would require new fill for new structural piles, which would result in pile driving and increased turbidity, which would lead to more environmental impact than the proposed project. The applicant also determined that the “no project” alternative would leave the Cabrillo Ferry Mole Terminal in its current corroded and dilapidated condition, which would render the structure unsafe and in violation of local building codes, state harbor, navigation, and boating facility laws and related environmental protection regulations. Therefore, Commission staff agrees with the applicant that the proposed project is the least environmentally damaging alternative.

The third requirement of 30233 is that feasible mitigation measures must be required to mitigate any adverse impacts of the proposed fill. The habitat assessment submitted by the applicant identifies that marine mammals, birds, Essential Fish Habitat and fish have the potential to be impacted during construction, but that the availability of ample similar habitat adjacent to the site and outside the influences of construction will minimize such impacts. Implementation of Best Management Practices (BMPs) to minimize and control turbidity and minimize noise and light impacts will mitigate anticipated impacts to sensitive species. Additionally, although the proposed work is located within the range for black abalone to occur (an endangered marine mollusk), this location lacks large amounts of Giant Kelp and Feather Boa Kelp, which are the primary food sources for the abalone, and are a primary constituent element identified by the National Marine Fisheries Service (NMFS) for the species. Thus, no black abalone are expected to be located within the area affected by the proposed project. Effects to rocky habitat resulting from the project, such as turbidity generated from construction during high tide, and disturbance of the seafloor, will be

temporary and minimal. In addition, activities proposed as part of the rehabilitation of the ferry terminal are largely focused on the mole itself, and not on reconfiguration of stone rip-rap. Therefore, potential impacts to hard substrate within the project area will be minimized and would be less than significant.

The duration of the project is expected to take approximately 6 months. Construction staging would occur at the former seaplane ramp situated at the southeastern corner of the mole and adjacent areas. The proposed staging area would result in the temporary closure of approximately 11 surface parking spaces, however construction will occur outside of the peak tourist season and pedestrian and vehicle access will be maintained, and a traffic control plan would be utilized. Construction related debris materials, such as broken concrete, will be hauled away in trucks and disposed of in the local landfill, located approximately two miles from the project site. The applicant has proposed Construction Phase Best Management Practices, some of which include: 1) silt curtains to be used to contain debris and control turbidity during debris removal activities to prevent impacts to adjacent habitat; 2) floating debris to be removed from the water and disposed of properly; 3) no concrete will be placed within coastal waters and all debris will be exported off site to an approved facility; 4) turbidity plumes generated by demolition or construction activities will be monitored continuously by the contractor, and 5) the establishment of a marine mammal safety zone to monitor for marine mammals if sound levels exceed 140 dB to prevent negative impacts to marine mammals in the immediate area of construction. Since the proposed development is located on the rocky shoreline, the Commission imposes **Special Condition 1**, which requires the applicant to observe BMPs during all construction activities to prevent spillage and runoff from the construction that could impact coastal resources. Also, to ensure water quality and adjacent habitat are sufficiently protected during construction and after construction, the Commission is imposing **Special Condition 2**. **Special Condition 3** requires the applicant comply with other resource agency approvals.

The approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property, which is addressed by **Special Condition 4**. Given the location of this project, **Special Condition 5** requires the applicant to assume the risks associated with hazards from flooding, sea level rise, erosion, and wave uprush.

Therefore, as conditioned, the proposed development is the least environmentally damaging alternative and minimizes adverse environmental effects in conformity with section 30233 of the Coastal Act.

B. MARINE RESOURCES

The proposed mole and wharf repairs 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. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30224, 30230, 30231, and 30233 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. 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 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 throughout construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Avalon certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Avalon LCP on May 21, 1981. 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

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, and the project will not have any significant impacts within the meaning of CEQA. 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.