

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 301 E. Ocean Blvd, Suite 300
 Long Beach, CA 90802
 (562) 590-5071

**Th6a**

Staff: D. Ziff – LB
 Date: April 11, 2019

ADMINISTRATIVE PERMIT

Application No. 5-18-1058

Applicant: Jay Refold

Agent: Cisco Larrea, South Shore Marine

Project Location: State tidelands adjacent to 77 Rivo Alto Canal (Alamitos Bay), City of Long Beach, Los Angeles County (APN: 7244-011-009).

Project Description: Like-for-like replacement of an approximately 6 ft. by 42 ft. dock float and addition of a new gangway and gangway platform.

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:

April 11, 2019, 9:00 a.m.
Monterey County Board of Supervisors
168 W. Alisal Street
Salinas, CA 93906

IMPORTANT - Before you may proceed with development, the following must occur:

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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: Dani Ziff
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 nine.

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 is proposing to remove and replace the existing dock float associated with the single family residence at 77 Rivo Alto Canal for private recreational use (**Exhibit 1**) and add a new gangway and gangway platform. The existing rectangular dock float is approximately 652 square feet in area and is accessed by a ladder. The proposed dock float arrangement is in the same location, supported by two existing piles, and is the same size and shape as the existing dock (**Exhibit 2**). No modifications to the seawall are proposed to support the new gangway and gangway platform and there will be no fill of coastal waters as a result of the subject development. The proposed project has received the approval of the City of Long Beach Marine Bureau (07/03/18) and the City of Long Beach Department of Development Services (09/28/2018). The development authorized by this permit is private use of State Tidelands. **Special Condition 6** requires the applicant to participate in a dock float and pier lease program, should the City of Long Beach implement a lease program for Alamitos Bay.

Naples Island (which consists of three islands) and the Naples Canals (Rivo Alto Canal and Naples Canal) were constructed (dredged and filled) in the early 1900s in the delta of the San Gabriel River, the area that is now Alamitos Bay. Rivo Alto Canal is currently 65 to 70 ft. wide and 7 to 14 ft. deep, depending on the tide. A 20-ft. wide portion of public land exists on the upland portions along each side of the Rivo Alto Canal right-of-way, between the seawalls and the property lines of the residents whose homes line the canal and is open to the public.

In 2013, the Commission approved Coastal Development Permit 5-11-085, which authorized repair activities for the existing seawall that surrounds Naples Island. Subject to the conditions of Coastal Development Permit 5-11-085, the City of Long Beach is in the process of installing new steel sheet-pile seawalls on the water side of the existing vertical concrete seawalls along both sides of Rivo Alto Canal (1,915 linear ft.), and new guardrails, landscape beds, sidewalks, improved drainage, and relocated street lighting in the public right-of-way along the canal. Due to the scale of work required for the project, the seawall repair project was broken up into phases. CDP 5-11-085 permitted Phase One of the project, which includes the Rivo Alto Canal properties located between Ravenna Drive Bridge and the Toledo east bridge, where the project site is not located. During Phase One, the City removed the dock floats and associated structures in order to access and repair the seawall. Upon completion of the repair activities, the City replaced the private dock float systems. The project site is located in the Northeast quadrant of the Naples Canal system, which has been categorized as Phase Three of the Naples Seawall Repair Project (**Exhibit 3**). At this time, the City has not prepared an amendment to Coastal Development Permit 5-11-085 to authorize Phase Three repair activities. The proposed 6 ft. x 42 ft. dock float complies with the maximum six-ft. width of new or reconstructed

dock systems within the Rivo Alto Canal as set forth in Special Condition 8 of Coastal Development Permit 5-11-085 [Naples Seawall Repair Project (Phase 1), City of Long Beach].

Eelgrass and *Caulerpa taxifolia* surveys were conducted on October 31, 2018 by Dive Works and eelgrass was found in the project vicinity. Eelgrass habitat was observed seaward of the existing dock float as shown in **Exhibit 4**. Given the proposed dock float has the same size, shape, and orientation, the proposed development, including the new gangway structures, does not change the amount of water coverage in the project vicinity. No *Caulerpa taxifolia* were found. **Special Conditions 2 and 3** require construction to adhere to best management practices including the appropriate storage, removal, and disposal of demolition or construction debris to protect water quality and the marine environment. **Special Condition 7** requires the applicant to comply with all permit requirements and mitigation measures imposed by other resource agencies including the RWQCB, which would serve to further protect water quality. **Special Condition 1** is imposed to ensure the development is constructed in strict compliance with the applicant's proposal, as described herein. Furthermore, **Special Conditions 4 and 5** require pre and post eelgrass surveys and a pre *Caulerpa taxifolia* survey to be conducted. If eelgrass or *Caulerpa taxifolia* are determined to be present prior to construction, then the applicant must follow the procedures laid out in **Special Conditions 4 and 5**. Therefore, as proposed and conditioned herein, the development will not have any significant adverse effects on marine resources.

B. PUBLIC RECREATION & MARINE RESOURCES

The proposed recreational dock float development and its associated structures are an allowable and encouraged marine-related use. To protect marine resources while allowing for the maintenance of recreational boating facilities onsite, **Special Conditions 4 and 5** require pre and post eelgrass surveys and a pre *Caulerpa taxifolia* survey to be conducted. If eelgrass or *Caulerpa taxifolia* are determined to be present prior to construction, then the applicant must apply for a permit amendment unless all eelgrass and/or *Caulerpa taxifolia* onsite is avoided or removed consistent with Commission authorization. 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 purposes, conforms with Sections 30224 and 30233 of the Coastal Act.

C. PUBLIC ACCESS

The development authorized by this permit is continued private use of State Tidelands. 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.

D. WATER QUALITY

There is potential for discharge of demolition or construction debris into coastal waters at the project site. However, as proposed, the parts will be constructed off-site (outside the coastal zone) and floated to the project site for assembly. No staging area is required. The existing dock will be floated off-site (outside the coastal zone), recycled to the maximum extent feasible, and disposed of at an appropriate upland refuse site. Thus, **Special Condition 1** is imposed to ensure the development is constructed in strict compliance with the applicant's proposal, as described herein. Furthermore, **Special Conditions 2 and 3** require construction to adhere to best management practices including the appropriate storage,

removal, and disposal of demolition or construction debris to protect water quality and the marine environment. **Special Condition 7** requires the applicant to comply with all permit requirements and mitigation measures imposed by other resource agencies including the RWQCB, which would serve to further protect water quality. Therefore, the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

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 Long Beach certified LCP, certified by the Commission on July 22, 1980, is advisory in nature and may provide 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 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 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. Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the permit application, subject to any special conditions, and the final plans received in the South Coast District offices on October 25, 2018 included as **Exhibit 2** of this permit. Any deviation from the approved project must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.
- 2. Water Quality - Construction Responsibilities and Debris Removal**
 - 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;

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- 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. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- i. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- j. 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;
- k. 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;
- l. 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;
- m. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- n. 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;
- o. 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
- p. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

3. Best Management Practices (BMP) Program. By acceptance of this permit, the permittee 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:

- a. Boat Cleaning and Maintenance Measures:

- In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
- In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
- The applicants shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

b. Solid and Liquid Waste Management Measures:

- 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 shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

c. Petroleum Control Management Measures:

- 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;
- 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
- 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.

4. Pre-and Post-Construction Eelgrass Survey(s)

- A. **Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre- construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy and Implementing Guidelines” dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

- B. Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1 (mitigation: impact). Any exceptions to the required 1.38:1 mitigation ratio found within the California Eelgrass Mitigation Policy shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

5. Pre-construction *Caulerpa Taxifolia* Survey

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
- i. for the review and approval of the Executive Director; and
 - ii. to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043), or their successors.
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Dock Float and Pier Leases. By acceptance of Coastal Development Permit 5-18-1058, the permittee agrees, on behalf of itself and all successors and assigns, that should the City of Long Beach implement a dock float and pier lease program for the Alamitos Bay area for the limited-term private use and occupation of State tidelands for development associated with recreational boating activities (i.e., private docks and piers), the development subject to this permit shall be subject to the terms of such dock float and pier lease program.

The approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the subject property including, but not necessarily limited to, the tidelands and submerged land beneath the development approved by this Coastal Development Permit. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

7. 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.

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