

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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Th5a

Staff: A. Spencer – LB
Date: August 22, 2019

ADMINISTRATIVE PERMIT

Application No. **5-19-0141**

Applicant: **Elsie Johnson**

Agent: Pinnacle Docks (c/o Rafael Holcombe)

Project Location: State tidelands adjacent to 139 Rivo Alto Canal, City of Long Beach, Los Angeles County (APN: 7243-011-038).

Project Description: Remove existing 24 ft. by 8 ft. dock. Construct a new 28 ft. by 6 ft. dock, 16 ft. by 2.5 ft. gangway, and staircase.

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:

September 12, 2019, 9:00 a.m.
Newport Beach Civic Center
100 Civic Center Drive
Newport Beach, CA 92660

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: Amrita Spencer
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 eight.

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 proposes to install a 6 ft. x 30 ft. (180 sq. ft.) rectangular dock float and repaint an existing gangway, and gangway landing in the Rivo Alto Canal located in southeast Long Beach ([Exhibit 1 and Exhibit 3](#)). The proposed 6 ft. x 30 ft. dock float complies with the maximum six-ft. width of new or reconstructed dock systems within Naples 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]. In addition, the applicant is seeking an after-the-fact authorization for the removal of a 6 ft. by 30 ft. dock that was on the project site, and removed without benefit of the necessary coastal development permit, as discussed in more detail below. There will be no fill of coastal waters as a result of the subject development. No bottom disturbance or dredging is proposed or permitted by the subject application. The proposed project has received the approval of the City of Long Beach Marine Bureau (12/12/18) and the City of Long Beach Department of Development Services (06/19/2019).

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. Naples 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 Naples 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. 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 One of the Naples Seawall Repair Project ([Exhibit 2](#)).

The proposed dock system is associated with the adjacent single-family residence at 139 Rivo Alto Canal and would be used for recreational boating purposes. The City of Long Beach developed eelgrass mitigation plans for the Phase One and Phase Two areas of the Naples Seawall Repair Project under Coastal Development Permits 5-11-085 and 5-11-085-A1, respectively. The project site is located within the Phase 1 area of the Naples Seawall Repair project, and therefore falls within the City's established eelgrass mitigation area, and is not subject to an applicant-conducted eelgrass and caluerpa survey prior to construction. However, the Commission imposes **Special Condition 2** and **Special Condition 3**, which require the applicant to implement best management practices during construction and post-construction in order to avoid any significant adverse effects to marine resources. Therefore, as proposed and conditioned herein, the development will not have any significant adverse effects on marine resources.

The proposed dock float's access point (gangway and gangway platform) may partially obstruct the approximately 20-ft. wide public right-of-way that runs between the applicant's property and the Naples Canal. The public right-of-way features a concrete walkway and may be partially landscaped in the area adjacent to the seawall by the applicant, but is subject to improvement by the City of Long Beach, consistent with the requirements of Coastal Development Permit 5-11-085. The applicant is not proposing any landscaping or improvements in the public right-of-way at this time. However, should the applicant decide to place improvements within the designated portion of the public right-of-way, the improvements would need to be consistent with the requirements found in Coastal Development Permit 5-11-085. Therefore, the Commission imposes **Special Condition 4**, which states that the only permitted improvements to the public right-of-way are the gangway platform adjacent to the seawall associated with the proposed dock system, seating available to the public, and drought tolerant non-invasive landscaping. **Special Condition 4** also requires that a minimum of six ft. of the reconstructed sidewalk remain open and accessible to the general public 24 hours a day, consistent with the other Naples Island public walkways and Special Condition 12 of Coastal Development Permit 5-11-085.

The City of Long Beach is in the process of implementing a dock float and pier lease program for the limited-term private use and occupation of State tidelands for development associated with recreational boating activities (i.e., private docks and piers) within Rivo Alto Canal. The program will establish fees in relation to the lease area and temporal length of each lease and all revenue will be deposited into the City's Tidelands Fund to be utilized for public access improvements in the City of Long Beach. Because the development associated with this permit is private use of State tidelands which impacts public access through the narrow canal popular with public kayakers and gondola passengers (60 to 80 feet wide), **Special Condition 5** requires the applicant to provide mitigation in the form of a lease fee to the City which will be used to enhance public access in other areas. Only as conditioned is the project consistent with the Chapter 3 policies of the Coastal Act.

Unpermitted Development

A violation of the Coastal Act has occurred on the 139 Rivo Alto Canal parcel, including the unpermitted removal of an existing 6-ft. by 30-ft. dock. According to the applicant, the dock was removed on June 10, 2019, during which time an active application for removal of the dock was deemed incomplete. The applicant indicated that the dock needed to be removed because it was dilapidated and was at risk of breaking off the seawall. The dock was detached by removing the guide piles which connected the dock to the seawall. The removed float was then loaded onto a 17-ft. long work vessel, secured, and transported to the Marine Stadium Launch Ramp, where the dock was

dismantled, placed into a waste bin, and transported by truck to a local disposal facility outside of the Coastal Zone.

The applicant is requesting after-the-fact approval of the unpermitted development specifically described herein. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the violation described above going forward. Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

B. MARINE RESOURCES

The proposed recreational boat dock development and its associated structures constitute an allowable and encouraged marine related use. There will be no net increase in number of piles or fill of coastal waters. The proposed development 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, such as eelgrass. There are no feasible less environmentally damaging alternatives available. 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 boating purposes, conforms to Sections 30224 and 30233 of the Coastal Act.

C. PUBLIC ACCESS AND RECREATION

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 to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. WATER QUALITY

The proposed dock work will be occurring on or within coastal waters. The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates best management practices (BMPs) to minimize the effect of construction and post-construction activities on the marine environment. These BMPs include, but are not limited to, the appropriate management of equipment and construction materials and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the proposed development, as conditioned, conforms to 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 is advisory in nature and may provide guidance. The Commission certified the

City of Long Beach LCP on July 22, 1980. 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.** Boating related uses are the only uses permitted by the approved development. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. 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 or a new coastal development permit is required.

- 2. Construction Responsibilities and Debris Removal.** By acceptance of this permit, the permittee agrees that the approved development shall be carried out in compliance with the following BMPs:
 - a. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
 - b. Any and all construction material shall be removed from the site within ten days of completion of construction and disposed of at an appropriate location.
 - c. Machinery or construction materials not essential for project improvements are prohibited at all times in the subtidal or intertidal zones.
 - d. 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.
 - e. Divers will recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
 - f. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

- 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 applicant 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:
- Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters are encouraged to regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters are also encouraged to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services to clean oily bilge areas. Clean and maintain bilges. Do not use detergents while cleaning. The use of soaps that can be discharged by bilge pumps is discouraged.
4. **Public Access along the Public Right-of-Way.** The proposed project shall not interfere with public access and use of the public right-of-way that runs between the permittee's property and Rivo Alto Canal. The only permitted improvements to the public right-of-way are the gangway platform to the seawall associated with the proposed dock system, seating available to the public, and drought tolerant non-invasive landscaping.

A minimum of six ft. of the reconstructed sidewalk shall remain open and accessible to the general public 24 hours a day, consistent with the other Naples Island public walkways and Special Condition 12 of Coastal Development Permit 5-11-085.

Vegetated landscaped areas shall consist of drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>). Irrigation systems are not permitted within the public right-of-way.

5. **Dock Float and Pier Leases.** By acceptance of Coastal Development Permit 5-19-0141, the permittee agrees, on behalf of itself and all successors and assigns, that the development subject to this permit shall be subject to the terms of the dock float and pier lease program for Rivo Alto Canal, implemented by the City of Long Beach for the limited-term private use and occupation of State Tidelands for development associated with recreational boating activities (i.e., private docks and piers). Prior to construction of the proposed project, the permittee shall enter into and pay the required fees for a dock and pier lease with the City of Long Beach Marine Bureau, and shall continue to pay any lease fees required for the private use of State Tidelands as long as the development remains on State Tidelands. Such fees shall be used for public access improvements to the public right-of-way, consistent with the requirements of Coastal Development Permit 5-11-085.

6. **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