

**CALIFORNIA COASTAL COMMISSION**

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# Th5a

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Staff: MV-LB  
Staff Report: 10/15/2020  
Hearing Date: 11/5/2020

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-20-0265

**Applicant:** Westchester Bay Homeowners and Seagate Lagoons Associations

**Agents:** Anchor QEA, LLC  
Marine Vie

**Location:**

Bulkhead Repair Location A1: 178-700-02, 178-701-05 (adjacent to 3592 Windspun Drive)  
Bulkhead Repair Location B1: 178-640-02, 178-644-55 (adjacent to 16192 Bimini Lane)  
Bulkhead Repair Location C1: 178-640-02, 178-644-50 (adjacent to 16180 Bimini Lane)  
Bulkhead Repair Location C2: 178-640-02, 178-644-41 (adjacent to 3913 Aruba Circle)  
Bulkhead Repair Location C3: 178-640-01, 178-644-87 (adjacent to 3897 Aruba Circle)  
Bulkhead Repair Location D1: 178-640-03, 178-644-80 (adjacent to 3871 Aruba Circle)  
Bulkhead Repair Location G1: 178-621-28, 178-622-26, 178-622-25, 178-622-24  
(adjacent to 16122 Bonaire Circle)  
Bulkhead Repair Location H1: 178-621-28, 178-622-19 (adjacent to 16102 Bonaire Circle)  
City of Huntington Beach, Orange County

**Project Description:** Structural repairs to a combined 135-foot portion of an existing, 5,198 foot bulkhead at eight distinct locations, including timber pile repairs as needed, placement of shore guard rigid vinyl sheetpiles (forming), and pumping of concrete grouting between the existing concrete footing and proposed sheetpiles; and removal of existing concrete overpour to restore harbor bottom habitat,

**Staff Recommendation:** Approval with conditions.

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## **SUMMARY OF STAFF RECOMMENDATION**

Issues associated with the proposed bulkhead repair include concerns regarding water quality during and after construction, use of plastics in the marine environment, and impacts to soft bottom habitat. The applicant has proposed to mitigate those impacts.

Staff is recommending approval of the proposed coastal development permit with ten (10) special conditions. The special conditions require: 1) Bulkhead Monitoring Plan; 2) Alternatives to Plastic be considered in the future if possible; 3) As-Built Plans confirming approved bulkhead footprint; 4) No Future Bayward Encroachment; 5) Soft Bottom Mitigation be carried out as proposed; 6) Pre- and Post-Construction Eelgrass Surveys; 7) Pre-Construction Caulerpa Taxifolia Survey; 8) Conformance with Proposed Plans; 9) Public Rights; and 10) Implementation of Construction Responsibilities and Debris Removal.

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## Exhibits:

1. Vicinity Map
2. Proposed Project Plans
3. Eelgrass Survey Map

## 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. 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

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. Bulkhead Monitoring Plan.** The permittee shall maintain the bulkhead reinforcement in good condition throughout the life of the development.

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and approval a Bulkhead Monitoring Plan. The permittee and their successors in interest shall be responsible for carrying out all provisions of the approved Monitoring Plan for as long as the bulkhead reinforcement remains in place. The monitoring plan, at a minimum, shall provide for:

(a) regular inspections by a qualified person familiar with bulkhead structures who is able to document via photos and provide written descriptions based on personal observation whether any cracks, breaks or deterioration have occurred. These inspections shall be performed at least every 2 years;

(b) inspections shall examine the exposed portions of the bulkhead reinforcement (to the mud line) for signs of weakness or possible failure, including, but not limited to cracking, bending, splitting, splintering, or flaking. All weak or potential failure areas should be marked on an as-built plan of the bulkhead reinforcement, and there should be photographs and text to explain the nature and extent of each weakness.

**B.** Inspection reports shall be prepared and conveyed to the Executive Director within 30 days of the inspection work. These reports shall provide information on and photographs from the date of the inspection, the name and qualifications of the person performing the inspection, and an overall assessment of the continued integrity of the bulkhead reinforcement. If the inspection identifies any areas where the bulkhead reinforcement has been damaged, the report shall identify alternatives to remedy the damage.

**C.** In the event that any sections of the bulkhead reinforcement are damaged or flaking, the permittee shall notify the Commission within 10 days; and in such event, within 30 days of such notification, submit to the Commission a complete application for any coastal development permit amendment, or new permit, necessary for the repair or replacement of the bulkhead reinforcement, unless the Executive Director deems that none is legally required.

**2. Alternatives to Plastic.** By acceptance of this permit, the applicant agrees to submit an application for an amendment to this permit or a new coastal development permit if new information becomes available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are

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available. The amendment or new coastal development permit shall include measures to eliminate or significantly reduce the adverse impacts of the plastic including, if necessary, the replacement of the bulkhead.

**3. As-Built Plans.** Within thirty (30) days of the date of completion of construction of the bulkhead repair project as depicted on the proposed project plans ([Exhibit 2](#) of this staff report dated October 15, 2020), the applicant shall submit “as-built” plans, showing the permitted structure in relation to the existing topography and existing, surrounding development.

**4. No Future Bayward Encroachment.** By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline structure (bulkhead) approved pursuant to Coastal Development Permit No. **5-20-0265**, as described and depicted on approved project plans ([Exhibit 2](#) of this staff report dated October 15, 2020), and as depicted on the as-built plans required in Special Condition No. 3 above, shall result in any encroachment bayward of the authorized footprint of the shoreline structure. By acceptance of this Permit, the applicant waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

**5. Soft Bottom Mitigation.** By acceptance of this permit, the applicant shall assure that the soft bottom mitigation shall be carried out as proposed by the removal of 32 square feet of concrete overpour at the existing bulkhead toe at the subject site.

**6. Eelgrass Survey(s).**

**A. Pre-Construction Eelgrass Survey.** 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” dated October 2014 (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 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 if completion of construction occurs within the active growth period, or within the first 30 days of the next active growth period following

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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 (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 by project construction, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another appropriate location subject to the approval of the Executive Director, in accordance with the California Eelgrass Mitigation Policy. Any exceptions to the required 1.38:1 mitigation ratio found within CEMP 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 legally required.

**7. 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 Wildlife, and the National Marine Fisheries Service.

**C.** Within five (5) business days of completion of the survey, the applicant shall submit the survey:

(1) for the review and approval of the Executive Director; and

(2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through California Department of Fish & Wildlife (858/467-4218) National Marine Fisheries Service (562/980-4043).

**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, subject to concurrence by 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

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without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**8. Conformance with Proposed Plans.** The applicant shall conform to the plans dated June 5, 2020, including the restoration of 32 square feet of soft bottom habitat (to be used as mitigation for soft bottom impacts due to the subject project at the subject site) as proposed and described in the coastal development permit application. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**9. Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that 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.

**10. 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;



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**I.** 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;

**J.** 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;

**K.** Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;

**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 (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

**P.** All BMP's shall be maintained in a functional condition throughout the duration of construction activity.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION AND LOCATION**

The City of Huntington Beach Local Coastal Plan (LCP) was certified in 1985. The proposed project consists of development located within the retained permit jurisdiction of the Coastal Commission. The standard of review for development within the Commission's jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP may be used as guidance. (Pub. Res. Code § 30519(b).)

The Westchester Bay Homeowners and Seagate Lagoon Associations are proposing structural repairs to a combined 135-foot portion of an existing, 5,198-foot bulkhead at eight distinct locations. The proposed repairs include timber pile repairs as needed,

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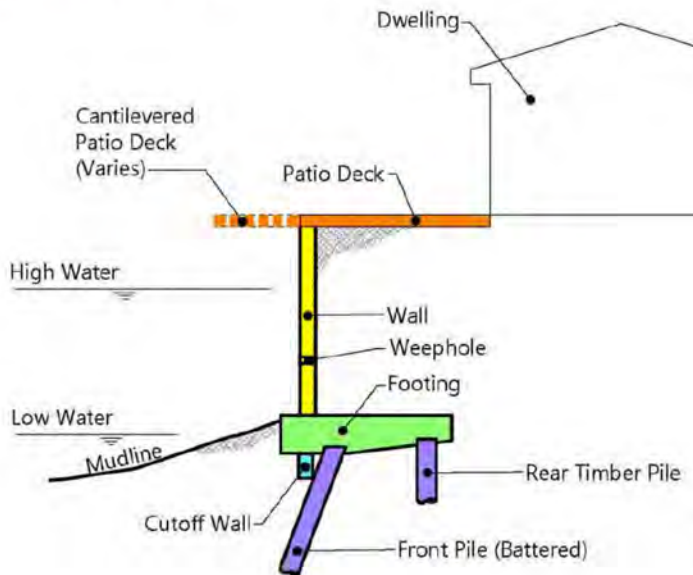
placement of shore guard rigid vinyl sheetpiles flush with the existing bulkhead footings, pumping concrete grouting behind the proposed sheetpiles to eliminate exposure of the timber piles to the elements, and removal of existing concrete overpour to restore harbor bottom habitat. The proposed bulkhead repair is designed to fill in the eroded sediment voids behind the concrete bulkhead footing with grout thereby sealing the untreated timber piles and protecting them from marine boring organisms, ensuring the necessary support to the bulkhead.

The subject site is located at the north, inland area of Huntington Harbour ([Exhibit 1](#)). The proposed project will occur at the following locations within the associations' bulkhead:

Bulkhead Repair Location A1: 178-700-02, 178-701-05 (adjacent to 3592 Windspun Drive)  
Bulkhead Repair Location B1: 178-640-02, 178-644-55 (adjacent to 16192 Bimini Lane)  
Bulkhead Repair Location C1: 178-640-02, 178-644-50 (adjacent to 16180 Bimini Lane)  
Bulkhead Repair Location C2: 178-640-02, 178-644-41 (adjacent to 3913 Aruba Circle)  
Bulkhead Repair Location C3: 178-640-01, 178-644-87 (adjacent to 3897 Aruba Circle)  
Bulkhead Repair Location D1: 178-640-03, 178-644-80 (adjacent to 3871 Aruba Circle)  
Bulkhead Repair Location G1: 178-621-28, 178-622-26, 178-622-25, 178-622-24  
(adjacent to 16122 Bonaire Circle)  
Bulkhead Repair Location H1: 178-621-28, 178-622-19 (adjacent to 16102 Bonaire Circle)

Development of Huntington Harbour in the 1960s created a number of residential islands surrounded by waterways. Development of the residential islands and surrounding waterways included construction of supporting bulkheads surrounding each island and waterway. Virtually all development in Huntington Harbour, including numerous residential units, is supported by the bulkheads created at the time the harbor was developed. These bulkheads, constructed in the 1960s, are comprised of sheetpile wall, concrete footing, cutoff wall, and supporting front (battered/angled) untreated timber piles, and rear (upright) untreated timber piles (see Figure 1 below).

**Figure 1**  
Simplified Original Design



Over time, at numerous locations throughout the harbor,<sup>1</sup> erosion beneath the footings occurred, resulting in a gap between the existing footing and the natural mudline. This erosion resulted from tidal currents/exchange, vessel prop wash, and settlement, among other factors. The resulting gap has allowed aquatic lifeforms to burrow beneath the footings, resulting in the loss of footing support causing wall instability. This condition has also caused marine organisms to damage the timber piles. If protective measures are not implemented, additional damage to the bulkhead will result, causing potential failure of the bulkhead and damage to the existing, pre-Coastal upland structures, including, in this case, the adjacent residences. The purpose of the proposed project is to restore the foundation of the bulkhead and to limit future erosion which may jeopardize the bulkhead's structural integrity and ability to support existing, pre-Coastal development.

During initial construction of the bulkheads throughout the harbor, a significant amount of concrete overpour occurred. Concrete overpour resulted from concrete placed for the bulkhead footing that over-flowed the concrete forms, flowing uncontrolled and freely over the original mudline. This resulted in substantial amounts of concrete on the harbor bottom that is not necessary for the structural support derived from the bulkhead.

The applicant proposes to place 0.5-inch-thick shore guard rigid vinyl sheet piles (forming) flush with the existing bulkhead footing. This will result in 5.41 square feet of fill of coastal waters (equal to a ½-inch wide by the length of each repair). This fill of coastal waters is proposed to be mitigated by removing the concrete overpour in the

<sup>1</sup> Past CDPs for repairs to these Huntington Harbour bulkheads include: 5-17-0118 (Mandla); 5-16-0037 (Cyprus); 5-14-1790 (Garcia); 5-14-1287 (Stein); 5-12-173 (Sackin Pryor); 5-12-006 (Nielsen); 5-11-106 (Hernandez); 5-03-078 & 5-03-078-A1 (Buchanan); 5-06-436, -437, -438, & -439 (Tetra Tech).

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vicinity of the project. Removal of 32.67 square feet of concrete overpour from the harbor bottom will create soft bottom habitat where none currently exists. Below is a chart, prepared by the applicant, depicting the amount of fill (impact) and the amount of concrete overpour to be removed (mitigation) for each of the eight areas along the subject bulkhead to be repaired. **Special Condition No. 5** requires that the soft bottom mitigation (removal of the concrete overpour) shall be carried out as proposed. In addition, **Special Condition No. 3** requires submittal of “as-built” plans to document the location of the approved bulkhead footprint relative to the concrete overpour removed.

**Table 1**  
**Net Increase in Soft-Bottom Habitat by Section**

Section	Permanent Fill (square feet)	Overpour Area (square feet)	Net Increase in Soft-Bottom Habitat (square feet)
H1	0.17	1.17	1
G1	4.75	22	17.25
D1	0.08	0.5	0.42
C3	0.25	1.33	1.08
C2	0.04	0.17	0.13
C1	0.08	7	6.92
A1	0.04	0.5	0.46
<b>Total</b>	<b>5.41</b>	<b>32.67</b>	<b>27.26</b>

Alternatives to the proposed project were considered by the applicant, including the no project alternative and the use of dredged material as revetment to protect the bulkhead, similar to what is routinely done in Newport Harbor. However, in Newport Harbor, the bulkheads are designed without the type of timber pile foundation that was used during the original development of Huntington Harbour in the 1960s. According to the applicant's coastal engineer, because of the differences in bulkhead design, the potential damage to the Huntington Harbour bulkheads due to erosion is much greater than in Newport Harbor. If soft bottom fill was to be used at the base of the subject bulkhead (as is done in Newport Harbor), erosive forces would rapidly erode the unconsolidated fine silty and sandy sediments in the same way that the existing sediment has eroded at the site. In addition, the no project alternative would ultimately result in failure of the bulkhead, putting existing, pre-Coastal development in jeopardy. In addition, if the bulkhead were to fail, it would collapse into the harbor and debris would likely impact marine habitat and debris would also enter the water column, increasing turbidity and decreasing water quality.

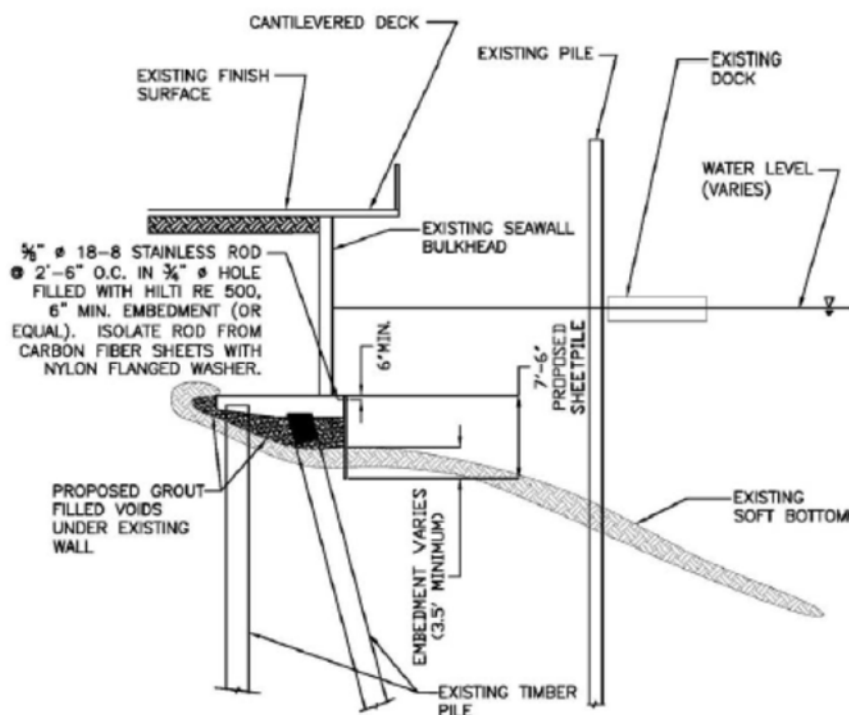
In addition, in past Huntington Harbour bulkhead repair projects approved by the Commission the following alternatives considered were: 1) installation of driven sheet piles with rip rap rock at the base; 2) concrete encasement of the existing wood piles in place; 3) the use of steel sheet piles rather than plastic (rigid vinyl); 4) placement of filter fabric across the void to be held in place by new rock; and 5) repair of individual piles as they become damaged. All of the alternatives other than the proposed project would result in greater impacts to the marine environment. Thus, the proposed project is the least environmentally damaging feasible alternative.

The proposed bulkhead repairs would occur in the following order:

1. Concrete overpour removal;
2. Cutoff wall inspection and removal, if necessary;
3. Pile inspection and repair, if necessary;
4. Placement of forming (0.5-inch thick sheetpile);
5. Pumping concrete grouting behind the forming/sheetpiles to fill voids.

To remove the concrete overpour, the applicant proposes to use an air powered jack hammer. The broken pieces of concrete overpour would then be collected in baskets, brought to the surface, and then discarded to an approved disposal site. Following removal of the overpour, the contractor would inspect the condition of the cutoff wall and timber piles (if accessible). If the cutoff wall is damaged or disassociated with the footing, it will be removed. Pile repairs would occur as follows: if 25% or less of the timber piles is deteriorated, it would be encased in fiberglass and grouted to ensure a secure fit; if more than 25% of the timber pile is deteriorated, the timber pile would be replaced. The timber pile would be cut and a screw jack installed.

As described above, the 0.5-inch thick sheetpile will be placed flush with the existing bulkhead footing. The concrete grout would be pumped from trucks positioned on the street adjacent to the repair location. A mobile pumping trailer will be positioned on the street with a hopper, pump, and hose that leads to the repair location. A diver would be stationed at the connection point of the hose to control the placement of the grout within the void. Because the sheet pile (outer forms) will be installed flush with the bulkhead footing prior to the injection of the grout to fill the voids beneath/behind the bulkhead, dispersion of grout into the harbor water will be prevented. Below is a schematic of the proposed repair:



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No barges or spuds would be required in conjunction with the proposed project. The proposed bulkhead repair would be performed from the docks, with a small raft or workboat to facilitate the handling of materials, and by divers. Proposed water quality measures include: netting, sandbags, tarps, or other forms of barriers will be placed around staging areas to prevent debris from entering the water; all construction related equipment will be inspected daily and maintained in good working order to minimize the potential for hazardous waste spills; hazardous material spill prevention and cleanup plans will be maintained on site; machinery or materials not essential for construction will be prohibited from subtidal or intertidal zones at all times; floating booms will be maintained around the project site to capture floating debris; divers will recover non-buoyant debris from the harbor bottom within 72 hours; all debris and trash will be collected and disposed of in appropriate waste containers by the end of each construction day; discharge of hazardous material into the project site will be prohibited; and, following project completion, the project area will be inspected to ensure that no construction debris, trash, or materials remain and that the project has not created any hazards to navigation. In addition, **Special Condition No. 10** outlines additional construction responsibilities.

An eelgrass survey was conducted by Coastal Resources Management, Inc., on October 25, 2019 along the length of the seawall. The survey found a total of 702.5 square feet (0.02 acre) of eelgrass present in the project vicinity. However, no eelgrass was found within the areas of the proposed repairs ([Exhibit 3](#)); and therefore, no eelgrass impacts are expected with the proposed project. However, as proposed by the applicant, and as required by **Special Condition No. 6**, in compliance with NMFS California Eelgrass Mitigation Policy (CEMP, 2014), pre- and post-construction eelgrass surveys will be completed in the project area. If these surveys reveal that any eelgrass has been impacted by the proposed project, the applicant shall carry out an eelgrass mitigation plan consistent with the requirements of CEMP as required by **Special Condition No. 6**. In addition, also on 10/25/2019 Coastal Resources Management, Inc., conducted a *Caulerpa taxifolia* survey of the project site and vicinity and none was found. **Special Condition No. 7** requires a pre-construction *Caulerpa taxifolia* survey and outlines procedures to be followed should any be discovered.

No increase to the +8.5 feet mean low low water (MLLW) elevation of the top of the existing bulkhead is proposed. However, the bulkhead would need to be raised to approximately +11 feet MLLW to be considered safe over the next seventy-five years from the medium-high risk sea level rise (SLR) scenario recommended by the Coastal Commission's Adopted Sea Level Rise Guidance document. The applicants' coastal engineer has indicated that once the bulkhead foundation is repaired as proposed, the bulkhead could support raising the height of the bulkhead another 2.5 feet without any channelward encroachment of the bulkhead footprint. Thus, if necessary in the future to protect against sea level rise hazards, the subject bulkhead could be raised to +11 feet MLLW without requiring future fill of coastal waters. **Special Condition No. 4** prohibits future bayward encroachment of the footprint of the shoreline structure approved by this coastal development permit. To that end, **Special Condition No. 3** requires submittal of "as-built" plans to document the location of the approved, post-construction bulkhead footprint.

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The Commission has expressed concern about the use of plastic in the marine environment. In past actions, the Commission has accepted plastic for the proposed purpose when monitoring is included and when future alternatives are considered. Consequently, the plastic (shore guard rigid vinyl) sheet piles must be monitored to ensure that they are maintained in an environmentally safe operating condition and replaced when damage or degradation has occurred. To minimize the potential of the plastic sheetpiles breaking apart and entering the water due to damage or deterioration, **Special Condition 1** requires that the project be carefully monitored at least once every two years for the life of the project. Further, **Special Condition 2** requires the applicant to submit an application for an amendment to this permit or a new coastal development permit if new information becomes available that indicates that plastic has harmful effects on the marine environment, and that environmentally superior, feasible alternative(s) are available. The Commission has found such conditions necessary to find similar project consistent with Chapter Three policies in past actions (5-17-0118, Mandla; 5-16-0037, Cyprus; 5-14-1790, Garcia; 5-14-1287, Stein; 5-12-173, Sackin Pryor; 5-12-006, Nielsen; 5-10-106, Hernandez; 5-03-078 & 5-03-078-A1, Buchanan; and 5-06-436 & 5-06-438, Tetra Tech, et al).

### Conclusion

The proposed bulkhead repair project is necessary to protect the existing, pre-Coastal residential development. Section 30235 of the Coastal Act requires the Commission to approve such projects when necessary to protect existing structures and when designed to eliminate or mitigate adverse impacts. Section 30233 of the Coastal Act states that fill of coastal waters may be allowed when a project is 1) an allowable use (in this case Section 30235 allows the project); 2) the least environmentally damaging alternative; and, 3) when adequate mitigation is provided. A number of alternatives were considered, and the proposed alternative has been found to be the least environmentally damaging alternative. The proposed project includes on-site mitigation that increases soft bottom habitat at the site. As proposed, and as conditioned, measures will be in place to protect water quality during and after construction. Also, as conditioned, surveys will be conducted pre- and post- construction to assure that any unanticipated impacts to eelgrass that may occur are addressed and to assure that the project will not result in the spread of the invasive algae *Caulerpa taxifolia*. Measures to address the use of plastic in the marine environment are also required as special conditions. Therefore, as conditioned, the Commission finds that the project is consistent with Sections 30210 and 30231 regarding protection of the marine environment.

## B. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as conditioned, the development conforms to 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 development 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 BMPs. 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 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)**

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Huntington Beach is the lead agency responsible for CEQA review. As determined by the City, this project is categorically exempt from CEQA as a Class 1; Section 15301 exemption. 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



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Westchester Bay Homeowners and Seagate Lagoons Associations

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.

## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Coastal Development Permit Application No. 5-20-0265 and associated file documents.

City of Huntington Beach Certified Local Coastal Program.