

CALIFORNIA COASTAL COMMISSION

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W7a

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-21-0044

Applicant: Ellis Wasson

Agent: Jacquelyn Chung, CPS Consulting

Location: 3841 Seascape Drive, Huntington Beach, Orange County (APN No.: 178-681-28)

Project Description: Replace and expand boat dock by removing 48' by 8'6" boat dock float and replacing it with a new 48' by 8'6" boat dock float and add a new 66' by 8' expansion area to the float. Two existing 14" square piles will remain in place and be re-used. Two new 14" square piles are proposed. The existing 18' by 3' gangway will be removed and replaced with a new 18' by 3' gangway.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project would replace and expand an existing boat dock serving a private residence. The existing 48' by 8' 6" boat dock float will be replaced in kind and also expanded by adding a new a new 66' by 8' expansion area to the float ([Exhibit 2](#)). Two existing piles would remain and be re-used. Two new piles are proposed. The proposed development also includes a plan to fund replacement of deteriorated signage at the public sewer pump-out station in Huntington Harbour (see [Exhibit 1c](#) for pump-out station location within the harbor). The signage to be replaced provides instructions on how to use of the pump out station. Use of the pump out station by boaters is critical in

protecting water quality by minimizing the potential for illegal discharges of sewage and other waste water from marine vessels into the waters of Huntington Harbour.

The proposed project would result in an increase of fill of coastal waters due to the two new 14" square piles. The proposed project would also result in an increase in overwater coverage of 528 square feet. Although the proposed project will increase fill and overwater coverage, the increase in fill is relatively minimal the applicant has attempted to reduce the number of piles and the overwater coverage as much as possible while still providing adequate support for the proposed boat dock. In addition, the subject site was surveyed for eelgrass and Caulerpa (9/27/2020) and none was found to be present in the project vicinity; thus the increase in fill and coverage will have no adverse impacts on biological productivity.

Special Condition No. 1 requires the applicant to carry out the proposed public pump-out signage replacement funding as proposed. **Special Condition No. 2 and 3** require eelgrass and Caulerpa pre- and post-construction surveys and measures to be implemented if either are identified within the project vicinity. **Special Condition No. 4** states that approval of this CDP does not constitute a waiver of any public rights that may exist on the property. **Special Condition No. 5** imposes construction BMPs.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-21-0044, as conditioned. The motion to carry out the staff recommendation is on page 4 of the staff report.

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EXHIBITS

Exhibit 1: Vicinity Map and Project Site

Exhibit 2: Project Plans

Exhibit 3: Letter from Engineering Consultant

Exhibit 4: City of Huntington Beach Public Works Dept. 5/13/2021 Letter

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 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 the Coastal Development Permit No. 5-21-0044 for the proposed project 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

1. Public Pump Out Facilities Signage.

A. PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for the review and approval of the Executive Director, written evidence from the City of Huntington Beach Public Works Department that the department has received from the applicant the funding necessary to carry out the public marine vessel pump out station informational signage replacement as described in the Public Works Department's letter dated 5/13/2021, attached as [Exhibit 4](#) to this staff report dated 5/20/2021 to the satisfaction of the City of Huntington Beach Public Works Department.

B. PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT SUBJECT TO THIS PERMIT, the applicant shall submit, for the review and approval of the Executive Director, evidence that the replacement signage plan has been installed.

2. 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 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.

3. Pre-construction Caulerpa Sp. 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* sp. 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* sp. 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 *Caulerpa* sp. 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 *caulerpa* sp.. 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.

4. Public Rights. The Coastal Commission’s 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 exist or may exist on the property now or in the future.

5. 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.** 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 proposed project includes replacing and expanding a boat dock by removing a 48' by 8' 6" boat dock float and replacing it with a new 48' by 8' 6" boat dock float and expanding the float to add a new 66' by 8' expansion ([Exhibit 2](#)). Two existing 14" square piles will remain in place and be re-used. Two new 14" piles are proposed. The existing 18' by 3' gangway will be removed and replaced with a new 18' by 3' gangway. The proposed development will result in fill of coastal waters due to the two new 14" square piles. The proposed development will result in increased overwater coverage of 528 square feet.

The proposed development also includes a plan to fund replacement of informational signage at the public marine vessel sewage pump-out station in Huntington Harbour at the public dock in the channel adjacent to Huntington Beach Warner Avenue fire station (3821 Warner Ave.) at the southern end in of the Harbour, on the Main Channel ([Exhibit 1](#)). The pump-out station is available free of charge to the public, 24 hours a day. The City's Public Works Department has indicated that the existing signs are deteriorating and in need of replacement. The proposed signage replacement would provide information on how to use of the pump-out station. A letter from the City's Public Works Department and photos are attached as [Exhibit 4](#). **Special Condition No. 1** requires the applicant to provide evidence that the signage funding and placement occur as proposed.

The subject site is adjacent to and associated with the residentially zoned, harbor front lot at 3841 Seascape Drive, in the City of Huntington Beach, Orange County ([Exhibit 1](#)). The site is at the inland end of Midway Channel. The harbor waters in this area are

administered by the City of Huntington Beach. The applicant has wharfage rights to the boat dock area. Single-family residences and associated private boat docks characterize the subject site and the surrounding area. The proposed dock float is generally consistent with the size and configuration of similarly situated docks in the Huntington Harbour area, and is consistent with past Commission issued permits. The dock will be used for boating related purposes to serve the adjacent single-family residence.

The proposed project would result in an increase of fill of coastal waters due to the increase of two piles in addition to the existing two. The proposed new piles are each 14 inches square, meaning the total area of additional fill will be 28 square inches (or about 0.2 square feet). Although the proposed project will result in an increase in the area of fill, the applicant has attempted to reduce the number of piles as much as possible while still providing adequate support for the proposed boat dock. The proposed number of piles is the minimum required to ensure stability and to safely support the dock.

The proposed project would result in an increase in overwater coverage of 528 square feet. Although the proposed project will result in some increase in over water coverage, the applicant has attempted to reduce the size as much as possible while still providing necessary stability. The applicant's coastal engineering consultant has considered whether the proposed width of the boat dock float area could be reduced in order to minimize overwater coverage. The consultant found that the boat dock width is the minimum necessary to safely support the boat dock use. The coastal engineering consultant found ([Exhibit 3](#)):

"This letter is to address the request to reduce the width of the proposed 8'-6" wide dock system. The dock is composed of a 35'-0" long section joined to a 75'-0" [the plan calls for a 66'] long section at a 125-degree angle. This system does not utilize "fingers" or dock sections perpendicular to the mainwalk. Therefore, it is inherently unstable. The most effective method to increase stability is to increase the width to meet the marina design standard for rolling / tilting under a concentrated edge load. The depth, as designed, provides the lateral stiffness to withstand edge loading, wind and berthing impact loads for the large vessel supported by this system.

A reduction in width would decrease the rotational stability of the system for live loads and the discomfort will reduce the confidence of the worthiness of the dock system. A decrease in width [sic] would also reduce the lateral stiffness of the system and reduce its usable life due to the increased stresses of wind loads on a docked vessel and impact loads during berthing.

From an engineering point of view, it is my recommendation that the width of the system remain as originally designed."

The Coastal Commission staff's engineering division has reviewed the proposed plans and the applicant's engineering consultant's assessment of the proposed width of the boat dock float, and concurs with the consultant's conclusion.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). However, due to the project location seaward of the mean high tide line, the project is within an area of the Commission's retained permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development. The water area within which the boat dock project is proposed is land use designated Open Space Water Recreation (OS-W) and zoned Waterways Recreation (WR). A private boat dock associated with single family residential development on the adjacent lot is recognized by the City's certified LCP as an allowable use, specifically in Implementation Plan Chapter 213 Open Space District, which allows private boat docks abutting residential uses in Huntington Harbour in the Waterways Recreation zone. The City of Huntington Beach reviewed the proposed plans and issued an Approval-in-Concept dated 12/8/2020 from the Planning Department. In addition, the Public Works Department approved Harbor Permit No. 1342 on 11/23/2020 for the proposed boat dock project.

The subject site was surveyed for eelgrass and *Caulerpa* (9/27/2020, (Survey)). The Survey found that no eelgrass or *Caulerpa* was present in the project vicinity. Eelgrass surveys completed during the active growth phase of eelgrass (typically March through October) are valid for 60 days with the exception of surveys completed in August – October, such as the subject survey. A survey completed in August - October is valid until the resumption of the following active growth phase (i.e., March 1). *Caulerpa* surveys are valid for 90 days.

No impacts are expected to occur to eelgrass with the proposed project because no eelgrass was observed in the project vicinity. Moreover, eelgrass and *Caulerpa* surveys will be required prior to the beginning of the boat dock replacement work. If the surveys reveal the presence of either eelgrass or *Caulerpa*, additional steps will be required. Therefore, the Commission imposes **Special Conditions No. 2 and No. 3**, which identify the procedures necessary to be completed prior to beginning any construction. Also, if any *Caulerpa* is found on the project site, **Special Condition No. 3** identifies the procedures necessary prior to beginning any construction.

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. The proposed project includes measures to help ensure protection of coastal waters and marine resources during construction. To ensure that all impacts (pre- and post- construction) to water quality are minimized and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition No. 5**, which requires, but is not limited to, appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and the continued use and maintenance of post construction BMPs.

Currently, there is no direct public pedestrian access to public tidelands through the private residential lot at the subject site. The subject site is located on Trinidad Island in Huntington Harbour. The nearest public access is located at the public walkway along the harbor front on the west half of Trinidad Island, which extends from French Park to

Trinidad Park pocket beach at the entrance to Trinidad Island. The walkway is approximately 1200 feet southwest of the subject site. Public access into harbor waters is also available approximately 2500 feet west of the subject site from the harbor-front beach at Seabridge Park. The proposed project will not result in any new adverse impacts to public access. In order to preserve and maintain access to the public tidelands, **Special Condition No. 4** is imposed stating that the approval of a coastal development permit for the project does not waive any public rights or interest that exist or may exist on the property, now or in the future.

B. PUBLIC ACCESS

The proposed development will not affect the public's ability to access and/or make use of the coast and nearby recreational facilities. Therefore, as conditioned, the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. MARINE RESOURCES

The proposed project 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.

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials and for the use of construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development 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

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)

The City of Huntington Beach is the lead agency responsible for CEQA review. The City determined that the project qualifies for a CEQA Exemption Class 1 on 12/8/2020. Typically, projects are exempt from CEQA pursuant to section 15303 of the CEQA

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

APPENDIX A- SUBSTANTIVE FILE DOCUMENTS

1. City of Huntington Beach Local Coastal Program
2. CDP file 5-21-0044 (Wasson)