

CALIFORNIA COASTAL COMMISSION

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W7b

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-20-0667

Applicant: Michael Buchbinder

Agents: Jacquelyn Chung

Location: 16702 Wanderer Lane, Huntington Beach, Orange County (APN No.: 178-053-18)

Project Description: Replace a 32' x 5' long wood cantilevered deck with a new 42'3" x 5' concrete cantilevered deck, install drainage system, install tempered bird-strike prevention glass railings, repair voids beneath toe of seawall footing and deteriorated timber piles, remove 5.96 sq.ft. of concrete overpour at base of seawall, and install 1.02 sq.ft. of sheet piles along toe of footing.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Issues associated with the proposed cantilevered deck replacement and bulkhead repair include potential impacts to water quality during and after construction and impacts to soft bottom habitat. The applicant has proposed to mitigate those impacts through the project design and best management practices.

An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is 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.

Staff is recommending approval of the proposed coastal development permit with eleven (11) special conditions. The special conditions require: 1) Bulkhead Monitoring Plan; 2) As-Built Plans confirming approved bulkhead footprint; 3) Bird Strike Prevention; 4) No Future Bayward Encroachment; 5) Soft Bottom Mitigation; 6) Pre- and Post-Construction Eelgrass Surveys; 7) Pre-Construction Caulerpa Species Survey; 8) Conformance with Proposed Plans; 9) Public Rights; 10) Implementation of Construction Responsibilities and Debris Removal; and 11) Best Management Practices for Treated Wood Removal in Overwater Structures.

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EXHIBITS:

[Exhibit 1 – Vicinity Map and Project Location](#)

[Exhibit 2 – Proposed Project Plans](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. 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:
 - i. 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;
 - ii. 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. **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 8, 2020), the applicant shall submit As-Built plans, showing the permitted structure in relation to the existing topography and existing, surrounding development.
3. **Bird Strike Prevention.** Oceanfront deck railing systems, fences, screen walls, gates, and windows subject to this permit shall use materials designed to minimize bird-strikes with the deck railing, fence, gate, or window. Such materials may consist, all or in part, of wood, wrought iron, frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas may be installed only if it contains UV-reflective glazing that is visible to birds designed to reduce bird-strikes by reducing reflectivity and transparency. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at minimizing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications

The permittee shall undertake development in accordance with the approval final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **No Future Bayward Encroachment.** By acceptance of this Permit, the permittee agrees, on behalf of itself and any and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline structure (bulkhead) that is the subject of Coastal Development Permit No. **5-20-0667**, as described and depicted on approved project plans ([Exhibit 2](#) of this staff report dated October 8, 2020), and as depicted on the as-built plans required in **Special Condition 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 and all successors and assigns, any rights to construct bayward encroaching shoreline protective devices that may exist under applicable law, including but not limited to Public Resources Code Section 30235.
5. **Soft Bottom Mitigation.** By acceptance of this permit, the permittee shall assure that the soft bottom mitigation shall be carried out as proposed by the removal of 5.96 sq.ft. 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) working days of completion of each eelgrass survey and in any event no later than fifteen (15) working 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.

7. Pre-construction Caulerpa Species Survey(s)

- 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:
 - 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 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.

8. Conformance with Proposed Plans. The permittee shall conform to the plans dated October 8, 2020, including the restoration of 5.96 sq. ft. 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 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.

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;
- 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.

11. Best Management Practices (BMPs) for Treated Wood Removal in Overwater and In-Water Structures. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the written approval of the Executive Director, a plan documenting the construction-phase BMPs to be used for all overwater and in-water structures that are removed that have preservative-treated wood. The applicant shall comply with the following requirements:

- A. Employ all appropriate construction-phase BMPs to minimize the discharge of treated wood sawdust and debris to coastal waters. Construction-phase BMPs shall specifically address the use of treated wood in aquatic environments, including materials selection, materials storage, cutting or drilling treated wood, preservative field-treatment, and coating application. BMPs shall include, but are not limited to:
 - i. Keep treated wood sawdust and debris out of the water. Because of their large surface to volume area, small treated wood particles (such as sawdust) entering the water contribute a disproportionately large amount to the leaching of preservatives from the structure.
 - ii. Apply field-treatment of Copper Naphthenate preservative sparingly to cut ends and drilled holes in treated wood, because it does not bond as strongly to wood compared to pressure-treatments. Also avoid drips or spills of Copper Naphthenate into the water.
 - iii. Treated wood and treated wood debris shall be stored a minimum of 50 feet from coastal waters, drainage courses, and storm drain inlets. The treated wood and treated wood debris shall be stored on

- impervious pavement or an impervious tarp, and covered during rain events.
- iv. If treated wood is sanded or sawcut during demolition, installation, or maintenance, all sawdust and debris generated shall be contained and removed.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The applicant proposes to replace a 32' x 5' long wood cantilevered deck with a new 42' 3" x 5' concrete cantilevered deck, install a drainage system, and install tempered bird-strike prevention glass railings. The applicant is also proposing to repair voids beneath the toe of the seawall footing and repair deteriorated timber piles. This will include the removal of 5.96 sq. ft. of concrete overpour at the base of the seawall and installation of 1.02 sq. ft. of sheet piles along the face of the footing, which will result in a net increase of 4.94 sq. ft. of soft bottom habitat.

The proposed project is located at 16702 Wanderer Lane in Huntington Harbour in the City of Huntington Beach, Orange County ([Exhibit 1](#)). The site is currently developed with a single-family residence on a bulkhead lot with a 160 sq. ft. wood deck with a private boat dock and gangway. The applicant proposes to remove the existing wood deck cantilevered 5 feet over the water and install a new 211 sq. ft. concrete deck cantilevered 5 feet over the water. The applicant also proposes to add a 42-inch high tempered bird-strike prevention glass railing around the perimeter of the cantilevered deck. **Special Condition 3** requires the applicant to use bird safe glass in order to prevent bird strikes.

Although cantilevered above the water, the proposed deck would preclude the general public from utilizing the public water area underneath the deck for recreation or navigational purposes. However, the proposed deck will not expand further than other existing decks in the area. The property submerged by water under the project site is owned by the City of Huntington Beach. There is no sandy beach area along the bulkhead, therefore, in this case, the placement of a deck cantilevered 5 feet beyond the bulkhead would not create any additional impediment to public access as the existing deck is also cantilevered 5 feet over water. There is no opportunity for the public to walk upon the land in front of the bulkhead at this site or immediate area. The nearest public access in the area is the public launch site, located approximately 2,400 feet northeast of the site at Humboldt Park adjacent to Humboldt Drive. The proposed deck will not have any significant adverse impact on public access to the coast or to nearby recreational facilities.

In this area, there is an existing dominant pattern of development of 5-foot wide decks cantilevered over the bulkhead. Thus, the construction of a cantilevered deck at this site and in this location would not be establishing a new pattern of development (nor create an adverse public access condition, as previously mentioned). However, the

Commission imposes **Special Condition 9** 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 or on adjacent public waters.

Development of Huntington Harbour in the 1960s created a number of residential islands surrounded by waterways. Most of the Huntington Harbour water frontage is developed with single-family homes, many of which have cantilevered decks and boat docks over public waters, including properties adjacent to the project site. The proposed deck is similar in function to the other cantilevered decks associated with residential development within Huntington Harbour and is consistent with past Commission actions in the area. All work on the deck will occur from the landward side of the deck. The proposed deck and bulkhead repair are associated with the adjacent single-family residential use. Here, the new deck will not be made of any preservative-treated wood, however, the existing deck to be removed is made of preservative-treated wood. Preservative-treated wood in overwater and in-water structures has the potential to adversely impact water quality and aquatic species. The pesticides in wood preservatives – commonly copper – can adversely impact aquatic species, especially fish and invertebrates, and may accumulate in the underlying sediment. Copper pollution can leach from copper-based antifouling paints commonly used on boat hulls, and discharges during boat hull maintenance, thereby impacting water quality. Therefore, **Special Condition 10** requires the applicant to submit a final plan documenting the construction-phase BMPs to be used for all overwater and in-water structures that are removed that contain preservative-treated wood.

In addition to the cantilevered decks, development of these 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 Harbour was developed. These bulkheads, constructed in the 1960s, are comprised of sheet pile wall, concrete footing, cutoff wall, and supporting front (battered/angled) untreated timber piles, and rear (upright) untreated timber piles.

Over time, at numerous locations throughout Huntington Harbour,¹ 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

¹ Past CDPs for repairs to these Huntington Harbour bulkheads include: 5-20-0265 (Westchester Bay Homeowners and Seagate Lagoons Associations); 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).

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 Huntington Harbour, 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 Harbour bottom that is not necessary for the structural support derived from the bulkhead.

The applicant proposes to remove the existing concrete overpour along the toe of the footing to allow the installation of 7/16-inch, marine grade carbon fiber reinforced vinyl ester resin sheet pile panels (made from thermoset composite) with 4 square inches/interlocks at the toe of the existing bulkhead footing. Due to the voids and varying mudline depth along the toe of the bulkhead, the actual depth that the panels will extend into the Harbour bottom below the bottom of the concrete bulkhead footing will vary. The minimum amount of panel penetration into the Harbour bottom for structural stability has been determined to be at least 3.5 feet. The installation of the sheet piles will result in 1.02 square feet of fill of coastal waters. This fill of coastal waters is proposed to be mitigated by removing the concrete overpour in the vicinity of the project. To mitigate the permanent coverage of 1.02 square feet of soft bottom habitat, the applicant proposes to remove existing concrete overpour adjacent to the bulkhead which dates from the time of the bulkhead's original construction in the 1960s. The area of existing concrete overpour at the subject site proposed to be removed is 5.96 square feet. Therefore, there will be a total net increase of 4.94 sq. ft. of potential soft bottom habitat area. **Special Condition 5** requires that the soft bottom mitigation (removal of the concrete overpour) be carried out as proposed. In addition, **Special Condition 2** requires submittal of "as-built" plans to document the location of the approved bulkhead footprint relative to the concrete overpour removed. Furthermore, **Special Condition 8** requires conformance with the proposed plans.

Alternatives to the proposed project were considered by the applicant including the 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; 4) repair of individual piles as they become damaged (do nothing alternative) and; 5). placement of filter fabric across the void which would be held in place with rock. All of the alternatives other than the proposed project would result in greater impacts to the marine environment (additional fill of soft bottom habitat and additional non-natural materials in the water column). 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 sheet piles;
5. Pumping concrete grouting behind the forming/sheet piles to fill voids.

The initial phase of the project includes removing the existing concrete cut-off wall that extends beneath the toe of the seawall footing to allow the evaluation of the condition of the timber piles. To remove the concrete overpour, the applicant proposes to use a small impact hammer. The broken pieces of concrete overpour would then be collected and discarded at 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.

As described above, the carbon fiber sheet pile will be driven in interlock flush with the face of the footing across the entire property line. Stainless steel anchor rods are installed through the sheet pile and epoxied into the footing securing the sheets in place. The sheet pile panels will provide a barrier to seal off the voids. After installation of the panels, grout will be injected into the voids beneath the footing and around the timber piles supporting the seawall. The panels will have holes in them approximately every four feet. The pre-mixed grout will be pumped through a hose and injected through the holes in the panels to fill the void under the footing and around the timber piles. Since the panels will be installed prior to the injection of the grout to fill the voids, dispersion of the grout into the Harbour will be prevented. As the grout is pumped into a void, the holes in the adjacent panels will be closely monitored to ensure that grout does not escape into the water. Once the grout is observed at an adjacent hole, pumping will immediately halt and the injection holes will be temporarily plugged until the grout has hardened. This process will continue until all of the voids are filled. Sealing off the voids and filling them with grout will reduce the exposure of the timber piles beneath the footing and reduce the potential for continued deterioration from marine borers and other forms of deterioration.

No 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: spill kits, containment booms, or other forms of barriers that 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 Harbour 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 10** outlines additional construction responsibilities.

An eelgrass survey was conducted by Harbour Constructors Co., on October 28, 2020 along the length of the seawall, plus an additional 4 meters on each side of the seawall and an additional 23 meters from the seawall to the channel. The survey found no eelgrass within the project's vicinity. Due to the ephemeral nature of eelgrass, however, an eelgrass certification is only valid until the next period of active growth. More than a year may elapse before construction commences. Even though the eelgrass inspection indicates that no eelgrass is present, and therefore eelgrass is not expected to be impacted by the proposed project, eelgrass may have established within the project area between the time the survey was conducted and commencement of construction. If eelgrass is present in the project area, adverse impacts from the proposed project could result. Therefore, measures to avoid or minimize such potential impacts must be in place in order for the project to be found consistent with Section 30230 of the Coastal Act. **Special Condition 6** requires pre- and post-construction eelgrass surveys will be completed in the project area. In addition, also on October 28, 2020 Harbour Constructors Co. conducted a *Caulerpa taxifolia* survey of the project site and vicinity and none was found. The genus *Caulerpa* consists of approximately 75 different species of single-celled aquatic organisms that can grow rapidly and have the potential to adversely impact native marine habitat along the west coast, one of which was observed in Newport Beach in April 2021. Therefore, **Special Condition 7** requires a pre-construction *Caulerpa* species survey prior to the commencement of construction in order to ensure that *Caulerpa* species have not migrated to the area in the time since the previous survey was conducted.

No increase to the +7.61 feet mean lower low water (MLLW) elevation of the top of the existing bulkhead is proposed. The applicant's coastal engineer has indicated that once the timber piles that support the seawall and the cantilevered deck are retrofitted, the seawall can last another 75 years, with maintenance; however, if it is found inadequate to withstand the impacts of sea level rise in the next 75 years, the cantilevered deck can be increased in height, without further seaward encroachment. Thus, if necessary in the future to protect against sea level rise hazards, the subject cantilevered deck assembly can be raised without requiring future fill of coastal waters. **Special Condition 4** prohibits future bayward encroachment of the footprint of the shoreline structure approved by this coastal development permit. To that end, **Special Condition 2** requires submittal of "as-built" plans to document the location of the approved, post-construction bulkhead footprint.

The Commission has expressed concern about the use of plastic in the marine environment. The sheet piles used in the proposed development are made from a thermoset composite, as opposed to a thermoplastic, and the sheet piles do not contain any plastic. To minimize the potential of the sheet piles 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.

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* species. 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 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 on 10/19/2020. 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.

5-20-0667 (Buchbinder)

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-20-0667 and associated file documents.