

CALIFORNIA COASTAL COMMISSION

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W7b

Staff: F. Sy – LB
Date: February 18, 2022

ADMINISTRATIVE PERMIT

Application No.: 5-21-0632

Applicant: Julia Mumma

Agent: Ritner Group, Attention Ron Ritner

Location: 74 Linda Isle, Newport Beach, Orange County (APN No. 050-451-33)

Project Description: Bulkhead improvements consisting of tiebacks and a deadman and removal and replacement of an existing deck cantilevered from the bulkhead associated with a single-family residence.

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission on March 9, 2022. PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency, and following California Assembly Bill 361, and the Governor's Executive Orders N-1-22, N-15-21, N-29-20, and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to

receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

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

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

John Ainsworth
Executive Director

by: Fernie Sy
Coastal Program Analyst

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EXHIBITS

[Exhibit No. 1 – Location Map](#)

[Exhibit No. 2 – Site Plan/Elevation Plan](#)

[Exhibit No. 3 – Section Plan](#)

STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS: See pages eight through ten.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT DESCRIPTION

The proposed project involves bulkhead improvements consisting of four (4) tiebacks and a deadman and removal and replacement of an existing deck cantilevered , approximately 33 ft. long and 5 ft. wide, from the bulkhead in the same location associated with a landside single-family residence ([Exhibits No. 2-3](#)). An existing

private dock system associated with the landside single-family residence is located onsite adjacent to the existing cantilevered deck and bulkhead, but no work to it is proposed with this project.

The subject site is located at 74 Linda Isle in the locked gate community of Linda Isle in the City of Newport Beach, Orange County ([Exhibit No. 1](#)). The proposed cantilevered deck is associated with the single-family residence on the applicant's landside property. The proposed cantilevered deck is similar in function to the other cantilevered decks associated with residential development within Linda Isle. The proposed development is consistent with past Commission actions in the area.

The landside portion of the property where the proposed four (4) tiebacks and deadman will be located (existing tiebacks will be left in place) are within the City's permitting jurisdiction ([Exhibit No. 2](#)). This portion of the project has been approved by the City of Newport Beach because it is within the City's permit authority as designated in the certified LCP (Title 21 of the Newport Beach Municipal Code). The City Zoning Administrator approved that portion of the development through Resolution No. ZA2020-076 (Coastal Development Permit No. CDP2020-135).

The remaining portion of the project consisting of the replacement of the existing cantilevered deck from the bulkhead in the same location is located within the Commission's original jurisdiction ([Exhibits No. 2](#)). The City has issued an Approval-In-Concept dated April 22, 2021, for the project and the proposed cantilevered deck has been designed in compliance with the patio deck standards of Municipal Code Section 21.30C.050(G)(5). Specifically, the deck would project a maximum of 5-feet beyond the bulkhead, maintains minimum setbacks of 5 feet from the prolongations of the side property lines, and would be located outside Tidelands Trust, which are mapped State tidelands administered by the City.

The subject deck cantilevered from the bulkhead is located over submerged land that is owned and managed by the Linda Isla Community Association. Pursuant to Public Resources Code section 7552.5, the submerged land is subject to a navigational easement that, in general, precludes the owner from preventing the public from using the waters for navigational purposes even if the submerged lands are not public trust lands. The proposed cantilevered deck will be landward of the designated pierhead line and, therefore, is not expected to interfere with navigation because pierhead lines are established to ensure that docks and piers do not interfere with navigation. In addition, construction of the proposed cantilevered deck may hinder but would not completely obstruct the public's ability to access the water areas fronting the applicant's lot for recreational boating purposes and, as a practical matter, is unlikely to have much additional impact on public access due to the existence of the private dock that extends farther out. Thus, the proposed cantilevered deck would not be inconsistent with the navigational easement over the submerged lands.

There is no direct public pedestrian access to public tidelands through the private residential lot at the subject site. However, public access to the bay exists in the area

across the channel from the Linda Isle community along the public walkways on Lido Island and Balboa Island ([Exhibit No. 1](#)). Therefore, the proposed project does not result in adverse impacts to public access or recreation. In order to preserve and maintain access to the public waters if development patterns change in the future or if there is an effort to expand public access, **Special Condition No. 2** 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.

There is potential for the discharge of demolition or construction debris into coastal waters at the project site. This could result in adverse effects on the marine environment. The proposed development includes protective measures to ensure that coastal waters and marine resources will not be adversely affected before, during or after 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. 1**, which requires, but is not limited to, the 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. As conditioned, the proposed project minimizes impacts to biological resources consistent with Sections 30230 and 30231 of the Coastal Act.

The proposed deck will be cantilevered over the existing bulkhead and will have a concrete wall located at the cantilevered deck edge with a height of +10.70 ft. NAVD88. A Bulkhead Condition Report and a separate Coastal Hazards Analysis Report (WSA Job #7507) were prepared for the proposed development by William Simpsons & Associates, Inc. dated August 4, 2020. The Coastal Hazards Analysis Report assumes a project (cantilevered deck) design life of seventy-five years. The Bulkhead Condition Report assessed the condition of the existing bulkhead and states:

“The jetted-in pre-cast concrete panels and the cast-in-place coping of the seawall along with the cantilevered deck were found generally in good condition with minor repairable cracks which is typical for a concrete structure of this vintage.

Based on our site observation, we conclude that the existing seawall is required to protect the proposed principal structure on the lot. To be able to do so, the seawall shall be repaired/reinforced as reflected on the enclosed Drawings S-0 thru S-2.”

The Coastal Hazards Analysis Report further states:

“In accordance with the guidance and requirements by California Coastal Commission, as reflected in the clouded area of the enclosed Table 28, based upon direct interpolation of the data for High emissions 2090 & 2100 and Medium-High Risk Aversion, over the project’s planning horizon of 75 years, the estimated Sea-Level Rise (SLR) for year 2095 shall be 6.00’, which is the Sea-

Level Rise for the proposed project. Based on the highest high tide of +7.88'MLLW (7.70'NAVD88) recorded in the project area, the above established Sea-Level Rise will account for bay water level of +13.70'NAVD88."

The Coastal Hazards Analysis Report also states:

"Per City of Newport Beach Municipal Code standards, we have enclosed Table 28 with interpolated data for High emissions 2090 & 2100 and Low Risk Aversion. Based on that interpolation, the estimated SLR for year 2095 shall be approximately 2.95', which is much smaller than the governing estimated SLR for Medium-High Risk Aversion. Based on the highest high tide of +7.88'MLLW (7.70'NAVD88) recorded in the project area, the above established Sea-Level Rise will account for bay water level of +10.65'NAVD88."

The Coastal Hazards Analysis Report further states:

"If found not adequate for the actual sea level rise over the next 75 years, the existing seawall/bulkhead assembly, including the concrete wall at the entire bayward edge of the new concrete deck, allows to be increased in height to+13.7'NAVD88 without further seaward encroachment."

Thus, the proposed development will not adversely affect the condition of the bulkhead, will not prevent repairs to the bulkhead in the future, and will not prevent sea level rise adaptation measures which may implemented along and atop the bulkhead in the future.

B. WATER QUALITY

The proposed work 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 could result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the special conditions are imposed 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 permit requires the continued use and maintenance of post-construction BMPs. As conditioned, the development conforms to Sections 30230 and 30231 of the Coastal Act.

C. PUBLIC ACCESS

The proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Therefore, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. LOCAL COASTAL PROGRAM (LCP)

The proposed development is located seaward of the mean high tide line and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City of Newport Beach certified LCP was certified on January 13, 2017 and may provide guidance for development. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

SPECIAL CONDITIONS

The permit is granted subject to the following special conditions:

1. Water Quality

A. Construction Responsibilities and Debris Removal

- (1) 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;
- (2) 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;
- (3) 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;
- (4) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- (5) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;

- (6) 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;
- (7) Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- (8) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- (9) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- (10) 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;
- (11) 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;
- (12) 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;
- (13) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (14) 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;
- (15) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
- (16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

2. Public Rights and Public Trust

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 may exist on the property now or in the future.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing