

CALIFORNIA COASTAL COMMISSION

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Th7a

Staff: JD – LB
Date: May 19, 2022

ADMINISTRATIVE PERMIT

Application No.: 5-22-0066

Applicant: Drew St. Investments, LLC

Agent: Matt Caldwell, Caldwell Builders, Inc.

Location: 16692 Wanderer Lane, Huntington Beach, Orange County (APN No: 178-053-19)

Project Description: After-the-fact approval of removal of pre-existing 285 sq. ft. cantilevered deck and prospective construction of new concrete 208 sq.ft. cantilevered deck with new 42" bird-safe glass and metal railing.

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 June 09, 2022. PLEASE NOTE THAT THIS WILL BE A HYBRID MEETING WITH BOTH VIRTUAL AND IN PERSON PARTICIPATION ALLOWED. Please see the Coastal Commission's Hybrid 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.

The in-person hearing will be held at:

**Hilton San Diego/Del Mar
15575 Jimmy Durante Blvd.
Del Mar, CA 92014**

The Commission strongly encourages continued participation virtually through video and teleconferencing due to changing Covid-19 conditions.

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: Jennifer Doyle
Coastal Program Analyst

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EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Plans](#)

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 applicant proposes to construct a new 41.5-foot-long concrete deck that cantilevers 5 feet beyond the bulkhead. The proposed deck includes a 42-inch high, bird-safe railing along the perimeter of the deck, which is designed with a type of glass visible to birds that will avoid adverse impacts to marine life in the form of bird strikes. The cantilevered deck will be set back 33.5 feet from the extension of the southern side

property line and 5 feet from the northern property line extension. Gutters will be installed along the perimeter of the deck to catch drainage and direct it to a filtering basin, and once filtered, will be directed into the harbour waters. Additionally, the applicant seeks after-the-fact (ATF) approval of removal of the pre-existing approximately 285 square foot cantilevered deck. The applicant states that the pre-existing deck was in a state of disrepair and was removed without the benefit of a permit, in violation of the Coastal Act, before plans and permits for a new deck could be obtained. Approval of this application pursuant to the staff recommendation, effectuation of the permit, and the applicant's subsequent performance of the work authorized by the permit in compliance with all of the terms and conditions of the permit will result in resolution of the violation specifically described herein. The project plans are attached as [Exhibit 2](#). The subject site is associated with a residentially zoned, harbor front lot at 16692 Wanderer Lane, in Huntington Harbour in the City of Huntington Beach ([Exhibit 1](#)).

Construction of the new cantilevered deck will occur primarily from the landward side, No harbor bottom disturbing activities will occur during construction. Additionally, standard BMPs (best management practices) will be practiced during deck construction. Such BMPs include the placement of 347 linear feet of gravel bag barriers and wind fabric along a perimeter fence to address wind and sediment erosion. Additional measures include storm drain inlet protection and concrete waste management. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject wave, wind, or rain erosion and dispersion. All construction material will be removed from the site within ten days of completion of construction and disposed of at an appropriate location. A dinghy boat will be used to contain debris that may be discharged into coastal waters and any debris discharged into coastal waters will be removed immediately. At the end of the construction period, the applicant will inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation. Additionally, **Special Condition 1** imposes water quality best management practices (BMPs) during construction.

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. Nonetheless, the City's certified LCP may be used as guidance. The land use designation at the water portion of the site is Open Space – Water Recreation (OS – W) and zoned Open Space Water Recreation. The applicant's property (the land) is designated and zoned for residential use in the certified LCP. The proposed development is consistent with the City's certified LCP, specifically with Implementation Plan Chapter 213 Open Space District, which allows private cantilevered decks abutting residential uses, and with Chapter 210, which provides standards for cantilevered decks in Huntington Harbour in the Open Space Water Recreation zone. The City of Huntington Beach reviewed the proposed plans and issued Approval-in-Concept dated 01/07/2022.

Most of the Huntington Harbour water frontage is developed with single-family homes

on lots supported by bulkheads, 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. The proposed development is consistent with past Commission actions in the area.

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, there is no sandy beach area along the bulkhead and a boat dock is present waterward of the area of the proposed cantilever; therefore, in this case, the replacement of a deck cantilevered five feet beyond the bulkhead would not create a new impediment to shoreline public access as there is no opportunity for the public to walk or boat in the area immediately waterward the bulkhead at this site. 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 development 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 2** 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.

Special Condition 3 requires the applicant to agree that that should the City of Huntington Beach implement an overwater development, dock float and pier lease program for the limited-term private use and occupation of State Tidelands for development associated with recreational boating activities (i.e., private docks and piers), the development over State Tidelands subject to this permit shall be subject to the terms of such dock float and pier lease program.

The applicant also proposes to add a 42-inch-high bird-strike prevention glass railing around the perimeter of the cantilevered deck. **Special Condition 4** requires the applicant to use bird safe glass to prevent bird strikes.

The proposed deck will be cantilevered over the existing bulkhead. A Bulkhead Condition Report for Coastal Development Permit was prepared for the proposed development by William Simpson & Associates, Inc., dated May 17, 2021. The bulkhead report assessed the condition of the existing bulkhead and states:

“The cast in place concrete panels of the seawall are in very good shape. There were no signs of any movement, or visible scour at the mudline. Evaluation of the condition of the concrete superstructure (face panel) revealed that the above ground portion of the seawall appears to remain in fairly good condition.”

A Coastal Hazards Analysis Report was prepared for the proposed development by William Simpson & Associates, Inc., dated May 17, 2021. The coastal hazards report assessed the potential for flooding, wave runup, and erosion on the site over the next 75 years and states:

“For the “likely” COPC SLR estimate range (high emissions) the bulkhead/deck is safe from flooding until after the year 2080. For SLR greater than 2.3 feet the height of the bulkhead/deck will need to be increased. For the 0.5% SLR case this may occur in about the year 2060.”

The Report also states:

“The proposed deck/bulkhead can be adapted to respond to sea level rise. The deck can be removed and the height of the bulkhead can be extended vertically. Such an extension would not require additional harbor channel encroachment. Based upon the low emissions range of the 66% probability SLR projection, the bulkhead/deck will be safe from flooding until the year ~2100. The existing bulkhead can structurally accommodate an increase in height. Extension is considered a viable means of mitigating SLR and harbor water impacts to the Huntington Harbor bulkheads and residences. An additional ~3 feet of height, to about elevation +12.3 feet NAVD88, can be added to the deck/bulkhead, which would protect against the 0.5% probability SLR flood risk past the year 2100. Such an adaptation would not result in additional bay-ward encroachment since it could be added directly on top of the existing deck/bulkhead.”

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. 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.

C. 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. As conditioned, the development conforms to Sections 30230 and 30231 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 and the proposed development requires a coastal development permit. The City of Huntington Beach LCP was certified on March 1985 and is advisory in nature 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

This permit is granted subject to the following special conditions:

1. Water Quality: 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.

3. Overwater Development, Dock Float and Pier Lease Program.

By acceptance of Coastal Development Permit 5-22-0066, the permittee agrees, on behalf of itself and all successors and assigns, that should the City of Huntington Beach implement an overwater development, dock float and pier lease program in this location for the limited-term private use and occupation of State Tidelands for development associated with recreational boating activities (i.e., cantilever decks, private docks and piers), the development over State Tidelands subject to this permit shall be subject to the terms of such dock float and pier lease program.

4. 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 birdstrikes 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.

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