

CALIFORNIA COASTAL COMMISSION

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W7a

ADDENDUM

August 30, 2022

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W7a, CDP APPLICATION NO. 5-22-0112 (ANDERSON) FOR THE COMMISSION MEETING OF WEDNESDAY, SEPTEMBER 7, 2022.**

This addendum is designed to remove Special Condition 3, which would require the applicant to submit two Caulerpa surveys prior to constructing the proposed project. Staff is proposing removal of Special Condition 3 because no Caulerpa was found near the project site and the applicant does not propose any ground disturbance activities. The proposed removal of Special Condition 3 will not alter Staff's recommendation of Approval with Conditions for the proposed project.

I. CORRECTIONS TO STAFF REPORT

The following changes and corrections are made to the staff report dated August 19, 2022. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strikethrough~~.

- a) Correct the sentence following the standard conditions on page 4 as follows:

SPECIAL CONDITIONS: See pages eight through ~~fourteen~~thirteen.

- b) Correct the fifth sentence of the third complete paragraph on page 5 as follows:

However, the Commission imposes **Special Condition 43** 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.

- c) Correct the first sentence of the fourth complete paragraph on page 5 as follows:

The applicant submitted an eelgrass and Caulerpa survey for the project site conducted on August 4, 2021, which determined that eelgrass and Caulerpa were ~~was~~ not present in the subject area.

- d) Correct the first complete paragraph on page 6 as follows:

~~The applicant has submitted a Caulerpa survey conducted in conjunction with the eelgrass survey on August 4, 2021. The bathymetric surveys did not find evidence of Caulerpa onsite—however, Caulerpa surveys only remain valid for 90 days. The Commission requires up-to-date Caulerpa surveys consistent with the National Marine Fisheries Service and California Department of Fish and Wildlife protocols be conducted prior to commencement of the project, as addressed by **Special Condition 3**. Also, if any Caulerpa is found on the project site, **Special Condition 3** identifies the procedures necessary to be completed prior to beginning any construction consistent with Sections 30230 and 30231 of the Coastal Act which protect biological resources.~~

- e) Correct the last sentence of the third complete paragraph on page 6 as follows:

Special Condition 76 further clarifies that any improvement or repair or maintenance of the subject proposed development will require an amendment to this CDP or a new CDP.

- f) Correct the first sentence of the first incomplete paragraph on page 7 as follows:

...**Special Condition 54** requires the applicants to comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife (CDFW), the RWQCB, the USACE, and the United States Fish and Wildlife Service (USFWS) with respect to preservation and protection of water quality and marine environment consistent with Section 30231, 30232 and 30233 of the Coastal Act.

- g) Correct the second sentence of the first complete paragraph on page 7 as follows:

Special Condition 65 requires the applicant to agree to provide mitigation in the form of a lease fee to the City should the City of Huntington Beach implement an overwater development, dock float and pier lease program.

- h) Correct the fifth sentence of the second complete paragraph on page 7 as follows:

As conditioned, the project will not significantly adversely impact eelgrass beds ~~and will not contribute to the dispersal of the invasive aquatic algae, Caulerpa taxifolia.~~

- i) Delete Special Condition 3 on page 12 and 13 as follows:

~~**3. Pre-construction Caulerpa Sp. Survey**~~

~~A. Two pre-construction surveys of the project area for Caulerpa species (Caulerpa) shall be conducted by a certified Caulerpa surveyor in accordance with the Caulerpa Control Protocol (version 5) (<https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf>). The surveys shall include 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. Within fifteen (15) 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) California Department of Fish & Wildlife Marine Region (Caulerpa@wildlife.ca.gov) and National Marine Fisheries Service (NOAA Fisheries) (nmfs.wcr.caulerpa@noaa.gov).~~

~~C. Prior to initiation of any authorized Bottom Disturbing Activity within an Infected System, two surveys, initiated not less than 60 days apart, shall be conducted within the project area of potential effect (APE). The first survey shall be conducted using High Intensity Level techniques and the second survey shall be conducted using Eradication Area Level techniques. Both surveys shall be conducted within the same High Growth Period. Deviations from this condition may be considered on a case-by-case basis by the appropriate regulatory agency in consultation with NOAA Fisheries and CDFW.~~

~~D. At least one survey shall be conducted within 45 days of initiation of an authorized Bottom Disturbing Activity (a "Pre-Act Survey"). This survey could be the second (Eradication Area Level) survey conducted during the High Growth Period. However, project delays may require that a third survey be conducted prior to initiation of the Bottom Disturbing Activity in order to meet this 45-day requirement. If a third survey is required, this survey shall be conducted at either a High Intensity Level or Eradication Area Level as determined by the NOAA Fisheries/CDFW Contacts based upon site circumstances and proximity to infestations. To determine appropriate survey level, please contact the NOAA Fisheries/CDFW Contacts with project specific information.~~

~~E. If Caulerpa species 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 species. 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.~~

j) Renumber Special Condition 4 on page 13 as follows:

43. Public Rights and Public Trust

k) Renumber Special Condition 5 on page 13 as follows:

54. Resource Agencies

l) Renumber Special Condition 6 on page 14 as follows:

65. Overwater Development, Dock Float and Pier Lease Program

m) Renumber Special Condition 7 on page 14 as follows:

76. Future Development