

**CALIFORNIA COASTAL COMMISSION**

South Coast District Office  
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# W7a

Staff: E. Greer – LB  
Date: April 20, 2023

## ADMINISTRATIVE PERMIT

**Application No.:** 5-22-0852

**Applicant:** Tom Gallagher

**Agent:** Jacquelyn Chung, CPS Consulting

**Location:** 3791 Ragtime Circle, Huntington Beach, Orange County (APN No: 178-681-40)

**Project Description:** Construct a new 50 ft. long concrete cantilevered deck addition to an existing 45 ft. by 5 ft. cantilevered deck, resulting in a 95 ft. by 5 ft. cantilevered deck. Also proposed along the waterside perimeter is a 42-in. tall wrought iron railing. No type of glass or transparent medium is proposed. Additionally, the applicant proposes to move the existing gangway to a new location.

## 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 May 10, 2023. PLEASE NOTE THAT THIS WILL BE A VIRTUAL AND IN-PERSON MEETING.** Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at [www.coastal.ca.gov](http://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:

CA Natural Resources Agency  
715 P Street  
Sacramento, CA 95814

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.**

Dr. Kate Huckelbridge  
Executive Director

by: Emily Greer  
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 eleven.

### 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 50 ft. by 5 ft. concrete cantilevered deck addition to an existing 45 ft. by 5 ft. cantilevered deck, and move the existing gangway to a new location. The proposed deck would include a 42-in. high, wrought iron railing along the perimeter of the deck. The project plans are attached as [Exhibit 2](#). The subject site is associated with a residentially zoned, harbor front lot at 3791 Ragtime Circle, in

Huntington Harbour in the City of Huntington Beach ([Exhibit 1](#)).

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 9/20/2022.

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 associated with the single-family residence on the applicant's property. 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 construction 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 within the harbor is located approximately 1,050 feet northwest of the site at Trinidad Park.

The proposed development will not have any significant adverse impact on public access to the coast or to nearby recreational facilities. In this case, there is an existing significant pattern of development of 5-ft. wide decks cantilevered over the bulkhead. Thus, the construction of a cantilevered deck at this site and in this location would not establish a new pattern of development or create an adverse public access condition, as previously mentioned. Because development patterns or use of public tidelands may change in the future, the Commission imposes **Special Condition 3** 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.

There is existing piped drainage from the patio and existing cantilevered deck to the street at the front of the residence. The applicant proposes for the new cantilevered deck section to have runoff water directed to these same drains. In addition, as proposed by the applicant, soaps, paints, detergents, or any products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye will not be used on the deck, and so will not be allowed to drain into the harbor waters.

Construction of the new cantilevered deck will occur primarily from the landward side, with the exception of installation of the support shoring and framing for concrete forms. A barge in the water will be used during this process. Both the floating platforms and barge will be anchored to the landward portion of the site. No anchoring on the bay floor will occur. Other than the floating platforms and barge, no construction equipment will be placed in the water. No harbor bottom disturbing activities will occur during construction. Additionally, the applicant has proposed standard best management practices (BMPs) that will be practiced during deck construction. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject wave, wind, or rain erosion and dispersion. Floating booms will be used to contain debris that may be discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day. Divers will recover non buoyant debris discharged into coastal waters as soon as possible after loss. 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. Nevertheless, the Commission imposes **Special Condition 2** to ensure that the applicant adheres to the BMPs during construction.

Any potential addition/expansion to the cantilevered deck, whether temporary or permanent, would constitute development as defined in section 30106 of the Coastal Act, would be located in Huntington Beach within the Commission's retained jurisdiction and would necessitate review and approval by the Coastal Commission, including issuance of an amendment to this permit or a new CDP. This review would also give the Commission an opportunity to review and analyze any potential adverse impacts of an increase of water coverage in an area where such coverage is already a concern. **Special Condition 6** 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. Additionally, although no type of glass or transparent medium is currently proposed **Special Condition 5** requires that should the applicant ever want to use glass or a transparent medium for the railing, the applicant must use bird safe glass to prevent bird strikes.

**Special Condition 4** 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 proposed deck will be cantilevered over the existing bulkhead. A Bulkhead Condition Report was prepared for the proposed development by Blue Horizon Consulting Engineers Inc., dated August 29, 2022. The Report assumes a project (cantilevered deck) design life of 75 years. The Report assessed the condition of the existing bulkhead and states:

"The cast in place concrete panels of the seawall are in very good shape with minor

repairable cracks. The length of each cast in place panel is about 26 ft. There is no sign of seawall movement. The top elevation of the existing seawall is +8.15' (+/-) M.L.L.W. = +8.35 (+/-) NAVD88.”

Finally, the Report states:

“After site visit, we concluded that the existing seawall is required to protect the existing house. The visible portion of the seawall is in very good condition, with minor repairable cracks. Existing supporting timber piles shall be inspected. If any deficiencies have been observed, the timber piles shall be retrofitted. After retrofitting, we can assume with maintenance, the seawall can last another 75 years or economic life of the existing home.”

No increase to the +8.15 ft. mean lower low water (MLLW) elevation of the top of the existing bulkhead (i.e., seawall) is proposed. Moreover, the proposed development will not adversely affect the condition of the bulkhead and will not prevent repairs to the bulkhead in the future. The applicant’s engineer has indicated that if the seawall displays any sign of distress that requires immediate attention over economic life of the existing house, it should be repaired or replaced at that time accordingly, without seaward encroachment from its current location. To this end, **Special Condition 1** prohibits future bayward encroachment of the footprint of the shoreline structure approved by this coastal development permit, and additionally, it requires conformance of the project with the “as-built” plans, unless modified by a future coastal development permit or amendment.

In conclusion, as conditioned, the proposed deck will have no adverse impact on coastal access or resources in the project vicinity and is consistent with the Chapter 3 policies of the Coastal Act.

## **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. Conformance with Proposed Plans.**

- A. The permittee shall conform to the plans dated June 21, 2022, 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.
- B. **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 or seawall) that is the subject of Coastal Development Permit No. **5-22-0852**, as described and depicted on approved project plans (**Exhibit 2** of this staff report dated April 20, 2023), and as depicted on the as-built plans required 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.

### **2. 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.

### **3. Public Rights**

The 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.

### **4. Overwater Development, Dock Float and Pier Lease Program.**

By acceptance of Coastal Development Permit 5-22-0852, 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.

### **5. Bird Strike Prevention.**

Harbor front 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.

## **6. Future Development**

This permit is only for the development described in CDP No. 5-22-0852. Pursuant to Title 14 of the California Code of Regulations, Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by CDP No. 5-22-0852, including the proposed private dock float system. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 of the California Code of Regulations, Sections 13252(a)-(b), shall require an amendment to CDP No. 5-22-0852 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.

### **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.

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Applicant's Signature

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Date of Signing