

CALIFORNIA COASTAL COMMISSION

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F5a

Staff: M. Vaughn – LB
Date: May 23, 2024

ADMINISTRATIVE PERMIT

Application No.: 5-24-0057

Applicant: Yuko Athey

Agent: Kevin Murphy, R. J. Murphy Construction

Location: 16506 Cotuit Circle, Huntington Beach,
Orange County (APN No: 178-053-61)

Project Description: Removal of an existing 10-foot, 5-inch-long wood deck cantilevered 5-feet beyond the bulkhead, and replacing it with a new, concrete deck of the same dimensions. Also proposed is the construction of a separate, new, 8-foot, 9-inch-long concrete deck, cantilevered 5 feet beyond the bulkhead.

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 14, 2024. PLEASE NOTE THAT THIS WILL BE A VIRTUAL as well as in person MEETING. Please see the Coastal Commission's 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.

Kate Huckelbridge, PhD
Executive Director

by: Meg Vaughn
Coastal Program Analyst

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EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Project Plans

I. 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 nine through twelve.

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.

II. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT DESCRIPTION

The applicant proposes to remove an existing 10-foot, 5-inch long wood deck cantilevered 5-feet beyond the bulkhead, and replace it with a new, concrete deck of the same dimensions. Also proposed is the construction of a separate, new, 8-foot, 9-inch-long concrete deck, cantilevered 5 feet beyond the bulkhead. An existing gangway will remain in place between the two decks. The project plans are attached as [Exhibit 2](#). The subject site is associated with a residentially zoned, harborfront lot at 16506 Cotuit Circle, on Huntington Harbour in the City of Huntington Beach ([Exhibit 1](#)).

No railing is proposed for either cantilevered deck. In an email dated 4/16/2024, City of Huntington Beach staff confirmed that no railing is required ([Exhibit 3](#)). **Special Condition No. 4** requires that if a railing is proposed in the future, a CDPA or a new CDP will be required and that any future railing shall be composed of bird safe material. Bird safe material includes, but is not necessarily limited to, non-transparent mediums such as wood or metal, or transparent medium that is frosted, etched, or includes UV designs incorporated directly into the glass. These materials are visible to birds, and thus serve to prevent bird strikes.

The subject site is located within the City of Huntington Beach, which has a certified Local Coastal Program (LCP). However, due to the project's 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 4/4/2024.

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 5 ft. 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 of the bulkhead at this site. The nearest public access within the harbor is located approximately 1200 ft. northeast of the site at Humboldt Beach Park, a small public beach in Huntington Harbour.

All deck demolition and construction work will occur from the landward side. All construction debris will be disposed of at a legal disposal site or recycled at a recycling facility. Deck drainage will be captured in gutters and directed to filtered catch basins which will discharge into the harbour. No soaps, paints, detergents, or any products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used on the deck and shall not be allowed to be allowed to drain into the harbor.

Additionally, the applicant has proposed standard best management practices (BMPs) that will be implemented 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. At the end of the construction period, the applicant will inspect the project area and ensure that no debris, trash or construction material have been left on the shore or in the water, and that the project has not created any hazard to navigation. Nevertheless, **Special Condition 2** imposes water quality best management practices (BMPs) during construction.

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.

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 **Special Condition 5** requires that if deck railings are proposed in the future, the applicant must use a bird safe medium to prevent bird strikes.

Special Condition 4 requires the applicant to acknowledge that that should the City of Huntington Beach implement an overwater development, cantilevered deck, dock float and pier lease program for the limited-term private use and occupation of public tidelands for development associated with the private residence (i.e., private decks, docks and/or piers), the development over public tidelands subject to this permit shall be subject to the terms of such deck, dock and/or pier lease program.

The proposed deck will be cantilevered over the existing bulkhead. A Bulkhead Condition Report and Sea Level Rise Discussion was prepared for the proposed development by GeoSoils, Inc., dated March 13, 2024. The Report assessed the condition of the existing bulkhead and states:

"The bulkhead is in good condition and is functioning as intended. There were no signs of any panel movement, or visible scour at the mudline. The construction joints are in good condition. The bulkhead face is level and continuous with the bulkheads fronting the adjacent properties (no bulkhead rotation). The top of the existing bulkhead is at about elevation +9 feet NAVD88. Figure 2 shows the

current condition of the bulkhead and the deck that will be replaced. Figure 3 shows where the bulkhead turns 90 degrees to front the adjacent property. [the subject site is a corner lot]. The mudline is just a few feet below the low tide elevation and was clearly visible during the bulkhead inspection. It is GSI's professional opinion that there is no need for any bulkhead maintenance at this time.

The Report further states:

"In addition, based upon this 2018 COPC SLR report, the 5% probability SLR for the project is estimated to be 4.1 feet and a 0.5% probability that SLR will be between 5 feet and 6 feet in the year 2097. The design historical water elevation at the for [sic] Huntington Harbor is less than elevation +7.0 feet NAVD88. This actual high water record period includes the 1982-83 severe El Nino, and the 1997 El Nino events, and is therefore consistent with the methodology outlined in the CCC Sea-Level Rise Policy Guidance document."

The top of the existing bulkhead is at about elevation +9 feet NAVD88. The replacement deck top is at elevation +10.6 feet NAVD88.

The Report states:

"Based upon the elevation of the bulkhead, the extreme Huntington Harbor water level will exceed the height of the bulkhead when SLR is 3.6 feet or greater. For the "likely" COPC SLR estimate range (high emissions) the deck is safe from overtopping until after the year 2100. For SLR greater than 3.6 feet the height of the bulkhead will need to be increased. For the 0.5% probability SLR case this may occur in about the year 2080.

The Report further states:

The proposed deck can be adapted to respond to sea level rise. The effective height of the deck/bulkhead can be extended vertically. This is a [sic] simple as adding a concrete wall to the top of the bulkhead/deck. Such an extension would not require additional harbor channel encroachment. 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 Harbour bulkheads and residences. An additional ~3 feet of height, to about elevation +13.6 feet NAVD88, can be added to the bulkhead/deck, which would protect against the ~0.5% probability SLR flood risk over the project design life. Such an adaptation would not result in additional bay-ward encroachment since it could be added directly on top of the existing bulkhead/deck.

No increase in the height of the existing bulkhead is currently proposed. The proposed deck replacement 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. SLR adaptation measures can be accommodated without bayward encroachment of the existing bulkhead. To this end, **Special Condition 1** prohibits future bayward encroachment of the footprint of the existing shoreline structure (bulkhead) at the subject site. 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 cantilevered deck project 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 in 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)

The City of Huntington Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). The City determined that in accordance with CEQA, the project is Categorically Exempt pursuant to 15303 of the CEQA Guidelines. 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.

III. 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 11/29/2023, 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. **5-24-0057**, as described and depicted on approved project plans ([Exhibit 2](#) of this staff report dated 11/29/2023), 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 5-24-0057, the permittee agrees, on behalf of itself and all successors and assigns, that should the City of Huntington Beach implement an overwater development, deck, dock float and pier lease program in this location for the limited-term private use and occupation of public tidelands for development associated with recreational activities (i.e., cantilever decks, private docks and piers), the development over public tidelands subject to this permit shall be subject to the terms of such deck, dock float and pier lease program.

5. Bird Strike Prevention.

No deck railing is proposed or approved as part of this permit. If, in the future, a deck railing is proposed, a new Coastal Development Permit or Coastal Development Permit Amendment shall be required. Any future harbor front deck railing systems, fences, screen walls, gates, and windows subject 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, metal, frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Glass or plexiglass 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 approved 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. 5-24-0057. 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. 5-24-0057, including the proposed cantilevered deck replacement. 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. 5-24- 0057 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.

Applicant's Signature

Date of Signing