

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

Filed: 11/12/08  
49th Day: 12/31/08  
180th Day: 5/11/09  
Staff: Meg Vaughn-LB  
Staff Report: December 18, 2008  
Hearing Date: January 7-9, 2009  
Commission Action:

**Th 4a****STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NUMBER:** 5-08-246

**APPLICANT:** Coral Cay Community Association

**AGENT:** Anchor Environmental, Lennie Rae Cook

**PROJECT LOCATION:** Over the waters adjacent to Coral Cay Lane and Marina Bay Drive, Huntington Beach, Orange County

**PROJECT DESCRIPTION:** Replacement of a 61 slip private marina in the same configuration, with the same number and sizes of slips. Existing and proposed slips range in size from 30 feet to 39 feet. Existing piles will be re-used in place; no new piles are proposed. Dredging of approximately 3,000 cubic yards is also proposed. Dredged material will be dewatered at a nearby parking lot and disposed of at an inland disposal site.

**LOCAL APPROVALS RECEIVED:** City of Huntington Beach Approval-In-Concept dated September 10, 2008.

**SUBSTANTIVE FILE DOCUMENTS:** City of Huntington Beach certified Local Coastal Program

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**SUMMARY OF STAFF RECOMMENDATION:**

The applicant is proposing replacement of an existing marina in the same location and configuration. The existing piles will remain in place and be re-used.

Staff is recommending **APPROVAL** of the proposed project with five (5) special conditions regarding: 1) construction responsibilities and debris removal; 2) best management boating practices; and 3) eel grass survey, 4) caulerpa taxifolia survey, and 5) acknowledgement that approval of this permit does not constitute a waiver of any public rights that exist or may exist on the property.

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**STAFF RECOMMENDATION:**

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

**MOTION:**

*I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION:**

**I. APPROVAL WITH CONDITIONS**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. 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 this permit is reported to the Commission. 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 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.

### III. **SPECIAL CONDITIONS**

#### 1. **Construction Responsibilities and Debris Removal**

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- (b) Any and all construction material shall be removed from the site within 24 hours of completion of construction.
- (c) Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone.
- (d) If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity.
- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day.
- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.

#### 2. **Best Management Practices Program**

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved marina docks and/or boat slips will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

##### (a) Boat Cleaning and Maintenance Measures:

1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris.
2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized.
3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

(b) Solid and Liquid Waste Management Measures:

1. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.

(c) Petroleum Control Management Measures:

- a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent material shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited.
- b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.
- c. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

3. **Eelgrass Survey**

- A. **Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a

new coastal development permit.

- B. Post Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

**4. Pre-construction *Caulerpa Taxifolia* Survey**

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicants shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five (5) business days of completion of the survey, the applicants shall submit the survey:
- i. for the review and approval of the Executive Director; and
  - ii. to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043) or their successors.

- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicants shall not proceed with the project until 1) the applicants provide evidence to the Executive Director that all *C. taxifolia* discovered within the project area and all *C. taxifolia* discovered within the buffer area have 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 applicants have revised the project to avoid any contact with *C. taxifolia*. 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.

**5. Public Rights**

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.

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. PROJECT LOCATION AND DESCRIPTION**

The applicant is proposing to replace a 61 slip marina in the same configuration, with the same number and sizes of slips. Existing and proposed slips range in size from 30 feet to 39 feet. Existing piles will be re-used in place; no new piles are proposed. Dredging of approximately 3,000 cubic yards is also proposed. Dredged material will be dewatered at a nearby parking lot and disposed of at an inland disposal site. The Coral Cay marina was constructed in the 1970s and has exceeded its 25 year life expectancy. The existing marina is privately owned and use of the marina is restricted to Coral Cay Community Association owners/members. No change is proposed to the existing availability of the marina.

The floating docks and gangways (approximately 14,000 square feet) will be removed and replaced in-kind, with no-change in overwater coverage or slip mix. The existing and proposed slip sizes are listed below.

<b>Slip Size</b>	<b>Number of Existing Slips</b>	<b>Number of Proposed Slips</b>
30 feet	1	1
32 feet	1	1
34 feet	11	11
36 feet	30	30
39 feet	18	18
<b>Total Number of Slips</b>	<b>61</b>	<b>61</b>

Maintenance dredging of approximately 3,000 cubic yards of sediment is also proposed to return the marina to its design depth. The dredged material is proposed to be dewatered at a nearby site and trucked to an inland landfill outside the coastal zone. The proposed dredging itself, which is necessary to maintain navigation and is less than 100,000 cubic yards, does not require a coastal development permit (due to an exemption in the regulations for small dredging projects). The proposed dewatering at a site in the coastal zone does require a coastal development permit. The dredging is included in the project description as it is an integral part of the overall project.

The dredged material is proposed to be dewatered in a confined holding area in a nearby parking lot on Warner Avenue (see exhibit B), prior to transportation out of the coastal zone for disposal. The dredger is proposed to deploy a continuous floating silt-curtain around the area of dredging, as well as implement the expected Regional Water Quality Control Board water quality monitoring program. Once the material is placed on the upland dewatering site, it is proposed to be confined via placement behind a berm or dike constructed of materials such as sandbags, hay bales, k-rails, or similar and lined with a geotextile fabric (as needed unless hay bales are employed as these serve the same purpose.) The dredge material would then be evaporatively dewatered. The dredger is also proposed to deploy a silt curtain surrounding the dredge material transfer area to ensure that any turbidity generated during transfer to the uplands is contained within the work area. Permission from the owner of the dewatering site, a member of the Coral Cay Community Association, to conduct the dewatering operation has been granted (see exhibit E).

The dredge material is not suitable for beach replenishment (the material is too silty). Regarding the quality of the dredge material, the U.S. Environmental Protection Agency (EPA) states: “Based on [screening] results, coupled with the elevated PCB concentrations noted above, EPA has determined that the Coral Cays Marina sediment is NOT suitable for unconfined aquatic disposal at the LA-2 ocean disposal site. ... Based on existing data, the Coral Cays Marina sediments may be left in place, or dredged and disposed at an appropriate upland or confined disposal site such as a landfill.”

The proposed dewatering location is located in the coastal zone, within the City of Huntington Beach. The dewatering location falls within the jurisdiction of the City of Huntington Beach’s Local Coastal Program. However, the City has ceded coastal

development permit issuing authority for this portion of the proposed project to the Coastal Commission (see exhibit D).

In addition to use of a silt curtain and measures described as part of the dewatering process, the project proposes additional water quality measures. Water quality is not expected to be adversely impacted with implementation of these measures and because 1) the marina is an isolated basin off the main channel, 2) the currents and tidal influences are minor in this area of Huntington Harbour, and 3) a biological assessment was conducted for the subject site and no sensitive habitat was identified in the area. The proposed use of silt curtains is expected to confine any resuspended sediment in the marina basin. The applicant is also proposing to conduct daily turbidity measurements. If water quality monitoring reveals that water quality is at risk from turbidity, Best Management Practices (BMPs), such as slowing the production rate, will be implemented. Other BMPs proposed include disposal of all debris and trash in suitable trash containers on land or on the work barge at the end of each construction day; discharge of hazardous material into Huntington Harbour will be prohibited; and local state and federal water quality regulations will be fully complied with.

A Marine Biological Survey was conducted by Coastal Resources Management, in October 2008. Few invertebrates and fish were observed within the subject area. No sensitive plant or animal species were observed at the subject site. That survey found the subject site to be comprised of unvegetated, soft bottom. Within the area of the dredge footprint, the entire soft-bottom invertebrate community will be temporarily removed. The Marine Biological Survey found that project impacts on the benthic community are not significant because 1) the site does not offer suitable habitat for a robust benthic community, and, 2) the benthic community is expected to re-colonize quickly following dredging activities.

The Marine Biological Survey also surveyed the site for eelgrass and caulerpa taxifolia and neither was found at the subject site. In addition, Special Condition 4 requires a *Caulerpa taxifolia* survey not more than 90 days prior to commencement of construction. The surveys are valid for a limited period of time (until the next growing season for eelgrass and 90 days for *Caulerpa taxifolia*). If construction does not occur within the respective time periods, subsequent surveys will be required. Special Conditions 3 and 4 identify the procedures necessary to be completed prior to beginning construction in case the surveys expire prior to commencement of construction. In addition, Special Conditions 3 and 4 identify post-construction eelgrass and *Caulerpa taxifolia* procedures.

The proposed marina replacement project is located within the City of Huntington Beach, which has a certified Local Coastal Program. 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 Local Coastal Program may be used as guidance. The land use designation at the site is Open Space – Water (OS – W). The site is zoned Open Space Water Recreation. The proposed development is consistent with the City's certified LCP, specifically with Implementation Plan Chapter 213



Open Space District, which allows marinas as a use in this district.

The subject site is in Huntington Harbour. The proposed marina is a replacement in kind of the floats of an existing marina and is similar in function to the other boat dock/marina development within Huntington Harbor. The majority of harbor front, residential development in Huntington Harbour is surrounded by private recreational boat docks/marinas. The proposed marina project is similar in function to other docks associated with residential development in the vicinity. The marina boat docks will be used solely for boating recreation purposes. Pump out facilities available to the general public are located at Peter's Landing (approximately ½ mile northwest of the site), Harbor Master/Sheriff's station located within Sunset Aquatic Park (approximately 1 ½ mile northeast of the site), and Huntington Harbor Yacht Club (approximately ½ mile southeast of the site). The proposed development is consistent with past Commission actions in the area. Thus, as conditioned, the proposed marina replacement 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 affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

**C. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

**D. LOCAL COASTAL PROGRAM**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. An LCP for the City of Huntington Beach was effectively certified in March 1985. However, the proposed development is occurring within an area of the

Commission's original permit jurisdiction, due to the project location seaward of the mean high tide line. Consequently, the standard of review is the Coastal Act and the City's LCP is used only as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

**E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

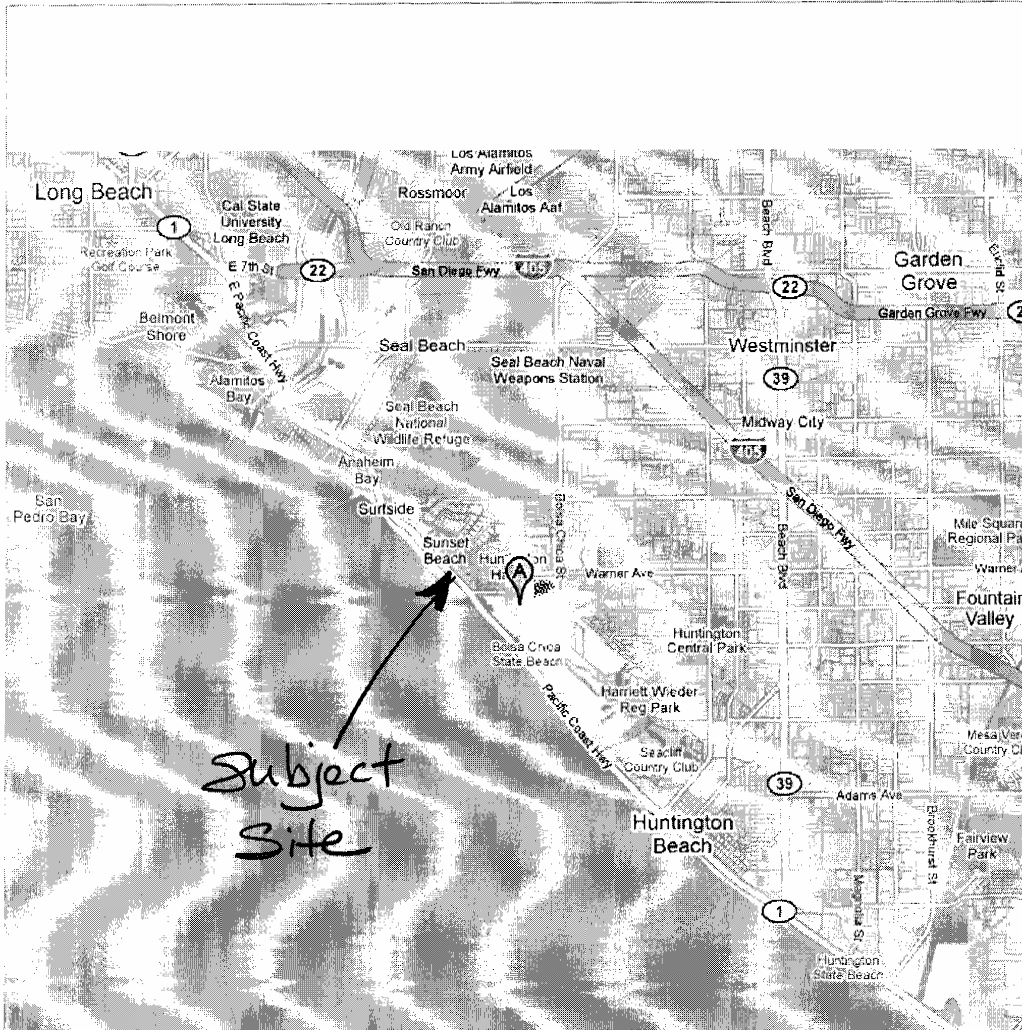

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the 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.

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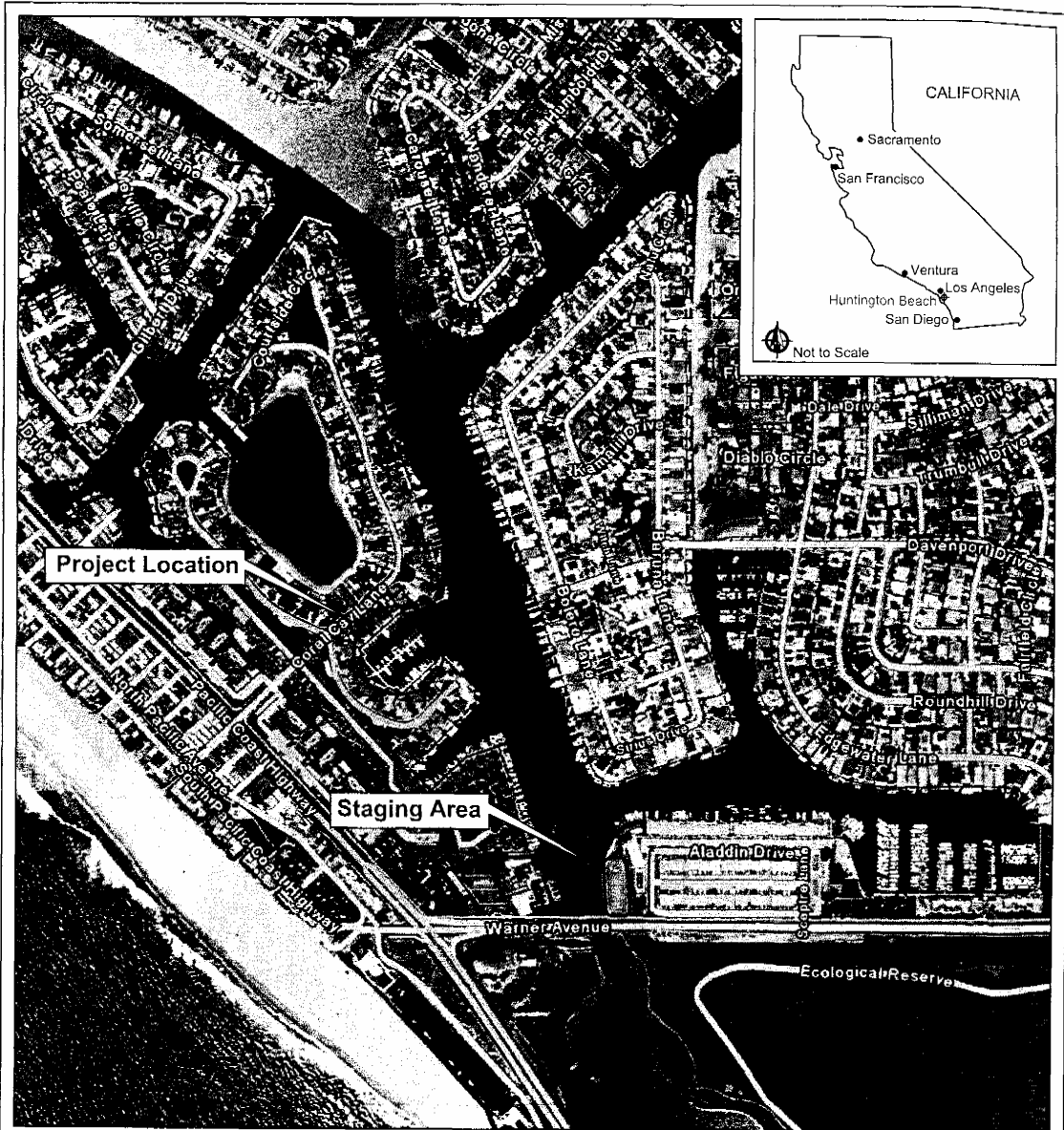


Address **Huntington Harbor  
California**

Get Google Maps on your phone  
Text the word "GMAPS" to 466453



**COASTAL COMMISSION**  
**5-08-246**  
EXHIBIT #   A    
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Apr 17, 2008 10:53am cdavisson K:\Jobs\070482-Coral Cay Marina\070482-0107048201-001.dwg F1

Note: Aerial photo from Google Earth Pro, 2007.

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EXHIBIT # B

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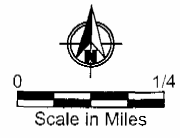
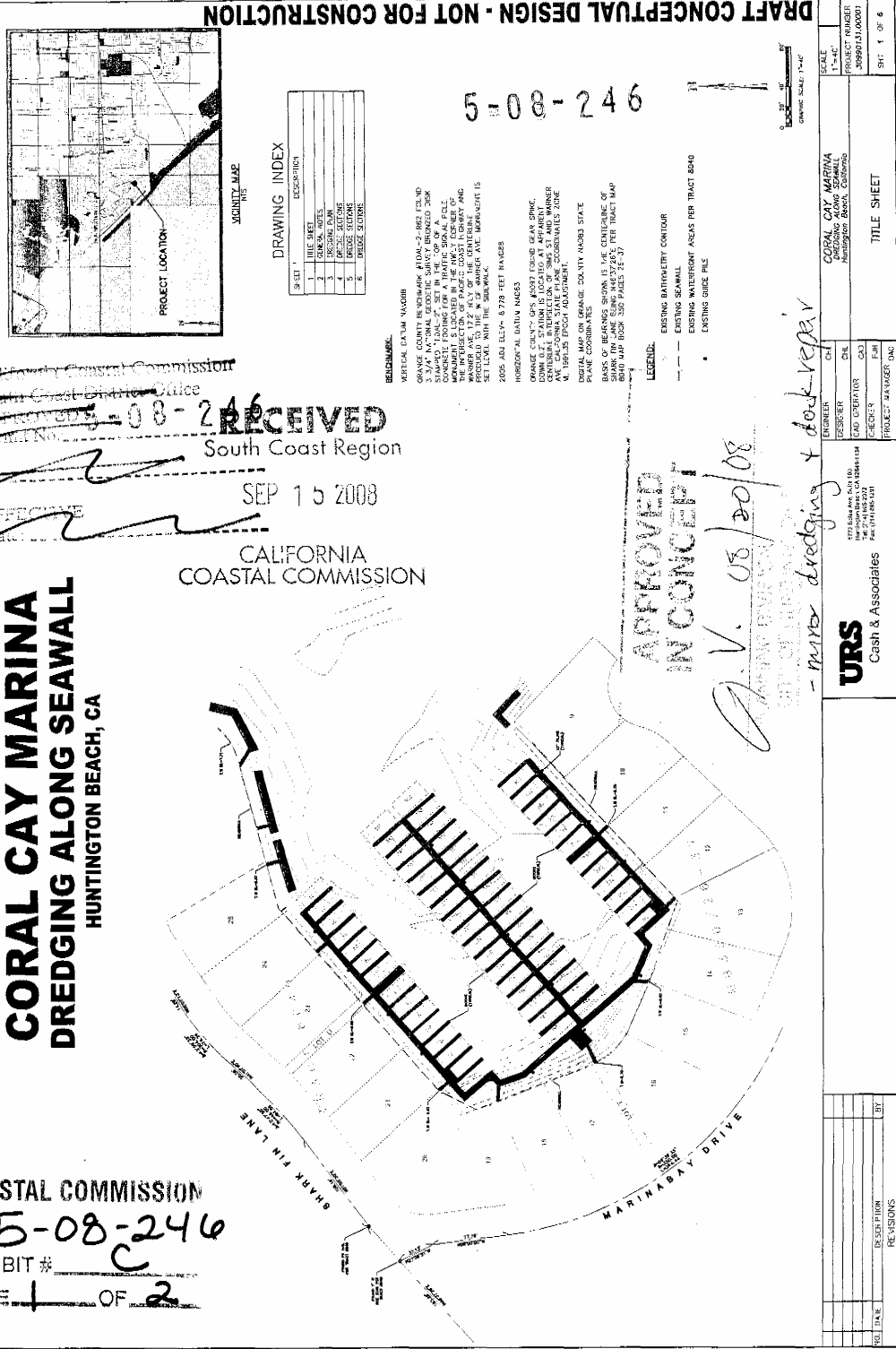


Figure 1  
 Location Map  
 Request for CEQA Exemption  
 Coral Cay Community Association



**CORAL CAY MARINA  
 DREDGING ALONG SEAWALL  
 HUNTINGTON BEACH, CA**

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CALIFORNIA  
 COASTAL COMMISSION

SEP 15 2008

City of Huntington Beach  
 Planning Commission  
 Planning Director  
 Planning Department  
 Planning Division  
 Planning Section  
 Planning Unit  
 Planning Staff

**RECEIVED**  
 South Coast Region

5-08-246

**DRAFT CONCEPTUAL DESIGN - NOT FOR CONSTRUCTION**

DRAWING INDEX

SHEET #	DESCRIPTION
1	TITLE SHEET
2	GENERAL NOTES
3	EXISTING SEAWALL
4	PROPOSED SEAWALL
5	PROPOSED SLIPS
6	PROPOSED SLIPS

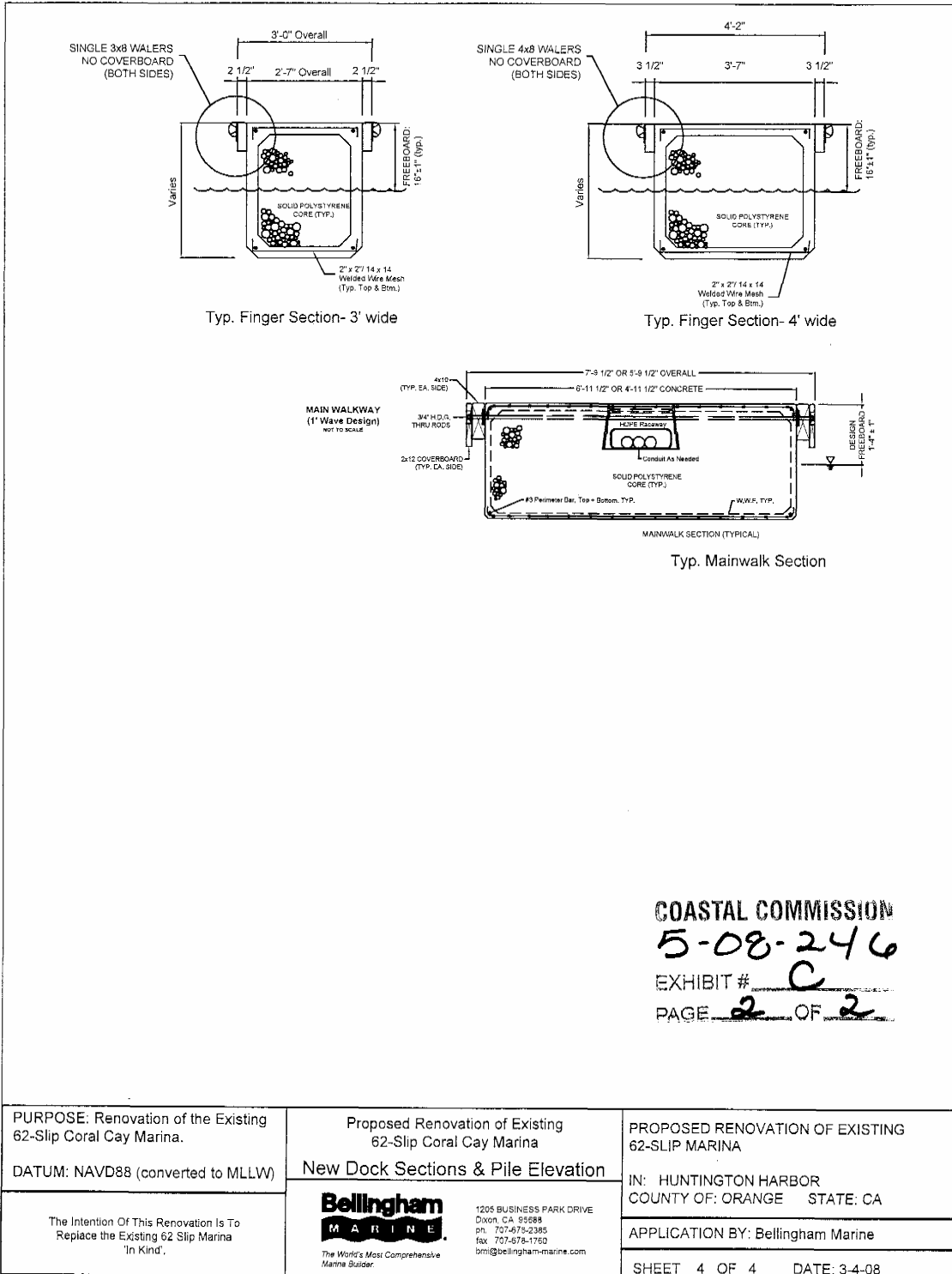
**REMARKS:**  
 METEOROLOGICAL DATA INDICATES THAT THE MARINA AREA IS SUBJECT TO WIND-DRIVEN WAVES THAT CAN REACH 15 FEET IN HEIGHT. THE PROPOSED SEAWALL AND SLIPS ARE DESIGNED TO WITHSTAND THESE WAVES. THE PROPOSED SEAWALL IS 10 FEET HIGH AND THE PROPOSED SLIPS ARE 10 FEET WIDE. THE PROPOSED SEAWALL AND SLIPS ARE DESIGNED TO WITHSTAND WAVES UP TO 15 FEET IN HEIGHT. THE PROPOSED SEAWALL AND SLIPS ARE DESIGNED TO WITHSTAND WAVES UP TO 15 FEET IN HEIGHT.

**APPROVED IN CONCEPT**  
 J.V. 08/20/08

*- minor dredging + dock repair*

SCALE: 1"=40'	PROJECT NUMBER: 200801246001	SHEET 1 OF 6
TITLE SHEET		
ENGINEER: CH	DESIGNER: CH	CORAL CAY MARINA DREDGING ALONG SEAWALL HUNTINGTON BEACH, CALIFORNIA
LEAD CREATOR: CH	CHECKER: CH	
PROJECT MANAGER: JNC		
DATE: 08/20/08		
BY:		
REVISIONS:		

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**From:** Villasenor, Jennifer [JVillasenor@surfcity-hb.org]  
**Sent:** Thursday, October 23, 2008 5:28 PM  
**To:** Lennie Rae Cooke  
**Subject:** RE: Coral Cay Community Association CDP  
Lennie Rae,

Thank you for your email. The City of Huntington Beach authorizes permit issuance for the entire project (as referenced below) to the Coastal Commission. Please let me know if you have further questions. In addition, please feel free to give my contact information to Coastal Commission staff if they wish to speak to someone from the City directly.

*Jennifer Villasenor*

City of Huntington Beach  
Planning Department  
(714)374-1661

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**From:** Lennie Rae Cooke [mailto:lrcooke@anchorenv.com]  
**Sent:** Wednesday, October 22, 2008 10:37 AM  
**To:** Villasenor, Jennifer  
**Subject:** Coral Cay Community Association CDP

Good morning, Jennifer.

We have applied to the Coastal Commission and have received a request for additional information from them. One of the items requested needs to be provided by the City. Apparently, when we changed from open ocean to upland disposal, we triggered the need for a permit from the City since the dewatering location is located within the City's jurisdiction (under it's approved Local Coastal Program).

The staff analyst at the Coastal Commission as asked:

*The proposed dewatering location (per photo labeled "Figure 1, Location Map, Request for CEQA Exemption, Coral Cay Community Association) is located within an area where the coastal development permit issuing authority lies with the City of Huntington Beach. In order to process the coastal development permit application as a single permit application processed solely by the Coastal Commission, please submit written approval from the City of Huntington Beach ceding permit issuing authority for this entire project to the Coastal Commission.*

Will you be able to provide the written approval ceding permit issuing authority for the entire project to the Coastal Commission?

Thanks very much.

**Lennie Rae Cooke**  
**Anchor Environmental**  
28202 Cabot Road, Suite 425  
Laguna Niguel, California 92677  
Direct: 949.347.2784  
Cell: 760.473.9973  
Fax: 949.347.2781

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LAWFIC JOHN TROMMALD

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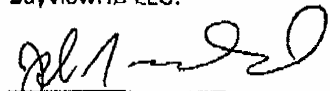
BayviewHB LLC  
13912 Seal Beach Blvd.  
Seal Beach, CA 90740  
(562) 430-3275

November 10, 2008

Re: Application No. 5-08-246 (Coral Cay Community Association)  
Coral Cay Marina, Huntington Beach, CA

BayviewHB LLC owner of that certain parcel of land commonly known as 3901 Warner Avenue, Huntington Beach, California, agree to let Coral Cay Community Association use our property for the purpose of dewatering approximately 2,800 cubic yards of dredged material and transporting said material to a landfill destination.

BayviewHB LLC:



By John E. Trommald,  
Managing Member and Counsel

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