

CALIFORNIA COASTAL COMMISSION

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

**W9a**

Staff: M. Vaughn – LB
Date: August 20, 2015

ADMINISTRATIVE PERMIT

Application No. **5-15-0788**

Applicant: Irvine Company - California Recreation Company

Project

Description: **Remove 19,790 square feet of the Balboa Yacht Club Marina's deteriorated docks' wood decking and replace with new timber decking in the same configuration and location. Only the floating portion of the marina will be replaced. No change to existing piles or gangways, and no bottom disturbing activities are proposed.**

Project

Location: 1801 Bayside Drive, Newport Beach, Orange County

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 at the following time and place:

Wednesday, September 9, 2015 9 a.m.
Humboldt State University
1 Harpst Street
Arcata, CA 95521

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.

CHARLES LESTER
Executive Director

By: Meg Vaughn
Title: Coastal Program Analyst

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 6 – 10.

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 remove and replace the 19,790 square feet of deteriorating floating wood decking portion of the Balboa Yacht Club's dock system/marina. The wood decking is proposed to be replaced with new, pre-treated timber decking in the same location and configuration as the existing decking. In addition, the existing decking fasteners, bumper strips and corner bumpers, dock boxes and power centers will be removed and replaced with new decking fasteners, bumper strips and corner bumpers, dock boxes and power centers. These are located on the decking. There are approximately 64 boat slips in the existing dock system/marina, depending on how boats are docked. Currently slip sizes range from approximately 30 feet to 90 feet in length, with the majority of the slips falling in the 35 to 40 foot range. The sizes and number of slips will not change. There will be no change to the dock system's footprint, which currently exceeds the City's Pierhead line, but is within the City's Project Line (**Exhibit 3**). No bottom disturbing activities are proposed or will occur. No work will occur on the existing piles or gangways, which will remain in place.

There is currently no public access available at the Balboa Yacht Club. The dock system/marina serves the members of the Balboa Yacht Club, a private, members only facility. The nearest public coastal access is located at the harbor-front public beach approximately 200 feet southwest, adjacent to the Newport Beach Harbor Patrol Station on Bayside Drive, and across the channel along the public walkway circling Balboa Island, as well as along the sandy public beach along the Balboa Peninsula approximately 2000 feet south of the subject site. Because there is no public access to or along the subject site, the project will not impact public access. However, the public does have access within the waters of Newport Bay surrounding the dock system/marina.

The proposed project is located over submerged land situated between the yacht club and the City Pierhead Line, which area is subject to public trust doctrine in Newport Harbor. **Special condition No. 4** is imposed 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 properties and ensures that the public will still have rights to open coastal waters and any other public recreational sites near the project site. The special condition also ensures that the approval of a Coastal Development Permit for the project does not waive any public rights or interest that may exist on the property.

The development is consistent with past Commission actions in the area and, as conditioned, Chapter Three policies of the Coastal Act. Because the development will take place in open water, special conditions have been applied to the permit to ensure the protection of water quality and marine habitat. The project has been conditioned to include best management practices (BMPs) during construction to address water quality. In addition, as proposed, the project includes a number of BMPs, including the following: floating debris catchers will be provided beneath the areas of demolition work and secured to prevent construction debris from entering harbor waters. Any debris that does enter the harbor waters will be retrieved and removed from the site immediately. No landside construction activity is proposed. No construction materials, equipment, debris or waste will be placed or stored where it may be subject to inundation or dispersed into

coastal waters. Floating booms will be used to contain any debris inadvertently discharged into coastal waters. Non-buoyant debris inadvertently discharged into coastal waters will be recovered by divers as soon as possible.

The project as proposed by the applicant does not include any work to the existing piles or the addition of new piles and no bottom disturbing activity is proposed. Thus, any impacts that might be associated with such activities have not been analyzed as part of this project. If, in the future, any work that includes changes to the existing piles or the addition of new piles or any bottom disturbing activities are proposed, a separate coastal development permit would be necessary, unless the Executive Director determines that none is legally required. **Special Condition No. 5** clarifies that a separate permit would be needed for such development.

As required, an eelgrass survey of the subject site was conducted on May 13, 2015. The area surrounding the dock has a significant eelgrass population (**Exhibit 4**). Eelgrass surveys completed during the active growth phase of eelgrass (typically March through October) are valid for 60-days with the exception of surveys completed in August-October. A survey completed in August-October shall be valid until the resumption of active growth (i.e., March 1). Because the project is scheduled for the September 2015 Coastal Commission meeting, the 60 day period has passed, a subsequent eelgrass survey (conducted within March – August 2015) will be required prior to commencement of construction, per **Special Condition No. 2**. The project will retain the existing footprint and no bottom disturbing activities are proposed. Thus, no impacts to eelgrass are anticipated.

As required, a pre-construction *Caulerpa taxifolia* survey was conducted on May 13, 2015. No *Caulerpa taxifolia* was found. *Caulerpa taxifolia* surveys are valid for 90 days. Because the project is scheduled for the September 2015 Coastal Commission meeting, 90 days will have passed since the survey was completed and an updated *Caulerpa taxifolia* survey must be conducted prior to commencement of construction. If *Caulerpa taxifolia* is found on the project site, **Special Condition No. 3** also identifies the procedures necessary to be completed prior to construction.

The proposed project has received the approval of the City of Newport Beach Harbor Resources Division (Harbor Permit No. 104-1801, 6/8/15), the U.S. Army Corps of Engineers was notified of the proposed project via email dated 5/13/15, and the Santa Ana Regional Water Quality Control Board concurred, via email dated 5/19/15 that no 401 Certification is required for the project. Therefore, as proposed and conditioned herein, the development will not have any substantial adverse impacts on water quality or marine resources.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach has a certified Land Use Plan, and no Local Coastal Program. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act.

B. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. MARINE RESOURCES

The proposed recreational boat dock development is an allowable and encouraged marine related use. The project design minimizes impacts of construction and installation. There are no feasible less environmentally damaging alternatives available. 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*. Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms to Sections 30224 and 30233 of the Coastal Act.

D. 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, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, 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.

E. 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. The Newport Beach certified Land Use Plan is advisory in nature and may provide guidance. The proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project as proposed will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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 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 conditions:

1. Water Quality

A. 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 as possible from the receiving waters and storm drain inlets.
- (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
- (16) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. 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 dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

- (1) Boat Cleaning and Maintenance Measures:
 - a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris.
 - b. 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.
 - c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
- (2) Solid and Liquid Waste Management Measures:

- a. 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 will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.

(3) 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 materials 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.

2. Pre-and Post-Construction Eelgrass Survey(s)

- 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 within 60 days before the start of construction. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. 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 30 days of completion of construction, or within the first 30 days of the next active growth period following

completion of construction that occurs outside of the active growth period, 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 “California Eelgrass Mitigation Policy” dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) (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 Wildlife. 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 1.38:1 ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1 (mitigation: impact). Any exceptions to the required 1.38:1 mitigation ratio found within the California Eelgrass Mitigation Policy 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.

3. Pre-construction Caulerpa 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 applicant 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* (*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 Wildlife, and the National Marine Fisheries Service.
- C. Within five (5) 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) 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 and Wildlife (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 applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* 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 *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.

4. **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 or near the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.
5. **Limits of Project.** Consistent with the scope of the project as proposed by the applicant, this permit does not allow any work on existing piles or any bottom disturbing activity. If such are contemplated in the future, approval of a separate coastal development permit is necessary, unless the Executive Director determines that none 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

JUN 17 2015



5-15-0788

Newport Beach GIS

0 1,000 2,000
Feet

Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

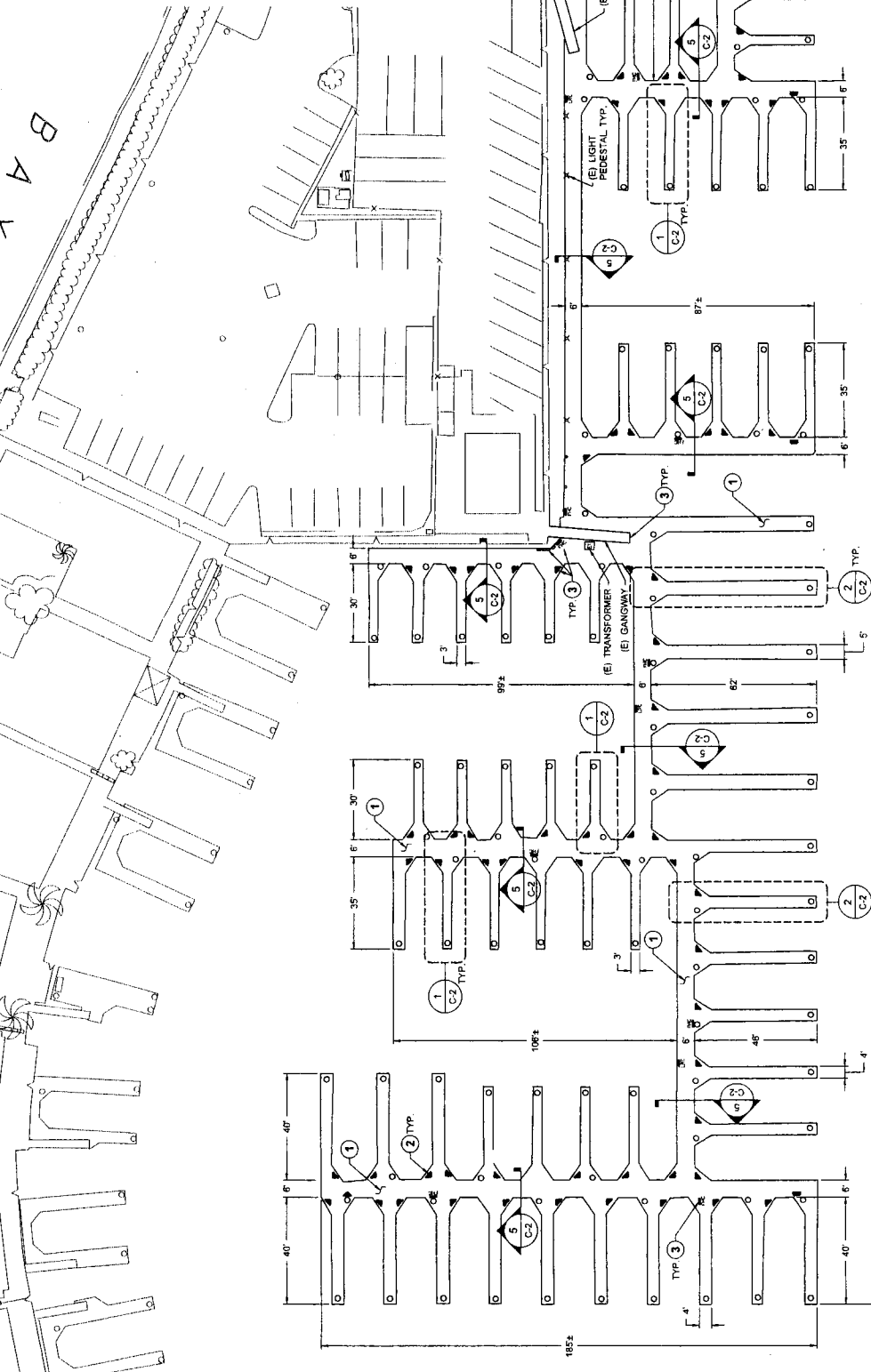
4/10/2015

Vicinity Map

- KEYNOTES
- EXISTING DECKING AND FASTENERS TO BE REMOVED AND REPLACED WITH NEW SHIP DECKING MATERIAL.
 - EXISTING DOCK BOXES TO BE REMOVED AND REPLACED WITH 36" HIGH SPECIALTY (SLOPED) DOCK BOXES.
 - EXISTING FIRE HOSE CABINETS, CLEATS, GUIDE ROLLER ASSEMBLIES, UTILITY RINGS, LIFE RINGS AND GANGWAY ROLLER ASSEMBLIES TO BE REMOVED, SALVAGED AND REINSTALLED.

- LEGEND:
- ▲ TRIANGULAR DOCK BOX
 - RECTANGULAR DOCK BOX
 - PILE
 - X LIGHT PEDESTAL
 - ▭ FIRE HOSE CABINET
 - ▭ LIFE RING ENCLOSURE
 - ⊞ ELECTRICAL TRANSFORMER

- NOTES:
- SEE SHEET C-3 FOR PHOTOGRAPHS OF EXISTING DOCK ELEMENTS AND ACCESSORIES
 - DIMENSIONS SHOWN ARE NOMINAL.

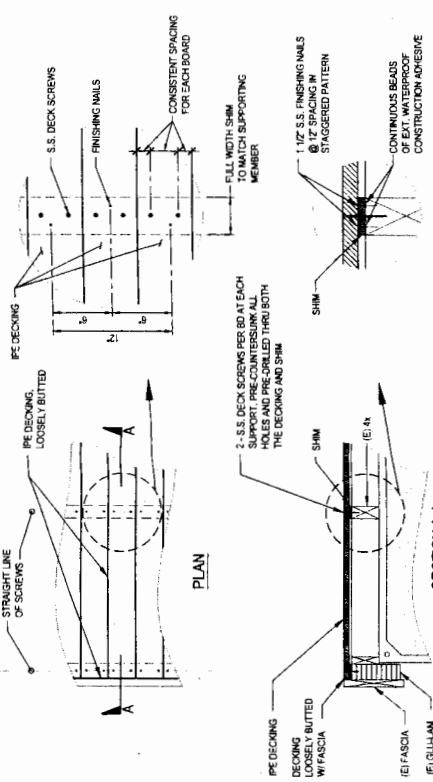


1 EXISTING GENERAL ARRANGEMENT PLAN
 C-1 SHEET 1 OF 5
 APPROX. DOCK AREA = 18,178 SQ. FT.

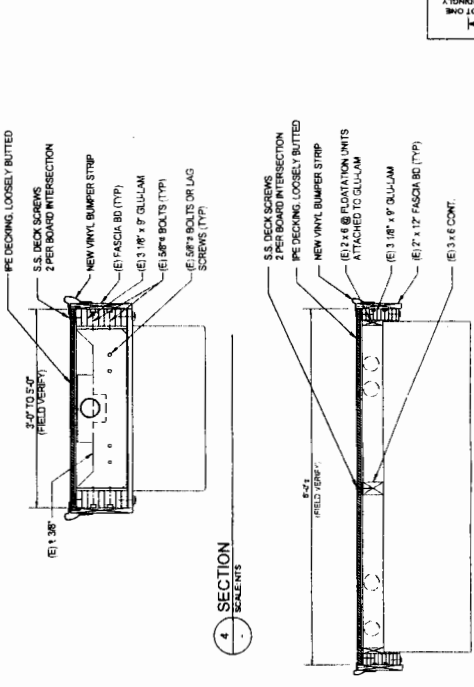
<p>DESIGNED BY: Z. MADON DRAWN BY: Z. MADON CHECKED BY: Z. MADON APPROVED BY: [Signature] SCALE: NONE DATE: 05-12-2015</p>		<p>C-1</p> <p>BALBOA YACHT CLUB DECK REPLACEMENT PROJECT</p> <p>EXISTING GENERAL ARRANGEMENT PLAN</p> <p>SHEET NO. 3 OF 5</p>
<p>THE IRVINE COMPANY 550 NEWPORT CENTER DRIVE NEWPORT BEACH, CA 92660</p>		

Project Plans
 COASTAL COMMISSION
 5-15-0788
 EXHIBIT # 2
 PAGE 1 OF 2

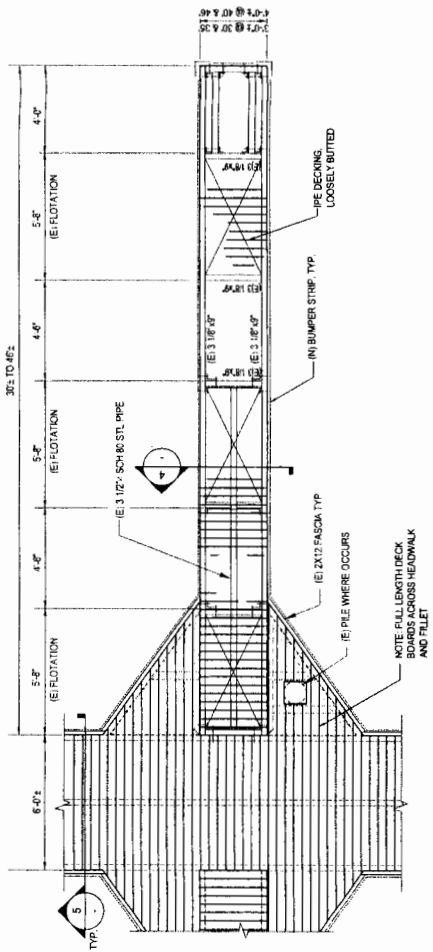
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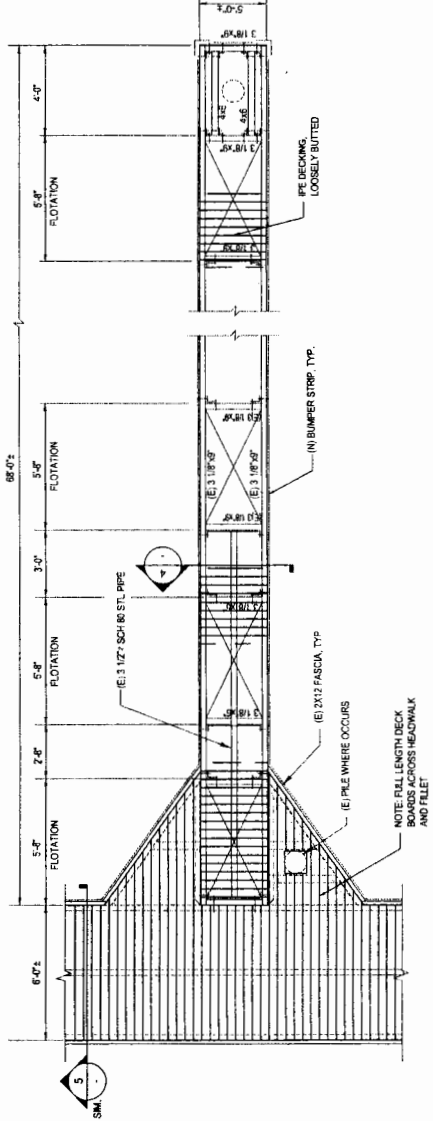
3 TYPICAL DETAILS
SCALE: 1/8" = 1'-0"



5 SECTION
SCALE: 1/8" = 1'-0"



1 TYPICAL PLAN - 30', 35', 40', 46' FINGERS
SCALE: 1/8" = 1'-0"
NOTE: PATTERN OF DECKING INSTALLATION ON FINGER AND HEADWALK (DESIRED)



2 TYPICAL PLAN - 68' FINGER
SCALE: 1/8" = 1'-0"
NOTE: PATTERN OF DECKING INSTALLATION ON FINGER AND HEADWALK (DESIRED)

**BALBOA YACHT CLUB
DECK REPLACEMENT PROJECT**

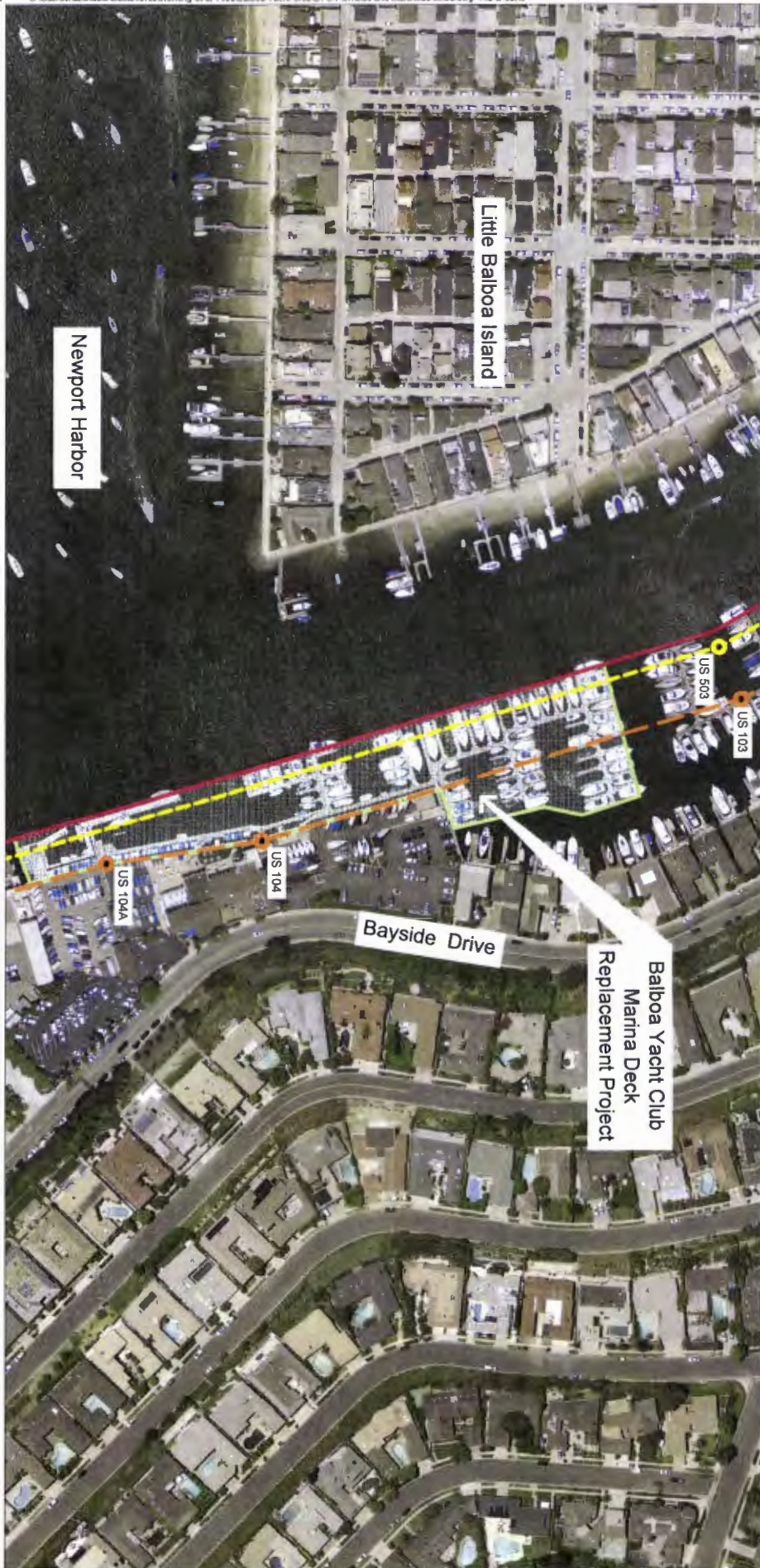
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DRAWN BY: J. B. ROSEN
CHECKED BY: J. B. ROSEN
APPROVED BY: J. B. ROSEN
SCALE: NONE
DATE: 05.12.2015

C-2

DETAILS

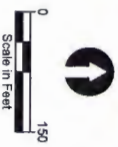
SHEET NO. 4 OF 5

Exhibit 2
page 2 of 2



LEGEND:

- Orange line: Bulkhead Line
- Yellow dashed line: Pierhead Line
- Red line: Project Line



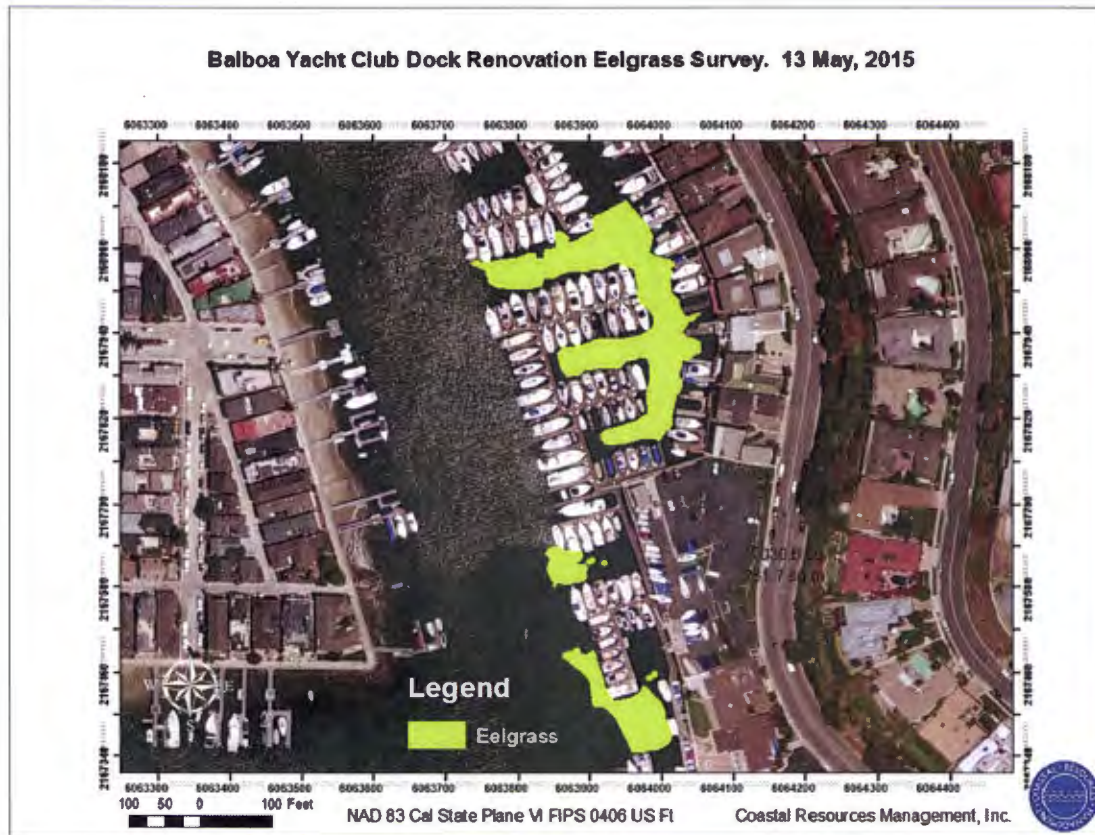


Figure 4. Location of Eelgrass in the Balboa Yacht Club Project Area. .Note: Eelgrass extends to the north, outside of the project limits within the entire marina basin