

CALIFORNIA COASTAL COMMISSION

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 Staff: ALK-LB *AK*
 Staff Report: November 18, 1999
 Hearing Date: December 7-10, 1999
 Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-99-366

APPLICANT: Dan Teitscheid

AGENT: None

PROJECT LOCATION: 3808 River Avenue, Newport Beach (Orange County)

PROJECT DESCRIPTION: Revise existing boat dock by: replacing an existing 17'x11.6' platform with a new 28.6'x11.6' platform; replacing an existing 3'x22' ramp with a new ramp of the same size; and replacing a single 3'x12" square pile with an 8'x18" square pile in the same location. The proposed platform and pile will be located landward of the bulkhead line and channelward of the existing bulkhead.

LOCAL APPROVALS RECEIVED: City of Newport Beach Fire and Marine Department approval in concept, Harbor Permit Number 238-3808.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan, City of Newport Beach Harbor Permit Policies, Coastal Development Permits 5-98-523 (Bridges), 5-99-120 (Sutherland), 5-99-121 (Vance), 5-99-123 (Bradburne), 5-99-220 (WMC Development).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission **approve** the proposed development subject to three special conditions.

Special condition No. 1 requires minimization of construction impacts on harbor bottom and intertidal areas, appropriate storage of construction materials, removal of construction debris, and no mechanized equipment, except a barge or land-mounted crane, seaward of the bulkhead. Special condition No. 2 limits the use of the 28.6'x11.6' platform solely to boating related uses. Special condition No. 3 requires evidence of approval by the Regional Water Quality Control Board (RWQCB).

III. SPECIAL CONDITIONS

1. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (c) No machinery, with the exception of a barge or land-mounted crane, shall be allowed at any time seaward of the bulkhead;
- (d) Disturbance of the harbor bottom and intertidal areas shall be minimized.

2. Use of Platform Limited to Boating Related Uses

By acceptance of this permit the applicant agrees and acknowledges that the sole use of the 28.6'x11.6' platform area is limited to boating related uses and shall not be used for any other uses including, but not limited to, private residential patio amenities.

3. Regional Water Quality Control Board Approval

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, written evidence from the Regional Water Quality Control Board demonstrating that the Regional Water Quality Control Board has approved the proposed project. If the Regional Water Quality Control Board requires any substantial changes to the project, as approved by the Commission, the changes shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to revise an existing boat dock by: replacing an existing 17'x11.6' platform with a new 28.6'x11.6' platform; replacing an existing 3'x22' ramp with a new

beyond the bulkhead line. Since the proposed pile and platform will be located landward of the bulkhead line, no encroachment will occur.

Existing private, residential boating facilities in Newport Harbor often consist of a pile-supported pier with platform area, a gangway, and a rectangular or "U" shaped float. The City's Harbor Permit Policies limit the size of the platforms to 10 by 14 feet. However, because the proposed project is located landward of the bulkhead line, the City does not limit platform size. Piers are fixed, pile-supported structures which extend from dry land areas to water areas connecting to a gangway which leads to a float. The length of a pier depends on the size of the boat, the amount of draft the boat needs, and the depth of the water. The overall length of a boat dock is limited by the City's Harbor Permit Policies (HPP). The HPP do not allow docks to extend channelward of the adjudicated U.S. Pierhead Line, except in certain specified areas where, due to the bottom configuration and/or the width of the channel, they are allowed to extend to the adjudicated U.S. Project Line.

The piers and gangways are typically 3 to 4 feet wide. The docks or floats vary in size and configuration depending largely upon the type and size of boat to be docked. The majority of boat docks in Newport Harbor have platforms. Based upon a site visit, review of aerial photos of the harbor, conversations with the Newport Beach Fire and Marine Safety Department staff, and review of prior waivers and coastal development permits, Commission staff confirmed the approval of several platforms. Commission staff observed that while some of the existing platforms in Newport Harbor contained lockers, small boats, kayaks, and boating equipment or were empty, others had tables and chairs or benches, flower pots, etc. Staff also observed that while some of the platforms were supported by pilings at each corner, other platforms and piers were supported by a single row of "T" shaped piles.

The applicant has indicated that the platform area will be used solely for boating purposes. More specifically, the platform will be utilized for installation of storage lockers in which boating equipment such as life preservers, life jackets, boat cushions, boat covers, and other miscellaneous boating supplies may be stored; as a placement area to facilitate loading and unloading of equipment and provisions on or off the boat prior to departure or arrival; for storage of a canoe, water skis and windsurfer; as a staging area to facilitate safe entry and departure to and from the boat; and as a staging area for performing maintenance and/or repairs to the boat. Based on the uses proposed by the applicant, the Commission finds that the proposed platform does constitute a boating facility. As a boating facility, the proposed platform is a use specifically allowed under Section 30233(a)(4) of the Coastal Act.

Although, as proposed, the platform area constitutes a bona fide boating facility, there is the possibility that additional uses may be contemplated in the future. If a future use did not constitute a legitimate boating use, the issue of fill (in the form of piles supporting the platform) for a non-allowable use is raised. For example, the platform area could be converted to private residential patio use by the placement of chairs or tables. In order to

Sections 30210, 30211 and 30212 of the Coastal Act require that new development provide maximum public access and recreation, not interfere with the public's right of acquired access, and provide public access from the nearest public roadway to the shoreline and along the coast except under certain circumstances. The nearest vertical access to the harbor exists at the street ends of 39th Street, approximately 65 feet northwest of the subject site, and 38th Street, approximately 110 feet southeast of the subject site.

The proposed development consists of the replacement and expansion of an existing boat dock. The proposed development will not adversely impact navigation. The development will not create additional adverse impacts on coastal access and recreation. The proposed development does not constitute an intensification of use. Therefore, the Commission finds that the proposed development does not pose significant adverse impacts on existing public access and recreation and is consistent with Section 30212 of the Coastal Act.

In addition, the proposed development is a recreational boating facility. Recreational boating facilities are an encouraged use under Section 30224 of the Coastal Act. Therefore, the proposed development is consistent with Section 30224 of the Coastal Act.

D. Water Quality

Section 30230 of the Coastal Act states:

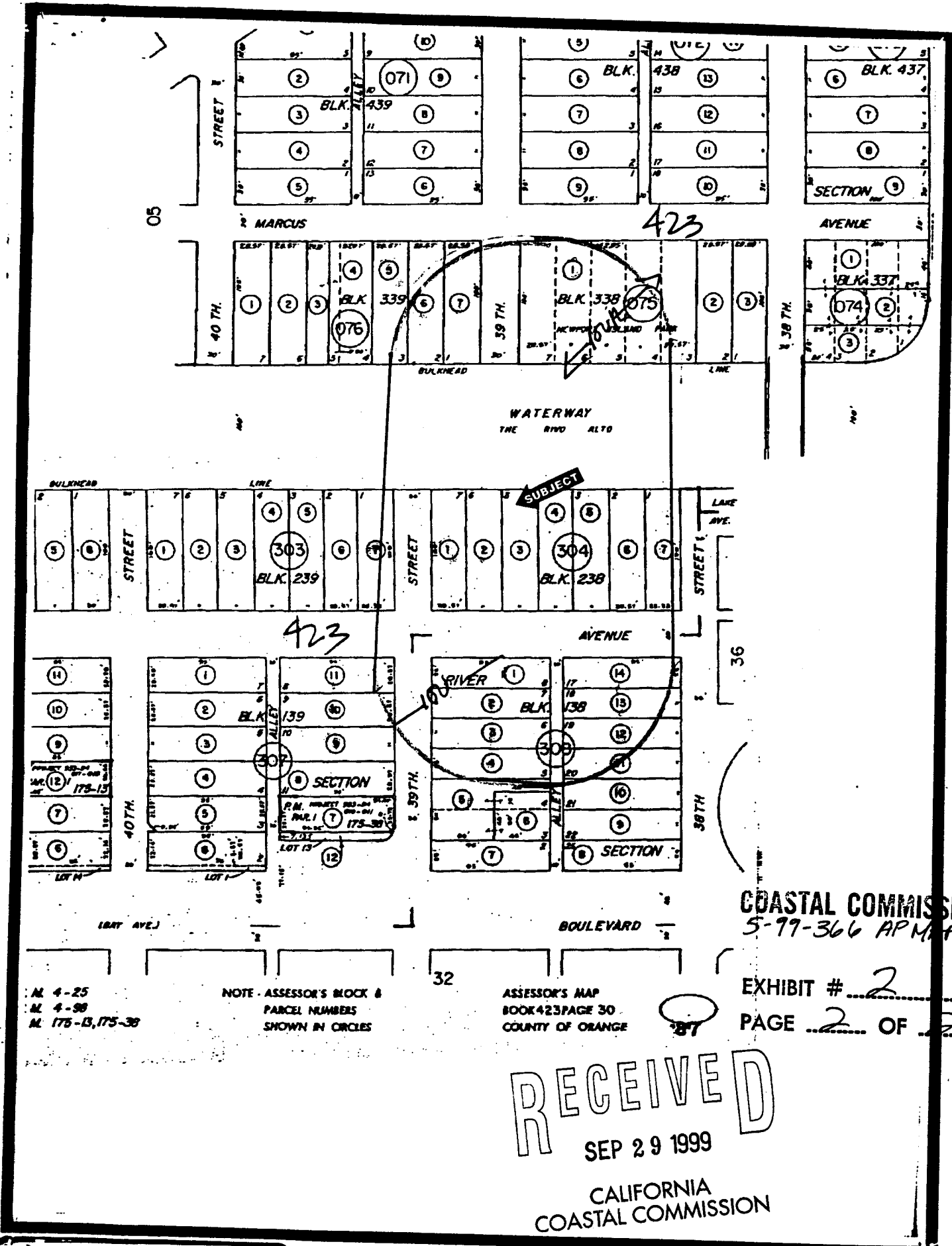
Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30412(b) of the Coastal Act states:

The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The Commission shall assure that proposed development and local coastal programs shall not frustrate this section. The Commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.

The project site is on the water in Newport Harbor. The applicant is proposing to replace and enlarge an existing recreational boating facility. The approval from the City of Newport Beach indicates that no eelgrass is present at the site.

The proposed project has been conditioned to assure that the project will not have a significant adverse impact on coastal resources and has been conditioned in order to be found consistent with the marine resource protection policies of Sections 30230 and 30233 of the Coastal Act. Mitigation measures, in the form of a special conditions require 1) removal of construction debris and minimization of construction impacts, 2) limiting the use of the 28.6' by 11.6' platform solely for boating related purposes, and 3) providing evidence of Regional Water Quality Control Board approval, will minimize all adverse effects. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is the least environmentally damaging feasible alternative and can be found consistent with CEQA and the policies of the Coastal Act.



M. 4-25
M. 4-30
M. 175-13, 175-38

NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

32
ASSESSOR'S MAP
BOOK 423 PAGE 30
COUNTY OF ORANGE

COASTAL COMMISSION
5-79-366 AP MAP

EXHIBIT # 2
PAGE 2 OF 2

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SEP 29 1999

CALIFORNIA
COASTAL COMMISSION

Ownership Map

5-99-366