

CALIFORNIA COASTAL COMMISSION

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

Permit Application No. **5-01-357**

Date: November 20, 2001

Page 1 of 7

**Tues 3a****ADMINISTRATIVE PERMIT****APPLICANT:** William Holder**RECORD PACKET COPY****PROJECT****DESCRIPTION:**

Rotating an existing 40' x 8' floating dock and lengthening by 10 feet, post project the floating dock will be 50' x 8'. The project will also consist of removing two (2) 12" diameter existing guide piles; installing three (3) 14" guide piles; installing an 8' x 7' gangway landing supported by one (1) 14" "T" pile and installing a 3' x 24' gangway. The floating dock will only be used for boating related purposes.

PROJECT**LOCATION:**

409 North Star Lane, 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:

Tuesday, December 11, 2001

10:00am

Hyatt Regency San Francisco**5 Embarcadero Center****San Francisco, CA 94105**

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.

PETER DOUGLAS
Executive Director

By: Fernie J. Sy
Title: Coastal Program Analyst

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 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 six and seven.

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 and Background

1. Project Description

The proposed project involves rotating an existing 40' x 8' floating dock and lengthening by 10 feet, post project the floating dock will be 50' x 8' (Exhibit #3). The project will also consist of removing two (2) 12" diameter existing guide piles; installing three (3) 14" guide piles; installing an 8' x 7' gangway landing supported by one (1) 14" "T" pile and installing a 3' x 24' gangway (Exhibit #3). The floating dock will only be used for boating related purposes.

The subject site is located in the Dover Shores area adjacent to Upper Newport Bay in the City of Newport Beach (Exhibits #1-2). The dock project is for boating recreation purposes and is associated with an existing single family home. The site has been surveyed by the City of Newport Beach Harbor Resources Division for eelgrass and no eelgrass was discovered within 15 feet of the project area. Coastal access is available at North Star Beach, which is adjacent

to North Star Lane (Exhibits #1-2). The City's Land Use Plan has designated North Star Beach for Recreational and Environmental Open Space with a human powered boating facility allowed. The proposed project has received approval in concept from the City of Newport Beach Harbor Resources Division. The applicant has applied for permits from the U.S. Army, Corps of Engineers and the California Regional Water Quality Control Board (RWQCB). The RWQCB has determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used.

2. Prior Commission Action at Subject Site

On December 11, 1978, the Commission approved Coastal Development Permit P-11-17-78-4408 (Middleton) for the construction of 1st and 2nd story additions to an existing one-story single family dwelling. The project resulted in a two-story, five bedroom single family dwelling with a game room, family room and an attached two car garage.

On January 8, 1997, the Commission approved De Minimus Waiver 5-96-261 (Holder) for the construction of a 37 foot long concrete deck cantilevered 5 feet beyond the bulkhead. The deck also included a 42 inch high guard rail.

B. Marine Resources

The proposed project is located in and over the coastal waters of Upper Newport Bay (Exhibits #1-2). Upper Newport Bay is a critical coastal water body on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means that water quality within the water body does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal of "fishable, swimmable" waters. In Upper Newport Bay, the listing cites elevated concentrations of metals, nutrients, pathogens, pesticides and sedimentation/siltation from a variety of sources including urban runoff, agriculture, channel erosion and other unknown non-point sources as the reason for listing Upper Newport Bay as an "impaired" water body. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Upper Newport Bay, for increased scrutiny as a higher priority watershed under its Watershed Initiative. The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following marine resource policy. Section 30233 of the Coastal Act limits the fill of open coastal waters.

Section 30233 of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

The Coastal Act limits the fill of open coastal water and also requires that any project which results in fill of open coastal waters provide adequate mitigation. Section 30233 of the Coastal Act allows fill of open coastal waters, such as Upper Newport Bay, for recreational boating purposes. The proposed project requires piles, which constitute fill. Construction of the proposed project includes installation of three (3) 14" guide piles and one (1) 14" "T" pile. The installation of these altogether will displace

habitat bottom. The fill required by the project is for a recreational boating facility, an allowable purpose under Section 30233(4) of the Coastal Act. The project can be consistent with Section 30233, however, only if it is also the least environmentally damaging feasible alternative and feasible mitigation measures have been provided to minimize adverse environmental effects. One way to reduce environmental damage is to minimize fill. Some platforms in Newport Harbor have been constructed using "T" piles centered under the platform area rather than the single piles. The proposed gangway landing will serve similar to a platform. The use of one "T" pile rather than four single piles results in less fill, which consequently reduces environmental damage. Thus, the proposed project is the least environmentally damaging alternative. Section 30233 also requires that any project which results in fill of open coastal waters also provide adequate mitigation. The proposed project meets this requirement because the pilings provide vertical habitat for marine organisms.

For the reasons listed above, the Commission finds that the proposed project is consistent with Section 30233 of the Coastal Act.

C. Water Quality

The proposed project is located in and over the coastal waters of Upper Newport Bay (Exhibits #1-2). Upper Newport Bay is a critical coastal water body on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means that water quality within the water body does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal of "fishable, swimmable" waters. In Upper Newport Bay, the listing cites elevated concentrations of metals, nutrients, pathogens, pesticides and sedimentation/siltation from a variety of sources including urban runoff, agriculture, channel erosion and other unknown non-point sources as the reason for listing Upper Newport Bay as an "impaired" water body. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB), and confirmed by the U.S. Environmental Protection Agency. Further, the RWQCB has targeted the Newport Bay watershed, which would include Upper Newport Bay, for increased scrutiny as a higher priority watershed under its Watershed Initiative. The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following water quality policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation, and marine resources.

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 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The construction will occur over and in the water. Construction of any kind adjacent to or in coastal waters has the potential to impact marine resources. The Bay provides an opportunity for water

oriented recreational activities and also serves as a home for marine habitat. Because of the coastal recreational activities and the sensitivity of the Bay habitat, water quality issues are essential in review of this project

Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition #1 outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Special Condition #1 requires that the applicant dispose of all demolition and construction debris at an appropriate location. This condition requires the applicant to incorporate silt curtains and/or floating booms when necessary to control turbidity and debris discharge. Divers shall remove any non-floatable debris not contained in such structures that sink to the ocean bottom as soon as possible.

Best Management Practices

The proposed dock project will allow for the long term berthing of boat(s) by the homeowner, which could cause adverse impacts to the marine environment. Cleaning and scraping of boats, improper discharges of contaminated bilge water and sewage waste, and the use of caustic detergents and solvents, among other things, are a major contributor to the degradation of water quality within boating facilities. As mentioned above, Upper Newport Bay provides a home for marine habitat and also provides opportunity for recreational activities. The Bay eventually drains into the Pacific Ocean through tidal flushing.

It is for this reason that the Commission imposes Special Condition #1 that requires the applicant to follow Best Management Practices to ensure the continued protection of water quality and marine resources. Such practices that the applicant shall follow include proper boat cleaning and maintenance, management of solid and liquid waste, and management of petroleum products, all of which associated with the long term berthing of the boat(s) (more thoroughly explained in Special condition #1 of this permit).

Therefore, only as conditioned to minimize construction related impacts during the dock repairs and to follow the Best Management Practices listed in Special Condition #1 does the Commission find the proposed project consistent with Section 30230 and 30231 of the California Coastal Act.

C. Local Coastal Program

Section 30604(a) 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 permit may only be used if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The City currently has no certified implementation plan. Therefore, the Commission issues CDP's within the City based on

the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3. The City's LUP states that the City seeks to insure the highest quality of water in the bay and along their beaches. The proposed project is conditioned to adhere to construction responsibilities, debris removal and Best Management Practices. Thus, the proposed project is not expected to create additional adverse impacts to water quality and the marine environment and therefore attempts to insure the highest quality of water in the Bay and along the beaches.

As explained above, the proposed development is consistent with Chapter 3 policies of the Coastal Act and with the LUP. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

SPECIAL CONDITIONS:

1.

A. Construction Responsibilities and Debris Removal

- (a) No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- (b) Any and all construction material will be removed from the site within 10 days of completion of construction.
- (c) Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
- (d) If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
- (e) 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.
- (f) Non-buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.

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.

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

(c) Petroleum Control Management Measures:

1. Oil absorbent materials should be examined at least once a year and replaced as necessary. The applicant will recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The boaters are encouraged to regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters are also encouraged to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. Clean and maintain bilges. Do not use detergents while cleaning. The use of soaps that can be discharged by bilge pumps is discouraged.

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

H:\fsy\Staff Reports\Dec01\5-01-357-[Holder]AP(NB)



COASTAL COMMISSION

EXHIBIT

PAGE 1 OF 1

North Star Beach

440-13

COASTAL COMMISSION

EXHIBIT # 2

PAGE 1 OF 1

69

96

02

RECEIVED
South Coast Region

CCD 6 2001

56-
DRIVE

8 WHITE CLIFFS DR
169.45'

NORTH STAR

TRACT

PROJECT
SITE

LOT Y

35

4.64 AC.

R. S. 73-46

EVENING STAR

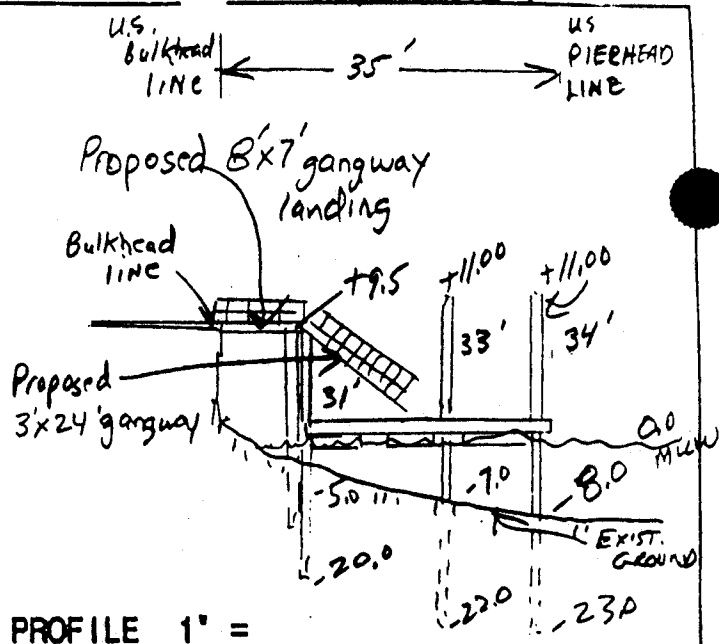
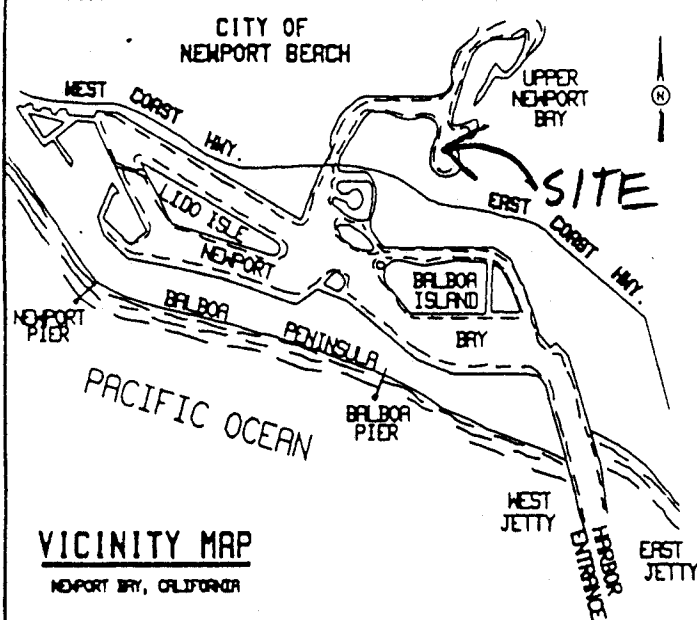
515

150

14.

CITY OF NEWPORT BEACH

0111-409



SOUNDINGS ARE EXPRESSED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.

HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

NORTHSTAR LN

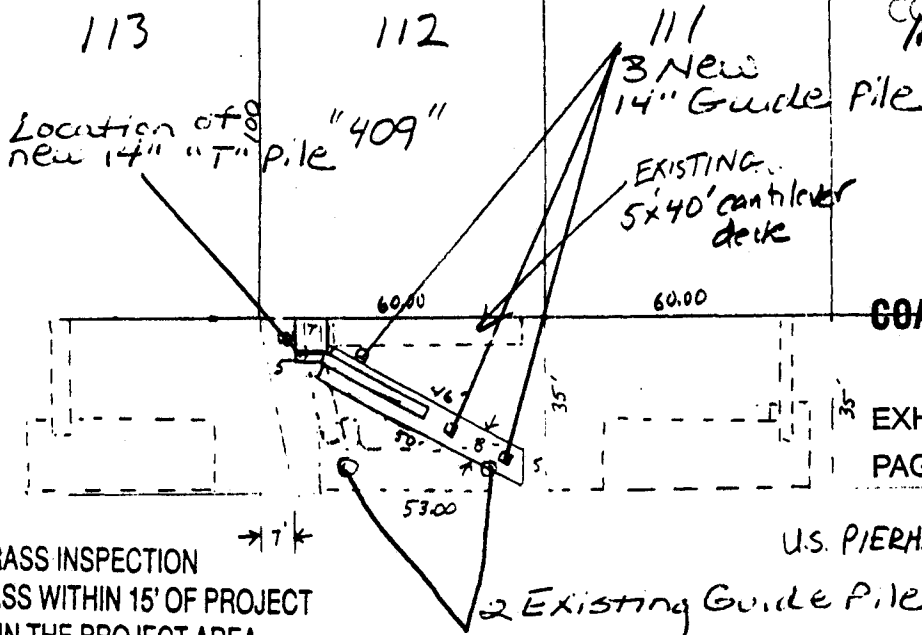
Scope of Work: Rotate existing floating dock and lengthen 10'. Pull old guide pile (2-12"). Install 3-14" diameter guide pile. Install 8'x7' gangway landing supported by 1-14" "T" pile and install 3'x24' gangway.

Tony Melu
8/17/01

TRACT # 4224

OCT 15 2001

CALIFORNIA
COASTAL COMMISSION



U.S. BULKHEAD LINE
COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

U.S. PIERHEAD LINE

2 Existing Guide Pile to be removed

Newport Bay

- ☒ EEL GRASS INSPECTION
- ☒ NO EEL GRASS WITHIN 15' OF PROJECT
- ☐ EEL GRASS IN THE PROJECT AREA

Tony Melu
SIGNATURE

0111-409
PERMIT #

8/17/01
DATE

PLAN VIEW 1" = 40'

APPLICANT'S NAME Bill Holder

JOB ADDRESS 409 North Star Ln.

DATE 8/9/01