

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Newport Beach, CA 90802-4302
(949) 590-5071

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Filed: 3/8/02
49th Day: 4/26/02
180th Day: 9/4/02
Staff: MV-LB
Staff Report: 4/18/02
Hearing Date: 5/7-10/02
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER: 5-02-069****APPLICANT: Thomas Tupman TR****AGENT: Peter Swift
Swift Slip Dock & Pier Builders****PROJECT LOCATION: 609 36th Street, Newport Beach, Orange County****PROJECT DESCRIPTION:** Revise an existing boat dock by replacing two 12" diameter guide piles with two new piles of the same size in the same location and rebuilding the float (8' x 15' with a 3' by 4' lobe).**LOCAL APPROVALS RECEIVED: City of Newport Beach, Harbor Resources Division Harbor Permit No. 636-609****SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan****SUMMARY OF STAFF RECOMMENDATION:**

The major issues before the Commission relate to the effect of the proposed development on marine resources and water quality.

Staff recommends the Commission **APPROVE** the proposed development with three (3) special conditions which are necessary to assure that marine resources and water quality are protected. Special Condition #1 requires that the applicant dispose of all demolition and construction debris at an appropriate location. Special Condition #2 requires the applicant to follow Best Management Practices to ensure the continued protection of water quality and marine resources. Special Condition #3 requires that a pre-construction survey for *Caulerpa taxifolia* be done and if its presence is discovered, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *Caulerpa taxifolia* within the project and buffer areas have been eliminated or 2) the applicant has revised the project to avoid any contact with *Caulerpa taxifolia*.

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application as conditioned.

MOTION:

I move that the Commission approve CDP #5-02-069 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

The staff recommends that the Commission adopt the following 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. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
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 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.

2. Best Management Practices Program

By acceptance of this permit the applicants agree 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:

- i. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris.
- ii. In-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.
- iii. 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:

- i. 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:

- i. Oil absorbent materials shall be examined at least once a year and replaced as necessary. The applicants will recycle the materials, if possible, or dispose of them

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. Boaters will 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. Detergents will not be used for cleaning. The use of soaps that can be discharged by bilge pumps is prohibited.

3. 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).
- 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.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing to revise an existing boat dock by replacing two 12" diameter guide piles with two new piles of the same size in the same location and rebuilding the float (8' x 15' with a 3' by 4' lobe). The existing and proposed docks are within the U.S. Pierhead line.

The subject site is located in the Rialto Channel in Newport Harbor. The majority of residential development fronting Newport Harbor is fringed with private recreational boat docks associated with the residences. The proposed dock revision is similar in function to other residential docks in the immediate vicinity. The boat dock will be used solely for boating recreation purposes.

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. The proposed project has received approval in concept from the City's Harbor Resources Division (Harbor Permit No. 636-609). The applicant has applied for approval of the proposed project from the U.S. Army Corps of Engineers (Exhibit C). The project has received approval from 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 (Exhibit D).

B. Marine Resources

The proposed project, replacement of an existing boat dock, is located in and over the coastal waters of Newport Harbor (Lower Newport Bay). Newport Bay is on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means that water quality within the harbor does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal established for this waterbody. 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 Newport Harbor, 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.

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, potential water quality issues must be examined as part of the review of this project.

1. 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 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.

a) 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 applicants 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. The condition also includes a requirement that divers remove any non-floatable debris not contained in such structures that sink to the ocean bottom as soon as possible.

b) Best Management Practices

The proposed dock project will allow for the long term berthing of boat(s) by the homeowner. Some maintenance activities if not properly regulated could cause adverse impacts to the marine environment. Certain maintenance activities like 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 major contributors to the degradation of water quality within

boating facilities. As mentioned above, Lower 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.

To minimize the potential that maintenance activities would adversely affect water quality, the Commission imposes Special Condition #2 that requires the applicant to follow Best Management Practices to ensure the continued protection of water quality and marine resources. Best management practices identified in the condition require proper boat cleaning and maintenance, management of solid and liquid waste, and management of petroleum products, all of which are associated with the long term berthing of the boat(s) (more thoroughly explained in Special condition #2 of this permit).

c) *Caulerpa taxifolia*

Recently, a non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been discovered in parts of Huntington Harbor (Emergency Coastal Development Permits 5-00-403-G and 5-00-463-G). Huntington Harbor provides similar habitat to that found in Newport Harbor.

C. taxifolia is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean. From an initial infestation of about 1 square yard it grew to cover about 2 acres by 1989, and by 1997 blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing¹.

¹ References

Meinesz, A. (Translated by D. Simberloff) 1999. Killer Algae. University of Chicago Press

Chisholm, J.R.M., M. Marchioretti, and J.M. Jaubert. Effect of low water temperature on metabolism and growth of a subtropical strain of *Caulerpa taxifolia* (Chlorophyta). *Marine Ecology Progress Series* 201:189-198

Ceccherelli, G. and F. Cinelli. 1999. The role of vegetative fragmentation in dispersal of the invasive alga *Caulerpa taxifolia* in the Mediterranean. *Marine Ecology Progress Series* 182:299-303

Smith C.M. and L.J. Walters. 1999. Fragmentation as a strategy for *Caulerpa* species: Fates of fragments and implications for management of an invasive weed. *Marine Ecology* 20:307-319.

Jousson, O., J. Pawlowski, L. Zaninetti, A. Meinesz, and C.F. Boudouresque. 1998. Molecular evidence for the aquarium origin of the green alga *Caulerpa taxifolia* introduced to the Mediterranean Sea. *Marine Ecology Progress Series* 172:275-280.

Komatsu, T. A. Meinesz, and D. Buckles. 1997. Temperature and light responses of the alga *Caulerpa taxifolia* introduced into the Mediterranean Sea. *Marine Ecology Progress Series* 146:145-153.

Gacia, E. C. Rodriguez-Prieto, O. Delgado, and E. Ballesteros. 1996. Seasonal light and temperature responses of *Caulerpa taxifolia* from the northwestern Mediterranean. *Aquatic Botany* 53:215-225.

Belsher, T. and A. Meinesz. 1995. Deep-water dispersal of the tropical alga *Caulerpa taxifolia* introduced into the Mediterranean. *Aquatic Botany* 51:163-169.

Because of the grave risk to native habitats, in 1999 *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001 the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

If *C. taxifolia* is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. In order to assure that the proposed project does not cause the dispersal of *C. taxifolia*, the Commission imposes Special Condition #3. Special Condition #3 requires the applicant, prior to commencement of development, to survey the project area for the presence of *C. taxifolia*. If *C. taxifolia* is present in the project area, no work may commence and the applicants shall seek an amendment or a new permit to address impacts related to the presence of the *C. taxifolia*, unless the Executive Director determines that no amendment or new permit is required.

2. Fill of Coastal Waters

Section 30233 of the Coastal Act addresses fill of open coastal waters:

(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 to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative. The proposed project includes replacing two 12" diameter piles with two new piles of the same size in the same location. The proposed pile replacement constitutes fill of coastal waters.

a. Allowable Use

Section 30233(a)(4) of the Coastal Act allows fill of open coastal waters, such as Newport Harbor, for recreational boating purposes. The proposed project, a boat dock, constitutes a recreational boating facility. Thus, the project is an allowable use under Section 30233(a)(4).

b. Least Environmentally Damaging Alternative

The proposed project will result in the replacement of an existing boat dock including removal and replacement of two 12" diameter guide piles and reconstruction of the 8' x 15' floating dock with a 3' x 4' lobe. Piles are necessary to anchor the replacement boat dock securely. Two 12" diameter piles are the minimum size and amount necessary to withstand the loads created by tides and currents. The proposed project will use the minimum number and size of piles necessary to adequately support and secure the boat dock. Thus the amount of fill needed to support the proposed allowable use is minimized. Therefore the project as proposed is the least environmentally damaging alternative.

c. Adequate Mitigation

Section 30233 also requires that any project which results in fill of open coastal waters also provide adequate mitigation. Placement of the proposed piles in conjunction with the proposed project will displace bottom habitat. However, the pilings will provide new vertical habitat for marine organisms such as mussels, barnacles, limpets, littorine snails, red and brown seaweed, surfgrass, anemones, and polychaetes. Thus, adequate mitigation is provided by the proposed project in that the loss of bottom habitat is offset by the fact that the pilings themselves will provide new vertical intertidal habitat for marine organisms.

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

3. Conclusion

To minimize adverse impacts upon the marine environment, three Special Conditions have been imposed. Special Condition #1 requires that the applicant dispose of all demolition and construction debris at an appropriate location. Special Condition #2 requires the applicant to follow Best Management Practices to ensure the continued protection of water quality and marine resources. Special Condition #3 requires that a pre-construction survey for *Caulerpa taxifolia* be done and if its presence is discovered, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *Caulerpa taxifolia* within the project and buffer area has been eliminated or 2) the applicant has revised the project to avoid any contact with *Caulerpa taxifolia*. As conditioned, the Commission finds that the proposed project is consistent with Section 30230 of the Coastal Act.

C. Public Access & Recreation

Section 30604 (c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea includes a specific finding that the development is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. The proposed development is located between the sea and the first public road.

Section 30212 of the Coastal Act states in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
 - (2) adequate access exists nearby...*
- (b) For purposes of this section, "new development" does not include:*
 - (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*

The proposed development, replacement of an existing boat dock, will occur seaward of the mean high tide line (i.e. seaward of the bulkhead).

Public vertical access exists in the immediate project vicinity at the street ends. The nearest street end access is located four lots west of the subject site, at Short Street. In addition, public access is available at the public beach that extends the entire length of the peninsula. The wide sandy public beach is approximately one half mile southwest of the subject site.

The proposed development will not adversely impact existing navigation. The development will not create adverse impacts on coastal access and recreation. The project site is a single-family residence and the proposed development will not change the intensity of use on site. Therefore, the Commission finds that the proposed development does not pose significant adverse impacts on public access and recreation and is consistent with Section 30212 of the Coastal Act.

D. 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.

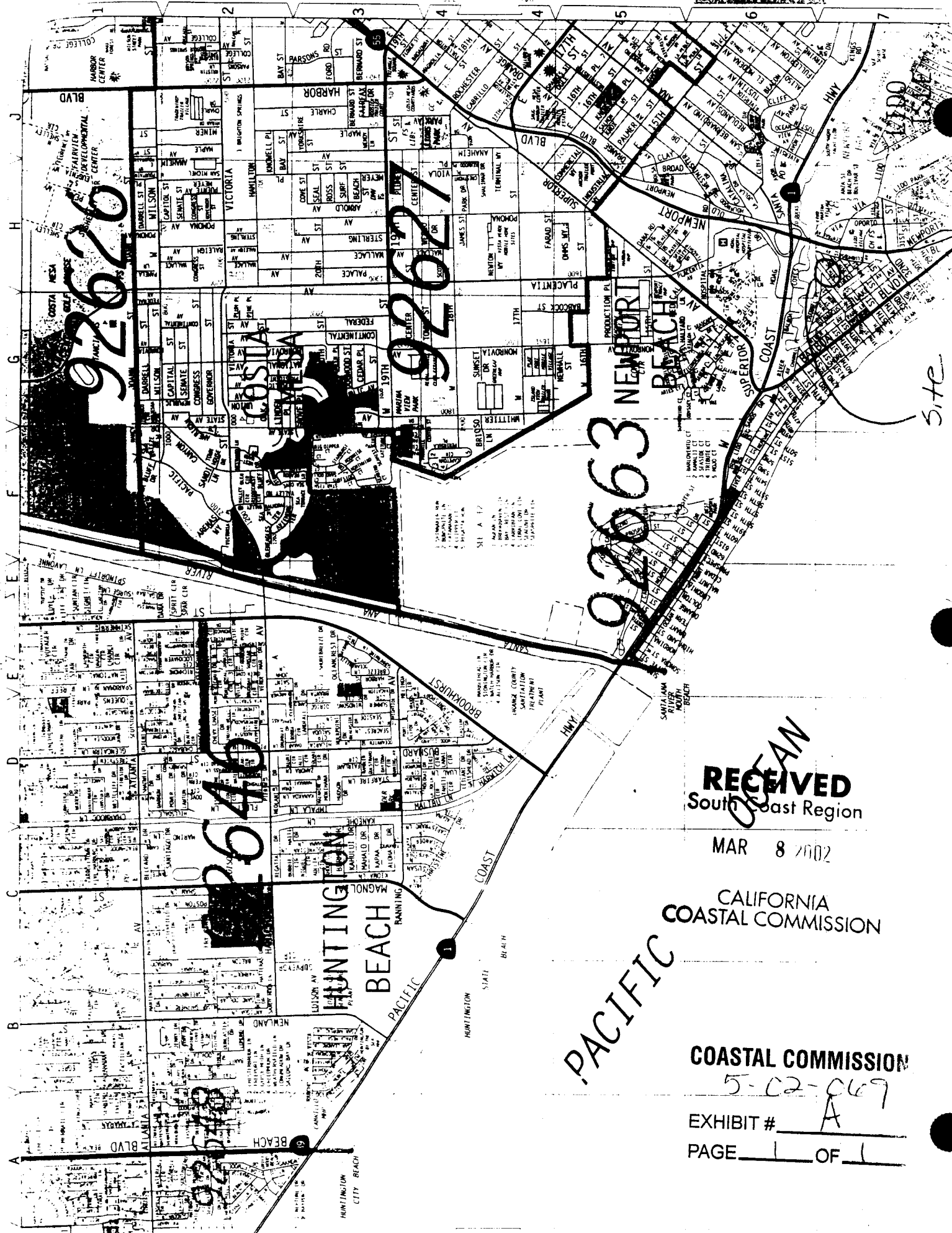
The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The City currently has no certified implementation plan. Therefore, the Commission issues CDP's within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used 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. As conditioned, the proposed project is not expected to create additional adverse impacts to marine resources, water quality and the marine environment and therefore attempts to insure the highest quality of water in the Bay and along the beaches.

As conditioned 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).

E. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project as conditioned has been found consistent with the marine resources policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.



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MAR 8 2002

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PACIFIC

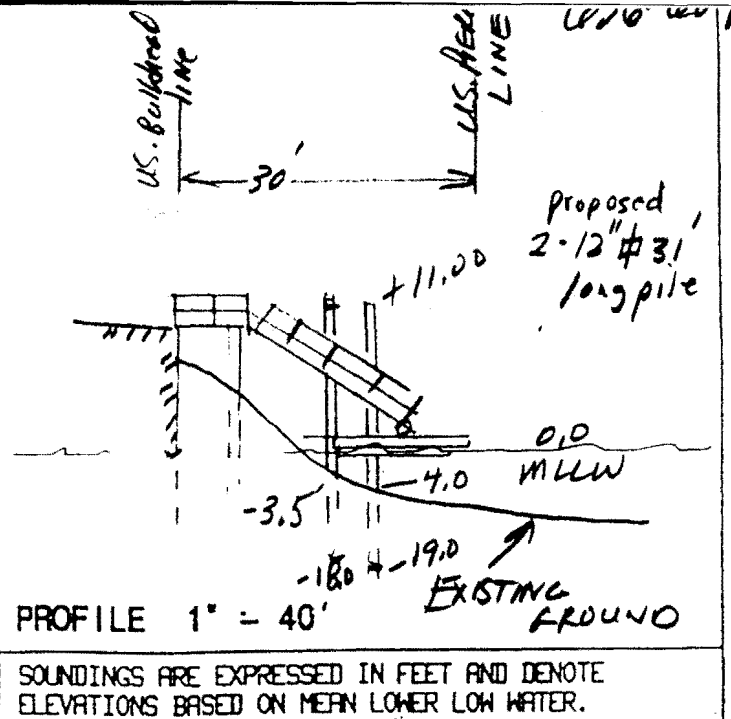
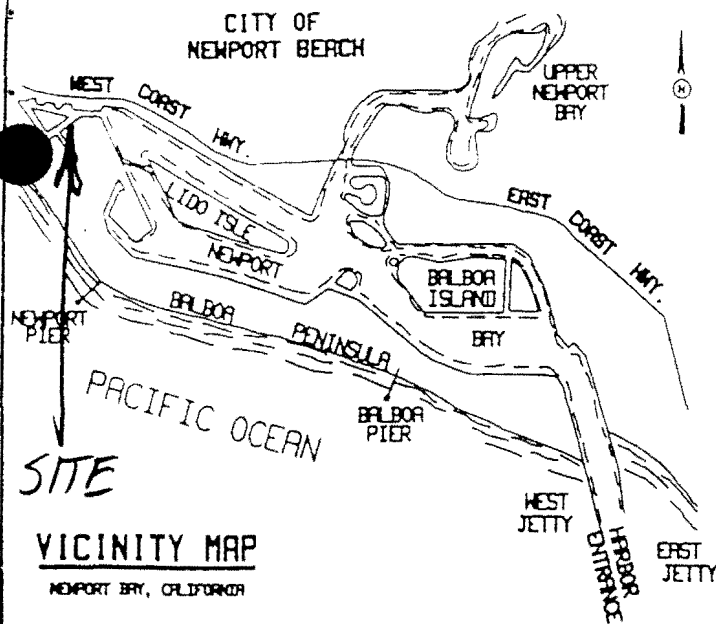
COASTAL COMMISSION

5-02-069

EXHIBIT # A
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Site

CITY OF NEWPORT BEACH



Scope of Work:

Remove and replace 2-12" concrete guide pile, 31' long; rebuild floating dock (8'x 15') with additional 3'x 4' lobe.

2-22-02
HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

0353-2002

EEL GRASS INSPECTION

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

SIGNATURE

PERMIT

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MAR 8 2002

2-12" #6 std
31' long
guide pile

THE RIALTO CANAL

CALIFORNIA COASTAL COMMISSION

EXISTING PIER + GANGWAY TO REMAIN

COASTAL COMMISSION

5-02-069

EXHIBIT # 13

PAGE 1 OF 1

(3)

(4)

609

(5)

Property line

California Coastal Commission
South Coast District Office

APPROVED
Permit No.

By:

PLAN VIEW 1" = 40'

APPLICANT'S NAME THOMAS TUPMAN

JOB ADDRESS 609 36th street

DATE 2-10-02

5-02-069



**US Army Corps
of Engineers.**
LOS ANGELES DISTRICT

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LOP FACSIMILE TRANSMITTAL
2002-00662-CJF

U.S. Army Corps of Engineers
Los Angeles District, CESPL-CO-R
P.O. Box 2711
Los Angeles, CA 90053-2325

Contact:
Name: Cori Farrar
Phone: (213) 452-3296
FAX: (213) 452-4196
Email: corice.j.farrar@usace.army.mil

DATE INITIATED: March 15, 2002. Please review the LOP materials and provide substantive, site-specific comments to the District on or before **March 30, 2002**. If no comments are received by this date, the District assumes compliance with 33 CFR Part 325.2(e)(1).

AGENCY	FAX Number	Attn:
[X] CCC, San Francisco	(415) 904-3400	James Raives
[X] CCC, Long Beach	(562) 590-3084	Karl Schwing
[] CDFG, Bishop	(619) 872-1284	Bruce Kinney
[X] CDFG, San Diego	(619) 467-4299	Marilyn Fluharty
[] CDFG, Santa Barbara	(805) 568-1235	Morgan Wehjte, Ken Wilson
[] CDFG, Yountville	(707) 944-5563	District Biologist
[] CRWQCB, Central Coast	(805) 543-0397	Michael Higgins/Sorrel Marks
[] CRWQCB, Los Angeles	(213) 266-7600	Tony Klecha
[X] NMFS	(562) 514-6194	Bob Hoffman
[X] U.S. Coast Guard (D-11/OAN)	(619) 683-6314	Shannon Rushing
[X] U.S. Coast Guard (LA/LB)	(310) 732-2029	Lt. Rob Collier
[] U.S. Coast Guard (San Diego)	(619) 683-6314	Lt. MT Cunningham
[X] U.S. EPA, W-3-3	(415) 947-3537	Steven John
[] U.S. FWS, Ventura	(805) 644-3958	Diane Noda
[] SHPO (FYI Only)	(916) 653-9824	Knox Mellon
[X] U.S. FWS, Carlsbad	(760) 431-9624	Jim Bartel

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EXHIBIT #

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MAR 15 2002

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APPLICANT NAME: Thomas Tupman

AGENT NAME: Swift Slip- Beth Swift (949) 631-3121

WATERWAY NAME: Newport Bay

LOCATION: The proposed dock reconstruction project is located bayward of 609 36th Street, Newport Beach, Orange County, California. [Please refer to attached diagrams.]

BRIEF DESCRIPTION OF THE PROPOSED WORK: The proposed project is to remove and replace an existing 8' X 15' floating dock and add a 3' X 4' lobe to the dock. Activities would include the removal and replacement of two 12-inch diameter concrete guide pile. The purpose of this dock project is to accommodate boat moorage. All the pile would be driven and no jetting is proposed as part of the proposed dock replacement project.

The project has been surveyed for eelgrass (2/22/02 by Wes Armand of Newport Harbor Resources) and no eelgrass or eelgrass debris was observed in the project area. The applicant sent correspondence regarding this project to California Coastal Commission (3/8/02) and Regional Water Quality Control Board (3/8/02).

AREA OF WATERS SUBJECT TO LOSS AS A RESULT OF THE PROPOSED PROJECT: The proposed work would not result in any substantial, net increase in coverage of the waters of the U.S. The existing dock to be replaced, together with the proposed lobe expansion, would cover 0.003 acre of open waters of the U.S., a slight increase (less than 0.001 acre) from the existing dock structure.

ESSENTIAL FISH HABITAT: The proposed project would include temporary construction activities in an existing marina. Since the footprint for the replacement dock would be virtually identical to the existing dock, no additional open water habitat would be affected by the proposed project. During the proposed construction activities, there would be short-term adverse impacts to open water habitat that exhibits relatively limited physical and biological functions; however, the proposed project would not have any permanent impacts. Due to the temporary nature of the impacts associated with the proposed project, the Corps has determined that the proposed project would not adversely affect areas designated as "essential fish habitat", nor species protected under MSA.

Exhibit C2



Winston Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 FAX (909) 781-6288



Gray Davis
Governor

March 13, 2002

RECEIVED
South Coast Region

MAR 14 2002

CALIFORNIA
COASTAL COMMISSION

Beth Swift
Swift Slip Dock and Pier Builders
2027 Placentia Avenue
Costa Mesa, CA 92627

PROPOSED REBUILDING OF BOAT DOCK, THOMAS TUPMAN, 609-36th STREET, NEWPORT BEACH, ORANGE COUNTY

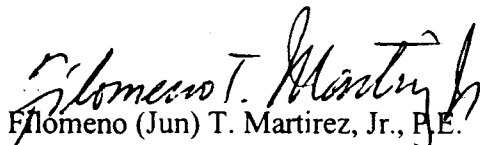
Dear Ms. Swift:

If standard dock construction methods and materials are utilized, this project should not adversely impact water quality. A statement has been submitted that there will be no waste discharged from the proposed project. Based on these assurances, clearance is provided.

However, should the Army Corps of Engineers determine that this project requires a Section 404 permit, it will be necessary for the project proponent to obtain from this Board a Water Quality Certification under Section 401 of the Clean Water Act.

Should you have any questions, please contact Jawed Shami at (909) 782-3288.

Sincerely,


Filomeno (Jun) T. Martinez, Jr., P.E.
Chief, Regulations Section

cc: California Coastal Commission, Long Beach
Army Corps of Engineers - Erik Larsen
City of Newport Beach, Marine Department - Tony Meller

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COASTAL COMMISSION

5-02-069

EXHIBIT # 1

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