

**CALIFORNIA COASTAL COMMISSION**

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

**Th19b****ADDENDUM**

February 2, 2009

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM Th19b**, COASTAL COMMISSION PERMIT APPLICATION **#5-08-279 (ETCO)** FOR THE COMMISSION MEETING OF **February 5, 2009**.

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**Corrections to Staff Report:**

Deleted language is in ~~strike through~~ and new language is in ***bold, underlined italic***, as shown below:

1. The "List of Exhibits" on Page 2 of the staff report lists Exhibit 2 as the Assessors Parcel Map, however that exhibit is missing as an actual attachment from the staff report, consequently the numbering of the rest of the Exhibits are incorrect (off by one). The actual Exhibit 2 attachment are the Project Plans, Exhibit 3 is the Vesting Tentative Tract Map, so on and so forth. Commission staff recommends the following correction to the references of the Exhibits throughout the staff report:

References to Exhibits 3 – 14 throughout the entire staff report, including Special Conditions should actually be Exhibit 2 – 14, respectively.

2. The language of Special Condition 9 on Page 9 of the staff report should read as follows:

The CC&R's shall reflect the following requirements of this coastal development permit: 1) The location and presence of the ***6' to 10'*** easement along the waterfront and long term maintenance; 2) the existence of a ***two*** vertical access easements from Newport Blvd. ***and one from Arcade St.***;

3. The language of Special Condition 10 on Page 9 of the staff report should read as follows: Consistent with the applicant's proposal, **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or non-profit entity acceptable to the Executive Director, an easement(s) for public pedestrian access and passive recreational use of: 1) three, minimum 6 foot wide paved ~~lateral~~ ***vertical*** public access easements with walkways (two from Newport Blvd. and one from Arcade St.) across the site to a 6-10 foot wide ***lateral*** public access easement walkway along the site's entire bayfront/waterfront bulkhead (excepting there from the portion of the 10 foot wide

walkway that lies over public tidelands) as generally depicted on Exhibit 6 5 to the staff report dated January 15, 2009.

4. Add the following paragraph on Page 24 of the staff report after the first paragraph under the "Pickleweed (Salicornia)" heading:

**Maintenance dredging activities around the bulkhead and marina slips and the proposed enlargement of Slipway 1 will negatively impact the existing pickleweed habitat. Dredging to expand marinas or restore them to previously dredged depths is a permitted use under Coastal Act Sections 30233(a)(2) and (a)(3) if feasible mitigation measures are provided.**

## Correspondence:

On February 2, 2009, staff received the attached two letters both dated January 26, 2009 from adjacent property owners; one letter from Mr. Pete Sterart, owner of South Coast Shipyard located at 2223 21<sup>st</sup> Street and another letter from Mr. Ralph Furra, property owner at 2318 Newport Blvd. Both letters are in support of the proposed project and staff recommendation for approval with conditions.

## Ex Parte Communications:

Ex Parte Communications received by Commission staff as of the date of this addendum are also attached.

Staff received a Form for Disclosure of Ex Parte Communication between Mr. Dave Neish, a representative of the applicant and Commission Commissioner Bonnie Neely consisting of a personal phone call on January 29, 2009. Mr. Neish presented the proposed project to the Commission Chair and noted that the applicant concurs with staff recommendation for approval.

Staff received a second Form for Disclosure of Ex Parte Communication between Mr. Dave Neish, a representative of the applicant and Commission Chair Pat Kruer consisting of a personal meeting between the two on January 30, 2009. Mr. Neish presented the proposed project to the Commission Chair and noted that the applicant is in agreement with staff recommendation and requested the item be moved from the regular agenda to the consent agenda.

January 26, 2009

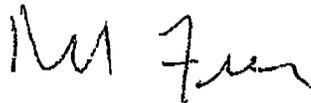
Ms. Lilitana Roman  
Coastal Analyst  
California Coastal Commission  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

RE: Application Number 5-08-279 (Ectco Investments LLC) Item Th19b for 2/5/09

Dear Ms. Roman:

As an adjoining property owner to the above referenced property, I am fundamentally supportive of this application as set for hearing by the Coastal Commission on February 5, 2009. I have reviewed incipient plans and find them to be compelling. Although I am not privy to City of Newport Beach Council or Coastal Commission constraints, I have no objections to Coastal approval

Sincerely,



Property Owner: Ralph Furra  
Address: 2318 Newport Boulevard  
Newport Beach, Ca. 92663

Cc: Afshin Etebar

January 26, 2009

Ms. Liliana Roman  
Coastal Analyst  
California Coastal Commission  
200 Oceangate, Suite 1000  
Long Beach, CA 90802

RE: Application Number 5-08-279 (Etco Investments LLC) Item Th19b for 2/5/09

Dear Ms. Roman:

As an adjoining property owner to the above referenced property, I wish to express my support for this application as set for hearing by the Coastal Commission on February 5, 2009. I have met with the applicant, reviewed the plans and have found them to be compatible with my property. We appreciate the conditions of approval imposed by the City of Newport Beach, and have no concerns with the conditions as recommended by the Coastal Staff report. We look forward to the improvements to our area that this project represents.

Sincerely,



Name: Pete Stewart  
Owner: South Coast Shipyard  
Address: 2223 Twenty-First Street  
Newport Beach, Ca. 92663

Cc: Afshin Etebar

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATION**

**RECEIVED**  
South Coast Region

FFR 3 2009

CALIFORNIA  
COASTAL COMMISSION

**RECEIVED**  
JAN 30 2009

CALIFORNIA  
COASTAL COMMISSION

Date and time of communication: January 29, 2009  
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

Location of communication: Phone Call  
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Person(s) initiating communication: Dave Neish

Person(s) receiving communication: Bonnie Neely, Commissioner

Name or description of project: Agenda Item Th19b - ETCO Investment Application, Newport Beach Redevelopment Project, Orange County

Detailed substantive description of content of communication:  
(If communication included written material, attach a copy of the complete text of the written material)

Mr. Neish stated they concur with staff's recommendation for approval.

  
Signature of Commissioner

Date: January 29, 2009

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

Coastal Commission Fax: 415 904-5400

RECEIVED  
South Coast Region

FEB 3 2009

RECEIVED

FEB 02 2009

CALIFORNIA  
COASTAL COMMISSION

FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS

CALIFORNIA  
COASTAL COMMISSION

Name or description of project, LCP, etc.: Elco Investments No. 5-05-279

Date and time of receipt of communication: Friday Jan 30, 12:00 Noon

Location of communication: Wetmore, CA

Type of communication (letter, facsimile, etc.): Personal mtg.

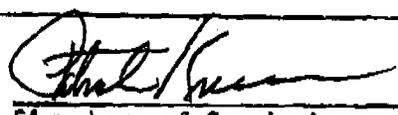
Person(s) initiating communication: Dave Neish

Person(s) receiving communication: Pat Kruze

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

Applicants representative presented the proposed project for a mixed-use redevelopment in Newport Beach. The proposal includes 36,000 square feet of commercial uses and 27 residential units. The applicant is in agreement with all of the CIL staff suggested ~~Special~~ Special Conditions and that the item could be moved to Consent.

2/2/09  
Date

  
Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication.

**CALIFORNIA COASTAL COMMISSION**

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

Filed: November 14, 2008  
49th Day: January 02, 2009  
180th Day: May 13, 2009  
Staff: Liliana Roman-LB  
Staff Report: January 15, 2009  
Hearing Date: February 4-6, 2009  
Commission Action:



# Th19b

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-08-279

**APPLICANT:** Etco Investments LLC

**AGENT:** Government Solutions Inc., Attn: Carol McDermott

**PROJECT LOCATION:** 2300 Newport Beach Blvd., Newport Beach (Orange County)

**PROJECT DESCRIPTION:** Demolition of all existing on-site commercial buildings; construction of a mixed-use development comprised of eight (8) buildings consisting of 36,000 sq. ft. of commercial uses (office and retail) and 77,100 sq. ft. for 27 residential units; 246 parking spaces; tentative tract map for condominium purposes; grading consisting of 36,000 cubic yards of export; bulkhead replacement along approx. 485 feet of waterfront; including new public access easements consisting of a 10' wide walkway along the bulkhead and 6' wide lateral access easement from Newport Blvd.; demolition of an existing 21 slip marina and re-construction of a new 21 slip marina, plus up to 12 temporary docks including new lighting and water supply lines; dredging consisting of 1,100 cubic yards within the marina; and construction of a 75 sq. ft. pickle grass habitat.

**LOCAL APPROVALS RECEIVED:** Environmental Impact Report certified by the City of Newport Beach on 11/16/06; Approval in Concept and Finding of Substantial Conformance dated 10/2/08; Vesting Tentative Tract Map and Use Permit dated 12/7/06; Newport Beach Harbor Resources Dept. Approval in Concept dated 09/25/08.

**OTHER AGENCY APPROVALS RECEIVED:** Applied for U.S. Army Corps of Engineers Section 404 Permit; Regional Water Quality Control Board 401 Water Quality Certification

**SUBSTANTIVE FILE DOCUMENTS:** Newport Bay Marina Final Environmental Impact Report dated November 2006; Biological Assessment Bay Marina Project, Newport Beach prepared by MBC Applied Environmental Sciences dated July 2006; Eelgrass and Caulerpa Assessment, Bay Marina Project, Newport Beach, prepared by MBC Applied Environmental Sciences dated April 2007; Feasibility Study & Remedial Action Plan prepared by AB Geoscience & Environmental Consultants dated September 15, 2007; letter from Regional Water Quality Control Board Santa Ana Region – Approval of Remedial Action Plan, Bridgeport Project, ETco Homes, 2300 Newport Blvd., Newport Beach, CA dated March 3, 2008; DEIR comment letter dated 8/09/06 from the Department of Fish and Game; Construction Traffic Management and Control Plan dated 10/17/06; Parking Management Plan prepared by Minuteman Parking Company dated 10/26/06.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends approval of the proposed project with special conditions regarding; 1) Construction Responsibilities and Debris Removal; 2) Location of debris disposal site; 3) Conformance with Remedial Action Plan; 4) Final revised WQMP; 5) Marina BMP Program; 6) Wetland Restoration Plan/Biological Monitoring Plan; 7) Future Improvements; 8) Landscaping; 9) Covenants, Conditions & Restrictions; 10) Offer to Dedicate Public Access & Recreational Use Easements; 11) Public Access & Recreational Use Easement Area Management & Maintenance Program; 12) Construction/Development Phasing; 13) Restrictions on Development Within View Corridor; 14) Public Access Sign Program; 15) Pre-Construction Eelgrass Survey; 16) Pre-Construction *Calurpa* Survey; and 17) Final Project Plans. The primary issues associated with this development are public access, biological resources, and water quality.

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**LIST OF EXHIBITS:**

1. Location Map
2. Assessors Parcel Map
3. Project Plans (land side development)
4. Vesting Tentative Tract Map for Condominium Purposes
5. Conceptual Landscape Plan
6. Proposed Public Access Corridor Easement
7. Proposed View Corridor Easement
8. Bulkhead and Marina Reconstruction (water side development)
9. Pile Layout of Existing and Proposed Marina
10. Map of Pump Out Stations in Newport Harbor
11. Existing Conditions – Site Topography
12. Conceptual Grading Plan
13. Dredging Plan
14. Uplands and Waters Conversion

**STAFF RECOMMENDATION:**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 5-08-279 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion 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.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming

to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

### 1. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

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

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave/wind erosion and dispersion;
- (b) Any and all debris resulting from the marina and bulkhead construction activities shall be removed from the site within 10 days of completion of construction;
- (c) Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone;
- (d) Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;

- (e) If turbid conditions are generated during construction; a silt curtain shall be utilized to control turbidity;
- (f) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- (g) Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.

**2. LOCATION OF DEBRIS DISPOSAL SITE**

**PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT**, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. 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.

**3. CONFORMANCE WITH PROPOSED REMEDIAL ACTION PLAN (RAP)**

- A. Applicant shall comply with all recommendations and mitigation measures contained in the Remedial Action Plan prepared for the project by AB Geoscience & Environmental Consultants, dated September 15, 2007. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved Remedial Action Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**4. PERMANENT DRAINAGE AND RUNOFF CONTROL PLAN**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit to the Executive Director, two (2) copies of a final Permanent Drainage and Runoff Control Plan for the post-construction project site, prepared by a licensed civil engineer or qualified water quality professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. The consulting civil engineer or water quality professional shall certify in writing that the final Permanent Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

1. The plan shall demonstrate the use of distributed small-scale controls or integrated Best Management Practices (BMPs) that serve to minimize alterations to the natural pre-development hydrologic characteristics and conditions of the site, and effectively address pollutants of concern.
2. Post-development peak runoff rate and average volume from the site shall be maintained at levels similar to pre-development conditions.

3. Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maximize site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible.
4. Landscaping materials shall consist primarily of native or other low-maintenance plant selections which have low water and chemical treatment demands. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design should be utilized for any landscaping requiring water application.
5. Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains where necessary. The consulting engineer shall provide plan details and cross sections for any rock rip rap and/or other energy dissipating devices or structures associated with the drainage system. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The engineer shall certify that the design of the device minimizes the amount of rock and/or other hardscape necessary to meet the sizing requirements.
6. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
7. All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15<sup>th</sup> and April 15<sup>th</sup> of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
8. For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage planes should be approved by the project consulting geotechnical engineer.
9. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
10. The final Permanent Drainage and Runoff Control Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional or engineering geologist shall be reported to the

Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

**5. MARINA WATER QUALITY 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 docks and/or boat slips 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 containing detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

**6. WETLAND RESTORATION PLAN AND BIOLOGICAL MONITORING**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and approval of the Executive Director in consultation with the California Department of Fish and Game and the U.S. Fish and Wildlife Service as appropriate, a detailed wetland restoration and monitoring plan. The restoration and monitoring plan shall be prepared by a qualified biologist/ecologist and shall at a minimum include the following:
  1. A baseline assessment, including photographs, of the current physical and ecological condition of the impacted site (intertidal mudflat/saltmarsh) including a description and map showing the area and distribution of vegetation types and a map showing the distribution and abundance of sensitive species, if any.
  2. A description of the impacted site restoration goals including, as appropriate, topography, hydrology, vegetation types, sensitive species, and wildlife usage.
  3. A description of methods to control erosion and maintain water quality of the restoration area.
  4. A planting plan identifying the natural habitat type that is the model for the restoration, description of the desired relative abundance of particular species in each vegetation layer and a rationale for and description of the size and number of plants and the rate and method of application. Plant propagules should come from local native stock. If plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars and the planting plan should provide specifications for preparation of nursery stock (e.g., container size & shape to develop proper root form, hardening techniques, watering regime, etc.) Technical details of planting methods (e.g., timing, spacing, micorrhizal inoculation, etc.) should also be included.
  5. Restoration success criteria such that the restoration will be considered successful if the restored pickleweed displays similar percent cover (less than or equal to 200% difference) to pickleweed at a local reference site (s).
  6. A description of the sampling method for evaluating pickleweed percent cover (e.g. photo plots, quadrats, transects).
  7. Provision for submission of an annual report prepared by a qualified biologist/ecologist for up to five years or until the restoration meets the success criteria. An annual report must be submitted for a minimum of three years at which time the third year report may be the final report if the restoration success criteria has been achieved. A final report must be submitted to the Executive Director. The report must evaluate whether the impacted site conforms to the goals and success criteria set forth in the approved monitoring/restoration plan.

- B. If the final report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the approved performance standards. The revised mitigation program, if necessary, shall be processed as an amendment to this coastal development permit.
- C. The permittee shall monitor and remediate the wetland mitigation site in accordance with the approved monitoring program. Any proposed changes to the approved monitoring program shall be reported to the Executive Director. No changes to the approved monitoring program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**7. FUTURE IMPROVEMENTS**

This permit is only for the development described in Coastal Development Permit No. 5-08-279. Additional development, including but not limited to construction of commercial structures, residences and associated structures and landscaping shall require an amendment to Permit No. 5-08-279 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, pursuant to Title 14 California Code of Regulations Section 13250 (b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance activities identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-08-279 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

**8. LANDSCAPING – DROUGHT TOLERANT, NON INVASIVE PLANTS**

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).

**9. COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R’S)**

- A. Consistent with the applicant’s proposal, the applicant shall establish covenants, conditions and restrictions (CC&R’s), or an equivalent thereof, for the proposed commercial and residential development to, among other things, address maintenance of the public access easement(s), water quality management plan, and view corridor

from Newport Boulevard. The CC&R's shall reflect the following requirements of this coastal development permit: 1) The location and presence of the 10' easement along the waterfront and long term maintenance; 2) the existence of a vertical access easement from Newport Blvd; 3) the existence of a water quality management plan required pursuant to **Special Condition 4** of this permit with which the landowners are required to comply including but not limited to requirements to fund implementation and maintenance pursuant to the plan in perpetuity; 4) the presence and content of a requirement identified in **Special Condition 7** of the permit regarding the need to obtain a coastal development permit for future development; and 5) the requirements identified in **Special Condition 13** of this permit relative to a view corridor from Newport Boulevard.

- B. Consistent with the applicant's proposal, as soon as an owner's association or similar entity comprised of the individual owners of the development is created, the applicant shall transfer responsibility for the easement areas to that entity.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, and prior to recordation of any CC&R's, parcel maps or tract maps associated with the approved project, said CC&R's and Tract and parcel maps shall be submitted to the Executive Director for review and approval. The Executive Director's review shall be for the purpose of insuring compliance with the standard and special conditions of this coastal development permit. Any CC&R's, parcel map conditions or notes, or tract map provisions which the Executive Director determines are not consistent with any of the Conditions of this permit shall be modified to be consistent before recordation.
- E. Simultaneous with the recording of the final tract map(s) approved by the Executive Director, the permittee shall record the covenants, conditions and restrictions approved by the Executive Director, against the property.

**10. OFFER TO DEDICATE PUBLIC ACCESS AND RECREATIONAL USE EASEMENT(S)**

Consistent with the applicant's proposal, **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowner(s) shall execute and record document(s) in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or non-profit entity acceptable to the Executive Director, an easement(s) for public pedestrian access and passive recreational use of: 1) three, minimum 6 foot wide paved lateral public access easements with walkways (two from Newport Blvd. and one from Arcade St.) across the site to a 6-10 foot wide public access easement walkway along the site's entire bayfront/waterfront bulkhead (excepting there from the portion of the 10 foot wide walkway that lies over public tidelands) as generally depicted on Exhibit 6 to the staff report dated January 15, 2009. Minor adjustments to the aforementioned alignment may be authorized by the Executive Director to ensure that continuous 6 and 10 foot wide public access and passive recreation easement(s) is/are formed which connects with any accessways or public rights of way on adjacent lands.

The recorded document(s) described above shall reflect the following restrictions: i) The public access and passive recreation easement area shall be open to the general public for use 24-hours per day; ii) The landowner(s) shall, or, at the election of the easement holder, the easement holder shall, maintain the easement area in accordance with the Management and Maintenance Program approved by the Executive Director in accordance with **SPECIAL CONDITION 11**; iii) Any development, as defined in Section 30106 of the Coastal Act, that diminishes permanent public

pedestrian access and passive recreational use of the easement area is prohibited; iv) No development, as defined in Section 30106 of the Coastal Act, shall occur within the public access and recreation easement area except for the following development: grading and construction necessary to construct the public access walkway and appurtenances (e.g. signs, benches, trash receptacles, safety railing), underground utilities, bulkhead and parking areas beneath the public access walkway in the easement to serve the proposed development on the subject lot in accordance with the final plans approved by the Executive Director in accordance with the requirements of **Special Condition 17**, vegetation removal and planting in accordance with the requirements of **Special Condition 8**, construction of drainage devices in accordance with the final plans approved by the Executive Director pursuant to **Special Conditions 4 and 17**, and maintenance and repair of the approved development within the easements as identified in the Management and Maintenance Program approved by the Executive Director pursuant to **Special Condition 11**.

The recorded document(s) shall include legal descriptions and graphic depictions, prepared by a licensed surveyor, of both the entire project site and the area of the offered public access and recreation easement(s). The offer(s) shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. Subject to the review and approval of the Executive Director, easements for the bulkhead and parking structures beneath the public access walkway, subsurface drainage devices and subsurface or overhead utilities within the offered public access and recreation easement areas may be allowed provided such structures in those easements will not adversely impact public use of the public access and recreation easement. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

**11. PUBLIC ACCESS AND RECREATION EASEMENT AREA MANAGEMENT AND MAINTENANCE PROGRAM**

A. Consistent with the applicant's proposal, **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall provide for the review and approval of the Executive Director, a Management and Maintenance Program for the public access and recreation easement area. The final management and maintenance program shall include the following:

(1) IDENTIFY ALL ENTITIES RESPONSIBLE FOR MANAGEMENT AND MAINTENANCE OF THE PUBLIC ACCESS AND RECREATION EASEMENT AREA. In general, the owner(s) of the land shall maintain the public access and recreation easement area(s) until such time as any easement required to be offered by this permit is accepted. Where an easement is accepted by an entity in accordance with the terms and conditions of the offer(s) to dedicate required by this permit, the landowner be responsible for management and maintenance of the public access and recreation facilities within the easement area unless the arrangements between the landowner(s) and the easement holder dictate that the easement holder shall retain all or part of said management and maintenance responsibility. All management and maintenance shall occur in accordance with the approved Management and Maintenance Program.

(2) IDENTIFICATION OF MANAGEMENT AND MAINTENANCE AND ASSOCIATED FUNDING PROGRAM. The Management and Maintenance Program shall include a) a funding program sufficient to fund the actual cost of maintenance and periodic repair and replacement of the public access walkways and associated appurtenances including, but not limited to, surfaces, landscaping (if any), and signage; and 2) maintenance activities include but are not limited to trash

collection, repairs or replacement of surfaces due to cracks, spalling, broken concrete, etc., maintenance of gutters, curbs and sidewalks (keep free of debris, wax, gum buildup, etc.), remove and/or trimming of vegetation that is interfering with public use of the easement area, repair/replacement of public access signs, trash receptacles, benches, handrails, stairs, and lighting.

B. The landowner(s) or entity assigned to be responsible for management and maintenance shall undertake management and maintenance in accordance with the approved final management and maintenance program. Any proposed changes to the approved final management and maintenance program shall be reported to the Executive Director. No changes to the approved final management and maintenance program shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## **12. CONSTRUCTION/DEVELOPMENT PHASING**

Consistent with the applicant's proposal, Construction of the public access improvements depicted on the final plans approved by the Executive Director pursuant to **Special Condition 17** in the public access and recreation easement shall be phased so that they are open and available to the public prior to or concurrent with initial occupation of the development approved by this coastal development permit.

## **13. RESTRICTIONS ON DEVELOPMENT WITHIN THE VIEW CORRIDOR**

No development other than the proposed landscaped planters, public plaza, public walkways, vehicular/pedestrian bridge and dock slips, shall be sited within the view corridor, as generally depicted in Exhibit 7 of the staff report dated January 15, 2009.

## **14. PUBLIC ACCESS SIGN PROGRAM**

The final plans submitted for review and approval to the Executive Director shall include a detailed signage plan that directs the public to the public access and recreation easement areas on the project site. Some signs shall be included that are located and sized such that they are visible from existing publicly accessible areas (e.g. sidewalks, public roads) adjacent to the site. Signs shall invite and encourage public use of access opportunities and shall identify and direct the public to their locations. Signage shall include facility identification/directional monuments (e.g. location of amenities); informational signage; memorial plaque of the site's original historical significance, circulation; and roadways signs. Signs and displays regarding public access not explicitly permitted in this document shall require an amendment to this permit unless the Executive Director determines that no amendment is legally required.

## **15. EELGRASS SURVEY**

A. **Pre Construction Eelgrass Survey.** A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid for a period of 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., in most instances, March 1). The survey shall be prepared in full compliance with the

“Southern California Eelgrass Mitigation Policy” Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

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

16. **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 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 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 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 & Game

(858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043), or their successors.

- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the 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.

#### 17. **FINAL PROJECT PLANS**

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two (2) full size sets of final project plans which conform with the requirements of the special conditions of this permit and indicate the final layout of all development including but not limited to: grading, buildings, driveways and bridges, bulkhead, docks and piers, utilities and easements, infrastructure, water quality management system, accessways, signs, interpretive amenities, walls, fences, and gates and any other appurtenances.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission 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**

###### Project Site - Location

The project site is a 2.36 acre bulkhead lot located on the Rhine Channel in West Newport Bay at 2300 Newport Blvd., City of Newport Beach, Orange County (Exhibit 1) . The project site is designated as Recreational and Marine Commercial (CM-C) in the City's Coastal Land Use Plan. This land use designation permits residential uses in commercial areas on the second floor or above. The site may develop up to 43 dwelling units; the applicant proposes to construct 27 units. The site currently consists of 44,300 square feet of commercial (retail and office uses) and associated parking and the waterfront consists of a small marina with 21 boat slips that extend 18 to 19 m into the Rhine Channel. The existing marina facility is privately owned/operated and accessible to the general public for slip lease. This facility is between the first public road and the sea (Newport Bay). The existing and proposed residential and commercial development is located on privately owned land. The State Lands Commission does not assert any title interest in the

property or that the project will intrude into an area that is subject to the public easement in navigable waters.

The project site is surrounded by commercial uses with Newport Blvd. to the west and Newport Bay's Rhine Channel to the east. Commercial areas immediately adjacent to the project consist of Woody's Wharf, the Crab Cooker Restaurant and South Coast Shipyard.

The project site previously operated as a commercial shipyard. The existing buildings appear to be eligible for listing in the California Register as a historical resource at the local level of significance due to their association with the development of the maritime economy of Newport Beach, with the local contributions to the World War II effort, and as excellent examples of maritime architecture in the City. The City of Newport Beach, however, the City does not have a Historic Preservation Ordinance in place. Furthermore, the City's certified Coastal Land Use Plan does not include the South Coast Shipyard site in its list of historical resources. The site is not listed on either the State or Federal registries.

#### Previous Coastal Development Permits

In 1979, the Regional Commission approved Coastal Development Permit Application No. 79-5297[South Coast Shipyard and Design Center] with no Special Conditions imposed for a remodel to existing docks and floats and refurbishment of a crane foundation in conjunction with an existing commercial use. At the time the existing commercial uses were yacht sales, a boat yard and boat repair facility. The site previously operated as a commercial shipyard from 1927-1965 and it presently provides offices, small retail outlets and a small 21 boat marina. South Coast Shipyard continues to operate at a smaller adjacent lot and leased marina slips and commercial space at the proposed project site up until the 1990s.

#### Project Description

The proposed project is to redevelop the marina, re-construct the bulkhead, perform maintenance dredging and construct a mixed-use project with residential uses above commercial (office and retail) uses. The 'water-side' improvements (i.e. seawall, boat slips, etc.) are anticipated to be completed within 3 months, the "land-side" improvements would take place over the course of 18-24 months.

#### Proposed Water-Side Development - Marina Demolition and Re-construction

The applicant is proposing to demolish a 36,356 sq. ft. 21-24 boat marina built in the 1940s and remodeled in 1979 consisting of two existing slipways, to reconstruct a 38,750 sq. ft. reconfigured marina with 21-25 slips, and to remove/dredge a small finger of land between the two slipways to create a larger slip to be able to accommodate up to 12 additional new temporary visitor docks. The length of each boat slip will range from approx 47' to 61'. Slip Nos. 19-22 along a single 125' long dock accommodates 25' to 30' long boats and Slip No. 8 will be a 120' long slipway able to accommodate temporary visitor docking for up to 12 small vessels.

Demolition will include the complete removal of all dock floats, gangways, and piles. Twenty 12" sq. concrete piles and two, 4" sq. steel pipe piles will be removed and replaced with 15, 20" sq. concrete piles, and 21, 18" sq. concrete piles. The proposed dock would be constructed with new concrete piles, float drums, framing with Douglas Fir-Larch lumber treated with ACZA and composite decking. The new marina complies with the California Dept of Boating and Waterways

design criteria, Americans with Disabilities Act access standards and the City of Newport Beach Harbor Permit Policy. The proposed new dock would cover approximately 2,394 sq. ft. more open water than the existing dock.<sup>1</sup> The proposed new dock configuration results in 13 more piles than are currently in place. The new fill by the increased number of piles is proposed to be mitigated by the removal/dredging of a small finger of land between the two slipways resulting in an increase of 2,130 sq. ft. (0.049 acre) of upland area converted to open water within the marina. Pre-fabricated dock sections will be assembled in the staging area of the parking lot and lifted into the marina with a crane. A debris disposal site has not been identified.

The project provides 17 parking spaces for 21 slips per City Code requirements for 0.8 spaces per berth. Parking is not required nor provided for the temporary visitor docks. The new marina slips are proposed to be leased to the general public and to residents of the new residential units on the site on a “first come, first served” basis.

#### Proposed Dredging/Grading

The proposed project includes dredging consisting of 385 cubic yards maintenance dredging of accumulated sediments above original design depth for a portion of the Rhine Channel, 715 cubic yards dredging within the marina along the bulkhead totaling 1,100 cubic yards. An additional 770 cubic yards of dredging is proposed of upland area to be converted to open coastal water. The upland area proposed to be converted to open coastal water consists of a small finger of land between the two existing slipways and a portion of the bulkhead that currently protrudes out into the bay will be pulled back (770 cubic yards) and aligned with the rest of the bulkhead resulting in 2,130 square feet of upland area converted to open coastal water. There are three different upland areas throughout the site proposed to be converted to open coastal waters for a total of 2,307 sq. ft. of new open coastal waters. Exhibit 13 is the proposed dredging plan. Exhibit 14 depicts the areas to be converted to open coastal waters.

The project includes site remediation in relation to sediment contaminants in the vicinity of the boat slipways. Soils analysis of the site found several chemicals of concerns including elevated levels of polynuclear aromatic hydrocarbon (PAH, in the form of benzo-pyrene), petroleum carbons (gasoline and diesel), polychlorinated Biphenyl (PCB), and Metals (Arsenic and Lead) in isolated areas. A Remedial Action Plan approved by the Regional Water Quality Control Board, Santa Ana Region is proposed as part of the project. The remediation includes removal of approximately 200 square feet of sediment that is contaminated and considered hazardous waste at the entrance of the slipway. The material will be excavated using a shore based long reach backhoe and then disposed of at a licensed facility.

Additionally, the applicant proposes to replant pickle weed currently found in the existing slipway (approximately 15 sq. ft.) that may be adversely impacted by the construction of the project. The proposed plan is to plant 75 sq. ft. of pickle weed with a total of 33 transplants in the upper inter tidal zone. It is anticipated that the area should grow to 80 sq. ft. within one year.

#### Proposed Water-Side Development – Bulkhead Replacement

The existing seawall was likely built in the 1930's. The wall is in an extremely deteriorated condition and must be retrofitted or replaced. Evidence of significant distress such as cracked and

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<sup>1</sup> Marina square footage figures include coverage of open waters by the dock structures and boats stationed in all slips.

spalled concrete cap was noted in an inspection of the bulkhead in August, 2007 by William Simpson and Associates. Based on engineering recommendations, the new bulkhead is proposed to be replaced along the same alignment of the existing bulkhead and will not be constructed bayward of the existing bulkhead. The replacement bulkhead will be constructed off-site and then set in place from the on-shore construction area. The concrete cap of the proposed bulkhead will be cast against the end of the concrete caps of the bulkheads on adjacent properties (Exhibit 8).

#### Proposed Land-Side Development – Mixed-Use Project

Land-side development consists of a mixed-use development with approximately 35,670 sq. ft. of commercial (retail and office) use and 27,645 sq. ft. of residential (27 condominiums) use. A total of eight (8) three-story, 35' tall structures are proposed. The City issued the project a conditional use permit to allow for the increased height. All existing buildings are proposed for demolition (a total of 922 cubic yards of debris). The proposed project is designed to collect surface runoff via catch basins and drain pipes directed to the subterranean parking area where runoff will be treated with a filter system prior to discharge into Newport Bay. The applicant has submitted a Water Quality Monitoring Program (WQMP).

The proposed project provides a total of 246 parking spaces, exceeding the City requirement of 228 spaces. Sixty-eight (68) parking spaces designated for residential use are provided primarily on the ground-floor level in private parking garages. 168 parking spaces are designated for retail/office use (16 ground-floor level parking spaces and 145 subterranean parking level spaces). Seventeen (17) parking spaces for the marina are provided in the subterranean parking level. Exhibit 3 provides a complete set of proposed project plans.

There is an existing 1,050 sq. ft. public access easement extending partway into the site from Newport Blvd. This easement was not a requirement of any prior coastal development permit. The applicant and the City of Newport Beach have agreed to abandon this easement in favor of a new proposed 7,995 sq. ft. larger easement which will provide public access from Newport Blvd. across the site to the waterfront unlike the existing access easement. The proposed easement consists of new 6-foot wide lateral access easements from Newport Blvd. through a proposed open plaza area and from Arcade Street that connects to a new 10-foot wide public access easement along the project's waterfront (Exhibit 6). The easement is proposed to be dedicated to the City of Newport Beach and maintained by the property owner or newly created Homeowners Association (HOA).

Additionally, the applicant proposes to more than double an existing 5,327 sq. ft. cone-shaped public view easement which extends through the site from Newport Blvd. to the Newport Bay by increasing the view easement to 13,806 sq.ft. (Exhibit 7). The existing view easement is also not a requirement of any prior coastal development permit for the site.

#### **B. 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.*

Section 30233 of the Coastal Act states in part:

*(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:*

*(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launch areas.*

*(3) 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.*

*(6) Restoration purposes.*

### **Water Quality**

#### 1. **"Land Side" Project Impacts on Water Quality**

Proposed changes to the landward portion of the project (i.e., demolition of existing development, construction of new structures, surface parking lot and landscaping); will result in an increase of impervious surface area causing an increase of stormwater runoff from the landward portion project site. Under current conditions, storm water sheet flows across the existing parking lot emptying over the docks into the bay. As proposed, the project will change the current sheet flow drainage pattern; however, new filtration measures will be added to the existing system to improve water quality. The proposed project is designed to collect surface runoff via catch basins and drain pipes directed to the subterranean parking area where runoff will be treated with a filter system prior to discharge into Newport Bay, a bioswale on the eastern portion of the site is also proposed for some on-site infiltration of surface runoff as described in the proposed Water Quality Management Plan (WQMP) for the post-construction phase of the project. The applicant has also submitted a Storm Water Pollution Prevention Plan (SWPP) for the project's construction phase. **Special Condition 4** requires the applicant submit an updated WQMP to ensure that the proposed project BMPs are adequate for a project of this size.

#### 2. **"Water Side" Project Impacts on Water Quality**

The proposed project includes the complete demolition of a 21-24 slip marina with 14 concrete piles and 2 pipe piles and construction of a 21-24 slip marina with up to 12 temporary docks with 36 new concrete piles. All of this development will occur in the Rhine Channel of Newport Bay (Exhibit 1).

Due to the proposed project's location on the water, demolition and construction activities may have adverse impacts upon water quality and the marine environment. Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion 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. The Commission finds that, since construction of the proposed project requires the use of best management practices to minimize impacts upon water quality, the Commission imposes **Special Condition 1** requiring the applicant to utilize best management practices. Such practices include: all construction materials or waste shall be stored in a manner which prevents their movement via runoff, or any other means, into coastal waters; floating booms shall be used to contain debris discharged into coastal waters; non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss; no machinery not essential to project construction may be placed in the inter-tidal zone at any time, and that any and all construction equipment, materials and debris are removed from upland areas at the conclusion of construction.

Since the applicant has not identified a disposal site and in order to prevent impacts to coastal waters, the Commission imposes **Special Condition 2**, requiring all construction debris disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone 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 legally required.

In order to assess impacts upon water quality, the proposed project was submitted to the California Regional Water Quality Control Board (RWQCB). The RWQCB determined that if standard dock construction methods and materials are utilized, the project should not adversely impact water quality. The applicant has received a Clean Water Act Section 401 Water Quality Certification from the California Regional Water Quality Control Board approving the proposed project.

The Commission finds it necessary to identify the permittee's responsibilities regarding construction and the utilization of best management practices and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms with Sections 30230 and 30231 of the Coastal Act.

### 3. Water Quality and Marina Activity Impacts

The Coastal Act policies identified above are intended to protect the water quality and biological productivity of coastal water resources. Aside from potential construction impacts on water quality, the berthing of boats by the boat dock users and associated boating activities also has the potential to adversely impact coastal water quality and marine environment through the introduction of pollutants associated with boating activities. 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, adversely impact water quality in coastal waters. As proposed, the project

does not include the addition of a pump-out station with the reconstruction of the new marina that would allow boat owners to pump wastewater from boat holding tanks for appropriate disposal on-site, thereby further ensuring water quality in the marina and in Newport Bay. However, the applicant has demonstrated that adequate public pump-out facilities are available in the vicinity (as near as half a mile) and easily accessible from the marina. Vessels leaving the marina to other parts of Newport Bay or to the open ocean pass by a total of three (3) public pump-out facilities. Therefore, a special condition requiring a pump-out facility for a marina with only 21-24 vessels was not deemed necessary by the Commission.

Other discharges in coastal waters such as chemicals, petroleum, cleaning agents, sewage and other pollutants can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sub-lethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, reduce optimum populations of marine organisms, and have adverse impacts on human health. Such cumulative impacts can be minimized through the implementation of certain BMPs. Therefore, the Commission imposes **Special Condition 5** requiring the applicant adhere to Best Management Practices (BMPs) including appropriate with specific details and requirements ensuring that boating activity in new re-configured marina will be managed in a manner that protects water quality.

#### 4. Dredging Impacts on Water Quality

The proposed project includes dredging consisting of 385 cubic yards maintenance dredging of accumulated sediments above original design depth for a portion of the Rhine Channel, 715 cubic yards dredging within the marina along the bulkhead totaling 1,100 cubic yards. An additional 770 cubic yards of dredging is proposed of upland area to be converted to open coastal water. As proposed, the project includes best management practices pertinent to dredging activities including the maintenance of dredge project limits, inland disposal of dredge sediments, and use of a floating silt curtain around the dredge area during dredging operations for turbidity control.

In summary, special conditions require the applicant to implement construction and post-construction BMPs to minimize adverse impacts on water quality from both the construction and operation of the proposed boating facilities. Therefore, the Commission finds that the proposed marina redevelopment project described herein, as conditioned, is consistent with Sections 30230 and 30231 of the Coastal Act and will assure the protection of water quality.

#### **Fill of Coastal Waters**

##### 1. New Piles

The proposed marina reconstruction will involve the placement of 15 20" square diameter concrete piles and 21 18" square diameter concrete piles (total of 36 concrete piles) in open coastal waters. These dock float guide piles constitute fill of open coastal waters. The placement of piles in open coastal waters for the construction of a new boating facility is an allowable use under Section 30233(a)(3) of the Coastal Act.

Under Section 30233, the proposed project must be the least environmentally damaging alternative. Alternatives to the proposed project include no project, replacement of the dock in precisely the same configuration, or a change to the existing configuration.

Under the no project alternative, the applicant could only pursue simple maintenance activity. However, simple maintenance could not feasibly repair the docks, nor bring them up to present engineering and safety standards. Simple maintenance would only prolong the condition of the existing docks. While the rate of deterioration would be reduced, further deterioration of the docks would not be fully abated. Furthermore, safe use of the facility for marine recreational purposes would be precluded without replacement of the dock system. Therefore, the dock system must be replaced. The existing marina with 20, 12" square diameter concrete piles and 2, 4" square pipe piles is currently considered substandard. The existing facility does not meet current Americans with Disabilities Act (ADA) access standards or Department of Boating and Waterways (DBAW) design criteria requirements. To meet current requirements, the project must provide 36 piles to retain the same number of slips. As proposed, the new reconstructed and reconfiguration marina will retain the, plus adds a temporary berthing slip for up to 12 small vessels and complies with current with DBAW, ADA and City Harbor Permit Policies.

The proposed new fill associated with added piles is mitigated by the creation of 2,307 sq. ft. of open coastal waters.

## 2. New Bulkhead

The existing seawall was likely built in the 1930's. The wall is in an extremely deteriorated condition and must be retrofitted or replaced. Evidence of significant distress such as cracked and spalled concrete cap was noted in an inspection of the bulkhead in August, 2007 by William Simpson and Associates. Based on engineering recommendations, the new bulkhead is proposed to be replaced mostly along the same alignment of the existing bulkhead and will not be constructed bayward of the existing bulkhead. The replacement bulkhead will not result in any additional fill of coastal waters.

A portion of the existing seawall will be moved inland creating an additional 412 sq. ft. of new bay bottom habitat. Bulkhead replacement is proposed along approx. 485 feet of waterfront. The elevation of the bulkhead at the top of coping is proposed at 9.17 MLLW which meets City requirements. A 4' cantilevered concrete deck with guardrail is proposed to provide a portion of the proposed 10 foot wide public accessway along the water front (i.e. 6 feet of the walkway width is on land, 4 feet of the walkway width is cantilevered over the water).

The replacement bulkhead will be constructed off-site and then set in place from the on-shore construction area in generally the same location as the existing bulkhead once the existing bulkhead is removed. The concrete cap of the proposed bulkhead will be cast against the end of the concrete caps of the bulkheads on adjacent properties. The new bulkhead will have a 4-foot wide cantilevered concrete "deck" and protective railing that will be connected to a 6-foot walkway along the waterfront to create a 10-foot wide public walkway along the length of the entire waterfront.

## 3. Dredging

Section 30233(b) of the Coastal Act states:

*Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats...*

The proposed project includes dredging consisting of 385 cubic yards maintenance dredging of accumulated sediments above original design depth for a portion of the Rhine Channel, 715 cubic yards dredging within the marina along the bulkhead totaling 1,100 cubic yards. An additional 770 cubic yards of dredging is proposed of upland area to be converted to open coastal water. The upland area proposed to be converted to open coastal water consists of a small finger of land between the two existing slipways and a portion of the bulkhead that currently protrudes out into the bay will be pulled back (770 cubic yards) and aligned with the rest of the bulkhead resulting in 2,130 square feet of upland area converted to open coastal water. Exhibit 13 is the proposed dredging plan.

The project includes site remediation in relation to sediment contaminants in the vicinity of the boat slipways. Soils analysis of the site found several chemicals of concerns including elevated levels of polynuclear aromatic hydrocarbon (PAH, in the form of benzo-pyrene), petroleum carbons (gasoline and diesel), polychlorinated Biphenyl (PCB), and Metals (Arsenic and Lead) in isolated areas. A Remedial Action Plan approved by the Regional Water Quality Control Board, Santa Ana Region is proposed as part of the project. "Excavation and Ex-Situ Soil and Treatment and Off-Site Disposal" was the method selected for site remediation. The remediation includes excavation of approximately 1,100 cubic yards of contaminated sediment considered hazardous waste at the entrance of the slipway and shoal areas to a depth of 5' below the surface of the sediments. The material will be excavated using a shore based long reach backhoe and then hauled to an off-site treatment facility, where it will be mixed with cement/concrete, allowed to cure for 28 days and shipped to an appropriate licensed disposal facility. The remediation also includes the additional excavation of a total volume of 200 cubic yards of contaminated sediment from the upland project area's former ship construction area.

In a letter dated August 9, 2006, the Department of Fish and Game provided the following comments regarding the dredging portion of the project:

*"Disturbing contaminated sediments has the potential to result in the re-suspension and redistribution of sediments and increased exposure of chemical contaminants to marine and estuarine resources, as well as a temporary decrease in dissolved oxygen. Accordingly, we recommend the use of silt curtains to contain the fine sediments, and if feasible, a watertight clamshell bucket for minimizing the dispersion of contaminants. Additionally, removal and disposal of contaminated materials should be done in accordance with applicable state and federal regulations...Accordingly, the Department believes that the proposed project, as currently described, would not have a significant adverse effect on existing marine resources and habitats within the area, provided our above comments are taken into consideration."*

The applicant has provided a Remedial Action Plan approved by the Regional Water Quality Control Board, Santa Ana Region for the removal of the contaminated soil and includes provisions for a temporary sheet wall installed along the entrance of the slipways to isolate them and minimize the effect of the excavation on the Rhine Channel, plus a silt curtain to separate the construction area at the shoal area from the rest of the Channel to minimize the silt dispersion to the east of the curtain. Furthermore, the Commission imposes **Special Condition 1** requiring the applicant comply with standard BMPs related to dredging activities.

The maintenance dredging is required for continued use of the marina and will be mitigated through the creation of new open water habitat described previously. The dredging is an allowable use under Section 30233(a)(2) and (3). The proposed dredging is therefore consistent with the requirements of Section 30233.

### **Sensitive Habitats and 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.*

#### 1. Species of Significance

The California Least Tern may use the proposed area for foraging. However, the California Least Tern population in Newport Bay nests on a small island within the Upper Newport Bay Ecological Reserve several miles from the proposed project site. Given the distance from the nesting site and the high levels of human activity already occurring at the proposed project site (an existing marina), the project would not have an impact on nesting or overall foraging activities. As an additional measure to prevent effects on the foraging opportunities for California Least Terns, a silt curtain will be deployed around active dredging areas.

California Brown Pelicans are commonly observed locally and have acclimated to human activities. Temporarily increased turbidity associated with dredging could potentially reduce foraging opportunities; however, the available open water habitat within Newport bay would provide alternative foraging opportunities. California Brown Pelicans do not breed on the mainland California coast; therefore, project implementation would not have an impact on nesting or overall foraging activities.

The Tidewater Goby is a fish that occurs in tidal streams associated with coastal wetlands in California (nearest federally-designated critical habitat is approximately 13 miles away) and would not be impacted by any short-term increases in turbidity within the project site as a result of the proposed dredging operations.

Based on the above, the proposed project would not affect federally-listed endangered or threatened species, or their critical habitat.

#### 2. Essential Fish Habitat

The proposed project would temporarily impact areas designated as Essential Fish Habitat (EFH) due to maintenance dredging and marina reconfiguration/replacement activities. A biological survey and EFH assessment was conducted by Hodge and Associates, Inc. dated July 2006. The depth within the vicinity of the project area ranged from approximately -2 to -16 feet MLLW. Habitat types on site include intertidal mudflat (slipway 1), intertidal and subtidal hard substrate (bulkheads, pier pilings, and floating docks) and silty mud subtidal bottom habitat. This survey indicated that there is no eelgrass or Caulerpa at the project site. While observed fish and

invertebrates were sparse, this habitat is likely to be used by species managed under the Pacific groundfish and Coastal Pelagics Fishery Management Plans; however, these fish species would be capable of avoiding temporary and minor impacts as a result of the project.

Dredging related impacts to EFH are for the most part temporary, minor increase in turbidity associated with mechanical removal of bottom sediments. Dredging may temporarily remove benthic infauna from the dredged area, but overall fish and benthic biota at the site are sparse, and infaunal communities would rapidly recolonize after dredging operations. Construction impacts (replacement of bulkhead and docks) would have similarly temporary and minor impacts on EFH.

The predicted project impacts are not expected to have a substantial adverse impact on EFH or Federally managed fisheries in California waters. Although short term impacts may occur during dredging operations and project construction, impacts would be short lived and not significantly impact existing biotic resources. As proposed, silt curtains would be installed around the dredging footprint and throughout the project area to contain on-site turbidity.

The National Marine Fisheries commented on the proposed project, noting that they do not expect a permanent loss of habitat function or expect changes in hydrological patterns that would have a substantial impact on EFH. Moreover, the creation of additional intertidal habitat (due to the excavation of upland fill) may improve the quality of EFH in the project area.

### 3. Eelgrass

Eelgrass and *Caulerpa taxifolia* surveys are typically required when a project results in disturbance to the bottom of a waterway (e.g. for dock replacement projects involving removal or installation of new piles).

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves, which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (CDFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds. In order to ensure that the proposed project will have no adverse impacts to eelgrass or that any impacts are appropriately mitigated, the Commission imposes **Special Condition 15**, requiring submittal of pre and post-construction eelgrass surveys and mitigation if the project impacts eelgrass habitat.

Furthermore, the invasive, non-native algae *Caulerpa Taxifolia* ("*Caulerpa*") may also be located within the project vicinity. This seaweed grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft depth. Because of toxins in its tissues, *Calurpa* is not eaten by herbivores in areas where it has invaded. An infestation would have serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing. 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. As recently as August 2000, *Caulerpa* was discovered in parts of Huntington Harbor. 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.

The applicant provided an Eelgrass and Caulerpa Assessment prepared by MBC Applied Environmental Sciences dated April 2007. No Eelgrass or Caulerpa was found on the site. Although it is unlikely that Eelgrass or *Caulerpa* is currently present at the project site, if *Caulerpa* is found, the disturbance of to the bottom of the waterway that will occur when the applicant removes existing piles may disburse the *Caulerpa* by dispersing viable tissue fragments. The Commission therefore imposes **Special Condition 16** requiring a pre-construction survey and appropriate measures if *Caulerpa* is found. **Special Condition 15** also requires a pre-construction survey for eelgrass.

#### 4. Pickleweed (Salicornia)

In two areas along the waterfront, the bulkhead ends and 2 slipways extend into intertidal areas, one (Slipway 1) about 10m inland and the other (Slipway 2) about 20m inland of the surrounding bulkheads on either side of the slipways. The Slipway on the on the northwest side extends in from the bulkhead about 20m, but it is currently covered by wooden planks with only the light below that which filters in from the entrance about 20 meters, as insufficient light is present for photosynthesis beyond the entrance, no algae or other marine plants are present. A second slipway, slightly to the southeast of Slipway 1 is set between two buildings on the property. Slipway 2 is not covered and has a dock on the northside of the slipway that runs its length extending past the bulkheads on either side on the slipway and into the channel about 40 meters. The shoreward extent of Slipway 2 terminates in a larger mud flat than that of Slipway1 with scattered patches of mussels, green alga and pickleweed habitat. The mud flat terminates at a 0.5 meter high embankment with a grass lawn inland from the edge of the embankment. The Biological Assessment for the site prepared by MBC Applied Environmental Sciences dated July 2006 makes the observation that "*Slipway 1 was vegetated with a 1.5 square meters of pickleweed in February 2006 and increased to about 3.0 square meters in June 2006 along the upper embankment.*"

The City of Newport Beach certified LUP has a policy that requires a 4:1 mitigation ratio for saltmarsh habitat - pickleweed is an indicator species of saltmarsh - therefore, the proposed project must mitigate to this ratio. The applicant proposes to restore pickleweed habitat in the approximately 790 sq. ft. intertidal mudflat/saltmarsh area that is being opened up/created by the proposed work to expand Slip 2. A 4:1 mitigation ratio for 1.5 square meters of pickleweed results in 6 square meters (~ 65 square feet). As described in the project description, the applicant proposes to re-plant additional pickleweed on-site in the expanded slipway area at a 4:1 mitigation ratio by planting 75 sq. ft of pickeweod by burying six pieces of pickleweed on two foot centers taken from the site at several locations in the upper intertidal with three rows of eleven plantings at +4 ft MLLW, +2 ft MLLW and 1ft MLLW for a total of 33 transplants. The area is anticipated to grow to 80 sq. ft. within one year with monitoring at 3, 6, and 12 months post-transplant. The planting would follow Army Corps standard techniques. However, a formal mitigation plan that describes in detail the existing conditions and the goals and objectives for the proposed mitigation (how they are going to achieve the required mitigation ratio, etc.) was not submitted. Success criteria should be 80% coverage of pickleweed in the 4:1 restoration area with annual monitoring for five years or until obtained. **Special Condition 6** requires the applicant submit a detailed mitigation plan including a monitoring plan for executive director approval.

#### C. Public Access and Recreation

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30212 of the Coastal Act states, in relevant 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, ...*

The proposed project is located seaward of the first public road and within coastal waters. The subject site contains an existing privately owned marina on private land. Public access to the bay is not currently available on site. The nearest public access to the bay is available approximately 120 yards southeast of the site at a public dock at the 19<sup>th</sup> Street terminus and at the public beach along Bay Avenue.

1. Public Access Easement

Currently, there is an existing 1,050 square foot public easement consisting of a 15 foot wide path which extends partway into the site from Newport Boulevard (this was not a Coastal Commission-required accessway). The applicant proposes to abandon this access easement in favor of a new larger easement consisting of a new 435 feet long 10' wide public access easement along the entire site's bay frontage, as well as 6' wide lateral public easements across the site from Newport Blvd. and from Arcade St. connecting to the 10' wide walkway along the site's bay frontage. As proposed, the public access easements totaling 7,995 square feet will be dedicated to the City of Newport Beach and maintained by the property owner or new Homeowners Association (HOA).

The proposed public access easement results in an increase of 6,945 square feet over the existing easement and provides new access to the waterfront, unlike the existing easement which does not provide access to the bay from Newport Boulevard.

**Special Conditions 9, 10, 11 and 12** memorialize the applicant's proposal to offer to dedicate the public access and recreational use easement, to establish a management and maintenance program for said easement, to establish Covenants, Conditions and Restrictions (CC&Rs) protecting the easement in perpetuity, and to open the easement to the public no later than initial occupancy of the development. **Special Condition 14** requires the applicant submit a Public Access Sign Program to ensure the public receives adequate notice of the available public spaces within the site.

2. Parking

The proposed project provides a total of 246 parking spaces, exceeding the City's requirement of 228 spaces. Sixty-eight (68) parking spaces designated for residential use are provided primarily on the ground-floor level in private parking garages. 168 parking spaces are designated for retail/office use (16 ground-floor level parking spaces and 145 subterranean parking level spaces). Seventeen (17) parking spaces for the marina are provided in the subterranean parking level.

A Construction Traffic Management and Control Plan dated October 17, 2006 indicates that the project construction staging area will be on-site. Construction related vehicles and construction

employee parking will be accommodated on-site and prohibited on City streets. Once the site is fully excavated (for underground parking structure) then the site will no longer be able to accommodate employee on-site parking. The applicant then proposes for construction personnel to park at the Lido Marina Village Parking Structure (during off-peak months only) if available, otherwise at an alternate site in Costa Mesa with the contractor providing a shuttle service to and from the project site.

### 3. Slip Size Mix

The proposed project provides public access to the waterfront. However, the marina portion of the proposed project is for a private marina facility which would lease boat slips to the general public including but not limited to, the homeowners of the proposed residential portion of the new development. The boat slips will not be used for commercial use such as charters.

In prior permit actions, the Commission has been concerned about the trend towards larger slips in marinas at the expense of the smaller slips. As larger slips occupy more space in a marina, there is less space for the smaller slips and the result is fewer overall slips and fewer slips available for the owners of small vessels. As the trend for larger boats continues and marinas convert their small boat slips to larger slips, berthing opportunities for the small boat owner will be reduced. While it is difficult to contend that recreational boating is in fact a “low” cost recreational activity, in general, smaller boats are less expensive, and therefore more available to a larger segment of the population than are larger boats. The Commission has not historically regulated the rates at which marinas rent their slips to the public. The Commission has, however, regulated the design of a marina in order to ensure that the redesigned slips conform to the public access and recreation policies of the Coastal Act by providing the correct balance between the size of slips and the boaters’ demand for slips.

Although the trend for new and redeveloped marinas is for larger boats, the demand for small boat slips still exists. In prior permit actions, the Commission has heard testimony contending that a reduction in the availability of slips that accommodate smaller boats reduces the option for those who want to own boats and use the smaller slips. The existing facility does not meet current Americans with Disabilities Act (ADA) access standards or Department of Boating and Waterways (DBAW) design criteria requirements. The existing facility provides a slip count range of 21-25 slips. The new reconstructed marina will provide a slip count range of 21-25 slips and up to 12 small 14’ long “Duffy” type boats in a new temporary 2 hour berthing dock and would comply with all current DBAW, ADA and City Harbor Permit Policies without resulting in a loss of slips.

In this particular case, the proposed slip reconfiguration will provide:

- 4 of 21 or 19% of slips for smaller vessels 25’ to 30’ long (plus 12 additional small slips accommodating 14’ long duffy boats),
- 12 of 21 or 57% of slips for medium vessels 35’ long and
- 5 of 21 or 24% of slips accommodating larger vessels up to 64’ long.

This slip mix still provides a reasonable amount of smaller slip space. Because of slip space cost considerations, perhaps of equal importance to the provision of smaller slip space for maintaining some level of affordability for recreational boating, is the availability of dry boat storage facilities and public launch ramps. Dry boat storage is available in Newport Beach. There are numerous public boat-launching ramps throughout Newport Beach.

Thus, when balanced against the overall demand for larger boat slips, the need to meet new standards and the fact that small boat owners are moving toward trailering their boats and using dry storage, the Commission finds the proposed slip mix adequate. This determination is based on this specific facility in this particular location, and depends also on the availability of a wide range of other boating facilities in the general area.

As proposed, with provisions for an enhanced public access easement for the land side portion of the development and for new temporary berthing slip in the marina on the water side portion of the development, the Commission finds the proposed development consistent with the public access and recreation policies of the Coastal Act.

**D. Shoreline Protection**

Section 30235 of the Coastal Act states, in relevant part:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply...*

Section 30253 of the Coastal Act states, in relevant part:

*New development shall:*

*(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...*

The existing seawall was likely built in the 1930's. The wall is in an extremely deteriorated condition and must be retrofitted or replaced. Evidence of significant distress such as cracked and spalled concrete cap was noted in an inspection of the bulkhead in August, 2007 by William Simpson and Associates. Based on engineering recommendations, the new bulkhead is proposed to be replaced mostly along the same alignment of the existing bulkhead and will not be constructed bayward of the existing bulkhead.

A portion of the existing seawall will be moved inland creating an additional 412 sq. ft. of new bay bottom habitat. Bulkhead replacement is proposed along approx. 485 feet of waterfront. The elevation of the bulkhead at the top of coping is proposed at 9.17 MLLW which meets City requirements.

The applicant proposes to demolish and replace the existing seawall mostly in the same footprint and further inland in one small area. The proposed work consists of excavating behind the existing bulkhead to the mud line elevation, removing the existing deteriorated bulkhead, jetting in new 10-inch thick pre-cast concrete panels, grouting joints, casting in place new continuous reinforced concrete coping, tie-back the new bulkhead from the concrete coping to the basement wall of the landside improvements with tie-rods, and backfill and compact soil to the top of coping.

The replacement of the existing bulkhead will not require new fill, cause further seaward encroachment or impact public access to the bay and will provide continued protection to the existing shoreline improvements from erosion. Therefore, as conditioned, the proposed development is consistent with the shoreline protection and public access policies of the Coastal Act.

#### **E. Views**

Section 30251 of the Coastal Act states, in relevant part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...*

The proposed project is in compliance with the certified Newport Beach Land Use Plan 35-foot height limit for this area.

#### **Public View Easement**

Currently, there is an existing view easement consists of a 5,327 square foot “cone” the tip of which starts at the existing public access easement from Newport Blvd. midway through the site (this is not a Coastal Commission-required view easement). The applicant proposed to provide a new public view easement consisting of a total of 13,204 square feet, which extends through the site from Newport Boulevard to the bay and the proposed new 10’ wide public access easement along the entire site’s bay frontage. The proposed public view easement results in an increase in the view corridor of 8,479 square feet and varies in width from 66-feet wide at Newport Boulevard to 58-feet along the bayfront. Additionally, the new public sidewalk along the entire length of the bayfront (approx. 435 feet in length) will restore public views out to the bay greatly enhancing the views provided by the cone shaped view corridor that currently exists.

The easement is a condition of approval from the City of Newport Beach and not a condition of the Coastal Development Permit. The City has agreed to accept the easement. **Special Condition 13** however, does require that no development other than the proposed landscaped planters, public plaza, public walkways, vehicular/pedestrian bridge and dock slips, be sited within the proposed view corridor. The project’s CC&Rs as required by **Special Condition 9** shall reflect the requirements of **Special Condition 13**.

#### **F. Cultural Resources**

Section 30244 of the Coastal Act states:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Surveys conducted in connection with the project’s EIR did not identify any archaeological or paleontological resources on the site. The site previously operated as The South Coast Shipyard,

a commercial shipyard. The project site appears to be eligible for listing in the California Register as a historical resource at the local level of significance under Criteria 1 and 3. The project site buildings appear to be eligible for listing in the California Register as a historical resource at the local level of significance because of their association with the development of the maritime economy of Newport Beach and with the local contributions to the World War II effort, and as excellent examples of maritime architecture in the City of Newport Beach.

Under Criteria 1, the property (aka South Coast Shipyard) is associated with the development of the maritime economy of Newport Beach and with World War II, as a local contributor to the War effort. Under Criteria 3, the site represents an excellent example of maritime architecture in the City of Newport Beach. The buildings are in good condition and retain integrity of location, design, materials and setting. The buildings exhibit a collective distinction as a historic district, however, none of the buildings appear to be individually eligible for listing in the California Register.

The South Coast Shipyard does not appear to be eligible for listing in the California Register under Criteria 2 or Criteria 4. None of the individuals connected to the shipyard were associated with any activities that were demonstrably important to the history of Newport Beach, CA or the nation (Criteria 2). The South Coast Shipyard does not appear to be able to answer questions important in history (Criteria 4).

The Shipyard was identified as a historic landmark by the Newport Beach Historical Society in 1974. In 1992, it was identified as a local historic site representing historic/architectural themes of local importance on the Historic Resources Inventory of the City of Newport Beach. However, the City does not have a Historic Preservation Ordinance in place and only encourages the adaptive reuse and preservation of buildings recognized by the City to be "Landmark Buildings." While recognized as a locally significant property, the site is not recognized to be a Landmark Building by the City. Furthermore, the City's certified Coastal Land Use Plan does not include the South Coast Shipyard site in its list of historical resources. The site is not listed on either the State or Federal registries.

The project EIR identifies the following two mitigation measures:

Mitigation Measure 4.4.4-1 (in part) During construction activities, if archaeological and/or paleontological resources are encountered, the contractor shall be responsible for temporary halting construction activities in the area and provide immediate notification and securing of the site area for proper sampling, identification, and evaluation of cultural resource finds.

Mitigation Measure 4.4.4-2 The historical study prepared by LSA dated October 2005 recommends the mitigation to reduce the significant impacts of historical resources through the following methods:

- 1) Documentation of the South Coast Shipyard shall be provided by the developer prior to issuance of demolition permits by the City. The City's Planning Director shall be provided a historic narrative, photographs, and architectural drawings of all on-site buildings in accordance with Historic American Building Survey Level 1 documentation requirements. The Planning Director shall insure that the documentation is deposited with the Newport Beach Historical Society, City Public Library, Newport Harbor Nautical Museum prior to issuance of demolition permits.

- 2) The Planning Director shall review project building plans and permits to ensure incorporation of design features referencing and memorializing the character-defining features of the South Coast

Shipyard, including, but not limited to, incorporation of a commemorative plaque depicting the buildings and their context to the historical importance of the structures on the site. Such plaque shall be oriented to a public right-of-way (i.e., Newport Blvd).

3) If previously undocumented cultural resources are found during construction, a qualified archaeologist shall assess the nature and significance of the find in order to recommend appropriate mitigation measures.

The adopted feasible mitigation measures however, do not fully mitigate the impacts to cultural resources and the project would result in unavoidable significant impact to Cultural Resources. The City, acting as the EIR lead agency, approved a Statement of Overriding Considerations for determining that any significant unavoidable effects remaining are acceptable due to economic, social and public benefits that the project proposes.

**Special Condition 14** requires the applicant prepare a Public Access Sign Plan. The Special Condition also requires the applicant incorporate a commemorative plaque oriented to Newport Blvd., depicting the buildings and their context to the historical importance of the structures on the site.

Although the existing structures have some historical significance, their demolition does not raise any significant Coastal Act concerns. Therefore, no further mitigation is necessary to ensure compliance with Coastal Act requirements.

#### **G. 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 City of Newport Beach Planning Department is the lead agency for California Environmental Quality Act (CEQA) purposes. On November 16, 2006 the City's Planning Commission approved the proposed project and on November 28, 2006, the City filed and posted a Final Environmental Impact Report and Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15043 and 15093. The Statement of Overriding Considerations is in regard to unavoidable adverse impacts associated with the proposed project on Cultural Resources. Although the EIR found unavoidable adverse impacts to cultural resources, those cultural resources do not raise Coastal Act concerns.

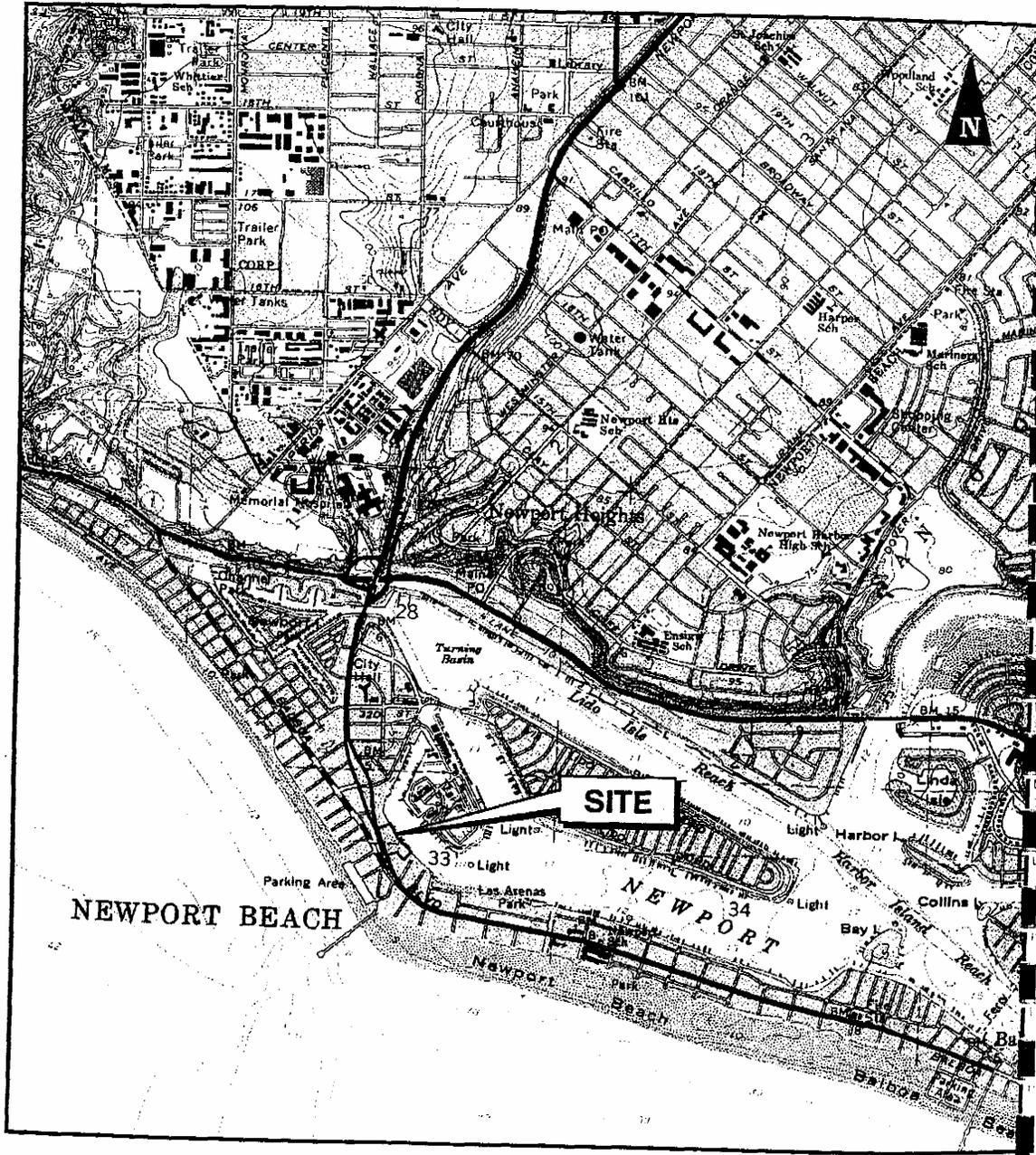
The project consists of the demolition of all existing on-site commercial buildings; construction of a mixed-use development comprised of eight (8) buildings consisting of 36,000 sq. ft. of commercial uses (office and retail) and 77,100 sq. ft. for 27 residential units; 246 parking spaces; tentative tract map for condominium purposes; grading consisting of 36,000 cubic yards of export; bulkhead replacement along approx. 485 feet of waterfront; including new public access easements consisting of a 10' wide walkway along the bulkhead and 6' wide lateral access easement from Newport Blvd.; demolition of an existing 21 slip marina and re-construction of a new 21 slip marina,

plus up to 12 temporary docks including new lighting and water supply lines; dredging consisting of 1,100 cubic yards within the marina; and construction of a 75 sq. ft. pickle grass habitat.

Mitigation measures were required for approval of this CEQA document. The Coastal Commission adopts additional mitigation measures, found below, to ensure that the proposed project will conform with the requirements of the Coastal Act.

The proposed project is located in an urban area. All infrastructure necessary to serve the site exists in the area. As conditioned, the proposed project has been found consistent with the public access, water quality, and biological policies of the Coastal Act. Mitigation measures include: special conditions related to 1) Construction Responsibilities and Debris Removal; 2) Location of debris disposal site; 3) Conformance with Remedial Action Plan; 4) Final revised WQMP; 5) Marina BMP Program; 6) Wetland Restoration Plan/Biological Monitoring Plan; 7) Future Improvements; 8) Landscaping; 9) Covenants, Conditions & Restrictions; 10) Offer to Dedicate Public Access & Recreational Use Easements; 11) Public Access & Recreational Use Easement Area Management & Maintenance Program; 12) Construction/Development Phasing; 13) Restrictions on Development Within View Corridor; 14) Public Access Sign Program; 15) Pre-Construction Eelgrass Survey; 16) Pre-Construction *Calurpa* Survey; and 17) Final Project Plans.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available 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 impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.



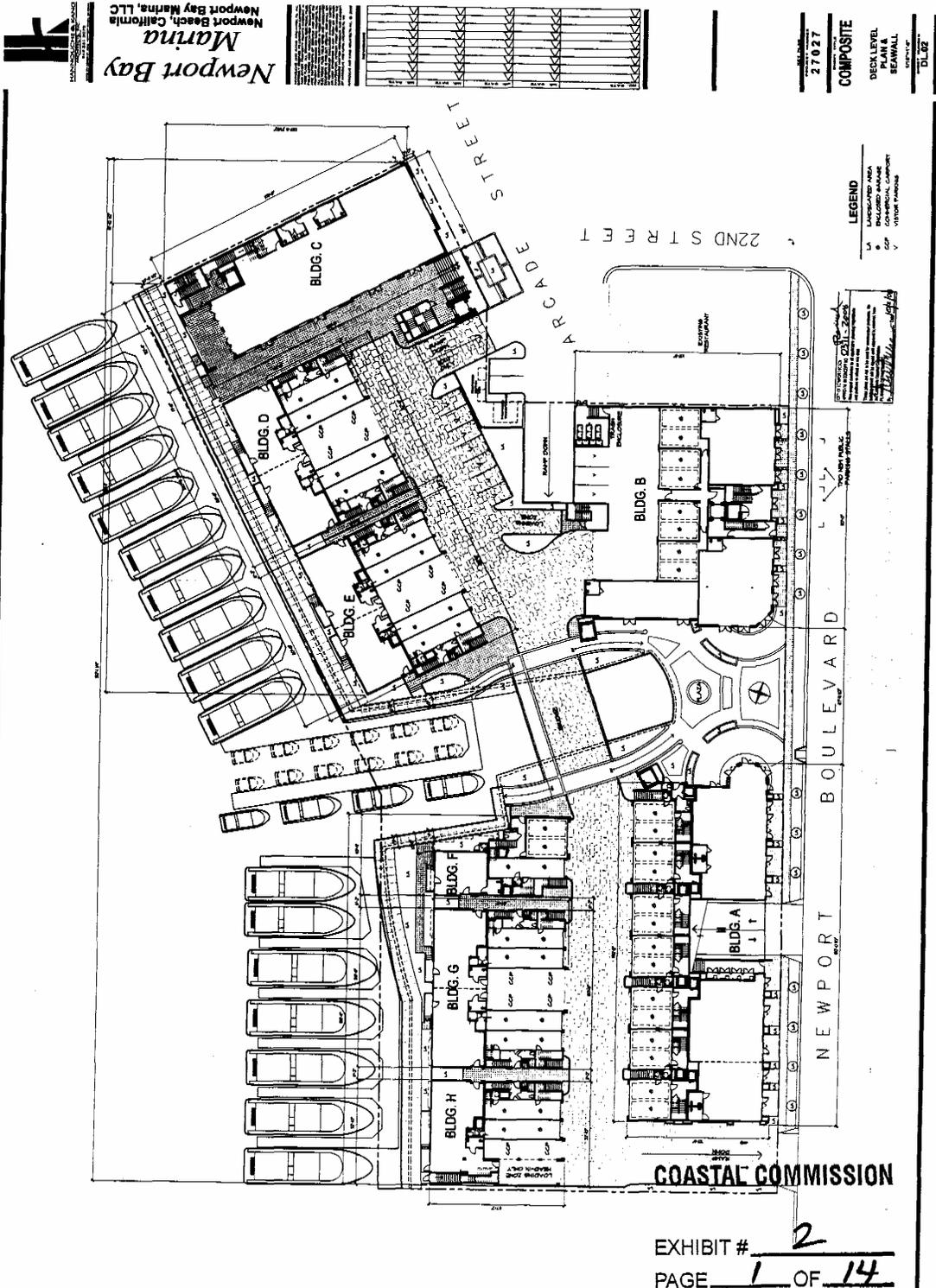
**SITE LOCATION MAP**

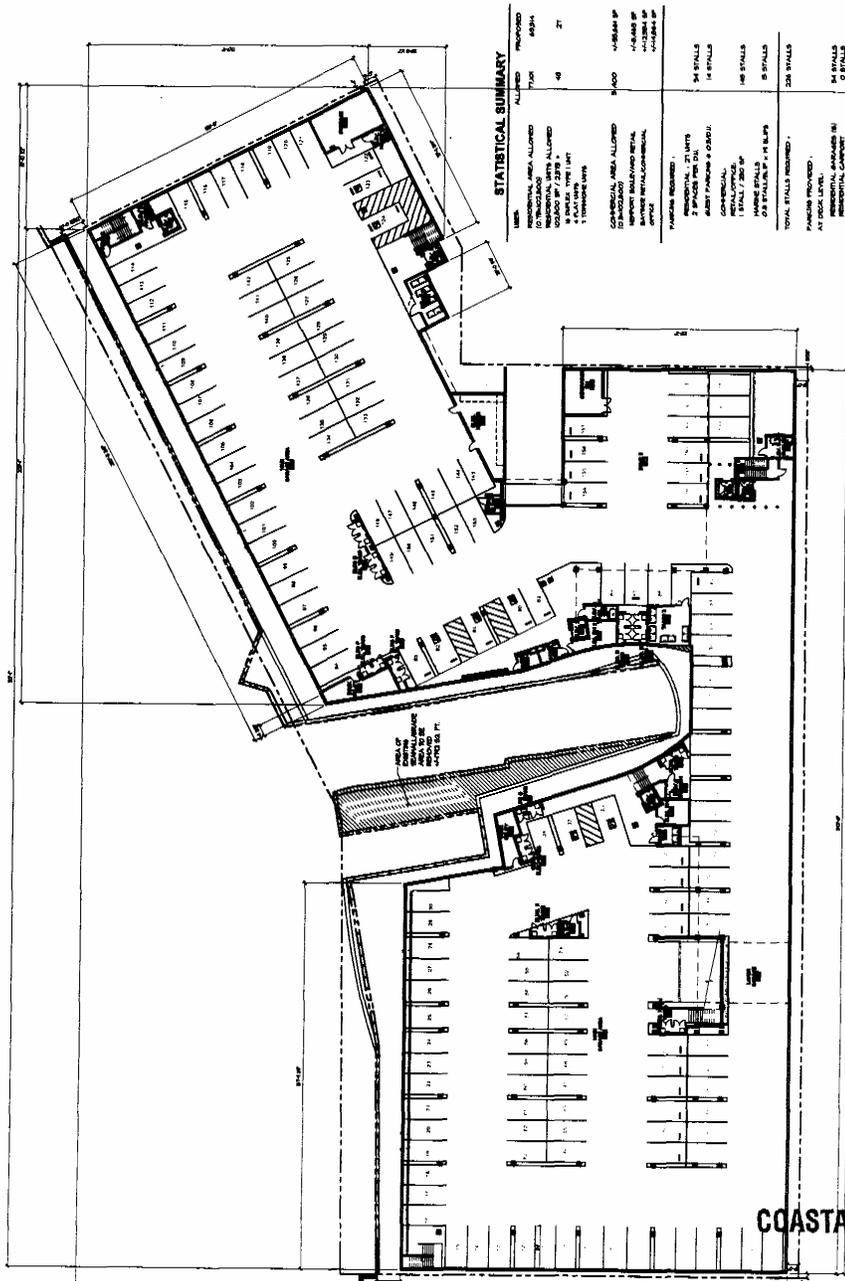
**COASTAL COMMISSION**

Ref: Portion of USGS NEWPORT BEACH QUADRANGLE,  
7.5 Minute Topographic Series 1965,  
(Photorevised 1981)

SCALE: 1 inch = 2000 feet

EXHIBIT # 1  
PAGE 1 OF 1





**STATISTICAL SUMMARY**

TYPE	ALLOWED	REQUIRED	PROVIDED
RESIDENTIAL	0	0	0
COMMERCIAL	0	0	0
INDUSTRIAL	0	0	0
OFFICE	0	0	0
RETAIL	0	0	0
RESTAURANT	0	0	0
BAR	0	0	0
CLUB	0	0	0
THEATER	0	0	0
CONVENTION	0	0	0
OTHER	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

**27027**

**GARAGE**

CONCRETE GARAGE FLOOR PLAN

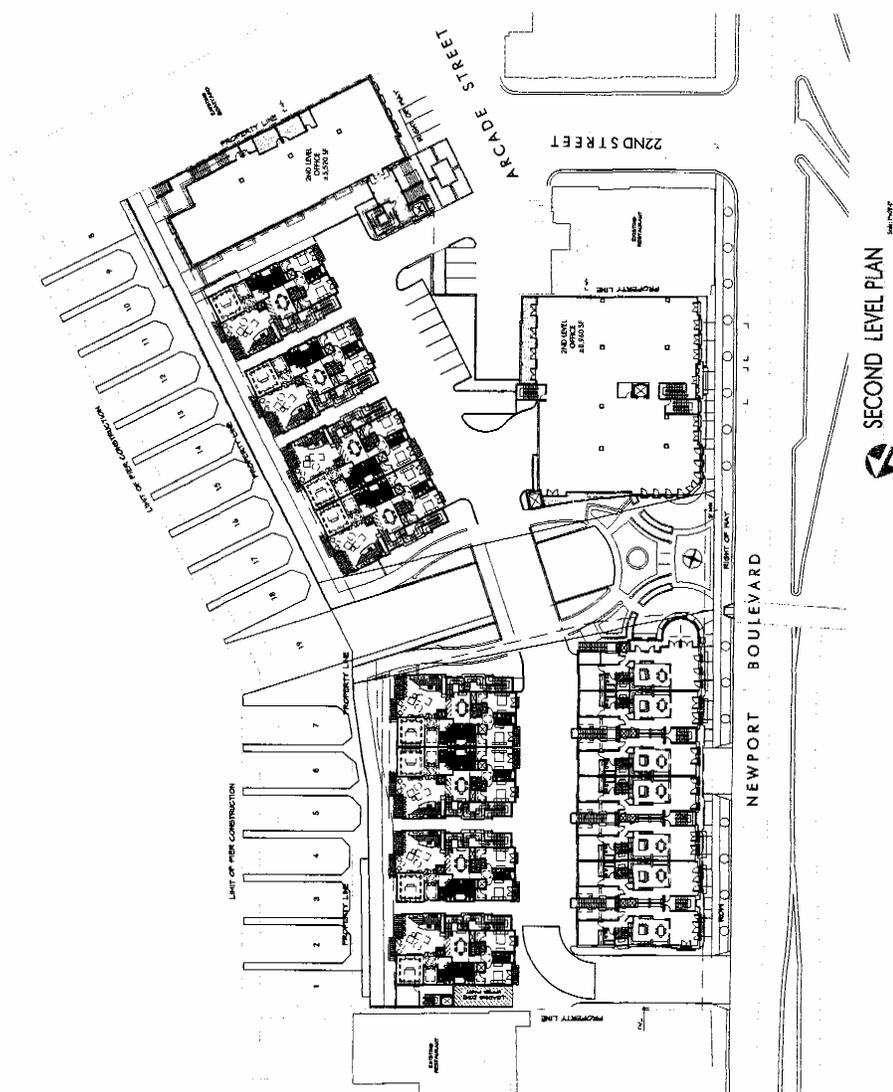
DATE: 05/08/2017

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

**COASTAL COMMISSION**

EXHIBIT # 2

PAGE 2 OF 14



McKenty  
 Malak  
 ARCHITECTS  
 281 BAY  
 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 261-1834 FAX: (949) 261-1837

NEWPORT BAY MARINA  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

OWNER/ARCHITECT:  
 ETCO Development, Inc.  
 2777 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 202-2720 FAX: (949) 202-2740

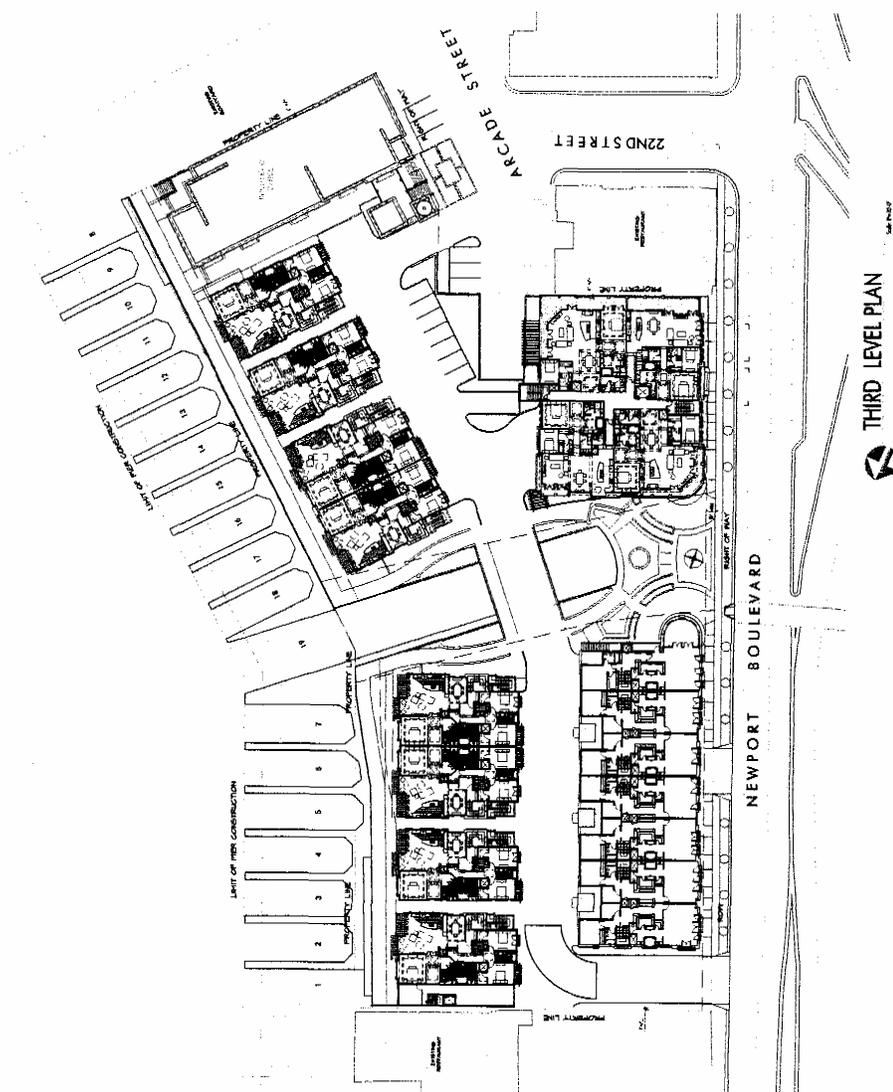
OWNER:  
 Newport Bay Marina, LLC  
 995 SAN RAFAEL BOULEVARD, SUITE 200  
 BERKELEY, CA 94712  
 TEL: (415) 491-5500 FAX: (415) 288-8192

SECOND LEVEL  
 02/27/17  
 L2-01

*PETER ALSO TO NEW BLDG. PLANS*

COASTAL COMMISSION

EXHIBIT # 2  
 PAGE 3 OF 14



THIRD LEVEL  
 03/24/14  
**McKenty Malak ARCHITECTS**  
 231 Bay Area Boulevard, Suite 201  
 Newport Beach, CA 92660  
 TEL: (949) 261-1000 FAX: (949) 261-1001

**L3-01**

**THIRD LEVEL PLAN**

**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

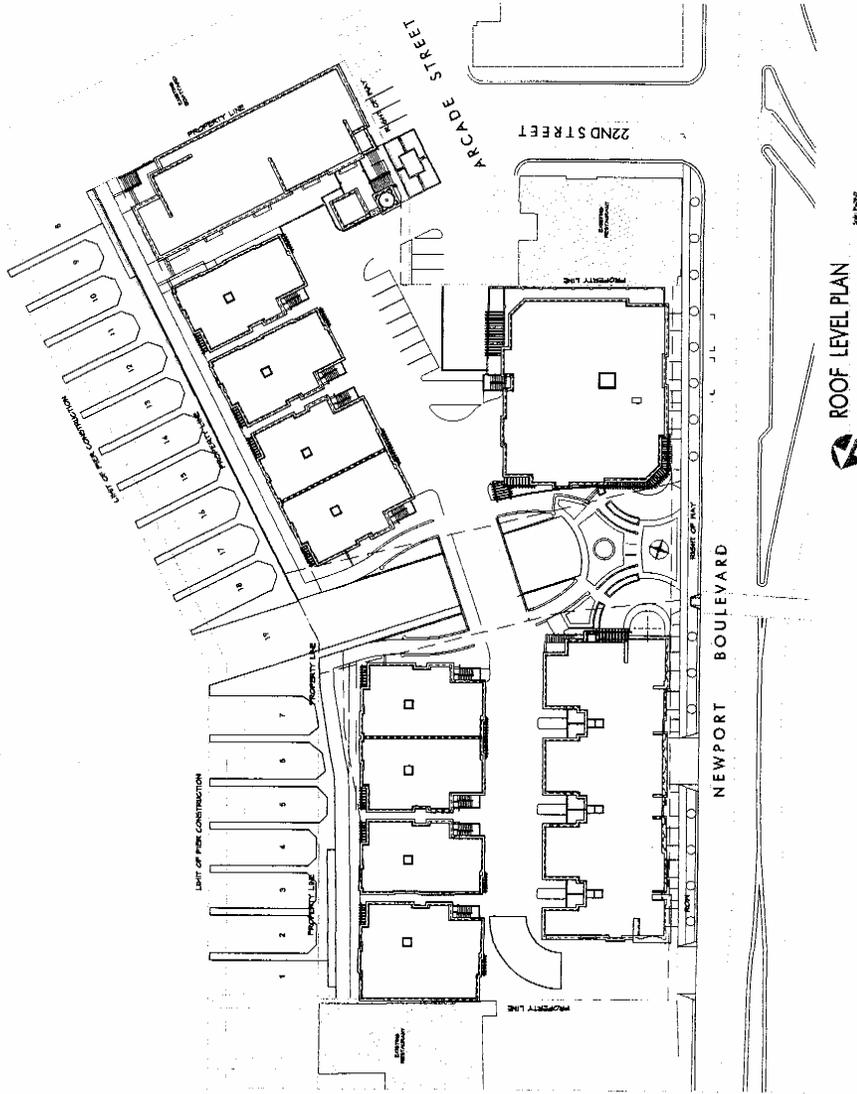
**ETCO Development, Inc.**  
 2200 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 262-2770 FAX: (949) 262-2746

**OWNER**  
**Newport Bay Marina, LLC**  
 2200 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 491-5000 FAX: (949) 262-8193

**COASTAL COMMISSION**

EXHIBIT # 2  
 PAGE 4 OF 14

*PLEASE ALSO REFER TO NEW BLDG. E PLAN*



**McKently Matak**  
 ARCHITECTS  
 211 N. ...  
 TEL: (949) 261-1234 FAX: (949) 261-1234  
**RL-01**

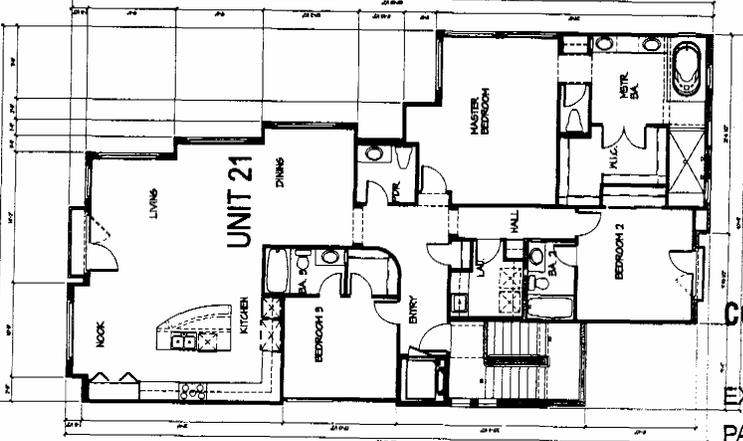
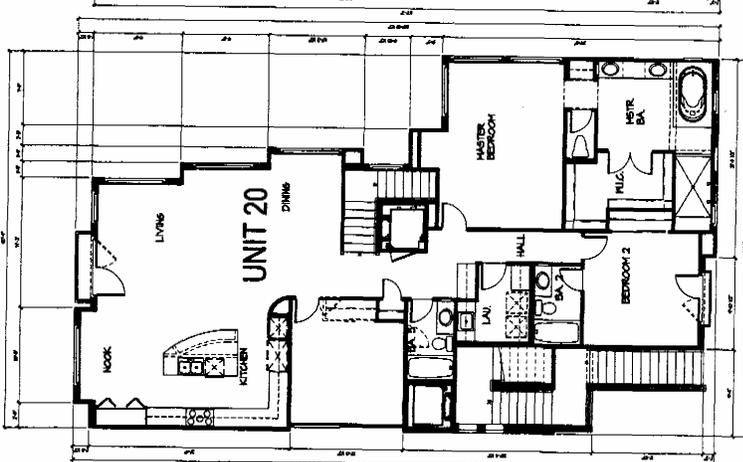
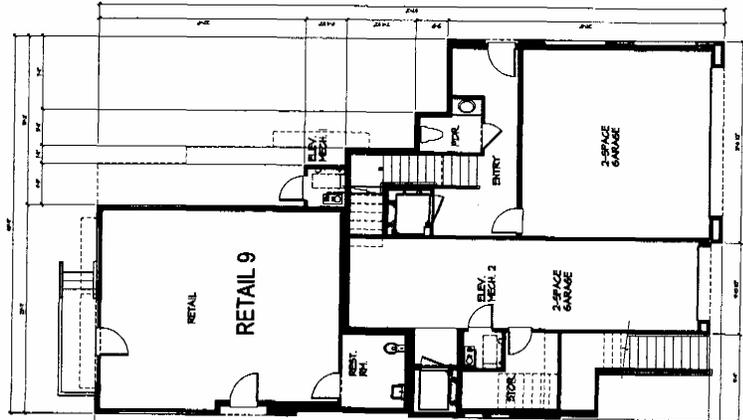
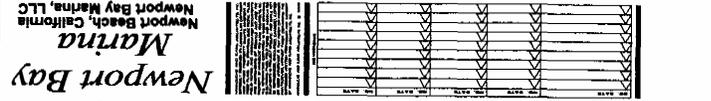
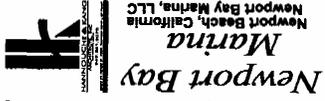
**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

**ETCO Development, Inc.**  
 2771 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 266-7200 FAX: (949) 266-7240

**Newport Bay Marina, LLC**  
 9925 SANDHILLS BOULEVARD, SUITE 200  
 SANDHILLS, CA 95071  
 TEL: (916) 497-5500 FAX: (916) 285-8193

**COASTAL COMMISSION**

EXHIBIT # 2  
 PAGE 5 OF 14



PROJECT # 27027  
 BLDG. F  
 FLOOR PLANS

DATE: 05/08/2014  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]

COASTAL COMMISSION

EXHIBIT # 2  
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**COASTAL COMMISSION**

EXHIBIT # 2  
PAGE 7 OF 14

**SOUTH ELEVATION**

**EAST ELEVATION**

**WEST ELEVATION**

**NORTH ELEVATION**

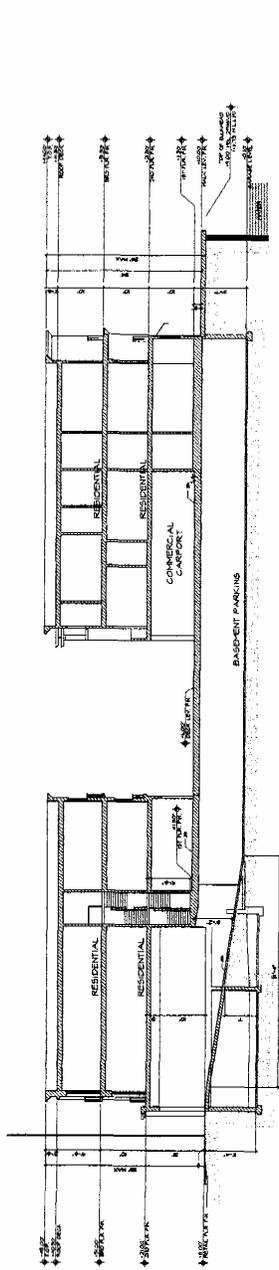
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27027

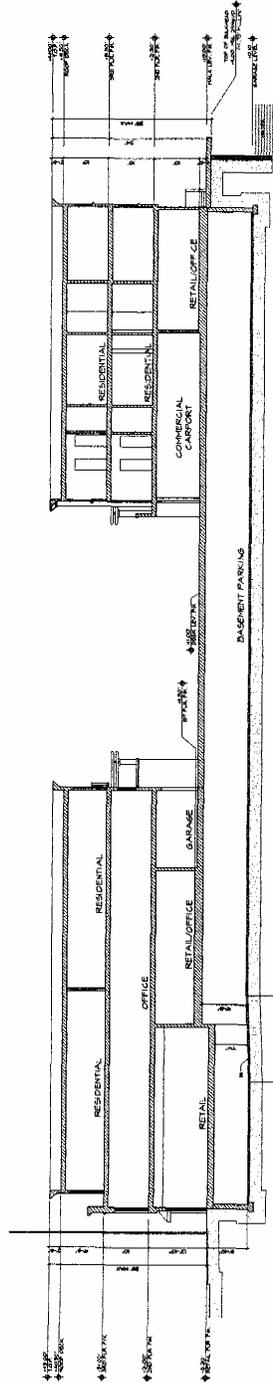
EXTERIOR ELEVATIONS

**Newport Bay Marina**

Newport Bay Marina, LLC



SECTION THRU BUILDING 'A' AND BAY UNITS



SECTION THRU BUILDING 'B' AND BAY UNITS



COASTAL COMMISSION

EXHIBIT # 2  
 PAGE 8 OF 14

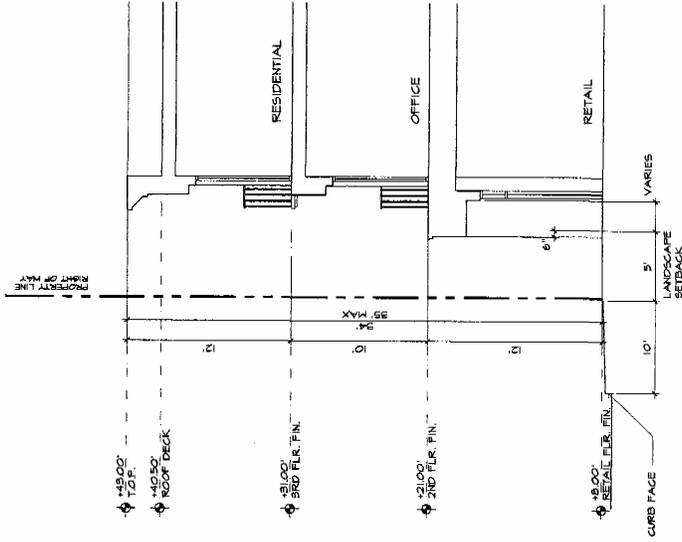
OWNER: **Newport Bay Marina, LLC**  
 6925 SANDHORNICA BOULEVARD, SUITE 200  
 BERRY HILLS, CA 90212  
 TEL: (949) 550-8170 FAX: (949) 262-8170

SUBMITTED APPROVE: **ETCO Development, Inc.**  
 7777 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 262-7700 FAX: (949) 262-7146

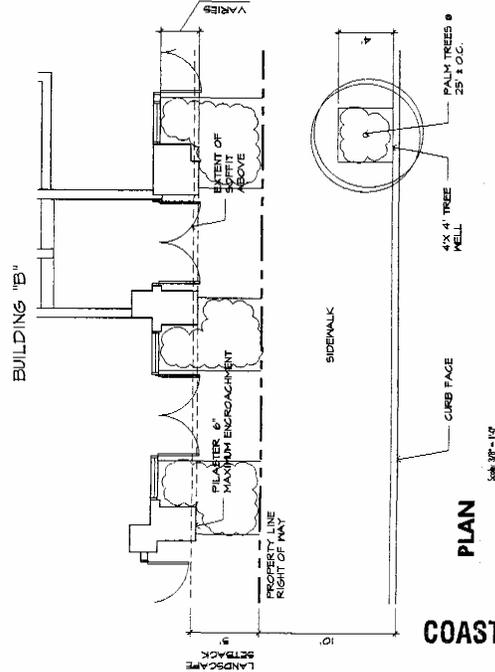
**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

BUILDING SECTIONS  
 SHEET NO. **SE-01**

**McKenty Malak ARCHITECTS**  
 24 WEST CENTER STREET, SUITE 215  
 FULLERTON, CALIF. 92631  
 TEL: (714) 831-8841 FAX: (714) 831-8841



SECTION  
 Scale 3/8" = 1'-0"



PLAN  
 Scale 3/8" = 1'-0"

COASTAL COMMISSION

EXHIBIT # 2  
 PAGE 9 OF 14

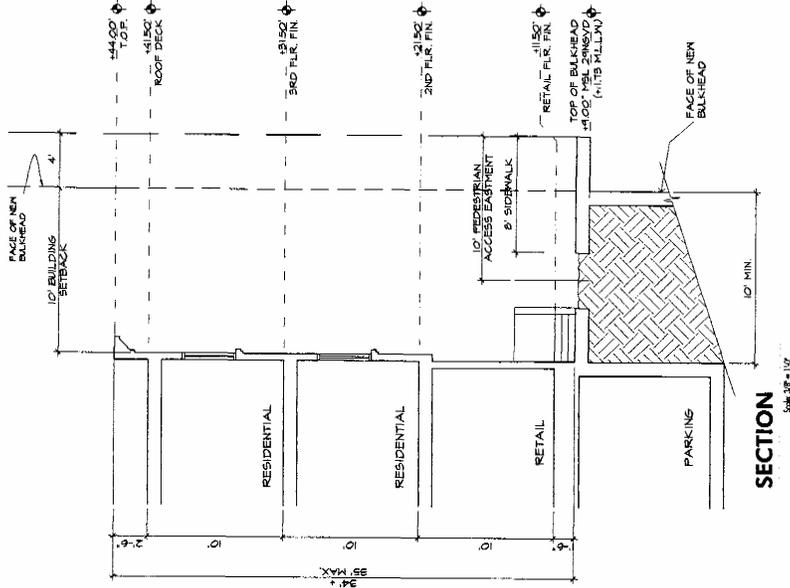
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 02/20/20  
 01/08/20  
**McKenty Malak**  
 ARCHITECTS  
 1211 BAY AVENUE, SUITE 100  
 PALM BEACH, FLORIDA 33480-2101  
 TEL: (561) 853-1100 FAX: (561) 853-1101

**SE-02**

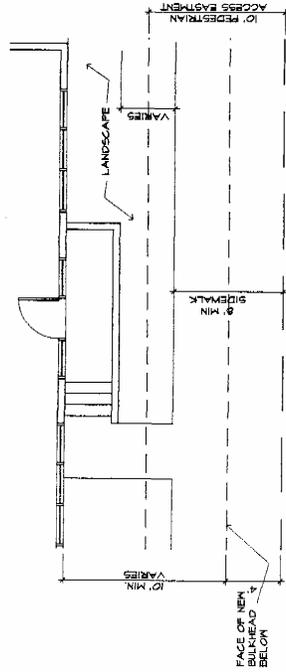
**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

SUBMITTER ARCHITECT  
**ETCO Development, Inc.**  
 2227 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 202-7210 FAX: (949) 202-1740

OWNER  
**Newport Bay Marina, LLC**  
 9753 SANDLAKONA BOULEVARD, SUITE 200  
 BENTLEYVILLE, OHIO 45005  
 TEL: (513) 691-5500 FAX: (513) 691-5419



SECTION  
 Scale: 3/8" = 1'-0"



PLAN  
 Scale: 3/8" = 1'-0"

COASTAL COMMISSION

EXHIBIT # 2  
 PAGE 10 OF 14

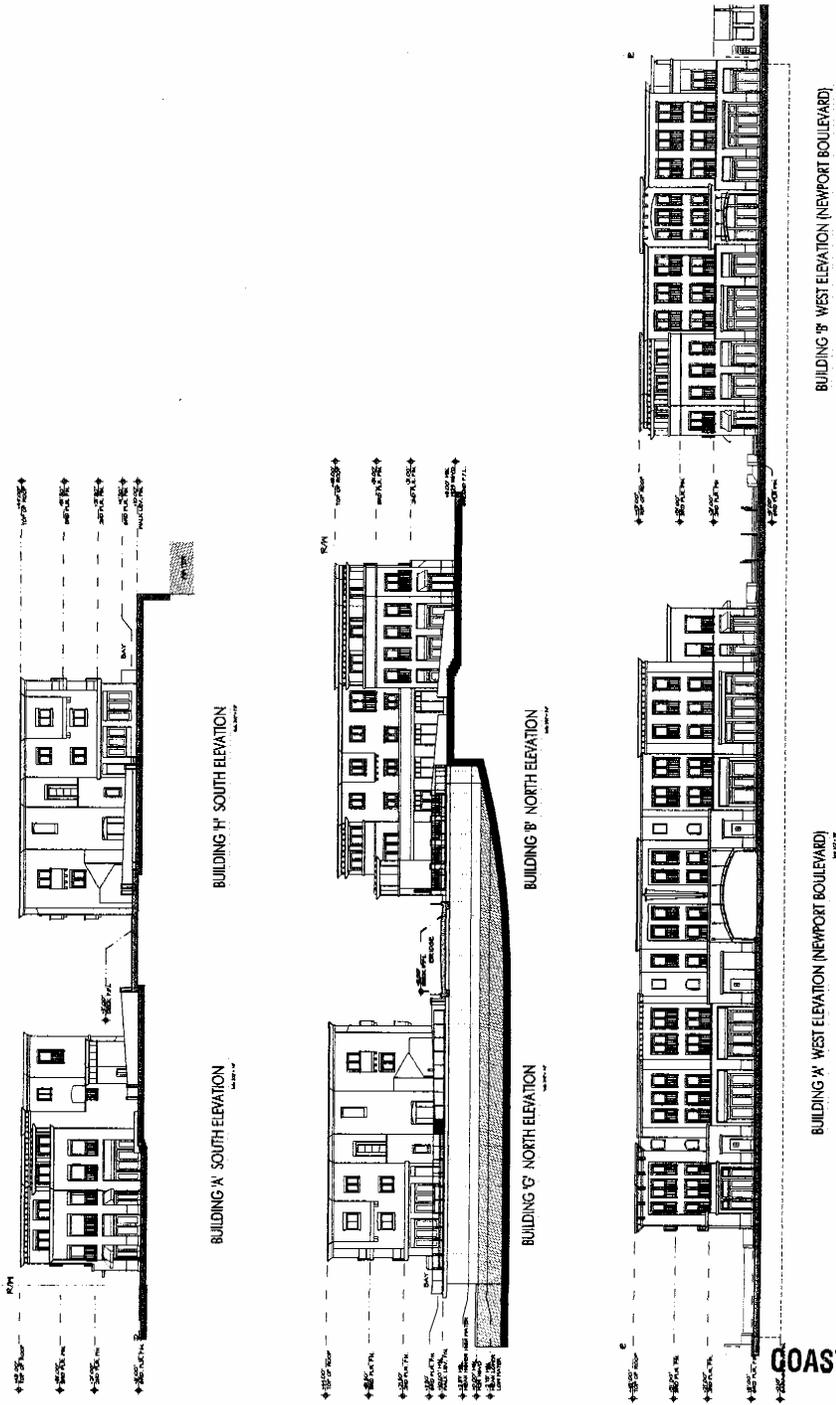
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 122506  
 01000000  
**McKenty  
 Malak**  
 ARCHITECTS  
 251 N. GARDEN STREET, SUITE 100  
 FULLERTON, CALIFORNIA 92631  
 TEL: (714) 251-1100 FAX: (714) 251-1101

**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

1306061074/ARCH/04  
**ETCO Development, Inc.**  
 2322 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 260-2720 FAX: (949) 260-2746

OWNER  
**Newport Bay Marina, LLC**  
 1902 EAST ARLINGDALE BOULEVARD, SUITE 200  
 BREA, CALIFORNIA 92621  
 TEL: (949) 491-5200 FAX: (949) 280-9175

**SE-03**



BUILDING 'B' WEST ELEVATION (NEWPORT BOULEVARD)

BUILDING 'X' WEST ELEVATION (NEWPORT BOULEVARD)

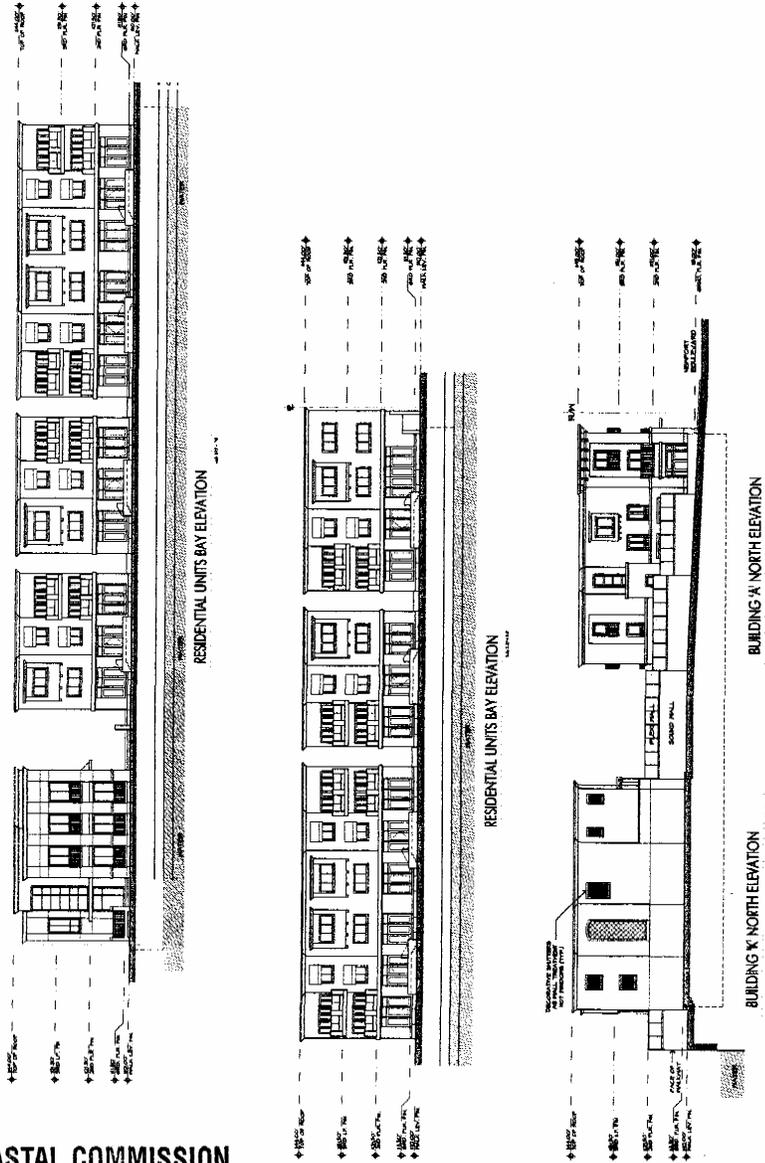
**McKently Malak**  
 ARCHITECTS  
 224 2nd Street, Suite 100  
 Newport Beach, CA 92660  
 TEL: (949) 440-1100  
 FAX: (949) 440-1101

**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

**ECO Development, Inc.**  
 2271 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 260-7220 FAX: (949) 200-7248

**Newport Bay Marina, LLC**  
 2300 NEWPORT BOULEVARD, SUITE 220  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 440-1100 FAX: (949) 440-1101

**COASTAL COMMISSION**  
 EXHIBIT # 2  
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COASTAL COMMISSION

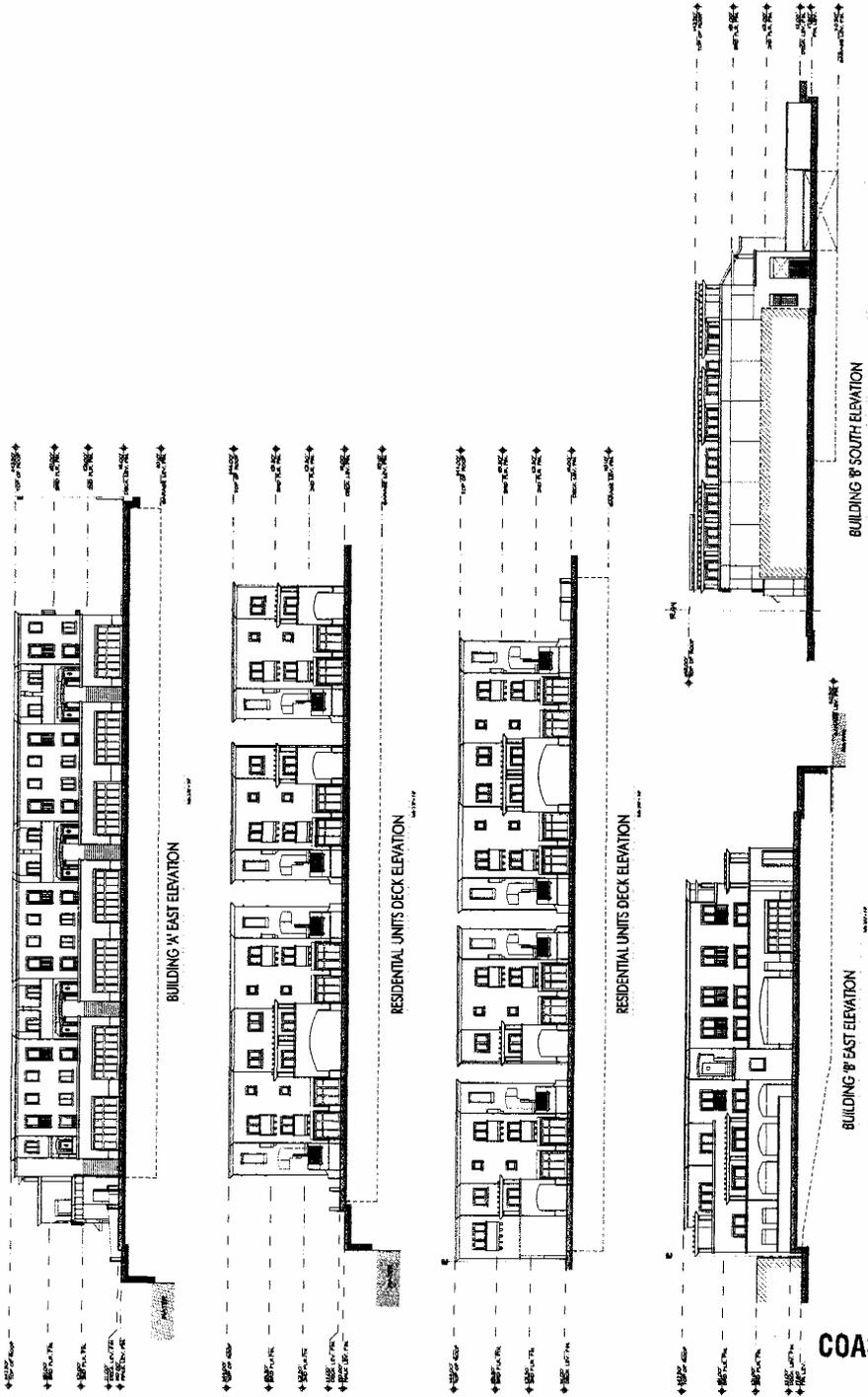
EXHIBIT # 2  
 PAGE 12 OF 14

**McKently Malak ARCHITECTS**  
 BUILDING ELEVATIONS  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 262-7270 FAX: (949) 262-7240  
**EL-02**

**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

**ETCO Development, Inc.**  
 2777 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 262-7270 FAX: (949) 262-7240

**OWNER Newport Bay Marina, LLC**  
 1923 MARINA AVENUE SUITE 200  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 262-7270 FAX: (949) 262-7240



**McKently Malak ARCHITECTS**  
 221 East Columbia Ave., Suite 211  
 Newport Beach, CA 92663  
 TEL: 949.260.7208 FAX: 949.260.7146

**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

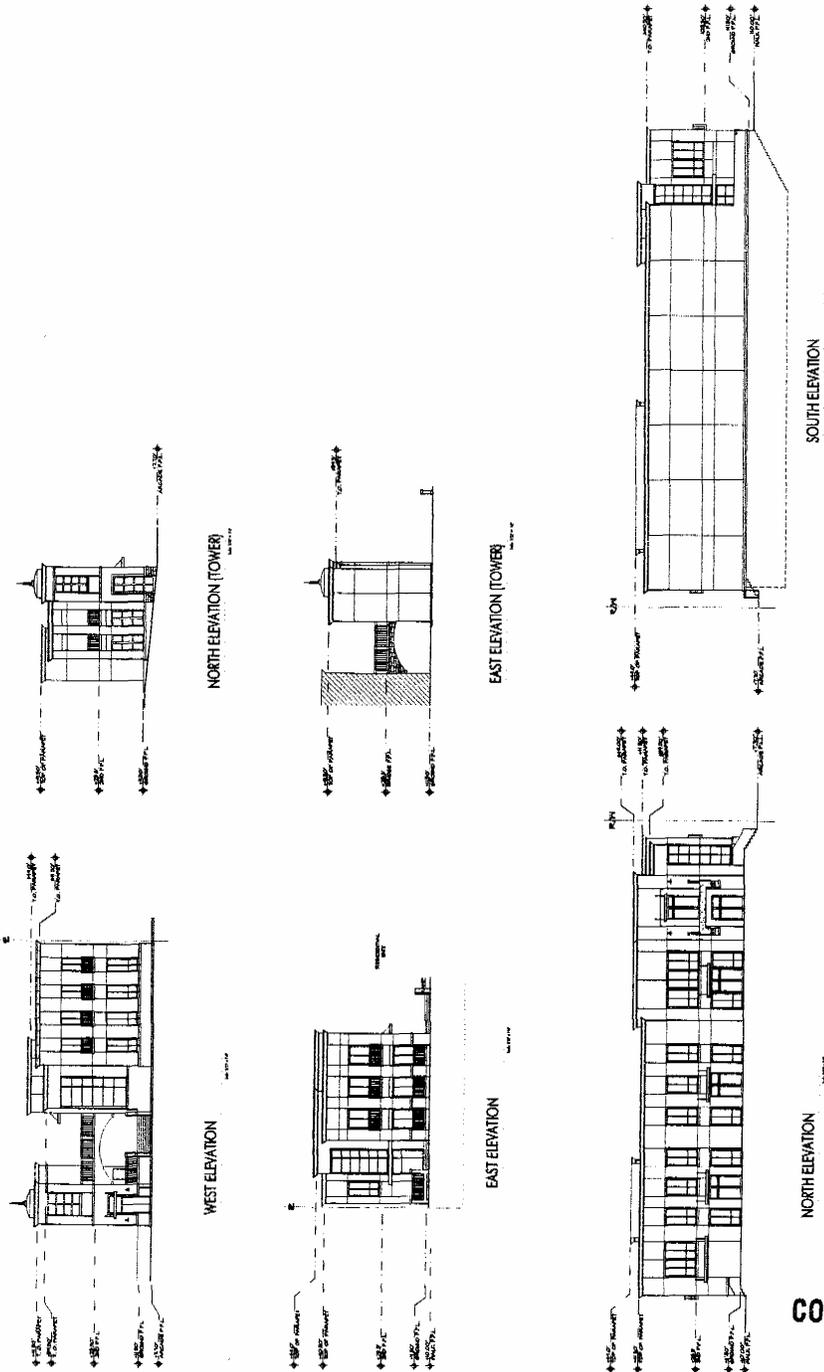
**ETCO Development, Inc.**  
 2221 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: 949.260.7208 FAX: 949.260.7146

**Newport Bay Marina, LLC**  
 PRESIDENTIAL CENTER, SUITE 200  
 BENTLEY HILLS, CA 92612  
 TEL: 949.260.7208 FAX: 949.260.7146

**COASTAL COMMISSION**

EXHIBIT # 2  
 PAGE 13 OF 14

BUILDING ELEVATIONS  
 SHEET  
**EL-03**



**COASTAL COMMISSION**

EXHIBIT # 2  
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BUILDING ELEVATIONS  
 03/31/17  
**McKently Malak ARCHITECTS**  
 211 S. GARDEN ST. SUITE 100  
 ANAHEIM, CA 92810  
 TEL: 714.964.2811 FAX: 714.964.2897

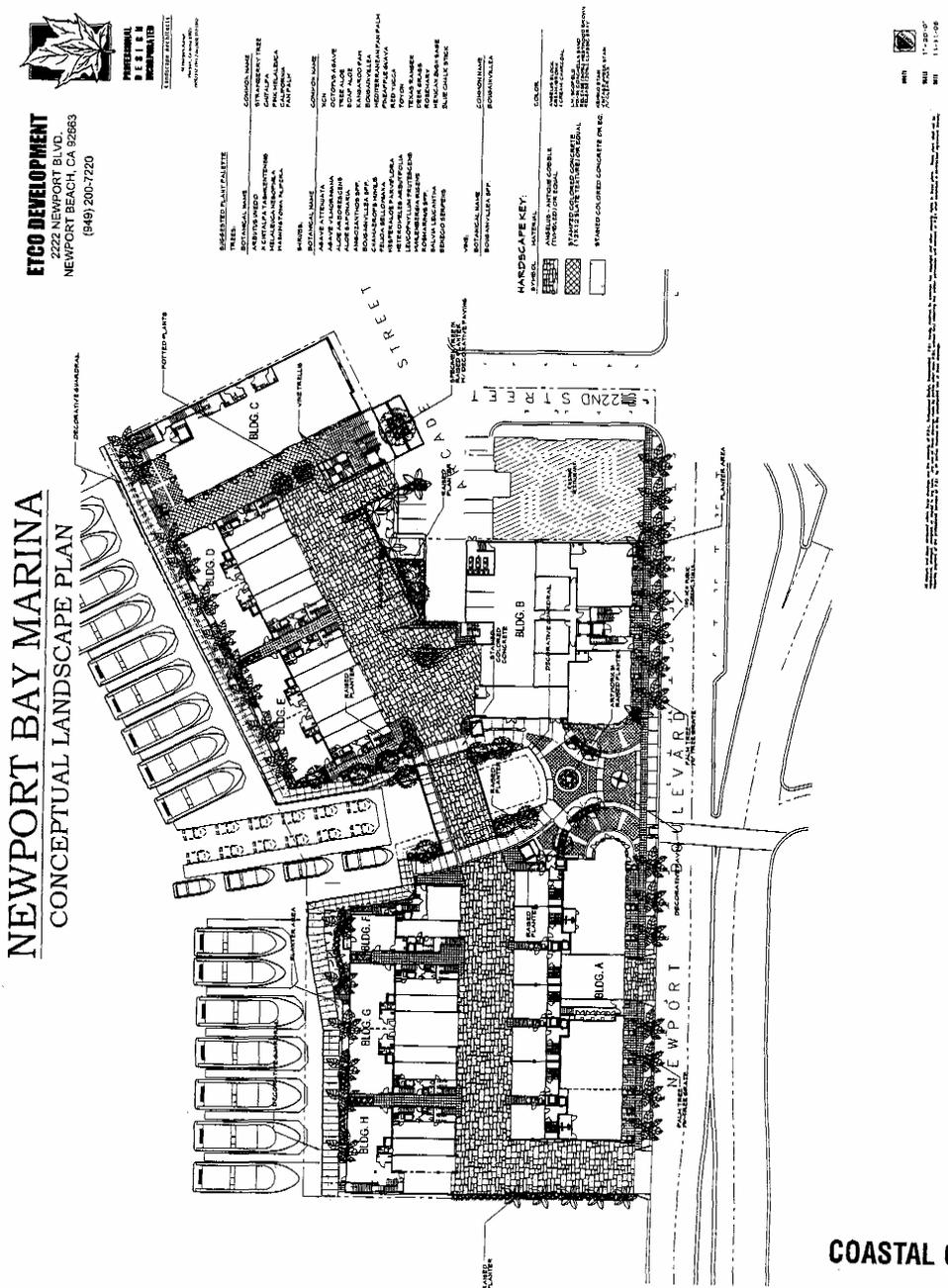
**NEWPORT BAY MARINA**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663

SUBMITTER: A/P/C/L  
**ETCO Development, Inc.**  
 2300 NEWPORT BOULEVARD  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 260-7220 FAX: (949) 200-7240

DRAWN BY:  
**Newport Bay Marina, LLC**  
 992 MARINA DRIVE  
 NEWPORT BEACH, CA 92663  
 TEL: (949) 492-2840

**EL-04**





**COASTAL COMMISSION**

EXHIBIT # 4

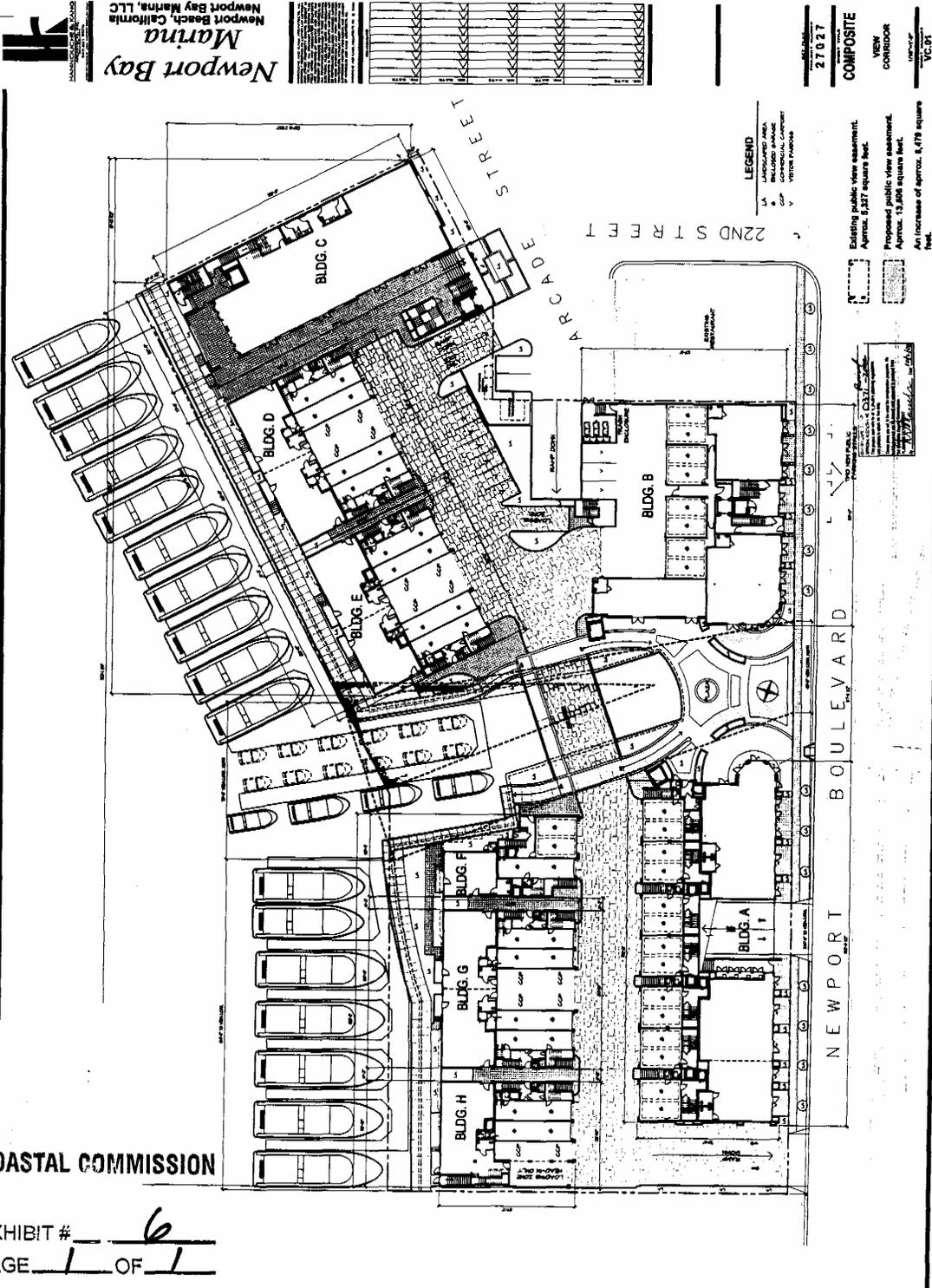
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5-08-279

COASTAL COMMISSION

EXHIBIT # 6  
 PAGE 1 OF 1









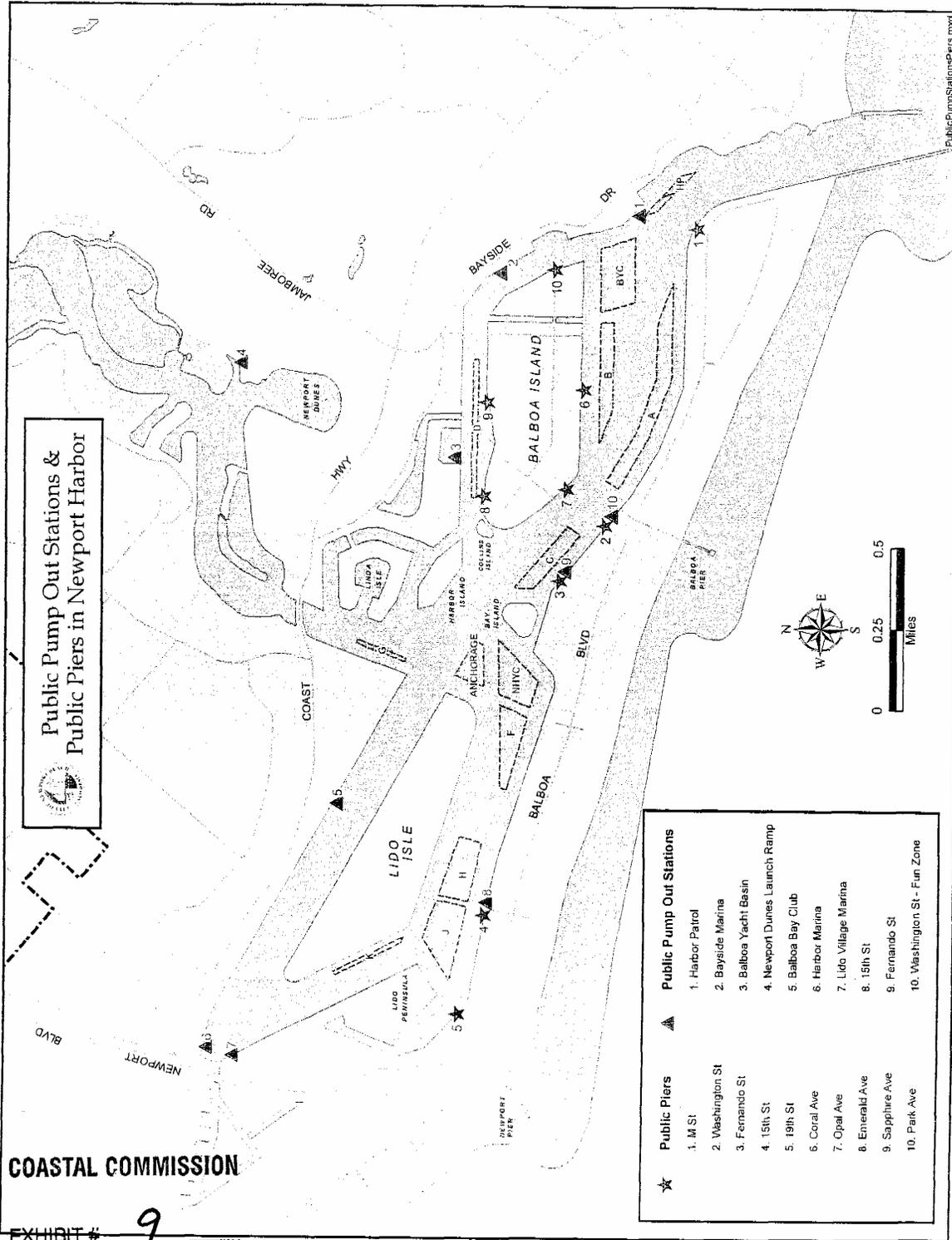
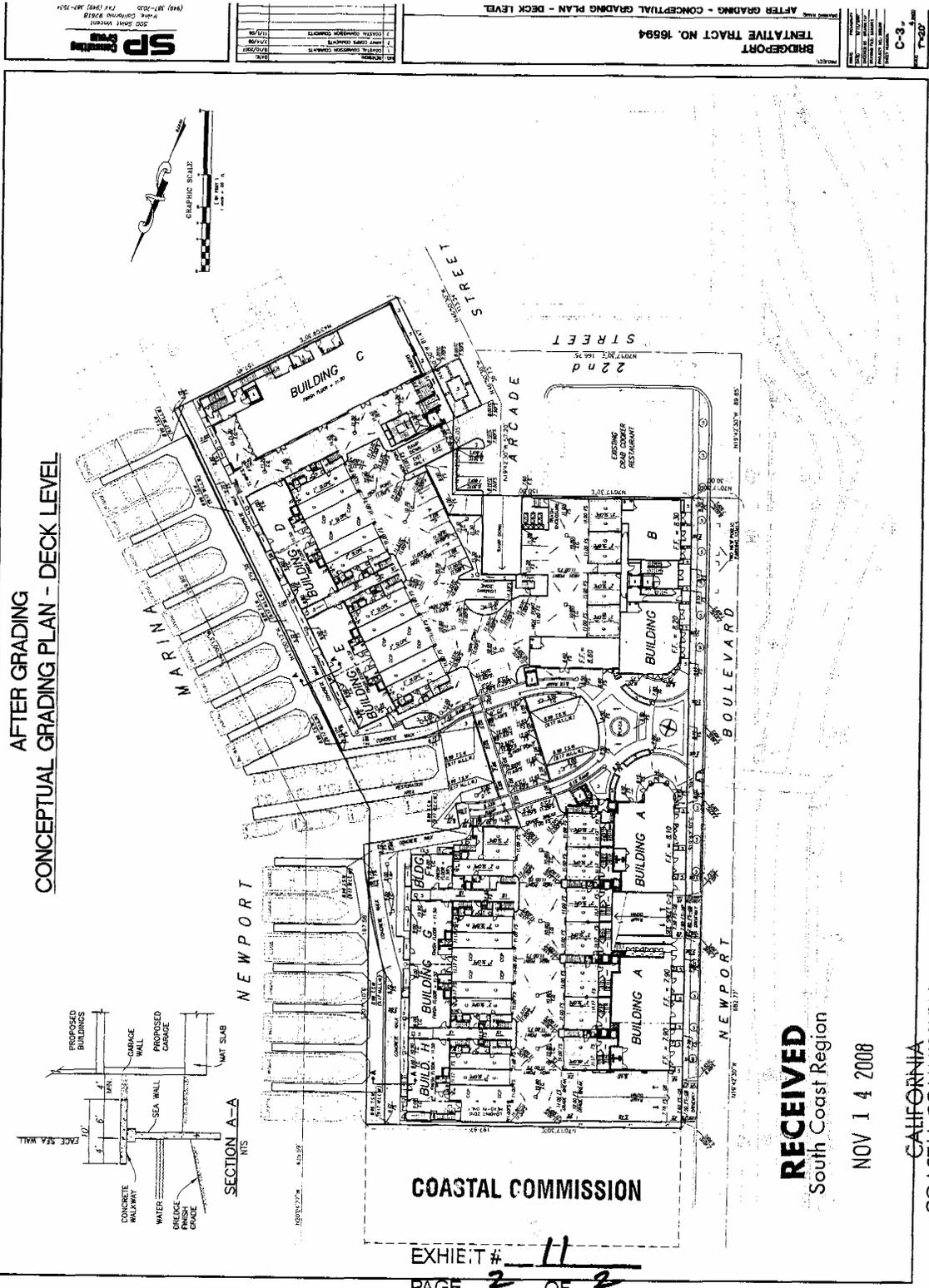


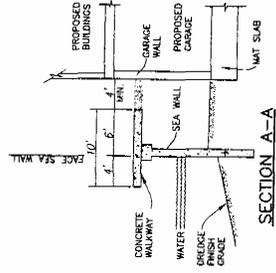
EXHIBIT # 9  
 PAGE 1 OF 1







**AFTER GRADING  
 CONCEPTUAL GRADING PLAN - DECK LEVEL**



**COASTAL COMMISSION**

EXHIBIT # 11  
 PAGE 2 OF 2

**RECEIVED**  
 South Coast Region  
 NOV 14 2008

CALIFORNIA  
 COASTAL COMMISSION

5-08-279

BRIDGEPORT TENTATIVE TRACT NO. 16594  
 AFTER GRADING - CONCEPTUAL GRADING PLAN - DECK LEVEL  
 SP  
 200 South Western  
 Suite 1000  
 San Diego, CA 92108  
 (619) 581-7200 Fax: (619) 581-7204





5-08-279 (Etco Investments LLC)

Regular Calendar

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