

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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(562) 590-5071

**ADDENDUM****Th5a**

October 3, 2011

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM Th5a**, COASTAL COMMISSION PERMIT APPLICATION **#5-11-132 (Waterfront Newport Beach LLC)** FOR THE COMMISSION MEETING OF **October 2011**.

Corrections to Staff Report

Commission staff recommends the following four (4) corrections to the staff report, deleted language is shown in ~~strikethrough~~ and new language is in **bold, underlined italic**.

Correction #1, Special Condition 6, bottom of page 6 as follows:

6. PARKING MANAGEMENT PLAN

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a parking management plan for the development approved by Coastal Development Permit No. 5-11-132.
1. The parking plan shall indicate that parking is designated ~~on-site~~ in the following manner: ~~25 parking spaces available on-site for the administrative operation of the charter service and yacht club and remaining on-site commercial/business uses during normal business hours (9am to 5pm) Monday through Friday.~~ **136 on-site parking spaces on-site and 69 off-site spaces owned/operated by the applicant for exclusive after-hours use by the charter boat operations. Overflow parking (40-75 parking spaces) also available for special events or as needed.** Except for their administrative operations, the charter operation hours of operation shall be after 5pm, Monday through Friday and on the weekends.
 2. ~~The parking plan shall indicate that parking is designated on-site and off-site in the following manner: 43 tandem parking spaces will be available on-site and at least 50 parking spaces will be available at off-site lots located near the project site, on the north side of West Coast Highway~~

~~between 2540 West Coast Highway and 2300 West Coast Highway after normal business hours (after 5pm) Monday through Friday and on weekends. Where there is any overlap of parking demand between the charter operations and the other on-site commercial/business uses, the charter club operation shall utilize secured additional off-site parking to off-set the on-site parking demands.~~

- 32.** The applicant shall submit written evidence, for review and approval of the Executive Director, which shows off-site parking spaces have been provided meet the **occasional** overflow parking demands of the charter operation (~~Waterfront Newport Beach~~). No public parking spaces (e.g., on public streets or within public parking lots) shall be used to satisfy the **overflow** parking requirements. The applicant shall submit a plan that identifies the specific location(s) of the off-site **overflow** parking spaces and shall submit a long-term (minimum 5 years) lease or rental agreement(s), **documentation** that secures the applicant's legal ability to access and utilize the proposed off-site parking supply during the hours when the charter boat business operations are active.
- 43.** The parking plan shall include, at a minimum, the following components:
- a.** A signage plan, depicting the design (e.g., dimensions, wording, etc.) of the posted parking signs including a site plan indicating location of signs. Signs shall be sized and sited such that they are clearly visible and legible to occupants of vehicles seeking parking to patronize the on-site uses. These signs shall clearly explain the availability of on-site and off-site parking and also locate the off-site parking locations;
 - b.** A site plan depicting the locations where employee and customer parking signs will be installed;
 - c.** The directions and maps to the off-site parking locations to be given to the charter boat and yacht club patrons;
 - d.** The on-site and off-site parking lots shall have parking attendants to direct patrons to the designated parking areas (on and off-site).
- B.** The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

Correction #2, Special Condition 7, bottom of page 7:

7. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-11-132. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions

otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-11-132. Accordingly, any future improvements to the boat docks authorized by this permit and the project site ~~that currently has uses on site consisting of a charter boat, a yacht club, a radar company, a mortgage company and a flooring company,~~ including but not limited to repair and maintenance 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. 5-11-132 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

Correction #3, page 8, paragraph 4 of the Project Location and Description:

The waterside improvements include a 2,950 sq. ft. 6-slip commercial dock occupied by commercial charter boats. ~~The applicant is also the owner/operator of the charter boat service currently operating at this site.~~ **The charter companies are tenants of the property owned by the applicant, Waterfront Newport Beach LLC.** Previous water-side uses on the site included smaller charter boat operations (30-50 passenger boats) and yacht sales/brokerage. The proposed dock redevelopment and reconfiguration would accommodate larger charter boats.

Correction #4, page 13, paragraph 2 of the Public Access/Visitor Serving Recreation section:

The existing parking for the daytime uses on the landside improvements is consistent with the Commission's typically applied parking standards. The applicant has proposed that after normal business hours (after 5pm) Monday through Friday and on weekends, all of the on site 204 parking spaces will be available for the charter boat uses and an additional 40-75 overflow parking spaces are available through parking agreements with nearby private properties. To assure that parking needs for the charter operations do not adversely impact on public coastal access, the Commission imposes **Special Condition 6**, for submittal of a Parking Management Plan indicating among other things, use of appropriate signage, site plan, ~~a long-term lease~~ **documentation** and/or written agreement for use of the off-site location(s) of the overflow parking in the vicinity of project site.

CALIFORNIA COASTAL COMMISSION

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Filed: July 14, 2011
49th Day: September 1, 2011
180th Day: January 10, 2012
Staff: Liliana Roman-LB
Staff Report: September 15, 2011
Hearing Date: October 5-7, 2011
Commission Action:



Item Th5a

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-11-132

APPLICANT: Waterfront Newport Beach LLC

AGENT: The Corrough Consulting Group

PROJECT LOCATION: 2901 West Coast Highway, Newport Beach, Orange County

PROJECT DESCRIPTION: Demolish existing 2,950 sq. ft. 6-slip commercial docks, gangway and 23 piles and construction of a new 4,325 sq. ft. 5-slip commercial docks, gangway and 23 piles (19, 18" diameter dock guide piles and 4, 14" diameter gangway platform support piles) in a different configuration with ADA compliant gangway, on-dock fire suppression system, water supply backflow preventers, waste pumpout station, and vessel "cold-ironing" electrical facilities.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the proposed commercial dock redevelopment, with **seven (7) special conditions** pertaining to: 1) revised final plans; 2) an eelgrass survey; 3) a pre-construction caulerpa taxifolia survey; 4) construction responsibilities and debris removal; 5) BMPs; 6) parking management plan; and 7) future development return to the Commission for review.

LOCAL APPROVALS RECEIVED: Approval in Concept (Harbor Permit #128-20901) from the City of Newport Beach Planning Department dated February 17, 2011; U.S. Army Corps. Of Engineers LOP SPL-2011-00389-SME dated August 9, 2011

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Land Use Plan; *Eelgrass and Caulerpa Surveys by Debbie Karimoto, dated September 29, 2010*; CDP 79-6272(Rosan, Inc.); CDP 5-84-397(Anderson); CDP 5-91-613(John Domini's Restaurant); CDP 5-04-032(Waterfront Newport Beach LLC)

LIST OF EXHIBITS

1. Location Map
 2. Assessor's Parcel Map
 3. Existing Project Site/Dock Configuration
 4. Proposed Dock Configuration
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STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION:

I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION:

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any 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. REVISED FINAL PROJECT PLANS

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for review and approval of the Executive Director, two (2) full size sets of revised, final project plans in substantial conformance with the plans received in our office on May 23, 2011; however, the revised final plans shall include the following changes:

Indication of the location for the proposed on-dock fire suppression system, water supply backflow preventers, waste pump-out station, vessel “cold-ironing” electrical facilities and appropriate signage for proposed public access short-term public docking slip and water taxi area.

- B.** The applicants 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.

2. 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 until the next period of active growth. The survey shall be prepared in full compliance with the “Southern California Eelgrass Mitigation Policy” Revision 10 (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 required.

3. PRE-CONSTRUCTION CAULERPA TAXIFOLIA SURVEY

- A.** Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicants shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B.** The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C.** Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - i. for the review and approval of the Executive Director; and
 - ii. to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043), or their successors.
- D.** If *Caulerpa taxifolia* is found within the project or buffer areas, the applicants shall not proceed with the project until 1) the applicants provide evidence to the Executive Director that all *C. taxifolia* discovered within the project area and all *C. taxifolia* discovered within the buffer area have been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicants have revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

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

- A.** No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to tidal and wave erosion and dispersion.
- B.** Any and all debris resulting from construction activities shall be removed from the site within 24 hours 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. Measures shall be taken to ensure that barges do not ground and impact any identified eelgrass within the project area.
- G. 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.
- H. Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.
- I. Reasonable and prudent measures shall be taken to prevent any discharge of fuel or oily waste from heavy machinery, pile drivers, or construction equipment or power tools into coastal waters. The applicants and applicants' contractors shall have adequate equipment available to contain any such spill immediately.
- J. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- K. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day.
- L. The applicants shall use the least damaging method for the construction of pilings and any other activity that will disturb benthic sediments. The applicants shall limit, to the greatest extent practicable, the suspension of benthic sediments into the water column.

5. **BEST MANAGEMENT PRACTICES PROGRAM**

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

(1) Boat Cleaning and Maintenance Measures:

- a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris.
- b. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized.

- c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

(2) Solid and Liquid Waste Management Measures:

- a. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.

(3) Petroleum Control Management Measures:

- a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited.
- b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.
- c. Bilge cleaners containing detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

6. PARKING MANAGEMENT PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a parking management plan for the development approved by Coastal Development Permit No. 5-11-132.

1. The parking plan shall indicate that parking is designated on-site in the following manner: 25 parking spaces available on-site for the administrative operation of the charter service and yacht club and remaining on-site commercial/business uses during normal business hours (9am to 5pm) Monday through Friday. Except for their administrative operations, the charter operation hours of operation shall be after 5pm, Monday through Friday and on the weekends.
2. The parking plan shall indicate that parking is designated on-site and off-site in the following manner: 43 tandem parking spaces will be available on-site and at least 50 parking spaces will be available at off-site lots located near the project site, on the north side of West Coast Highway

between 2540 West Coast Highway and 2300 West Coast Highway after normal business hours (after 5pm) Monday through Friday and on weekends. Where there is any overlap of parking demand between the charter operations and the other on-site commercial/business uses, the charter club operation shall utilize secured additional off-site parking to off-set the on-site parking demands.

3. The applicant shall submit written evidence, for review and approval of the Executive Director, which shows off-site parking spaces have been provided meet the overflow parking demands of the charter operation (Waterfront Newport Beach). No public parking spaces (e.g., on public streets or within public parking lots) shall be used to satisfy the parking requirements. The applicant shall submit a plan that identifies the specific location(s) of the off-site parking spaces and shall submit a long-term (minimum 5-years) lease or rental agreement(s), that secures the applicant's legal ability to access and utilize the proposed off-site parking supply during the hours when the charter boat business operations are active.
4. The parking plan shall include, at a minimum, the following components:
 - a. A signage plan, depicting the design (e.g., dimensions, wording, etc.) of the posted parking signs including a site plan indicating location of signs. Signs shall be sized and sited such that they are clearly visible and legible to occupants of vehicles seeking parking to patronize the on-site uses. These signs shall clearly explain the availability of on-site and off-site parking and also locate the off-site parking locations;
 - b. A site plan depicting the locations where employee and customer parking signs will be installed;
 - c. The directions and maps to the off-site parking locations to be given to the charter boat and yacht club patrons;
 - d. The on-site and off-site parking lots shall have parking attendants to direct patrons to the designated parking areas (on and off-site).
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. FUTURE DEVELOPMENT

This permit is only for the development described in Coastal Development Permit No. 5-11-132. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-11-132. Accordingly, any future improvements to the boat docks authorized by this permit and the project site that currently has

uses on site consisting of a charter boat, a yacht club, a radar company, a mortgage company and a flooring company, including but not limited to repair and maintenance 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. 5-11-132 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Location and Description

Project Location

The proposed project site (commercial boat docks) is located bayward of a bayfront lot on Newport Bay at 2901 West Coast Highway in Newport Beach, Orange County (Exhibits #1-2). The City of Newport Beach Land Use Plan (LUP) designates use of the site as mixed-use water related and the proposed project adheres to this designation.

The project site is located along Pacific Coast Highway (referenced as West Pacific Coast Highway in the project vicinity), a regional artery in an area that is known as “Mariner’s Mile” in the City of Newport Beach. This area along Pacific Coast Highway provides access to local businesses and the waterfront as well as ingress/egress to adjacent bluff-top neighborhoods. Historically, Mariner’s Mile has been a focus for marine activities. Yacht brokers, shipbuilding, boat services, haul-out facilities, warehouses, sportfishing charter docks and recreational charter docks shared the flat, sandy strip facing the Lido Channel at the foot of the Newport Heights with access to both the water and the Pacific Coast Highway. North of the project site is West Coast Highway; South of the project site is Newport Bay, to the East and West are commercial properties.

The bayfront lot associated with the project site consists of two parcels, a 52,287 sq. ft. parcel developed with a 46,460 sq. ft. two-story commercial building and 136 space subterranean parking structure and a second 18,200 parcel across Pacific Coast Hwy consisting of a 69 space surface parking lot. The applicant, Waterfront Newport Beach LLC, is the property owner of both the landside and waterside improvements located on the site. No improvements to the landside development is proposed as part of this CDP application. The land-side development consists of the charter boat office and leased office space uses with some commercial sales (i.e., day spa, wine shop, etc.).

The waterside improvements include a 2,950 sq. ft. 6-slip commercial dock occupied by commercial charter boats. The applicant is also the owner/operator of the charter boat service currently operating at this site. Previous water-side uses on the site included smaller charter boat operations (30-50 passenger boats) and yacht sales/brokerage. The proposed dock redevelopment and reconfiguration would accommodate larger charter boats.

Project Description

The applicant proposes to demolish the existing 2,950 sq. ft. commercial dock system consisting of 6 slips and 23 pilings (Exhibit #3) and replace it with a larger new 4,325 sq. ft. heavy-duty commercial vessel dock system in a different configuration, 23 pre-stressed square reinforced

concrete structural pilings (19, 18” diameter dock guide piles and 4, 14” diameter gangway platform support piles) and an 6’ x 20’ gangway structurally hinged to a fixed 7’x7’ concrete access platform with three additional hinged/sliding gangway sections (two 6’x20’ sections and one 6’ x 24’ section) (Exhibits #4). The proposed new dock system is approximately 1,375 sq. ft. larger water coverage than the existing commercial dock. However, the applicant has pointed out that the dock system to-be-demolished that exists today is smaller than the one built in the 1980s. The original dock built in 1987 (without a CDP) and subsequently repaired/reduced through 2008 (without CDP) was constructed at 4,850 sq. ft. If one were to take that 4,850 sq. ft. pre-existing dock as the baseline, the proposed dock system is actually smaller than the one that used to be present

The existing dilapidated dock was constructed in 1984. The increase in square footage proposed largely is due to new dock construction regulations and required compliance with the Americans with Disabilities Act (ADA). The reinforced concrete docks will provide safe and ADA-compliant berthing for four large commercial charter vessels ranging from 40’ to 150’ in length, plus provide short-term (20 min – 2 hr) public side-tie berths for three small-boat vessels. See table below:

Vessel	Max overall length	Max beam width
Primary Charter Vessel: “Majestic”/Berth 1	147.3’	31.0’
Primary Charter Vessel: “Ambassador”/Berth 2	125.6’	25.4’
Primary Charter Vessel: “Royal Princess”/Berth 3	93.4’	20.0’
Secondary Charter Vessel/Berth 4	40.0’	14.0’
Small Boat Berths (2 at 20’)	42.0’	10.5’
Water Taxi Berth (1)	30.0’	10.5’

The project has received an approval-in-concept (Harbor Permit No. #128-2901) and requires a Marine Activities Permit (MAP) from the City of Newport Beach Harbor Resources Division. An eelgrass survey conducted at the project site on September 29, 2010 found no eelgrass in the project site or in the project vicinity. The U.S. Army Corps of Engineers (USACOE) issued a Letter of Permission (LOP) in August 2011. The project has received approval from the California Regional Water Quality Control Board (RWQCB). The RWQCB has determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used and if no waste is discharged from the proposed project. In addition, the National Marine Fisheries Service (NMFS) has reviewed the project and had no comments.

Prior Commission Action

1979 – CDP 79-6272(Rosan Inc.): The Commission approved an Administrative Permit for the installation of an 8’x16’ aluminum awning as weatherproof covering for a loading /unloading entry to existing manufacturing use. No special conditions were imposed.

1984 – CDP 5-84-397(Anderson): The Commission approved a regular Coastal Development Permit for the demolition of Rosan Industries Manufacturing Plant and the Seacraft boat repair yard and construction of a 49,460 sq. ft. multi-use building with 167 subterranean on-site parking and 59 off-site parking. The Commission approved demolition of the previous structures both on land and on the water and approved construction of the existing 3-story commercial building and associated parking. No commercial docks were approved under CDP 5-84-397, only development on land. Special conditions imposed on the coastal development permit were:

- a lateral access easement for a 10’ wide walkway along the bulkhead on the entire width of the lot and run along the westerly and easterly property lines to make a continuous

walkway connection on both sides of the property; first floor uses along the bulkhead and walkway are marine related permitted uses identified by the City's LUP;

- excavated material from the site suitable for beach replenishment shall be placed upon the beach;
- assumption of risk and waiver of liability
- parking – full operation of main restaurant on site shall not start before 5:30pm on weekdays; valet parking service shall be provided at all times during business hours and restaurant hours

1991 – CDP # 5-91-613(John Domini's Restaurant): The Commission approved a regular Coastal Development Permit for a full service restaurant with off-site parking for employees.

2004 – CDP #5-04-032-W(Waterfront Newport Beach LLC): The Commission approved a DeMinimis Waiver for the installation of a 5' high structural screen on the roof of the commercial building to hide the air conditioning units and ducts from views along Coast Hwy and the bay.

The applicant provided an Army Corps of Engineers (ACOE) permit #84-126-RA dated October 1984 issued to D.G. Anderson to (a) construct a precast concrete sheet-pile bulkhead immediately in front of an existing deteriorated wood bulkhead (b) remove eight boat slips and 18 wood piles (c) install eight new boat slips and drive 18 pre-stressed concrete guide piles in Newport Bay. The ACOE permit special condition (c) states "That prior to starting the activities authorized in their permit, the applicant shall be authorized by a permit issued pursuant to the California Coastal Act of 1976." Staff has no record of a permit or permit application for the dock project approved by ACOE in 1984.

Water Quality

The proposed project is located in and over the coastal waters of Newport Harbor (Lower Newport Bay). Newport Bay is on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "impaired" means that water quality within the harbor does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal established for this waterbody. The California Regional Water Quality Control Board (RWQCB) has targeted the Newport Bay watershed (including Newport Harbor) for increased scrutiny as a higher priority watershed under its Watershed Initiative. The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including Sections 30230 and 30231 of the Coastal Act, which require the protection of biological productivity, public recreation, and marine resources.

The proposed development will occur over and in the water. Construction of any kind adjacent to or in coastal waters has the potential to impact marine resources. The Bay provides an opportunity for water oriented recreational activities and also serves as a home for marine habitat. Because of the coastal recreational activities and the sensitivity of the Bay habitat, potential water quality issues must be examined as part of the review of this project.

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

construction-related impacts upon marine resources, the Commission imposes **Special Condition 5** which outlines construction-related requirements to provide for appropriate construction methods as well as the safe storage of construction materials and the safe disposal of construction debris.

Furthermore, the proposed dock project will allow for the long term berthing of commercial passenger vessels. Vessel maintenance activities if not properly regulated could cause adverse impacts to the marine environment. Activities such as cleaning and scraping of boats, improper discharges of contaminated bilge water and sewage waste, and the use of caustic detergents and solvents, among other things, are major contributors to the degradation of water quality within boating facilities. The applicant proposes to install a waste pump-out station on the dock to facilitate appropriate disposal of sewage waste. To further minimize the potential that maintenance activities would adversely affect water quality, the Commission imposes **Special Condition 6** which requires the applicant to follow Best Management Practices such as proper boat cleaning and maintenance, management of solid and liquid waste, and management of petroleum products to ensure the continued protection of water quality and marine resources.

Marine Resources

The proposed development constitutes fill of coastal waters. The Coastal Act limits the fill of open coastal water to specific, enumerated uses and also requires that any project which results in fill of open coastal waters provide adequate mitigation and that the project be the least environmentally damaging alternative.

The proposed project is the least environmentally damaging alternative as it utilizes the minimum number and size of piles necessary to adequately support and secure the pier and dock system. Section 30233(a)(3) of the Coastal Act allows fill of open coastal waters for the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. The proposed project, constitutes development that will provide public access and recreational opportunities. Thus, the project is an allowable use under the Coastal Act.

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

An eelgrass survey conducted at the project site on September 29, 2010 found no eelgrass in the project site or in the project vicinity. To ensure that sensitive marine resources are not adversely affected by the project, **Special Conditions 2 and 3** requires the applicant conduct pre-construction and post-construction eelgrass and calurpa surveys. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, an amendment to this permit from the Coastal Commission is required.

Public Access/Visitor Serving Recreation

The project site is located along West Coast Highway in an area that is known as “Mariner’s Mile” in the City of Newport Beach. Pacific Coast Highway is also the “main street” of Newport Beach providing access to many neighborhoods and business districts. This area along Pacific Coast

Highway provides access to local businesses and the waterfront as well as ingress/egress to adjacent bluff-top neighborhoods. The subject site is a recreational charter boat facility, which offers public access to Newport Bay and Pacific Ocean. In addition, a public easement provides a 10'-wide public waterfront walkway. This easement was a CDP condition of approval for a previous project on the landside portion of the site in 1984. The proposed dock redevelopment project does not impact the existing public waterfront walkway.

1. Visitor Serving Uses

Section 30213 of the Coastal Act requires that lower cost and recreational facilities be protected, encouraged and where feasible provided. The proposed reconstruction of the boat docks will result in three large vessel berths for use by large charter boats, one less large boat slip, but will also provide two short-term small vessels berths for use by local water taxis and/or small boating vessels. The proposed on-site “public access short-term public use docks” would provide berthing for two small 20' long vessels (i.e., Duffy electric boats or similar) for 20 minutes to 2 hours. A 30' long side-tie berth is also proposed for use by the City’s water taxi service. **Special Condition 1** requires the applicant submit final plans clearly depicting the proposed public access short-term public use docks and appropriate signage indicating that those spaces are for public use.

The proposed commercial charter boat docks would accommodate four charter vessels which provide moderate-cost visitor access to Newport Harbor and the Pacific Ocean for close to 800 visitors at full capacity. The existing docks previously had housed yacht sales and smaller charter boat operations, the proposed project would increase public access to the bay by providing the two short-term small vessel berths and the continued charter boat operations would also provide access to a larger number of the public as opposed to the smaller population that would have had use of the a larger number of small boat slips.

2. Parking

The applicant has stated that current parking demand from charter activities at the site is generated primarily by three vessels operated by Pacific Avalon Yacht Charters and by one vessel operated by Spirit of Newport Charters. Using the City’s requirement of 1 parking space per 3 passengers (the Commission has no comparable guideline) following is a table indicating total parking requirement for the commercial charter activities.

Vessel	Full Capacity Passengers/Crew	City Parking Requirements
Primary Charter Vessel: “Majestic”/Berth 1	400 passengers/ 3 member crew	135 parking spaces
Primary Charter Vessel: “Ambassador”/Berth 2	165 passengers/ 3 member crew	56 parking spaces
Primary Charter Vessel: “Royal Princess”/Berth 3	153 passengers/ 3 member crew	52 parking spaces
Secondary Charter Vessel: “Spirit of Newport”/Berth 4	73 passengers/ 3 member crew	26 parking spaces
Totals: 4 vessels	791 total	269 parking spaces

The applicant noted that The Spirit of Newport vessel is currently actively for sale and will be leaving the site prior to any new dock construction on the site. Furthermore, the applicant notes that typical annualized passenger counts for the charter operations are in the 75%-80% capacity

range with full capacity charters occurring only during peak summer weekends and during the Newport Bay Christmas Boat Parade.

There are 136 on-site parking spaces and 69 off-site spaces, a combined total of 204 parking spaces. The site provides adequate parking for the existing uses on site during normal business hours (9am to 5pm) Monday through Friday including the daytime administrative operations of the charter boat company. During normal business hours no actual charter operations occur, only administrative operations. Charters typically operate after normal business hours (after 5pm) Monday through Friday and on weekends. According to the applicant, during the evening and on the weekends, the other on-site uses would be closed and thus the entire 136 on-site parking spaces and the 69 off-site spaces (a total of 204 parking spaces) are available for the charter boat patrons and crew. Additionally, overflow parking agreements with adjacent and nearby properties provide up to an additional 40-75 parking spaces for special events and seasonal demand (i.e., Christmas Boat Parade). According to the applicant, overflow parking is typically only needed less than a dozen times in a year for large special events.

The existing parking for the daytime uses on the landside improvements is consistent with the Commission's typically applied parking standards. The applicant has proposed that after normal business hours (after 5pm) Monday through Friday and on weekends, all of the on site 204 parking spaces will be available for the charter boat uses and an additional 40-75 overflow parking spaces are available through parking agreements with nearby private properties. To assure that parking needs for the charter operations do not adversely impact on public coastal access, the Commission imposes **Special Condition 6**, for submittal of a Parking Management Plan indicating among other things, use of appropriate signage, site plan, a long-term lease and/or written agreement for use of the off-site location(s) of the overflow parking in the vicinity of project site.

The applicant is currently providing an adequate number of spaces based on existing uses. However, a change in type or intensity of use in the future may result in additional parking requirements. As such, any such changes will require an amendment or new permit. Therefore, the Commission imposes **Special Condition 8**, which requires Commission review on any proposed future development on the project site.

As conditioned, the proposed waterside development would not affect the public's ability to gain access to and/or to make use of the coast and nearby recreational facilities. Therefore, the Commission finds the project consistent with Section 30252 of the Coastal Act.

B. PUBLIC ACCESS

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

C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future

improvements special condition be imposed. As conditioned the development conforms with the Chapter 3 policies of the Coastal Act.

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 2005. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the 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.

project site

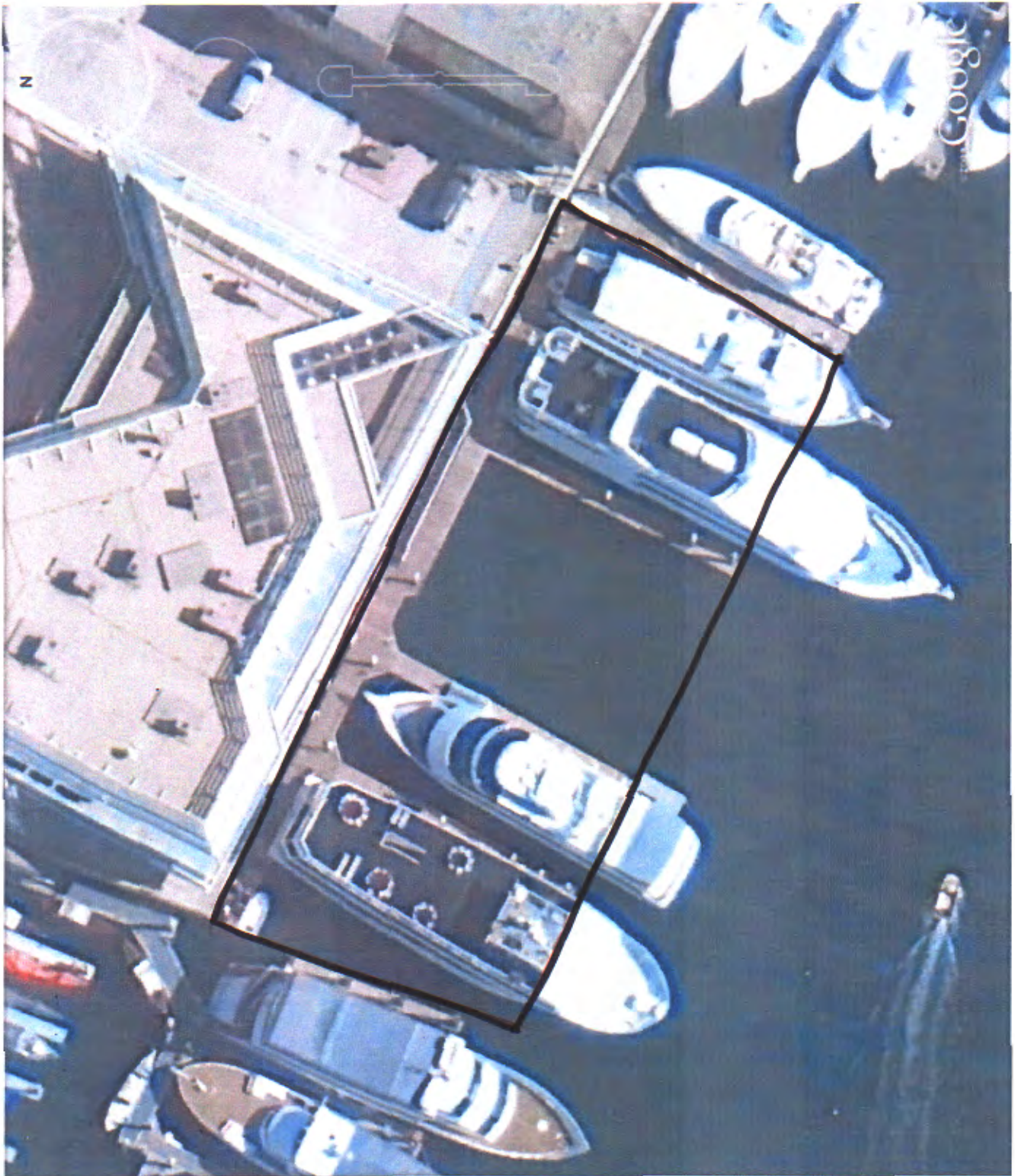
Aerial— 2901 West Coast Highway



COASTAL COMMISSION

EXHIBIT # 1

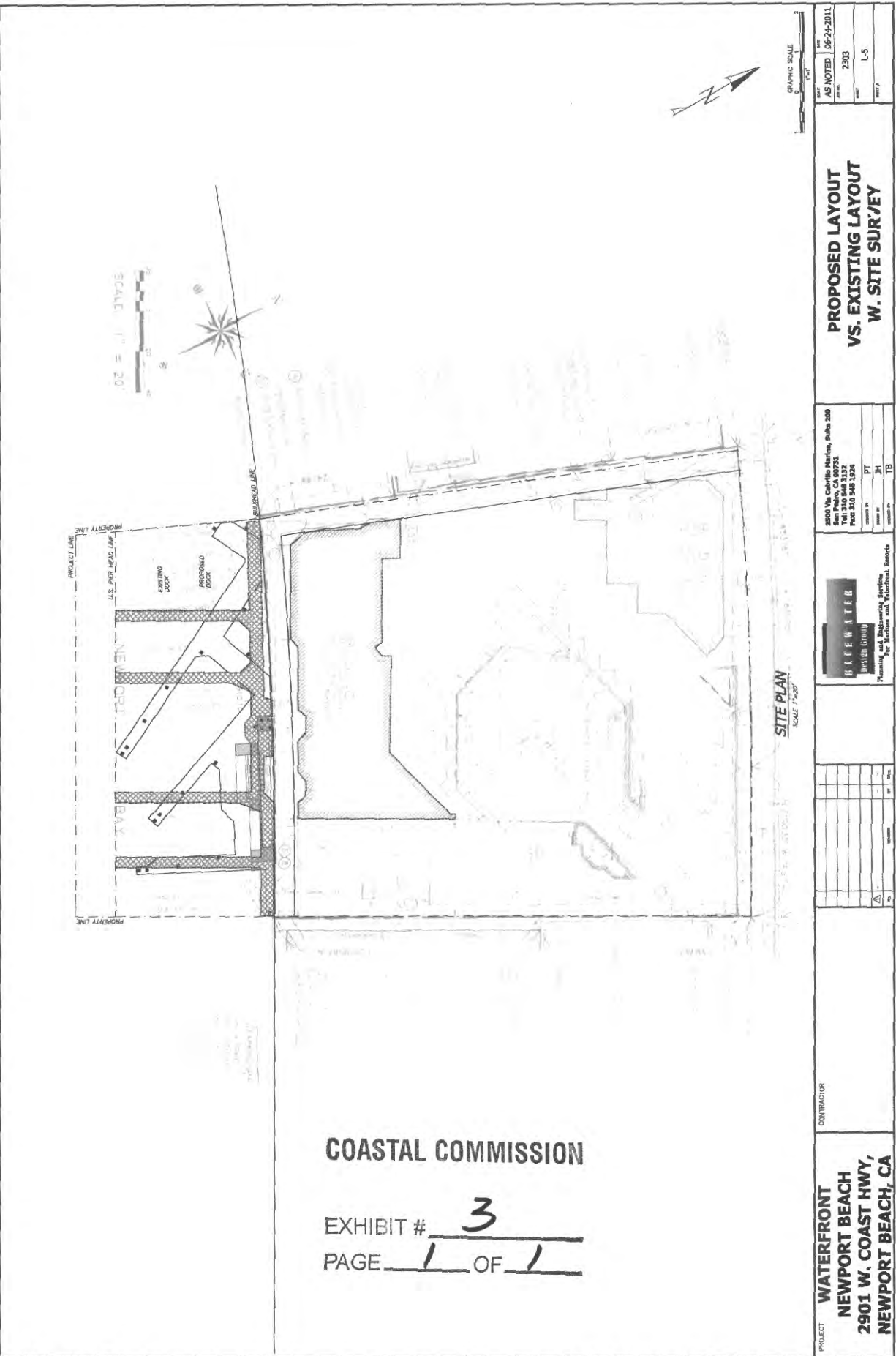
PAGE 1 OF 2



2901 West Coast Highway Docks Replacement Project Water Area Site

Newport Beach, CA – 2009 Aerial Photo - 15,200 s.f. water area (red outline) **COASTAL COMMISSION**

EXHIBIT # 1
PAGE 2 OF 2



DATE	06-24-2011
AS NOTED	2303
NO. IN	L-5
DATE	
NO. IN	

**PROPOSED LAYOUT
VS. EXISTING LAYOUT
W. SITE SURVEY**

2500 Via Cabrillo Marine, Suite 200
Newport Beach, CA 92651
Tel: 310 548 1321
Fax: 310 548 1324

BLEWATER
DESIGN GROUP
Planning and Engineering Services
For Marine and Waterfront Projects

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		

SITE PLAN
SCALE 1"=20'

COASTAL COMMISSION

EXHIBIT # 3
PAGE 1 OF 1

PROJECT **WATERFRONT
NEWPORT BEACH
2901 W. COAST HWY,
NEWPORT BEACH, CA**

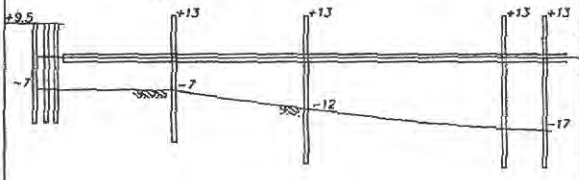
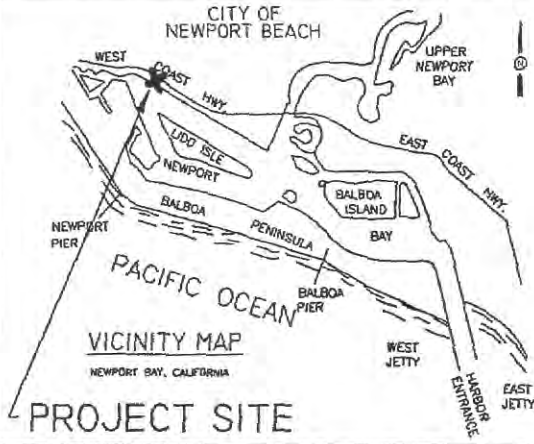
CONTRACTOR

STATUS

CITY OF NEWPORT BEACH

HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

Sui 2/17/11



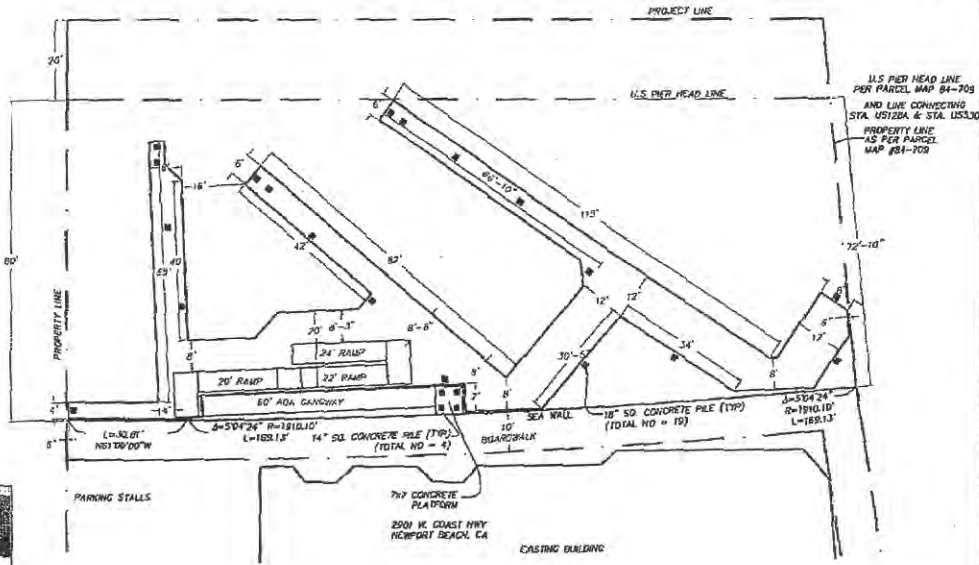
SCALE 1"=40' ELEVATION

SOUNDINGS ARE EXPRESSED IN FEET AND DENOTE DEPTHS BELOW MEAN LOWER LOW WATER. MAXIMUM RANGE OF TIDE APPROXIMATELY 10 FEET. HARBOR LINES ARE ESTABLISHED IN THIS SECTION OF NEWPORT BAY.

SCOPE OF WORK:

REPLACE EXISTING FLOATING DOCK WITH NEW DOCK. REPLACE EXISTING PILES WITH 19 NEW 18" SQUARE CONC. PILES. PROVIDE NEW ADA GANGWAY AND RAMP SYSTEM. INSTALL 7'x7' GANGWAY LOBE SUPPORTED BY 4 14" SQUARE CONC. PILES.

PERMITTED DOCK & GANGWAY AREA (1987): 4,350 SF
 EXISTING DOCK & GANGWAY AREA (2010): 2,936 SF
 PROPOSED DOCK AREA: 3,300 SF
 GANGWAYS & RAMP WATER COVERAGE: 344 SF
 TOTAL WATER COVERAGE: 3,644 SF
 18" SQ. CONCRETE PILES FOR DOCK = 19
 14" SQ. CONCRETE PILES FOR GANGWAY PLATFORM = 4



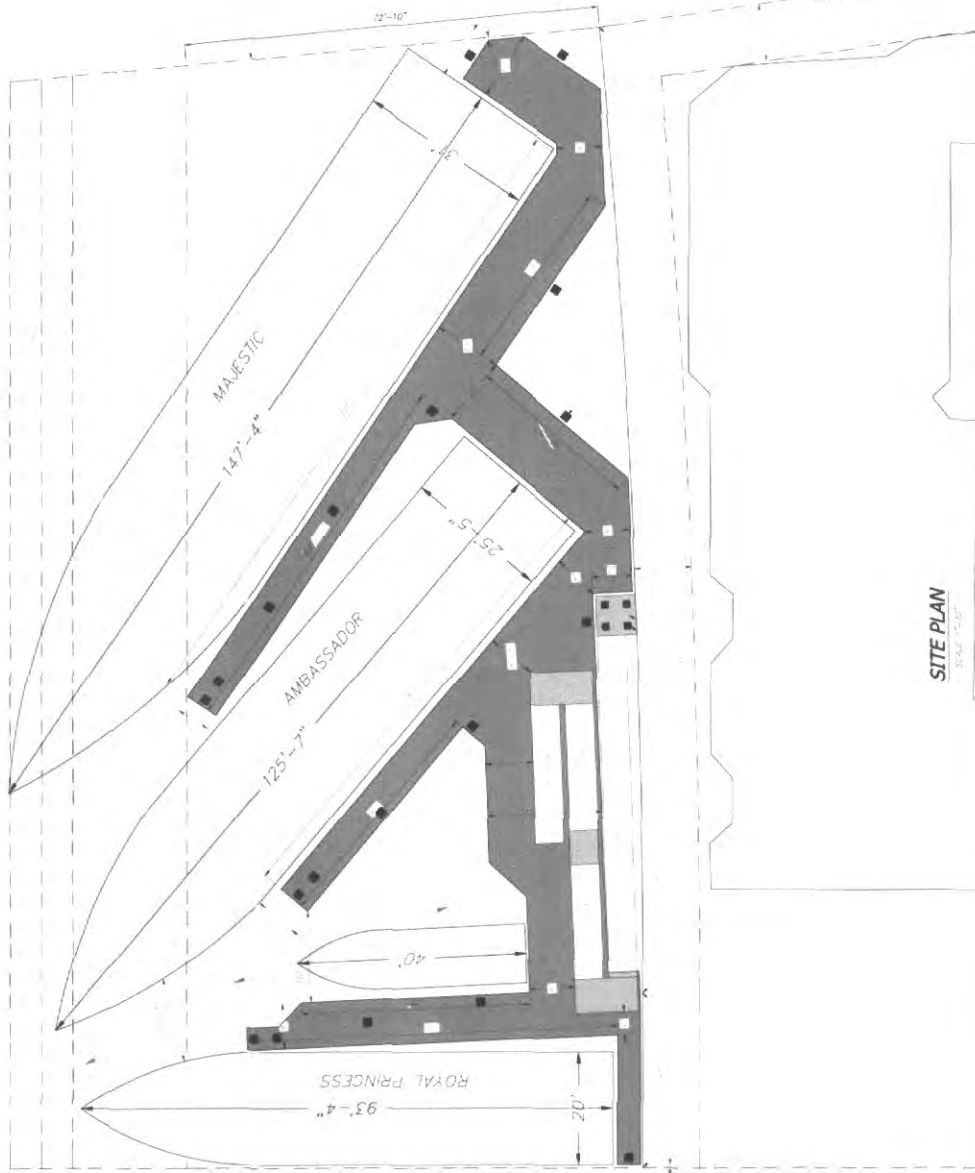
Planning and Engineering Services
For Marinas and Waterfront Resorts

SITE PLAN
SCALE 1"=40'

APPLICANT'S NAME: WATERFRONT NEWPORT BEACH	JOB ADDRESS: 2901 W. COAST HWY,	DATE: 22 SEPT 10
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COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 4



DATE	NO.	DESCRIPTION
AS NOTED	09-22-2010	
DATE	NO.	DESCRIPTION
2003		
DATE	NO.	DESCRIPTION
L-2		

**DOCK LAYOUT
CONCEPT-A2
RAMP SYSTEM**

1500 Via Cobblestone, Suite 200
San Pedro, CA 90731
Tel: 310 548 3132
Fax: 310 548 1924

RIF WATER
DRELLER GROUP
Planning and Engineering Services
For Marine and Waterfront Boards

NO.	REVISION	DATE
1		
2		
3		
4		

CONTRACTOR

**PROJECT WATERFRONT
NEWPORT BEACH
2901 W. COAST HWY,
NEWPORT BEACH, CA**

COASTAL COMMISSION

EXHIBIT # 4
PAGE 3 OF 4

