

CALIFORNIA COASTAL COMMISSION

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

Th5c

Staff: Liliana Roman – LB
Date: May 22, 2014

ADMINISTRATIVE PERMIT

Application No. **5-14-0661**

Applicant: **Gregory Johnson**

Project**Description:**

Demolition of an 724 sq. ft. floating dock system including floating dock, gangway, 12 ft. x 12 ft. pier platform, pier approach and ten 12 in. sq. anchor piles, and construction of a new 622 sq. ft. dock system consisting of a single finger floating dock supported by two relocated 12 in. sq. concrete guide piles, a 24 ft. x 3 ft. gangway, and 10 ft. x 14 ft. pier platform and 26 ft. x 5 ft. pier approach connected to an existing bulkhead and supported by three new 14 in. sq. concrete piles. Total water coverage would be reduced by 102 sq. ft. and fill of coastal waters reduced by approximately 7 sq. ft.

Project**Location:**

341 East Bay Front., Newport Beach (Orange County)

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Thursday, June 12, 2014 9:00 am
Huntington Beach City Hall
2000 Main Street
Huntington Beach, CA 92648

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

CHARLES LESTER
Executive Director

By: Liliana Roman
Title: Coastal Program Analyst

STANDARD CONDITIONS:

This permit is granted subject to the following 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 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 term or condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS: See pages five thru nine.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:

A. PROJECT DESCRIPTION

The project site is coastal waters subject to the public trust located seaward of 341 East Bay Front, Balboa Island in the City of Newport Beach (**Exhibit #1**). A single-family residence occupies the land parcel and single-family residences with large private docks characterize the subject area and the surrounding sites on the Balboa Peninsula facing Lower Newport Bay harbor waters. The proposed project will be for boating related purposes to serve the adjacent single-family residential development.

The proposed development is the demolition and reconstruction of a private dock system which extends from an existing private bulkhead across public tidelands in Lower Newport Bay (**Exhibit #2**). The proposed project consists of demolition of an 724 sq. ft. floating dock system including floating dock, gangway, 12 ft. x 12 ft. pier platform, pier approach and ten 12 in. sq. anchor piles, and construction of a new 622 sq. ft. dock system consisting of a single finger floating dock supported by two relocated 12 in. sq. concrete guide piles, a 24 ft. x 3 ft. gangway, and 10 ft. x 14 ft. pier platform and pier approach supported by three new 14 in. sq. concrete piles. Total water coverage would be reduced by 102 sq. ft. and fill of coastal waters associated with the proposed new dock system will be reduced by approximately 7 sq. ft. No work is proposed to the existing bulkhead located along the seaward property line.

The proposed dock exceeds the U.S. Pierhead Line but conforms to the City of Newport Beach Project Line which is consistent with the City's Harbor Permit Policy for this area of the harbor and past Commission permit actions. The new dock float will be a skinnier and longer "finger" shaped float and will extend an extra 5 ft. further seaward than the existing dock, but will still be within the City of Newport Beach Project Line. The proposed project has received an approval in concept from the City of Newport Beach Harbor Resources Division, Harbor Permit Number 152-341 and Plan Check Number 0552-2014. The Regional Water Quality Control Board (RWQCB) has issued a "General Certification for replacement of Sheet and Dock Piles" determining that the proposed project will not adversely impact water quality if standard construction methods and materials are used. The applicant has applied for a U.S. Army Corps of Engineers' Letter of Permission (LOP) to determine whether the proposed project would have any adverse effect on essential fish habitats.

There is no direct public pedestrian access to public tidelands through the private residential lot associated with this dock project. Public pedestrian access to public tidelands is available along the

pedestrian walkway surrounding Balboa Island along E. Bay Front (located on the seaward side of the single family residence associated with this dock project) which is accessible from every street end along the Balboa Island. Members of the public may access tidelands and, for example, launch a kayak, or during low tide, it is possible to walk under the residential piers for a stroll along the Newport Bay. The public can also access the public beach area seaward of the subject site by watercraft or by swimming to the site. The aerial photographs provided in **Exhibit #1, page #2** clearly show sandy beach areas covered by residential dock structures.

Additionally, **Special Condition 6** states that the Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the subject property including, but not necessarily limited to, the tideland and submerged land beneath the development approved by this Coastal Development Permit. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

The site was surveyed for eelgrass and *Caulerpa taxifolia* on March 19, 2014. The survey area spanned 35 ft. wide paralleling the bulkhead to 95 ft. from the bulkhead past the end of the existing floating dock. Eelgrass was found in two patches in the project vicinity (within 15 ft. of existing dock). Eelgrass Patch A was identified as only 1 turion in density, 4 in. to 6 in. long and Eelgrass Patch B is approximately 4 in. x 3 in. with a turion density of 3-6 turions per sq. ft., 4 in. to 12 in. long. The larger Patch B is currently only a foot away from the existing floating dock and dock pile. The proposed new dock configuration would result in a greater distance/separation of 20 ft. between the new dock float and pile and Eelgrass Patch B. The project will not result in direct impacts to either Patch A or Patch B and BMPs are proposed during the construction phase to ensure no indirect impacts to Eelgrass occur.

No *Caulerpa taxifolia* was discovered within the entire project area. These eelgrass and *Caulerpa taxifolia* surveys are valid for a limited period of time (until the next growing season for eelgrass and 90 days for *Caulerpa taxifolia*). If construction does not occur within the respective time periods, a subsequent survey will be required. **Special Conditions 2 and 3** identify the procedures necessary to be completed prior to beginning any construction.

Furthermore, **Special Condition 4** requires the applicant comply with construction best management practices to ensure no adverse impacts to water quality occur within the marine environment during project demolition and construction.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

B. MARINE RESOURCES

The proposed recreational boat dock development and its associated structures are an allowable and encouraged marine related use. The proposed project results in less water coverage than the existing dock, and less fill of coastal waters, and in that way is beneficial to marine resources. As

conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms to Sections 30224 and 30233 of the Coastal Act.

C. WATER QUALITY

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters. To reduce the potential for post-construction impacts to water quality the Commission requires the continued use and maintenance of post construction BMPs. As conditioned, the Commission finds that the development conforms to Sections 30230 and 30231 of the Coastal Act.

D. LOCAL COASTAL PROGRAM

The LUP for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated on October 8, 2009. 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 a Local Coastal Program that is in conformity with the provisions of Chapter 3.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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.

This permit is granted subject to the following special conditions:

SPECIAL CONDITIONS:

- 1. Conformance with Proposed Project Plans.** The applicant shall conform with the plans submitted on April 17, 2014 consisting of a proposed 26' x 5' pier approach from the existing bulkhead to a 10'x14' pier platform supported by three new 14 in. sq. concrete piles; a 24' x 3' gangway; and an 8' x 35' single finger floating dock supported by two relocated 12 in. sq. concrete guide piles.

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.

2. **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. If any portion of the project commences in a previously undisturbed area after the last valid eelgrass survey expires, a new survey is required prior to commencement of work in that area. 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 by 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.

Post-Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required by this special condition, 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 (SCEMP) (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 by 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 SCEMP. 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.

3. **Pre-Construction *Caulerpa taxifolia* Survey.** 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. If any portion of the project commences in a previously undisturbed area after the last valid *Caulerpa taxifolia* survey expires, a new survey is required prior to commencement of work in that area.

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. Within five (5) business days of completion of the survey, the applicant shall submit the survey:

- (1) for the review and approval by 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.

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 *Calurpa 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 *Calurpa. 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 permittee shall comply with the following construction related requirements:
- A. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion.
 - B. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project.
 - C. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone.
 - E. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity.
 - F. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
 - G. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss.
 - H. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - I. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

- J. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. 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 unless the Executive Director determines that no amendment or new permit is legally required.
 - K. 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.
 - L. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
 - M. The discharge of any hazardous materials into any receiving waters shall be prohibited.
 - N. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
 - O. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
 - P. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
5. **Best Management Practices (BMPs) Program.** By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved boat dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.
- A. Boat Cleaning and Maintenance Measures:
 - 1. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
 - 2. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and
 - 3. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

B. Solid and Liquid Waste Management Measures:

1. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits shall not at any time be disposed of in the water or gutter but, rather be disposed of in a manner consistent with state and/or federal regulations.

C. Petroleum Control Management Measures:

1. 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 shall 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;
 2. 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; and
 3. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.
6. **Public Rights.** The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the subject property including, but not necessarily limited to, the tideland and submerged land beneath the development approved by this Coastal Development Permit. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

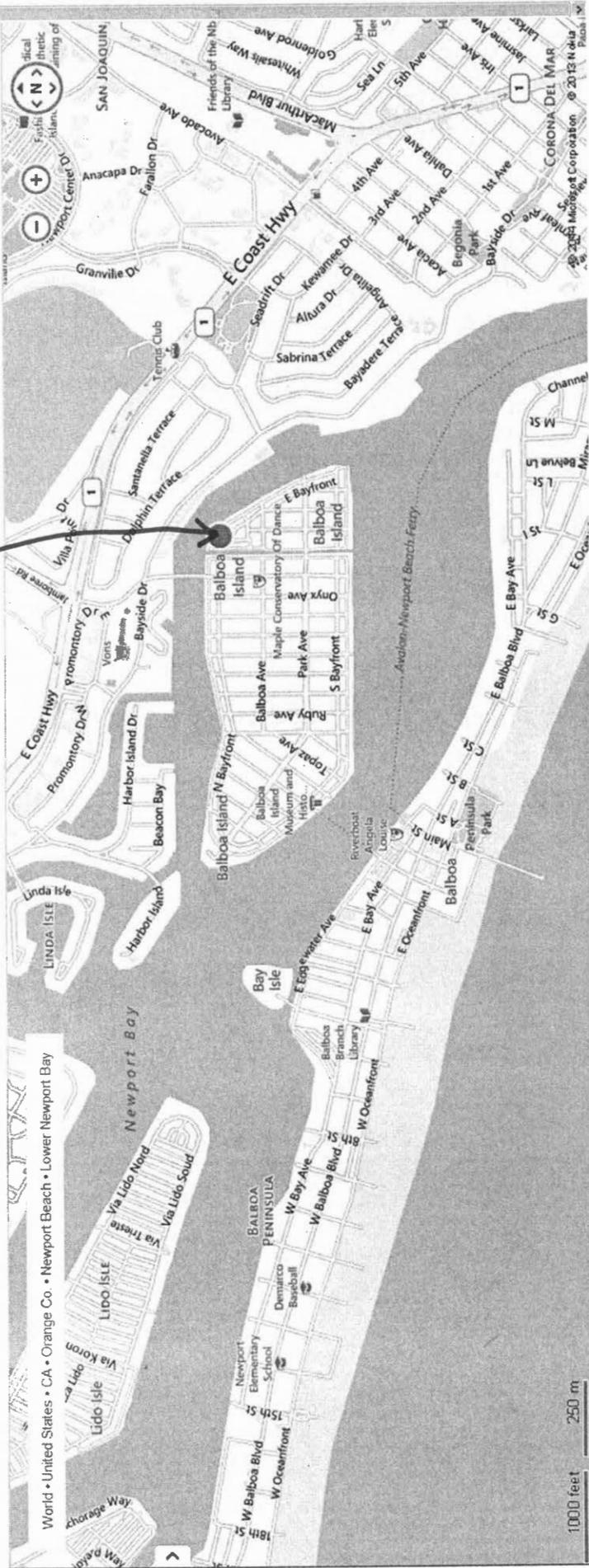
ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

subject site



vicinity map

COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 3

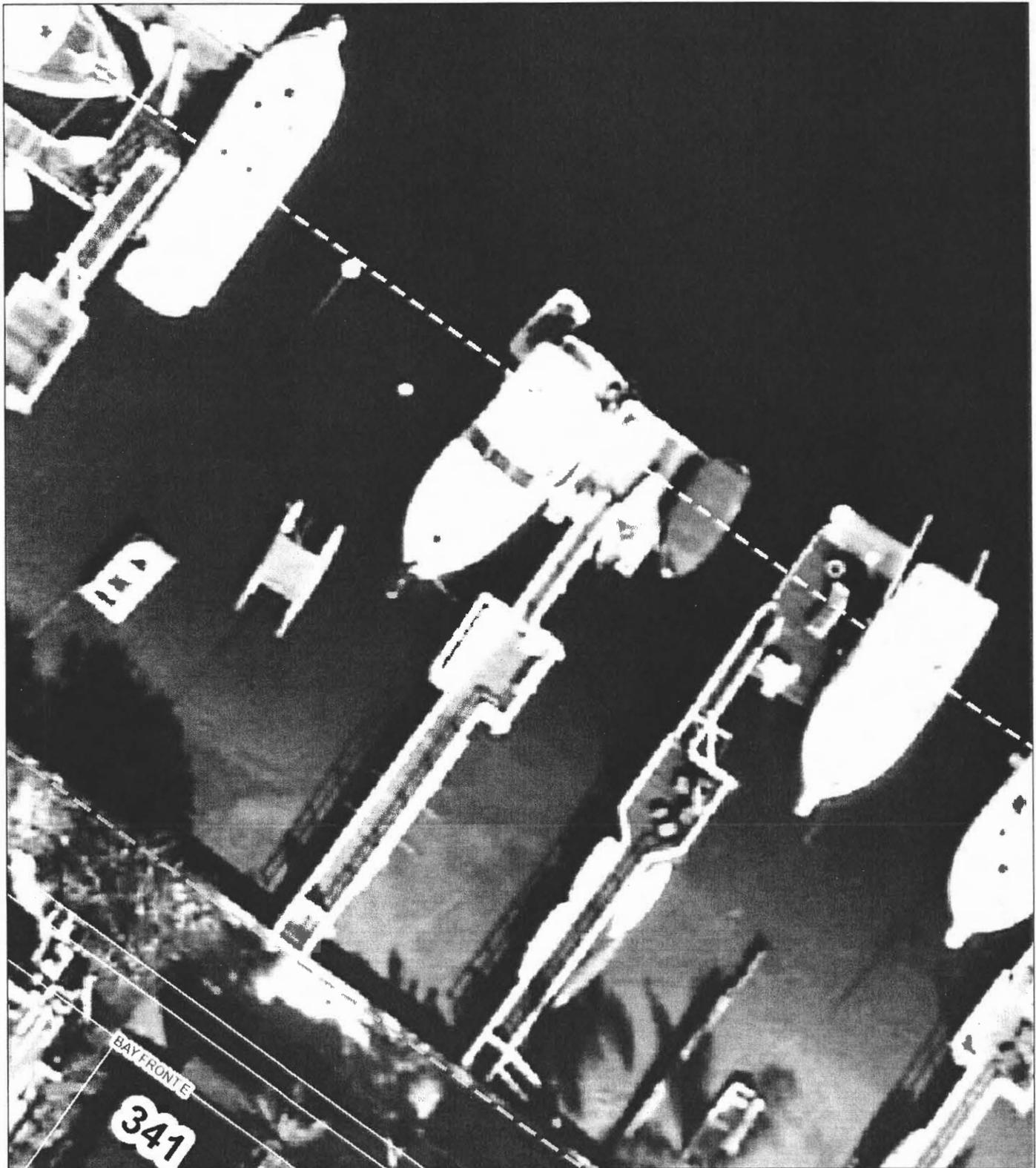
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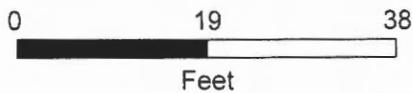
aerial photo

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EXHIBIT # 1
PAGE 2 OF 3



Newport
Beach
GIS



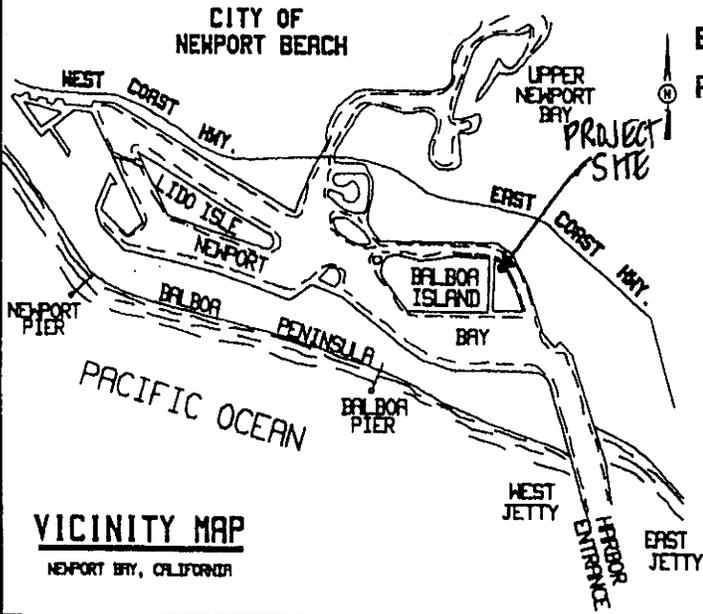
Disclaimer: Every reasonable effort has been made to ensure the accuracy of the data provided, however, the City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

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EXHIBIT # 1
PAGE 3 OF 3

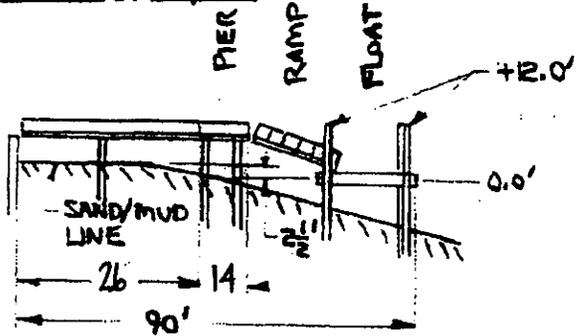
Imagery: 2009-2012 photos provided by Eagle Aerial Imaging www.eagleaerial.com

CITY OF NEWPORT BEACH COASTAL COMMISSION



VICINITY MAP
NEWPORT BAY, CALIFORNIA

EXHIBIT # 2
PAGE 1 OF 4



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

- EEL GRASS INSPECTION**
- Eelgrass within 15' of project
 - Eelgrass within 15 - 30' of project
 - No Eelgrass in project area

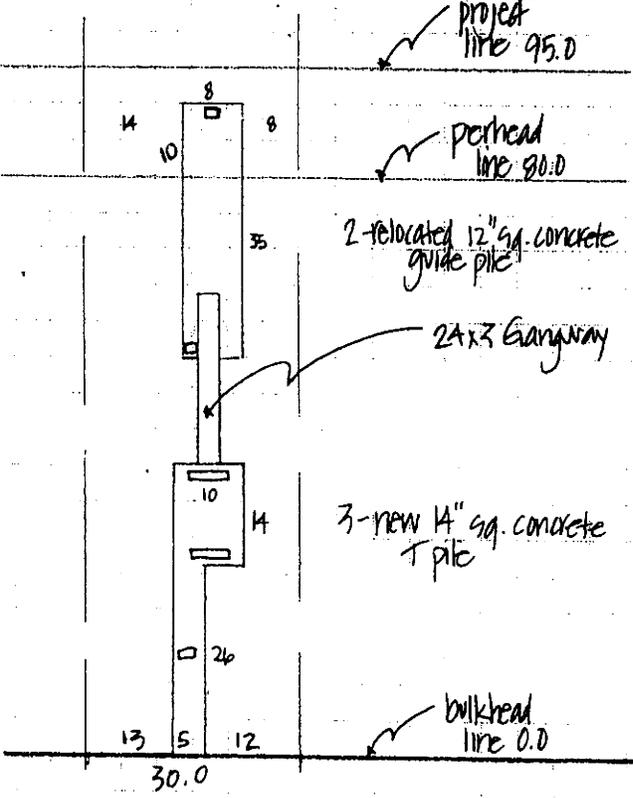
Signature

3/19/14 0930

Inspection Date & Time

PROPOSED

Floating Dock 280 sq. ft.
Gangway 72 sq. ft.
Pier 140 sq. ft.
Approach 130 sq. ft.
TOTAL 622 sq. ft.
5.5 sq. ft. of fill



SCOPE OF WORK:

- Remove existing 724 square foot dock system - floating dock, gangway, pier, approach - and (10) 12" square concrete anchor pile.
- Replace with new 622 square foot dock system - floating dock, gangway, pier, approach - and (3) 14" square concrete T pile.
- Re-locate and re-use 2 existing 12" square concrete guide pile.

341 E. Bayfront

HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

Waters 4/9/14



DOCK & PIER BUILDERS, INC.

APPLICANT'S NAME GREGORY JOHNSON

JOB ADDRESS 341 East Bay Front

DATE 1.22.2014

RECEIVED
 South Coast Region

5-140661

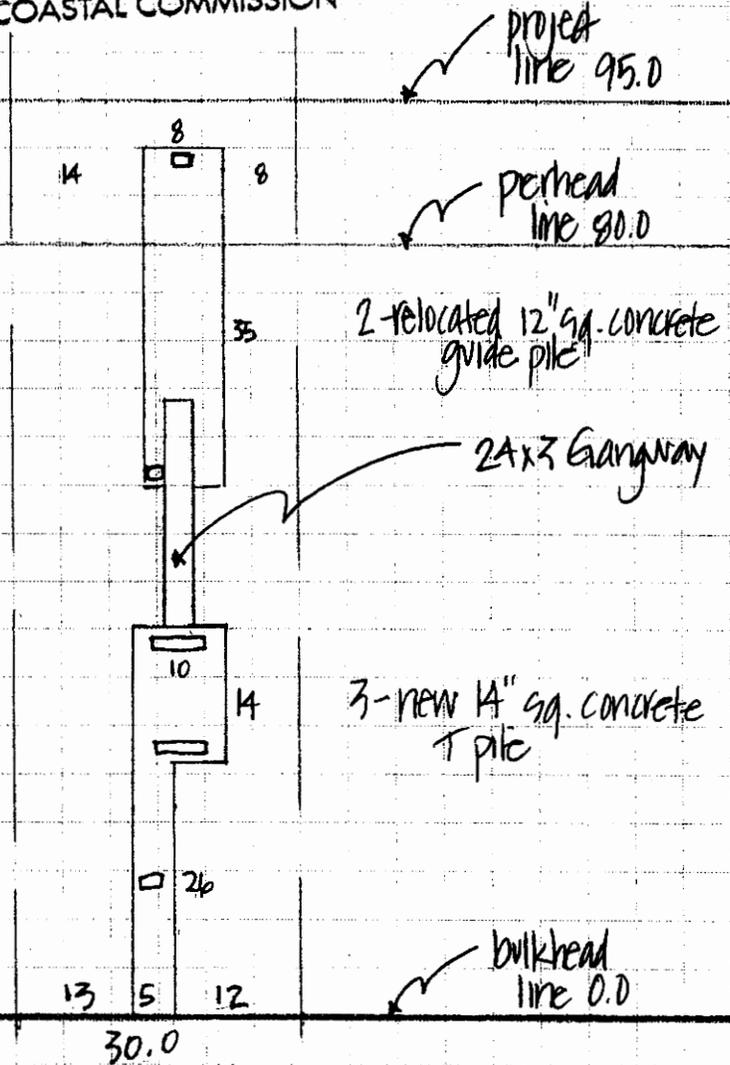
APR 17 2014

CALIFORNIA
 COASTAL COMMISSION

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341 E. Bayfront

EXHIBIT # 2
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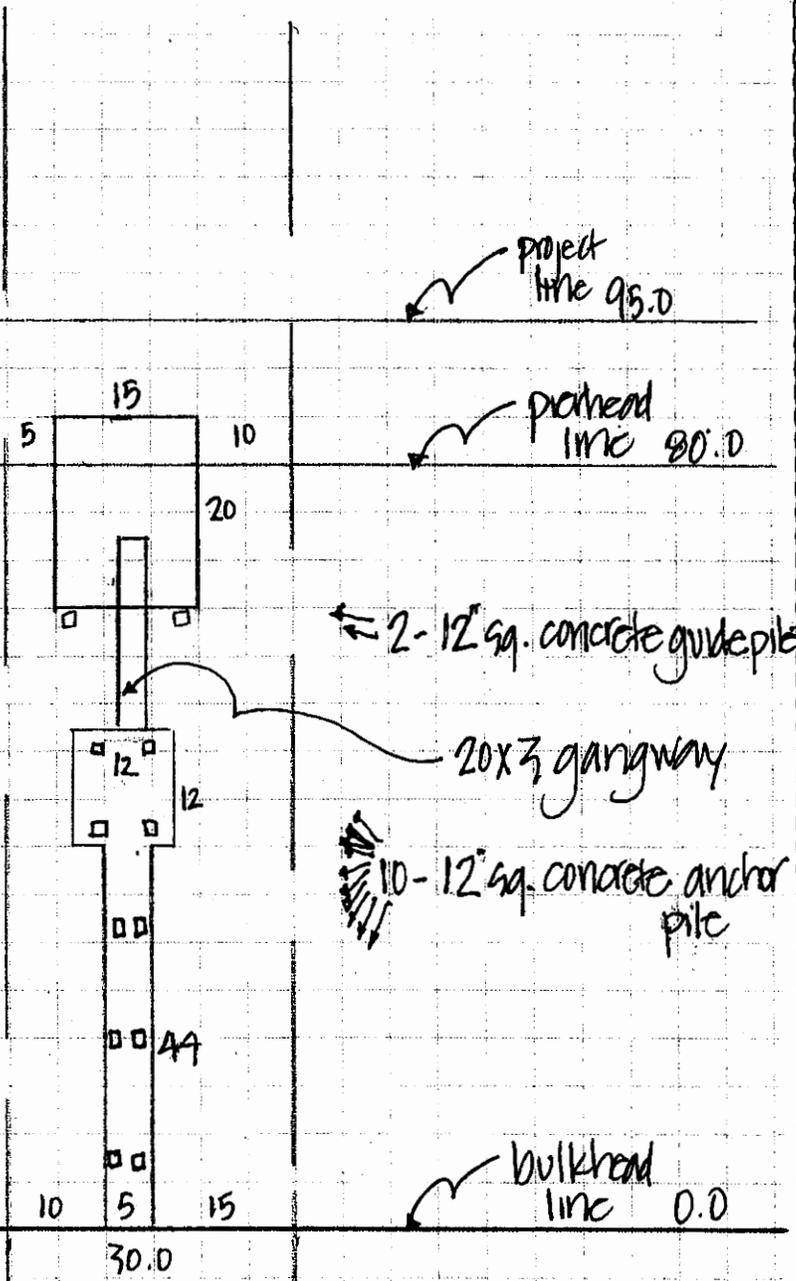


**DOCK & PIER
 BUILDERS, INC.**

EXISTING

Floating Dock 300 sq. ft.
 Gangway 60 sq. ft.
 Pier 144 sq. ft.
 Approach 220 sq. ft.

724 TOTAL SQ. FT.
 12.3 TOTAL SQ. FT. FILL



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341 E. Bay Front

EXHIBIT # 2
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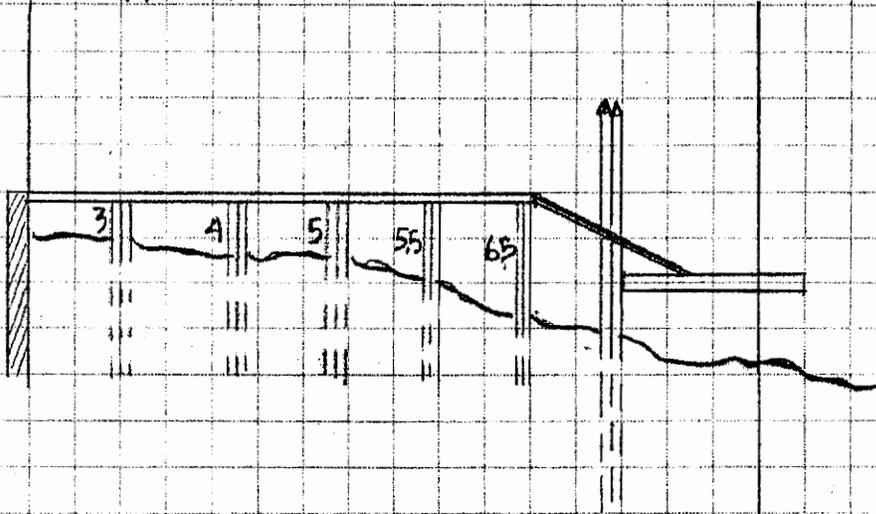
DOCK & PIER BUILDERS, INC.

RECEIVED
South Coast Region

MAY 13 2014

COASTAL COMMISSION

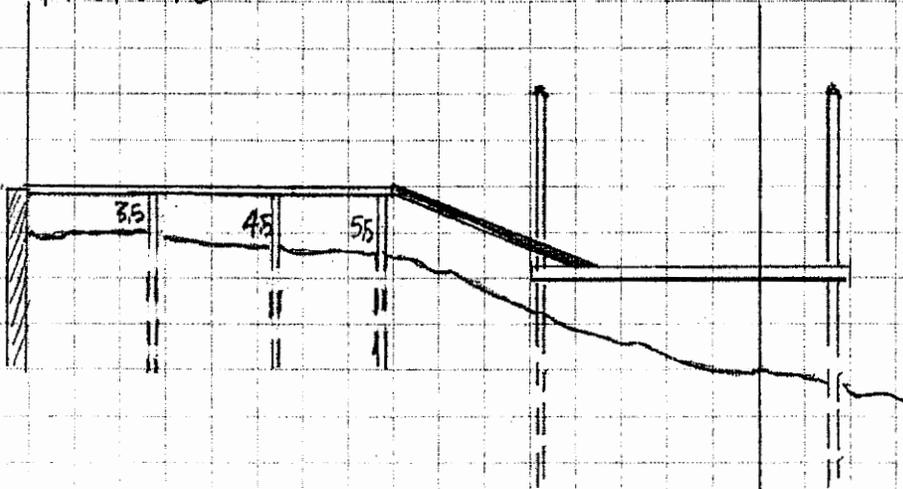
EXISTING



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EXHIBIT # 2
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PROPOSED



JOHNSON
341 E. Bay Front



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**DOCK & PIER
BUILDERS, INC.**