

**CALIFORNIA COASTAL COMMISSION**

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

# Th 13a



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original staff report

## ADDENDUM

February 9, 2015

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM TH13A, 5-14-0715 FOR THE COMMISSION  
MEETING OF THURSDAY, FEBRUARY 12, 2015.**

### 1. CHANGES TO STAFF REPORT

Commission staff recommends modifications to the staff report dated 2/12/15 in the following sections of the staff report: Summary of Staff Recommendation, Section III (Special Conditions) and Section IV (Findings and Declarations). Language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

#### A. **Page 6 – Modify number of parking spaces in Special Condition No. 3, as follows:**

**3. Off-Site Parking.** The twenty-four ~~thirty-eight~~ parking spaces located at the 500 32<sup>nd</sup> Street off-site parking lot (as generally depicted on Exhibit No. 2) must be provided for the life of the commercial uses located at the subject site, 3388 Via Lido, Newport Beach. Any proposed changes to the parking shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### B. **Page 2 – Modify Summary of Staff Recommendation, as follows:**

...

Nine uncovered on-site parking spaces for the commercial uses will be provided on-site. The remaining twenty-four parking spaces for the commercial uses will be provided at a thirty-eight parking space off-site parking lot located at 500 32<sup>nd</sup> Street, approximately 725 feet-away from the subject site and under the same ownership as the mixed use building. This parking lot has historically provided the parking for the commercial development located at the subject site and will continue to do so with the proposed project. A parking covenant between the City and applicant, whom owns both the subject site and off-site parking lot, was recorded on November 29, 2011 to ensure that parking spaces would continue to remain entitled to the proposed uses at 3388 Via Lido. The provided parking meets the required number of parking spaces required by the City of Newport Beach. To ensure that the off-site parking will be continuously provide for the commercial uses at the subject site, the Commission has imposed, **Special Condition No. 3**, which requires that for the life of the commercial developments located at 3388 Via Lido, that

~~twenty-four thirty-eight~~ parking spaces will be provided at the 500 32<sup>nd</sup> Street off-site parking lot.

...

**C. Page 13 – Modify the following paragraphs to reflect the correct number of parking spaces available at the off-site parking lot, as follows:**

...

Twenty-eight parking spaces are required for the commercial uses. Nine of those parking spaces will be provided on-site as uncovered parking spaces. As was the case for the previous use and still stands now, additional commercial parking will be provided at the associated off-site parking lot located at 500 32<sup>nd</sup> Street. ~~Twenty-four of the The~~ thirty-eight parking spaces available at this off-site lot will be used by the commercial component of the proposed building. Thus, adequate commercial parking will be provided. A parking covenant between the City and applicant, whom owns both the subject site and off-site parking lot, was recorded on November 29, 2011 to ensure that parking spaces would continue to remain entitled to the proposed uses at 3388 Via Lido.

...

**D. Page 18 – Modify the following paragraphs to reflect the changes to Special Condition Nos. 3, as follows:**

...

As required by the City of Newport Beach, four parking spaces (two for each residential unit) and twenty-eight parking spaces for the commercial unit are required. The proposed project provides five parking spaces (three covered parking spaces for one residential unit and two covered parking spaces for the other residential unit) on-site for the residential uses and a total of ~~thirty-three forty-seven~~ parking spaces (nine on-site and ~~twenty-four thirty-eight~~ at the 32<sup>nd</sup> Street parking lot) for the commercial uses. As required by the City of Newport Beach adequate parking is provided. A parking covenant between the City and applicant, whom owns both the subject site and off-site parking lot, was recorded on November 29, 2011 to ensure that parking spaces would continue to remain entitled to the proposed uses at 3388 Via Lido. To ensure that parking will be preserved at the 500 32<sup>nd</sup> Street off-site parking lot for the commercial uses located at 3388 Via Lido, the Commission imposes, **Special Condition No. 3**, which requires that for the life of the commercial developments located at 3388 Via Lido, that ~~twenty-four thirty-eight~~ parking spaces will be provided at the 500 32<sup>nd</sup> Street off-site parking lot. As required by the City of Newport Beach, pursuant to their Zoning Code in effect as of October 13, 2005, 1.5 parking spaces (0.75 per slip) are necessary for the two proposed slips available to the general public. Those two parking spaces are available either in the on-site parking lot or at the off-site parking lot. Parking for the one slip associated with one of the residential units will be provided on-site through the parking required for the residential use.

...

## **E. CORRESPONDENCE RECEIVED**

Commission staff received a letter on February 4, 2015 from the applicant. In the letter, the applicant requests that Special Condition No. 3 be modified to require twenty-four parking spaces instead of thirty-eight at the off-site parking lot located at 500 32<sup>nd</sup> Street, Newport Beach. With that change, the applicant states that they are in support of the findings and concur with the recommendation for approval, as conditioned, and request that the item be moved to the Consent Calendar. (See attached letter).



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New Port Beach Mixed Development LLLP   ➤   New Port Beach Townhouse LLLP

February 4, 2015

VIA EMAIL & OVERNIGHT DELIVERY

Fernie Sy  
California Coastal Commission  
South Coast District Office  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4416

**SUBJECT:      Staff Report (Item Th 13a) Applicant Response – Coastal Development Permit Application No. 5-14-0715**

Dear Mr. Sy,

New Port Beach Mixed Development, LLLP, the project applicant, is in receipt of the Staff Report and recommendation contained therein, as posted on the Commission's website on January 29, 2015.

After careful review of the subject report, we have the following clarification regarding the off-site parking lot located at 500 32nd Street and a subsequent request for revision to Special Condition #3. The subject parking lot is currently under a parking covenant between the City of Newport Beach and the applicant, who owns both the off-site parking lot and subject project site (recorded November 29, 2011), in which it's stated that twenty-four (24) off-site parking spaces are required to be provided for the life of the commercial uses associated with 3388 Via Lido. An additional nine (9) parking spaces for commercial uses are also provided on-site at 3388 Via Lido, resulting in a total of thirty-three (33) available parking spaces to accommodate commercial uses. As the City of Newport Beach Zoning Code requires a total of 28 off-street parking spaces, along with 1.5 spaces to accommodate the two (2) proposed boat slips available for lease to the general public, at least 30 parking spaces (rounded) are required to be provided. As described herein, there is a surplus of 3 parking spaces and therefore, adequate off-street parking can be demonstrated without the need to dedicate the entire off-site parking lot spaces to the commercial uses at the subject site. We would therefore request that the parking description provided on page 18 within *Section E. Public Access, Section 1. Parking* be revised to reflect that only twenty-four (24) parking spaces are required off-site (and not thirty-eight). There are two references in that paragraph.

Additionally, we respectfully request revisions to Special Condition #3 as shown below in track changes format, with new text underlined and deleted text with ~~strikethrough~~.

**3. Off-Site Parking.** The ~~thirty-eight~~ twenty-four (24) parking spaces (or so many as required pursuant to the City of Newport Beach Zoning Code) located at the 500 32nd Street off-site parking lot (as generally depicted on Exhibit No. 2) must be provided for the life of the commercial uses located at the subject site, 3388 Via Lido, Newport Beach, to the extent not provided on-site. Any ~~proposed changes to the parking reduction to the number of parking spaces provided at the 500 32nd Street lot~~ shall be reported to the Executive Director. No changes ~~to the approved plan~~ shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

With the request for modification to Special Condition #3, we are in support of the findings and concur with the recommendation for approval, as conditioned. We agree to adhere to and implement Standard Conditions 1 through 5, and Special Conditions 1 through 12, as proposed to be modified. Accordingly, and assuming Staff are in agreement with the minor modification to Special Condition #3, we would respectfully request being moved to the Consent Calendar at our regularly scheduled hearing on Thursday, February 12, 2015.

Thank you for the favorable recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Mills", with a stylized flourish at the end.

Steve Mills

cc: Alison Evans, Dudek  
Justin Park, Wieland-Davco Corporation  
Susan Graham, Allen Matkins Leck Gamble Mallory & Natsis LLP  
Jacquelyn Chung, Swift Slips

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**TH 13a**

Filed: 8/25/14  
180th Day: 2/20/15  
Staff: F. Sy-LB  
Staff Report: 1/27/15  
Hearing Date: 2/12/15

**STAFF REPORT: REGULAR CALENDAR**

**Application No.:** 5-14-0715

**Applicant:** New Port Beach Mixed Development LLLP

**Agent:** Dudek, Attn: Alison Evans

**Project Location:** 3388 Via Lido, Newport Beach (Orange County)

**Project Description:** After-the-fact renovation of an existing bay fronting 5-story building and associated parking lot to accommodate new mixed use development (i.e., 8,022 square feet of commercial and 8,940 square feet of residential [two units]) and also renovations to the associated existing docks and boardwalk.

**Staff Recommendation:** Approval with conditions

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**SUMMARY OF STAFF RECOMMENDATION**

Commission staff is recommending **APPROVAL** of the after-the-fact renovation of an existing bay fronting 5-story building and associated parking lot to accommodate new mixed use development that will accommodate commercial uses on the bottom two floors and two residential units on the three remaining upper floors and also renovations to the associated existing private docks and public boardwalk. The Newport Bay fronting subject site is located in the Lido Village area of Newport Beach that is primarily developed with commercial uses such as restaurants, salons, apparel, and other specialty shops. Located within this area is also the Lido Marina Village, which is a pedestrian-oriented waterfront development that includes visitor-serving commercial uses. The subject site is designated as Mixed Use Water Related (MU-W) in the Newport Beach certified Coastal Land Use Plan (CLUP). This land use designation allows for coastal-dependent and coastal-related uses and visitor-serving uses and also for mixed-use

structures with residential development located above the ground floor. The 1<sup>st</sup> floor of the renovated building will be occupied by a jewelry store and the 2<sup>nd</sup> floor will be occupied by a loan refinancing business specializing in marine vessel loans. The 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors will be split between two residential units. Therefore, the proposed uses adhere to this MU-W designation. Locating the visitor-serving commercial development on the ground is consistent with the Coastal Act since it places higher priority use on the more easily accessible ground floor and the lower priority use on the upper floors. In order to ensure that priority visitor-serving commercial uses are located on the ground floor, the project has been conditioned to limit use of the ground floor tenant space to visitor-serving commercial uses (see **Special Condition No. 1**). For the residential use of the site, five on-site parking spaces will be covered within new covered garages located on the landward side of the existing commercial building. Nine uncovered on-site parking spaces for the commercial uses will be provided on-site. The remaining parking for the commercial uses will be provided at a thirty-eight parking space off-site parking lot located at 500 32<sup>nd</sup> Street, approximately 725 feet-away from the subject site and under the same ownership as the mixed use building. This parking lot has historically provided the parking for the commercial development located at the subject site and will continue to do so with the proposed project. A parking covenant between the City and applicant, whom owns both the subject site and off-site parking lot, was recorded on November 29, 2011 to ensure that parking spaces would continue to remain entitled to the proposed uses at 3388 Via Lido. The provided parking meets the required number of parking spaces required by the City of Newport Beach. To ensure that the off-site parking will be continuously provide for the commercial uses at the subject site, the Commission has imposed, **Special Condition No. 3**, which requires that for the life of the commercial developments located at 3388 Via Lido, that thirty-eight parking spaces will be provided at the 500 32<sup>nd</sup> Street off-site parking lot. To ensure that future development on site will not result in insufficient parking and thus forcing patrons to take up public parking spaces intended for visitors to the coast, a future improvements special condition has been imposed (**Special Condition No. 2**). To protect water quality during and post construction, three conditions have been imposed to minimize impacts to water quality such as construction Best Management Practices, conformance with the Water Quality Management Plan (WQMP) and landscape plan (**Special Conditions No. 4, 5 and 6**). The 5-story bay fronting commercial building along Via Lido that will be renovated is 60-feet tall and is located in an area where buildings of various heights (one to three stories) are located along the Bayfront similar to the subject building. Public views to Newport Bay in this area are already impacted from Via Lido by the existing buildings. No work is proposed to the building that will increase the existing height of the building and result in additional adverse view impacts. Therefore, the proposed project does not result in any additional adverse visual impacts.

The proposed project also includes the removal and replacement of an existing boat dock system in a unique are because docks in this area are private docks of various sizes that are available for use by the general public by private lease. It is unique because a majority of docks located in Newport Bay are private docks associated with private residences and not available for the general public to use. The proposed project includes the removal of the existing boat dock system that provides seven slips and replacing it with a boat dock system that provides three slips, where one of the new slips will be for one of the new residential units and the other two will be for use by the general public. This is similar to the existing situation in which the general public could rent the existing slips. While the reduction of available slips to the general public



from seven to three could raise a concern, this is not the case in this situation. Of the seven slips on-site, only four of the slips have been rented out to the public since the three located closer to the boardwalk have inadequate access to the bay and therefore have not been rented out. Thus, only four slips have been available to the public and therefore there would only be a net loss of one slip with the proposed project. Additionally, while there are only two public slips proposed that are approximately 80-feet in length, the applicant has stated that their length does not preclude the use of boats of smaller sizes. Thus, a variety of boats of different sizes could use the dock and this also continues the uniqueness of the area by continuing to provide a mix of slips sizes in the area for the general public to use. The loss of small slips or range of sizes does not occur frequently in the area. If in the future this trend towards loss of smaller public available slips increase, it would raise a concern and would need to be reassessed to determine its impact upon public access.

Portions of the proposed boat dock system, such as the new 14-inch 'T' pile for the re-decked boardwalk and the public access signs at the ends of the re-decked boardwalk have not yet obtained local approval from the City of Newport Beach Harbor Resources Division. Thus, Commission staff has imposed **Special Condition No. 7**, which requires local approval and submittal of revised project plans. No eelgrass or *Caulerpa Taxifolia* has been found at the subject site and no impacts to either are anticipated. However, in order to verify that no impacts to either occur, the Commission has imposed **Special Condition No. 8**, which requires a new eelgrass survey and identifies the procedures necessary to be completed prior to beginning construction, in case the new survey also expires prior to commencement of construction and **Special Condition No. 9**, which requires the applicant, prior to commencement of development, to survey the project area for the presence of *Caulerpa Taxifolia*. To ensure that all impacts to water quality are minimized, the Commission imposes **Special Condition No. 10**, which requires, but is not limited to, appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters, and **Special Condition No. 11**, which requires the continued use and maintenance of post construction BMPs.

To ensure that future owners are aware of the special conditions imposed on this project, a deed restriction against the subject site located at 3388 Via Lido and the off-site parking lot located at 500 32<sup>nd</sup> Street has been required (**Special Condition No. 12**). As conditioned, the proposed project will conform with Coastal Act Policy Sections 30222, 30210, 30250, 30252, 30230, 30231, 30232, 30233, 30250, and 30251 of the Coastal Act.



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### APPENDICES

Appendix A – Substantive File Documents

### EXHIBITS

Exhibit No. 1 – Location Map

Exhibit No. 2 – Aerial Map

Exhibit No. 3 – City of Newport Beach certified Coastal Land Use Plan (CLUP)  
Mixed Use Water Related (MU-W) Map

Exhibit No. 4 – Building Site Plan

Exhibit No. 5 – Building Floor and Elevation Plans

Exhibit No. 6 – Boat Dock System Plans

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-14-0715 pursuant to the staff recommendation.*

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:

*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 will substantially lessen any significant adverse impacts of the development on the environment.*

## II. 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 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

This permit is granted subject to the following special conditions:

- 1. Mixed Use Water Related (MU-W) Uses.** This permit is only for the development described in Coastal Development Permit No. 5-14-0715. Proposed uses on the ground floor shall be limited to commercial development in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor consistent with the City of Newport Beach certified Coastal Land Use Plan (CLUP) designation of Mixed Use Water Related (MU-W).
- 2. Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-14-0715. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-14-0715. Accordingly, any change in use or intensity of use and any future improvements to the building uses authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(b) and Title 14 California Code of Regulations Sections 13253(a)-(b), shall require an amendment to Permit No. 5-14-0715 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 3. Off-Site Parking.** The thirty-eight parking spaces located at the 500 32<sup>nd</sup> Street off-site parking lot (as generally depicted on Exhibit No. 2) must be provided for the life of the commercial uses located at the subject site, 3388 Via Lido, Newport Beach. Any proposed changes to the parking shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 4. Construction Best Management Practices.**
  - A. The permittee shall comply with the following construction-related requirements:
    1. No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
    2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
    3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
    4. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during

construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

1. The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These 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. It shall be located as far away from the receiving waters and storm drain inlets as possible;
2. The applicant shall develop and implement spill prevention and control measures;
3. The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a storm drain, open ditch or surface water; and
4. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

**5. Conformance with Water Quality Management Plan (WQMP).** The applicant shall conform to the Water Quality Management Plan (WQMP) prepared by C&V Consulting, Inc. dated February 2011. All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals. At a minimum, all BMP traps/separators and/or filters shall be inspected and cleaned/repared or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, (2) inspected monthly thereafter for the duration of the rainy season (October 15th -April 30), and cleaned/maintained as necessary based on inspection and, (3) inspected and maintained where needed throughout the dry season. Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 6. 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.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

- 7. Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The intent behind the required revised project plans is to show the following: 1) the correct square footage of the existing and proposed boat dock system, 2) final pile design showing the two (2) 14-inch “T” piles with local approval; and 3) final public sign location along the boardwalk with local approval. The revised project plans shall be in substantial conformance with the project plans received on May 6, 2014. The revised plans submitted to the Executive Director shall bear evidence of Approval-in-Concept of the revised designs from the City of Newport Beach Harbor Resources Division.

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.

- 8. 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.

- 9. 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 *Caulerpa 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 *Caulerpa 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.

**10. 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.

**11. 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.

**12. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **IV. FINDINGS AND DECLARATIONS:**

##### **A. DESCRIPTION AND PROJECT LOCATION**

The subject site, 3388 Via Lido, consists of 14,128 square foot lot and is located at the northeast corner of the intersection of Via Lido and Via Oporto between Via Lido and Newport Bay within the City of Newport Beach, Orange County a County (**Exhibits No. 1-2**). The subject site is currently developed with a 5-story office building, previously used as a bank, with nineteen on-site parking spaces. West of the subject site is Newport Bay; east of the subject site is the frontage road, Via Lido, along with one to three-story commercial development directly across the street and to the north and south. The subject site is located in the Lido Village area of Newport Beach, which is primarily developed with commercial uses including grocery stores, restaurants, salons, home furnishings, apparel, and other specialty shops. The area also includes Lido Marina Village, which is a pedestrian-oriented waterfront development that includes visitor-serving commercial uses, specialty stores, and marine uses.

The subject site, as well as the other commercial areas located to the east, north and south of the subject site, is designated as Mixed Use Water Related (MU-W) in the Newport Beach Coastal Land Use Plan (CLUP) (**Exhibit No. 3**). This designation intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Single-use residential development is not allowed. The applicant is proposing a mixed use building with commercial

uses on the bottom two floors and two residential units occupying the remaining three floors above. The 1<sup>st</sup> floor will be occupied by a jewelry store and the 2<sup>nd</sup> floor will be occupied by a loan refinancing business specializing in marine vessel loans. Both uses are consistent with the types of uses allowed under this land use designation. Thus, the proposed uses adhere to this MU-W designation.

The proposed project consists of the after-the-fact renovation of the existing, 60-foot tall, 5-story 20,143 square foot commercial building (**Exhibits No. 1-2 and 4-5**). The previous use was a bank that occupied all five floors of the building and had nineteen uncovered parking spaces, including 1 van stall located on-site. Additional parking was previously provided at an off-site parking lot, approximately 725-feet from the subject site, located at 500 32<sup>nd</sup> Street (**Exhibits No. 1-2**) also owned by the applicant.

Renovation work will include demolition of the existing bank vault to provide a new lobby area for the commercial tenant space and modification of existing exterior walls on the 3<sup>rd</sup> and 4<sup>th</sup> floor to allow for new balcony space. The footprint of the building will remain the same except for the addition of the new covered garages for a total of five parking spaces for the two residential units (to be discussed below). Additional renovation work will not result in a change to the existing 60-foot height. A new patio awning on the 5<sup>th</sup> floor will be installed that will be below the 60-foot height and screening of the existing mechanical equipment on the roof that is allowed to go above the height limit by up to 5-feet is proposed. The screening will reach a height maximum height of 65-feet.

Post renovation, the commercial building will consist of a total of 8,022 square feet of commercial space on the 1<sup>st</sup> (4,054 square feet) and 2<sup>nd</sup> floors (3,968 square feet). The 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors will consist of two residential units totaling 8,940 square feet (**Exhibits No. 4-5**). Post project, the building will consist of 18,147 square feet. Thus, the project will result in a decrease of 1,996 square feet, largely due to internal reconfigurations to accommodate the residential units.

A total of five parking spaces will be provided through new covered garages totaling 1,185 square feet that will be located within the existing parking lot on the landward side of the existing commercial building fronting the street, Via Lido. A new one car covered garage and a two car covered garage will be for one of the residential units and another two car covered garage will be for the other residential unit.

Twenty-eight parking spaces are required for the commercial uses. Nine of those parking spaces will be provided on-site as uncovered parking spaces. As was the case for the previous use and still stands now, additional commercial parking will be provided at the associated off-site parking lot located at 500 32<sup>nd</sup> Street. The thirty-eight parking spaces available at this off-site lot will be used by the commercial component of the proposed building. Thus, adequate commercial parking will be provided. A parking covenant between the City and applicant, whom owns both the subject site and off-site parking lot, was recorded on November 29, 2011 to ensure that parking spaces would continue to remain entitled to the proposed uses at 3388 Via Lido.

The proposed project also includes a parcel map for condominium purposes.

The proposed project also includes work to the existing boat dock system consisting of: removal of the 3,409 square foot floating dock with seven slips that also includes, ten 14-inch square guide piles, and replacement with a new 3,457 square foot boat dock system with three slips with ten 18-inch square concrete guide pile, two 14-inch square concrete “T” piles, a 5-foot x 5-foot gangway platform, and new 24-foot x 3-foot gangway (**Exhibit No. 6**). Six existing 14-inch “T” supporting the boardwalk will remain. One of the new 14-inch “T” piles will support the new gangway platform and the other will replace an existing 14-inch “T” pile that supports the boardwalk.

The existing boat dock system consists of 3,409 square feet and the proposed boat dock system consists of 3,457 square feet. As proposed, the proposed boat dock system results in approximately 48 square feet of increased water coverage.

The existing docks slips are available for use by lease to the general public. Of the three slips, two will be made available for rental to the general public, similar to the existing situation and one will be for one of the residential units.

In addition, the existing 115-foot x 6-foot (690 square feet) public boardwalk will be re-decked like for like and the six existing 14-inch concrete “T” piles supporting the boardwalk will be re-used. The applicant is also proposing new public access signage along the redecked boardwalk. Materials used for the project will consist of pressure treated wood and PVC decking. The boardwalk will be repaired first and then the work on the boat dock system would begin. Public access along the existing boardwalk would continue to be provided through the headwalk of the existing boat dock system during re-decking of the boardwalk. Once the re-decking is completed, public access along the boardwalk would resume.

## **B. LOCAL GOVERNMENT AND OTHER APPROVALS**

The existing boat dock system extends approximately 5-feet bayward past the U.S. Pierhead Line; however, the new proposed boat dock system will be pulled back and located behind the U.S. Pierhead Line. The boat dock system component of the project has received City of Newport Beach Harbor Resources Division Permit/Approval-in-Concept Harbor Permit No. 124-3888 and Plan Check No. 1095-2013 dated August 13, 2013. The Santa Ana Regional Water Quality Control Board (RWQCB) has determined that the proposed project will not adversely impact water quality if standard construction methods and materials are used. The applicant has applied for a permit from the U.S. Army Corps of Engineers and the permit is pending coastal development permit approval.

## **C. PRIOR COMMISSION ACTIONS**

Subject Site: 3388 Via Lido, Newport Beach

On November 21, 2007, the Commission approved an Exemption No. 5-07-112-X-(Wasserman Real Estate Capital, LLC) for the following development: Renovate existing 5-story commercial building. Work includes replacing and adding windows, and replacing glazing, railings, stone veneer, doors, and resurface and repaint exterior of existing structure. Approximately 9,518 square feet of the existing 19,943 square feet (48%) of exterior wall surface will be demolished

and replaced. The remaining 52% of the exterior wall surfaces will remain untouched except for some resurfacing and/or painting. Interior renovations include replacement of mechanical, electrical and plumbing systems, ADA improvements, demolition and replacement of interior partitions, restrooms, corridors and elevator lobbies, and refinishing or replacing existing elevator car. There are no proposed changes to the existing: 1) size/square footage of the building; 2) height of the building; or 3) use or intensity of use of the building.

On September 13, 2013, Commission staff received an application (CDP No. 5-13-0753-(New Port Beach Mixed Use Development LLLP); for removal of the existing boat dock system and replacement of a new boat dock system. After review of this application, it was determined that separate landside development had taken place that was not approved by Exemption No. 5-07-112-X on November 21, 2007. The exemption did not allow any change to the existing size/square footage of the building nor did it allow change in the intensity of use of the building; however, it was discovered that there were changes to the square footage and that the renovation actually consisted of changing the intensity of use from a commercial building to a mixed use commercial and residential building, where the first two floors would be for commercial uses and the top three floors would be for two residential units. On April 29, 2014, the applicant withdrew this application and on May 6, 2014, submitted an application that included removal and replacement of the boat dock system and request for approval of after-the-fact renovation of the existing bay fronting 5-story building and associated parking lot, including the change in intensity of use from a commercial building to a mixed use building consisting of commercial and residential.

#### Off-Site Parking Lot Located at 500 32<sup>nd</sup> Street, Newport Beach

In July 2012, the Commission approved De-Minimus Waiver No. 5-12-112-(Newport Beach Townhouse LLLP) for the demolition of the existing 400 square foot bankteller building located in an existing parking lot, restriping of the existing thirty-eight space parking lot resulted in a thirty-nine space parking lot and Americans with Disabilities Act (ADA) parking, and installation of drought resistant landscaping.

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 Coastal Land Use Plan (CLUP) 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 Coastal Land Use Plan may be used for guidance.

#### **D. LAND USE**

Section 30222 of the Coastal Act states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30222 of the Coastal Act requires visitor-serving commercial recreational facilities to have priority over private residential, general industrial, or general commercial development on private land suitable for such development.

The subject site is designated as Mixed Use Water Related (MU-W) in the Newport Beach certified Coastal Land Use Plan (CLUP). The intent of this land use designation is to allow for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Permitted uses under the CLUP within this land use designation include those uses which are also allowed in the Recreational and Marine Commercial (CM), Visitor Serving Commercial (CV), and (Mixed Use Vertical) MU-V categories. These uses are all similar to those described under the MU-W designation that allows for commercial development that encourages coastal dependent and visitor-serving uses on the ground floor and residential uses above the ground floor. The applicant is proposing a mixed use building with commercial uses on the bottom two floors and two residential units occupying the remaining three floors above. The 1<sup>st</sup> floor will be occupied by a jewelry store and the 2<sup>nd</sup> floor will be occupied by a loan refinancing business specializing in marine vessel loans. Both uses are consistent with the types of uses allowed under this land use designation. Thus, the proposed uses adhere to this MU-W designation.

The project site is located in the Lido Village area of Newport Beach that also includes the Lido Marina Village area, which is primarily developed with visitor-serving commercial uses (**Exhibits No. 1-3**). The Commission has typically allowed residential uses on the 2<sup>nd</sup> floor, as long as the 1<sup>st</sup> floor has visitor-serving commercial uses, which are a priority use. Visitor-serving commercial uses on the 1<sup>st</sup> floor are more accessible and visible to the public and is consistent with the Coastal Act since it enhances public opportunities by placing higher priority use on the more easily accessible lower floor and the lower priority use on the upper floors. As proposed, the project is consistent with the Coastal Act. However, once the renovation of the building is completed, if not adequately restricted, a variety of uses could occupy the ground floor that are not priority uses which would be inconsistent with the Coastal Act. To ensure that this is not the case, a special condition must be imposed to ensure that only visitor-serving commercial uses, which provide services directly to the public are allowed on the 1<sup>st</sup> floor. Therefore, the Commission imposes **Special Condition No. 1**, which requires that only visitor-serving commercial uses be located on the 1<sup>st</sup> floor. **Special Condition No. 2** further specifies that future improvements, including change in use or intensity of use, are required to be reviewed by the Commission.

### **Conclusion**

Thus, as conditioned, the Commission finds that the proposed project is consistent with Section 30222 of the Coastal Act with regard to visitor-serving commercial recreational facilities having priority over private residential, general industrial, or general commercial development on private land suitable for such development.

## **E. PUBLIC ACCESS**

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 30250 of the Coastal Act states, in pertinent part:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Section 30210 of the Coastal Act protect the publics' right to access the shoreline and water and recreational opportunities. Section 30252 of the Coastal Act requires that public access to the coast be maintained and enhanced by supplying adequate parking to support new development to encourages the use of public transit and non-automobile circulation to serve the transit needs of new development.



## 1. Parking

The project is located in the Lido Village and Lido Marina Village area of Newport Beach, which is primarily developed with visitor-serving commercial uses and is frequently visited by the public. It is located adjacent to Newport Bay.

As required by the City of Newport Beach, four parking spaces (two for each residential unit) and twenty-eight parking spaces for the commercial unit are required. The proposed project provides five parking spaces (three covered parking spaces for one residential unit and two covered parking spaces for the other residential unit) on-site for the residential uses and a total of forty-seven parking spaces (nine on-site and thirty-eight at the 32<sup>nd</sup> Street parking lot) for the commercial uses. As required by the City of Newport Beach adequate parking is provided. A parking covenant between the City and applicant, whom owns both the subject site and off-site parking lot, was recorded on November 29, 2011 to ensure that parking spaces would continue to remain entitled to the proposed uses at 3388 Via Lido. To ensure that parking will be preserved at the 500 32<sup>nd</sup> Street off-site parking lot for the commercial uses located at 3388 Via Lido, the Commission imposes, **Special Condition No. 3**, which requires that for the life of the commercial developments located at 3388 Via Lido, that thirty-eight parking spaces will be provided at the 500 32<sup>nd</sup> Street off-site parking lot. As required by the City of Newport Beach, pursuant to their Zoning Code in effect as of October 13, 2005, 1.5 parking spaces (0.75 per slip) are necessary for the two proposed slips available to the general public. Those two parking spaces are available either in the on-site parking lot or at the off-site parking lot. Parking for the one slip associated with one of the residential units will be provided on-site through the parking required for the residential use.

Section 30250 of the Coastal Act requires that new development be located where it will not have cumulative adverse effects on coastal resources. In this case, the proposed project will provide adequate parking and not impact existing on-street public parking spaces used by visitors to the coast. Therefore, the project does not contribute to cumulative impacts on public access.

Thus, with the proposed project, there is no significant potential for adverse impacts to public beach access as a result of any parking deficiency. However, future development may potentially result in insufficient parking forcing patrons of the building to take up public parking spaces in the area intended for visitors to the coast. To ensure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission imposes **Special Condition No. 2**, which requires a future development special condition.

## 2. Boat Dock

The project area is a unique area in that the docks located in the area are private docks that are available for use to the general public and consist of varying slips sizes. It is a unique situation in that a majority of the dock systems in Newport Bay are usually those associated with private residential development and not available for the general public to rent out. The proposed project includes the removal of the existing boat dock system that provides seven slips and replacing it with a boat dock system that provides three slips. One of the new slips will be for one of the new residential units and the other two will be for use by the general public. This is similar to the existing situation in which the general public could rent the existing slips. While

the reduction of available slips to the general public from seven to three could raise a concern, this is not the case in this situation. First, of the seven existing slips, only four have been rented out to the public since the remaining three located closer to the boardwalk have not been available due to their inadequate accessibility to the bay. Thus, only four slips have been available for the general public. Second, while the proposed two public slips, are longer slips (approximately 80-feet in length designed to berth large boats), their length does not preclude the use of boats of smaller sizes. The applicant has indicated that a variety of boats of varying sizes, up to a maximum 100-feet could dock there and the larger slips can berth more than one boat at the same time. Third, the docks in the area provide a varying mix of slip sizes for use by the general public and the proposed project would continue to do that even though the proposed project would result in a net loss of one public available slip. Therefore, as proposed, the project would continue the overall trend of the area to provide slips of varying sizes and slips available for the general public that are privately owned. The loss of small slips or range of sizes could have an adverse impact on public boating opportunities; however, due to private docks being made available for use by the general public, that the slip configuration and size distribution of this area is limited in the harbor, and that there have not been any similar loss of slips in the area, the loss of a few slips will not be significant. However, in the future, if there is a trend towards removal of smaller public available slips, that would raise a concern and would need to be reassessed to determine its impact upon public access. However, as proposed, the project minimizes impacts to public access.

### 3. Boardwalk

Public access to Newport Bay at the subject site is provided along an existing 115-foot x 6-foot (690 square feet) wooden cantilevered public boardwalk located on the bayward side of the existing building (**Exhibit No. 6**). The proposed project includes the re-decking of this boardwalk. Six existing 14-inch “T” piles will remain and support the boardwalk, but one additional existing 14-inch “T” pile that supports the boardwalk will be replaced with a new 14-inch “T” pile. As stated previously, no conceptual approval from the City of Newport Beach Harbor Resources Division was given for the one “T” pile replacement for the boardwalk. Thus, the project has been conditioned for local approval for that project component. The Commission staff imposes **Special Condition No. 7**, which requires submittal of revised project plans. The applicant is also proposing new public access signage at both ends of the redecked boardwalk. No conceptual approval for the new public access signs from the City of Newport Beach Harbor Resources Division was given. Thus, Commission staff imposes **Special Condition No. 7**, which requires local approval and submittal of revised project plans. The boardwalk will be repaired first before the boat dock system. Public access along the existing boardwalk would continue to be provided through the headwalk of the existing boat dock system during re-decking of the boardwalk. Once the re-decking is completed, public access along the boardwalk would resume.

### Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30210, 30250 and 30252 of the Coastal Act with regard to the public’s right of access to the sea and would avoid cumulative impacts.

## **F. WATER QUALITY**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

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

Section 30232 of the Coastal Act states:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Section 30230 of the Coastal Act requires that marine resources including biological productivity be protected. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained, and where feasible, restored. In addition, Sections 30230 and 30231 require that the quality of coastal waters be maintained and protected from adverse impacts. Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development.

### **1. Construction Impacts to Water Quality**

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain 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. 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 No. 4**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction

debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

## **2. Post-Construction Impacts to Water Quality**

The proposed development will result in urban runoff entering the storm water system. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, pesticides and fertilizers are often contained within urban runoff entering the storm water system. In this case, the site drains a parking lot with 5-story commercial building that will remain post project, but will be renovated and covered garages added to the subject site. Therefore, the primary post-construction water quality concerns associated with the proposed project include roof particulates, grease, motor oil, heavy metals and trash. The proposed development would result in the discharge of storm water into the storm water conveyance system. As such, the amount of pollutants carried through the system would increase proportionally. Therefore, the project has the potential to affect the water quality of the coastal waters in Newport Beach.

The proposed project is considered development and there is an opportunity to improve water quality. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. In order to deal with these post construction water quality impacts, the applicant has submitted a Water Quality Management Plan (WQMP) prepared by C&V Consulting, Inc. dated February 2011. In order to reduce adverse impacts to water quality, the plan proposes to have site runoff directed to planter areas prior to collection by the storm drain system, and a water quality filtration chamber utilized to treat low-flow runoff from the entire site, including roof runoff from building downspouts. Site runoff will be discharged to the off-site curb inlet catch basin. In order to ensure that the WQMP is adhered to, the Commission imposes **Special Condition No. 5**, which requires the applicant to conform with the Water Quality Management Plan (WQMP) and to adequately maintain it throughout the life of the proposed development.

The applicant has stated that landscaping is proposed. The Commission is concerned with the use of non-drought tolerant, invasive plants on project sites. Invasive vegetation can spread quickly and adversely impact native vegetation. Furthermore, any plants in the landscaping plan should be drought tolerant to minimize the use of water. To ensure that these concerns are addressed, the Commission imposes **Special Condition No. 6**, which requires the applicants to only landscape with drought tolerant, non-invasive plants.

## **Conclusion**

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231 and 30232 of the Coastal Act with regard to maintaining and enhancing marine resources, biological productivity and water quality and protection against the spillage of crude oil, gas, petroleum products, or hazardous materials in relation to any development.

## **G. VISUAL RESOURCES**

Section 30251 of the Coastal Act states:

*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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The existing 60-foot tall building to be renovated is located between the first public road (Via Lido) and the sea and is a bayfront lot. It is located in the Lido Village Area that also includes the Lido Marina Village where buildings of various heights (one to three stories) are located along the Bayfront similar to the subject building. Public views to Newport Bay in this area are already impacted from Via Lido by the existing buildings. There are no view corridors between buildings. The only views available are from a surface parking lot located approximately 130-feet to the south. No work is proposed to the building that will increase the existing height of the building or result in additional adverse view impacts. A new patio awning on the 5<sup>th</sup> floor will be installed that will be below the existing 60-foot height and screening of the existing mechanical equipment on the roof that is allowed to go above the height limit by up to 5-feet is proposed. The screening will reach a height maximum height of 65-feet. A new 10-foot, 6-inch high covered garage area for the residential units will be constructed within the existing parking lot landward of the existing building, but will not result in additional view impacts because the existing building is directly bayward of the proposed garages and there are adjacent buildings to the north and south. Thus, the proposed project does not result in any additional adverse visual impacts.

### **Conclusion**

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30251 of the Coastal Act with regard to protecting visual resources.

## **H. MARINE ENVIRONMENT AND MARINE RESOURCES**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

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

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.*

Section 30250 of the Coastal Act states in part:

*(a) New residential...development...shall be located...where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....*

### **1. Marine Resources/Biological Productivity**

Increased coverage of coastal waters is a significant concern since it reduces light and decreases the biological productivity of coastal waters and impedes wildlife foraging activities. The existing boat dock system consists of 3,409 square feet and the proposed boat dock system consists of 3,457 square feet. As proposed, the proposed boat dock system results in approximately 48 square feet of increased water coverage.

Coastal Act Section 30230 requires that marine resources be maintained, enhanced, and where feasible, restored. A coastal development permit may be issued if the project can ensure that the uses of the marine environment will be carried out in a manner that will sustain the biological productivity of coastal waters. The biological productivity of coastal waters is highly dependent on sunlight for photosynthesis by “lower order” green algae, phytoplankton, and diatoms that

form the basis of the marine food chain. As proposed, the project in no way sustains or enhances productivity of coastal waters but in fact reduces overall coastal productivity by covering an unnecessarily large area.

Larger dock structures take up more of the bay's water area and create greater adverse effects on marine resources (e.g., shading and habitat displacement) than the smaller piers and docks that the Commission found to be consistent with the Coastal Act. Larger dock structures decrease foraging habitat for sight foraging marine birds, such as the state and federally listed California brown pelican, which is found in the project vicinity. Although the coverage of bay surface area habitat associated with this project may be small compared to the overall water acreage of the harbor, it is a concern because of the cumulative impacts from these kinds of docks. Consistent with those concerns, the Commission has limited the size of shoreline structures to preserve open water area and protect marine resources from adverse impacts. It has found that docks associated should be limited in size to preserve open water areas in bays, thereby minimizing shading that causes adverse impacts to marine organisms that depend on sunlight.

The applicant states that the replacement of the existing 3,409 square feet boat dock system is necessary because of age. The proposed 3,457 square foot boat dock system would result in an increase of 48 square feet of increased water coverage. However, the proposed boat dock system has been reduced in size to the least amount possible and thus results in preservation of open water area and protection of marine resources. As stated before, elements of the boat dock system were not included in the City of Newport Beach Harbor Resources Division conceptual approval, the replacement 14-inch "T" pile, and the correct square footages of the existing and proposed dock system have not been clarified on the project plans. Therefore, the Commission imposes **Special Condition No. 7**, which requires the applicant to submit final revised project plans.

Section 30250 of the Coastal Act requires that new development be located where it will not have cumulative adverse effects on coastal resources. Increased water coverage resulting from larger boat dock systems would add to cumulative adverse effects on biological resources of multiple large docks in Newport Harbor. Although a single larger boat dock system may not seem to create significant adverse impacts, the cumulative adverse effect of allowing such increased water coverage will add up over time. It should be noted that this increase of water coverage does not occur frequently in the subject area, but if increased water coverage does occur then a serious concern would result. The project does result in additional water coverage but has been reduced the least amount possible and is an infrequent occurrence in the area and does result in continuing to provide a varied mix of boat slip sizes in an area that does consist of varied boat slip sizes available to the public. As conditioned, the proposed boat dock system minimizes impacts to marine resources and preserves open water area and therefore would not have cumulative adverse impacts upon coastal resources and would be consistent with Sections 30230 and 30231 of the Coastal Act.

## 2. Eelgrass

An eelgrass survey took place on May 3, 2013 and October 22, 2014 as required by the City of Newport Beach Harbor Resources Division. No eelgrass was found in the project area. As a result, the proposed boat dock would not encroach on or result in shading of the existing eelgrass.



Eelgrass surveys completed during the active growth phase of eelgrass (typically March through October) are valid for 60-days with the exception of surveys completed in August-October. A survey completed in August - October is valid until the resumption of active growth (i.e., March 1). The project is agendaized for the February 2015 Coastal Commission Hearing so the existing eelgrass survey may no longer be valid by the time of construction. Therefore, a subsequent eelgrass survey will be required prior to beginning any construction. Therefore, the Commission imposes **Special Condition No. 8**, which requires a new eelgrass survey and identifies the procedures necessary to be completed prior to beginning construction, in case the new survey also expires prior to commencement of construction. In addition, the special condition identifies post-construction eelgrass procedures. These conditions will ensure that should impacts to eelgrass occur (though none are expected), the impacts will be identified and appropriate mitigation required. Therefore, as conditioned, the Commission finds that the proposed development will not result in significant impacts to eelgrass.

### 3. *Caulerpa Taxifolia*

In 1999, a non-native and invasive aquatic plant species, *Caulerpa Taxifolia*, was discovered in parts of Huntington Harbour (Emergency Coastal Development Permits 5-00-403-G and 5-00-463-G). *Caulerpa Taxifolia* is a type of seaweed which has been identified as a threat to California's coastal marine environment because it has the ability to displace native aquatic plant species and habitats. Information available from the National Marine Fisheries Service indicates that *Caulerpa Taxifolia* can grow in large monotypic stands within which no native aquatic plant species can co-exist. Therefore, native seaweeds, seagrasses, and kelp forests can be displaced by the invasive *Caulerpa Taxifolia*. This displacement of native aquatic plant species can adversely impact marine biodiversity with associated impacts upon fishing, recreational diving, and tourism. *Caulerpa Taxifolia* is known to grow on rock, sand, or mud substrates in both shallow and deep water areas. Since eelgrass grows within the general project vicinity, *Caulerpa Taxifolia*, if present, could displace eelgrass in the channels.

A pre-construction *Caulerpa Taxifolia* survey was completed on May 3, 2013 and October 22, 2014 as required by the City of Newport Beach Harbor Resources Division and none was found. *Caulerpa Taxifolia* surveys are valid for 90 days. The project is agendaized for the February 2015 Coastal Commission Hearing and by this time the *Caulerpa Taxifolia* survey would not continue to be valid since 90-days have passed since the survey was completed. Thus, an up-to-date *Caulerpa Taxifolia* survey must be conducted prior to commencement of the project. In order to ensure that the proposed project does not cause the dispersal of *Caulerpa Taxifolia*, the Commission imposes **Special Condition No. 9**, which requires the applicant, prior to commencement of development, to survey the project area for the presence of *Caulerpa Taxifolia*. If *Caulerpa Taxifolia* is present in the project area, no work may commence and the applicant shall seek an amendment or a new permit to address impacts related to the presence of the *Caulerpa Taxifolia*, unless the Executive Director determines that no amendment or new permit is legally required.

### 4. Construction and Post-Construction Impacts

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. The proposed

project includes measures to help ensure protection of coastal waters and marine resources during construction. Measures proposed include: floating debris shall be removed from the water and disposed of properly, all construction activities shall occur within the designated project footprint, and silt curtains shall be used during pile replacement.

To ensure that all impacts to water quality are minimized, however, and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition No. 10**, which requires, but is not limited to, 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 imposes **Special Condition No. 11**, which 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.

### **Conclusion**

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231, 30233 and 30250 of the Coastal Act with regard to maintaining and enhancing the biological productivity and the water quality and avoiding cumulative impacts.

## **I. FILL OF OPEN COASTAL WATERS**

Section 30233 of the Coastal Act states, in pertinent 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:*

...

*(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities ...*

The new 3,457 square foot floating boat dock system will include ten 18-inch square concrete guide piles and two 14-inch square concrete “T” piles. One new “T” pile will support the new gangway platform and the other “T” pile will replace an existing 14-inch “T” pile that supports the boardwalk. Placement of the piles will result in fill of coastal waters. Thus, the project must be reviewed for conformance with Section 30233 of the Coastal Act. In order to be consistent with Section 30233, a project that involves filling in open coastal waters must meet a three-prong test. The use must be one of the uses specifically allowed, it must be the least environmentally damaging alternative, and it must provide adequate mitigation to offset any impacts created by the project.

### **1. Allowable Uses**

The piles for the boat dock are proposed to be located in the open coastal waters of Newport Bay. Since the total eleven piles (ten 18-inch square piles and one new 14-inch “T” pile) will support

the boat dock system, this associated fill would be consistent with Section 30233(a)(3) of the Coastal Act since it is for a boating-related use.

## 2. Alternatives

The placement of the eleven piles is the minimum amount of construction necessary to safely anchor the boat dock system. Fewer and/or smaller piles would not adequately secure the boat dock float or pier lobe. By using the least number of piles necessary to accomplish the goal of securing the boat dock system, the eleven piles associated with the boat dock system represent the least environmentally damaging feasible alternative that still achieves the project goal of allowing boat berthing. Therefore, the Commission finds the proposed alternative meets the requirements of Section 30233(a)(3) that any project involving fill of coastal waters be the least environmentally damaging feasible alternative.

## 3. Mitigation

The proposed recreational boat dock system and its associated eleven (piles) are an allowable and encouraged marine related use. The project design for the boat dock includes the minimum sized pilings and the minimum number of pilings necessary for structural stability of the boat dock. The potential impacts associated with the eleven piles include potential impacts on eelgrass habitat and potential dispersal of *Caulerpa taxifolia* and the displacement of about 19 square feet of soft bottom bay habitat with a hard substrate. The potential effects on eelgrass and adverse effects related to *Caulerpa taxifolia* dispersal will be mitigated by the requirements of **Special Condition No. 7** and **Special Condition No. 8**. Although the hard substrate of the piles is not equivalent to the displaced soft bottom habitat, the piles do provide an important type of habitat for marine organisms that is not otherwise widely present in the bay. The hard substrate presents an opportunity for biological resources to prosper in the area. Given the size and scale of the proposed project, the small scale of the soft bottom impact, the proposed hard scape habitat is the only feasible mitigation measure available to offset the soft bottom impact in this case. 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*. Therefore, as conditioned, there is adequate mitigation to offset the impacts created by the project.

## Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Section 30233(a)(3) of the Coastal Act because it is an allowable use, there are no feasible less environmentally damaging alternatives available, and adequate mitigation is provided.

## J. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition No. 12**, which requires the property owner record a deed restriction against the subject site located at 3388 Via Lido, Newport Beach and the off-site parking lot located at 500 32<sup>nd</sup> Street, Newport Beach referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed

on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

### **K. LOCAL COASTAL PROGRAM (LCP)**

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 Coastal Land Use Plan (CLUP) for the City of Newport Beach was effectively certified on May 19, 1982. The certified CLUP was updated on October 2005 and in October 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified CLUP 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.

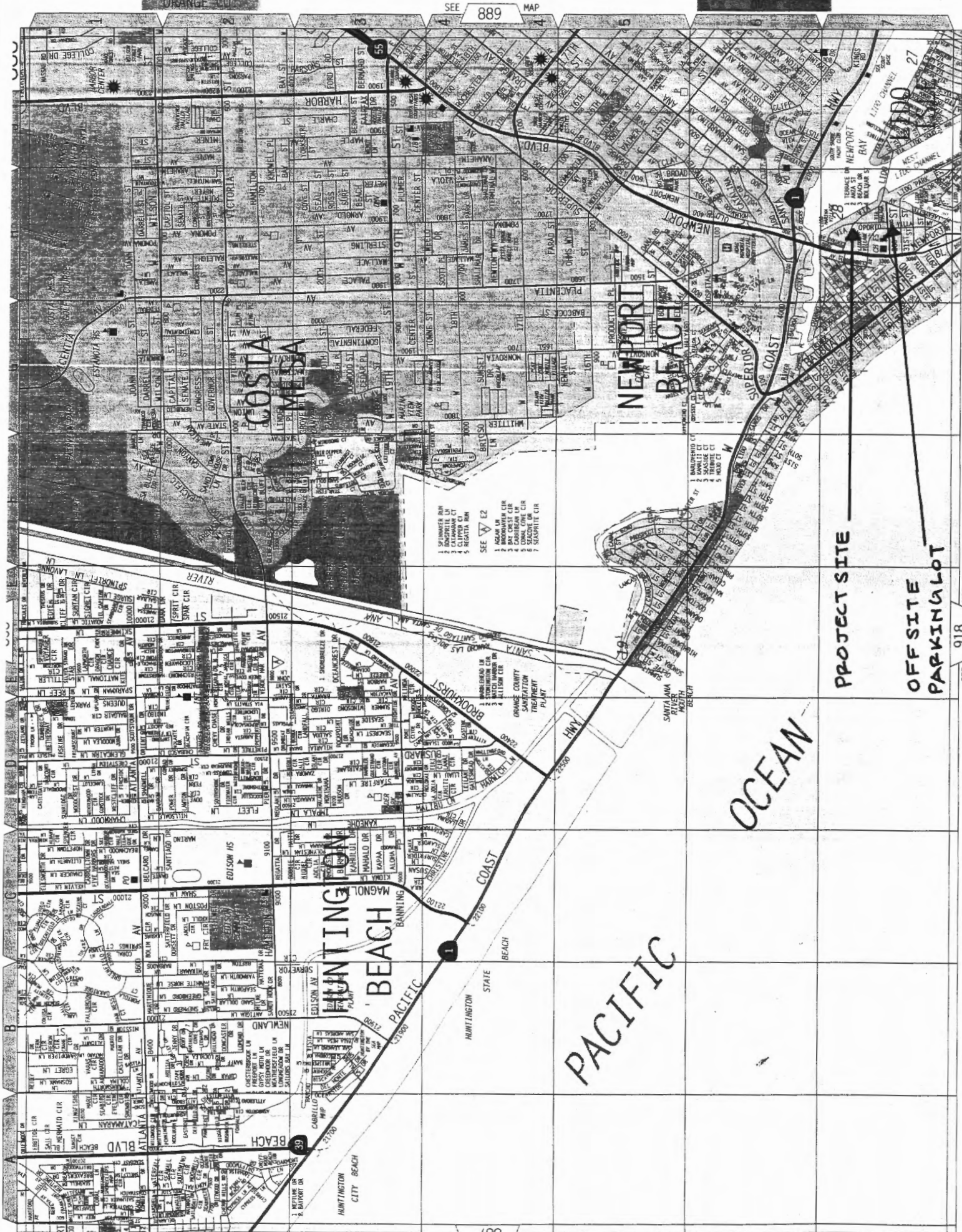
### **L. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application 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.

In this case, the City of Newport Beach Planning Department and Harbor Resources Division are the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Newport Beach Planning Department determined that the landside portion of the development is ministerial or categorically exempt from CEQA on March 11, 2014. The City of Newport Beach Harbor Resources Division determined that the waterside portion of the proposed development is ministerial or categorically exempt from CEQA on August 13, 2013. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the maintenance and enhancement of biological productivity and water quality policies, the avoidance of cumulative impacts policy, the allowable fill of open coastal waters, and the public access and recreational opportunities policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

## **APPENDIX 1**

**SUBSTANTIVE FILE DOCUMENTS:** CDP No. 5-12-112-W-(Newport Beach); CDP No. 5-07-112-X-(Wasserman Real Estate Capital, LLC); CDP No. 5-13-0753-(New Port Beach Mixed Use Development LLLP; City of Newport Beach Planning Commission Resolution No. 1811; City of Newport Beach City Council Ordinance No. 2010-15; Parcel Map No. NP2011-006(PA2011-094)/County Tentative Parcel Map No. 2011-105; City of Newport Beach certified Coastal Land Use Plan (CLUP); City of Newport Beach Planning Department Approval-In-Concept dated March 11, 2014; City of Newport Beach Harbor Permit Policies; City of Newport Beach Waterfront Project Guidelines and Standards; City of Newport Beach Harbor Resources Division Permit/Approval-in-Concept Harbor Permit No. 124-3888 and Plan Check No. 1095-2013 dated August 13, 2013; Letter from Dudek to Commission staff dated April 30, 2014; Letter from New Port Beach Mixed Development LLLP to Commission staff dated April 18, 2014; Letter from Commission staff to Dudek dated June 5, 2014; Letter from Dudek to Commission staff dated June 30, 2014; Letter from Swift Slip to Commission staff dated June 16, 2014; Letter from Commission staff to Dudek dated July 31, 2014; Letter from Dudek to Commission staff dated August 25, 2014; Letter from Nelson Consulting dated August 22, 2014; Water Quality Management Plan (WQMP) prepared by C&V Consulting, Inc. dated February 2011; and Parking Covenant between Ne Port Beach Mixed Use Development LLLP and the City of Newport Beach dated November 29, 2011 (Record of Instrument No. 2011000673609).



PROJECT SITE

OFFSITE  
PARKING LOT

OCEAN

PACIFIC

SEE 887 MAP

SEE 918 MAP



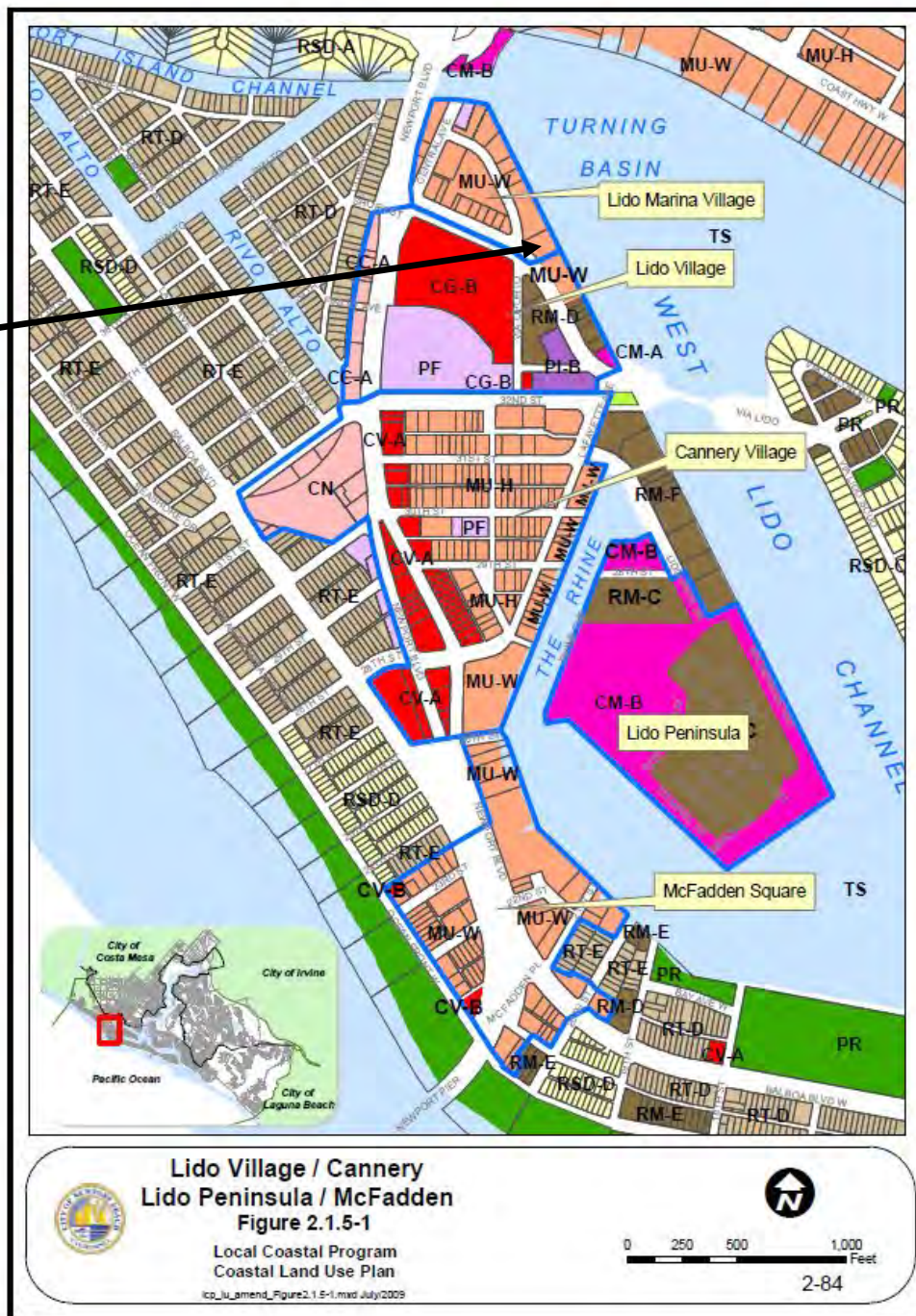


**Project Site (Building)**

**Project Site (Boat Dock System)**

**On-Site Parking**

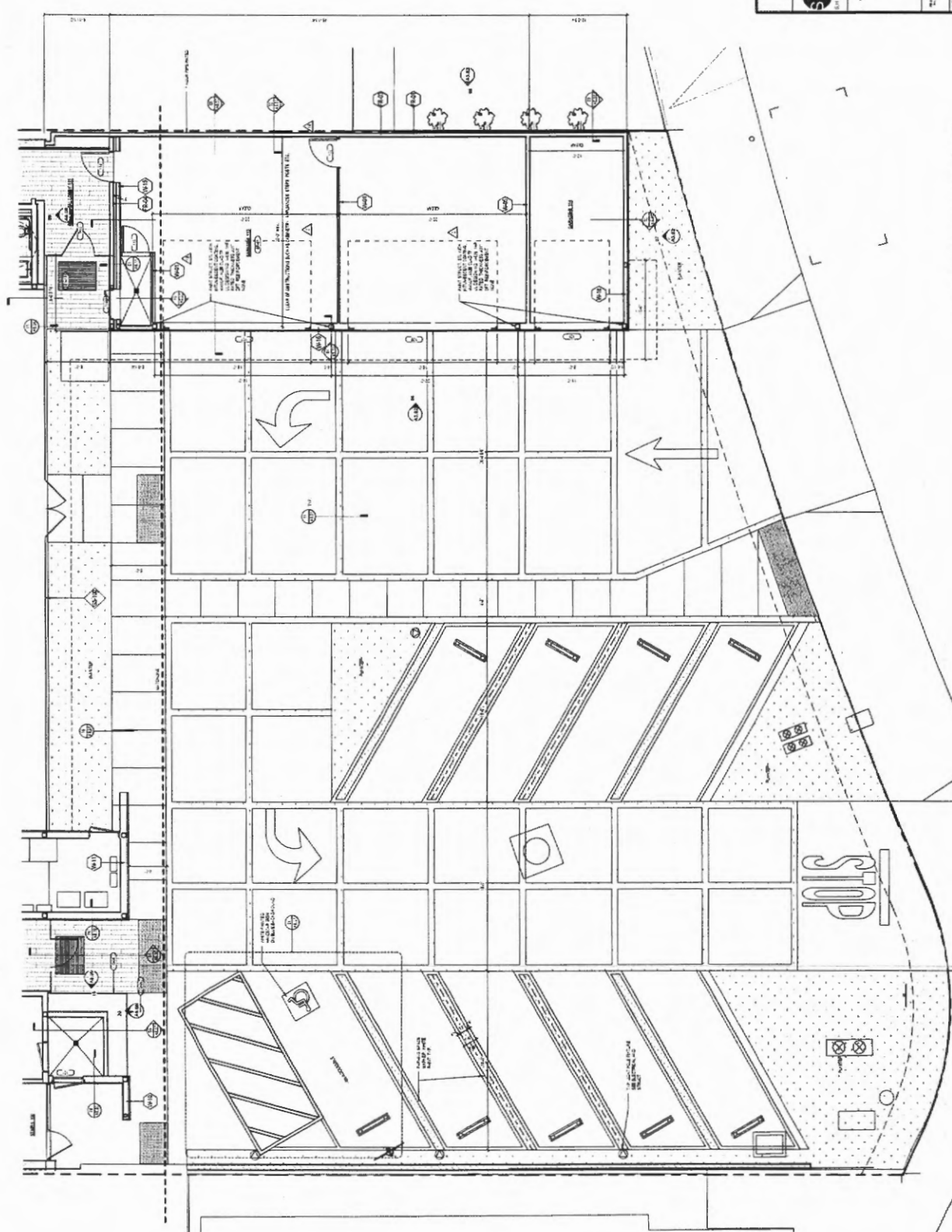
**Off-Site Parking Lot**





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**3388 VIA LIDO**  
3388 VIA LIDO, SEASIDE BEACH  
CA 92083

**S+D**  
SUSAN DENNIS  
ARCHITECT

DESIGNED BY S+D  
DRAWN BY ANITA  
PROJECT PHASE: 1

**A2.11**  
FIRST FLOOR  
GARAGE/PARKING  
PLAN

FIRST FLOOR GARAGE/PARKING PLAN  
SCALE: 1/8" = 1'-0"



**GENERAL NOTES - FLOOR PLAN**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND ALL APPLICABLE SPECIFICATIONS.

3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY ENGINEER.

4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED BUDGET.

**SOUND TRANSMISSION CONTROL NOTES**

1. ALL PARTITIONS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

2. ALL FLOORS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

3. ALL EXTERIOR WALLS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

4. ALL EXTERIOR ROOFS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

5. ALL EXTERIOR DOORS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

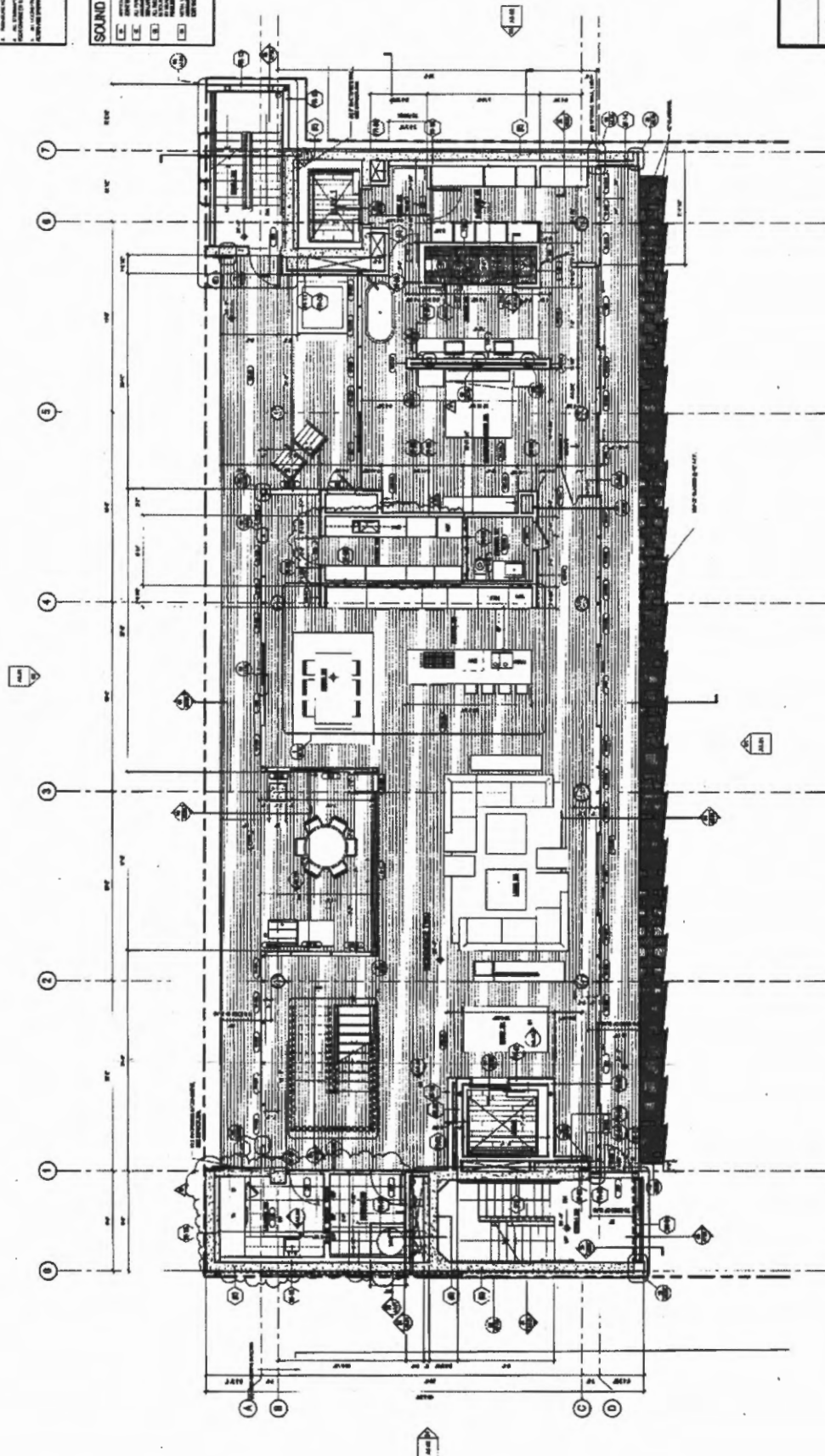
6. ALL EXTERIOR WINDOWS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

7. ALL EXTERIOR VENTILATION SYSTEMS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

8. ALL EXTERIOR AIR HANDLING SYSTEMS SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

9. ALL EXTERIOR MECHANICAL EQUIPMENT SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

10. ALL EXTERIOR LIGHTING SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.



ALL APPROVED  
DATE 11.1.2011

3388 VIA LIDO SAN FRANCISCO, CALIFORNIA 94133		PROJECT NAME: 3388 VIA LIDO	
ARCHITECT: JAMES R. HARRIS ARCHITECTS, INC.		PROJECT NUMBER: 3388 VIA LIDO	
DATE: 11.1.2011		PROJECT PHASE: 3388 VIA LIDO	
DRAWN BY: JAMES R. HARRIS		CHECKED BY: JAMES R. HARRIS	
SCALE: 1/8" = 1'-0"		SHEET NUMBER: A2.30	
SHEET TITLE: THIRD FLOOR PLAN		SHEET TOTAL: A2.30	

THIRD FLOOR PLAN  
SCALE 1/8" = 1'-0"



**GENERAL NOTES - FLOOR PLAN**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL WALLS ARE 12" THICK UNLESS OTHERWISE NOTED.
3. ALL FLOORS ARE 4" THICK UNLESS OTHERWISE NOTED.
4. ALL CEILING ARE 8" THICK UNLESS OTHERWISE NOTED.
5. ALL ROOF ARE 8" THICK UNLESS OTHERWISE NOTED.
6. ALL STAIRS ARE 4" THICK UNLESS OTHERWISE NOTED.
7. ALL ELEVATIONS ARE TO FACE UNLESS OTHERWISE NOTED.
8. ALL SECTIONS ARE TO FACE UNLESS OTHERWISE NOTED.
9. ALL DETAILS ARE TO FACE UNLESS OTHERWISE NOTED.
10. ALL NOTES ARE TO FACE UNLESS OTHERWISE NOTED.

**SOUND TRANSMISSION CONTROL NOTES**

1. ALL PARTITIONS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
2. ALL FLOORS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
3. ALL CEILING ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
4. ALL ROOF ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
5. ALL STAIRS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
6. ALL ELEVATORS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
7. ALL MECHANICAL ROOMS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
8. ALL ELECTRICAL ROOMS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
9. ALL TELEPHONE ROOMS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.
10. ALL COMPUTER ROOMS ARE TO BE CONSTRUCTED TO PROVIDE A MINIMUM SOUND TRANSMISSION COEFFICIENT (STC) OF 50.

3388 VIA LIDO  
SAN DIEGO, CALIFORNIA 92108

DATE: 11.1.2018

BY: [Signature]

3388 VIA LIDO  
SAN DIEGO, CALIFORNIA 92108

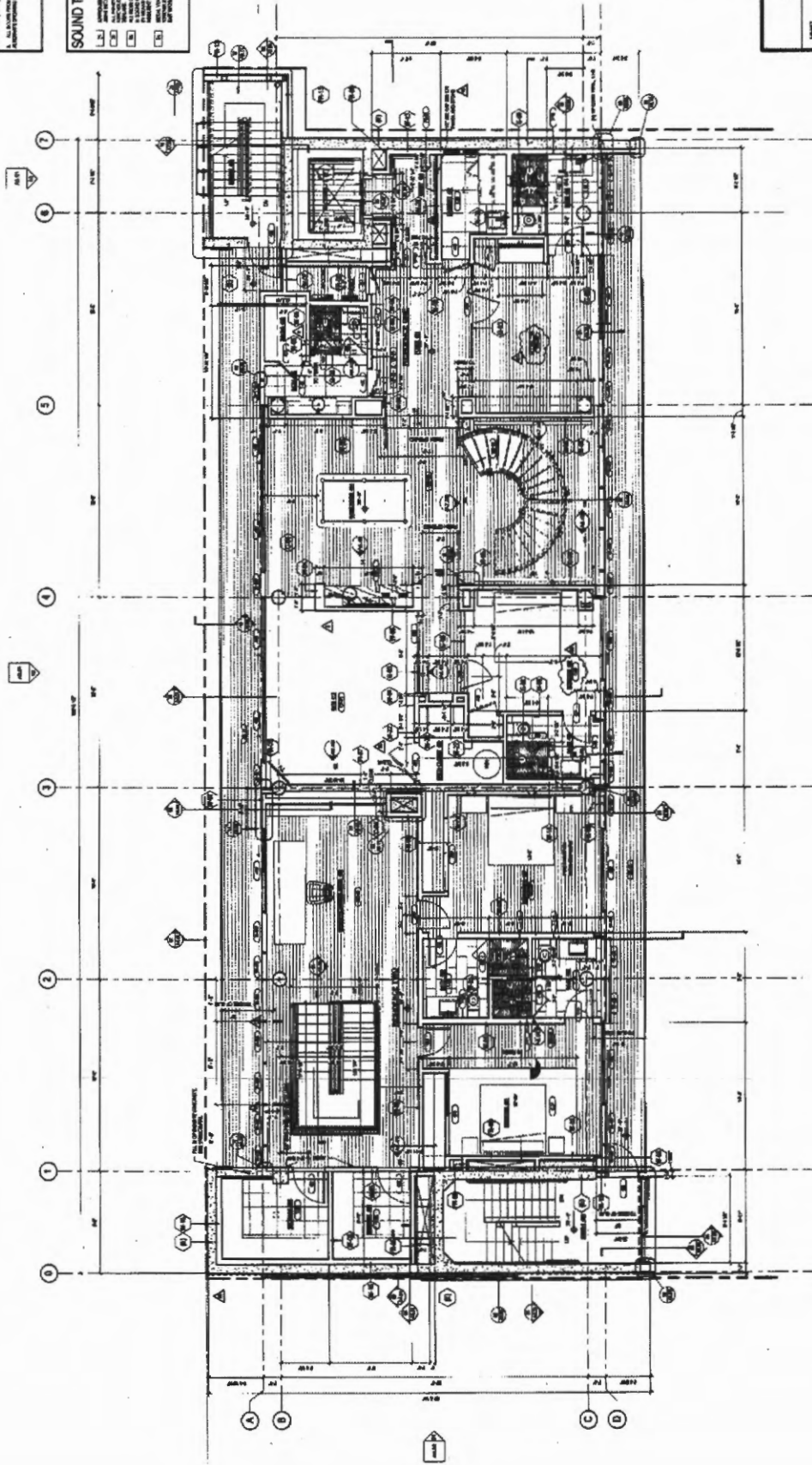
DATE: 11.1.2018

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3388 VIA LIDO  
SAN DIEGO, CALIFORNIA 92108

DATE: 11.1.2018

BY: [Signature]



FOURTH FLOOR PLAN  
SCALE: 1/4\"/>

[illegible][illegible]

NEWPORT BLANCH



**POLYMER LETTERS**

Source: *U.S. Census Bureau, Statistical Abstract of the United States, 1997*.

**PROJECT NUMBER**

FIFTY EIGHT BY AN



**FIFTH FLOOR PLAN**  
SCALE VP-12

EXTERIOR FINISH & MATERIAL INDEX	
NO.	DESCRIPTION
CEB1	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB2	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB3	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB4	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB5	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB6	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB7	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB8	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB9	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB10	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB11	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB12	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB13	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
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CEB20	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB21	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB22	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB23	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB24	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB25	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB26	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB27	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB28	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB29	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER
CEB30	CONCRETE, 4" THICK, UNFINISHED, 100% PORTLAND CEMENT, 100% GRAVEL, 100% SAND, 100% WATER

NOTE:

1. SEE LAYOUT SHEET FOR DIMENSIONS

3388 VIA LIDO

1000 VIA LIDO, LAGUNA BEACH, CA 92653

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1000 VIA LIDO, LAGUNA BEACH, CA 92653

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1000 VIA LIDO, LAGUNA BEACH, CA 92653

3388 VIA LIDO

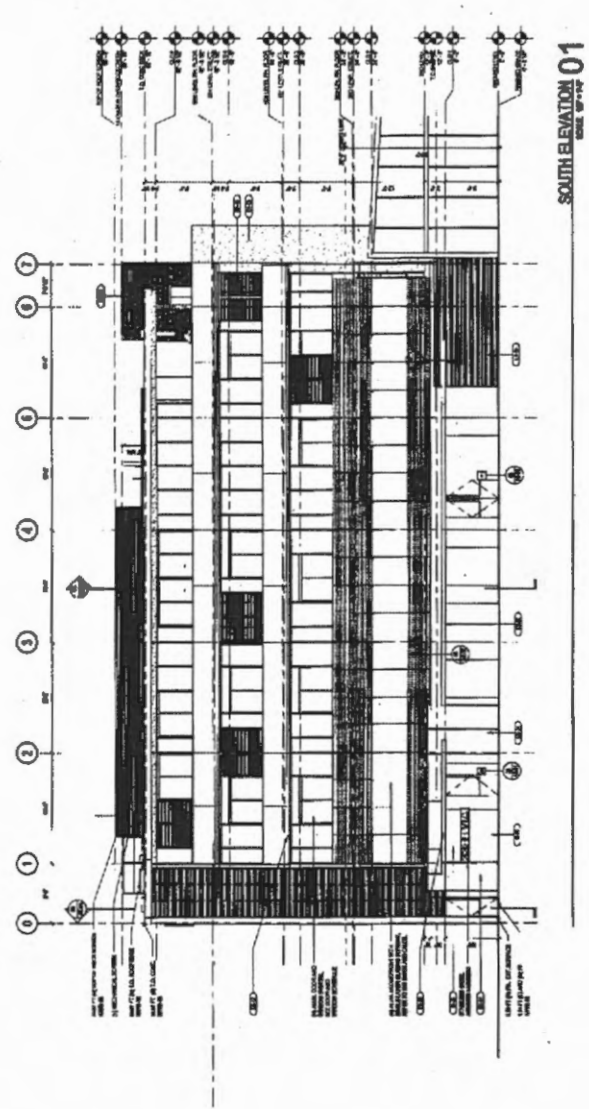
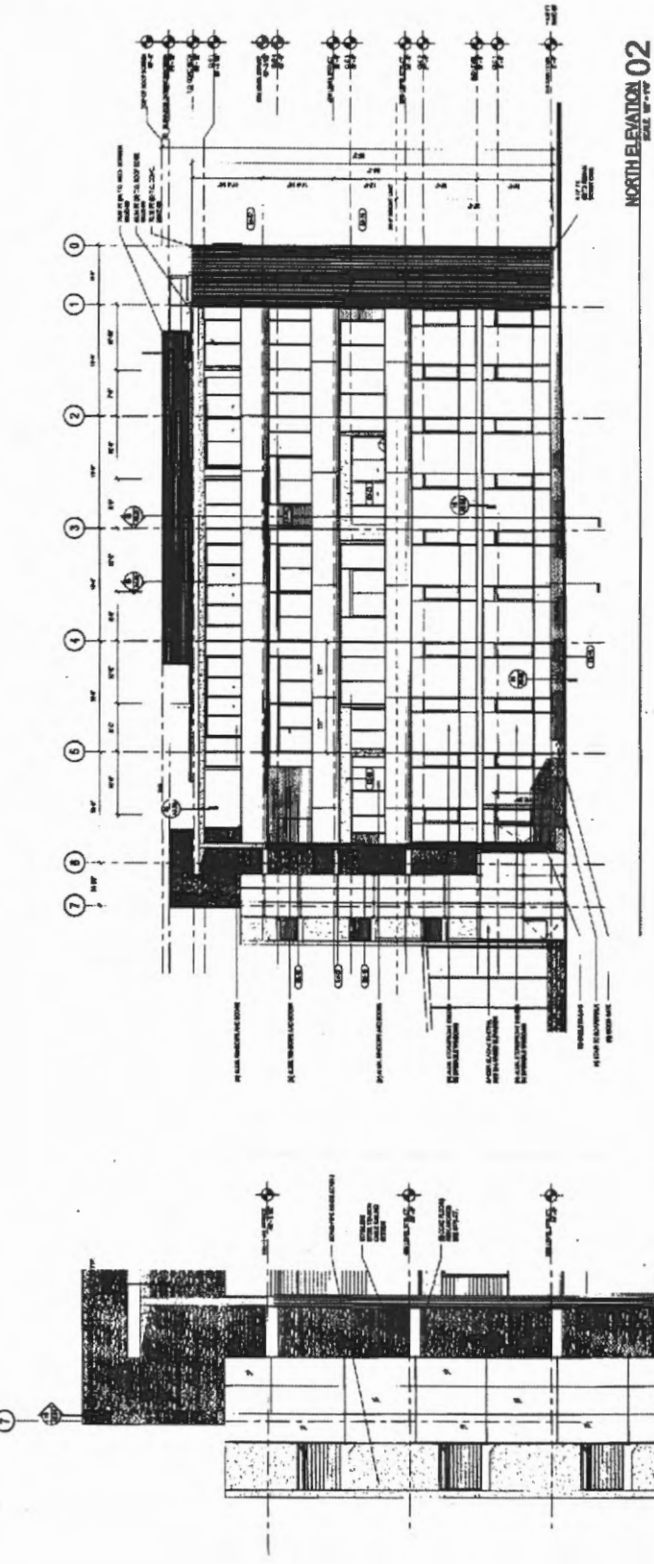
1000 VIA LIDO, LAGUNA BEACH, CA 92653

3388 VIA LIDO

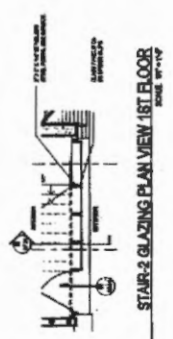
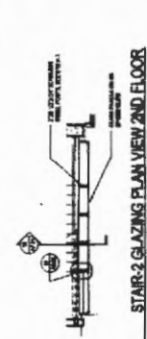
1000 VIA LIDO, LAGUNA BEACH, CA 92653

3388 VIA LIDO

1000 VIA LIDO, LAGUNA BEACH, CA 92653



STAR-2 ENLARGED ELEVATION 03  
SCALE: 1/8" = 1'-0"







5-140715

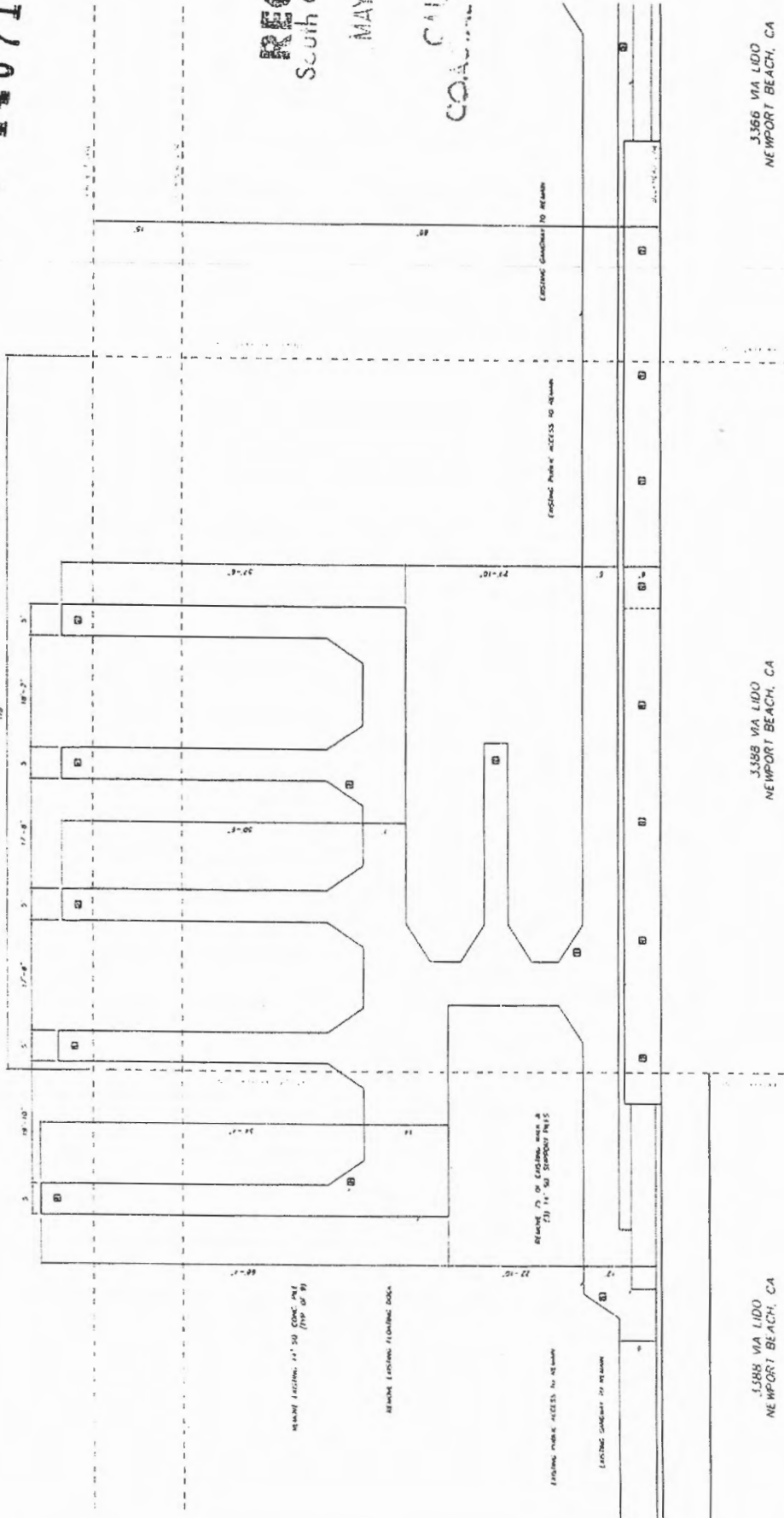
RECEIVED  
South Coast Region

South Coast Region

MAY 6 2014

CALIFORNIA  
COAST GUARD COMMISSION

COAST GUARD COMMISSION



3588 VIA LIDO  
NEWPORT BEACH, CA

3588 VIA LIDO  
NEWPORT BEACH, CA

3388 VIA LIDO  
NEWPORT BEACH, CA

3388 VIA LIDO  
NEWPORT BEACH, CA

3366 VIA LIDO  
NEWPORT BEACH, CA

3366 VIA LIDO  
NEWPORT BEACH, CA

EXISTING SITE PLAN

1000



FIELD MEASUREMENTS AND SYN-  
THESIS ARE AS PROVIDED BY THE  
RESEARCHER/OWNER

CHAPMAN, C. P. 1961

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**CONTRACTOR**  
**SWIFT SLIP DOCK & PIER**  
**BUILDERS, INC.**  
**COSTA MESA, CA**

**CONTRACTOR**  
**SWIFT SLIP DOCK & PIER**  
**BUILDERS, INC.**  
**COSTA MESA, CA**

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**BUILDERS, INC.**  
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**SWIFT SLIP DOCK & PIER**  
**BUILDERS, INC.**  
**COSTA MESA, CA**

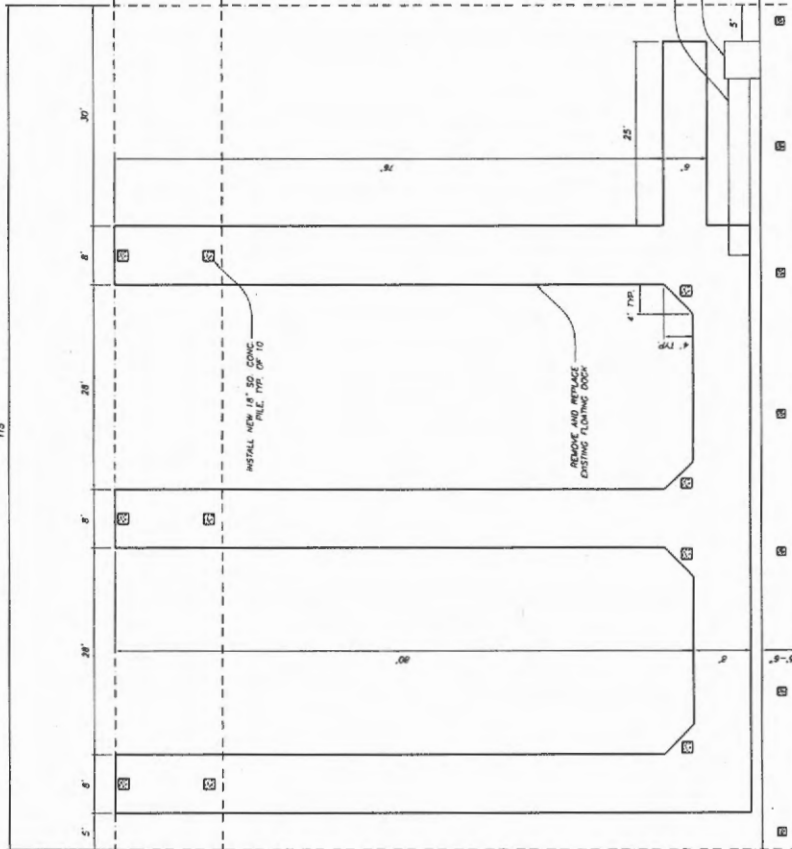
NEW PORT BEACH MIXED  
DEVELOPMENT LLLP  
3388 VIA LIDO  
NEWPORT BEACH, CA

NEW PORT BEACH MIXED  
DEVELOPMENT LLLP  
3388 VIA LIDO  
NEWPORT BEACH, CA

NEW PORT BEACH MIXED  
DEVELOPMENT LLLP  
3388 VIA LIDO  
NEWPORT BEACH, CA

NEW PORT BEACH MIXED  
DEVELOPMENT LLLP  
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NEWPORT BEACH, CA

11'5"



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MAY 6 2014  
CALIFORNIA  
COASTAL COMMISSION

California Coastal Commission  
South Coast District Office  
APPROVED  
Permit No. \_\_\_\_\_

3366 VIA LIDO  
NEWPORT BEACH, CA

3388 VIA LIDO  
NEWPORT BEACH, CA

By: \_\_\_\_\_  
EFFECTIVE  
Date: \_\_\_\_\_

PROPOSED SITE PLAN  
SCALE 1"=8'



ALL FIELD MEASUREMENTS AND SITE  
PLAN ARE AS PROVIDED BY THE  
OWNER/DESIGNER/CONSULTANT  
AND ARE NOT TO BE USED FOR  
CONSTRUCTION.

GRAPHIC SCALE  
1"=8'

<b>PROJECT</b> NEWPORT BEACH MIXED DEVELOPMENT LLP 3388 VIA LIDO NEWPORT BEACH, CA		<b>CONTRACTOR</b> SWIFT SLIP DOCK & PIER BUILDERS, INC. COSTA MESA, CA		<b>PROPOSED SITE LAYOUT</b>	
2200 Via Capistrano Marina, Suite 200 Costa Mesa, CA 92626 Tel: 310 544 3131 Fax: 310 544 1924		2200 Via Capistrano Marina, Suite 200 Costa Mesa, CA 92626 Tel: 310 544 3131 Fax: 310 544 1924		2200 Via Capistrano Marina, Suite 200 Costa Mesa, CA 92626 Tel: 310 544 3131 Fax: 310 544 1924	
DATE: 05/06/14		DATE: 05/06/14		DATE: 05/06/14	
BY: [Signature]		BY: [Signature]		BY: [Signature]	
DATE: 05/06/14		DATE: 05/06/14		DATE: 05/06/14	
SCALE: 1"=8'		SCALE: 1"=8'		SCALE: 1"=8'	
PROJECT NO: 140715		PROJECT NO: 140715		PROJECT NO: 140715	
SHEET NO: 1		SHEET NO: 1		SHEET NO: 1	
TOTAL SHEETS: 2		TOTAL SHEETS: 2		TOTAL SHEETS: 2	
STATUS: [ ]		STATUS: [ ]		STATUS: [ ]	
AS NOTED: 07-10-13		AS NOTED: 07-10-13		AS NOTED: 07-10-13	
2335 - H		2335 - H		2335 - H	
L-2		L-2		L-2	
- of -		- of -		- of -	