

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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W8a

Filed:	4/06/16
180th Day:	10/03/16
Staff:	M. Revell-LB
Staff Report:	5/19/16
Hearing Date:	6/08/16

STAFF REPORT: CONSENT CALENDAR

Application No.	5-15-2106
Applicant:	Rudy Svrcek and Bruce Ogilvie
Agent:	DB Neish, Inc.
Location:	928 & 930 East Balboa Blvd., Newport Beach, Orange County (APN Nos. 048-141-31 & 048-141-29).
Project Description:	Replace the existing 1,080 square foot dock system with a 1,258 sq. ft. dock system with a shared single pier between two residences.
Staff Recommendation:	Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicants request a permit to modify their existing residential boat dock system, that currently maintains only one gangway and pier platform that provides access to their dock located at 930 East Balboa Blvd, to include a shared pier, platform, and gangway, so that the resulting dock system will be shared and accessible to both residences at 928 and 930 East Balboa Blvd. in Newport Beach, providing dual access to the shared floating dock. The major issues raised by the proposed development are consistency with the marine resources, impacts to eelgrass, and water quality policies of the Coastal Act.

Commission staff recommends **approval** of the proposed development with six special conditions requiring the applicant to 1) submit revised project plans to minimize the headwalk width from 11 feet to 4 ft. 3 in. to reduce potential impacts to existing eelgrass; 2) carry out pre-construction and post-construction eelgrass surveys; 3) submit an Eelgrass Mitigation Plan consistent with the California Eelgrass Mitigation Policy to mitigate for transplanting and replacement of eelgrass adversely

impacted by the project; 4) carry out a pre-construction caulerpa taxifolia survey; 5) implement construction best management practices; 6) implement post-construction best management practices; and 7) comply with the requirements of the resource agencies.

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EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Existing/Proposed Site Plan
- Exhibit 3 – Existing Site Plan
- Exhibit 4 -- Revised Site Plan (4/6/16)
- Exhibit 5 – Eelgrass Survey (10/30/15)

I. MOTION AND RESOLUTION

Motion:

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

Staff recommends a YES vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. 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 would 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. 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 revised project plans. The intent behind the required re-design is to reduce the width of the headwalk proposed and received by our office on April 6, 2016, to 4 ft. 3 in. (as proposed in the original plans received on 12/21/15) to reduce potential impacts to existing eelgrass growing along the headwalk of the existing dock. The pier platform shall remain 10 ft. by 14 ft. per the City of Newport Beach Harbor Design Criteria Guidelines and Standards for residential boat docks with berths under 55' in length. The revised project plans shall be in substantial conformance, in terms of configuration and location, with the plans received on April 6, 2016. The revised plans submitted to the Executive Director shall bear evidence of Approval-in-Concept of the revised design 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.

2. Pre-and Post-Construction Eelgrass Survey(s).

- a. Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre- construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the "California Eelgrass Mitigation Policy" dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) adopted by the National Marine Fisheries Service (except as modified by this special condition) and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development.
- b. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, 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 "California Eelgrass Mitigation Policy" dated October 2014 (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/california_eelgrass.html) (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 Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the

applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another location, in accordance with the California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1 (mitigation: impact). Any exceptions to the required 1.38:1 mitigation ratio found within the California Eelgrass Mitigation Policy shall not apply.

3. Eelgrass Mitigation Plan. PRIOR TO ISSUANCE OF THE COASTAL

DEVELOPMENT PERMIT, the applicant shall submit two (2) copies, for review and approval of the Executive Director, of an Eelgrass Mitigation Plan for transplanting and replacement of eelgrass adversely impacted by the project. The plan shall be prepared in consultation with the California Department of Fish and Wildlife and the National Marine Fisheries Service (NMFS). The plan shall be prepared consistent with the requirements identified below and the requirements of the *California Eelgrass Mitigation Policy (CEMP)* as referenced in **Special Condition 3**, including but not limited to the requirements outlined relative to mapping, and mitigation site, size, techniques, monitoring and success criteria, but excepting the allowed exclusions and timing requirements that conflict with the requirements identified below. The plan shall provide that:

- (a) All direct eelgrass impacts and shading impacts to eelgrass shall be mitigated at a minimum 1.38:1 (mitigation to impact) ratio;
- (b) Adverse impacts to eelgrass shall be mitigated on-site to the maximum extent feasible and, for the portion that cannot feasibly be mitigated on site, off-site mitigation will take place. The final location of all on-site and off-site mitigation shall be specifically identified;
- (c) The mitigation site(s) shall be covered with eelgrass at pre-project densities of the impacted site within five years of the initial planting;
- (d) Prior to commencement of construction of the portions of the approved project that would have direct impacts upon eelgrass beds, the eelgrass that would be directly impacted shall be transplanted, along with any supplementary planting in accordance with subsection (a) above, to the mitigation site(s).
- (e) A report that describes densities, and recommended maintenance and replanting measures shall be submitted annually to the Executive Director;
- (f) A comprehensive report describing the results of the plan shall be submitted at the end of the monitoring period;
- (g) A follow-up program shall be implemented if the original program is wholly or partially unsuccessful;
- (h) A final inventory and map showing the location of existing eel grass beds within the approved construction area and showing the areas of potential eel grass disturbance;
- (i) An inventory and map showing the location of existing eel grass beds, if any, within the mitigation site(s); and

(j) Performance standards that will assure achievement of the mitigation goal (i.e., attainment of pre-project densities at the mitigation site(s) within five years).

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required

4. Pre-Construction Caulerpa taxifolia Survey.

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service (see http://www.westcoast.fisheries.noaa.gov/habitat/habitat_types/seagrass_info/caulerpa_taxifolia.html).
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
- i. for the review and approval of the Executive Director; and
 - ii. to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Wildlife (858-467-4218, William.Paznokas@wildlife.ca.gov) or Bryant Chesney, National Marine Fisheries Service (562-980-4037, Bryant.Chesney@noaa.gov), or their successors.
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Construction Responsibilities and Debris Removal. By acceptance of this permit, the permittee agrees that the approved development shall be carried out in compliance with the following BMPs:

- 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. Eelgrass shall not be disturbed. Anchors shall not be placed in eelgrass areas.
- G. 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;
- H. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
- I. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- J. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- K. 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;
- L. 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;
- M. 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;
- N. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- O. 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;
- P. 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; and
- Q. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

6. Best Management Practices (BMP) Program. By acceptance of this permit, the permittee agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs:

- a. Boat Cleaning and Maintenance Measures:
 - In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints and debris.
 - In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls is prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and only minimal amounts shall be used.
 - The applicants 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:
 - 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 be disposed of in a proper manner and shall not at any time be disposed of in the water or gutter.
- c. Petroleum Control Management Measures:
 - Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;
 - 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
 - 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.

7. Resource Agencies. The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, the Regional Water Quality Control Board, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

Rudy Svrcek and Bruce Ogilvie request a permit to modify the existing dock with one gangway and pier, located at 930 East Balboa Blvd. to include a shared pier, platform, and gangway, so that the dock system will be shared and accessible to both residences at 928 and 930 East Balboa Blvd. in Newport Beach (**Exhibit 1**). The original property (928 E. Balboa Blvd.) was recently subdivided pursuant to Coastal Development Permit No. 5-12-292-A1, which resulted in the creation of two lots (928 and 930 E. Balboa Blvd.) which are each currently improved with single family residences. The applicants now seek to reconfigure the existing dock so that it is accessible from both private residences.

The applicants originally proposed a dock system with two separate piers, platforms, and gangways to a shared dock float consisting of two boat slips (**Exhibit 2**). Although this dock design reduced the overall size of the dock system by 47 square feet, it resulted in new fill of soft bottom habitat and increased the amount of new overwater coverage. In order to minimize adverse impacts to biological resources and to ensure that there would not be negative cumulative impacts to the Newport Harbor ecosystem, Commission staff determined the proposed increased water coverage that would result from the addition of a second gangway was not necessary to achieve the desired result of a shared dock, and would not be the least environmentally damaging alternative. At staff's request, the applicant submitted a proposed alternative dock design which included a 986 sq. ft. floating dock, 3 ft. by 26 ft. gangway, 10 ft. by 14ft. pier platform, and the installation of two 7 ft. T piles (**Exhibit 4**). The existing dock system, including the 712 sq. ft. floating dock, gangway, pier, approach, two 14 in. square concrete 7 ft. T piles, and three 14 in. square concrete 3 ft. T piles, are proposed to be removed and demolished off-site (**Exhibit 3**).

Although the revised plans with a shared pier platform and gangway would result in less water coverage and less fill of the soft bottom of Newport Bay than the existing dock system, the design increased the size of the headwalk from 4 ft. 3 in. to 11 feet wide, which would adversely impact an existing eelgrass patch which surrounds the existing headwalk (**Exhibit 4 and 5**). The applicant has acknowledged that the increased size of the headwalk in the proposed alternative will likely impact the existing eelgrass, and has agreed to submit revised plans as a condition of the permit consistent with the proposed alternative dock with a shared pier of the alternative design (plans received April 6, 2016), but with a reduced sized headwalk which is more consistent with the existing dock float so as not to negatively impact the eelgrass in that location. To ensure the applicant provides revised plans, The Commission is imposing **Special Condition 1**, which requires the applicant to submit revised plans prior to issuance of the permit with a reduced sized headwalk to avoid impacting the eelgrass growing in that location.

Despite the applicant's proposed single pier redesign and reduction in size of the headwalk, the removal of the existing dock, westerly gangway, and construction of a new dock and shared gangway will likely impact multiple eelgrass patches which surround the existing dock float and gangway as shown in **Exhibit 5**. Because of the pattern of eelgrass growth in this area, redesigning the dock cannot avoid impacting eelgrass. The applicant has acknowledged that the development will likely impact eelgrass, and has stated they will provide eelgrass mitigation on-site if an impact is identified. To ensure the applicant provides a mitigation plan, the Commission imposes **Special Condition 3**, which requires an eelgrass mitigation plan to be submitted prior to issuance of the coastal development permit. The applicant has also proposed construction best management practices to minimize turbidity and prevent spillage of chemicals or wood shavings that would adversely affect water quality.

In order to avoid permanent impacts to eelgrass, which would adversely affect biological productivity in Newport Bay, the Commission imposes **Special Condition 2**, which requires a pre-construction eelgrass survey and identifies reporting requirements prior to construction. In addition, the special condition identifies post-construction eelgrass procedures. These conditions will ensure that should impacts to eelgrass occur, the impacts will be identified and appropriate mitigation required under strict protocol provided in the California Eelgrass Mitigation Policy dated October 2014, which will ensure full mitigation of any impacts to eelgrass should the post-construction survey show that eelgrass impacts occurred during construction. Therefore, as conditioned, the Commission finds that the proposed development will not result in significant impacts to eelgrass.

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 immediate project vicinity, *Caulerpa taxifolia*, if present, could displace eelgrass in the Bay.

Underwater surveys conducted on October 30, 2015, did not encounter *Caulerpa taxifolia*. *Caulerpa taxifolia* surveys are valid for 90 days; thus, an up-to-date *Caulerpa taxifolia* survey must be conducted prior to construction. In order to assure that the proposed project does not cause the dispersal of *Caulerpa taxifolia*, the Commission imposes **Special Condition 4**, requiring 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.

The proposed work will be occurring on, within, or adjacent to coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To assure that all impacts to water quality are minimized, and to reduce the potential for construction related impacts on water quality, the Commission imposes **Special Condition 5**, 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 6**, which requires the continued use and maintenance of post construction BMPs.

The proposed dock system has been modified in order to ensure consistency with the marine resources and water quality provisions of the Coastal Act, as well as the requirements of the Newport Beach Harbor Resources Department, the Army Corps of Engineers, and the Regional Water Quality Control Board. The City of Newport Beach approved a larger dock system in concept on December 14, 2015. In order to ensure that the final design of the dock system is consistent with the terms of the Commission's approval and those of the other resource agencies, **Special Condition 7** requires the applicant to comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, the Regional Water Quality Control Board, the U.S. Army Corps of

Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

Thus, the Commission finds that only as conditioned is the proposed project consistent with Sections 30230, 30231, 30233, and 30250 of the Coastal Act.

B. MARINE RESOURCES

The proposed recreational boat dock development and its associated structures are an allowable and encouraged marine related use. The project design includes the minimum sized pilings and the minimum number of pilings necessary for structural stability. The pilings are self-mitigating. There are no feasible less environmentally damaging alternatives available. As conditioned, the project will not significantly adversely impact eelgrass beds and will not contribute to the dispersal of the invasive aquatic algae, *Caulerpa taxifolia*. Further, as proposed and conditioned, the project, which is to be used solely for recreational boating purposes, conforms with Sections 30224 and 30233 of the Coastal Act.

C. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 30231 of the Coastal Act.

D. DEVELOPMENT

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

E. 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 Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was last updated in October 2009. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

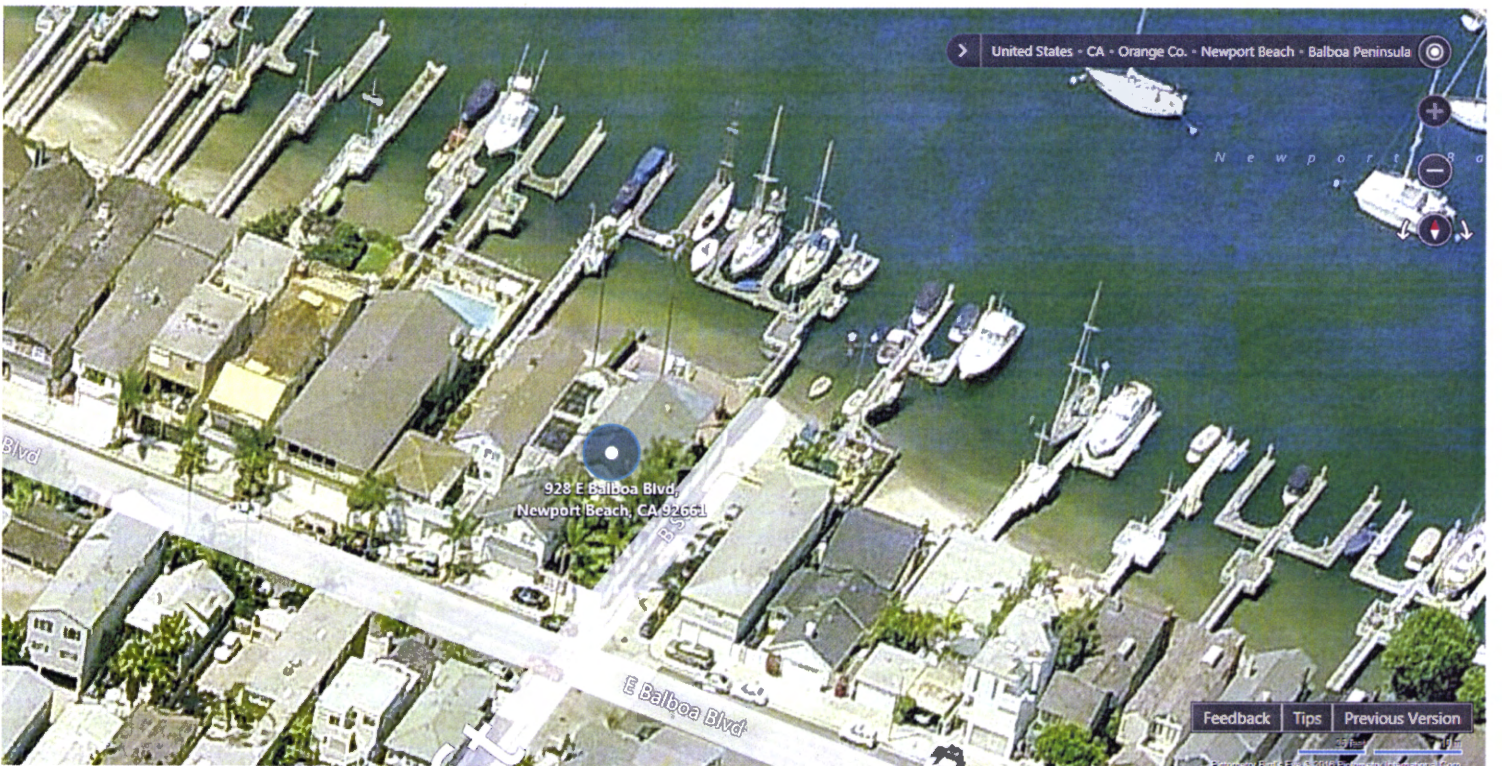
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California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

The City of Newport Beach is the lead agency responsible for certifying that the proposed project is in conformance with the California Environmentally Quality Act (CEQA). On August 11, 2014, the City determined that the project is Categorical Exempt from provisions of CEQA.

The proposed project is located in an urban area. Infrastructure necessary to serve the project exists in the area. The proposed project has been conditioned in order to be found consistent with the resource protection policies of the Coastal Act. As conditioned to minimize impacts to eelgrass and water quality, the proposed project has been found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.

SUBSTANTIVE FILE DOCUMENTS

1. City of Newport Beach certified Land Use Plan; 1982.
2. California Eelgrass Mitigation Policy. National Marine Fisheries Service; 2014.



COASTAL COMMISSION

EXHIBIT #
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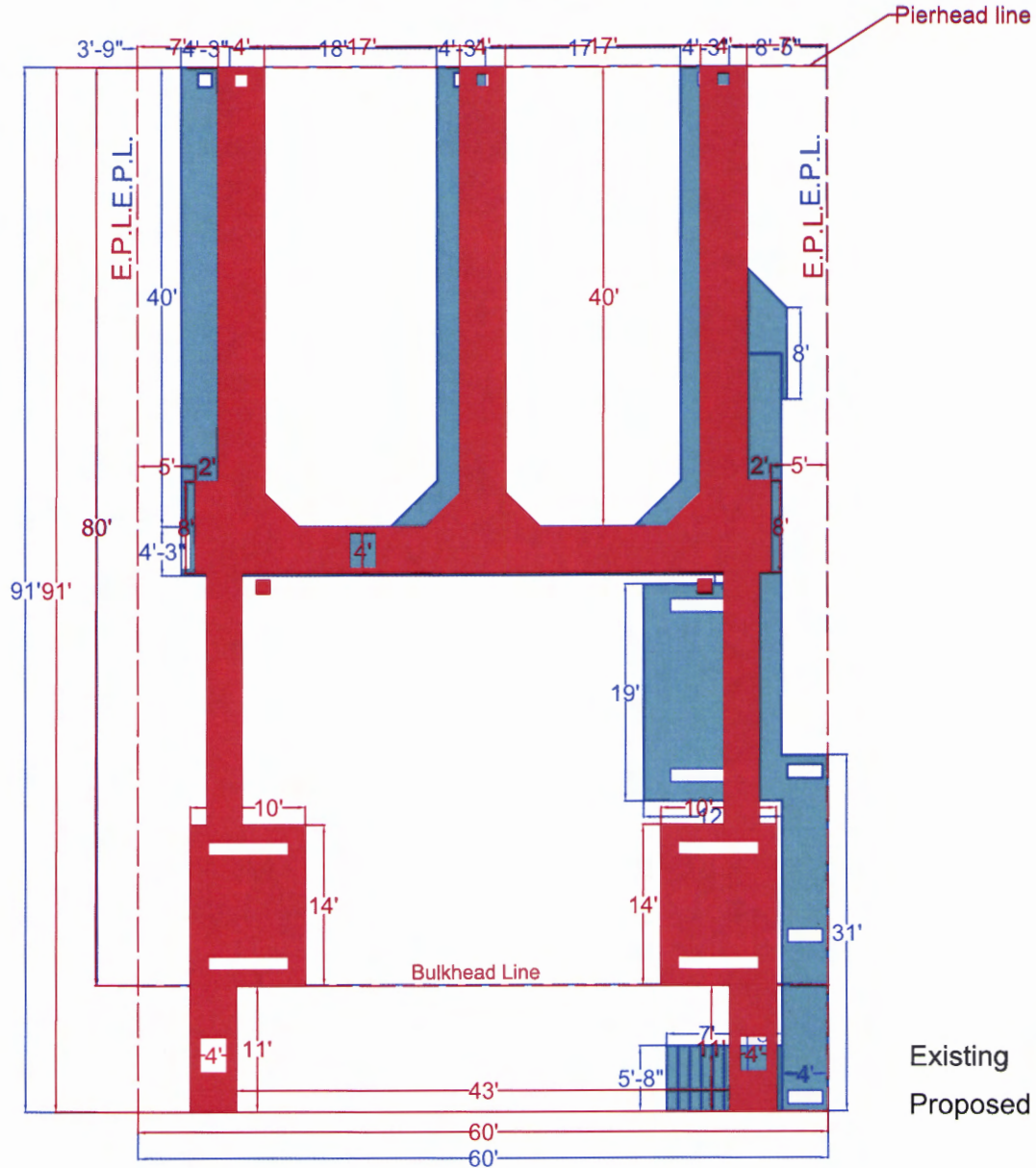
South Coast Region

5-15-2106

DEC 21 2015

CALIFORNIA
COASTAL COMMISSION

928 E. Balboa Blvd.
Newport Beach, CA.
Existing/Proposed Dock



Swift Slip Dock & Pier Builders, Inc.

642 Baker St.
Costa Mesa. California 92626

Phone: (949) 631-3121
Fax: (714) 509-0618

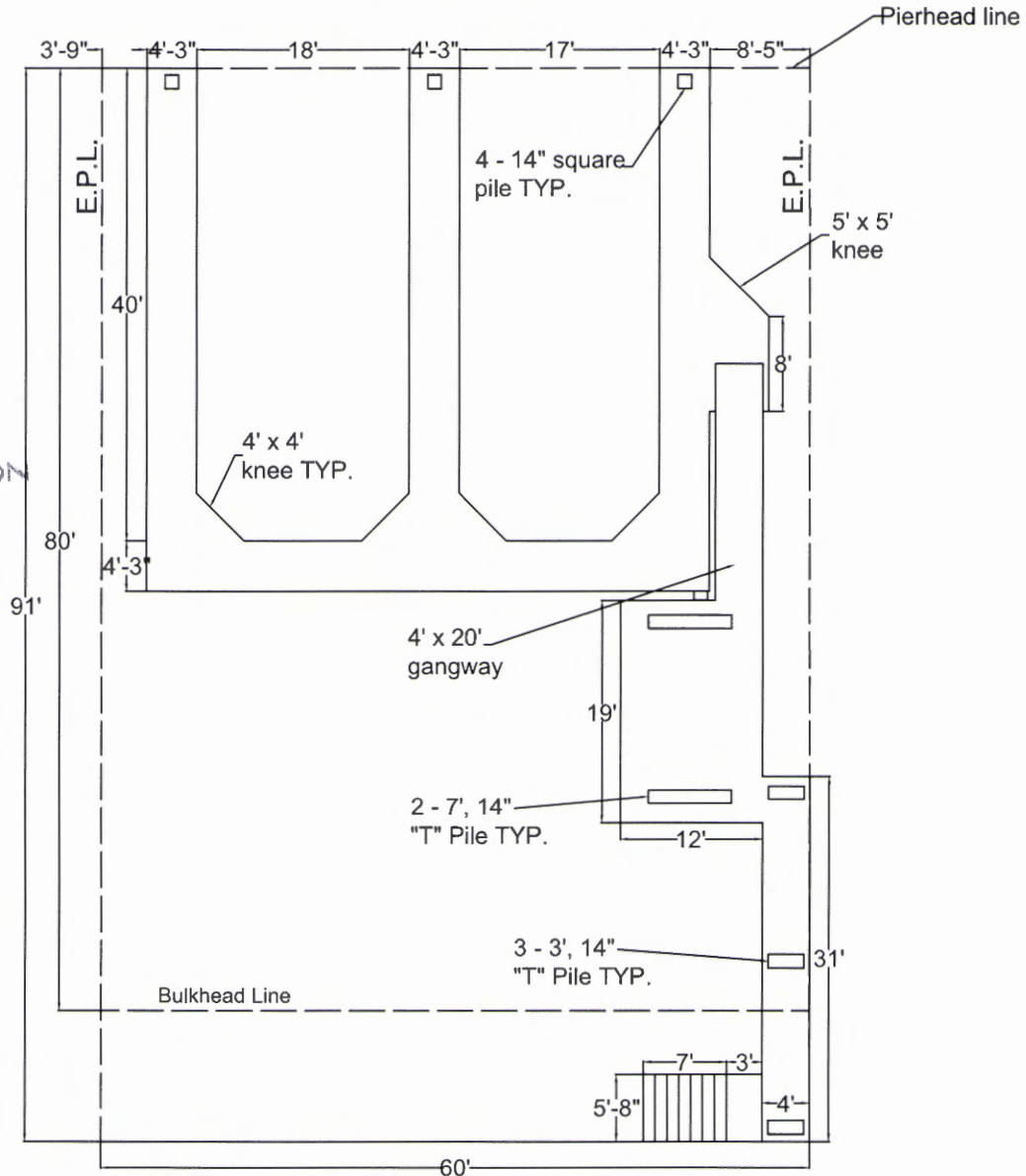
COASTAL COMMISSION

Date	Revision	No.
12/14/15		
MISSION		

EXHIBIT # 2
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5-15-2106

928 E. Balboa Blvd.
Newport Beach, CA.
Existing Dock



Area of Floating Dock = 797 square feet.
Area of Gangway = 80 square feet.
Area of Pier = 409 square feet.
Total Area = 1,286 square feet.



Swift Slip Dock & Pier Builders, Inc.

642 Baker St.
Costa Mesa, California 92626

Phone: (949) 631-3121
Fax: (714) 509-0618

COASTAL COMMISSION

Date	Revision	No.
11/25/15		

EXHIBIT # **3**
PAGE **1** OF **4**

The information contained in this drawing is confidential and proprietary to Swift Slip Dock & Pier Builders, Inc. No part of this drawing may be distributed, disclosed or reproduced in any form by any third party without consent from Swift Slip Dock & Pier Builders, Inc.

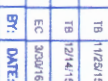
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COASTAL COMMISSION



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**928 E Balboa Blvd
Newport Beach, CA**

Pre Construction October 30, 2015

Figure 2. Existing Dive Transects, eelgrass, quadrats, and depths

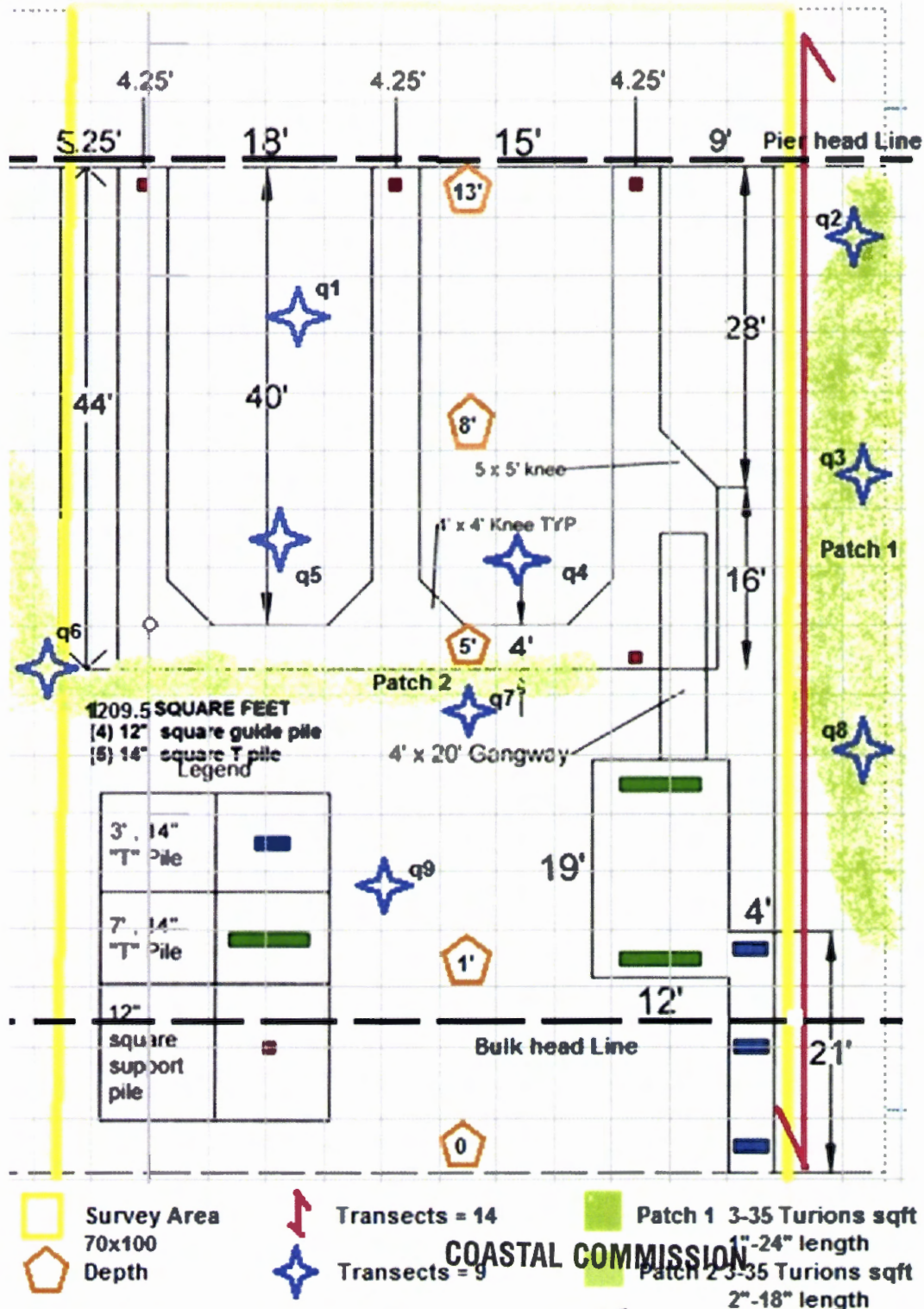


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Figure 3. Proposed new dock slip with two piers in place of one existing pier.

