

CALIFORNIA COASTAL COMMISSION

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F11a

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-16-0120

Applicant: DJM Capital Partners, Inc.

Agent: CAA Planning, Attention: Shawna Schaffner

Location: 3400 Via Oporto, City of Newport Beach, (Orange County)

Project Description: The project entails the demolition of an existing 49-slip marina and construction of a new 48-slip marina in the same location. The project also includes the improvement and expansion of an existing public waterfront accessway by constructing a 6 foot wide cantilevered public boardwalk above the existing seawall/bulkhead and installation of approximately 155 earthen anchors to strengthen the existing bulkhead.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Commission staff is recommending **APPROVAL** of the demolition and construction of a reconfigured new marina in the same location, as well as, the improvement and expansion of an existing public waterfront accessway by constructing a 6 foot wide cantilevered public boardwalk above the existing seawall/bulkhead, which will be strengthened by installing 155 earth anchors. The major issues raised by this proposed development concern impacts to marine resources, water quality, and public access.

An eelgrass survey took place on June 26, 2015 and no eelgrass was discovered. However, the project is agendaized for the May 2017 Commission Hearing so the 2015 eelgrass survey, which

is valid for 60 days from the date the survey was taken, is no longer valid. Thus, the Commission imposes **Special Condition No. 1**, which requires updated eelgrass surveys to be conducted prior to commencement of the project.

A *Caulerpa Taxifolia* survey was completed for the project site and none was discovered. However, to verify that no *Caulerpa Taxifolia* is impacted, a pre-construction *Caulerpa Taxifolia* survey should be conducted. Therefore, the Commission imposes **Special Condition No. 2**, which requires the applicant, prior to commencement of development, to survey the project area for the presence of *Caulerpa Taxifolia*.

The proposed project, because of its location in and near the water, has potential for adverse impacts to water quality and marine resources during construction and post construction. Therefore, as a result, special conditions have been imposed in order to minimize any impacts to water quality and marine resources the proposed project may result in: **Special Condition No. 3** requires the applicant to implement construction Best Management Practices (BMPs) to protect water quality during landside work; **Special Condition No. 4** requires the applicant to implement construction Best Management Practices (BMPs) to protect water quality during waterside work; **Special Condition No. 5** requires the applicant to submit a Construction Staging Plan; **Special Condition No. 6** requires the applicant to submit a Marina Management Plan (Clean Marina Program).

The proposed development is located in an area where coastal hazards exist and can adversely impact the development. Therefore, the Commission imposes **Special Condition No. 7**, which requires the applicant to assume the risk of development.

Although the applicant's reports indicate that the site is safe for development at this time, bay front areas are dynamic environments and may be subject to unforeseen changes. Such changes may affect shoreline processes. To minimize the project's potential future impact on shoreline processes, the Commission imposes **Special Condition No. 8**, which prohibits future bayward extension of the shoreline protective device.

In order to ensure that future development on the site does not occur which could potentially result in adverse impacts to coastal processes, the Commission imposes **Special Condition No. 9**, which informs the applicant that future development at the site requires an amendment or a new coastal development permit.

Because of the development's proximity to the water and provision of public docks, the proposed project may result in adverse impacts to coastal public access during construction and during the operation of the new reconfigured marina if not adequately signed informing boaters and the public of the public marina and access locations. As a result, special conditions have been imposed in order to minimize any impacts to public access the proposed project may result in: **Special Condition No. 5** requires the applicant to submit a Construction Staging Plan, **Special Condition No. 10** requires the applicant to maintain the existing City of Newport Beach required easement to provide a 6 foot wide public boardwalk; **Special Condition No. 11** requires the City of Newport Beach to record a public access deed restriction to ensure the provision of the delineated 6 foot wide unobstructed lateral public accessway provided along the length of the seawall/bulkhead fronting Dock A and Dock B (3400 Via Oporto to 3450 Via Oporto) composed

of the 6 foot wide cantilevered section; **Special Condition No. 12** requires the applicant to submit revised plans with: 1) a design of the replacement cantilevered deck and Platform C fronting 3366 Via Lido that in the future can support potential future expansion of an unobstructed lateral public accessway to the east of 3366 Via Lido; and 2) includes the 6 foot wide cantilevered deck located at the western portion of 3450 Via Oporto that fronts the bay as a component of the proposed 6 foot wide unobstructed lateral public accessway to the east of 3450 Via Oporto and designed so it can accommodate potential future expansion of an unobstructed lateral public accessway to the west of 3450 Via Oporto; and **Special Condition No. 12** requires the applicant to submit and implement a coastal public access sign plan identifying the location of the visitor-serving/coastal access directional sign.

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. 13**, which requires the property owner record a deed restriction against the project site.

In January 2017, the City obtained certification of their Local Coastal Plan (LCP). The landward side of the development is within the City's jurisdiction; however, since the project was submitted prior to certification of the City's LCP, the Commission will be processing the coastal development permit. The City's certified LCP is the standard of review for the landside development.

A portion of the proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development.

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EXHIBITS

[Exhibit No. 1 – Location Map](#)

[Exhibit No. 2 – Site Plan](#)

[Exhibit No. 3 – Seawall/Bulkhead Earth Anchor Plan](#)

[Exhibit No. 4 – Boardwalk Plan](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-16-0120 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 is in conformity with both the policies of the Local Coastal Program for the landward portions of the development within the City's LCP jurisdiction and the Chapter 3 policies of the Coastal Act for the portions of the development within the Commission's original permitting jurisdiction. 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. Eelgrass Survey(s).

- A. Pre-Construction Eelgrass Survey. 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 (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 eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.
- B. Post-Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction if completion of construction occurs within the active growth period, 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 (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 by project construction, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another appropriate location subject to the approval of the Executive Director, in accordance with the California Eelgrass Mitigation Policy. Any exceptions to the required 1.38:1 mitigation ratio found within CEMP 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.

2. 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.
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - (1) for the review and approval of the Executive Director; and
 - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through California Department of Fish & Wildlife (858/467-4218) National Marine Fisheries Service (562/980-4043).
- 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, subject to concurrence by the Executive Director, that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 3. Construction Best Management Practices (BMPs) During Landside Work.** The permittee shall comply with the following construction-related requirements:
- A. No demolition or construction materials, 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. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
 - C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
 - D. 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;
 - E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - G. 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;
 - H. 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;

- I. 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;
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- K. 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;
- L. 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
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

4. Construction Best Management Practices (BMPs) During Waterside Work. 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 shall not be allowed at any time in the intertidal zone;
- E. If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity;
- F. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- G. Non buoyant debris discharged into coastal waters shall 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 is 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; and
- P. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

5. Construction Staging Plan. PRIOR TO ISSUANCE OF THE COASTAL

DEVELOPMENT PERMIT the permittee shall submit for the review and approval of the Executive Director, two (2) full size sets of construction staging plans, which indicate that the construction staging area(s) and construction corridor(s) will minimize public access impacts to the coast and minimize water quality impacts to coastal waters.

- 1. The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition;
 - (b) Construction equipment, materials, or activity shall not be placed within any habitat area or within 100-feet of any drainages; and
 - (c) The construction staging area will gradually be reduced as less materials and equipment are necessary.
- 2. The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 - (1) limits of the staging area(s);
 - (2) construction corridor(s); and
 - (3) construction site; and
 - (4) location of construction fencing and temporary job trailer(s); and
 - (b) A narrative that describes and explains the plan

The permittee shall undertake development in accordance with the approved final plan. 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.

6. Marina Management Plan. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the Executive Director's review and approval a detailed Marina Management Plan for controlling adverse impacts to water quality related to long-term water-borne berthing of vessels in the marina. The plan shall be prepared by a qualified professional with expertise in the control of water quality impacts related to marinas.

- A. The plan shall demonstrate that long-term water-borne berthing of vessels in the marina shall be managed in a manner which protects water quality and that persons using the marina are made aware of the rules related to boat maintenance and use. To the extent to which physical features or objects (trash containers, recycling bins) are required in the plan, an attached site plan shall show the location where these features or objects will be installed.
- B. The plan shall include, at a minimum, the following components or measures:
 1. Boat Cleaning Management Measures:
 - (a) In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
 - (b) The marina shall prohibit in-water boat hull washing which does not occur by hand;
 - (c) The marina shall prohibit in-the-water hull scraping or any process that occurs under water which results in the removal of paint from boat hulls;
 - (d) The marina shall ensure that marina tenants, when washing boats, utilize detergents and cleaning components that are phosphate-free and bio-degradable. Amounts used shall be minimized; and,
 - (e) The marina shall prohibit the use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
 2. Implementation of a solid waste reduction and recycling program including the following Solid Waste Management Measures:
 - (a) Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock);
 - (b) All trash and separate containers for recyclables, oil wastes, fish wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock);
 - (c) All solid waste, including sewage, shall be properly disposed of only at appropriately designated facilities;
 - (d) 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.
 3. Implementation of a liquid material control program which provides and maintains appropriate storage, transfer, containment and disposal facilities for liquid materials commonly used in boat maintenance including the following Liquid Waste Management Measures:
 - (a) The marina shall provide a secure location to store hazardous wastes, including petroleum products, old gasoline or gasoline with water, absorbent materials, and oily rags;

- (b) Containers for anti-freeze, lead acid batteries, used oil and used oil filters which will be collected separately for recycling shall be provided by the marina;
 - (c) Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes; and
4. Petroleum Control Management Measures:
- (a) Boaters shall 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;
 - (b) If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and
 - (c) 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.
5. Public Education Measures:
- (a). The marina shall provide information about all of the measures in the BMP program through a combination of signage, tenant bill inserts and distribution of the BMP program to new tenants and each year to repeat tenants. The program shall be posted at the Harbormaster's Office/Administration Building and at all dock entrances, and be included and attached to all slip lease agreements.
6. The permittee shall undertake development in conformance with the approved final plan unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

7. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. No Future Bayward Extension of the Shoreline Protective Device.

- A. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device that is the subject of Coastal Development Permit No. 5-16-0120, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of itself and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235, the certified LCP, or other applicable law. Any proposal to extend the footprint of the subject shoreline protective device vertically shall be subject to a coastal development permit amendment; unless the Executive Director determines that no amendment is legally required.
- B. Prior to the issuance by the Executive Director of the NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the shoreline protective device that is the subject of Coastal Development Permit No. 5-16-0120, as generally described above and shown on [Exhibit No. 2](#) attached to this staff report, showing the footprint and the elevation of the device referenced to NAVD (National American Vertical Datum).

9. Future Development. This permit is only for the development described in Coastal Development Permit No. 5-16-0120. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-16-0120. Accordingly, any future improvements to the marina, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Coastal Development Permit No. 5-16-0120 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. Compliance with Existing Public Access Easement

- A. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that in order to ensure no loss of public access as a result of the approval of this permit, continuing compliance with the existing easement which is titled “Grant of Easement” from grantor Donald M. Koll to grantee City of Newport Beach recorded as Instrument No. 7340, Newport Beach Deed No. 234 in Book 11081 Page 1620 of the Official Records of Orange County on February 5, 1974 (the “Existing Public Access Easement”), including the requirement in said Easement that any reserved rights not unreasonably interfere with or obstruct pedestrian ingress and egress over said Easement, shall be an enforceable condition of approval for this permit. This requirement to continue complying with the Existing Public Access Easement shall not be construed as modifying or altering the terms of that Easement in any way.
- B. The applicant agrees, on behalf of itself and all successors and assigns, that by securing a public access deed restriction from the City of Newport Beach which restricts the use and

enjoyment of the parcel and provides public access and recreational uses for the life of the development approved under this permit, as required by Special Condition 11 below (the “New Public Access Easement”), the requirement for the applicant to comply with the New Public Access Easement as a condition of approval for this permit shall not be construed to obstruct or otherwise extinguish the requirement for the applicant to comply with the Existing Public Access Easement as specified in subsection A above.

11. Public Access Deed Restriction

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide proof that the City of Newport Beach has executed and recorded documents(s) in a form and content acceptable to the Executive Director, restricting the use and enjoyment of the parcel, and providing public access and recreational uses for the life of the development approved under this permit as described **Special Condition No. 10** and as shown on [Exhibit No. 4, page 3](#).
1. Public Access Areas. The deed restriction shall reflect that the City shall provide public access for recreational uses consistent with the terms and conditions of this coastal development permit in the following locations (as generally shown in [Exhibit No. 4, page 3](#)):
 - (a) A delineated 6 foot wide unobstructed lateral public accessway provided along the length of the seawall/bulkhead fronting Dock A and Dock B (3400 Via Oporto to 3450 Via Oporto) composed of the 6 foot wide cantilevered section as proposed by the applicant; and
 2. Development and Use Restrictions. No development, as defined in Section 30106 of the Coastal Act, shall occur within any of the public access areas described in subsection A.1 of this condition, and as described and depicted in [Exhibit No. 4, page 3](#) of this staff report, except for the following development which shall require a separate coastal development permit:
 - (a) Public park benches and public lighting
 3. The document shall also provide that public access along the boardwalk shall be uninterrupted at all times.
- B. The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the designated public access area(s) prepared by a licensed surveyor based on an on-site inspection of the public access area(s).
- C. The deed restriction shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.
- D. The deed restriction shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner for the life of the development approved under this permit.

12. Final Updated Plans.

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for the Executive Director's review and approval, two (2) full size sets of the following final updated plans, modified as required below:
1. Revised Project Plans that substantially conform with the plans received on February 12, 2016, except they shall be modified as required below:

- (a) The applicant shall acknowledge potential future expansion of the lateral public accessway in Lido Marina Village at 3366 Via Lido and shall design the replacement cantilevered headwalk and Platform C fronting 3366 Via Lido so that it can accommodate potential future expansion of an unobstructed lateral public accessway to the east of 3366 Via Lido; and
 - (b) The 6 foot wide cantilevered deck located at the western portion of 3450 Via Oporto that fronts the bay that is to be rebuilt in the same location shall be provided as a component of the proposed 6 foot wide unobstructed lateral public accessway to the east of 3450 Via Oporto and will be designed so it can accommodate potential future expansion of an unobstructed lateral public accessway to the west of 3450 Via Oporto; and
 - (c) The boardwalk design shall incorporate visual cues that identify it as an unobstructed public boardwalk.
2. A Coastal Public Access Sign Plan:
- (a) The plan shall show the location of the visitor-serving/coastal access directional sign(s) located in the following area:
 - (1) Along the 6 foot wide unobstructed lateral public accessway fronting Dock A and B; and
 - (2) Fronting the street Via Oporto between the following buildings: 1) 3450 and 3440 Via Oporto; 2) 3432 and 3424 Via Oporto; and 3) 3416 and 3412 Via Oporto;
 - (3) At the pedestrian and vehicular exits of the Lido Marina Village Parking Structure
 - (b) The proposed sign(s) shall be in compliance with the Coastal Access Sign Program submitted as part of the City of Newport Beach Implementation Plan (IP) that was approved by the Commission on September 7, 2016.
- B. All final updated plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.
- C. The permittee shall undertake development in conformance with the approved final updated plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

13. 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. PROJECT DESCRIPTION

Lido Marina is one of the largest private commercial marinas in Newport Harbor and has been continuously operated as a private visitor-serving commercial marina since 1955 and will continue to do so post project. This marina accommodates a variety of uses, from an individual recreational user to chartered functions. In Dock A, slips are offered for lease to the general public, and rentals of personal watercraft are provided. A portion of the marina (Dock B) is set aside for commercial charter vessel use and was approved by the California Coastal Commission (CCC) in May 2015 under CDP No. 5-14-1717. Dock C is also used by boats for commercial purposes.

The subject site is the Lido Marina, which was originally constructed in 1955, located bayward of Via Oporto Street and Via Lido within the City of Newport Beach, Orange County ([Exhibit No. 1](#)). Boats ranging in size from 20 feet to 92 feet in length can currently be accommodated within the marina. The subject site is located bayward of 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. Lido Marina Village includes a parking garage, which provides parking for both land uses and water-related uses in the village. Landward of the marina, there is an existing patio/boardwalk that provides access to the area and to the gangways leading to headwalks and boat slips, dingy basins, and a transient dock and pump out station.

The applicant states that the dock floats, wood decking, guide piles and water and electrical systems have reached the end of their useful life and need to be replaced. In addition, the applicant states that the existing boardwalk is not delineated throughout the length of the marina which tends to impede efficient access to gangway platforms and boat docks. Thus, the applicant claims that a major rebuilding of the dock system and boardwalk is needed in order to improve public access, reduce the need for temporary closures and repairs and to bring the marina up to date with current building and safety requirements. The applicant states that the reconfigured new marina will be consistent with industry standards including those for Americans with Disabilities Act (ADA) access, the Department of Boating and Waterways (DBAW), as well as City and State standards for utilities, water quality and safety.

The project entails the demolition of the existing 49-slip Lido Marina and construction of a new reconfigured 48-slip marina in the same location ([Exhibit No. 2](#)). The reconfigured new marina will reduce the existing 49 slips to 48 wet boat slips, a reduction of 1 wet boat slip. The proposed project will result in a significant increase in the number of small boat slips ranging from 20' to 35 (from 8 to 20) and an increase in boat slips ranging from 52' to 92' (from 8 to 15), but also a net decrease in the medium-size boat slips ranging in size between 36' and 50' feet in length (from 33 to 13). The breakdown of the slips sizes from the existing and proposed project is found below:

Existing and Proposed Dock Components		
Boat Length	Existing	Proposed
20-25	7	18
30	1	
35		2
36	8	
38	4	11
40	8	1
44		1
45	3	
50	10	
52-	1	
54	1	
64	1	
66	1	
80		4
82		4
86		3
90		4
92	4	
Greater than 100	0	0
TOTAL	49	48

The proposed new dock system has three distinct components: Dock A, Dock B and Dock C ([Exhibit No. 2](#)) that are part of the proposed project. Each of these docks is discussed further in detail below:

Dock A: This dock will be located at the western extent of the Lido Marina where the docks wrap around from the main harbor into the channel leading to Balboa Coves. Slips on this dock will be offered for lease to the general public. The western portion of this dock will accommodate small boats, kayaks, dinghies, gondolas, a transient side tie, and larger vessels. Rentals of small boats and personal watercraft, including kayaks and stand-up paddleboards, will also be provided. Included as part of the western portion of the dock design is a Low Freeboard Dock (LFD), that will allow for the easy launching of kayaks. Access to the western portion of this dock will be from a proposed 80 foot long ADA compliant gangway from Platform 1 (an existing platform positioned over the western portion of Dock A), which will have a proposed gated entry. The proposed transient slip will replace the existing transient slip, which is now in a slightly different configuration and located within the marina and not as a separate dock. The transient dock will have signage indicating a tie-up limit of 1 hour and will be monitored by marina maintenance staff to insure proper functioning. The gangway gate accessed from Platform 1 will be locked between the hours of 12:00 midnight to 6:00 a.m. when the marina is closed. The slips on the west side of Dock A in Small Boat Basins 1 and 2 will accommodate boats ranging in length from 35 to 45 feet. The larger boat slips on the east side of Dock A will accommodate boats from 35 feet in length to 82 feet in length. These slips will be accessed from a separate platform, Platform 2 (an existing platform positioned over the eastern portion of Dock A), which will have a proposed lockable, gated 80 foot long ADA-compliant

gangway, as well as a proposed lockable, gated 35 foot long standard gangway. The 80-foot long gangway and the 35-foot long gangway for the eastern portion of Dock A will be locked because they are not primarily provided for general public boating use, but rather are reserved for charter operations and long-term tenants, respectively.

Dock B: This dock was previously permitted under CDP 5-14-1717 and no work to this dock is proposed. Dock B is adjacent to Dock A and shares the same headwalk. Dock B is set aside for commercial charter vessel use and accommodates three boats that are in excess of 80 feet in length and has one side tie. In other words, Dock B does not provide for general public boating use. While no work is proposed on Dock B, work is proposed in the area that connects to Dock B. This dock will be accessed from Platform 2 (an existing platform positioned over the eastern portion of Dock A), which will have a proposed lockable, gated 80 foot long ADA-compliant gangway leading to Dock B, as well as a proposed lockable, gated 35 foot long standard gangway leading to the eastern portion of Dock A. The gate at the proposed 35 foot long gangway leading to the large boat slips at the east end of Dock A will remain locked for tenant security purposes, as this dock area will primarily be leased by long-term tenants. The gate at the 80 foot long gangway leading to Dock B will remain locked as well, except in the event of charter operations, as this dock will primarily be used to moor charter fleets.

Dock C: This dock will be located at the eastern extent of the Lido Marina and ends in the area where landside development transitions from commercial development to residential development. This dock is physically separated from Dock A and B by the property located at 3388 Via Lido, which has a landside building and waterside dock component. This dock will contain five slips and two side ties and the slips in this dock will accommodate three 82 foot boats and two 90 foot boats that will be used for commercial purposes. Similar to Dock B, Dock C does not provide for general public boating use. The east end of the dock can accommodate two side-tied boats 38 feet in length, and the west end of the dock can accommodate one side-tied boat 90 feet in length. Access to Dock C is through a proposed, lockable, gated 80-foot ADA compliant gangway from Platform 3 (an existing platform positioned over Dock C) that is connected to an existing elevated cantilevered headwalk, which as part of this project will be replaced in kind along with the platform. While Dock A and Dock B will be accessible directly from three public access walkways through Lido Marina Village (to be discussed later), the elevated cantilevered headwalk, platform 3 and gangway to Dock C is only accessible across the existing cantilevered public boardwalk supported by piles that fronts 3388 Via Lido, which is under separate ownership ([Exhibit No. 2](#)). In other words, public access to Dock C is dependent on using one of the three public accessways through Lido Marina Village that services Docks A and B, *then* continuing on the existing cantilevered public boardwalk that fronts 3388 Via Lido and which connects Docks A and B in Lido Marina to Dock C, which is on the eastern side of 3388 Via Lido.

No dredging is proposed with the project.

The Lido Marina is an extension of Lido Marina Village and is connected by the Lido Marina Village patio/boardwalk. Landside access from Via Oporto and the existing Lido Village parking structure to the marina is provided from three existing vertical access points open 24 hours to the public, identified as Marina Access Points on the Proposed Dock Plan, between the following buildings: 1) 3450 and 3440 Via Oporto; 2) 3432 and 3424 Via Oporto; and 3) 3416

and 3412 Via Oporto. These lateral three access points lead to the existing and proposed public patio/boardwalk along the waterfront, as well as, the platforms that lead to the Docks A, B and C (in the case of Dock C, through the cantilevered boardwalk that fronts 3388 Via Lido) ([Exhibit No. 2](#)). The applicant proposes updated signage at these three vertical access points, which connect Lido Marina Village with the Lido Marina and access along the waterfront.

With the reconfigured new marina, improvements are proposed to the existing utilities and drainage patterns that will in turn bring these features into compliance with City and State code standards. A new vessel waste pump-out will be located at the transient side tie location located at the western portion of Dock A. An existing vessel waste pump-out located at the mid-point of the marina in Dock B will remain and continue to serve the commercial boats docked at this location.

The proposed project will result in a net decrease of 1,083 square feet in over water shading with the new dock system; however, there will be an overall increase in over water shading of 3,169 square feet due to the addition of the cantilevered public boardwalk, and new kayak float in Dock A. To anchor Dock A and Dock C of the new dock system (Dock B already exists and no work is proposed to that dock), 61 new piles are proposed. Currently, the existing marina, minus the existing piles supporting Dock B, is supported by 70 piles. Thus post project, the total number of dock support piles will be reduced from 70 to 61 piles. However, the size of the piles will be increased consistent with current design requirements and this will result in a net increase in soft bottom pile area impact of 152 square feet. The existing piles range in size from 10 inches to 20 inches, and the proposed piles will range in size from 14 inches to 24 inches.

The proposed dock system includes dock fingers and headwalks, platforms and decking of wood frame construction with support provided by roto-molded, foam-filled plastic pontoons bolted to the underside of the wood framing with Douglas fir 2X covering. All floating docks will be made off-site in a fabrication yard and trucked to a local launching site anticipated to be either at the City-owned Lower Castaways site just north of the Pacific Coast Highway bridge, or the Newport Dunes launch ramp. The new docks will then be placed in the water and towed to the Lido Marina project site and set in-place. All new piles will be of pre-stressed concrete construction and driven to the desired embedment depth with a diesel or drop hammer.

The existing Lido Marina Village patio/boardwalk, which varies in width from 11 to 14 feet, is situated on top of the seawall/bulkhead edge along the length of Docks A and B and the adjacent landside commercial development along these areas ([Exhibit No. 4](#)). Patio furniture and other amenities are currently located within this patio/boardwalk area. Within this existing patio area running 6 feet landward from the seawall/bulkhead edge fronting Docks A and B, is an existing 6 foot wide public access easement boardwalk that was required by the City in a previous approval in 1974. The proposed project includes the removal of this existing 6 foot wide public boardwalk section and expansion and improvement with a new 12 foot public boardwalk with a new 6 foot wide cantilevered public boardwalk along the seawall/bulkhead fronting Dock A and B, which begins along the eastern end of the building at 3450 Via Oporto and ends to the west before the property line of 3388 Via Oporto ([Exhibit No. 4](#)). The applicant proposes that the new 6 foot wide cantilevered public boardwalk section will provide unobstructed lateral public access. As part of the City's approval for this new boardwalk, the City's Resolution No. 1966

stated that the walkway be a minimum 6 feet wide, but preferably 10 feet wide. The applicant has only proposed that the walkway be 6 foot wide.

The applicant states that the existing boardwalk configuration makes public access disconnected and somewhat unclear to visitors, but that the proposed 6 foot wide cantilevered public boardwalk component of the boardwalk system will create a more harmonious and clear path of travel for public access since it will be unencumbered by patio furniture and other tenant usage. Post project, the existing landward 6 foot wide public access easement boardwalk will remain as part of the now expanded boardwalk and is anticipated to accommodate restaurant patio furniture or other compatible temporary tenant uses.

The applicant states that the cantilevered feature serves a double function to: 1) provide a continuous six foot wide boardwalk along the seawall/bulkhead (in addition to the existing landside portion of the boardwalk along the seawall/bulkhead), and 2) provide an extension of the existing seawall/bulkhead in order to protect against future sea level rise.

The proposed boardwalk will be delineated to provide a continuous 6 foot wide cantilevered unobstructed public boardwalk and railing fronting Docks A and B. The existing boardwalk does not extend further east to Dock C because the property at 3388 Via Lido, which is under separate ownership and is not a part of this project, is built directly adjacent to the seawall/bulkhead and no public access is provided across the landside of that property. However, an existing cantilevered pile supported, publicly-open boardwalk allows pedestrian traffic across the waterside of 3388 Via Lido and serves as a connection to an existing elevated cantilevered headwalk, platform and gangway at Dock C that will remain ([Exhibit No. 2](#)). No improvements to this existing public boardwalk fronting 3388 Via Lido is proposed.

The existing 6 foot wide boardwalk located on top of the seawall/bulkhead edge along the length of Docks A and B will be demolished and replaced with a reinforced concrete slab which will extend across and cantilever over the existing seawall/bulkhead and cap. A structural slab and curb are proposed as a vertical extension of the seawall/bulkhead in order to provide protection to the landside improvements from future sea level rise. The top of the curb at the end of the cantilevered boardwalk will have an initial top elevation of +9.5 NAVD88, but the cantilevered boardwalk (and associated counterweighted foundation) will be designed so that the curb can be extended higher, up to +11.0 NAVD88 in the future if needed.

The existing seawall/bulkhead that fronts the Lido Marina is approximately 852 feet in length, excluding 3388 Via Lido. In order to secure the existing seawall/bulkhead that fronts Dock A, B and C, 155 earth anchors are proposed to be installed ([Exhibit No. 3](#)). The earth anchors will be drilled-in from the waterside and will not disrupt the landside facilities. These improvements will not impact the soft bottom of the harbor, or the existing landside development.

B. STANDARD OF REVIEW

In January 2017, the City obtained certification of their Local Coastal Plan (LCP). The landward side of the development is within the City's jurisdiction; however, since the project was submitted prior to certification of the City's LCP, the Commission will be processing the coastal development permit. The City's certified LCP is the standard of review for the landside development.

A portion of the proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development.

C. MARINE RESOURCES/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 waterflow, 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 30233 of the Coastal Act states (in relevant 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:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (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.*

- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

Coastal Land Use Plan, Eelgrass Meadows, Policy 4.1.4-4 states,

Provide for the protection of eelgrass meadows and mitigation of impacts to eelgrass meadows in a comprehensive harbor area management plan for Newport Bay.

Coastal Land Use Plan, Eelgrass Meadows, Policy 4.1.4-5 states,

*Where applicable require eelgrass and *Caulerpa taxifolia* surveys to be conducted as a condition of City approval for projects in Newport Bay in accordance with operative protocols of the Southern California Eelgrass Mitigation Policy and *Caulerpa taxifolia* Survey protocols.*

Coastal Land Use Plan, Dredging, Diking and Filling, Policy 4.2.3-1 states,

Permit the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes in accordance with other applicable provisions of the LCP, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects and limited to the following:

- A. Construction or expansion of port/marine facilities.*
- B. Construction or expansion of coastal-dependent industrial facilities, including commercial fishing facilities, and commercial ferry facilities.*
- C. In open coastal waters, other than wetlands, including estuaries and streams, new or expanded boating facilities, including slips, access ramps, piers, marinas, recreational boating, launching ramps, and pleasure ferries, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- D. Maintenance of existing and restoration of previously dredged depths in navigational channels, turning basins, vessel berthing, anchorage, and mooring areas, and boat launching ramps. The most recently updated U.S. Army Corps of Engineers maps shall be used to establish existing Newport Bay depths.*
- E. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines.*
- F. Sand extraction for restoring beaches, except in environmentally sensitive areas.*
- G. Restoration purposes.*
- H. Nature study, aquaculture, or similar resource-dependent activities.*
- I. In the Upper Newport Bay Marine Park, permit dredging, diking, or filling only for the purposes of wetland restoration, nature study, or to enhance the habitat values of environmentally sensitive areas.*

Coastal Land Use Plan, Dredging, Diking and Filling, Policy 4.2.3-2 states,

Continue to permit recreational docks and piers as an allowable use within intertidal areas in Newport Harbor.

Coastal Land Use Plan, Dredging, Eelgrass Protection and Restoration, Policy 4.2.5-1 states,

*Avoid impacts to eelgrass (*Zostera marina*) to the greatest extent possible. Mitigate losses of eelgrass at a 1.2 to 1 mitigation ratio and in accordance with the Southern California Eelgrass Mitigation Policy. Encourage the restoration of eelgrass throughout Newport Harbor where feasible.*

Coastal Land Use Plan, TMDLs, Policy 4.3.1-8 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.

Coastal Land Use Plan, NPDES, Policy 4.3.2-1 states,

Promote pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters, as well as the generation and impacts of dry weather and polluted runoff.

Coastal Land Use Plan, NPDES, Policy 4.3.2-6 states,

Implement and improve upon best management practices (BMPs) for residences, businesses, new development and significant redevelopment, and City operations.

Coastal Land Use Plan, NPDES, Policy 4.3.2-7 states,

Incorporate BMPs into the project design in the following progression:

Site Design BMPs.

Source Control BMPs.

Treatment Control BMPs.

Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the LCP or Coastal Act, structural treatment BMPs will be implemented along with site design and source control measures.

Coastal Land Use Plan, NPDES, Policy 4.3.2-19 states,

Require parking lots and vehicle traffic areas to incorporate BMPs designed to prevent or minimize runoff of oils and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants to receiving waters.

Coastal Land Use Plan, NPDES, Policy 4.3.2-22 states,

Require beachfront and waterfront development to incorporate BMPs designed to prevent or minimize polluted runoff to beach and coastal waters.

1. Fill

Dock A and Dock C of the reconfigured new marina will include 61 concrete pilings consisting of piles ranging in size from 14 inches to 24 inches displacing soft bottom habitat to support the dock systems. Placement of the piles will result in fill of coastal waters. Thus, the project must be reviewed for conformance with Section 30233(a) of the Coastal Act since this portion of the proposed development will occur within the retained, original jurisdiction of the Coastal Commission. In order to be consistent with Section 30233(a), 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.

The piles for the proposed marina will be located in the open coastal waters of Newport Harbor. Since the total 61 piles will support the boat dock floats, this associated fill would be consistent with Section 30233(a)(3) of the Coastal Act, thereby meeting the allowable use requirement, since the proposed fill is for a boating-related use that provides public access and recreational facilities.

While the reconfigured new marina, minus the existing piles for Dock B which no work is proposed, will be secured by 9 less piles than the existing 70 piles, the size of the new piles results in a net increase of soft bottom displacement of 152 square feet. However, the placement of the 61 piles is the minimum amount necessary to safely anchor the dock floats, which are proposed to be reduced from 70 to 61 boat slips. This conclusion is based on the applicant's engineer's evaluation of the minimum number of piles needed based on their engineering and design. Fewer and/or smaller piles would not adequately secure the boat dock floats. By using the least number of piles necessary to accomplish the goal of securing the boat dock floats, the 61 piles associated with the marina represent the least environmentally damaging feasible alternative that still achieves the project goal of allowing recreational boat berthing. Therefore, the Commission finds the proposed alternative meets the requirements of Section 30233(a) that any project involving fill of coastal waters be the least environmentally damaging feasible alternative.

The proposed recreational boat dock systems and its associated piles are allowable and encouraged marine related uses. The project design for the marina includes the minimum-sized pilings and the minimum number of pilings necessary for structural stability of the dock floats. Although the hard surface of the concrete 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 harbor. The hard surface presents an opportunity for biological resources to prosper in the area by providing habitat where organisms, such as algae, barnacles, mussels, and limpets can attach. Many of these organisms are food for fish, whereby increasing the species diversity in the area. Given the size and scale of the proposed project, the minimal 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. Therefore, the Commission finds the proposed project meets the requirements of Section 30233(a) that the project provides adequate mitigation to offset any impacts created by the project.

In conclusion, fill of the coastal waters here to provide new pilings for Docks A and C satisfies all three requirements of 30233(a), and thus this component of the proposed project can be found consistent with the Coastal Act. Furthermore, this component of the proposed project can be found consistent with LUP Policies 4.2.3-1 and 4.2.3-2 for substantially the same reasons identified above.

2. Eelgrass (*Zostera marina*)

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves, which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered important to protect because it functions as important habitat for a variety of fish and other wildlife, according to the California Eelgrass Mitigation Policy (CEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

An eelgrass survey, which did not identify any presence of eelgrass, took place on June 26, 2015 as required by the City of Newport Beach Harbor Resources Division 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 considered valid until the resumption of active growth (i.e., March 1). The 2015 eelgrass survey, which is nearly 2 years old, is no longer valid. Therefore, a new eelgrass survey shall be required prior to beginning any construction to identify and prevent potential eelgrass impacts. Thus, the Commission imposes **Special Condition No. 1**, which identifies the eelgrass survey that must be conducted prior to commencement of the project.

The proposed project will result in a net decrease of 1,083 square feet in over water shading with the new dock system; however, there will be an overall increase in over water shading of 3,169 square feet with the addition of the cantilevered public boardwalk, and new kayak float in Dock A. However, no eelgrass would be adversely affected by over water shading since eelgrass has not been located on site. The project as conditioned ensures project consistency with Section 30230 of the Coastal Act for the portion of the proposed project within the retained original jurisdiction of the Coastal Commission by ensuring the biological productivity of coastal waters and protection of marine organism species *vis a vis* proactive surveys to identify and protect any eelgrass onsite. Furthermore, the project as conditioned also ensures consistency with LUP Policies 4.1.4-4, 4.1.4-5, and 4.2.5-1 for substantially the same reasons as discussed above.

3. *Caulerpa Taxifolia*

In 1999, a non-native and invasive aquatic plant species, *Caulerpa Taxifolia*, was discovered in parts of Huntington Harbor (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 *Caulerpa Taxifolia* survey was completed on June 26, 2015 and none was found. *Caulerpa Taxifolia* surveys are valid for 90 days. The 2015 *Caulerpa Taxifolia* survey is not valid since nearly 2 years 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. 2**, 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. **Special Condition No. 2** ensures project consistency with Section 30230 of the Coastal Act for the portion of the proposed project within the retained original jurisdiction of the Coastal Commission by ensuring the biological productivity of coastal waters and protection of marine organism species *vis a vis* proactive surveys to identify and take remedial action if *Caulerpa Taxifolia* is identified onsite, since *Caulerpa Taxifolia* is known to have adverse impacts to native eelgrass. Furthermore, the project as conditioned also ensures consistency with LUP Policies 4.1.4-4, 4.1.4-5, and 4.2.5-1 for substantially the same reasons as discussed above.

4. Construction Impacts to Water Quality

Construction will occur on land and directly over and in coastal waters. As such, there is a possibility that construction phase activities could result in adverse water quality impacts. In addition, there is a possibility that improper staging and storage of equipment could have impacts on water quality. The standard of review for landside construction is the certified LCP, whereas the standard of review for seaside construction is Chapter 3 of the Coastal Act.

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

The applicant are proposing Best Management Practices (BMPs) for reducing or eliminating construction-related impacts to water quality during construction, such as: prohibition of discharge of any hazardous materials into the Newport Bay, disposal of trash in suitable containers on land or on work barges at the end of the construction day, etc.

In order to assure that the proposed project does not result in any accidental or unanticipated discharges, spills or other activities that could harm marine resources and water quality, and to assure the applicant is aware of their responsibility to provide a debris catching device under this coastal development permit, the Commission imposes **Special Condition No. 3**, which requires the applicant to implement construction Best Management Practices (BMPs) to protect water quality during landside work. In addition, **Special Condition No. 4** is proposed which requires the applicant to implement construction Best Management Practices (BMPs) to protect water quality during waterside work.

The applicant has indicated that the docks for the marina will be constructed off-site and then floated in. However, the applicant has not stated where the construction staging area will be for the landside work, such as for the boardwalk construction. Thus, the Commission finds that it is necessary to impose **Special Condition No. 5**, which requires the applicant to submit a Construction Staging Plan for the Executive Director's review and approval.

Special Conditions No. 3 and **No. 5** ensure consistency with relevant policies of the LCP to protect coastal water quality (*e.g.*, LUP Policy 4.3.1-8) by ensuring that all landside work for the proposed project is undertaken pursuant to best management practices for the purpose of protecting water quality. Likewise, **Special Condition No. 4** ensures consistency with Section 30231 and 30232 of the Coastal Act by implementing best management practices which ensure biological productivity and quality of coastal waters by minimizing adverse impacts of discharges, entrainment, and runoff (as required by 30231) and by protecting against spillage of hazardous substances into coastal waters and requiring effective containment and cleanup when accidental spills do occur (as required by 30232).

5. 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 landward site of the development drains a new boardwalk. Therefore, the primary landside post-construction water quality concerns associated with the proposed project include trash. The proposed development would result in the discharge of storm water into the storm water conveyance system that would discharge into the Lower Newport Bay and into coastal waters. The waterside portion of the project consists of a new reconfigured marina facility. Maintenance activities of the boats docked in the marina expansion and associated boating activities could result in adverse impacts to coastal waters. Therefore, the project has the potential to affect the water quality of the coastal waters in Newport Beach. 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 the proposed project.

In order to deal with these post construction water quality impacts, the applicant has submitted a Final Priority Project Water Quality Management Plan (WQMP) LIDO VILLAGE prepared by Tait & Associates, dated March 2, 2015. While this WQMP deals with the larger Lido Village area, it also includes water quality measures for the new proposed public boardwalk (landside and waterside). Drainage in the area of the boardwalk will be directed to a slab under the boardwalk. The slab will drain to a sump linear grated inlet vault with a Stormfilter Cartridge that will treat the pollutants of concern for the boardwalk.

Post project, a reconfigured new marina will be located on site. The berthing of boats by the boat dock users and associated boating activities in these new docks have the potential to adversely impact coastal water quality and marine environment through the introduction of pollutants associated with boating activities. In order to maintain water quality and prevent water quality impacts associated with the new reconfigured marina, the applicant has stated that the City of Newport Beach require the preparation of a "Marina Management Plan" that identifies Best Management Practices (BMPs) to minimize the introduction of potential pollutants into the Bay as a result of daily operations. The purpose of the plan is to encourage marinas in California to use BMPs to protect water quality to minimize the introduction of potential pollutants into the Bay as a result of daily operations, such as regarding debris removal and solid waste management and boat sewage discharge. However, no such plan has yet been completed. Thus, Commission staff imposes **Special Condition No. 7**, which requires the applicant to submit a Marina Management Plan in accordance with specified requirements which Commission staff has identified as sufficient to ensure post-construction impacts to water quality are minimized.

Special Condition No. 6 ensures consistency with Section 30231 and 30232 of the Coastal Act by implementing best management practices which ensure biological productivity and quality of coastal waters by minimizing adverse impacts of waterside post-construction discharges (as required by 30231) and by protecting against waterside post-construction spillage of hazardous substances into coastal waters and requiring effective containment and cleanup when accidental spills do occur (as required by 30232) that may result from long-term berthing of boats at the marina.

Similarly, **Special Condition No. 7** ensures consistency with various LUP policies with respect to landside post-construction impacts to water quality by minimizing introduction of pollutants into coastal waters (LUP Policy 4.3.2-1), implementing source control and treatment BMPs (LUP Policy 4.3.2-7), and requiring waterfront development to incorporate BMPs designed to prevent and minimize runoff to coastal waters (LUP Policy 4.3.2-22).

Conclusion

Thus, as conditioned, the Commission finds that the proposed project is consistent with Sections 30230, 30231, 30232 and 30233(a) of the Coastal Act and with the marine resources and water quality policies of the City's certified LCP, as discussed above.

D. HAZARDS

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawall/bulkheads, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act provides in part:

New Development shall:

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

Coastal Land Use Plan, Hazards and Protective Devices, Policy 2.8 1-2 states,

Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Coastal Land Use Plan, Hazards and Protective devices, Policy 2.8 1-4 states,

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

Coastal Land Use Plan, Coastal Erosion, Policy 2.8 6-5 states,

Permit revetments, breakwaters, groins, harbor channels, seawall/bulkheads, cliff retaining walls and other structures altering natural shoreline processes or retaining walls when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply, unless a waiver of future shoreline protection was required by a previous coastal development permit.

Coastal Land Use Plan, Coastal Erosion, Policy 2.8 6-6 states,

Design and site protective devices to minimize impacts to coastal resources, minimize alteration of natural shoreline processes, provide for coastal access, minimize visual impacts, and eliminate or mitigate adverse impacts on local shoreline sand supply.

Coastal Land Use Plan, Coastal Erosion, Policy 2.8 6-9 states,

Require property owners to record a waiver of future shoreline protection for new development during the economic life of the structure (75 years) as a condition of approval of a coastal development permit for new development on a beach, shoreline, or bluff that is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff. Shoreline protection may be permitted to protect existing structures that were legally constructed prior to the certification of the LCP, unless a waiver of future shoreline protection was required by a previous coastal development permit.

Coastal Land Use Plan, Coastal Erosion, Policy 2.8 6-10 states,

Site and design new structures to avoid the need for shoreline and bluff protective devices during the economic life of the structure (75 years).

Due to its bay fronting location, the project site may be exposed to coastal hazards from sea level rise, erosion, wave attack, flooding and other coastal hazards. The proposed project includes the installation of a cantilevered public boardwalk along the length of the existing seawall/bulkhead fronting Dock A and B and the applicant states that the cantilevered feature serves a double function to: 1) provide a continuous six foot wide boardwalk along the seawall/bulkhead (in addition to the existing landside portion of the boardwalk along the seawall/bulkhead), and 2) provide an extension of the existing seawall/bulkhead in order to protect against future sea level rise ([Exhibit No. 4](#)). More specifically, the work includes demolition of the existing boardwalk and replacement with a reinforced concrete slab which will extend across and cantilever over the existing seawall/bulkhead and cap. A structural slab and curb are proposed as a vertical extension of the seawall/bulkhead that will provide protection to the landside improvements from future sea level rise. The proposed protective device system is composed of three elements, the existing seawall/bulkhead cap, a cantilevered public boardwalk over the top of the seawall/bulkhead, and a curb at the end of the cantilevered public boardwalk. The top of the curb at the end of the cantilevered public boardwalk will have an initial top elevation of +9.5 NAVD88, but the cantilevered boardwalk (and associated counterweighted foundation) will be designed so that the curb can be extended higher by 18 inches, up to +11.0 NAVD88 in the future if needed to accommodate sea level rise. This ability to raise the height of the seawall/bulkhead in increments, as needed, will accommodate the 50-year expected useful lifespan of the seawall/bulkhead. To analyze the suitability of the proposed development relative to potential hazards; the applicant has submitted the following analyses: Sea Level Rise/Seawall Concept Memorandum prepared by Anchor QEA dated January 29, 2016; Seawall Condition Survey Prepared by Anchor QEA dated January 12, 2016; and Evaluation of Coastal Hazards for Lido Marina Boardwalk Repair prepared By Anchor QEA dated August 9, 2016.

The bulkhead supports the public accessway that runs along the bayfront. The seawall condition survey examined the existing concrete seawall/bulkhead sheets and determined them to be in fair to good condition with the cap and tie rods in fair to poor condition. The report recommends that new tiebacks be installed in the panels below the cap. Thus as part of the proposed project in order to secure the existing seawall/bulkhead that fronts Dock A, B and C (3366 Via Lido), the applicant is proposing 155 earth anchors to be installed. The earth anchors will be drilled-in from the waterside with one in every other panel ([Exhibit No. 3](#)). It is anticipated that the anchors will be installed following demolition of the existing dock structure, and prior to attachment of the new dock structure. Additionally, the applicant states that these improvements will not impact the soft bottom of the harbor, or the existing landside development. Also, the existing cap will be patched and grouted. The report estimates that the existing seawall/bulkhead has an estimated life of up to 50 years after retrofit. The report further concludes that the marina, consisting of gangways, head walks, and docks, will be adequately supported through this time and once the seawall/bulkhead has outlived its useful life it will need to be replaced or undergo additional alterations to maintain its function. Currently, no other work on the seawall/bulkhead is proposed.

The sea level rise/seawall concept memorandum describes potential sea level rise and how the proposed seawall/bulkhead cap system is designed to address sea level rise and augment public access at the marina. The top of the curb at the end of the cantilevered public boardwalk will have an initial top elevation of +9.5 NAVD 88. Additionally, the cantilevered public boardwalk is designed so that the curb can be extended higher, up to +11.0 NAVD 88 in the future to

accommodate sea level rise. This extended height is sufficient to accommodate for approximately 50 years of anticipated sea level rise. A 50-year timeframe to evaluate impacts of sea level rise on the design life of the proposed structure was chosen because the design life of the proposed boardwalk and adjacent landside development is 50 years. To further evaluate future coastal hazards upon the site, a hazards analysis was completed. This report analyzed future coastal hazards for years 2030 (13 year design life) and 2067 (50 year design life). The year 2030 provides an imminent reference and the year 2067 was selected due to the fact that the buildings at Lido Marina Village have an estimated 50 year lifespan. Based on interpolated sea level rise projections from the National Research Council (NRC) 2012 report, sea levels may rise between 0.8 feet to 3.2 feet by the year 2067 (50 years). The top of the curb at the end of the cantilevered public boardwalk will have an initial top elevation of +9.5 NAVD 88. The project has been designed to be above the highest astronomical tide elevation of 7.2 feet NAVD88 and at the City of Newport Beach design flood height of +9.0 feet NAVD88. If there were to be a 3.2 foot rise (the upper range of the NRC projections for southern California), an extreme high tide still water level of +10.40 feet NAVD88 (+7.20 feet MLLW + 3.2 feet = +10.40 feet NAVD88) could result. Such a rise would exceed the proposed top elevation of +9.5 feet NAVD88, resulting in water up to 0.90 feet higher than the proposed top elevation of the boardwalk curb. Therefore, the proposed development may be impacted by future flooding hazards if sea level rise approaches the interpolated upper range of the NRC projections. To ensure the applicant accepts the responsibility for all hazards associated with coastal development, the Commission imposes **Special Condition No. 7**, which requires the applicant to agree to assume the risk that the development is susceptible to hazards and **Special Condition No. 8**, which requires no future bayward extension of the shoreline protective device.

In an attempt to minimize risks to life and property from sea level rise-related flood hazards, the applicant has proposed adaptation measures to deal with flooding, such as designing the top of the curb at the end of the cantilevered public boardwalk so that it can extended higher by 18 inches, up to +11.0 NAVD88 in the future if needed to accommodate sea level rise.

Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated and potentially may result in a development which is not consistent with the Chapter 3 policies of the Coastal Act. In order to ensure that development on the site, including alteration of the existing seawall/bulkhead, does not occur which could potentially result in adverse impacts to coastal processes, the Commission imposes **Special Condition No. 9**, which informs the applicant that future development at the site requires an amendment to Coastal Development Permit No. 5-16-0711 or a new coastal development permit.

Conclusion

As conditioned, the Commission finds that the proposed project is consistent with Sections 30235 and 30253 of the Coastal Act and the hazard policies of the City's certified LCP, as discussed above.

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 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in relevant part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:[...]
(2) adequate access exists nearby, ...*

Coastal Land Use Plan Policy, Parking, 2.9.3-2 states,

Continue to require new development to provide off-street parking sufficient to serve the approved use in order to minimize impacts to public on-street and off-street parking available for coastal access.

Coastal Land Use Plan Policy, Parking, 2.9.3-3 states,

Require that all proposed development maintain and enhance public access to the coast by providing adequate parking pursuant to the off-street parking regulations of the Zoning Code in effect as of October 13, 2005.

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-1 states,

Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-3 states,

Develop and implement a uniform coastal access signing program to assist the public in locating, recognizing, and utilizing public access trails. Where appropriate, include information advising the public of environmentally sensitive habitats, safety hazards, and to respect adjacent private property.

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-13 states,

Require a direct dedication or an Offer to Dedicate (OTD) an easement for lateral public access for all new shorefront development causing or contributing to adverse public

access impacts. Such dedication or easement shall extend from the limits of public ownership (e.g. mean high tide line) landward to a fixed point seaward of the primary extent of development (e.g. intersection of sand with toe or top of revetment, vertical face of seawall/bulkhead, dripline of deck, or toe of bluff).

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-15 states,

Encourage the acceptance, improvement and opening of OTDs to the public by the City, a public agency, a private association, or other appropriate entity.

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-16 states,

Require all direct dedications or OTDs for public access to be made to a public agency or other appropriate entity that will operate the accessway on behalf of the public. Require accessways to be opened to the public once an appropriate entity accepts responsibility for maintenance and liability.

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-17 states,

Require new development in waterfront commercial areas to provide public access easements to and along the waterfront. Where appropriate, integrate public access easements into the project designs, such as restaurants with outdoor waterfront dining areas and boarding areas for charter and excursion vessels.

Coastal Land Use Plan Policy, Shoreline Access, 3.1.1-16 states,

Consistent with the policies above, provide maximum public access from the nearest public roadway to the shoreline and along the shoreline with new development except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources or (2) adequate access exists nearby.

Coastal Land Use Plan Policy, Berthing, and Storage, 3.3.2-2 states,

Protect, and where feasible, enhance and expand marinas and dry boat storage facilities.

Coastal Land Use Plan Policy, Berthing, and Storage, 3.3.2-7 states,

Protect, and where feasible, expand and enhance facilities and services for visiting vessels, including public mooring and docking facilities, dinghy docks, guest docks, club guest docks, pump-out stations and other features, through City, County, and private means.

Implementation Plan, Development Standards, 21.30A.020(C)(4) states,

4. Required Lateral Access. New public accessways for any new development in the segments identified in Section 21.30A.050(A)(7)(b) shall be required unless excepted by subsection (C)(2) of this section or the review authority determines that new public access is not required in pursuant to Section 21.30A.050(J).

Implementation Plan, Development Standards, 21.30A.050(A)(7)(b)(i) states,

- b. *Required Segments. Lateral accessway segments shall be provided in the following areas:*
 - i. *Lido Marina Village. On all bay front nonresidential and mixed-use lots in Lido Marina Village.*

Implementation Plan, Development Standards, 21.30A.050(A)(7)(d)(ii) states,

- d. *Minimum Width. Lateral accessways shall be the following minimum widths:*
 - ii. *Lots with Shoreline Protective Devices. For lots with shoreline protective devices, a lateral accessway shall be a minimum of ten (10) feet in width as measured landward from the shoreline protective device.*

1. Parking

A parking structure is located in Lido Maria Village, which provide access for the public using the dock facilities. The reconfigured new marina will reduce the existing 49 slips to 48 wet boat slips, resulting in only a minimal reduction 1 wet boat slip. Because there will only be such a minimal change in the number of slips, the project site already provides adequate parking and the proposed project will 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 with respect to parking. 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 which expands the number of wet boat slips 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 does not result in impacts to public access, the Commission imposes **Special Condition No. 9**, which requires a future development special condition, which will allow the Commission to evaluate parking impacts associated with any future development proposal at that time. As conditioned, the project ensures adequate parking consistent with LUP policies 2.9.3-3 and 2.9.3-22 (as well as Section 30212 of the Coastal Act).

2. Slip Mix

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

Although the trend for new and redeveloped marinas is for larger boats, the demand for small boat slips still exists. In prior permit actions, the Commission has heard testimony contending that a reduction in the availability of slips that accommodate smaller boats reduces the option for those who want to own boats and use the smaller slips. The applicant states that the dock floats, wood decking, guide piles and water and electrical systems have reached the end of their useful life and need to be replaced. According to the applicant, the existing facility does not meet current Americans with Disabilities Act (ADA) access standards or Department of Boating and Waterways (DBAW) design criteria requirements, but the reconfigured new marina that will be built in the same location will meet these requirements. The reconfigured new marina will reduce the existing 49 slips to 48 wet boat slips, a reduction of only 1 wet boat slip ([Exhibit No. 2](#)). There is a significant increase in the number of small boat slips ranging from 20' to 35' and an increase in boat slips ranging from 52' to 92', but a net decrease in the medium-size slips ranging in size between 36' and 50' feet in length.

In this particular case, the existing and proposed slip configurations provided at the marina are as follows:

EXISTING SLIPS

- 8/49 or 16% of slips for smaller vessels 20'-35' long,
- 33/49 or 67% of slips for large vessels 36'-50' long and
- 8/49 or 16% of slips accommodating larger vessels at 52'-92' long.

PROPOSED SLIPS

- 20/48 or 42% of slips for smaller vessels 20'-35' long,
- 13/48 or 27% of slips for large vessels 36'-50' long and
- 15/48 or 31% of slips accommodating larger vessels at 52'-92' long.

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

The proposed new reconfigured marina also includes a small boat basin area in Dock A that will accommodate small boats, kayaks, dinghies, gondolas, a transient side tie, and larger vessels. At this dock, slips are offered for lease to the general public, and rentals of small boats and personal watercraft, including kayaks and stand-up paddleboards, are provided. Thus, access to Newport Bay for the public is not only improved by the proposed slip mix, but also by the opportunity for the public to access it through the use of a proposed transient side tie and personal watercraft area.

As conditioned, there is no significant potential for adverse impacts to public access as a result of the proposed slip mix. However, future development which may result in a different mix of slip sizes may potentially result in adverse impacts to public access (*e.g.*, overabundance of large-size boat slips). To ensure that future development is consistent with the Chapter 3 policies of the

Coastal Act, the Commission imposes **Special Condition No. 9**, which requires a coastal development permit for future development. This condition will allow the Commission to evaluate public access impacts associated with any future development proposing to change the mix of boat slip sizes at that time. As conditioned, the project maximizes public access and recreational opportunities through appropriate mix of slip sizes consistent with Section 30210 of the Coastal Act. Furthermore, the slip size mix and new transient slip and small boat basin expand and enhance public access at the marina consistent with LUP Policies 3.1.1-1, 3.3.2-2, and 3.3.2-7.

3. Boardwalk

The proposed project is located seaward of the first public road and within coastal waters, but also at the convergence of the landside and the water on both the landside and waterside. The existing marina, Lido Marina, will be demolished and a new reconfigured marina will be constructed in the same location. The marina is located bayward of the Lido Village area of Newport Beach, which is primarily developed with commercial uses that includes the Lido Marina Village area, which is a pedestrian-oriented waterfront development that includes visitor-serving commercial uses, specialty stores, and marine uses. The Lido Marina is an extension of Lido Marina Village and is connected by the Lido Marina Village patio/boardwalk. Landward of the marina, there is an existing 11' to 14' wide patio/boardwalk that provides access to the area and to the gangways leading to headwalks and boat slips, dingy basins, and a transient dock and pump out station. As part of the proposed project, a new 6 foot wide cantilevered public boardwalk is proposed over the water.

Landside access from Via Oporto and the existing Lido Village parking structure to the marina is provided from three existing vertical access points, identified as Marina Access Points on the Proposed Dock Plan, between the following buildings: 1) 3450 and 3440 Via Oporto; 2) 3432 and 3424 Via Oporto; and 3) 3416 and 3412 Via Oporto. These three vertical access points will remain open to the public 24 hours a day leading to the existing and proposed public patio/boardwalk along the waterfront, as well as, the platforms that lead to the Docks A, B and C ([Exhibit No. 2](#)). The applicant proposes updated signage at these three vertical access points, which connect Lido Marina Village with the Lido Marina and access along the waterfront.

The existing Lido Marina Village patio/boardwalk, which has patio furniture and other amenities within it, varies in width from 11 to 14 feet and is located on top of the seawall/bulkhead edge along the length of Docks A and B and the adjacent landside commercial development ([Exhibit No. 4](#)). Located within this existing patio/boardwalk area running 6 feet landward from the seawall/bulkhead edge fronting Docks A and B is an existing 6 foot wide public access easement that was required by the City in a previous approval in 1974. This Grant of Easement required by the City of Newport Beach allows amenities such as signs and tables as long as they do not unreasonably interfere with or obstruct pedestrian ingress and egress. The proposed project includes the removal and replacement of this existing 6 foot wide public boardwalk section and addition of a new 6 foot wide cantilevered public boardwalk along the seawall/bulkhead fronting Dock A and B, which begins along the eastern end of the building at 3450 Via Oporto and ends to the west before the property line of 3388 Via Oporto, resulting in expansion and improvement with a new 12 foot public boardwalk. The applicant proposes that the new 6 foot wide cantilevered public boardwalk section will provide unobstructed lateral public access.

The applicant states that the new 6 foot wide unobstructed cantilevered public boardwalk is needed since the existing boardwalk configuration makes public access disconnected and unclear and the new delineated 6 foot wide cantilevered public boardwalk will resolve this. Post project, the existing landward 6 foot wide public access easement boardwalk will remain and is anticipated to accommodate restaurant patio furniture or other compatible temporary tenant uses, as is allowable under the existing access easement, though as mentioned previously, any compatible uses within this easement area is still subject to the limitation that it not unreasonably interfere with or obstruct pedestrian ingress and egress. Therefore, even though the applicant proposes to provide the new 6 foot wide unobstructed cantilevered public boardwalk, this does not obviate the need for the existing access easement area, nor does it mean that the tenants may encroach into the existing access easement area such that the encroachment unreasonably interferes with or obstructs pedestrian ingress or egress. (See **Special Condition 10.**)

The existing boardwalk does not extend further east to Dock C because the property at 3388 Via Lido is built directly adjacent to the seawall/bulkhead (in between Docks B and C) and no public access is provided across the landside of that property. The property at 3388 Via Lido is under separate ownership and is not a part of this project. While no landside public access is available on the 3388 Via Lido Site, there is an existing cantilevered pile supported, publicly-open boardwalk that allows pedestrian traffic across the waterside of 3388 Via Lido and serves as a connection to an existing elevated cantilevered headwalk, platform and gangway at Dock C. No improvements to this existing boardwalk fronting 3388 Via Lido are proposed.

The existing boardwalk located on top of the seawall/bulkhead edge along the length of Docks A and B will be demolished and replaced with a reinforced concrete slab which will extend across and cantilever over the existing seawall/bulkhead and cap. In addition to this work, the applicant proposes to install 155 earth anchors in order to secure the existing seawall/bulkhead that fronts Dock A, B and C (3366 Via Lido). The earth anchors will be drilled-in from the waterside and will not disrupt the landside facilities.

The City's certified LCP identifies Lido Marina Village as one of three areas in the city where a 10 foot wide lateral access shall be provided, with the others being Cannery Village and McFadden Square and Mariner's Mile. Furthermore, the LCP states that later accessways will be provided on all bayfront nonresidential and mixed use lots in Lido Marina Village. Reinforcing the need for compliance with the certified LCP to provide lateral public access, part of the City's approval (Resolution No. 1966) for the proposed walkway stated that the walkway be a minimum 6 feet wide, but preferably 10 feet wide.

Currently located within the existing patio/boardwalk area running 6 feet landward from the seawall/bulkhead edge fronting Docks A and B, is an existing 6 foot wide public access easement that was required by the City in a previous approval in 1974. This Grant of Easement required by the City of Newport Beach allows amenities such as signs and tables as long as they do not unreasonable interfere with or obstruct pedestrian ingress and egress. As part of the proposed project, this existing 6 foot wide boardwalk section. in the same location where the public access easement is located, will be removed. A new 6 foot wide landside boardwalk section will replace it in kind and will also be expanded and improved by the provision of a new 6 foot wide unobstructed cantilevered public boardwalk section resulting in an overall 12 foot wide public boardwalk with a landside and cantilevered-over-the-water components. While the

existing boardwalk will be removed and replaced, the easement requiring the 6 foot wide landside boardwalk will remain. This easement allows for public access along the bayfront and therefore, in order to find the proposed development consistent with the relevant Coastal Act and certified LCP public access policies, this approval shall not result adverse impacts or inadvertent loss of this important existing public access and shall remain post project. To ensure that this easement remains and is maintained to provide ongoing public access, the Commission imposes **Special Condition No. 10**, which requires the City to continue complying with this easement. Special Condition No. 10 does not in any way alter or modify the terms of the existing access easement, but rather makes compliance with it an enforceable condition of approval for this permit. In order to ensure that the proposed 6 foot wide unobstructed cantilevered public boardwalk is provided and maintained, the Commission imposes **Special Condition No. 11**, which requires the applicant to provide proof that the City (trustee of the public trust lands upon which the new boardwalk will be cantilevered over) has appropriately restricted use of the boardwalk to unrestricted public access for the life of the proposed development, consistent with public trust values. As conditioned, the project will be consistent with the City's certified LCP requiring that lateral public access be provided in Lido Marina Village.

At the eastern end of the Lido Marina Village at 3388 Via Lido, lateral public access is provided by way of an existing cantilevered boardwalk supported by piles ([Exhibit No. 2](#)). In the central area of Lido Marian Village to the adjacent west of 3388 Via Lido, there will be a new 6 foot wide unobstructed cantilevered public boardwalk and a landside 6 foot wide public boardwalk that will provide lateral public access. As part of the proposed project, a delineated 6 foot wide unobstructed cantilevered public boardwalk segment will also be constructed that fronts 3440 Via Oporto and continues west to the approximate eastern edge of the existing building at 3450 Via Oporto. Lateral access is also currently provided further north of the 3450 and 3456 Via Oporto properties at the recently approved new Central Avenue public dock that was approved by the Commission in November 2016 under CDP No. 5-16-0353. While lateral public access is provided at these locations in the Lido Marina Village area, there are also two other nonresidential and mixed use lots properties in the Lido Marina Village area that do not provide lateral public access as required by the certified LCP that could contribute to a continuous lateral public accessway that would better serve the public in this highly visited visitor serving commercial area. These two locations are: 1) 3366 Via Lido (east end of Lido Marina Village); and 2) the remaining western portion of 3450 Via Oporto (west end of Lido Marian Village).

The property located at 3366 Via Lido fronts Dock C and work will take place on the seawall/bulkhead that fronts this property on the bayside that sits at the eastern edge of Lido Marian Village ([Exhibit No. 2](#)). As part of the seawall/bulkhead repairs and boardwalk expansion for the seawall/bulkhead that fronts Dock A and B, earth anchors will be installed that will provide added support to the existing seawall/bulkhead. In addition, the elevated cantilevered headwalk that also fronts this property that will provide a connection to an existing platform (Platform 3) and then to a proposed 80 foot long ADA compliant gangway to Dock C will be replaced in kind. Also, Platform C will be replaced in kind. However, with the exception of the elevated cantilevered headwalk, no lateral public access is available at this location. Providing access at this location would aid in the goal of the City's certified LCP to provide later public access in Lido Marian Village. Lateral access at this location would connect to the cantilevered pile supported public boardwalk at 3388 Via Lido and then continue west to connect with the 6 foot wide unobstructed cantilevered public boardwalk. While this expansion of lateral

public access at 3366 Via Lido is not currently proposed, the Commission considers 3366 Via Lido a potential, targeted location of future lateral public access expansion. Thus, in order to be consistent with the public access policies of the City's certified LCP that requires lateral public access in the Lido Marina Village area, the Commission imposes **Special Condition No. 12**, which requires the applicant to submit revised plans acknowledging the potential future expansion of the lateral public accessway in Lido Marina Village located at 3366 Via Lido and shall design replacement cantilevered headwalk and Platform C fronting 3366 Via Lido so that it may accommodate potential future expansion of the 6 foot wide unobstructed lateral public accessway to the east of 3366 Via Lido.

At the western edge of Lido Marina Village, lateral public access is provided at a recently approved new Central Avenue public dock that was approved by the Commission in November 2016 under CDP No. 5-16-0353. East of the new Central Avenue public dock are the properties located at 3456 and 3450 Via Oporto ([Exhibit No. 2](#)). No lateral public access is available at 3456 Via Oporto and only a portion of lateral public access is proposed at the eastern edge of the 3450 Via Oporto property as part of the proposed project. Providing lateral public access at 3456 Via Oporto and for the remaining portion western portion of 3450 Via Oporto would fulfill the City's certified LCP requirement to provide lateral public access in Lido Marina Village. No work is currently proposed at 3456 Via Oporto, but the remaining western portion of 3450 Via Oporto that fronts the bay consists of an existing deck that has a 4 foot wide section partially located on land and a 6 foot wide cantilevered section over the water and public trust lands that is proposed to be rebuilt in the same location. This area serves as an ideal area to provide the delineated 6 foot wide unobstructed cantilevered public boardwalk similar to what is being proposed in the Central area of Lido Marina Village fronting Dock A and B from the eastern end of the building at 3450 Via Oporto to 3400 Via Oporto due to the fact that the 6 foot wide cantilevered portion of the proposed boardwalk will encroach into public trust lands. Thus, in order to be consistent with the public access policies of the City's certified LCP that requires lateral public access in the Lido Marina Village area, the Commission imposes **Special Condition No. 12**, which requires the applicant to submit revised plans indicating that the 6 foot wide cantilevered deck located at the western portion of 3450 Via Oporto that fronts the bay that is to be rebuilt in the same location shall be provided as a component of the proposed 6 foot wide unobstructed lateral public accessway to the east of 3450 Via Oporto and will be designed so it can accommodate potential future expansion of the unobstructed lateral public accessway to the west of 3450 Via Oporto.

The applicant proposes updated signage at these three vertical access points from the street Via Oporto which connect Lido Marina Village with the Lido Marina and access along the waterfront. However, no plans have been submitted. Thus, the Commission imposes **Special Condition No. 12**, which requires the applicant to submit a coastal public access sign plan identifying the location of the visitor-serving/coastal access directional sign.

As conditioned, there is no significant potential for adverse impacts to public access. However, future development may potentially result in adverse impacts to public access (*e.g.*, buildout of the marina that negatively impacts the lateral public accessways). To ensure that future development is consistent with the Chapter 3 policies of the Coastal Act and the City's certified LCP, the Commission imposes **Special Condition No. 9**, which requires a future development special condition which will allow evaluation of any potential public access impacts associated

with proposed development at that time. Any changes to the proposed development, including the parking management plan and use of the site will require an amendment or a new coastal development permit.

Conclusion

As conditioned, the Commission finds that the proposed project is consistent with Sections 30210, 30211 and 30212 of the Coastal Act and with the public access policies of the City's certified LCP, as discussed above.

F. UNPERMITTED DEVELOPMENT

Development may have occurred on the subject property without benefit of required coastal development permits including, but not limited to, land side development consisting of changes in intensity of use, outdoor dining locations, street improvements, and a parking management plan. Commission Enforcement staff is currently considering options to resolve the alleged unpermitted development.

Although unpermitted development may have occurred prior to submission of this coastal development permit application, consideration of this application by the Commission has been based solely upon the City's certified LCP and Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation(s) nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

G. 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. 13**, which requires the property owner record a deed restriction against the property, 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.

H. LOCAL COASTAL PROGRAM (LCP)

The City of Newport Beach LCP was effectively certified on January 13, 2017. The proposed waterside work is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. Thus, the standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development. The landward side work is located within the City's jurisdiction and consequently, the standard of review is the City's certified Local Coastal Plan (LCP) and the public access policies of the Coastal Act. As conditioned, the proposed landward development is consistent with the City's certified LCP and the access policies of the Coastal Act.

The waterside work of the proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development

within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The City's certified LCP is advisory in nature and may provide guidance for development. As conditioned, the proposed seaward development is consistent with the Chapter 3 policies of the Coastal Act.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, 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 Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Newport Beach Harbor Resources Division is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Newport Beach Harbor Resources Division determined that the proposed development is ministerial or categorically exempt under Class 1 and 2 guidelines (CCR § 15301 and 15302) from CEQA on January 29, 2016. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the marine resources, water quality and public access 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 A: SUBSTANTIVE FILE DOCUMENTS

Emergency Permit No. G-5-13-0222; Coastal Development Permit No. 5-13-1342; Coastal Development Permit No. 5-14-1717; City of Newport Beach Harbor Resources Division Approval-In-Concept dated January 29, 2016 & August 9, 2016; *Caulerpa taxifolia* Survey Reporting Form Lido Marina Village Project Survey Date: June 26, 2015 prepared by Coastal Resources Management, Inc. dated July 12, 2015 (Revised January 12, 2016); Lido Marina Village Project Eelgrass (*Zostera marina*) Survey Date: June 26, 2015 prepared by Coastal Resources Management, Inc. dated July 12, 2015 (Revised January 12, 2016); Letter from CAA Planning, Inc. to Commission staff dated February 11, 2016; Final Priority Project Water Quality Management Plan (WQMP) LIDO VILLAGE prepared by Tait & Associates, dated March 2, 2015; Sea Level Rise/Seawall Concept Memorandum prepared by Anchor QEA dated January 29, 2016; Letter from Commission staff to CAA Planning, Inc. dated March 11, 2016; Letter from CAA Planning, Inc. to Commission staff dated May 16, 2016; Lido Marina Village - Dock Management Plan dated January 2016; Seawall Condition Survey Prepared by Anchor QEA dated January 12, 2016; Letter from Commission staff to CAA Planning, Inc. dated June 16, 2016; Letter from CAA Planning, Inc. to Commission staff dated August 25, 2016; Evaluation of Coastal Hazards for Lido Village Marina Boardwalk Repair prepared By Anchor QEA dated August 9, 2016; and Letter from Commission staff to CAA Planning, Inc. dated September 20, 2016; and Letter from CAA Planning, Inc. to Commission staff dated October 6, 2016.