

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



W20a

CDP 5-07-370-A2 (ORANGE COUNTY PARKS)

JUNE 9, 2021

CORRESPONDENCE (Updated June 7, 2021)

**SECTION A..... CORRESPONDENCE RECEIVED FOR
THE JUNE 9, 2021 HEARING (ITEM W20A)**

**SECTION B..... CORRESPONDENCE RECEIVED FOR
THE POSTPONED MARCH 10, 2021 HEARING (ITEM W12A)**

NOTE: There was prior correspondence posted for the March 2021 hearing which can be viewed at the following link: <https://documents.coastal.ca.gov/reports/2021/3/W12a/W12a-3-2021-correspondence.pdf>

CDP 5-07-370-A2 (ORANGE COUNTY PARKS)

JUNE 9, 2021

CORRESPONDENCE

**SECTION A..... CORRESPONDENCE RECEIVED FOR THE JUNE 9,
2021 HEARING (ITEM W20A)**

ADA access at 1901 Bayside Dr.

Susan Skinner <seskinner@me.com>

Wed 5/19/2021 8:16 AM

To: Schwing, Karl@Coastal <Karl.Schwing@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>

Dear California Coastal Commission:

I would like to ask for your assistance with ADA issues at 1901 Bayside Dr. As you know, the Sheriff's Dept unilaterally blocked public access a few years ago and is now in the throes of an enforcement action by the CCC. Mitigation, likely related to ADA issues, will be required but the details are still being worked out. This is especially appropriate since the actions to block public access significantly blocked one of the few points of ADA access to the water for the past few years.

I speak to these issues as a Board Certified Neurologist with 30 years of experience treating patients who have ADA needs.

Our ask is to have the County install a permanent ADA lift on the visitor boat dock (labeled A, photo 1) so that disabled boaters can get on/off boats in the harbor. There is not another public ADA lift in Newport Harbor and there are only 3 in coastal California right now. The ramp to the north visitor boat dock would have to be reconfigured for ADA access, as it is not currently within standards. Another option may be to put the ADA lift at Marina Park. The city has confirmed that the whole Marina Park complex is ADA compliant and could handle a lift. We would also love 1-2 beach wheelchairs as it is a perfect beach for disabled access to the water.

The hottest issue and the one that I personally feel the strongest about is **the ADA access to the south docks**. For decades, access has been on the paved walkway/driveway that went in front of the storage garages to get to the paved ramp leading to the dock (see photo 2). As far as our advocates have been able to determine, there were no incidents of concern related to this set up but the Sheriff's Dept now states that there are safety issues and they wish to block this off and put in ADA mats on the beach instead for access. There is an easy solution to this which is to just fence off the waterfront work area instead of the whole complex to address the safety issues. (Photo 1 shows where the fence would go in green and the existing path in blue.)

Huntington Beach recently installed an ADA compliant beach mat at 6th Street. I went to look at the 6th Street mat and while it is an excellent way to allow a wheelchair to get over sand to the water, it is really totally inadequate for this situation. Since I am a Neurologist, I can speak with authority about access issues. If you can imagine spending your life walking in 3 inch spike heels (smile), you can get a sense of the balance struggle these patients experience. Mentally compare walking that way over a smooth hard surface (concrete) vs a mat laid over the beach. You can readily imagine how difficult that would be. If you look at the photos below of the ADA mat, you will see that it is a strong but thin surface that is very irregular. Shifting sand will add to the unevenness of the surface over time. You could not pick a more difficult surface for patients with Parkinson's Disease, MS, ALS or even just the elderly to walk over.

This is the reason that I feel so strongly that the paved walkway needs to be maintained as is. If we are going to honor the intent of ADA, we need to use the best option available and in this case, it is the paved walkway...by a mile.

Susan Skinner MD
2042 Port Provence Place
Newport Beach

Photo 1 shows dock A for ADA lift, green line where work area could be fenced in, blue line where the access is currently is located.

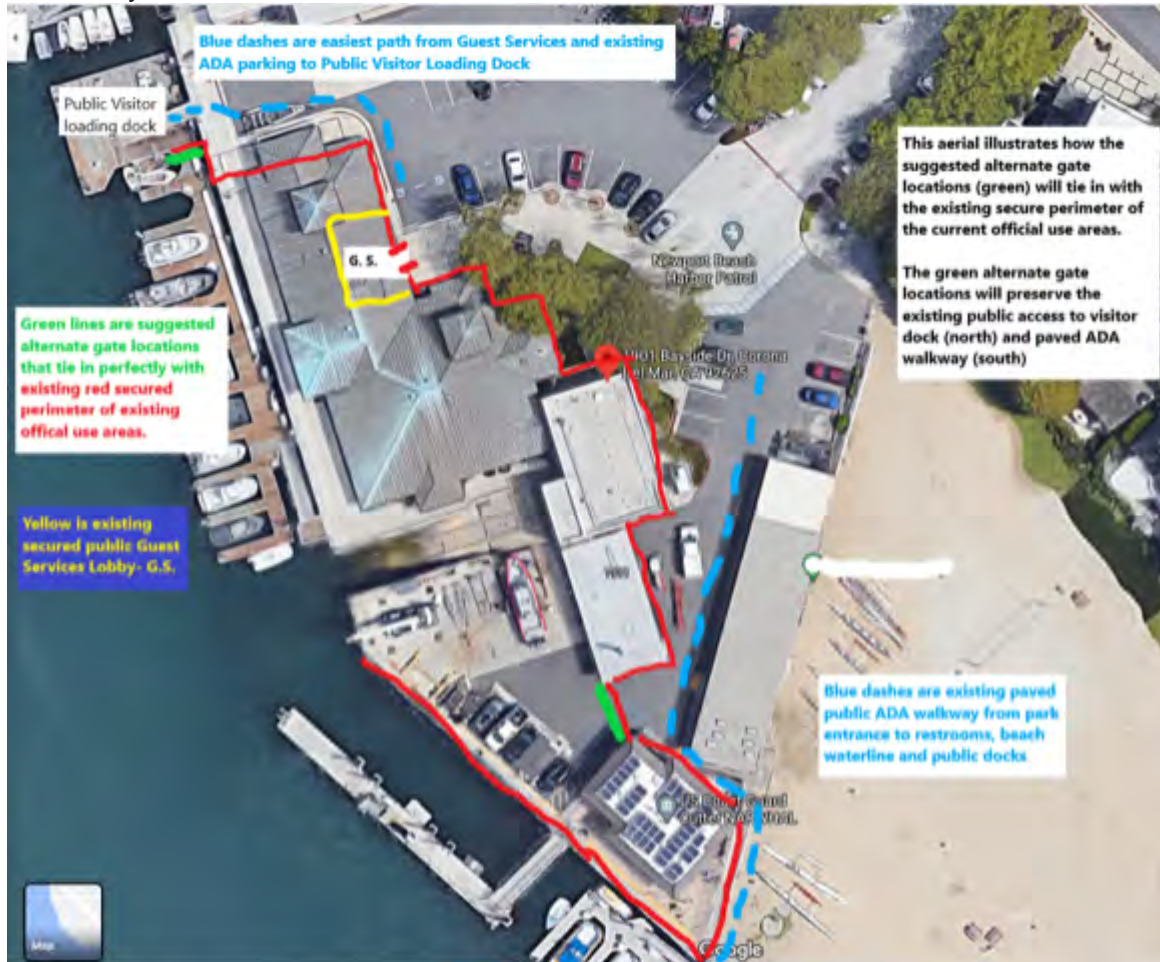


Photo 2 shows the painted access path on the driveway (paint has worn away now).



Photo 3 ADA mat surface at 6th Street

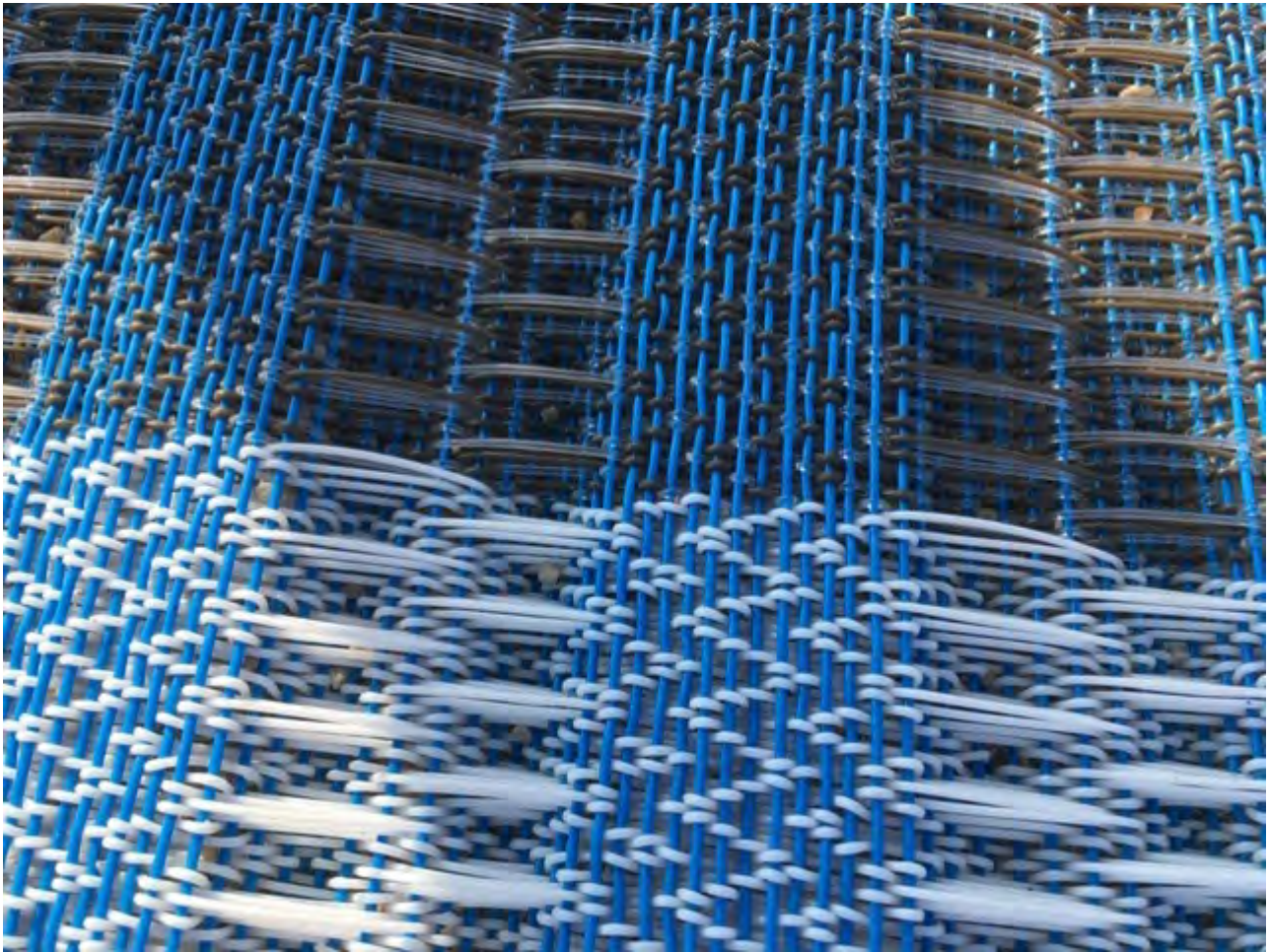


Photo 4 shows how thin the mat is at 6th Street





California Coastal Commission
301 E Ocean Blvd Suite 300
Long Beach, CA 90802
Attention: Karl Schwing

Dear California Coastal Commission:

I urge you to consider ADA modifications at 1901 Bayside Dr. in Newport Beach. The Coastal Commission will be considering these modifications at their June 9-11 meeting as CCC Coastal Development Permit # 5-07-370-A2.

As you know, the county restricted public use to the 1901 Bayside Dr. site several years ago, requiring CCC intervention to restore access. Mitigation for this violation is being negotiated and increased ADA access is being discussed as an option.

As you have heard from other advocates, there are no public ADA lifts installed in Newport Beach. This means that anyone who lacks the mobility to board a boat, like individuals living with Amyotrophic Lateral Sclerosis, cannot enjoy the amenities of the harbor. Please consider adding an ADA lift to the north visitor dock.

You are considering allowing the County of Orange to block access to the paved driveway that leads to the south boat ramp and instead installing a beach mat. I'm sure you know that disabilities occur in many ways and making such a change will prove challenging to those whose balance and ambulation is marginal and for whom a hard walking surface is essential. Please ensure that there is a paved surface available for those seeking to use the south boat dock.

Finally, please consider obtaining a beach wheelchair for the adjacent beach. As there is nearby ADA parking and no waves at this beach, it is an excellent place for a disabled swimming to come for water access.

Thank you,

Shannon K. Shryne
President & Co-Founder
Augie's Quest to Cure ALS

California Inclusive Sailing Team 4U OCC Coastal Development Permit # 5-07-370-A2

Christianbuhl <christianbuhl4@gmail.com>

Thu 5/27/2021 11:25 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Hello Mandy,

I am the founder of Team 4U California Inclusive Sailing, a Newport Beach volunteer based organization that provides sailing adventures to people of all abilities for free.

Recently, four intrepid sailors raced for Parkinson's Research in the 73rd Newport to Ensenada Race.

Since 2015, we transfer people from wheelchairs to sailboats with a special transfer sling with six handles. I need a minimum of six dedicated volunteers to make a transfer safe and comfortable. My wish is to install an ADA lift on the public dock at 1901 Bayside Drive and for a wheelchair elevator to access the lift. Transfers with a lift require fewer volunteers and provides more comfort.

Please include my comments in the staff report for OCC Coastal Development Permit # 5-07-370-A2

Our motto: We harness the wind, soak in the sunshine and lift our spirits

Thank you for considering this important step to include more people to our beautiful bay. Inclusion is the solution.

Sincerely,

Christian Buhl

Founder Team 4U

ACCESSMAT - ADA Beach Access OC Parks.1901 Bayside, Newport Beach (5-07-370-A2)

Alex Girard <alex.girard@accessrec.com>

Tue 5/25/2021 11:24 AM

To: Hudson, Steve@Coastal <Steve.Hudson@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>; Sanchez, Jordan@Coastal <Jordan.Sanchez@coastal.ca.gov>; Roman, Liliana@Coastal <Liliana.Roman@coastal.ca.gov>; Padilla, Stephen@Coastal <Stephen.Padilla@coastal.ca.gov>; Ainsworth, John@Coastal <John.Ainsworth@coastal.ca.gov>
Cc: susan.brodeur@ocparks.com <susan.brodeur@ocparks.com>

Dear Members of The California Coastal Commission,

I am Alex Girard, from **ACCESSREC®** in Los Angeles. We manufacture **ACCESSMAT®**, the ADA beach access mats considered for the Orange County Parks project at 1901 Bayside Drive, Newport Beach (CDP 5-07-370-A2). After reading the correspondence and comments on CDP 5-07-370-A2, it is clear that there are misconceptions about our mat and some confusion with other similar products. However, it is essential to know that not all mats are created equal.

AccessMat® is the **only mat designed** to remove barriers and tripping hazards and **to meet the ADA guidelines** established by the US Gvt Access Board, such as Provision §303: Max Change in Level and Provision §302: Firmness, Stability, and Slip Resistance.

Thus, AccessMat® has a **flat structure and edges that deliver a smooth, firm, regular and non-slip surface that is 100% obstacle-free** for wheelchair users, disabled, visually impaired, elderly.

The aluminum **connectors overlap** to create a **seamless transition** between the mats, unlike other systems with inferior connectors requiring many staples, which develop dips to the sand and quickly become an unsafe non-ADA surface.

Since AccessMat® is a **100% recycled and recyclable reinforced non-woven material**, it can sustain extreme pressure from extensive traffic or shifting sand. It remains an even and straight pathway over time.

Its durability, associated with its easy installation and operation, makes AccessMat® a **very cost-efficient** piece of equipment vs. concrete or other mats; moreover, it comes with a **five-year warranty**.

Having a Los Angeles-based team allows our Company to provide **quick support** to Orange County Parks or any customer in California, including assistance with project design, mats installation, staff training, and regular site visits.

This innovative mat results from the closed relationships we have built with customers, end-users, and accessibility advocates over the years.

For instance, we partner with the **Spina Bifida Association**, **Sabrina Cohen Foundation**, and **Christopher & Dana Reeve Foundation** to promote beach accessibility projects and inclusion to recreational areas.

Many ADA experts in the country and worldwide have selected our mats to create durable access for all.

In California, AccessMat® is being used extensively on several beaches in northern L.A. County and Coronado Island. And in 2019, at the end of an extensive selection process, **Certified Access Specialists (CASp)** and the City of Santa Monica chose AccessMat® to create on the landmark wooden pier closed to a **mile of ADA accessible pathways** capable of withstanding the traffic of **10 million yearly visitors** and pallet jacks. As of today, not a single AccessMat® had to be replaced, despite extreme conditions of use.

Beach and oceanfront facilities accessibility issues have been slowly addressed in California compared to many other states and countries. So for many Californians, these recent projects represent an opportunity to access equal recreational opportunities thanks to our mats.

I am adding below the contacts of our various partners and clients mentioned above and photos of projects. I will mail a sample of Accessmat® to the Commission so that you can take a closer look at the material. I am also happy to give a formal presentation or demonstration if required by the Commission.

I sincerely hope you find this information useful. My goal here is to assist you the best way I can, based on my solid experience in matting and accessibility projects, so that you can make a well-informed decision and continue to support greater access for ALL.

Thank you,

Alex Girard, Manager

P: 310-625-3926

E: alex.girard@accessrec.com



Contacts:

Peter Wilderotter - President and CEO, Christopher & Dana Reeve Foundation -

peter.wilderotter@christopherreeve.org

Aimee Hunnewell- Chief Development Officer, Christopher & Dana Reeve Foundation -

ahunnewell@christopherreeve.org

Scott Chesney - Ambassador, Christopher & Dana Reeve Foundation - scott@scottchesney.com

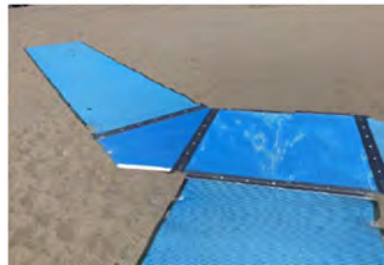
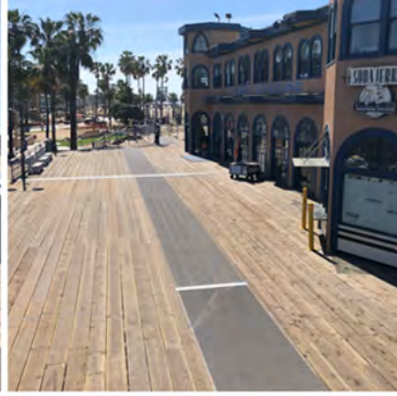
Sabrina Cohen - President/Founder, Sabrina Cohen Foundation - sabrina@sabrinacohenfoundation.org

Sherita Brace - Corporate & Foundation Relations Manager, Spina Bifida Association - sbrace@sbaa.org

James McGrath- Certified Access Specialists (CASP) CASp-771 - jcmarchitect@gmail.com

Arturo Valdivia - Parks & Beaches Supervisor, Coronado Island - avaldivia@coronado.ca.us

Krystle Diaz - District Manager , L.A County Beaches & Harbors - kdiaz@bh.lacounty.gov



June 4, 2021

California Coastal Commission
455 Market Street Suite 300
San Francisco, CA 94105

Re: Item W20a
Application 5-07-370-A2 – Orange County Parks, Newport Beach

Dear Chair Padilla and Coastal Commissioners:

Thank you for the opportunity to comment on this important public access issue and the application of the Commission's Environmental Justice Policy as it applies to the disabled community.

*The agency is committed to ensuring that those opportunities not be denied on the basis of background, culture, race, color, religion, national origin, income, ethnic group, age, **disability status**, sexual orientation, or gender identity.*

I may not have this quote completely accurate, but I believe it would be close enough to say that staff has been asked by the Commission to, "bake in the Environmental Justice Policy, don't just sprinkle it on the top." This public access issue is deserving of a good recipe for baking in this important policy. We are grateful to staff for taking some positive steps forward, but still feel there is work to be done on behalf of the public. The County of Orange needs to take this responsibility seriously and my hope is that you, the Commissioners, will help guide your staff and the County into creating a better recipe for applying environmental justice to this issue. Based on this email response from staff on the subject of bilingual signage, I truly believe they are seeking your guidance.

From: "Sanchez, Jordan@Coastal" <Jordan.Sanchez@coastal.ca.gov>
Subject: RE: 1901 Bayside Dr. - OCSD docks/beach - Spanish signage and ADA access
Date: May 3, 2021 at 11:15:33 AM PDT
To: Penny Elia <greenp1@cox.net>, "Schwing, Karl@Coastal" <Karl.Schwing@coastal.ca.gov>
Cc: "Revell, Mandy@Coastal" <Mandy.Revell@coastal.ca.gov>

Hi Penny,

Thanks for your email. We are always open to suggestions regarding signage at the site and welcome all public comments. The signage plan as it is, is a starting point, and may be changed due to public input or Commissioner direction at the hearing.

-Jordan

Before I comment on the staff report, let's please look at how this Coastal Act violation has been processed.

As with many permits these days, this CDP has been brought forward from the Enforcement division, following multiple Coastal Act violations by the County of Orange (Orange County Sheriff's Department and OC Parks) related to a nearly complete lock out of the public at a coastal recreational area that was originally conditioned for greater public access, including a public drop-off area for beach patrons that has never been implemented, in a 1995 CDP issued to the County of Orange. The complete 1995 staff report is **attached** for your reference since staff does refer to it several times in their staff report. The 1995 staff report is identified in the current staff report as a Substantive Document.

The first major hurdle that many of us are experiencing with this CDP process and the negative change and dramatic decrease in the public access that is taking place, is your staff's quote in May of 2019 in The Log newspaper as it related to the public access lock out the County of Orange had undertaken beginning in 2017. <https://www.thelog.com/local/orange-countys-docks-a-tale-of-two-maritime-parking-scenes/>

"Basically any changes (to public access) being proposed would require a local coastal program amendment that we would have to analyze, especially any changes that would impact public access," said Noaki Schwartz, Public Information Officer for California Coastal Commission.

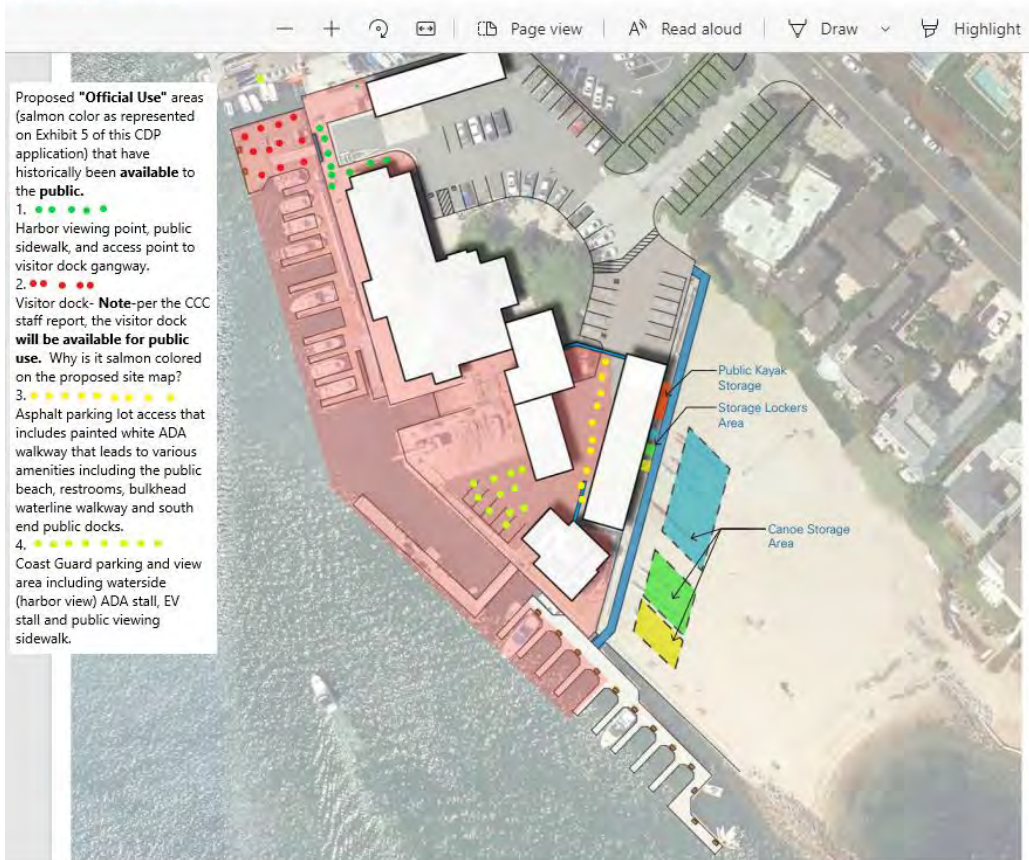
The Log – May 30, 2019

It remains unclear as to how the County of Orange is able to not only have an amazing opportunity to resolve multiple Coastal Act violations with no financial penalties and little to no mitigation through this CDP process, but also be able to "impact public access" in such a dramatic negative manner without the need for an LCP Amendment. This appears to contradict the very clear statement made by the Commission's PIO. This would certainly appear to be cause for pause and reflection on how these multiple Coastal Act violations related to a nearly complete lock out of the public and dramatic changes to public access can be processed through a CDP application.

The public is still being locked out of previously approved public areas even through this CDP application process, and denied the public parking originally conditioned. The image below provides an overview of how the County continues to lock out the public from this recreational facility. The base graphic is taken from the most recent staff report, Exhibit 5.

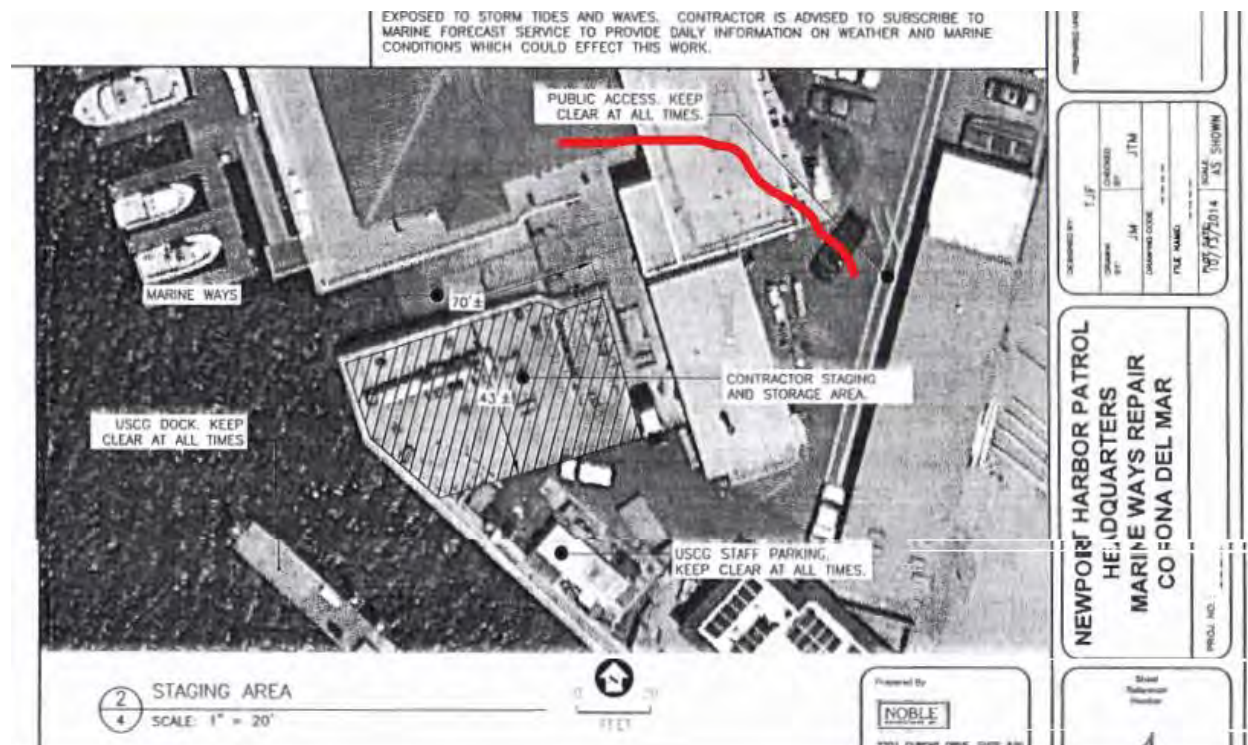
Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Correspondence



Moving from an overview to ground level, the following photos illustrate the public access conflicts that still exist, along with the issue of providing equitable ADA access. While the County may appear to be opening up new public access, they are in fact only returning to the public a portion of what was deemed public over 25 years ago. Even at that, the public is still not able to take full advantage of the previously conditioned public areas because the County is being allowed to fence off or gate in these areas and completely close them off.

Let's start with the ADA walkway that was originally engineered for safe, shared access to the beach, restrooms, showers, public docks and waterline walkway. The photos following show the originally conditioned walkway in 2014, and the walkway today which is nothing more than worn out painted white lines that are barely visible (these photos were taken in 2021).





This shared public/ADA access path has served the public, including the ADA community well for over 25 years. Why is the County insisting on closing this off?

The County's recent report that was provided to staff on May 17, 2021 indicating that this historic shared accessway is unsafe, followed numerous Public Records Act Requests that specifically asked for incident reports and risk management reports related to this area. Contrary to the County's contrived report that is included in this staff report that actually pictures work bays on the waterside, not in this shared access path, there have been NO incidents in this location at all. Please see the **attached exhibit** showing all of the responses from my PRARs. Without exception - - "there are no responsive records" - - none.

The County has convinced staff that there is great danger in allowing this shared access to be utilized by the public, even though they are not able to provide one scrap of evidence that there is any danger or hazard in this area, "if" the County were to comply with the original conditions of the CDP and keep its maintenance confined to the waterside work area. The County would prefer to just put up gates and fences and lock the public out versus complying with the CDP conditions to not allow encroachment into the shared access way.

I have had several conversations over the past year with staff about how to resolve this ongoing issue of the County denying use of this historic shared walkway that provides the perfect access to the beach, restrooms, showers and docks. After many, many months of trying to help the County understand that they could not just shut off ADA access, they proposed a plastic mat to be run along the sand. As you'll see from previous comment letters, this proposed plastic mat would not work and would probably actually create accidents. After many more months of talking to the County, staff has now proposed a concrete sidewalk in the sand on this very constrained beach where disabled individuals will have to compete with the loading and unloading of kayaks and outriggers at the proposed ingress/egress, and also have to compete for space on the concrete walkway given all of the outriggers and outrigger racks that are positioned in this very same area. What is more dangerous and hazardous? An existing paved ADA walkway, complete with handrails and properly engineered ramps, or a concrete walkway that will set up a competition between the ambulatory public and the disabled public?

The other concern related to this proposed concrete walkway is sea level rise as it pertains to this very constrained beach. There are already several private property encroachments, as mentioned in the staff report, that staff does not have the bandwidth to address at this time. Those take up thousands of square feet of public beach. Now another few thousand square feet of public beach will be consumed with concrete, in addition to all of the outriggers that are staged on this beach 365 days a year. Given the Commission's SLR policies, how is a concrete walkway on a beach that is subject to SLR and further constraints even a consideration?

Perhaps some photographs will help better explain the conflicts of a concrete walkway on this very constrained beach.

The first photo is the proposed ingress/egress for the concrete walkway. This photo was taken over Memorial Day weekend – one of the busiest weekends that ushers in the summer season. The gate is locked, but then again, this gate is locked the majority of the time – we have photos to prove this. You will also note in the background, just some of the private property encroachments onto this constrained beach (additional **exhibit attached** re: these unpermitted encroachments). This is also the location where large trucks and trailers park to load and unload their vessels for launching. How will the ADA community overcome locked gates, trucks, vessels and a lack of parking? Please note there is no ADA parking, but a sign indicating that parking is allowed by permit only. The County has done everything possible to make this recreational area off limits to the public.



Here is a photo taken from Easter 2021 weekend of the same area as pictured above. Please note all the trucks and SUVs unloading at this area that is proposed as the ingress and egress to the concrete walkway. Once again, one must ask the question of how the disabled community is expected to compete with this type of vehicular traffic and loading and unloading that goes on throughout the day. Between the gate being closed and locked and vehicles loading and unloading in this area, I don't believe this proposed walkway has been thought through properly. Once again, we ask that the originally permitted, historic ADA access way be preserved and refreshed with new paint to delineate the very clean path for our disabled community that is protected under the Commission's EJ Policy.



Once the disabled community has passed the first gauntlet at the ingress to the proposed concrete path, they are then faced with competition over space on the beach from the outriggers and outrigger racks and other accoutrement that is in their path. Just try to imagine squeezing a concrete path through this already constrained area.





In the last photo, please note the existing ADA walkway to the right which is completely unencumbered with outriggers, racks, hoses, storage cabinets, and the shower area which will force the proposed concrete walkway further out onto this already constrained beach. This proposed area is NOT conducive to an ADA walkway. The existing walkway is far superior on many levels – please note properly engineered grade and ADA railing.



Please also allow me to point out that this is what the public is greeted with once they have managed to enter the parking lot - - a big red STOP sign and a big red line. How is anyone, including the ADA community, supposed to know where they are allowed to go, where they can park, what amenities they can use, etc. None of this works – it has not been thoroughly thought through for the greater public use as originally conditioned in 1995.



And this is just the beginning of our parking woes at this public recreational facility...

As requested by retired California State Parks District Supervisor, Richard Rozelle, I too am requesting a comprehensive parking, traffic and circulation study for this public recreation facility. Additionally, I request that this parking, traffic and circulation study be made available for public review and comment given all the current and potential flaws of the County's ill-planned and piecemealed proposal. Mr. Rozelle's letter of March 3, 2021 is included as an **exhibit**. I believe there are others involved in opposing this flawed plan that will be commenting on parking, but please allow me to share more photos because a picture truly is worth 1000 words.

Memorial Day Weekend - - traffic is backed up with no place to turn around given the big red STOP sign and big red line in the area that should be open to the public for parking, loading, unloading, and enjoyment of all public amenities. Not only is this traffic backed up and unable to turn around, it is forced to back out onto the curving Bayside Drive with little view access. This creates a very dangerous situation for not only those attempting to exit the facility by backing out, but for oncoming drivers on Bayside Drive. The white STOP on the ground is located at the entrance to this parking lot. The black SUV attempting to enter is hanging out onto Bayside Drive.



This public recreational facility is littered with STOP signs, Authorized Vehicles Only signs with threatening verbiage warning violators of being towed, parking with permit only signs, KEEP OUT signs, every sign imaginable to make the public feel threatened, unwelcome and unwanted. As with the comprehensive parking, traffic and circulation study, I request that the signage package in full, be made available to the public for review and comment. This also includes signage proposed for wayfinding and any signage to include Spanish translation, which at this time is only one sign related to beach access and that beach access sign currently has a STOP Authorized Parking Only sign sitting on top of it.

In my first comment letters for the March hearing on this matter that was postponed, I asked for several ADA assists to include, beach wheelchairs, floating beach wheelchairs, and an ADA lift that would assist in loading disabled passengers on to vessels of all kinds, i.e. boats, kayaks, outriggers. The disabled community, physical therapists and a doctor of neurology have requested these items as well. This is the type of “mitigation” we are seeking instead of a marketing plan to target the EJ communities which should be a requirement, not a mitigation. Interestingly enough, the proposed EJ marketing plan does not include the disabled community at all - - not even a mention.

The County has graciously agreed to provide two beach wheelchairs and we appreciate this, BUT we need to have an ADA access that will actually facilitate the disabled community to get to the beach to use these wheelchairs.

Here are a few photos to illustrate the other types of ADA assistance we are asking for. Some of these accessories and concepts were provided to me by your sister agency, California Department of Boating and Waterways. They offer grants for certified ADA projects like the ones we are requesting. I have shared this information with the County on several occasions, but have received no response or acknowledgement.



CASE STUDIES

Marina

Pier 39 Marina installed a low-freeboard dock attachment with secure boat storage that allows paddlers to enjoy the restaurants and shops of world-famous Pier 39. The high quality facilities and secure storage make Pier 39 a popular destination for paddlers across the Bay.



Site Design: The launch is sited at the back of the Marina, close to the facilities of Pier 39 and away from motorized vessel fairways. This location is sheltered from wave and storm surges and reduces potential conflicts between motorized and non-motorized users.

Key Concerns

Motorized vessel traffic
Security of facilities and boat storage



Security: Gates to the launch are locked and are monitored by security cameras. Paddlers can press a button and security will authorize access when returning to boats after enjoying Pier 39's restaurants and shops.



Experience: The roller system provides a stable platform to get on and off the water safe and dry for beginner to experienced kayakers.

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sfbaywatertrail.org ~ [#sfbaywatertrail](https://twitter.com/sfbaywatertrail)



DESIGN APPROACH

Accessible Launch Design

There are several key design considerations to enhance the accessibility of a launch, but the path of travel is particularly important*. Without an accessible path of travel to the point of launching, persons with disabilities may be unable to use the launch facilities regardless of the design of the launch.

The path of travel should also provide access to basic accessible amenities such as restrooms and parking, as well as a loading/unloading area located in close proximity to the launch site. Additionally, public boat storage, boating concessions, and onsite boating clubs can all enhance boating access.

ADA design recommendations for various types of launches are discussed in the next section. The **Water Trail Accessibility Plan (January 2015)** provides detailed guidance and resources for designing an accessible launch.



Bay Area Outreach and Recreation Program, City of Berkeley

Path of Travel Considerations

- Running slope and cross slope
- Firm, stable and slip-resistance surfacing
- Elimination of overhanging and protruding hazards
- Connection to all accessible features, including restrooms and parking
- Maintenance of an accessible condition
- Ramp handrails, guardrails, and landings
- Stair handrails, riser and tread sizes and visual striping
- Gangway slope not to exceed 8.33%

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sfbaywatertrail.org ~ [#sfbaywatertrail](https://twitter.com/sfbaywatertrail)



In closing, I respectfully urge the Commission to deny this CDP Amendment. I believe I have shared with you the many reasons why this CDP Amendment should be denied given the County's ongoing attempts to limit public access and ADA access at their facility located at 1901 Bayside Drive. I trust that I have also made a compelling request for an LCP Amendment to be pursued if the County insists on continuing to reduce the public's rightful and previously approved access. This LCPA should also include all of the applicable ADA regulations since this public facility is very outdated with respect to ADA compliance. This holds true for the County's facility at Dana Point Harbor, but that's an issue for another day. I only mention this because I feel it is very important that the County of Orange begin understanding the meaning of compliance as it relates to the Coastal Act. For over five years we have attempted to work with the County on Coastal Act compliance at the Santa Ana River without any success. Let's please turn the corner on non-compliance, starting with this public recreational facility.

Again, thank you for your time and consideration of these comments.

Respectfully,

A handwritten signature in cursive script that reads "Penny Elia".

Penny Elia

Attached Exhibits:

- 1995 Staff Report for original CDP 5-94-255
- PRAR responses for incident or risk management reports
- Jim Mosher email re: private property encroachments
- Richard Rozelle letter re: parking, traffic and circulation

From: Jim Mosher jimmosher@yahoo.com
Subject: Observations regarding the Orange County Harbor Patrol property in Newport Beach
Date: January 2, 2020 at 4:08 PM
To: Jordan.Sanchez@coastal.ca.gov, Liliana Roman liliana.roman@coastal.ca.gov
Cc: Wade Womack wade@orangecoastla.com, Penny Elia greenp1@cox.net

JM

Dear Jordan & Liliana,

Happy New Year!

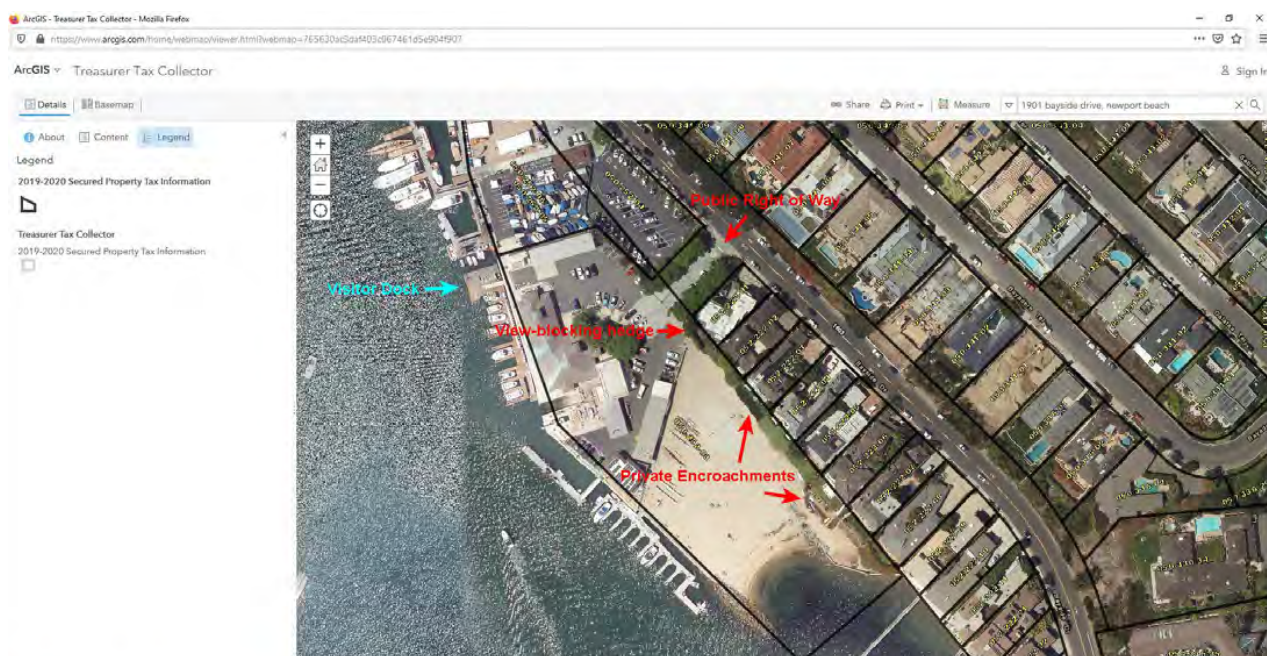
I understand you may be addressing some public access issues that have arisen involving the Harbor Patrol parcel at 1901 Bayside Drive in Newport Beach, and a CDP application to address some of them.

I do not have access to the existing CDP, but based on a recent visit, I certainly agree that the closing the visitor dock to the public was uncalled for and that the parking lot signage suggesting "Authorized Vehicles Only" are allowed beyond a red line in the pavement impedes access for all (suggesting, as it does, that even those with legitimate business at the state and county offices cannot go beyond the line, even to use the handicapped parking, and have to find spaces elsewhere).

I wanted to pass on these additional observations that you may or may not be aware of:

(1) The bulk of the area landward of the red line, in a portion of which the County "allows" the public to park, does not appear to be part of the County-administered tidelands parcels.

As best I can tell, it is, instead public right of way. See the following [parcel map](#) from the Orange County Treasurer-Tax Collector, which shows it as being part of the Bayside Drive right of way:





This public right of way status is corroborated by [the City's GIS mapping](#), as well as by the 1954 subdivision [Tract Map](#) (which shows it adjacent to "Lot 1"), and where the dimensions of the 80-foot-wide right of way match those measured from the City's mapping:



(20 feet of additional bluff-face right of way were added to the width of Bayside Drive when [Irvine Terrace](#) was subdivided in 1957).

It seems very unusual for parking spaces in public right of way to be dedicated for exclusive use by a particular entity, even a government one, and I am unaware of how (or if) the County obtained authorization to reserve half these spaces for their use.

(2) Second, as is evident in both the above images (where the black and orange lines indicate the private property lines) that the County has allowed the private homeowners abutting the beach to create private encroachments intruding out onto what the City designates as filled state tidelands -- similar to what the Commission has found issue with at Peninsula Point (in Newport Beach), in Sunset Beach and, I assume, elsewhere.

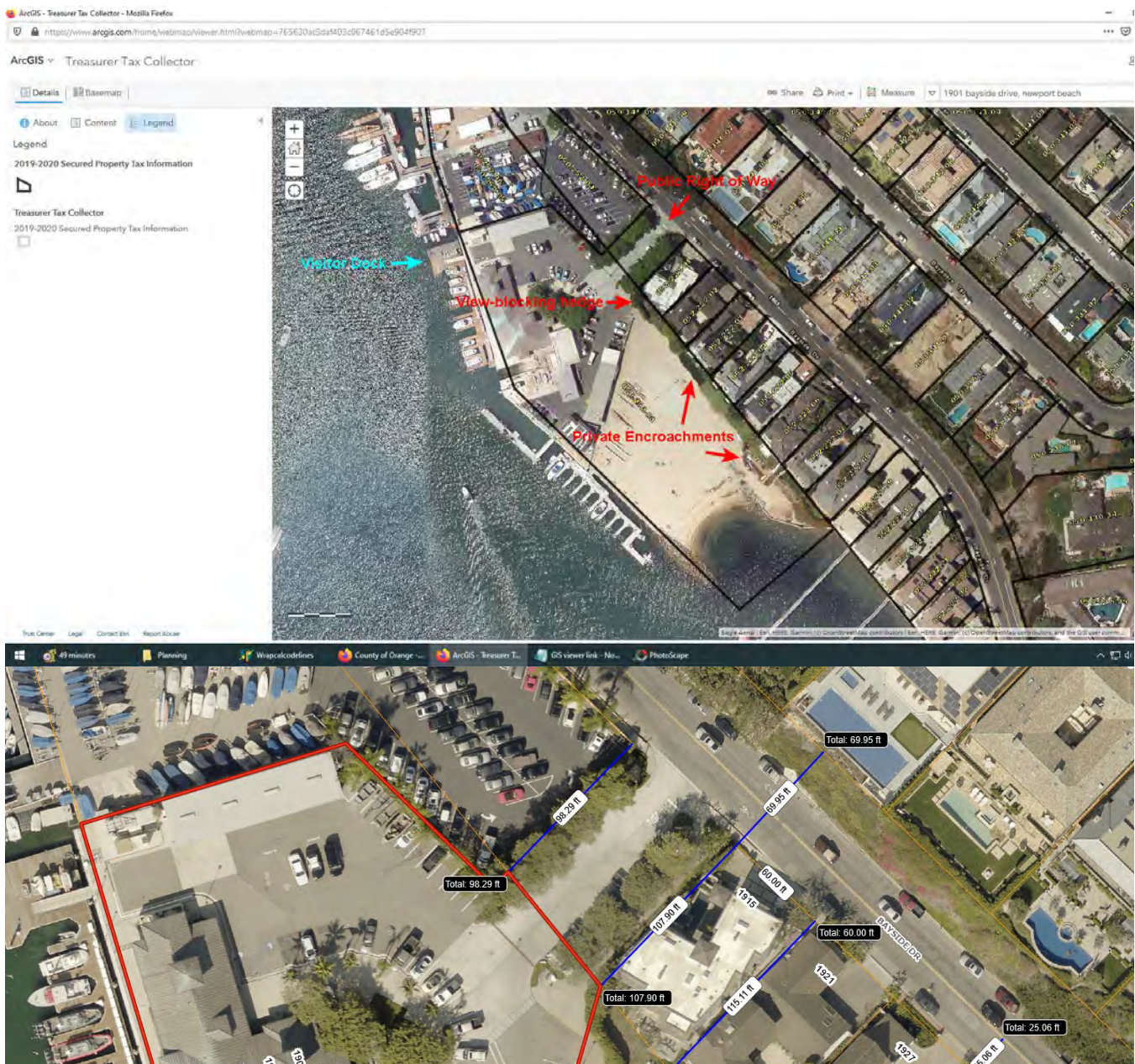
The **private encroachments** that the County has tolerated (and worked around) **include a tall hedge** at the location indicated in the first image. This is not only used by the owner of 1915 Bayside Drive to create a private yard on public trust lands, but it **impedes visibility and physical access to the beach from the parking lot.**

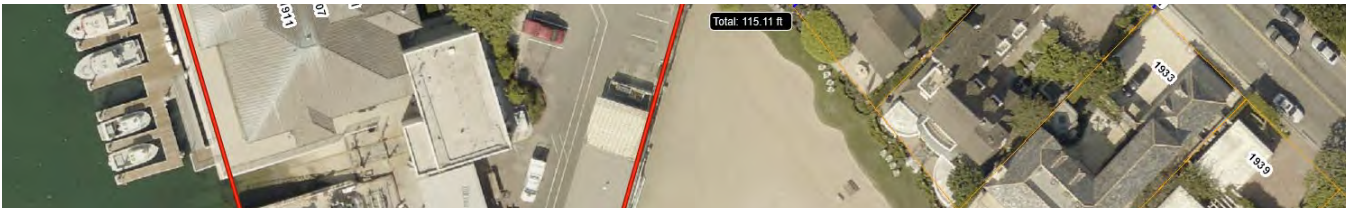
(3) Finally, I am not a boater, but I noticed the County's use of **green** paint to (without permission) denote 20-minute vessel docking zones is inconsistent with the system promulgated for public docks in the City-controlled parts of the harbor per Municipal Code [Section 17.25.10.C.1](#), and could, for that reason, be causing confusion. I don't know if the City follows its own code, but **blue** paint is supposed to be used for 20 minutes, while **green** indicates a 3-hour limit.

I hope this helps you in your consideration of the corrections needed to the public access problems existing on these County-administered parcels.

Yours sincerely,

Jim Mosher





PUBLIC RECORDS ACT REQUEST FOR ALL INCIDENT AND RISK MANAGEMENT REPORTS FOR 1901 BAYSIDE DRIVE

NONE ON FILE – THERE HAVE BEEN NO INCIDENTS AT THIS LOCATION WHICH SPECIFICALLY INCLUDES THE CURRENT SHARED PUBLIC ADA WALKWAY

Orange County Public Records

Your record request #21-1973 has been submitted. It is currently under review and is not available for the general public to view.

The County is processing your request and will provide you with the status of your PRA request within 10 calendar days. If the 10th day is a weekend or holiday, the reply will be the next business day. A list of County Custodian of Records and Frequently Asked Questions can be found [here](#).

[View Request 21-1973](#)

<http://orangecounty.net/request/recordrequest/21-1973>

As the requester, you can always see the status of your request by signing in to the Orange County Public Records Request site [here](#). If you haven't already signed in to your account, you may need to [activate your account](#) to sign in.

Record request #21-1973 has been closed. The closure reason supplied was:

No responsive records. Response has been made in accordance with the California Public Records Act.

[View Request 21-1973](#)

<http://orangecounty.net/request/recordrequest/21-1973>

Orange County Public Records

A message was sent to you regarding record request #21-1973:

This letter is in response to your California Public Records Act request 21-1973, which OC Parks received on 5/17/21. The request seeks the following records: a copy of a Vulnerability Assessment and Mitigation Report from May 2017 that pertains to OC Parks' facility at 1901 Bayside Drive in the city of Newport Beach.

OC Parks has concluded its search and is unable to locate records responsive to your request. It is recommended that you contact the Orange County Sheriff's Department at 714-834-6454, as they may have the record(s) you seek.

Sincerely,

Jeffrey Kirkpatrick

Custodian of Records

[View Request 21-1973](#)

<http://orangecounty.net/request/recordrequest/21-1973>

Orange County Public Records

A message was sent to you regarding record request #21-1862:

This letter is in response to your California Public Records Act request 21-1862, which OC Parks received on 5/12/21. The request seeks the following records: a copy of all Incident Reports between 1/01/2016 through 5/12/21 that occurred or document incident(s) at 1901 Bayside Drive in Newport Beach.

OC Parks has concluded its search and is unable to locate records responsive to your request.

Sincerely,

Jeffrey Kirkpatrick

Custodian of Records

[View Request 21-1862](#)

<http://orangecounty.net/request/recordrequest/21-1862>

Orange County Public Records

Record request #21-1862 has been closed. The closure reason supplied was:

No responsive records. Response has been made in accordance with the California Public Records Act.

[View Request 21-1862](#)

<http://orangecounty.net/request/recordrequest/21-1862>

Richard Rozzelle
5 Songbird Lane
Aliso Viejo, CA 92656
64Rozzelle@gmail.com

March 3, 2021

California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302

**Re: CDP Amendment Application No.: 5-07-370-A2
1901 Bayside Drive Facility – Parking and Traffic Circulation Plan**

Dear Commissioners,

Thank you for the opportunity to comment on the proposed CDP amendment regarding the property located at 1901 Bayside Drive in Newport Beach. As we know, the Orange County Sheriff Harbor Patrol (OCSHP) facility is a shared public use/coastal access facility, which has been improved over the years with public funds and is subject to coastal public access including conditions required by Coastal Development Permit (CDP). Unfortunately, incremental encroachment has taken place over time resulting in loss of public beach and coastal use access without mitigation.

I am a retired California State Parks District Superintendent with over thirty years of experience managing coastal parks in Orange, San Diego, Los Angeles, Ventura and Santa Barbara counties. Additionally, I am a frequent user of the property at 1901 Bayside Drive and look forward to using this public facility without additional restrictions.

I am writing to share comment and concerns specific to the parking and vehicular traffic components of the proposed amendment. In reviewing the amendment materials, it was disappointing to see that the non-compliance letter enforcement action taken by the Commission in 2019 stopped short of addressing unauthorized/unpermitted changes to the facility parking lot including traffic control devices, enforcement signage, roadway re-striping, closure of access to ADA parking space(s), traffic circulation closure, and long-term storage of boat trailers in vehicle parking spaces. All of these negatively impact public beach and coastal access.

Special Condition 15 - Beach Parking Plan

Requires OCSHP to submit a revised parking plan in substantial conformance with OCSHP plan Exhibit 2 dated 2-25-20 (Signage and Way Finding / Public Features) subject to review and approval by the Executive Director that shows: Revised location of 10 public beach parking spaces and one additional ADA parking space for a total of 12 spaces on either side of parking lot entrance; location of 8 OCSHP and USCG and Lifeguard Business Parking Spaces to be available for public beach parking on weekends. **These conditions are a good starting point but do not fully adequately address the overall parking lot issues and do not provide an opportunity for public comment on future OCSHP parking plan(s).**

Please consider the following:

1.) **Revised Parking Plan** - Any subsequent revised parking plan submitted by OCSHP should be subject to public review and comment process prior to approval by the Executive Director.

2.) **Traffic Study / Traffic Circulation Plan** - An official traffic study and traffic circulation plan (compliant with applicable traffic safety regulations and standards) is not included for public review in the proposed amendment and should be a required condition prior to any subsequent review and approval.

3.) **Distribution of Existing Parking Spaces** - The shared public use / OCSHP facility includes approximately 63 parking spaces (per Exhibit 2 map) including 5 parking spaces immediately adjacent to the USCG facility and not within the main parking lot area. Of the 58 remaining spaces, the amendment proposes a total of 12 spaces (roughly 20%) be dedicated for public use. **An 80/20 ratio of "official use" to "public use" parking spaces seems unbalanced given the high demand for public beach and coastal access in this area.** Eliminating OCSHP boat trailer storage and other non-parking uses could free up vehicle parking spaces for shared use (see #6 comments below). A 50/50 or 60/40 ratio seems more reasonable. Please see attached notes/comments to Exhibit 2.

4.) **Existing Parking Lot Condition** - Over the years, OCSHP has implemented non-CDP authorized physical changes to the parking lot, parking spaces, and traffic circulation, which create a potentially hazardous condition. Traffic circulation has been blocked via surface striping (red line) and placement of traffic barricade/control devices with closure signage resulting in a dead-end road situation with no adequate room for safe turning or traffic flow. This condition should be of primary concern to all parties including the County of Orange (Applicant), the City of Newport Beach, and the State of California.

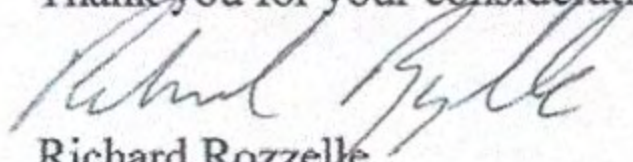
5.) **ADA Parking Spaces** - Current condition and proposed amendment blocks public vehicular access to the ADA parking space(s) closest to the front door of the OCSHP facility. This facility accommodates public contact during business hours and after hour emergencies. Access to ADA parking space(s) should be in closest proximity to the front door and ADA path of travel in accordance with the ADA regulations.

6.) **Parking Space Use / Trailer Storage Restriction** - OCSHP has changed the use of a significant number of parking spaces to boat trailer storage without CDP authorization. This change in use exacerbates the loss of public beach and coastal access, eliminates ADA access (see #4 comments above), and blocks vehicle traffic flow including access by fire/rescue vehicles. Alternate OCSHP boat trailer storage locations (i.e. maintenance yard/off-site storage area) should be required (see #3 comments above). All parking spaces should be used for vehicle parking only and within the space constraints of each space as defined by a Commission approved parking plan / traffic plan.

7.) **Flow of Traffic** - Historically (prior to the actions taken as described in #4 comments above), vehicle traffic flow involved ingress from Bayside Drive and a counterclockwise traffic pattern through the parking lot to the outbound exit. This traffic flow, or something similar, should be re-implemented per an approved traffic plan and with appropriate directional and enforcement signage. Please see attached notes/comments to Exhibit 2.

8.) **Public Use Parking Space Hours** - The daily 6AM to 10PM use period for public beach parking as recommended by Staff is adequate.

Thank you for your consideration,



Richard Rozzelle

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071



Filed: 10-26-94
49th Day: 12-14-94
180th Day: 04-24-95
Staff: RMR-LB *RMR*
Staff Report: 12-16-94
Hearing Date: January 10-13, 1995
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-94-255

APPLICANT: County of Orange EMA

AGENT: Harbors, Beaches & Parks

PROJECT LOCATION: 1901 Bayside Dr., Newport Beach, Orange County

PROJECT DESCRIPTION: Installation of a new 550 foot long seawall, demolition of two buildings, construction of a 1,000 sq. ft. Coast Guard building, demolition and reconstruction of an 8,485 sq. ft. Harbor Patrol building, exterior improvements to building facades, upgrade of all site utilities, provision for temporary facilities, and replacement of an underground fuel storage tank.

Lot area:	1.77 acres
Building coverage:	13,635 sq. ft.
Pavement coverage:	54,395 sq. ft.
Landscape coverage:	13,100 sq. ft.
Parking spaces:	60
Zoning:	Unclassified
Plan designation:	Governmental, Educational & Institutional
Project density:	NA
Ht abv fin grade:	NA

LOCAL APPROVALS RECEIVED: Negative Declaration from the Environmental Management Agency of the County of Orange

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits 5-93-253 (Hoag Memorial Hospital), 6-93-155 (San Diego), 5-92-424 (Lido Homeowners Association), 5-94-148 (Bellavia), 5-82-571 (Van Orden), A5-LOB-93-353 (Sailing Center), Negative Declaration IP 93-3, Letter from the California Regional Water Quality Control Board, July 22, 1994 Letter from Don Hellmers Engineering, Letters from the California Department of Fish and Game regarding permits 5-82-571 (1982) and 5-94-148 (August 10 and December 19, 1994).

SUMMARY OF STAFF RECOMMENDATION:

The unresolved issue of this proposed development project is that the applicants are proposing to fill open coastal waters and have not provided any mitigation plan. Commission precedent requires that impacts from fill to open coastal waters be mitigated at a 4:1 ratio. Therefore, staff is recommending approval of the project with special conditions requiring creation of intertidal habitat on a 4:1 ratio and submittal of a five year monitoring program prior to permit issuance.

Staff recommends that the Commission approve the proposed development with prior to issuance special conditions regarding mitigation of the loss of harbor bottom, submittal of a mitigation plan, submittal of a written agreement to protect the mitigation site in perpetuity, proof of ability to do the mitigation, monitoring reports, seawall construction not to commence until habitat creation commences, and provision of signage for public beach parking.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Submittal of Mitigation Plan

Prior to the issuance of Coastal Development Permit 5-94-255 the applicant shall submit for the review and approval of the Executive Director, a mitigation plan that demonstrates all of the following:

- a. The specific location, site suitability and site plan for the creation of 5,500 square feet of intertidal habitat in Newport Harbor or Upper Newport Bay;
- b. Parameters of the created habitat, in terms of fauna and flora, are to be modelled upon intertidal habitat in the immediate area of the restoration site consistent with condition 1a and condition 3.
- c. Evidence that the proposed habitat area is not used to satisfy any other permit requirements.

2. Monitoring Program

In conjunction with special condition 1 (above), the applicant shall submit for the review and written approval of the Executive Director in consultation with the Department of Fish and Game, a detailed monitoring program designed by a qualified wetland biologist acceptable to the Executive Director. Said monitoring program shall provide the following:

- a. Monitoring reports on the extent of coverage, rate of growth and species composition of the created wetland area shall be submitted to the Executive Director on an annual basis for five years following project completion.
- b. The monitoring program shall include provisions for augmentation and maintenance of the wetland creation effort, including performance standards, designed to assure 90% coverage in a five year period. The program shall include criteria to be used to determine the quality and extent of the mitigation effort, which shall include but not be limited to, survival rates and species composition.
- c. At the end of the five year period, a more detailed report prepared in conjunction with a qualified wetland biologist shall be submitted to the Executive Director. If the report indicates that the

mitigation has been in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original program which were not successful. The revised mitigation program, if necessary, shall be processed as an amendment to their coastal development permit.

3. Protection of Mitigation Site in Perpetuity

Prior to issuance of a coastal development permit, the applicant shall submit a written agreement which provides that 5,500 square feet of intertidal habitat shall be created and protected in perpetuity as mitigation for the intertidal habitat displaced.

4. Proof of Legal Ability to Develop

Prior to issuance of the coastal development permit, the applicant shall provide evidence, in a form and content acceptable to the Executive Director, that the landowner(s) of any off-site mitigation areas has given permission for any off-site areas to be used solely as conditioned herein.

5. Beach Parking and Signage

Prior to the issuance of the Coastal Development Permit the applicant shall submit a signage plan, subject to the review and approval of the Executive Director, which shows the designs, dimensions and location of signs near the beach entrance for the 10 public beach parking spaces. Parking shall be provided consistent with the approved plan. The sign shall state that the 10 spaces are designated for public beach use only for the hours between 8 am to 5 pm and shall be posted in a visible location at the site of the parking spaces.

6. Other Permits

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, copies of any other required state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and become a part of the project; such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

7. Commencement of Seawall Construction

Construction on the seawall shall not commence until creation of the intertidal habitat has commenced.

8. Turbidity Control

In order to minimize adverse impacts on the marine environment caused by siltation during construction, silt curtains or other forms of barriers acceptable to the Executive Director shall be used to confine turbid water to the immediate area of construction of the seawall and creation of the intertidal habitat.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed development includes construction of a new 550 foot seawall 2.5 feet seaward of the existing seawall, demolition of a 2,300 square foot vehicle storage building and construction of a new storage building, demolition and replacement of a 1,000 square foot Coast Guard building, partial demolition and reconstruction of the 8,485 square foot Harbor Patrol building, exterior improvements to building facades, upgrade of all site utilities, provision for temporary facilities, removal and replacement of an underground fuel storage tank, improvements to beach access, and addition of 20 parking spaces (from 48 to 68 spaces).

The site is located in Newport Harbor adjacent to the Balboa Yacht Club and the Bayside Dr. public beach (see Exhibit 1). Redevelopment of the site will result in provision of 20 additional parking spaces and increased public access to the beach. The new site plan includes a beach drop-off point and provision of 10 parking spaces for public beach use.

The Harbor Patrol facility has been in continuous use since 1953. The existing steel sheet-pile seawall had an expected lifetime of 25 years (until 1978) and is now showing signs of deterioration and erosion. The plans call for installation of a new concrete sheet pile seawall 2.5 feet seaward of the existing steel sheet-pile seawall. The seawall will be 1 foot wide with a 1.5 foot gap between the new and old seawall. This gap will be backfilled with sand. The old seawall will remain in place.

Buildings on site include a 1,000 square foot Coast Guard building, a 2,300 vehicle storage building, a maintenance building, and a utility building. Of these buildings the vehicle storage building and the Coast Guard building will be demolished. The existing 8,485 square foot harbor patrol building will be reconstructed into a 8,425 square foot structure. The accessory buildings total 5,210 square feet.

As can be seen from Exhibit 2 the existing seawall is divided by a boat launch ramp into two parts. The western side of the property includes the main Harbor Patrol building which is approximately five feet from the existing seawall. The southern portion of the property includes the existing Coast Guard building which is within five feet of the seawall. This building is proposed for demolition, however a new building will be constructed at the same location. On the edge of the seawall south of the boat launching ramp there is a crane or joist. Further south there is a concrete sidewalk and benches adjacent to the public beach. Where the seawall ends there is a row of hollow concrete pipes filled with sand protected by riprap.

B. Marine Environment

Section 30233 of the Coastal Act governs the diking, dredging or filling of open coastal waters. It states:

- (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 wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
- (4) 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.
- (5) 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.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

The project involves the loss of 1,375 square feet of harbor bottom due to the installation of a new 550 foot long concrete pile seawall 2.5 feet seaward of the existing seawall. As can be seen from Exhibit 6, the concrete cap of the new seawall will abut the concrete cap of the old seawall. The fact that the new seawall is 2.5 feet seaward of the existing seawall results from the inherent design of seawalls. The new seawall cannot be placed any closer because of the concrete caps or coping. As shown on Exhibit 6, the concrete cap of the new seawall will be anchored into the existing concrete foundation 33 feet inland. The new seawall will be constructed, water between the seawalls will be pumped out and the space between the walls will be filled with sand. The resources lost as a result of construction of the new seawall will be the loss of 2.5 feet X 550 feet (1,375 square feet) of harbor bottom.

There are three essential components which must be met in order for the Commission to find a project in conformance with Section 30233(a). These components are: the project must be an allowable use, the project must be the least environmentally damaging alternative, and the project must have adequate mitigation measures to minimize adverse impacts from filling, dredging and diking of open coastal waters and wetlands. In this instance, the project impacts occur to open coastal waters in Newport Harbor.

1. Allowable Use

Subsections 1-8 of Section 30233(a) limits diking, filling and dredging of wetlands and open coastal waters to certain specified uses. These uses include: 1) new or expanded ports; 2) maintaining existing depths in navigation channels, etc.; 3) boating facilities in wetlands; 4) new or expanded boat facilities in open coastal waters; 5) incidental public service purposes; 6) mineral extraction; 7) restoration purposes; and 8) nature study.

Of these 8 allowable uses only number 5 is applicable to this project. Subsection 5 reads:

- 5) 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.

In order for the fill of open ocean to be allowable under the Coastal Act, the fill must be both incidental and for a public service purpose. In this instance, fill would be placed in the 1.5 feet between the old and new seawall. The new seawall itself is 1 foot wide. Therefore, the total amount of fill is 1.5 feet plus 1 foot times 550 feet. The proposed development site houses the docking and administrative facilities of the Newport Harbor Patrol, the United States Coast Guard, and County Harbors, Beaches & Parks support staff. These public agencies fulfill an important ocean-oriented public transportation mission. The seawall is necessary for the implementation of that public service mission. The site contains the administrative staff, the docks for berthing patrol boats, repair and maintenance sheds, and boat-launching facilities. The seawall is an integral component of a functioning boating facility. The seawall supports and retains the soils on which the public buildings are constructed.

The seawall fill is needed to safely retain the land upon which the support facilities are constructed and is incidental to the primary transportation mission of the Harbor Patrol and Coast Guard. Without the seawall, the land would be subject to wave and tidal action and the buildings would be at risk. Therefore, the fill for the seawall is both incidental and for a public service purpose.

2. Least Environmentally Damaging Alternative

Section 30233(a) of the Coastal Act mandates that fill will be permitted if there is no feasible less environmentally damaging alternative. The Coastal Act defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." The applicants supplied a letter from Don Hellmers Engineering dated July 22, 1994 discussing alternatives. The applicants considered three alternatives: 1) replace the seawall in the same location; 2) replace the seawall landward of the present location; and 3) keep the existing seawall and install a new seawall next to it.

The two sections of seawall are separated by a boat launching ramp. The existing metal sheet pile seawall is connected by tie rods to subterranean concrete blocks called deadmen. During the course of construction the walkways and portions of buildings over the deadmen will be removed so that tie rods can be installed from the deadmen to the new seawall.

There are several construction problems in attempting to relocate the seawall landward. First, any excavations will hit the water table and complicate excavation. Second portions of infrastructure like the jib crane would have to be removed and relocated. Third, any attempt to install a new seawall landward of the existing one would result in silt and sediment entering the harbor.

Any attempt to demolish and remove the existing seawall increases the likelihood of metal from the sheetwall and other contaminants entering the harbor.

The applicants included a letter from Don Hellmers Engineering dated July 22, 1994, concerning these construction alternatives. The letter is included as exhibit 4 and states:

The alternative selected was to leave the existing sheet pile wall in place and install a new sheet pile face directly in front of and as close as possible to the existing wall. This system would preclude any existing retained fill from entering the bay waters and would not require any dredging or soil cleanup from the waters in front of the seawall.

In economic terms, situating the seawall landward would be more expensive. The applicants would have to excavate and build a retaining wall, construct the new seawall and then demolish and remove the existing seawall. Placing a new seawall in front of the existing seawall would involve less construction and therefore be less expensive. Technologically, this is also the preferred solution.

Finally, as required to submit a mitigation plan to mitigate for the loss of harbor bottom on a 4:1 ratio, the adverse impacts to coastal resources are compensated for and the project is the least environmentally damaging alternative. As conditioned, the mitigation plan includes criteria stipulating that the mitigated habitat shall be modelled on intertidal habitat in the immediate area of the mitigation site and shall equal 90% of the biological values at the site within five years.

For these reasons and based upon geologic recommendations, the Commission finds that the preferred alternative of installing a new seawall next to the existing one would involve the least amount of impact to the near shore environment and is the least environmentally damaging alternative.

3. Mitigation Measures

In the event that dredging, filling or diking is selected as the least environmentally damaging alternative, Section 30233(a) of the Coastal Act mandates that feasible mitigation measures be provided to mitigate adverse environmental impacts. In this instance the adverse environmental impacts are the loss of 1,375 square feet of harbor bottom.

The County's Negative Declaration found that the proposed project would not have significant environmental impacts on the environment. However, the filling of open waters is a significant environmental impact under the Coastal Act which must be mitigated. In addition, the California Department of Fish and Game has concerns about the cumulative loss of harbor and intertidal wetlands.

In past Commission actions on similar proposed development of bulkhead or seawall relocation ranging from 3 feet to 30 feet bayward of an existing bulkhead, the applicant was typically required to replace the bulkhead in its existing location (5-82-311, Flanders; 5-82-312, Rhinesmith; 5-82-315, Bell; 5-82-856, Somers; 5-85-19, DiSano; 5-85-20, Saracino; 5-84-493, Somers, Farnsworth & Vose).

In previous permit applications (5-94-148 and 5-82-571) the California Department of Fish and Game (CDFG) commented on official policy regarding seaward encroachment of seawalls and bulkheads. The CDFG sent a letter to staff on August 10, 1994 concerning CDP 5-94-148. Concerning the projected loss of 1,117 square feet of harbor intertidal habitat, the letter states in part:

...Although this is a relatively small loss of habitat, when taken with similar bulkhead and fill projects, it adds to the continued loss of marine habitat within Newport Bay. Because of the continued incremental loss of bay habitat from this and other similar projects, the Department would, as we have for other similar projects, object to the issuance of permits for projects which would result in a loss of bay habitat.

A December 19, 1994 letter from CDFG regarding 5-94-148 states in part:

...The Department has no opinion on the aforementioned project...except that if a permit were to be granted that all wetland losses be compensated for to create a no net loss per California Wetlands Conservation Policy.

The Department supports the Commission's precedent for a minimum compensatory wetland mitigation ratio of 4 to 1 to compensate for interim functional losses and the poor success rate of wetland mitigation projects.

This letter goes on to state that the Department has land available for wetland restoration on Shellmaker Island in the Upper Newport Bay Ecological Reserve.

A 1982 letter from Fish and Game regarding permit 5-82-571 states:

The Department is generally concerned with any project which results in further diminishment of habitat, estuarine or otherwise. California has seen a marked reduction in estuarine and other wetland habitats during modern times as a result of diking and filling for harbor, commercial and urban developments, other reclamation projects, and from deposition of sediments resulting from poor management and development practices.

In Coastal Development Permit 5-82-571 (Van Orden) the Commission conditioned the applicant to mitigate on a 4:1 ratio for the loss of harbor bottom caused by the replacement of a bulkhead 12 feet bayward of the existing bulkhead. This mitigation was conditioned to be provided in Upper Newport Bay.

In this instance, the applicant has not presented a plan or proposed location for mitigation of the loss of 1,375 square feet of harbor bottom. In accordance with existing Commission policy and prior Commission decisions, the applicant is being conditioned to supply mitigation on a 4:1 basis. This means that the applicant shall provide 5,500 square feet of new marine habitat in Newport Harbor or in Upper Newport Bay. Because the applicant has not supplied a mitigation plan, the Commission is requiring that the permit not be issued until the applicant receives approval from the Executive Director of the specified mitigation plan. Construction of the seawall shall not commence until the intertidal habitat creation has also commenced.

Therefore, the Commission finds that that applicant shall comply with special conditions requiring that the applicant create 5,500 square feet of marine intertidal habitat in Newport Harbor or Upper Newport Bay, submit prior to issuance a written agreement to protect the site in perpetuity, submit the specified mitigation plan, provide legal proof of the ability to conduct the mitigation on whatever property, and provide monitoring reports. Only as conditioned does the Commission find that the proposed project provides feasible mitigation measures which minimize the adverse impacts of the proposed development.

Therefore, based upon the findings in this section, the Commission finds that the proposed development conforms with Section 30233 of the Coastal Act because the seawall is an allowable use, is the least environmentally damaging alternative and, as conditioned, provides feasible mitigation to offset the loss of marine habitat.

C. Public Access

One of the basic goals stated in the Coastal Act is to maximize public access to and along the coast.

Pursuant to Section 30604(c) of the Coastal Act, because the proposed development is located between the first public road and the sea, the public access policies contained in Chapter 3 of the Coastal Act apply to the entire project.

The Coastal Act has several policies which address the issue of public access to the coast.

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 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

As stated in the above Coastal Act policies, the Coastal Act requires that maximum access and recreational opportunities be provided for all people. The Coastal Act also protects the public's right to access the sea and encourages the development of recreational facilities.

The proposed site houses public agencies, the Coast Guard and Harbor Patrol, which have an ocean-oriented public transportation mission. In addition, the facility provides 5 to 10 berths for traveling boat owners to dock for a minimum fee.

Located directly to the south of the facility is the Bayside Drive public beach area. Access to the public beach is gained through the entrance to the harbor patrol site (see Exhibit 2). As part of their proposed development the applicants are proposing to increase public access by providing a drop-off point for patrons of the beach. In addition, the applicants are increasing the number of parking spaces on site from 48 to 68, 10 of which will be for public beach use.

Implementation of the development plan will not result in adverse impacts to public access to the beach. In fact, implementation of the plan will facilitate public access by providing 10 parking spaces for beach use and for providing a drop-off point.

The proposed project is located between the sea and the first public road. The project is located adjacent to Bayside Drive public beach. The applicants are proposing to increase public access to the beach by providing 10 parking spaces for beach use and a beach drop-off point. The applicants are increasing public parking and facilitating public access to the beach. To ensure that the 10 parking spaces are for beach use only, the Commission is requiring that the applicant place a sign at the public parking spaces indicating that the spaces are to be used for public beach access between the hours of 8 am and 5 pm.

Therefore, the Commission finds that the proposed project as conditioned conforms with the public access policies of Sections 30210, 30211 and 30213 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. As conditioned to provide wetland mitigation requirements, monitoring reports, submittal of a written agreement to protect the site in perpetuity, and proof of the ability to conduct the mitigation on the property elected the proposed development is consistent with the policies contained in the certified Land Use Plan. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program Implementation Plan for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by section 30604(a).

E. California Environmental Quality Act

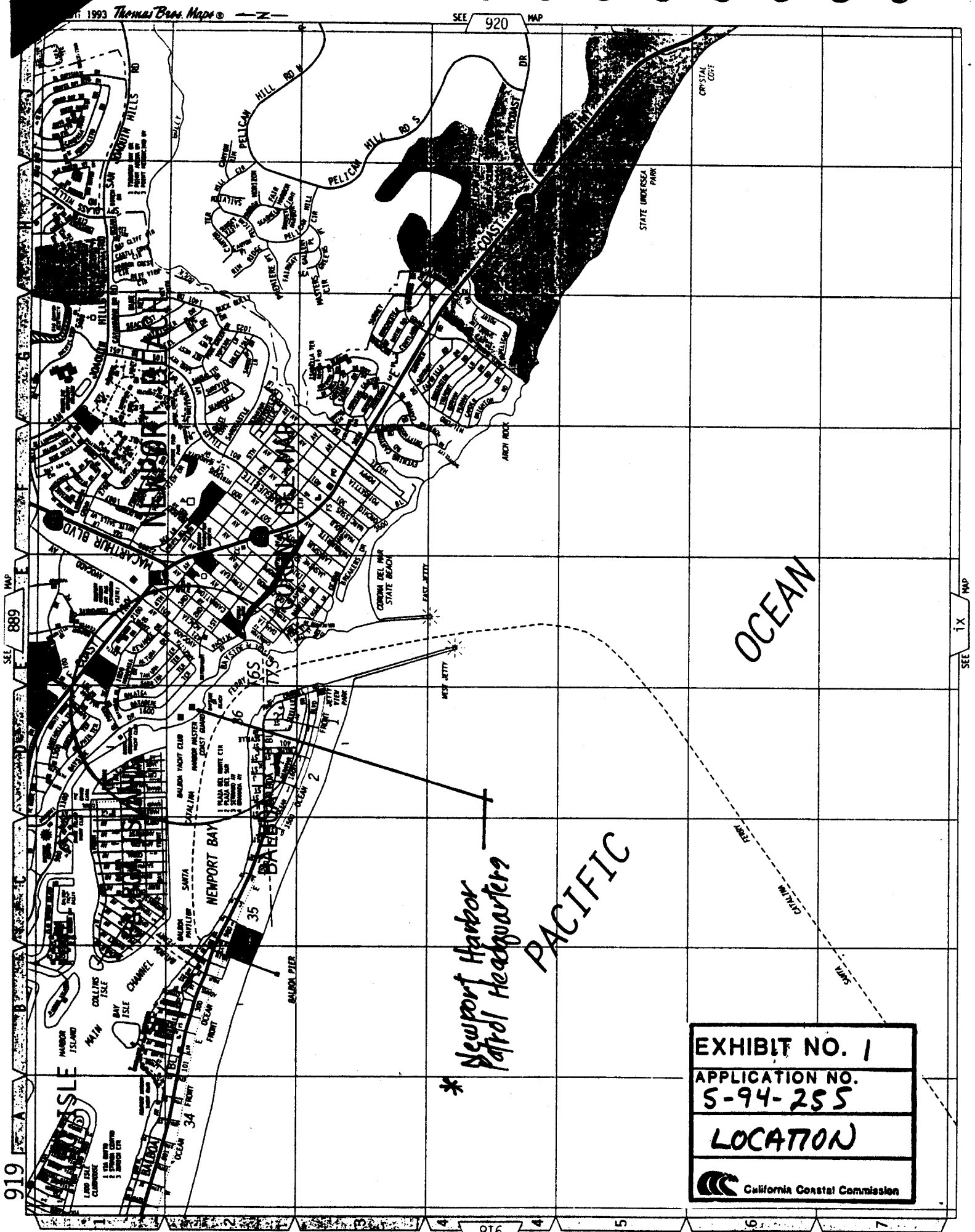
Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the wetland and public recreation policies of the Coastal Act. Mitigation measures requiring the applicant to create 5,500 square feet of marine intertidal habitat will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the

environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.


3450F



* Newport Harbor
Patrol Headquarters

PACIFIC

OCEAN

EXHIBIT NO. 1
APPLICATION NO. S-94-255
LOCATION
 California Coastal Commission

RECEIVED

OCT 26 1994

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT
SCALE 1" = 20'

LEGEND

--- PROPOSED CONCRETE WALKWAY
--- EXISTING CONCRETE WALKWAY
--- EXISTING BENCHES
--- EXISTING PUBLIC BEACH
--- EXISTING BOAT RAMP
--- EXISTING PATROL BUILDING
--- EXISTING HARBOR
--- EXISTING VEH. STAGE
--- EXIST. MAINT. BLDG.
--- EXIST. ROOM/UTILITY BLDG.
--- EXIST. BEACH ENTRANCE
--- EXIST. BOAT RAMP
--- EXIST. PATROL BUILDING
--- EXIST. HARBOR
--- EXIST. VEH. STAGE
--- EXIST. MAINT. BLDG.
--- EXIST. ROOM/UTILITY BLDG.

South Coast District Office

APPROVED 5-94-255

Permit No.

By:

EFFECTIVE

Date:

EXHIBIT NO. 2

APPLICATION NO.
5-94-255

EXISTING SITE

California Coastal Commission

BEACH
ENTRANCE

PUBLIC
BEACH

CONCRETE
WALKWAY
W/ BENCHES

EXISTING
SITE LAYOUT
PLAN.

BOAT
RAMP

EXIST. HARBOR
PATROL BUILDING

EXIST. MAINT.
BLDG.

ROOM/UTILITY
BLDG.

EXIST. VEH. STAGE

PRELIMINARY SITE PLAN

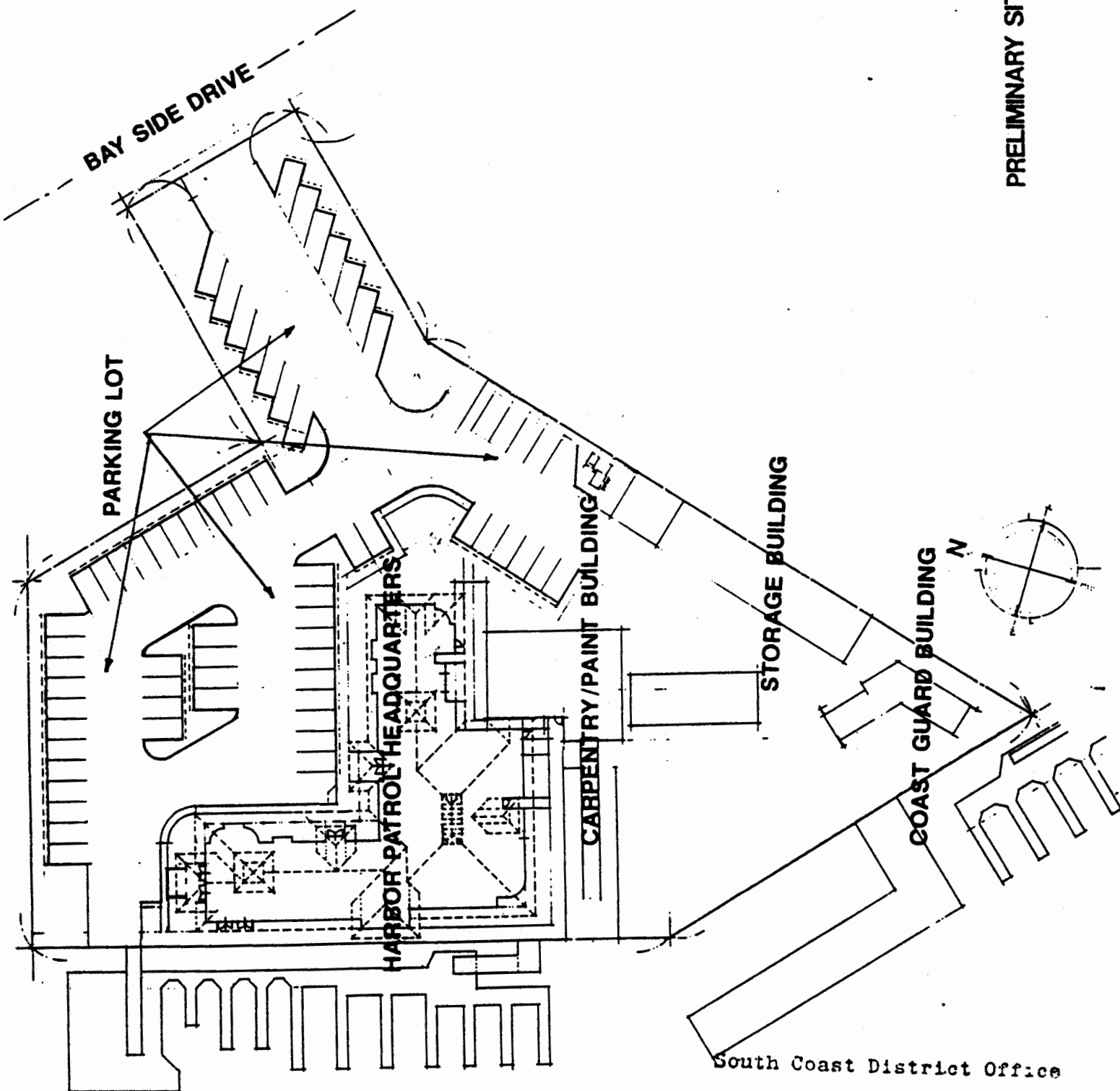



EXHIBIT NO. 3
APPLICATION NO. 5-94-255
PROPOSED
DEVELOPMENT
 California Coastal Commission

South Coast District Office

APPROVED 5-94-255
Permit No. _____

By: _____

EFFECTIVE
Date: _____



15718 Circo Diegueno
Del Mar, California 92014
Phone: (619) 759-9882
Fax: (619) 759-9887

July 22, 1994

County of Orange
EMA
Harbors, Beaches & Park Design Dept.
300 N. Flower St.
P. O. Box 4048
Santa Ana, CA. 92702

Attn: Greg Derr

Subject: BULKHEAD WALL RESTORATION
NEWPORT HARBOR PATROL/COASTAL FACILITY, NEWPORT BEACH, CA.

As requested the following is a synopsis of the proposed seawall project at the subject site.

A structural study of the existing sheet pile walls was performed by this office in 1989 for the Orange County Department of Harbors, Beaches and Parks. Included in the investigation was an evaluation of alternatives to replace and/or restore the existing corroded steel sheet pile bulkhead wall.

Alternatives considered were removal of the existing seawall with replacement in kind and removal of the existing seawall with a replacement wall landward and or waterside of the existing wall. These alternatives would require cofferdams or other methods to attempt to confine the retained soil behind the existing wall from spilling into the bay water.

The alternative selected was to leave the existing sheet pile wall in place and install a new sheet pile face directly in front of and as close as possible to the existing wall. This system would preclude any existing retained fill front entering the bay waters and would not require any dredging or soil cleanup from the waters in front of the seawall.

The concrete sheet piles installed would be laterally supported at the top by tie rods which would be connected to the existing concrete deadman which is located 25 feet landward of the existing seawall.

The proposed system of strengthening the existing corroded sheet pile wall has been discussed with Bruce Henderson of the U. S. Army Corp of Engineers whose comments were favorable because there is no dredging and no fill materials would enter the bay waters.

If you have any questions or would like any further information please contact our office at your convenience.

DON HELLMERS ENGINEERING

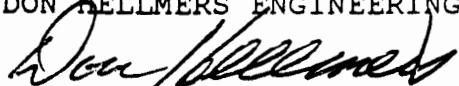


Don Hellmers
DH/cg

EXHIBIT NO. 4
APPLICATION NO. 5-94-255
HELLMERS
 LETTER California Coastal Commission

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**SANTA ANA REGION**

2010 IOWA AVENUE, SUITE 100

RIVERSIDE, CA 92507-2409

PHONE: (909) 782-4130

FAX: (909) 781-6288



RECEIVED

November 15, 1994

NOV 18 1994

Robert G. Fisher, Director
Harbors, Beaches and Parks
County of Orange
Environmental Management Agency
P.O. Box 4048
Santa Ana, CA 92702-4048

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

**401 CERTIFICATION FOR THE INSTALLATION OF NEW CONCRETE SHEET-PILE
SEAWALL AT THE NEWPORT HARBOR PATROL FACILITY IN NEWPORT BAY,
NEWPORT BEACH, ORANGE COUNTY**

Dear Mr. Fisher:

This is in response to your October 20, 1994 letter, which we received on November 3, 1994, requesting a water quality standards certification under Section 401 of the Clean Water Act for the above-referenced project.

The County of Orange Environmental Management Agency, Harbors, Beaches and Parks is proposing to redevelop the Newport Harbor Patrol Headquarters in Newport Bay. The redevelopment will include the reconstruction of the Harbor Patrol building fronting the existing seawall, which was built in 1953. The seawall is a steel sheet-pile with a life expectancy of 25 years. The seawall is showing signs of deterioration and may have allowed erosion to occur to the existing subsurface areas of the site. Due to the age and condition of the seawall, it will be replaced with a concrete sheet-pile seawall (550 feet long), 2.5 feet seaward directly in front of the existing steel sheet-pile seawall. This seawall is critical because it provides protection for buildings which house the Orange County Sheriff's Harbor Patrol Headquarters and the Orange County headquarters for the U.S. Coast Guard. Prior to construction, the project proponent will submit for approval of the Manager, Environmental Management Agency/Environmental Planning Division, a Water Quality Management Plan specifically identifying Best Management Practices that will be used onsite to control predictable pollutant runoff. The project will temporarily disturb approximately 0.05 acres of waters of the U.S.

You have applied for a Section 404 permit from the U.S. Army Corps of Engineers and a Mitigated Negative Declaration (No. IP 93-3) has been prepared to satisfy CEQA requirements.

EXHIBIT NO. 5

APPLICATION NO.

5-94-255

COUNTY LETTER



California Coastal Commission

Robert G. Fisher
401 Certification

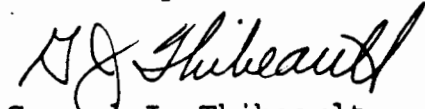
Page 2 of 2

November 15, 1994

Based on the above information, it appears that the above-referenced project, as proposed, will not result in any adverse impacts to waters of the U.S. Pursuant to Resolution No. 84-48, waste discharge requirements are waived for this project. In accordance with Section 3857 of the California Code of Regulations, this action is equivalent to waiver of water quality certification. At this time no further action is anticipated on your application. However, if the above stated conditions are changed or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

Should there be any questions, please contact Jun Martinez at (909) 782-3258 or Gary Stewart at (909) 782-4379.

Sincerely,



Gerard J. Thibeault
Executive Officer

cc: U.S. Environmental Protection Agency, Wetlands and Permits Enforcement Section -
Clyde Morris (W-7-2)
U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch -
Bruce Henderson
U.S. Fish and Wildlife Service, Carlsbad - John Hanlon
State Water Resources Control Board, Division of Water Quality - Oscar Balaguer
California Coastal Commission - John T. Auyong
California Department of Fish and Game, Long Beach - Fred Worthley
Orange County Environmental Management Agency, Environmental Resources Division
- Chris Crompton

Hermosa Beach Office

Phone: (310) 798-2400

San Diego Office

Phone: (858) 999-0070

Phone: (619) 940-4522

**Chatten-Brown, Carstens & Minter LLP**

2200 Pacific Coast Highway, Suite 318

Hermosa Beach, CA 90254

www.cbcearthlaw.com

Douglas P. Carstens

Email Address:

dpc@cbcearthlaw.com

June 4, 2021

California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302

Re: Application No.: 5-07-370-A2;
Amendment to CDP No 5-07-370; 1901 Bayside Drive, Corona del Mar;
Orange County Parks, Newport Beach

Honorable Chair Padilla and Commissioners,

On behalf of Friends of Newport Harbor, we urge you to deny the CDP Amendment ("CDPA") sought by the County of Orange to limit public access in and around the County's harbor patrol's headquarters at 1901 Bayside Drive. Friends of Newport Harbor wants to assure the facility is open, welcoming and accessible to all boaters/fisherman regardless of ability, and we want to improve the public access and the perception of this location as an inviting and welcoming space for the public, which has been so badly ruined over the years through the Orange County Sheriff Harbor Control's takeover of the location.

However, if the Commission favors granting the CDPA, we request that the Commission require full ADA access as intended by the 1995 CDP that established ADA access on the property. This full ADA access requires retaining the existing asphalt walkway that provides access to restrooms, expanded parking, improved wayfinding, and provision of a publicly accessible lift located at the visitor dock. As currently proposed by the County and the Staff Recommendation, the CDPA would either eliminate useful ADA access to the sandy beach, waterfront, and visitor dock or eliminate much of the beach itself by installing a cement walkway. The CDPA also removes public parking stalls nearest to the beach which were originally included in the 1995 CDP. (Exhibit A, Page 11 of PDF of permit.) Since this CDPA is before the Commission to remedy the Applicant's violation of the public's constitutional right to public access, further restrictions on public access are inappropriate. If anything, the Commission must act to restore and enhance public access at this site.

I. The Commission Need Not Endorse the OCSHP's Unlawful Actions by Granting the CDP Amendment.

We first note that this CDP is before the Commission as a means of remedying the Orange County Sheriff's Harbor Patrol (OCSHP) existing violations of the Coastal Act. These violations began in June of 2017 when OCSHP barred access to two public guest docks; placed "Keep Out" and "Authorized Personnel Only" signage at the entrance to the public docks; limited public dinghy tie up access to 20 minutes; change the visitor dock to emergency use only; relocated ten (10) public beach parking spaces; and eliminated a Commission-approved beach drop off point. These were public amenities originally included in the 1995 CDP. (See, Exhibit A, Pages 11 and 12 of PDF of permit The Commission detailed these violations two years ago in 2019, finding OCSHP violated Coastal Act sections 30210, 30211, 30600(a), among other violations.

While OCSHP has asserted that these actions were necessitated by a purported May 2017 internal security review, the alleged threats found by this review have never been publicly disclosed or reviewed. The May 17, 2021 "Occupational Hazard Review" mischaracterizes the shared asphalt parking lot and is not a basis for eliminating public access. The hazard review was provided at the eleventh hour and likely was not reviewed. Moreover, a Public Records Act review determined that the County has not reported a single security incident at the asphalt area adjacent to the ADA walkway in the last five years. Even if OCSHP's security assertions were supported with evidence, which they are not, they do not permit OCSHP to trample on the public's constitutional right to coastal access. The CDPA should be denied.

The Coastal Commission is charged with ensuring that development and uses of coastal land do not impede on the public's Constitutional right to access the coast. (Cal. Const., Art X, § 4; Pub. Resources Code §30210-12, 30214, 30330.) There is no question that OCSHP's actions are subject to these limits. The Venice Beach curfew provides an instructive example. In 2015, members of the public challenged a City of Los Angeles ordinance restricting access to Venice Beach from midnight to 5 a.m., citing concerns with public safety. (Exhibit B, <https://www.latimes.com/local/lanow/la-me-ln-beach-curfew-20170930-story.html>; Exhibit C, 2015 Complaint, <https://lafla.org/wp-content/uploads/2017/09/Valentine-Complaint.pdf>.) In 2011, the Commission advised the City that, in order to be consistent with the Coastal Act, there needed to be "credible evidence demonstrating the existence of a public safety problem warranting the imposition of a beach curfew," as well as "[e]valuation of alternatives to a sweeping curfew and exclusion from the curfew of beach areas that could be excluded without compromising public safety." (Exhibit C, 2015 Complaint, page 68 of PDF.)¹

If Los Angeles could not limit hours at Venice Beach without credible evidence, the County certainly cannot use unproven assertions about security as justification for removing the ADA-compliant asphalt walkway. Commission findings are required to be supported with

¹ A court settlement required the City was required to seek a permit from the Commission to institute a curfew, which as of March 2019 had not yet occurred. (Exhibit D, CCC staff report for Venice Pier project, p. 10, <https://documents.coastal.ca.gov/reports/2019/4/Th14a/Th14a-4-2019-report.pdf>.)

substantial evidence, bridging the analytical gap between raw evidence and agency action. (*Greene v. California Coastal Com.* (2018) 40 Cal.App.5th 1227, 1234, citing *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514-15.) Here, by seeking a euphemistic “after-the-fact” approval, the County is hoping that the Commission will endorse its misconduct in circumventing the Coastal Act. But the Commission, charged with implementing the Coastal Act and maximizing public access in the Coastal Zone (Pub. Resources Code § 30001.5, subd. (c)), need not endorse these actions by the County.

With this CDPA application, instead of atoning for or remedying its previous constitutional violations, OCSHP merely seeks a permit to continue them indefinitely. The Coastal Act permitting process is not meant to grant “get out of jail free” cards; it is meant to protect public access to the coast. As the CDPA would reduce public access (with particular harms to those requiring accessibility accommodations) by unjustifiably converting public areas to Harbor Patrol use only and eliminating an ADA walkway and safe access route from the parking stall to the public beach, the CDPA should be denied.

II. The Application’s Limitations on Public Access Require Approval of a Local Coastal Program Amendment.

Any new limits to the existing public access at the harbor patrol headquarters require the County to apply for a local coastal program amendment. In 2019, the Commission’s Public Information Officer, Noaki Schwartz, told The Log, “Basically any changes (to public access) being proposed would require a local coastal program amendment that we would have to analyze, especially any changes that would impact public access.” (See Exhibit E <https://www.thelog.com/local/orange-countys-docks-a-tale-of-two-maritime-parking-scenes/>, May 30, 2019). The application before the Commission is for a CDP, and does not contain an LCPA. Thus, the Commission cannot grant approval to these new public access restrictions. (Pub. Resources Code s. 30514.) The Application should be denied.

III. If Approved According to the Staff Recommendation, the Commission Should Require Full ADA Access, Including Additional Public Parking.

We understand that Coastal Commission Staff has worked hard to improve the proposed Project. However, the Staff-recommended project will still drastically reduce coastal access to Californians. Exhibit F shows the public amenities and access that the proposed CDPA will eliminate. The project eliminates the existing asphalt ADA accessible walkway and removes the ADA accessible parking stall at the waterfront, closest to restrooms and the existing cement ADA ramp which leads to the beautiful waterside cement walkway/bulkhead to the waterline. This will harm disabled Californians who utilize and rely on such features to access the beach and other public amenities.

In order to avoid or offset these access reductions, we propose the following alterations to the Project:

- (1) Retain the Ten Public Parking Spaces as Included in the 1995 CDP in Addition to the CDPA's Proposed Public Parking.** Of the 65 parking stalls at the location, 53 stalls are proposed for OCSHP use only and a mere 12 stalls are for public parking. For a site that is intended to be “shared” between the government and the public, this is a remarkably uneven split. Further, the proposed plan removes one ADA accessible parking spot near the waterfront and places it along with other public parking to the north of the site—without a safe, designated walkway to the beach or the waterfront. This parking stall is the only fully ADA-compliant stall leading to the public restrooms, cement walkway/ramp, public docks, and boardwalk. Safe connectivity must be provided between the ADA parking stalls onsite and the ADA walkway. As currently proposed, a visitor utilizing the ADA accessible parking spot must traverse a separate parking lot—the parking lot closest to the public beach—in order to access the proposed cement ADA walkway. This is unsafe. Instead, we ask the Commission to adopt a condition reinstating the original 10 public parking stalls in the parking lot adjacent to the public beach and facilities building, as provided for in the 1995 CDP, including one ADA accessible parking stall in that same lot. We request this condition **in addition** to the CDPA's proposal of adding 11 public parking stalls (including one ADA stall) in the parking lot to the north of the site, for a total of 21 public parking stalls. We also request that the ADA accessible parking stalls have safe access routes to the ADA walkway. This will greatly improve public access to the beach, particularly for those with disabilities.
- (2) Preserve the Asphalt ADA Walkway.** The existing asphalt ADA walkway enables access to the waterfront, the public beach, and an ADA-accessible restroom. The last plan we reviewed contained a 1,500-square-foot cement walkway intended to provide permanent access to the restrooms and waterside amenities at the south end of the facility. However, Coastal Commission policy forbids paving over sand when it will reduce useable beach area and introduce sea level rise and coastal erosion concerns. (Pub. Resources Code ss. 30211, 30235.) This small beach already has numerous encroachments from the residents and County that have greatly reduced the useable square footage for the public. The current proposal violates the Coastal Act and is unnecessary in light of the existing, fully useable asphalt ADA walkway.
- (3) Wayfinding Must Promote, Not Hinder, Public Access.** There is currently a red line painted on the asphalt between the public parking and the public access point to the County site and beach. As currently configured, the red line gives the impression that visitors may not traverse the line. We understand and appreciate that the Applicant has agreed to repaint this unwelcoming line yellow. Placed in the **middle** of the painted line is signage stating, “Authorized Parking Only” with a stop-sign symbol and another sign pointing to a public access beach drop off point at the eastern part of the project site. This signage is confusing and appears to funnel the public to the public beach to the east, even though the nearby waterfront and the visitor dock are also subject to public access. **The confusing signage and painted**

line should be removed. The confusing wayfinding also creates an unsafe chokepoint at Bayside Drive, as cars that reach the red line cannot turn around and may only exit by driving in reverse. Notably, we believe that restoring the public parking stalls provided by the 1995 CDP—which did not block public access with the painted red line—will improve wayfinding and traffic flow as restoring the original parking will give visitors a more reasonable area to turn around in.

- (4) Provide an ADA Lift to Increase Accessibility of the Public Dock.** There are currently only three (3) lifts available along the California coast, none of which are accessible to the general public. In order to provide wheelchair access in the harbor, we propose the following condition: “The County agrees to install a boating lift at a public location within Newport Harbor within the next 12 months.” If a location within Newport Harbor is truly infeasible, we propose the alternative condition: “The County agrees to install a lift at a harbor location within Orange County within the next 12 months.”

IV. The Application Cedes Too Much Discretion to OCSHP, Which Jeopardizes Public Access.

The CDPA proposes to reduce the dinghy dock limit from 72 hours to 24 hours, with the possibility of an extension from OCSHP on an “as-needed basis.” (June 2021 Staff Report, p. 20.) Given the OCSHP’s Coastal Act violations, we are concerned about conferring the OCSHP sole discretion to grant such extensions. OCSHP discretion is concerning in that a Public Records Act review of the guest slip usage revealed that current and retired Sheriff Harbor Patrol Officers were heavy users of the guest slips that had been signed with “keep out-authorized personnel only” prior to the Coastal Commission enforcement staff’s intervention to restore public access.

It is our understanding that the County has agreed to maintain five public guest slips. The 1995 staff report references 5 to 10 berths for public use. (Exhibit A, 1995 CDP, p. 11 of PDF.) This language should be added to the CDPA in consideration of OCSHP’s elimination of two of the five remaining guest slips as identified in the Commission’s May 20th, 2019 enforcement letter.

V. Conclusion

We appreciate the Commission Staff’s efforts to combat non-compliance and ensure meaningful access to this protected public resource in accordance with the Coastal Act and previous CDPs. The public has a right to the accessibility that OCSHP agreed to in its 1995 CDP for the harbor patrol facility. The public also has the right to robust enforcement of the Coastal Act when public access violations occur. While the project proposal is much improved, it does not yet comply with the Commission’s mission to protect public access and ensure accessibility to for all Californians. Instead of approving the requested CDP per Staff’s recommendation, we urge you to please reject it outright. If the Commission must approve the CDP, full ADA access to the sand and the harbor, for all visitors, must be guaranteed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas P. Carstens".

Douglas P. Carstens

Sunjana Supekar

Exhibits:

- A. 1995 Coastal Development Permit
- B. <https://www.latimes.com/local/lanow/la-me-ln-beach-curfew-20170930-story.html>
- C. 2015 Complaint, <https://lafla.org/wp-content/uploads/2017/09/Valentine-Complaint.pdf>
- D. CCC staff report for Venice Pier project, <https://documents.coastal.ca.gov/reports/2019/4/Th14a/Th14a-4-2019-report.pdf>.
- E. <https://www.thelog.com/local/orange-countys-docks-a-tale-of-two-maritime-parking-scenes/>
- F. Diagram Displaying How the CDPA Reduces Public Access at the Project Site

EXHIBIT A

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071



Filed: 10-26-94
49th Day: 12-14-94
180th Day: 04-24-95
Staff: RMR-LB RMR
Staff Report: 12-16-94
Hearing Date: January 10-13, 1995
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-94-255

APPLICANT: County of Orange EMA

AGENT: Harbors, Beaches & Parks

PROJECT LOCATION: 1901 Bayside Dr., Newport Beach, Orange County

PROJECT DESCRIPTION: Installation of a new 550 foot long seawall, demolition of two buildings, construction of a 1,000 sq. ft. Coast Guard building, demolition and reconstruction of an 8,485 sq. ft. Harbor Patrol building, exterior improvements to building facades, upgrade of all site utilities, provision for temporary facilities, and replacement of an underground fuel storage tank.

Lot area:	1.77 acres
Building coverage:	13,635 sq. ft.
Pavement coverage:	54,395 sq. ft.
Landscape coverage:	13,100 sq. ft.
Parking spaces:	60
Zoning:	Unclassified
Plan designation:	Governmental, Educational & Institutional
Project density:	NA
Ht abv fin grade:	NA

LOCAL APPROVALS RECEIVED: Negative Declaration from the Environmental Management Agency of the County of Orange

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits 5-93-253 (Hoag Memorial Hospital), 6-93-155 (San Diego), 5-92-424 (Lido Homeowners Association), 5-94-148 (Bellavia), 5-82-571 (Van Orden), A5-LOB-93-353 (Sailing Center), Negative Declaration IP 93-3, Letter from the California Regional Water Quality Control Board, July 22, 1994 Letter from Don Hellmers Engineering, Letters from the California Department of Fish and Game regarding permits 5-82-571 (1982) and 5-94-148 (August 10 and December 19, 1994).

SUMMARY OF STAFF RECOMMENDATION:

The unresolved issue of this proposed development project is that the applicants are proposing to fill open coastal waters and have not provided any mitigation plan. Commission precedent requires that impacts from fill to open coastal waters be mitigated at a 4:1 ratio. Therefore, staff is recommending approval of the project with special conditions requiring creation of intertidal habitat on a 4:1 ratio and submittal of a five year monitoring program prior to permit issuance.

Staff recommends that the Commission approve the proposed development with prior to issuance special conditions regarding mitigation of the loss of harbor bottom, submittal of a mitigation plan, submittal of a written agreement to protect the mitigation site in perpetuity, proof of ability to do the mitigation, monitoring reports, seawall construction not to commence until habitat creation commences, and provision of signage for public beach parking.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Submittal of Mitigation Plan

Prior to the issuance of Coastal Development Permit 5-94-255 the applicant shall submit for the review and approval of the Executive Director, a mitigation plan that demonstrates all of the following:

- a. The specific location, site suitability and site plan for the creation of 5,500 square feet of intertidal habitat in Newport Harbor or Upper Newport Bay;
- b. Parameters of the created habitat, in terms of fauna and flora, are to be modelled upon intertidal habitat in the immediate area of the restoration site consistent with condition 1a and condition 3.
- c. Evidence that the proposed habitat area is not used to satisfy any other permit requirements.

2. Monitoring Program

In conjunction with special condition 1 (above), the applicant shall submit for the review and written approval of the Executive Director in consultation with the Department of Fish and Game, a detailed monitoring program designed by a qualified wetland biologist acceptable to the Executive Director. Said monitoring program shall provide the following:

- a. Monitoring reports on the extent of coverage, rate of growth and species composition of the created wetland area shall be submitted to the Executive Director on an annual basis for five years following project completion.
- b. The monitoring program shall include provisions for augmentation and maintenance of the wetland creation effort, including performance standards, designed to assure 90% coverage in a five year period. The program shall include criteria to be used to determine the quality and extent of the mitigation effort, which shall include but not be limited to, survival rates and species composition.
- c. At the end of the five year period, a more detailed report prepared in conjunction with a qualified wetland biologist shall be submitted to the Executive Director. If the report indicates that the

mitigation has been in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental mitigation program to compensate for those portions of the original program which were not successful. The revised mitigation program, if necessary, shall be processed as an amendment to their coastal development permit.

3. Protection of Mitigation Site in Perpetuity

Prior to issuance of a coastal development permit, the applicant shall submit a written agreement which provides that 5,500 square feet of intertidal habitat shall be created and protected in perpetuity as mitigation for the intertidal habitat displaced.

4. Proof of Legal Ability to Develop

Prior to issuance of the coastal development permit, the applicant shall provide evidence, in a form and content acceptable to the Executive Director, that the landowner(s) of any off-site mitigation areas has given permission for any off-site areas to be used solely as conditioned herein.

5. Beach Parking and Signage

Prior to the issuance of the Coastal Development Permit the applicant shall submit a signage plan, subject to the review and approval of the Executive Director, which shows the designs, dimensions and location of signs near the beach entrance for the 10 public beach parking spaces. Parking shall be provided consistent with the approved plan. The sign shall state that the 10 spaces are designated for public beach use only for the hours between 8 am to 5 pm and shall be posted in a visible location at the site of the parking spaces.

6. Other Permits

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, copies of any other required state or federal discretionary permits for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and become a part of the project; such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

7. Commencement of Seawall Construction

Construction on the seawall shall not commence until creation of the intertidal habitat has commenced.

8. Turbidity Control

In order to minimize adverse impacts on the marine environment caused by siltation during construction, silt curtains or other forms of barriers acceptable to the Executive Director shall be used to confine turbid water to the immediate area of construction of the seawall and creation of the intertidal habitat.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed development includes construction of a new 550 foot seawall 2.5 feet seaward of the existing seawall, demolition of a 2,300 square foot vehicle storage building and construction of a new storage building, demolition and replacement of a 1,000 square foot Coast Guard building, partial demolition and reconstruction of the 8,485 square foot Harbor Patrol building, exterior improvements to building facades, upgrade of all site utilities, provision for temporary facilities, removal and replacement of an underground fuel storage tank, improvements to beach access, and addition of 20 parking spaces (from 48 to 68 spaces).

The site is located in Newport Harbor adjacent to the Balboa Yacht Club and the Bayside Dr. public beach (see Exhibit 1). Redevelopment of the site will result in provision of 20 additional parking spaces and increased public access to the beach. The new site plan includes a beach drop-off point and provision of 10 parking spaces for public beach use.

The Harbor Patrol facility has been in continuous use since 1953. The existing steel sheet-pile seawall had an expected lifetime of 25 years (until 1978) and is now showing signs of deterioration and erosion. The plans call for installation of a new concrete sheet pile seawall 2.5 feet seaward of the existing steel sheet-pile seawall. The seawall will be 1 foot wide with a 1.5 foot gap between the new and old seawall. This gap will be backfilled with sand. The old seawall will remain in place.

Buildings on site include a 1,000 square foot Coast Guard building, a 2,300 vehicle storage building, a maintenance building, and a utility building. Of these buildings the vehicle storage building and the Coast Guard building will be demolished. The existing 8,485 square foot harbor patrol building will be reconstructed into a 8,425 square foot structure. The accessory buildings total 5,210 square feet.

As can be seen from Exhibit 2 the existing seawall is divided by a boat launch ramp into two parts. The western side of the property includes the main Harbor Patrol building which is approximately five feet from the existing seawall. The southern portion of the property includes the existing Coast Guard building which is within five feet of the seawall. This building is proposed for demolition, however a new building will be constructed at the same location. On the edge of the seawall south of the boat launching ramp there is a crane or joist. Further south there is a concrete sidewalk and benches adjacent to the public beach. Where the seawall ends there is a row of hollow concrete pipes filled with sand protected by riprap.

B. Marine Environment

Section 30233 of the Coastal Act governs the diking, dredging or filling of open coastal waters. It states:

- (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 wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
- (4) 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.
- (5) 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.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

The project involves the loss of 1,375 square feet of harbor bottom due to the installation of a new 550 foot long concrete pile seawall 2.5 feet seaward of the existing seawall. As can be seen from Exhibit 6, the concrete cap of the new seawall will abut the concrete cap of the old seawall. The fact that the new seawall is 2.5 feet seaward of the existing seawall results from the inherent design of seawalls. The new seawall cannot be placed any closer because of the concrete caps or coping. As shown on Exhibit 6, the concrete cap of the new seawall will be anchored into the existing concrete foundation 33 feet inland. The new seawall will be constructed, water between the seawalls will be pumped out and the space between the walls will be filled with sand. The resources lost as a result of construction of the new seawall will be the loss of 2.5 feet X 550 feet (1,375 square feet) of harbor bottom.

There are three essential components which must be met in order for the Commission to find a project in conformance with Section 30233(a). These components are: the project must be an allowable use, the project must be the least environmentally damaging alternative, and the project must have adequate mitigation measures to minimize adverse impacts from filling, dredging and diking of open coastal waters and wetlands. In this instance, the project impacts occur to open coastal waters in Newport Harbor.

1. Allowable Use

Subsections 1-8 of Section 30233(a) limits diking, filling and dredging of wetlands and open coastal waters to certain specified uses. These uses include: 1) new or expanded ports; 2) maintaining existing depths in navigation channels, etc.; 3) boating facilities in wetlands; 4) new or expanded boat facilities in open coastal waters; 5) incidental public service purposes; 6) mineral extraction; 7) restoration purposes; and 8) nature study.

Of these 8 allowable uses only number 5 is applicable to this project. Subsection 5 reads:

- 5) 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.

In order for the fill of open ocean to be allowable under the Coastal Act, the fill must be both incidental and for a public service purpose. In this instance, fill would be placed in the 1.5 feet between the old and new seawall. The new seawall itself is 1 foot wide. Therefore, the total amount of fill is 1.5 feet plus 1 foot times 550 feet. The proposed development site houses the docking and administrative facilities of the Newport Harbor Patrol, the United States Coast Guard, and County Harbors, Beaches & Parks support staff. These public agencies fulfill an important ocean-oriented public transportation mission. The seawall is necessary for the implementation of that public service mission. The site contains the administrative staff, the docks for berthing patrol boats, repair and maintenance sheds, and boat-launching facilities. The seawall is an integral component of a functioning boating facility. The seawall supports and retains the soils on which the public buildings are constructed.

The seawall fill is needed to safely retain the land upon which the support facilities are constructed and is incidental to the primary transportation mission of the Harbor Patrol and Coast Guard. Without the seawall, the land would be subject to wave and tidal action and the buildings would be at risk. Therefore, the fill for the seawall is both incidental and for a public service purpose.

2. Least Environmentally Damaging Alternative

Section 30233(a) of the Coastal Act mandates that fill will be permitted if there is no feasible less environmentally damaging alternative. The Coastal Act defines feasible as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." The applicants supplied a letter from Don Hellmers Engineering dated July 22, 1994 discussing alternatives. The applicants considered three alternatives: 1) replace the seawall in the same location; 2) replace the seawall landward of the present location; and 3) keep the existing seawall and install a new seawall next to it.

The two sections of seawall are separated by a boat launching ramp. The existing metal sheet pile seawall is connected by tie rods to subterranean concrete blocks called deadmen. During the course of construction the walkways and portions of buildings over the deadmen will be removed so that tie rods can be installed from the deadmen to the new seawall.

There are several construction problems in attempting to relocate the seawall landward. First, any excavations will hit the water table and complicate excavation. Second portions of infrastructure like the jib crane would have to be removed and relocated. Third, any attempt to install a new seawall landward of the existing one would result in silt and sediment entering the harbor.

Any attempt to demolish and remove the existing seawall increases the likelihood of metal from the sheetwall and other contaminants entering the harbor.

The applicants included a letter from Don Hellmers Engineering dated July 22, 1994, concerning these construction alternatives. The letter is included as exhibit 4 and states:

The alternative selected was to leave the existing sheet pile wall in place and install a new sheet pile face directly in front of and as close as possible to the existing wall. This system would preclude any existing retained fill from entering the bay waters and would not require any dredging or soil cleanup from the waters in front of the seawall.

In economic terms, situating the seawall landward would be more expensive. The applicants would have to excavate and build a retaining wall, construct the new seawall and then demolish and remove the existing seawall. Placing a new seawall in front of the existing seawall would involve less construction and therefore be less expensive. Technologically, this is also the preferred solution.

Finally, as required to submit a mitigation plan to mitigate for the loss of harbor bottom on a 4:1 ratio, the adverse impacts to coastal resources are compensated for and the project is the least environmentally damaging alternative. As conditioned, the mitigation plan includes criteria stipulating that the mitigated habitat shall be modelled on intertidal habitat in the immediate area of the mitigation site and shall equal 90% of the biological values at the site within five years.

For these reasons and based upon geologic recommendations, the Commission finds that the preferred alternative of installing a new seawall next to the existing one would involve the least amount of impact to the near shore environment and is the least environmentally damaging alternative.

3. Mitigation Measures

In the event that dredging, filling or diking is selected as the least environmentally damaging alternative, Section 30233(a) of the Coastal Act mandates that feasible mitigation measures be provided to mitigate adverse environmental impacts. In this instance the adverse environmental impacts are the loss of 1,375 square feet of harbor bottom.

The County's Negative Declaration found that the proposed project would not have significant environmental impacts on the environment. However, the filling of open waters is a significant environmental impact under the Coastal Act which must be mitigated. In addition, the California Department of Fish and Game has concerns about the cumulative loss of harbor and intertidal wetlands.

In past Commission actions on similar proposed development of bulkhead or seawall relocation ranging from 3 feet to 30 feet bayward of an existing bulkhead, the applicant was typically required to replace the bulkhead in its existing location (5-82-311, Flanders; 5-82-312, Rhinesmith; 5-82-315, Bell; 5-82-856, Somers; 5-85-19, DiSano; 5-85-20, Saracino; 5-84-493, Somers, Farnsworth & Vose).

In previous permit applications (5-94-148 and 5-82-571) the California Department of Fish and Game (CDFG) commented on official policy regarding seaward encroachment of seawalls and bulkheads. The CDFG sent a letter to staff on August 10, 1994 concerning CDP 5-94-148. Concerning the projected loss of 1,117 square feet of harbor intertidal habitat, the letter states in part:

...Although this is a relatively small loss of habitat, when taken with similar bulkhead and fill projects, it adds to the continued loss of marine habitat within Newport Bay. Because of the continued incremental loss of bay habitat from this and other similar projects, the Department would, as we have for other similar projects, object to the issuance of permits for projects which would result in a loss of bay habitat.

A December 19, 1994 letter from CDFG regarding 5-94-148 states in part:

...The Department has no opinion on the aforementioned project...except that if a permit were to be granted that all wetland losses be compensated for to create a no net loss per California Wetlands Conservation Policy.

The Department supports the Commission's precedent for a minimum compensatory wetland mitigation ratio of 4 to 1 to compensate for interim functional losses and the poor success rate of wetland mitigation projects.

This letter goes on to state that the Department has land available for wetland restoration on Shellmaker Island in the Upper Newport Bay Ecological Reserve.

A 1982 letter from Fish and Game regarding permit 5-82-571 states:

The Department is generally concerned with any project which results in further diminishment of habitat, estuarine or otherwise. California has seen a marked reduction in estuarine and other wetland habitats during modern times as a result of diking and filling for harbor, commercial and urban developments, other reclamation projects, and from deposition of sediments resulting from poor management and development practices.

In Coastal Development Permit 5-82-571 (Van Orden) the Commission conditioned the applicant to mitigate on a 4:1 ratio for the loss of harbor bottom caused by the replacement of a bulkhead 12 feet bayward of the existing bulkhead. This mitigation was conditioned to be provided in Upper Newport Bay.

In this instance, the applicant has not presented a plan or proposed location for mitigation of the loss of 1,375 square feet of harbor bottom. In accordance with existing Commission policy and prior Commission decisions, the applicant is being conditioned to supply mitigation on a 4:1 basis. This means that the applicant shall provide 5,500 square feet of new marine habitat in Newport Harbor or in Upper Newport Bay. Because the applicant has not supplied a mitigation plan, the Commission is requiring that the permit not be issued until the applicant receives approval from the Executive Director of the specified mitigation plan. Construction of the seawall shall not commence until the intertidal habitat creation has also commenced.

Therefore, the Commission finds that that applicant shall comply with special conditions requiring that the applicant create 5,500 square feet of marine intertidal habitat in Newport Harbor or Upper Newport Bay, submit prior to issuance a written agreement to protect the site in perpetuity, submit the specified mitigation plan, provide legal proof of the ability to conduct the mitigation on whatever property, and provide monitoring reports. Only as conditioned does the Commission find that the proposed project provides feasible mitigation measures which minimize the adverse impacts of the proposed development.

Therefore, based upon the findings in this section, the Commission finds that the proposed development conforms with Section 30233 of the Coastal Act because the seawall is an allowable use, is the least environmentally damaging alternative and, as conditioned, provides feasible mitigation to offset the loss of marine habitat.

C. Public Access

One of the basic goals stated in the Coastal Act is to maximize public access to and along the coast.

Pursuant to Section 30604(c) of the Coastal Act, because the proposed development is located between the first public road and the sea, the public access policies contained in Chapter 3 of the Coastal Act apply to the entire project.

The Coastal Act has several policies which address the issue of public access to the coast.

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 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

As stated in the above Coastal Act policies, the Coastal Act requires that maximum access and recreational opportunities be provided for all people. The Coastal Act also protects the public's right to access the sea and encourages the development of recreational facilities.

The proposed site houses public agencies, the Coast Guard and Harbor Patrol, which have an ocean-oriented public transportation mission. In addition, the facility provides 5 to 10 berths for traveling boat owners to dock for a minimum fee.

Located directly to the south of the facility is the Bayside Drive public beach area. Access to the public beach is gained through the entrance to the harbor patrol site (see Exhibit 2). As part of their proposed development the applicants are proposing to increase public access by providing a drop-off point for patrons of the beach. In addition, the applicants are increasing the number of parking spaces on site from 48 to 68, 10 of which will be for public beach use.

Implementation of the development plan will not result in adverse impacts to public access to the beach. In fact, implementation of the plan will facilitate public access by providing 10 parking spaces for beach use and for providing a drop-off point.

The proposed project is located between the sea and the first public road. The project is located adjacent to Bayside Drive public beach. The applicants are proposing to increase public access to the beach by providing 10 parking spaces for beach use and a beach drop-off point. The applicants are increasing public parking and facilitating public access to the beach. To ensure that the 10 parking spaces are for beach use only, the Commission is requiring that the applicant place a sign at the public parking spaces indicating that the spaces are to be used for public beach access between the hours of 8 am and 5 pm.

Therefore, the Commission finds that the proposed project as conditioned conforms with the public access policies of Sections 30210, 30211 and 30213 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. As conditioned to provide wetland mitigation requirements, monitoring reports, submittal of a written agreement to protect the site in perpetuity, and proof of the ability to conduct the mitigation on the property elected the proposed development is consistent with the policies contained in the certified Land Use Plan. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program Implementation Plan for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by section 30604(a).

E. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the wetland and public recreation policies of the Coastal Act. Mitigation measures requiring the applicant to create 5,500 square feet of marine intertidal habitat will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the

environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

3450F

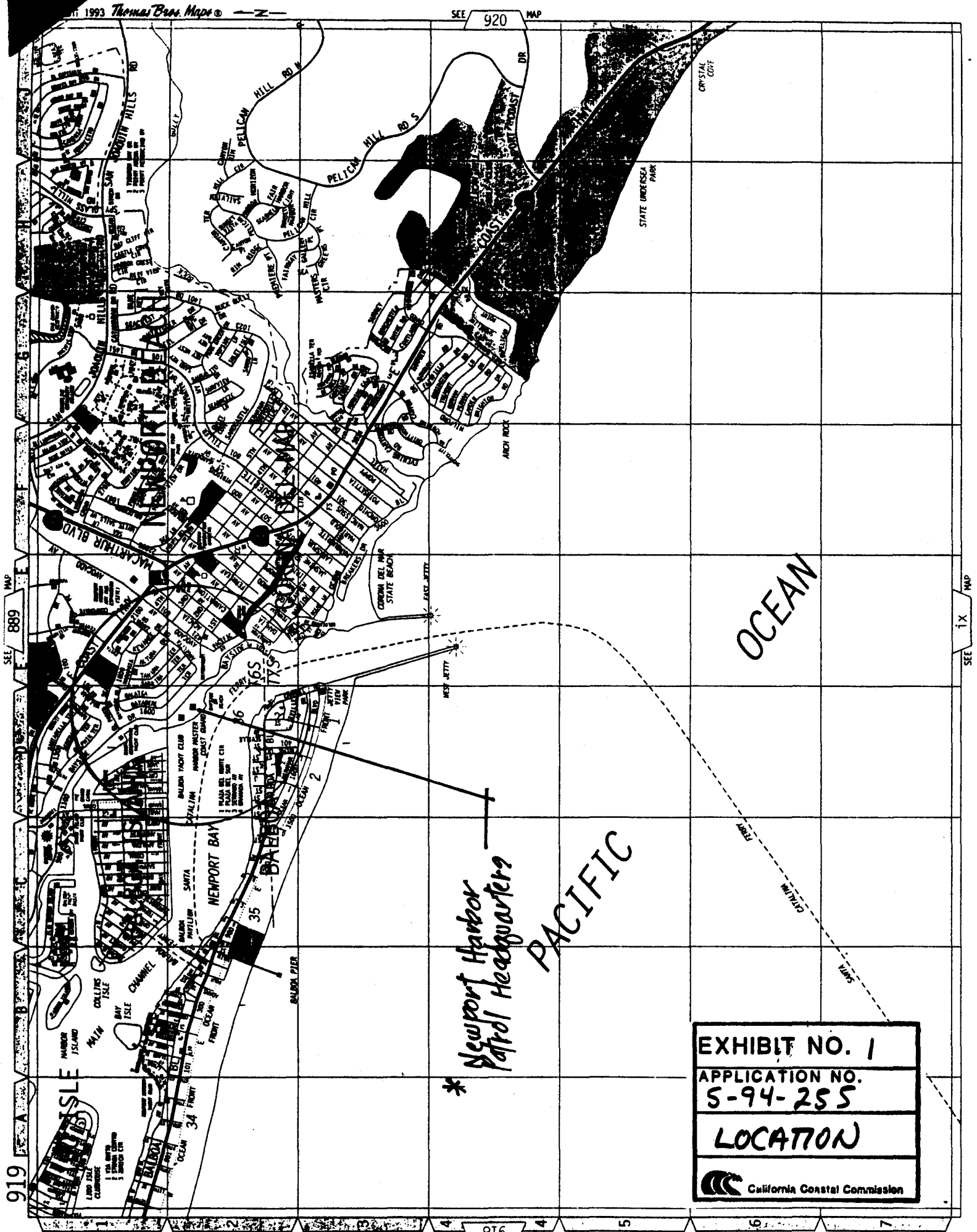

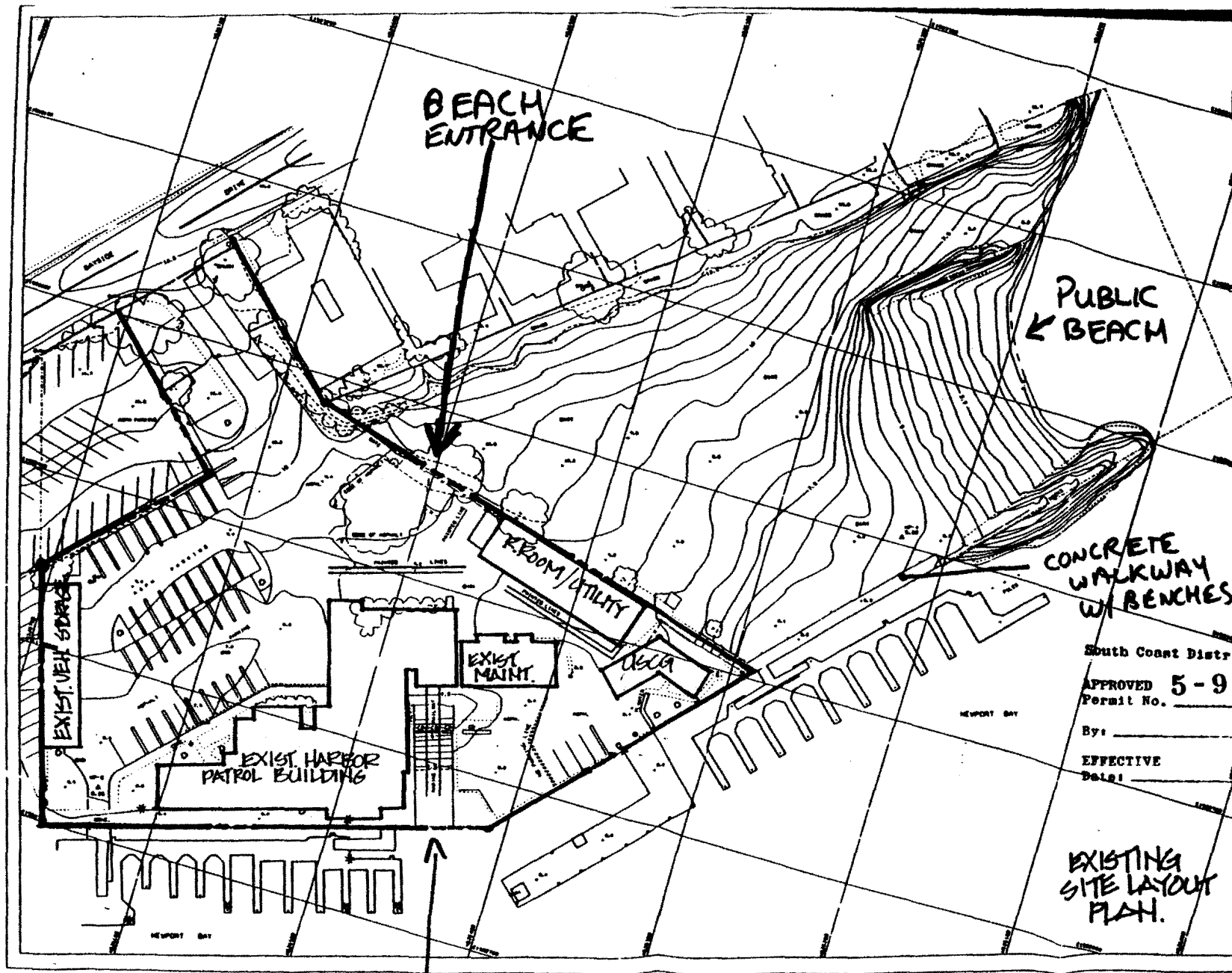


EXHIBIT NO. 1
APPLICATION NO. S-94-255
LOCATION
 California Coastal Commission



RECEIVED

OCT 26 1994

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

SCALE 1" = 20'

GRAPHIC SYMBOLS LIST

LEGEND

- Proposed Walkway
- Proposed Concrete
- Proposed Benches
- Proposed Beach
- Proposed Boat Ramp
- Proposed Harbor Patrol Building
- Proposed Maintenance Building
- Proposed Vehicle Storage
- Proposed Room/Utility
- Proposed Beach Entrance
- Proposed Public Beach
- Proposed Concrete Walkway w/ Benches
- Proposed Boat Ramp
- Proposed Harbor Patrol Building
- Proposed Maintenance Building
- Proposed Vehicle Storage
- Proposed Room/Utility
- Proposed Beach Entrance
- Proposed Public Beach

South Coast District Office

APPROVED 5-94-255
Permit No.

By:

EFFECTIVE

Date:

EXISTING
SITE LAYOUT
PLAN.



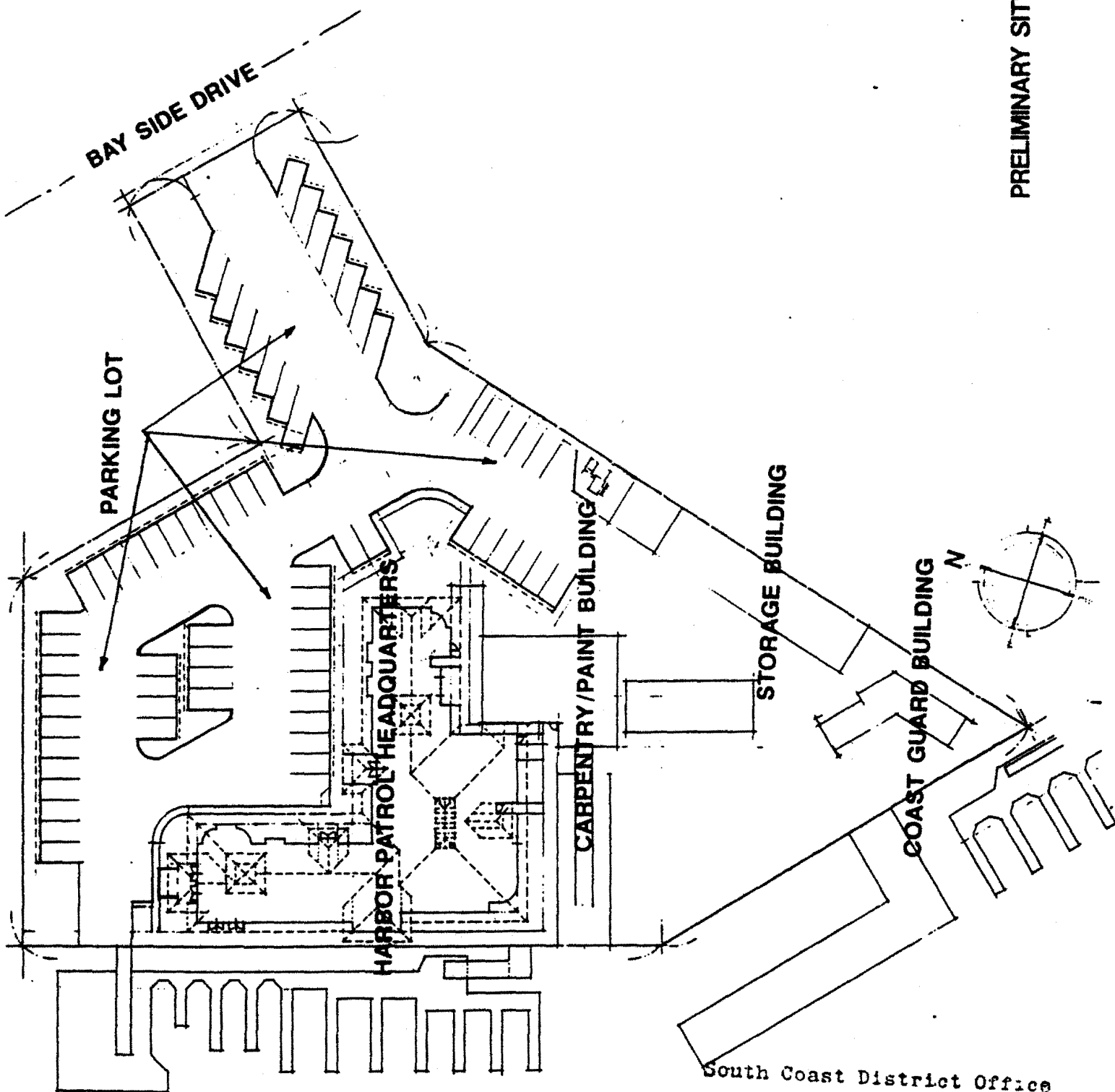
California Coastal Commission

EXHIBIT NO. 2

APPLICATION NO.
5-94-255

EXISTING SITE

PRELIMINARY SITE PLAN




South Coast District Office

APPROVED 5-94-255
Permit No. _____

By: _____

EFFECTIVE
Date: _____

EXHIBIT NO. 3
APPLICATION NO. 5-94-255
PROPOSED
 DEVELOPMENT California Coastal Commission



15718 Circo Diegueno
Del Mar, California 92014
Phone: (619) 759-9882
Fax: (619) 759-9887

July 22, 1994

County of Orange
EMA
Harbors, Beaches & Park Design Dept.
300 N. Flower St.
P. O. Box 4048
Santa Ana, CA. 92702

Attn: Greg Derr

Subject: BULKHEAD WALL RESTORATION
NEWPORT HARBOR PATROL/COASTAL FACILITY, NEWPORT BEACH, CA.

As requested the following is a synopsis of the proposed seawall project at the subject site.

A structural study of the existing sheet pile walls was performed by this office in 1989 for the Orange County Department of Harbors, Beaches and Parks. Included in the investigation was an evaluation of alternatives to replace and/or restore the existing corroded steel sheet pile bulkhead wall.

Alternatives considered were removal of the existing seawall with replacement in kind and removal of the existing seawall with a replacement wall landward and or waterside of the existing wall. These alternatives would require cofferdams or other methods to attempt to confine the retained soil behind the existing wall from spilling into the bay water.

The alternative selected was to leave the existing sheet pile wall in place and install a new sheet pile face directly in front of and as close as possible to the existing wall. This system would preclude any existing retained fill front entering the bay waters and would not require any dredging or soil cleanup from the waters in front of the seawall.

The concrete sheet piles installed would be laterally supported at the top by tie rods which would be connected to the existing concrete deadman which is located 25 feet landward of the existing seawall.

The proposed system of strengthening the existing corroded sheet pile wall has been discussed with Bruce Henderson of the U. S. Army Corp of Engineers whose comments were favorable because there is no dredging and no fill materials would enter the bay waters.

If you have any questions or would like any further information please contact our office at your convenience.

DON HELLMERS ENGINEERING




Don Hellmers
DH/cg

EXHIBIT NO. 4
APPLICATION NO. 5-94-255
HELLMERS
LETTER  California Coastal Commission

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

2010 IOWA AVENUE, SUITE 100
RIVERSIDE, CA 92507-2409
PHONE: (909) 782-4130
FAX: (909) 781-6288

**RECEIVED**

November 15, 1994

NOV 18 1994

Robert G. Fisher, Director
Harbors, Beaches and Parks
County of Orange
Environmental Management Agency
P.O. Box 4048
Santa Ana, CA 92702-4048

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT


**401 CERTIFICATION FOR THE INSTALLATION OF NEW CONCRETE SHEET-PILE
SEAWALL AT THE NEWPORT HARBOR PATROL FACILITY IN NEWPORT BAY,
NEWPORT BEACH, ORANGE COUNTY**

Dear Mr. Fisher:

This is in response to your October 20, 1994 letter, which we received on November 3, 1994, requesting a water quality standards certification under Section 401 of the Clean Water Act for the above-referenced project.

The County of Orange Environmental Management Agency, Harbors, Beaches and Parks is proposing to redevelop the Newport Harbor Patrol Headquarters in Newport Bay. The redevelopment will include the reconstruction of the Harbor Patrol building fronting the existing seawall, which was built in 1953. The seawall is a steel sheet-pile with a life expectancy of 25 years. The seawall is showing signs of deterioration and may have allowed erosion to occur to the existing subsurface areas of the site. Due to the age and condition of the seawall, it will be replaced with a concrete sheet-pile seawall (550 feet long), 2.5 feet seaward directly in front of the existing steel sheet-pile seawall. This seawall is critical because it provides protection for buildings which house the Orange County Sheriff's Harbor Patrol Headquarters and the Orange County headquarters for the U.S. Coast Guard. Prior to construction, the project proponent will submit for approval of the Manager, Environmental Management Agency/Environmental Planning Division, a Water Quality Management Plan specifically identifying Best Management Practices that will be used onsite to control predictable pollutant runoff. The project will temporarily disturb approximately 0.05 acres of waters of the U.S.

You have applied for a Section 404 permit from the U.S. Army Corps of Engineers and a Mitigated Negative Declaration (No. IP 93-3) has been prepared to satisfy CEQA requirements.

EXHIBIT NO. 5
APPLICATION NO. 5-94-255
COUNTY LETTER
 California Coastal Commission

Robert G. Fisher
401 Certification

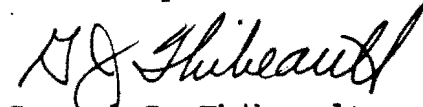
Page 2 of 2

November 15, 1994

Based on the above information, it appears that the above-referenced project, as proposed, will not result in any adverse impacts to waters of the U.S. Pursuant to Resolution No. 84-48, waste discharge requirements are waived for this project. In accordance with Section 3857 of the California Code of Regulations, this action is equivalent to waiver of water quality certification. At this time no further action is anticipated on your application. However, if the above stated conditions are changed or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

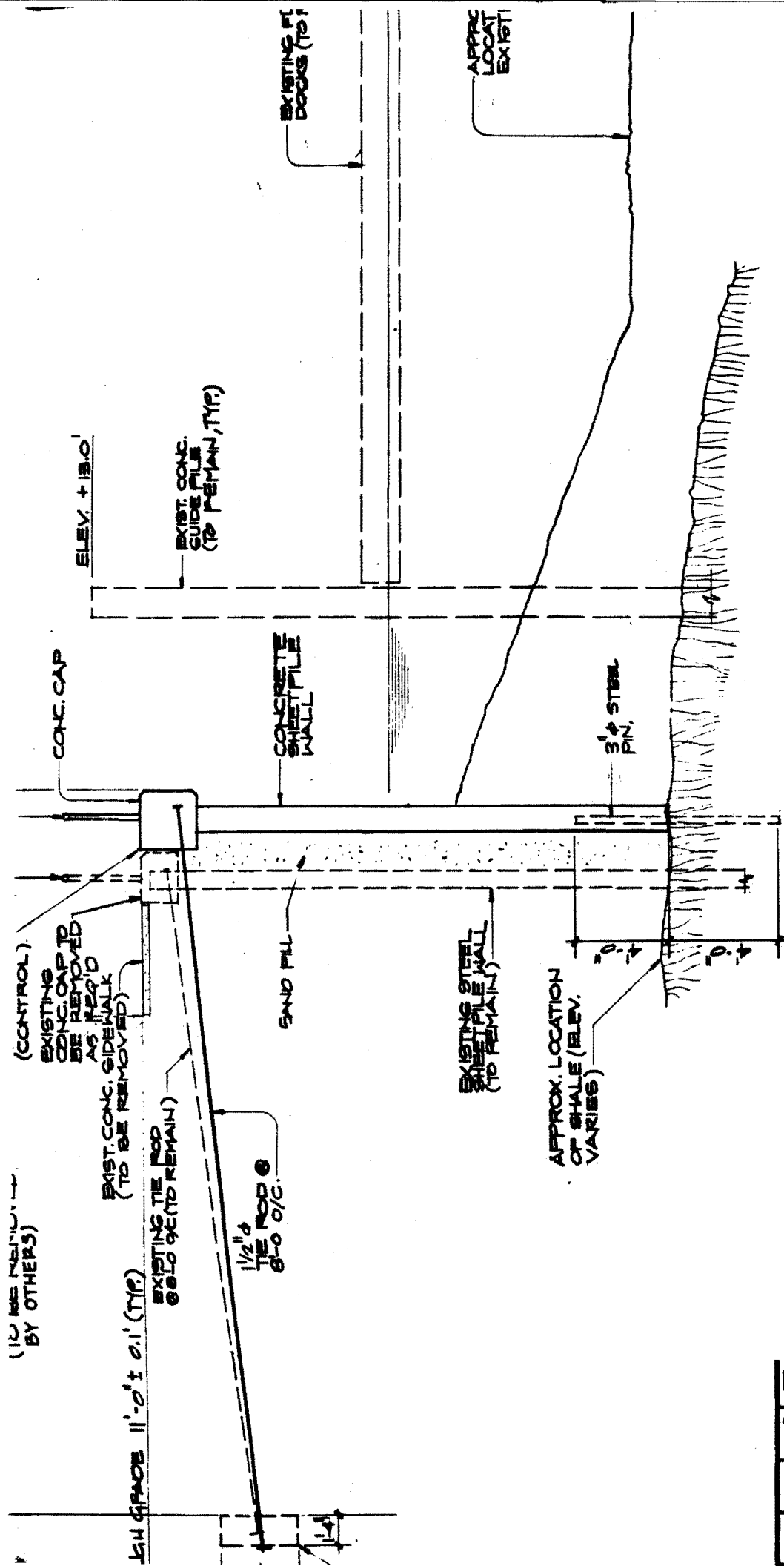
Should there be any questions, please contact Jun Martinez at (909) 782-3258 or Gary Stewart at (909) 782-4379.

Sincerely,




Gerard J. Thibeault
Executive Officer

cc: U.S. Environmental Protection Agency, Wetlands and Permits Enforcement Section -
Clyde Morris (W-7-2)
U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch -
Bruce Henderson
U.S. Fish and Wildlife Service, Carlsbad - John Hanlon
State Water Resources Control Board, Division of Water Quality - Oscar Balaguer
California Coastal Commission - John T. Auyong
California Department of Fish and Game, Long Beach - Fred Worthley
Orange County Environmental Management Agency, Environmental Resources Division
- Chris Crompton



1.5 feet of
 3/4" rod
 1' wide
 (not shown)

EXHIBIT NO. 6
APPLICATION NO. 5-94-255
SECTION
 California Coastal Commission

TYPICAL CROSS SECTION

EXHIBIT B



ADVERTISEMENT

CALIFORNIA

Coastal Commission will consider relaxing L.A.'s 30-year-old beach curfew



The city of Los Angeles has agreed to go before the Coastal Commission to defend its 30-year-old midnight curfew along 11 miles of shoreline. Above, the Venice boardwalk after dark. (Mariah Tauger / For The Times)

By GALE HOLLAND

SEP. 30, 2017 6 AM PT

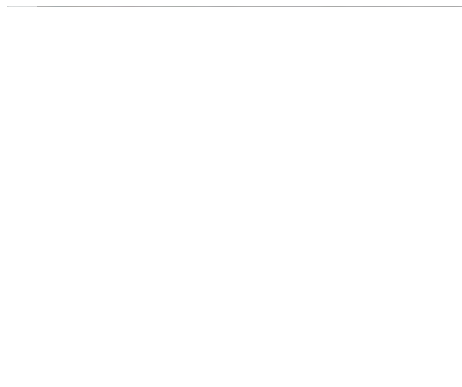


Los Angeles is heading toward another collision over its 30-year-old beach curfew that could decide who rules the city's segments of the coastline after dark.

In a court settlement, the city agreed to go before the California Coastal Commission to defend its midnight-to-5 a.m. closure of 11 miles of shoreline within its limits from Pacific Palisades to San Pedro, attorneys said Friday.

L.A. adopted its curfew in 1988 to deter late-night crime, without seeking commission approval. Closures spread through Southern California as gang violence swirled in the early 1990s.

Other jurisdictions relaxed their bans or sought the state agency's blessing. L.A. stood firm against sporadic challenges from the commission, which in 2014 asked the city to show "credible evidence" of a current safety threat to continue barring the public overnight from beaches, piers and oceanfront parks.



The request came in the midst of a curfew-enforcement push in Venice as rising homelessness and inroads by the tech industry into the beach enclave's famously bohemian culture ratcheted up tensions.

Venice activists filed suit in 2015 challenging the city's defiance of the Coastal Commission's jurisdiction and seeking to suspend curfew enforcement. Los Angeles Superior Court and then an appellate panel rejected the city's position that the state agency had no jurisdiction.

Under the settlement filed in court Thursday, the city agreed to seek a permit — first from the city engineer and then from the Coastal Commission — and to have police issue warnings before citing curfew violators, many of whom are homeless people trying to sleep on the beach.

The Los Angeles city attorney's office did not immediately respond to a request for comment. Coastal Commission staff members in the past have indicated they were open to a compromise that would relax the total ban without threatening public safety.

"We start from the position of maximum public access to the coastline," Coastal Commission enforcement supervisor Andrew Willis said Friday.

Shayla Myers, a Legal Aid Foundation of Los Angeles attorney who was on the activists' legal team, said she was pleased the community would now have a chance to speak on the curfew.

“What we wanted was the public process and public vetting ... and a specific showing before limiting public access,” Myers said Friday.

The first hearing in the process is set for 6 p.m. Thursday at the Westchester Senior Center near Venice, lawyers said.

gholland@latimes.com

Twitter: [@geholland](https://twitter.com/geholland)

ALSO

[L.A. controller says city should open emergency homeless campgrounds and shelters](#)

[Hepatitis A outbreak sparks call for L.A. to give homeless people more street toilets](#)

[California ‘sanctuary’ bill gets support from law enforcement, rebuke from Trump administration](#)

CALIFORNIA



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EXHIBIT C

1 LEGAL AID FOUNDATION OF LOS ANGELES
PAUL J. ESTUAR, Cal. Bar No. 167764
2 SHAYLA R. MYERS, Cal. Bar No. 264054
7000 South Broadway
3 Los Angeles, California 90003
Telephone: 213.640.3853
4 Facsimile: 213.640.3988
Email: pestuar@lafla.org
5 smyers@lafla.org

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County of Los Angeles

DEC 09 2015

Sherri H. Langer, Executive Office/Clerk
By: [Signature], Deputy
Shayla Chambers

6 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
7 Including Professional Corporations
JAMES M. BURGESS, Cal. Bar No. 151018
8 1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6055
9 Telephone: 310.228.3700
Facsimile: 310.228.3701
10 Email: jburgess@sheppardmullin.com

11 Attorneys for Petitioners And Plaintiffs
JATAUN VALENTINE, and FRANCESCA
12 DE LA ROSA

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES, CENTRAL DISTRICT
15

16
17 JATAUN VALENTINE, an individual,
and FRANCESCA DE LA ROSA, an
18 individual,

19 Plaintiffs,

20 v.

21 CITY OF LOS ANGELES, a California
22 Charter City, and LAPD POLICE
CHIEF CHARLIE BECK, an individual
23 in an official capacity, and DOES 1
through 10, inclusive,

24 Defendants.
25
26
27
28

Case No.

BC 6 03 6 4 7

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF ARISING
AS A TAXPAYER OF THE CITY OF
LOS ANGELES AND FOR
VIOLATIONS OF THE CALIFORNIA
COASTAL ACT

1 1. Plaintiffs Jataun Valentine and Francesca De La Rosa, taxpayers
2 in, and residents of, the City of Los Angeles (often referred to as the "City"), bring
3 this lawsuit to challenge the City of Los Angeles's unlawful policy of closing access
4 to all 11 miles of the California Coastline within its city limits for five to nine hours
5 every day.

6
7 2. An individual's right to unobstructed access to the ocean,
8 beaches and waterways has been recognized since the ancient laws of the Roman
9 Empire. Prior to the founding of the United States, England also recognized the
10 right to access the beaches, oceans and waterways. Not surprisingly, the right to
11 beach and ocean access has been adopted in the United States under the common
12 law Public Trust Doctrine, and has been recognized by the United States Supreme
13 Court for over 120 years. Following this tradition, the California Constitution
14 guarantees that everyone shall have access to the coastline, subject only to certain
15 narrow limitations specified in the California Coastal Act and even then, only with
16 the permission of the California Coastal Commission.

17
18 3. Despite the longstanding recognition of the right to access the
19 ocean, the City of Los Angeles has ignored the California Coastal Act and is
20 enforcing an ordinance that illegally limits access to the Los Angeles coastline. Los
21 Angeles Municipal Code Section 63.44(B)(14)(b) ("Beach Closure Ordinance")
22 makes it a crime to access the coastline anywhere within the City of Los Angeles
23 from Midnight to 5:00 a.m. every day. The City enacted this ordinance without
24 obtaining a Coastal Development permit from the California Coastal Commission,
25 which under state law, has oversight over limitations of access to water or use of
26 land in the Coastal Zone.

4. Over the past four years, California Coastal Commission staff have repeatedly advised the City that this Beach Closure Ordinance is illegal, void and unenforceable. In fact, as shown in Exhibits 1 through 10, the City and Coastal Commission staff have exchanged at least 10 letters on this subject, with the Coastal Commission adamantly arguing that a Coastal Development Permit is required. In response to each letter, the City refused to recognize the Coastal Commission's jurisdiction over access to the Coast. Moreover, the City has ignored demands from members of the public, and has refused to bring the ordinance before the Coastal Commission for approval or stop enforcement of the law.

5. Rather than comply with its Constitutional and statutory obligations, over the past four years, the City has increased enforcement of the Beach Closure Ordinance to unprecedented levels. The increased enforcement has resulted in unlawful incarceration, tickets, and fines. The City expends significant taxpayer resources arresting and citing people for being on the beach. At this time, the City's decision to ignore the law cannot be redressed without court intervention. Plaintiffs therefore bring this lawsuit to stop the City's enforcement of this invalid ordinance, which is illegal and wasteful within the meaning of California Code of Civil Procedure section 526a.

THE PARTIES

6. Plaintiff Jataun Valentine, was and is, at all times material to, a resident of the City and County of Los Angeles. Ms. Valentine is a longtime homeowner in Venice, within the City of Los Angeles.¹ Ms. Valentine is assessed for and is liable to pay, or, within one year before the commencement of this action,

¹ Venice merged with and became part of the City of Los Angeles in 1926.

1 has paid, a tax in the City. Hence, Plaintiff has standing within the meaning of Code
2 of Civil Procedure section 526a.

3
4 7. Plaintiff Francesca De La Rosa, was and is, at all material times,
5 a resident of the City and County of Los Angeles. Ms. De La Rosa is assessed for,
6 and is liable to pay, or, within one year before the commencement of this action, has
7 paid, a tax in the City of Los Angeles. Hence, Plaintiff has standing within the
8 meaning of Code of Civil Procedure section 526a.

9
10 8. Defendant City of Los Angeles is a municipal entity, organized
11 as a Charter City under the laws of the State of California. The City is the legal and
12 political governmental entity responsible for the actions of the Los Angeles Police
13 Department ("LAPD"), its officials, agents and employees. The City is sued in its
14 own right and on the basis of the acts of its officials, agents and employees.

15
16 9. Defendant Chief Charles Beck ("Chief Beck" or "Beck") is an
17 individual, and the LAPD Chief of Police. As such, he is an authorized LAPD
18 policymaker and is responsible for the application and enforcement of the Beach
19 Closure Ordinance.

20
21 10. Plaintiffs are ignorant of the true names of defendants sued under
22 the fictitious names Does 1 through 10. Plaintiffs will give notice of their true names
23 and capacities when ascertained. Plaintiffs are informed and believe and thereon
24 allege that defendants Does 1 through 10 are responsible in some manner for the
25 acts complained of herein.

26
27 11. Plaintiffs are informed and believe and thereupon allege that at
28 all times relevant herein that defendants, and each of them, were the agents, servants

1 and employees of the other defendants and acting within the course and scope of
2 their employment and/or agency.

3 4 **HISTORY AND APPLICABILITY OF THE COASTAL ACT**

5
6 12. In 1972, California voters passed Proposition 20, the California
7 Coastal Zone Conservation Act, which required the State Legislature to create the
8 California Coastal Commission and to empower that Commission to preserve the
9 California Coastline, "a distinct and valuable natural resource belonging to all the
10 people." The purpose of the newly created Coastal Commission was to give
11 oversight of these resources to a state commission with representatives from
12 throughout the state, therefore ensuring that state policies prevail over the interests
13 of local governments.

14
15 13. In 1976, pursuant to Proposition 20, the State Legislature passed
16 the California Coastal Act, codified at California Public Resources Code § 30000 *et*
17 *seq.* ("Coastal Act").² The Coastal Act creates a comprehensive scheme to govern
18 land use planning for the entire coastal zone of California.

19
20 14. Explicit in the law is the State's commitment to ensuring that the
21 coast is protected and that all people have maximum access to it. Cal. Pub.
22 Resources Code § 30001.5. The Act calls for maximizing public access in balance
23 with resource protection and private property rights, and prohibits any new
24 development from interfering with the public's right of access to the sea where
25 acquired through use or legislative authorization, including, but not limited to, the
26

27 ² All statutory references are to the California Public Resources Code unless
28 otherwise noted.

1 use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.
2 §30211.

3
4 15. Concurrent with the passage of the Coastal Act, the legislature
5 also enshrined in the California Constitution the public's constitutional right to
6 access the coastline and other navigable waters and the state's public policy in favor
7 of allowing public access to shoreline areas:

8
9 No individual, partnership, or corporation, claiming or possessing the
10 frontage or tidal lands of a harbor, bay, inlet, estuary, or other
11 navigable water in this State, shall be permitted to exclude the right of
12 way to such water whenever it is required for any public purpose, nor
13 to destroy or obstruct the free navigation of such water; and the
14 Legislature shall enact such laws as will give the most liberal
15 construction to this provision, so that access to the navigable waters of
16 this State shall be always attainable for the people thereof.

15 Cal. Const. art. X, § 4.

16
17 16. Under the Coastal Act, the Coastal Commission is given the
18 primary responsibility for implementing and enforcing these coastal resource
19 protection policies. Cal. Pub. Resources Code § 30330. The Commission is
20 empowered to adopt or amend rules and regulations to carry out the purposes and
21 provisions of the Coastal Act. Cal. Pub. Resources Code § 30333.

22
23 17. The Coastal Act also gives the Coastal Commission oversight of
24 all developments within the Coastal Zone. The Coastal Zone is defined referentially
25 as the land specified on maps identified and set forth in section 17 of Chapter 1330
26 of the Statutes of 1975-1976 Regular Session enacting Division 20 of the Public
27 Resources Code [the Coastal Act] and subsequent Amendments. In significant
28 coastal estuarine, habitat, and recreational areas it extends inland to the first major

1 ridgeline paralleling the sea of five miles from the mean high tide line from the sea,
2 whichever is less, and undeveloped urban areas, the zone generally extends inland
3 less than 1,000 yards. Cal. Pub. Resources Code § 30103(a).

4
5 18. Under Section 30106 of the Act, the definition of development
6 is purposefully broad. It includes not only physical structures commonly understood
7 to be developments, but also all changes to the physical land in the Coastal Zone, as
8 well as "changes in the intensity of use of water, or of access thereto," and "change
9 in the density or intensity of use of land."³

10
11 19. Under the Coastal Act, any development within the Coastal Zone
12 must first receive a Coastal Development Permit (hereinafter "CDP") from the
13 appropriate permitting agency: either the Coastal Commission or a local government
14 that has received approval from the Coastal Commission to issue permits. Cal. Pub.

15
16 ³ Section 30106 of the California Public Resources Code states:

17
18 "Development" means, on land, in or under water, the placement or erection
19 of any solid material or structure; discharge or disposal of any dredged
20 material or of any gaseous, liquid, solid, or thermal waste; grading, removing,
21 dredging, mining, or extraction of any materials; **change in the density or**
22 **intensity of use of land**, including, but not limited to, subdivision pursuant to
23 the Subdivision Map Act (commencing with Section 66410 of the
24 Government Code), and any other division of land, including lot splits, except
25 where the land division is brought about in connection with the purchase of
26 such land by a public agency for public recreational use; **change in the**
27 **intensity of use of water, or of access thereto**; construction, reconstruction,
28 demolition, or alteration of the size of any structure, including any facility of
any private, public, or municipal utility; and the removal or harvesting of
major vegetation other than for agricultural purposes, kelp harvesting, and
timber operations which are in accordance with a timber harvesting plan
submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act
of 1973 (commencing with Section 4511). §30106(a) (emphasis added).

1 Resources Code §§ 30103(a) and 30600(a).⁴ If a development does not have
2 appropriate approvals or otherwise is in violation of a CDP, the Coastal Commission
3 may issue a cease and desist order, or any member of the public may bring a lawsuit
4 to enjoin the illegal development. Cal. Pub. Resources Code §§ 30800 and 30803.

5
6 20. The broad definition of development and the Coastal
7 Commission's continuing jurisdiction over Coastal Development Permits and
8 decisions by local governments, ensures that the State's policies of preservation,
9 protection, and access to the coastline overrides the parochial interest of any one city
10 or jurisdiction.

11 12 **THE LOS ANGELES COASTLINE**

13
14 21. The City of Los Angeles stretches along eleven miles of
15 coastline within the Coastal Zone. It runs from the southern border of Malibu to San
16 Pedro and the Port of Los Angeles. Although the City's coastal areas are not
17 contiguous and are broken up by other coastal cities, the City's eleven miles of
18 combined beaches gives the City control over one of the longest coastlines in
19 California.

20
21
22 ⁴ A city may apply to the Coastal Commission for approval of a Local Coastal
23 Program (LCP) which if approved, shifts the issuance of Coastal Development
24 Permits to the local jurisdiction; however, the Coastal Commission retains appellate
25 review to ensure that the Permit is consistent with the issuing City's LCP and State
26 policies. To date, the City of Los Angeles does not have any approved Local
27 Coastal Program. The City does have limited permitting authority over some
28 portions of the Venice Coastal Zone, but that authority does not extend to areas
outside of Venice, and the Coastal Commission retains original jurisdiction over
Venice Beach.

1 22. The coastal areas within the City limits are diverse: they include
2 heavily-trafficked urban areas; stretches bounded by industrial zoning and under the
3 flight path of the Los Angeles International Airport; low cost recreation areas with
4 RV camping and fire pits; ecologically significant tide pools and cliffs; and pristine
5 beaches bordered by multi-million dollar homes.

6
7 23. The Venice Beach Recreation Area, which is owned by the City
8 of Los Angeles, is a 2.5 mile stretch of land between the City of Santa Monica and
9 Los Angeles-County-owned Marina Del Rey. Venice Beach is the most heavily-
10 visited beach in California; on any given summer weekend, 250,000 visitors come to
11 the beach. It is also one of the largest urban coastlines in the state. It is readily
12 accessible by public transportation and has amenities like street parking and parking
13 lots, hotels, and a range of concessions and restaurants in close proximity to the
14 beach. At the northern end of the beach, it is bordered by Ocean Front Walk, a
15 paved boardwalk known for its street performers and vendors.

16
17 24. In the middle of Venice Beach, the Venice Fishing Pier juts out
18 into the ocean. Unlike the neighboring Santa Monica Pier, which has substantial
19 amenities and concessions, the Venice Fishing Pier is primarily used by anglers and
20 does not have any commercial vendors. The original pier was built in 1965 and
21 partially destroyed by El Niño currents in 1983. After it was declared a safety
22 hazard and closed for ten years, City voters passed a bond measure to pay for its
23 reconstruction. It reopened in 1999 after the City obtained a Coastal Development
24 Permit that required the City to provide free, unobstructed access and recreational
25 fishing access to and on the Venice public fishing pier.

26
27 25. The southern end of Venice Beach is less dense and has none of
28 the public accommodations that make the northern section so popular. Rather than

1 parking lots, commercial development, or an ocean-front walk or bike path, multi-
2 million dollar homes sit directly on the beach; homeowners have unrestricted views
3 of the Pacific Ocean.

4
5 26. The City also controls Dockweiler State Beach and Will Rogers
6 State Beach, which it leases from the State of California. Dockweiler is a three-mile
7 stretch of beach along Playa Del Rey which borders the City of El Segundo. Inland
8 from Dockweiler, the beach is bordered by a wastewater treatment plant and the Los
9 Angeles International Airport. The beach is not readily accessible by transportation
10 or other commercial amenities like hotels; it is however the only beach recreation
11 area in Los Angeles to include low-cost recreational amenities like street parking,
12 fire pits and RV camping, making it an accessible option for low-income residents.
13 Will Rogers State Beach is located between the City of Malibu and the City of Santa
14 Monica. It is fronted by a number of exclusive beach clubs and paid parking lots.

15
16 27. There are also a number of smaller beaches within the City of
17 Los Angeles, including White Point, Royal Palms, Point Fermin and Cabrillo Beach
18 in San Pedro. Each of the beaches has its own unique character: Point Fermin has
19 rocky cliffs and little beach access, but includes a clifftop park with scenic
20 overlooks. Cabrillo Beach in San Pedro is the only recreation area surrounding the
21 busy Port of Los Angeles. Royal Palms is bounded by cliffs, has a rocky beach and
22 includes significant pristine tide pools that host an array of marine life.

23 24 **PASSAGE OF THE BEACH CLOSURE ORDINANCE**

25
26 28. In 1988, the Department of Recreation and Parks requested that
27 the City Council give it the flexibility to change the hours of individual parks in the
28 City on a case-by-case basis, based on the needs of the community and the

1 individual park. At that time, all parks were closed between 10:30 P.M. and 5:00
2 a.m.; beaches and ocean parks were explicitly exempted from this closure. The
3 report on which the Department of Recreation and Parks based its request did not
4 mention beaches or ocean parks at all.

5
6 29. Rather than granting the Department of Recreation and Parks the
7 flexibility to adjust park and closure times as it had requested, the City Council
8 instead adopted Ordinance 164209, which is now codified at Municipal Code
9 Section 63.44(B)(14)(b). The new Ordinance unilaterally closed all beaches within
10 the City's jurisdiction from 12:00 a.m. to 5:00 a.m., except for Royal Palms Beach,
11 which was closed from 8 p.m. to 5:00 a.m. Under the ordinance, it became a
12 misdemeanor to be on any beach owned or operated by the City of Los Angeles
13 between the hours of Midnight and 5:00 a.m.⁵ The only exception to this ban on
14 beach access is for events approved by the City's Recreation and Parks Department
15 or the County Department of Beaches and Harbors. *Id.*

16
17 30. The Beach Closure Ordinance covers the entirety of the City's 11
18 miles of coastline. Other than closing Royal Palms beach at sundown, the ordinance
19

20 ⁵ Los Angeles Municipal Code Section 63.44(B)(14)(b) provides:

21 No person shall enter, remain, stay or loiter in any park which consists of an
22 ocean area, beach, or pier between the hours of 12:00 midnight and 5:00
23 o'clock a.m. of the following day; except that no person shall remain, stay or
24 loiter on Royal Palms Beach between the hours of 8:00 o'clock p.m. and 5:00
25 o'clock a.m. of the following day. On any park which consists of an ocean
26 area, beach, or pier subject to this Section, the supervising employee at such
27 site may extend the 12:00 midnight closing time, or in the case of Royal
28 Palms Beach the 8:00 o'clock p.m. closing time, to accommodate special
events such as grunion runs and other events approved by the Department of
Recreation and Parks or the Los Angeles County Department of Beaches, as
applicable.

1 does not distinguish between any of the City's diverse beaches. Nor does it provide
2 any access to the wet sand or the ocean for the duration of the beach closure every
3 night. As a result, unless one seeks prior permission from the Department of
4 Recreation and Parks for a specific event, there is no place within the City of Los
5 Angeles that an individual can legally access the public trust lands, wet sand, and
6 ocean between the hours of Midnight and 5:00 a.m.

7
8 31. When it was passed, the Beach Closure Ordinance constituted
9 both a change in land use as well as a significant limitation on access to the water.
10 Nevertheless, the City failed to apply for, and did not receive, a Coastal
11 Development Permit from the Coastal Commission. In fact, the legislative history
12 of the Beach Closure Ordinance indicates that the City did not consider its
13 obligations under the Coastal Act.

14
15 32. The Beach Closure Ordinance remains in effect today. The City
16 did not include a sunset provision whereby it would automatically terminate unless
17 renewed, nor did it include any requirement that the City ever revisit the closure
18 times, or the scope of the ordinance, or whether any reasons for beach closure exist
19 at all. Since the City Council passed the Beach Closure Ordinance in 1988, the full
20 City Council has not reviewed the ordinance or adjusted its scope, and it has not
21 determined whether there is or continues to be any reason or justification to close
22 the entire 11 mile coastline every night.

23
24 **ATTEMPTS TO PERSUADE THE CITY TO**
25 **SEEK A COASTAL DEVELOPMENT PERMIT**
26

27 33. In 2009, in conjunction with the City's application for a Coastal
28 Development Permit for an overnight parking district in Venice, the Coastal

1 Commission staff became aware that the City had a Beach Closure Ordinance on the
2 books. Since that time, Coastal Commission staff and members of the public have
3 repeatedly attempted to convince the City to subject its Beach Closure Ordinance to
4 the public participation and state policy considerations required by the Coastal Act.
5

6 34. Since 2009, Coastal Commission staff have repeatedly advised
7 the City that the Beach Closure ordinance is invalid and violates the Coastal Act.
8 (See Exhibits 1 through 10.) Between 2010 and 2011, Coastal Commission staff
9 advised the City that the Beach Closure Ordinance was unlawfully enacted and
10 contravened the Coastal Act. The Coastal Commission outlined a number of
11 provisions necessary to bring the ordinance in line with the Coastal Act, including:

- 12 a. The presentation of credible evidence demonstrating the existence of a
13 public safety problem warranting the imposition of a beach curfew;
- 14 b. Evaluation of alternatives to a sweeping curfew and the exclusion from
15 the curfew of areas that could be excluded without compromising
16 public safety;
- 17 c. Exemption of the wet sand area along the ocean's edge, and of
18 transiting beaches to reach wet sand, to allow for use of the ocean,
19 including for fishing, surfing, walking and accessing state waters;
- 20 d. Inclusion of a sunset clause;
- 21 e. Appropriate signage designating closed areas as subject to the
22 ordinance.

23 See Letter from Coastal Commission Executive Director Peter M. Douglas to City
24 of Los Angeles, February 22, 2011 is attached as Exhibit 8.
25

26 35. In response, the City Attorney asserted that the City's authority
27 to close the beach was not subject to the Coastal Commission's jurisdiction, and that
28 the Coastal Commission's position was "an assault on the principles and practices

1 of our representative government.” The City Attorney maintained that the City
2 would “defend the City’s laws and lawmaking process vigorously.” Letter from
3 Gerald M. Sato, Deputy City Attorney, City of Los Angeles, to Peter M. Douglas,
4 dated March 4, 2011, attached as Exhibit 9.

5
6 36. Following the interaction with the Coastal Commission, on
7 information and belief, the City once again stepped up enforcement of the Beach
8 Closure Ordinance and increased its reach to include Ocean Front Walk along the
9 northern stretch of Venice Beach. In response, members of the public, including
10 Ms. De La Rosa and Ms. Valentine, repeatedly called on the City to repeal the
11 Beach Closure Ordinance, or to seek approval from the Coastal Commission.
12 Members of the public attended Coastal Commission meetings, sent letters to City
13 staff and elected officials, and brought media attention to the issue.

14
15 37. In April 2014, the Coastal Commission staff once again reached
16 out to the City to engage in discussions about the City’s Beach Closure Ordinance.
17 See Letter from Andrew Willis to Kevin Regan, Assistant General Manager
18 Operations Branch, City of Los Angeles Department of Recreation and Parks, dated
19 April 9, 2014, attached as Exhibit 10. To date, and almost two years later, the City
20 has failed to revise the Beach Closure Ordinance, has not sought a CDP for the
21 existing ordinance, and has not increased coastal access.

22 23 **ENFORCEMENT OF THE BEACH CLOSURE ORDINANCE**

24
25 38. The City continues to enforce the beach curfew, and enforcement
26 has increased steadily over the past four years. According to a Los Angeles Times
27 article, in 2010, the Los Angeles Police Department conducted at least one sweep of
28 Venice Beach while the closure was in effect and arrested 50 individuals.

1
2 39. In 2012, the City announced that Ocean Front Walk, which is a
3 boardwalk that runs along the beach from Santa Monica to Marina Del Rey, would
4 now be considered a part of the beach for purposes of the beach closure. As a result,
5 the LAPD began issuing citations to individuals on the boardwalk after midnight
6 and before 5:00 a.m. Citations jumped to over 475 issued in 2012, and since then,
7 that number has continued to climb. In 2014 the City issued a staggering 1,265
8 citations in the Venice Beach area alone for violation of the Beach Closure
9 Ordinance.

10
11 40. Enforcement of the Beach Curfew has continued in 2015 as well.
12 Between January and June 2015, LAPD issued numerous citations for violations of
13 Los Angeles Municipal Code Section 63.449(B)(14)(b), and data suggest that the
14 City is on a similar pace this year as in 2014.

15
16 41. This enforcement of an ordinance passed without appropriate
17 approval from the Coastal Commission constitutes a violation of the Coastal Act,
18 and results in the waste of taxpayer resources.

19
20 **FIRST CAUSE OF ACTION**
21 **(Taxpayer Claim Against All Defendants)**
22

23 42. Plaintiffs reallege paragraphs 1 through 41 of this Complaint as
24 fully set forth herein.

25
26 43. Pursuant to California Code of Civil Procedure §§ 526 and
27 526(a), Plaintiffs seek declaratory and injunctive relief to prevent continued
28

1 enforcement of an unlawful ordinance, which enforcement constitutes waste of
2 taxpayer funds.

3
4 44. An actual controversy exists between Plaintiffs and Defendants
5 concerning the enforcement of LAMC § 63.44(B)(14)(b), which completely
6 forecloses Plaintiffs and others from accessing the beach and coastal waters within
7 the City of Los Angeles during a five to nine hour period every day of the year.
8 Plaintiffs desire a judicial determination of their rights and duties and a declaration
9 as to Defendants' obligations under the Coastal Act.

10
11 45. Plaintiffs have no adequate remedy at law to reverse the
12 consequences of Defendants' unlawful acts as alleged herein. Without court
13 intervention, Defendants will continue to enforce the illegal ordinance against the
14 public generally, and will continue to issue improper tickets and collect illegal fines.
15 Plaintiffs will be irreparably harmed in that the City will continue to waste resources
16 enforcing the illegal law.

17
18 46. Plaintiffs are entitled to a temporary restraining order and
19 preliminary injunction to prevent any further development in the affected area while
20 the present litigation is pending. Plaintiffs are further entitled to a permanent
21 injunction preventing Defendants from enforcing the Beach Closure Ordinance
22 unless and until it obtains valid Coastal Development Permits.

23
24 **SECOND CAUSE OF ACTION**

25 **Violation of the Coastal Act**

26
27 47. Plaintiffs reallege paragraph 1 through 46 of this Complaint as
28 though fully set forth herein.

1 48. The Beach Closure Ordinance, LAMC § 63.44(B)(14)(b),
2 constitutes a development under the Coastal Act for which the City did not seek a
3 valid Coastal Development Permit, and therefore, the City is in violation of the
4 Coastal Act.

5
6 49. Plaintiff has no adequate remedy at law to reverse the
7 consequences of Defendants' unlawful acts as alleged herein. Without court
8 intervention, Defendants will continue to enforce the illegal ordinance against
9 plaintiffs and the public generally. Plaintiffs will be irreparably harmed in that they
10 will be deprived of the actual use and enjoyment of the Coastal Zone in Venice.

11
12 50. Plaintiffs are entitled to a temporary restraining order to prevent
13 any further development in the affected area while the present litigation is pending.
14 Plaintiffs are further entitled to a permanent injunction preventing defendant from
15 enforcing the closure at Venice Beach unless and until it obtains valid Coastal
16 Development Permits.

17
18 **PRAYER FOR RELIEF**

19
20 WHEREFORE Plaintiffs pray for relief as set forth below:

21
22 1. A declaration that the Defendants' actions as set forth in the
23 complaint constitutes a continuing violation of the Coastal Act and that Los Angeles
24 Municipal Code § 63.44(B)(14)(b) is without legal authority and therefore null and
25 void.

1 2. A declaration that the Defendants' continued enforcement of the
2 Beach Closure Ordinance, Los Angeles Municipal Code § 63.44(B)(14)(b) is a
3 waste of taxpayer funds.

4
5 3. A temporary restraining order and/or a preliminary and
6 permanent injunction, enjoining Defendants, their officers, agents and employees,
7 from enforcing Los Angeles Municipal Code § 63.44(B)(14)(b);

8
9 4. For costs and attorney's fees for Plaintiffs for prosecuting this
10 action pursuant to Code of Civil Procedure § 1021.5 and/or any other applicable
11 provision(s) of law.

12
13 5. For such further relief as the Court deems just and proper.

14
15 Dated: December 9, 2015

16 LEGAL AID FOUNDATION OF LOS ANGELES

17
18 By

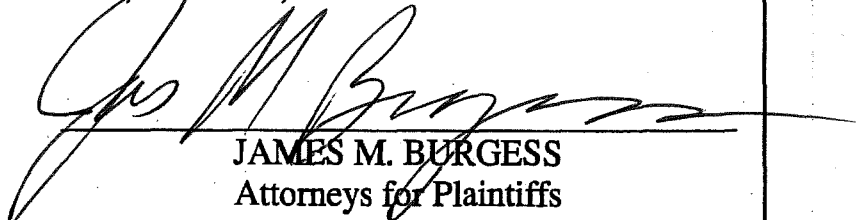


19 PAUL ESTUAR
20 Attorneys for Plaintiff
21 JATAUN VALENTINE

22 Dated: December 9, 2015

23 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

24 By



25 JAMES M. BURGESS
26 Attorneys for Plaintiffs
27 JATAUN VALENTINE and FRANCESCA
28 DE LA ROSA

EXHIBIT 1

EXHIBIT 1

CALIFORNIA COASTAL COMMISSION

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



August 26, 2010

Mark Mariscal
City of Los Angeles, Department of Recreation and Parks
Superintendent, Pacific Region
1670 Palos Verdes Drive North
Harbor City, CA 90710

Subject: Imposition of an ordinance establishing a beach curfew

Dear Mr. Mariscal,

Public access to and along the California coast and coastal waters is a right guaranteed by California's Constitution and the Coastal Act. When public agencies initiate and institute actions designed and intended to place a limitation on public access to the coast, such as, but not limited to imposition of a beach curfew, such limitations must be reviewed before taking effect under the policies of the Coastal Act through the coastal development permit process.

Our staff has confirmed that the City of Los Angeles established a beach curfew, found in City of Los Angeles Municipal Code Section 63.44(B)(14)(b), for city beaches via Ordinance No. 164209, adopted on November 22, 1988. Section 63.44(B)(14)(b) states:

No person shall enter, remain, stay or loiter in any park which consists of an ocean area, beach or pier between the hours of 12:00 midnight and 5:00 o'clock a.m. of the following day or such other hours as the Council may establish for each such park by ordinance. On any park which consists of an ocean area, beach or pier subject to this Section, the supervising employee at such site may extend the closing time to accommodate special events such as grunion runs and other events approved by the Department of Recreation and Parks or the Los Angeles County Department of Beaches, as applicable. Provided, however, that no person shall enter, remain, stay or loiter on Royal Palms Beach between the hours of 8:00 o'clock p.m. and 5:00 o'clock a.m. of the following day.

The imposition of this beach curfew, as is its clearly stated intent, restricts public access to the sea. The Coastal Act defines "development" (Public Resources Code Section 30106) requiring a coastal development permit from either the Commission or local government, where a Local Coastal Program has been certified, or where the local government issues coastal development permits pursuant to the Coastal Act, to include a "...change in the ... intensity of use of land...change in the intensity of use of water, or of access thereto." In addition, the Commission and local governments are mandated under the Coastal Act (Section 30210) to ensure that "...maximum access ... 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."

Commission staff have researched our permit files and concluded that no coastal development permits have been issued for this particular public access restriction. In this particular case, the

closure of beaches within the City's coastal development permit jurisdiction would require a local coastal development permit from the City, as well as the Commission, since City beaches are located in the "dual permit jurisdiction." Implementation of an ordinance affecting access to the Commission's area of original jurisdiction, i.e. State tidelands or public trust lands, would also require a coastal development permit from the Commission. In the absence of such Coastal Act review, such restrictions on public access constitute a violation of law exposing the responsible agency to possible enforcement actions.

While the Commission understands and appreciates the many pressures on public agencies, especially local government to ensure public safety, preserve resident convenience and neighborhood amenities, and carry out land management responsibilities within constrained budgets, we are concerned because many of these restrictions on lawful public rights of use have been instituted without benefit of coastal development permits required by the Coastal Act. The Commission has a long history of reviewing these types of public coastal access restrictions and has approved those that are narrowly drawn to effectively address proven public safety issues and concerns. Unfortunately, many access restrictions that infringe on protected legal public rights are drawn and applied in an overly broad manner, often because of political expediency or ease of administration by implementing or enforcing agencies.

Beach curfews or closures have been problematic on occasion in the past. However, working with local agencies in the context of the coastal development permit process, we have usually been able to achieve a mutually acceptable resolution that protects both public safety and public access to beaches and State waters. We want to work in cooperation with you to achieve this dual mission in the most efficient and effective manner and to avoid potential conflict and controversy over law enforcement requirements.

In conclusion, it is the position of Commission staff that implementation of the beach curfew ordinance identified above qualifies as development under the Coastal Act and therefore requires a coastal development permit. If the City wishes to implement a beach curfew, it would first need to obtain authorization for such restriction through issuance of both a local coastal development permit and a coastal development permit from the Commission. Staff feels that by working together within the coastal development permit context, we can achieve a positive resolution to this matter that is consistent with the Coastal Act. Please contact me or South Coast District Manager Teresa Henry at (563) 590-5071 within two weeks of the mailing date of this letter in order to discuss any questions raised by this letter and how we can work together to reach a mutually acceptable solution to this important matter affecting coastal access.

Sincerely,



Andrew Willis
District Enforcement Analyst

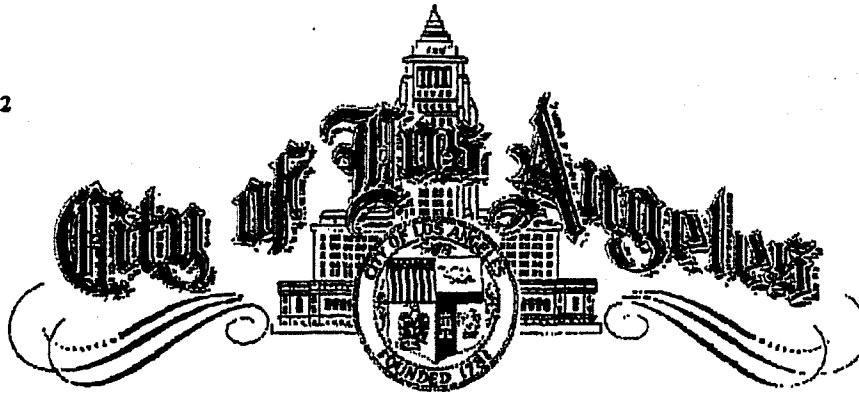
cc: Councilman Rosendahl's office
Jack Ainsworth, Deputy Director, CCC

EXHIBIT 2

EXHIBIT 2

City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

(213) 978-8100 Tel
(213) 978-8312 Fax
C.Trutanich@lacity.org
www.lacity.org/att



CARMEN A. TRUTANICH
City Attorney

September 1, 2010

Andrew Willis
District Enforcement Analyst
California Coastal Commission
South Coast Area Office
200 Oceangate
Suite 1000
Long Beach, California 90802-4302

RE: Your Letter to City of Los Angeles, Department of Recreation and Parks
on 8/26/10

Dear Mr. Willis:

Your letter dated August 26, 2010 to the City of Los Angeles Department of Recreation and Parks, has been referred to this office for response. Please direct all future communication about this matter to this office. We also strongly suggest that any future communication be through your agency's legal counsel.

We do not agree with you that the Los Angeles Municipal Code section quoted in your letter violates any legal duties, limitations, or policies expressed in the Coastal Act. We also believe that your letter deserves a serious and more complete response than we will be able to provide within the two week deadline specified in your letter. We believe that we can provide such a response by the end of September. Per your letter, our ordinance has been around for at least 22 years and does not appear to be causing any current emergency; quite to the contrary, we believe that the ordinance is a material and substantial safety measure with essential positive consequences for the public. Hence, we hope that the additional time we seek will pose no undue burden for you or the California Coastal Commission.


Andrew Willis
September 1, 2010
Page 2

We do ask, however, that you share with us in advance of our reply: (a) whether the present investigation was initiated pursuant to a complaint from a member of the public; (b) the substance or a copy of that complaint; (c) information and records about curfews at beaches operated by other local governments, including any relevant Coastal Commission permit proceedings; (d) what your staff and the Commission believe to be the correct parameters of beach curfews under the Coastal Act; and (e) information on "real life" enforcement proceedings brought before the Commission involving beach curfews.

A prompt response to this letter would be appreciated. Please do not hesitate to have the Commission's staff attorneys contact this office about this matter at any time.

Very truly yours,

CARMEN A. TRUTANICII, City Attorney

By: 
GERALD M. SATO
Deputy City Attorney

GMS:sf

cc: Wyatt Sloan-Tribc, Deputy Attorney General, State of California
Bill Rosendahl, Member of the City Council, City of Los Angeles
Janice Hahn, Member of the City Council, City of Los Angeles
Jon Kirk Mukri, General Manager, Department of Recreation and Parks

EXHIBIT 3

EXHIBIT 3

CALIFORNIA COASTAL COMMISSION

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



September 17, 2010

Gerald M. Sato
Deputy City Attorney
City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

Subject: Imposition of an ordinance establishing a beach curfew

Dear Mr. Sato:

Thank you for your September 1, 2010 response to our letter dated August 26, 2010, addressing the imposition of an ordinance establishing a beach curfew at City of Los Angeles beaches. We remain optimistic that we can achieve a mutually acceptable resolution to this important public access matter through the coastal development permit process. The purpose of this letter is to respond to your request for documents and an extension, contained within your letter dated September 1, 2010, and to follow-up our September 9 telephone conversation joined by Commission Counsel Alex Helperin. The following paragraphs repeat the requests from your September 1 letter and set forth Commission staff's responses:

1. We do ask, however, that you share with us in advance of our reply: (a) whether the present investigation was initiated pursuant to a complaint from a member of the public; (b) the substance or a copy of that complaint...

Our investigation into this matter was initiated in response to City representations to Commission staff (hereinafter "Staff") pertaining to a beach curfew during the Commission's review of an application for a coastal development permit authorizing Overnight Parking Districts ("OPDs") in the Venice area of the City of Los Angeles. In essence, the City asserted that the OPDs would not interfere with coastal access since the beach was already closed at the time of the proposed parking restrictions. The January 2009 staff report to the Commission addressing this application notes the City's position:

The City is also making the assertion that there are no adverse impacts to public access during the hours of the restrictions (2 a.m. to 6 a.m.) because the beach closes at 10 p.m. The City may have passed a curfew ordinance for the public beach, but the Commission has not reviewed or approved any nighttime and early morning beach closure. Page 8.

As Staff believed that the existence of a beach curfew could be germane to its analysis of the proposed OPD project before the Commission, Staff looked into the issue of the beach curfew ordinance. As we mentioned to you during our September 9 conversation, Staff has also received public complaints pertaining to the beach curfew that coincided with the processing of the proposed OPDs at the City and Commission levels. Complaints made during the public comment period of

the June 2009 and June 2010 Commission meetings are available on the archived meetings website. As our counsel explained during our September 9 call, complaints made directly to Staff are not required to be disclosed, pursuant to Government Code Section 6254(k) and Evidence Code Sections 1040 and/or 1041. However, we would note that all such complaints are substantively identical to those made during the public comment period.

2. (c) information and records about curfews at beaches operated by other local governments, including any relevant Coastal Commission permit proceedings...

We do not have a comprehensive list of matters responsive to your request. However, please see Exhibit 1 for examples of various Commission actions regarding accessway closures, beach curfews, and beach parking lot closures. Exhibit 1 is not intended to be an exhaustive list, but rather to provide the City with a general overview of past Commission actions.¹ To provide an example of a coastal development permit that authorized a beach curfew ordinance, I've also attached a recent coastal development permit issued by the City of Laguna Beach authorizing a limited beach curfew. Exhibit 2. Although this local permit was not appealed by the Commission, please remember that review of beach curfew ordinances is on a case-by-case basis, and consequently, the unique circumstances of each case will inform Staff's review of a proposed access restriction.

3. (d) what your staff and the Commission believe to be the correct parameters of beach curfews under the Coastal Act...

The Commission gave preliminary approval to a Beach Curfew guidance document in June 1994. Exhibit 3. Please note that although the Commission preliminarily adopted the Beach Curfew guidance document, thus providing guidance to Staff regarding factors that the Commission is likely to consider when reviewing coastal development permit applications for beach curfew ordinances, the Coastal Act was not amended to give the guidance formal, legal force or effect. Therefore, proposed beach curfew ordinances must undergo Coastal Act review based on the existing, general standards in the Coastal Act.

4. (e) information on "real life" enforcement proceedings brought before the Commission involving beach curfews.

The local coastal development permit attached as Exhibit 2 was the culmination of a cooperative effort by the City of Laguna Beach and Commission staff to resolve a matter involving the earlier unpermitted adoption of a beach curfew ordinance.

We hope that this information will be helpful to you in formulating a response to our letter, as you suggested it would be, and please let us know if you anticipate any impediments to your providing such a response by the end of September. We look forward to working with you to achieve a resolution to this matter through the coastal development permit process that protects both public

¹ The table in Exhibit 1 was prepared by Staff earlier this year in support of the Commission's review of an appeal of a determination by the City of Dana Point that restricting access to a beach accessway was exempt from permit requirements. The Commission determined that the City of Dana Point's actions were not exempt.

City of Los Angeles
September 17, 2010
Page 3 of 3

safety and public rights of access to the coast. Please do not hesitate to contact me at (562) 590-5071 with any questions or concerns regarding this letter or the underlying issue.

Sincerely,



Andrew Willis
District Enforcement Analyst

enclosures: Exhibit 1: Examples of Commission actions
Exhibit 2: Laguna Beach CDP No. 10-12
Exhibit 3: Proposed beach curfew guidance document

cc(w/o enclosures): Councilman Rosendahl
Councilwoman Hahn

**Examples Of Commission Actions Regarding Beach Curfews,
Beach Parking Lot Hours, And Beach Accessway Hours**

Exhibit 1

COUNTY	COMMUNITY	CDP #s	PROJECT TYPE	PROJECT	COMMENTS
Santa Cruz	County of Santa Cruz	A-3-SCO-95-001 Santa Cruz County CSA#2	Accessway Hours	Proposal to close stairway from 10 pm to 6 am at Oceanview Drive, consistent with existing curfew at adjacent Manresa State Beach.	Denied
Los Angeles	City of Long Beach	5-93-232, 5-93-232-A, 5-00-050-A1/A-5-LOB-00-434-A1 City of Long Beach	Beach Curfew & Beach Parking Lot Hours	City made various proposals to extend existing beach curfew and to change periods of closure of beach parking lots	CCC required 24 hour beach use. Allowed beach lots and launch ramps to close from 10 pm to 5 am with exceptions for 8 pm closure at some locations, and 8 am opening at some locations
Orange	Laguna Beach/Emerald Bay (County unincorporated area)	A-5-EMB-91-078 (Brindersen/Smithcliffs)/City Issued CDP CD89-43P	Accessway Hours (in conjunction with subdivision)	Vertical accessway to viewpoint, closed sunset to sunrise (proposed to be gated)	Commission found NSI on appeal, upholding County's permit
Orange	City of Huntington Beach	5-07-127-EDD (Piedmont Cove)/ amendment to P-79-5948/ A-80-6590/ 5-81-401A	Accessway Hours	Vertical and lateral accessway to bayfront required under original permit (no hours or gates identified), proposed amendment to close accessways from sunset to sunrise with gate	Commission upheld Executive Director's rejection of the amendment request, effectively denying the request

**Examples Of Commission Actions Regarding Beach Curfews,
Beach Parking Lot Hours, And Beach Accessway Hours**

Exhibit 1

COUNTY	COMMUNITY	CDP #s	PROJECT TYPE	PROJECT	COMMENTS
Orange	City of Laguna Beach	City-issued CDP No. 10-12 & Ordinance No. 1521	Beach Curfew/closure (and parks)	All beaches and parks closed from 1 a.m. to 5 a.m., with exception for access to and use of wet sand and 20 feet of dry sand while undertaking active recreation (e.g. jogging, walking, diving) and fishing	No appeal filed, City permit final.
Orange	City of San Clemente	Vista Pacifica	Accessway Hours (in conjunction with new development)	Vertical accessway to viewpoint, closed sunset to sunrise (signs only, not proposed to be gated)	
San Diego	City of Oceanside	A6-OCN-93-200 City of Oceanside	Accessway Hours	Proposed time lock gates to close stairway located between two residences from 10 pm to 6 am	Modified to allow 10 pm to 4 am closure
San Diego	City of Carlsbad	6-85-404 City of Carlsbad	Accessway Hours	Proposed installation of time lock gates from 10 pm to 5 am on Cedar Street Accessway (located between two residences), one block south of Beach St access.	Approved; finding that three nearby verticals provide adequate access
San Diego	City of Carlsbad	6-88-374 City of Carlsbad	Accessway Hours	Requested permanent approval of time lock gates (on accessway between two residences) approved per 6-85-404	Approved
San Diego	City of Carlsbad	6-92-132 (R) City of Carlsbad	Accessway Hours	Proposed time lock gates at 3 existing accessways (Ocean St, Grand Ave, Beech Ave) to allow closure from 10 pm to 5 am	Denied, would impact access to the beach
San Diego	City of San Diego	6-88-366 City of San Diego	Beach Parking Lot Hours	Proposed gate at Mariner's Point to close lot from 10 pm to 4 am	Approved

**Examples Of Commission Actions Regarding Beach Curfews,
Beach Parking Lot Hours, And Beach Accessway Hours**

Exhibit 1

COUNTY	COMMUNITY	CDP #s	PROJECT TYPE	PROJECT	COMMENTS
San Diego	City of San Diego	6-85-545 City of San Diego	Beach Parking Lot Hours	Proposed closure of parking lots at South Mission Beach Park (oceanfront) and Mission Point Park (Bay side) from 8 pm to 5 am	CCC modified to allow closure from 8 pm to 4 am in winter and 10 pm to 4 am in summer
San Diego	City of San Diego	6-89-314 City of San Diego	Beach Parking Lot Hours	Proposed to modify 6-88-545 to extend closure during summer	Denied change in hours.
San Diego	City of San Diego	6-89-359, A-6-LJS-90-161, 6-91-146, 6-91-146-A, 6-91-146-A-2, 6-91-146-A-3 City of San Diego	Beach Parking Lot Hours	Various proposals to close beach parking lots between 10 pm to 4 am, either daily or on weekend nights (including installation of gates on the parking lot entry/exit)	Approved in some locations, or approved only between 12am and 4am, and often with requirement for exit only gates for after hours exit, and sometimes with a time limit (e.g. 5 years)
San Diego	City of San Diego	6-02-90 City of San Diego	Beach Parking Lot Hours	Proposal to extend closure of 3 parking lots (769 parking spaces) in Mission Bay from 2 am to 4 am, to 10 pm to 4 am.	Allowed 10 pm closure with requirement to allow exit only after 10 pm. Limited to 2 years
San Diego	City of Coronado	6-93-160, 6-96-22 City of Coronado	Beach Curfew/Parking Restrictions	Implementation of a beach curfew (11 pm to 4 am), removal of fire rings, and parking prohibition (11 pm to 4 am)	Approved with time limits to 2001

**NOTICE OF FINAL LOCAL ACTION
FOR COASTAL DEVELOPMENT PERMITS¹**

Exhibit 2

Date: April 5, 2010

The following project is located within the City of Laguna Beach Coastal Zone:

Location: City of Laguna Beach

Coastal Development Project No: 10-12

Project Description: Resolution No. 10.019/CDP No. 10-12 & Ordinance No. 1521 - to
establish closing times for beaches and parks

Applicant: City of Laguna Beach

Mailing Address, 505 Forest Avenue, Laguna Beach, CA, 92651

On March 23, 2010 a coastal development permit application for the project was

- ☒ approved
- ☐ approved with conditions
- ☐ denied

Local appeal period ended N/A

This action was taken by: ☒ City Council
 ☐ Design Review Board
 ☐ Planning Commission

The action ☐ did ☒ did not involve a local appeal; in any case, the local appeal process has been exhausted. Findings supporting the local government action and any conditions imposed are found in the attached resolution.

This project is

- ☐ not appealable to the Coastal Commission
- ☒ appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission if a valid appeal is filed. Appeals must be in writing to the appropriate Coastal Commission district office and in accordance with the California Code of Regulation Section 13111. The Coastal Commission may be reached by phone at (562) 590-5071 or by writing to 200 Oceangate, 10th Floor, Long Beach, CA 90802-4416

Attachments: Resolution No. 10.019/CDP No. 10-12 & Ordinance No. 1521

¹ The City of Laguna Beach believes that the adoption of the ordinance establishing closing times for beaches and parks does not require a Coastal Development Permit because (1) the action does not constitute "development" as defined by the Coastal Act, and (2) the ordinance was adopted to abate a public nuisance, which is exempt from the Act. Nevertheless, the City approved a Coastal Development Permit solely in an effort to work cooperatively with the Coastal Commission, and expressly reserving and not waiving the position that a Coastal Development Permit is not required.

RESOLUTION NO. 10.019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT 10-12.

WHEREAS, the Laguna Beach City Council has adopted an amended ordinance

relating to the establishment of closing times for beaches and parks;

WHEREAS, the City of Laguna Beach believes that adoption of the amended ordinance does not require a Coastal Development Permit because the action does not constitute development, as defined by the California Coastal Act, and because the ordinance is being adopted to abate a public nuisance, which is exempt from the provisions of the Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach has agreed to consider the approval of a Coastal Development Permit in an effort to work cooperatively with the California Coastal Commission to address the mutual concerns and interests of the City and the Coastal Commission related to the adoption of an ordinance establishing closing times for beaches and parks, with the City reserving the position that a Coastal Development Permit is not required;

WHEREAS, the City Council of the City of Laguna Beach finds that:

1. Adoption of the amended ordinance establishing closing times for beaches and parks is not an action that will result in encroachment upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted local coastal program land use plan;

2. Adoption of the amended ordinance establishing closing times for beaches and parks will not adversely affect marine resources, environmentally sensitive areas, or known archaeological or paleontological resources;

3. Adoption of the amended ordinance establishing closing times for beaches and parks will not adversely affect recreational or visitor-serving facilities or coastal scenic resources;

4. Adoption of the amended ordinance establishing closing times for beaches and parks will not adversely impact environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas or result in the need to provide buffer areas to protect such resources;

5. Adoption of the amended ordinance establishing closing times for beaches and parks will not alter natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards;

6. Adoption of the amended ordinance establishing closing times for beaches and parks will not impact the character of surrounding areas or result in the need to restore and enhance visual quality in visually degraded areas;

7. Adoption of the amended ordinance establishing closing times for beaches and parks will not result in the need for additional utilities, access roads, drainage and other necessary facilities; and

8. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve activities associated with adoption of the amended ordinance establishing closing times for beaches and parks.

WHEREAS, the City Council makes the following Coastal Development Permit findings with regard to the amended ordinance:

1. The project is in conformity with all the applicable provisions of the general plan, including the certified local coastal program and any applicable specific plans.

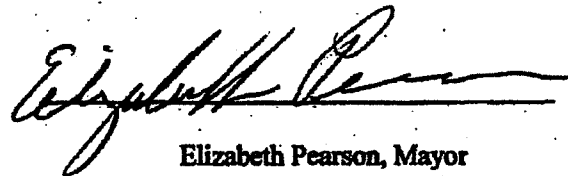
2. There is no proposed development between the sea and the first public road

paralleling the sea.

3. Adoption of the amended ordinance establishing closing times for beaches and parks will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH does RESOLVE and ORDER that without waiving or abandoning its position that a Coastal Development Department is not required for the adoption of the amended ordinance establishing closing times for beaches and parks within the City of Laguna Beach, Coastal Development Permit 10-12 is hereby approved in conjunction with the adoption of the amended ordinance.

ADOPTED this 23rd day of March, 2010.


Elizabeth Pearson, Mayor

ATTEST:


City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, California, do hereby certify that the foregoing Resolution No. 10.019 was duly adopted at a Regular Meeting of the City Council of said City held on March 23, 2010, by the following vote:

AYES: COUNCILMEMBER(S): Egly, Boyd, Iseman, Pearson

NOES: COUNCILMEMBER(S): Rollinger

ABSTAIN: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None


City Clerk of the City of Laguna Beach, CA

ORDINANCE NO. 1521

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH
AMENDING CHAPTER 18.05 OF THE LAGUNA BEACH
MUNICIPAL CODE, RELATING TO ESTABLISHMENT OF
CLOSING TIMES FOR BEACHES AND PARKS**

WHEREAS, the City of Laguna Beach experienced a 25% increase in calls for police services to all beaches and parks between midnight and 5 a.m. for the first nine months of calendar year 2009 versus the same time period in calendar year 2008; and

WHEREAS, on September 16, 2009, the City Manager directed that a 24-hour police presence be maintained in Heisler Park, Main Beach Park, and the adjacent beaches in response to escalating complaints and concerns about public safety in these areas; and

WHEREAS, on October 6, 2009, the City Council was presented with over 80 emails, letters and articles describing escalating concerns from citizens, visitors and business owners about public safety concerns and inappropriate activities in beaches and parks; and

WHEREAS, on October 6, 2009, the City Council was provided a listing of over 50 police responses to Heisler Park and Main Beach Park, and the adjacent beaches, between April and September 2009; and

WHEREAS, on October 20, 2009, the City Council was informed of the substantial increase in calls for police services to all beaches and parks between midnight and 5 a.m. for the first nine months of calendar year 2009; and

WHEREAS, there has been an increase in the number of reported and/or observed illegal activities and other conduct and conditions occurring on City beaches and in City parks during the late evening and early morning hours; and

WHEREAS, the City Council desires to protect the health, safety and welfare of residents and visitors to the community by reducing illegal activities and other conduct and conditions taking place during the late evening and early morning hours on City beaches and in City parks;

NOW, THEREFORE, the City Council of the City of Laguna Beach does hereby ORDAIN as follows:

SECTION 1: The City Council finds and declares that the above-described activities, conduct and conditions occurring on City beaches and in City parks during the late evening and early morning hours constitute a public nuisance. The City Council further finds and declares that the establishment of closing times for City beaches and parks, as set forth below, is an action necessary to abate such public nuisance.

SECTION 2: Chapter 18.05 of the Laguna Beach Municipal Code is hereby amended to read in its entirety as follows:

CHAPTER 18.05

CLOSING TIMES FOR BEACHES AND PARKS

18.05.010 Closing times.

Except as otherwise provided in this Title 18 of the Municipal Code, all City beaches and parks shall be closed to public use at one a.m. and shall remain closed until five a.m.

18.05.020 Entering, remaining or staying during closing times.

Except as otherwise provided in this Title 18 of the Municipal Code, no person shall enter, remain or stay on any City beach or in any City park at any time when such beach or park is closed to public use.

18.05.030 Signs.

The City Manager, or his or her designee, shall post or cause to be posted appropriate signs in conspicuous locations giving notice of closing times and, as applicable, the exceptions provided in this Title 18 of the Municipal Code.

18.05.040 Exceptions.

(a) The provisions of this chapter shall not apply to the following activities when conducted on the wet sand or within 20 feet inland of the wet sand of all beaches: walking, jogging, fishing (by members of the public having on their possession a valid California fishing license), or grunion hunting. "Wet sand" for purposes of this section means that portion of the beach that is wet as a result of the wash of the waves or tidal action. The provisions of this chapter shall not apply to the following additional activities: scuba diving, surfing, or swimming in the ocean. Individuals may go to or come from the wet sand or the area within 20 feet inland of the wet sand, for any of the purposes allowed in this section, between the hours of one a.m. and five a.m. by the most direct safe route available at any given location.

(b) The provisions of this chapter shall not apply to such activities as may be expressly permitted by preemption of State law or as may be allowed pursuant to a resolution of the City Council.

(c) The provisions of this chapter shall not apply to the performance of official business by any City officer or employee or any other person authorized by the City.

(d) The provisions of this chapter shall not apply to any City-sponsored activity, program or special event.

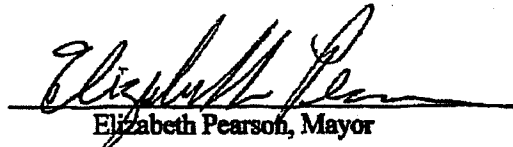
(e) The provisions of this chapter shall not apply to any activity, program or special event for which a City permit has been issued.

SECTION 3: All ordinances and provisions of the Laguna Beach Municipal Code and sections thereof inconsistent herewith shall be repealed to the extent of such inconsistency and no further. This ordinance is intended to replace and supersede Ordinance No. 1514 in its entirety.


SECTION 4: If any section, subsection, subdivision, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5: The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective on the expiration of thirty (30) days from and after the date of its adoption.

Adopted this 23rd day of March, 2010.


Elizabeth Pearson, Mayor

ATTEST:


City Clerk

I, MARTHA ANDERSON, City Clerk of the City of Laguna Beach, certify that the foregoing Ordinance was introduced at a regular meeting of the City Council held on March 2, 2010, and was finally passed and adopted at a regular meeting of the City Council of said City held on March 23, 2010 by the following vote:

AYES:	COUNCILMEMBERS: Egly, Boyd, Iseman, Pearson
NOES:	COUNCILMEMBERS: Rollinger
ABSTAIN:	COUNCILMEMBERS: None
ABSENT:	COUNCILMEMBERS: None


City Clerk, City of Laguna Beach

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



Tu 9

June 23, 1994

TO: Commissioners

FROM: Peter Douglas, Executive Director
Linda Locklin, Public Access Program Manager

RE: Proposed Guidance on Actions Limiting Public Access to Beaches and State Waters (Beach Curfews)

I. INTRODUCTION

The following is proposed guidance for review under the Coastal Act of governmental actions limiting public access to and use of beaches and State waters. The principal purpose of this guidance is to identify an approach that minimizes restrictions on the general public's Constitutional and statutory rights of access to beaches and State waters while at the same time ensuring that public safety concerns are adequately addressed. Another purpose is to identify procedures for the review of these actions which are expeditious and which take into account fiscal constraints faced by all governmental agencies.

The "guidance" set forth below, was previously presented and discussed by the Commission at its February meeting. At that time, the Commission directed the distribution of the staff report for public review and comment. The Commission has received several comments on the proposed guidance (copies of letters from local government are enclosed).

Shortly after the Commission asserted jurisdiction over beach curfew ordinances under the Coastal Act last year, a lawsuit was filed against the Commission by the City of Long Beach and three bills were introduced in the Legislature to eliminate the Commission's jurisdiction to review beach curfew ordinances. Since those events, the Commission has acted on two beach curfew ordinances (City of Coronado and the City of Long Beach). The Commission approved both curfew ordinances in large part because they were generally consistent with the "guidance" staff had prepared and had indicated would be used in crafting its own recommendations to the Commission. Both the City of Coronado and Long Beach modified their proposed curfew ordinances to address the major concerns expressed by the Commission and staff. The key elements in both ordinances and the proposed guidance are the following:

- o The presentation of evidence sufficient to enable a reasonable person to conclude that a public safety problem in fact exists warranting the imposition of a beach curfew.

- o An evaluation of alternatives to a sweeping curfew and the exclusion from the curfew of beach areas that could be excluded without compromising public safety.

- o Exemption of the wet sand area along the ocean's edge for fishing, walking, jogging and access to State waters.

- o The inclusion of a "sunset" clause or the guarantee of periodic review, including public hearings, on the need to continue the curfew in effect.

Since the Commission's action on the two ordinances, the City of Long Beach has agreed to drop its litigation and the proposed legislative measures have either been dropped or have not been heard and have missed legislative deadlines for action. Staff continues to recommend Commission approval of the proposed guidance because it is an effective and efficient way to indicate to local government, other public agencies and members of the public the general approach the Commission has taken relative to the review of beach curfew ordinances. In addition, because there are many curfew ordinances and because, based on experience, they will be changed in a number of ways (e.g. hours may be changed and result in an earlier or later closure, certain beach areas may be exempted from the curfew), it is appropriate to develop a procedure for the expeditious handling of such actions under the Coastal Act.

The proposed guidance is modeled after the approach taken two years ago in dealing with the review of temporary events under the Coastal Act. In that case, when the Commission asserted permit jurisdiction over temporary events that were occurring with increasing frequency and occupying larger areas of the beach for longer periods of time, guidelines were adopted that specified which types of events would be subject to coastal permits and which would not. The Commission agreed with staff that the vast majority of temporary events raise no Coastal Act issues warranting coastal permit review. To date the process adopted by the Commission for temporary events is working well.

In attempting to take a similar approach relative to beach curfews, staff was informed by counsel that there is currently no provision in the Coastal Act to enable the Commission to treat beach curfew ordinances in the same way temporary events were dealt with. In order to do that, an amendment to the Coastal Act would be necessary. In fact, when the issue regarding temporary events arose, the Commission supported legislation that provided for the approach now being used. In that regard, the Executive Director has had conversations with Senator Bergeson about the possibility of amending her bill relating to beach curfews to mirror the approach taken for temporary events. She has expressed a willingness to be of assistance but wants to see what sort of guidelines the Commission might adopt. This is another reason staff is recommending that the Commission concur in the proposed guidance. If the Commission concurs, Senator Bergeson and her legislative colleagues can determine if they wish to approve a Coastal Act amendment to enable the Commission to deal with beach curfew ordinances and changes to them in a manner similar to the temporary events procedures.

By concurring in the Staff's recommendation at the July meeting, the Commission would be giving preliminary approval to guidelines that would have to be formally adopted at a future Commission hearing after the Coastal Act has been amended to authorize the approach staff recommends in the proposed guidance. In any event, Commission approval of staff's recommendation would have no formal, legal force or effect. Such action would provide guidance to staff about factors that will be considered in reviewing coastal permit applications for approval of beach curfew ordinances. It would also be an indication to the Legislature of the approach the Commission is prepared to

take if authorized to adopt guidelines and procedures on the subject in the future. Obviously, the proposed guidance set forth below does not constitute regulations requiring review by the Office of Administrative Law.

II. STAFF RECOMMENDATION FOR COMMISSION ACTION:

The staff recommends that the Commission give preliminary approval to the proposed guidance set forth in Section V below.

The staff further recommends that the Commission authorize staff to work with Senator Bergeson and members of the Legislature to secure enactment of legislation to permit implementation of the proposed guidance similar to the manner in which temporary events were handled.

III. GENERAL BACKGROUND

The people of California, through Proposition 20 in 1972, and the Legislature, through the Coastal Act in 1976, have charged the California Coastal Commission, in partnership with local government, with ensuring that "maximum access...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."

The Commission has been involved in balancing these objectives for over twenty years. It has evaluated and resolved countless conflicts among competing uses in a manner that protects coastal access while meeting concerns over public safety and natural resource protection. Many decisions in this area, however, have not come without controversy. Recently, considerable attention has, for various reasons, been focused on Commission review of local government actions to restrict public use of beach parking lots and beaches to protect public safety. Much of this attention has failed to explain accurately the nature of the issues and has distorted the extent of disagreement between the Commission and local government. The Commission, local government and the California Department of Parks and Recreation share common goals in protecting public beach access while ensuring public safety.

ISSUES

The central issues, in brief, are two: first, does the Coastal Commission have the jurisdiction to become involved in actions by local government and the Department of Parks and Recreation to restrict public use of beach parking lots and beaches; and second, what types of controls on the time, place and manner of use are reasonable and appropriate to meet both public access and public safety concerns. The answer to the first question is clearly yes. The answer to the second must be developed on a case by case basis and depends on the unique circumstances applicable to the particular site under consideration.

DISCUSSION

The Coastal Commission is very sensitive to and concerned about public safety as well as the difficulties coastal local governments face in ensuring a safe beach environment for residents and visitors alike. Indeed, the Coastal Act requires that the Commission and local government take public safety into

account when reviewing public beach access issues. Furthermore, any local government that deems it necessary to take immediate action to protect public safety by temporarily closing a beach, may do so without any involvement by the Commission. However, the indefinite or longterm closure to public use of beaches and access to State waters brings into conflict important public policies and interests.

In 1972, voters approved the citizen sponsored Coastal Protection Initiative (Proposition 20) to guard against the loss of public access to the coast resulting from growing population and development pressures. Protection of beach access is among the highest priority policies in the Coastal Act of 1976 and the right of access to State waters is guaranteed in California's Constitution. However, these policies and rights are not absolute. The Commission must balance public access needs with those of public safety and the protection of environmentally sensitive habitat areas, such as wetlands.

The California Coastal Act of 1976 incorporates a careful division of institutional responsibilities for coastal management decisions between local governments and the State, acting through the Commission. Many decisions are delegated to coastal cities and counties, while others of statewide or greater than local importance are retained within the Commission's continuing jurisdiction. The latter include issues dealing with public access and recreation, public works projects and major energy facilities. The Legislature clearly believed that coastal public access and recreation issues are of such importance to all the people of the State, not just to those who live in seaside communities, that permanent state level oversight was warranted. At the same time, however, the Legislature recognized that the time, place and manner in which public access is protected may need to be regulated based on the facts and circumstances in each case (emphasis added, see section 30214 Public Resources Code).

The Commission recently became concerned as a significant number of beach parking lots, accessways and beaches were closed to nighttime public use. The reasons given for these actions are public safety and lack of public funds for police protection and beach patrols after dark. In fact, the reasons are often more complicated. In some instances, early closure proposals stem from complaints by local residents about traffic and noise caused by beach visitors. Such cases present a clash of interests between those who live in close proximity to a beach and inland residents who travel to the beach for recreation. In one case, San Diego's request for early closure of several beach parking lots was not supported by City law enforcement officials citing the absence of crime statistics for the areas in question and expressing concerns that greater public safety problems could result by further reducing the number and geographic distribution of places inland residents can go in the evening for recreational activities. In that case, the Commission approved closures but not as early as had been requested by the City and nearby residents. In Long Beach, a murder which led to a new beach curfew occurred on a public street and not on the beach itself. The Commission approved an early closure of several parking lots but felt that closing all the beaches in the City to all public use, in perpetuity, at 10 pm was not warranted under the circumstances and that it did not appear alternatives to such broad prohibitions had been adequately explored. As mentioned above, the City filed both a lawsuit against the Commission and worked with staff to address Commission concerns. When the City modified its curfew ordinance in the ways previously summarized, the Commission approved the new curfew ordinance and the City agreed to drop its litigation. Similarly, a beach

curfew ordinance for the City of Coronado was approved by the Commission after the city made modification consistent with the guidance set forth in this and the earlier staff report on this subject.

The Commission is acutely aware of the problems fiscally stressed coastal communities face as they try to cope with threats of crime and violence. The Commission is also sensitive to the importance of prevention and not waiting until crimes have actually been committed to take protective actions. Finding the proper balance between protecting public safety through preventative actions and protecting against unreasonable infringement on fundamental public rights and freedoms of access to public resources, such as beaches and ocean waters, is the challenge. The Commission has experienced situations where local pressures led to actions which, while responsive to local concerns, did not take into account the interests of people outside the local community who have a right to use the beach and have access to ocean waters. Coastal local governments share with the Commission, as a statewide agency, the responsibility to balance conflicting interests and to determine, in each case, if the identified problems truly warrant closing the beach, beach accessway, or beach parking lot or if other alternatives may redress those problems. Because of the historical importance and continuing high value attributed to beaches and ocean waters, and the public's right of access to them, the protection of public access is given special status in the Coastal Act.

In struggling with these issues, the Commission has distinguished between the closure to public use of beaches and of support facilities, such as parking lots, accessways, piers and boat launching ramps. It has given closest scrutiny to the closure of beaches. The Commission considers many factors: whether alternatives to closure have been explored and whether alternative access opportunities exist nearby; whether the closure is longterm or temporary; whether all public uses are prohibited or whether some uses, such as fishing, swimming and walking along the water's edge, are permitted; whether a closure gives preferential treatment to local residents at the expense of visitors; and whether concerns over public safety are legitimate or whether they are merely an excuse to privatize a coastal neighborhood's amenities to the exclusion of those who do not live near the seashore.

Some have asked why the Commission cares if a beach is closed after dark. Again, the Commission examines each case individually. However, in many areas of the coast, law abiding citizens use the beach at all hours of the night for fishing, swimming, scuba diving, walking and jogging, socializing around a ground fire, camping, boat launching and surfing. Their legal right to do so should only be curtailed in very narrow and compelling circumstances. Unfortunately, contemporary urban communities face serious problems involving criminal acts of violence, vandalism and theft. How we, as a society, respond to this threat is one of the most profound challenges of our time. Obviously, we must address root causes. Until we find those answers, however, and because we are a democratic people who cherish our fundamental freedoms, we must be careful not to trample on the rights of honest citizens in our zeal to ensure public safety. Recognizing this, the Commission has, in prior decisions, approved actions by local government to regulate the time, place and manner of access, depending on the factual circumstances in each case.

IV. BEACH USE RESTRICTIONS AND COASTAL ACT REVIEW

A. Public Safety Exemptions to Coastal Act Review:

1. Emergencies: In public emergencies where a law enforcement agency temporarily closes a beach, parking lot, accessway or other coastal recreational facility to protect life or property, no review by the Coastal Commission or pursuant to the Coastal Act is authorized or appropriate. In emergency situations requiring immediate action to protect public safety, these decision are entirely within the discretion of the responsible law enforcement officials. In these situations, the assumption is that the closure will remain in effect only for the duration of the emergency.

2. Public Nuisance Declared: Similarly, in situations where a local government declares a public nuisance the abatement of which requires the closure, no Coastal Act review is required. (Section 30005 (b) Public Resources Code) Obviously, there must be a legally declared nuisance, based on evidence, and a directive must be issued to abate the nuisance by, among other actions, closing the public facility. Examples include, the closure of an unsafe beach access stairway or a beach below a failing structure, such as a house damaged by natural disaster. Again, the assumption is that the closure will remain in effect only until the declared nuisance is abated. Only in cases where there is a clear abuse of the nuisance exemption (e.g., when it is used solely as a means to circumvent Coastal Act review, used to unlawfully discriminate against members of the public, or used to give unfair preferential treatment to residents of the community in which the facility is located) might the Commission become involved by questioning the closure action.

3. Grandfathered Curfews: In cases where a beach curfew or beach use restriction was enacted and has been enforced prior to and since February 1, 1973, such ordinance or action is not subject to Coastal Act review. However, significant changes to such restrictions (i.e., changes not consistent with the guidance set forth below) are subject to review pursuant to the Coastal Act. February 1, 1973 is the date on which the regulatory controls of the Coastal Protection Initiative (Proposition 20) went into effect. The definition of "development" requiring Coastal Commission review in Proposition 20 is, in relevant part, the same as that contained in the Coastal Act of 1976.

B. Cases Where Coastal Act Review Is Required:

In cases where Coastal Act review is appropriate, the following discussion is intended to assist the Commission, Commission staff, local governments, other management agency officials and members of the public in understanding the factors relating to the time, place and manner of public access restrictions that should be given careful consideration.

Some have questioned whether the Commission has legal jurisdiction over locally enacted beach curfews. Indeed, this was the central issue in the litigation filed by the City of Long Beach and was the subject of the proposed legislation previously mentioned. It is the staff's position, based on nearly twenty years of practice and Commission actions, that the Coastal Act, with several very narrow exceptions, clearly confers jurisdiction on the Commission over any action by any party, including a local government, that affects public access to beaches and/or State waters. The imposition of beach

curfews, other than those adopted to abate a legally declared nuisance or in response to an emergency order issued by the appropriate law enforcement agency, obviously has a significant impact on public access to beaches and State waters. Prohibiting public access and use is the very purpose of a curfew ordinance.

Section 30106 of the Public Resources Code defines "development" requiring a coastal permit, in part, as a "change in the intensity of use of water, or of access thereto." Additionally, section 30009 PRC states that "[the Coastal Act] shall be liberally construed to accomplish its purposes and objectives." In the recent case of Surfrider Foundation v. California Coastal Commission (Court of Appeal No. A061659), the Court of Appeal examined the Commission's scope of authority to deal with public access issues that involve actions which may not constitute physical development. The Court stated that many indirect impacts on access were contemplated by the Act's public access policies. The court found that:

"[t]he 1975 [Coastal] plan also warned of indirect or nonphysical impediments to access, including reduction of road capacity and off-street parking, unavailability of low-cost housing and tourist facilities, and proliferation of expensive recreational facilities. (Citation omitted.) Thus, the concerns placed before the Legislature in 1976 were more broad-based than direct physical impedance of access. For this reason, we conclude the public access and recreational policies of the Act should be broadly construed to encompass all impediments to access, whether direct or indirect, physical or nonphysical." (Emphases in original.)

In situations where Coastal Act review is required, a number of issues must be evaluated pursuant to Coastal Act policies. It should be underscored that not every review of a closure action is conducted by the Commission. In many cases such review is undertaken by the appropriate local government having a fully certified local coastal program (LCP) in place and where the coastal development permit-issuing authority has been delegated to that local jurisdiction. However, even in cases where a permit is issued by a local agency, the local action may be appealed to the Commission because it affects land areas located between the first public road and the ocean. (See sections 30603 (a)(1) and (b)(1) Public Resources Code) Determinations as to which entity has review responsibility must be made on a case by case basis and jurisdictional questions should be discussed with Commission staff.

1. Evidentiary Finding and Consideration of Alternatives: Whenever a management agency (e.g., a City Council, Board of Supervisors, local Park and Recreation Department or District, State or federal agency) takes an action to restrict public use of a beach, access to State waters, parking lot or other coastal recreational facility on the basis of public safety, some credible evidence demonstrating the existence of a public safety problem should be provided. The quantity, quality and specificity of the evidence needed to substantiate the existence of a public safety problem is a matter of judgement. One test is whether the evidence is sufficient to enable a reasonable person to conclude that a public safety problem actually exists. The key factor is whether the action was taken for actual public safety reasons (e.g., the protection of person or property against injury or damage) or primarily for reasons associated with complaints by community residents about noise, traffic, or diminution of community amenities. Solutions to these types of problems can often be found through other means, such as

management measures or site planning.

Once a determination has been made that an actual public safety problem exists, issues to be addressed involve whether the proposed solution is commensurate with the nature and extent of the problem. Alternatives should be evaluated and could include such measures as increased police patrols, neighborhood watch programs, lighting, prohibitions on consumption of alcohol, restricting automobile parking, short-term closures of problem areas, and limiting longer-term closures to the problem areas.

2. Hours and Duration of Restrictions: There are several dimensions to this consideration - the hours of closure on any given day (i.e., weekdays, weekends, holidays); change in hours based on the season; and the overall duration of the closure (i.e., How long will it stay in effect? Will it be periodically reviewed?).

Prior Commission actions illustrate the range of management measures the Commission has approved pursuant to the Coastal Act, depending on the facts in each case. Generally, times of closure of beach parking lots range from 8 pm in the winter to midnight and opening about one hour before sunrise. With respect to public beaches, the Commission has only rarely approved any closures. In a few exceptional cases where special circumstances existed, the Commission approved sunset to sunrise closures of some beach access facilities. Factors to be considered in reviewing hours and time-of-year closures include evidence of when the activities that give rise to public safety concerns occur, the amount of public use at particular times (e.g., weekdays, weekends, holidays, summer or winter, mornings or evenings), the availability of alternative parking or access opportunities nearby, and the hours of operation of other, similar public facilities in the same general area.

Many closure ordinances are permanent and impose use restrictions in perpetuity. Because circumstances and conditions change, the Commission has, in its recent actions, limited the duration of coastal permits for closures to a fixed period of time (e.g., 1, 2 or 5 years) with the possibility of subsequent extensions if circumstances warrant. The duration of a permit depends on the circumstances unique to each case. For example, a time-lock gate on a beach accessway was permitted on a trial basis for one year in Carlsbad. Similarly, an early evening parking lot closure was approved in San Diego for two years. At the end of that period the City requested and received a five year extension of its permit based on information (i.e., statistics) showing a significant reduction of crime associated with the use of the parking lot. By placing a limitation on the duration of the closure, a periodic review of the use restrictions is ensured. Periodic reviews offer an opportunity to review the facts to determine whether conditions have improved sufficiently to warrant an easing of the restrictions on public use.

3. Place: In addition to the temporal dimensions of the restriction on use, their spatial reach is also of concern. For example, if a public safety problem exists in a limited and defined geographic area, it may not be necessary or appropriate to impose use prohibitions on all similar facilities throughout the jurisdiction. This was the issue of concern raised by the Long Beach ordinance which prohibited all public use on all the beaches within the City's jurisdiction (i.e., nearly eleven miles of shoreline) despite the absence of any showing of public safety problems on all City beaches. Another example is the City of Coronado's proposed beach closure ordinance which

sought to close six tenths of a mile of beach at 10 pm because of criminal activity primarily concentrated in an area where fire rings are located. Discussions between Commission staff and City representatives led to an agreement limiting the closure to only that portion of the beach that is problematic (i.e., about 1/10 mile). The City subsequently modified its ordinance and, as a result, approximately one-half mile of beach will not be subject to the early closure (if approved by the Commission later during this meeting).

Efforts should be made to focus on the specific area or areas where the problems exist and to craft any closure or curfew ordinance accordingly. This approach avoids an overly broad application of beach use restrictions while addressing public safety problem. At the same time, difficulties in enforcement that may result from a complicated ordinance should be taken into account. Accordingly, it may be acceptable to subject a certain area (i.e., dry sandy beach landward of the wet sand) to a curfew even though it has no history of public safety problems because that is the most feasible way to enforce the ordinance and because doing otherwise would confuse the public about where they can and cannot go. Equally problematic is the situation where a broad closure ordinance is proposed due to lack of fiscal resources to patrol a beach area even though no public safety problems have been identified. Indeed, the rationale for the breadth of several recently enacted curfew ordinances has been represented to be that it is easier to close all the beaches at a given hour than to close them at different times. While the Commission should be open to these arguments as a basis for a broad closure, it should be recognized that enforcement of broad closures (i.e., all the beaches in a jurisdiction) also have cost and feasibility ramifications and alternatives should be considered.

4. Manner and Type of Use: A prohibition on all types of uses during times of closure are problematic. Distinctions between types of uses subject to restrictions are important. For example, fishing, jogging and walking on the wet sand and transiting the beach to get to the wet sand or to enter the water should be exempted from use restrictions in most areas. The greatest concern of law enforcement officials seems to involve the congregation of people after dark in certain locations on the beach or in parking lots whose behavior creates conditions that lead to vandalism or other types of crime and violence. One way to prevent or avoid this type of behavior is to close the problem areas during certain hours. Less intrusive on existing public access rights may be an ordinance that targets the uses that cause the problems. For example, camping on the beach by homeless persons seems to be another concern. Depending on the facts and circumstances of the situation, uses that may lend themselves to some degree of effective control include nighttime parking, stopping or the driving of cars in certain areas, camping, making fires in undesignated areas, barbecuing, picnicking, unlawful assemblies, and loitering.

An ordinance that prohibits the entry of cars into problematic beach parking lots after certain hours accompanied by physical barriers that block vehicular ingress but allow egress may well solve the problem. In this case, people could still walk through the parking area to get to the beach or leave the parking lot in their cars if they remain on the beach after the lot closes.

V. PROPOSED GUIDANCE:

The following guidance is applicable to the review of any legal action by a public agency, other than those actions exempt from Coastal Act review, which prohibits or substantially restricts public use of beaches and access to State waters. If the subject action includes the elements described below, no Coastal Act review would be required.

1. Findings: The action should be supported by a statement of facts and findings that explain the reasons why the action is being taken. Although it is not necessary to cite a list of statistics, a reasonable evidentiary basis is needed to establish the justification for the action limiting public access. The findings should also include a discussion of what alternatives to the prohibitions were considered and why they were not implemented.

2. Place: The geographic area to which the prohibition of public use applies should be specifically identified and should be limited to those beach areas with respect to which the governing body has identified public safety problems warranting the closure action. Considerations relating to enforceability and whether the boundaries of the areas to be closed are readily identifiable to the public can be taken into account. Contained or enclosed beach areas and other suitable areas where law enforcement is feasible, such as beach areas adjacent to or in close proximity to visitor serving commercial uses (i.e., hotels, restaurants, campgrounds), should be considered for longer hours of operation.

The important aspect of this element is that the responsible governing body carefully consider alternatives to sweeping closures of all beaches within its jurisdiction. This consideration is important in determining whether the restrictions on public access are reasonably related and responsive to the public safety problems or concerns which prompted the governing body to take the closure action.

3. Uses: Unless special circumstances warrant it, the prohibition of all public uses during the period of closure should be avoided. At the discretion of the responsible governing body, uses should be specified that are either prohibited or permitted. Whichever way the uses are identified, at a minimum, the following public uses should be allowed: a) Fishing by members of the public having in their possession a valid California fishing license; b) walking or jogging on the wet sand which is that portion of the beach that is wet as a result of the wash of waves or tidal action; and c) special events for which public use has been authorized by the appropriate governmental official. Consistent with fishing and walking or jogging on the wet sand, going to or coming from the wet sand by the most direct route available in any given location would also be permissible.

Actions relating to the closure of beach parking lots should include the installation of tire traps to enable vehicles to exit the lot after closure.

4. Time: As with the elements set forth above, the timing of beach closures can vary depending on the geographic area, the applicable circumstances, the day of the week, holidays, and the season. Hours of closure should be curtailed during periods of high public use (i.e., summer months, holidays and weekends) unless special public safety problems are associated with public use on these days. Given patterns of public use, it is important that variations in hours of operation be considered and that longer hours of use be provided, where possible, during peak use periods.

If any restrictions on public use of a beach are warranted, it is recommended

that hours of closure be limited to the period between 12 midnight and one hour before sunrise. However, if the appropriate governing body determines that public safety concerns warrant an earlier beach closure in the evening, the hour of closure may be lowered to 10 pm without Coastal Act review. An action closing a beach earlier than 10 pm or opening the beach later than one hour before sunrise requires review pursuant to the Coastal Act to determine if special circumstances exist to warrant more restrictive hours of operation.

The hours of closure of beach parking lots can vary, but closure no earlier than one hour after sunset and opening no later than one hour before sunrise would not need Coastal Act review. More restrictive hours may be approved after Coastal Act review depending on the circumstances.

5. Sunset provision: An action by a governing body to impose restrictions on the hours of public use of beaches or access to State waters should be limited in duration and should contain a specific sunset clause (i.e., 1, 2, or 3 years). This provision would require reenactment of a beach closure ordinance or other action on a regular basis thereby allowing public input and a reevaluation of current circumstances that may warrant a relaxation of the hours of closure. It should be clear that hours of operation can be adjusted at any time when circumstances warrant.

6. Notice: When a governing body takes an action to change the hours of operation of a beach, prior notice should be provided the Commission to enable its staff to submit comments for consideration. In any event, notice of any action taken to prohibit public use of a beach should be given to the Commission as soon as possible.

7. Procedure: If the elements set forth above are included in an ordinance or other action by the responsible governing body that limits public access to beaches and State waters or beach parking lots, the action will not be deemed a "development" for purposes of section 30106 of the Public Resources Code and no coastal permit will be required.

Review of the status of every jurisdiction's beach closure ordinance or other action restricting hours of beach or beach parking lot use will occur on a case by case basis. Commission staff will contact each governing agency to arrange for a mutually convenient schedule to meet and discuss the issues and determine what further action, if any, is appropriate. Pending this review, preexisting beach and beach parking lot closure ordinances or other actions will continue in effect, for purposes of the Coastal Act, until and unless the Commission takes legal action to the contrary.

CONCLUSION

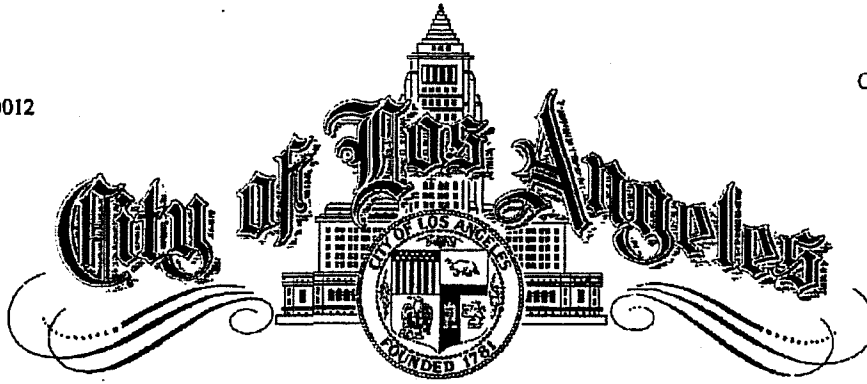
The approach and guidance suggested in this report offer a reasonable and efficient way to deal with the issues raised by the closure of beaches and beach parking lots. It addresses concerns about both public access and public safety and avoids costly and divisive arguments over questions of civil liberties, Constitutional rights, police powers and jurisdiction, and the relative rights of seaside residents and inland residents to use beaches that belong to all the people.

EXHIBIT 4

EXHIBIT 4

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CARMEN A. TRUTANICH
City Attorney

October 1, 2010

VIA U.S. MAIL & FAX (562) 590 5084

Andrew Willis
District Enforcement Analyst
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

RE: LAMC section 63.44(B)(14)(b)

Dear Mr. Willis:

We have considered your letters and accompanying documents regarding your investigation into the laws of the City of Los Angeles concerning beach hours.

Please be advised that LAMC section 63.44(B)(14)(b) is a duly-adopted ordinance and law of the City of Los Angeles. As such, the ordinance is not in need of a coastal development permit or any other written permission of the California Coastal Commission for its continued existence and enforcement. The City of Los Angeles will therefore not be applying for a coastal development permit from the Commission.

You would have the Commission exercise the powers of a super-legislature or court with powers to effectively veto or nullify the laws of Charter Cities. The Coastal Act simply cannot be interpreted that way. Indeed, your interpretation of the Coastal Act is contrary to the separation of powers defined by the Constitution of the State of California.

Andrew Willis, District Enforcement Analyst
RE: LAMC section 63.44(B)(14)(b)
October 1, 2010
Page 2

Additionally, a duly-adopted municipal ordinance or law regardless of its subject matter is not a "development" as that word is used in the Coastal Act. A "development" in the Coastal Act always refers to physical structures and things: buildings, walls, fences, etc.

If the Commission believes that City law violates state or federal law, the Commission has the same civil capacity as individuals and other legal entities to raise that issue in a judicial proceeding. But the Commission is without jurisdiction to adjudicate the merits of its own legal contentions about local law. Again, the Commission is not a court.

We trust that the concept of the democratic process is not completely lost on the Commission and its staff. Therefore, you are respectfully reminded that the Commission and/or its staff can engage the political process in an effort to persuade the City Council of the City of Los Angeles to change its law regarding beach hours or any other subject.


It has not escaped our notice that you have proceeded with your "investigation" into LAMC section 63.44(B)(14)(b) only *after* the City initiated an administrative mandate proceeding in the Superior Court to challenge the Commission's decision regarding overnight parking districts in Venice. If the City had not taken the Commission to court, the Commission and its staff would not now be investigating a law concerning beach hours which has existed in some form for more than three decades. The Commission obviously intends its investigation to harass the City into abandoning its litigation against the Commission. The ongoing investigation is totally unjustified, without any legal merit, and represents retaliation against the City of Los Angeles for exercising its constitutional right to seek redress in the court against the Commission's abuses of discretion. We therefore demand that the investigation be terminated forthwith. *You are requested to send us written confirmation of this termination by the end of business October 11, 2010.*

Andrew Willis, District Enforcement Analyst
RE: LAMC section 63.44(B)(14)(b)
October 1, 2010
Page 3

Please consult legal counsel about the matters discussed above. Your immediate attention to this matter is requested.

Very truly yours

CARMEN A. TRUTANICH, City Attorney

By: 
GERALD M. SATO
Deputy City Attorney

CAT:GMS:sf
(213) 473-6875

cc: Wyatt Sloan-Tribe, Deputy Attorney General
Bill Rosendahl, Member of the City Council, City of Los Angeles
Janice Hahn, Member of the City Council, City of Los Angeles
Jon Kirk Mukri, General Manager, Department of Recreation and Parks

EXHIBIT 5

EXHIBIT 5

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-6200



November 8, 2010

Gerald M. Sato
Deputy City Attorney
City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

Subject: Imposition of an ordinance establishing a beach curfew without the required coastal development permit

Dear Mr. Sato:

I am writing this letter in response to your October 1, 2010 letter to reiterate what my staff has already expressed regarding our desire to work with the City of Los Angeles to reach an amicable resolution to the issue of the City's imposition of a City beach curfew (via LAMC Section 63.44(B)(14)(b)) without the required coastal development permit. As you know, Commission staff has offered to work with the City to process the required coastal development permit in order to address the City's public safety and/or other concerns while still protecting and preserving public access to public beaches, as required by the Coastal Act. Instead, the City's position, as expressed in your letter, is to dispute the applicability of the Coastal Act in this matter.

You assert in your October 1 letter that imposition of the subject beach curfew ordinance does not require a coastal development permit because an ordinance is not development pursuant to the Coastal Act. You claim that "development" in the Coastal Act always refers to "physical structures and things: buildings, walls, fences, etc." Thus, you argue that in reviewing the beach curfew ordinance, which you assert does not constitute development, through the coastal development permit process, the Coastal Commission would be acting as "super legislature or court," inconsistent with the separation of powers defined by the Constitution of the State of California.

Contrary to the assertions in your October 1 letter, the term "development" in the Coastal Act is not limited to physical structures. The Court of Appeals has repeatedly rejected similar claims, most recently earlier this year. See Gualala Festivals Committee v. California Coastal Comm'n (2010) 183 Cal.App.4th 60, 68, review denied (June 9, 2010). "Development" is broadly defined by Section 30106 of the Coastal Act as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....[underlining added]

Consistent with this definition, the Coastal Commission routinely regulates development that does not involve physical structures, as it is clearly authorized to do, and the courts have routinely upheld this. See, e.g., California Coastal Comm'n v. Quanta Investment Co. (1980) 113 Cal.App.3d 579 (affirming the Commission's jurisdiction over conversion of an apartment complex into a stock cooperative); La Fe, Inc. v. County of Los Angeles (1999) 73 Cal. App. 4th 231 (affirming the Commission's jurisdiction over lot line adjustments); Gualala Festivals Committee, supra (affirming the Commission's jurisdiction over a proposed fireworks display). As a change in intensity of use of land and access to water, a beach curfew ordinance restricting public access certainly is development pursuant to the Coastal Act, and therefore, requires a coastal development permit. Our letter dated September 17, 2010, and its attachments documented some of the Commission's long history of reviewing access restrictions such as beach curfew ordinances.

Imposition of the beach curfew ordinance clearly constitutes development since it restricts public access to the sea. Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. The subject beach curfew ordinance lacks the required coastal development permit. Thus, far from acting as a "super-legislature or court," in notifying the City that its beach curfew ordinance requires a coastal development permit, the Commission is seeking to ensure protection of coastal resources by administering the permit program that state law requires it to implement. Nor do we agree with your contention that if the Commission were able to review the laws of charter cities, it would create a separation of power problem. Indeed, the fundamental structure of the Coastal Act (honored in countless cases over more than 30 years) gives the Commission review authority over local governments' general plans and zoning ordinances. See Chapter 6 of the Coastal Act (Cal. Pub. Res. Code ("PRC") §§ 30500 *et seq.*), and in particular sections 30512, 30513, and 30514 ("ordinances, regulations, and other actions may be amended by the

appropriate local government, but no such amendment shall take effect until it has been certified by the commission"), and PRC sections 30108.6 and 30108.5.¹

Since imposition of the beach curfew ordinance is properly subject to the permit requirements of the Coastal Act, as explained in the previous paragraph, it is unnecessary for the Commission to address this matter through the judicial or political process, avenues to resolution of this issue that your letter suggests the Commission consider. As you know from our prior communications, we are more than willing to work with you via the coastal development permit process to analyze the situation regarding what would be approvable under the relevant Coastal Act provisions. Furthermore, as explained herein, the Commission certainly has the statutory right and responsibility to enforce the permit requirements of the Coastal Act.

You assert in your letter that the Commission is requiring the City to obtain a coastal development permit for development the City has undertaken because the City and Commission are engaged in litigation over the issue of overnight parking districts in Venice. Although it is altogether unfortunate in terms of both of our staffs' time and resources that the permit process did not resolve that issue, despite both of our staffs agreeing to a proposed resolution of the matter, I assure you that the Commission staff's investigation of the instant matter is independent of the Venice overnight parking district dispute and is not intended, as you put it, to "harass the City into abandoning its litigation against the Commission." Again, our September 17, 2010 letter demonstrates the Commission's historical focus on access restrictions such as beach curfew ordinances.

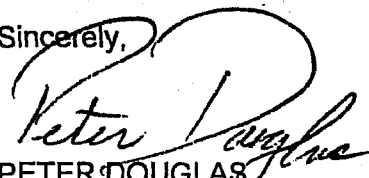
We cannot stress enough that the significance of the coastal resource affected by the subject beach curfew ordinance warrants a considerable effort by our agencies to work together to reach a mutually acceptable solution. Protection of public access in the Coastal Zone is among the highest priority policies of the Coastal Act; the Commission and local governments are mandated under Section 30210 of the Coastal Act to ensure that "...maximum access...and recreational opportunities shall be provided for all people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." As the population in coastal regions continues to grow, beaches and coastal parklands have become more popular and vital everywhere as visitor destinations for recreational use throughout the day, night, and year. Increasingly, coastal communities have experienced an intensification of conflicts between residents and visitors resulting in imposition of a variety of restrictions on public access to or use of public beaches and coastal public recreation areas. The contemporary situation demands the Commission take special care to address local actions pertaining to beach access.

¹ Similar arguments were also raised with respect to the Commission's predecessor's permitting authority (that it was an "invalid state intrusion into municipal affairs of chartered cities") after the passage of Proposition 20 (the predecessor to the Coastal Act) in 1972, and the courts rejected those arguments as well. See CEEED v. California Coastal Zoning Conservation Comm'n (1974) 43 Cal.App.3d 306, 320-324.

As you are no doubt aware, use of public beach access opportunities along a heavily urbanized coastline such as Los Angeles by its many residents (and visitors) for their recreational needs is intense. Any potential infringement upon these opportunities must be considered as a potentially serious threat to public access to the coast and addressed accordingly. We believe that through the coastal development permit process, the City's concerns can be addressed, and hours of use may be legally established for City beaches consistent with Coastal Act provisions. Should the City decide to pursue the coastal development permit route, Commission staff is immediately available for consultation. However, should the City take the position that no further action is required, or otherwise ignore the coastal development permit requirements of the Coastal Act, Commission staff will have no choice but to pursue formal enforcement action to resolve this matter. Please note that although we strongly prefer to resolve this matter through the coastal development permit process, Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person (defined in PRC section 30111 to include a "local government") or government agency has undertaken, or is threatening to undertake, any activity that requires a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Coastal Act section 30810 states that the Coastal Commission itself may also issue a cease and desist order.

We remain hopeful that an amicable resolution to this matter can be achieved and are committed to working with City staff to that end. I respectfully request your reply by November 23, 2010 with an indication of how the City intends to proceed. If you have any questions in the interim, please do not hesitate to contact Andrew Willis at (562) 590-5071 or me at (415) 590-5202.

Sincerely,



PETER DOUGLAS
Executive Director

cc: John Ainsworth, Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
N. Patrick Veasart, Enforcement Supervisor, Southern Districts, CCC
Andrew Willis, South Coast District Enforcement Analyst, CCC
Alex Helperin, Staff Counsel, CCC
Teresa Henry, South Coast District Manager, CCC
Gary Timm, Coastal Programs Manager, CCC
Councilman Bill Rosendahl, District 11, City of Los Angeles
Councilwoman Janice Hahn, District 15, City of Los Angeles

EXHIBIT 6

EXHIBIT 6

CALIFORNIA COASTAL COMMISSION

46 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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February 3, 2011

VIA FACSIMILE (213-473-6818) AND REGULAR MAIL

Gerald M. Sato
Deputy City Attorney
City Hall East
200 N. Main Street, Room 800
Los Angeles, CA 90012

Re: Los Angeles Municipal Code section 63.44(B)(14)(b)

Dear Mr. Sato,

The last letter in the exchange of correspondence between California Coastal Commission ("Commission") staff and you regarding the above-referenced Los Angeles Municipal Code section (the "Beach Curfew") was a November 8 letter from the Commission's Executive Director. Later that month, you indicated to our Executive Director that you intended to arrange for him to meet with your City Attorney to discuss this matter. However, Commission staff subsequently made several, unsuccessful attempts to reach you to follow up, and we have received no response. It therefore appears that no such meeting is to take place.

Given our apparent stalemate on this issue, and consistent with our Executive Director's statements in his November 8 letter, our Enforcement Division is currently preparing to take the appropriate next steps.

Pending resolution of this matter, this letter is intended to convey our position regarding the status of the Beach Curfew. As we explained in our initial letter (dated August 26, 2010), the adoption, implementation, and enforcement of such a curfew, which restricts access to the sea, constitutes "development" as that term is defined in the California Coastal Act (*see* Cal. Pub. Res. Code § 30106), and any such development must be authorized pursuant to the Coastal Act to be valid (*see id.* at § 30600). Because no such authorization has been granted, it is the position of the Commission's Legal Division that the Beach Curfew is currently of no legal force or effect.

Please contact Andrew Willis (562-590-5071) or me (at the number above) by February 11, 2011, if you would like to discuss an amicable resolution of this matter. And feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Helperin".

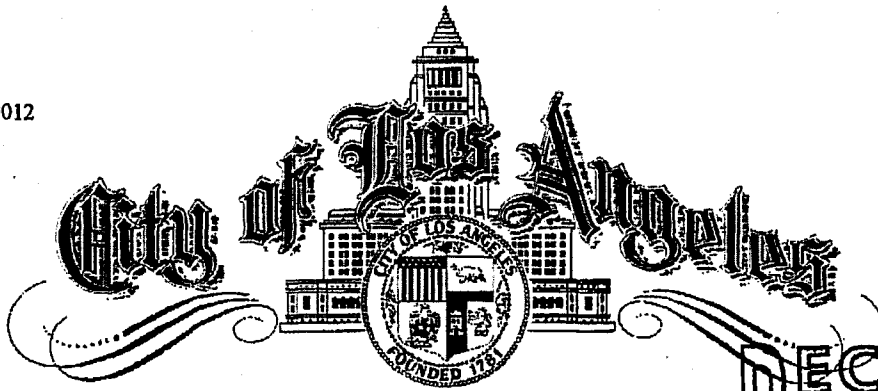
ALEX HELPERIN
Senior Staff Counsel
California Coastal Commission

EXHIBIT 7

EXHIBIT 7

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CARMEN A. TRUTANICH
City Attorney

February 9, 2011

RECEIVED
FEB 11 2011
CA COASTAL COMMISSION
LEGAL DIVISION

Alex Helperin, Esq.
Senior Staff Counsel
California Coastal Commission
48 Fremont Street, Suite 2000
San Francisco, California 94105-2219

BY FAX AND FIRST CLASS MAIL

RE: Your letter dated February 3, 2011

Dear Mr. Helperin

If there is a "stalemate" over LAMC section 63.44(B) (14) (b), the problem lies with the Commission, not the City. Your executive director has stated publicly that the Commission believes that cities may have reasonable restrictions upon the hours of beach access. But we are still waiting for the Commission to explain why it believes the City's existing law to be unreasonable, or to propose an alternative to the City's modest midnight-to-5 a.m. curfew. Neither your letter nor any other written communication from the Commission or its staff has ever bothered to explain why the City's law is not a reasonable exercise of the City's police powers and duties regarding public safety, risk management, and the prevention of nuisances. We cannot conceive of a greater waste of agency resources and the taxpayers' money than for the Commission to commence administrative enforcement proceedings without ever communicating a proposal to change the City's law. If the Commission itself has been unable to reach a consensus as to what it would find an acceptable beach curfew law, and has therefore never given its executive director real settlement authority, the City can hardly be blamed for not responding to proposals never made.

Otherwise, the City sees no reason to change its law. The legal position of the City remains unchanged from my letter dated October 1, 2010 to Mr. Willis. The City's law is not a "development" as that word is defined and used in the Coastal Act; we fully expect several pending lawsuits to result ultimately in the judicial repudiation of your interpretation. The City's law does not offend any right described in the Coastal Act or Article X section 4 of the California Constitution. The City's law is an exercise of police powers expressly reserved to local government by the Coastal Act itself and the California Constitution. The Legislature did not intend to require municipalities to obtain development permits for regulating the hours of

Alex Helperin, Esq.
Senior Staff Counsel
California Coastal Commission
February 9, 2011
Page 2

access to beaches. While the City would give serious consideration to a Commission proposal for a change in City law, and the reasons offered for the change, the City does not intend to apply to the Commission for a permit for existing section 63.44(B)(14)(b). If the Commission has a proposal, it should communicate it, as we do not believe that a court will ever require the City involuntarily to be without a reasonable beach curfew law.

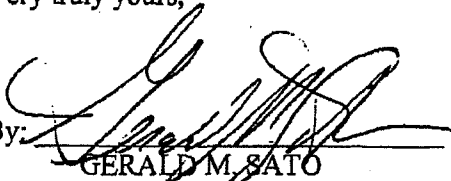
The City strongly disagrees with your statement on behalf of the commissioners that section 63.44(B) (14) (b) is "currently of no legal force and effect": We have two additional responses to that statement:

First, to take your statement at face value, it would appear that the Commission will not commence a "cease and desist" or any other administrative proceeding, as there would be no need to devote precious agency resources in attempting to kill a law which you have already pronounced dead.

Second, your statement is irresponsible and can only have the effect of encouraging disobedience to the City's law. You and everyone else should know that *the City will continue to enforce section 63.44(B) (14) (b) and every other law duly-adopted by the people of the City of Los Angeles*. Someday when you are a judge, you may have the opportunity to declare a law to be "currently of no legal force or effect;" for the time being, unless it is your actual intention to cause disruption of public safety, we respectfully suggest that you publicly set the record straight.

The City is interested only in adopting the best laws for the benefit of the people of the City of Los Angeles and the visiting public. We know that the Commission has approved beach and coastline curfew laws of other local governments; if the Commission has specific alternatives to the City's midnight-to-5 a.m. law, the Commission should authorize its director to communicate them so that a meaningful dialogue can finally commence.

Very truly yours,

By: 
GERALD M. SATO
Deputy City Attorney

GMS: sf
(213) 473-6875

cc: Wyatt Sloan-Tribe, Deputy Attorney General
Bill Rosendahl, Member of the City Council, City of Los Angeles
Janice Hahn, Member of the City Council, City of Los Angeles
Jon Kirk Mukri, General Manager, Department of Recreation and Parks

EXHIBIT 8

EXHIBIT 8

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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TDD (415) 597-5885



February 22, 2011

Gerald M. Sato
Deputy City Attorney
City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

Subject: Imposition of an ordinance establishing a beach curfew

Dear Mr. Sato:

While we are encouraged by the statements in your February 9, 2011 letter indicating that the City might give serious consideration to a Commission proposal for changes to the existing beach curfew ordinance and that the City may be receptive to meaningful dialogue to resolve this issue consensually (as is certainly our preference), I remind you that it is the coastal development permit process by which these kinds of discussions normally take place. As we have stated in the past, we are more than willing to work with you via the coastal development permit process to analyze the situation and seek consensus regarding what would be approvable under the relevant Coastal Act provisions. Protection of beach access is among the highest priority policies of the Coastal Act¹. Section 30210 charges the Commission, in partnership with local governments, with ensuring that "maximum access...and recreational opportunities shall be provided for all people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." At the same time, Section 30214 recognizes that the time, place, and manner in which public access is protected may need to be regulated based on the facts and circumstances in relation to each proposed restriction on public access, such as the subject beach curfew ordinance.

Over the last several months, Commission staff has made repeated efforts to work collaboratively with the City to reach an amicable resolution of this issue that protects both public safety and public rights of access to the coast. As you'll remember, I scheduled a meeting earlier this year with the City to discuss the potential for Commission staff recommending approval of the City's beach curfew ordinance, however, the City subsequently cancelled that meeting and has been unresponsive to my staff's requests to reschedule such a meeting. If the City is willing to engage in a discussion regarding the substantive issues raised by its curfew ordinance, Commission staff will work with the City to arrange for a mutually convenient schedule to meet and discuss the issue. However, the mechanism through which the Commission would ultimately review such an ordinance is the coastal development permit process.

¹ The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

Your February 9 letter suggests that the City has not engaged in negotiations with Commission staff because, as you assert, Commission staff has not provided alternatives to the City's beach curfew ordinance. Please note that to ensure that beach curfew ordinances are reasonable and appropriate to meet both public access and public safety concerns, and be in compliance with State law, ordinances must be developed and reviewed on a case by case basis through the coastal development permit process in consideration of the unique circumstances applicable to the particular area under review. Thus, although we are more than willing to explore alternatives with you, again, the appropriate means for the adoption of a beach curfew ordinance ultimately involves the coastal development permit process. That said, several months ago, Commission staff did provide the City with a general guidance document and an example of a permit the Commission approved for another Southern California city's beach curfew ordinance, to indicate to the City the general approach the Commission has taken relative to the review of beach curfew ordinances and in an attempt to spur a productive dialogue. In addition, after you had personally assured me you would facilitate a meeting with the appropriate City officials, the meeting was subsequently cancelled by the City.

The beach curfew guidance document provides for a procedure by which proposed beach curfew ordinances are reviewed and approved, if found to be consistent with the Coastal Act. The document underscores Staff's advice to the City that through the coastal development permit process a beach curfew ordinance for City beaches, including hours of use, may be legally established consistent with the Coastal Act. As the beach curfew guidance document and past coastal development permits authorizing curfews indicate, the key elements of ordinances that are consistent with the Coastal Act include:

- Presentation of credible evidence demonstrating the existence of a public safety problem warranting the imposition of a beach curfew.
- Evaluation of alternatives to a sweeping curfew and exclusion from the curfew of beach areas that could be excluded without compromising public safety. Efforts should be made to focus on the specific area or areas where problems exist and to craft any curfew ordinance accordingly.
- Exemption of the wet sand area along the ocean's edge, and of transiting beaches to reach wet sand, for fishing, walking, surfing, diving, and access to State waters, etc.
- Inclusion of a "sunset" clause or the guarantee of periodic review, including public hearings, on the need to continue the curfew in effect.
- Appropriate signage posted in conspicuous locations giving notice of the closing times and exceptions to the closure.

You ask in your February 9, 2011 letter what staff's concern is with the 12am-5am hours of the City's curfew. We understand your query, given the beach curfew guidance document states that hours of closure, if warranted, should be limited to the period between 12 midnight and one hour before sunrise. However, clearly there are numerous elements to a beach curfew ordinance (such as those noted above) in addition to hours of closure that must be incorporated to ensure its consistency with the Coastal Act. As noted in this letter and in previous correspondence, we are more than willing to meet with you to discuss specific provisions of the City's curfew ordinance, including hours of closure, provisions specifying areas subject to the curfew, exemptions to the curfew for access to State waters, and appropriate signage.

We feel that an amicable resolution to this issue is achievable and see no need to repeat in detail Commission staff's position on the constitutional and jurisdictional issues over which we clearly disagree. As we explained in our November 8, 2010 letter, it remains staff's position that imposition of the beach curfew ordinance clearly constitutes development since it restricts public access to the sea. Development as defined under the Coastal Act, section 30106, is a broad term of art and specifically includes a variety of "nonphysical" actions such as subdivisions of land, and also specifically includes in its definition "changes in the intensity of use of water or of access thereto". The Coastal Act definition of "development" was intentionally drafted in broad language in recognition of the reality that many activities that do not constitute physical development potentially have a significant impact on important coastal resources (e.g., public access). Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. The subject beach curfew ordinance lacks the required coastal development permit. The City is not exempt from these permit requirements of State law and the Commission has the statutory mandate to enforce the law.

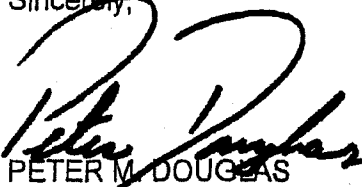
Your February 9 letter mischaracterizes or misconstrues several points from our staff counsel's February 3 letter. For the record, our counsel neither conveyed the position of the Commissioners, as you suggested, nor "declared" your ordinance to be of no force or effect. He clearly stated that he was conveying the position of Commission staff that the ordinance is not legal or enforceable because it lacks necessary approval under State law. Your February 9 letter also suggests that the Commission should not need to take action to enforce the Coastal Act's permit requirements if Commission staff's position is that the ordinance is of no force or effect. However, your letter goes on to state that the City will continue to enforce the beach curfew ordinance, and it is precisely for that reason that Commission staff is now compelled to commence enforcement proceedings to ensure compliance with the permit requirements of the Coastal Act.

As we have stated many times, the Commission does not wish to see taxpayer monies wasted on legal action to ensure compliance with State law. Unfortunately, given the City's uncooperative position we are left little choice. We can avoid such law enforcement action if the City is willing to meet with us to discuss the steps we think are necessary to bring the City's beach curfew ordinance into compliance with the Coastal Act. The Commission and the City share a common goal in protecting public beach access while

City of Los Angeles
February 22, 2011
Page 4 of 4

ensuring public safety. We look forward to hearing from you by March 4, 2011 to schedule a meeting to discuss amicable resolution of this matter that includes balancing public safety with the public's Constitutional and statutory rights of access to beaches and State waters. If you have any questions in the interim, please do not hesitate to contact Andrew Willis at (562) 590-5071.

Sincerely,



PETER M. DOUGLAS
Executive Director

cc: John Ainsworth, Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
N. Patrick Veesart, Enforcement Supervisor, Southern Districts, CCC
Alex Helperin, Staff Counsel, CCC
Teresa Henry, South Coast District Manager, CCC
Gary Timm, Coastal Programs Manager, CCC
Andrew Willis, South Coast District Enforcement Analyst, CCC
Councilman Bill Rosendahl, District 11, City of Los Angeles
Councilwoman Janice Hahn, District 15, City of Los Angeles

EXHIBIT 9

EXHIBIT 9

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CARMEN A. TRUTANICH
City Attorney

March 4, 2011

Peter M. Douglas
Executive Director
California Coastal Commission
45 Fremont St., suite 2000
San Francisco, CA 94105-2219

RE: LAMC section 63.44(B) (14) (b)

Dear Mr. Douglas

We have reviewed your letter dated February 22, 2011, received on February 25, 2011, three pages single-spaced, and still no proposal from the Commission for a change in the law of the City of Los Angeles, still no specific criticisms of LAMC section 63.44(B) (14) (b). More than six months have passed since your staff advised us that it was conducting an investigation into the City's 1988 public safety ordinance concerning beach hours. You rejected our demand to terminate the investigation, and all these months later your investigation has produced nothing more than your original complaint that the California Coastal Commission never issued a coastal development permit approving LAMC section 63.44(B) (14) (b).

We cannot responsibly justify the time it would take to point out to you every inaccuracy of fact and mischaracterization of the City's position saturating your letter. We reject your attempt to use correspondence to "memorialize" events that have never occurred, and to attribute to the City positions never taken and statements never made. It would be unethical conduct warranting discipline for an attorney to engage in such sharp practices. We realize that the constraints of our profession do not govern your letters, as you are not a practicing attorney.

I will point out that you did *not* in fact schedule a meeting earlier this year or at any other time "to discuss the potential for Commission staff recommending approval of the City's beach curfew ordinance", thus, the City could not have and did not cancel such a meeting. But frankly, we have learned that, while such a meeting might have revealed your personal recommendations,

Peter M. Douglas
Executive Director
California Coastal Commission
March 4, 2011
Page 2

those views have not proven instrumental because they are not shared by your Commission. As you and I have both previously acknowledged, the City has been down this road with you twice before in extensive and allegedly cooperative and costly proceedings pertaining to the Venice overnight parking district. We cannot repeat such an expensive, time demanding, and ultimately futile experience. Our interest in talking with you would be enhanced if you can show us that you're actually speaking for the Commission. Without this, we have learned that we are simply bargaining against ourselves into an ever-downward spiral of unreasonable demands.

There is nothing new that I can add to the City's legal position set forth in my prior correspondence, and in the City's pleadings in the Venice OPD and Del Rey Lagoon PPD Superior Court cases. Your attorney, Alex Helperin, was recently quoted in *The Argonaut* of February 17, 2011 as saying that the City "refuses to recognize our jurisdiction" over beach curfew laws. He has it exactly right. As I stated in my letter to Mr. Helperin dated February 9, 2011, "While the City would give serious consideration to a Commission proposal for a change in City law, and the reasons offered for the change, the City does not intend to apply to the Commission for a permit for existing section 63.44(B)(14)(b)."

We cannot condone the waste of the taxpayers' money and drain upon the Commission's budget that would be occasioned by a decision by you or the commissioners to initiate an administrative proceeding against the City over LAMC section 63.44(B) (14) (b). At best, you and/or the commissioners may one day issue an inappropriate administrative order which the courts will reject. The City has consistently reminded you that:

1. LAMC section 63.44(B) (14) (b) is not a "development" as that word is used in the Coastal Act. Your construction of "development" is nonsensical as that word appears and is used throughout the Act.

2. LAMC section 63.44(B) (14) (b) is an exercise of police power expressly reserved to cities by the Coastal Act at Public Resources Code section 30004(a) and (b), as well as the state constitution's provisions defining the powers of Charter Cities. If the City's law is otherwise constitutional, it is beyond the Commission's development permit jurisdiction.

3. The City's ordinance as a matter of law cannot violate Article X section 4 of the California Constitution, which does *not*, as you seem to believe, create a presumptive unlimited public right to use the coastline for recreational purposes, but merely codifies the common law public trust doctrine, and therefore only prohibits *private* interferences or government actions which facilitate *private* interferences with access to navigable waters.

4. The Commission is without jurisdiction to declare void any duly-adopted City ordinance; under Article VI §1 of the California Constitution, such power is reserved exclusively to the courts.

Peter M. Douglas
Executive Director
California Coastal Commission
March 4, 2011
Page 3

5. To the extent the Commission can issue a valid administrative order mandating the City of Los Angeles to incur additional costs and expense for, by way of example, the increased costs of public safety and risk management caused by a change in the beach curfew laws, under Article XIII B sections 6(a) and (b), the Commission and the State of California must first make provision for reimbursing the City of Los Angeles for those increased costs and expenses.

6. We would also note that to the extent the Commission can require municipalities to take actions which will have a significant impact on the environment, the Commission must first comply with the review process mandated by the California Environmental Quality Act. While there is no case authority supporting your view that a beach curfew law is a "development" under the Coastal Act, the authority is legion that the impacts upon the environment contemplated by your proposed governmental act to materially increase the public's middle-of-the-night access to the City's beach coastline for recreational and commercial purposes would constitute a "project" under CEQA.

7. It is unavoidable that a court would treat any petition by the Commission to enforce an administrative order against LAMC section 63.44(B) (14) (b) as a "facial" challenge to the ordinance. Inasmuch as the ordinance is more than twenty years old, and actually replaced an ordinance enacted many more decades before, your petition will be rejected by the court for laches and limitation of actions.

Your letter references a "beach curfew guidance document" which "provides for a procedure by which proposed beach curfew ordinances are reviewed and approved, if found to be consistent with the Coastal Act." It is our understanding that the document to which you refer sets forth guidelines that you proposed to the Commission decades ago which the Commission never approved. Thus, these "guidelines" shed no usable light on how or whether the Commission believes its discretion is limited regarding beach curfews. Under well-settled principles of administrative law, if an agency does not define the limits of its discretion, then an exercise of totally "unfettered discretion" by that agency is presumptively an abuse of discretion, and not enforceable by the courts.

Perhaps such beach curfew guidelines, if they were actually adopted by the Commission through its rulemaking authority, might be helpful to the discussion. You have thus far ignored the editorial the Los Angeles Times of November 23, 2010 recommending an alternative to selective enforcement proceedings against individual cities:

The commission has tried this kind of authoritarian approach before and was rebuffed. A smarter approach would be to call a joint meeting of the affected cities to produce guidelines for curfews that prevent crime while ensuring that beach towns aren't abusing their authority.

Peter M. Douglas
Executive Director
California Coastal Commission
March 4, 2011
Page 4

Surely the Commission's money would be better invested in organizing such a meeting than in selective administrative enforcement actions against individual cities.

Judicial rulings which will consider the scope of the Commission's development permit jurisdiction are relatively imminent. Therefore, an entirely new and costly administrative proceeding over this issue would serve no purpose other than to feed a few Commissioners' appetites for political show trials and parochial bashing of the City of Los Angeles.

The will of the people of the City of Los Angeles is expressed in the City's laws adopted by their democratically-elected representatives and by referendum. The attack you've threatened against LAMC section 63.44(b) (14) (b), in which un-elected members of a commission will purport to nullify a City law, is therefore more than a challenge to a particular land use regulation, it is an assault on the principles and practices of our representative government. Please be assured that we will defend the City's laws and lawmaking process vigorously. While the City did not start this fight, we certainly intend to finish it. At all times, we will be guided by the law and the public safety interests of the residents we are honored to represent.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By: 

GERALD M. SATO
Deputy City Attorney

GMS: sf
(213) 473-6875

cc: Wyatt Sloan-Tribe, Deputy Attorney General
Christina B. Arndt, Supervising Deputy Attorney General
Janice Hahn, Member of the City Council of Los Angeles
Bill Rosendahl, Member of the City Council of Los Angeles
Jon Kirk Mukri, General Manager, Department of Recreation and Parks

EXHIBIT 10

EXHIBIT 10

CALIFORNIA COASTAL COMMISSION

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



April 9, 2014

Kevin Regan, Assistant General Manager Operations Branch
City of Los Angeles
Department of Recreation and Parks
221 N. Figueroa St., Suite 1550
Los Angeles, CA 90012

Subject: City of Los Angeles beach curfew

Dear Mr. Regan:

As you'll no doubt remember, Commission and City staff have had numerous and often productive discussions concerning the City of Los Angeles's beach curfew, which is codified in City of Los Angeles Municipal Code Section 63.44(B)(14)(b). The Commission and the City share a common goal in protecting public beach access while ensuring public safety, and we have made every effort to work with the City Attorney's office, Department of Recreation and Parks, and police department to achieve a mutually acceptable resolution of the curfew issue that addresses both public safety and public access to the coast through the coastal development permit process. We continue to be hopeful that we can resolve this matter amicably and conclusively through the coastal development permit process and, to that end, we wish to restart our discussions as soon as possible to ensure that the public access requirements of the Coastal Act¹ are met.

Protection of beach access is among the highest priority policies of the Coastal Act. The significance of the coastal resource affected by the beach curfew ordinance thus warrants considerable effort by our agencies to work together to reach a mutually acceptable solution. As California's population continues to grow, beaches and coastal parklands have become more highly sought visitor destinations for recreational use throughout the year, both day and night. As you know, in this particular instance the community is both vocal and passionate about the protections the Coastal Act provides for protecting public access to the coast. The spotlight on this situation, and the influx of information that accompanies such attention, has helped inform Commission staff's continuing evaluation of the situation and appropriate options to address the City's public safety concerns while still protecting and preserving the public access to the coast that is required by the Coastal Act and the public has called for.

As we have stated in the past, we are more than willing to work with you via the City and Commission's coastal development permit process to analyze the situation and seek solutions that could be approvable under the relevant Coastal Act provisions. The access policies of the

¹ The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

Coastal Act were enacted by the Legislature to advance the goals in Article X of the California Constitution. Specifically, the access policies of Section 30210 of the Coastal Act provide that:

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, and the need to protect public rights, rights of private property owners, and natural resource areas from over use. (emphasis added)

At the same time, Section 30214 recognizes that the time, place, and manner in which public access is protected may need to be regulated based on the facts and circumstances in relation to each proposed restriction on public access, such as the subject beach curfew ordinance.

We understand and appreciate that the subject restriction on public access is intended to address public safety issues. However, such limitations on public access to the coast require thorough review and authorization through the coastal development permitting process. As we explained in earlier correspondence, imposition of the beach curfew ordinance clearly constitutes "development" under the Coastal Act, since it restricts public access to the coast. Development as defined under the Coastal Act, Section 30106, is a broad term of art that specifically includes a variety of "nonphysical" actions such as subdivisions of land, and also specifically includes in its definition "changes in the intensity of use of water or of access thereto." The Coastal Act definition of "development" was intentionally drafted in broad language in recognition of the reality that many activities that do not constitute physical development potentially have a significant impact on important coastal resources (e.g., public access). Pursuant to Section 30600(a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. As you are aware, the subject beach curfew ordinance lacks the required coastal development permits from the City and the Commission.

The Commission has successfully worked with a number of local governments, in the context of the coastal development permitting process, to achieve mutually acceptable resolutions that protect both public safety and public access to beaches, as required by the Coastal Act. To assist in our discussions here, Commission staff provided the City with a Beach Curfew guidance document (attached) and an example of a permit the Commission approved for another Southern California city's beach curfew ordinance, to indicate to the City the general approach the Commission has taken relative to the review of beach curfew ordinances and in an attempt to spur a productive dialogue.

Please note, however, that although the Commission preliminarily adopted the Beach Curfew guidance document (preliminarily adopted by the Commission in 1994), thus providing guidance to staff regarding factors that the Commission is likely to consider when reviewing coastal development permit applications for beach curfew ordinances, the Coastal Act still requires a permit process to evaluate conformance with the Coastal Act policies.

As the beach curfew guidance document and past coastal development permits authorizing curfews indicate, the key elements of ordinances that have been found to be consistent with the Coastal Act include:

- Presentation of credible evidence demonstrating the existence of a public safety problem warranting the imposition of a beach curfew.
- Evaluation of alternatives to a sweeping curfew and exclusion from the curfew of beach areas that could be excluded without compromising public safety. Efforts should be made to focus on the specific area or areas where problems exist and to craft any curfew ordinance accordingly.
- Since there are State waters subject to the California Constitution, there should be an exemption from the curfew of the wet sand area along the ocean's edge, and of transiting beaches to reach wet sand, for fishing, walking, surfing, diving, and access to State waters, etc.
- Inclusion of a "sunset" clause or the guarantee of periodic review, including public hearings, on the need to continue the curfew in effect.
- Appropriate signage posted in conspicuous locations giving notice of the closing times and exceptions to the closure.

Clearly there are numerous elements to a beach curfew ordinance (such as those noted above) in addition to hours of closure that must be incorporated into a beach curfew ordinance to ensure its consistency with the Coastal Act. On the narrow point of hours of closure though, given the beach curfew guidance document states that hours of closure, if warranted, should be limited to the period between 12 midnight and one hour before sunrise, staff is willing to support establishment of a 12 midnight to 5am curfew through the coastal development permit process, if certain provisions are included, including that the curfew is limited to specific locations in the City that warrant such a temporary closure pursuant to the standards noted above, and, in all areas, there are opportunities to access State waters during closure hours. We are more than willing to meet with you to continue to discuss specific provisions of the City's curfew ordinance, including hours of closure, provisions specifying areas subject to the curfew, exemptions to the curfew for access to State waters, and appropriate signage.

We would like to schedule a meeting to re-start discussions regarding this matter. Our goal is amicable resolution of this matter that includes balancing public safety with the public's Constitutional and statutory rights of access to beaches and State waters. To facilitate a prompt conclusion of this matter, please contact me by April 25, 2014 to schedule a meeting to discuss next steps in the coastal development permitting process.

Again, we were heartened by the collaborative discussions our staffs engaged in in the recent past and feel with renewed collaboration we can ultimately reach a resolution that is consistent

City of Los Angeles
April 9, 2014
Page 4 of 4

with the coastal access protection policies of the Coastal Act, and which the Coastal Commission, the public, and City can similarly support.

Sincerely,



Andrew Willis
Enforcement Analyst

cc: Office of Councilmember Mike Bonin
John Ainsworth, Senior Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
Alex Helperin, Senior Staff Counsel, CCC

Encl: Beach curfew guidance document

EXHIBIT D

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
301 East Ocean Boulevard, Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



Th14a

Filed:	03/11/2019
180th Day:	09/07/2019
Staff:	E. Stevens - LB
Staff Report:	03/28/2019
Hearing Date:	04/11/2019

STAFF REPORT: REGULAR CALENDAR

Application No.:	5-18-1082
Applicant:	City of Los Angeles, Department of Recreation and Parks
Location:	1800 Ocean Front Walk, Venice Pier, Los Angeles, Los Angeles County (APN: 103-5A145-82, 422-5012-900)
Project Description:	Rehabilitation of the Venice Pier including replacement of the 157 ft. long pier approach structure, structural repairs to 39 concrete piles and 155 cap beams, deck surface and soffit repairs, and removal and replacement of existing utilities.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The primary issues raised by this project relate to the protection of public access and water quality. The City has proposed to fully or partially close the public pier during certain phases of the pier rehabilitation in order to maintain emergency access to any portions of the pier that remain open during construction and to allow for a safe work area and a safe access route between the work area and the material storage area at the terminus of the pier. The proposed partial and full closure of the pier would result in a major public access impact to this important coastal recreation destination. In addition, the rehabilitation of the pier may result in potential adverse effects to surrounding water quality due to disturbance from construction equipment, materials, and/or debris and temporary impacts to native marine communities that have formed around the existing piles.

To address these potential adverse impacts, Special Condition 2 requires that the City undertake construction consistent with the project's Public Access Plan. In addition, Special Condition 1 requires that, unless the Executive Director determines that no amendment is legally required, the City must return to the Commission for an amendment to this permit if work is not completed prior to Memorial Day weekend in 2020 (May 24, 2020) so that development activity will not impede coastal access during peak season. Furthermore, Special Condition 3 requires construction activities to adhere to best management practices (BMPs) to protect water quality and the marine environment. Special Condition 4 also requires that native marine animals found in the proposed disturbance area be relocated during site preparation and prior to any demolition. Special Condition 5 requires the applicant to comply with requirements imposed by other agencies. Special Condition 6 states that any future improvements would require a permit amendment or a new coastal development permit to allow for careful review of development at this site. In addition, Special Condition 7 is imposed, which requires the applicant to assume the risks of injury and damage from coastal hazards. Special Condition 8 requires the applicant to conduct eelgrass surveys of the project area prior to the start of construction consistent with the California Eelgrass Mitigation Policy.

Therefore, as conditioned, the project will be consistent with the public access and visual resource protection policies of Chapter 3 of the Coastal Act and the certified Venice LUP, and no impacts to coastal resources are anticipated.

Commission staff recommends approval of coastal development permit application no. 5-18-1082 as conditioned.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- [Exhibit No. 1 – Project Location](#)
- [Exhibit No. 2 – Site Plan](#)
- [Exhibit No. 3 – Pile Repair Plan](#)
- [Exhibit No. 4 – Cap Beam Repair Plan](#)
- [Exhibit No. 5 – Public Access Plan](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-18-1082 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Scope and Term of Permit Approval.** No development authorized by this coastal development permit shall be carried out after Memorial Day weekend 2020 (May 24, 2020). If development authorized by this coastal development permit is not completed prior to Memorial Day weekend 2020 (May 24, 2020), the applicant shall apply for an amendment to this coastal development permit, unless the Executive Director determines that no additional amendment is legally required.
- 2. Public Access Plan.** By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the pier, adjacent beaches, and public parking lots resulting from construction activities. Public access to the pier shall be provided consistent with the Public Access Plan submitted to the Commission on March 22, 2019 ([Exhibit 5](#)).

The permittee shall undertake the development in accordance with the approved Public Access Plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the plan 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. Water Quality - Construction Responsibilities and Debris Removal

- a. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- b. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
- c. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- d. Machinery or construction materials not essential for project improvements will not be allowed at any time in the intertidal zone;
- e. If turbid conditions are generated during construction a silt curtain will be utilized to control turbidity;
- f. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;

- g. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;
 - h. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - i. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - j. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - k. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - l. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
 - m. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - n. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
 - o. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity; and
 - p. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- 4. Protection of Marine Resources.** In order to minimize adverse environmental impacts and the unpermitted deposition, spill or discharge of any liquid or solid into the ocean, the permittee shall implement the following demolition, staging, and construction best management practices:
- a. No pile driving equipment (e.g., impact hammers, vibratory hammers or any other pile driving hammers) shall be utilized.

- b. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized.
- c. Prior to demolition, and during site preparation mollusks (clams, snails, etc.), echinoderms (sea stars, urchins, sea cucumbers), arthropods (crabs, etc.) and other native marine animals found at the project site shall be relocated to another part of the nearshore area when possible.
- d. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- e. Netting, sandbags, tarps and/or other forms of barriers shall be installed between the water and work areas and equipment storage areas to prevent any unpermitted material from entering the sea.
- f. Staging and storage of construction machinery and storage of debris shall not take place on any beach.
- g. The storage or stockpiling of soil, silt, other organic or earthen materials, or any materials and chemicals related to the construction shall not occur where such materials/chemicals could pass into the ocean. Stockpiled fill shall be stabilized with geofabric covers or other appropriate cover.
- h. Spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible. Disposal within the coastal zone shall require a coastal development permit.
- i. Construction vehicles operating at the project site shall be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles shall be serviced immediately. Equipment and machinery shall be serviced, maintained and washed only in confined areas specifically designed to control runoff and prevent discharges into the ocean. Thinners, oils or solvents shall not be discharged into sanitary or storm sewer systems.
- j. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than fifty feet away from all storm drains, open ditches and surface waters.
- k. In the event that lead-contaminated soils or other toxins or contaminated material are discovered on the site, such matter shall be stockpiled and transported off-site only in accordance with Department of Toxic Substances Control (DTSC) rules and/or Regional Water Quality Control Board (RWQCB) regulations.
- l. At the end of the construction period, the permittee shall inspect the project area and ensure that no debris, trash or construction material has been left on the shore or in the water, and that the project has not created any hazard to navigation.

The permittee shall include the requirements of this condition on all plans and contracts issued for the project. The permittee shall implement and carry out the project staging and construction plan during all demolition, staging, and construction activities.

- 5. Conformance with the Requirements of Resource Agencies.** The City agrees, through the acceptance of this permit, to comply with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment.
- 6. Future Uses and Improvements.** This approval is limited to the uses and development specifically described in the project description, exhibits, and related findings contained in Coastal Development Permit 5-18-1082. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by Coastal Development Permit 5-18-1082. Accordingly, any future improvements to the structure authorized by this permit (including a change of use or intensification of use) shall require an amendment to Coastal Development Permit 5-18-1082 from the Commission or shall require an additional coastal development permit from the Commission.
- 7. Assumption of Risk, Waiver of Liability and Indemnity.** BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant acknowledges and agrees: (i) that the site may be subject to hazards, including but not limited to storms, flooding, landslide, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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. 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.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION AND LOCATION

The applicant, the City of Los Angeles Department of Recreation and Parks, is requesting approval for rehabilitation of the Venice Beach public pier, located at the seaward terminus of Washington Boulevard on Venice Beach ([Exhibit 1](#)). The proposed work is needed to address structural and seismic stability issues. The proposed project includes replacement of the 157 ft. long pier approach structure, structural repairs to 39 concrete piles and 155 cap beams, deck surface and soffit repairs, and removal and replacement of existing utilities. No new lighting on the pier is proposed with this application ([Exhibits 2 - 4](#)). A 2017 pier safety report commission by the City found that the portions of the pier piles located underwater were in satisfactory condition (Ref: Pier Assessment Report). Therefore, all work will be limited to the portions of the pier located above the water level.

The project application describes the proposed repairs as follows:

“The damaged concrete piles will be repaired by encasing them in fiberglass jackets filled with epoxy or in simple covers. Before encasement, unsound concrete and non-concrete materials will be removed, the piles will be cleaned and, if necessary, reinforced with new steel rods.

5-18-1082 (Venice Pier Rehabilitation Project)

Cap beams repair would involve the removal and replacement of damaged concrete, the replacement of damaged and corroded steel rods, as well as filling existing cracks with epoxy.

Deck and soffit repairs would involve removal and replacement of damaged concrete.

Construction of a temporary metal and wood scaffolding beneath the pier will prevent debris from falling into the water during the repair.

...repair of the structure damaged by the recent fire includes removal and replacement in kind of the approach structure. Stringers and decking damaged by the fire will be removed and replaced, as well as the concrete slab. The guardrail installed after the fire will be temporarily removed and reinstalled.”

The Pier is 1,310 ft. long and 16 ft. wide, supported by 157 vertical and battered 24 in. diameter hollow concrete piles, ranging in length of approximately 35-80 ft. Twelve platforms are located on the pier (six on each side). Platform 1 is used as a Life Guard Station, manned by personnel from the Los Angeles County Department of Beaches and Harbors. Platforms 2 through 12 are individual fishing stations that jut out on alternating sides of the pier. At the end of the pier is a 120 ft. diameter round platform. The outer end of the pier is 27 ft. above mean lower low water (MLLW) in ocean depth up to 23 ft. MLLW.

The pier is currently closed to the public daily from 2 AM to 5 AM. The City’s practice to close the pier between 2 AM and 5 AM daily was instituted after the adoption of the Coastal Act, has not been approved by the Commission, and therefore constitutes unpermitted development, as described in more detail below. The daily pier closure and curfew enacted on this and other Los Angeles City beaches represent a change in the intensity of use of the public areas and change of access to the coast and therefore require that the City issue its own coastal development permit (CDP) and that the City apply for a CDP from the Commission. Commission staff notified the City that a beach curfew is development that requires a coastal development permit and expressed our concerns with such curfews, including that such curfews limit recreational activities that are much needed in this densely populated area. Staff has worked extensively with the City to bring its beach operation policies into compliance with the Coastal Act, namely through ensuring that maximum public access to the coast is available. Parallel to these efforts, private individuals initiated litigation to address the City’s beach curfew. In 2018, as an outcome of the litigation, which requires that the curfew be evaluated through the coastal development permit process, the City approved a CDP for the beach curfew which was appealed to the Commission (Ref: Appeal No. A-5-CLA-18-0011). However, the Commission has not yet acted on the appeal, as the City has not yet submitted a dual permit application for the Commission CDP. It is staff’s understanding that the City intends to submit the dual permit application and has requested that the Commission act on the pending appeal concurrently with the dual permit application at a future date.

Venice Pier History

The pier was constructed in 1963 under an agreement between the City of Los Angeles and the California Department of Fish and Game. In 1986, the pier was closed to the public because of deterioration and unsafe conditions. In 1996, the Commission approved a CDP for substantial

restoration of the pier and to upgrade the public restrooms on the pier to meet Americans with Disabilities Act standards (CDP No. 5-95-292). A Special Condition of CDP No. 5-95-292 mandated that free unobstructed public access and recreational fishing access to and upon the Venice Pier be provided and maintained by the City, with only temporary limitations necessitated by unsafe conditions resulting from waves, weather, or required maintenance activities. The Venice Pier re-opened in 1996 at the end of construction activities. On December 21, 2005, a platform for bathrooms near the end of the pier collapsed into the ocean during high surf. This platform was supported by 9 vertical pre-stressed concrete piles with 2 ft. diameters and separated from the rest of pier by an expansion joint. The failed piles and bathroom platform was never replaced. In June 2018, the approach structure of the Pier caught on fire. The fire burned about 12 ft. of the underlying timber structure, the side guardrails and the electrical conduits. The Commission subsequently approved temporary repairs to address the fire damage so that the pier could remain open (Emergency Waiver No. G-5-18-0003-W).

Jurisdiction

The area affected by the proposed project is located in both the dual permit jurisdiction and original jurisdiction areas of the coastal zone. The Commission's original jurisdiction is any area located seaward of the MHTL and the portion of the pier located landward of the MHTL is in the dual jurisdiction. The City of Los Angeles Bureau of Engineering approved Local CDP No. 17-05 for both the proposed pier repairs, which was not appealed during the 20-day Commission appeal period. The standard of review for this permit is the Chapter 3 policies of the Coastal Act, with the certified Venice LUP used as guidance. This CDP, as conditioned, approves all of the proposed improvements in both the dual jurisdiction and original jurisdiction areas of the coastal zone.

B. PUBLIC ACCESS AND RECREATION

Coastal Act section 30210 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 people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30211 states:

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

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act section 30252 states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4)providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The certified LUP sets forth the following policies for the public beach area and public pier where the proposed project is located.

POLICY GROUP III. Recreation & Visitor-Serving Facilities...

Recreational Opportunities

Policy III. A. 1. General. *New recreational opportunities should be provided, and existing recreational areas, shown on Exhibits 19a through 21b, shall be protected, maintained and enhanced for a variety of recreational opportunities for both residents and visitors, including passive recreational and educational activities, as well as active recreational uses.*

a. Recreation and visitor-serving facilities shall be encouraged, provided they retain the existing character and housing opportunities of the area, and provided there is sufficient infrastructure capacity to service such facilities.

b. Acquisition, expansion and improvement of parks and facilities throughout the Venice Coastal Zone shall be encouraged and accelerated, subject to the availability of funds.

c. Where feasible and compatible with the surrounding neighborhood, recreational uses shall be located in conjunction with other new public facilities, such as public parking lots.

d. Recreation facilities shall be refurbished and constructed to maximize recreational opportunities.

e. Beach Hours: Public access and recreational opportunities on the sandy beach shall be protected and encouraged. Any limitations to public access, including changes to the hours of operation, shall be subject to a coastal development permit.

Policy III. B. 2. Venice Pier. The Venice Pier has been restored and open since November 1997. The pier shall remain open to the public. Free unobstructed public access and recreational fishing access shall be provided and maintained to and upon the Venice Pier, subject only to temporary limitations for public safety necessitated by unsafe conditions (See Coastal Commission Coastal Development Permit 5-95-293).

Policy III. D. 4. Boating and Recreational Use of Pacific Ocean and Adjacent Beaches.

The Pacific Ocean and adjacent beaches may be used for boating; however, no boat launching will be permitted from sandy beaches. Swimming, surfing, water sports, picnicking and sunbathing are encouraged on the beaches. Fishing from the piers and jetty shall be allowed.

The proposed project is located over the ocean and on Venice Beach between the water, Ocean Front Walk, a public boardwalk, and Speedway, the first public road approximately one block inland of Ocean front Walk ([Exhibit 1](#)). One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project must conform to the public access and recreation policies contained in Chapter 3 of the Coastal Act. The certified Venice LUP Public Access Policy III. B. 2 also requires, in part, that “*Free unobstructed public access and recreational fishing access shall be provided and maintained to and upon the Venice Pier, subject only to temporary limitations for public safety necessitated by unsafe conditions...*”

The proposed development will temporarily impact public access to the coast and nearby recreational facilities through the use of a 16 ft. x 60 ft. staging area in the parking lot near the pier approach structure. The staging area will displace approximately 10 public parking spaces ([Exhibit 5](#)). In addition, due to concerns identified by the City related to maintaining emergency access, ADA access, and access to conduct regular pier maintenance activities; rehabilitation of the pier will also require full or partial closure of the pier during construction.

In order to ensure that public access is maximized to the greatest extent feasible during the construction work, the City has developed a public access plan ([Exhibit 5](#)). The access plan identifies that a public access route under the pier will be maintained throughout construction. The access plan also describes that implementation of the proposed repairs will be done in phases over time. During the first phase of construction, which is expected to occur after Labor Day 2019 and to last approximately 1-2 months, the entire pier will be closed to the public in order to replace the pier approach structure. Following completion of the approach structure, the majority of the pier will be reopened to the public and the seawardmost repair work will be undertaken. The contractor will undertake repairs incrementally landward back to the approach structure over the next seven months. As each phase of repair work is completed, a greater portion of the pier will be closed to the public until the final phase where the entirety of the pier will again be completely closed to public access for 1-2 additional months. Thus, the pier will be completely closed for a total of 2-4 months of the anticipated 9 month construction period. As identified by the City, the partial and complete closure of the pier is necessary in order to allow storage of equipment and materials at the terminus of the pier and to allow for a safe work area and a safe access route between the work area and the material storage area. Following completion of the final phase, the entire pier will re-open to the public. The access plan also includes signage on the underside of the pier to direct the public to the access route under the pier and signage at the entrance of the pier to notify the public of the portions of the pier currently open to public access. Special Condition 2 has been included to require that the City undertake construction consistent with the applicant's Public Access Plan. In addition, Special Condition 1 requires that, unless the Executive Director determines that no amendment is legally required, the City return to the Commission for an amendment to this permit if work is not completed prior to Memorial Day weekend in 2020 (May 24, 2020) so that development activity will not impede coastal access during peak season.

The completion of the proposed project would allow for continued public access and increased safety of the pier. Thus, the public access benefits of the project mitigate the temporary adverse impacts to public access. In addition, consistent with the Venice LUP, the restrictions to public access are temporary and the minimum necessary to ensure public safety. As conditioned, the proposed development conforms to the public access and recreation policies of the Coastal Act and the certified Venice LUP.

C. MARINE RESOURCES AND WATER QUALITY

Coastal Act Section 30230 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.

Coastal Act Section 30231 states:

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

Coastal Act Section 30233 states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: ...

(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.

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. In addition, Section 30231 requires that the biological productivity and quality of coastal waters be maintained. The proposed project includes repair

and replacing various segments of the pier over both sandy beach and open water, with work occurring both above and under the water.

The proposed project may result in potential adverse effects to surrounding water quality due to disturbance from construction equipment, materials, and/or debris. Construction activities associated with the proposed project could result in the generation of debris and/or presence of equipment, materials, and hazardous substances such as lubricants or oil that could be subject to run-off and wind dispersion into the marine environment. The presence of construction equipment, building materials, and debris on the subject site could pose water impacts through introduction of particulates and pollutants if construction site materials were discharged into the marine environment or left inappropriately on the project site. In addition, such potential discharges and disturbances to the marine environment could result in adverse effects to offshore habitat from increased turbidity of coastal waters.

The Commission's staff water quality specialist reviewed the construction information regarding the proposed work and has suggested various BMPs be employed to minimize impacts to water quality. To protect marine resources and coastal water quality and to ensure that construction related adverse effects to the marine environment are minimized, Special Condition 3 requires the applicant to incorporate and comply with a multi-faceted pollution prevention plan for the duration of the proposed work to ensure that impacts to the beach's water quality are minimized. Required measures to protect water quality include, but are not limited to, prohibition on storage of equipment or materials where it would be subject to wave action, prompt removal of all debris, and implementation of BMPs to capture and filter any runoff.

No eelgrass was observed in the vicinity as documented during a low tide biological survey conducted in November 2018. However, the eelgrass survey was not completed during the active growth phase of eelgrass (typically March through October). Furthermore surveys are only valid for 60-days with the exception of surveys completed in August-October. A survey completed in August - October shall be valid until the resumption of active growth (i.e., March 1). The project is agendized for the April 2019 Coastal Commission Hearing and the eelgrass survey took place in November 2018, so the eelgrass survey is no longer valid. Therefore, a subsequent eelgrass survey will be required prior to beginning any construction. A pre-construction *Caulerpa taxifolia* survey was completed in November 2018 and no *Caulerpa taxifolia* was discovered in the project area. *Caulerpa taxifolia* surveys are valid for 90 days. The project is agendized for the April 2019 Coastal Commission Hearing and by this time the *Caulerpa taxifolia* survey would not continue to be valid since 90 days have passed since the survey was completed. Thus, an up-to-date *Caulerpa taxifolia* survey must be conducted prior to commencement of the project. Therefore, the Commission imposes Special Condition 8, which identifies the procedures necessary to be completed prior to beginning any construction.

Temporary impacts to native marine communities that have formed around the existing piles, including crabs, mussels, sea stars, and snails, may occur as a result of the proposed project. Thus, Special Condition 4 requires that native marine animals found in the proposed disturbance area be relocated during site preparation and prior to removal of the piles to minimize these impacts. Special Condition 5 requires the applicant to comply with requirements imposed by other agencies including RWQCB and California Fish & Wildlife. Furthermore, Special Condition 6 states that any future improvements or change in use would require a permit

amendment or a new coastal development permit to allow for careful review of proposed development at this site.

In addition, the ‘jackets’ used to wrap the piles will increase the diameter of the existing piles by approximately one inch. Although, the increased pile diameter will technically result in additional fill, the increase is negligible. Under Section 30233(a)(3) of the Coastal Act, fill is permitted for public recreational piers if the least environmentally damaging feasible alternative is selected. Public recreation is the primary purpose of the Venice Pier and the proposed repairs are the least environmentally damaging alternative in order to address the existing structural and seismic stability issues.

In conclusion, the proposed development raises concerns regarding water quality impacts associated with construction activities. As conditioned, these potential impacts have been minimized and, therefore, the project be found consistent with Sections 30230 and 30231 of the Coastal Act.

D. COASTAL HAZARDS

Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) 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.*

Section 30253 of the Coastal Act mandates, that new development provide for geologic stability and integrity and minimize risks to life and property. The purpose of the proposed project is to rehabilitate the pier to ensure its safety and structural integrity, consistent with section 30253. The Venice Pier, like all piers along the California coast, is subject to a variety of hazardous conditions, including high waves. In addition, sea level change associated with global warming has become one of the foremost concerns for coastal structures. The City completed a hazards assessment for the proposed project to determine possible risks to the pier related to sea level rise (SLR) over the predicted life of the project (50 years) (Ref: SLR Report dated August 30, 2018). The assessment found that with an estimated SLR of 75 cm (2.5 ft.), which is consistent with the Commission’s current SLR guidance for the Los Angeles region, the point at which the water level would intersect the beach would be at a point where the pier is approximately four-feet, six-inches above the sand. The assessment found that impacts to the Venice Pier Access Ramp, which is located directly on the beach, would only occur with SLR of 200 cm. (6.5 ft.) and a 100-year flood event. Thus, the assessment concluded that no site inundation is forecasted to occur over the 50-year life of the Project. The City has also identified the following future SLR adaptation strategies for pier:

- *Reassess the site, as necessary, to determine impacts from coastal hazards and SLR, as prediction models improve.*
- *At the same time, reassess improved and new adaptation strategies, as necessary, to determine applicability to the site.*
- *Should the site ever become inundated or be threatened by inundation and other adaptation is not feasible, consider a plan to relocate the Project to another location that is not be threatened by SLR.*

The proposed project involves repairs to portions of the pier that are subject to wave uprush. Development at such a location in and near the ocean is inherently risky. To assure that the applicant is aware of the hazards and restrictions on the subject property and assumes the risks of developing in this inherently hazardous area, the Commission imposes Special Condition 7. Through Special Condition 7, the applicant is notified that the project site is in an area that is potentially subject to wave action and flooding which could damage the pier. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development.

Therefore, as conditioned, the Commission finds the proposed project consistent with Section 30253 of the Coastal Act.

E. Unpermitted Development

Unpermitted development has occurred at the site including, but not necessarily limited to, closure of public access to the pier from 2 AM to 5 AM. For said development, the City did not obtain the necessary authorization from the Coastal Commission. Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

In this case, the unpermitted development at issue is also inconsistent with CDP No. 5-95-293 ("Permit"), which was approved by the Commission in February 1996 to authorize repair of the pier. In relevant part, Special Condition 3 of the Permit states:

Public Access to the Pier

Subsequent to restoration, free unobstructed public access to and upon the Venice public fishing pier shall be provided and maintained by the City, subject to only those temporary safety limitations necessitated by unsafe conditions resulting from waves, weather or required maintenance activities.

Furthermore, Policy III. B. 2. of the Commission-certified City of Los Angeles Land Use Plan for Venice mirrors and references CDP No. 5-95-293:

The Venice Pier has been restored and open since November 1997. The pier shall remain open to the public. Free unobstructed public access and recreational fishing access shall be provided and maintained to and upon the Venice Pier, subject only to temporary

limitations for public safety necessitated by unsafe conditions (See Coastal Commission Coastal Development Permit 5-95-293).

The City is not seeking after-the-fact authorization of this closure through this application. Commission enforcement staff will therefore consider available options to address this matter. A resolution may involve bringing the City's beach operation policies into compliance with the Coastal Act through the coastal development permit process. As noted above, in 2018, the City approved a CDP for the beach curfew, which was appealed to the Commission (Ref: Appeal No. A-5-CLA-18-0011). However, the Commission has not yet acted on the appeal, as the City has not yet submitted a dual permit application for the Commission CDP. It is staff's understanding that the City intends to submit the dual permit application and has requested that the Commission act on the pending appeal concurrently with the dual permit application at a future date.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a CDP only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance. As conditioned, the proposed development is consistent with the certified Land Use Plan and with the Chapter 3 policies of the Coastal Act. As a result of the proposed development's consistency with the Coastal Act, approval of the development will not prejudice ability of the City of Los Angeles' to prepare an LCP that is consistent with Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The City of Los Angeles is the lead agency for the purposes of CEQA review. On July 3, 2018, the City of Los Angeles issued a CEQA Categorical Exemption for project titled Venice Beach Pier Refurbishment. The City found the project exempt pursuant to Article XIX, Section 15301(c) of the California CEQA Guidelines. Furthermore, the proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents:

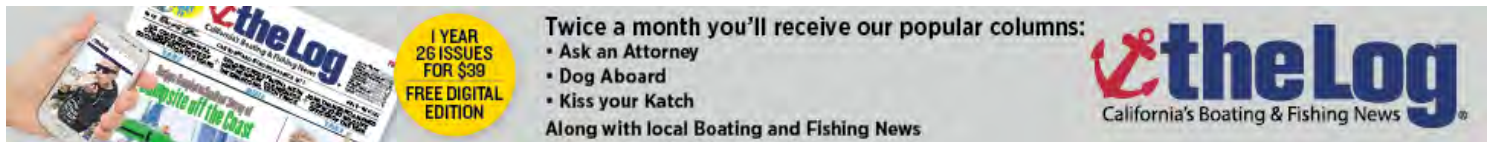
- City of Los Angeles Bureau of Engineering Local Coastal Development Permit No. 17-05
- Project Plans titled Venice Fishing Pier Restoration, by AECOM, dated February 17, 2017
- Venice Land Use Plan (Commission Certified November 14, 2001)
- Coastal Development Permit No. 5-95-292/Venice Pier
- [SLR Report] Sea Level Rise Report – Local Coastal Development Permit 17-05 (Venice Pier Refurbishment Project and Venice Pier Emergency Repair Project), by City of Los Angeles Bureau of Engineering, dated August 30, 2018
- Appeal No. A-5-CLA-18-0011
- CDP No. 5-95-292
- Emergency Waiver No. G-5-18-0003-W
- [Pier Assessment Report] Venice Fishing Pier Assessment Project W.O. #E1907957, GEO FILE #15-133, by AECOM, dated February 17, 2017

EXHIBIT E



NEWS & DEPARTMENTS ▾ MARINAS ▾ PHOTOS ▾ EXPOSITIONS ▾ DIGITAL EDITION ▾

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Orange County's Docks: A Tale of Two Maritime Parking Scenes

 Devon Warren-Kachelein  May 30, 2019

Dana Point Harbor marina management discusses parking complaints in anticipation of planning for boater-related parking; an update about the 20-minute time limit at OC Sheriff's Department's docks in Newport Beach.

ORANGE COUNTY—Parking in Southern California has grown substantially in the headache department and the waterside is no different. In recent news, *The Log* has reported extensively on Dana Point Harbor's revitalization and another time limit change to visitor docks in Newport Beach.

The Log spoke with Ralph Grippo, principal of Bellwether Financial Group; the executive said while temporary chaos might exist, the promise of the future would bring 334 trailer parking spots to Dana Point's newly refreshed harbor. Bellwether Financial, making up one-third of the Dana Point Harbor Partners (DPHP), is tasked with the marina side of the redevelopment and are currently operating The Marina at Dana Point.

On the other end, a letter from California Coastal Commission surfaced stating Orange County Sheriff's Department was found to have wrongly put a 20-minute time limit on the docks among other points.

Planning for Dana Point Harbor's Parking Lot

While some boaters have undoubtedly been annoyed by the parking situation at Dana Point Harbor, Grippo stressed all parking situations are temporary while planning for the new parking structure continues.

DPHP took on a massive undertaking (for a small harbor) when it signed a lease with Orange County in October 2018, allowing the private entity to oversee Dana Point's revitalization project; county officials had been trying to get it off the ground for nearly 20 years. A glowing article shared by Dana Point Boaters Association details the groundbreaking amenities that DPHP, a collective of well-known Newport Beach-based developers including Bellwether Financial, R.D. Olson and Burnam-Ward, plan for Dana Point's future. It also discusses Orange County Supervisor Lisa Bartlett's quest to finalize the lease agreement. However, with change there is always bound to be some growing pains.

"It's a process – and there's no way to avoid the process," Grippo said.

An unnamed source close to the matter recently shared an email with *The Log* about the experience in dealing with the new boat trailer parking.

"The new operators of Dana Point Harbor have remodeled the Boat ramp Parking lot and have reduced the number of trailer parking spots by [75 percent]! There are now less than 100 trailer parking spots available at the ramp. They have converted the other spots into a car parking lot. This will seriously reduce the access by trailer boaters to ocean," the email read.

In response, Grippo stated the parking area may appear smaller than it is because boat trailer parking is now no longer mixed in with regular vehicle parking. The operators, in terms of the boat launch and boat trailer parking, have been aiming to reduce accidents and liabilities through first organizing the parking lot near Embarcadero Marina, which may appear to be in disarray at the moment.

Through the discord of the new development, Grippo said although there might be some miscommunication, when the development is completed, there will be 334 boat trailer spots and 100 designated for dry storage

in accordance with Dana Point's Local Coastal Plan (LCP).

The email mentioned prior harshly criticized the new marina's management, stating The Marina at Dana Point's staff had not been very communicative in explaining new policies. When asked about the communication issues, Grippo acknowledged he had welcomed about 25 individuals into his office to floor complaints back in February and March, but is working to create more excitement and momentum about the new marina.

According to Grippo, there will be no construction this summer. DPHP will still be going through entitlement processes, permitting and other procedures to get the revitalization process off the ground. Dry storage parking, trailer parking, visitor parking and overnight parking will operate as normal in reserved spaces. Grippo told *The Log* signage has been posted and any visitors are welcome to speak with staff for their concerns.

Grippo, who emphasized his long career in hospitality, has been involved in public outreach meetings about parking spaces and how to handle the parking situation as Dana Point Harbor continues to be developed. Accordingly, Grippo is striving to improve parking and communication, because he knows if customers have a bad experience they won't come back. One example he muses on is the National Park in Muir Woods, where it is impossible to park unless you reserve a spot possibly weeks in advance. As California continues to grow as a state and parking continues to be a valuable commodity in crowded areas: What can state, county and city officials do to ensure smooth parking for recreational attractions?

Grippo, however, does not see this kind of future of reserving spots for Dana Point Harbor – that is once the waterfront's construction is done and dusted.

Dana Point Harbor Advisory Board has been keeping documentation on the harbor development project at dpharboradvisory.org/harbor-revitalization.

Coastal Commission Letter to OC Sheriff's Department

The Log reported in the May 17 issue that Orange County Sheriff's Harbor Patrol Headquarters had limited parking from 72 hours to 20 minutes. An unnamed source close to the matter released a letter from the California Coastal Commission detailing that the Sheriff's Department had in fact made violations in altering the time limit as well as several other violations.

In a letter to Lt. Chris Corn, addressed on May 20, it read staff had found several developments with Coastal Development Permit (CDP) No. 5-07-370 and 5-94-255 at Orange County Sheriff's Harbor Patrol Headquarters. The follow non-compliant changes included:

- A change of use to two public guest docks to lifeguard boat
- Placement of "Keep Out" and "Authorized Personnel Only" signage at the entrance to public docks/public guest pilings
- A change to public dinghy tie up access from 72 hours to 20 minutes
- Change from use of Visitor Dock to Emergency Dock
- Relocation of 10 public beach parking spaces from a Commission-approve location
- Failure to provide a Commission-approved beach drop off point for beach patrons

At the time the article was printed, the California Coastal Commission had yet to respond. However, the letter now shines light on some details that were missing when the original article was first published. The California Coastal Commission reinforced the harbor patrol office should seek the necessary CDP or amendments if any of these changes will be made and prompted harbor patrol to take action before May 29.

Violating Coastal Access

It may be in the community's best interests to develop property in a quick and efficient manner (Parimal M. Rohit recently penned a Standing Watch column on this very topic), but there are also procedures that the California Coastal Commission puts in place to make sure developers, state officials and others do not violate a Californian's rights to access our biggest asset – the coast.

A Local Coastal Plan, or "LCP," is put in place for nearly every seaside city in Southern California. Within the LCP, there are very specific policies outlined to conform to the California Coastal Commission and create the best experience for all visitors, boaters or not. Either way, if developers do violate the LCP – the results are not welcoming.

The Log reached out to the California Coastal Access to ask what happens if a developer were to make changes to an LCP without gaining approval from the Coastal Commission in advance.

"Basically any changes being proposed would require a local coastal program amendment that we would have to analyze, especially any changes that would impact public access," said Noaki Schwartz, Public Information Officer for California Coastal Commission.

What can happen if say a developer does not gain approval from the California Coastal Commission? A recent case involving a Santa Monica hotel developer has come under fire for "bait and switch," according to an article by [Bisnow Los Angeles](#).

At the end of the day, how can these parking/docking issues be addressed in a fair way that provides the best experience for beachgoers? *The Log* will continue to report on further developments.

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[Port of San Diego selects developer for lower-cost accommodation development mandate →](#)

13 thoughts on “Orange County’s Docks: A Tale of Two Maritime Parking Scenes”



Local Boater

May 30, 2019 at 8:21 am

[Permalink](#)

I am dismayed to learn the OC Sheriff’s Harbor Patrol has cut off public access to the public docks in Newport. I’ve seen all sorts of folks using those docks especially kids. I’m glad the Coastal Commission is pushing back to make things right. Given the Harbor Patrol Sheriffs are blessed with the best gig in law enforcement, I am disappointed to see them treat public access in this fashion. Hip, Hip, hooray for the California Coastal Commission!

[Reply](#)



Concerned Boater

May 30, 2019 at 7:12 pm

[Permalink](#)

When was the last time you were at the Harbor Patrol docks? I happened to stop by there Memorial Day weekend and discovered that they had extended the dingy dock hours to “Dawn to Dusk.” That’s about 12 plus hours! Looks like they are working with the Coastal Commission.

[Reply](#)



Concerned Boater

May 30, 2019 at 7:37 pm

[Permalink](#)

Local Boater, I believe they only “cut off” access to the dock by their office, not the dinghy dock by the pump out area. That time limit has apparently changed to “Dawn to Dusk.” Which currently would be about 14 hour time limit. Things are looking up!! And no more permanent boat storage for the selected few..

[Reply](#)



Local Boater

June 2, 2019 at 1:41 pm

[Permalink](#)

Concerned boater, in the past year, the access at the dinghy dock went from 72 hours, to “red-no/tie-ups”, to “20 minute” useless tie-up. It appears now that the Coastal Commission is applying the pressure, the Sheriff’s

are trying to appease the Coastal Commission with the minimum access possible. What a bummer that the OC Sheriff's Harbor Patrol doesn't place more value on public access in regards to the serving the public that pays their salaries.....

[↩ Reply](#)

 Concerned Boater

 June 3, 2019 at 2:41 pm

 [Permalink](#)

Local Boater, I see your point, however all the docks in Newport Harbor have permanent storage issues. Take a drive around and you'll see the how crowded the public docks are. Many mooring owners use the public docks as their free permanent storage areas. I don't get free boat storage, why should they? The Harbor Patrol basically eliminated that issue on their dock by shortening the time limit. I think 12-14 hours is reasonable, don't you? Should anyone get to store their boat for free and take up space for visiting boaters? What the HP changed to is fair for EVERYONE.

[↩ Reply](#)

 Local Boater

 June 5, 2019 at 3:14 pm

 [Permalink](#)

Concerned Boater, to address any "boat storage" concern all the OC Sheriff Harbor Patrol Deputies had to do was get off their duff and write a ticket or impound. The dinghy dock is right under their nose. But this would actually involve work for them. The fact is the OC Sheriff's Harbor Patrol does not want to deal with the public any more than they have to. That is why they had "keep out" signs posted on the 5 guest slips at their location and that is why they are now the only Harbor Patrol operation in California without a visitor dock. They simply have very little interest in serving the public that pays their salaries.

[↩ Reply](#)

 Concerned Boater

 June 6, 2019 at 11:09 am

 [Permalink](#)

Local Boater, It appears you are not a fan of the Harbor Patrol. It looks like we agree to disagree. Daily use in my opinion is reasonable, 72 hour boat storage is not. Who needs to park their boat there for 3 days? Definitely not visiting boaters or people that want to use the county beach or walk to the store or use the restrooms.

[↩ Reply](#)



 Local Boater

 June 6, 2019 at 11:26 pm

 [Permalink](#)

Concerned Boater, you are correct, I am quite concerned with the OC Sheriff's Harbor Patrol behavior. They have been depleting the OC Parks budget for years and specifically the Dana Point Tidelands funds with their runaway budget. And now, they have told the recreational boater to pound sand by closing off their visitor dock. The OC Sheriff's Harbor Patrol simply has no interest in serving the public and more interest in creating their own private Sheriff's Yacht club as evidenced by their annual lavish boat parade party at the same docks in Newport that they have closed from public access. Very concerning Mr. Concerned Boater

 [Reply](#)



 Concerned Boater

 June 8, 2019 at 8:15 pm

 [Permalink](#)

Local Boater, So you good with the 15 hour time limit or is that too short for you too?

 [Reply](#)



 Local Boater

 June 10, 2019 at 9:04 am

 [Permalink](#)

Concerned Boater,

The O.C. Sheriff's Harbor Patrol should abide by the laws of the land and restore the access to 72 hours, as it was prior to violating the CA Coastal Act. If the Sheriff feels the need to change it, he can go through the lawful process that ultimately involves public input. It was not appropriate the Harbor Patrol to act like they are god and unilaterally take away public access. I am relieved the CA Coastal Commission called them out. It seems the Sheriff's Department is not the correct agency to be managing public access at public docks in Newport.

 [Reply](#)



 Dana Point Boater

 June 11, 2019 at 4:21 pm

 [Permalink](#)

We learned earlier this year that "extended overnight parking" is no longer permitted at the Dana Point Embarcadero Marina. This was just devastating news to us, as we have been trailering our 30-foot boat to Dana Point from San Diego and leaving our truck and trailer in the parking lot for many days (typically about

a week) for over 10 years. We would do this to take family trips on our boat to Catalina. Now there is no easy way to do this. Also, we would often get a guest slip and stay for two weeks, leaving to go over to Catalina during that timeframe. We would, of course, park our trailer in the lot. This new decision to only allow single-night overnight parking totally removes our ability to easily access coastal waters and Catalina for several nights. Leaving out of San Diego is not an option. Yes, I know we can go to Newport Harbor back bay launch ramp, but that is further to trailer, nowhere near as nice of a marina and launch ramp, and further to get out to sea. Anyway, if there is anyway Mr. Ralph Grippo, principal of Bellwether Financial Group, would consider allowing boaters who trailer to Dana Point to park their trailers and trucks in the lot for more than one night and up to, say, two weeks, this would make us so happy. We have been very upset trying to figure out how best to get over to Catalina this summer on our boat. We were turned away from the Embarcadero Marina office when we asked to pay for multiple nights (as we have for over 10 years). Please make access to Catalina for trailered boats easy and let us pay for in advance and park in the lot for multiple nights. The article states "According to Grippo, there will be no construction this summer...Dry storage parking, trailer parking, visitor parking and overnight parking will operate as normal in reserved spaces." To us, "operate as normal" means we should be able to pay in advance for multiple nights of parking in the trailer lot. That is "normal" operation, at least for the past 10 years. I really hope this can happen. Thank you.

[↩ Reply](#)

Local Boater

June 12, 2019 at 9:46 pm

[Permalink](#)

Dear Dana Point Boater, while I am not familiar with the Dana Point overnight parking consideration it may be worthwhile contacting the California Coastal Commission. I am not an attorney and this should not be considered legal advise, but in general: Any change in public access (or private property or public property) requires a Coastal Development Permit with the change spelled out in the permit. Just as in the Orange County Sheriff's Harbor Patrol situation, the CA Coastal Commission may be the only government agency to assist you in this coastal access concern. Here is their phone number: 562-590-5071

[↩ Reply](#)

Dana Point Boater

June 13, 2019 at 1:02 pm

[Permalink](#)

Thank you Local Boater!

[↩ Reply](#)

Comments

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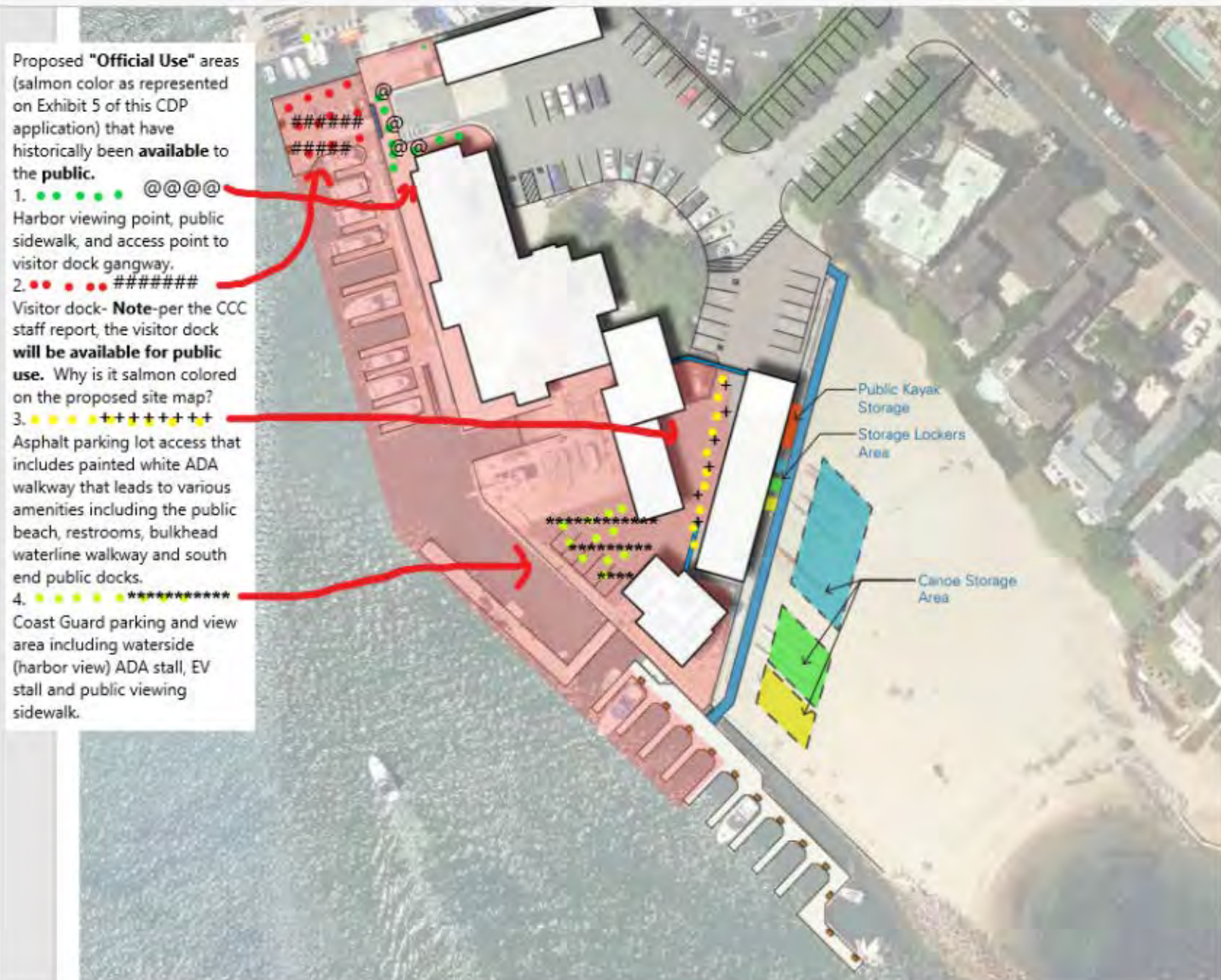
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EXHIBIT F

Correspondence



June 4, 2021

SENT VIA EMAIL: SouthCoast@coastal.ca.gov

California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

RE: AGENDA ITEM W20a – CDP AMENDMENT APPLICATION NO. 5-07-370-A2

Dear California Coastal Commission:

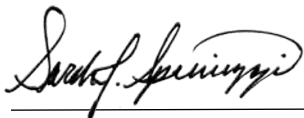
Orange County Coastkeeper supports Coastal Commission staff's recommendation to **approve** Orange County Park's CDP Amendment Application, as conditioned, and writes to express gratitude for the commitment to coastal access and willingness to collaborate with stakeholders demonstrated by Commission staff in considering this application. Orange County Parks seeks approval for multiple changes at 1901 Bayside Drive on Newport Harbor (the "Site"). Owned by OC Parks, the Site serves several public purposes. It accommodates the Orange County Sheriff's Department's Harbor Patrol facility, a U.S. Coast Guard office, and vessel docking for OCSD, USCG, and city and state lifeguards. The Site also features a sandy beach with a volleyball net and calm water, public parking, slips and moorings available for overnight rental, a visitor dock, a dinghy dock, restrooms, and a pump-out station—all available to the public. The Site is a convenient amenity for Harbor residents and visitor alike, boasting excellent small craft accessibility and some of the most affordable rental slips on the California coast.

As first proposed, the amendments sought by OC Parks would have significantly reduced public access to Newport Harbor and public amenities at the Site. The application sought to reduce the number of available guest slips, prohibit public use of the visitor dock, and severely limit use of the dinghy dock, among other changes. After becoming aware of ongoing Coastal Act violations at the Site and the pending amendment application, OC Coastkeeper began advocating for restoration of public access at the Site. OC Coastkeeper has worked closely with OC Parks, Commission staff, and other stakeholders to help guide development of the application before the Commission this month. The communication between agencies, the applicant, and other stakeholders led to substantial improvements to the application which now addresses OCSD's needs while maintaining the public's access to the beach, guest slips, and other amenities. OC Coastkeeper commends Commission staff for their dedication to promoting public access throughout the application process and willingness to work with stakeholders to achieve a solution acceptable to the applicant and public users of the Site.

A primary objective of the Coastal Act is to “preserve existing public rights of access to the shoreline and to expand public access for the future.”¹ The Coastal Act requires that “[l]ower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided[.]” and stipulates that “[d]evelopments providing public recreational opportunities are preferred.”² The application before the Commission this month is a great example of those mandates in practice. Through staff’s dedication to protecting coastal access and promoting environmental justice, and their sincere efforts to engage with interested members of the public and various stakeholders, staff is ushering through a permit amendment that not only restores and protects existing public amenities, but will expand the Site’s impact through marketing efforts and outreach targeted to benefit environmental justice communities.³

1901 Bayside Drive is an oasis of low- and no-cost public access amenities in Newport Harbor, which is otherwise mostly a private, exclusive, and expensive place for coastal recreation, and Californians are all too familiar with encroachment onto public coastal resources. Fortunately, Coastal Commission staff and OC Parks are presenting the Commissioners with a proposal that achieves OCSD’s security goals while not only protecting, but enhancing coastal access and recreational opportunities. OC Parks’ application now preserves the Site’s public amenities and expands its role in providing low-cost coastal access to Newport Harbor. OC Coastkeeper urges the Commission to approve the CDP application as recommended in the staff report. OC Coastkeeper appreciates the Commission’s careful attention to this issue and looks forward to continue working alongside the Commission to protect coastal access in Orange County.

Sincerely,



Sarah Spinuzzi
Senior Staff Attorney
Orange County Coastkeeper
sarah@coastkeeper.org

cc: Mandy Revell, Coastal Program Analyst, California Coastal Commission
Jordan Sanchez, Enforcement Officer, California Coastal Commission

¹ Pac. Legal Found. v. California Coastal Com., 33 Cal. 3d 158, 162 (1982); *See also* CAL. PUB. RES. CODE § 30001.5(c).

² CAL. PUB. RES. CODE § 30213.

³ OC Coastkeeper typically supports the Coastal Commission exercising its authority to issue fines in response to Coastal Act violations. However, in this instance OC Coastkeeper believes staff’s recommended mitigation measures for past and ongoing violations at the Site—including targeted outreach to and programs for environmental justice communities—are an appropriate alternative to monetary penalties in this specific circumstance. OC Coastkeeper encourages the Commission to continue centering environmental justice when responding to Coastal Act violations, especially those that hinder public access.

FW: Permit # 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 1:09 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: bryan beachins.com <bryan@beachins.com>

Sent: Friday, June 4, 2021 10:29 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Permit # 5-07-370-A2

I am a 54 year resident of Newport Beach and over the years have enjoyed the ability to freely use the Beach on Bayside dr. I oppose any attempt by the Harbor Patrol To limit beach use, dock use or parking at this public location and actually request that the public parking be expanded.

Bryan McDonald
4715 Cortland Dr
Corona Del Mar, CA 92625
949 400-9843
bryan@beachins.com

Sent from [Mail](#) for Windows 10



June 4, 2021

California Coastal Commission
455 Market St
San Francisco, CA 94105

RE: Coastal Development Permit Application No. 5-07-370-A2, County of Orange – OC Parks

Dear California Coastal Commission,

The Newport Beach Chapter of Surfrider Foundation wishes to address Coastal Development Permit Application No. 5-07-370-A2, submitted by County of Orange - OC Parks, with regard to the facilities and beach located at 1901 Bayside Drive, Newport Beach, and overseen by Orange County Sheriff's Department Harbor Patrol (OCSD). For years, public dock and beach access has been restricted by changes that OCSD has implemented, which Commission staff have investigated as Coastal Act violations.

We urge the Coastal Commission to require Orange County to reinstate the level of public access that was permitted prior to the CDP application and to maintain and/or improve access when making a decision on the application. Specifically, we support the staff recommendation to:

- Restore rentals of two overnight slips that have been designated as lifeguard storage docks;
- Clearly indicate public access and docks with signage;
- Return public parking spaces to the Commission-approved location adjacent to the beach access point;
- Require the applicant to submit a Public Access Program that provides free monthly participation in the canoe clubs for the public with targeted outreach to environmental justice communities.

In addition, Surfrider strongly urges the Coastal Commission to adopt the following change to the staff recommendation: Surfrider strongly supports ADA access. However, the mitigation for the occupation of public beach space due to the proposed change in access location is inadequate. Any structure or blockage of sandy beach space must be mitigated with the creation of new beach space elsewhere nearby. As sea levels rise and coastal erosion increases, we cannot sacrifice our public beaches – this type of short-sighted action will lead to the disappearance of our beaches altogether. We strongly recommend that the mitigation for the 3,000 square foot walkway be improved by requiring a living shoreline and/or a managed retreat project nearby.

The funds and time required to resolve current public access policies in violation of the Coastal Act and to restore the previous level public access is not prohibitive and does not prevent prompt action. Preserving public docks and access points on Newport Beach's largely private bayside is critical, as the past year has proven. During this period of reduced indoor business activity, we have observed locally greater use of public park and beach areas – for recreation, exercise, and overall health – and this location is no exception.

We have always valued public coastal access and low-cost coastal accommodations, and the lifestyle changes made by many Californians during the pandemic are evidence of the value of our coastal resources. We ask the Coastal Commission to restore the same levels of public access that were available at the site prior to OCSD's changes when considering the CDP application for the benefit of the general public. Thank you for your time.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michelle Giron", with a long horizontal flourish extending to the right.

Michelle Giron

Chair, Surfrider Foundation – Newport Beach Chapter

FW: Public Comment on June 2021 Agenda Item Wednesday 16 - Deputy Director's Report for Orange County

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 6/2/2021 2:08 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Michael Fowlkes <insidesportfishing@mac.com>

Sent: Wednesday, June 2, 2021 11:32 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 16 - Deputy Director's Report for Orange County

My wife and I both are writing to congratulate the CCC staff in there report to restore the 20-minute loading on the visitor dock, all 5 guest slips and overnight 24 hour dinghy dock access with additional nights by permission. Along with the County agreeing to make their 7 deep water moorings available for public rental combine to make this the best news we've heard coming from any level of government in a long long time. Real life, logical decision making by all. Thank you, Michael & Kimberly Fowlkes.

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 5:44 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Ms Ballard <msballardscience@gmail.com>

Sent: Friday, June 4, 2021 4:54 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear Coastal Commission,

I would like to voice my support for the local canoe and outrigger programs. I believe that the more people that can appreciate the bay while on the water will have more incentive to protect our increasingly scarce waterways. What's more is the manpowered crafts do not add pollution the way motorized vessels do.

I also believe it is important to have opportunities for people to get to know other cultures and communities which is possible through the outrigger programs. If we are to have environmental and cultural harmony we need opportunities to learn and appreciate each other.

As a person with two disabled family members I support and understand the importance of accessibility but there is a way for both ADA access AND outriggers to exist together.

Please keep the outriggers and small non-motorized craft available.

Thank you,
Jamie Ballard

FW:

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 5:45 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

I think this one is for 5-07-370-A2. Thanks!

From: Rianne Beck <riasonk0703@gmail.com>

Sent: Friday, June 4, 2021 5:01 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject:

Hello,

I am a resident of Newport Beach I grew up going to the beach, playing surfing, boating and paddling outrigger canoes in the Newport Harbor. The sense of community fostered within the outrigger canoe clubs in our Newport Harbor have been deeply rooted in also supporting our Hawaiian culture.

I am now raising my daughter here and am grateful I can teach her to embrace our cultural heritage to respect and love the ocean. I am looking forward to having the same opportunity to teach my daughter with the proposed programs.

Sincerely,

Rianne Beck
808-824-1708

June 3, 2021

California Coastal Commission
455 Market Street Suite 300
San Francisco, CA 94105

Re: Item W20a
Application 5-07-370-A2 – Orange County Parks, Newport Beach

Dear Chair Padilla and Coastal Commissioners:

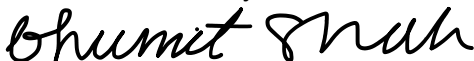
I would like to take a moment to follow up on a previous request made in February 2021 regarding ADA access at the public docks located at 1901 Bayside Drive in Corona del Mar.

As an individual with a disability and an advocate for the community, I would like to reiterate the various reasonable accommodations requested to ensure that all people have equal access in accordance with the Americans with Disabilities Act.

1. Preserve the existing ADA pathway for easy access and travel. Improved access for people with disabilities so that they can enjoy all amenities.
2. Parking is an essential feature that encourages people to utilize public resources that are funded by tax dollars. It has been estimated that this location has 68 parking spots. Only 10% of these spots are dedicated for the use of disabled community. It is imperative that these designated spots be located in close proximity to restrooms, showers, and the beach.
3. Public access should be all-inclusive. According to a report by Orange County's Healthier Together, 8.5% of all Orange County residents have a disability. Many in our community have required this disability at different stages of life. In order to continue to enjoy many recreational water activities, a lift is a necessity. A lift can allow people in this community to access the waterways. This installation would show positive efforts in access by Orange County and Newport Beach.

I look forward to working together with all interested parties to ensure that all Americans, including those with disabilities, are taken into consideration in these development plans. Thank you for considering my comments and I appreciate your support for full ADA access at this public recreational venue. Thank you for your time and consideration.

Sincerely,



Bhumi Shah
Clients Rights Advocate
Disability Rights California
Clients Rights' Advocate
562-225-0968

June 2, 2021

California Coastal Commission
455 Market Street Suite 300
San Francisco, CA 94105

Re: Item W20a
Application 5-07-370-A2 – Orange County Parks, Newport Beach

Dear Chair Padilla and Coastal Commissioners:

Thank you for this opportunity to comment on ADA access at 1901 Bayside Drive in Corona del Mar.

We the undersigned, are all full-time physical therapists in Corona del Mar. We treat many patients on a daily basis that are permanently disabled, have had injuries, or are recovering from surgery. Our goal as physical therapists is to not only relieve our patients' pain, but also help them live a comfortable and enjoyable life, and provide them with an opportunity to experience all that life has to offer.

With this in mind, we urge you to support full ADA access at 1901 Bayside Drive, which includes:

- Retain the existing ADA asphalt walkway that has been utilized for decades by the disabled community. This walkway does not compete with the ambulatory community and provides the best and most comfortable access to the restrooms, showers, and the beach.
- Require a comprehensive parking, traffic and circulation analysis to maximize ADA parking and easy access for the disabled community.
- Provide as mitigation for the multiple Coastal Act violations, a lift that will service the disabled community and allow them to board a boat, kayak or outrigger and be able to enjoy a thrill that most of them have never experienced given how very few ADA lifts exist along the California coast. We understand that there are only three lifts along our coast and that they are all on private property and not available to the public.

In return for your assistance in promoting robust ADA access and amenities at 1901 Bayside Drive, we will make sure that our patients know about this fabulous opportunity in their own backyard. Most of our patients are local and this will give many of them a wonderful boost in life and the encouragement to work with us to overcome their disabilities.

Thank you for considering our comments, and we look forward to your strong support for full ADA access at this public recreational venue.

Sincerely,

Vicky Adams

Melissa Magdangal

Joanne Mimm

Heather Ritchie

Vicky Adams
Melissa Magdangal
Joanne Mimm
Heather Ritchie

Agenda # 20a
Application # 5-07-370-A2
Mark Carnahan
In favor of the Staff Report

Honorable Commissioners,

I feel the County of Orange Staff and the staff at the Coastal Commission did an excellent job addressing all of the issues and concerns brought up in the code violations. Specifically, as it relates to the Offshore Outrigger Canoe Club and the accessible path of travel for disabled beach goers. The partnership with the County of Orange to bring new paddlers and get them to experience this sport and culture of Hawaiian outrigger canoe paddling is a win/ win for everyone involved. The proposed accessible path of travel will allow greater access for all who visit this beach, including current and future disabled paddlers. Thank you for making this beach better.

Sincerely,

Mark Carnahan
Vice President/ Keiki's (Kids) Coach
Offshore Outrigger Canoe Club

FW: Public Comment on June 2021 Agenda Item Wednesday 20-a Permit 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 3:57 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: nspa n@earthlink.net <nspa n@earthlink.net>

Sent: Thursday, June 3, 2021 3:29 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20-a Permit 5-07-370-A2

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Nicholas Pa n
P.O. Box 15398
Newport Beach, CA 92659

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:00 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Nikki Klein <nikkiatl@a .net>

Sent: Thursday, June 3, 2021 12:18 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Veronica Klein

428 Begonia Ave

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:00 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Paul King <peakay@gmail.com>

Sent: Thursday, June 3, 2021 12:21 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

My family personally uses the beach at 1901 Bayside Drive in Corona Del Mar many times a summer. We have cherished memories there. Many birthday parties have been thrown. Nieces and nephews are growing up using the beach. Meetups by family on boats. THANK YOU for helping protect and enhance this area!

Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Paul King
1819 Newport Hills Drive East, Newport Beach, CA 92660
(949)945-8367

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:00 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Nida Hoshimi <hoshimi25@yahoo.com>**Sent:** Thursday, June 3, 2021 12:24 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,
Nida Hoshimi

Address
1836 Port Abbey Pl
Newport Beach CA
92660

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:01 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Robyn Ashton <ashtonfamily@cox.net>

Sent: Thursday, June 3, 2021 12:38 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Robyn Ashton

1972 Port Chelsea

FW: Public parking at 1901 Bayside Drive in Corona Del Mar

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:01 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: J Kline <jklinex5@aol.com>

Sent: Thursday, June 3, 2021 12:34 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public parking at 1901 Bayside Drive in Corona Del Mar

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, we respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Jim and Jerrilynn Kline
1957 Port Chelsea Place
Newport Beach, CA. 92660

owners of other properties at:

1954 Port Albans Place, Newport Beach, 92660
312 Island Avenue, Newport Beach, CA. 92660
1954 Port Carney Place, Newport Beach, CA 92660

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:01 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Leigh Donaldson <leigh@leighdonaldsonproductions.com>

Sent: Thursday, June 3, 2021 12:27 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Leigh Donaldson Carman
1723 Port Sheffield Place
Newport Beach, CA 92660

FW: Parking spaces**SouthCoast@Coastal** <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:01 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Gale Friedman <galefriedman0@gmail.com>**Sent:** Thursday, June 3, 2021 12:42 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Parking spaces

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Gale Friedman
2001 Port Provence Place
Newport Beach CA 92660

FW: Public comment June Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:02 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Brandy Habermehl <brandyhabermehl@gmail.com>

Sent: Thursday, June 3, 2021 12:52 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public comment June Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Brandy Habermehl

FW: Agenda item....Coast guard beach parking.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:02 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Kris Anderson <brenshel@sbcglobal.net>**Sent:** Thursday, June 3, 2021 12:53 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Agenda item....Coast guard beach parking.

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Kris Anderson

1835 Port Sheffield Pl

Newport Beach CA

Sent from my iPhone

RE: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Brodeur, Susan <Susan.Brodeur@ocparks.com>

Fri 6/4/2021 5:31 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Cc: Sanchez, Jordan@Coastal <Jordan.Sanchez@coastal.ca.gov>; April Winecki <April@wineckiconsulting.com>

Mandy, Jordan,

This is the response I received from the Sheriff:

The Newport Beach Harbor Patrol facility is the headquarters and dispatch center for all three Orange County Harbors. There are 16 Deputy Sheriffs, 5 Sergeants, 1 Captain, 4 Dispatchers, 5 Extra Help personnel, 6 Marine Mechanics, 1 Shop Supervisor, 12 Dive Team members, 10 reservists, 10 explorers, all assigned out of our Newport Office.

We also have 24 other Harbor Patrol Depu. es and 2 Sergeants that work out of our Dana Point and Sunset-Huntington Beach Harbors, but all are mandated to routinely train and work out of Newport Beach Harbor on busier days and weekends.

There other additional personnel that require parking spaces when they work and train out of the harbor. 20 members of the Sheriff's SWAT team and 10 Bomb Squad members routinely train in Newport Beach.

Outside agencies regularly need space to fulfill missions. The US Coast Guard has 12 crew members, for their vessel the Narwhal. They hold Maritime Certification Classes at our facility for up to 20 students at a time.

We partner with U.S. Customs and Border Patrol to do interdiction work. CBP personnel need places to park their vehicles when we run those weekly missions.

The State Parks and City of Newport Beach Lifeguard boats are stored at this facility because of the proximity to the open ocean. That means during their season 8 lifeguards require spots to park their cars so they can assist beach goers, swimmers, and surfers.

During the summer months we also work with the Newport Beach Fire and Police Departments on a daily basis to provide coordinated emergency service and response to all types of incidents whether they are natural, mechanical, or adversarial.

These are the majority of people that require parking availability at our facility. Obviously they are not all there at the exact same time, but often times there is overlap in different personnel and parking is very difficult to all the extremely important services that are provided to the public. Any further loss of parking is over burdensome on the first responders listed above.

If a beach goer has any difficulty finding available parking they are afforded the opportunity to drive around or just wait for an opening. We are required to be at work by a certain time and leave by a certain time and therefor require available parking. Any additional first responders, OCSO Deputies, NBPB and fire departments may be forced to double park and create a dangerous situation where additional first responders and ambulances will not be able to enter the parking lot.

From: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Sent: Friday, June 4, 2021 11:23 AM

To: Brodeur, Susan <Susan.Brodeur@ocparks.com>

Cc: Sanchez, Jordan@Coastal <Jordan.Sanchez@coastal.ca.gov>

Subject: Re: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

A en on: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Hi Susan,

When we address this latest request from the public regarding requiring more public parking associated with this application, it would be great if we could get an employee count for the various agencies that work here so that we can respond. In other words, how many of these spaces are currently used by public agency employees? I'm sure all of them, we just need some numbers. Could you provide that? Thanks,

Mandy Revell | Coastal Program Analyst



CALIFORNIA COASTAL COMMISSION

South Coast District Office

301 Ocean Blvd. Suite 300

Long Beach, CA 90802

(562) 590-5071



From: Brodeur, Susan <Susan.Brodeur@ocparks.com>

Sent: Thursday, June 3, 2021 6:09 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Subject: RE: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Thanks for the heads up.

From: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Sent: Thursday, June 3, 2021 5:23 PM

To: Brodeur, Susan <Susan.Brodeur@ocparks.com>

Subject: Fw: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

A en on: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Hi Susan,

FYI- I'm getting quite a few of these emails requesting more parking. Thanks,



Mandy Revell | Coastal Program Analyst

CALIFORNIA COASTAL COMMISSION

South Coast District Office

301 Ocean Blvd. Suite 300

Long Beach, CA 90802

(562) 590-5071



From: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Sent: Thursday, June 3, 2021 4:00 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Subject: FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

From: Nida Hoshimi <hoshimi25@yahoo.com>

Sent: Thursday, June 3, 2021 12:24 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at [1901 Bayside Drive in Corona Del Mar](#).

Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,
Nida Hoshimi

Address
1836 Port Abbey Pl
Newport Beach CA
92660

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:02 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Greg Goodrich <iamgoodrich@gmail.com>

Sent: Thursday, June 3, 2021 1:37 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar.

Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility.

Currently only 11 of the 65 parking spaces at this location are available for public use.

By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly,

32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Greg Goodrich
24 Shooting Star
Irvine, CA 92604

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:02 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Mike Green <mikegreen@cox.net>

Sent: Thursday, June 3, 2021 1:38 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

I have used this beach numerous times. With the current limited parking, I frequently need to search for parking on the street. Street parking near the beach at this location can be very difficult to find at busy times. The public should have more parking available at the location.

The Coastal Commission members should visit this beach on different days and times to better understand how the shortage of parking in the parking lot is restricting access to this public resource.

Regards,

Michael Green
2214 Port Carlisle Pl.
Newport Beach, CA 92660

FW: Beach access ... please.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 5:46 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Lori Openshaw <opecfamily@gmail.com>

Sent: Friday, June 4, 2021 5:07 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Beach access ... please.

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility.

Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Please. Please. We buy homes here and pay our (very high) property taxes. Public access to our beaches is so important. It's what makes our town Newport BEACH. Sometimes one wants to just visit the beach for a small bite on lunch hour, short walk, or after work briefly, and not park miles away or pay an all day fee. Please allow access for public use.

Sincerely,

Name Lori & Kurt Openshaw

Address 1987 Port Trinity Circle
Newport Beach, CA 92660

Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Sharon Augenstein <sharon@AtlantisNet.com>

Fri 6/4/2021 3:46 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Cc: Susan Brodeur <Susan.Brodeur@ocparks.com>; April Winecki <April@wineckiconsulting.com>; Mark Carnahan <markccdm@gmail.com>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

 1 attachments (116 KB)

Offshore Outrigger Canoe Club Input CCC Application 5-07-370-A2 - Orange County Parks - Newport Beach.pdf;

Please see attached letter of support for the subject permit amendment on behalf of Offshore Outrigger Canoe Club.

Thank you,
Sharon M. Augenstein
Board Member, Treasurer
Offshore Outrigger Canoe Club

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:03 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Craig Gordon <craigagordon4@gmail.com>

Sent: Thursday, June 3, 2021 1:54 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Craig Gordon
1845 Port Ashley Pl
Newport Beach, CA 92660

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:04 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Liz Morgan <lizmorgan42@hotmail.com>

Sent: Thursday, June 3, 2021 1:55 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

We love launching our paddle board there or going for a swim but usually the parking is full!

Sincerely,

Liz Morgan

1989 Port Seabourne Way

Newport Beach, CA 92660

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:04 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Garre Walker <garre_walker1@me.com>

Sent: Thursday, June 3, 2021 4:03 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

I am concerned about the public access at the facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited and my family likes to visit this beautiful beach often. I'm told the County is seeking a permit to alter public access at this location and I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. It would be best to reinstate the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces. If approved, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio so we can all enjoy this Coastal area.

Sincerely,

Garrett Walker
19 Petria
Irvine, CA 92606

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 5:46 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: r. h. <rexhairrell@gmail.com>

Sent: Friday, June 4, 2021 5:33 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at [1901 Bayside Drive](#) in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely
Rex Hairrell

FW: Beach Parking- 1901 Bayside Ave, Corona Del Mar, Calif

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 6/3/2021 4:05 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Brad Rawlins <BRawlins@leeirvine.com>**Sent:** Thursday, June 3, 2021 12:17 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Cc:** sdaley@suterreproper.es.com; kukanar1@yahoo.com; Brad Rawlins <BRawlins@leeirvine.com>**Subject:** Beach Parking- 1901 Bayside Ave, Corona Del Mar, Calif

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. We utilize the "Coast Guard" beach every weekend and know first-hand how limited the parking is. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Please increase the capacity of public parking at this treasured asset.

Thank you!

Brad & Susan Rawlins

2108 Yacht Mischief
Newport Beach, Calif 92660
(949)701-0692

FW: Public comment on permit #5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 5:43 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Susan Skinner <susanskinner949@gmail.com>

Sent: Friday, June 4, 2021 4:50 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public comment on permit #5-07-370-A2

Dear Coastal Commission:

There are 68 parking spots in the parking lot that serves the Harbor Patrol and Bayside beach. The 10 public parking spots for the beach are almost always taken while there are usually many open spots in the designated area for the Harbor Patrol.

Would you consider giving more parking spots to the public?

Thank you,

Susan Skinner

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 5:47 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Dave Sonke <davesonke@gmail.com>

Sent: Friday, June 4, 2021 4:41 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Hello,

I'm a resident of Newport Beach and have raised my family in the harbor and on the beaches. I'm a member of our local outrigger clubs, a yacht club and have boats on moorings here in Newport Beach. I pay all my taxes and keep my business and investments in our community.

Providing enrichment programs that have history, culture and environmental activities is an important part of our community for local residents and visitors. The outrigger canoe clubs are clubs of discernment and respect and having these clubs as stewards of our harbor and beaches is invaluable.

I hope the voices in support of keeping cultural enrichment programs and clubs will be heard and not silenced by those that do not see the value or participate.

Please consider the deep rooted community culture of ocean sports with rich values of family, friends, land and respect for the ocean that the outrigger clubs bring to Newport Harbor.

There are not enough programs in the community that serve the people and the environment, please consider the importance of these clubs.

Sincerely,

David W. Sonke
Newport Beach, CA
949-842-1960

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 9:47 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Jessica Susolik <jessicageneva@hotmail.com>

Sent: Thursday, June 3, 2021 6:54 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Email to: SouthCoast@coastal.ca.gov

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,
Jessica Susolik

1970 Port Dunleigh Circle
Newport Beach, CA 92660
Sent from my iPhone

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 9:54 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Joanna G <troycygnet@gmail.com>

Sent: Thursday, June 3, 2021 11:53 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,

Joanna Girard

1937 Port Provence Pl

Newport Beach, CA 92660

Joanna Girard

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 9:56 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: College Park PTA <collegeparkcougarpta@gmail.com>

Sent: Friday, June 4, 2021 8:38 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

The Hawaiian and Polynesian culture is one that promotes love and brotherhood/sisterhood. Having clubs and programs that promote cultural traditions will better the community in many ways. This club also promotes healthy lifestyles and exercise. Please consider allowing the club to continue using the space.



DYLAN WRIGHT
DIRECTOR
OC COMMUNITY RESOURCES

CYMANTHA ATKINSON
ASSISTANT DIRECTOR
OC COMMUNITY RESOURCES

VACANT
DIRECTOR
ADMINISTRATIVE SERVICES

ANDI BERNARD
INTERIM DIRECTOR
OC ANIMAL CARE

JULIA BIDWELL
DIRECTOR
OC HOUSING & COMMUNITY
DEVELOPMENT

RENEE RAMIREZ
DIRECTOR
OC COMMUNITY SERVICES

STACY BLACKWOOD
DIRECTOR
OC PARKS

JULIE QUILLMAN
COUNTY LIBRARIAN
OC PUBLIC LIBRARIES

OC Community Resources

June 4, 2021

Item W20a

California Coastal Commission

Via email

301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802

A copy of this letter has been provided to California Coastal Commission Staff in accordance with the requirements of Public Resources Code, Sections 30319-30324

Regarding: Item W20a, Application No. 5-07-370-A2 – Orange County Sheriff Department Harbor Patrol Headquarters Facility

Hearing Date: June 9, 2021

Dear Chair Padilla and Members of the California Coastal Commission,

Thank you for your time and consideration of the proposed Coastal Development Permit Amendment for the Orange County Sheriff Department Harbor Patrol Headquarters Facility Project (the project). OC Parks and the Orange County Sheriff Department Harbor Patrol (OCSD Harbor Patrol) have worked closely with Coastal Commission Staff (Staff), various stakeholders and members of the public to address the concerns and suggestions raised by Staff in its review of compliance with the previously issued coastal development permits (CDPs) for the facility, and we appreciate the time Staff has taken to consider the proposed coastal development permit amendment to effect changes at the facility to carefully balance the needs of a broad range of site uses, including public beach and dock access, State and City lifeguard vessel berths, Coast Guard facility and vessel berth, and OCSD Harbor Patrol operational headquarters, facility and vessel maintenance, vessel berths, and associated infrastructure.

Thanks to our successful collaboration, the County has addressed the condition compliance and policy issues identified by Staff, and OC Parks and OCSD Harbor Patrol support the Staff Recommendations. We understand some members of the public may continue to have different ideas about how to provide public access at this facility, but believe the proposed plan, formulated in large part based on input from the public, provides for the best balance between safe, enjoyable public access and accessibility, and the security needs of this operational multi-use harbor patrol facility.

This letter provides the Commission with an overview of both existing and proposed safety infrastructure, public access, and recreational amenities at this location. In addition, Section V of this letter outlines requests for minor revisions to the Staff Report findings to be provide clarity in condition requirements.

I. Introduction

The Orange County Sheriff Department (OCSD) Harbor Patrol Headquarters Facility is located in Newport Harbor and supports critical public safety and security operations for 48 miles of Orange County coastline and within Orange County's three major harbors at Newport Beach, Sunset-Huntington and Dana Point, while also supporting and providing for public access and recreational resources. The landside portion of the facility is part of the County's regional park facilities inventory, and OC Parks and OCSD Harbor Patrol collaborate on maintenance and operation of many of the facility's improvements and onsite public amenities, including adjacent Bayside Beach. OCSD deputies, dispatch, administrative, and maintenance personnel are stationed on site year-round, 24 hours per day, and OC Parks maintenance and Park Ranger personnel are located offsite at the nearby Peter and Mary Muth Interpretive Center at Upper Newport Bay to respond to facility issues with which OCSD may need assistance.

The OCSD Harbor Patrol Bureau provides around-the-clock law enforcement, marine fire-fighting and search/rescue services, and underwater search and rescue, among other public safety and security services. This location is the home port of the US Coast Guard cutter *Narwhal*, assigned to patrol coastal waters from the Mexican border to the Channel Islands performing search and rescue, law enforcement, and fisheries patrols, as well as drug interdiction and border security. The facility is also as an official reporting station for the National Weather Service as well as the National Oceanic and Atmospheric Administration (NOAA), and is the only secured Emergency Dock serving additional official uses of State and City Lifeguards, the County Coroner, California Department of Fish and Wildlife, Department of Homeland Security, and other Military/DOD agencies. In addition to these critical public safety, military, and related agencies, the OCSD facilities also include an active boat maintenance and mechanics complex, with related heavy equipment and facilities for upkeep of the fleet of safety vessels that serve the coastline.

The Harbor Patrol's mission is to provide a safe environment for residents and visitors alike. In addition to supporting the critical public safety and security operations mentioned, the facility includes an array of designated public use areas and amenities, including public access to Bayside Beach, public beach parking, shore-launch area for canoes and personal watercraft, a public docking area with boat slips, pump-out and temporary tie-up area, restrooms, bicycle racks, picnic tables and benches, a beach volleyball court, drinking fountain and beach shower. The Harbor Patrol has always welcomed the public into the facility and the adjacent beach and shoreline areas, and currently provides tours for school groups (third grade and older) at the facility and routinely engages in public education programs including boating education classes for youth and adults, safety inspections, and wildlife rescues. Additionally, prior to 2017, OCSD Harbor Patrol was under contract with the City of Newport Beach to manage the City's approximately 1,100 moorings within the Newport Tidelands, and as such the Harbor Patrol offices used to accommodate a significant volume of official business with boaters relative to administration of the offshore moorings.

II. Public Boat Slip and Dinghy Dock

As the popularity of boating and harbor recreational uses have increased over the years, the density and complexity of Newport Harbor has similarly increased, and the OCSD Harbor Patrol and its State and City Lifeguard partners have identified a need for additional vessel berths within the south reach of the Harbor to provide rapid response to medical emergencies and other public safety issues such as boat fires both within Newport Harbor and the surrounding coastline. Due to its location near the mouth of the Harbor along the main channel from the ocean, the OCSD Newport Harbor Patrol and Coast Guard facility is ideally situated to facilitate emergency response by Federal, State, County, and City public safety vessels and personnel.

That said, the County also recognizes the prior CDP requirement for the five (5) guest slips as an important public access and recreational amenity, and OC Parks and OCSD Harbor Patrol have worked with the public agencies to accommodate the maximum number of safety vessels at the site in a manner that does not compromise public use of the site's designated guest slips. Accordingly, pursuant to the County's permit application and consistent with the prior approved CDP, all five (5) public guest slips will be dedicated and maintained for public use only, at all times.

In addition, as noted in the Staff Report, public access to the existing dinghy dock will be maintained, allowing for free, 24-hour overnight use. The underlying coastal development permits for the site do not prescribe the hours of operation for the dinghy dock. OCSD previously designated a 72-hour maximum with the intent of ensuring the dock remained open and available to varying members of the boating public. However, over the years OCSD observed use of this public amenity being limited to the same few, local boaters occupying the dock most weekends and often for much longer periods of time. The proposed project amendment therefore includes formally designating use hours for the dock, allowing for a maximum of 24 hours, thereby providing free overnight use while also encouraging user turnover to ensure the dock is enjoyed by as many members of the boating public as possible. As proposed, longer tie-up will be allowed, if necessary, with notification to the Sheriff.

III. Facility Vulnerability Assessment and Security Mitigation Measures

After the terrorist attack at the Inland Regional Center in San Bernardino in 2015, OCSD (like many other public and law enforcement agencies) ordered all County facilities to have a security and vulnerability assessment completed. In May of 2017, the Orange County Intelligence Assessment Center / Critical Infrastructure Protection Unit completed a Vulnerability Assessment and Mitigation Report of all Harbor Patrol Facilities (in addition to many other County and governmental facilities). One of the key security issues identified in the Vulnerability Assessment was non-Sheriff/governmental agency personnel having access to certain facility areas due to the exposure and vulnerability of adjacent public safety and law enforcement equipment. Two such areas include the Emergency Dock and the maintenance area. Although the underlying permits do not designate or otherwise prescribe public access to or through these two site areas, OCSD nevertheless previously accommodated public use in these areas where warranted. As a result, the operational changes made in response to the Vulnerability Assessment and the associated security fencing and signage included in the proposed permit amendment raised concerns for various members of the public. Recognizing these concerns, OC Parks and OCSD Harbor Patrol have worked closely with the public and Commission Staff to revise the proposed amendment to include site design changes and conditions that will formalize public access in these areas while limiting potential risk and exposure of public recreationists to the site's law enforcement equipment and operations.

A. Shared Emergency Dock Security/Visitor Use Dock

The Emergency Dock is located immediately adjacent to the site's designated Fire and Emergency Access corridor and parking lot which is limited to staff and official use only (Exhibit 1). The dock historically has been signed as "Emergency Dock/Harbor Patrol Business/Information Only" and has been consistently managed as such since its construction. When not in use for emergency or governmental purposes, OCSD Harbor Patrol has accommodated brief access to the dock by members of the public for their convenience and support, when conducting official business with the Harbor Patrol or as-necessary to serve a specific public need (e.g. renting those offshore moorings or onsite guest slips managed by OCSD Harbor Patrol, accommodating vessel loading/unloading for members of the public with limited mobility or special circumstances, assisting vessels in need of emergency assistance, etc.) The OCSD Harbor Patrol has never allowed the dock to be encumbered/blocked for general public access and recreation, and instead has consistently informed members of the public of the alternate public access points for general recreation purposes within the designated public dock area – notably the 48-foot guest dock with pump-outs towards the south end of the site and identified with on Exhibit 1. In addition, as indicated in the overview above, prior to the City's termination of the agreement in 2017, OCSD Harbor Patrol was contracted to administer and manage the City's some 1,100 moorings. Thus, as a convenience and service to those boaters coming to

conduct administrative business in the Harbor Patrol's offices, OCSD did allow occasional, brief access to the Emergency Dock to members of the public for this purpose. However, following the contract termination by the City, the official administrative business between the public and the OCSD Harbor Patrol personnel was almost entirely eliminated.

Pursuant to the proposed permit amendment, use of the dock will be formalized as a shared Emergency and Courtesy dock, with public tie-ups limited to 20 minutes, thereby ensuring the traditionally offered public services will continue to be provided onsite consistent with critical public safety operations.

B. Maintenance Yard Security/ADA Path Improvements

Pursuant to the proposed permit amendment, OC Parks and OCSD Harbor Patrol are proposing to install a new ADA path from the parking lot and beach drop-off area to the beach and waterfront. The OCSD Harbor Patrol previously accommodated a path of travel for the public through the existing maintenance yard, which was identified as an issue in the 2017 Vulnerability Assessment, and separately by the County Safety Office. The County Safety Office noted that, due to the level of skilled work that requires the use of power tools, paints, chemicals, and heavy machinery in the maintenance yard and adjacent facilities, the area poses many risks and frequent hazardous activities that should be safely secured from members of the public. Providing an alternate public accessway is a proactive measure to reduce a preventable accident.

Initially, the County proposed an ADA-compliant beach access mat adjacent to the maintenance facility area and along the beach to the water as an alternative to the maintenance yard path that also met Coastal Commission guidance on use of permanent structures on beaches. After receiving some questions about the adequacy of the beach access mat from one or more members of the public, the County then proposed to install the mat for a one-year pilot, wherein its suitability for general and accessible public use could be evaluated in coordination with Staff and reported to the Commission. However, in response to many public commenters raising concerns about anything other than a solid surface pathway, and in consultation with Staff, the County now proposes a fully ADA compliant concrete path. The ADA pathway would be located along the beach but immediately adjacent to the existing parking lot and between the maintenance facility and canoe storage areas, thereby providing direct access to the site's public restrooms, drinking fountain, beach shower, waterfront walkway and guest dock, while avoiding impacts on the open sandy beach. The proposed pathway will better meet ADA and public safety standards, replacing the pedestrian path presently located in a drive aisle where heavy equipment, boats on lifts and vehicles are working to support the operations of the Sheriff Harbor Patrol and U.S. Coast Guard. The new walkway would provide a more direct path of travel to the site's public beach amenities, shoreline, and public-serving docks.

In addition, to better accommodate ADA access at the site, OC Parks and OCSD Harbor Patrol have committed to providing two ADA beach wheelchairs for public use and studying the feasibility of installing an ADA lift at the emergency dock to assist people with limited mobility to board a boat. The County is currently researching conformance with ADA guidelines, installation requirements and contacting providers for the lift, and will promptly pursue any required permits to install the lift when the scope of work for installation is confirmed and if determined feasible.

IV. Canoe Clubs

OC Parks and OCSD Harbor Patrol appreciate Staff's support for permitting the public canoe clubs to retain space for their canoes onsite. The three canoe clubs currently recreating from this location are non-profit entities comprised of members of the general public with the goal of educating and generating public interest in canoeing, as well as providing an opportunity for the public to join a competitive team. The County believes use of the beach to consolidate storage for the equipment and supplies necessary to support this coastal-dependent recreational use is appropriate and serves to maximize access to and use of the coast for this user group, while also maintaining

ample sandy beach for other recreational uses (please refer to Exhibit 2, Letter from County Counsel, July 27, 2020).

V. Minor Staff Report Corrections

As noted, the County requests the following changes be made to the Staff Report findings to correct inaccurate statements and provide clarity in condition requirements. Requested revisions to Staff's recommend Special Conditions are shown with bold text underline for requested text additions, and bold text strikethrough for requested text deletions.

Staff Report page 2, first paragraph:

The applicant also proposes to provide the public drop-off area for beach patrons as was required by CDP 5-94-255 ~~but never implemented~~.

Requested revision to reflect that the public beach drop-off was implemented consistent with CDP 5-94-255, and has been maintained by OC Parks since the permit's issuance.

Staff Report page 23, last paragraph:

Moreover, Special Condition 1 further expands existing access to the canoe clubs by requiring a minimum 24 days per year (an average of two days a month) of free instruction marketed to environmental justice communities through a robust Promotional Plan, as required by Special Condition 17.

Revisions requested to correlate with Special Condition text.

Staff Report page 24, third paragraph:

The applicant also seeks after-the-fact approval to relocate ~~102~~ public vehicle parking spaces from the location approved by Coastal Development Permit 5-94-255, which was closest to the OCSHP facility, to an immediately adjacent area closer to the entrance of the parking lot (Exhibit 2).

Revisions requested to reflect that 10 public spaces required per Coastal Development Permit 5-94-255 are proposed to be relocated.

Staff Report page 27, third paragraph:

To that end, in developing this application it was the goal of Commission staff and the County to help facilitate and expand the low-cost recreational opportunities at the site such as visiting the sandy pocket beach to swim and sunbathe, participation in traditional Polynesian outrigger canoe lessons free of charge for a minimum of 24 days a year ~~on a bi-monthly basis~~, the ability to store a kayak or stand-up paddleboard over a weekend on a storage rack at the beach for the weekend, and to market these opportunities to disadvantaged communities who might not otherwise know about the OCSD Harbor Patrol facility and the Bayside Beach recreational amenities.

Revisions requested to correlate with Special Condition text

VI. Conclusion

OC Parks and OCSD Harbor Patrol are fully committed to meeting all Special Conditions recommended by Commission Staff and improving public access for All to this important recreational asset. We thank the Coastal Commission and Staff again for your time and consideration and request the Commission's approval of the proposed permit amendment as recommended in the Staff Report with the minor Staff Report clarifications requested herein.

Respectfully Submitted,



Stacy Blackwood
Director, OC Parks



Captain Gary Lewellyn
Harbormaster for the Harbor Patrol Bureau




Cc: Via Email

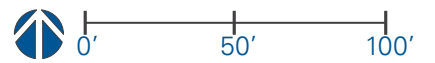
Nick Anas, Deputy Chief of Staff, Office of OC Supervisor Katrina Foley



LEGEND

- 1 Authorized Personnel Sign
- 2 Public Rental Docks Sign (A,B)
- 3 Public Tie-Up/Hours Sign
- 4 Emergency/Courtesy Dock Sign
- 5 Public Beach Parking Sign
- 6 Authorized Parking Only Sign
- 7 Beach Drop-off w/arrow Sign
- 8 Beach Drop-off Point Sign
- 9 Coastal Access Sign
- 10 Office Directional Sign
- 11 20 Minute Docking Sign
- 12 No Fishing Sign
- 13 Harbor Patrol Entrance Sign
- 14 Vessel Washing Area Sign
- 15 Guest Services Directional (A,B,C)
- 16 Business Hours Sign
- 17 ADA Parking Sign
- 18 Shower Sign
- 19 No Gear on Grass Sign
- 20 No Vessel Washing on Ramp
- 21 Authorized Personnel w/arrow
- 22 Storage Closet/Racks
- 23 Accessible Route
- 24 Additional ADA Parking Stall
- 25 ADA Restroom Panel

 Official Use Area
 Guest Dock Area
 Canoe Storage Area



O.C. SHERIFF'S HARBOR PATROL HEADQUARTERS

SIGNAGE AND WAYFINDING / PUBLIC FEATURES



**OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE**

333 W. SANTA ANA BLVD., SUITE 407
SANTA ANA, CA 92701
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SANTA ANA, CA 92702-1379
(714) 834-3300
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Michael M. Haubert
Senior Deputy County Counsel
(714) 834-2890

E-Mail:
michael.haubert@coco.ocgov.com

July 27, 2020

VIA E-MAIL

Jordan Sanchez
California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 3000
Long Beach, CA 90802

**Re: Coastal Development Permit Application No. 5-07-370-A2 and Violation
File No. V-5-19-0053 (Canoe Clubs)**

Dear Mr. Sanchez:

The Office of County Counsel serves as legal counsel for the County of Orange and its agencies and departments, including OC Parks. This letter is in response to your letter ("Letter") on behalf of the California Coastal Commission ("CCC") addressed to OC Parks, dated June 25, 2020. In that Letter, you noted, among other things, unpermitted private canoe club storage as a violation of CDP Application No. 5-07-370-A2.¹

On behalf of the County, this response seeks to clarify some of the issues raised in the Letter because there appears to be some factual errors upon which its conclusion rests. After considering the information contained in this response, the County respectfully requests that the CCC take into consideration the public access these clubs provide on the County's behalf and to rescind its Notice of Violation/Incomplete Application on this point.

Background

The CCC issued a letter to the County dated May 19, 2019. In that letter, the CCC expressed concerns over alleged non-compliance with CDP # 5-07-370 and 5-94-255. The County has been working diligently to address the concerns in that letter. Various correspondence has taken place between the CCC and County over the course of the next year as the parties have been working through the CCC's concerns following the appropriate process.

¹ Further, the County received a letter dated July 13, 2020 noting the same issue in terms of an "Notice of Incomplete Application." This response will focus on the June 25 Letter since that Letter raised the canoe clubs for the first time, but the County's response herein is just as applicable to the July 13, 2020 letter from the CCC to the County.

However, in its June 25, 2020 letter, the CCC raised the following issue for the first time, “The application has also brought to light the unpermitted *private canoe club* storage on the beach, which has occupied approximately 6,000 square feet of public beach since at least 2003.” (Emphasis added.) The canoe clubs are not private clubs in the traditional sense; rather, they are open to the public as a means for maximizing public access to the activities authorized under the County-issued permits. Regardless, a private club does not, in itself, render the use of such clubs as a violation of the Coastal Act.

The County apologizes if there is any confusion on this matter as the response in our February 25, 2020 letter may not have highlighted all of the salient facts while unaware there was a concern. The County therefore provides this response in order to request that the CCC allow the continued use of these clubs as-is or accept the use of the clubs under the County’s application under the CDP Application No. No. 5-07-370-A2 without any further need for adjustment or amendment.

The Canoe Clubs Use Public Membership and Encourages Volunteer Programs

The County has issued permits to three canoe clubs: Hana Hou Canoe Club, IMUA Outrigger Canoe Club, and Offshore Canoe Club (collectively “Public Canoe Clubs”). The membership of each of these clubs is open to the general public.² Moreover, each club is a member of the Southern California Outrigger Racing Association (“SCORA”), which is “a non-profit public benefit corporation and is not organized for the private gain of any person.” (See SCORA Amended & Restated Bylaws at section 3.02.) One of the expressly stated purposes of SCORA is “to promote an educational program dedicated to the development of amateur outrigger canoe racing as a means of athletic competition and attainment of physical fitness and to generate public interest and support for these activities [outrigger, water-related activities].” (See *Id.* at section 3.01(B).) As members of SCORA, these Public Canoe Clubs also encourage the use of volunteers for their programs. (See *Id.* at section 8.03.)

The County’s Permits Achieve Reasonable Time, Place and Manner Regulations for Public Benefit

The public access policies of the Coastal Act are required to be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access

² The County acknowledges that these are private entities; however, the membership of the Public Canoe Clubs is comprised of members of the general public and any member of the public may join. As discussed below, the use of a private organization for regulating the use of the facilities is not only allowed, but is encouraged under the Coastal Act. Further, the California Supreme Court recognizes the important role that private organizations play in making opportunities available for the public’s benefit by catering to membership comprised of the general public. See, e.g. *Ehrlich v. City of Culver City* (1996) 12 Cal. 4th 854, 878-79. Thus, the use of a private organizations is not dispositive of the CCC’s consideration on the County’s permits to these Public Canoe Clubs.

depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) *The capacity of the site to sustain use and at what level of intensity.*

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs."

(See Public Resources Code Section 30214; Emphases added.)

Accordingly, section 30214 of the Coastal Act expressly encourages the County to seek innovative access management and further authorizes the use of private organizations to achieve such goals. The County's permits for the Public Canoe Clubs are therefore consistent with the Coastal Act.

Moreover, as the agency overseeing public recreation for the County's harbors, beaches, and parks, OC Parks is charged with the duty of overseeing any such public use in a manner consistent with protecting the County's natural resources. See, e.g. Orange County Codified Ordinances, Title 2, Division 2 and Division 5.

By issuing permits to the Public Canoe Clubs, the County has set forth reasonable time, place, and manner regulations that provide for an orderly use of natural resources in a cost effective way by minimizing the County's costs and opening up these resources for public benefit through the clubs. Specifically, the use of these Public Canoe Clubs regulates the time

(by providing hours of availability to ensure stability and predictability of use), the place (by providing specific areas for storage and use of equipment in an orderly fashion), and the manner (by providing an organized means for tracking and communicating with members of the public and overseeing the use of the area that maximizes use and minimizes waste and damage to the area that would result without the use of the current club system). The County's permits and use of the Public Canoe Clubs therefore uphold important regulatory purposes that satisfy both County law and the Coastal Act by providing for orderly and efficient management of public access.

Conclusion

Based on the aforementioned information, the County respectfully requests that the CCC take into consideration the valuable services provided by the Public Canoe Clubs on behalf of the County, which provide reasonable time, place, and manner regulations associated with the general public's access and use to these coastal resources in a safe and orderly fashion. Accordingly, the County also respectfully requests that the CCC rescind its Notice of Violation/Incomplete Application regarding the Public Canoe Clubs and allow their continued use as-is, or accept the use of the clubs under the County's application under the CDP Application No. 5-07-370-A2 without any further need for adjustment or amendment.

Very truly yours,

LEON J. PAGE
COUNTY COUNSEL

By Michael A. Haubert
Michael A. Haubert, Senior Deputy

MAH:vl

Re: CDP Amendment Application 5-07-370

Dear California Coastal Commissioners and Staff,

Thank you for protecting public access to the OC Parks coastal facility at 1901 Bayside Drive in Corona Del Mar, CA. Furthermore, thank you for obtaining a commitment from the applicant to restore a majority of the public access that was wrongfully taken from the people of California, as identified in the May 20th, 2019 CCC Enforcement Letter direct to the Orange County Sheriff's Harbor Patrol (OCSHP).

I respectfully request the Coastal Commission to require the County to reduce the scope of this application to adding the two security gates at either side of the OCSHP patrol boat slips, restore full public access as called for in the May 2019 Enforcement letter and add additional public parking as mitigation for Coastal Act Violation:

Here is a summary of the matter:

In May of 2019 CCC Enforcement Staff notified the OC County Sheriff Harbor Patrol of multiple violations of the Coastal Act related to deterring public use at the location. Now, the applicant has put forth this application to move public beach parking further from the beach and restrooms, install many restrictive gates/fences, block off access to the waterside viewpoint/walkway (between Coast Guard Building and OCSHP Building) and install a 250 ft long cement walkway over the sand at the small beach at this location.

The applicant has proposed no tangible mitigation for noted violations or proposed development.

In terms of violations, please keep in mind that the applicant has been issued a violation letter for shutting down the 1) visitor dock 2) two of 5 Guest Slips 3) the dinghy dock , 4) the permitted beach parking area nearest the beach. The OCSHP had posted "Keep out" or other restrictive signage at each of these locations as identified in the May 2019 Enforcement Letter. In fact, they had posted "Authorized Personnel Only" signs on the three remaining guest slips, which (per PRA request), OCSHP personnel or retirees used heavily for their personal vessels.

The Coastal Commission should also be aware that the OCSHP had posted an "STOP-Authorized Personnel Sign Only" over the red line at the main entrance to the entire facility (This can be verified with OC Parks Supervisor Bill Reiter or OC Parks Supervisor Scott Fegley) Furthermore, I am told the OCSHP had attempted to eliminate the Outrigger Canoe programs at the location (this may be verified with OC Parks Real Estate Officer Ron Inouye or Outrigger Club Leaders). It is my understanding that this concerning and restrictive activity occurred in the Spring of 2018.

In the following paragraphs, I will identify a few concerns with this CDP Application and the staff report.

- A. **Parking-** Given the fact that the May 20th, 2019 CCC letter clearly states that the applicant relocated the 10 public beach parking stalls from the lot immediately adjacent to the beach to the south side of the entrance, without the benefit of a CDP it is extremely important that the Commission pays close attention to the parking situation at this **shared** public facility.
 1. **Special Condition #14** calls for applicant to submit a beach parking plan consistent with the plan dated February 25th, 2021. I do not believe any parking plan was submitted or posted for public review.
 2. **Special Condition #14a** requires 11 general beach parking spaces, 1 ADA stall and 8 public weekend stalls on either side of the parking lot entrance (for a total of 20 parking spaces). However, the existing condition in 2019, as noted on the May 20th CCC Enforcement letter (and can be easily counted on exhibit 5 of this CDP), was 11 beach parking stalls on the south side of the entrance and 10 weekend stalls on the north side of the entrance for a total of 21 parking spaces. **Therefore, this condition necessitates, without justification, the net loss of one parking stall for public use** (which is approximately really 10% of the public parking).

3. In regards to the **existing 10 weekend parking stalls** on the north side of the entrance, the second paragraph of item 6 on page 24 of the staff report, staff incorrectly indicates that the County proposes to designate for public use 8 ADDITIONAL parking spaces currently designated for official use (on the north side of the entrance). This is an inaccurate statement that is misleading to the public and the Commission given the fact that these weekend spaces have been available to the public (as identified in the May 20th 2019 Enforcement letter) for years, if not decades. **This misleading statement gives a Commissioner (or a public reviewer) the impression that the County is granting the public some new parking, when in fact, the County is giving the public nothing.** The County is actually taking away a public parking space in this area (as identified in #3 above). It is unacceptable this misleading language is included in the staff report given the fact that the CCC permitting staff agreed (in an email dated 5/10/21) to correct this mischaracterization of the current condition of the weekend parking (from the staff report presented in March on this item) prior to completing the staff report on this item for this June CCC meeting.
4. **The County intends to eliminate access to the waterside parking** lot adjacent to is between the Coast Guard Building which includes the only waterside ADA parking stall and the only EV stall at this location. This ADA parking space is the closest ADA stall to the public restrooms, cement ramp to beach waterline and southern public docks. In fact, there is blue designated ADA walkway designating this path. Additionally, this ADA stall is adjacent to an ADA view walkway engineered with truncated domes as part of a tactile paving system (see Exhibit B). This CDP and staff report does indicate how the County intends to mitigate for closing off access to these significant parking amenities.
5. Neither the County nor Coastal staff have identified or discussed (in the CDP or staff report the **existing white curb loading zone** at the top of the gangway of the visitor dock or the designated motorcycle parking area (interior, north/west side of the parking lot). These parking amenities have been restricted from public use as there has been (and currently exists) a red painted limit line across at the entrance to the interior portion of the parking lot with a sign indicating "STOP-Authorized Parking Only" in the middle of the roadway which combined have significantly deterred public use.
6. **Relocation of 10 public beach parking spaces-** The County is seeking retroactive permission for the non-compliant relocation of the 10 designated beach parking spaces further away from the public beach (which was identified as a violation on the 2nd paragraph of page 5 of the May 20th, 2019 CCC Enforcement letter). It is clear from reading staff language from page 12 of the staff report for CDP 5-94-255 (exhibit C) that the intent of establishing beach parking in the parking area most proximal to the beach was to promote the use of the beach by the public. However, CCC Staff has declared this relocation of the public parking (further from the beach) a de minimis change in paragraph 2 of page 25 of this staff report. How can this be a de minimis change when the relocated parking lot is double the distance from the beach and amenities such as the beach restrooms, showers, water fountain and the bulkhead waterline walkway? In Section 6 of page 24 of this staff report the applicant attempts to justify moving the public parking away to make more convenient parking for employees of the OC Sheriff's Harbor Patrol, the Coast Guard and the Lifeguards. The applicant and the CCC staff fail to explain why the convenience of these public servants is more important than the convenience of the public beach visitor. There are 55 other available spaces for these public servants (which have been restricted to official use only without the benefit of a CDP). For their convenience, the Coast Guard has a yellow loading zone and several parking stalls adjacent to their facility. To move the 10 beach parking stalls away further from the public beach is in contradiction to the 5-94-255 staff report and flies in the face of the Coastal Act.
7. **We need the County to Increase the number of public beach parking spaces to mitigate for violations any proposed development-** only 17% (11 out of 65) of the parking spaces at this location are designated for public parking. To provide **tangible mitigation** for the violations and **ANY** proposed gates, the CCC staff should require the County to reinstate the permitted and required 10

beach parking stalls (nearest the beach) **AND** insist on formalizing the existing 11 beach parking stalls on the south side of the entrance drive and the existing 10 weekend parking spaces on the north side of the entrance drive. By reinstating the permitted 10 beach parking stalls and formalizing the 11 existing stalls, the County will be increasing the total number of beach parking stalls to 23 (out of 65) which will increase the public portion of parking to 35% which is a more appropriate ratio for this shared public facility. **There has been no tangible mitigation proposed to increase public access for the violations noted on the May 19th, 2019 CCC Enforcement letter, including the 11 "Keep Out" signs at public access points.**

B. Site and signage maps on exhibits of this staff report

1. The sign plan (CDP exhibit 2) of this application indicates the visitor dock (north end of facility), gangway to visitor dock, associated viewpoint at top of gangway and the adjacent white curb vehicle loading zone are "official use" as indicated in salmon color on exhibit 2. Also, there is an "Authorized Personnel" sign indicated at the top of the gangway which will eliminate pedestrian access to the visitor. However, the staff report (special condition 15e) indicates the visitor dock will be open to the public for loading of passengers. The salmon color and authorized personnel sign proposed on exhibit 2 are in direct conflict with the S.C. 15e.
2. Sign #7 on exhibit 2 indicates the applicant is proposing to place a sign on the restrictive red line at the main entrance to the location. Any signage that blocks the roadway is restrictive, especially when it sits atop a restrictive red line. Sign #7 can easily be relocated to the planter box on the south side of this intersection. The restrictive red limit line deters access to the interior parking areas such as ADA, drop off, motorcycle parking, visitor dock loading curb etc.
3. We need the white vehicle loading curb to be identified on the signage and parking plan or it may disappear down the line.
4. We need the motorcycle parking area near guest services and visitor dock to be identified on the signage or parking plan or it may disappear down the line. **EXHIBIT D**

It seems to be an easy solution to this CDP would be to simply force the Applicant to limit the scope of the application to securing the patrol boats (their original stated intention) and coming into compliance with the May 2019 enforcement letter. The CCC should require the applicant to increase public parking as mitigation for the violations.

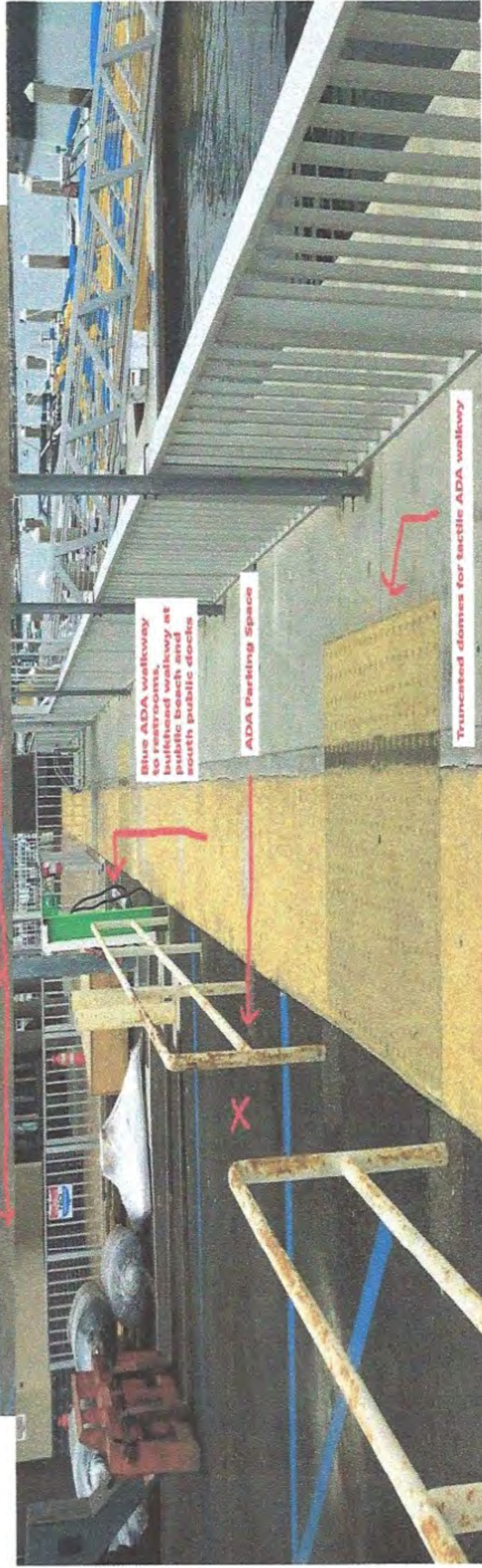
Respectfully,



Wade Womack

Newport Beach, CA

Exhibit
B1 B2



From: Wade Womack wade@orangecoastla.com
Subject: language
Date: Jun 4, 2021 at 4:36:45 PM
To: Wade Womack wade@orangecoastla.com

5-94-255
Page 12

Exhibit C

The proposed project is located between the sea and the first public road. The project is located adjacent to Bayside Drive public beach. The applicants are proposing to increase public access to the beach by providing 10 parking spaces for beach use and a beach drop-off point. The applicants are increasing public parking and facilitating public access to the beach. To ensure that the 10 parking spaces are for beach use only, the Commission is requiring that the applicant place a sign at the public parking spaces indicating that the spaces are to be used for public beach access between the hours of 8 am and 5 pm.

← Visitor Dock

MOTORCYCLE
PARKING ONLY

Exhibit D

Ghost Services



FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 4:13 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Michael Willems <mwillems@brymaxservices.com>

Sent: Friday, June 4, 2021 3:26 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Mike Willems
Resident
Newport Beach, CA

June 4, 2021

California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302

Re: Coastal Development Permit Amendment Application #5-070370-A2.
California Coastal Commission,

I am a local resident and avid recreational boater and fisherman, and I am familiar with the Orange County Sheriff Harbor Patrol (OCSHP) facility and its intended use as a shared public use/coastal access facility.

I have reviewed your staff report dated May 28, 2021 and would like to commend staff and the Orange County Parks Department (applicant) for several of the recommendations / proposed revisions including: Re-designating the temporary visitor dock as shared public/emergency use, allowing public dinghy dock use for 24-hours (or longer by special permission), re-designating 5 overnight guest slips and ensuring the public is aware of their availability and the process for rental, ensuring ADA improvements and compliance for beach access, signage and way finding improvements, and increasing public parking hours to 6AM to 10PM daily.

However, I am requesting your assistance in addressing one final area of concern, the facility parking plan (Item 6 – Reconfiguration of Public Surface Parking Spaces). The proposed plan does not adequately address meaningful public access to the shared public/OCSHP facilities and accompanying public amenities. The applicant proposes providing a total of 11 public parking spaces of a total 64 spaces available (less than 20%). Additionally the applicant proposes traffic signage, and road paint striping, which will discourage safe and effective vehicular traffic flow and furthers the perception of a private parking lot.

COMMENTS

1. The Commission should require applicant to designate a minimum of 24 public beach/amenity parking spaces within the facility parking lot (roughly a 60/40% OCSHP /Public Access split).

- Over the years, and without the required approval of previous CDP or amendments, the OCSHP facility has seized for its sole benefit and use the vast majority of the current 64

parking spaces (Exhibit 2) at the facility.

- Previous CDP 5-94-255 language articulates the intent and desirability for close proximity beach/public amenity parking in the lot.
- Staff opinion that this as a de minimis change issue is in error. Any consideration given for OCSHP employee parking convenience should be balanced with the purpose and intent of the Coastal Act and the tenet of meaningful public access to protected public resources.
- Without a reasonable (fair and equitable) distribution of the parking spaces, other public access improvements proposed are greatly diminished or made moot.

2. The Commission should require applicant to remove any proposed surface striping (paint or otherwise) or signage placement that blocks vehicle traffic flow through the facility parking lot.

Again, thank you for your consideration in this matter.

Respectfully,

Mike Willems

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 9:57 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Jen <jennisonke@gmail.com>

Sent: Friday, June 4, 2021 9:05 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

I live here in Newport Beach, I work here, I am a boater, I am a member of BCYC and a member of a "canoe club".

I love cruising the Harbor and seeing all that Newport Beach has to offer our community and those who come to visit. I appreciate the many water activities, and proudly boast that we are one of the largest recreational harbors in the West Coast.

I have 2 grown children who grew up on the shores of our beaches participating in school surf teams, NAC rowing, outrigger clubs, fishing, recreational boating and am grateful to know that my 2 granddaughters will also be able to enjoy all that our harbor and beaches have to offer. Thank you for securing a place on our shores for the many outrigger clubs that are a part of our community and have been since 1960. Celebrating our heritage as members of the AAPI community brings a diversity to our home harbor that we are grateful and proud to share.

Mahalo for support and consideration,

Jennifer Sonke

Sent from my iPhone

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 1:06 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Chris Haberl <c.haberl@yahoo.com>

Sent: Friday, June 4, 2021 12:11 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear Coastal Commission,

Please reinstate the original public beach parking adjacent to the beach. Please make sure they add more public parking. The County has taken over almost all the parking at this location.

Have a Great Day,
Chris

FW: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 6/4/2021 1:07 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Kim Gordon <kimagordon4@gmail.com>

Sent: Friday, June 4, 2021 11:04 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on June 2021 Agenda Item Wednesday 20a - Permit No. 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commission,

Thank you for protecting public access at the public facility located at 1901 Bayside Drive in Corona Del Mar. Public parking at this County location is quite limited. Given the County is seeking a permit to alter public access at this location, I respectfully request the Commission to require the County to increase public parking at the facility. Currently only 11 of the 65 parking spaces at this location are available for public use. By reinstating the original 10 beach parking stalls in the area nearest the beach (as identified on the previous permit) and formalizing the existing 11 beach parking spaces, the County will be granting the public a total of 21 parking spaces (an increase from 17% to 32% of the available parking). Certainly, 32% is a more appropriate public parking ratio. Increasing public parking will increase public access to this Coastal location.

Sincerely,
Kim Gordon
1845 Port Ashley Pl
Newport Beach CA 92660

Sent from my iPhone

CDP 5-07-370-A2 (ORANGE COUNTY PARKS)

CORRESPONDENCE

**SECTION B.....(CORRESPONDENCE RECEIVED FOR THE
POSTPONED MARCH 10, 2021 HEARING (ITEM W12A))**

W12a Comments - please add to file for this postponed item

Penny Elia <greenp1@cox.net>

Fri 3/5/2021 2:13 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Cc: Schwing, Karl@Coastal <Karl.Schwing@coastal.ca.gov>; Dobson, Amber@Coastal <Amber.Dobson@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>; Sanchez, Jordan@Coastal <Jordan.Sanchez@coastal.ca.gov>; Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>; Tobin, Erin@Coastal <erin.tobin@coastal.ca.gov>; Helperin, Alex@Coastal <Alex.Helperin@coastal.ca.gov>; Warren, Louise@Coastal <Louise.Warren@coastal.ca.gov>; Ainsworth, John@Coastal <John.Ainsworth@coastal.ca.gov>

 1 attachments (1 MB)

W12a Comments2_Penny Elia.pdf;

Good afternoon, Mandy and all -

It looks as though W12a was postponed around noon today, but I wanted to make sure that my comments go into the file so that they can be considered once this item is rescheduled and a new staff report is generated.

A lot of us, as well as a lot of you, have put many hours into this issue. I am very curious as to why this is being postponed at this late date. Is it possible to share why the County has postponed this? I am hopeful that they are reconsidering their options for actually making this a good project.

The opening paragraph of my letter addresses Jack's comments on the 2020 Workload Report last month, and I'm afraid that once again the County of Orange has wasted a lot of valuable staff time and for this I am very sorry.

Thank you all for all you do.

Best -

Penny

March 5, 2021

California Coastal Commission
455 Market Street Suite 300
San Francisco, CA 94105

Re: Item W12a
Application 5-07-370-A2 – Orange County Parks, Newport Beach

Dear Chair Padilla and Coastal Commissioners:

Thank you as always for the opportunity to comment.

As I was reading this staff report I had two reoccurring thoughts. The first thought took me back to last month's hearing when Director Ainsworth gave his 2020 retrospective of the Workload Review Report and his detailed description of staff's workload challenges that have been exacerbated by the pandemic and natural disasters. He also addressed the 740+ unresolved enforcement cases up and down our precious coast. The second thought was that here we are, once again dealing with the County of Orange and the Orange County Sheriff's Department (OCSD) on an enforcement issue that should not require staff's time and extensive effort to achieve even the slightest bit of cooperation from the County and OCSD. For five years we have struggled with the County and OCSD at the Santa Ana River mouth and all we have to show for it are a couple of signs, and with those we had to argue and argue to finally get a fair and equitable placement of the Spanish translation. However, the problems still persist and OCSD refuses to patrol the site. In the case of this public dock and beach area, OCSD appears to have more than enough time to erect KEEP OUT signs and implement every other means by which to completely prohibit public access. Definitely an interesting study in how OCSD would prefer to use their valuable time and labor, and waste that of Coastal Commission staff - - exactly what Director Ainsworth was addressing last month and what we have been dealing with for five plus years.

I have already submitted my comments to CCC staff from April 2019 which are quite detailed, but since the two previous CDPs are not included for your reference, but listed as substantive documents, I will once again refer you to my first submittal so that I am not repeating myself too much and may reference them in this document. The other attachment from my first comments is an explanation of the homeowner encroachments on this beach that restrict public access and usage and exacerbate the public access and outrigger storage problems in this area. I will address this in more detail later on in my comments.

Given the nature of OCSD's violations and their repeated attempts to prohibit the public from using this area that was carefully conditioned for public use nearly 25 years ago, I am not confident that the conditions put forward in this staff report will remedy the problem for the public, or restore the public access and amenities that were created in the original 1995 permit. Please note that after nearly 25 years of open public access made possible through CDP 5-94-255, OCSD arbitrarily decided in 2018 to begin prohibiting the public in every way possible from utilizing this public beach and recreational amenity. This was accomplished in many ways, including the installation of countless KEEP OUT signs on the property. OCSD, as the staff report repeatedly asserts, contended in large part that the public no longer wanted or needed to use this area. This couldn't be farther from the truth and we hope to provide you with the evidence you need to make a good decision on this permit that will fully restore public access.

With all of this in mind, I request that this permit be denied as conditioned and approved only with more rigorous conditions that are carefully monitored by staff since we know after five years of challenges with OCSD at the Santa Ana River mouth that OCSD and the County agree to one thing, and do another. In fact, they do whatever they want to do.

I most respectfully request that this permit be conditioned to:

- Improve and/or restore ADA access and parking that allows for the continued use of the existing properly engineered concrete ADA paths and ramps.
- Improve parking, traffic and circulation throughout the site and do away with the one-way/no outlet conditions OCSD has created or plans on creating through the CDP app before you.
- Create an EJ program that is marketed and publicized via multiple outreach vehicles, since not everyone has access to the internet, especially our underserved communities.
- Create a signage and wayfinding program that at minimum includes Spanish signage and is not limited to one sign at the beach drop off. If an EJ program is going to be properly created and implemented, one sign in both English and Spanish is not sufficient, and the signs need to have the English and Spanish side-by-side. Please, no more County signs with an arrow pointing to the Spanish translation on the back side of the sign.
- Work with the County and the adjacent homeowners to remove all of the encroachments in the parking lot area and on the beach, as well as the removal of all private property storage of personal affects. This is already a constrained area and we cannot afford to lose any land to unpermitted encroachments on the beach or in the parking area. Think equality.

Before addressing the Special Conditions set forward in this staff report, I respectfully ask that the Commissioners review, perhaps not in great depth, but at least a cursory review of the two past CDPs that were issued so that you are clear on what the County and OCSD have taken away from the public through their arbitrary and capricious actions. The staff report states that the applicant, via this permit is, "proposing new public components" to improve access to the beach and boating facilities. With the exception of the EJ component, is there a reason the public is not able to have all of the public components that were included in the original permits returned to us? We didn't ask to have these taken away - - they worked very well for nearly a quarter century. The 1995 and 2008 permit application staff reports are provided as attachments to these comments.

SPECIAL CONDITIONS

8. Eelgrass Mitigation

In my April 2019 memo to Jordan Sanchez I asked what the current status of the Eelgrass Monitoring program was since it didn't appear that the County had submitted any information on this since it was conditioned in the original permit. While the current permit application is requiring compliance with the Eelgrass Mitigation, it would seem that it would be important to this Commission to know where this program stands to date. The same would apply to all of the past conditions that were set forward in the original permits of 1995 and 2008.

12. Future Development Restriction

For nearly two years we have been working with CCC staff on these OCSD violations, while staff in turn attempted to work with the County on compliance with multiple Coastal Act policies. During that time, we notified staff that the County was undertaking development in the way of dock repairs/replacement and an extensive lighting installation without the benefit of a CDP. To the best of our knowledge, based on information from PRAs, this unpermitted development was calculated at approximately \$300,000. This unpermitted development was completed, but begs the question as to how CCC staff monitors future development since apparently the County will continue to do as it wishes without the benefit of any permitting.

The watchful public will continue bringing these types of issues to staff's attention, but staff simply doesn't have the bandwidth to continue monitoring unpermitted development. How do we receive assurances from the County and OCSD that any future development will be completed only through an approved CDP?

13. Mitigation Plan for One New Public Dock Slip

On pages 17 – 19 of this staff report, staff applies the terms “contends” or “according to the applicant” at least six times to explain why OCSD felt they were able to undertake unpermitted conversion of a previously agreed upon “shared public safety and public recreational use of the docks” to an area that is no longer open to the public. OCSD attempts to justify their prohibiting of public access by stating that the public really doesn't need or want to use this area since the Marina Park opened. Staff does state that maybe, just maybe, the lower numbers for public use might be attributable to all of the KEEP OUT signs that were posted (please see all those signs in my first round of comments). Once those KEEP OUT signs were posted in 2018 by new OCSD management this is what happened to the guest rental slip revenues. Just one example of what KEEP OUT signs can do.

GUEST SLIP RENTALS

Fiscal Year	January	February	March	April	May	June	July	August	September	October	November	December	Totals
2014				\$2,944.00	\$2,906.00	\$3,280.00	\$5,884.00	\$5,090.00	\$4,648.00	\$3,920.00	\$2,480.00	\$3,520.00	\$34,672.00
2015	\$1,656.00	\$2,008.00	\$2,920.00	\$3,120.00	\$2,985.00	\$2,800.00	\$4,143.00	\$5,160.00	\$3,888.00	\$3,720.00	\$2,008.00	\$2,840.00	\$37,248.00
2016	\$384.00	\$0.00	\$0.00	\$320.00	\$2,507.00	\$3,398.00	\$4,520.00	\$5,320.00	\$4,680.00	\$2,707.00	\$1,648.00	\$1,800.00	\$27,284.00
2017	\$120.00	\$480.00	\$1,760.00	\$720.00	\$1,800.00	\$2,480.00	\$1,400.00	\$2,680.00	\$1,040.00	\$160.00	\$120.00	\$440.00	\$13,200.00
2018	\$240.00	\$1,000.00	\$0.00	\$840.00	\$240.00	\$560.00	\$1,040.00	\$1,694.00	\$680.00	\$1,120.00	\$520.00	\$1,080.00	\$9,014.00
2019	\$280.00	\$40.00	\$320.00	\$280.00									\$920.00

As stated previously, for nearly 25 years boaters and beachgoers have enjoyed public access to this entire area/facility – they were even able to use the restrooms inside the facility, but are strictly banned at this point. Without exception, the public is made to feel like intruders - - or perhaps even having criminal tendencies. We have also heard rumors of threats of domestic violence and drug trafficking. Is there any documentation on file that substantiates this new increased danger this area is facing from the public or are these just unsubstantiated rumors? If there are documents that substantiate these threats and dangers, they do not appear to be available to the public through FOIA, so perhaps OCSD can help us understand why the public is being locked out and provide some evidence of this new threat to everyone's safety.

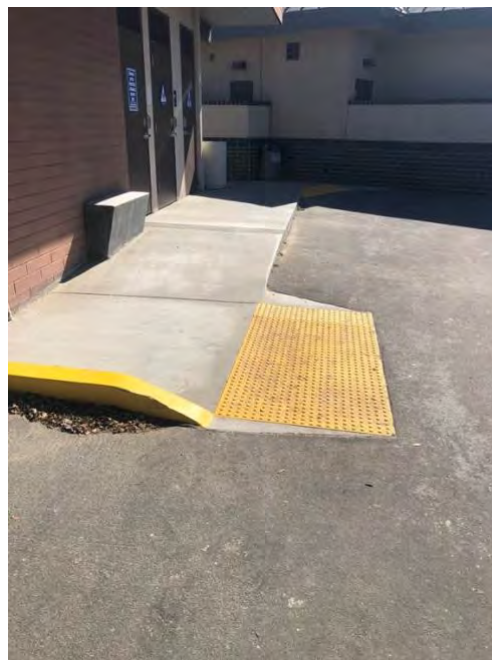
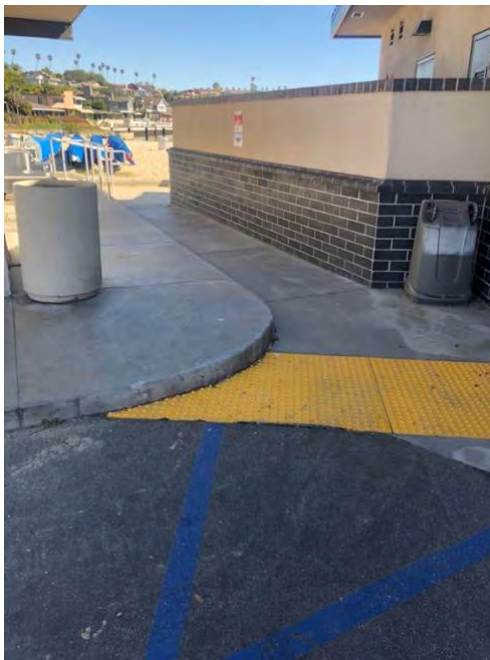
14. Final Site Plan for Gates and Fences

The plan for gates and fences is another OCSD complete lock out of the public, and the most concerning lock out is what is being proposed for ADA access - - or rather the complete obliteration of ADA access. A rubber mat rolled out on the sand is being proposed to rectify the total removal of proper ADA access.

On the next page are photos of some of the existing ADA area that will be fenced in supposedly for security purposes. Note that the rubber mat (marked in blue on the sand) will be rolled out parallel to the existing well-planned and engineered ADA ramp with rails. There is a rather steep drop off of beach at the edge of the ADA ramp that would be very difficult for a wheelchair to navigate, much less someone on a walker or cane. Is the County planning on grading this slope or doing any type of sand movement? If so, that doesn't appear to be included in this CDP application or even mentioned – just throw down a rubber mat and be done with it. There is no reason to completely fence off this existing ADA ramp or the existing path(s) that lead to it.



More photos of ADA areas planned to be fenced off versus leaving them open to the disabled. A 300-foot rubber mat on the sand is not the solution and should be denied when the existing ADA paths and ramp are in fact the perfect solution and should be kept open to the public.



Another gate and fencing challenge that has been presented and is addressed more fully in the Dayle McIntosh Center comments is the Visitor Dock that has always been used for convenient ADA access. Just recently the sign on the next page was installed. This sign assumes a disabled person has a cell phone and it also assumes that someone on the OCSD staff will actually take the call and accommodate the ADA request. This is not acceptable as a band aid to full ADA access.



In addition to objecting to OCSD's fencing off of the existing well-engineered ADA paths and ramp, conditioning should include providing beach wheel chairs – minimum two of each type pictured below. This is something that has been spoken about at numerous CCC hearings and this is certainly the perfect location for both sand beach wheel chairs and floating wheel chairs. The photo on this page is a screen capture from the CCC's homepage. The photo on the next page shows a floating beach wheelchair.





And last, but not least, an ADA lift, similar to those used in swimming pools, should be researched to see how that might work for loading disabled passengers into the various vessels on the at least one dock.

15. Beach Parking Plan

At this juncture, it would appear as though OCSD is continuing to create a dangerous no outlet situation on this property through its poorly planned parking proposal. Visitors to this location are unable to turn around due to the sign below being in the very center of the entrance to the public beach access drop off (there are additional photos of this in my first comment submittal). You'll note the large chunk that's already been taken out of the sign because this sign creates a squeeze point that most vehicles cannot navigate around. Furthermore, it's quite confusing - - how can OCSD have a public beach access drop off, but there's a big STOP - Authorized Parking Only preceding the public access sign?



Additionally, since this same sign is located at the far end of the entrance parking lot, along with a wide red line, a no outlet situation is created – a dead end. This forces cars attempting to turn around within the authorized public parking lot to back up and out on to Bayside Drive directly into traffic just after a curve in the road that blocks the driver's line of vision.



ADA parking seems to be a complete after thought and is not properly addressed given the signage program. The ADA parking spots are behind the sign below advising the public they must STOP because they are not authorized to park here. It doesn't say, "except for ADA parking" or even hint at where the ADA parking spots are located.

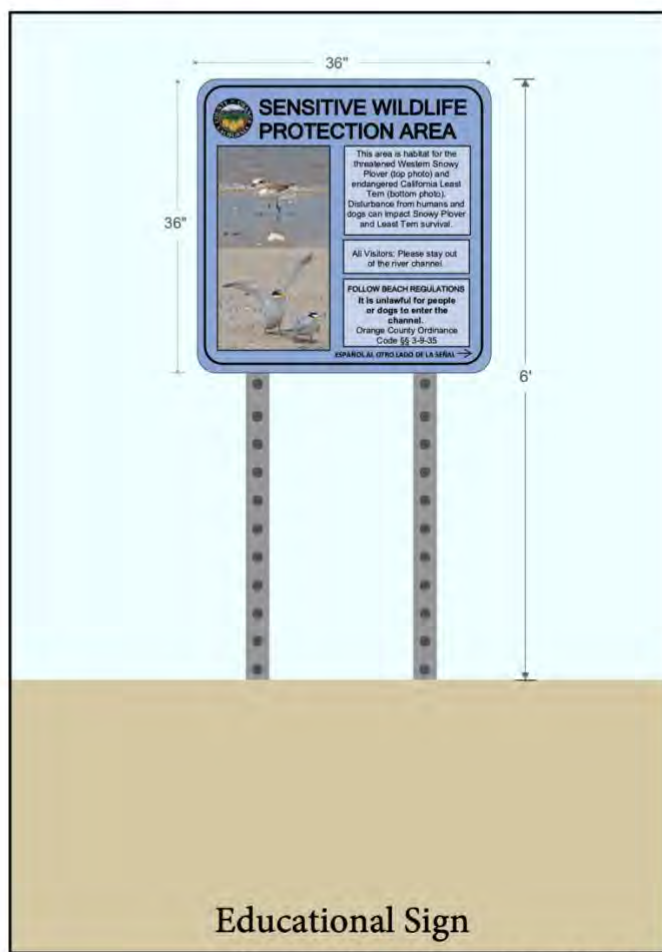


The beach parking plan does not have any traffic analysis associated with it so it is completely lacking in proper traffic, parking and circulation elements. This needs to be taken back to the drawing board in its entirety. As it is proposed, the OCSD's beach parking plan is unsafe for all visitors.

16. Revised Wayfinding and Signage Plan

As with the beach parking plan, the signage plan is lacking in several areas, but let's start with the lack of translations for those that don't speak English. If an Environmental Justice program is to be created and implemented, shouldn't the wayfinding and signage plan support this program? The only sign that will have a Spanish translation is the Beach Drop Off sign and you were just shown the existing problems with that sign. Also to keep in mind is the need to have any translation of the English sign on the same side of the sign. The County has attempted to put the Spanish translation for important signage on the back in the past. I'm sure the Commissioners will recall the discussion on this topic related to the Santa Ana River mouth signage (photo below) – note the arrow pointing to the back of the sign at the bottom right.

EXAMPLE SIGN DISPLAYS



**Not official Spanish translation 6/12/2020*

17. Public Access Program

I applaud the Environmental Justice component of this program and trust that the public access program can also expand on opportunities for Wounded Warriors and other members of our disabled community. One of the challenges the outrigger clubs face is space - - there just isn't enough space. This is where the encroachments into the parking area and beach come into play. Please note my previous comment submittal and the email to CCC staff from Jim Mosher where he very clearly points out all of the encroachments and how clearing out those encroachments would provide more public access. In addition, the homeowners that have these encroachments also tend to store their private property on the beach – almost to the point of abandonment. If both the encroachments and private property were removed from this area a better public access program could be designed and implemented. Please see the photo below for two reasons (1) the encroachments from the homeowners onto the beach (Jim Mosher's email also addresses the parking encroachments) and (2) the signage at the Beach Drop Off. How would one unload their beach gear at this beach ingress when there is no stopping or unloading allowed?

Also note the one lone picnic table in the distance. The 1995 CDP conditioned a "picnic area" which at this time appears to be available only to OCSD staff.



18. Promotional Plan

I also strongly support the promotional plan, but feel that mailings should be implemented as well as electronic transmissions (emails, social media, etc.) since not everyone has access to the internet and there are many great mailing lists that the County and the outrigger clubs can utilize for outreach to our underserved communities.

Thank you for considering these comments. I have been attempting to work with the County of Orange and the OCSD for many years now and I am hopeful that one day we might all get on the same page when it comes to compliance with the Coastal Act policies that are in place to protect and preserve all of coastal resources, including public access.

Sincerely,

A handwritten signature in cursive script that reads "Penny Elia".

Penny Elia

Attachments: Staff Report: Th15b-1-1995
 Staff Report: W6b-7-2008

Richard Rozzelle
5 Songbird Lane
Aliso Viejo, CA 92656
64Rozzelle@gmail.com

March 3, 2021

California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302

**Re: CDP Amendment Application No.: 5-07-370-A2
1901 Bayside Drive Facility – Parking and Traffic Circulation Plan**

Dear Commissioners,

Thank you for the opportunity to comment on the proposed CDP amendment regarding the property located at 1901 Bayside Drive in Newport Beach. As we know, the Orange County Sheriff Harbor Patrol (OCSHP) facility is a shared public use/coastal access facility, which has been improved over the years with public funds and is subject to coastal public access including conditions required by Coastal Development Permit (CDP). Unfortunately, incremental encroachment has taken place over time resulting in loss of public beach and coastal use access without mitigation.

I am a retired California State Parks District Superintendent with over thirty years of experience managing coastal parks in Orange, San Diego, Los Angeles, Ventura and Santa Barbara counties. Additionally, I am a frequent user of the property at 1901 Bayside Drive and look forward to using this public facility without additional restrictions.

I am writing to share comment and concerns specific to the parking and vehicular traffic components of the proposed amendment. In reviewing the amendment materials, it was disappointing to see that the non-compliance letter enforcement action taken by the Commission in 2019 stopped short of addressing unauthorized/unpermitted changes to the facility parking lot including traffic control devices, enforcement signage, roadway re-striping, closure of access to ADA parking space(s), traffic circulation closure, and long-term storage of boat trailers in vehicle parking spaces. All of these negatively impact public beach and coastal access.

Special Condition 15 - Beach Parking Plan

Requires OCSHP to submit a revised parking plan in substantial conformance with OCSHP plan Exhibit 2 dated 2-25-20 (Signage and Way Finding / Public Features) subject to review and approval by the Executive Director that shows: Revised location of 10 public beach parking spaces and one additional ADA parking space for a total of 12 spaces on either side of parking lot entrance; location of 8 OCSHP and USCG and Lifeguard Business Parking Spaces to be available for public beach parking on weekends. **These conditions are a good starting point but do not fully adequately address the overall parking lot issues and do not provide an opportunity for public comment on future OCSHP parking plan(s).**

Please consider the following:

1.) **Revised Parking Plan** - Any subsequent revised parking plan submitted by OCSHP should be subject to public review and comment process prior to approval by the Executive Director.

2.) **Traffic Study / Traffic Circulation Plan** - An official traffic study and traffic circulation plan (compliant with applicable traffic safety regulations and standards) is not included for public review in the proposed amendment and should be a required condition prior to any subsequent review and approval.

3.) **Distribution of Existing Parking Spaces** - The shared public use / OCSHP facility includes approximately 63 parking spaces (per Exhibit 2 map) including 5 parking spaces immediately adjacent to the USCG facility and not within the main parking lot area. Of the 58 remaining spaces, the amendment proposes a total of 12 spaces (roughly 20%) be dedicated for public use. **An 80/20 ratio of "official use" to "public use" parking spaces seems unbalanced given the high demand for public beach and coastal access in this area.** Eliminating OCSHP boat trailer storage and other non-parking uses could free up vehicle parking spaces for shared use (see #6 comments below). A 50/50 or 60/40 ratio seems more reasonable. Please see attached notes/comments to Exhibit 2.

4.) **Existing Parking Lot Condition** - Over the years, OCSHP has implemented non-CDP authorized physical changes to the parking lot, parking spaces, and traffic circulation, which create a potentially hazardous condition. Traffic circulation has been blocked via surface striping (red line) and placement of traffic barricade/control devices with closure signage resulting in a dead-end road situation with no adequate room for safe turning or traffic flow. This condition should be of primary concern to all parties including the County of Orange (Applicant), the City of Newport Beach, and the State of California.

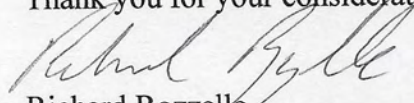
5.) **ADA Parking Spaces** - Current condition and proposed amendment blocks public vehicular access to the ADA parking space(s) closest to the front door of the OCSHP facility. This facility accommodates public contact during business hours and after hour emergencies. Access to ADA parking space(s) should be in closest proximity to the front door and ADA path of travel in accordance with the ADA regulations.

6.) **Parking Space Use / Trailer Storage Restriction** - OCSHP has changed the use of a significant number of parking spaces to boat trailer storage without CDP authorization. This change in use exacerbates the loss of public beach and coastal access, eliminates ADA access (see #4 comments above), and blocks vehicle traffic flow including access by fire/rescue vehicles. Alternate OCSHP boat trailer storage locations (i.e. maintenance yard/off-site storage area) should be required (see #3 comments above). All parking spaces should be used for vehicle parking only and within the space constraints of each space as defined by a Commission approved parking plan / traffic plan.

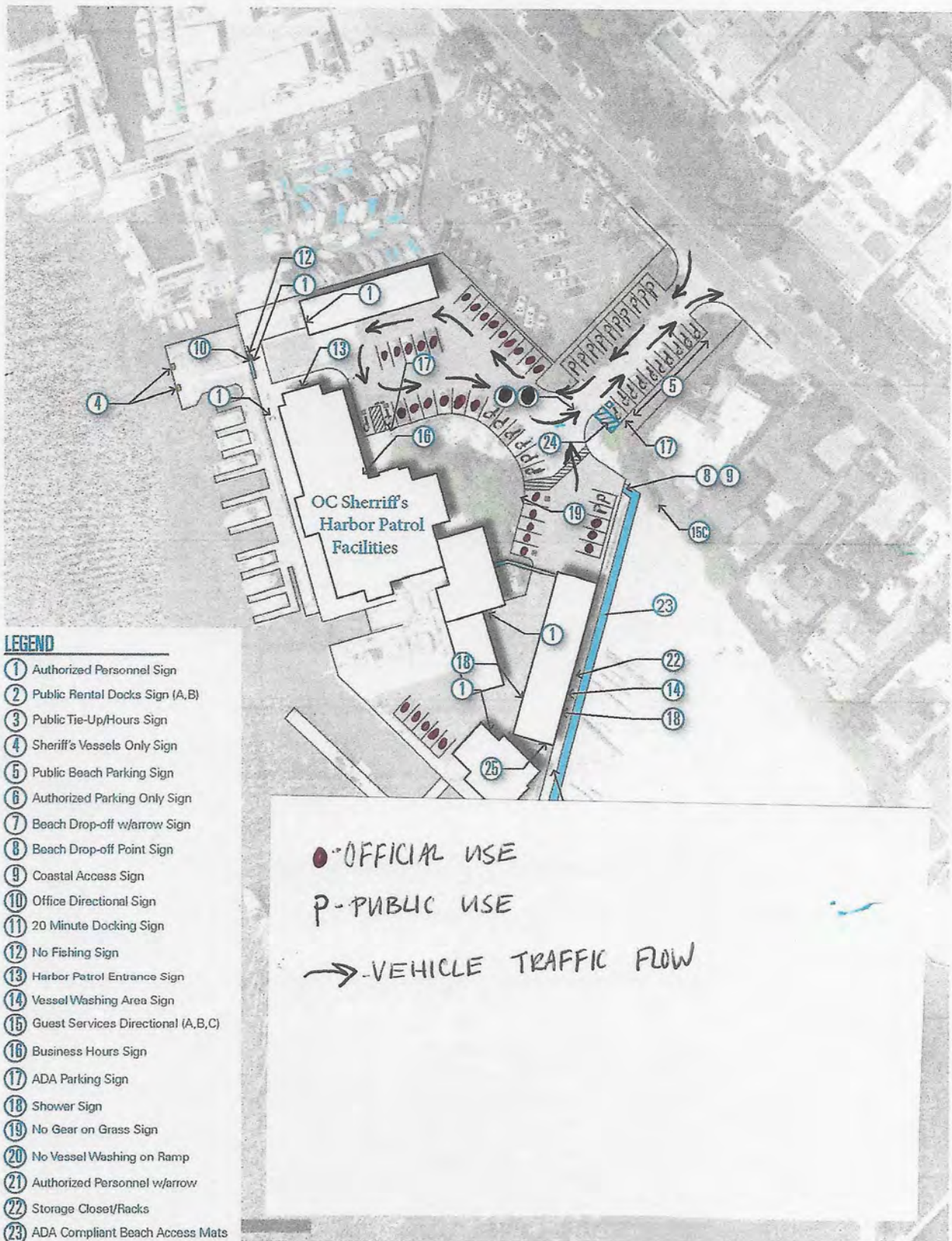
7.) **Flow of Traffic** - Historically (prior to the actions taken as described in #4 comments above), vehicle traffic flow involved ingress from Bayside Drive and a counterclockwise traffic pattern through the parking lot to the outbound exit. This traffic flow, or something similar, should be re-implemented per an approved traffic plan and with appropriate directional and enforcement signage. Please see attached notes/comments to Exhibit 2.

8.) **Public Use Parking Space Hours** - The daily 6AM to 10PM use period for public beach parking as recommended by Staff is adequate.

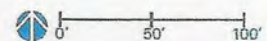
Thank you for your consideration,



Richard Rozzelle



California Coastal Commission
CDP 5-07-370-A2
Exhibit 2



O.C. SHERIFF'S HARBOR PATROL HEADQUARTERS

SIGNAGE AND WAYFINDING / PUBLIC FEATURES

February 25, 2020
Revised: February 19, 2021

Fwd: Dinghy Dock Harbor Patrol

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:44 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Todd Bacon <tbaconater@icloud.com>

Sent: Thursday, March 4, 2021 2:56:44 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Dinghy Dock Harbor Patrol

Please please keep the overnight dinghy dock and visitor dock at the Harbor Patrol facility in Newport Harbor. This is so important to us who have moorings and also for those who live on the peninsula (both for us). What can I do to show my support?

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 12:48 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Dennis Baker [<mailto:dennis.baker@diandden.net>]

Sent: Saturday, February 27, 2021 4:54 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Honorable Commissioners and Staff,

- About me and my usage of the beach
 - o I have lived in Corona del Mar for the last 50 plus years.
 - o I am a long time local user of the beach known as Harbor Patrol Beach.
 - o I park in the lot when possible (on the street when not) and launch my surfski/kayak off of the beach.
 - o I paddle from Harbor Patrol Beach year round in all weather and usually 2-3 times a week.
 - o I am also an outrigger paddler and have paddled with the various clubs storing boats on the beach.
 - o I am associated with various NGOs in the area, but I am commenting personally and not on behalf of any organization.
- § Treasurer of Stop Polluting Our Newport (SPON)
- § Co-founder and board director – Orange Coast River Park Conservancy (OCRP)
- § Past president and current volunteer docent – Newport Bay Conservancy
- § Member – Southern California Wetlands Recovery Project (SCWRP), Wetlands Advisory Group
- Comments on specific CHANGE TO CONDITIONS
 - o #14 Final Site Plan for Gates and Fences – I currently walk through the maintenance yard to get to and from the beach. The change will not affect my access. I was opposed to an early proposal to put mats across the beach to the water, but see no problem if the mat walkway is along the back of the

existing building.

- o #15 Parking is a problem at high use times. (Please note comments for #18 below)

§ This beach has "been discovered" and sees a lot of usage, especially on the weekends and during good weather.

§ I do not think the proposed parking adjustment is adequate.

- There is a great deal of space within the facility past the public parking and it is poorly delineated.
- At a minimum, the space on both sides of the entry driveway should be exclusively for beach users.

- o I often arrive and beach spaces are taken by agency trucks (i.e. OC Sanitation) or those doing OC Sheriff business are in the beach parking.

- o #17 This is consistent with the Aloha attitude of the outrigger community, however in fairness, the CCC should consider the added imposition on club resources and encourage OC Parks to take this into account when negotiating the lease agreements with the clubs.

- o #18 The proposed changes to parking do not move us back to the original permitted configuration.

§ There is often a dearth of parking, yet this item is to promote usage thus increasing parking demand.

§ I'm not opposed to promoting, but you can't have it both ways, limit the parking and invite more usage.

§ Overflow parking goes on the street

- The adjacent Bahia Corinthian Yacht Club users/workers (not sure which) take all of the parking west (up coast) of the parking lot entrance.

- Construction workers, service people, and residents take many of the easterly street parking.

- It is not uncommon on a nice day to have no parking within a quarter mile or more and those parked there are not all using the beach.

- Regarding the dinghy dock tie-up time limit

- o I seldom see dinghies tied up at the dock. Most public usage is pump out use or boat passengers running up the ramp to use the public toilets.

- o Though not heavily used, it is unreasonable to limit the use to less than overnight. I suggest a more fair and reasonable compromise to be 36 hours. This restricts "dinghy storage", but still allows reasonable access from and to moored boats. The proposed limit is much too restrictive. It should be noted that the yacht clubs do provide shuttle service to the moorings.

Thank you to the CCC staff, OC Parks staff and OC CoastKeeper for the many hours spent to come up with a solution. The physical space is way overbooked for what was originally intended.

Dennis Baker

Corona del Mar

949.274.3226

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:49 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Charles Bell <charlesbell@gmail.com>

Sent: Wednesday, March 3, 2021 8:56 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Dear California Coastal

Please maintain the existing public 72 hour overnight dinghy dock and visitor dock privileges at the Harbor Patrol facility in Newport Harbor. Last year, the Harbor Patrol changed the hours of the dinghy dock tie-up from 72 Hours to 6 am to 10 pm daily. The Harbor Patrol also closed off the public visitor dock. Reducing access to these existing public coastal use amenities at this well known public access point is not consistent with Coastal Commission goal to provide maximum access to the sea, including Newport Harbor.

Respec. ully submi?ed,

Charles Bell

Newport Beach, California

charlesbell@gmail.com

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:54 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Bob Blaisdell <rcblaisdell1@cox.net>

Sent: Friday, March 5, 2021 8:05 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Cc: Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

This is an addendum to comments submitted yesterday. Those comments focused on concerns about relying on a beach mat for all types of shore-based visitors to the bay-facing waterfront. The plan also needs to consider access to shore services by visiting boaters.

I have done a small amount of sailboat cruising. When you visit ports, there is a standard need to visit shore services such as grocery, hardware, and other businesses. Shore services may also need to visit the boat. I cannot imagine carrying or carrying supplies over a beach or on a beach mat. I have never seen visitor docks planned that way..

On visits to Bayside Beach, I have been asked by visiting boaters for directions to local services. Please also review whether the waterfront access proposal is adequate from the perspective of visiting boaters.

- Robert Blaisdell

Fwd: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 4:47 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Robert Blaisdell <rcblaisdell@outlook.com>

Sent: Thursday, March 4, 2021 4:33:11 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Cc: Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Applica. on 5-07-370-A2 (Orange County Parks, Newport Beach)

Based on my reading of the staff report for this application, I oppose proposed changes to existing "vertical public access to the public docks and beach from the parking lot", specifically the installation of new "security gates" blocking driveway access to the waterfront.

I have been cycling from Irvine to Corona Del Mar for over 20 years and have stopped at Bayside Beach hundreds of times. Bayside Drive serves as a continuation of the popular San Diego Creek Trail (aka Mountains to the Sea Trail and Bikeway) connecting the end of the bike trail at Back Bay to bay and ocean destinations. Bayside Beach is a common and natural destination and stop for cyclists on that route.

I have never encountered any obvious safety problems cycling from Bayside Drive to the beach bay-front using the driveway in front of the so-called "Lifeguard Headquarters", actually just a row of garage storage units and restrooms. I object to describing any part of the driveway as part of a "maintenance yard". It is a driveway that leads to a waterfront sidewalk to the left of the Coast Guard station and to several parking spaces on its right. Like other casual users of Bayside Beach, I often relax on one of the several bay-facing benches along the waterfront sidewalk.

During the years I have been cycling to Bayside Beach, I have sensed an increase in boatyard operations and have been concerned that the operators would eventually want to claim the driveway space as their own. I suggest that instead of providing more Bayside Beach space for the boatyard, existing public access should be maintained or improved by moving the boatyard to a more appropriate location on the Bay or by contracting out larger work as necessary.

The staff report addresses none of these issues though I raised them in 2019 and 2020 emails to Andrew Willis.

Regarding the proposed use of a beach mat to access the waterfront sidewalk, this does not sound like a functional replacement for driveway access to this road cyclist. Riding all the way to the waterfront is not a requirement, but even walking a bike to the waterfront on a beach mat may not be viable. If access is moved to the beach side of the storage and restroom building, the route should be reasonably wide, paved, and swept daily. If there is no room for that, then existing driveway access must be retained. Please reject the driveway access changes in this application.

It is nice but not sufficient that organized canoe clubs were consulted. By contrast, impacts on general public recreation users such as fishermen, pedestrians, cyclists, and paddleboarders are scarcely mentioned. By itself, this omission should be disqualifying. I also strongly question the fairness of a decision process for a plan that has

been under review and development for a year or more and then a decision is scheduled only a week after the staff report is released.

In closing, please do not approve blocking existing driveway access to the waterfront by new security gates. At the same time, please consider implementing restrictions on driveway use for boat or other maintenance work.

Respectfully,

Robert Blaisdell

Sent from [Mail](#) for Windows 10

Offshore Outrigger canoe club

WILLIAM BOLTON <bolton-4@verizon.net>

Fri 3/5/2021 4:43 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Hi,

I am the current President of Offshore, and Mark Carnahan has updated me about the Coastal Commission having a meeting to discuss our beach permit. We have been at this beach for 40 years, and in the 8 years I have been with the club, I believe we have been an asset to the community. Our boats are at the back of the beach, and do not interfere with beach access or take space away from beach goers, who like to be by the water.

There are many clubs to chose from in the area, and I picked Offshore because of openness the club has. Our members range from occasional recreational paddlers to serious competitors, and all are welcomed and included. Mark has started a kid's paddling program and it has grown over the last year. We come from all over Orange County to paddle in this beautiful location. To keep it like that, we have started a policy where our paddlers do not bring single use beverage containers to practice. Also, at the end of our practice, two paddlers pick up trash on the beach while the rest put the boats away and cover them.

We are very fortunate this location affords us the opportunity to enjoy our beautiful coast.

Regards,

Dave Bolton
President
Offshore Outrigger Canoe Club

Sent from my iPhone

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:09 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: cboone6476@aol.com [mailto:cboone6476@aol.com]**Sent:** Wednesday, March 03, 2021 4:07 PM**To:** SouthCoast@Coastal**Subject:** Orange County Parks' CDP Application 5-07-370-A2**To:** California Coastal Commission**From:** Cheryl Boone**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Cheryl Boone**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.

- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Cheryl Boone

FW: Public Comment on March 2021 Agenda Item Wednesday 6a - Executive Director's Report

ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>

Fri 3/5/2021 1:49 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Fyi...

-----Original Message-----

From: Mike Budd <mikebudd@laurelwa.com>

Sent: Friday, March 5, 2021 10:41 AM

To: ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>

Cc: Imua Shari Anderson hiker short & likes 2b stoker <shari1anderson@att.net>

Subject: Public Comment on March 2021 Agenda Item Wednesday 6a - Executive Director's Report

Dear Wonderful Staff and Council,

The ability to serve the community is dependent upon having convenient storage facilities for the paddlers canoes. I have been paddling in the newport back Bay and local ocean since 1995. My thousands of hours on the water has experienced random acts of helping new paddlers needing help, directing motor & sail boats away from shallow waters and even pulling them back to deeper water. Moving floating logs that couldn't be seen by boaters, trash etc. I have experienced the Aloha of paddlers allowing blind, handicapped, underprivileged youths to experience the benefits of using the Newport back bay. I don't expect a yacht owner to do these acts. I want you to know in uncertain terms that you are responsible for making the waters accessible and I thank you for your consideration of allowing canoe parking. Thank you for your past allowances and serious consideration. Mikebudd

Michael S. Budd

Senior Portfolio Manager

C: (626) 485-7042 ***

O: (626) 587-8540 Ext. #1

Email: mikebudd@laurelwa.com

Todd N. Troutner

Investment Advisor Representative

O: (626) 587-8540 Ext. #2

C: (626) 806-7247

Email: toddtroutner@laurelwa.com

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We would prefer you contact Michelle Aarnes @ 760-585-5337 before you do a direct fax to Schwab at 877-283-2736 as with Covid-19 that have told us they are not accepting faxes.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office 301 E. Ocean Blvd. Suite 300

Long Beach, CA 90802-4302 (562) 590-5071

RE: CDP 5-07-370-A2

Date 3/5/2021

To whom it may concern ,

My name is Jeffrey Warnock I been a resident of Orange County and more specifically Huntington Beach for over 35 years where I have lived and worked and raised a family with 3 children , I have been involved in many of the city and County programs specifically having my 3 children go through the Huntington Beach city Jr. lifeguard program, I have recently become a member of the offshore Outrigger Canoe club located at the County Beach that you are currently reviewing, the club is open to the public and in fact we invite anybody that shows up to go paddling with us, I myself paddled with them for the first 3 months before they asked me if I wanted to join the club and they explained to me that the very reasonable annual dues were to help maintain the equipment, which I believe to be very reasonable as we do not receive any state county or city assistance of any kind, and our top priority is to maintain safety and as equipment needs to be maintained are only option is to have a nominal annual dues for people that are participating. I believe this to be reasonable and fair. The club provides a great service for the community and we have a youth program on Saturdays, and all club members are encouraged to invite new people to experience Outrigger canoeing, for me personally I have found the club to be inviting and positive environment which provides invaluable service to the community. Please take into consideration all of the above positives when making your decision

Sincerely

Jeffrey P. Warnock

733 Lake St. #3

Huntington Beach, CA. 92648

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:45 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Another

-----Original Message-----

From: Chris Cammarano <shortschit@hotmail.com>

Sent: Friday, March 5, 2021 10:21 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Please take action against the Newport Beach harbor patrol's illegal actions reducing/limiting public harbor access. Personal edicts in violation of state law by an unelected staff member of a city harbor patrol should not be tolerated by the coastal commission. Please make an example of this Harbor Master Corn and the city of Newport Beach due to their illegal actions which also violate the interest of the people of California and our coastal access.

Chris Cammarano

714-280-2667

shortschit@hotmail.com

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:50 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Greg Camphire <gcamphire@gmail.com>**Sent:** Friday, March 5, 2021 11:48 AM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Orange County Parks' CDP Application 5-07-370-A2**To:** California Coastal Commission**From:** Greg Camphire**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, Greg Camphire, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-

friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Greg Camphire

FW: Public Comment on March 2021 Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:38 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Wes Carlson [<mailto:wes@barsplice.com>]

Sent: Wednesday, March 03, 2021 4:33 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Wednesday 12a

I am in favor of restoring access to the overnight dingy dock and visitor dock at the Harbor Patrol facility.

Best Regards

Wesley Carlson

C-76

Sent from Wes Carlson's iPhone

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:08 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Cam Carter [<mailto:jenandcamcarter@gmail.com>]

Sent: Wednesday, March 03, 2021 3:57 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Hello,

We own the mooring J-44. We ask you to please leave the overnight parking available to mooring owners. It is very difficult to make frequent visits to our mooring all week long, for work and pleasure, by paddling out, picking up our dinghy, taking it back to the dock, walking back to wherever we found parking, and walking our stuff back down to the dock.

We understand that the dinghy dock gets abused, and we've even been the ones to call and complain about it, but we are rule followers and get ourselves down there EVERY single 24/72 hours to make sure we are doing our part! WE have owned for 2 1/2 years and this being taken away would really change our experience of mooring ownership. That Dinghy dock is what makes mooring ownership make sense.

If anything, it seems that it could be expanded to mooring owners and that we should also have identification of mooring ownership on our boats. We understand it has been a problem as people abuse it, but it's simply not fair to punish those doing things right.

Thank you for your time and consideration of our thoughts,

Jen and Cam Carter

J-44

Offshore Canoe Club

Catherine <h2ocath2004@yahoo.com>

Fri 3/5/2021 4:05 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Hi Mandy,

This is from my boys and myself, who have grown up with paddling and have benefitted from Offshore Canoe Club.

David Lee, age 12, Student at Mariners Elementary School

I love it when people from our club bring food and we all get to share it. I like seeing the dolphins and the seals in the water and looking at the wildlife. I like to see how blue the ocean is. I like to enjoy the time with my family and friends. I have fun when we jump out of the canoe and swim in the ocean.

Jonathan Lee, age 14, Student at Newport Harbor High School

I enjoy the exercise and the scenery you get to experience by being on the water. It's given me a reason to go outside more and appreciate nature more. While other people have made trash, our club always picks it up on the beach and in the water. It's not a closed club, it's for everyone. It's a congregation of people who respect the area and give a good name to our community. I've been able to share it with friends.

Micah Lee, age 16, Student at Newport Harbor High School

It's amazing to witness the beauty of marine life and nature in the water. It's interesting to see how all vessels interact in unison in the bay as we share the water. We've had fun competing and interacting with other clubs.

Cat Lee, Mother & Paddler, Newport Beach

Offshore is a very reasonable for a mother of three boys. Paddling has been a sport of discipline, competition, and leisure. No other sport gives us the scenery, the rush, the camaraderie we experience in the water. Paddling outrigger canoe is a great sport that reaches all levels and types of people. It's a great community sport!

Mandy, thank you for your time.

I appreciate it.

Best Regards,

Cat Lee

And we know that all things work together for the of those who are the called according to His purpose.

Romans 8:28

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:50 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Pilar cayton <caytonscorner@gmail.com>

Sent: Thursday, March 4, 2021 12:25 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

To whom it may concern,

I hope this finds you well.

Offshore, the outrigger canoe club at Coast Guard Beach was part of the reason I moved to Costa Mesa, CA. They provide outdoor physical activity for kids & adults, paddling in the ocean. They pick up trash others leave behind, they are good stewards of the beach and local community.

Please don't revoke the permit for Offshore and allow them to continue their program.

Thank you

Pilar Cayton



Craig Meinhardt

3/5/2021

California Coastal Commission

Application 5-07-370-A2 (Orange
County Parks, Newport Beach)

Dear California Coastal Commission,

I'm fairly new to the sport of Outrigger Canoeing. I've only been part of this club for 4 years, but I've enjoyed every second of being on the water my club peers. We have a bond that's obviously driven by our love for the ocean and community.

I've recently moved out of Orange County and re-located to the Inland Empire. My access to the ocean involves a 2 ½ commute that I happily do three days a week to stay involved in this paddling community.

I am currently in charge of membership for our club and can say we are a diverse group of folks in age, ability and backgrounds and welcome any and all newcomers to learn about outrigger paddling and join our group. We have been at this site for 40 years and have exhibited good stewardship of the resources we all enjoy and will continue to keep our space clean, safe and available.

I invite any and all folks reviewing this to come down and join us! Call or email me directly or find our contact info via our webpage.

We'd like to continue our use of this fantastic resource and look forward to working directly with the County of Orange and the California Coastal Commission for another 40 years plus!!

Sincerely,
Craig Meinhardt



41956 Corte Valentine
Temecula, CA 92592



714-329-6532



cmeiny@gmail.com



<https://offshoreocc.org>



Craig Gordon
1845 Port Ashley
Newport Beach, CA 92660

March 1, 2021

California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302

Re: Guest Slip Docks at Newport Harbor Application No.: 5-07-370-A2

Honorable Commissioners and Staff,

As a longtime Newport Beach resident and avid boating and coastal access enthusiast, I am writing in regards to the pending Coastal Development Permit Amendment for the shared public use / Orange County Sheriff Harbor Patrol (OCSHP) facility at 1901 Bayside Drive in Newport Beach. Like many of my friends and neighbors, I have been increasingly frustrated and disappointed with the lack of access to the guest slip docks at the facility over the past few years.

First, I want to thank the Commission Staff, and the County of Orange for their efforts to address non-compliance and ensure meaningful access to this protected public resource in accordance with the Coastal Act and previous CDPs. I understand the challenge involved with competing use interests, and hope a balanced outcome will result.

As referenced in the Commissions non-compliance letter to OCSHP dated 5/20/19, a total of five (5) public guest slip docks are required by CDPs 5-07-370 and 5-94-255. These slips are located in the dock cluster of nine (9) slips adjacent to the public pump-out dock facility. Four (4) of the nine (9) slips have been traditionally used by lifeguard rescue vessels owned by the City of Newport Beach and the State of California (California State Parks). While some modifications were made by OCSHP in response to the Commission's non-compliance letter, the five (5) public guest slip docks have not been fully restored, nor made accessible for public use through a year-round reservation system.

Special Condition 13 Comments

Per the Staff report, OCSHP does not intend to offset the loss of public access for the proposed elimination of the "Visitor Dock". Staff recommends an offset to that loss by requiring OCSHP to submit a mitigation plan re-designating one of the four (4) official use (lifeguard rescue vessel) slips to a public use dock (Visitor Dock) within 60 days of issuance of the CDP amendment.

- **Any re-designation of slip use should be in addition to the five (5) guest slip docks already required. If not, Staff comments regarding no net loss to public use docks are in error and some other form of mitigation should be required.**
- A "Visitor Dock" slip should be maintained available for public use year-round, with no use modifications permitted by any party without further amendment to the CDP.
- Public use of the Visitor Dock should be for no longer than 30 minutes, with appropriate signage posted.

- The facility signage plan should be revised as appropriate to address the above comments.

Exhibit 2 Comments

OCSHP Exhibit 2 map shows four (4) green color-coded “Guest Area Dock” slips and one pink “Official Use Area” (re-designation of Visitor Dock) slips.

- **The map is incorrect and should be changed to show five (5) green color-coded required guest dock slips (see comments above), plus the additional re-designated public use dock as offset for the loss of the Visitor Dock.**
- A re-designation of the Visitor Dock should be color coded as public use (not pink color-coded as Official Use Area), and should be labeled on the map separate from the guest dock slips as public use (30-minute visitor slip).
- The facility signage plan should be revised as appropriate to address the above comments.

Exhibit 5 Comments

OCSHP Exhibit 5 map shows five (5) pink color-coded “Official Use Area” dock slips in the cluster of nine (9) slips mentioned in Exhibit 2 comments above.

- **The map is incorrect and should be changed to show three (3) pink color-coded “Official Use Area” dock slips in the cluster of nine (9) as five (5) should be designated as public use guest slips and one (1) as public use temporary visitor dock.**
- NOTE: An end-tie slip in this dock area remains available for use and could be utilized by a lifeguard rescue vessel (which has been the case in the past) to ensure no loss of lifeguard rescue dock slip space or rescue response readiness.
- The facility signage plan should be revised as appropriate to address the above comments.

General Comments – Reservation of Guest Slips

In order to ensure public access, please require that any plan/proposal submitted by OCSHP regarding guest slip reservation procedure for the five (5) public use guest slips is available 7 days/week, year round, during normal business hours. The availability to make reservations on weekends should be required as an essential public access component. As of today, the www.ocsheriff.gov website has no information or link to public use guest dock slip reservations. The reservation procedure should be transparent, easily measurable by the public, provide cost affordability, equally applied to all, and be customer/user friendly.

- Any plan submitted to the Commission by OCSHP should include a requirement for public review and comment prior to final approval.
- Any future deviation from an approved fee schedule for guest slip reservations, including waiver or reduction in fee, should be applied equally to all parties.
- OCSHP should be required to maintain, for a minimum of 5 years, a record of total fees paid, guest name, guest’s city of residency, and vessel CF number for all guest slip use.

Again, thank you for your consideration and for your efforts to ensure public coastal access.

Sincerely,

Craig Gordon

To: California Coastal Commission
From: Nancy Caruso
Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

I, **Nancy Caruso**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access

and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. **Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years.** Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Nancy Caruso

Boater, Orange County Resident

Mark Callin
Resident
1112 W Bay Ave.
Newport Beach, CA 92661

March 3, 2021

California Coastal Commission
South Coast Area Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-4302

California Coastal Commission,

I would like to take this opportunity to provide comment on Coastal Development Permit Amendment Application #5-070370-A2. As a local resident and avid recreational boater and fisherman, I am familiar with the Orange County Sheriff Harbor Patrol (OCSHP) facility and its intended use as a shared public use/coastal access facility. Up until it recently, my family, friends, and neighbors frequently used the convenient and safe access provided by the temporary use "Visitor Dock" located north of the main OCSHP building. This dock is the only public dock on that side of the bay that allows for the pickup and drop off of friends and family that live in Corona del Mar. The unauthorized closure of this dock has severely limited recreational boating pickup and drop off access to the water for all residents and visitors living on the CDM side of the bay.

The Staff Report acknowledges that OCSHP facilities are "shared with the public" and that "the provision of public access is one of the main tenets of the Coastal Act". It also accurately describes the many appropriate public access functions that the Visitor Dock has historically served for boaters. For us fisherman, the Visitor Dock facilitated our fishing access rights per the California Constitution and as protected by the state tidelands grant deed. While OCSHP has a legitimate security concern in separating the public from certain areas, the Commission should require OCSHP to seek alternatives to closing the Visitor Dock to public use.

COMMENTS

1. Staff's recommendation to approve the permit with the conversion the Visitor Dock to an Emergency Dock for the sole use of OCSHP should be denied for the following reasons:

- Applicant and Staff have failed to adequately consider alternatives, such as modified security fencing, enclosures, and restricted gate access to sensitive public safety service areas (i.e. impound dock, patrol vessel dock, etc.) while maintaining public access to the shared Visitor Dock.
- Emergency use and temporary (20-30 minute maximum) Visitor Dock use can co-exist without unreasonably comprising law enforcement or security needs by

implementing specific rules and regulations (i.e. operator must not leaving vessel unattended, vessel size limits, etc.).

- While Section 30214 of the Coastal Act and the City's LUP Policy 3.1.1-27 provide legal authority for sole use by OCSHP, I encourage the Commission to consider the greater public access issue at stake, especially in light of OCSHP disregard for previous CDP requirements and a lack of data supporting permanent closure of the Visitor Dock.

2. Special Condition 13 (Mitigation Plan for One New Public Dock Slip) does not adequately offset or mitigate permanent closure of the Visitor Dock for the following reasons:

- The Visitor Dock is a uniquely situated dock facility within the harbor in design, location, and orientation relative to safe docking approach for recreational boaters. Newport harbor frequently has strong winds in the afternoons and this dock due to its size, its isolated location, and its side tie orientation make it ideal for loading and unloading passengers.
- The proposed offset is an “apples to oranges” scenario, where the Visitor Dock is replaced with a Guest Slip, which serves a different public use function and proposed location is not as accommodating. Pulling into a slip is in no way a similar use and is unsafe in periods of higher winds a boat traffic. The net result of this type of offset would be the nearly the same as just removing the dock altogether.
- Re-designating the pump-out dock as a shared Visitor Dock/Pump-Out dock puts added pressure on the frequency of use and availability of the dock and would likely result in some boaters not using the pump-out facility as intended for sanitation and water quality protection purposes. This dock frequently has boats on it for longer periods of time due to the pump out process. It also in in much shallower water and has a more difficult approach due to the nearby seawall. It is my understanding that both local water control board and best practices both mandate that the pump-out dock shall be restricted to pump-out use only. The sign plan on exhibit 3, page 1, sign number 11 of the staff report is consistent with this restriction. Therefore, use of the pump-out dock for passenger loading or public service is not an option.
- The proposed displacement of one of the four “official purpose” slips historically used by lifeguard rescue vessels potentially compromises essential boating and water safety emergency response readiness.

Respectfully,

Mark Callin

Mark Callin

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 3:45 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Patrick Chandler [mailto:patrickchandler@hotmail.com]

Sent: Wednesday, March 03, 2021 3:37 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Save the dinghy docks! I don't use them very often but we need more not less parking in Newport Harbor.

Patrick Chandler

Comments Regarding Application 5-07-370-A2

Gene Chang <topvote@gmail.com>

Fri 3/5/2021 2:23 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

To: Whom it may concern.

Please note that this email contains comments from 4 people from the same household.

RE 1: Gene Chang, 47, Huntington Beach, CA

I have three kids - out of three, one has a challenging medical condition since birth, and another has a learning and emotional disability. Raising three of them is a monumental challenge and will take their mom and my best efforts to make sure they will grow up to be decent human beings when they grow up, and I've always felt that getting them to fall in love with a sport will be very beneficial, both in terms of health and be driven/focus in life to face the obstacles. We've tried combined 12 seasons of basketball, soccer, and volleyball, but my kids always found a reason to not like participating in these sports. Despite motivations, threats of being grounded, and bribing them with toys, they just gave up and never found any interest in sports at all. By chance, I discovered the sport of outrigger canoe and I tried it. I instantly fell in love with it, because it is such a unique sport - it is a combination of self-discipline with teamwork in the adverse and sometimes unpredictable nature of the ocean. I was praying that my kids will have similar feelings for this sport when I introduced it to them two years ago.

It took a few practices for my kids to warm up to this sport, and now they love it. They are connecting with nature - the cold ocean under their feet when they take a break in the middle of the ocean with the gentle breeze tousling their hair while the sun warmly caresses their faces, and they are only a few feet away from oceanic animals, such as sea lions and dolphins. How close to nature can you get? I mean, there is a school of fish swimming right below the canoe, birds are flying overhead, and all these other sea animals are within an arm's distance from you! The experience of outrigger canoeing has allowed my kids to appreciate nature, and finally understanding the discipline of coach and athlete dynamic, and they finally understand what they need to do to keep their body in good shape to keep paddling for a long time, which includes eating healthier and the importance of conditioning.

This sport has made my kids more confident, less shy, and more eager to try something different. Kudos to coach Mark Carnahan for his limitless patience with kids. His vast knowledge of the ocean, tide, and the sport really made my kids get better at this sport.

The club has been a godsend between the lockdowns. We've been fortunate enough to go out there to the beach and get our feet wet a few times, but that's more than what most kids were able to do during the pandemic last year. Ocean is vast, dangerous, beautiful, unforgiving, and it sculptured the coastline of the entire world, and it also teaches us a lesson as long as you learn to respect it and work with it, not against it, and I hope their interaction with the ocean, by continuing to learn how to paddle with the help of Offshore OCC, will help them become a better individual who knows how to work along the tide or any other obstacle in life.

My hope is that Offshore OCC will continue to do its part, and in the near future they will be able to help more kids once they get the recognition that they deserve.

RE 2: Dane Chang, Age 10, Huntington Beach, CA.

I want OC6 to reopen, because I want to see the sea, row, maybe see sea animals like fish, seals, and other animals.

RE 3: Chloe Chang, Age 12, Huntington Beach, CA.

Why Outrigger Canoe Is Important

Outrigger is important, because it's a new and different way to get fresh air and exercise. It's also really cool and a great experience for us.

It's also something not many kids and/or teens get to try, so the fact that we are able to do this is so great. So, to sum this up, it's amazing for us kids to some sort of sport and be able to experience something not many kids can.

Also, it's a great way to exercise and get fresh air instead of being cooped up in a house all the time, and we're able to meet new people and learn new things.

RE 4: Tols Chang, Age 15, Huntington Beach, CA

OC6 is great. That's all I can say really. I've had a blast out there in the ocean paddling against the rocky waves, admiring the ocean's wild life, and getting a workout.

OC6 has improved my health, both emotionally and mentally. It's also one of the only things that gets me out of the house.

With OC6 there in my life, I've had something to look forward to. But, if OC6 were to suddenly disappear, I would be quite devastated, and my life would return to being boring.

Thank you and I hope that Offshore OCC will be able to continue to provide an opportunity for us, as well as other families, a chance to experience a combination of nature and exercise that is truly one of a kind. If you need to verify or contact us for any reason, please contact me at: 714-589-6273.

Regards,

Gene Chang

Offshore outrigger club

Janet <janetnco@cox.net>

Fri 3/5/2021 2:23 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

To whom it may concern;

My name is Janet Christensen. I am a 61 year old woman living in Aliso Viejo.

I am writing to express my support for keeping the Offshore outrigger club at the beach in Newport Harbor.

I have been paddling with the club for the last 2 years.

It has been an amazing benefit to my health and well being.

Working as nurse in a local hospital, I have personally felt the stress of the last year. Getting out on the water and paddling with friends has made a huge difference in my physical and mental state.

I have enjoyed spending time with friends old and new and enjoying the beauty of our local harbor and beaches.

I have been able to bring my son along and have been impressed as we have learned that paddling is a great benefit to people of all ages.

I would ask you to please renew the permit that will continue to let us enjoy this beautiful area we are so fortunate to have as our "backyard"

Thank you

Janet Christensen

Sent from my iPhone

Comments Item 12a Application 5-07-370-A2 Orange County Parks

Mark C <markccdm@gmail.com>

Fri 3/5/2021 2:06 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Sharon Augenstein <sharon@atlantisnet.com>

Honorable Coastal Commissioners,

We are writing to you in light of recent information being brought to our attention questioning the purpose and usage of our club to the Newport Beach coast. In an attempt to ease any hesitations coming to mind, please read the following to better understand our club, our club's purpose, and the positive effect it holds on both our environment and community.

We have one Coach and one Assistant Coach at Offshore Outrigger Canoe Club. Both coaches support the Staff Report 100% as it relates to the Public Program and access to our Clubs resources. We believe this sport to be a benefit to the entire community (Orange County), especially the youth program. We have spent four years building the infrastructure and coaching our current core group of youth paddlers. This sport requires the Keiki's (kids) to be taught about the tides, the wind, the currents, the canoes, the paddling stroke, etc. Our typical daily paddle will either be in the harbor or the open ocean. We try to go in the ocean as often as we can but the weather will dictate. A typical paddle is 3-4 miles long. In the ocean the kids get to see sea lions, dolphins and an occasional whale. It is absolutely beautiful off the Newport Coast. When the keiki's began paddling they were a little reluctant to get in the water. Now we will paddle the canoes down to Cameo Shores and they jump off the canoes and swim back and forth between the canoes. We practice flipping the canoes in the harbor, then flipping them back upright and bailing the water out. The development of these Keiki's is remarkable.

Most people don't understand how someone can go into the ocean and just paddle a canoe. It seems monotonous to them. They don't understand that with every stroke you change your stroke to the ocean. The whole object of paddling is to become one with the ocean. If I go out and only have one pace or cadence my canoe will run at 6mph. This is the maximum speed I can maintain for a long period of time. If I use the wind waves in the ocean, I can get up to 12-13mph. This is what we teach the keiki's. We show them how to do this. There are only a handful of Clubs in California that have the proximity to the ocean and are teaching keiki's how to do this. We are very fortunate to have this location to use.

Paddling is therapeutic and it teaches focus. I personally believe any keiki or adult can learn to actively meditate if they focus on their paddling. The focus is the hardest part. In the beginning everyone's focus is about 10 seconds. But over time it increases as it does the canoes glide on the water longer. The Keiki's can recognize this. Last year, before COVID hit, I broke up the practices with the keiki's and put them in one and two-man canoes versus the six-man canoes. This made everyone responsible for how they steered their canoe and the speed of their canoe. This was eye opening. Some keiki's who thought they were fast were not. Some didn't realize how efficient and fast they were. At the end of winter, we got back into our six-man canoes and we were passing other boats on the water going out to the ocean and the keiki's were asking me, "why are we going so fast?" "What happened?" They asked me these same questions the entire day. I told them that they were all paddling together and it is supposed to be easy when you work together.

The space our canoes take on the beach are minimal on the miles of coastline and access points along the Orange County coast. We are using approximately 3,600 square feet of sand. Anyone who uses this beach park would recognize that visitors sit at the water's edge and along the harbor edge. In the forty years Offshore Outrigger Canoe Club has been in this location we have never had a complaint from beachgoers or the neighbors. Our members clean the beach, pull weeds in the sand and are actively involved with maintaining a clean, safe environment. We consistently ask beachgoers to join us on paddles. Our wish is to get more people on the water which only results in a positive impact to the surrounding environment. Our club achieves this purpose. There is no waste left in the ocean or on the beach. Most importantly, as outlined above, the space that our canoes reside on the beach is more than a physical placement. These canoes represent our club, which represents both the history of outrigger paddling over the centuries, as well as everyone from the keiki's to adults that paddle with us today.

We are an all-inclusive 501C3 Club. Everyone is welcome to participate. I would like to invite all the commissioners to come out and join our Club for a daily practice or event where you, your family and friends can experience our program.

Sincerely,

Coach Kevin Olds and Mark Carnahan

Offshore Outrigger Canoe Club

Date: March 3, 2021
To: California Coastal Commission
From: Wendy Mello
Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, Wendy Mello, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Some personal notes I would like to bring up. I was born in Newport Beach and would like to continue having access. I have recently become disabled and do not want specialized access that I now need keeping me from being able to enjoy and access my hometown harbors, beaches, docks and the coast.

Sincerely,

Wendy Mello

Comments Item 12a Application 5-07-370-A2 Orange County Parks

Chris Condon <chrscndn@gmail.com>

Fri 3/5/2021 3:45 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

March 5, 2021

Honorable Coastal Commissioners,

I am writing to you in regards to the recent information that was brought to my attention regarding the use of the beach area off of Bayside Drive in Newport Beach.

I have been associated with the Offshore Outrigger Canoe Club (OOC) for approximately five years. At fifty-four years old, I had wanted to try the sport of paddling an outrigger canoe for most of my life and I was introduced to this team. The team was welcoming from the very beginning and the spirit of "Ohana" was very evident. I was at a low part of my life having recently lost my wife to cancer. Through the practices, races and the encouragement of the remarkable members of this team, I lost weight, became more fit and improved my mental well-being.

The incredible thing about this sport is that you are sitting in a canoe that is over forty-feet long, can weigh anywhere from two-hundred to over four-hundred pounds with the only thing propelling it is the rhythmic paddling of the six-person crew and the currents and waves of the ocean. It is one of the most "pure" sports in the ocean. There is nothing like it. The movement of the boat relies only on natural elements, and there is no pollution created to our beautiful ocean or coastline.

Beyond the natural aspect of the sport are the people. This team has welcomed anyone who is willing to try. Sometimes it may be a passerby on the beach who asks about the sport and they are immediately encouraged to join us and give it a try. I am a teacher by profession and I have encouraged many of my own students from the Santa Ana region to come down and give the sport a try. OOC has a vibrant youth program teaching the next generation of caregivers to our ocean. We teach paddling, the history of the sport, the spirit of "Ohana" and the importance of taking care of our beaches and ocean.

Our canoes sit on the sand up by the Harbor Patrol's maintenance area and do not infringe in any way on the part of the beach that is used by beach-goers. In addition, our team takes care of the beach, regularly cleaning up trash and removing plastic from the ocean on a daily basis. These canoes add to the coastal atmosphere on this beach, take up so little space and are virtually noise-free. I have only heard encouraging words from the neighbors that share the beach and from the beachgoers to this small beach.

I encourage you to continue to allow us to share this beach with our neighbors. Our canoes take up so little room on the sand and do not infringe on anyone's use of the space. I thank you for taking the time to read my experience with this club and this sport.

Sincerely,

Christopher Condon

Offshore Outrigger Canoe Club

FW: Public comment on March 2021 agenda item Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:08 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: David Cowling [mailto:dhcowling@gmail.com]

Sent: Wednesday, March 03, 2021 3:52 PM

To: SouthCoast@Coastal

Subject: Public comment on March 2021 agenda item Wednesday 12a

Please retain full use of the dinghy dock at the harbor patrol facility.

The public needs/deserves as much access to our public waterways as possible. This access is already at a minimum. There are many of us without the facilities to remove our skiffs from the harbor on a trailer.

We need overnight tie-ups

Thank you,

David Cowling

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:55 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Bernard Debbasch <bernard@medviking.com>

Sent: Thursday, March 4, 2021 8:43 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Newport Beach harbor is a crowded harbor lined with many private properties and private docks. The removal of the guest dock at the 1901 Bayside Drive location will remove one of the very few public access to land and facilities. Slowly and without any public input, this access has been made more limited and difficult over time. The proposal in front of the commission is trying to grandfather these restrictions and further restrict public access. As a long term Newport Beach resident, business owner and sailor, I oppose this proposal. The guest dock and the adjacent public beach should be kept and their access to the public should instead be improved.

Bernard Debbasch
Newport Beach



Organization Overview

The Dayle McIntosh Center (DMC) is an Orange County-based organization that partners with people with disabilities to address immediate needs and achieve independence. The center has been a community resource for 40 years. DMC works with people without regard for age, race, income, or type of disability. Most of the staff and governing board consist of individuals, who have disabilities themselves and have met the challenge of becoming self-sufficient.

The center is named in memory of Dayle McIntosh, who worked tirelessly to lay the foundation for an independent living center in Orange County. Ms. McIntosh had a congenital disability that significantly limited her physical capacity. She fully managed her own life including obtaining a college education and employment. Regretfully, Ms. McIntosh died at the age of 26, shortly before the center opened. The fierce independence that Dayle McIntosh displayed exemplifies the philosophy and spirit of the center that is part of her legacy.

Programs and Services

DMC offers a broad array of services free of charge to consumers. The following is a brief description of the services currently available at the Dayle McIntosh Center.

Advocacy – guidance regarding eligibility for various disability programs and benefits; Information concerning provisions under specific laws; and intervention to address reported instances of disability-related discrimination.

Aging with Vision Loss – provision of in-home assistance, for older individuals, who have lost some or all of their sight, including using adaptive daily living skills, modifying the home for easier access, and training to use assistive technology or devices.

Assistive Technology – demonstration of a wide range of equipment and devices to mitigate effects of various disabilities; recycling of donated medical equipment; provision of individual assistance in selecting and purchasing AT; and availability of computers with adaptive software.

Community Transition Services – coordination of tasks necessary to relocate individuals who are in nursing homes and want to move back into the community, including, finding suitable housing, furniture and household items, and in-home assistance.

Housing Assistance – aid with accessibility modifications in the home; distribution of affordable housing and emergency shelter lists; and provision of information regarding tenant rights and responsibilities. (DMC does not own or operate any housing units nor does the organization have funding for emergency shelter).

Sign Language Interpreter Referral – coordination of requests for sign language interpreters to facilitate accurate communication in everyday situations such as business appointments, parent/teacher conferences, or job training.

Communication Medical Emergency Network for the Deaf (COMMEND) – operation of a 24/7 emergency sign language interpreter service for use by hospitals and medical facilities so deaf patients or family members have access to appropriate communication during crisis situations.

Independent Living Skills for the Deaf – provision of individual or group instruction to improve the ability of people with hearing loss to be self-sufficient including use of deaf-friendly community resources and development of safety and self-advocacy skills.

Independent Living Skills Training – instruction in adaptive techniques for accomplishing activities of daily living and management of personal affairs.

Information and Referral – maintenance of a clearinghouse of information and resources of interest to people with disabilities and provision of appropriate referrals to address specific needs.

Mobility Training – provision of one-to-one instruction for people with disabilities, who want to learn to use public transportation including trip planning, practicing travel routes, and using safety procedures.

Orientation and Mobility – specialized training by a certified instructor to prepare persons with blindness to travel with a white cane and navigate both indoor and outdoor environments.

Peer Counseling – advice, support, and mentoring by qualified people with disabilities to assist others in their efforts to become more self-sufficient.

Personal Assistant Services – recruitment prescreening, and referral of individuals seeking to provide part or full-time help with personal care and housekeeping tasks.

Transition Services for Youth – helping young people prepare for adult-life by mastering routine tasks such as basic cooking, managing money, and communicating effectively; sponsoring social and recreational activities; developing leadership skills; and facilitating role modeling by adults with disabilities.

Community Services – provision of public support such as technical assistance regarding disability-related issues and standards; systems advocacy to promote positive change; and outreach and disability-awareness education.

Application 5-07-370-A2 (Orange County Parks, Newport Beach)

steve doughty <stprstn@gmail.com>

Fri 3/5/2021 11:33 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Dear Mrs. Revell,

I'm writing this letter to you as I'm a relatively new paddler with the Offshore Outrigger California Club. My son and I reluctantly joined when a friend told me about the club and thought it might help my relationship with my teenage son. As a residence of Santa Ana, I was looking for ways to get out of the city and to share time with him to continue to develop and build a stronger relationship. I can confidently communicate to you that not only is my son communicating with me, primarily about the club and its members, he's also talking to his mother about the fun he is having. He is so excited about his experiences that he has invited his youth advisor. He wants to get some of his kids that he works with to get involved and show them how they can be a part of this amazing endeavor. I'm not a professional writer but I am a Proud Father and I can tell you that this organization and its members both young and old have made a difference in my family. From my perspective the Offshore Club offers Hope and Inspiration to those seeking meaning as it has for my family. If anything, we need greater community support and investment to reach the less fortunate and build self-confidence in those people who need it the most in our society. This organization stresses teamwork, dedication and determination which ultimately builds "Character" and I've witnessed it firsthand. I truly hope this is not about providing better views for the property owners at the expense of our kids and our communities throughout Orange County.

With Respect,

Steve Doughty

2206 N Westwood Ave

Santa Ana, CA 92706

714-307-4454

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:38 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Jim Dow [mailto:jimdow@gmail.com]

Sent: Wednesday, March 03, 2021 4:19 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

I am writing in regard to Dinghy Dock use at the OC Parks facility.
Please **DO NOT ELIMINATE**
the Visitor Dock and overnight dinghy docking.

This is a wonderful and convenient PUBLIC SERVICE
for those of us who own mooring permits and use the harbor.

OPEN UP the PUBLIC VISITOR dock.

Jim Dow.

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:55 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Megan Delaney <mdelaney@cerithconsulting.com>**Sent:** Thursday, March 4, 2021 9:14 AM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Public Comment on March 2021 Agenda Item Wednesday 12a.

Honorable Coastal Commissioners,

My name is Megan Delaney. I am a director of the Newport Mooring Association. The Newport Mooring Association champions the rights and needs of the mooring permittees who lease moorings from the City of Newport Beach. Dinghy access from public docks is of paramount importance to our membership. If you can't access your mooring easily, then that mooring has very little value.

There are over 700 offshore moorings in Newport Harbor. Only about 150 of them have access to a regular shore boat service – those being the moorings controlled by the Newport Harbor Yacht Club and the Balboa Yacht Club. The remaining 550 offshore moorings are accessed by several ways, but primarily by small dinghies launched at public docks. Mooring permittees are the single largest user group of the public docks.

Life on a mooring is not easy. Fresh water access is difficult. Access to electricity is difficult. Just accessing the boat is difficult. When attempting a multi-day maintenance project on a boat on a mooring, it is very helpful to be able to leave your dinghy at a dock overnight so that you can return the next morning and get back to work with a minimum of effort.

We need more public access to the harbor and anytime there is a reduction in public access from public dinghy docks in Newport Harbor, the Newport Mooring Association feels compelled to speak out in protest.

Unfortunately, we saw a reduction in public access to Newport Harbor at the Orange County Sheriff Department facility's dinghy dock and visitor dock located on Bayside Drive. This is an especially important access point for mooring permittees as it is the only public pier on that side of the harbor. Additionally, there is always easy parking availability nearby, and if you have a mooring in the A field, it gives access to the A field without having to drive all the way around to Balboa Peninsula, which saves you a lot of time.

Access to this dinghy dock has gone from 72 hours to daylight hours only. Why was this change made? Because some people were abusing the 72-hour rule and their leaving dinghies there for extended periods of time. That is not a good excuse in my mind. Enforcing a 72-hour rule is a simple code enforcement issue that is not too different from enforcing the daylight hours only rule now in place. A cell phone camera and some stickers would be the only additional equipment necessary. In my estimation, it would only add a minute or two to the current job of enforcing a daylight hours only policy.

The Newport Mooring Association respectfully asks you to encourage the reinstatement of 72 hour dinghy dock access at the Orange County Sheriff Department dock on Bayside Drive so that mooring permittees can better access and maintain their boats.

Thank You.

*Megan***Megan Delaney**

CERITH Consulting, Inc.

Mobile: 714-269-5856

mdelaney@cerithconsulting.comwww.cerithconsulting.com

Comment re: Application 5-07-370-A2 Agenda 2021/3

Jon Ellithorpe <jonnybeegud@zoho.com>

Fri 3/5/2021 1:36 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Hello Friends!

My name is Jon Ellithorpe and I am a paddling member of Offshore Outrigger Canoe Club which is located at 1901 Bayside Dr., Corona del Mar, CA (<https://offshoreocc.org/>). I live in Tustin, CA and come often weekly to that shore. It is my understanding that our permit allowing our club to house our boats is up for discussion this year and therefore I will share my thoughts as to why a decision allowing our organization to continue using this beach would be beneficial for several reasons and at several levels.

The location of our club at this beach is significant to the surrounding community and people world wide. For forty continuous years we have paddled out to sea from these waters or loaded our boats to be taken to race venues along our coast or in different states. Therefore generations of competitors everywhere have associated our club name with this beach, this location. I can say that the members of our club are seen in a very favorable light by other people we've come to meet, learn about the highly valuable aspects of our surrounding waters and lands. Thus we serve as ambassadors closely associated in location with the commerce and recreational significance of our community. We gladly share invitations for others to come and spend time here with us. We've had people come from Buenos Aires, Tahiti and Australia come specifically to meet with us here.

In the hearts and minds of competitive paddlers as well as those people in the surrounding community there is rooted a solid historical significance. Bear with me a moment as I tell you that I once restored a home well over 150 years old that Abraham Lincoln surely would see when coming for work and pleasure in Elizabethtown, Kentucky. This home remaining in the location in which it traditionally stood, not jacked up and uprooted to another location was thought to be of such value that it was issued beautiful, governmental plaque *given with restrictions to changes at that site*. People and their parents . . . and grandparents associated that edifice with that location. So too our club with this specific location: Offshore Outrigger Canoe club always and only at this site.

Again, we are world known and our club, location and very significant history has been documented. Perhaps the most authoritative and detailed book on the history of outrigger canoeing from the earliest beginnings of this sport in Polynesia right up into the latter part of this century when our women's team took first place *seven times* in the the Bankoh Na Wahine O Ke Kai (Women of the Sea) race from Molokai to Oahu, Hawaii. (<https://www.latimes.com/archives/la-xpm-1993-09-27-sp-39571-story.html>) can be found in these pages. This is described by the Australian author Steve West in, *Outrigger Canoeing - The Ancient Sport of Kings*. A substantial amount of content is devoted to our club, its people and its history. Former members of our club contributed to the establishment of this Hawaiian sport to the USA . . . specifically to it's start in Newport Beach.

I am so proud of who we are in this community. We are very good neighbors; our club members take significant time to do a substantial cleaning of the beach and always exercise a quiet, soft spoken relationship to our residential neighbors. On numerous occasions we have had residents compliment us on our care and attention. Also, we train children to love this sport and the sea and in turn we receive gratitude and interest from their parents. After workouts it is not unusual for our paddlers to travel to restaurants in this area to "refuel". Because dining is so close to our location it brings us together with ease as opposed to getting many people to participate at distant locations. And once at these venues we in our jerseys receive such interest from others who learn about this gem of a beach. We are quite the attraction.

I will close now with these last points regarding our club and this beach. Our boats rest on significantly out-of-the-way at the far rear end from this cove. People coming off yachts and small vessels to shower or use the restrooms, people with their children . . . all these are attracted to this nearby sight of these very different kind of craft. They ask questions about what this is all about. They place their children inside our boats and they often have a look on their face which seems to

indicate a realization that there could be a future, a healthy and accessible access to our beautiful harbor and that grand sea just beyond. They can imagine their children doing this someday. They can imagine a low impact exercise for their aging bodies right smack dab in Newport beach harbor, one of the most beautiful and safe places in the world. This they will reference these good thoughts about this location with our people -our club: Offshore Outrigger & Canoe Club of Corona del Mar!

Thank you for your indulgence in this perhaps lengthy presentation. Please keep our club on these significant sands. Mahalo!

Sent using [Zoho Mail](#)

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:56 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Tracy Falde a <droidplays@gmail.com>

Sent: Thursday, March 4, 2021 10:28 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

My name is Tracy Falde a I live in Tus n, CA. I am 59 years old cancer surviving female.

Offshore Canoe Club changed my life.

While visi ng Bayside Beach I ran into the group and they invited me an out of shape female who never exercised to a Saturday prac ce. That was 2 years ago and I have only missed maybe 3 prac ces since. I have never been more healthy in my en re life. I now prac ce 3-4 mes a week.

A good percentage of our paddlers are +55 and this is how we keep in shape so that we live long healthy best possible lives.

Offshore welcomes everyone. I am truly blessed that 2 years ago I found them and they welcomed me.

Thank you,
Tracy Falde a

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:55 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Sco. Farber <scottfarber59@gmail.com>**Sent:** Thursday, March 4, 2021 7:29 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Orange County Parks' CDP Application 5-07-370-A2**To:** California Coastal Commission**From:** Scott Farber**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, Scott Farber, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-

friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Scott Farber

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:49 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Dr Tony <drt@etchiropractic.com>

Sent: Wednesday, March 3, 2021 8:17 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Please restore the overnight dinghy dock and visitor access at the Harbor department dock in Newport beach.

thank you

Tony Fedoryk

Sent from my iPhone

Fwd: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:58 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: jloforman@aol.com <jloforman@aol.com>

Sent: Thursday, March 4, 2021 3:50:36 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Orange County Parks' CDP Applica on 5-07-370-A2

To: California Coastal Commission

From: Lori Forman

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, Lori Forman, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the

existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,
Lori & Jim Forman

FW: Public Comment on March 2021 Agenda Item Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 3:45 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Fred Fourcher [mailto:fred@bitcentral.com]

Sent: Wednesday, March 03, 2021 3:37 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a

As a Mooring owner since 1976, I have used the OC Harbor Patrol dock and guest slips for many years when I need to tie up or use a restroom etc. This facility is a community asset that belongs to the residents of Orange County and deserves to remain serving the public as it has always done.

Please do not limit access to these essential facilities.

Fred

Fred Fourcher, CEO

Bitcentral, Inc.

fred@bitcentral.com

Cell 714 914 1000

www.bitcentral.com



FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:48 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

 2 attachments (1 MB)

View shed visitor dock.pdf; Public v Official boundary.pdf;

Another

From: Greg Goodrich <iamgoodrich@gmail.com>

Sent: Friday, March 5, 2021 9:54 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear California Coastal Commissioners,

I am writing in regards to the issue at 1901 Bayside Drive. I am a lifelong Orange County resident and really enjoy Newport Harbor. I am an avid walker and I am frequently in this area. I reviewed the report and identified these concerns:

1. It calls for the installation of an 80" tall gate at location 2 of exhibit 4 (gate plan). Installing a 7' tall gate at this location will destroy the view from the sidewalk the public sidewalk that is adjacent to the proposed gate. Did Coastal Staff take this into consideration?
2. On exhibit 5 the sidewalk at this viewpoint at the top of the dock ramp is shaded in as "Official Use". I don't understand why this open public space (sidewalk) is getting closed off for official use. Can you please tell me why? Even if they get away with installing a large gate, why close off the sidewalk in the area?

When you look at the attached image, you can tell how beautiful this area is. The view was even better they place the ugly temporary gate at the dock ramp. And before they put that gate up recently, you could walk down to the dock and dip your feet in the water. I just don't understand why this access and view is being stripped from the public.

There's got to be a better location to install a gate. If the goal is to secure the Harbor Patrol boats, then why don't they simply install the gate between the "visitor dock" and the patrol boats. There used to be a red line painted on the docks that was the boundary between the patrol boats and the public visitor dock (see second attached image). If they were to simply place the proposed gate at the previous public boundary three great things would happen:

1. The Harbor Patrol would have improved security for their boats.
2. The view from the sidewalk above would not get destroyed
3. The public could still enjoy the dock

Please ask the County to relocate this proposed gate to the historical public/official use boundary that existed without problems for decades. If you drive along this stretch of Bayside Drive, there are no other viewsheds. For about one mile it is wall to wall houses. I think this area should be for all to enjoy, not just the local homeowners and harbor patrol.

Thank you

Greg Goodrich

Sent from my iPhone

FW: OC Parks CDP application concerns

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:56 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Kim Gordon <kimagordon4@gmail.com>**Sent:** Thursday, March 4, 2021 10:03 AM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** OC Parks CDP applica on concerns**March 4, 2021****To:** California Coastal Commission**From:** Kimberly Gordon**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Kimberly Gordon**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.

- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Kimberly Gordon

FW: Do Not Grant Permit 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:54 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Virginia Gregurek <viriniagregurek@gmail.com>

Sent: Friday, March 5, 2021 8:46 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Do Not Grant Permit 5-07-370-A2

Dear Coastal Commission,

I, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. Please do not grant OC Parks' CDP application without first addressing the following issues.

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Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC

Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment take away public access.

Sincerely
Virginia Gregurek

Sent from my iPad

Sent from my iPad

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:49 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Brandy Habermehl <brandyhabermehl@gmail.com>

Sent: Wednesday, March 3, 2021 9:48 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Please hear our requests to keep this OC Park County Beach and Marina open to the public.. It is a special place and should be protected for public enjoyment.

We love this space!

Thank you!

Brandy Habermehl

Fwd: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:57 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Maria Harrison <maria.r.harrison@gmail.com>**Sent:** Thursday, March 4, 2021 3:43:11 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Re: Orange County Parks' CDP Applica on 5-07-370-A2**To:** California Coastal Commission**From:** Maria Harrison**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Maria Harrison**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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Sincerely,

Maria Harrison

--

Maria R. Harrison

714-884-0528

<http://www.linkedin.com/in/mariarh>

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 7:04 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Gregory Hawkins [mailto:ghawkins@corbinreeves.com]

Sent: Wednesday, March 03, 2021 7:01 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

(Coastal Commission Meeting on Harbor Patrol Dock Access)

To whom it may concern;

Please do nothing, keep the overnight hours for the dinghy dock tie-up the same, as they have been for multiple years (72 Hours)

Also, my vote is to keep the visitors dock and overnight dinghy docking at the OC Parkes facility the way it has been for multiple years!!!

Respectfully,
Gregory Hawkins

Healthy regards,

GREGORY HAWKINS

VP/Director of Operations



C (949) 887-1575

E ghawkins@corbinreeves.com

W corbinreevesconstruction.com

245 Fischer, Suite A-1, Costa Mesa, CA 92626

License No. 721515

(Please excuse misspelled/misplaced words, using dictation)

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:09 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: PASCALE HAYEM [mailto:phayem@gmail.com]

Sent: Wednesday, March 03, 2021 4:08 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Dear CCC Team,

Please consider reverting the Orange County Sheriff Department facility's dinghy dock located on Bayside Drive to 72hrs,

This is an especially important access point for mooring permittees as it is the only public pier on that side of the harbor. Additionally, there is parking available nearby, it allows better access to moorings in the A field. Dinghy access from public docks is of paramount importance to us boaters/permittees who lease moorings from the City of Newport Beach.

Thank you for your time and consideration,

Pascale Hayem

tel: 858-382-2457

Mooring A181

FW: Public Comment on March 2021 Agenda Item Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 6:43 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Eric Hilgeman [mailto:eric@pacific-its.com]

Sent: Wednesday, March 03, 2021 5:13 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a

Hello CCC,

I have mooring A221 in Newport Harbor and would like to see the public visitor dock remain open. I would also like to see the Dingy dock restored to a 72 hour limit.

Thank you.

Eric Hilgeman

Fwd: We want full beach access at Mother's Beach

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:44 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Jennifer Hofer <cdmhofer@gmail.com>**Sent:** Thursday, March 4, 2021 1:01:14 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** We want full beach access at Mother's Beach**To:** California Coastal Commission**From:** JENNIFER HOFER**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

After having taken my kids to "Mother's Beach" over many years, I, **JENNIFER HOFER**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take

up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. **The land around Newport Harbor is a highly developed, and public space is very limited.** Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years.

JENNIFER HOFER
1850 Port Charles
Newport Beach, CA 92660
949/285-3757

FW: Comment on OC Parks CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:50 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Travis E Huxman <thuxman@uci.edu>

Sent: Thursday, March 4, 2021 6:18 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Comment on OC Parks CDP Applica on 5-07-370-A2

To: California Coastal Commission

From: Travis E. Huxman

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

I strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. I respectfully request you reject the application and require the County of Orange to restore full access to the "72 hour Dinghy Dock" and the "20 Minute Loading Dock" at the OC Parks Facility located at 1901 Bayside Drive.

As you may be aware, there are no other public docks on the Corona Del Mar side of the harbor. Furthermore, there are few public docks in the Newport and they are all highly impacted. The change in access to the two docks at 1901 Bayside have had (and will continue to have) a negative impact on boaters, guests of boaters, harbor enthusiasts and mooring users in the County of Orange.

The site is a crucial public, ADA accessible entry to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. I, along with many members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to

and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.

- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access. This issues especially is important to me, as I use this access to bring my mobility limited family onto our boat. Without it, I would be unable to access the boat with them on the entire east side of the harbor.

Orange County Coastkeeper and many other stakeholders have provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. I have been engaged with this issue, sharing my comments with OC Sheriffs and OC Parks since the changes were initiated and I am concerned about their requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Travis E. Huxman

--

Travis E. Huxman
Professor and Chair
Ecology and Evolutionary Biology
University of California
Irvine, CA 92629-2525

thuxman@uci.edu; (949) 677-9929; faculty.sites.uci.edu/huxman

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:56 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Amy Hykes <amyhykes@hotmail.com>

Sent: Thursday, March 4, 2021 9:39 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

As a resident of Newport we have used this beach and dock area. There are not a lot of public dock areas in Newport. This is a special area that should be preserved for public use. We pay lots of taxes to live in this city to use public areas like this beach and dock. Please preserve the existing paved walkway, visitor dock and 72 hour dinghy dock.

Please gather more community input on this issue before changes are made. It isn't far to make a decision without making sure the public is informed and has provided proper input.

Thanks!

Sent from my iPhone

NEWPORT BEACH FIRE DEPARTMENT

100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660

PHONE: (949) 644-3177 FAX: (949) 644-3120 WEB: www.nbfd.net



Jeff Boyles
Fire Chief

March 5, 2021

California Coastal Commission
Via email
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802

A copy of this letter has been provided to California Coastal Commission Staff in accordance with the requirements of Public Resources Code, Sections 30319-30324

Regarding: Item W12a, Application No. 5-07-370-A2 – Orange County Sheriff Department Harbor Patrol Headquarters Facility

Hearing Date: March 10, 2021

Dear Chair Padilla and Members of the California Coastal Commission,

For close to sixty years, the City of Newport Beach has stationed three lifeguard rescue boats at the Orange County Sheriff Station at 1901 Bayside Drive. The location's proximity to the harbor entrance enables a quick response to swimmers and boaters in distress as well as maximizes the amount of time patrolling ocean beaches. During the summer months, the rescue boats patrol the seven miles of coastline rescuing swimmers and boaters, and provide safety and support to beach lifeguard operations. Lifeguard rescue boats actively patrol off the ocean beaches from 11 a.m. to 5 p.m. each day, and one rescue boat is available to respond immediately from 8 a.m. until 8 p.m. during June, July and August.

Stationing the lifeguard boats at Marina Park or the Balboa Yacht Basin dramatically affects lifeguard rescue boat response to emergencies. From the OCSD location, a lifeguard boat can rapidly respond to a swimmer or boater in distress or assist a lifeguard on a rescue, reaching the ocean in less than five minutes. A lifeguard boat responding from Marina Park or the Balboa Yacht Basin can take 20-25 minutes to reach the open ocean. The narrow and congested channels from Marina Park and the Yacht Basin limit the rescue boats to five miles per hour and add 15 to 20 minutes to an emergency response. The risk of collision with other vessels, striking a paddler or swimmer, and damage to boat slips or moored vessels is too great to allow for a high-speed response in these channels. The increased distance and congestion in the main navigation channel also increases the risk of collision and wake damage to moored boats and docks.

Repositioning the rescue boats to Marina Park will decrease lifeguard services, affecting surveillance and response times. The added distance to Marina Park or the Balboa Yacht Basin requires an additional 30 minutes of travel each way, effectively decreasing active lifeguard patrol by three hours each day. As the beach has become one of the last affordable recreation opportunities, Newport Beach has seen a steady increase in beach attendance and harbor use. More people are coming to the beach throughout the year, showing up earlier and staying later. In response, lifeguard services have increased throughout the year. During the summer months, more lifeguards are working earlier and staying later than ever.

The lifeguard rescue boats are part of a beach surveillance, response and rescue system that protects the diverse group of citizens that recreate on this unique section of California coastline. During the summer months, the three rescue boats help protect 65,000-100,000 people every day. In addition, the backup and safety the boats provide allow for the deployment of beach lifeguards over greater distances for longer periods, in sometimes remote locations. A decrease in patrol time not only affects the availability of the boats to provide surveillance and response, but also reduces lifeguard staffing in its entirety. This runs contrary to the City's desire to maximize beach safety for the millions of beach visitors.

The City of Newport Beach is asking the Coastal Commission to allow for the continued use of three boat slips or side ties from June through Labor Day. Continuity of service, supervision, training, maintenance and support do not allow the three rescue boats to dock in multiple locations. Each summer day, the rescue boats directly enhance the enjoyment and safety of the beach, harbor and ocean for the citizens of California.

Brent Jacobsen, Lifeguard Battalion Chief

Brian O'Rourke, Lifeguard Battalion Chief

A handwritten signature in black ink that reads "Brent Jacobsen". The script is fluid and cursive, with the first name "Brent" being more prominent than the last name "Jacobsen".A handwritten signature in black ink that reads "Brian O'Rourke". The signature is written in a cursive style, with the first name "Brian" and the last name "O'Rourke" being clearly legible.

Newport Beach Fire Department, Lifeguard Operations
(949) 644 3177 / (949) 294-1028 Cell

"Safety, Service & Professionalism"

FW: Public Comment on March 2021 Agenda Item Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 6:43 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Sawyer Jones [mailto:sawyerjones@gmail.com]

Sent: Wednesday, March 03, 2021 5:24 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a

To whom it may concern,

I am writing this email to request restoration of the overnight dinghy dock access and the visitor docks at the OC Parks facility. I used both in the past and there is no other access point to the harbor for dingy's or public dockage for boats on that side of the harbor.

This is a useful amenity to many boaters, mooring owners, and the public who need access for picking people up to get on a friends boat or accessing the mooring/boats/harbor on that side of Newport Beach Harbor. There is no other dingy access nearby unless you are a yacht club member. This space was designated as a public access point in the past and it should be restored for public use as originally planned.

Thank you for your consideration.

Sawyer Jones
949-903-3482
2817 Lafayette Ave,
Newport Beach, CA 92663

1995 Permit – Application No. 5-94-255

Pursuant to Section 30604(c) of the Coastal Act, because the proposed development is located between the first public road and the sea, the public access policies contained in Chapter 3 of the Coastal Act apply to the entire project.

The Coastal Act has several policies which address the issue of public access to the coast.

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 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

As stated in the above Coastal Act policies, the Coastal Act requires that maximum access and recreational opportunities be provided for all people. The Coastal Act also protects the public's right to access the sea and encourages the development of recreational facilities.

The proposed site houses public agencies, the Coast Guard and Harbor Patrol, which have an ocean-oriented public transportation mission. In addition, the facility provides 5 to 10 berths for traveling boat owners to dock for a minimum fee.

Located directly to the south of the facility is the Bayside Drive public beach area. Access to the public beach is gained through the entrance to the harbor patrol site (see Exhibit 2). As part of their proposed development the applicants are proposing to increase public access by providing a drop-off point for patrons of the beach. In addition, the applicants are increasing the number of parking spaces on site from 48 to 68, 10 of which will be for public beach use.

Implementation of the development plan will not result in adverse impacts to public access to the beach. In fact, implementation of the plan will facilitate public access by providing 10 parking spaces for beach use and for providing a drop-off point.

Pursuant to Section 30604(c) of the Coastal Act, because the proposed development is located between the first public road and the sea, the public access policies contained in Chapter 3 of the Coastal Act apply to the entire project.

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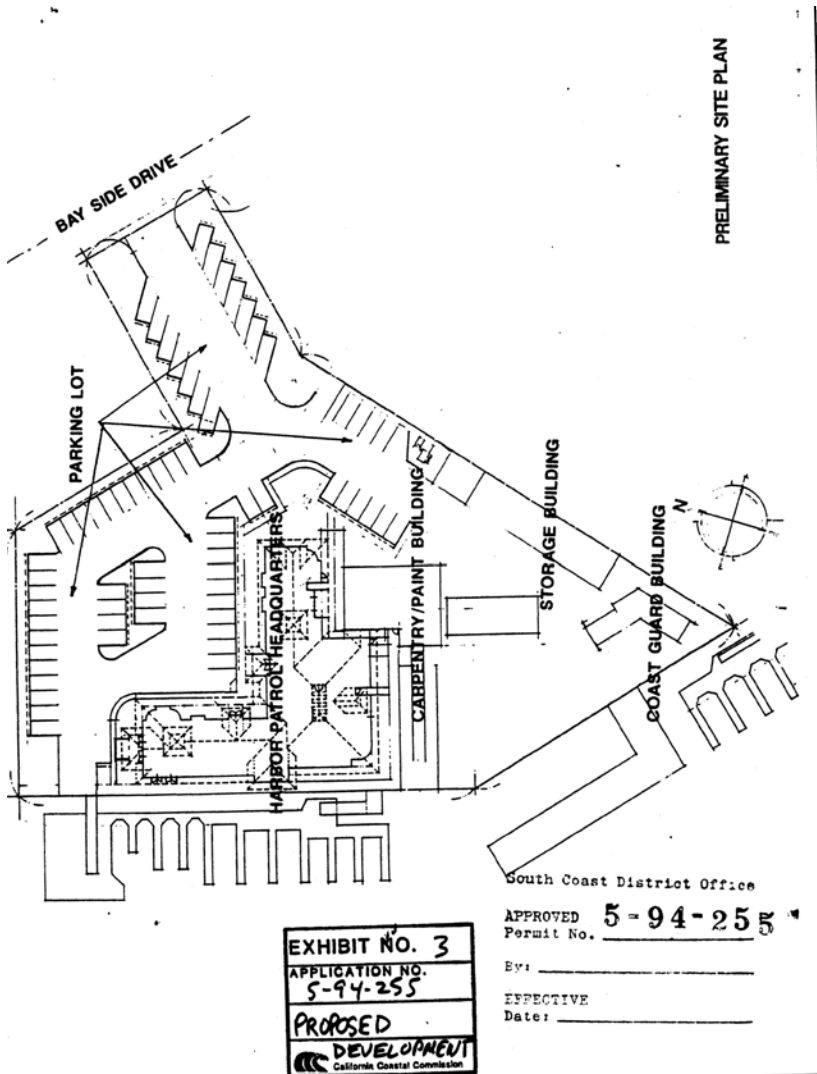
Located directly to the south of the facility is the Bayside Drive public beach area. Access to the public beach is gained through the entrance to the harbor patrol site (see Exhibit 2). As part of their proposed development the applicants are proposing to increase public access by providing a drop-off point for patrons of the beach. In addition, the applicants are increasing the number of parking spaces on site from 48 to 68, 10 of which will be for public beach use.

Implementation of the development plan will not result in adverse impacts to public access to the beach. In fact, implementation of the plan will facilitate public access by providing 10 parking spaces for beach use and for providing a drop-off point.

The proposed project is located between the sea and the first public road. The project is located adjacent to Bayside Drive public beach. The applicants are proposing to increase public access to the beach by providing 10 parking spaces for beach use and a beach drop-off point. The applicants are increasing public parking and facilitating public access to the beach. To ensure that the 10 parking spaces are for beach use only, the Commission is requiring that the applicant place a sign at the public parking spaces indicating that the spaces are to be used for public beach access between the hours of 8 am and 5 pm.

Permit states 5 to 10 berths for traveling boat owners to dock for a minimum fee, but currently there are often only 2 – 3.

Is there a schematic, other than the one below, that indicates the parking, drop off, guest docks, and other public access amenities the County was conditioned to provide and included in the preceding text of the staff report? The exhibit below is labeled Exhibit 3, but the staff report references Exhibit 2 which is the existing site in 1994 and doesn't clearly show what the new development site plan should be with respect to the public access amenities. This preliminary site plan doesn't include any public access references.

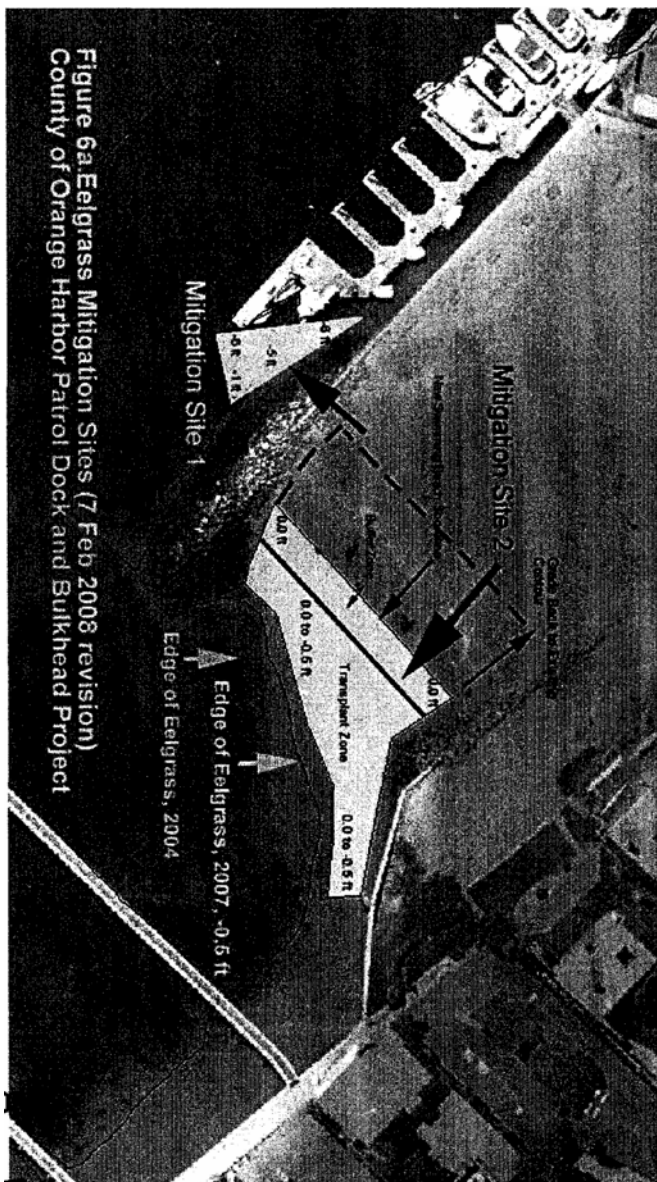


2008 Permit – Application No. 5-07-370

Eelgrass survey:

Mitigation Alternative 2 consists of the same 1,000 sq. ft. on-site transplant area located at the south end of the guest dock proposed for dredging however, the second 4,200 sq. ft. transplant area at the adjacent public beach is modified so that beach sands would only be removed between 0.0 and +2 ft MLLW and graded to an elevation consistent to that where eelgrass currently grows along the beach's perimeter. This would result in the beach shoreline to be moved landward approximately 20 feet back. The same buffer area at the upper end of the newly created habitat would be created to allow for beach-goers to wade in the shallow area. Planting would be conducted at the lower two-thirds of the created habitat within a 42' wide x 100' long (approx 4,200 sq. ft.) area.

The Commission supports approval of Mitigation Alternative 2 as this alternative would not significantly impact the public recreational beach. **SPECIAL CONDITION NO. 8** requires compliance with the proposed Eelgrass Mitigation Plan utilizing Alternative 2.



Status of eelgrass in 2019?

A 174 foot steel bulkhead parallel to the harbor channel comprised of interlocking steel sheet piling, supports the Coast Guard station, parking lot and gangways that access the adjacent guest docks (Exhibit 2). A public beach is located immediately northeast of the U.S. Coast Guard Station providing picnic tables, volleyball net, bathrooms and a surface parking lot clearly designating 11 parking spaces for beach use.

The proposed project would replace the remaining 174 feet of bulkhead and upgrade the official use and guest docks at the site.

As proposed, access to the adjacent public beach will be maintained during construction including availability of the 11 parking spaces designated for beach use.

The project site is located within a lot that consists of a waterfront bulkhead, U.S. Coast Guard and Harbor Patrol facilities, a parking lot, an adjacent public beach and public restrooms. A dock and other boating related structures are located bayward of the bulkhead. Public lateral and vertical access is available from the public beach to the Harbor Patrol guest docks. U.S. Coast Guard and Harbor Patrol facilities are open to the public as are the Harbor Patrol guest docks; public access is limited to the *USS Narwhal*. The proposed project intends to improve access and use of the public guest docks by dredging accumulated sediment from the dock and stabilizing the bulkhead that supports the docks and landward developments. The adjacent public beach will remain open and parking available during construction.

The project site is the U.S. Coast Guard Station located at 1911 Bayside Drive, near the Newport Harbor Entrance Channel in the City of Newport Beach, Orange County (Exhibit 1). The Coast Guard Station shares the site with the Orange County Sheriff Department Harbor Patrol facilities located immediately adjacent to the north. The site consists of a Coast Guard operations building, floating dock to berth the USCGC *Narwhal* (used to conduct law enforcement, search and rescue and homeland security operations), a Harbor Patrol dock with nine slips accommodating four official use slips docks (primarily for Harbor Patrol lifeguard vessels) and five guest slips, and a pumpout float adjacent to the *Narwhal* berth. A 174 foot steel bulkhead parallel to the harbor channel comprised of interlocking steel sheet piling, supports the Coast Guard station, parking lot and gangways that access the adjacent guest docks (Exhibit 2). A public beach is located immediately northeast of the U.S. Coast Guard Station providing picnic tables, volleyball net, bathrooms and a surface parking lot clearly designating 11 parking spaces for beach use. Another on-site surface parking lot provides parking for the Coast Guard and Harbor Patrol crews.

Additional Discussion Points

Changing dinghy dock from 72 hours to 20 minutes. Was this discussed with the CCC or was it publicly noticed? Was a permit required to change use?

Loading/visitor/emergency dock - this dock previously served three purposes. The Harbor Patrol has reduced it down to purely emergency access stating they are allowing loading at the pump out dock to mitigate this loss of public access. The pump out dock will now be overcrowded as pumping out can take up to 30 minutes. They have essentially taken away 40 feet of public loading dock space, installed unpermitted signage that would lead the public to believe that the entire area is closed to the public, and have limited every area to a scant 20 minutes. Please also note that this is the only loading dock in the harbor that's near the mouth of the harbor/exit to ocean. This is also the likely location for most inland dock users and boaters given it's conveniently located near Jamboree and with the removal of these facilities, anyone coming from the southern half of Orange County would have to drive another 10 miles to access a similar public loading dock and about another 5 miles to access an alternate public dinghy dock. There are limited dinghy docks in Newport all of which are

over-crowded. This isn't about just servicing those that live in the immediate high-income area, but should also allow inland visitors to easily access the docks, slips, small beach, and ocean.

Misleading and unwelcoming signage in this entire public access area, including the parking area.

Based on the past permits, it would appear that there have always been, and still should be, 5 guest docks. This is well documented in the two staff reports referenced earlier. These docks need to be protected for future generations and those visiting from the inland areas of Orange County and Riverside County. It would appear from the photos and multiple visits to the area, that only three guest docks are available, but again, the signage would lead the public to believe that this entire area is not open to the public, nor is the tie-up area.

While Homeland Security and other security issues are being cited, how will the Harbor Patrol and OC Parks mitigate what were previously areas of public access conditioned in the permit(s)? At this point, nearly all of the public access has been blocked off, or signage has been erected to lead the public to believe the area is off limits to the public.

Lt. Corn has communicated via email that the Harbor Patrol has opened up the front side of the pump out dock for 20 minute access for big boats to mitigate taking away the visitor dock that previously had a "20 minute loading" sign. This "mitigation" is flawed and inadequate for a few reasons:

The new "20 minute" sign on the pump out dock indicates the access is only for pump out or for accessing the back of the dinghy dock. It in no way indicates it is for loading goods or people from land and actually leads the public to believe it is not open to the public. It basically implies don't enter or walk on this land. The signs on the gangway to the pump out dock indicating "authorized personnel only" goes further to convince the public that the area is not open to the public after decades of this being public access based on the previous permits.

The original visitor/loading dock is much closer to Bayside Drive and much easier for people to access relative to the dinghy dock.

The pump out dock is highly used by boaters actually pumping which takes at least 30 minutes (not 20 minutes as posted) between docking, opening holding tank, stretching pump out lines, pumping out, storing pump lines, rinsing off dripping black water and shoving off. On peak days there will be extremely limited availability for using it as a loading dock. Why the new limited time if boaters are to conduct a proper pump out?

The pump out dock needs to be available for pumping out. To over burden this dock space with "20 minute loading" may unintentionally cause boaters to pass the pump out dock and unnecessarily pump out at sea causing pollution. The CCC has a major public education program focused on good pump out stewardship, but perhaps the Harbor Patrol and OC Parks are unfamiliar with this program since they are making it extremely difficult for the public to comply. Have either of these agencies availed themselves of boating and waterways grants or educational materials in the past?

Five (5) to 10 guest docks (berths) were approved nearly 25 years ago:

The docks are numbered 1 through 9. Historically, docks 5 – 9 were used as the guest docks. Following multiple visits, there are usually only 2 – 3 guest docks available as the lifeguard boats have taken all of the docks on an ongoing basis.

The pilings surrounding the guest docks are labeled “KEEP OUT” which again discourages the public from even approaching the area, much less docking there or thinking there is a guest dock program in place. Was the KEEP OUT signage or any other signage permitted?

The OC Sheriff Harbor Patrol website indicates, “pull up to our visitor dock in order to check into a guest dock.” There is no visitor dock (it is currently painted red and has a sign indicating “sheriff only”). How does the public rent a guest dock or even know they are available based on the prohibitive signage that is literally all over the property clearly conveying that the public is NOT welcome – KEEP OUT.

Given the current intimidating and forbidding signage on the guest docks and everywhere the public looks, the Harbor patrol needs to properly label the 5 guest docks with 5 separate “Guest Dock” signs and replace all other existing signs that intimidate the public and deny them public access.

Line 6 and 7 of App. No. 5-07-370 page 10 of the staff report, indicates a dock with 9 slips has been available for 4 lifeguard boats (historically 2 NB City Lifeguard boats and 2 State Lifeguard boats) and 5 guest slips. The harbor patrol has been allowing 6 Lifeguard boats to dock there which leaves 3 public guest slips.

1995 Permit

In addition to the public access issues, is there any ongoing monitoring of the required mitigation area? Permit required protection of mitigation site in perpetuity – 550 sf of intertidal habitat due to the incremental loss of bay habitat. What is the current condition of the site?

What is the current condition of the very large seawall that was constructed 24 years ago?

While the permit required 10 parking spaces (out of the total 68 spaces) with signage that indicated beach parking from 8 AM to 5 PM, there are no ADA spaces. The existing, very limited ADA spaces are behind a sign that will not allow the public to access them. There is no easy ADA access to the docks or beach and even the abulatory public must walk through a work yard that’s parked with trucks, heavy equipment, and a lot of staff that don’t pay any attention to the health and safety of the public attempting to access the docks. The public is not made to feel at all welcome on any level in any area of this property.

The permit states that redevelopment would require 20 additional parking spaces, beach drop off and 10 public parking spaces. Since there isn’t a schematic that illustrates the layout of all of the requirements may we please discuss how all of this has been accommodated and maintained by the applicant since 1995. The beach drop off area no longer exists at all.

Does OC Parks have any school programs, including Title I programs, that are conducted in this area, i.e. boating and waterways education or other on-the-water programs that would require public access and ADA access to these docks and beach? And if they are not conducting any programs, how might we incentivize them to do so?

If your time permits, an on-the-water site tour would provide a better view of how impactful and intimidating the signage that fronts this property really are. From the moment you approach this property, either by boat or car, it’s very clear the public is NOT welcome.

Photos attached for your reference on the following pages organized by the approach to the property, parking lots first, then docks.

Parking

Entry parking lot – Harbor Patrol parking takes half of front lot at the entrance



Public/Beach parking on other side of above-referenced lot



ADA parking is located behind this red line and sign and is limited to only 2 spaces



Additional signage prohibiting access to ADA parking spaces



Guest Services? This sign is posted in an area where the public is prohibited from entering. Is this where the public would sign up for a guest dock? There are restrooms in the lobby of this building but the public is not allowed to use them, but the County website states this building is open to the public.



Loading, Visitor, Emergency dock CLOSED to the public, but immediately adjacent to the above sign



Loading, Visitor, Emergency dock CLOSED to the public from the water side.



Guest Dock area and extensive signage to prohibit public access on ALL docks



Guest Docks 7, 8 & 9 – only 3 of the 5 guest docks that are to be made available to the public, but all have KEEP OUT signs posted on them.



Pump Out Dock – KEEP OUT signs immediately adjacent to 20 Minute sign



Example of public access parking being closed during private Harbor Patrol party. Note: The other side of the parking lot as shown in previous photos is the "Harbor Patrol" parking side of the lot, but Harbor Patrol took over the entire parking lot for their private event and have done this on other occasions as deemed warranted advising that, "It's our parking lot, we can do whatever we want to do" when questioned about there being no public parking available.



Archival photos from the web documenting previous sparse signage, or lack thereof on pilings.



FW: Public comment March 21 agenda Wednesday 12A

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 7:35 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Jerry kelleher [<mailto:jerrykelleher3@gmail.com>]

Sent: Wednesday, March 03, 2021 7:20 PM

To: SouthCoast@Coastal

Subject: Public comment March 21 agenda Wednesday 12A

Please keep public dock and overnight parking at the dinghy dock! Thank you,
Jerry and Nancy Kelleher
S-20 Balboa Island

Sent from my iPhone

Fwd: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:44 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: E K <erikakue@icloud.com>

Sent: Thursday, March 4, 2021 1:05:46 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Please consider allowing the Outrigger program to remain as it's currently being used.

My children enjoy and participate in this program.

It is a safe, friendly organization. They take good care of their items and I see them be respectful of both the land and the ocean.

It would be a shame to remove one of the only outrigger companies in the area.

With such statewide restrictions in effect for athletics this is an invaluable resource.

Please consider keeping them in this space.

Thank you for your time.

Sincerely,

Erika Kuehnel

Sent from my iPhone

Marguerite Olson, MS, CDVC, LMFT, BC-TMH
236 Villa Point Drive
Newport Beach, CA 92660

City of Newport Beach &
The Harbor Commission
03/05/2021

Dear Sirs,

It is my understanding that there is an advocacy group that feels the canoes on the coastguard beach are taking away from public space and don't seem to understand the history and benefits the canoe clubs have to our city. I am a native and local to Newport Beach, as well as an outrigger paddler for the last 14 years. I come from a family of boat builders, sailors, and water sport enthusiasts and my family has lived here since 1957. You might know my maiden name, Valdes. Outrigger canoeing changed my life in so many ways. I was even carried to my groom on my wedding day in a canoe my brother helped to build. I have been a team member on both Imua and Offshore Outrigger clubs and believe this may be pertinent to the issue. Offshore Canoe Club has been on the coast guard beach for over 40 years without issue. I believe Imua recently started keeping canoes there too, but they have been happily ensconced at the Newport Aquatic Center beach for almost 50 years and I believe the coastguard beach can only support the one team. I love both teams, but feel this is fair to say.

Our city was honored to be the first in California to be introduced to this sport of Polynesian kings: Duke and Eddie Kahanamoku, brothers of the royal Hawaiian family, launched the first Newport to Catalina outrigger canoe race 62 years ago in 1959 from our Back Bay. We have four clubs in the harbor now and there are about 60 statewide. This sport is not only adds the charm of the islands to our community, it provides recreational exercise, it teaches the values of teamwork, perseverance and the traditional Hawaiian values of *ohana* which is inclusive in a very special way. *Ohana* literally means *family* but a person's *ohana* can include their best friends, neighbors, or anyone else who is special in their life. A paddling *ohana* is special. The people within it are bound together by genuine compassion, culture, support, loyalty, and love for each other. To become a part of someone's *ohana* is a great honor. When you join a canoe club, you're not just signing up for a sport.

The clubs include people with disabilities, including numerous paddlers who are missing legs from both congenital and war related injuries (and compete at the top of the sport, by the way!) We have paddlers who are blind who race, and also at risk city youth who have been introduced to the sport as part of outreach. The clubs in our harbor are all 501C 3 organizations and include Keikei (children's) programs and are open to all interested parties. Canoeing is a relatively inexpensive pastime and all the clubs have equipment members can use without having to invest. The clubs are all privately funded, so take no government funds that can be used elsewhere. Our paddlers come from every walk of life, every profession and every socio-economic group. I'm a clinical psychologist and strongly advocate for the mental health benefits paddling provides such as mitigating isolation and depression and giving purpose to one's life. Paddling is a lifestyle that promotes respect for the ocean. You will often see the paddlers picking up jetsam from waters in the harbor and participating in clean up days in the Back Bay estuary. I wish all the people enjoying our harbor and coastline were as diligent in keeping our shores clean.

I implore the city and the coastal commission to extend the permits for the Offshore Canoe Club boats to be kept on the coast guard beach. This sport would not be possible if the canoes had to be trailered and stored elsewhere because the paddling occurs in the early hours of the morning and in the evenings on

week days when the members are getting off work; the time it would take to unload and rig the canoes each time would make it impossible time wise for many people to participate. The cost of storing them elsewhere and procuring another trailer would be cost prohibitive too and make the sport less affordable. The space they use is at the top of the beach where beach goers never set up their towels and umbrellas because they prefer to be by the water, so the boats do not encroach on space the public uses. I've never seen a day, even in the middle of Summer, when there was not room for everyone on that beach and I've been going there all my life, so since 1968, and I live not a half mile away from it, so go there frequently. Please to allow for the permits and feel free to call me if you have questions.

Sincerely,

Marguerite Olson, MS, CDVC, LMFT, BC-TMH

Marguerite Olson, MS, CDVC, LMFT, BC-TMH

March 4, 2021

To: California Coastal Commission

From: Paul Multari

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a concerned resident of Newport Beach, I, Paul Multari, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space

available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Paul Multari

March 4, 2021

To: California Coastal Commission

From: Lynn Gardner

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a concerned resident of Newport Beach, I, Lynn Gardner, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Lynn Gardner

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:54 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: valerie magursky <valerie.magursky@gmail.com>**Sent:** Friday, March 5, 2021 8:42 AM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Valerie Magursky**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would

require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Valerie Magursky

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:51 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Christy Marr <christymarr21@gmail.com>

Sent: Thursday, March 4, 2021 6:36 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Please keep the dock and beach open for public use. Our family has enjoyed use of the dock and beach for years. It is know as Mother's Beach to the locals and many families have been enjoying it for many generations. There are so few docks and beaches available to the community. Why would you want to take away this beautiful park and beach from our families?

Thank you!
Christy Marr

FW: Public comment on Mar 2021 Agenda item Wed 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:08 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: richard mays [<mailto:rmays206@gmail.com>]

Sent: Wednesday, March 03, 2021 3:50 PM

To: SouthCoast@Coastal

Subject: Public comment on Mar 2021 Agenda item Wed 12a

As an Island resident, mooring and boat owner as well as local yacht club member, I strongly support restoring overnite dinghy dock access at the Harbor Patrol in Newport Harbor. There are so few places to tie up our dinghies not only for the residents but also for harbor visitors. We have a beautiful Parks facility. Let's make it available to all boaters.

Why is our local harbor government so unfriendly with the many, many restrictions!

Richard A Mays
206 Crystal Ave
Little Balboa Island

Sent from my iPhone

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 12:12 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: FINN MCCLAFFERTY <ffish4@aol.com>

Sent: Thursday, March 4, 2021 12:06 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Orange County Parks' CDP Application 5-07-370-A2

To: California Coastal Commission

From: Kristy L. McClafferty

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Kristy L. McClafferty** strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.

- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,
Kristy L. McClafferty
309 Fernleaf Ave
Corona Del Mar, Ca., 92625

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 12:12 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Finn McClafferty <mcclaffertyfinn@gmail.com>

Sent: Thursday, March 4, 2021 12:10 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Orange County Parks' CDP Application 5-07-370-A2

To: California Coastal Commission

From: Finn O. McClafferty

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, Finn O. McClafferty strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,
Finn O. McClafferty
309 Fernleaf Ave
Corona Del Mar, Ca., 92625

FW: Public access to water, coast and public docks

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 1:42 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: norma vander [<mailto:miltnormavm@yahoo.com>]

Sent: Wednesday, March 03, 2021 1:07 PM

To: SouthCoast@Coastal

Subject: Public access to water, coast and public docks

Sirs:

This email is to let you know that I am totally against the taking of public land and facilities and making them inaccessible to the public. There has already been too much access limited by private enterprise and housing, as well as geographic factors.

I urge you to vote against taking the public docks and surrounding facilities away from the public, especially in the Newport Beach sector.

Please vote NO on the Coastal Development Permit application number 5-07-370-A2 as we need all the public access and land we can find for recreational uses by the citizens of our state. I would encourage you to find additional access to beaches, water enjoyment and more places in our state where the public can be an active part of the beach environment. Instead of limiting or removing access to beach/water activities, I challenge your will and creativity to find more public water and beach access places along the coast of California to provide the citizens with access to the beaches.

Thank you, and please vote NO in the above stated permit application.

Yours truly,

Norma Vander Molen, native born Californian, age 87

9472 Mokihana Drive

Huntington Beach, CA 92646

Huntington Beach, CA 92646

cell: 562-303-4222

FW: OC Parks' CDP Application 5-07-370--A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:50 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Kent Morris <km82@roadrunner.com>**Sent:** Wednesday, March 3, 2021 9:51 PM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** OC Parks' CDP Applica on 5-07-370--A2**To:** California Coastal Commission**From:** Kent Morris**Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Kent Morris**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Kent Morris

Offshore

kim Murgolo <kimmurgolo1@hotmail.com>

Fri 3/5/2021 11:10 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Good morning... I would like to express my appreciation for allowing us offshore paddlers to respond to the issue of club use of the area we store our canoes. Offshore has been a pillar of the community for 40 yrs ! The club has acted responsibly and with the highest integrity in representing the paddling community! We have a diverse group of people who are part of the club sharing their cultural heritage with the community as well as within the club n regionally SCORA! It is with utmost most respect that we ask you n ur organization to uphold our mission to being a respected member of ur community! Thank you

Sent from my iPhone



**DAYLE MCINTOSH
— CENTER —**

August 20, 2020
Newport City Council
100 Civic Center Dr
Newport Beach, CA 92660

RE: Request for parking accommodations for people with disabilities.

To whom this may concern,

I am writing to you on behalf of the Dayle McIntosh Center, a Center for Independent Living that has been providing services in Orange County for over 40 years. We are a consumer-driven organization offering a broad array of services for people who have disabilities including information and referral, advocacy, assistive technology training, daily living skills instruction, peer support, and a variety of other programs.

Recently, it was brought to my attention that there is an accessibility issue related to parking at the following address 1901 Bayside Dr, Corona Del Mar, CA 92625. Access to the visitor dock on the north side of the facility has been closed off by Harbor Patrol. Previously, this served as a courtesy dock with signage indicating "20 minute docking". It now indicates "sheriff only". This visitor dock previously allowed for a very short walk up the gangway to a 5 minute white vehicle zone and a nearby handicapped parking stall. For individuals with mobility issues, this was perhaps the shortest walk to access a boat in Newport Harbor.

Additionally, on the south side of the facility, the County has proposed blocking off the paved access that leads to these public amenities: seawall walkway, public restrooms, paved beach shoreline accessway, dinghy dock, 5 public guest slips and pump-out dock. To mitigate, the County has proposed rolling out rubber "ADA approved mats". Rubber mats are not as effective as a paved walkway, and could clutter the already small beach.

Lastly, The Harbor Patrol has painted a red line and posted an "authorized parking only" sign at the vehicular entrance to the facility. Not only does this block the intended turn-around area within the facility, but it deters public access to the handicapped parking and passenger loading zone that was previously available to the public.

On behalf of the community of Orange County with a disability, we are confident that we can work together to come up with a reasonable accommodation in accordance with the American's with Disabilities Act of 1990.

Thank you for your time and consideration.

Sincerely,

Bhumit Shah
Systems Change Advocate

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:53 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Lois N <drloisn@gmail.com>

Sent: Friday, March 5, 2021 9:05 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Applica. on 5-07-370-A2 (Orange County Parks, Newport Beach)

To: California Coastal Commission

Thank you for the opportunity to present my voice to this meeting.

I live in-land and drive to the Harbor Patrol beach to enjoy paddling with Imua. I work in healthcare and sit in my office 8 to 10 hours a day. Having the ability to paddle out to the ocean and enjoy my team's comradere have become essential elements of my self-care so that I bring my best self to my patients' care.

Because I drive 45 minutes to get to the beach, having the facilities and ocean access from Harbor Patrol beach, is a real blessing.

Ocean sports, specifically outrigger paddling, has become an essential part of my life. The physical challenges, the ohana spirit, and the conciousness of caring for the beach and the ocean have become parts of my life that bring balance and serenity in an otherwise stressful and often chaotic world.

Thank you for allowing us to continue to participate in our beloved sport and our respectful relationship with the Pacific Ocean.

Mahalo for all you do,
Dr. Lois Nightingale

From: Jim Mosher jimmosher@yahoo.com
Subject: Observations regarding the Orange County Harbor Patrol property in Newport Beach
Date: January 2, 2020 at 4:08 PM
To: Jordan.Sanchez@coastal.ca.gov, Liliana Roman liliana.roman@coastal.ca.gov
Cc: Wade Womack wade@orangecoastla.com, Penny Elia greenp1@cox.net

JM

Dear Jordan & Liliana,

Happy New Year!

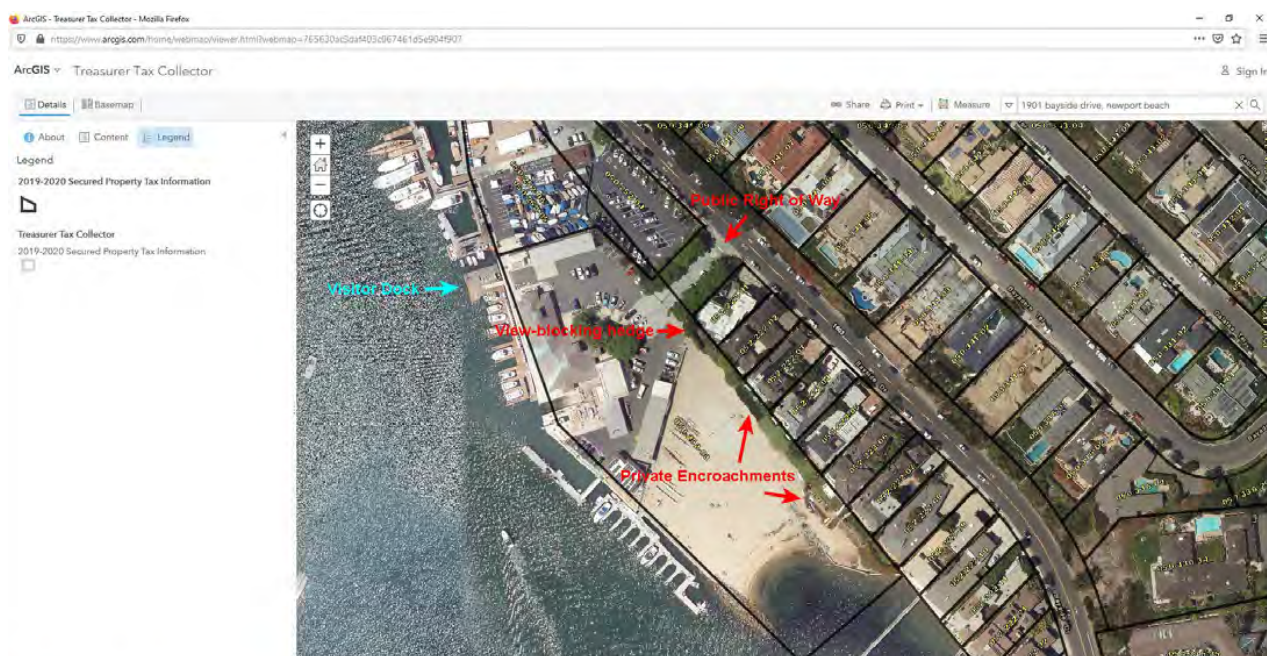
I understand you may be addressing some public access issues that have arisen involving the Harbor Patrol parcel at 1901 Bayside Drive in Newport Beach, and a CDP application to address some of them.

I do not have access to the existing CDP, but based on a recent visit, I certainly agree that the closing the visitor dock to the public was uncalled for and that the parking lot signage suggesting "Authorized Vehicles Only" are allowed beyond a red line in the pavement impedes access for all (suggesting, as it does, that even those with legitimate business at the state and county offices cannot go beyond the line, even to use the handicapped parking, and have to find spaces elsewhere).

I wanted to pass on these additional observations that you may or may not be aware of:

(1) The bulk of the area landward of the red line, in a portion of which the County "allows" the public to park, does not appear to be part of the County-administered tidelands parcels.

As best I can tell, it is, instead public right of way. See the following [parcel map](#) from the Orange County Treasurer-Tax Collector, which shows it as being part of the Bayside Drive right of way:





This public right of way status is corroborated by [the City's GIS mapping](#), as well as by the 1954 subdivision [Tract Map](#) (which shows it adjacent to "Lot 1"), and where the dimensions of the 80-foot-wide right of way match those measured from the City's mapping:



(20 feet of additional bluff-face right of way were added to the width of Bayside Drive when [Irvine Terrace](#) was subdivided in 1957).

It seems very unusual for parking spaces in public right of way to be dedicated for exclusive use by a particular entity, even a government one, and I am unaware of how (or if) the County obtained authorization to reserve half these spaces for their use.

(2) Second, as is evident in both the above images (where the black and orange lines indicate the private property lines) that the County has allowed the private homeowners abutting the beach to create private encroachments intruding out onto what the City designates as filled state tidelands -- similar to what the Commission has found issue with at Peninsula Point (in Newport Beach), in Sunset Beach and, I assume, elsewhere.

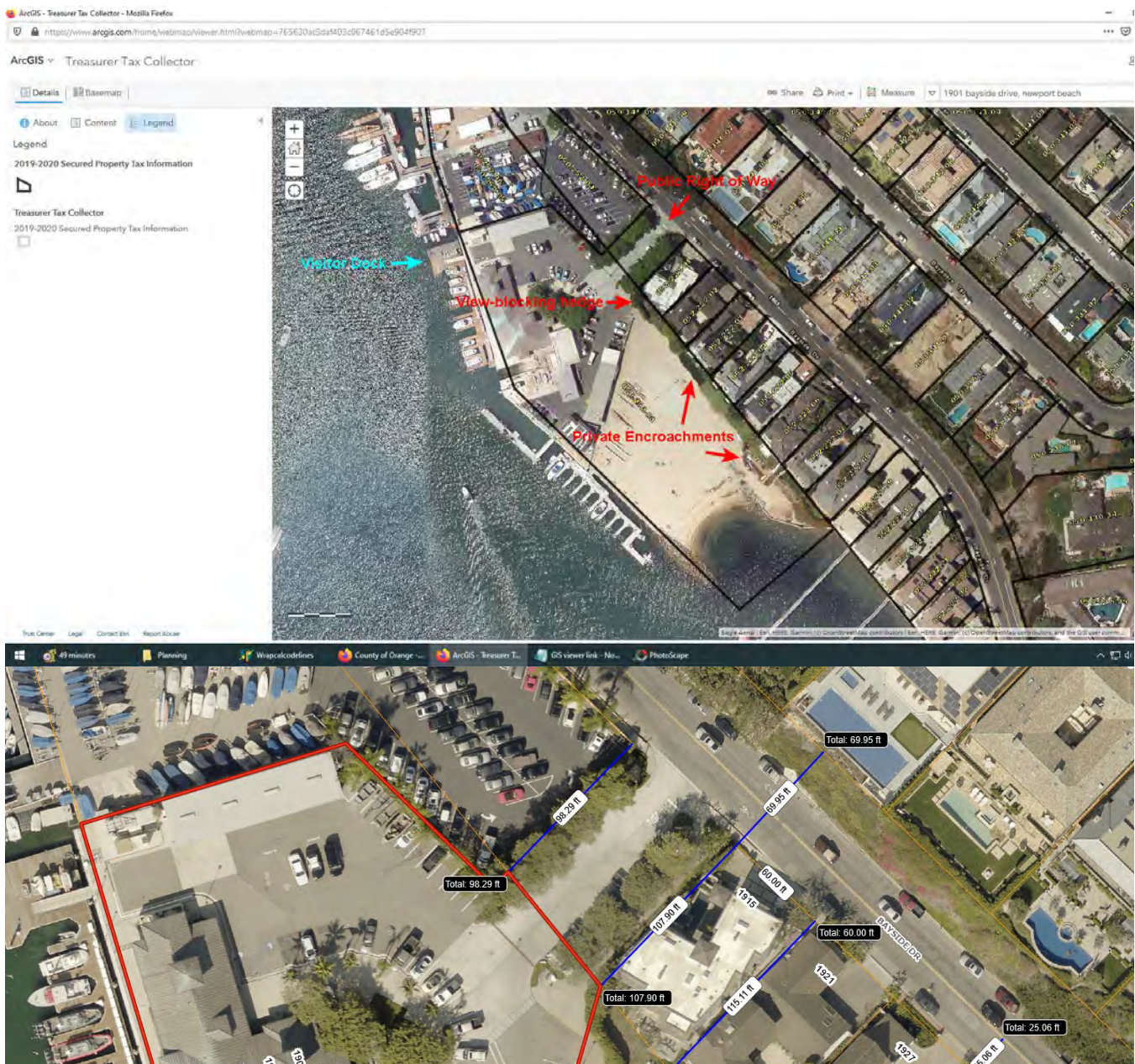
The **private encroachments** that the County has tolerated (and worked around) **include a tall hedge** at the location indicated in the first image. This is not only used by the owner of 1915 Bayside Drive to create a private yard on public trust lands, but it **impedes visibility and physical access to the beach from the parking lot.**

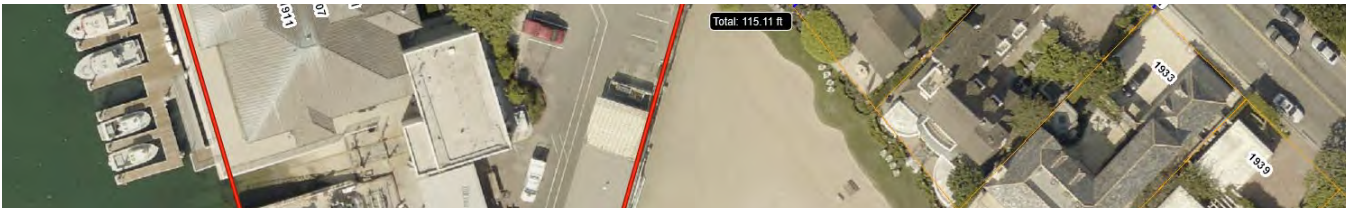
(3) Finally, I am not a boater, but I noticed the County's use of **green** paint to (without permission) denote 20-minute vessel docking zones is inconsistent with the system promulgated for public docks in the City-controlled parts of the harbor per Municipal Code [Section 17.25.10.C.1](#), and could, for that reason, be causing confusion. I don't know if the City follows its own code, but **blue** paint is supposed to be used for 20 minutes, while **green** indicates a 3-hour limit.

I hope this helps you in your consideration of the corrections needed to the public access problems existing on these County-administered parcels.

Yours sincerely,

Jim Mosher





March 3, 2021

To: California Coastal Commission
From: Mary Jo Baretich
Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, Mary Jo Baretich, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public

March 3, 2021

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Sincerely,

Mary Jo Baretich

March 4, 2021

To: California Coastal Commission

From: John Estrada

Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, John Estrada, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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March 4, 2021

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Sincerely,

John Estrada

March 4, 2021

To: California Coastal Commission
From: Sonja Gregurek
Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Sonja Gregurek**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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March 4, 2021

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Sincerely,

Sonja Gregurek

March 05, 2021

To: California Coastal Commission
From: Rosie Ryburn
Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Rosie Ryburn**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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March 05, 2021

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Sincerely,

Rosie Ryburn



Offshore Canoe Club

March 4, 2021

Orange County Coastal Commission
Orange County Parks and Recreation

To whom it may concern

How many times in your life do you find a place where you belong? Participate in something you genuinely care about? Have the opportunity to better a community and bring awareness with compassion to the environment? This is Offshore Canoe Club to me.

I've always enjoyed the ocean. Offshore has allowed me to be part of something bigger with people who share the same passion for the water. You could say it's my church: The ocean is our temple and our club is the congregation. We love sharing our passion with members of the community, introducing them to a sport that doesn't discriminate against age, weight or physical ability. A place where you can better yourself and others around you. And best of all, built on a deep rooted history of tradition, both in the sport and in our club.

As a club, we've always respected the residence surrounding the beach. We've always kept the beach clean and neat. And, we've always invited the community to participate in the club.

I personally ask, please don't displace our club. We bring far more value to the community than realized.

Thank you for your consideration.

Sincerely,

Michael Ivey

My Experience with the Offshore Outrigger Canoe Club

Papa Preston <pdoughty321@gmail.com>

Fri 3/5/2021 10:04 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

In regards to the Offshore Outrigging Club,

I joined offshore about 9 weeks ago and as of yet I have not met a person there who wasn't beyond excited about teaching and working with others on how to get better. These people are so into what they do and they love coaching—it would be beyond beneficial to keep the club on the beach because of its incredible potential for bringing youth and underprivileged members into the sport and it would serve as a very valuable place for them to find friends. The camaraderie of this club is beyond that of any other club or facility I've ever seen, I don't know of any place I have ever been where the people are so willing to take time out of their day to help their fellow teammates and brighten their day. I have heard over and over again the members of the club expressing excitement over getting younger members in so that we could form a team—this is a golden opportunity for underprivileged or behaviorally challenged youth to find a place they can build values and work hard at. Not to mention the room of the club takes up such a small space on the beach and it's presence attracts the attention of other water sport athletes and it makes the beach appear far "friendlier". I believe the beach would seem far more obscure and desolate with the absence of the club and the outriggers. The club should stay because of its incredible potential for youth groups and its incredible presence and presentation on the beach.

Sincerely,

Preston Doughty

Offshore Outrigging Member

Offshore Canoe Club Interest.

kevin olds <kevinolds63@gmail.com>

Fri 3/5/2021 4:45 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Cc: Mark C <markccdm@gmail.com>

Aloha,

To whom it may concern,

It has come to my attention recently that our Club's interest on the beach seems to be in question. We have been in this location since 1981 and have always been in good standing with the community and local governments. Are we in question of our interest on the beach? I am not sure if we are becoming part of the cancel culture, but this sure makes us feel like it. Our Sport has been in this Harbour since 1959 as Hawaii's gift to the Country, along with Surfing. Our community has supported us since our first canoe race to Catalina and that same year ending at the Dunes, Balboa Bay Club as well as the Cannery Race and Blackies.

Surfing took to the heart of most. Our beloved sport has taken a back seat since the beginning. We have a strong history in the Harbor. Our club has a rich competition history with many National and International wins. Our sport has not received the recognition it deserves, and we deserved to be appreciated. The Hawaiian canoe culture needs representation in Southern California and this beach has always provided this opportunity.

I have been involved with the sport for 50 years and have been visiting this beach since 2014 after previously being here 1982. This community and myself have supported the Coastal Commission for as long as I can remember. There have been educational programs for the youth alongside our hopes for a future adaptable paddling programs for the children that we will not be able to implement if you take this away from us. Our beach was greatly impacted following the addition of other paddling clubs that already have locations in the Harbour.

All I ask of you today is to listen to the locals and hear the importance that this location and sport have on the Harbour community. Please do not take this away from us as we are willing to do whatever it takes to keep this location alive.

Offshore Canoe Club, Head Coach Kevin Olds

FW: Harbor patrol visitor dock

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:08 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: lee olsen [mailto:lbird20@gmail.com]

Sent: Wednesday, March 03, 2021 3:45 PM

To: SouthCoast@Coastal

Subject: Harbor patrol visitor dock

Please leave the visitor dock in place. It is one of the only places I can wash down by boat.
Lee olsen. 8184002790.

offshore outrigger calif club

Michel Olsen <heyniki5@gmail.com>

Fri 3/5/2021 10:29 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

To whom it may concern, I am a paddler at the Offshore Outrigger California Club, I have been paddling for almost 2 year. It is a wonderful program open to the entire public. Last year 4 of my friends joined and there are women at my church asking how they can participate. It is such a unique opportunity that allows us to exercise, while meeting new people in our community, and enjoying nature, there is something very therapeutic about being out on the water that is mentally and spiritually healthy. My biggest highlight last year was paddling in an outrigger from Newport Beach to Catalina with members of the club. Everyone works hard together to support each other and make these experiences possible. I admire the hours Mark puts in supporting this youth program. This sport is such a great confidence builder for youth and adults alike. There is plenty of room for outriggers and picnics. There has never been a problem with the beach being too crowded. This is a wonderful program that Newport Beach offers to the community. I hope it will be allowed to continue. Sincerely, Miki Olsen

Offshore Outrigger California Club

Nicki Presby <monicapresby@gmail.com>

Fri 3/5/2021 10:28 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Dear California Coastal Commission,

It has been brought to my attention that there are advocate groups that are writing to the Coastal Commission that the outrigger canoes belonging to Offshore Outrigger are taking away space from the beach that it would otherwise be used by the public. This claim goes on to state it would be better if the canoes were not allowed to be stored on the beach to allow more room for the public.

My son has been an active participant with Offshore Outrigger California Club for almost three years. Being a member of Mark's program gave him a sense of community, belonging and commitment. The fresh air, workouts, team spirit, responsibility for the boats all attributed to his over health and mental well-being. Families were able to observe practice and enjoy the salt air and quiet beach while the team was paddling.

In our years there, the beach was never crowded. There is a small parking lot with limited street parking. The group writing the coastal commission is using the reasoning of needing more beach space that is currently being used to store the boats. There is plenty of beach space for all to enjoy with distance between them with beach and storage as is.

The Offshore Outrigger California Club serves all of Orange County. As a 501C3 Offshore Outrigger is able to serve all residents wanting the outrigger experience. No paddler is left behind.

Please continue to allow the Offshore Outrigger California Club use of the small beach area to store their boats so the youth and adults of Orange County may continue their sport, their passion, their community.


Thank you,

Nicki Presby, parent of Will Presby

949.500.9652

"There is always light, if only we are brave enough to see it. If only we are brave enough to be it."
-Amanda Gorman



 Orange County Register



Coastal Commission tells O.C. Harbor Patrol to return Newport docks to public use – Oran...

Images may be subject to copyright. [Learn More](#)

Offshore Outrigger Canoe Club

ramirez505 <ramirez505@aol.com>

Fri 3/5/2021 12:53 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Honorable Board Members of the CA Coastal Commission

My name is Brigit Ramirez, an active Club member/paddler of OFFSHORE OUTRIGGER.

I have joined this canoe club after proudly retiring from a very rewarding law enforcement career of 25 years with the NM State Police. As we all know, water has healing properties, which is why I joined OFFSHORE. Multiple on duty injuries have resulted to exclude me from most of my other sports, such as running, skiing, skating and so on. Paddling strengthens and rebuilds core muscles, releases endorphins to enhance one's mood and is very beneficial to anyone's health. Especially during these trying times, paddling at the OFFSHORE CANOE CLUB is a healthy defense against isolation and depression. It is highly conducive to people with various disabilities, reaching from physical impairments to blind paddlers and paddlers suffering from PTSD. Therefore, OFFSHORE has several paddlers with ADA issues, and our coaches spend countless hours to dedicate to this cause and work specifically with adaptive needs paddlers. OFFSHORE members reach out to all people in our community to recruit new paddlers. For many of us, doors of possibilities opened that we would have never imagined.

OFFSHORE is one of the canoe clubs, that also has a Keiki (kids) program. As a former 4-H leader in NM, I am particularly excited to help with the expansion of this program, as soon as Covid restrictions allow. This program is especially beneficial to underprivileged children, since the expenses are very low and affordable to most families. No equipment is needed, as OFFSHORE provides canoes, paddles and plenty of mentors dedicating their time to keep children safe, healthy, focused on the sport of paddling and off the streets. As a former Law Enforcement Officer, I am particularly impressed how OFFSHORE instills "OHANA" (family) values. Club members are always ready and happy to reach out for various situations. For instance, we teach conservation to others, and regularly clean up trash during practices and special club-organized clean up days on and off the beach.

Our club members consist of a diverse multi cultural population from all walks of life. We all paddle at OFFSHORE with a common goal:

Love each other and the ocean

Please allow us to continue this mission, as we have for the last 40 years on the NPB Coast Guard beach, our current location.

Thank you in advance for your consideration.

Respectfully,

Brigit Ramirez

1980 McKinney Way

Seal Beach, CA 90740

[505-450-5065](tel:505-450-5065)

ramirez505@aol.com

Sent from my T-

Sent from my T-Mobile 4G LTE Device

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:45 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Another

From: ramirez505 <ramirez505@aol.com>**Sent:** Friday, March 5, 2021 11:16 AM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Public Comment on March 2021 Agenda Item Wednesday 12a - Applica. on 5-07-370-A2 (Orange County Parks, Newport Beach)

Honorable Board Members of the CA Coastal Commision

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Respectfully,

Brigit Ramirez

1980 McKinney Way

Seal Beach, CA 90740

505-450-5065

ramirez505@aol.com

Sent from my T-Mobile 4G LTE Device

Fwd: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:56 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Remy, Jana <remy@chapman.edu>

Sent: Thursday, March 4, 2021 3:23:27 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

March 4, 2021

Dear California Coastal Commission,

I submit my comments as a disabled person, a cancer survivor, a member of the Offshore Outrigger Canoe Club (OffshoreOCC), and a longme r esident of Orange County. I use the beach at 1911 Bayside Drive mulple mes e very week due to my parcipa on in outrig ger canoeing. It is not an exaggeraon to say that my access to this beach and my parcipa on in outrig ger canoeing is one of the best parts of my life and in the 11 years since I have parcipa ted in this sport my quality of life and my overall health have been improved immeasurably. I am one of many disabled people and cancer survivors who have found the sport of outrigger canoeing to be a perfect fit for allowing them to enjoy the amenities of the beach, harbor, and ocean. I have seen the difference in health and *joie de vivre* of so many others who have found this sport to be perfect for their level of ability, age group, and personal health circumstances.

I am disabled because of my right-leg amputaon due t o bone cancer and I hold a California disabled parking placard. When I access the beach located at 1911 Bayside Drive I generally use the disabled parking stall in front of the Coast Guard facility. I use this parking spot despite the off-putting signage that makes it seem as though this parking spot is not for the public. I would welcome signage indicang that the public can use this spot because I have spoken to other disabled folks who have thought they could not use this parking spot. I would also welcome more clear signage about disabled access to the beach, including the painng of access s tripes on the asphalt of the parking lot. I park and access the beach at all mes of da y and have frequently found Coast Guard equipment and vehicles impeding access—especially when I am accessing the beach in the mornings. Over the years I have launched my outrigger canoe from other beaches in the area and thus I can say that this parcular beach se t up is far be. er than any other for disabled people with mobility issues (even better than Newport Aquac Center). The close proximity of parking, restrooms, showers, and OffshoreOCC canoe storage makes Bayside beach ideal and accessible.

As a longme member of Off shoreOCC ([hp s://offshoreocc.org/](https://offshoreocc.org/)), I will speak to the parcular a ribut es of this team that make it an exceponal c ontributor to the acvies of Ba yside beach. OffshoreOCC is the most welcoming outrigger canoe team in all of Southern California—we have members are all ages, sizes, races/ethnicities, ability le vels, socioeconomic levels, religious/polic al beliefs, etc. We have grandmas and teachers and nurses and IT professionals—everyone is welcome to try paddling and in

fact at nearly every practice or event we have new folks testing out the sport. Our coaches are stellar and give every team member the support they need to improve and excel. Coach Kevin brings a deep cultural background and the *ohana* of outrigger canoeing from his own decades of paddling in races across the globe. Coach Mark is the first to greet and engage anyone who wants to participate, especially encouraging the youth team. The two of them make sure that everyone from elite athletes to newbies can be successful. Both coaches have ensured that as a disabled paddler I am safe, supported and encouraged and I have seen them do the same for others who are physically challenged or who are just new to the sport. I am aware that Coach Mark is currently working to grow our youth program to include young people from disadvantaged circumstances and I cannot imagine anyone more capable to do so—his generosity, warmth, and can-do spirit will mean that everyone feels included and safe.

I close this letter with my fervent hope that OffshoreOCC continues to have a presence at Bayside beach so the team can continue their outreach to include an even wider variety of people in the sport of outrigger canoeing at the Bayside beach location, including the support of paddlers with disabilities. It is also my hope that the Commission will ensure that disabled access to the beach is encouraged and enhanced beyond what it is currently available.

Sincerely,

Jana Remy

remy@chapman.edu

949.293.4530

Current resident of Santa Ana, California

Team Member, OffshoreOCC

Orange County resident for 32 years

FW: Public comment for agenda item 12A March 10th Orange County Parks CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:55 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: r. h. <rexhairrell@gmail.com>

Sent: Friday, March 5, 2021 6:19 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public comment for agenda item 12A March 10th Orange County Parks CDP Applica. on 5-07-370-A2

Re: CDP 5-07-370 A2

Dear Commissioners and Staff,

I am a lifelong resident of Orange County and a long me fisherman. As such, I am quite familiar with the amenities of at the **PUBLIC** marina on Bayside Drive in Newport Beach. I am quite concerned regarding the limited public parking at the locaon. It is my understanding that various parking issues were called out on the inial enforcement acon necessitang and updated parking plan in this process. However, the site/parking plan (exhibit 2 of Coastal report) which details the various public parking amenities, does not reflect the white-curb vehicle passenger loading zone at the visitor dock on the north side of the facility (see first attachment). This designated white-curb vehicle passenger loading zone has historically been uliz ed by the public to quickly load or unload passengers accessing a private boat on the visitor dock. Please note that County ordinance (and common knowledge) indicate white zones are dedicated loading zones. The exisng blue signage on the wall (see second attachment) clearly indicates that the this loading zone, view point, and visitor dock have historically been available for public use.

I also noded that the County is proposing to place a moveable restricv e sign at the entrance to the main part of the facility (please see sign #6 on exhibit 3 of the coastal report) which indicates "STOP AUTHORIZED PARKING ONLY" beyond this point. This sign clearly restricts access to the public parking amenities beyond the sign (2 ADA stalls, beach drop-off, dedicated motorcycle parking zone, electric vehicle and the white-curb vehicular passenger loading zone menoned above. More importantly it is unsafe given that it is placed in the middle of a narrow roadway and stops public access to the intended turn around, which jams up traffic at the locaon. It should be noted that the City of Newport Beach has been acv ely working to improve safety along this winding stretch of Bayside Drive due to heavy bicycle and pedestrian traffic with newly installed "share the road" signage. In fact, a quick google search led me to a City document from previous safety work performed on Bayside Drive:

Bayside Dr Sharrows This project installed Sharrow pavement markings and "SHARE THE ROAD" signs on Bayside Drive from El Paseo to Carna on.

By "rubber stamping" the proposed parking plan, which stands in stark contrast to the properly engineered and Commission approved plan in the CDP from 1995 (which allowed for proper traffic flow and turn around within this facility), I believe the Commission is unnecessarily pung the public at risk.

I respectfully ask the Commission and staff these quesons:

1. Why isn't the Coastal Commissio insisting the County identify the white vehicle loading zone describe above on the site/parking plan?
2. If the Coastal Commission is allowing the County to take away this public amenity (white vehicle loading zone), what is the mitigation for loss of this amenity?

3. Given a new parking and signage plan is part of this CDP and Enforcement Action, why is the staff recommending approval of this site plan that deviates so greatly from the previous CDP (and puts the public at risk of injury)?
4. The aerial image of exhibit 5 of the staff report has salmon colored "Official Use" areas. Various areas identified as "official use" have historically been open to the public use. Why is the Coastal Commission allowing areas such as the white loading curb, the adjacent shade ramada (and associated picnic table identified on previous CDP as a public amenity) and adjacent viewing sidewalk to become "Official Use" in stark contrast to historical use? To the best of my knowledge this has never been identified by the commission as official use.

Thank you in advance for your careful consideraon.

FW: Public Comment on March 2021 Agenda Item Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:53 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Leslie Riggs <leslie1121@gmail.com>

Sent: Friday, March 5, 2021 11:53 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a

Please do not let Lt. Corn get away with his attempt to destroy public visitor dock access!! Do not reward that behavior. Please restore this area to what it is legally zoned for.

--

Leslie Riggs

(949) 614-5790 work/mobile

leslie1121@gmail.com

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Fri 3/5/2021 11:44 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Another one

-----Original Message-----

From: PATRICIA ROBINSON <patrobkatie@sbcglobal.net>

Sent: Friday, March 5, 2021 11:41 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Limits on public docks usage should not be reduced! I take my child across the bay to visit friends or drop off groceries to an elderly friend. Stop Lt. Corn from destroying public access....🙏🙏🙏This is our community.....not his to disrupt🙏.. 🙏🙏🙏

Sent from my iPhone

Application 5 07 370 A2 Orange County Parks, Newport Beach

Rocky McKinnon <rockymckinnon@mckinnonsurfboards.com>

Fri 3/5/2021 4:34 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Hi Mandy,

My name is Rocky McKinnon and I am member of the Offshore Canoe club in Newport Beach. I joined the club because it is a great way to participate in outrigger canoe paddling with a great, diverse group of people in my community.

Since joining 4 years ago I have shared the passion and enjoyment of paddling outrigger canoe with many others. Some are now members. We have an 'open seat' policy where anyone can participate without cost.

I am looking forward to further helping develop our kids program along with our plans to develop an outreach program for inner city youth.

The outriggers that are stored on the beach do not impeded public access and are neatly stored out of the way.

I feel that is imperative that the County renew our contract to continue to allow the public access to outrigger canoe paddling.

Thank you,

Rocky McKinnon

714 377-6101

Owner/Chief Instructor

McKinnon Surf & SUP Lessons

[Sent from Yahoo Mail on Android](#)

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:38 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Michael Romo [mailto:mikeromomg@gmail.com]
Sent: Wednesday, March 03, 2021 4:18 PM
To: SouthCoast@Coastal
Cc: mail@newportmooringassociation.org
Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

Friends:


As a Balboa Island homeowner and a small boat sailer in Newport Harbor since 1958, I write in support of the right to keep a Harbor tradition: Overnight dinghy dock and visitor dock privileges at the Harbor Patrol facility in Newport Harbor.

Limiting dinghy dock tie-up from 72 hours to 6 a.m. to 10 p.m. daily, and closing off the public visitor dock, will have a chilling effect on locals and visitors. It will discourage all from using the dingy dock tie-up for errands and for family boating and sailing activities in the Harbor.

Having the privilege of being able to tie-up a dingy for up to 72 hours and using the public visitor dock are part of Harbor tradition. Who would want to have to wait until 6 a.m. to tie up and then having to move their dinghy at 10 o'clock at night? That isn't very safe either.

Put your self in the position of having friends or family visiting Newport Harbor on a larger boat, using their dinghy to come ashore for a short stay of up to 72 hours, spending money locally on meals and entertainment, and then leaving, having enjoyed themselves and wanting to have return visits. I wouldn't bother to visit if I had to wait until 6 a.m. to tie up my dinghy and come ashore and then had to cast off at 10 p.m. every day of my stay.

What harm is there in allowing these local customs to continue instead of creating disincentives for boating and sailing folks to visit and enjoy Newport Harbor?



MICHAEL J. ROMO
mikeromomg@gmail.com
c: (415) 509-8304

March 4th, 2021

To: California Coastal Commission
From: Paul King, Newport Beach Resident and Boater
Re: Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a Newport Beach resident and Newport Harbor boater, I, Paul King, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.
- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public

March 4th, 2021

access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Paul King
1819 Newport Hills Drive East
Newport Beach, CA 92660

March 4th, 2021

To: California Coastal Commission
From: Paul King, Newport Beach Resident and Boater
Re: Orange County Parks' CDP Application 5-07-370-A2

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March 4th, 2021

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Sincerely,

Paul King
1819 Newport Hills Drive East
Newport Beach, CA 92660

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 7:47 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Susan Skinner [mailto:susanskinner949@gmail.com]

Sent: Wednesday, March 03, 2021 7:45 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Dear Coastal Commissioners:

The proposed after the fact approvals for the County of Orange's restriction of activities at the Harbor Patrol beach (for lack of a better description) is the antithesis of what the Coastal Commission stands for.

Instead of protecting visitor serving access to the dinghy dock, the Coastal Commission is poised to restrict hours and access to the dock. There are very few locations on this side of the bay that can be used for either day use or parking a boat overnight and restriction of this dock will impact the recreational use of the bay.

Additionally, the outrigger club that uses the nearby beach is being impacted in a negative way that will likely force them to stop using this beach. As it is one of the closest beaches to the harbor entrance, that will impact the ocean recreation of the club.

I would appreciate your consideration of expanding rather than limiting public access and use of this area.

Thank you,

Susan Skinner
2042 Port Provence Place
Newport Beach

FW: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:51 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Gary Stern (EC) <gstern@parker.com>

Sent: Thursday, March 4, 2021 6:48 AM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

As a member of the paddling community I must express the importance of maintaining this unique coastal access portal for human powered boating. There are actually very few protected places that provide ocean access for paddle powered watercraft, so I consider this beach access an important part of the total right of way to coastal access. Maintaining this access and canoe storage is a vital local tradition that needs to be protected by this commission.

I do have a comment about removing all guest slip access to this area (as the plan converts all docks to emergency purpose docks). The maintenance of at least one slip for the general public use actually supports club activities organized around human paddle craft, as many a time there is call for private escort boats to provide safety watch and transport for additional paddlers during events. So boat slip access is a minor but important part of the club access to this beach. Also, our club has always been quick to welcome any new paddlers who show up to this beach, so you can certainly count on our support for access programs. Thank you, GARY STERN, HUNTINGTON BEACH, Member of OOC (Offshore Outrigger Canoe Club). Thank you.

FW: Public Comment on March 2021 Agenda Item Wednesday 12a.

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:09 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

-----Original Message-----

From: Anne Stenton [<mailto:anstenton@gmail.com>]

Sent: Wednesday, March 03, 2021 4:01 PM

To: SouthCoast@Coastal

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a.

To Whom it May Concern;

Please keep the overnight dinghy dock at the harbor patrol facility and the visitors dock! There are so few options in the harbor for folks who need to be able to access their boats on offshore moorings. The visitors dock should also be available! It would be a shame to lose this access point.

Anne Stenton
Mooring H-713

Sent from my iPhone

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 7:36 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Lisa Swanson [mailto:lisainlb@ymail.com]**Sent:** Wednesday, March 03, 2021 7:30 PM**To:** SouthCoast@Coastal**Subject:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a resident of Huntington Beach and member of Orange County Coastkeeper, I strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have fond memories of learning to sail and row from this area in the 1960s but now there is very little accessibility and the public needs your support to preserve this last public spot.

I understand that Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is a highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Lisa Swanson
21332 Compass Ln
Huntington Bch, CA 92646

Comments Item 12a Application 5-07-370-A2 Orange County Parks Newport Beach

Mark C <markccdm@gmail.com>

Fri 3/5/2021 2:34 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; Sharon Augenstein <sharon@atlantisnet.com>

Hi Mandy,

I don't know if this made it to you but I wanted to make sure it was included. Teremoana is a paddler from New Zealand who was working in the Southern California area for a couple weeks. She contacted our Club via email and was given my cell phone number. We welcomed her in as we do everybody. During her time in SoCal she was able to practice and race with our Club in one event. She had a blast, we did too. This is her contribution to our cause.

Name: Teremoana Tangaroa

City: Kirikiriroa, Aotearoa (Hamilton, New Zealand)

For me personally the main benefits are health and fitness, being in nature, cultural significance and most importantly whānau.

Health and Fitness is often the initial reason people start paddling and when you first start as a Novice a 10km paddle might seem daunting but to a seasoned paddler... that's just a warm up! Once you're 'paddle bitten' you naturally want to improve and push your physical and mental limits.

Being in nature, be that on a awa, roto or moana (river, lake or the ocean) gives you appreciation for nature, whereby any new body of water you see you will automatically think 'I wonder if that's a good spot to paddle?' And often changes people's perspective on our environmental impact on the land.

Being of mixed Polynesian heritage (New Zealand Māori / Cook Island Maori / Tahitian) paddling strengthens my connection to my tīpuna (ancestors).

Whānau (family) and the idea of connection with people is by far the greatest benefit of paddling. Wherever you may travel throughout the world, paddlers are welcoming and hospitable people. In 2019 I was fortunate enough to paddle with the OCC at their regional regatta. The club welcomed me with open arms despite never meeting me.

Thank you OCC for your manaakitanga (hospitality) And I'm hoping my contribution helps with your proposal

Nāku iti noa,
Tere

FW: Public Comment on March 2021 Agenda Item Wednesday 12a

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 4:38 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: cwtillman@cox.net [mailto:cwtillman@cox.net]**Sent:** Wednesday, March 03, 2021 4:22 PM**To:** SouthCoast@Coastal**Subject:** Public Comment on March 2021 Agenda Item Wednesday 12a

Dear Coastal Commission,

As a concerned boater in Newport Beach Harbor, access to the harbor is always difficult. Private docks, private clubs, and commercial operations crowd out many boaters from easy access to the harbor, a natural resource that all Californian's should be able to enjoy. The public dingy dock and visitor dock are key facilities that enable better public shared access to the harbor. Their use has been unreasonably restricted by the Harbor Patrol to the extent that their public value is significantly diminished. This is opposite to their purpose and only serves to further constrain public access and instead encourage private privilege over enjoyment of Newport Harbor. Please DO NOT agree to the elimination of the visitor dock and overnight dinghy docking at this OC Parks facility.

Very respectfully,
Craig Tillman

Fwd: Access to beach in jeopardy

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:57 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Kevin Trussell <kevin@advancedlumber.com>
Sent: Thursday, March 4, 2021 3:45:43 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Access to beach in jeopardy

Once again we are losing access to our Newport Harbor. What we call Sheriff's beach is crowding out the public's use. The public dock is also being eliminated.

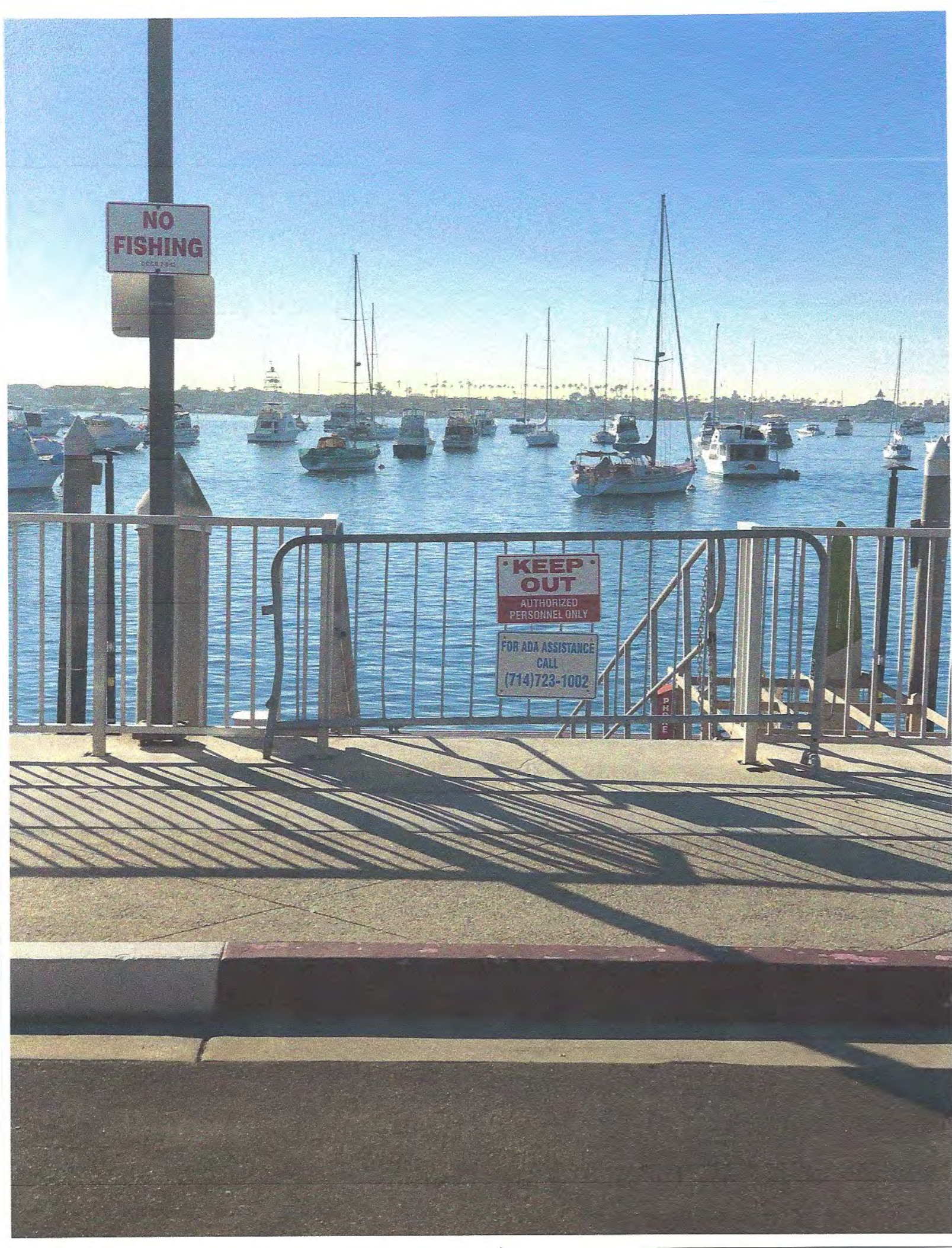
Please deny the application # 5-07370-A2

Thank you
Kevin Trussell

**NO
FISHING**
DECE 1992

**KEEP
OUT**
AUTHORIZED
PERSONNEL ONLY

FOR ADA ASSISTANCE
CALL
(714) 723-1002



FW: Help Us Protect Public Access at Newport Beach Harbor

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 11:55 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Cindy Vo (Student WHS) <chvo101@student.hbuhds.edu>**Sent:** Thursday, March 4, 2021 9:15 AM**To:** SouthCoast@Coastal <SouthCoast@coastal.ca.gov>**Subject:** Help Us Protect Public Access at Newport Beach Harbor

MARCH 4, 2021

To: California Coastal Commission**From:** **Cindy Vo****Re:** Orange County Parks' CDP Application 5-07-370-A2

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Cindy Vo**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

- The Commission should not permit the elimination of the site's existing visitor dock. Members of the public use this dock to load and unload from vessels, use the site's public restrooms, and get information from the Harbor Patrol office. The alternative "visitor slip" proposed by staff would be less accessible for people and boats, and it would not fully mitigate for the loss of public access caused by closing the visitor dock. Specifically, the "visitor slip" is not accessible to boats with a beam too wide for the slip, whereas the visitor dock can accommodate wide vessels such as catamarans.
- The Commission should not permit the applicant's reduction of dinghy dock hours from a 72-hour limit to 6:00 am - 10:00 pm. There are many reasons a harbor user might need to dock a small boat outside of daytime hours. For example, anglers often go out early and come home late, and people who live aboard moored vessels might need to dock during the night to get to and from a job. The staff report suggests that changing the dinghy dock hours to match the beach hours will increase public access to the beach, but that reasoning doesn't make sense. The dinghy dock isn't just there so boaters can access the beach, but also so they can access the shore generally. Boater services such as guest slips and pump-out stations don't have business hours, and the dinghy dock is a boater service in need 24 hours.

- The Commission should not permit an existing, paved walkway to be replaced with mats laid over the beach. The existing walkway is easily delineated and provides convenient, ADA-friendly access to the beach, restrooms, gangway, and rental slips. The proposed mats would require constant upkeep while significantly reducing the area available for recreation on an already small beach. Staff is also proposing the addition of more small water craft storage that will further take up beach space. Permitting further reduction in the beach space available to the public when the existing walkway is more convenient, easier to maintain, and more accessible does not make sense or promote public access.

Orange County Coastkeeper has provided many suggestions to Commission staff that would address OC Parks' security concerns, while minimizing impacts to public access at this special, harborside park. It is a shame OC Parks is advancing these requests to reduce public access and boating services at one of its sites. The land around Newport Harbor is highly developed, and public space is very limited. Please do not allow this permit amendment to take away public access to the harbor and to the wonderful amenities this site has offered for years. Thank you for your careful consideration of my comments, and of this application.

Sincerely,

Cindy Vo

Keep Offshore Beach!!!

Karen Vorwerk <kevorwerk@gmail.com>

Fri 3/5/2021 10:08 AM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

Cc: Mark Carnanhan <noblackball@verizon.net>

Dear Ms. Revell,

>

> To Orange County Coastal Commissioners Office

>

> My name is Kari Vorwerk and I am a paddler with the Offshore Outrigger Canoe Club.

>

> This club has a dear place in my heart - as it is a place for its members and guests to gather with other people whom I have met and practiced and raced with , and ultimately have forged long lasting friendships from the bond we have established through the club. We are joined with other friends that have a love of the ocean and the sea life , and all the beauty of our little area. For the ohana "family" spirit that exists in the paddling community at large.

>

> The members of Offshore have always been appreciative and protective of the little beach that is called home to our members and the beautiful canoes that rest there.

>

> We have always taken pride in the beach , and helping to keep it maintained and clean at all times. We take care of our equipment and of the cleaning of our equipment and making sure to secure it when not in use ,so that it is not an obstacle to others that use the beach as well.

>

> To not have this little beach would be a travesty and frankly unfair to us, that we could not continue as we have - respectfully for the past 40 years since the club's establishment in 1981. Offshore Canoe Club is a part of the history of this area . as much as the Ferris wheel at Balboa Island or any other long time landmark of the area.

> We are - and have always been respectful towards the residents whose homes are along the harbor and in Balboa Peninsula.

> We welcome new members young and old - and have even established a youth paddling program to teach the younger generations of the wonder and beauty of the ocean. The exhilaration of paddling the waves in a canoe and the magic that is out in the ocean -a different adventure every time we venture out.

> I cannot understand the reasoning of these so-called advocate groups that have suggested that our club should not be there. That after so many years - all of a sudden - this is an issue. I cannot think of another area that is more appropriate for canoes to be than where they are right now, nearby the little beach where we launch from. And that there are so many people around utilizing the beach is not true. The occasional family with small children or people that try and fish from the side of the dock next to the Coast Guard area is who we see at the beach.

> Why can't we continue to exist in harmony as we always have?

> Please do not take away our beach because in doing so you will take away true joy from so many people that have come to gather here to soothe their minds and their bodies with the spirit of the ocean.

>

> In the last year - in the wake of the pandemic - The world at large has become a bleak and dreary existence. Many People have lost just about every thing. Their jobs - their loved ones - their regular routines and on it goes. Every thing has been taken away - things we never thought we would take for granted - going to a concert - laying out at the beach with friends - going to dinner with people - having our practices and racing events canceled - because even the ocean is monitored - and this would be a colossal blow to the members of Offshore , as just another thing that is being taken away. And with no good reason.

>

> If you have any heart at all - you will continue to allow us to have our little beach. Offshore is part of the community - supports the community and humbly and strongly requests your continued support.

>

> Thank you for your time.

> Sincerely

>

> Kari Vorwerk

>

>

>

>

> Sent from my iPhone

March 4, 2021

California Coastal Commission
455 Market Street Suite 300
San Francisco, CA 94105

Re: Item W12a
Application 5-07-370-A2 – Orange County Parks, Newport Beach

Dear Chair Padilla and Coastal Commissioners:

Thank you for the opportunity to comment on this staff report and specifically some of the conditions that are being recommended that I do not feel improve public access, but instead, actually lock out the public from their beach and docks.

My husband and I are avid boaters and have used this public dock from time to time over a couple of decades. We are very disappointed that the Orange County Sheriff's Department (OCSD) feels the need to almost entirely block the public's access and make it increasingly more difficult to utilize the amenities at this public facility. We are a bit confounded by this behavior that seems to have escalated over the past several years since new County management has been put in place at this public facility.

Not only am I a boater, but I am also a mother to a daughter that suffered brain trauma many years ago and is only able to walk with the assistance of a walker, and uses a wheelchair when needed due to fatigue. Doug Carstens, of Chatten-Brown, Carstens & Minter, will be showing you a video of my daughter, Megan. I am sharing this video with you to help you see how very difficult it is for a disabled person to walk with a walker when their disability is severe. Megan's disability has never stopped her from wanting to go to the beach, swim in the ocean and experience everything people without disabilities are able to experience. She loves the beach!

What OCSD is proposing in the way of ADA access is quite frankly not acceptable, and I'm not sure how fencing off well-engineered ADA access and then replacing it with an unstable rubber mat on the sand can possibly be supported by you or your staff. When you watch the video of Megan walking down the sidewalk with her aide, please think to yourselves, "how would this person possibly walk on a rubber mat in the sand?" Quite simply – she wouldn't. She, and others like her would no longer be able to access this beach and water recreational site.

The other missing ADA component on this beach that's perfectly suited for disabled individuals, is beach wheelchair access. There are a variety of wonderful beach wheelchairs on the market these days – some even float in the water. Your Coastal Commission website features a beach wheelchair on your homepage, and that type of wheelchair would be a great start to improving ADA access in this area, along with maintaining the existing pathways and ramps that were very carefully designed and engineered to accommodate disabled individuals. Someone at the County of Orange put a lot of thought into how to get disabled individuals down to the beach and water in the past. What happened? Why is this all being destroyed by new County management?

My final suggestion is to provide some type of ADA compliant pool lift so that disabled individuals can have access to a boat. While smaller, younger individuals can be lifted into a boat, OCSD could easily mount a lift to one of the five guest docks and make that an ADA lift dock.

Instead of OCSD removing ALL of the ADA access at this public facility, I urge you to condition this permit to be more inclusive, and at minimum, at least secure what has been in place for many, many years and has served the public's disabled community.

Thank you for considering my heartfelt comments on behalf of the entire disabled community.

Sincerely,

Dorothy Kraus
Newport Beach resident and boater

Attachment: Video referenced in letter

California Coastal Commission
301 E. Ocean Blvd. Suite 300
Long Beach, CA 90802

Dear Chair Padilla, Coastal Commissioners and Long Beach Permitting and Enforcement Staff:

The first document was sent to Jordan Sanchez, Long Beach Enforcement, in April of 2019. It outlined most of the Coastal Act violations we were aware of at that time, but since then have discovered many more violations. Those “other” violations are not just related to the Orange County Sheriff’s Department, but also OC Parks and the adjacent neighbors who have encroached on this small beach.

Thanks as always for your strong work to protect and preserve our coastal resources.

Renny Edea

Attachments: Memo to Jordan Sanchez – April 2019
Email re: Encroachments – January 2020

FW: Orange County Parks' CDP Application 5-07-370-A2

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Wed 3/3/2021 6:43 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Mary Ann Wettler [mailto:maryann1020@yahoo.com]

Sent: Wednesday, March 03, 2021 6:03 PM

To: SouthCoast@Coastal

Subject: Orange County Parks' CDP Application 5-07-370-A2

March 3, 2021

Dear Coastal Commission,

As a member of Orange County Coastkeeper, I, **Mary Ann Wettler**, strongly support the Coastal Commission in its mission to protect, enhance, and provide maximum public access to California's coast and ocean. I appreciate the opportunity to provide this comment on Coastal Development Permit Application 5-07-370-A2 for the Orange County Parks site at 1901 Bayside Drive in Newport Beach. The site is a crucial public access point to Newport Harbor and provides Orange County residents and visitors alike with several low- or no-cost recreational amenities, which are few and far between in the area. I have several concerns with the staff report for this application which asks you to approve reductions in public access at the site, which are unnecessary and inadequately mitigated. Please do not grant OC Parks' CDP application without first addressing the following issues.

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Sincerely,

Mary Ann Wettler

Fwd: Dinghy dock tie-up hours

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 3:44 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: teamwyland@roadrunner.com <teamwyland@roadrunner.com>

Sent: Thursday, March 4, 2021 12:35:57 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Dinghy dock tie-up hours

To whom it may concern,

I am in favor of restoring the hours of the dinghy dock tie-up back to 72 hours.

Please do not eliminate the visitor dock and overnight docking at our OC Parks facility.

Thank you,

Mark Wyland

133 Opal Ave.

Balboa Island, CA 92662



Mark Wyland

President

Safe Harbor Exchange, Inc.

825 Parkcenter, Suite 200

Santa Ana, CA 92705

T: 714-263-0280

C: 949-887-1016

F: 714-263-0270

www.SafeHarborExchange.com

Fwd: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Thu 3/4/2021 4:47 PM

To: Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>

From: Terry York <tvinstall@gmail.com>

Sent: Thursday, March 4, 2021 4:45:30 PM

To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>

Subject: Public Comment on March 2021 Agenda Item Wednesday 12a - Application 5-07-370-A2 (Orange County Parks, Newport Beach)

Please don't cut access down any more! It's literally the only one on this side of the harbor. I've lived in CDM for 30 years. Enough is enough already.

Respectfully,

Terry York