

CALIFORNIA COASTAL COMMISSION

301 E. OCEAN BLVD. SUITE 300
LONG BEACH, CA 90802
(562) 590-5071



W15a

A-5-22-0022 (PARK NEWPORT LAND LTD)

July 13, 2022

CORRESPONDENCE

E-Mail Correspondence from Dr. James Mosher dated July 6, 2022

E-Mail Correspondence from John M. Beringer Jr. dated July 1, 2022

From: SouthCoast@Coastal
To: Roman.Liliana@Coastal
Subject: FW: Public Comment on July 2022 Agenda Item Wednesday 15a - Appeal No. A-5-NPB-22-0022 (Park Newport Land LTD)
Date: Wednesday, July 6, 2022 2:36:44 PM

Here you go!

From: Jim Mosher <jimmosher@yahoo.com>
Sent: Wednesday, July 6, 2022 2:12 PM
To: SouthCoast@Coastal <SouthCoast@coastal.ca.gov>
Subject: Public Comment on July 2022 Agenda Item Wednesday 15a - Appeal No. A-5-NPB-22-0022 (Park Newport Land LTD)

I fully support staff's recommendation of a finding that the local approval of this permit raises substantial issue.

Although aerial photos verify it only back to around 2014, according to April 21, 2022, oral testimony to the Newport Beach Planning Commission by the applicant's representative (see [video at 1:44:32](#)), annual tarping of selected areas of the bluff face at 5000 Park Newport has been "*ongoing for the past 25 years*," apparently without benefit of a CDP prior to the City's issuance of Emergency CDP No. CD2021-066.

In addition to the obvious impacts to public visual resources that were raised in the appeal, and that would be exacerbated by the City's permanent sanctioning of the tarping, it seems likely it has significant biological impacts that will hopefully be considered in a de novo hearing. In particular, the tarps seem likely to block both the moisture and light necessary for the eventual revegetation of the degraded bluff faces.

Regarding the staff report, these minor corrections are suggested:

1. In four places in the report (pages 3, 6 and twice on 9) and in three figure captions in the Exhibits (pages 3, 4 and 5), it refers to "*CDP CD2020-001*" where "*CDP CD2021-001*" seems intended.
2. In line 6 at the top of page 8, "*Upper Newport Bay and Back Bay Drive to the south*" was presumably intended to read "*west*."
3. Full paragraph 2 on page 13 misreads the CDP to say "*The Conditions of Approval or approved plans do not identify the tarp material or color, only that of the sandbags.*" While it is true the material is not specified, Condition 17 of the [signed resolution](#) (and page 10 of 11 of the draft included as Exhibit 5) says "*Tarps shall be black in color with similar colored material used for the sandbags that secure the tarps.*" Contrary to the description in the present staff report, that actually identifies the color of the *tarps* and provides leeway as to that of the *sandbags*.

4. Likewise, the Issue 2 findings on page 14 of the report say "**The City did not specify the material or color of the tarps or limit the size of the area, or restrict the areas where the tarps would be allowed on the coastal bluffs. ESHA is known to exist along these coastal bluffs.**" The tarp color is, in fact, specified in Condition 17. And the City might argue the areas are restricted by Condition 1 requiring "*The Project shall be in substantial conformance with the **approved site plan stamped and dated with the date of this approval***" -- in particular, adherence to the "Tarp Placement Diagram" (page 1 of 1 of Exhibit 4). It is not clear to me if the "approved site plan" limits the extent of tarps within the three areas, or actually limits them to those areas -- or specifies the tarp material.

Yours sincerely,

Jim Mosher
Newport Beach

From: [Rehm, Zach@Coastal](mailto:Rehm_Zach@Coastal)
To: EnvironmentalJustice@Coastal; [Stevens, Eric@Coastal](mailto:Stevens_Eric@Coastal); [Roman, Liliana@Coastal](mailto:Roman_Liliana@Coastal)
Subject: Re: Appeal Number: A-5-NPB-22-0022; Permit Numbers: CD2021-001 & CD2021-066
Date: Wednesday, July 6, 2022 2:01:06 PM

Thanks Sumi.

Liliana please let this person know we received their comment and a hearing is scheduled next week.

From: EnvironmentalJustice@Coastal <EnvironmentalJustice@coastal.ca.gov>
Sent: Wednesday, July 6, 2022 12:43 PM
To: Stevens, Eric@Coastal <eric.stevens@coastal.ca.gov>; Rehm, Zach@Coastal <Zach.Rehm@coastal.ca.gov>
Subject: FW: Appeal Number: A-5-NPB-22-0022; Permit Numbers: CD2021-001 & CD2021-066

Hi, passing along this along. Let me know if you need me to respond with anything.

Sumi

From: John M Beringer Jr <jmberinger@beringerassociates.com>
Sent: Friday, July 1, 2022 12:38 PM
To: EnvironmentalJustice@Coastal <EnvironmentalJustice@coastal.ca.gov>
Subject: Appeal Number: A-5-NPB-22-0022; Permit Numbers: CD2021-001 & CD2021-066

Please direct to the appropriate Committee

California Coastal Commission
Attn: South Coast District Office
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802-5084

Appeal Number: A-5-NPB-22-0022
Permit Numbers: CD2021-001 & CD2021-066

The decision appealed involves the installation of various anchoring devices, et al., at the cliffs currently part of the Back Bay sanctuary. While I agree with installing devices designed to prevent injury to those using the bike, auto, and walk paths, I object to the installation of solid piles designed to support two existing residential structures on the Park Newport property. Park Newport should be required to remove the structures at its own expense and remove the

created hazard.

Park Newport has been a profitable privately owned apartment complex since the 1970s. Since 1970, Park Newport has collected rents, which increase yearly to an inflated market value. This year the residents of Park Newport experienced rental increases of the maximum allowed increase of 8%. The property, valued at multiple millions of dollars, is being evaluated for sale to the Irvine Company.

When the Park Newport facility was designed, it was known the cliffs would experience erosion and parts of the facility would become unstable. The risk was assumed and built into the profitability of the project cost/benefit analysis. These parts of the facility have reached the end of their anticipated use. If the units were returned to use, the expense should be borne by Park Newport, as would be subsequent profit.

If the State of California were to fund the effort to stabilize the Park Newport areas, it would represent an unjust enrichment of the Park Newport property and an unfair assumption of the burden by the local and state taxpayers. Park Newport should assume the burden of the encroachment on our jointed recreational property.

Thank you,

John M Beringer Jr. Principal (RPA, LPCS, AM Best Consultant)
DBA Beringer & Associates; DBA Liability Program Management
<https://liabilityprogrammanagement.com>

It's Not What You Earn; It Is What You Keep