



CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

Council Chambers - 100 Civic Center Drive

Wednesday, July 13, 2016 - 6:30 PM

Harbor Commission Members:

Dave Girling, Chair
Paul Blank, Vice Chair
Joe Stapleton, Secretary
Brad Avery, Commissioner
Bill Kenney, Commissioner
Duncan McIntosh, Commissioner
Doug West, Commissioner

Staff Members:

Chris Miller, Harbor Resources Manager
Shannon Levin, Harbor Resources Supervisor

City Council Liaison:

Duffy Duffield, Council Member

The Harbor Commission meeting is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Harbor Commission agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Harbor Commission. The Chair may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact Chris Miller, Harbor Resources Manager, at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3034 or cmiller@newportbeachca.gov.

NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the Harbor Resources Division 24 hours prior to the scheduled meeting.

- 1) **CALL MEETING TO ORDER**
- 2) **ROLL CALL**
- 3) **PLEDGE OF ALLEGIANCE**
- 4) **PUBLIC COMMENTS**

Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Commission. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Commission has the discretion to extend or shorten the speakers' time limit on agenda or non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.

5) **APPROVAL OF MINUTES**

1. **Minutes of June 8, 2016**

Recommendation:

- a) Approve

[16-06-08 Harbor Commission Minutes - DRAFT](#)

6) **CURRENT BUSINESS**

1. **Election of Officers**

The Harbor Commission will elect officers for the 2016-17 year.

Recommendation:

- a) Elect Chairman.
- b) Elect Vice Chair.
- c) Elect Secretary.

[Staff Report](#)

2. **Appeal - 2888 Bay Shore Drive (Newport Marine Reconstruction)**

Mr. Moriarty at 2782 Bay Shore Drive is appealing the Approval in Concept issued by the Harbor Manager on April 6, 2016 for the proposed commercial marina (Newport Marina) reconstruction project adjacent to his property located at 2888 Bay Shore, on the basis of potential impacts to his water area near his slip.

Recommendation:

- a) Uphold the Harbor Manager's issuance of the Approval in Concept.

[Staff Report](#)

[Item #2 - Attachment A - Original AIC](#)

[Item #2 - Attachment B - Updated AIC](#)

[Item #2 - Attachment C - Moriarty Appeal](#)

3. **2016 Harbor Commission Narrated Harbor Tour - Ad Hoc Committee Formation**

The Harbor Commission will form an ad hoc committee to plan a Commission narrated tour around the harbor in late 2016. Preliminary ideas and details will be discussed along with a recap of the 2014 event.

Recommendation:

- a) Form an ad hoc committee to plan the tour details, and to report back to the Commission at regular intervals. Discuss preliminary ideas and suggestions based on the 2014 event.

[Staff Report](#)

4. **Subsidized Vessel Sewage Pumpout Service in Newport Harbor - Continued**

This item is continued to the next Harbor Commission meeting when the four selected Commissioners are present.

5. Mooring Management in Newport Harbor - Continued

This item is continued to the next Harbor Commission meeting when the four selected Commissioners are present.

- 7) **SUBCOMMITTEE REPORTS**
- 8) **QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES**
- 9) **QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES**
- 10) **PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER**
- 11) **COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**
- 12) **DATE AND TIME FOR NEXT MEETING: Wednesday, August 10, 2016 (Location TBD)**
- 13) **ADJOURNMENT**

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers
Wednesday, June 8, 2016
06:30 PM

1) CALL MEETING TO ORDER

The meeting was called to order at 6:30 p.m.

2) ROLL CALL

Commissioners: Dave Girling, Chair
 Paul Blank
 Bill Kenney
 Joe Stapleton
 Doug West
 Duncan McIntosh

Absent: Brad Avery - Excused

Staff Members: Chris Miller, Harbor Resources Manager
 Shannon Levin, Harbor Resources Supervisor

City Council Liaison: Duffy Duffield, Council Member

3) PLEDGE OF ALLEGIANCE - Council Member Duffield

4) PUBLIC COMMENTS

Prior to opening the meeting for public comments, Chair Girling reported that he spoke at the Chamber of Commerce Marine Committee and presented the Harbor Committee's goals and objectives at the meeting.

Chair Girling opened public comments.

Mr. Jim Mosher commented on future agenda topics previously requested by the Commission, and suggested they be listed on the agenda. Chair Girling responded that those topics are on the radar to be discussed at future meetings.

Chair Girling closed public comments

5) APPROVAL OF MINUTES – May 4, 2016 Minutes

Chair Girling opened public comments

Jim Mosher offered corrections to the Minutes regarding his comments on the West Anchorage rules.

Chair Girling closed public comments

Commissioner Kenney noted a change to the May 4th minutes; word “**Implementing**” should be “**New**” under Current Business, Item #2, West Anchorage Rules, last paragraph.

Motion: Commissioner McIntosh made a motion to approve the minutes of the Harbor Commission meeting of May 4, 2016 as amended. Commissioner Kenney seconded the motion, which carried 6 ayes, 0 noes. Approved

6) **CURRENT BUSINESS**

1. ***Harbor Commission 2016 Objectives: Quarterly Review***

Every quarter, the Harbor Commission will review their 2016 Objectives.

Recommendation:

- 1) Receive and file.

Chair Girling opened the discussion by asking each Commissioner to provide updates on each of their topics.

Objective 1: To ensure the long-term welfare of Newport Harbor:

- Commissioner Stapleton - Collaborate with the Marine Committee and to support the preservation of water dependent commercial and recreational activities.
 - Commissioner Stapleton will continue to work with the Marine Committee. Commissioner Stapleton will meet with Commissioners Girling and Blank to review a report constructed in 2010 that depicts work already completed. Additional update to be provided at next meeting.

Commissioner West stated that this first objective is probably one of the most important objectives they have for 2016. The preservation of water-dependent commercial and recreational activities on the harbor is very critical, and it is important for the Harbor Commission to be proactive in identifying what it is they are trying to preserve space for.

- Commissioner Blank - Review and include in the Harbor Code an exception for the Harbor speed limit for sanctioned sail racing and human-powered racing events.

Background on this objective: The speed limit is routinely broken for rowing events and sailing races that take place in the Harbor. The code needs to be clear to either allow the speed limit to be broken for such activities or be moved elsewhere.

- Commissioner Blank - Create a forum for dialogue with representatives of the Harbor Charter fleet to promote the development of shared vision of charter boat operation standards. Completion date 2020.
 - Commissioner Blank has not made progress with this objective and will provide progress by end of year.
- Commissioner Kenney - RGP54 permit. Task is to work with harbor resources staff to develop and present to the public
 - Approximately 40-45 applications have been received and approximately 15 are in process. Commissioner Kenney reported that there are two issues related to

the RGP54 permit process. The first is that an engineer is needed to prepare the application. Additionally, there's only one company currently equipped to process the applications. Commissioner Kenney concluded that the goal is to inform the general public, those with docks, that the permits will not be processed and achievable unless one or two more dredges are brought into the harbor.

- Commissioner Stapleton: Support harbor resources division staff and the harbor patrol in their efforts to identify and resolve the ongoing derelict vessels.
 - A grant was received from the State of California for \$120,000.00 and approximately 12 derelict vessels have been disposed of.

Objective 2: To promote Newport Harbor as the preferred and welcoming destination for tourists and residents alike.

- Commissioner Avery (reported by Commissioner McIntosh) - Complete the evaluation of public moorings and anchorage alternatives, which include the temporary anchorage that was recently implemented, Corona del Mar beaches and any other alternatives.
 - West basin anchorage for the summer was approved by Council.

Chair Girling noted that the demand for the anchorage will be monitored in the event that west basin anchorage turns into a permanent anchorage.

- Commissioner West - Update and publish the new edition of the complete cruising guide.
 - Commissioner West reported that this project is behind; however a meeting is scheduled for him and Commissioner Kenney to discuss. More information to be provided at next meeting.
- Commissioner McIntosh - Investigate the availability and sufficiency of launch ramp facilities.
 - Nothing to report at moment.
- Commissioner Blank - Central Avenue Public Pier
 - Commissioner Blank requested to have this objective added to the Harbor Chart that is included in the third edition of the harbor guide. Application to the Coastal Commission to build it will happen sometime in the next six months. Funding has been set aside for this project.

Chair Girling opened public comments

Jim Mosher pointed out that the objectives listed are for 2016, but there are objectives listed that will not be completed until 2020. Mr. Mosher suggested that each subcommittee formulate or publicize a tentative date by which they think their objective(s) will be completed.

Chair Girling closed public comments.

2. Mooring Management in Newport Harbor – Foundation of an Ad Hoc Committee

Moorings in Newport Harbor are currently managed by the Orange County Sheriff's Harbor Patrol. The City Council is requesting the Harbor Commission and staff investigate alternate management models which could create greater efficiencies.

Recommendation:

- 1) Form a Mooring Ad-Hoc Committee to investigate greater efficiencies in mooring management, and report back to the City Council with recommendations.

Chair Girling requested to have this item moved after Item #4 as members of the commission will need to recuse themselves from discussing items #3 and #4.

- 3. *Authority to Board Vessels for the Purpose of Marine Sanitation Device Inspection***
Currently, the City does not have the authority to board a vessel to inspect the marine sanitation device without permission from the boat owner. In an effort to improve water quality and to increase public awareness of Newport as a no-discharge harbor.

Recommendation:

- a) Provide input to staff and recommend changes to the Municipal Code giving the City, or its designee, authority to board vessels to inspect the vessel's marine sanitation device.

Chris Miller provided a history of the issue and why it was before the Commission at the June 8, 2016 meeting. The Commission's intent is to broaden this proposal to anchorage, moorings and other boats as needed by the Harbor Patrol. Staff is requesting the Commission recommend moving forward with this policy. The proposed language has been drafted and is awaiting recommendation from the Commission.

Commissioner Kenney asked for this to be an agenda item. He is proposing the City's municipal code be changed to allow for the boarding of any vessel that is in the harbor any time there is reasonable cause.

Mr. Miller stated that prior to the new policy being implemented, it will be viewed by the City Attorney's office and approved by City Council.

Chair Girling opened public comments.

Mr. Carter Ford stated that the language of this policy is very important as it could come across as saying that harbor patrol has the authority to board a vessel without probable cause.

Mr. George Hylkeman stated that what bothered many people is the authority to board without specifying whether the owner is on board or not, and states that if sanitation inspection is going to be enforced, there ought to be a specification in place stating what sanitation system is in compliance and which boat requires it and which do not.

Mr. Mike Glenn stated that the third and fourth amendment of the US Constitution prohibit people from going onto somebody else's property without probable cause.

Mr. Jim Mosher stated that when the topic was presented to the City Council, they were informed that at least in the anchorage, Harbor Patrol has the absolute authority to test all vessels in the area. Mr. Mosher is requesting clarification as to whether that is the case or not.

Chair Girling stated that the current Municipal Code requires permission. Discussion in place is to amend the policy to state no permission is needed if there is probable cause.

Lieutenant Alsobrook, Harbor Patrol Master, stated that the members of the public who have spoken tonight are correct; there is no legal authority to board a vessel, absent probable cause. The purpose of this topic being brought before the commission is because the mooring contract scope of services states that the harbor patrol shall conduct dye tablet testing on all boats in the anchorage and rentals, as well as a protocol for all the mooring permit owners over a period of time.

Chair Girling closed public comments.

An ad-hoc committee was formed which includes Commissioner West, Chair Girling and Commissioner Kenney, to meet with the City and the City Attorney's Office to understand the issues and various paths, and to come back with better information regarding what is acceptable.

2. *Mooring Management in Newport Harbor – Foundation of an Ad Hoc Committee*

Moorings in Newport Harbor are currently managed by the Orange County Sheriff's Harbor Patrol. The City Council is requesting the Harbor Commission and staff investigate alternate management models which could create greater efficiencies.

Recommendation:

- 2) Form a Mooring Ad-Hoc Committee to investigate greater efficiencies in mooring management, and report back to the City Council with recommendations.

Five Commissioners are recused from Agenda Items #2 and #4. The Commissioners are Chair Girling, Commissioners Blank, Kenney, Avery and West. However, in order for the items to be heard, there needs to be four Commissioners present. Straws were drawn to determine who would remain. They were Brad Avery and Bill Kenney.

For the record, Chris Miller read Commissioner Avery's recusal, which was sent via email. Email read as follows: "Hello Chris, I'm recusing myself from discussion or vote on agenda items at the June 8th meeting related to moorings. I'm a long-time member of the yacht club that leases moorings from the City. Thanks, Brad."

Mr. Miller requested of the Commissioners who are recusing themselves to do so by stating the reason of the recusal.

Recusal Statement:

- Commissioner Girling - I'm a member of the Balboa Yacht Club. As a result, I will recuse myself on both items #2 and #4.
- Commissioner West - I'm recusing myself for the same reason, as a member of the Balboa Yacht Club.
- Commissioner Blank - I am a Mooring permit holder and therefore, I'm a direct beneficiary of the services being discussed. I recuse myself.
- Commissioner Kenney - As a member of Balboa Yacht Club, I must also recuse myself from items #2 and #4.

Due to Chair Girling being recused from items #2 and #4, Commissioner Stapleton was the acting Chair for items #2 and #4 discussions.

Council member Duffield stated that the idea behind item #2 is to save money and be more efficient. The item was brought up years prior to the Harbor Commission, and it was realized then, that a 24/7 method of dealing with new incoming transit boaters to the harbor was needed. Because this was a hard task for a private company to provide, it was defaulted to the harbor patrol. Mr. Duffield stated that what was lacking when this topic was first introduced was Marina Park, which is now fully staffed. He believes that the staff can easily handle the needs of a transit boater as well as creating an app that can be downloaded on a smartphone that can provide the information the boater is looking for. The Harbor Guide would also be distributed to explain how one goes about securing a vessel to a mooring, navigating through the mooring fields, and securing a slip at Marina Park. Should there be need to deal with a boat that's broken loose from the mooring, staff could provide a contact with a towing service.

Chair Stapleton opened public comments

Carter Ford, on behalf of Newport Mooring Association, stated that his group appreciates the opportunity to be a part of helping to develop solutions. Mr. Ford stated that the Association would like the opportunity to contribute to these endeavors, assuming it is appointed.

Mr. Miller stated that the recommendation to form an ad-hoc committee is no longer a recommendation, but rather to have an open meeting, a Harbor Commission meeting, with four members present. This meeting would be similar to last year's Mooring topic with everything agendaized and all discussions handled at this current forum as a monthly meeting.

Chair Stapleton closed public comments.

4. Provide Free Vessel Sewage Pump out Service for the Offshore Mooring Fields and Anchorage Users

In an effort to improve and promote water quality, and to provide services to the mooring fields, the City is developing a program to provide free vessel sewage pump out service to the offshore moorings (permittees and sub-permittees) and anchorage users.

Recommendation:

- a) Recommend the City proceed with a program to provide free vessel sewage pump out services to the offshore moorings and anchorage users.

Item tabled for the July meeting.

7) SUBCOMMITTEE REPORTS

Commissioner Kenney reported that SUP Safety Committee is in the process of interviewing all of the rental operators in the harbor and hopes to report back in July. Additionally, Commissioner Kenney reported that the Regional Water Quality Control Board has suggested to the City that it prohibit the use of copper based bottom paint in the harbor, as the current paint being used was approved at the state and federal level. Staff believes that the request needs to be dealt with on a statewide level, not on a local level.

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES - None

9) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES

Mr. Miller reported that the moorings code revisions have been proofed and the first draft version will be sent to the Newport Mooring Association and the Harbor Patrol for feedback. Any changes will be taken into consideration with the goal to bring the draft to City Council at the meeting in August.

The Balboa Yacht Basin underwent significant repairs. This is done every year to maintain the City-owned marina.

Memorial Day at Marina Park was a huge success with about 95 percent occupancy. There are reservations through September and in the next couple weeks, a release will go out in some of the city's local publications, advertising that slips will be available for the Christmas season. Staff is anticipating booking up for the Christmas Boat Parade, and parties/events. The website is up and users can book their reservations online.

Mr. Miller is currently working on the annual Sand Management Sand Replenishment Project on Balboa Island. This year, it's a two-fold approach. The first approach is to push the sand up from the low tide lines to the high tide line, and second approach is to work with Public Works Director Dave Webb on taking a small fraction of sand being replenished as part of the Lower Santa Ana River project, and placing it on Balboa Island.

Chair Girling opened public comments

Chair Girling closed public comments.

10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER – None

11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

Chair Girling stated there may be some interest in resurrecting Lower Castaways, which was put on hold when the new council members came in.

Commissioner Blank stated that Councilman Petros suggested we consider re-enacting the harbor cruise for the public that we did aboard the Balboa ferry almost two years ago. Commissioner Blank will take the responsibility. Commissioner Blank stated it probably should be put on the agenda to vote to do it.

Commissioner West suggested that the commission receive some updates on the status of landside waterfront projects that are under construction. Mr. Miller will follow up with the community development department and have staff present at a future meeting.

Commissioner West requested information on the Ardell property and how it's developing.

12) DATE AND TIME FOR NEXT MEETING:

13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:29 p.m. The next Harbor Commission will be held on July 13, 2016.

DRAFT



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

July 13, 2016
Agenda Item No. 1

TO: HARBOR COMMISSION

FROM: Chris Miller, Harbor Manager - 949-644-3043,
cmiller@newportbeachca.gov

TITLE: Election of Officers

ABSTRACT:

The Harbor Commission will elect officers for the 2016-17 year.

RECOMMENDATION:

1. Elect Chairman.
2. Elect Vice Chair.
3. Elect Secretary.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).



NEWPORT BEACH

Harbor Commission Staff Report

July 13, 2016
Agenda Item No. 2

TO: HARBOR COMMISSION

FROM: Chris Miller, Harbor Manager - 949-644-3043,
cmiller@newportbeachca.gov

TITLE: Appeal – 2888 Bay Shore Drive (Newport Marina Reconstruction)

ABSTRACT:

Mr. Moriarty at 2782 Bay Shore Drive is appealing the Approval in Concept issued by the Harbor Manager on April 6, 2016 for the proposed commercial marina (Newport Marina) reconstruction project adjacent to his property located at 2888 Bay Shore Drive, on the basis of potential impacts to his water area near his slip.

RECOMMENDATION:

1. Uphold the Harbor Manager's issuance of the Approval in Concept.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

Harbor Resources originally approved the commercial marina reconstruction project on September 10, 2015. (Attachment A) However, when the project was under review by the Coastal Commission in March/April 2016, it was discovered that the location of the marina in relation to the side property lines was not noted on the original submittal. Swift Slip Dock and Pier Builders, the contractor for the project, corrected the error on the plans and notified the Coastal Commission. As a result, an updated Approval in Concept was required from the City so the Coastal Commission could proceed. (Attachment B)

While the Coastal Commission was reviewing the project, Mr. Moriarty was notified of the pending application, and requested the Coastal Commission deny the project at their hearing. After the Coastal Commission upheld the Commission staff's recommendation to approve, Mr. Moriarty appealed the City's updated Approval in Concept within the prescribed time frame. (Attachment C)

The Harbor Commission has the option to either uphold, amend or reverse the Harbor Manager's decision.

As background, commercial marinas are permitted to have a zero setback from the property lines for their floats, gangways and piers. In addition, vessels may extend up to the property lines as well.

Conversely, residential floats, gangways and piers must maintain a five foot setback from the property lines. However, like commercial marinas, vessels at residential slips may also extend up to the property line.

At the heart of the appeal is the relationship between the proposed commercial marina and the adjacent residential dock. While this report will not address each point raised in the appellant's letter, it will detail the justification to issue the Approval in Concept with specific focus on Special Conditions 9-14 which concentrate on the southern boundary of the project.

Special Condition #9: *Your side property lines extend in the water along their same bearing. Vessels shall not encroach upon the neighbor's property on either side.*

Though not directly applicable to the appeal, this condition lays the groundwork for the relationship between both neighbors. This is a standard condition which speaks to vessels berthed at their respective floats.

Special Condition #10: *Vessels shall not rely on the southern neighbor's property for ingress and egress into the marina, especially to the backside of the marina adjacent to the bulkhead.*

While boating is not as precise as driving a car within the lanes of a road, this condition specifies that the boaters who are berthed on the backside of the marina must do their best to stay within the water that belongs within the marina's permitted area. Naturally, factors such as wind, current, tide and varying levels of experience may influence a vessel's intended path of travel.

Special Condition #11: *The 10' wide channel on the southern boundary of the marina immediately adjacent to the southern property line, shall be kept clear at all times and shall not impede any vessel traffic to the backside of the marina.*

The major crux of the appeal is the 10' wide channel component of this condition. 10' was justified based on an average electric boat width of about 8.5', assuming that electric boats were the primary market for the slips on the backside of the marina. However, as noted and explained in Condition #14 below, the vessels on the backside slips are limited to a beam of 10'. Understandably, this tolerance for the 10' wide channels is tight, but anything more could be argued as arbitrary.

The other component of this condition is to keep this channel clear at all times. This ensures that boaters will not be trapped in the backside of the marina, and more importantly, will not force them into the neighbor's water area.

Special Condition #12: *No side ties permitted on the southern-most finger immediately adjacent to the southern property line. Cleats shall not be installed on this side of the finger.*

This condition helps to clarify condition #11 with respect to maintaining a clear channel. Prohibiting cleat installation reduces future temptation.

Special Condition #13: *On the southern-most side-tie on the backside of the marina adjacent to the southern property line, vessels shall not extend into the 10' open channel as required for ingress and egress to the backside of the marina.*

This condition essentially limits the length of the vessel in the very last, smallest slip. Because the drawing isn't dimensioned at this location, it isn't clear what size vessel could berth within this small area. But it is assumed that only an extremely small dinghy could fit without encroaching into the 10' channel.

Special Condition #14: *The maximum beam of any vessel berthing on the backside of the marina adjacent to the bulkhead shall be 10'.*

This 10' limit is explained in Condition #11 above.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).

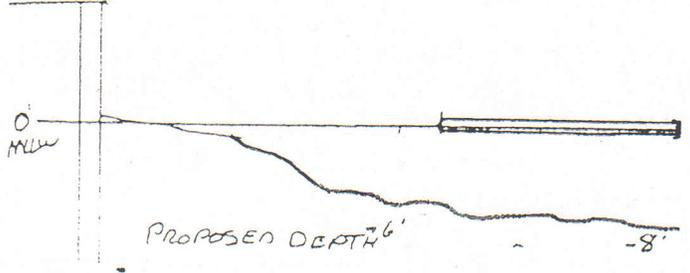
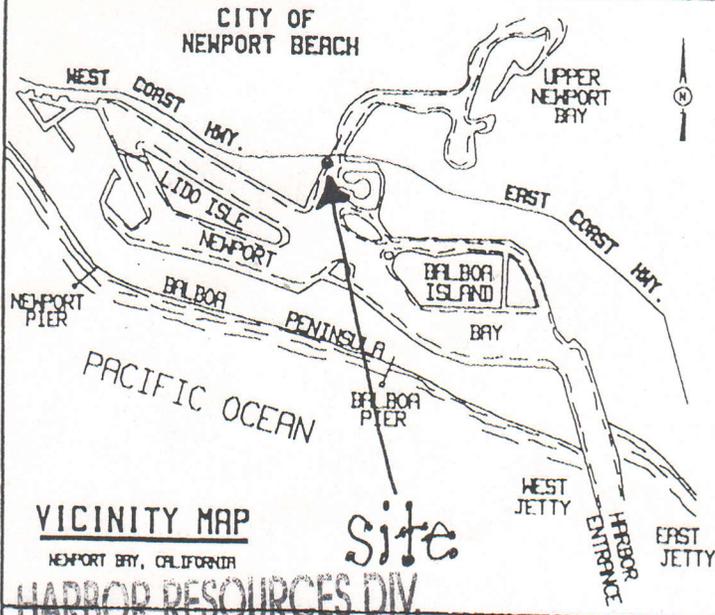
ATTACHMENTS:

Attachment A – Original Approval in Concept dated September 10, 2015

Attachment B – Updated Approval in Concept dated April 6, 2016

Attachment C – Appeal from Mr. Moriarty

CITY OF NEWPORT BEACH



SOUNDINGS ARE EXPRESSED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.

HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

Quattus 9/10/15

SCOPE OF WORK:

- Remove existing 11,729 square foot marina -- (18) 45' slips, (11) 36' slips, (11) 25' slips, (21) 12" square concrete marina guide pile, (2) 9" round concrete marina guide pile, gangway, and 10' of existing 12 x 25 pier.
- Replace with new 11,525 square foot marina -- (5) 65' slips, (12) 45' slips, (15) 30' slips, (13) 21' slips, (3) 19' slips, (53) new 14' square marina guide pile, (11) 18" square marina guide pile, and new ADA gangway.
- Re-use existing 12 x 15 pier.

2888 Bayshore Dr.

EEL GRASS INSPECTION

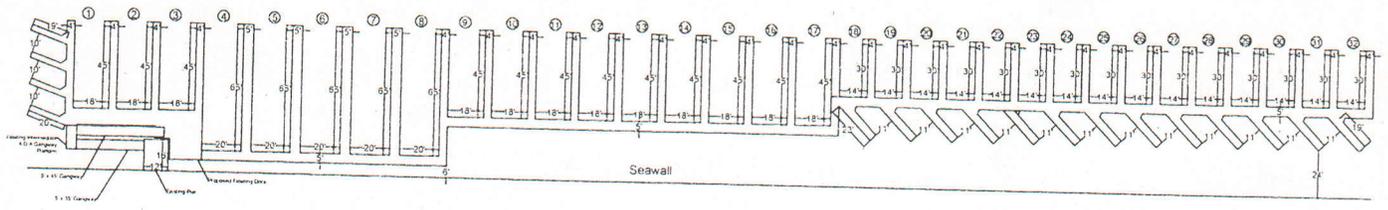
- Eelgrass within 15' of project
- Eelgrass within 15 - 30' of project
- No Eelgrass in project area

[Signature]

Signature

5/30/15 0900-1300

Inspection Date & Time



Swift Slip Dock & Pier Builders, Inc.
642 Baker St.
Costa Mesa, California 92626
Phone (949) 631-3121
Fax (949) 631-3122

Approximate Existing Length = 640'
Approximate Proposal Length = 681'
Total Area = 11,525 sq. ft.

APPLICANT'S NAME RON & ALLYSON PRESTA	JOB ADDRESS 2888 Bay Shore	DATE 5.15.15
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HARBOR RESOURCES DIVISION
829 Harbor Island Drive
Newport Beach, CA 92660
(949) 644-3044 / Fax (949) 723-0589

*Updated 4/6/16
CM.*

HARBOR PERMIT/APPROVAL IN CONCEPT

HARBOR PERMIT/APPROVAL IN CONCEPT BY THE CITY OF NEWPORT BEACH
as required for permit application to the South Coast Regional Commission pursuant to California Administrative Code, Sections 13210 and 13211.

General Description of Proposed Development: Remove existing 11,729 sq ft marina. Replace with new 11,525 sq ft. marina. (5)65' slips,(12)45' slips,(15)30' slips,(13)21'slips,(3)19' slips, (53) new 14" square marina guide pile,(11) 18" square marina guide pile. New ADA gangway. Re-use existing 12 x 15 pier.

Address number must be stenciled on at least 1 bayward facing pile.
Pier conditions must be signed by applicant prior to final approval.

Property Address: 2888 Bay Shore Drive

Legal Description:

Harbor Permit Number: 130-2888

Plan Check Number: 1256-2015

Applicant: Ron Presta

Applicant's Mailing Address: 642 Baker Street, Costa Mesa, CA 92626

Phone Number: 949-631-3121- Swift Slip

I have reviewed the plans for the foregoing development including:

1. The general site plan, including any roads and public access to the shoreline.
2. The grading plan, if any.
3. The general uses and intensity of use proposed for each part of the area covered in the application.

And find

- They comply with the current adopted Newport Beach General Plan, Municipal Code, Title 17 and any applicable specific or precise plans or,
- That a variance of exception has been approved and final.

A copy of any variance, exception, conditional use permit or other issued permit is attached together with all conditions of approval and all approved plans including approved tentative tract maps. On the basis of this finding, these plans are approved in concept and said approval has been written upon said plans, signed and dated.

Should Newport Beach adopt an ordinance deleting, amending or adding to the Municipal Code or other regulations in any manner that would affect the use of the property or the design of a project located thereon, this Approval In Concept shall become null and void as of the effective date of this said ordinance.

In accordance with the California Environmental Quality Act of 1970, and state and local guidelines adopted thereunder, this development:

Has been determined to be ministerial or categorically exempt.

- Has received a final Exemption Declaration or final Negative Declaration (copy attached).
- Has received a Final Environmental Impact Report (copy attached).

All discretionary approvals legally required of Newport Beach prior to issuance of a harbor permit and a building permit have been given and are final. The development is not subject to rejection in principal by Newport Beach unless a substantial change is proposed.

This concept approval in no way excuses the applicant from complying with all applicable policies, ordinances, codes and regulations of Newport Beach. **See attached Special Conditions.**



Chris Miller, Harbor Resources

April 6, 2016

Attachments:

Worksheet for Building Permit Application
Drawing
Pier Conditions



HARBOR RESOURCES DIVISION
829 Harbor Island Drive
Newport Beach, CA 92660
(949) 644-3034 / Fax (949) 723-0589

Special Conditions

April 6, 2016

2888 Bay Shore Drive

With reference to the plans currently under consideration at the above referenced address to reconfigure or modify the dock system or bulkhead, the following conditions will now be in effect:

1. The project proponent is aware of the Harbor Permit Policies (Council Policy H-1) and Title 17 of the City of Newport Beach Municipal Code. The project proponent understands that the above referenced structure(s) is under the purview of these Policies and Codes.
2. Any future work on the above mentioned structure(s) requires permits with the City of Newport Beach and any other applicable agencies. Painting and work considered to be cosmetic in nature does not require a permit.
3. The conditions set forth in this document pertain to the proposed dock system and/or bulkhead under consideration. Any future modifications or alterations to the dock system and/or bulkhead may require new conditions which may override or change these conditions. These conditions supersede all past conditions associated with this property.
4. Only marine oriented uses are allowed on the pier, pier platform, gangway and float. Patio furniture, plants etc...are not permitted.
5. In accordance with Municipal Code 10.08.030 A. the project proponent shall obtain the proper permits for equipment and materials storage. "Except as otherwise provided in this section, no person shall use any public street, sidewalk, alley or parkway or other public property for the purpose of storing or displaying any equipment, materials or merchandise, or any other commercial purpose. B. Public streets, sidewalks, alleys, or parkways may be used for the purpose of selling, storing, or displaying any equipment, material, merchandise or for other commercial purposes in the following cases: ...For the temporary storage of construction equipment or material provided a permit is issued pursuant to Chapter 12.62 of this Code and the storage is consistent with provisions of the Uniform Building Code."
6. The project shall be implemented in conformance with the Local Coastal Program - Coastal Land Use Plan.

7. In accordance with Municipal Code 10.28.040 the following noise regulations apply: "A. Weekdays and Saturdays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any weekday except between the hours of seven a.m. and six-thirty p.m., nor on any Saturday except between the hours of eight a.m. and six p.m. B. Sundays and Holidays. No person shall, while engaged in construction, remodeling, digging, grading, demolition, painting, plastering or any other related building activity, operate any tool, equipment or machine in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any Sunday or any federal holiday."

8. Vessels may not extend beyond the end of the fingers by more than the width of their beam except as otherwise noted in the Municipal Code.

9. Your side property lines extend in the water along their same bearing. Vessels shall not encroach upon the neighbor's property on either side.

10. Vessels shall not rely on the southern neighbor's property for ingress and egress into the marina, especially to the backside of the marina adjacent to the bulkhead.

11. The 10' wide channel on the southern boundary of the marina immediately adjacent to the southern property line, shall be kept clear at all times and shall not impede any vessel traffic to the backside of the marina.

12. No side ties permitted on the southern most finger immediately adjacent to the southern property line. Cleats shall not be installed on this side of the finger.

13. On the southern most side-tie on the backside of the marina adjacent to the southern property line, vessels shall not extend into the 10' open channel as required for ingress and egress to the backside of the marina.

14. The maximum beam of any vessel berthing on the backside of the marina adjacent to the bulkhead shall be 10'.

Chris Miller, Harbor Resources

Date

Applicant Signature

Print Name

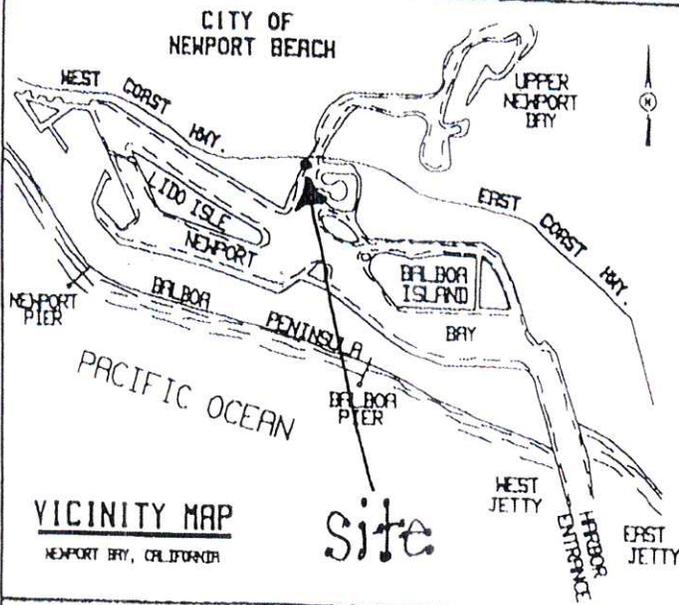
Date

Joint Pier Applicant Signature (if applicable)

Print Name

Date

CITY OF NEWPORT BEACH



EEL GRASS INSPECTION

- Eelgrass within 15' of project
- Eelgrass within 15 - 30' of project
- No Eelgrass in project area

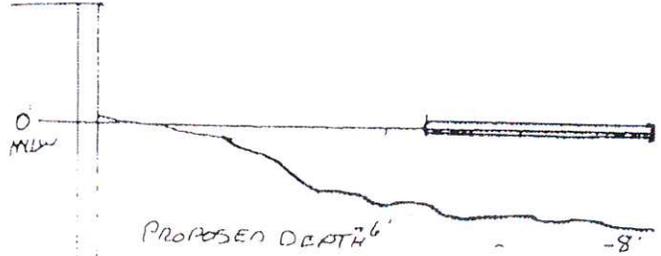
[Signature]

Signature

5/30/15

0900 - 1300

Inspection Date & Time



SOUNDINGS ARE EXPRESSED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.

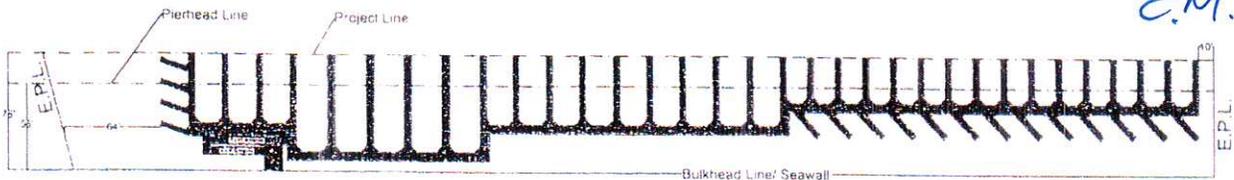
SCOPE OF WORK:

- Remove existing 11,729 square foot marina – (18) 45' slips, (11) 36' slips, (11) 25' slips, (21) 12" square concrete marina guide pile, (2) 9" round concrete marina guide pile, gangway, and 10' of existing 12 x 25 pier.
- Replace with new 11,430 square foot marina – (5) 65' slips, (12) 45' slips, (15) 30' slips, (13) 21' slips, (3) 19' slips, (53) new 14" square marina guide pile, (11) 18" square marina guide pile, and new ADA gangway.
- Re-use existing 12 x 15 pier.

HARBOR RESOURCES DIV.
CITY OF NEWPORT BEACH

[Signature] 4/6/16

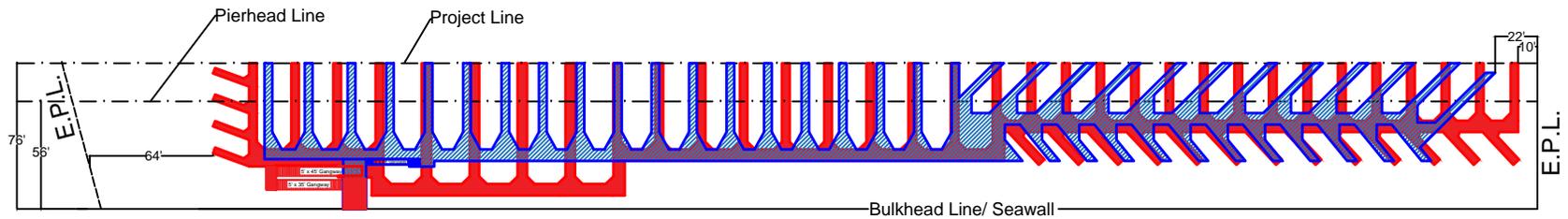
updated 4/6/16
C.M.



APPLICANT'S NAME **RON & ALLYSON PRESTA**

JOB ADDRESS **2888 Bay Shore**

DATE **5.15.15**



- Existing
- Proposed

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



642 Baker St
 Costa Mesa, CA, 92626
 Phone: (949) 631-3121
 Fax: (714) 509-0618

SITE: 2888 Bayshore Drive, Newport Beach, CA

TITLE: Existing vs Proposed

EC
DRAWN.

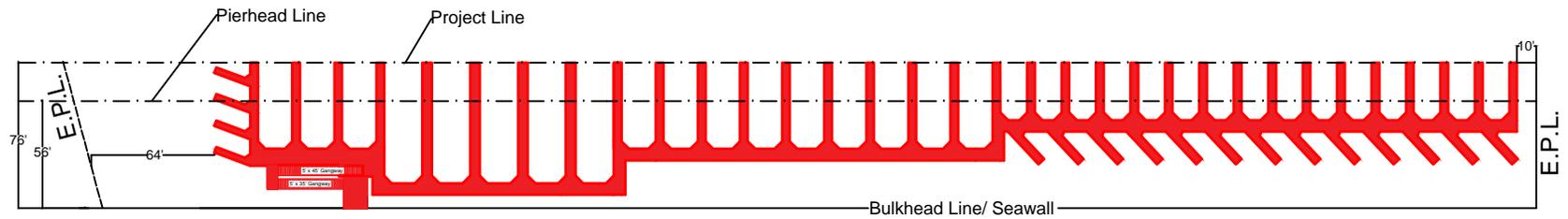
PS
CHECKED.

C
REVISION.

4/4/16
DATE.

A	original draft	TB	2/13/15
B		TB	7/23/15
C	extended space btwn EPL and dock to 10'	EC	4/4/16
REV:	DESCRIPTION:	BY:	DATE:

AMENDMENTS:



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642 Baker St
 Costa Mesa, CA, 92626
 Phone: (949) 631-3121
 Fax: (714) 509-0618

SITE: 2888 Bayshore Drive, Newport Beach, CA

TITLE: Proposed

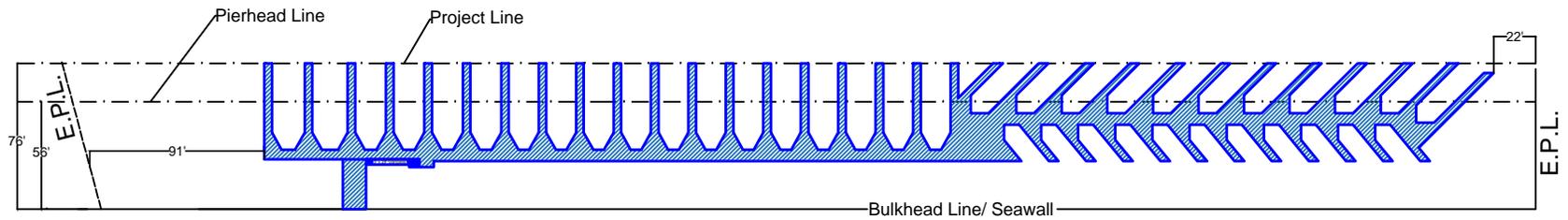
EC
 DRAWN.

PS
 CHECKED.

C
 REVISION.

4/4/16
 DATE.

A	original draft	TB	2/13/15
B		TB	7/23/15
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AMENDMENTS:			



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642 Baker St
 Costa Mesa, CA, 92626
 Phone: (949) 631-3121
 Fax: (714) 509-0618

SITE: 2888 Bayshore Drive, Newport Beach, CA

TITLE: Existing

EC
 DRAWN.

PS
 CHECKED.

C
 REVISION.

4/4/16
 DATE.

A	original draft	TB	2/13/15
B		TB	7/23/15
C	extended space btwn EPL and dock to 10'	EC	4/4/16
REV:	DESCRIPTION:	BY:	DATE:

AMENDMENTS:



CITY OF NEWPORT BEACH

Public Works Department

Harbor Resources Division

APPLICATION TO APPEAL DECISION OF THE HARBOR RESOURCES MANAGER

4:15 p.m. ^(P)

RECEIVED BY PUBLIC WORKS

Pier Permit No. 130-2888

APR 15 2016

Plan Check No. 1256-2015

Name of Appellant Kevin Moriarty

CITY OF NEWPORT BEACH

Date of Harbor Resources Manager's Decision April 6, 2015

Name of Applicant Ron and Allyson Presta

Description of Application filed with Harbor Resources

Remove existing 11,729 s.f. marina. Replace with new 11,52 s.f. marina. (5) 65' slips, (12) 45' slips, (15) 30' slips, (13) 21' slips, (3) 19' slips, (53) new 14" square marina guide piles, (11) 18" square guide piles. Increase in slips from 40 to 48. New ADA gangway.

Reasons for Appeal - Inconsistent with City Zoning Code, Harbor Design Criteria, Harbor Standards

AIC Condition 9 - Compliance not possible. Access will require encroachment upon neighbor's property.

AIC Condition 10 - Ingress and egress has not been analyzed to determine feasibility/maneuverability.

AIC Conditions 13 & 14 - Compliance will create conflicts with Conditions 9 and 10.

Kevin Moriarty
Signature of Appellant

4/15/16
Date

Patrick Achis

4/15/16

Received by

Fee Received Date

For Office Use Only

Hearing Date- An appeal shall be scheduled for a hearing date before the Harbor Commission within 30 days of the filing of the appeal unless both the appellant or reviewing body consent to a later date, NBMC Section 17.65.040.

Appeal Fee \$1,000

Deposit funds with Cashier in Account 5060-5010

2370-5010

↓
Per Patrick Achis



CAA PLANNING

April 15, 2016

Mr. Chris Miller
Harbor Resources Manager
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Appeal of Approval in Concept and Harbor Permit Number 130-2888, Newport Marina

Dear Mr. Miller:

On behalf of Mr. Kevin Moriarty of 2782 Bayshore Drive, Newport Beach, CAA Planning, Inc. (CAA) hereby appeals the decision of the Harbor Resources Manager in issuing an Approval In Concept (AIC) for 2888 Bayshore Drive (Newport Marina) dated April 6, 2016. Consistent with City Municipal Code Section Z.C. 17.65.010, the Harbor Commission is authorized to hear the appeal of decisions made by the Harbor Resources Manager resulting from the Manager's administration of the City's Code. Initiation of this appeal is made to the Harbor Resources Manager in conformance with Z.C. 17.65.030.A, and has been made within 14 days of approval of the AIC as set forth by Z.C. 17.65.020.

Consistent with our telephone conversation on April 14, this letter serves as formal notice of the appeal. Attached is the City's Application to Appeal Decision of the Harbor Resources Manager. Based on our discussion, it is understood that the precise appeal fee is based on your estimate of time required to process the appeal, rather than a set amount. In order to effectuate our appeal, and while you consider the appropriate fee, we have enclosed a check in the amount of \$1,000. It is understood that the actual fee may be somewhat less, and we await your input. We trust that this letter, the appeal form and the deposit check serve as adequate initiation of the appeal process.

As you are aware, Mr. Moriarty resides at 2782 Bayshore Drive and shares a common water-side property line with the commercial marina at 2888 Bayshore Drive. We became aware of this project through review of the California Coastal Commission agenda approximately two weeks ago. The marina was originally approved by the City with a zero setback from the southern property line, which would have resulted in reliance on the southern neighbor's property (2782 Bayshore Drive) for ingress and egress to the marina. We regret the need for this appeal, but in the absence of notification of the pending project and the anticipated conflicts that will result with the updated marina; we feel the project warrants review by the Harbor Commission.

This appeal is based on five general areas, including our concern related to application of appropriate City Codes and Standards, marina access and fairway width, lack of adequate detail



Chris Miller
April 15, 2016
Page 2 of 5

on the project plans, compliance with newly added Conditions of Approval, and concerns related to Fire Access. These concerns are detailed below.

Issue of City Codes and Standards

We believe that the conditions imposed on 2888 Bayshore Drive by the AIC were done with City code, policy and standards in mind; however, it appears that certain standards may not have been appropriately applied. While City standards do allow for a commercial marina to have a zero setback from the property line, the City does not allow access to a commercial marina or a private dock over an adjacent property owner's water space. Where a conflict occurs, the City should ensure that an adjacent property is not impacted by a proposed project. As identified in the City of Newport Beach Waterfront Guidelines and Standards, Harbor Design Criteria Commercial and Residential Facilities (Standards) Figure 11 (Attachment 1):

"Installation of a floating walkway cannot adversely impact the existing berthing and navigation of an adjacent property."

Further, there is an expectation that utilization of adjoining properties' water space should not be relied upon when configuring a marina, as indicated in an email from you dated July 23, 2014 (Attachment 2).

"Newport Marina [2888 Bayshore Drive] does not have permission to operate past the prolongation of their property lines... Boating is not as exact as driving a car on the street. However, this drifting between properties should not be relied [upon] when configuring a dock/marina."

Considering the trend in boats with larger beams, it is difficult to imagine that a boat with a beam of eight or nine feet will be able to navigate a ten foot wide entrance to the marina. Furthermore, this area of Newport Harbor is subject to strong tidal flow and wind, making boating more challenging. There is no evidence in the record to suggest that the effect of tidal flow and wind was taken into consideration in designing the marina and the southerly access point. These elements will exacerbate an already challenging situation related to navigation. The approved plan creates a navigation conflict with Mr. Moriarty's existing dock and vessel and places the commercial marina in violation of the findings for the issuance of a Marina Activities Permit (MAP), which is required for the operation of a commercial marina. Chapter 17.10.005.J Findings and Purpose for the issuance of a MAP (Attachment 3) states:

"In adopting this chapter, the City Council intends that the health, safety and welfare of those who use, enjoy and own property near Newport Harbor are not adversely affected by commercial activities conducted on those waters..."

A navigation study should be prepared to analyze tidal flow and other environmental influences in addition to maneuverability. The plan should be revised to include an appropriate width for



Chris Miller
April 15, 2016
Page 3 of 5

access to the marina and to ensure that ingress and egress to the marina can be achieved solely within the property lines of 2888 Bayshore Drive, consistent with the Conditions of Approval.

Fairway

The navigation issue created by the proposed marina layout has been identified as a setback thus far. However, after reviewing the Zoning Code, we believe that the water area in question (between the end of the marina and the southern property line) is more accurately a fairway and should be treated as such because this area provides access to 13 boat slips and approximately 250 feet of parallel side-ties. As defined by the Zoning Code, the term fairway shall mean an area of water adjacent to slips that feeds into a channel, and which is used for direct access to slips. The only point of access to the 13 slips and the parallel side-ties are via this southerly point between the end of the marina and the property line.

“The fairway water area is defined as lying between the outer end of a line of fingers and the nearest obstruction on the opposing side (i.e., other slips, bulkhead, vessels on side ties, etc.) Z.C. 17.01.030.F

The City’s Harbor Standards detail the width requirements for fairways (Attachment 4 - Harbor Design Criteria - Fairways). Although the standards do not contain a dock arrangement that precisely depicts the proposed marina layout with respect to the unique relationship between the back of the marina and the adjoining property line, given the similarity in fairway configurations and boater access, we believe that this area should be considered a fairway and appropriate access width should be calculated accordingly. By calculating the fairway width using the appropriate formula identified in the Harbor Standards, it will be possible to ensure safe boating, compliance with Zoning Code and Harbor Standards, as well as compliance with the AIC Conditions of Approval.

Lack of Adequate Detail on Plans

The plan including in the AIC lacks adequate detail to support a thorough analysis. The proposed plan is not dimensioned and contains no scale. With the exception of notations related to the gangway lengths and widths, there is no way to accurately determine the length of the marina, the length and width of slip fingers, the distance between the slips and the bulkhead, and a variety of other important factors that are necessary to determine plan accuracy and code compliance. The plans fail to include even cursory information that is common on modern plans, including presence of existing structures within the immediate vicinity of a project site, topography, or even a north arrow. The number of slips described within the AIC (48) does not appear to account for side-ties. Based on a review of a current aerial photograph, there appear to be at least 15 boats in side-tie configurations and the updated plan has approximately 250 lineal feet available for side-ties. The plans must be updated to include a necessary level of detail to ensure proper application of City codes and standards as well as a definitive project description.



Chris Miller
April 15, 2016
Page 4 of 5

Conditions of Approval

There is no evidence in the record to determine whether the applicant will be able to comply with Conditions of Approval Nos. 9-10 and 13-14. The following is a restatement of the conditions in question, followed by a summary of our specific concern.

Condition No 9: Your side property lines extend in the water along their same bearing. Vessels shall not encroach upon the neighbor's property on either side.

The Maneuverability Plan including as Attachment 5 details the relationship between the proposed marina and the southern property line. The entrance to west, or “back” side of the marina will be just ten feet. A ten foot entrance is too narrow for boats to navigate without crossing over onto the neighbor’s property. Even with the prohibition of side-ties in this location, vessel encroachment across the southern property line will be a regular occurrence. Encroachments are already a concern given conflicts that have occurred between Newport Marina boats and Mr. Moriarty’s boat, necessitating repair to Mr. Moriarty’s boat.

Condition No. 10: Vessels shall not rely on the southern neighbor's property for ingress and egress into the marina, especially to the backside of the marina adjacent to the bulkhead.

Ingress and egress to the backside of the marina requires navigation through the end of the marina and the prolongation of the property line. There is no mechanism provided that will determine whether a ten foot setback will be adequate to allow compliance with this condition. The Maneuverability Plan referenced above depicts the challenges associated with a boat making the requisite turning movements without reliance on the southern neighbor’s property. The applicant should be required to provide a navigation study demonstrating that access to the back of the marina is possible without reliance on the southern neighbor’s property. The study should be based on the largest size of boat that can be accommodated within the 13 slips and/or within the approximately 250 feet of parallel side-ties. Because the plan is not dimensioned and does not denote the size of boats to be accommodated within slips, it is impossible to determine the maximum size and number of boats that will be accommodated in the marina.

Condition No. 13: On the southernmost side-tie on the backside of the marina adjacent to the southern property line, vessels shall not extend into the 10' open channel as required for ingress and egress to the backside of the marina.

The plan does not contain the requisite level of detail to determine whether compliance with Condition No. 13 is feasible. Compliance of this condition could create a conflict with Conditions Nos. 9 and 10 as described above and identified



Chris Miller
April 15, 2016
Page 5 of 5

on the attached Maneuverability Plan. The project plan should be updated to demonstrate compliance with this condition.

Condition No. 14: The maximum beam of any vessel berthing on the backside of the marina adjacent to the bulkhead shall be 10'.

The plan does not contain the requisite level of detail to determine whether compliance with Condition No. 14 is feasible. Compliance of this condition could create a conflict with Conditions Nos. 9 and 10 as described above and identified on the attached Maneuverability Plan. The project plan should be updated to demonstrate compliance with this condition.

Fire Access

The provision of adequate public safety is an important issue addressed when marinas are upgraded. It is our understanding that the Harbor Patrol utilizes twin-engine fireboats and single-engine patrol boats; further, we understand that the beam of a fireboat is greater than 10 feet. We question the ability of a fireboat to access the west side of the marina where there are 13 slips and approximately 250 feet of parallel side-ties. The plan should be analyzed to determine whether adequate access will be provided for fire access.

We appreciate your consideration of the issues identified above and we look forward to review by the Harbor Commission. Please do not hesitate to call me at (949) 581-2888 with any questions.

Sincerely,

CAA PLANNING, INC.

Shawna L. Schaffner
Chief Executive Officer

Attachments:

1. Harbor Design Criteria – Fairways
2. Chris Miller Email dated July 23, 2014
3. Title 17 - Marine Activities Permit
4. Harbor Design Criteria - Figure 11
5. Maneuverability Plan

c: Leilani Brown, City Clerk
Kevin Moriarty, 2782 LLC.

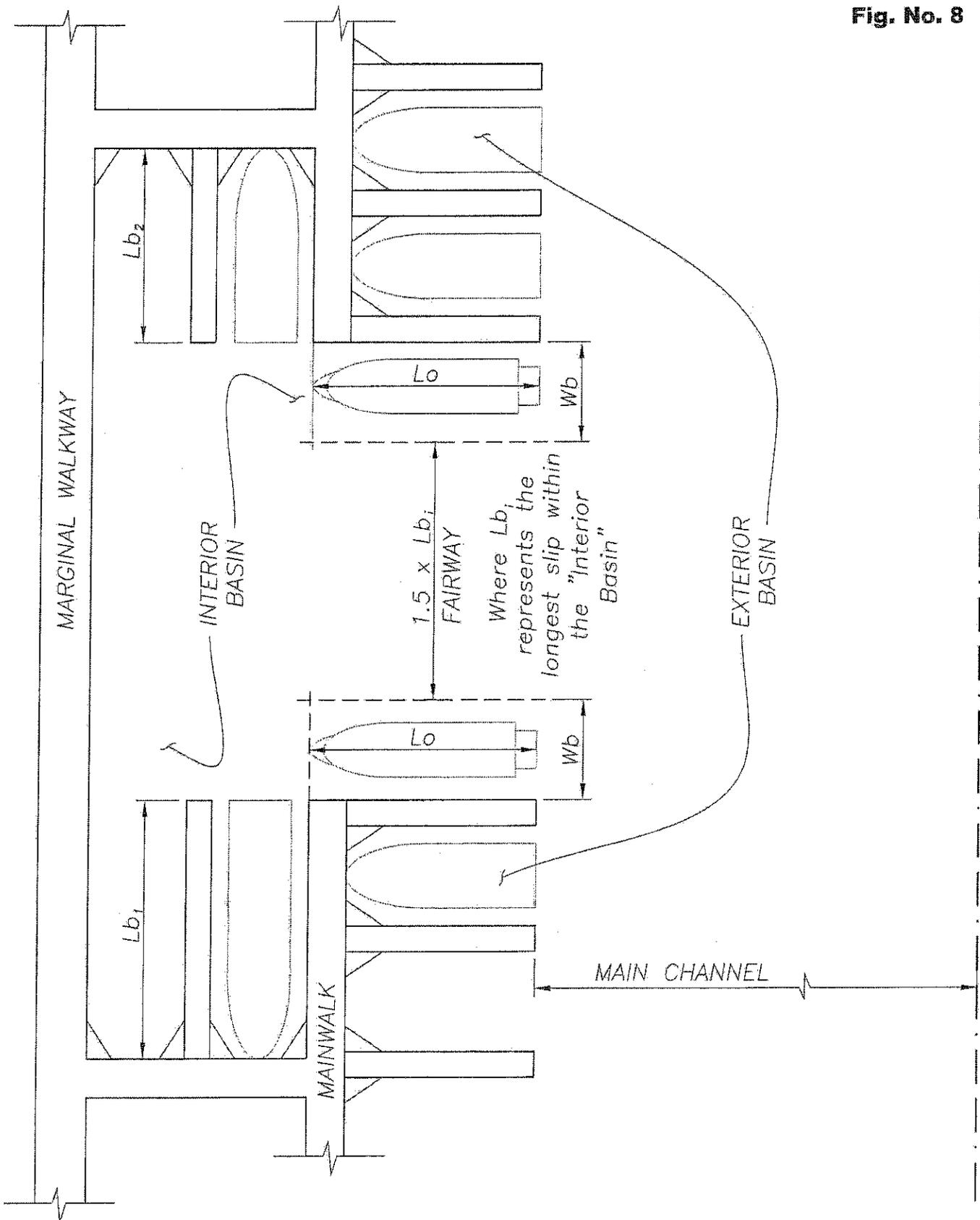
CITY OF NEWPORT BEACH
WATERFRONT PROJECT GUIDELINES
AND STANDARDS

HARBOR DESIGN CRITERIA
COMMERCIAL & RESIDENTIAL
FACILITIES

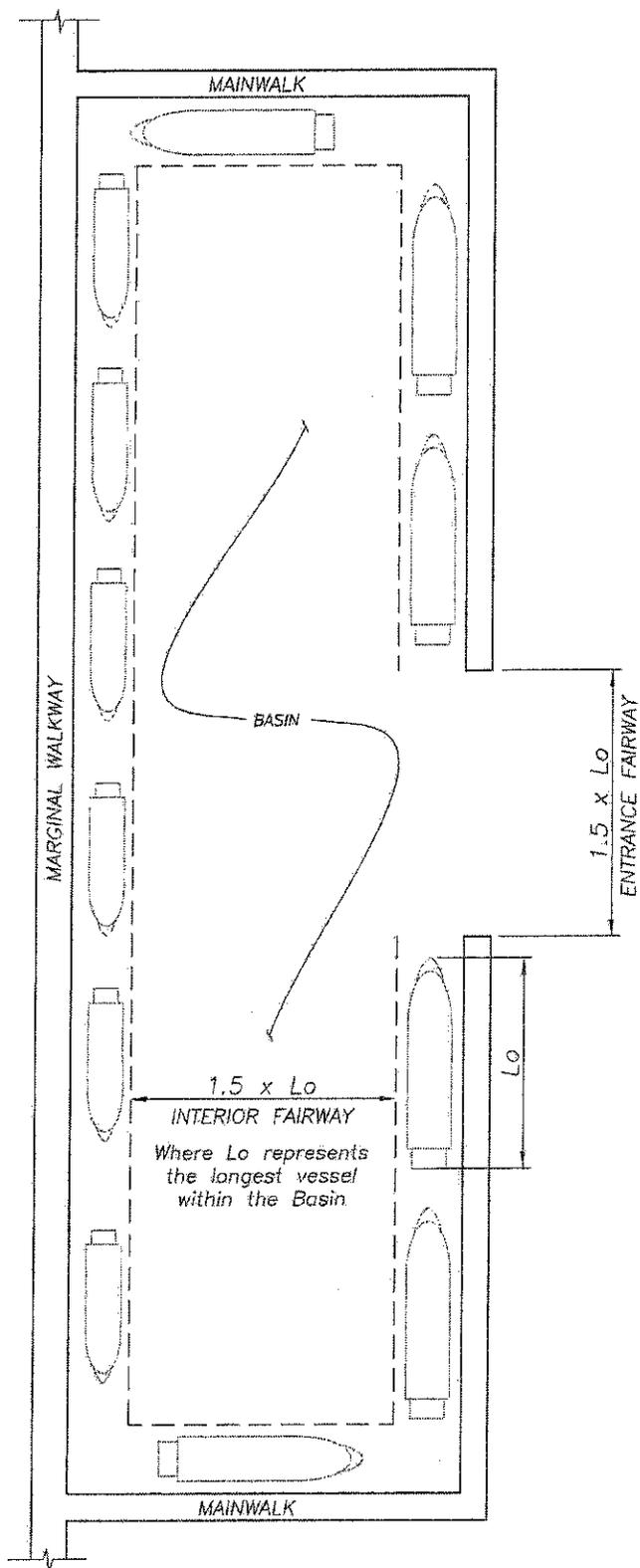


2008 EDITION

Fig. No. 8



**DOCK ARRANGEMENT
CASE 7**



**DOCK ARRANGEMENT
CASE 8**

From: Miller, Chris <CMiller@newportbeachca.gov>
Sent: Wednesday, July 23, 2014 4:28 PM
To: Shawna Schaffner
Subject: RE: 2782 Bayshores - Moriarty Dock Replacement

Shawna,

I am confirming that Newport Marina does not have permission to operate past the prolongation of their property lines. With that said, and per our conversation last week, it is always conceivable that boats may drift between properties when docking, whether at these properties or elsewhere in the harbor. Boating is not as exact as driving a car on the street. However, this drifting between properties should not be relied when configuring a dock/marina.

Chris

From: Shawna Schaffner [<mailto:sschaffner@caaplanning.com>]
Sent: Wednesday, July 23, 2014 2:30 PM
To: Miller, Chris
Subject: 2782 Bayshores - Moriarty Dock Replacement

Hi Chris –

Would you please confirm that the property at 2888 Bayshores (Swales Marina) does not have permission from the City to operate past the prolongation of their property line per Harbor Code Section 17.35.020 B.2 – *With the prior approval of the City, piers and slips for commercial properties may extend past the prolongation of the property line.*

Please see the attached highlighted Code section.

Thanks,
Shawna

Chapter 17.10

MARINE ACTIVITIES PERMIT

Sections:

- 17.10.005 Findings and Purpose.**
- 17.10.020 Permit for Commercial Activities in Newport Harbor Required.**
- 17.10.025 Exemptions.**
- 17.10.030 Application for Permit.**
- 17.10.040 Filing Fee.**
- 17.10.050 Issuance of Permit.**
- 17.10.070 Power to Impose Conditions—Hold Harmless.**
- 17.10.075 Insurance.**
- 17.10.080 Duration of Permit.**
- 17.10.085 Enforcement—Right of Entry.**
- 17.10.090 Suspension/Revocation.**
- 17.10.095 Appeal.**
- 17.10.100 Transfer of Permit.**
- 17.10.110 Licenses and Fees Not Exclusive.**
- 17.10.120 Application to Existing Commercial Activities.**

17.10.005 Findings and Purpose.

A. Newport Harbor is a limited resource with an extensive existing and growing demand for marine and recreational use;

B. There has been an increase in the nature and intensity of commercial activities such as harbor cruises, dinner cruises, boat rentals and water taxi services occurring on the waters of Newport Harbor;

C. Some of these vessels carry a number of passengers and some are owned or operated by persons who do not have a fixed base of operation on or near the bay that can provide adequate boarding, parking or sanitation facilities necessary to serve their clients and customers;

D. Commercial activities on Newport Harbor require City services which may not be paid by the patrons or passengers of commercial operators on Newport Harbor;

E. Commercial activity on Newport Harbor has created an additional demand for available parking and created traffic congestion in and around the waterfront;

F. This commercial activity has sometimes created a level of noise which has interfered with the right of residents, persons who own property and visitors on or near Newport Harbor to the peaceful enjoyment of their property and public areas;

G. Commercial activity, especially the mix of large craft with limited maneuverability and restricted uplands access, has the potential to interfere with the safe navigation of boats and vessels operating on the waters of Newport Harbor;

H. The requirements of the chapter are necessary to minimize the traffic congestion, parking shortages, excessive noise, and the discharge of waste that could result from unregulated commercial activity and to ensure safe operation within the capacity and constraints of Newport Harbor;

I. The Harbor and Bay Element of the General Plan establishes an objective to preserve existing commercial uses in Newport Harbor to the extent necessary to maintain and enhance the charm and character of the harbor and to provide support services for visitors, recreational boaters and other water-dependent activities by enforcing existing ordinances and, if necessary, establish new standards for the operation of entertainment, sport fishing and work boats;

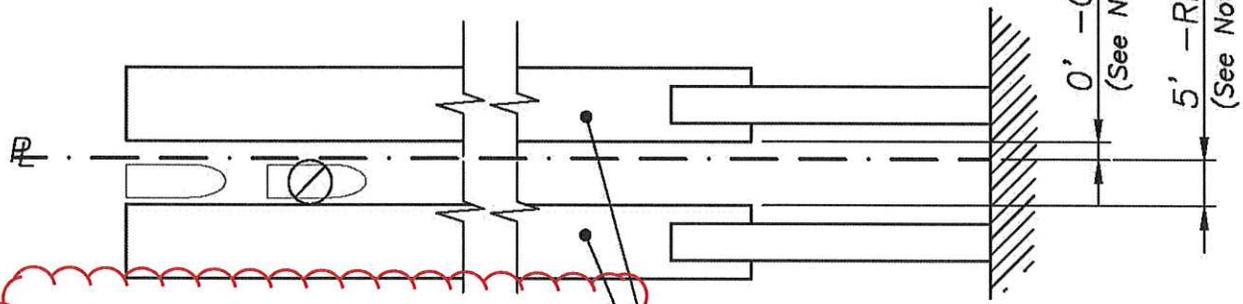
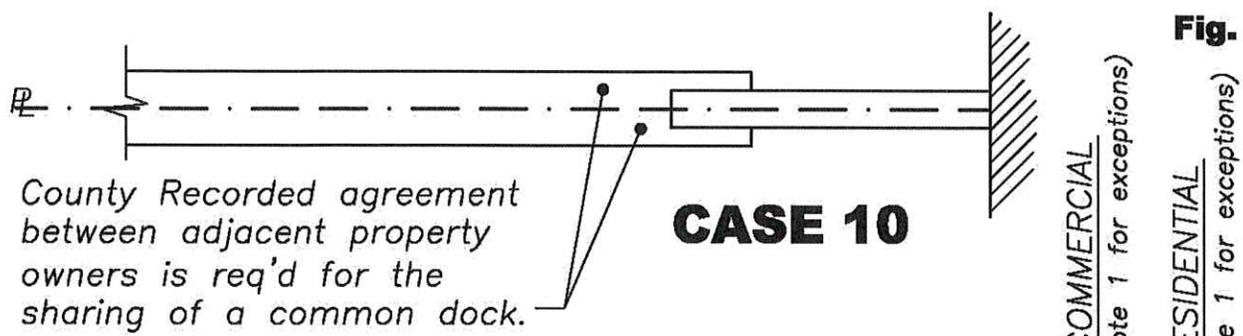
J. In adopting this chapter, the City Council intends that the health, safety and welfare of those who use, enjoy and own property near Newport Harbor are not adversely affected by commercial activities conducted on those waters and that suitability and capability of the Newport Harbor infrastructure to accommodate future permit-dependent operations are adequately considered in permit application processes;

K. Fees and charges imposed on commercial users of Newport Harbor should recover City cost and contribute to major harbor maintenance projects (i.e., dredging);

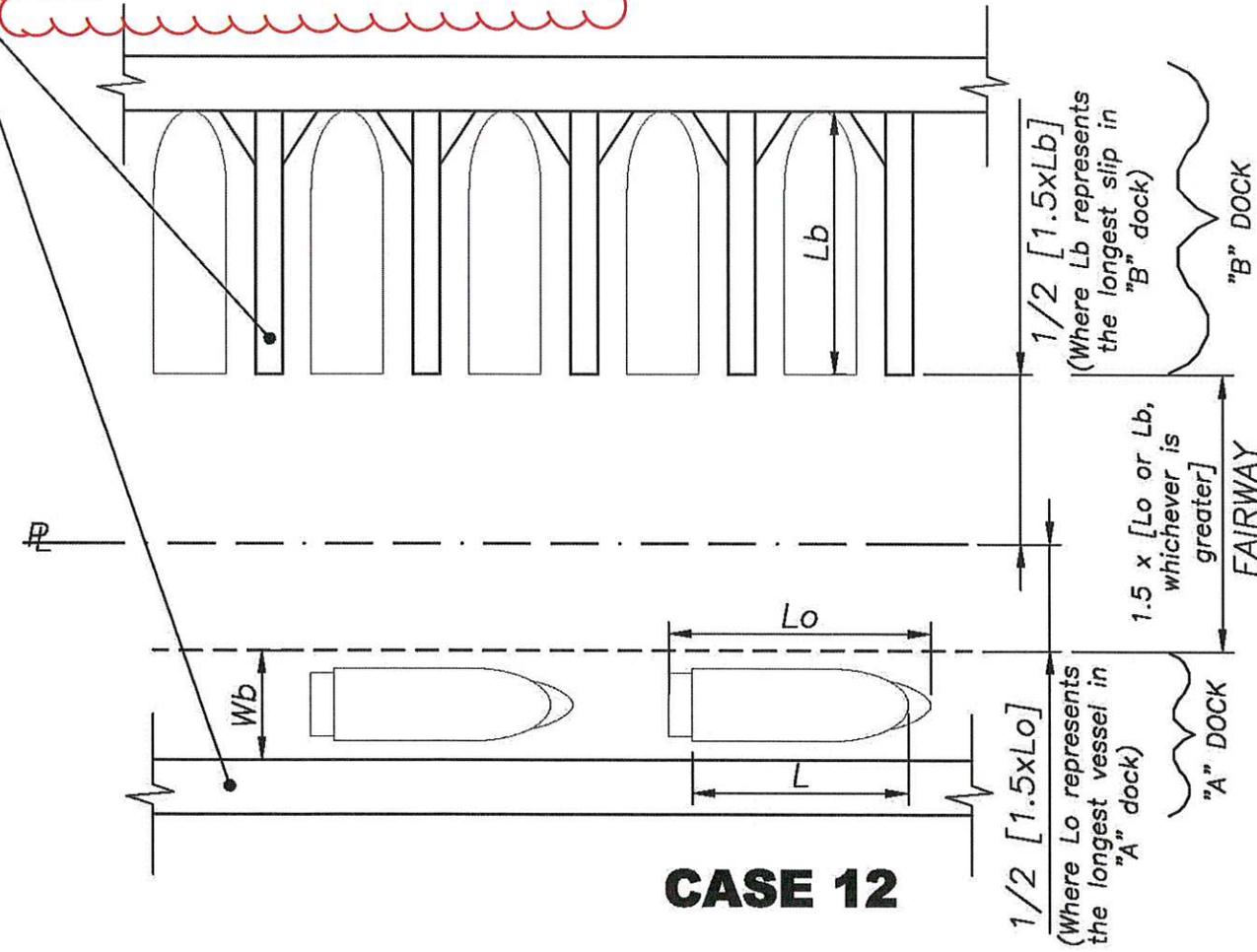
L. Leases should be used where appropriate to recover the fair market value of the use of public tidelands from holders of permits for marine commercial activities on tidelands properties; and

M. To administer the use of public trust lands in a manner consistent with the tidelands trust, the California Constitution, the certified Local Coastal Pro-

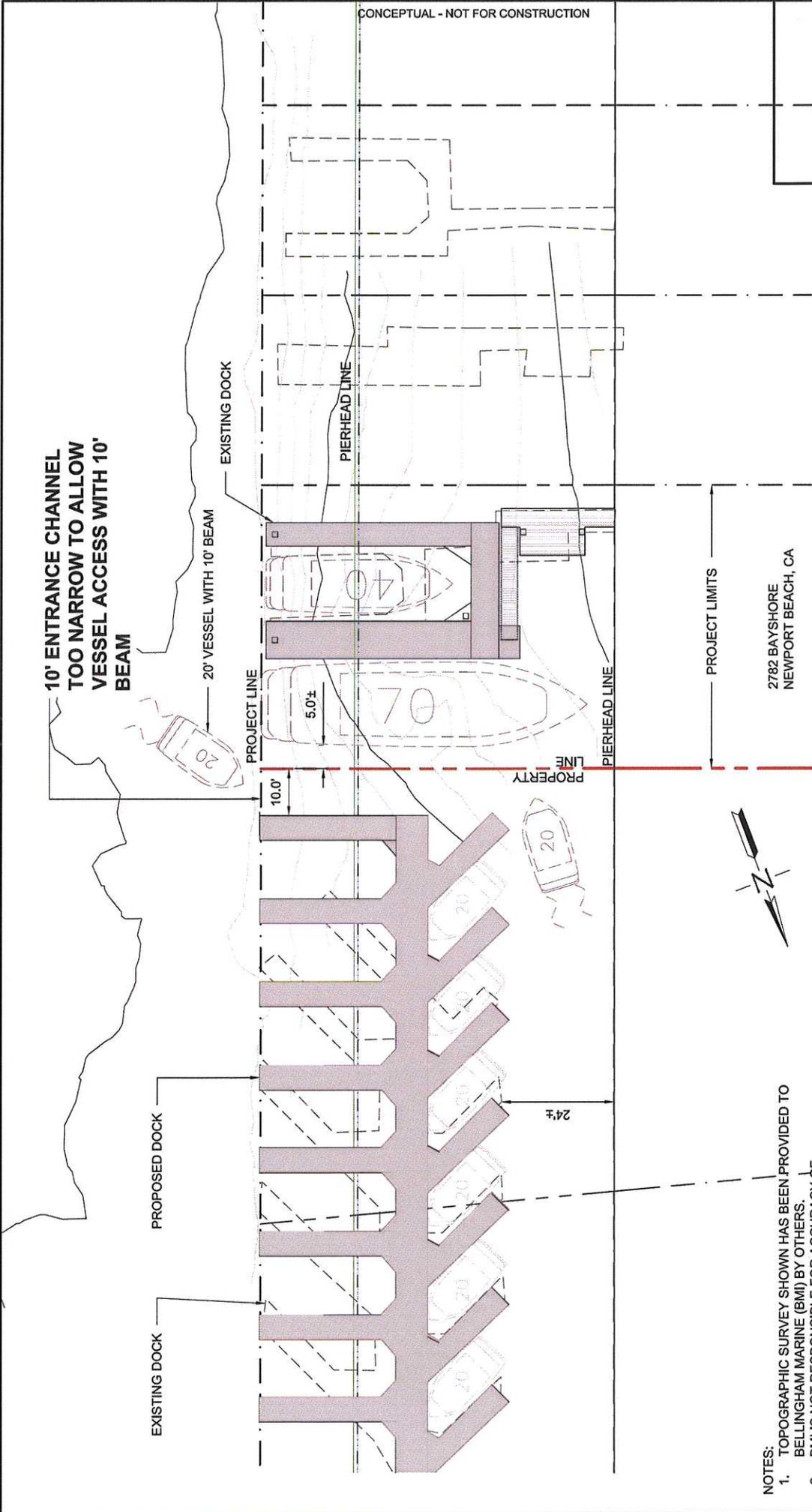
Fig. No. 11



Note 1: Installation of a floating walkway can not adversely impact the existing berthing & navigation of adjacent property docks



PROPERTY LINE CONDITIONS



NOTES:
 1. TOPOGRAPHIC SURVEY SHOWN HAS BEEN PROVIDED TO BELLINGHAM MARINE (BM) BY OTHERS.
 2. BM IS NOT RESPONSIBLE FOR ACCURACY OF TOPOGRAPHIC SURVEY.

NO.	DATE	DESCRIPTION	BY
REVISIONS			

Bellingham
MARINE
 The World's Most Comprehensive
 Marine Builder
 8810 Skating Lane
 Dixon, CA 95620
 TEL: (707) 678-1788
 FAX: (707) 678-1789

SITE IMPROVEMENT PLAN
 ACCEPTED BY: CITY ENGINEER R.C.E. EXP. DATE
 ACCEPTED BY: CITY ENGINEER R.C.E. EXP. DATE

PROJECT NUMBER: 12-3-775
 ENGINEER / DESIGNER: GEGAN BURNAZYAN
 PROJECT MANAGER: GEGAN BURNAZYAN
 CHECKED BY: *
 SCALE: AS SHOWN
 DRAWN BY: DDGB
 DATE: 04-19-2016
 SHEET NO.: *
 DRAWING: DK-4

2782 BAYSHORE
 NEWPORT BEACH, CA

KEVIN MORIARTY RESIDENCE
 2782 BAY SHORE
 NEWPORT BEACH, CA 92660

OVERALL LAYOUT AND ACCESS

CONCEPTUAL - NOT FOR CONSTRUCTION

APPEAL – 2888 BAY SHORE DRIVE (NEWPORT MARINA RECONSTRUCTION

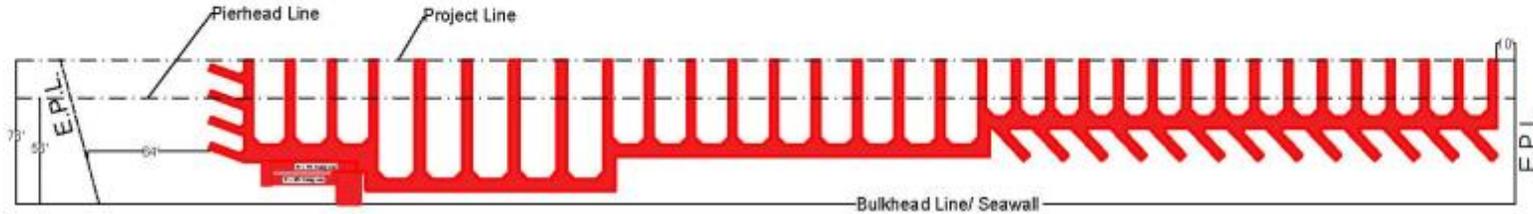
Harbor Commission Meeting
July 13, 2016

2016 Aerial





Proposed Configuration



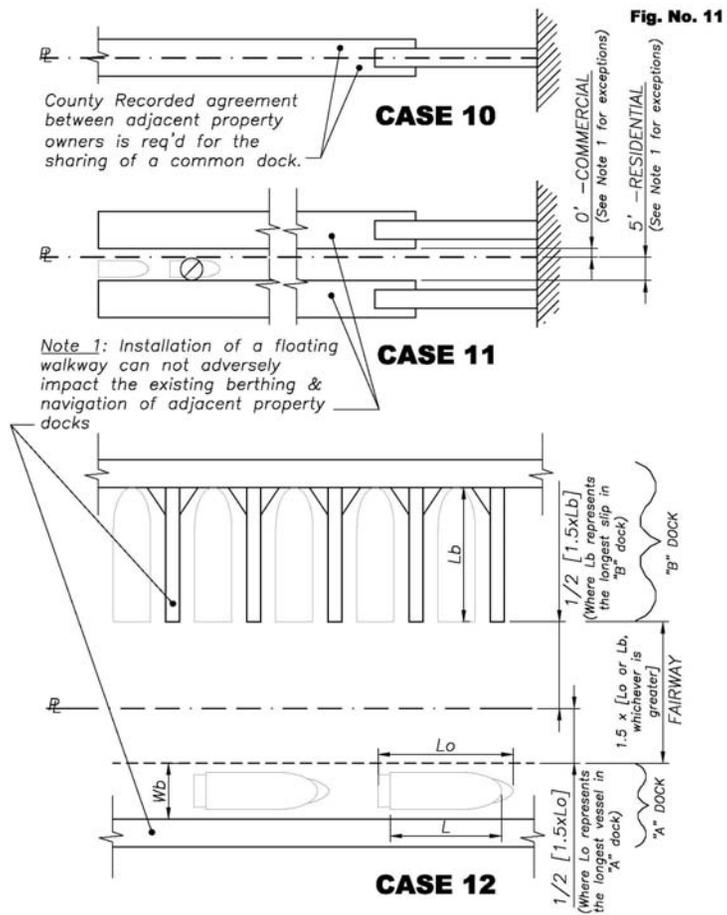
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 642 Baker St
 Costa Mesa, CA, 92626
 Phone: (949) 631-3121
 Fax: (714) 509-0618

SITE: 2888 Bayshore Drive, Newport Beach, CA
 TITLE: Proposed
 EC DRAWN: PS CHECKED: C REVISION: 4/4/16 DATE:

REV:	DESCRIPTION:	BY:	DATE:
A	original draft	TB	2/13/15
B		TB	7/28/15
C	extended space above EPL and down to 10'	EC	4/4/16
AMENDMENTS:			

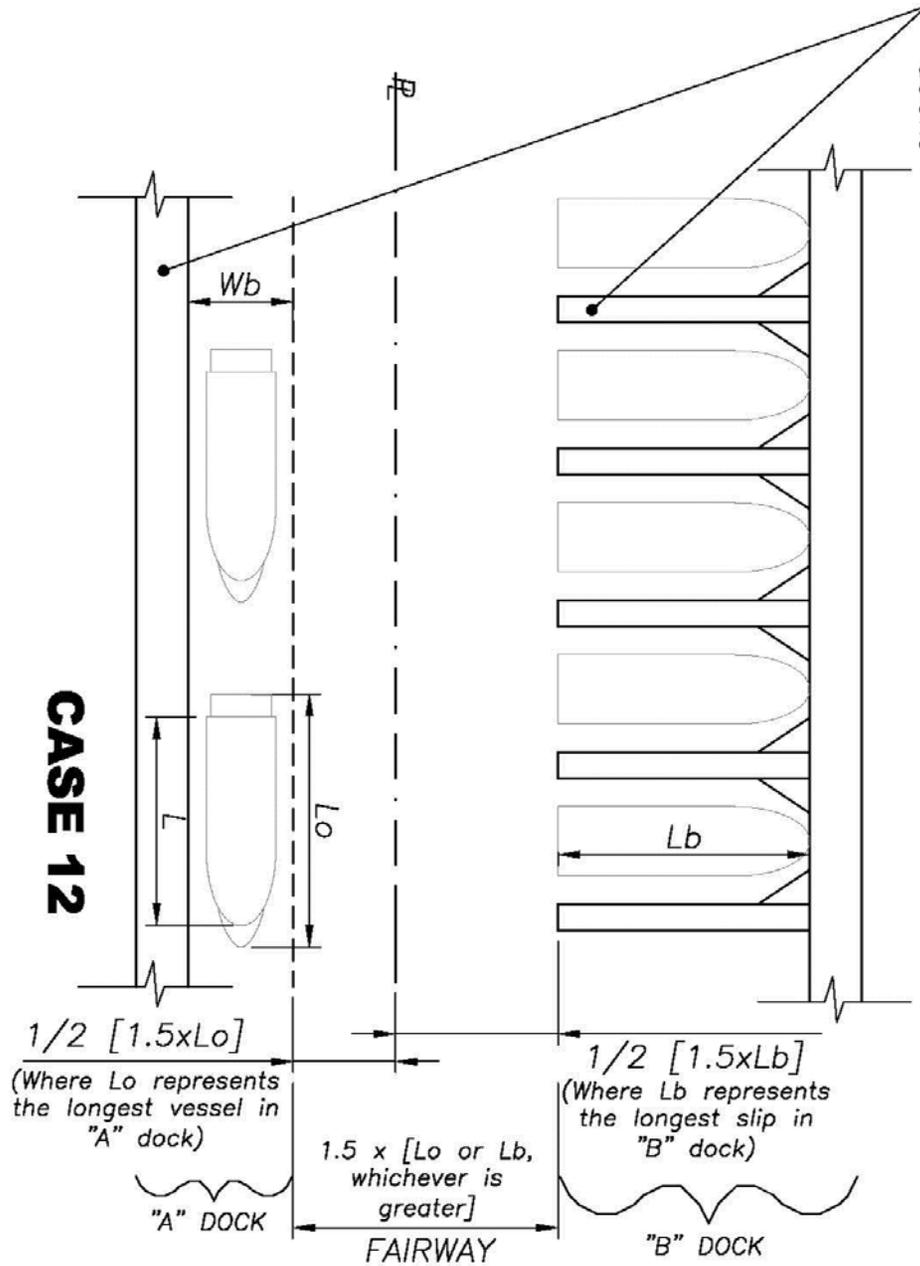
Case 12



PROPERTY LINE CONDITIONS

Case 12

PROPERTY LINE CONDITIONS



Note 1: Installation of a floating walkway can not adversely impact the existing berthing & navigation of adjacent property

CASE 11

Case 7

DOCK ARRANGEMENT CASE 7

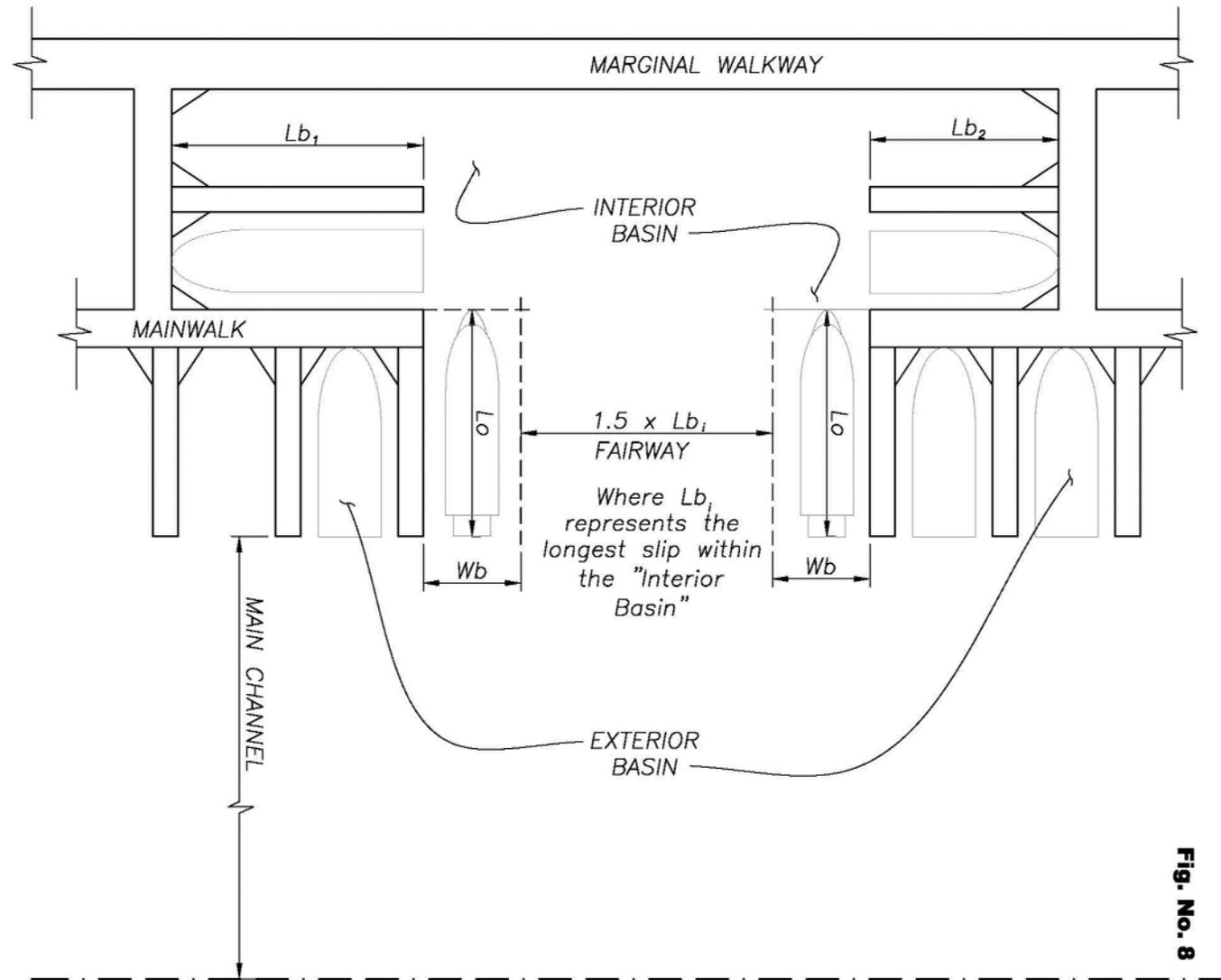
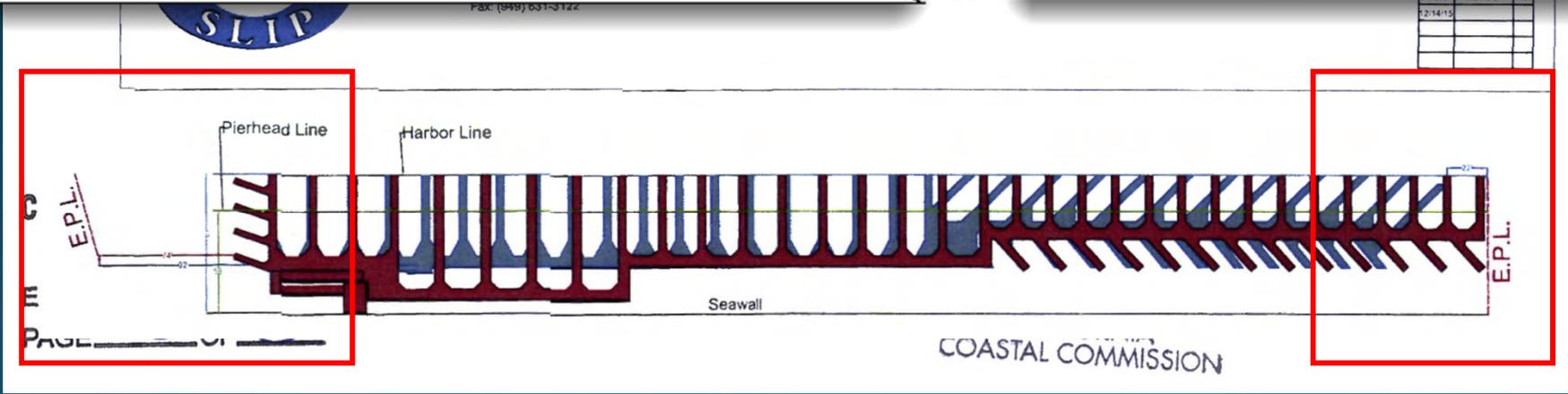
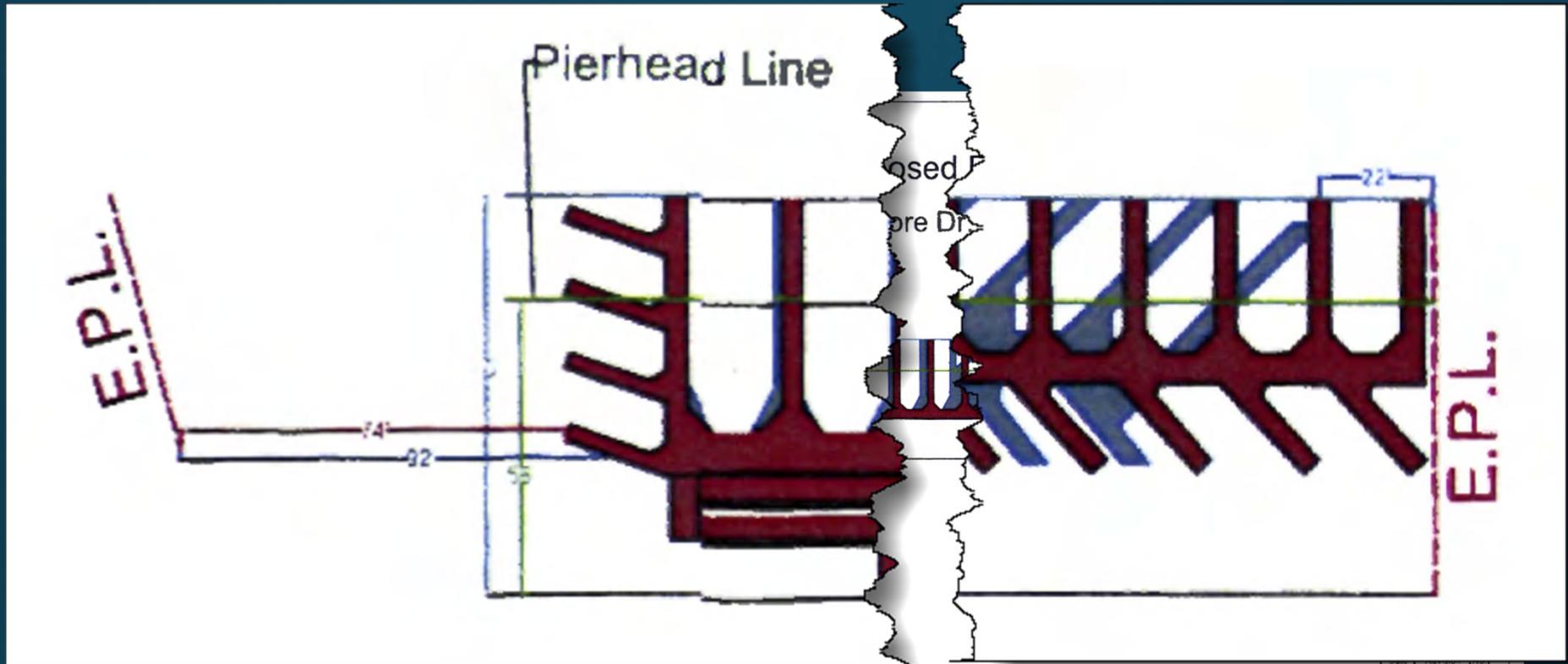


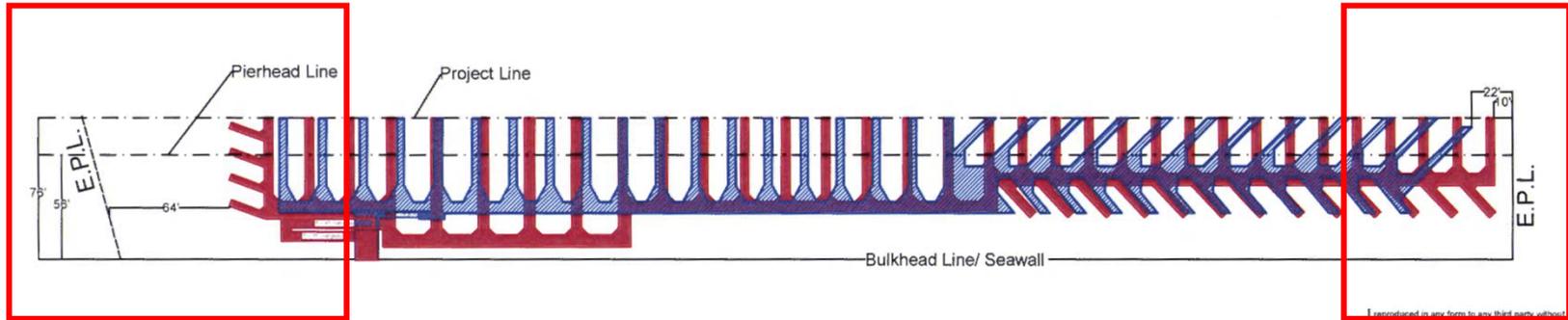
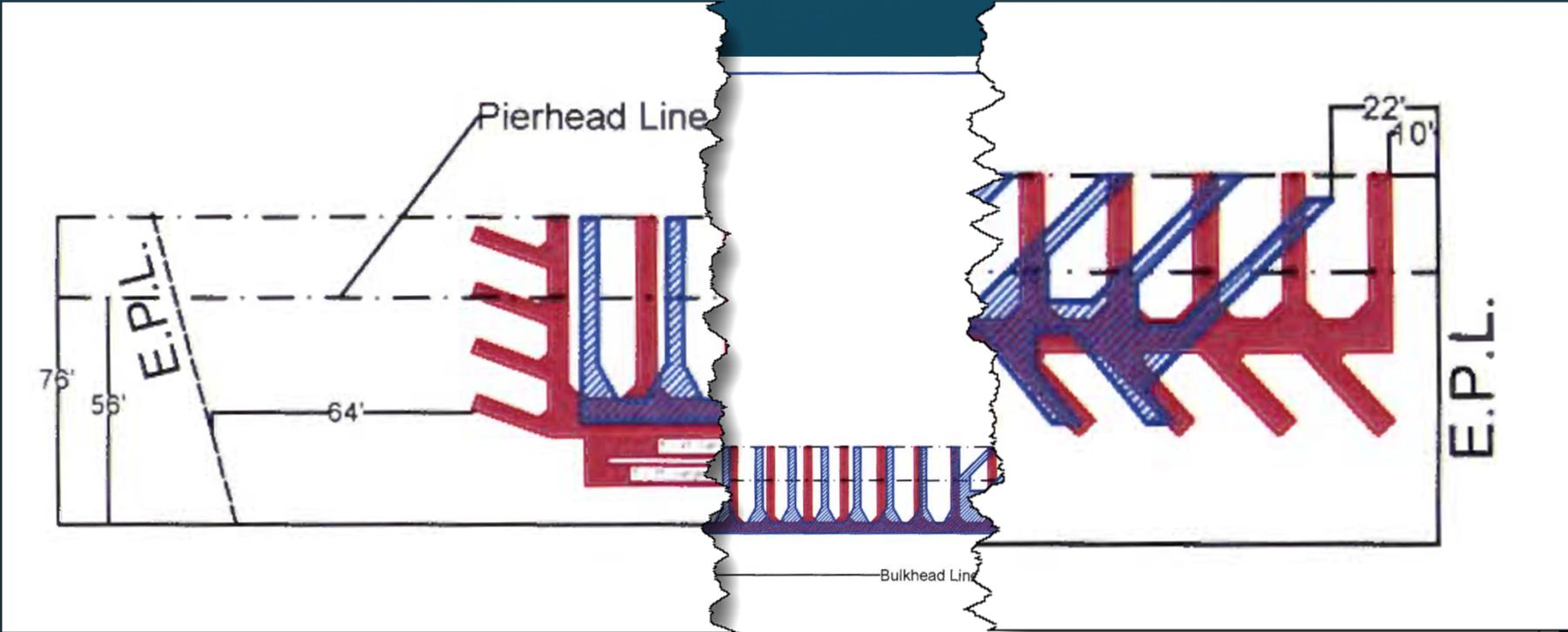
Fig. No. 8

Harbor Commission Meeting

Appeal of Approval in Concept
for Newport Marina

July 13, 2016





642 Baker St
 Costa Mesa, CA, 92626
 Phone: (949) 631-3121
 Fax: (714) 509-0618

SITE: 2888 Bayshore Drive, Newport Beach, CA

TITLE: Existing vs Proposed

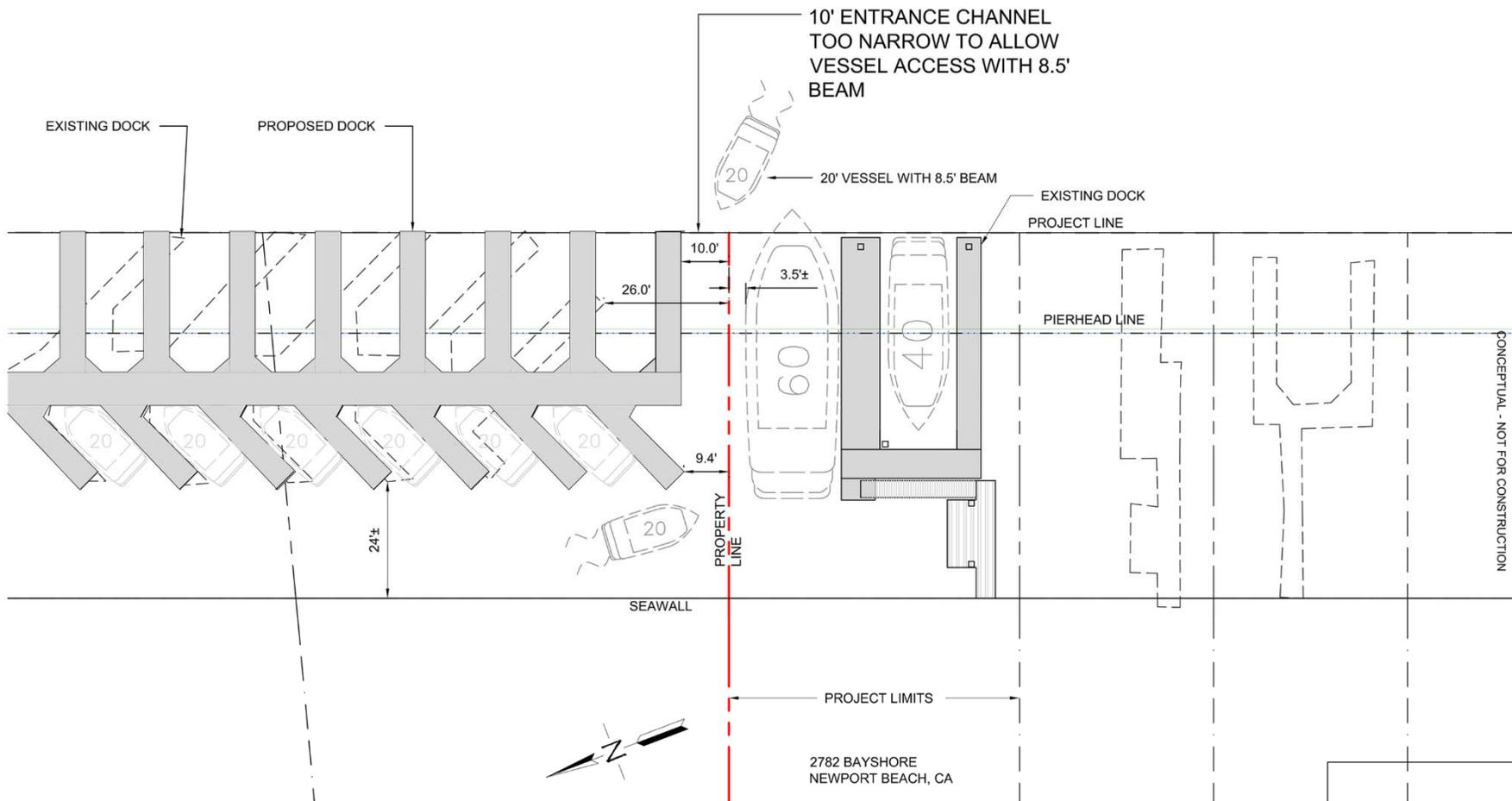
EC
 DRAWN.

PS
 CHECKED.

C
 REVISION.

4/4/16
 DATE.

A	original draft	TB	2/13/15
B		TB	7/23/15
C	extended space btwn EPL and dock to 10'	EC	4/4/16
REV:	DESCRIPTION:	BY:	DATE:
AMENDMENTS:			



NO.	DATE	DESCRIPTION	BY
REVISIONS			

Bellingham
MARINE
The World's Most Comprehensive
Marine Builder
Southwest Division
8810 Sparring Lane
Orion, CA 95020
TEL: (707) 878-2385
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Marine Industries, Inc.

SITE IMPROVEMENT PLAN

ACCEPTED BY: _____
CITY ENGINEER R.C.E. EXP. DATE _____

ACCEPTED BY: _____
CITY ENGINEER R.C.E. EXP. DATE _____

PROJECT NUMBER:
12-3-775

ENGINEER / DESIGNER:
GEGAM BURNAZYAN

PROJECT MANAGER:
-

CHECKED BY: _____

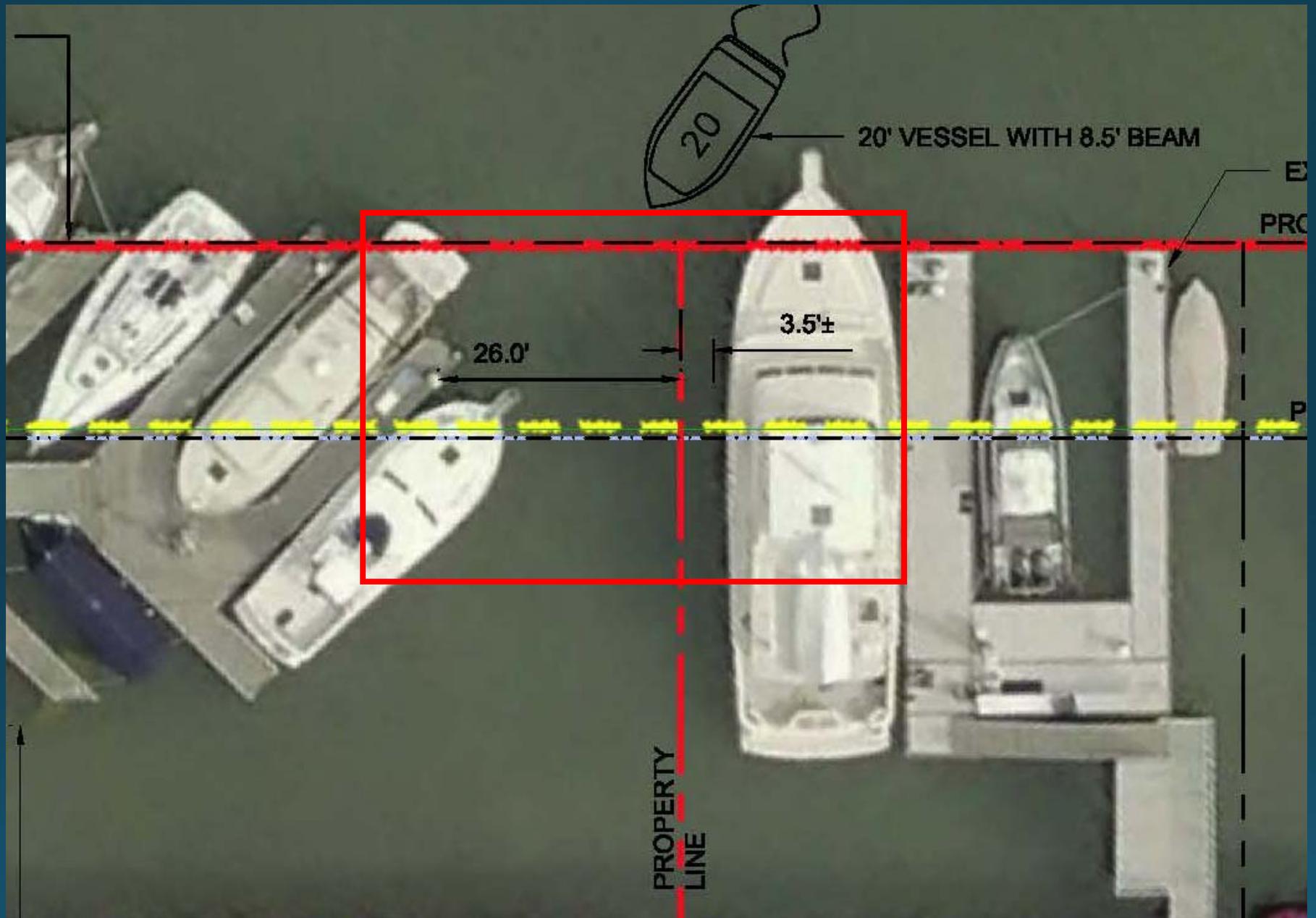
SCALE:
DRAWN BY: DD/GB

DATE: 07-16-2016

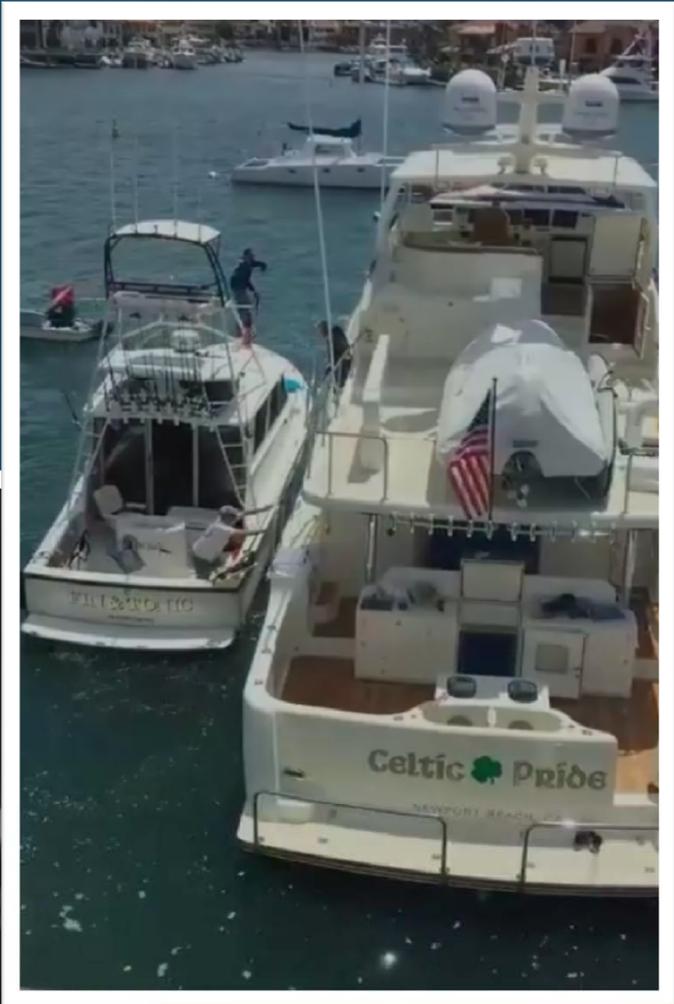
SHEET NO.: _____

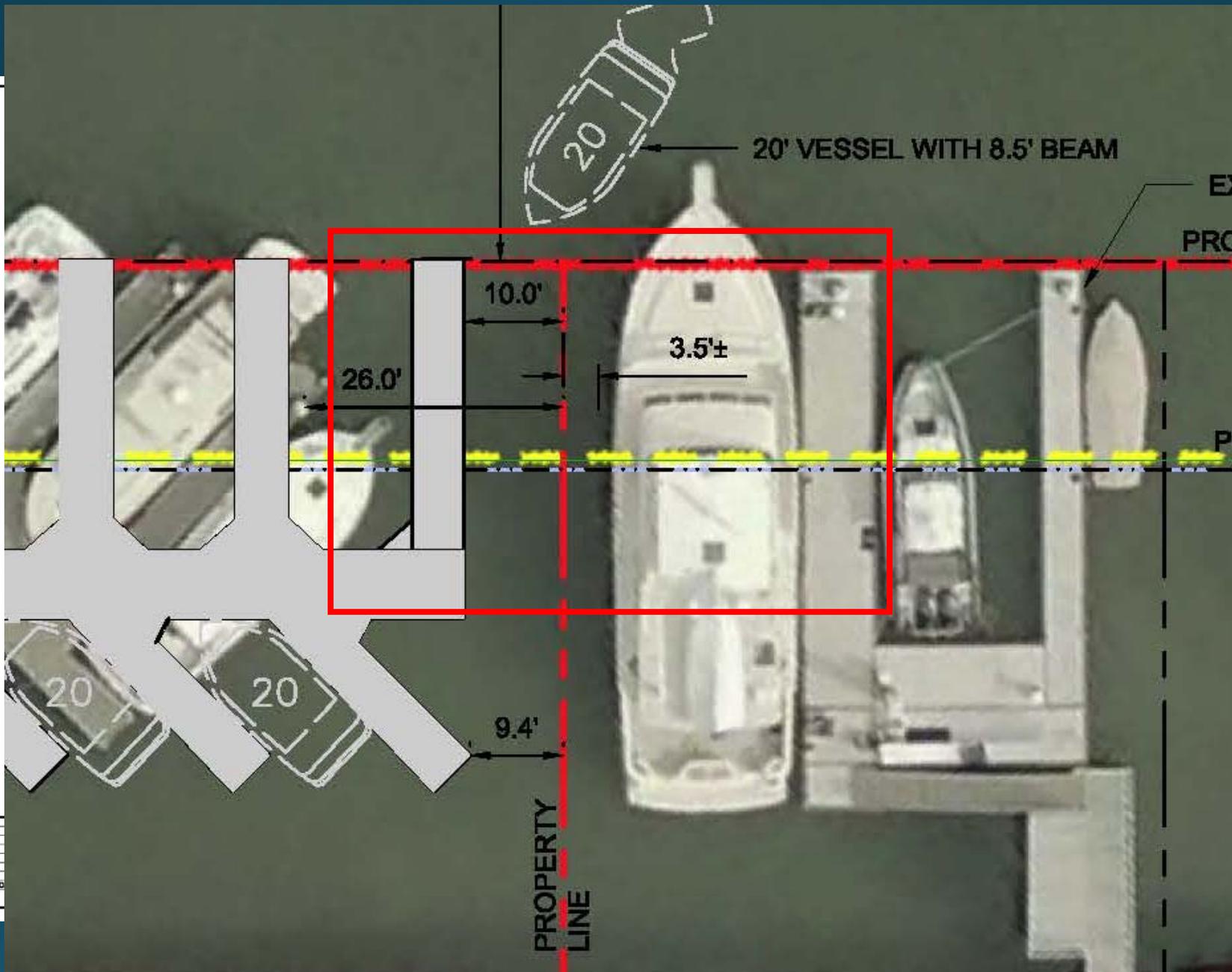
DRAWING: _____

KEVIN MORIARTY RESIDENCE
2782 BAY SHORE
NEWPORT BEACH, CA 92660



Videos





CONCEPTUAL - NOT FOR CONSTRUCTION

NO.	DATE	DESCRIPTION

P

Note 1: Installation of a floating walkway can not adversely impact the existing berthing & navigation of adjacent property docks



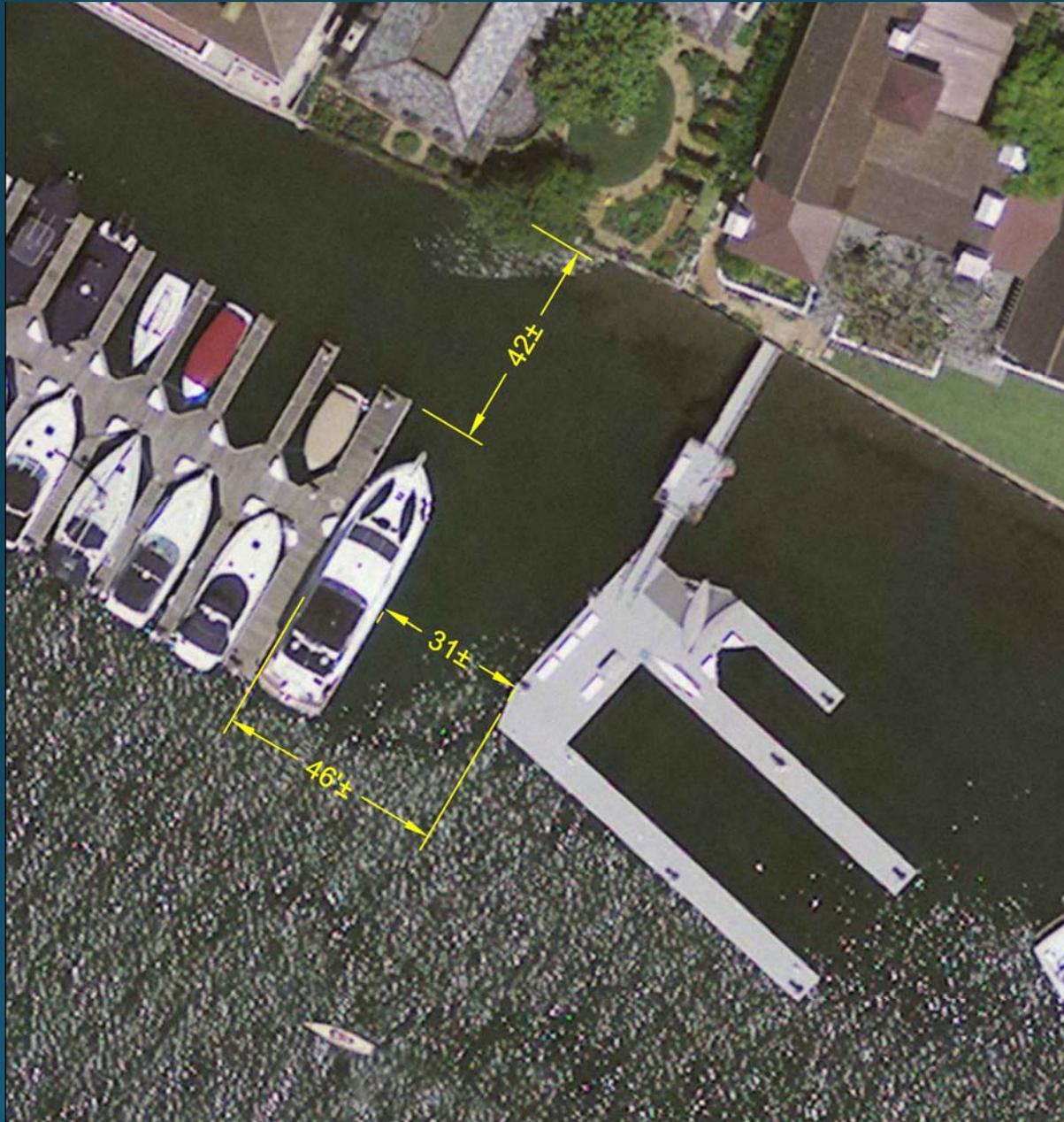
1. Eelgrass. The term "eelgrass" shall mean a marine flowering plant (*Zostera marina*) that is found primarily in coastal bays and estuaries on soft substrate.
2. Encroachment. The term "encroachment" shall mean the extension of a building, structure or other improvement, or part thereof, on the property or domain of another.
3. End Tie. The term "end tie" shall mean berths located on the outermost end of a floating dock structure where the dock is alongside only one side of the boat. The boats associated with an end tie may be situated beyond the pierhead line along the channel.
4. Erosion. The term "erosion" shall mean the wearing away of land by natural forces. On a beach, erosion is the carrying away of beach material by wave action, currents or wind.
5. Estuary. The term "estuary" shall mean the region near a creek or river mouth in which the fresh water of the river mixes with the salt water of the sea.

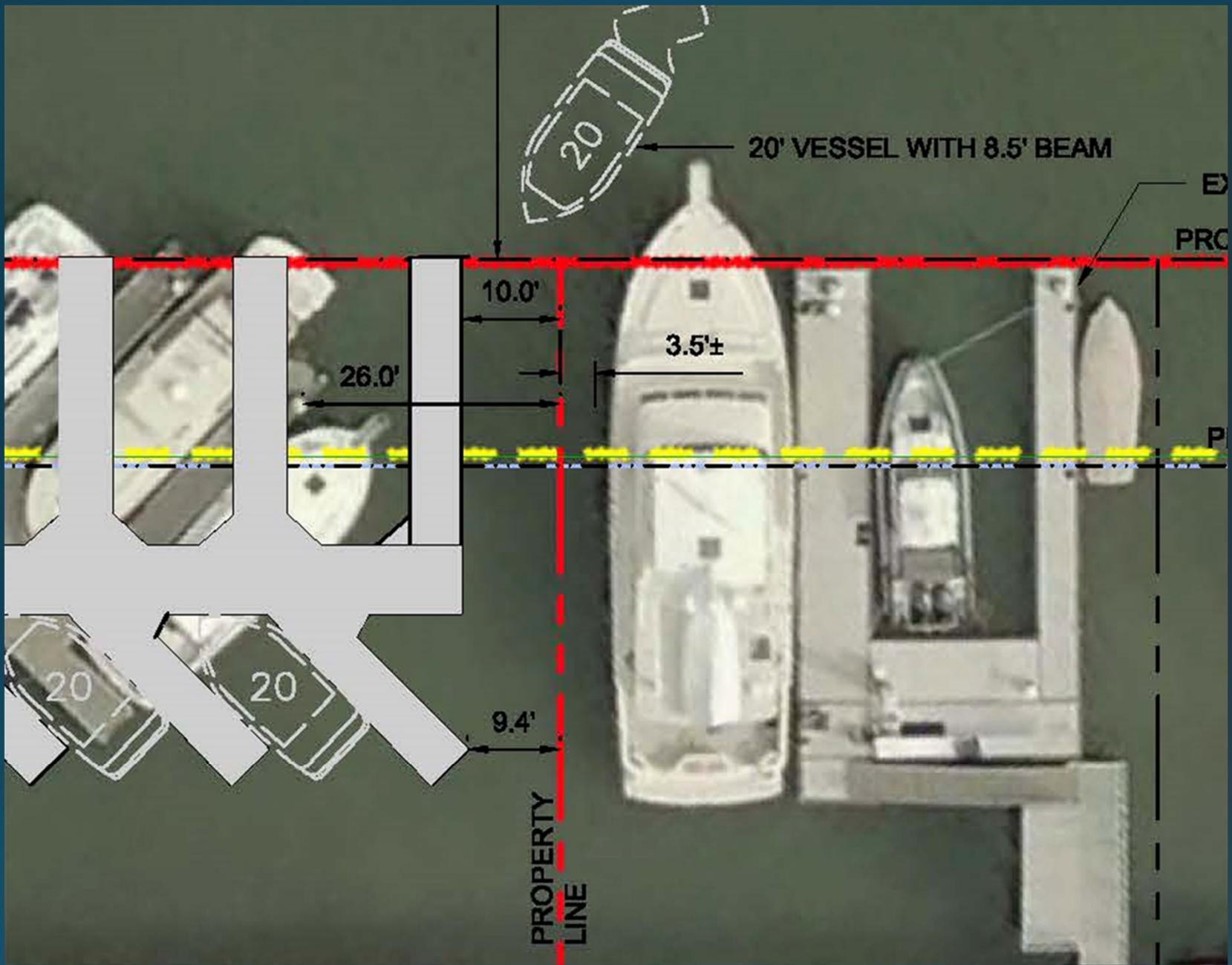
F. Definitions: F.

1. Fairway. The term "fairway" shall mean an area of water adjacent to slips that feeds into a channel, and which is used for direct access to slips. The fairway water area is defined as lying between the outer end of a line of fingers and the nearest obstruction on the opposing side (i.e., other slips, bulkhead, vessels on side ties, etc.).
2. Federal Channel. The term "Federal channel" shall mean that area of the Lower Newport Bay described by the Army Corps of Engineers, Chief of Engineer to Congress on November 11, 1936, as recorded in the First Session of the Seventy-Fifth Congress in 1937.
3. Finance Director. The term "Finance Director" shall mean the Finance Director of the City of Newport Beach or his or her respective designee.
4. Finger. The term "finger" shall mean a portion of a floating dock section that is perpendicular to





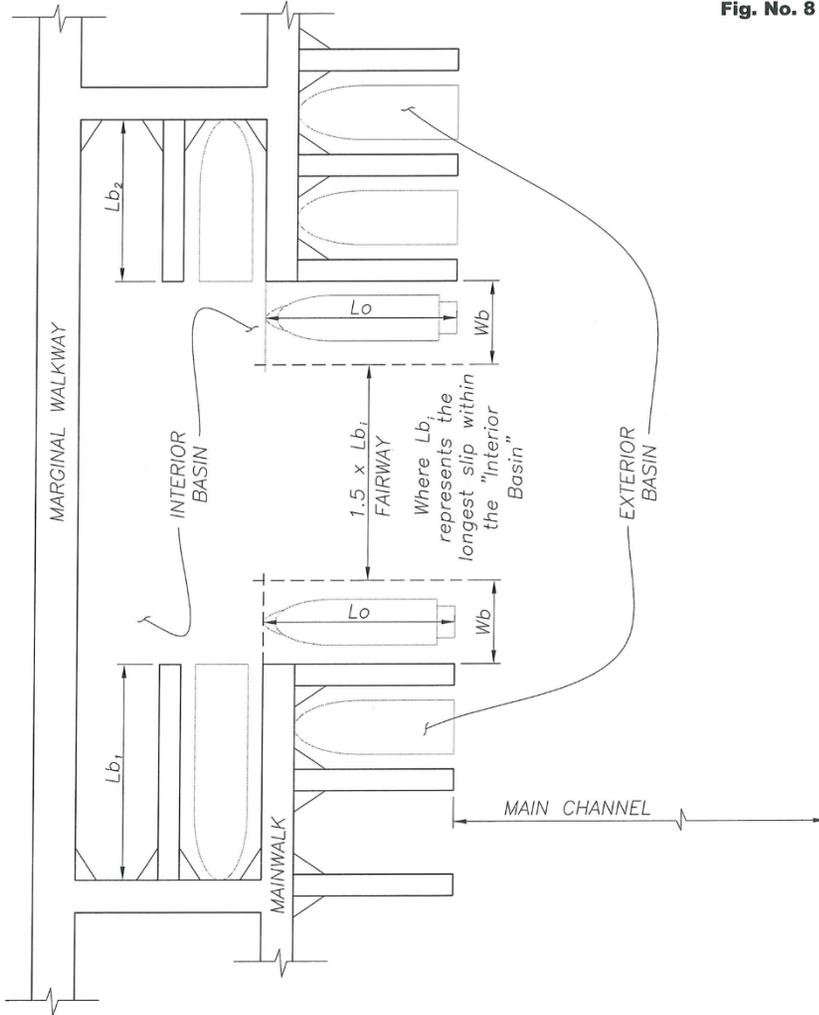




Requested Action

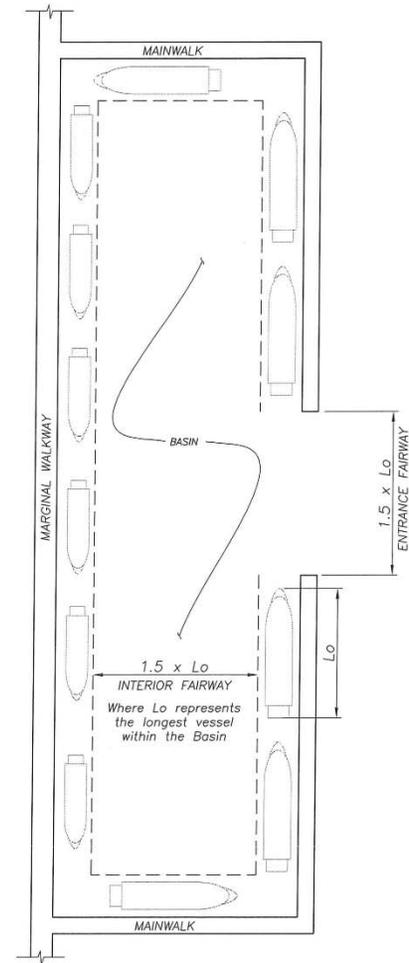
- Amend the AIC
- Require setback consistent with City Standards
- Find the 10-foot setback to be inadequate

Fig. No. 8



DOCK ARRANGEMENT
CASE 7

Fig. No. 9



DOCK ARRANGEMENT
CASE 8



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

July 13, 2016
Agenda Item No. 3

TO: HARBOR COMMISSION

FROM: Chris Miller, Harbor Manager - 949-644-3043,
cmiller@newportbeachca.gov

TITLE: 2016 Harbor Commission Narrated Harbor Tour – Ad Hoc
Committee Formation

ABSTRACT:

The Harbor Commission will form an ad hoc committee to plan a Commission narrated tour around the harbor in late 2016. Preliminary ideas and details will be discussed along with a recap of the 2014 event.

RECOMMENDATION:

1. Form an ad hoc committee to plan the tour details, and to report back to the Commission at regular intervals. Discuss preliminary ideas and suggestions based on the 2014 event.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

On November 15, 2014, the Harbor Commission hosted a narrated public tour of the harbor aboard a ferry boat. This event was very well received as it was a unique venue for a public meeting where the Commissioners could point to the various projects and programs in the harbor.

The Harbor Commission desires to hold a similar event in late 2016. The ad hoc committee will begin planning the event and will periodically return to the Commission as details unfold.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not

result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).



Welcome

What's Up in the Harbor?

A review of the Harbor Commission's current areas of focus

Speak Up Newport
March 11, 2015

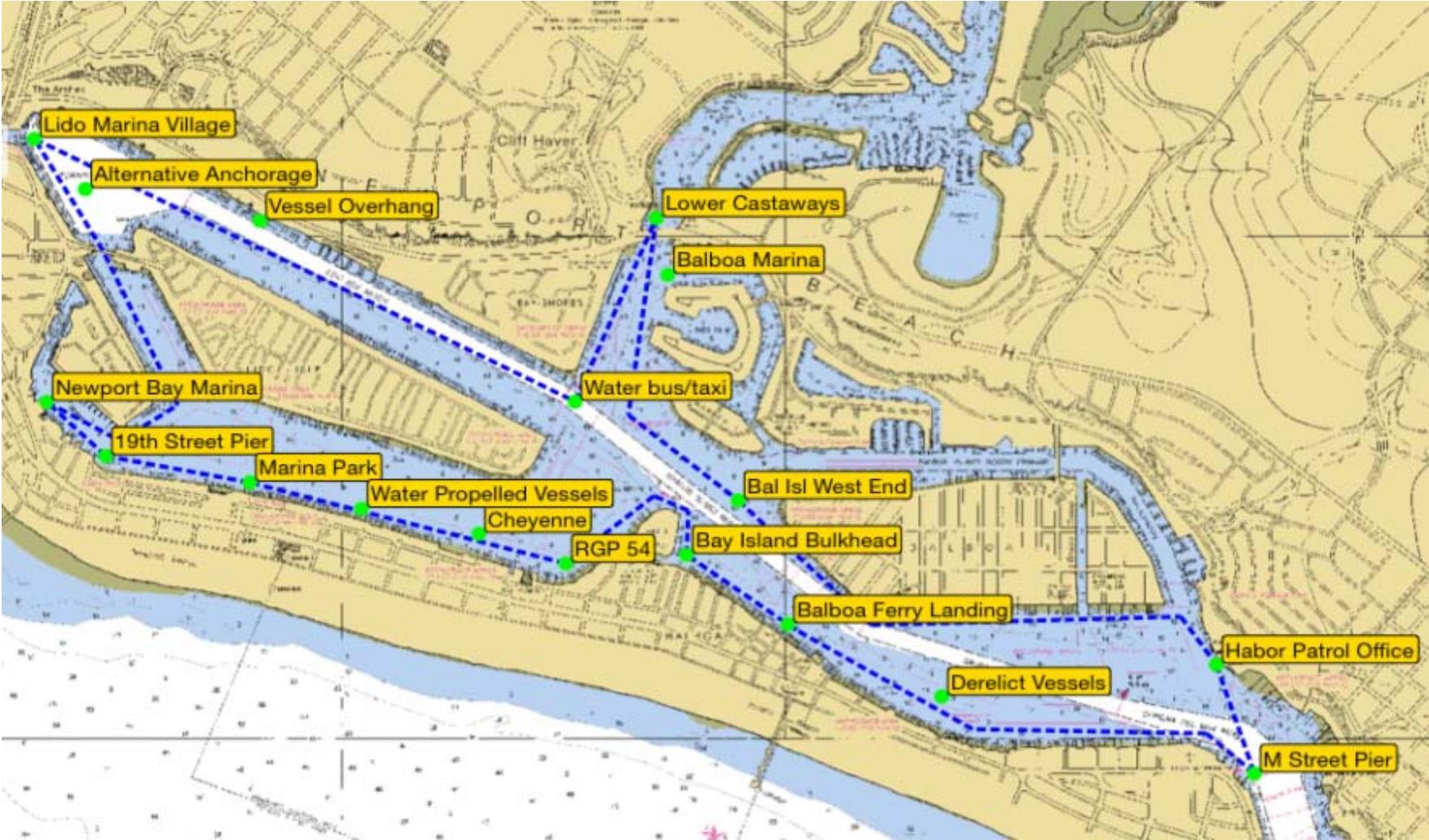
Update on City of Newport Beach Harbor Commission

- Special Harbor Commission Meeting and Tour, November 15, 2014
- Current Areas of Focus
- Q&A



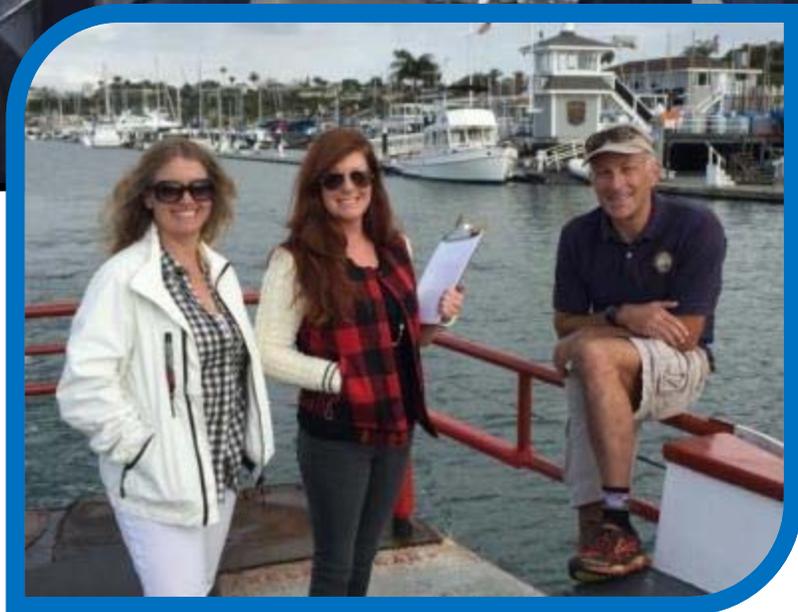
Special Harbor Commission Meeting and Tour, November 15, 2014

Route



Special Harbor Commission Meeting and Tour, November 15, 2014

The Crowd



Harbor Commission Mission and Purpose of the Harbor Tour:

- 1. To ensure the long term welfare of Newport Harbor for all residential, recreational, and commercial users.**
- 2. To promote Newport Harbor as a preferred and welcoming destination for all to enjoy.**
 - A. To communicate the Commission's role, purpose, and objectives in a unique and enjoyable manner.**
 - B. To build familiarity with the topics, terminology and geography frequently reviewed by the Harbor Commission.**

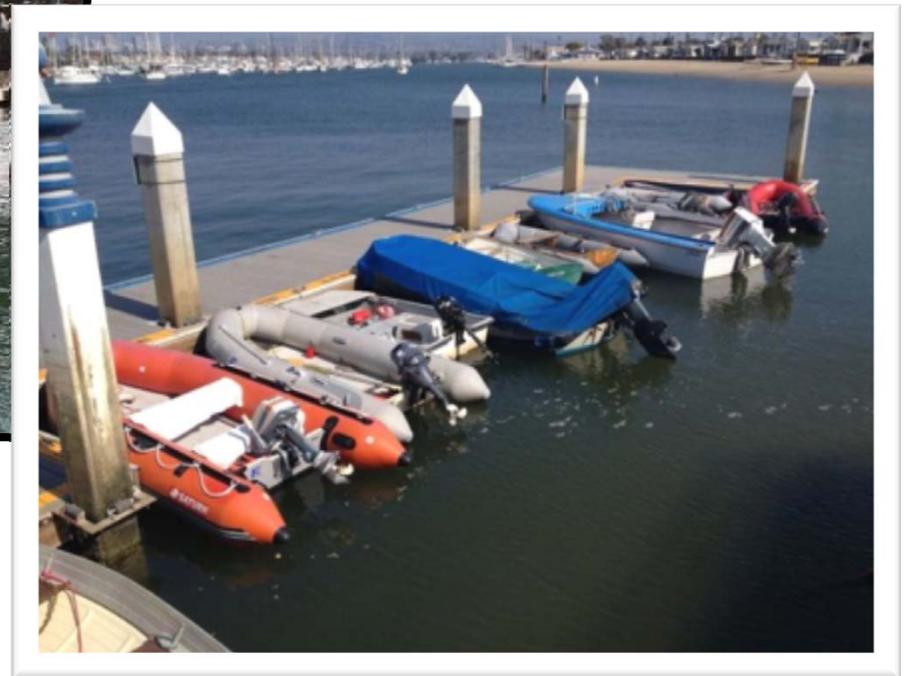


Public Piers/M Street Pier/19th Street Pier/Central Ave Pier

THEN



NOW



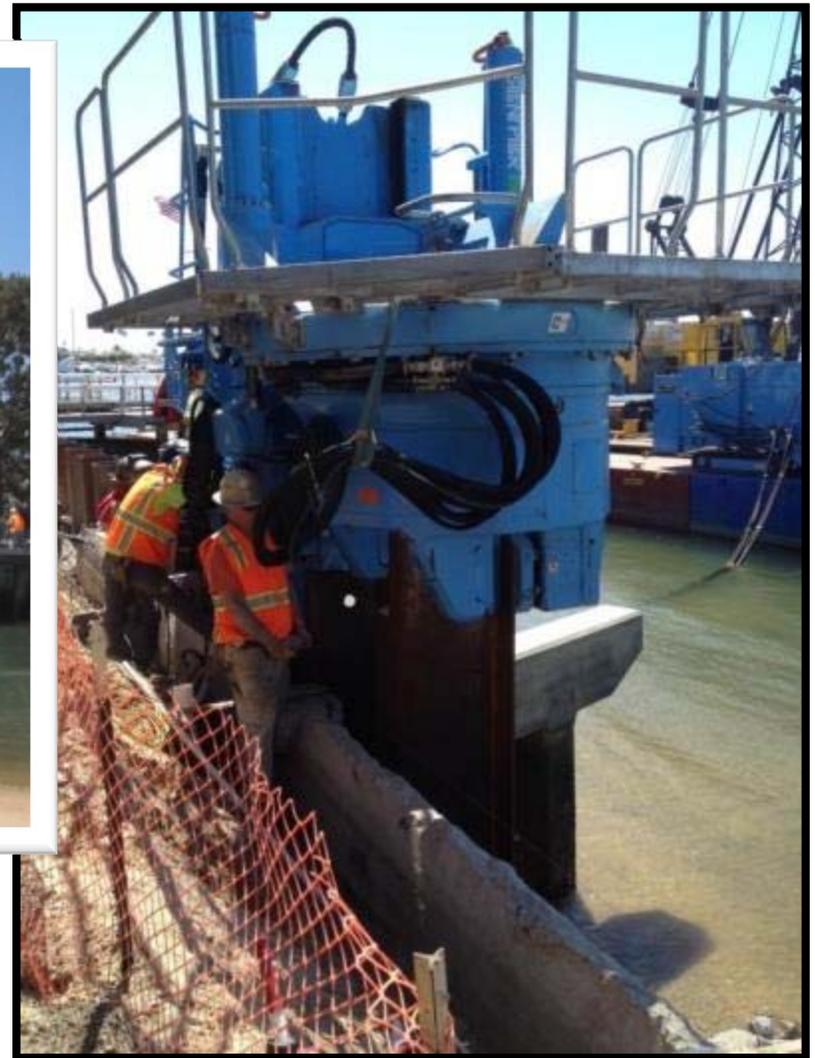
Public pier improvements and additions are underway which will facilitate better access to harbor area businesses and amenities serving both visiting and local boaters.

Derelict Vessels



- A challenging definition
- “It was someone’s love once.”
- V-TIP program and grant

Bay Island Bulkhead and Bridge Replacement



- Sheet pile/panel construction
- Vibration tool for driving piles
- Community coordination

Eelgrass Ecosystem Plan and RGP 54 Dredging Permit



HC Objective #1 - Support all efforts to achieve final interagency approval of the Newport Shallow Waters Eelgrass Mitigation Plan, facilitating a new Regional General Permit (RGP 54).

“Cheyenne” Mooring Renewal



- Temporary mooring permit
- Owner making Monthly Progress Reports to Harbor Commission
- Term of existing permit expires in July 2015

Water Propelled Vessels in Newport Harbor



- One operator in the harbor currently
- Others desire permits
- Commissioner Kenney presented HC Recommendations at Study Session 2/24

Newport Bay Marina



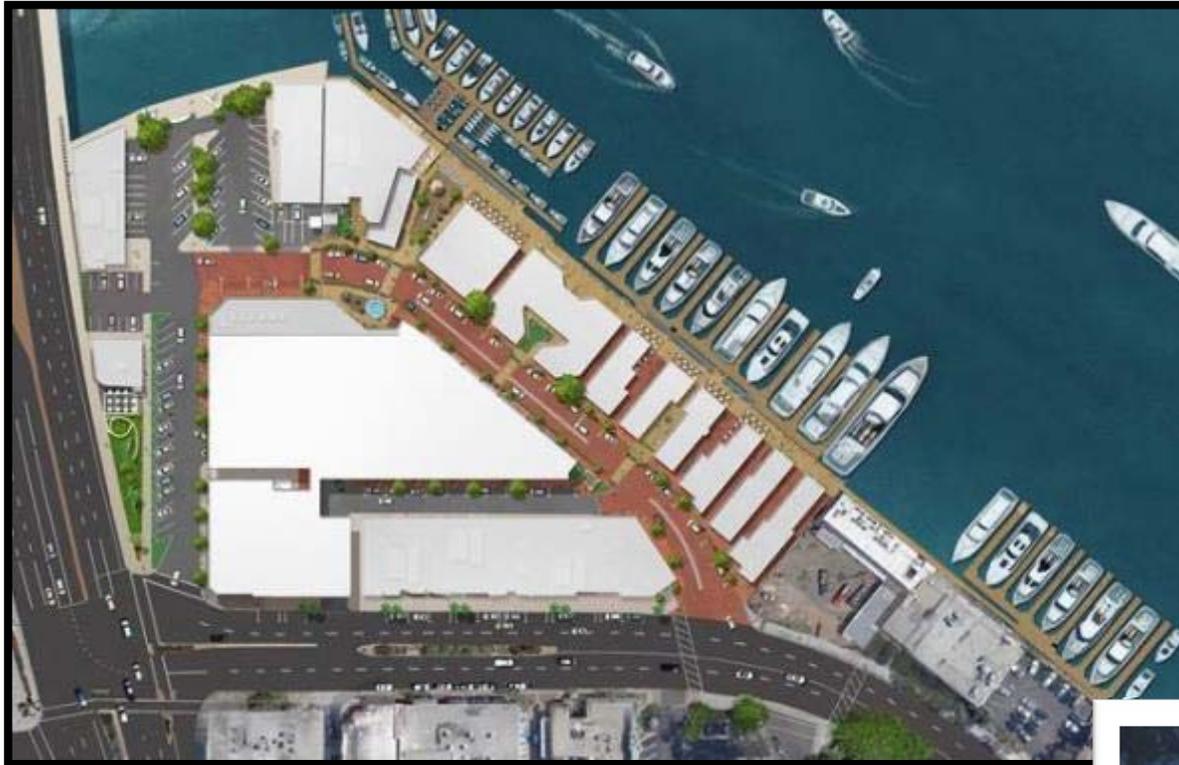
- Mixed-use upland development
- New commercial marina

Alternative Anchorages in West Turning Basin and CdM Cove

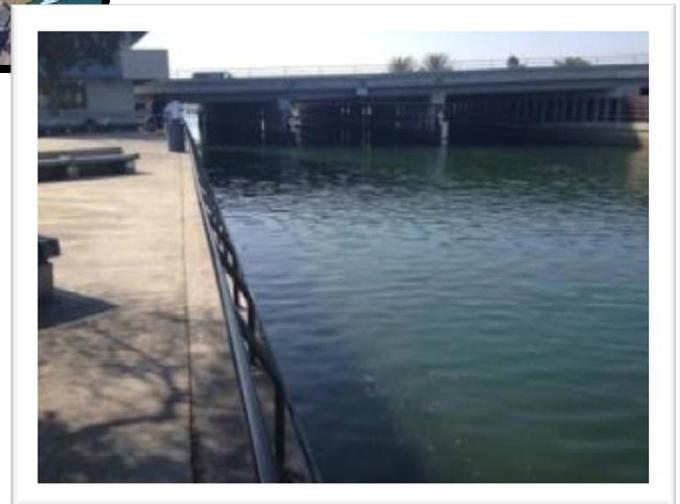


Complete the evaluation of public moorage and anchorage alternatives. Specifically address the concept of an anchorage in the Turning Basin such as the one used on a temporary basis during the 2012 Lower Bay dredging project, and the suggestion of day-use moorings off Big Corona beach.

Lido Marina Village



- Improved upland development
- Improved commercial marina
- Opportunity for new public pier

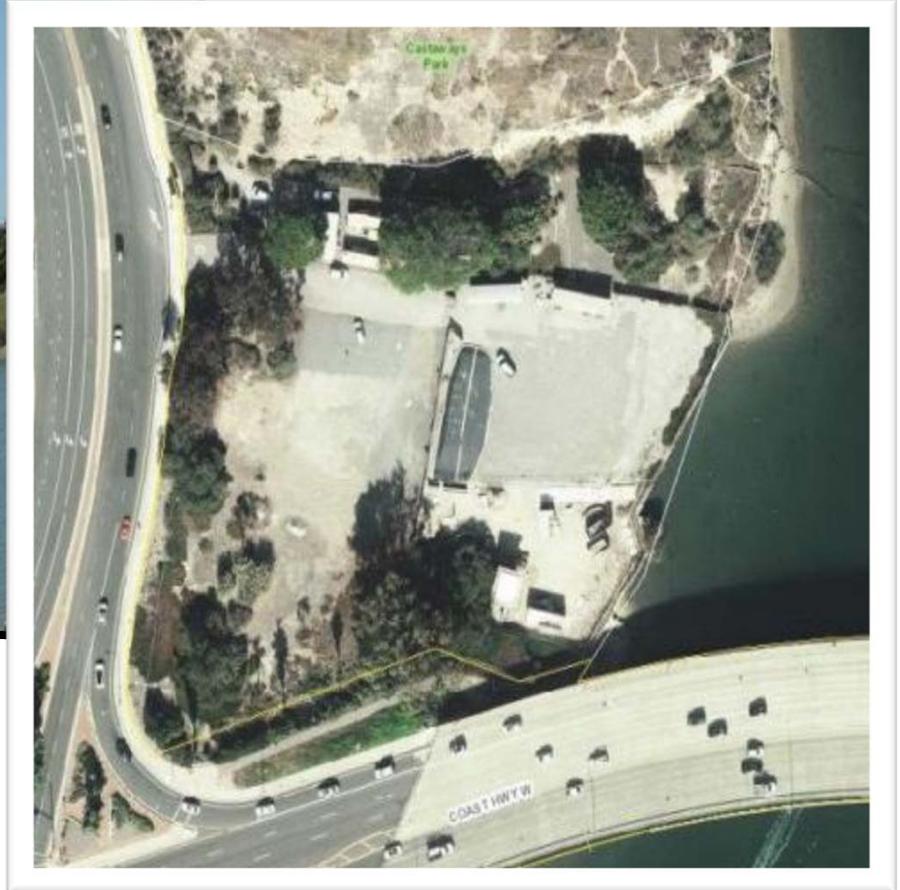


Water Bus/Taxi



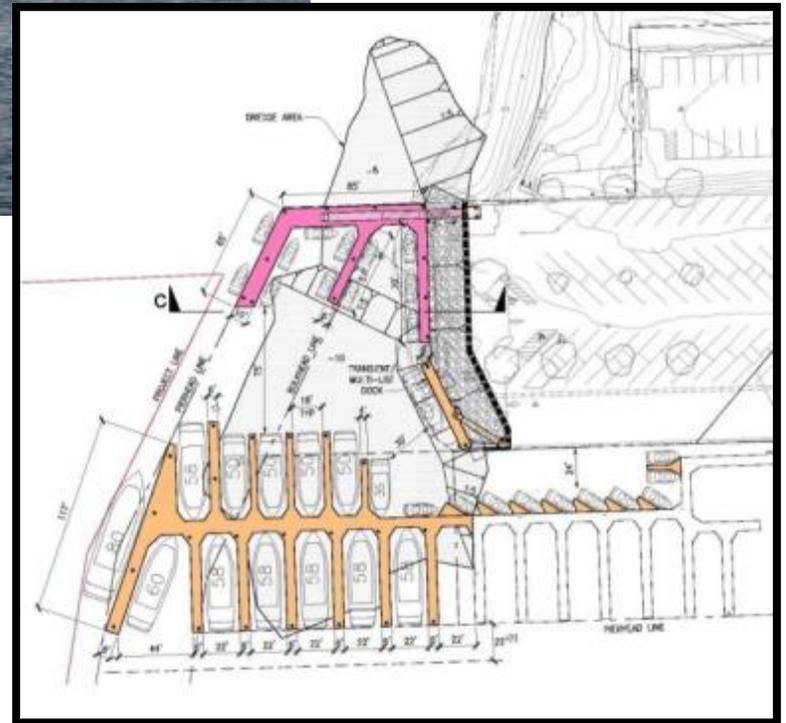
Recently removed from Harbor Commission Focus

Lower Castaways



Complete the development of recommendations for the best public use of Lower Castaways. Current plans include parking, grass/picnic area, facilities for hand-launched crafts, connection to Upper Castaways and various bike and pedestrian trails.

Balboa Marina (PCH & Bayside Dr.)



- Additional slips for Cal Rec
- Additional public dock – City managed
- Additional/Preferred access to adjacent amenities

Balboa Island Seawall Improvements



- Aging seawalls need repair and/or replacement
- Height concerns relative to projected sea level rise
- Cost

Mooring Administration Review



- Review of recent changes to City's administration of moorings
- Develop recommendations and return to the City Council with a path forward

Many Thanks / Photo Credits:

- Len Bose
- Taylor Hill
- Doug West
- Joe Stapleton
- Harbor Resources
- [Images.Google.com](https://www.google.com/images/)

Feedback:

- Areas of the Harbor in Need of Additional Attention?
- Question, Comments, Concerns...