

Technical Appendix M2

Coastal Land Use Plan Consistency Analysis for the Balboa Marina West Project

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1.0 Document Purpose

In support of the Balboa Marina West Project, T&B Planning Inc. prepared this analysis of the policies contained in the City of Newport Beach’s Coastal Land Use Plan. It is our understanding that the Project proposes to add a new public boat dock in Lower Newport Bay, expand the existing Balboa Marina by adding additional private boat slips, and to demolish portions of the existing Balboa Marina parking lot and a 1,200 square-foot building in order to construct a reconfigured parking lot and a new 19,400 square-foot marine commercial building with an outdoor patio and tuck-under parking.

The City of Newport Beach does not have a certified LCP, and therefore, does not have the jurisdiction to issue Coastal Development Permits (CDP). The City does, however, have a Coastal Land Use Plan that has been certified by the California Coastal Commission. Because the City does not have permit jurisdiction, the City reviews pending development projects for consistency with the City’s General Plan, Coastal Land Use Plan, and Zoning regulations before an applicant can file for a CDP with the Coastal Commission. The City is presently in the process of preparing an Implementation Plan for the City’s Coastal Land Use Plan. The City relies on the California Coastal Commission to issue development permits.

The Coastal Land Use Plan sets forth goals, objectives, and policies that govern the use of land and water in the coastal zone within the City of Newport Beach and its sphere of influence, with the exception of Newport Coast and Banning Ranch. The analysis of the proposed Project’s consistency with the Coastal Land Use Plan is presented below.

1.1 Findings

Coastal Land Use Plan Policy	Project Consistency Analysis
Land Use and Development	
<i>Policy 2.1.2-1. Development in each district and corridor shall adhere to policies for land use type and density/intensity contained in Table 2.1.1-1, except as modified in Sections 2.1.3 to 2.1.8.</i>	The Project would have an FAR that is below 0.30 and proposes a coastal-dependent commercial development and marina expansion. The Project would be consistent with the policies for land use type and density/intensity contained in Table 2.1.1-1. Thus, the Project would comply with Policy 2.1.2-1.
<i>Policy 2.1.7-2. New development shall provide for the protection of the water quality of the bay and adjacent natural habitats. New development shall be designed and sited to minimize impacts to public views of the water and coastal bluffs.</i>	The proposed Project has the potential to temporarily impact the water quality of Newport Bay through sedimentation and turbidity during water-side construction and dredging activity (approximately 4 weeks). Mitigation measures contained in the Hydrology/Water Quality section of the Project’s MND would reduce impacts to a level of less than significant. During long-term Project operation and according to the Project-specific WQMP included as <i>Appendix I</i> to this document, new area drains are proposed to direct



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	<p>low-flow and first-flush runoff to mechanical water quality bio-treatment systems prior to discharging runoff water through the existing bulkhead outlets and into Newport Harbor. The proposed water quality features would minimize the amount of pollutants discharged from the site into Newport Harbor. The Project would not result in significant and unavoidable adverse visual impacts to Newport Bay. Accordingly, the Project would be consistent with Policy 2.1.7-2.</p>
<p><i>Policy 2.2.1-1. Continue to allow redevelopment and infill development within and adjacent to the existing developed areas in the coastal zone subject to the density and intensity limits and resource protection policies of the Coastal Land Use Plan.</i></p>	<p>The Project proposes redevelopment of the site and would comply with the site's intensity restriction of 0.30 FAR. As noted herein, the Project would be consistent with all applicable resource protection policies of the Coastal Land Use Plan. Thus, the Project would be consistent with Policy 2.2.1-1.</p>
<p><i>Policy 2.2.1-2. Require new development be located in areas with adequate public services or in areas that are capable of having public services extended or expanded without significant adverse effects on coastal resources.</i></p>	<p>The construction of a new 19,400 SF marine commercial building would represent the re-use or infill of an existing property, which currently contains only a 1,200 SF commercial building and surface parking lot and is underutilized. The proposed Project would be adequately served by police and fire services. As indicated under the discussion of Utilities and Service Systems, although some improvements are proposed, the area's existing infrastructure is adequate to serve the Project. As such, the proposed Project would be consistent with Policy 2.2.1-2.</p>
<p><i>Policy 2.2.1-3 Provide commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads.</i></p>	<p>The Project site would be accessed directly from East Coast Highway, as occurs under existing conditions, thereby minimizing the use of coastal access roads. Accordingly, the Project would be consistent with Policy 2.2.1-3.</p>
<p><i>Policy 2.2.2-4. Implement building design and siting regulations to protect coastal resources and public access through height, setback, floor area, lot coverage, building bulk, and other property development standards of the Zoning Code intended to control building placement, height, and bulk.</i></p>	<p>The Project proposes redevelopment of the site and would comply with the site's intensity restriction of 0.30 FAR. Because the AIC application currently on file with the City of Newport Beach includes a conceptual building design, specifics regarding the building's architectural characteristics are not definitive at this time. Specifics regarding the building's architecture would be identified as part of a future SDP, which is a subsequent application that would be submitted to the City should the AIC be approved. The proposed building's massing, height, color scheme, and general architectural style as proposed on the AIC</p>



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	<p>application would protect coastal resources and coastal access. Public access would be provided between the proposed building and the proposed new public transient boat dock. The Site Development Review (SDR) application also would be reviewed by the City for conformance with all of the development standards specified by the City's Zoning Code for the CM Zoning District and the policies of the City's General Plan. Accordingly, the Project would be consistent with Policy 2.2.2-4.</p>
<p><i>Policy 2.3.1-1. Permit visitor-serving retail and eating and drinking establishments in all commercially designated areas.</i></p> <p><i>Policy 2.3.1-2. Continue to provide waterfront-oriented commercial uses, including eating and drinking establishments and recreation and entertainment establishments, as a means of providing public access to the waterfront.</i></p>	<p>The Project is anticipated to accommodate a restaurant with outdoor patio facing Newport Harbor that is open to the public within the proposed marine commercial building. Public access would be provided between the building and the proposed public boat dock. Public access also would be provided from the Balboa Marina parking lot and surrounding street and sidewalk system. Accordingly, the Project would be consistent with Policies 2.3.1-1 and 2.3.1-2.</p>
<p><i>Policy 2.3.1-3. On land designated for visitor-serving and/or recreational uses, give priority to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependent industry.</i></p>	<p>The Project site is designated Recreational and Marine Commercial by the Coastal Land Use Plan. The proposed marine commercial building, new public boat dock with 12 slips, and additional private boat slips at the Balboa Marina would encourage public use of coastal resources, in conformance with Policy 2.3.1-3.</p>
<p><i>Policy 2.3.1-4. Protect oceanfront land designated for visitor-serving and/or recreational uses for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.</i></p>	<p>The Project site would be developed in accordance with the site's Recreational and Marine Commercial Coastal Land Use Plan designation. The Project would provide a total of 32 new boat slips, which would enhance recreational uses. In addition, the construction of a new 19,400 SF waterfront marine commercial building would represent an effective visitor-serving re-use of an existing waterfront property. Part of the water-side portion of the site was occupied for approximately 40 years by a floating vessel that housed the Ruben E. Lee Riverboat restaurant and later by the Newport Harbor Nautical Museum, but the vessel was dismantled and removed from the site in 2008. The new restaurant would be a replacement of the former use. The site is currently underutilized. Accordingly, the Project would be consistent with Policy 2.3.1-4.</p>
<p><i>Policy 2.3.1-10. Support continued operation of passenger/sightseeing boats, passenger/fishing boats</i></p>	<p>The Project proposes to add a new public boat dock in Lower Newport Bay and improve and</p>



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<p><i>("day boats"), and long-term boat rentals and sales.</i></p> <p><i>Policy 2.3.3-4. Encourage visitor-serving and recreational developments that provide public recreational opportunities.</i></p>	<p>expand the existing Balboa Marina. The new public dock would include a gangway and approximately twelve (12) public boat slips including eight (8) new transient boat slips and four (4) transient boat slips that would be relocated to the public dock from the existing private Balboa Marina. The public slips are for transient boaters, meaning that there would be no overnight tie ups allowed and no boat launches from this area. Rented boats and passenger boats would be able to use these transient slips. It is anticipated that boaters would access the public dock from the water-side and use the slips to tie up and access the land-side restaurants and commercial uses. The new public boat dock in Lower Newport Bay would provide a new point of vertical public access and enhance visitor boater's ability to access the land from the water. Therefore, the Project would comply with Policies 2.3.1-10 and 2.3.3-4.</p>
<p><i>Policy 2.4.1-1. Give priority to coastal-dependent uses over other uses on or near the shoreline.</i></p>	<p>As part of the Project, a new public boat dock providing 12 slips and an additional 24 private boat slips in the Balboa Marina would be accommodated, which are "coastal-dependent" uses. In addition, the proposed marine commercial building will include public restrooms and tenant space that can accommodate coastal-dependent uses. Thus, the Project would be consistent with Policy 2.4.1-1.</p>
<p><i>Policy 2.4.1-2. When appropriate, accommodate coastal-related developments within reasonable proximity to the coastal-dependent uses they support.</i></p>	<p>In addition to the coastal-dependent uses on-site, a restaurant is planned to be accommodated within the proposed marine commercial building, and would be located in close proximity to the existing and proposed boat slips. The proposed marine commercial building will include public restrooms and an office to accommodate the yacht brokerage business displaced from the existing building that would be demolished. Accordingly, the Project would be consistent with Policy 2.4.1-2.</p>
<p><i>Policy 2.4.1-3. Discourage re-use of properties that result in the reduction of coastal-dependent commercial uses. Allow the re-use of properties that assure coastal-dependent uses remain, especially in those areas with adequate infrastructure and parcels suitable for redevelopment as an integrated project.</i></p>	<p>No coastal-dependent uses will be displaced by the Project. The proposed marine commercial building will include public restrooms and an office to accommodate the yacht brokerage business displaced from the existing building that would be demolished. The Project will increase coastal-dependent uses by providing 12 new public boat slips and an additional 24 private boat slips in the Balboa Marina. Thus, the Project would result in a</p>



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	net increase in coastal-dependent commercial uses on-site, in conformance with Policy 2.4.1-3.
<p><i>Policy 2.4.1-4. Design and site new development to avoid impacts to existing coastal-dependent and coastal-related developments. When reviewing proposals for land use changes, give full consideration to the impact on coastal-dependent and coastal-related land uses including not only the proposed change on the subject property, but also the potential to limit existing coastal-dependent and coastal-related land uses on adjacent properties.</i></p>	<p>No coastal-dependent uses will be displaced by the Project. The proposed marine commercial building will include public restrooms and office uses to accommodate the yacht brokerage business displaced from the existing building that would be demolished. The Project will increase coastal-dependent uses by providing 12 new public boat slips and an additional 24 private boat slips in the Balboa Marina. Existing coastal-dependent and coastal related uses adjacent to the Project site are the residential docks at Linda Isle to the south and the Newport Marina to the west; neither of these uses will be impacted by the Project. The Project would have a positive effect on coastal resources and would therefore be fully consistent with Policy 2.4.1-4.</p>
<p><i>Policy 2.4.1-5. Maintain the Recreational and Marine Commercial (CM) land use category and allow CM uses in the Mixed Use land use categories (MU-V, MU-H, and MU-W) in areas on or near the bay to encourage a continuation of coastal-dependent and coastal-related uses.</i></p>	<p>The Project site is designated CM by the Coastal Land Use Plan, and the Project is fully consistent with the site's CM designation. The Project would be consistent with Policy 2.4.1-5.</p>
<p><i>Policy 2.4.1-6. Protect and encourage facilities that serve marine-related businesses and industries unless present and foreseeable future demand for such facilities is already adequately provided for in the area. Encourage coastal-dependent industrial facilities to locate or expand within existing sites and allowed reasonable long-term growth.</i></p>	<p>The Project proposes to provide a marine commercial building that would contain a marine-related restaurant and a coastal-dependent yacht brokerage that would be displaced from the building proposed to be demolished on the property. The Project would not adversely affect any marine-related businesses or industries. The Project would be consistent with Policy 2.4.1-6.</p>
<p><i>Policy 2.5.2-1. Administer the use of tidelands and submerged lands in a manner consistent with the tidelands trust and all applicable laws, including Chapter 70 of the Statutes of 1927, the Beacon Bay Bill (Chapter 74, Statutes of 1978), SB 573 (Chapter 317, Statutes of 1997), AB 3139 (Chapter 728, Statutes of 1994), and Chapter 715, Statutes of 1984 and the Coastal Act.</i></p>	<p>The Project would comply with all applicable laws related to tidelands and submerged lands. The waterside components of the Project are consistent with the Tidelands Trust. The Project would be required to obtain approvals for development of the waterside components, including a Coastal Development Permit. Accordingly, the Project would be consistent with Policy 2.5.2-1.</p>
<p><i>Policy 2.8.1-1. Review all applications for new development to determine potential threats from coastal and other hazards.</i></p> <p><i>Policy 2.8.1-2. Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.</i></p>	<p>The Project would not be subject to unavoidable and significant threats from coastal or other hazards. Accordingly, the Project would be consistent with Policies 2.8.1-1 and 2.8.1-2.</p>



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<p><i>Policy 2.8.1-4. Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.</i></p>	<p>On the water-side portion of the Project site, a new public boat dock would be constructed and additional boat slips would be added to the private Balboa Marina. Thirty-seven (37) piles would be driven into the Lower Newport Bay floor to support the new gangways. These include eleven (11) 20-inch diameter piles and twenty-six (26) 16-inch diameter piles, which would secure the docks and prevent significant adverse effects, including the risk of instability. The marine commercial building that would be constructed on the land-side portion of Project site would be required to comply with the building design standards of the California Building Code (CBC) Chapter 13 for the construction of new buildings/and or structures. Approximately 235 auger cast pressure grouted piles are proposed to support the marine commercial building for stability. The land-side portion of the site would be fully developed and not subject to any measurable erosion. There are no components of the Project that would lead to significant erosion, geologic instability, or destruction of the site or surrounding area. Accordingly, the Project would be consistent with Policy 2.8.1-4.</p>
<p><i>2.8.7-2. Require new development to provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.</i></p>	<p>As part of the Project, new on-site drains would be constructed to direct low-flow and first-flush runoff to the proposed BMPs prior to discharging off-site through the existing bulkhead outlets. As concluded in the Project-specific WQMP included as <i>Appendix I</i> to this document, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate of volume as compared to the existing condition, thereby reducing the volume of stormwater runoff (and pollutants) discharged. Biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units also would be utilized on-site for water quality treatment. Accordingly, the Project would be consistent with Policy 2.8.7-2.</p>
<p><i>Policy 2.8.7-3. Require applications for new development, where applicable [i.e., in areas of known or potential geologic or seismic hazards], to include a geologic/soils/geotechnical study that</i></p>	<p>A Project-specific geotechnical investigation for the proposed marina commercial building was prepared and is attached to this document as <i>Appendix G</i>. As concluded in the geotechnical</p>



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<p><i>identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Require such reports to be signed by a licensed Certified Engineering Geologist or Geotechnical Engineer and subject to review and approval by the City.</i></p>	<p>investigation, with mandatory compliance with the CBC requirements, the recommendations of the Project-specific geotechnical investigation, and City of Newport Beach requirements, the Project would not be subject to geological hazards. Accordingly, the Project would be consistent with Policy 2.8.7-3.</p>
<p><i>Policy 2.8.8-1. Apply hazard reduction, fuel modification, and other methods to reduce wildfire hazards to existing and new development in urban wildland interface areas.</i></p> <p><i>Policy 2.8.8-2. Site and design new development to avoid fire hazards and the need to extend fuel modification zones into sensitive habitats.</i></p> <p><i>Policy 2.8.8-3. Use fire-resistive, native plant species from the City-approved plant list in fuel modification zones abutting sensitive habitats.</i></p> <p><i>Policy 2.8.8-4. Prohibit invasive ornamental plant species in fuel modification zones abutting sensitive habitats.</i></p>	<p>The Project site is not located in a portion of the City that is subject to wildland fire hazards, and no fuel modification zones are proposed or required as part of the Project. Accordingly, the Project would not conflict with Policies 2.8.8-1 through 2.8.8-4.</p>
<p><i>Policy 2.9.1-1. Continue to implement the Transportation Demand Management Ordinance.</i></p>	<p>In accordance with the City's Transportation Demand Ordinance, a Project-specific traffic study was prepared and is included as <i>Appendix L</i> to this MND. The traffic report concludes that less than significant impacts would occur and no mitigation or improvements would be required to the study area roadways or intersections. Accordingly, the Project would be consistent with Policy 2.9.1-1.</p>
<p><i>Policy 2.9.1-2. Continue to require new development to dedicate transit facilities, such as bus turnouts, benches, shelters and similar facilities, where appropriate.</i></p>	<p>Eastbound bus stops already are provided along East Coast Highway near the intersections with Dover Drive and Bayside Drive, and along Bayside Drive. None of these bus stops occur along the Project's frontage. Due to the need to accommodate a long right-turn lane along eastbound East Coast Highway, the site's frontage with East Coast Highway is not a viable location for a new bus turnout. Accordingly, the Project would not conflict with Policy 2.9.1-2.</p>
<p><i>Policy 2.9.1-3. Locate and design larger commercial and residential developments to be served by transit and provide non-automobile circulation to serve new development to the greatest extent possible.</i></p>	<p>The Project site is served by existing bus routes located along East Coast Highway and Bayside Drive. A bicycle lane is also available on East Coast Highway and on Bayside Drive. The Project site also</p>



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	would be accessible via boats. Accordingly, the Project would be consistent with Policy 2.9.1-3.
<p><i>Policy 2.9.1-4. Encourage the use of commercial and institutional parking areas for use as public parking during weekends and holidays in conjunction with public transit or shuttles to serve coastal recreational areas.</i></p>	<p>The Project proposes to reconfigure the Balboa Marina parking lot that would include public parking spaces for persons accessing the marina commercial building and boat slips. The Project thereby accommodates public access to coastal resources and the existing and proposed public and private boat slips. The site is served by an existing bus route along East Coast Highway. Accordingly, the Project would be consistent with Policy 2.9.1-4.</p>
<p><i>Policy 2.9.1-6. Maintain and enhance existing public water transportation services and encourage and provide incentives for expansion of these uses and land support facilities.</i></p>	<p>The Project proposes to add a new public boat dock in Lower Newport Bay. The new public boat dock would provide 12 slips and provide a new point of vertical public access. In addition, the new public dock would allow the relocation of the four (4) existing transient public boat slips currently located in the private Balboa Marina to an area of Lower Newport Bay that is more easily accessible to transient public boaters. The Project would accommodate enhancements to resident and visitor boater's abilities to access the land from the water and allow transient public boaters to easily navigate from a new public dock in Lower Newport Bay to restaurants and commercial uses in and around the Balboa Marina. The Project also would assist the City of Newport Beach in meeting the need for a variety of boat slip sizes in Newport Harbor by adding a new public dock and additional boats slips at the Balboa Marina that accommodate a range of vessel sizes, including slips for vessels 20-feet in length and under. Accordingly, the Project would be consistent with Policy 2.9.1-6.</p>
<p><i>Policy 2.9.1-8. Employment, retail, and entertainment districts and coastal recreational areas should be well served by public transit and easily accessible to pedestrians and bicyclists. Streets, sidewalks, bicycle paths, and recreational trails (including the Coastal Trail) should be designed and regulated to encourage walking, bicycling, and transit ridership.</i></p>	<p>Bike lanes are accommodated along East Coast Highway and Bayside Drive. Sidewalks also are accommodated along these streets and new pedestrian pathways are proposed within the Project site. Bus routes exist along East Coast Highway and Bayside Drive. Accordingly, the Project would be consistent with Policy 2.9.1-8.</p>
<p><i>Policy 2.9.1-10. Encourage new developments to design projects to facilitate transit ridership and ridesharing through such means as locating and designing building entries that are convenient to pedestrians and transit riders.</i></p>	<p>The proposed marine commercial building would be served by internal pedestrian walkways that would provide safe and convenient access to bus stops located along East Coast Highway and Bayside Drive. The Project would therefore be consistent with Policy 2.9.1-10.</p>



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<i>Policy 2.9.2-1. Maintain, expand, and encourage the use of bikeways and trails as alternative circulation routes.</i>	Bicycle routes already exist along East Coast Highway and Bayside Drive. The Project would have no effect on these existing bike routes. Additionally, the Project accommodates new pedestrian walkways providing access between East Coast Highway and Newport Bay. Thus, the Project would be consistent with Policy 2.9.2-1.
<i>Policy 2.9.2-4. Design and site new development to provide connections to existing and proposed bikeways and trail systems.</i>	According to Figure CE4 of the City's General Plan, the only planned bikeways applicable to the site are Class I and Class II bike lanes along East Coast Highway, which already are accommodated along the site's frontage. According to General Plan Figure CE5, the Project site is not designated for development with any equestrian or hiking trails. Accordingly, the Project would be consistent with Policy 2.9.2-4.
<i>Policy 2.9.2-6. Require new non-residential developments with floor areas of 10,000 square feet or more to provide bicycle racks for use by customers. Encourage smaller non-residential developments to provide such facilities, when feasible.</i>	The City of Newport Beach will require that bicycle racks be provided on the Project site in accordance with CBC requirements. In addition, as required by Mitigation Measure MM LU-1, the City would review the SDR and/or CUP applications for conformance with applicable Coastal Land Use policies, including Policy 2.9.2-6. Thus, the Project would not conflict with Policy 2.9.2-6.
<i>Policy 2.9.3-1. Site and design new development to avoid use of parking configurations or parking management programs that are difficult to maintain and enforce.</i>	An appropriately designed parking lot is proposed on the Project's AIC application. The City would review future implementing SDR and CUP applications for compliance with Municipal Code Section 20.40.040 (Off-Street Parking Spaces Required). This review would ensure there would be a proper configuration of parking to serve the Project. Accordingly, the Project would not be consistent with Policy 2.9.3-1.
<p><i>Policy 2.9.3-2. Continue to require new development to provide off-street parking sufficient to serve the approved use in order to minimize impacts to public on-street and off-street parking available for coastal access.</i></p> <p><i>Policy 2.9.3-3. Require that all proposed development maintain and enhance public access to the coast by providing adequate parking pursuant to the off-street parking regulations of the Zoning Code in effect as of October 13, 2005.</i></p> <p><i>Policy 2.9.3-5. Continue to require off-street parking in new development to have adequate dimensions,</i></p>	An adequate number of parking spaces is proposed on the Project's AIC application. The City would review future implementing SDR and CUP applications for compliance with Municipal Code Section 20.40.040 (Off-Street Parking Spaces Required). This review would ensure there would be adequate off-street parking with adequate space dimensions, clearances, and access to serve the Project. As such, the Project would be consistent with Policies 2.9.3-2, 2.9.3-3, and 2.9.3-5.



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<i>clearances, and access to insure their use.</i>	
<p><i>Policy 2.9.3-6. Prohibit new development that would result in restrictions on public parking that would impede or restrict public access to beaches, trails or parklands, (including, but not limited to, the posting of “no parking” signs, red curbing, and physical barriers), except where such restrictions are needed to protect public safety and where no other feasible alternative exists to provide public safety.</i></p>	<p>Views to Newport Harbor are available from the Project site, but there is no public access to the beach, parks, or trails from the Project site. The proposed public boat dock would provide twelve (12) public boat slips that are transient in nature, meaning that there would be no boat launches from this area. Regardless, the public would have access to the on-site parking lot to access the marina commercial building and on-site pedestrian pathways without restriction, assured through City conditions of approval. Thus, the Project would be consistent with Policies 2.9.3-6 and 2.9.3-7.</p>
<p><i>Policy 2.9.3-7. If public parking restrictions are allowed to protect public safety, require new development to provide an equivalent quantity of public parking nearby as mitigation for impacts to coastal access and recreation, where feasible.</i></p>	
<p><i>Policy 2.9.3-10. Require new development to minimize curb cuts to protect on-street parking spaces. Close curb cuts to create new public parking wherever feasible.</i></p>	<p>No new curb cuts are proposed as part of the Project, as the site would continue to be accessed primarily from the existing driveway along East Coast Highway. Thus, the Project would be consistent with Policy 2.9.3-10.</p>
<p><i>Policy 2.9.3-13. Encourage commercial and institutional development located near beaches and other coastal resources to provide parking for public access during weekends and holidays.</i></p>	<p>The Project would accommodate public parking in close proximity to Newport Bay. As such, the Project would be consistent with Policy 2.9.3-13.</p>
Public Access and Recreation	
<p><i>Policy 3.1.1-1. Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.</i></p>	<p>The Project would accommodate new pedestrian walkways providing access between East Coast Highway and Newport Bay, including access to the new marine commercial building and new, proposed public transient boat dock. Accordingly, the Project would be consistent with Policy 3.1.1-1.</p>
<p><i>Policy 3.1.1-2. Protect and enhance all existing public street ends providing public access to the shoreline, beaches, coastal parks, and trails.</i></p>	<p>The Project would have no impact on any existing public streets. Thus, the Project would not conflict with Policy 3.1.1-2.</p>
<p><i>Policy 3.1.1-11. Require new development to minimize impacts to public access to and along the shoreline.</i></p>	<p>The Project would maintain and expand public access to Newport Bay through the construction of new pedestrian pathways on-site and the provision of a new transient public boat dock. Accordingly, the Project would be consistent with Policy 3.1.1-11.</p>
<p><i>Policy 3.1.1-17. Require new development in waterfront commercial areas to provide public access easements to and along the waterfront. Where appropriate, integrate public access easements into the project designs, such as restaurants with outdoor waterfront dining areas and boarding areas for charter and excursion vessels.</i></p>	<p>The Project proposes to construct a new 19,400 SF marine commercial building with an outdoor patio facing Newport Bay. Public restrooms, an office for a yacht brokerage office, and a waterfront restaurant are anticipated to be accommodated in the building. Pedestrian walkways would provide access within the land-side portion of the Project</p>



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	site and connect to the existing sidewalk along East Coast Highway. Pedestrian access also would be provided between the new marine commercial building and new, proposed public transient boat dock. Thus, the Project would be consistent with Policy 3.1.1-17.
<p><i>Policy 3.1.1-25. Where marine sales and service equipment and operations present security or public safety concerns, waterfront access detours may be necessary in some areas in order to maintain facilities and services essential to the operation of the harbor.</i></p>	<p>Although the proposed marine commercial building is anticipated to accommodate the yacht brokerage business displaced from the building to be demolished on the property, the proposed yacht brokerage would not present any security or public safety concerns. Accordingly, the Project would be consistent with Policy 3.1.1-25.</p>
<p><i>Policy 3.1.1-26. Consistent with the policies above, provide maximum public access from the nearest public roadway to the shoreline and along the shoreline with new development except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources or (2) adequate access exists nearby.</i></p>	<p>The Project accommodates pedestrian access between the new public dock, marine commercial building, and East Coast Highway via concrete walkways. Accordingly, the Project would be consistent with Policy 3.1.1-26.</p>
<p><i>Policy 3.1.1-28. Encourage the creation of waterfront public spaces and beaches, with adjacent water access and docking facilities that serves as the identity and activity "centers" of Newport Harbor for special events of community/regional interest.</i></p>	<p>The Project site does not contain or abut any public beaches. The Project would, however, establish a new public boat dock in an area of Newport Harbor that currently lacks a public dock. The new public dock would include a gangway and approximately twelve (12) public boat slips including eight (8) new boat slips and four (4) transient boat slips that would be relocated to the public dock from the existing private Balboa Marina. The new public dock would facilitate additional and more publically accessible access to the land from the water in this portion of Newport Harbor. Accordingly, the Project would be consistent with Policy 3.1.1-28.</p>
<p><i>Policy 3.1.4-2. When applicable, continue to require evidence of approval from the County of Orange, Coastal Commission, U.S. Army Corps of Engineers, and other resource management agencies, prior to issuing permits.</i></p>	<p>The Project would be required to obtain appropriate permits and approvals from the California Coastal Commission, Orange County, USACE, NMFS, USFWS, USEPA, U.S. Coast Guard, the RWQCB, and the CDFW. No building or grading improvements would be issued by the City without the appropriate approvals/permits. As such, the Project would be consistent with Policy 3.1.4-2.</p>
<p><i>Policy 3.2.1-1. Protect, and where feasible, expand and enhance recreational opportunities in the coastal zone.</i></p>	<p>The Project would provide a new public boat dock and 24 additional private boat slips, which would expand marine recreational opportunities available at the site. As such, the Project would be consistent with Policy 3.2.1-1.</p>
<p><i>Policy 3.2.1-5. Continue to allow recreational</i></p>	<p>The Project includes a proposed marine commercial</p>



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<i>commercial uses in commercial areas adjacent to beaches and the bay.</i>	building located adjacent to Lower Newport Bay, in conformance with Policy 3.2.1-5.
<i>Policy 3.2.2-1. Continue to protect public coastal access recreational opportunities through the provision of adequate support facilities and services.</i>	The Project would accommodate 12 public boat slips and 24 additional private boat slips along with associated gangways, and would continue to accommodate public parking. These amenities would enhance public access to recreational activities within Newport Bay, in compliance with Policy 3.2.2-1.
<i>Policy 3.2.3-1. Ensure that planned public facilities include provisions for adequate access for the persons with disabilities and that existing facilities are appropriately retrofitted to include such access as required by the Americans with Disabilities Act in a manner consistent with the protection of coastal resources.</i>	All Project components would be reviewed by the City as part of the future SDR and/or CUP applications to ensure compliance with the Americans with Disabilities Act. Accordingly, the Project would be consistent with Policy 3.2.3-1.
<i>Policy 3.3.1-1. Protect, and where feasible, expand and enhance vessel-launching facilities in Newport Harbor.</i>	The proposed public boat dock would be available to transient boaters, meaning that there would be no overnight tie ups allowed and no boat launches from this area. The new public boat dock in Lower Newport Bay would provide a new point of vertical public access and enhance visitor boater's ability to access the land from the water at the Balboa Marina. In the private Balboa Marina, 24 boat slips are proposed to be added, including slips for vessels 20 feet in length and under. Thus, the Project expands opportunities for vessel launching in Newport Harbor consistent with Policy 3.3.1-1.
<i>Policy 3.3.2-1. Provide a variety of berthing opportunities reflecting State and regional demand for slip size and affordability throughout Newport Harbor.</i>	The Project's proposed new public and private boat slips are designed to accommodate a range of vessel sizes, in conformance with Policy 3.3.2-1. The Project would assist the City of Newport Beach in meeting the need for a variety of boat slip sizes in Newport Harbor by adding boats slips at the Balboa Marina that accommodate a range of vessel sizes, including slips for vessels 20-feet in length and under.
<i>Policy 3.3.2-2. Protect, and where feasible, enhance and expand marinas and dry boat storage facilities.</i>	The Project involves improvements to Balboa Marina, which does not provide dry boat storage. No component of the Project would adversely affect dry boat storage in off-site areas. Therefore, the Project would neither hinder nor advance Policy 3.3.2-2.
<i>Policy 3.3.2-6. Protect, and where feasible, enhance and expand guest docks at public facilities, yacht clubs and at privately owned marinas, restaurants and</i>	The Project would establish a new public boat dock in an area of Newport Harbor that currently lacks a public dock. The new public dock would include a gangway and approximately twelve (12) public boat



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<p><i>other appropriate locations.</i></p> <p><i>Policy 3.3.2-7. Protect, and where feasible, expand and enhance facilities and services for visiting vessels, including public mooring and docking facilities, dinghy docks, guest docks, club guest docks, pump-out stations and other features, through City, County, and private means.</i></p>	<p>slips including eight (8) new boat slips and four (4) transient boat slips that would be relocated to the public dock from the existing private Balboa Marina. The new public dock would facilitate additional and more publically accessible access to the land from the water in this portion of Newport Harbor. Visiting vessels would be able to use these transient slips. Due to the transient nature of the slips, pump out accommodations are not proposed at the public dock. The Project would accommodate 12 new public transient boat slips, in compliance with Policies 3.3.2-6 and 3.3.2-7.</p>
<p>Public Access and Recreation</p>	
<p><i>Policy 4.1.1-1. Define any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments as an environmentally sensitive habitat area (ESHA). Using a site-specific survey and analysis by a qualified biologist, evaluate the following attributes when determining whether a habitat area meets the definition of an ESHA:</i></p> <ul style="list-style-type: none"> <i>A. The presence of natural communities that have been identified as rare by the California Department of Fish and Game.</i> <i>B. The recorded or potential presence of plant or animal species designated as rare, threatened, or endangered under State or Federal law.</i> <i>C. The presence or potential presence of plant or animal species that are not listed under State or Federal law, but for which there is other compelling evidence of rarity, such as designation as a 1B or 2 species by the California Native Plant Society.</i> <i>D. The presence of coastal streams.</i> <i>E. The degree of habitat integrity and connectivity to other natural areas.</i> <p><i>Attributes to be evaluated when determining a habitat's integrity/connectivity include the habitat's patch size and connectivity, dominance by invasive/non-native species, the level of disturbance, the proximity to development, and the level of fragmentation and isolation.</i></p>	<p>Although the land-side components of the Project are fully developed, the water-side components of the Project have the potential to temporarily affect California brown pelican and California least terns, marine mammals, California halibut, Fishery Management Species (FMP) Essential Fish Habitat (EFP), (primarily the northern anchovy), and Habitats of Particular Concern (HAPCs) during water-side construction activities. In the case of these species, impacts would be the result of temporary construction activities such as dredging and pile driving that may result in increased water turbidity and noise.</p> <p>Proposed docks and floats would be placed on about 9,045 SF of the water; however, the proposed Project also includes replacement of the existing riprap embankment that would be reconstructed 15 feet landward of the existing embankment. This replacement would result in removal of existing fill material and an increase of 6,772 SF of waters that are subject to the ebb and flow of the tide. The increase in water surface is a Project benefit. In addition, the Project would create 600 SF of new mudflats, which is a benefit to habitat resources. Permanent impacts to eelgrass would be mitigated to below a level of significance. With the application of mitigation measures the Project would be fully consistent with Policy 4.1.1-1.</p>



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<p><i>Existing developed areas and existing fuel modification areas required by the City of Newport Beach Fire Department or the Orange County Fire Authority for existing, legal structures do not meet the definition of ESHA.</i></p>	
<p><i>Policy 4.1.1-2. Require a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for coastal development permit applications where development would occur within or adjacent to areas identified as a potential ESHA. Identify ESHA as habitats or natural communities listed in Section 4.1.1 that possess any of the attributes listed in Policy 4.1.1-1. The ESA's depicted on Map 4-1 shall represent a preliminary mapping of areas containing potential ESHA.</i></p>	<p>According to Map 4-1, the Project site is not identified as an ESA. Regardless, a site-specific marine biology study was prepared to evaluate the water-side components, and is included as <i>Appendix B</i>. With the application of mitigation measures all impacts to sensitive marine biological resources would be reduced to below a level of significant. Thus, the Project would be consistent with Policy 4.1.1-2.</p>
<p><i>Policy 4.1.1-3. Prohibit new development that would necessitate fuel modification in ESHA.</i></p> <p><i>Policy 4.1.1-4. Protect ESHAs against any significant disruption of habitat values.</i></p> <p><i>Policy 4.1.1-5. Design land divisions, including lot line adjustments, to preclude new development within and minimize impacts to ESHAs.</i></p>	<p>The Project does not propose nor require any fuel modification zones and the site is not located within the ESHA; thus, the Project would not conflict with Policies 4.1.1-3 through 4.1.1-5.</p>
<p><i>Policy 4.1.2-1. Maintain, enhance, and, where feasible, restore marine resources.</i></p>	<p>Section 5.4.4 provides a detailed analysis of Project impacts to marine resources, and identifies mitigation measures that would reduce potential impacts to marine resources to below a level of significant. As part of the mitigation for removal of eelgrass, an eelgrass transplant program is required to be implemented pursuant to the provisions of the Southern California Eelgrass Mitigation Policy (NMFS 1991 as amended). In addition, the proposed Project includes replacement of an existing riprap embankment on the western side of the site that would be reconstructed 15 feet landward of the existing embankment. This replacement would result in removal of existing fill material and an increase of 6,772 SF of waters that are subject to the ebb and flow of the tide. The increase in water surface is a Project benefit. In addition, the Project would create 600 SF of new mudflats, which is a benefit to marine habitat resources. Accordingly, the Project would be consistent with Policy 4.1.2-1.</p>
<p><i>Policy 4.1.2-2. Provide special protection to marine resource areas and species of special biological or</i></p>	<p>Section 5.4.4 of the Project's MND discloses the Project's potential to adversely affect marine</p>



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<i>economic significance.</i>	resources, including eelgrass, and temporary construction-related impacts to plant and wildlife species. Where significant impacts are identified, mitigation measures have been identified in the MND to reduce potential impacts to below a level of significant. With implementation of the required mitigation, the Project would be consistent with Policy 4.1.2-2.
<i>Policy 4.1.2-3. Require that uses of the marine environment 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.</i>	There are no components of the Project that would adversely affect the long-term biological productivity of coastal waters or adversely affect marine organisms. Upon completion of the dredging activities, benthic invertebrates would recolonize the shallow subtidal habitat. Thus, the Project would be consistent with Policy 4.1.2-3.
<i>Policy 4.1.2-5. Continue to require Caulerpa protocol surveys as a condition of City approval of projects in the Newport Bay and immediately notify the SCCAT when found.</i>	In accordance with Policy 4.1.2-5, a focused survey for Caulerpa was conducted as part of the Project's marine biological study (<i>Appendix B</i>). No Caulerpa was identified during the investigation. A follow-up survey also will be required by the City prior to the issuance of a construction permit for the water-side portion of the Project site. Thus, the Project would be consistent with Policy 4.1.2-5.
<p><i>Policy 4.1.4-1. Continue to protect eelgrass meadows for their important ecological function as a nursery and foraging habitat within the Newport Bay ecosystem.</i></p> <p><i>Policy 4.1.4-3. Site and design boardwalks, docks, piers, and other structures that extend over the water to avoid impacts to eelgrass meadows. Encourage the use of materials that allow sunlight penetration and the growth of eelgrass.</i></p>	Eelgrass would be adversely impacted by Project-related dredging of the shallow water habitat, resulting in the loss of 515 SF of eelgrass vegetation (Coastal Resources Management, Inc., 2013, p. 27). Mitigation is proposed in MND Section 5.4.4 to ensure such impacts are less than significant. Proposed docks and floats would shade 9,045 SF of shallow water habitat, but would not adversely affect any additional eelgrass, because all of the eelgrass would be removed during dredging (Coastal Resources Management, Inc., 2013, p. 27). Assuming implementation of the mitigation measures specified in MND Section 4.4.4, the Project would be consistent with Policies 4.1.4-1 and 4.1.4-3.
<i>Policy 4.1.4-5. Where applicable require eelgrass and Caulerpa taxifolia surveys to be conducted as a condition of City approval for projects in Newport Bay in accordance with operative protocols of the Southern California Eelgrass Mitigation Policy and Caulerpa taxifolia Survey protocols.</i>	A site-specific marine biological assessment was prepared that includes eelgrass and Caulerpa taxifolia surveys (refer to <i>Appendix B</i>). No Caulerpa taxifolia was identified within the study area, and mitigation measures are imposed in MND Section 5.4.4 to reduce impacts to eelgrass to below a level of significant. Accordingly, the Project would be consistent with Policy 4.1.4-5.
<i>Policy 4.2.1-1. Recognize and protect wetlands for</i>	Upon buildout of the proposed Project, the new



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<p><i>their commercial, recreational, water quality, and habitat value.</i></p> <p><i>Policy 4.2.1-2. Protect, maintain and, where feasible, restore the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes.</i></p> <p><i>Policy 4.2.2-2. Require a survey and analysis with the delineation of all wetland areas when the initial site survey indicates the presence or potential for wetland species or indicators. Wetland delineations will be conducted in accordance with the definitions of wetland boundaries contained in section 13577(b) of the California Code of Regulations.</i></p>	<p>and public transient docks would result in approximately 9,272 SF of new overwater coverage; however, the proposed Project also includes replacement of the existing riprap embankment that would be reconstructed 15 feet landward of the existing embankment. This replacement will result in removal of existing fill material and an increase of 6,772 SF of waters of the United States. The increase in waters of the United States is a Project benefit that is considered sufficient mitigation to offset the increase in overwater cover resulting from buildout of the proposed docks. The specific details of the Mitigation program would be determined during the Project’s regulatory approval process with the USACE, Regional Water Quality Control Board, and the CCC (Coastal Resources Management, Inc., 2013, p. 11). In summary, construction activities would result in short-term temporary impacts to waters of the United States as defined by the CCC. With USACE, Regional Water Quality Control Board, and CCC approval, impacts would be less than significant. Thus, the Project would be consistent with Policy 4.2.1-1.</p>
<p><i>Policy 4.2.2-3. Require buffer areas around wetlands of a sufficient size to ensure the biological integrity and preservation of the wetland that they are designed to protect. Wetlands shall have a minimum buffer width of 100 feet wherever possible. Smaller wetland buffers may be allowed only where it can be demonstrated that 1) a 100-foot wide buffer is not possible due to site-specific constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource and of the type and intensity of disturbance.</i></p>	<p>As documented in the site-specific marine biological investigation, the only wetlands occurring in the Project’s study area consists of marine and estuarine areas that do not warrant the provision of buffers. Thus, the Project would not conflict with Policy 4.2.2-3.</p>
<p><i>Policy 4.2.3-1. Permit the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes in accordance with other applicable provisions of the LCP, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects and limited to the following:</i></p> <ul style="list-style-type: none"> <i>A. Construction or expansion of port/marine facilities.</i> <i>B. Construction or expansion of coastal-dependent industrial facilities, including</i> 	<p>The Project would involve the dredging of approximately 9,900 CY of sediment from Newport Harbor over an area of approximately one acre. The purpose of the dredging is to support the new public boat dock and additional private boat slips, as allowed by Policy 4.2.3-1. Mitigation measures have been identified throughout this document to reduce Project-related impacts to below a level of significant. Thus, the Project would be consistent with Policy 4.2.3-1.</p>



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<p><i>commercial fishing facilities, and commercial ferry facilities.</i></p> <p><i>C. In open coastal waters, other than wetlands, including estuaries and streams, new or expanded boating facilities, including slips, access ramps, piers, marinas, recreational boating, launching ramps, and pleasure ferries, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.</i></p> <p><i>D. Maintenance of existing and restoration of previously dredged depths in navigational channels, turning basins, vessel berthing, anchorage, and mooring areas, and boat launching ramps. The most recently updated U.S. Army Corps of Engineers maps shall be used to establish existing Newport Bay depths.</i></p> <p><i>E. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines.</i></p> <p><i>F. Sand extraction for restoring beaches, except in environmentally sensitive areas.</i></p> <p><i>G. Restoration purposes.</i></p> <p><i>H. Nature study, aquaculture, or similar resource-dependent activities.</i></p> <p><i>I. In the Upper Newport Bay Marine Park, permit dredging, diking, or filling only for the purposes of wetland restoration, nature study, or to enhance the habitat values of environmentally sensitive areas.</i></p>	
<p><i>Policy 4.2.3-4. Require dredging and dredged material disposal to be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation.</i></p>	<p>Implementation of the Project would require dredging of approximately 9,900 CY of sediment, which would be transported by barge for ocean disposal at site LA-3, which is an EPA-approved location for the disposal of ocean-dredged material off the coast of Newport Beach. LA-3 was approved as a permanent disposal site by the U.S. EPA in 2005, in accordance with Federal Register, Vol. 70, No. 175, dated September 12, 2005. LA-3 is approved to accept a maximum annual dredged material disposal quantity of 2,500,000 cubic yards of dredged material originating from the Los Angeles and Orange County region.</p>



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	<p>Ocean material from the Project site would be dredged using clam-shell dredging techniques. Dredging of ocean material is anticipated to be conducted 5 days a week for approximately 4 weeks, which would include mobilization and demobilization. All dredge material would be transported via barge pushed by a tugboat to LA-3. Silt curtains would be deployed around the dredge site and barge to confine suspended sediment particles from drifting beyond the job site when bottom sediments are disturbed.</p> <p>Additionally, and as more fully discussed in MND Section 5.4.4, mitigation measures have been imposed on the Project to reduce Project-related impacts to marine resources to a level below significant. Accordingly, the Project would be consistent with Policy 4.2.3-4.</p>
<p><i>Policy 4.2.3-14. Require that any project that includes diking, filling or dredging of a wetland or estuary, as permitted pursuant to Policy 4.2.3-1, maintain the functional capacity of the wetland or estuary. Functional capacity means the ability of the wetland or estuary to be self-sustaining and to maintain natural species diversity. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:</i></p> <ul style="list-style-type: none"> <i>A. That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project.</i> <i>B. That the project does not harm or destroy a species or habitat that is rare or endangered.</i> <i>C. That the project does not harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary.</i> <i>D. That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or non-consumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem.</i> 	<p>The Project would involve the dredging of approximately 9,900 CY of sediment from Newport Harbor. Although such dredging would impact 515 SF of eelgrass habitat, mitigation has been imposed requiring transplanting of eelgrass at a 1.2 to 1 impact to mitigation ratio. Eelgrass would be planted in the Irvine Company's Balboa Eelgrass Mitigation Area. Implementation of the required mitigation would reduce impacts to plant and animal populations in the areas to be affected by dredging to a level below significance. Additional mitigation measures also are identified in MND Section 5.4.4 to preclude indirect impacts due to pile driving within the dredged areas. With implementation of the required mitigation, the Project would be consistent with Policy 4.2.3-14.</p>



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<i>Policy 4.2.3-15. Require new development on the waterfront to design and site docking facilities in relationship to the water's depth and accessibility.</i>	The proposed public boat dock and private boat slip expansion area were designed in relationship to the water's depth and accessibility, in accordance with Policy 4.2.3-15. Dredging is required over an area of approximately one acre to accommodate the Project.
<i>Policy 4.2.3-17. Continue to limit residential and commercial structures permitted to encroach beyond the bulkhead line to piers and docks used exclusively for berthing of vessels. However, this policy shall not be construed to allow development that requires the filling of open coastal waters, wetlands or estuaries that would require mitigation for the loss of valuable habitat in order to place structures closer to the bulkhead line or create usable land areas.</i>	The Project's proposed marine commercial building would not encroach beyond the bulkhead line. In fact, the proposed Project also includes replacement of the existing riprap embankment that would be reconstructed 15 feet landward of the existing embankment. This replacement will result in removal of existing fill material and an increase of 6,772 SF of waters of the United States, resulting in less usable land area. The Project would be consistent with Policy 4.2.3-17.
<i>Policy 4.2.3-18. Require restoration plans to be reviewed and approved by a qualified professional prior to accepting sites for mitigation.</i>	Eelgrass mitigation required of the Project would be carried out at a previously-approved mitigation site (Irvine Company's Balboa Eelgrass Mitigation Area) or as determined by resource agencies, which is subject to an approved restoration plan. Thus, the Project would be consistent with Policy 4.2.3-18.
<i>Policy 4.2.4-3. Dredged materials suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment.</i>	The Project would involve the dredging of approximately 9,900 CY of sediment as well as the removal of 1,300 CY of upland soils. Upland soils would be used on-site as part of the Project's grading plan. Dredged materials would be disposed of at U.S. EPA approved disposal site LA-3 in a manner that minimizes adverse effects on the environment. Therefore, the Project would comply with Policy 4.2.4-3.
<i>Policy 4.2.5-1. Avoid impacts to eelgrass (Zostera marina) to the greatest extent possible. Mitigate losses of eelgrass at a 1.2 to 1 mitigation ratio and in accordance with the Southern California Eelgrass Mitigation Policy. Encourage the restoration of eelgrass throughout Newport Harbor where feasible.</i>	As documented in MND Section 5.4.4, the Project would involve the dredging of approximately 9,900 CY of sediment from Newport Harbor. Although such dredging would impact 515 SF of eelgrass habitat, mitigation has been imposed requiring transplanting of eelgrass at a 1.2 to 1 impact to mitigation ratio. Thus, impacts to eelgrass were minimized to the greatest possible extent, and impacts would be mitigated at a 1.2 to 1 mitigation ratio, in conformance with Policy 4.2.5-1.
<i>Policy 4.3.1-6. Require grading/erosion control plans to include soil stabilization on graded or disturbed areas.</i>	Pursuant to the requirements of the Santa Ana RWQCB and the City of Newport Beach, the Project would be required to obtain a NPDES Municipal Stormwater Permit for construction activities. The NPDES permit is required for all projects that



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	include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. In addition, the Project would be required to comply with the Santa Ana RWQCB's Santa Ana River Basin Water Quality Control Program. Compliance with the NPDES permit and the Santa Ana River Basin Water Quality Control Program involves the preparation and implementation of a SWPPP for construction-related activities. The SWPPP would specify the Best Management Practices (BMPs) that the Project would be required to implement during construction activities, including measures to prevent sedimentation. Mandatory compliance with the SWPPP would ensure that the Project complies with Policy 4.3.1-6
<i>Policy 4.3.1-7. Require measures be taken during construction to limit land disturbance activities such as clearing and grading, limiting cut-and-fill to reduce erosion and sediment loss, and avoiding steep slopes, unstable areas, and erosive soils. Require construction to minimize disturbance of natural vegetation, including significant trees, native vegetation, root structures, and other physical or biological features important for preventing erosion or sedimentation.</i>	The land-side component of the Project is fully developed under existing conditions. Implementation of the Project would involve minimal amounts of grading (4,325 CY of cut and 5,688 CY of fill), and no areas of steep natural slope, unstable areas, or erosive soils are planned for grading. The Project's future SWPPP would be required to identify BMPs to reduce erosion and sediment loss. No natural vegetation would be impacted on the land-side components of the Project, and additional areas of landscaping would be provided upon Project completion. Accordingly, the Project would be consistent with Policy 4.3.1-7.
<i>Policy 4.3.2-1. Promote pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters, as well as the generation and impacts of dry weather and polluted runoff.</i>	New on-site drains would be constructed to direct low-flow and first-flush runoff to the proposed BMPs prior to discharging off-site through the existing bulkhead outlets. Biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units would be utilized on-site for water quality treatment. Runoff from the proposed building and southern portion of the parking lot would drain to a proposed StormFilter media filtration unit to be located within the garage floor below the proposed building. A WQMP was prepared pursuant to the requirements of the City's NPDES permit. The Project's WQMP (<i>Appendix I</i>) identifies structural and non-structural source controls BMPs (refer to <i>Appendix I</i> for a complete list of BMPs) to minimize, prevent, and/or otherwise appropriately treat storm water runoff flows before they are discharged from the site. Mandatory compliance with the Project-



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	specific WQMP would ensure that Project implementation does not adversely affect water quality of coastal waters, in conformance with Policy 4.3.2-1.
<p><i>Policy 4.3.2-2. Require that development not result in the degradation of coastal waters (including the ocean, estuaries and lakes) caused by changes to the hydrologic landscape.</i></p>	<p>The Project's drainage pattern would not be altered from existing conditions. As concluded in the Project-specific WQMP included as <i>Appendix I</i>, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate of volume as compared to the existing condition, thereby reducing the volume of stormwater runoff discharged. As such, the Project has no potential to degrade coastal waters due to changes in the hydrologic landscape. Thus, the Project would be consistent with Policy 4.3.2-2.</p>
<p><i>Policy 4.3.2-7. Incorporate BMPs into the project design in the following progression:</i></p> <ul style="list-style-type: none"> • <i>Site Design BMPs.</i> • <i>Source Control BMPs.</i> • <i>Treatment Control BMPs.</i> <p><i>Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the LCP or Coastal Act, structural treatment BMPs will be implemented along with site design and source control measures.</i></p> <p><i>Policy 4.3.2-8. To the maximum extent practicable, runoff should be retained on private property to prevent the transport of bacteria, pesticides, fertilizers, pet waste, oil, engine coolant, gasoline, hydrocarbons, brake dust, tire residue, and other pollutants into recreational waters.</i></p>	<p>The Project's WQMP (<i>Appendix I</i>) identifies Site Design, Source Control, and Treatment Control BMPs. New on-site drains would be constructed to direct low-flow and first-flush runoff to the proposed BMPs prior to discharging off-site through the existing bulkhead outlets. Biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units will be utilized on-site for water quality treatment. Runoff from the proposed building and southern portion of the parking lot will drain to a proposed StormFilter media filtration unit to be located within the garage floor below the proposed building. These BMPs would protect water quality in accordance with the Coastal Act requirements. Thus, the Project would be consistent with Policies 4.3.2-7 and 4.3.2-8</p>
<p><i>Policy 4.3.2-9. To the maximum extent practicable, limit the use of curb drains to avoid conveying runoff directly to the City's street drainage system without the benefit of absorption by permeable surfaces and natural treatments such as landscaped areas and planters.</i></p>	<p>No drainage from the site would utilize the City's curb drains. The Project incorporates additional areas of landscaping as compared to existing conditions. Accordingly, the Project would be consistent with Policy 4.3.2-9.</p>
<p><i>Policy 4.3.2-11. Require new development to minimize the creation of and increases in impervious surfaces, especially directly connected impervious areas, to the maximum extent practicable. Require redevelopment to increase area of pervious surfaces, where feasible.</i></p>	<p>A Project-specific WQMP has been prepared for the Project and is included as <i>Appendix I</i>. As documented in the WQMP, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57</p>



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	acres). Accordingly, the Project would comply with Policy 4.3.2-11.
<p><i>Policy 4.3.2-12. Require development to protect the absorption, purification, and retention functions of natural drainage systems that exist on the site, to the maximum extent practicable. Where feasible, design drainage and project plans to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems should be restored, where feasible.</i></p>	<p>Under existing conditions, there are no natural drainage systems on the land-side portion of the Project site as the site is fully developed. The Project has been designed to generally utilize the site’s existing drainage patterns and systems, and all drainage would be conveyed in a non-erosive manner. Accordingly, the Project would be consistent with Policy 4.3.2-12.</p>
<p><i>Policy 4.3.2-13. Site development on the most suitable portion of the site and design to ensure the protection and preservation of natural and sensitive site resources by providing for the following:</i></p> <ul style="list-style-type: none"> <i>A. Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss;</i> <i>B. Analyzing the natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development;</i> <i>C. Preserving and protecting riparian corridors, wetlands, and buffer zones;</i> <i>D. Minimizing disturbance of natural areas, including vegetation, significant trees, native vegetation, and root structures;</i> <i>E. Ensuring adequate setbacks from creeks, wetlands, and other environmentally sensitive habitat areas;</i> <i>F. Promoting clustering of development on the most suitable portions of a site by taking into account geologic constraints, sensitive resources, and natural drainage features</i> <i>G. Utilizing design features that meet water quality goals established in site design policies.</i> 	<p>The land-side components of the Project do not contain any natural or sensitive resources, as the site is fully developed under existing conditions. Mitigation measures are identified in MND Section 5.4.4 to reduce impacts to marine biological resources to below a level of significant. No portions of the Project site provide important water quality benefits. The Project would be required to obtain a NPDES Municipal Stormwater Permit for construction activities, which would minimize impacts due to soil erosion and sediment loss. An analysis of the site’s natural resources and hazardous constraints is provided throughout this document, and, where necessary, mitigation measures have been imposed to reduce impacts to a level below significant. There are no riparian corridors or buffer zones on-site, and no setbacks from the marina are required. As determined by a site-specific jurisdictional delineation (<i>Appendix C</i>), the only wetland resources that occur on-site occur along the edge of the harbor. As part of the Project, improvements proposed within the marina would increase the area of waters of the United States by 6,772 SF. The Project proposes to include biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units for water quality treatment. Accordingly, the Project would be consistent with Policy 4.3.2-13.</p>
<p><i>Policy 4.3.2-14. Whenever possible, divert runoff through planted areas or sumps that recharge the groundwater dry wells and use the natural filtration properties of the earth to prevent the transport of harmful materials directly into receiving waters.</i></p>	<p>Due to the site’s proximity to Newport Bay and its high ground water table that fluctuates with the tide, the site does not provide any groundwater recharge. Due to the orientation and topography of the site, it is not feasible to utilize natural ground areas as part of the proposed water quality measures. The Project proposes to include</p>



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	biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units for water quality treatment, thereby precluding the transport of harmful materials directly into Newport Bay. Thus, the Project would be consistent with Policy 4.3.2-14.
<i>Policy 4.3.2-15. Where infiltration of runoff would exacerbate geologic hazards, include equivalent BMPs that do not require infiltration.</i>	The Project proposes to include biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units for water quality treatment. Thus, Policy 4.3.2-15 is not applicable to the proposed Project.
<i>Policy 4.3.2-16. Require structural BMPs to be inspected, cleaned, and repaired as necessary to ensure proper functioning for the life of the development. Condition coastal development permits to require ongoing application and maintenance as is necessary for effective operation of all BMPs (including site design, source control, and treatment control).</i>	The City of Newport Beach conditions development projects to maintain all installed water quality BMPs. Therefore, the Project would be consistent with Policy 4.3.2-16.
<i>Policy 4.3.2-17. Utilize permeable surfaces that permit the percolation of urban runoff in non-sidewalk areas within the City's parkway areas, to the maximum extent practicable.</i>	With exception of landscaped areas, the use of permeable surfaces is not feasible to treat all Project runoff. The Project proposes to include biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units for water quality treatment. Accordingly, the Project would be consistent with Policy 4.3.2-17.
<i>Policy 4.3.2-18. Condition coastal development permits to require the City, property owners, or homeowners associations, as applicable, to sweep permitted parking lots and public and private streets frequently to remove debris and contaminated residue.</i>	The City of Newport Beach conditions development projects to require regular sweeping of parking lots to remove debris and contaminated residue. As such, the Project would be consistent with Policy 4.3.2-18.
<p><i>Policy 4.3.2-19. Require parking lots and vehicle traffic areas to incorporate BMPs designed to prevent or minimize runoff of oils and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants to receiving waters.</i></p> <p><i>Policy 4.3.2-20. Require commercial development to incorporate BMPs designed to prevent or minimize the runoff of pollutants from structures, landscaping, parking areas, loading and unloading dock areas, repair and maintenance bays, and vehicle/equipment wash areas.</i></p>	The Project proposes to include biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units for water quality treatment. These BMPs would ensure that runoff does not convey a substantial amount of pollutants to Newport Bay. Thus, the Project would be consistent with Policies 4.3.2-19, 4.3.2-20, and 4.3.2-22.
<i>Policy 4.3.2-22. Require beachfront and waterfront development to incorporate BMPs designed to</i>	



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<p><i>prevent or minimize polluted runoff to beach and coastal waters.</i></p>	
<p><i>Policy 4.3.2-23. Require new development applications to include a Water Quality Management Plan (WQMP). The WQMP's purpose is to minimize to the maximum extent practicable dry weather runoff, runoff from small storms (less than 3/4" of rain falling over a 24-hour period) and the concentration of pollutants in such runoff during construction and post-construction from the property.</i></p>	<p>In conformance with Policy 4.3.2-23, a Project-specific WQMP has been prepared for the Project and is included as <i>Appendix I</i>. As documented in the WQMP, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate of volume as compared to the existing condition, thereby reducing the volume of stormwater runoff (and pollutants) discharged. The WQMP also identifies water quality measures to be implemented during construction. As such, the Project would be consistent with Policy 4.3.2-23.</p>
<p><i>Policy 4.3.2-24. To further reduce runoff, direct and encourage water conservation via the use of weather- and moisture-based irrigation controls, tiered water consumption rates, and native or drought-tolerant plantings in residential, commercial, and municipal properties to the maximum extent practicable.</i></p>	<p>A conceptual landscaping plan is proposed as part of the Project's AIC application. Landscaping pockets would be installed in the reconfigured parking lot. Six (6) Canary Island Date Palms would be planted near the entrance driveway, King Palms would be planted along the primary parking lot drive isle, two Senegal Date Palms would be planted at the entrance to the new commercial building, and Coral trees would be planted in other planting pockets. Each planting pocket would also include a variety of shrubs. The landscaping material is proposed to include non-invasive and drought tolerant species. Irrigation system design would be reviewed by the City for compliance with Policy 4.3.2-24 at the time the future SDR application is filed.</p>
<p><i>Policy 4.3.3-3. Require waste discharge permits with all food preparation facilities that produce grease and require such permits to include:</i></p> <ul style="list-style-type: none"> • <i>Agreements to follow appropriate BMPs;</i> • <i>Maximum grease intrusion levels;</i> • <i>Maintenance/posting of appropriate educational material;</i> • <i>Maintenance log for laterals (at least quarterly);</i> • <i>Maintenance of a log for any grease control device or vat;</i> • <i>Funding for regular compliance inspections;</i> • <i>Acknowledgement of City's ability to fine for non-compliance.</i> 	<p>In accordance with the City's Municipal Code Chapter 14.30 (Fats, Oils and Grease (FOG) Control), the Project Applicant would be required to obtain a Grease Disposal Permit prior to operation of a restaurant in the proposed marine commercial building. Mandatory compliance with Chapter 14.30 would ensure Project consistency with Policy 4.3.3-3.</p>



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<i>Policy 4.4.1-1. Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.</i>	An extensive analysis of the Project's potential impacts to scenic and visual resources is provided in the IS/MND. Impacts to such resources would be less than significant. Accordingly, the Project would comply with Policy 4.4.1-1.
<i>Policy 4.4.1-2. Design and site new development, including landscaping, so as to minimize impacts to public coastal views.</i>	The Project's landscape concept plan has been designed to minimize impacts to public views of Newport Harbor by proposing trees only in locations needed to provide shade over planned parking areas. The proposed marine commercial building has been sited so as to maintain existing views from the parking lot and adjoining streets to Newport Bay. Accordingly, the Project would be consistent with Policy 4.4.1-2.
<i>Policy 4.4.1-3. Design and site new development to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons.</i>	The Project site does not contain any significant natural landforms, such as bluffs, cliffs, or canyons. Thus, the Project would not conflict with Policy 4.4.1-3.
<i>Policy 4.4.1-4. Where appropriate, require new development to provide view easements or corridors designed to protect public coastal views or to restore public coastal views in developed areas.</i>	A majority of the Project's land-side development area would consist of a surface parking lot with no view obstructions other than trees and light poles. The proposed marine commercial building would occur in the far southwestern portion of the parking lot. Public coastal views would not be blocked because most of the land-side portion of the site would be a surface parking lot that affords views of the water. As such, the Project is consistent with Policy 4.4.1-4.
<i>Policy 4.4.1-5. Where feasible, require new development to restore and enhance the visual quality in visually degraded areas.</i>	The Project site is not located in a portion of the City that is visually degraded. The Project would not result in a significant and unavoidable impact to aesthetics. Accordingly, the Project would be consistent with Policy 4.4.1-5.
<i>Policy 4.4.1-6. Protect public coastal views from the following roadway segments: ...Bayside Drive from Coast Highway to Linda Island Drive, ... Coast Highway/Newport Bay Bridge, Coast Highway from Jamboree Road to Bayside Drive....</i>	The Project site would be visible from the portions of Bayside Drive, Coast Highway, and the Newport Bay Bridge. The Project would not significantly impact nearby coastal view roads. Accordingly, the Project would not conflict with Policy 4.4.1-6.
<i>Policy 4.4.1-7. Design and site new development, including landscaping, on the edges of public coastal view corridors, including those down public streets, to frame and accent public coastal views.</i>	The proposed marine commercial building has been designed to occupy only the southwestern corner of the Project site. Minimal amount of landscaping is proposed as necessary to shade the proposed parking area. The Project would not result in any significant adverse effects to public coastal view corridors. Accordingly, the Project would be consistent with Policy 4.4.1-7.
<i>Policy 4.4.1-8. Require that buildings be located and</i>	Because the AIC application currently on file with



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<p>sites designed to provide clear views of and access to the Harbor and Bay from the Coast Highway and Newport Boulevard rights-of-way in accordance with the following principles, as appropriate:</p> <ul style="list-style-type: none"> • Clustering of buildings to provide open view and access corridors to the Harbor. • Modulation of building volume and masses. • Variation of building heights. • Inclusion of porticoes, arcades, windows, and other "see-through" elements in addition to the defined open corridor. • Minimization of landscape, fencing, parked cars, and other nonstructural elements that block views and access to the Harbor. • Prevention of the appearance of the public right-of-way being walled off from the Harbor. • Inclusion of setbacks that in combination with setbacks on adjoining parcels cumulatively form functional view corridors. • Encouragement of adjoining properties to combine their view corridors that achieve a larger cumulative corridor than would have been achieved independently. • A site-specific analysis shall be conducted for new development to determine the appropriate size, configuration, and design of the view and access corridor that meets these objectives, which shall be subject to approval in the coastal development plan review process. 	<p>the City of Newport Beach includes a conceptual building design, specifics regarding the building's architectural characteristics are not definitive at this time. Specifics regarding the building's architecture would be identified as part of a future SDR, which is a subsequent application that would be submitted to the City should the AIC be approved. Although the proposed building's massing, height, color scheme, and general architectural style would be compatible with Policy 4.4.1-8, it is not possible by review of the AIC to definitely determine if the architectural components of the proposed marine commercial building comply with the Policy. As required by Mitigation Measure MM LU-1, the Project's future SDR application would be reviewed by the City for conformance with applicable Coastal Land Use Plan policies, including Policy 4.4.1-8. Additionally, the Project has been designed to preserve coastal views to the extent possible by siting the marine commercial building in the extreme southwestern corner of the site. Thus, the Project would not conflict with Policy 4.4.1-8.</p>
<p><i>Policy 4.4.1-10. Where feasible, provide public trails, recreation areas, and viewing areas adjacent to public coastal view corridors.</i></p>	<p>The Project would accommodate public viewing areas along the southern edge of the land-side portion of the Project site, as well as in front of the marine commercial building, and at the building's outdoor patio. Accordingly, the Project would be consistent with Policy 4.4.1-10.</p>
<p><i>Policy 4.4.2-1. Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone, as graphically depicted on Map 4-3.</i></p>	<p>The Project site is located within the Shoreline Height Limitation Zone. The proposed marine commercial building would be required to comply with the non-residential shoreline height limit, so the building height with a flat roof may be constructed to a maximum 35 feet, or 40 feet with a sloped roof, with approval of a future Site</p>



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	Development Review application by the City of Newport Beach. Accordingly, the Project would be consistent with Policy 4.4.2-1.
<i>Policy 4.4.4-1. Design and site signs, utilities, and antennas to minimize visual impacts to coastal resources.</i>	Because the AIC application currently on file with the City of Newport Beach includes a conceptual building design, specifics regarding the building's signs, utilities, and antenna designs and placements are not definitive at this time. Specifics regarding the building's details would be identified as part of a future SDP, which is a subsequent application that would be submitted to the City should the AIC be approved. As required by Mitigation Measure MM LU-1, the Project's future SDR application would be reviewed by the City for conformance with applicable Coastal Land Use Plan policies, including Policy 4.4.4-1. Thus, the Project would not conflict with Policy 4.4.4-1.
<i>Policy 4.5.1-1. Require new development to protect and preserve paleontological and archaeological resources from destruction, and avoid and minimize impacts to such resources. If avoidance of the resource is not feasible, require an in situ or site-capping preservation plan or a recovery plan for mitigating the effect of the development.</i>	Mitigation has been imposed on the Project to preclude significant impacts to archaeological resources in the unlikely event that resources are unearthed during the Project's construction process (refer to MM CR-1). The Project site is not located in an area known to contain fossils, and there is no potential for paleontological resources to be discovered during the Project's construction process because no fossil-bearing soils or rock formations are proposed to be disturbed or excavated. Accordingly, the Project would be consistent with Policy 4.5.1-1.
<i>Policy 4.5.1-2. Require a qualified paleontologist/archeologist to monitor all grading and/or excavation where there is a potential to affect cultural or paleontological resources. If grading operations or excavations uncover paleontological/archaeological resources, require the paleontologist/archeologist monitor to suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the paleontological/archaeological resources. If resources are determined to be significant, require submittal of a mitigation plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. Mitigation plans shall include a good faith effort to avoid impacts to cultural resources through methods such as, but not limited to, project</i>	The Project site is not located in an area known to contain fossils, and there is no potential for paleontological resources to be discovered during the Project's construction process because no fossil-bearing soils or rock formations are proposed to be disturbed or excavated. Mitigation has been imposed on the Project to preclude impacts to archaeological resources in the unlikely event that resources are unearthed during the Project's construction process (refer to MM CR-1). The required mitigation also requires any significant resources to be conveyed to a designated repository. Accordingly, the Project would be consistent with Policy 4.5.1-2.



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<i>redesign, in situ preservation/capping, and placing cultural resource areas in open space.</i>	
<i>Policy 4.5.1-3. Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow qualified representatives of such groups to monitor grading and/or excavation of development sites.</i>	Mitigation has been imposed on the Project to preclude significant impacts to archaeological resources in the unlikely event that resources are unearthed during the Project’s construction process (refer to MM CR-1). The likelihood of uncovering archaeological resources is considered remote; thus, monitoring by Native American organizations would not be required during site grading. Accordingly, the Project would be consistent with Policy 4.5.1-3.
<i>Policy 4.5.1-4. Where in situ preservation and avoidance are not feasible, require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Orange County, whenever possible.</i>	Mitigation has been imposed on the Project to preclude significant impacts to archaeological resources in the unlikely event that resources are unearthed during the Project’s construction process (refer to MM CR-1). The required mitigation also requires any significant resources to be conveyed to a designated repository. Accordingly, the Project would be consistent with Policy 4.5.1-4.
<i>Policy 4.5.1-5. Where there is a potential to affect cultural or paleontological resources, require the submittal of an archeological/cultural resources monitoring plan that identifies monitoring methods and describes the procedures for selecting archeological and Native American monitors and procedures that will be followed if additional or unexpected archeological/cultural resources are encountered during development of the site. Procedures may include, but are not limited to, provisions for cessation of all grading and construction activities in the area of the discovery that has any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options to allow for significance testing, additional investigation and mitigation.</i>	The Project site is not located in an area known to contain fossils, and there is no potential for paleontological resources to be discovered during the Project’s construction process because no fossil-bearing soils or rock formations are proposed to be disturbed or excavated. Mitigation has been imposed on the Project to preclude significant impacts to archaeological resources in the unlikely event that resources are unearthed during the Project’s construction process (refer to MM CR-1). The potential for uncovering archaeological resources during site grading is considered remote. Accordingly, an archaeological/paleontological monitoring plan is not required for the Project. As such, the Project would not conflict with Policy 4.5.1-5.
<i>Policy 4.6-1. Review all new development subject to California Environmental Quality Act (CEQA) and coastal development permit requirements in accordance with the principles, objectives, and criteria contained in CEQA, the State CEQA Guidelines, the Local Coastal Program, and any environmental review guidelines adopted by the City.</i>	In compliance with Policy 4.6-1 has been prepared in conformance with CEQA, and mitigation measures have been imposed to reduce all Project impacts to a level below significant. Accordingly, the Project would comply with Policy 4.6-1.
<i>Policy 4.6-5. Where development is proposed within or adjacent to ESHA, wetlands or other sensitive</i>	The Project site is not within or adjacent to an ESHA and contains no sensitive resources with exception



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<p><i>resources, require the City staff member(s) and/or contracted employee(s) to consider the individual and cumulative impacts of the development, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts. The City may impose a fee on applicants to recover the cost of review of a proposed project when required by this policy.</i></p>	<p>of wetland resources. As determined by a site-specific jurisdictional delineation (<i>Appendix C</i>), the only wetland resources that occur on-site occur along the edge of the marina. As part of the Project, improvements proposed within the marina would increase the area of waters of the United States by 6,772 SF. Thus, there is no potential for cumulative impacts to wetlands, and the Project would be consistent with Policy 4.6-5.</p>
<p><i>Policy 4.6-6. Where development is proposed within or adjacent to ESHA, wetlands or other sensitive resources, require the City staff member(s) and/or contracted employee(s) to include the following in any recommendations of approval: an identification of the preferred project alternative, required modifications, or mitigation measures necessary to ensure conformance with the Coastal Land Use Plan. The decision making body (Planning Director, Planning Commission, or City Council) shall make findings relative to the project's conformance to the recommendations of the City staff member(s) and/or contracted employee(s).</i></p>	<p>The Project site is not within or adjacent to an ESHA and contains no sensitive resources with exception of wetland resources. As determined by a site-specific jurisdictional delineation (<i>Appendix C</i>), the only wetland resources that occur on-site occur along the edge of the marina. As part of the Project, improvements proposed within the marina would increase the area of waters of the United States by 6,772 SF. As documented herein, the Project would be fully consistent with the Coastal Land Use Plan. Accordingly, the Project would be consistent with Policy 4.6-6.</p>
<p><i>Policy 4.6-8. Coordinate with the California Department of Fish and Game, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and other resource management agencies, as applicable, in the review of development applications in order to ensure that impacts to ESHA and marine resources, including rare, threatened, or endangered species, are avoided or minimized such that ESHA is not significantly degraded, habitat values are not significantly disrupted, and the biological productivity and quality of coastal waters is preserved.</i></p>	<p>The Project would be required to obtain appropriate permits and approvals from the California Coastal Commission, Orange County, USACE, NMFS, USFS, USEPA, U.S. Coast Guard, the RWQCB, and the CDFW. Additionally, the MND provides a detailed analysis of Project impacts to marine resources, and identifies mitigation measures that would reduce potential impacts to marine resources to below a level of significant. Thus, the Project would be consistent with Policy 4.6-8.</p>
<p><i>Policy 4.6-9. Require applications for new development, where applicable, to include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains statements that the project site is suitable for the proposed development and that the development will be safe from geologic hazard for its economic life. For development on coastal bluffs, including bluffs facing Upper Newport Bay, such reports shall include slope stability analyses and estimates of the long-term average bluff retreat rate over the expected life of the development. Reports are to be</i></p>	<p>A site-specific geotechnical investigation was prepared for the Project and is included in <i>Appendix G</i>. As concluded therein, with mandatory compliance with the CBC and compliance with the recommendations of the Project-specific geotechnical investigation and City of Newport Beach requirements, the Project would not be subject to geological hazards. Accordingly, the Project would be consistent with Policy 4.6-9.</p>



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<i>signed by an appropriately licensed professional and subject to review and approval by qualified city staff member(s) and/or contracted employee(s).</i>	