

APPENDIX A

**NOTICE OF PREPARATION/INITIAL STUDY/
NOP COMMENT LETTERS**



Notice of Preparation and Scoping Meeting for the Back Bay Landing Project Environmental Impact Report

DATE: October 1, 2012

SUBJECT: Back Bay Landing Project - Notice of Preparation of an Environmental Impact Report and Notice of Public Scoping Meeting

PROJECT DESCRIPTION:

The Back Bay Landing project is a proposed integrated, mixed-use waterfront village on an approximately 7 acre portion of a 31.4 acre parcel located adjacent to the Upper Newport Bay in the City of Newport Beach. The majority of the project site (6.332 acres) is located immediately north of East Coast Highway between Bayside Drive and the Bayside Marina adjacent to the Upper Newport Bay. The balance of the project site (0.642-acres) is located under and immediately south of the East Coast Highway bridge. The project site is illustrated on the map below.



The proposed project involves land use amendments to provide the legislative framework for future development of the site. Amendments to the General Plan and Coastal Land Use Plan are required to change the land use designations to a Mixed-Use Horizontal designation and a Planned Community Development Plan (PCDP) is proposed to establish appropriate zoning regulations and development standards for Parcel 3. The requested approvals will provide for a horizontally distributed mix of uses, which will include visitor-serving recreational and marine commercial retail, office, marine office, boat services, marine services, and enclosed dry stack boat storage along with a vertical and horizontal mix of multi-family residential over retail and multi-family residential flats, as regulated by the proposed Back Bay Landing PCDP. No development is proposed for the De Anza Bayside Marsh Peninsula nor are any changes proposed to the existing Bayside Village Marina.

In addition to the land use amendments, other requested approvals are a Lot Line Adjustment, Traffic Study pursuant to the City's Traffic Phasing Ordinance, Affordable Housing Implementation Plan, and Development Agreement.

Specific project design and site improvement approvals will be sought at a later time. This EIR will address the proposed legislative approvals and reasonably foreseeable environmental impacts resulting from those approvals.

A detailed Project Description can be reviewed in the project Initial Study, which is available in hard copy form at the City of Newport Beach Planning Division Counter and at several public libraries, and online at the City's website, as described below.

NOTICE OF PREPARATION & INITIAL STUDY:

The City of Newport Beach will be the Lead Agency to prepare an Environmental Impact Report (EIR) for the Back Bay Landing project. The City has prepared an Initial Study that provides a detailed project description and evaluation of the potential environmental effects of the proposed project. The Notice of Preparation and accompanying Initial Study are available for a 30-day public review period beginning October 1, 2012 and ending October 30, 2012 at the City of Newport Beach Planning Division, 3300 Newport Boulevard, Newport Beach, CA 92663, and at the following locations:

Newport Beach Public Library
Central Library
1000 Avocado Avenue
Newport Beach, CA 92660

Newport Beach Public Library
Mariners Branch
1300 Irvine Avenue
Newport Beach, CA 92660

Newport Beach Public Library
Balboa Branch
100 East Balboa Boulevard
Newport Beach, CA 92660

Newport Beach Public Library
Corona del Mar Branch
420 Marigold Ave.
Corona Del Mar, CA 92625

The document can also be accessed online at: <http://www.newportbeachca.gov/cegadocuments>.

All comments and responses to this notice should be submitted in writing to:

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663
949-644-3209

The City will also accept responses to this notice submitted via e-mail received through the close of business on October 30, 2012. E-mail responses to this notice may be sent to jmurillo@newportbeachca.gov

NOTICE OF PUBLIC SCOPING MEETING:

The City will conduct a public scoping meeting in conjunction with this Notice of Preparation in order to present the project and the EIR process and to receive public comments and suggestions regarding the scope and content of the EIR. The meeting will be held on **October 17, 2012, at 6:00 P.M.** at the Friends Room, Newport Beach Public Library, 1000 Avocado Avenue, Newport Beach, California.

INITIAL STUDY

BACK BAY LANDING PROJECT

CITY OF NEWPORT BEACH, CALIFORNIA



OCTOBER 2012

INITIAL STUDY

BACK BAY LANDING PROJECT

CITY OF NEWPORT BEACH, CALIFORNIA

Prepared For:

City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663
Tel: 949.6443209
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OCTOBER 2012

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1. PROJECT DESCRIPTION

1. INTRODUCTION

Bayside Village Marina, LLC, the project applicant, is seeking legislative approvals for the development of a mixed-use bayfront village, Back Bay Landing (the “proposed project”). The proposed project is an integrated, mixed-use visitor-serving commercial, marine services and limited residential village on an improved but underutilized bay front site of 6.974 acres in the City of Newport Beach. The applicant is seeking General Plan and Coastal Land Use Plan Amendments that would allow for limited residential use on the site through reallocation of density within an existing three-parcel parcel map. The applicant has also prepared and is seeking approval of the Back Bay Landing Planned Community Development Plan (PCDP), which will serve as the controlling zoning ordinance for the project site and will provide a regulatory framework for the five Planning Areas that comprise the 31.431 acre Parcel 3 of Parcel Map 93-111 (“Parcel 3”- see **Figure 2, Planning Areas**, below). Within PCDP, the Back Bay Landing Design Guidelines will provide specific guidance on the physical implementation of the project and assist the City and community to visualize the architectural theme and desired character of the project. Specific project-level applications for a fully integrated, mixed-use development through the Site Development Plan and Coastal Development Permit (CDP) will be filed in the future.

2. PROJECT LOCATION

The Back Bay Landing project waterfront village will be located on 6.974 acres in the City of Newport Beach (“City”) in Orange County, California. Newport Beach is at the western edge of Orange County, adjacent to the Pacific Ocean and is bordered by Costa Mesa to the northwest, Huntington Beach to the west, Irvine to the northeast, and unincorporated portions of Orange County to the southeast.

The 6.974-acre project site consists of the crescent-shaped landside portion of Parcel 3, as shown on **Figure 1, Project Location Map**, and a small portion of Parcel 2 that would be subject to a Lot Line Adjustment (LLA) which would enlarge Parcel 3 by 0.304 acres at its ingress/egress at Bayside Drive. The entire Parcel 3 is 31.431 acres and encompasses both the land side project area and the 24.457-acre fee-owned submerged lands. No land use or physical changes to this waterside portion of Parcel 3 are proposed as part of the subject entitlement applications. The majority of the 6.974-acre project area is located immediately north of East Coast Highway between Bayside Drive and the Bayside Marina adjacent to the Upper Newport Bay. Of the 6.974 acres, 6.332 acres (275,820 square feet) is located in General Plan Statistical Area K-1 and contains the mixed-use site area that is the subject of the proposed land use applications and is comprised of the following Planning Areas (PAs), as shown on Figure 2 below: Mixed-Use Area (PA 1), Private Marina Access and Beach (PA 3), and Storage Garages and Marina/Bayside Village Guest Parking (PA 4). The balance of the 6.974-acre project site, 0.642 acres (27,966 square feet), is Marine Office and Service Area (PA 2), and is located within General Plan Statistical Area G-1 under and immediately south of the Coast Highway bridge. Although this 0.642-acre contiguous parcel is not part of the requested land use amendments, it will be developed consistent with the current Recreational and Marine Commercial General Plan and Coastal Land Use Plan designations. This 0.642-acre area will also be included in the Back Bay Landing PCDP (PC-9) boundaries and development standards.

3. EXISTING SITE CONDITIONS AND SURROUNDING LAND USES

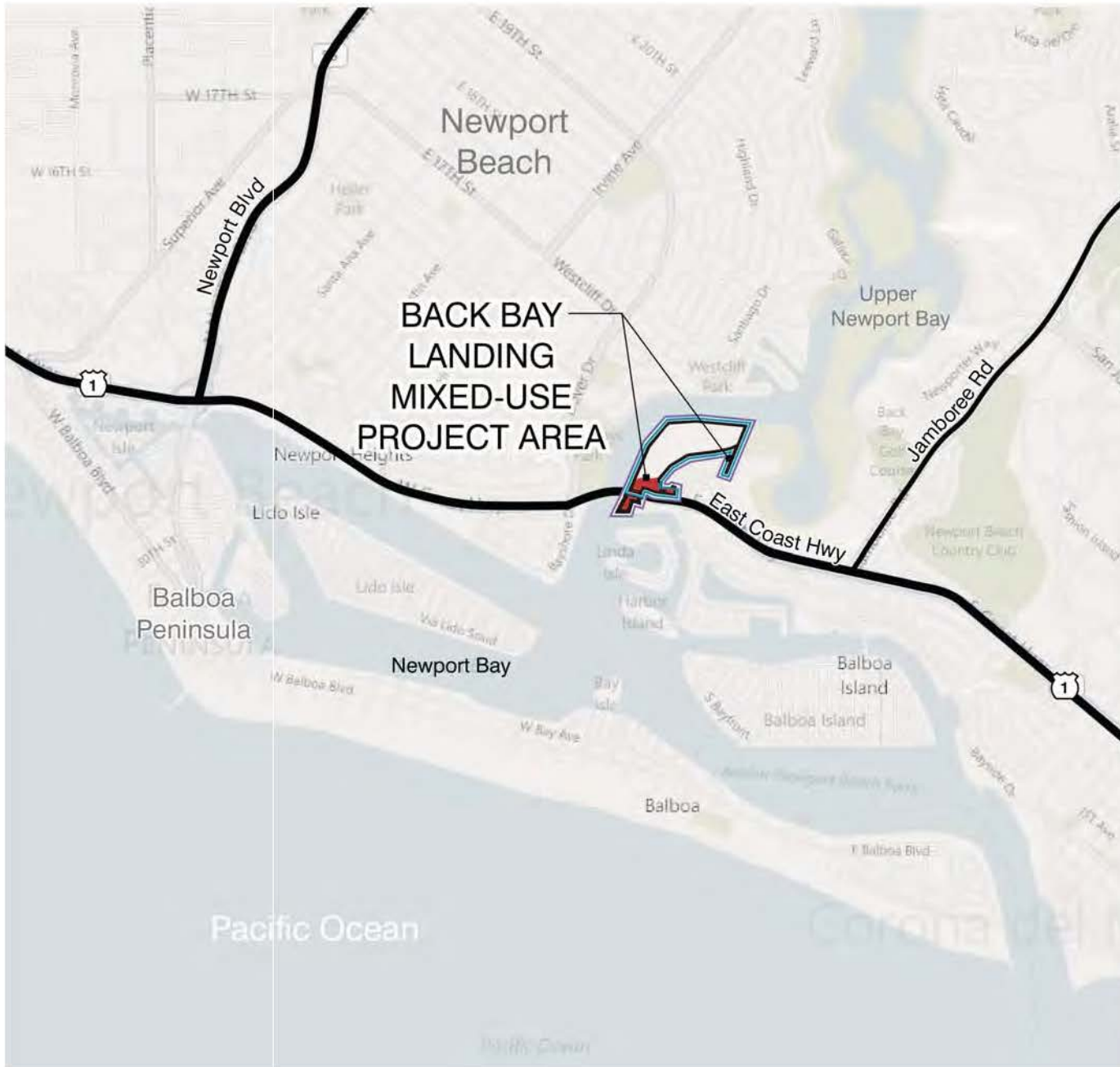
The larger 31.431-acre Parcel 3 consists of five Planning Areas as shown in Figure 2, including the following:

- **Planning Area 1 (Mixed-Use – 5.132 Acres / 223,549 square feet).** A slightly sloping, mostly fully paved area bounded by the Bayside Village Mobile Home Park to the northeast, Bayside Drive to the east, East Coast Highway to the south and the Upper Newport Bay Channel to the west. Existing uses on the site include outside storage space for RV's and small boats on trailers; Bayside Marina parking and restrooms; kayak and standup paddle board (SUP) rentals and launch area; parking and access to Pearson's Port, a floating fish market in the County tidelands/Upper Newport Bay Channel; marine service equipment storage under the Coast Highway Bridge; and Bayside Village Mobile Home Park guest parking. Adjoining the southwest portion of the site is the 45+year old Orange County Sanitation District (OCSD) pump station.
- **Planning Area 2 (Marine Office and Service – 0.642 Acres / 27,966 square feet).** This 0.642-acre area is located under and immediately south of the Coast Highway bridge. Existing uses in this area include an unpaved parking lot under the bridge and storage and launch area for rowing club south of the bridge.
- **Planning Area 3 (Existing Private Marina Access and Beach – 0.659 Acres / 28,750 square feet).** A narrow strip of fully paved, private walkway and sand beach area located between the Bayside Village Mobile Home Park to the south and Bayside Marina to the north, provides lessee access to private boat slips and docks and is available for mobile home park resident use. This area is adjacent to the northern boundary of the existing Bayside Village Mobile Home Park. No development is proposed to occur within this walkway and beach area, and will remain as private open space and marina access.
- **Planning Area 4 (Storage Garages and Marina / Bayside Village Guest Parking –0.541 Acres / 23,522 square feet).** A narrow strip of paved parking area located within Parcel 3 along the eastern boundary of Bayside Village Mobile Home Park. This area is currently improved with 45 commercial storage units and parking spaces, available to marina and mobile home park tenants and off-site users.
- **Planning Area 5 (Submerged Fee-Owned Lands –24.457 Acres / 1,065,347 square feet).** The balance of Parcel 3 is waterside area. This fee-owned submerged land is bordered by the earthen, De Anza Bayside Marsh Peninsula. The De Anza Bayside Marsh Peninsula was originally constructed with dredging spoils and rip-rock as fill to provide a protected harbor and overflow parking for the privately owned Bayside Village Marina (area is fee-owned submerged lands). The existing Bayside Village Marina contains 220 slips. No development shall occur within the De Anza Bayside Marsh Peninsula. The marina and floating fish market shall be regulated by Title 17 of the Newport Beach Municipal Code.

4. PROJECT SITE GENERAL PLAN AND ZONING DESIGNATIONS

The project site contains several land use designations, including the following:

- **General Plan:** Recreational and Marine Commercial CM 0.5 and CM 0.3
- **Coastal Land Use Plan (CLUP):** CM-B (north of Coast Highway); CM-A (south of Coast Highway)
- **Zoning:** Planned Community PC-9 (north of Coast Highway); CM (south of Coast Highway)



Back Bay Landing is located immediately north east of East Coast Highway in Newport Beach, California. The site is bounded by East Coast Highway and Newport Harbor on the south and west, Bayside Drive to the south, the Newport Back Bay channel to the west and Bayside Village Mobile Home Park to the southeast.

Legend

- Project Area (Parcel 3 of PM 93-111)
- Back Bay Landing Mixed-Use Project Area
- Existing PC-9 Boundary
- Proposed PC-9 Boundary Expansion



Not to scale

Project Location Map

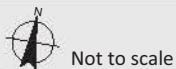
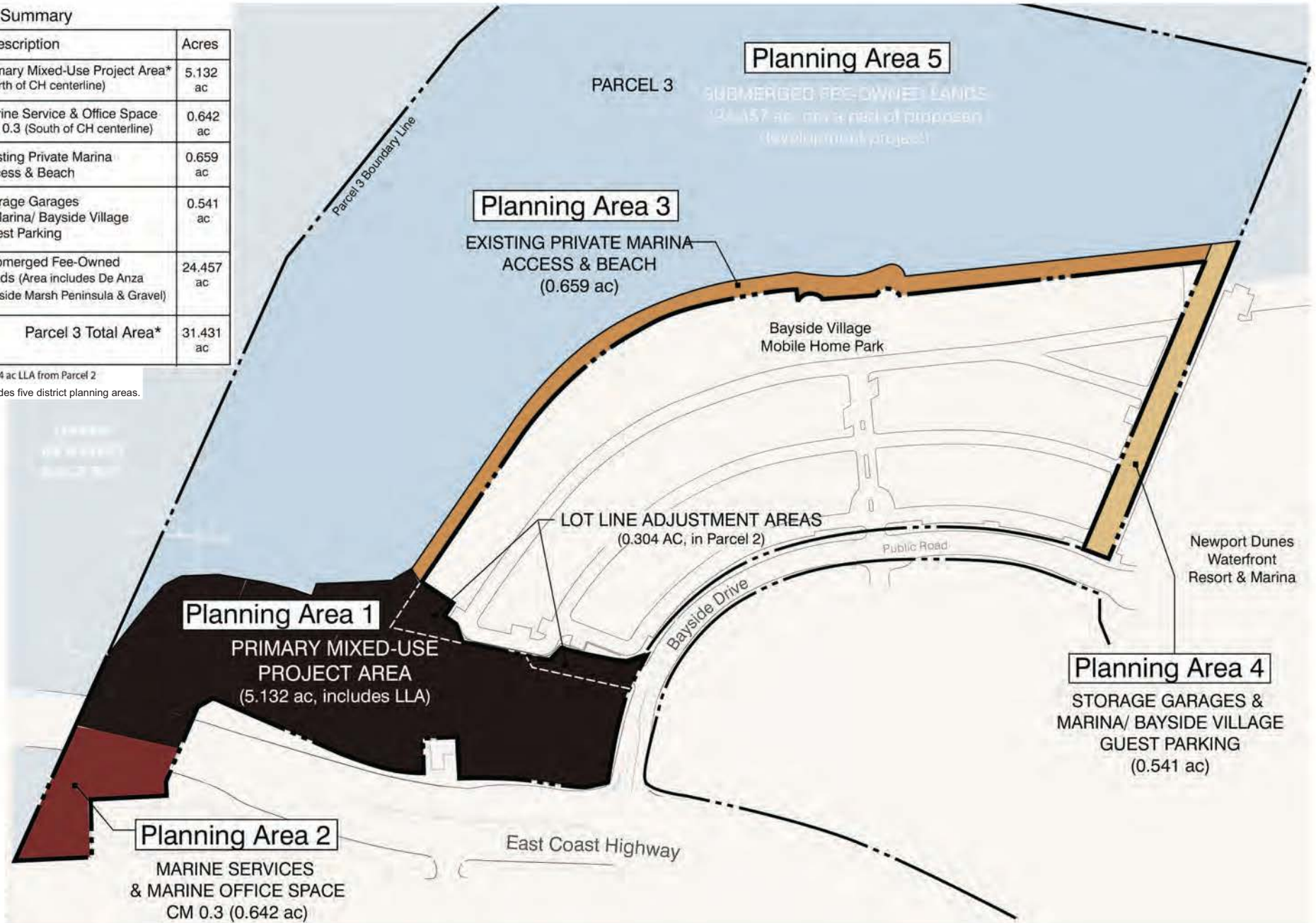
Back Bay Landing
Source: Bayside Village Marina, LLC, 2012.

FIGURE
1

Parcel 3 Summary

| P. A. | Description | Acres |
|-----------------------------|--|------------------|
| 1 | Primary Mixed-Use Project Area* (North of CH centerline) | 5,132 ac |
| 2 | Marine Service & Office Space CM 0.3 (South of CH centerline) | 0,642 ac |
| 3 | Existing Private Marina Access & Beach | 0,659 ac |
| 4 | Storage Garages & Marina/ Bayside Village Guest Parking | 0,541 ac |
| | Submerged Fee-Owned Lands (Area includes De Anza Bayside Marsh Peninsula & Gravel) | 24,457 ac |
| Parcel 3 Total Area* | | 31,431 ac |

*Includes 0.304 ac LLA from Parcel 2
Parcel 3 includes five district planning areas.



Planning Areas

Back Bay Landing
Source: Templeton Planning Group, 2012.

The Back Bay Landing project site has two separate General Plan and CLUP land use designations north and south of East Coast Highway (from the centerline under the bridge). North of the East Coast Highway bridge centerline, the area is designated Recreational and Marine Commercial (CM 0.5) in the City's General Plan, while the area south of the bridge centerline is currently designated as Recreational and Marine Commercial (CM 0.3). The project site is zoned Planned Community (PC-9) north of the East Coast Highway centerline and Marine Commercial (CM) to the south. The total existing allowed nonresidential building square footage on the property is 139,680 square feet based on the current general plan designations (CM 0.3 and CM 0.5). Residential land uses are not currently permitted. Existing land use and zoning designations are illustrated below in **Figure 3, Existing and Proposed Land Use Designations and Requested Entitlements**.

5. DESCRIPTION OF THE PROPOSED PROJECT

a. Project Components

The proposed project consists of the requested legislative approvals (GPA, CLUP, PC Amendment) for the project site. Project-specific administrative approvals (Site Development Review, CDP) will be processed at a later date. In order to allow for future mixed-use development of the site, amendments to the General Plan and Coastal Land Use Plan are required to change the land use designations to a "Mixed-Use Horizontal" designation which allows the CM uses currently allowed on the site with limited residential. The Planned Community Development Plan (PCDP) included within the project applications is proposed to establish appropriate zoning regulations governing land use and development of the site consistent with the proposed General Plan and Coastal Land Use Plan designations.

Subsequent entitlements will involve a Site Development Review from the City of Newport Beach and a Coastal Development Permit from the California Coastal Commission for the specific project-level design of the future mixed-use development.

(1) Legislative Approvals (Current Requests)

(a) General Plan Amendment

The proposed General Plan Amendment will change the existing 6.332-acre Recreational and Marine Commercial (CM 0.5) designated project site consisting of Mixed-Use Area (PA 1), Private Marina Access and Beach (PA 3), and Storage Garages and Marina/Bayside Village Guest Parking (PA 4) as shown in Figure 2, above, to Mixed-Use Horizontal 1 (MU-H1) by reallocating unused residential density from Parcels 1 and 2 to Parcel 3 of Parcel Map 93 111. Refer to Figure 3 below for an illustration of existing and proposed General Plan Land Use designations.

(b) Coastal Land Use Plan Amendment

The Back Bay Landing project will require a change from the Coastal Land Use Plan Recreational and Marine Commercial (CM) designation to a Mixed-Use Horizontal (MU-H) designation. Refer to Figure 3 below for an illustration of existing and proposed CLUP designations for the project site.

(c) PC-9 Amendment (Zone Change)

Expand the existing boundaries of PC-9 to include the proposed Lot Line Adjustment area (see description below) and the portion of the project site located south of the East Coast Highway centerline, as illustrated above in Figure 3.

(d) Back Bay Landing Planned Community Development Plan (PC-9)

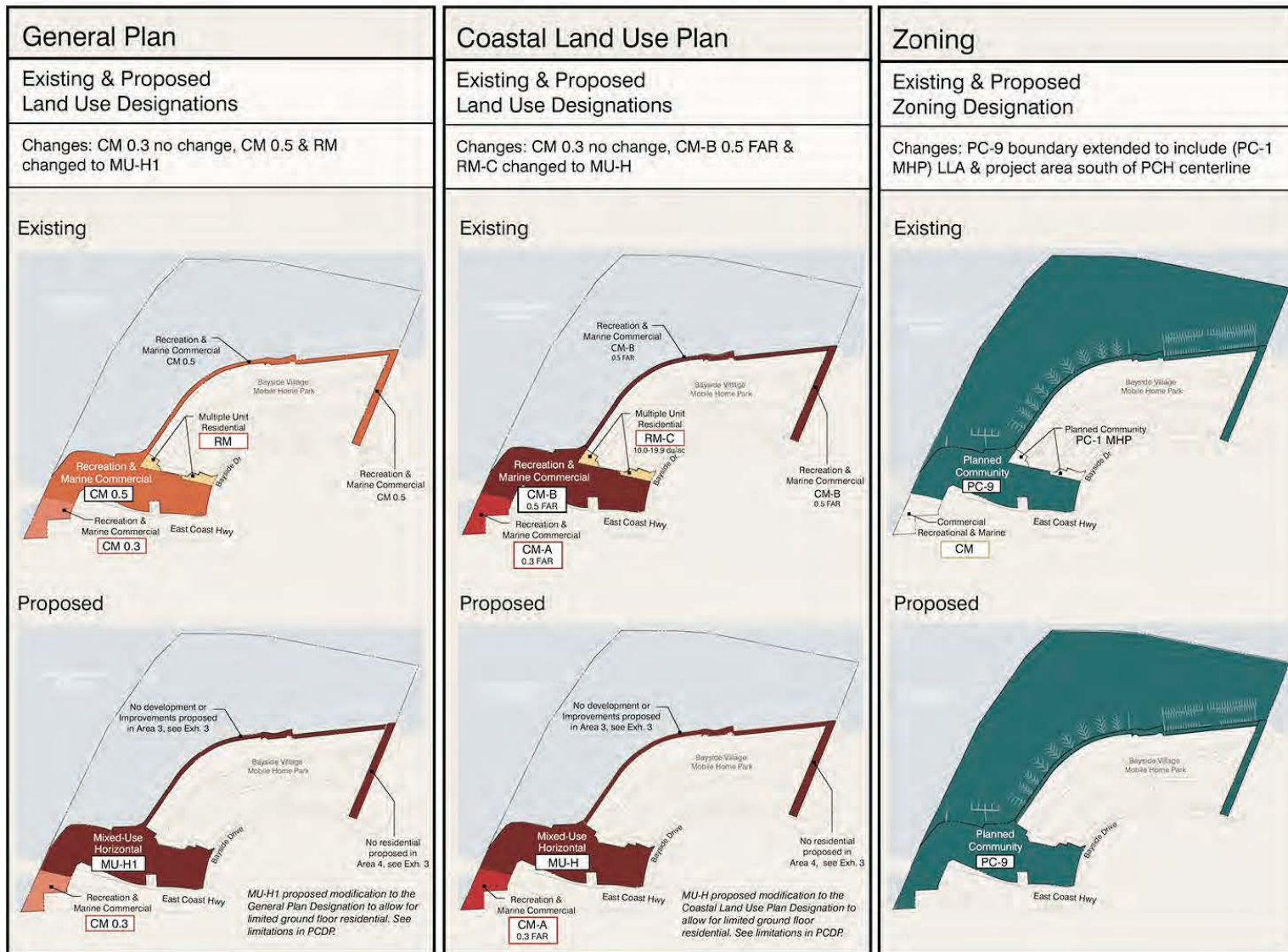
The purpose of the Planned Community Development Plan (PCDP) is to establish appropriate zoning regulations governing land use and development of the site consistent with the proposed General Plan and Coastal Land Use Plan designations. The PCDP provides a vision for the land uses on-site and sets the development standards and design guidelines that will guide the next level of approvals at the Site Development Review and Coastal Development Permit approval process, as well as the long-term operation of the developed site. The regulations will also guide the design team and community's expectations. The Back Bay Landing PCDP is intended to provide the framework for a future, integrated mixed-use waterfront project that would be designed and constructed to evoke the experience of a seaside village, while maintaining compatibility with the architecture and overall community character of Newport Beach, and bay- and harbor-oriented recreational and marine commercial and residential areas of Newport's Mariner's Mile, Bayside Drive, Lido Village, and Corona del Mar.

Subject to parking and other site constraints, the PCDP would allow for coastal-dependent and coastal-related uses, including up to 61,534 square feet of visitor-serving retail/restaurant/marine boat sales, rental and service repair and recreational commercial (kayak and stand up paddle board [SUP] rentals); a new 32,500-square-foot, full-service enclosed dry stack boat storage structure with racks or bays (up to a maximum of 140 boat spaces) and launching facilities; as well as a maximum of 49 residential units within a maximum of 85,644 square feet integrated in either two levels of residential over ground floor commercial uses, wrapped around a parking structure with three levels above ground and one semi-subterranean level, or in a three-level flat configuration adjacent to the northwest bayfront. Included within the 61,534 square feet of visitor-serving commercial retail is up to 4,000 square feet of replacement storage area (resident and boater lockers) and marina restrooms with laundry facilities would be sited on the eastern project boundary. Additionally, a gated entry with new parking spaces would provide parking for existing marina tenants and mobile home resident guests, along with significant new coastal access and "view" improvements.

The Back Bay Landing PCDP provides development standards and design guidelines that would require a village orientation of the project at Bayside Drive and East Coast Highway, designed not only to attract visitors to the mixed-use waterfront village, but also to encourage significant new public access to and along the bayfront, between Balboa Marina to the south and Newport Dunes and the regional trail system to the east.

(e) Lot Line Adjustment

The Lot Line Adjustment (LLA) requires the current General Plan land use designation (RM) and Coastal Land Use Plan designation (RM-C) to be amended consistent with the Mixed-Use Horizontal 1 (MU-H1) designation requested on the balance of the project site. No land uses are proposed for the adjusted area other than entry road, public restrooms and storage lockers. The LLA is designed to achieve improved ingress and egress to the mixed-use project and facilitate parking for Bayside Village Mobile Home Park guests. Refer to Figure 2, above, for an illustration of the portion of the project site affected by the proposed LLA.



Requested Entitlements

- General Plan Amendment (GPA)
- Coastal Land Use Plan Amendment (CLUPA)
- PC-9 Amendment (Zone Change)
- Planned Community Development Plan (PCDP)
- Environmental Impact Report (EIR)
- Lot Line Adjustment (LLA)
- Affordable Housing Implementation Plan (AHIP)
- Development Agreement (DA) (optional)



Existing and Proposed Land Use Designations and Requested Entitlements

Back Bay Landing

Source: Templeton Planning Group, 2012.

FIGURE

3

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(f) Traffic Study

A project-specific Traffic Study will be prepared for the proposed future development pursuant to City’s Traffic Phasing Ordinance.

(g) Affordable Housing Implementation Plan (AHIP)

An Affordable Housing Implementation Plan (AHIP) proposing three alternatives for compliance with the City’s Inclusionary Requirements, including the following: 1) designation of seven low/very low income restricted mobile home units within Parcel 1 or 2 (the City-preferred option); 2) payment of the City’s inclusionary in-lieu fee; or 3) provision of all 49 residential units as rentals for a minimum of five years, pursuant to Newport Beach Municipal Code Section 19.54.030.

(h) Development Agreement

Although not required for projects proposing less than 50 residential units, the Applicant intends to preserve the option of processing a development agreement application in order to potentially vest the land use amendments that are the subject of the pending applications.

(2) Site Development Review (Future Requests)

Subsequent to the requested legislative approvals discussed above, future development on-site would be regulated by the development standards and design guidelines established in the PCDP, which would allow for a mixed-use development with the maximum development limits summarized below in **Table 1, Maximum Development Scenario**. A conceptual illustration of the maximum allowable development scenario summarized in Table 1 is provided below in **Figure 4, Conceptual Site Plan**.

Table 1

Maximum Development Scenario

| North of East Coast Highway Centerline | |
|--|--|
| Retail/Marine Sales and Repair | 32,859 square feet |
| Quality Restaurant | 4,100 square feet |
| High-Turnover Restaurant | 3,500 square feet |
| Office | 8,685 square feet |
| Enclosed Dry-Stack Boat Storage | 32,500 square feet (up to 140 spaces) |
| Storage Area (resident and boat lockers) | 4,000 square feet |
| <i>Non-Residential Total North of East Coast Highway Centerline:</i> | <i>85,644 square feet</i> |
| <i>Residential Total North of East Coast Highway Centerline:</i> | <i>85,644 square feet (up to 49 units)</i> |
| South of East Coast Highway Centerline | |
| Non-residential (marine services, office) | 8,390 square feet |
| Project Site Total | 179,678 square feet |
| Marina (existing) | 220 wet slips |

Source: Bayside Village Marina, LLC, 2012

b. Site Access and Circulation

Primary vehicular and pedestrian access to the site would be from Bayside Drive approximately 200 feet north of the East Coast Highway intersection. This location would service both inbound and outbound movements, and would represent a northerly shift of approximately 40 feet from the existing marina and RV/dry boat storage entry, and improvement of the existing driveway connection servicing the site. In making this enhancement, the west curb of Bayside Drive along the project frontage would also be set back and improved. This improvement would add a southbound right turn lane on Bayside Drive at the East Coast Highway traffic signal, and further provide a formalized northbound left turn lane on North Bayside Drive at the project entry.

In addition to the site access configuration described above, a potential project alternative would add a dedicated westbound right turn-in only lane along a portion of the project's East Coast Highway frontage for direct public access to the project. This connection could be located approximately 450 feet west of the Bayside Drive intersection with East Coast Highway, and would allow for inbound right turn movements only. Outbound movements from the project at this connection point would be prohibited.

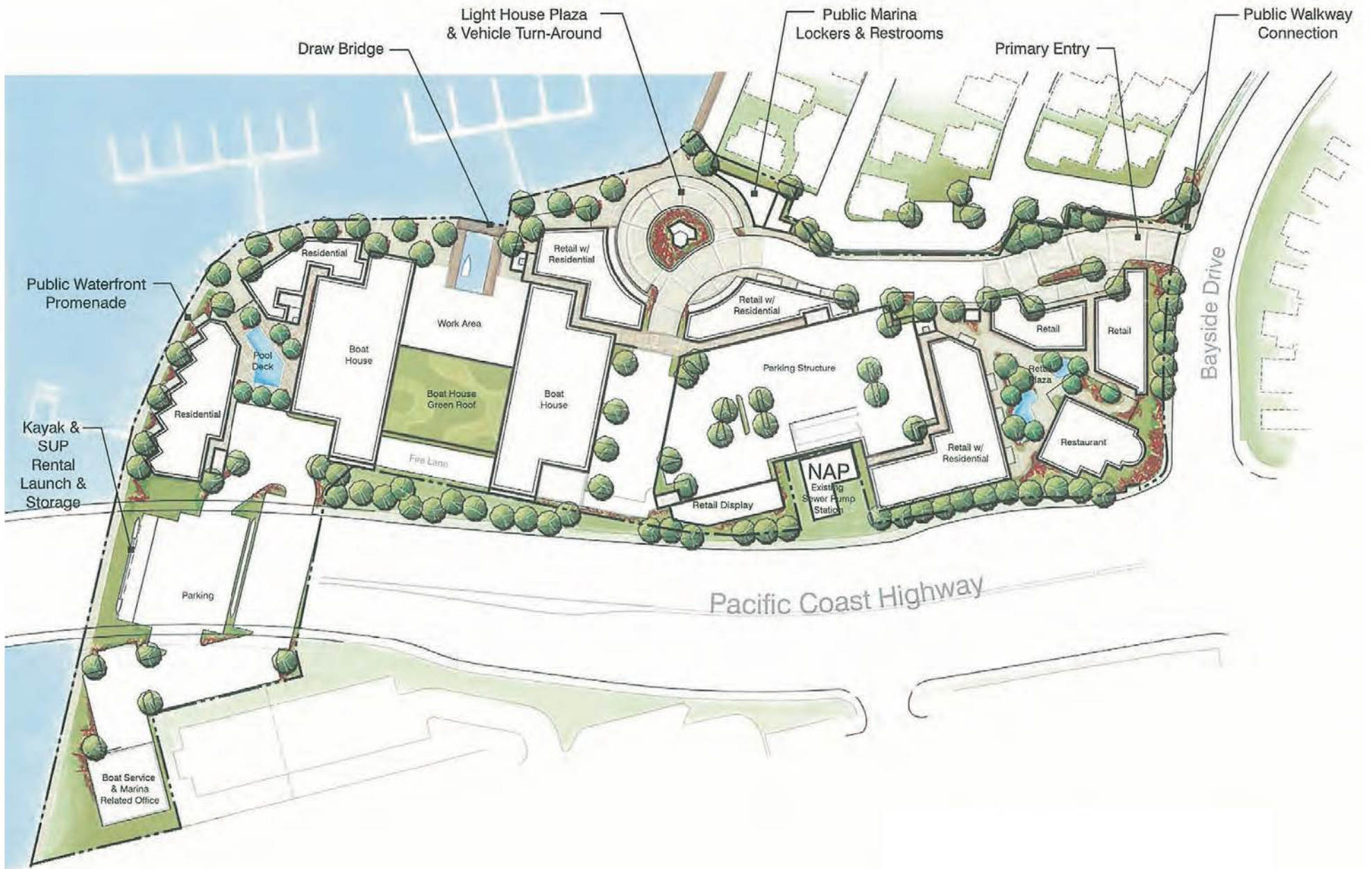
7. CONSTRUCTION SCHEDULE AND PHASING

The first stage of the proposed project, which involves legislative approvals to allow for future development of the site, is anticipated to be completed by the end of 2013. Following the legislative approval stage of the project, a project-level development design consistent with the proposed legislative framework for the site would be prepared. It is estimated that Site Development Review and Coastal Development Permit processes and approval of the future development project would be completed by 2015. Construction is expected to commence, therefore, in mid-2015 and completed in one phase lasting approximately 18 months, with occupancy by late 2016.

8. NECESSARY APPROVALS

The Applicant is seeking the following discretionary and/or legislative approvals for the Back Bay Landing project at this time:

- California Environmental Quality Act Clearance
- Traffic Study pursuant to City's Traffic Phasing Ordinance
- General Plan Amendment.
- Coastal Land Use Plan Amendment
- PC-9 Amendment (Zone Change)
- Planned Community Development Plan
- Lot Line Adjustment
- Affordable Housing Implementation Plan (AHIP)
- Development Agreement



Conceptual Site Plan

Back Bay Landing

Source: Stoutenborough, Inc. Architects & Planners, 2012.

FIGURE

4

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The Applicant will be seeking the following discretionary approvals for the Back Bay Landing project at a future date:

- Site Development Review (Future)
- Coastal Development Permit (Future)
- Harbor Permit (Future)

2. ENVIRONMENTAL CHECKLIST FORM

1. **Project title:** Back Bay Landing
2. **Lead agency name and address:** City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663
3. **Contact person and phone number:** Jaime Murillo, Associate Planner (949) 644-3209
4. **Project location:** Regionally, the project site is located near the Pacific Ocean in the west-central portion of Orange County, within the City of Newport Beach. The project site is generally bounded by the Upper Newport Bay Channel to the west and north, by Jamboree Road to the east, and by East Coast Highway to the south.
5. **Project sponsor's name and address:** Bayside Village Marina, LLC
300 East Coast Highway
Newport Beach, CA 92660
6. **General plan designation:** General Plan: Recreational and Marine Commercial CM 0.5 and CM 0.3
Coastal Land Use Plan: CM-B (north of PCH); CM-A (south of East Coast highway)
7. **Zoning:** PC-9 (north of East Coast Highway and proposed to be expanded south of East Coast Highway [currently CM])
8. **Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)**

The proposed project involves various legislative approvals for the future development of the Back Bay Landing Project (the "proposed project"), which is proposed to be an integrated, mixed-use waterfront village on 6.974 acres in the City of Newport Beach. Refer to Section 1, *Project Description*, of this Initial Study for a detailed description of the proposed project.

9. **Surrounding land uses and setting: Briefly describe the project's surroundings:**

North: Existing mobile homes within the adjacent Bayside Village Mobile Home Park, the Bayside Marina, and Newport Back Bay.

East: Existing mobile homes located across Bayside Drive and the Newport Dunes Waterfront Resort.

West: Castaways Park located across Newport Back Bay Channel with single-family residential uses on the bluffs further west.

South: Restaurant and marina across East Coast Highway, as well as waterfront single-family residential uses within Newport Harbor further south. Additionally, a sewer pump station owned and operated by the Orange County Sanitation District (OCSD) is located along the project site's southern boundary adjacent to and north of East Coast Highway.

10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)**
 - Orange County Sanitation District;
 - Orange County Airport Land Use Commission;
 - California Department of Transportation; and
 - California Coastal Commission.

PURPOSE OF THE INITIAL STUDY

The Project is analyzed in this Initial Study, in accordance with the California Environmental Quality Act (CEQA), to determine if approval of the Project would have a significant impact on the environment. This Initial Study has been prepared pursuant to the requirements of CEQA, under Public Resources Code 21000-21177, of the State CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000-15387) and under the guidance of the City of Newport Beach. The City of Newport Beach is the Lead Agency under CEQA and is responsible for preparing the Initial Study for the proposed Project.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:


The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology/Soils |
| <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards/Hazardous Materials | <input checked="" type="checkbox"/> Hydrology/Water Quality |
| <input checked="" type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Population/Housing | <input checked="" type="checkbox"/> Public Services | <input checked="" type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input checked="" type="checkbox"/> Utilities and Service Systems | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



 Signature

Jaime Murillo

 Printed Name

9-27-12

 Date

Associate Planner

 Title

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 2) A list of “Supporting Information Sources” should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 3) Impact Columns Heading Definitions:
 - “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
 - “Potentially Significant Unless Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The mitigation measures must be described, along with a brief explanation of how they reduce the effect to a less than significant level.
 - “Less Than Significant Impact” applies where the project creates no significant impacts, only Less Than Significant impacts.
 - “No Impact” applies where a project does not create an impact in that category. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one proposed (e.g., the project falls outside of a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 4) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - Earlier Analysis Used. Identify and state where they are available for review.
 - Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 5) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 6) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|-------------------------------------|--|-------------------------------------|-------------------------------------|
| I. AESTHETICS – Would the project: | | | | |
| a) Have a substantial adverse effect on a scenic vista? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| II. AGRICULTURE AND FORESTRY RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire protection regarding the state’s inventory of forest land, including the Forest and Range Assessment of and the Forest Legacy Assessment Project; and forest carbon measurements methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:: | | | | |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 1220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------------|--|-------------------------------------|--------------------------|
| III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | | | | |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Expose sensitive receptors to substantial pollutant concentrations? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| IV. BIOLOGICAL RESOURCES – Would the project: | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native nursery sites? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------------|--|-------------------------------------|-------------------------------------|
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| V. CULTURAL RESOURCES – Would the project: | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| VI. GEOLOGY AND SOILS – Would the project: | | | | |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ii) Strong seismic ground shaking? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| iv) Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------------|--|-------------------------------------|-------------------------------------|
| <u>VII. GREENHOUSE GAS EMISSIONS</u> – Would the Project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, based on any applicable threshold of significance? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <u>VIII. HAZARDS AND HAZARDOUS MATERIALS</u> – Would the project: | | | | |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <u>IX. HYDROLOGY AND WATER QUALITY</u> – Would the project: | | | | |
| a) Violate any water quality standards or waste discharge requirements? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|-------------------------------------|--|-------------------------------------|-------------------------------------|
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alternation of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f) Otherwise substantially degrade water quality? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

X. LAND USE AND PLANNING – Would the project:

| | | | | |
|---|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Physically divide an established community? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------------|--|-------------------------------------|-------------------------------------|
| XI. MINERAL RESOURCES – Would the project: | | | | |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| XII. NOISE – Would the project result in: | | | | |
| a) Exposure of persons to or generation of noise level in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| XIII. POPULATION AND HOUSING – Would the project: | | | | |
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|--------------------------------------|--|------------------------------------|-------------------------------------|
| <u>XIV. PUBLIC SERVICES</u> | | | | |
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| Fire protection? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Police protection? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Schools? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parks? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other public facilities? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <u>XV. RECREATION</u> | | | | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <u>XVI. TRANSPORTATION/TRAFFIC</u> – Would the project: | | | | |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Result in inadequate emergency access? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| Issues: | Potentially Significant Impact | Less Than Significant With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|--|--------------------------------------|--|-------------------------------------|--------------------------|
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <u>XVII. UTILITIES AND SERVICE SYSTEMS</u> – Would the project: | | | | |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <u>XVIII. MANDATORY FINDINGS OF SIGNIFICANCE</u> | | | | |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

3. EXPLANATION OF CHECKLIST DETERMINATIONS

I. AESTHETICS

Would the project:

a. Have a substantial adverse effect on a scenic vista?

Potentially Significant Impact. A scenic vista is generally defined as an area that is deemed aesthetically pleasing when viewed from a certain vantage point. Aesthetic components of a scenic vista include: (1) scenic quality; (2) sensitivity level; and (3) view access. The City has designated Coast Highway adjacent to the site as a Coastal View Road in the General Plan and Coastal Land Use Plan (CLUP). The project site is located along the Upper Newport Bay waterfront and is therefore visible from the adjacent East Coast Highway right-of-way, as well as from surrounding sites across the bay that include public parks and trails designated as public view points; as such, the proposed project site may be considered part of a scenic vista. In addition, panoramic views of Upper Newport Bay (including adjacent bluffs to the east and west of the bay) are visible from portions of the project site, and therefore the project site may also be considered a vantage point for a scenic vista. Implementation of the proposed project would result in the ultimate construction of new buildings and the installation of additional landscaping and lighting that may obstruct or modify a scenic vista. The Environmental Impact Report (EIR) will include analysis of possible impacts related to scenic vistas, including publically accessible views on site. This topic will be addressed in the EIR, and mitigation will be included if necessary.

b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, or other locally recognized desirable aesthetic natural feature within a state scenic highway?

Less Than Significant Impact. There are no rock outcroppings or any other scenic resources on-site. There are some ornamental trees in on-site landscaped areas and throughout the parking areas, but the trees are not considered scenic resources. The trees are typical of landscaped ornamental trees in urban areas of southern California, and the project landscape plan includes additional ornamental trees. Therefore, the removal of some of the trees on-site would not substantially damage scenic resources, and impacts would be less than significant.

The State of California Department of Transportation designates scenic highway corridors. The project site is not within a state scenic highway, nor is the project site visible from any (officially designated or eligible) scenic highway, and there are no state scenic highways adjacent to or near the project site. State Route 1 (SR-1), also known as Pacific Coast Highway (or as East or West Coast Highway within the City of Newport Beach), is located adjacent to and south of the project site. Although SR-1 is deemed eligible for state scenic highway designation, it is currently not officially designated.¹ It should be noted that although East Coast Highway is not a designated state scenic highway, the City of Newport Beach General Plan and CLUP designate it as a Coastal View Road. Nonetheless, the project would not damage scenic resources in a state

¹ California Department of Transportation. "Officially Designated Scenic Highways and Historic Parkways." http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm. Accessed September 2012.

scenic highway, and therefore impacts would be less than significant. This topic will not be addressed in the EIR.

c. Substantially degrade the existing visual character or quality of the site and its surroundings?

Potentially Significant Impact. Development of a future mixed-use project on-site would substantially alter the visual character of the site by introducing several two- to three-story buildings with structures up to 35 feet high (40 feet with architectural features), a new circulation system, landscaped areas, and waterfront improvements (the project would also include one feature, an observation tower, that would be a maximum of 55 feet high). Development would be subject to the development standards and design guidelines set forth in the project's Planned Community Development Plan. The design guidelines will address vehicle and pedestrian circulation, parking, building setbacks, architectural guidelines, and landscaping. Subsequent to approval of the proposed land use approvals, future developer/builders would provide more detailed site plans subject to compliance with the design regulations. The EIR will describe the character of existing development and provide a detailed description, including graphics, to disclose the potential project impacts to visual resources. The analysis will include a description of the design regulations, landscape plan, and lighting guidelines for the project.

d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Potentially Significant Impact. The proposed project would introduce several two- to three-story buildings and related lighting that could increase existing sources of light and glare on-site. The EIR will analyze the potential impacts and provide applicable information regarding architectural treatments and lighting plans.

II. AGRICULTURE AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire protection regarding the state's inventory of forest land, including the Forest and Range Assessment of and the Forest Legacy Assessment Project; and forest carbon measurements methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact. The project site is mapped as Urban and Built-Up Land on the Orange County Important Farmland 2010 map issued by the Division of Land Resource Protection. The site is in an urbanized area of the City and is developed with a vehicle storage lot and marine-related recreation uses. The project would not convert farmland to nonagricultural use, and no impact would occur.

b. Conflict with the existing zoning for agricultural use, or a Williamson Act Contract?

No Impact. The project site and surrounding development are not zoned for agricultural purposes. The project site is currently zoned PC-9 and CM. Under Williamson Act contracts, private landowners voluntarily restrict their land to agricultural land and compatible open-space uses; in return, their land is taxed based on actual use rather than potential market value. There are no Williamson Act contracts in effect on or adjacent to the site, and the project would not conflict with such a contract. No impact would occur.

c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 1220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No Impact. Forest land is defined as “land that can support 10-percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits” (California Public Resources Code Section 12220[g]). Timberland is defined as “land...which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees” (California Public Resources Code Section 4526). The site is zoned Planned Community (PC-9) and Marine Commercial (CM), and there is no zoning on the site for forest land, timberland, or timberland production. Further, no forest land exists within or near the project boundaries. No impact would occur and further analysis of this issue in an EIR is not necessary.

d. Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. The site is developed with asphalt-paved parking lots, storage garages, and recreational vehicle, boat, and marine equipment storage areas. There is no forest land located on-site. The project would not convert forest land to non-forest use, and no impact would occur.

e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

No Impact. There is no agricultural production on or adjacent to the project site. Future development on-site would not indirectly result in conversion of farmland to non-agricultural use or forest land to non-forest use, and no impact would occur.

III. AIR QUALITY

Where available, the significance criteria established by the South Coast Air Quality Management District (SCAQMD) or air quality management plan may be relied upon to make the following determinations.

Would the project:

a. Conflict with or obstruct implementation of the applicable air quality plan?

Potentially Significant Impact. The project site is in the South Coast Air Basin (SoCAB) and is subject to the Air Quality Management Plan (AQMP) prepared by the South Coast Air Quality Management District (SCAQMD). Future construction of allowable uses on-site would generate exhaust from construction equipment and vehicle trips, fugitive dust from demolition and ground disturbing activities, and off-gas

emissions from architectural coatings and paving. The EIR will evaluate the proposed project for consistency with regional growth forecasts and any impacts the planning program may have on the attainment of regional air quality objectives. Mitigation measures will be recommended as needed.

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Potentially Significant Impact. Construction and operation of the project would have the potential to generate fugitive dust, stationary-source emissions, and mobile-source emissions. Air pollutant emissions associated with the project could occur over the short-term for future site preparation and construction activities. In addition, emissions could result from the long-term operation of the completed project once constructed. An air quality analysis will be conducted for the project to determine if the resulting project's short- or long-term emissions would exceed the SCAQMD's regional significance thresholds. This topic will be addressed in the EIR, and mitigation measures will be recommended as needed.

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?

Potentially Significant Impact. The project site is in the SoCAB, which is designated under the California and National ambient air quality standards (AAQS) as nonattainment for ozone (O₃), coarse inhalable particulate matter (PM₁₀), fine particulate matter (PM_{2.5}), nitrogen oxides (NO_x) (California standard only), and lead (Los Angeles County only).² Implementation of the proposed project may increase existing levels of criteria pollutants and contribute to the nonattainment status for these criteria pollutants in the SoCAB. As mentioned above, air pollutant emissions associated with the proposed project could occur over the short-term during future site preparation and construction activities associated with proposed land uses. In addition, emissions could result during long-term operation of the proposed project once constructed. An air quality analysis will be prepared to determine if the project would result in a cumulatively considerable net increase in any criteria air pollutant. This topic will be addressed in the EIR, and mitigation measures will be recommended, as appropriate.

d. Expose sensitive receptors to substantial pollutant concentrations?

Potentially Significant Impact. An air quality impact is considered potentially significant if emission levels exceed the state or federal ambient air quality standards, thereby exposing sensitive receptors to substantial pollutant concentrations. Sensitive receptors are locations where uses or activities result in increased exposure of persons more sensitive to the unhealthful effects of emissions (such as children and the elderly). The existing residential uses within the adjacent mobile home park are the closest sensitive receptors to the project site, which could be exposed to air pollutants associated with construction of proposed future development on-site. Further, the mobile home park residents and future on-site residents would be exposed to project-related operational emissions in the long-term as well. The EIR will evaluate the potential for construction and operation of the proposed project to exceed SCAQMD's localized significance

² California Air Resources Board. 2011 Area Designations. "Staff Report: Initial Statement of Reasons (ISOR), Attachment C: Maps and Tables of Area Designations for State and National Ambient Air Quality Standards." <http://www.arb.ca.gov/regact/2011/area11/area11.htm>. Accessed September 2012.

thresholds (LSTs) in accordance with SCAQMD's guidance methodology. Mitigation measures will be incorporated, as necessary.

e. Create objectionable odors affecting a substantial number of people?

Less Than Significant Impact. Potential sources of odors during construction activities include the use of architectural coatings and solvents. The activities and materials associated with project construction would be typical of construction projects of similar type and size. Any odors that may be generated during construction or operation of the project would be localized and temporary in nature and would not be sufficient to affect a substantial number of people or result in a nuisance as defined by SCAQMD Rule 402. As such, impacts with regard to odors would be less than significant.

According to the SCAQMD *Air Quality Analysis Guidance Handbook*, land uses associated with odor complaints typically include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. The project involves the future development of restaurant, retail, and residential uses (and associated parking) and would not introduce any major odor-producing uses that would have the potential to affect a substantial number of people. Only limited odors associated with project operations would be generated by on-site solid waste generation and storage, the use of certain cleaning agents, and/or restaurant uses, all of which would be consistent with existing conditions on-site and in the surrounding area. Odor impacts during project operations would be less than significant. Thus, further analysis of odor impacts in an EIR is not required.

IV. BIOLOGICAL RESOURCES

Would the project:

a. Have a substantial adverse effect, either directly or through habitat modification, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Potentially Significant Impact. The project site, while not known to contain substantial biological resources or habitats, is located adjacent to Upper Newport Bay, which contains various sensitive species and related habitats. Future development of allowable uses on-site could result in direct and indirect impacts to sensitive resources. As such, impacts are considered potentially significant and future analysis of this issue in an EIR is required.

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in the City or regional plans, policies, regulations by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Potentially Significant Impact. The project site is located adjacent to Upper Newport Bay, which contains a number of aquatic habitats and other sensitive natural communities. Future development of allowable uses on-site could result in direct and indirect impacts to riparian habitat. As such, impacts are considered potentially significant and future analysis of this issue in an EIR is required.

- c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

Potentially Significant Impact. Future development on-site would involve the construction of new seawall bulkheads along the waterfront of Upper Newport Bay, which could have direct effects on jurisdictional waters. As such, impacts are considered potentially significant and future analysis of this issue in an EIR is required.

- d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

Potentially Significant Impact. A variety of biological resources are known to exist in portions of the project area. Future implementation of allowable improvements would occur on existing developed land; however, future development may have the potential to directly or indirectly impact sensitive species and habitats including wetlands and riparian lands. The project would not interfere with wildlife corridors or impede the use of native wildlife nursery sites as no such corridors or nursery sites are known to exist on the project site. The project site is almost entirely paved in its present condition, and except for the western/northwestern boundary which is adjacent to Upper Newport Bay, the local area is entirely developed with residential, commercial and transportation uses. Given the potential presence of sensitive biological resources on the western/northwestern edge of the site, potential impacts to biological resources will be evaluated in an EIR.

- e. Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance (e.g., oak trees or California walnut woodlands)?**

Potentially Significant Impact. The City of Newport Beach does not have a tree preservation ordinance applicable to trees on private property. However, the City's General Plan and CLUP include a number of policies related to the protection of sensitive natural resources, including biological resources. Therefore, impacts would be considered potentially significant and further analysis of this issue in an EIR is required.

- f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

No Impact. The project site is located within the Coastal Subarea of the Orange County Central-Coastal Natural Communities Conservation Plan (NCCP). However, the site is designated as "Developed" in the NCCP, and is not within an area designated as a preserve under the NCCP. The closest designated NCCP preserve is Upper Newport Bay Ecological Reserve located approximately 1,000 feet northeast of the project site at the closest point. The project site is not located within the plan areas of any habitat conservation plans other than the NCCP. It should be noted that while the De Anza Bayside Marsh Peninsula (within Planning Area 5 of the project site) is designated as an Environmentally Sensitive Area (ESA) in the City's General Plan and CLUP, no physical changes to this portion of the site are contemplated under the proposed project. As such, no impact would occur in this regard and further analysis of this issue in an EIR is not required.

V. CULTURAL RESOURCES

Would the project:

a. Cause a substantial adverse change in significance of a historical resource as defined in State CEQA §15064.5?

Potentially Significant Impact. Section 15064.5 defines historic resources as resources listed or determined to be eligible for listing by the State Historical Resources Commission, a local register of historical resources, or the lead agency. Generally a resource is considered to be “historically significant” if it meets one of the following criteria:

- i) Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
- ii) Is associated with the lives of persons important in our past;
- iii) Embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values;
- iv) Has yielded, or may be likely to yield, information important in prehistory or history.

The existing 50-year-old commercial storage garages on the eastern side of Parcel 3 were built in the 1960s. As such, a cultural resources assessment of the site regarding potential historic resources will be conducted. Findings of the assessment regarding historic resources will be discussed in the EIR. Mitigation measures will be recommended as needed.

b. Cause a substantial adverse change in significance of an archaeological resource pursuant to State CEQA §15064.5?

Potentially Significant Impact. Previous cultural resources research regarding the project site indicate that no known cultural resources sites exist within the project boundaries. However, despite the lack of known cultural resource sites on the property, there remains the potential for the presence of archaeological resources that could be adversely affected by the construction of the future improvements, particularly large excavations for subterranean parking. As such, impacts are considered potentially significant and this issue will be further analyzed in an EIR.

c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Potentially Significant Impact. The project site is relatively flat and developed with urban uses. There are no unique geological features on-site, and no impact to such resources would occur. However, the proposed project would involve future grading and excavation to greater depths than were done for the existing development on-site. Proposed grading and excavation could damage fossils if buried in site soils. The updated cultural resources assessment to be prepared for the project will include a paleontological records overview by the Natural History Museum of Los Angeles County, and findings of the overview will be discussed in the EIR.

d. Disturb any human remains, including those interred outside of formal cemeteries?

Potentially Significant Impact. While no known traditional Native American sites exist within the project area or surrounding area, nor have any resources been identified, construction activities associated with the proposed project would have the potential to unearth undocumented resources and result in a significant impact. A Sacred Lands File review will be conducted to determine the need for monitoring the presence of human remains during project construction. A summary of the search results and a more detailed analysis of potential impacts to human remains will be included in the EIR.

VI. GEOLOGY AND SOILS

Would the project:

- a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:**
- i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

Less Than Significant Impact. Fault rupture is defined as the displacement that occurs along the surface of a fault during an earthquake. Based on criteria established by the California Geological Survey (CGS), faults can be classified as active, potentially active, or inactive.³ Active faults are those having historically produced earthquakes or shown evidence of movement within the past 11,000 years (during the Holocene Epoch).⁴ Potentially active faults have demonstrated displacement within the last 1.6 million years (during the Pleistocene Epoch), but do not displace Holocene Strata. Inactive faults do not exhibit displacement younger than 1.6 million years before the present. In addition, there are buried thrust faults, which are low angle reverse faults with no surface exposure. Due to their buried nature, the existence of buried thrust faults is usually not known until they produce an earthquake.

The seismically active Southern California region is crossed by numerous active and potentially active faults and is underlain by several blind thrust faults. Alquist-Priolo Earthquake Fault Zones (formerly Special Study Zones) have been established throughout California by CGS. These zones, which extend from 200 to 500 feet on each side of a known active fault, identify areas where potential surface rupture along an active fault could prove hazardous and identify where special studies are required to characterize hazards to habitable structures.

The project site is not located within an established Alquist-Priolo Fault zone. The nearest active faults to the project site are the Newport-Inglewood Fault Zone (L.A. Basin and Off-shore segments) located 2.5 and 2.8 miles from the site respectively, and the San Joaquin Hills Blind Thrust, located approximately 6.4 miles from the project site.⁵ Active faults with the potential for surface rupture are not known to be located

³ California Department of Conservation, California Geological Survey. "California Geological Survey - Alquist-Priolo Earthquake Fault Zoning Act," http://www.consrv.ca.gov/cgs/rghm/ap/Pages/main.aspx#what_is_fault. Accessed September 2012.

⁴ *Ibid.*

⁵ Leighton Consulting, Inc. "Preliminary Geotechnical Engineering Evaluation For The Proposed Back Bay Landing – Mixed-Use Waterfront Development Legislative Approvals (GPA, CLUPA, Etc.), Bayside Drive And Pacific Coast Highway, Newport Beach, California." March 2, 2012.

beneath the project site. Therefore, the potential to expose people to impacts from fault rupture resulting from seismic activity during the design life of the buildings is considered less than significant. Further evaluation of this issue in an EIR is not required.

ii. Strong seismic ground shaking?

Potentially Significant Impact. The United States is classified into four seismic zones, ranging from 1 (low earthquake danger) to 4 (high earthquake danger). All of California lies within Seismic Zones 3 or 4. Future on-site development allowable under the proposed legislative approvals would be required to comply with construction standards contained in the California Uniform Building Code (UBC) and the Newport Beach Building Code. Nonetheless, potential impacts associated with ground shaking will be further analyzed in an EIR.

iii. Seismic-related ground failure, including liquefaction?

Potentially Significant Impact. The City of Newport Beach General Plan Safety Element indicates that the project site is located within an area with relatively high susceptibility to liquefaction given the shallow depth to groundwater and sandy and silty nature of the alluvial soils under the site. Based on the high potential for liquefaction on-site, impacts in this regard are considered potentially significant and further evaluation of this issue in an EIR is required.

iv. Landslides?

Less Than Significant Impact. No slope areas considered susceptible to landslides or other slope failure exist on-site. Although the raised Coast Highway corridor bisecting the project site is sloped down to ground level on either side of the bridge approach, the roadway was engineered and constructed to industry standards, and therefore the potential for slope failure in this area is considered low. Given the distance of natural slope areas from the project site and relatively flat topography on-site, less than significant impacts related to landslides are anticipated to occur and therefore further evaluation of this issue in an EIR is not required.

b. Result in substantial soil erosion or the loss of topsoil?

Potentially Significant Impact. Future site grading and construction activities could result in soil erosion or loss of topsoil during windy conditions or from site runoff during storm events. As such, impacts are potentially significant and this issue will be further analyzed in an EIR.

c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potential result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Potentially Significant Impact. As noted above in Responses VI.a., the project site is located in an area susceptible to liquefaction, and therefore impacts in this regard would be considered potentially significant and further analysis of this issue in an EIR is required.

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

Less Than Significant Impact. Expansive soils are typically associated with fine-grained clayey soils that have the potential to shrink and swell with repeated cycles of wetting and drying. The project area is characterized by sandy granular soils that exhibit low clay content and very low expansion potential.⁶ Although not anticipated, expansive soils, if encountered within the project site, would be removed and/or replaced as part of standard construction practices pursuant to the City of Newport Beach and/or CBC building requirements. Therefore, project implementation would result in less than significant impacts associated with expansive soils and substantial risks to life or property would not occur. Further analysis of this issue in an EIR is not necessary.

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No Impact. The project site is located in an urbanized area served by existing wastewater infrastructure, and therefore no septic tanks or alternative wastewater disposal systems would be required. As such, the project would not result in impacts related to the ability of soils to support septic tanks or alternative wastewater disposal systems. No impacts would occur, and further evaluation of this issue in an EIR is not required.

VII. GREENHOUSE GAS EMISSIONS

Would the project:

- a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, based on any applicable threshold of significance?**
- b. Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?**

Potentially Significant Impact (a-b). Construction and operation of the proposed project would generate additional greenhouse gas emissions that could exceed established thresholds, and as such could conflict with applicable plans, policies, and regulations related to greenhouse gases. Therefore, impacts are considered potentially significant and this issue will be further analyzed in an EIR.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

Less Than Significant Impact. Hazardous materials may be used during the construction phase of the project's development components. Hazardous materials that may be used include, but are not limited to, fuels (gasoline and diesel), paints and paint thinners and possibly herbicides and pesticides. Generally these

⁶ *Ibid.*

materials would be used in concentrations that would not pose significant threats during the transport, use and storage of such materials. Furthermore, it is assumed that potentially hazardous materials would be contained, stored, and used in accordance with manufacturers' instructions and handled in compliance with applicable standards and regulations, including California Occupational Safety and Health Administration requirements, and Title 8 and 22 of the Code of California Regulations. Accordingly, risks associated with hazards to the public or environment posed by the transport, use or disposal of hazardous materials during construction are considered less than significant due to compliance with applicable standards and regulations.

Over the long-term, the project would not involve facilities that include the storage, use, disposal, or generation of substantial amounts of hazardous materials or wastes. While ongoing landscape and building maintenance activities may involve the occasional use of hazardous materials, potentially toxic or hazardous compounds associated with such maintenance activities typically consist of readily available solvents, cleaning compounds, paint, herbicides, and pesticides. These hazardous materials are regulated by stringent federal and state laws mandating the proper transport, use, and storage of hazardous materials in accordance with product labeling. Similarly, proposed dry-stack boat storage on-site may involve the use and storage of vehicle fuels such as gasoline and diesel fuel for boats, and possibly propane fuel for forklifts. However, the use and storage of these substances is not considered to present a health risk when used in accordance with manufacturer specifications and with compliance to applicable regulations.

Overall, construction and operation of the project would result in a less than significant impact with regard to routine transport, use, or disposal of hazardous materials relative to the safety of the public or the environment. Further analysis of this issue is not necessary in the EIR.

b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Potentially Significant Impact. As discussed in Response No. VIII.a, the project would not involve facilities that include substantial storage, use, disposal, or generation of hazardous materials or wastes. However, there is the potential for unknown hazardous materials to be located on the project site, which could expose people to health risks is encountered during construction or operation of the proposed uses. Therefore, impacts are considered potentially significant and this issue will be further analyzed in an EIR.

c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No Impact. There are no schools within 0.25-mile of the project site. Newport Harbor High School is the closest school to the project site; however, it is ½-mile from the project site at the closest point. No impact would occur and further analysis of this issue in an EIR is not required.

d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Potentially Significant Impact. The project area has been utilized for marine-related activities, including vehicle storage, for many years and database searches regarding hazardous materials conditions indicate that multiple underground petroleum storage tanks have been installed and removed from the site, which

could have resulted in residual contamination of site soils or groundwater.⁷ The project site is not on the GC 65962.5 list. Given the potential presence of listed hazardous materials in the project area, even though not on the Government Code list, and associated potential for existing contamination to affect the proposed uses, impacts in this regard are considered potentially significant and further analysis of this issue in an EIR is required.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

Potentially Significant Impact. The project site is not located within the Clear Zone/Runway Protection Zones or the Accident Potential Zone for John Wayne Airport (JWA), as designated in the City's General Plan (and illustrated in Figure S5 of the General Plan Safety Element). A portion of the project site is located within the Airport Environs Land Use Plan (AELUP) for JWA. In 1975, the Airport Land Use Commission (ALUC) of Orange County adopted an AELUP that included JWA (formerly Orange County Airport). The AELUP is the authoritative planning document for the ALUC. The ALUC is an agency authorized under State law to assist local agencies in ensuring compatible land uses in the vicinity of airports. Primary areas of concern for ALUCs are noise, safety hazards, and airport operational integrity. ALUCs are not implementing agencies in the manner of local governments, nor do they issue permits for a project such as those required by local governments. The project site is located within the AELUP for JWA and could potentially result in a safety hazard for people residing or working in the project area. The AELUP for JWA contains policies governing the land uses within the JWA area. Specifically, these policies establish development criteria that protect sensitive receptors from airport noise, protect persons from risk of airport operations, and establish height guidelines to ensure aircraft safety. The proposed project would be required to implement the guidelines contained in the AELUP. The project's consistency with the AELUP for JWA will be analyzed in detail in the EIR, and mitigation will be included if necessary.

f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for the people residing or working in the area?

No Impact. There are no private airstrips in the vicinity of the project area. Therefore, the project would not result in airport-related safety hazards for the people residing or working in the area. No impact would occur in this regard. Further analysis of this issue is not necessary in the EIR.

g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Potentially Significant Impact. The City of Newport Beach has an adopted Emergency Response Plan, and the Newport Beach Fire Department is the lead department for coordinating all emergency management activity in the City. Storage of construction materials and construction equipment such as construction office trailers, cranes, storage containers, and trailers detached from vehicles is prohibited on City property, including City streets, without a permit from the City Public Works Department. Future construction and operation would comply with City requirements regarding storage on City property, including City streets.

⁷ Leighton Consulting, Inc. "Phase I Environmental Site Assessment Back Bay Landing Project, APN 440-132-60 Northwest Corner Of East Coast Highway And Bayside Drive Newport Beach, County Of Orange, California." October 19, 2009.

However, project-related traffic system improvements at the intersection of East Coast Highway and Bayside Drive, as well as future water pipeline relocation activities within the East Coast Highway or Bayside Drive right-of-ways, could temporarily restrict vehicular access to and from the project site while construction activities are occurring. As such, the proposed project could potentially interfere with emergency access to, or evacuation from, the project site and surrounding properties. Impacts would be potentially significant and further analysis of this issue in an EIR is required.

h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No Impact. There is no native habitat or extensive vegetation susceptible to wildland fires on the site. As illustrated in Figure S4 of the City of Newport Beach General Plan Safety Element, the proposed project is located in an area designated as “low/none wildfire hazard.” Future development would not place buildings or structures at any risk from wildland fires, and therefore no impacts would occur and further analysis of this issue in an EIR is not required.

IX. HYDROLOGY AND WATER QUALITY

Would the project:

a. Violate any water quality standards or waste discharge requirements?

Potentially Significant Impact. Construction and operation of proposed uses has the potential to introduce pollutants into stormwater flows in excess of allowable standards. As such, this issue will be evaluated further in an EIR.

b. Substantially deplete groundwater supplies or interfere with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned land uses for which permits have been granted)?

Less Than Significant Impact. Implementation of the project would not deplete groundwater supplies or interfere substantially with groundwater recharge. The proposed project would incrementally decrease (by 5%) the amount of impervious surfaces on-site.⁸ Therefore, the proposed project would not result in a net increase in impermeable surface area on-site and would not adversely affect groundwater recharge or increase runoff volumes conveyed from the site during storm events. Additionally, the lack of increase in impervious surfaces on-site would be consistent with Policy HB 8.20 (Impervious Surfaces) of the Newport Beach General Plan Harbor and Bay Element, which requires new development to minimize the creation of and increase of impervious surfaces. Furthermore, the project site is not in a designated groundwater recharge area and does not serve as a primary source of groundwater recharge. Impacts would be less than significant and this issue will not be evaluated further in an EIR.

⁸ Fuscoe Engineering, Inc. “Preliminary Water Quality Management Plan (P-WQMP) Back Bay Landing Redevelopment Project.” August 9, 2012.

- c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?**

Potentially Significant Impact. Future development on-site would involve soil disturbance and earthmoving during construction activities, which could increase soil erosion and stormwater flow volumes generated on-site. Therefore, the proposed project would alter the existing drainage pattern of the project area, which could result in substantial erosion or sedimentation on- or off-site. As such, impacts are considered potentially significant and this issue will be further analyzed in an EIR.

- d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off site?**

Potentially Significant Impact. There are no streams or rivers present on the project site; however, the project site is located adjacent to Upper Newport Bay which serves to drain the San Diego Creek watershed. Future development of the site would potentially alter drainage patterns through the site due to physical site changes. As discussed above in Response VIII.b, the project is not anticipated to result in an increase in the amount of impervious surface area, or a corresponding increase in the amount of surface water runoff generated on-site, as the proposed project would incrementally decrease impervious surface area within the project boundaries. However, although the change in total runoff is not expected to be substantial, the project would result in a change in drainage patterns with future development of multiple structures on-site. Therefore, this issue will be further evaluated in an EIR.

- e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?**

Potentially Significant Impact. As discussed above in Response VIII.d, although the proposed project would not increase the overall impervious surface area on-site, changes to drainage features and infrastructure as part of future site development could have the potential to exceed the capacity of the stormwater drainage system serving the project area. Therefore, this impact is considered potentially significant and this issue will be further analyzed in an EIR.

- f. Otherwise substantially degrade water quality?**

Potentially Significant Impact. During future construction of allowable uses on-site, excavation and grading activities would have the potential to temporarily increase the amount of pollutants in surface water runoff. In addition, urban development under the proposed project compared to existing conditions could substantially increase pollutants generated on-site during project operation. Given the potential for future construction and operation of allowable land uses to degrade water quality on- and off-site, further analysis in an EIR is necessary to assess the project's potential impacts.

- g. Place housing within a 100-year flood plain as mapped on federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?**

No Impact. The Federal Emergency Management Agency (FEMA) maintains and updates the National Flood Insurance Program (NFIP) maps, which identify community flood hazard zone designations. The project site

has been designated as Zone X, meaning that it is outside of 100-year and 500-year flood zones. No impact would occur, and this issue will not be further analyzed in an EIR.

h. Place within a 100-year flood plain structures which would impede or redirect flood flows?

No Impact. As stated in Response No. IX.g, the project area is not located within a 100- or 500-year floodplain. Thus, no impacts would occur and further analysis of this issue in an EIR is not required.

i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Potentially Significant Impact. Although the project site is not located within the inundation areas of any dams and is not in an area designated on a flood insurance rate map as being protected from 100-year floods by levees, the site's location adjacent to Upper Newport Bay means that on-site flooding potential cannot be ruled out. As such, impacts in this regard are potentially significant and further analysis of this issue in an EIR is required.

j. Inundation by seiche, tsunami, or mudflow?

Potentially Significant Impact. A seiche is an oscillation of a body of water in an enclosed or semi-enclosed basin, such as a reservoir, harbor, lake, or storage tank. A tsunami is a great sea wave, commonly referred to as a tidal wave, produced by a significant undersea disturbance such as tectonic displacement of the sea floor associated with large, shallow earthquakes. Mudflows result from the downslope movement of soil and/or rock under the influence of gravity.

The project area is subject to tsunami hazards given the site's proximity to the Pacific Ocean and low elevation of the project area relative to sea level. While no open reservoirs or other large water bodies are located within or upstream of the project area, the site is adjacent to Upper Newport Bay. Therefore, the project could be subject to flooding hazards associated with seiches during large seismic events. Additionally, given the lack of steep hillsides near the project site, the potential for mudflows to affect the proposed uses would be negligible given the distance of significant hillsides from the project and amount of intervening development. Furthermore, the gently sloping topography of the project area is not conducive to sustaining mudflows.

Based on the above, potentially significant adverse impacts associated with inundation by seiche and tsunamis could occur with future project implementation. Further analysis of this issue in an EIR is necessary.

X. LAND USE AND PLANNING

Would the project:

a. Physically divide an established community?

No Impact. While there are several developed residential, commercial, and public facility uses within the project vicinity, no established communities are located within the affected portions of project site that could be physically divided by future development. Therefore, no impacts related to the physical division of an

established community would result from the proposed project. Further analysis of this issue is not necessary in the EIR.

- b. Conflict with applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

Potentially Significant Impact. The proposed project requires a General Plan Amendment, Coastal Land Use Plan Amendment, Zoning Code Amendment, Development Agreement, and other approvals. Based on the requisite changes to applicable plans, policies, and regulations affecting the project site, the proposed project could potentially result in conflicts. As such, impacts in this regard would be potentially significant and further analysis of this issue in an EIR is required.

- c. Conflict with any applicable habitat conservation plan or natural community conservation plan?**

No Impact. As stated in Response No. IV.f, the project would have no potential to conflict with a Habitat Conservation Plan or Natural Community Conservation Plan, since the project site is not located within or adjacent to a designated reserve area. As such, no impact would occur in this regard and further evaluation of this issue in an EIR is not required.

XI. MINERAL RESOURCES

Would the project:

- a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?**
- b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?**

No Impact (a-b). There are no known local mineral resources within the project area. No known State-designated mineral resource areas have been identified within the project area. The project does not incorporate heavy industrial uses of any type or propose mineral development activities. Further, implementation of the project would not impede the potential for direct use or future exploration of mineral resources. Therefore, the project would result in no impact regarding mineral resources. Further analysis of this issue in an EIR is not necessary.

XII. NOISE

Would the project result in:

- a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

Potentially Significant Impact. Construction of future improvements under the proposed land use approvals would increase noise levels in the project area, which could exceed established noise standards. The future project's facilities and maintenance activities could also increase long-term noise levels near sensitive noise receptors. Accordingly, potential increases in construction and operational noise are considered potentially significant, and an analysis of noise-related effects will be included in an EIR.

b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Potentially Significant Impact. Groundborne vibration or noise would primarily be associated with construction activities from future development of allowable uses on-site. These temporary increased levels of vibration could impact vibration-sensitive land uses surrounding the project site, which is considered a potentially significant impacts. This topic will be further evaluated in an EIR.

c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Potentially Significant Impact. The future development and operation of allowable uses on-site would result in new sources of noise at the project site, primarily from project-related traffic. Impacts would be considered potentially significant and therefore the EIR will evaluate the potential for noise generated by the project to substantially increase existing noise levels at adjacent land uses.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Potentially Significant Impact. Construction of future improvements under the proposed land use approvals would create periodic and short-term noise, which could exceed established noise standards. The future project's facilities and maintenance activities could also increase long-term noise levels near sensitive noise receptors. Accordingly, potential increases in construction and operational noise are considered potentially significant, and a noise analysis will be included in the EIR. The analysis will include discussion of both temporary construction and periodic operational noise increases and the potential for significant impacts on residents and other sensitive receptors near and within the project area.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Potentially Significant Impact. Although John Wayne Airport is located approximately three miles to the north of the project site, the project site is located within the boundaries of the corresponding Airport Environs Land Use Plan (AELUP). Therefore, project implementation could expose people to excessive airport related noise levels associated with aircraft operations. Impacts in this regard would be potentially significant, and further analysis of this issue in an EIR is required.

f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The project area is not located in the vicinity of a private airstrip. Therefore, the project would not expose people residing or working in the project area to excessive noise levels from such uses. No impact would occur in this regard and further analysis of this issue in an EIR is not necessary.

XIII. POPULATION AND HOUSING

Would the project:

- a. **Induce substantial population growth in an area either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

Potentially Significant Impact. Future project implementation would increase the population, housing stock, and employment opportunities within the project area. Therefore, given the potential growth associated with future on-site development, impacts are considered potentially significant. Further analysis of this issue in an EIR is required.

- b. **Displace substantial numbers of existing housing necessitating the construction of replacement housing elsewhere?**
- c. **Displace substantial numbers of people necessitating the construction of replacement housing elsewhere?**

Less Than Significant Impact (b-c). Although project implementation would result in the removal of existing residential units (i.e., three mobile homes within the proposed LLA area), it would not displace substantial numbers of existing housing or people, since such removal would be limited to three housing units that would be offset by the future provision of up to 49 dwelling units on-site. Therefore, despite the removal of three existing housing units as part of the proposed project, impacts to existing housing or local populations would be less than significant. Further analysis of this issue is not necessary in the EIR.

XIV. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- a. **Fire protection.**
- b. **Police protection.**
- c. **Schools.**
- d. **Parks.**
- e. **Other public facilities.**

Potentially Significant Impact (a-e). Future development on-site would include new residential development that would directly increase the City's population, and commercial and marine-related uses that would indirectly increase population in the area both on- and off-site. Thus, the associated increase in demand generated by the project for public services, including fire and police protection, schools, parks, and other public facilities, will be addressed in an EIR.

XV. RECREATION

- a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

Potentially Significant Impact. The proposed project would involve the future construction of additional residential units, which would increase the permanent residential population within the project area. Thus, although the proposed project would include various waterfront access improvements as well as residential, restaurant, and other commercial uses, the associated increase in demand for parks services generated by the project will be addressed in an EIR.

- b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

Potentially Significant Impact. The proposed project would include waterfront access/trail improvements to serve on-site residents and the community at-large. As on-site facilities are a component of the project, impacts associated with construction of these facilities are addressed in this Initial Study and will be addressed, as appropriate, in the respective analyses within the EIR. While the availability of on-site recreational facilities to residents may reduce project-related demand for area parks and recreational facilities, the proposed project would nonetheless contribute to the demand for parks and other recreational facilities in the area through the introduction of a new residential population. Therefore, this issue will be further analyzed in an EIR.

XVI. TRANSPORTATION/TRAFFIC

Would the project:

- a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?**
- b. Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?**

Potentially Significant Impact (a-b). Trip generation on-site will increase with future project implementation. As such, a traffic evaluation is being prepared that will evaluate the project's potential to result in traffic impacts. The results of the traffic evaluation will be presented in the EIR.

- c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

No Impact. The project does not allow for any future structures that would interfere with air traffic patterns, as the maximum height of future project components would be 55 feet above grade (i.e., the proposed observation tower); nor would the project increase use of any airport in more than a de minimus

way. Thus, no impact regarding air traffic patterns would occur with project implementation. Further analysis of this issue is not necessary in the EIR.

d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Potentially Significant Impact. The proposed project would involve the future construction of new roadways and intersections, including a roundabout. The new circulation system on-site could increase hazards if not properly designed and constructed. As such, impacts are considered potentially significant in this regard and further analysis of this issue in an EIR is required.

e. Result in inadequate emergency access?

Potentially Significant Impact. Immediate access to the project vicinity is provided via a single access point off East Coast Highway at Bayside Drive. Emergency evacuation plans and procedures would be incorporated into the project, and building design plans and emergency access and circulation would be subject to future review and approval by the Newport Beach Fire Department. While it is expected that the majority of future construction activities for the project would be confined on-site, short-term construction activities associated with intersection/access improvements and utility relocation may temporarily affect access on portions of the adjacent street rights-of-way. Given the potential disruption of traffic patterns during future construction and potential access limitations during project operation, emergency access will be addressed in an EIR.

f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

Potentially Significant Impact. The introduction of future uses and associated population, vehicles, and new and expanded roadways could potentially conflict with existing/adopted policies, plans, or programs regarding alternative transportation. Therefore, impacts are considered potentially significant and further analysis of this issue in an EIR is required.

XVII. UTILITIES AND SERVICE SYSTEMS

Would the project:

a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Potentially Significant Impact. Given the increase in development intensity relative to existing conditions at the project site, it is anticipated that the proposed project would increase wastewater generation, and the associated demand for wastewater treatment could potentially exceed existing treatment capacity or the wastewater treatment requirements of the Santa Ana Regional Water Quality Control Board (SARWQCB) for the treatment facility serving the project area. Therefore, further analysis of wastewater treatment in an EIR is necessary.

b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Potentially Significant Impact. The proposed project would result in the development of the project site with new urban uses at a substantially higher intensity than existing on-site development. As such, given the associated increase in demand for water service and wastewater treatment, the potential exists for the project to require the construction or expansion of water and/or wastewater treatment facilities. Therefore, further analysis of this issue in an EIR is necessary.

c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Potentially Significant Impact. The proposed project would not substantially increase surface water runoff generated at the project site given the minimal change in impervious surface area on-site. However, future on-site improvements would change the development pattern of the site from a simple paved site to various urban uses, which would alter the rate and direction of runoff. Since the proposed project has the potential to alter the sheet flow pattern throughout the project site, impacts to stormwater drainage facilities will be addressed in an EIR.

d. Have sufficient water supplies available to serve the project from existing entitlements and resource, or are new or expanded entitlements needed?

Potentially Significant Impact. The project would consist of a mix of uses, including residential units and commercial and marine-related uses. As these uses would not generate a water demand greater than that of 500 dwelling units, the project would not be subject to Senate Bill (SB) 610 which requires that a water supply assessment be conducted by the water service provider to determine if there is sufficient water supply to serve the project during normal, single dry, and multiple dry water years. However, although a water supply assessment is not required for the proposed project, water supply will be analyzed further in an EIR.

e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Potentially Significant Impact. As noted above, the proposed project would result in the development of the project site with new urban uses at a higher intensity than under existing conditions. As such, given the associated increase in demand for wastewater treatment, the potential exists for the project to exceed the capacity of wastewater treatment facilities serving the project area. Therefore, further analysis of this issue in an EIR is necessary.

f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Potentially Significant Impact. Future construction of allowable uses on-site would generate inert solid waste (e.g., export soils, construction and demolition debris) which would require disposal at an unclassified landfill. In addition, during future project operation, the project's commercial and residential uses would generate solid waste which would be disposed of at the landfill(s) serving the City. Although recycling would

extend the life of the landfill(s) serving the project area, implementation of the proposed project would increase demand for landfill services and potentially accelerate projected landfill closures. Therefore, the impact of the project with respect to solid waste disposal will be further analyzed in an EIR.

g. Comply with federal, state, and local statutes and regulations related to solid waste?

Less Than Significant Impact. The City of Newport Beach has achieved over 50-percent waste diversion since 2004 through recycling and other measures and is in compliance with the California Integrated Waste Management Act of 1989 (AB939).⁹ The proposed project would comply with applicable regulations related to solid waste, including those pertaining to waste reduction and recycling. As all solid waste collection from the project site would be managed by Waste Management, Inc., which is in compliance with federal, state, and local statutes and regulations, the proposed project would be consistent with respective regulatory measures. Further analysis of this issue in an EIR is not required.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

- a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

Potentially Significant Impact. As discussed above, the project could potentially result in significant impacts regarding biological resources and cultural resources. Impacts related to either of these issue areas would be considered to degrade the quality of the environment. This impact is considered potentially significant and will be further analyzed in the EIR.

- b. Does the project have impacts which are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)**

Potentially Significant Impact. As discussed above, the project could potentially result in significant impacts regarding aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services, traffic/transportation, and utilities and service systems-related impacts. The EIR will assess potential cumulative impacts associated with these issues.

- c. Does the project have environmental effects which cause substantial adverse effects on human beings, either directly or indirectly?**

Potentially Significant Impact. Due to the potentially significant impacts associated with implementation of the project, the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Thus, a potentially significant impact associated with this issue could occur, and as such further analysis will be provided in the relevant sections of the EIR.

⁹ CalRecycle. “Jurisdiction Diversion/Disposal Rate Summary (1995 - 2006)”. <http://www.calrecycle.ca.gov/LGCentral/reports/diversionprogram/JurisdictionDiversion.aspx>. Accessed September 2012.

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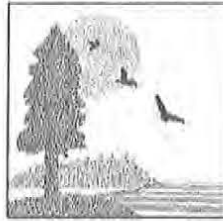
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November 15, 2012

File Ref: SCH # 2012101003

Jaime Murillo
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**Subject: Notice of Preparation (NOP) for an Environmental Impact Report (EIR)
for the Back Bay Landing Project, Orange County**

Dear Mr. Murillo

The California State Lands Commission (CSLC) staff has reviewed the subject NOP for an EIR for the Back Bay Landing Project (Project), which is being prepared by the City of Newport Beach (City). Because the Project would require amendments to the Newport Beach General Plan and Coastal Land Use Plan, the City is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

The entire proposed Project site appears to be located landward of the adjudicated mean high tide line along the shore of Newport Bay as set in the Superior Court Case #20436. The uplands at this location are within Rancho San Joaquin. These ranchos, including the Project site, were confirmed into private ownership and patented by the Federal Government on September 19, 1867. The State is precluded from asserting its sovereign ownership interest in Rancho lands by virtue of its admission to the United States in 1850, pursuant to the decision in Summa Corporation v. California 466 U.S. 198 (1984).

The tide and submerged lands that extend waterward of the adjudicated mean high tide line (even though not part of the proposed Project location) are legislatively granted in trust to Orange County pursuant to Chapter 526, Statutes of 1919, and as amended, with minerals reserved to the State. If there are any questions regarding CSLC jurisdiction or granted lands outside of the Project area, please contact Sharron Guerrieri at the contact information noted at the end of this letter.

Project Description

Bayside Village Marina, LLC proposes to construct an integrated, mixed-use waterfront village on 6,974 acres in Newport Beach that attracts visitors and encourages new public access to and along the bayfront. From the Project Description, CSLC staff understands that the Project would include the following components, subject to parking and other constraints:

- Up to 61,534 square feet of visitor-serving retail/restaurant/marine boat sales, rental and service repair and recreational commercial), including up to 4,000 square feet of replacement storage area (resident and boater lockers) and marina restrooms with laundry;
- A new 32,500-square-foot, full-service enclosed dry stack boat storage structure with racks or bays and launching facilities;
- A maximum of 49 residential units within a maximum of 85,644 square feet; and
- A gated entry with new parking spaces.

Environmental Review

As stated above, the Project will not require a lease with the CSLC; however, because the proposed Project involves activities that may impact granted lands subject to the protections of the Public Trust Doctrine, CSLC staff offers the following comments as a trustee agency and requests that City consider these comments and suggestions when preparing the Draft EIR.

Public Access and Public Trust Values

1. Public Trust Impacts: Although from the Project Description it appears the Project would not involve sovereign lands managed by the CSLC, the Project area does abut granted lands held in trust for public trust purposes, including water-related commerce, navigation, fishing, water-related visitor serving and recreational uses, environmental protection, open space, and preservation of scenic areas. The

NOP indicates that the design of the Project would "encourage significant new public access to and along the bayfront, between Balboa Marina to the south and Newport Dunes and the regional trail system to the east" (p. 1-6); however, construction of the mixed-use development could also temporarily or permanently affect public trust uses and values (e.g., water quality, gating-off of certain access points, reduction in public parking, etc.). Consequently, CSLC staff recommends that the EIR include an analysis of any potentially significant impacts to surrounding public trust lands from the development and increased public use resulting from Project. In particular, the EIR should evaluate both direct and indirect effects related to the intensity of these development activities adjacent to tidal waterways.

General Comments

2. Project Description: A thorough and complete Project Description should be included in the EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. Thorough descriptions will make for a more robust analysis of the work that may be performed and minimize the potential for subsequent environmental analysis to be required.
3. In order to avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the Project and which may be accomplished in more than one specified way" (State CEQA Guidelines¹, §15126.4, subd. (b)).

Biological Resources

4. Sensitive Species: The City should conduct queries of the California Department of Fish and Game's (DFG) California Natural Diversity Database (CNDDDB) and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The City should also consult directly with DFG, USFWS, and the National Marine Fisheries Service (NMFS) for information on species that may be present, their life histories, and possible mitigation for any significant impacts. With this information, the EIR should analyze the potential for such species to occur in the Project area and, if impacts to special-status species are found to be significant, identify adequate mitigation measures.

¹ The State "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Climate Change

5. Greenhouse Gases: A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (AB 32) and required by the State CEQA Guidelines should be included in the EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to a less than significant level.
6. Sea Level Rise: The EIR should also consider the effects of sea level rise on all resource categories potentially affected by the proposed Project. At its meeting on December 17, 2009, the CSLC approved the recommendations made in a previously requested staff report, "A Report on Sea Level Rise Preparedness" (Report), which assessed the degree to which the CSLC's grantees and lessees have considered the eventual effects of sea level rise on facilities located within the CSLC's jurisdiction. (The Report can be found on the CSLC's website, <http://www.slc.ca.gov>.)

Thank you for the opportunity to comment on the NOP for the Project. As a trustee agency, we request that you consider CSLC staff's comments prior to preparation of the Draft EIR. Please send copies of future Project-related documents, including electronic copies of the Draft and Final EIRs, Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available, and refer questions concerning environmental review to Sarah Sugar, Environmental Scientist, at (916) 574-2274 or via e-mail at Sarah.Sugar@slc.ca.gov. For questions concerning CSLC leasing jurisdiction, please contact Sharron Guerrieri, (Position Title) at (916) 574-1868, or via email at Sharron.Guerrieri@slc.ca.gov.

Sincerely,



Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
Sharron Guerrieri, LMD, CSLC
Sarah Sugar, DEPM, CSLC
Kathryn Colson, Legal, CSLC



1919 S. State College Blvd.
Anaheim, CA 92806-6114



October 3, 2012

City of Newport Beach
Planning Division
3300 Newport Boulevard
Newport Beach, CA 92663

Attention: Jaime Murillo

Subject: Back Bay Landing Project EIR

Thank you for providing the opportunity to respond to this E.I.R. Document. We are pleased to inform you that Southern California Gas Company has facilities in the area where the aforementioned project is proposed. Gas service to the project can be provided from an existing gas main located in various locations. The service will be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission when the contractual arrangements are made.

This letter is not a contractual commitment to serve the proposed project but is only provided as an informational service. The availability of natural gas service is based upon conditions of gas supply and regulatory agencies. As a public utility, Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. Our ability to serve can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affect gas supply or the conditions under which service is available, gas service will be provided in accordance with the revised conditions.

This letter is also provided without considering any conditions or non-utility laws and regulations (such as environmental regulations), which could affect construction of a main and/or service line extension (i.e., if hazardous wastes were encountered in the process of installing the line). The regulations can only be determined around the time contractual arrangements are made and construction has begun.

Estimates of gas usage for residential and non-residential projects are developed on an individual basis and are obtained from the Commercial-Industrial/Residential Market Services Staff by calling (800) 427-2000 (Commercial/Industrial Customers) (800) 427-2200 (Residential Customers). We have developed several programs, which are available upon request to provide assistance in selecting the most energy efficient appliances or systems for a particular project. If you desire further information on any of our energy conservation programs, please contact this office for assistance.

Sincerely,

A handwritten signature in black ink that reads "Jeannette Garcia".

Jeannette Garcia
Technical Services Supervisor
Orange Coast Region - Anaheim

City of Newport Beach Sign-in Sheet

Scoping Meeting for the Draft Environmental Impact Report
Back Bay Landing Project
October 17, 2012

Please print:

| Name | Address | City, Zip Code | Email Address |
|------------------|---------------|----------------|----------------------------|
| PAT SHELDON | 15 SARATOGA | N.B. 92660 | psheeldon@etm-sis.net |
| JOHN MEEKS | 13 SARATOGA | N.B. 92660 | meeks_john@yahoo.com |
| EDITH TOUR | 13 SARATOGA | N.B. 92660 | newporttravel@aol.com |
| PAT NANGLE | 8 SARATOGA | NB 92660 | patnangle@att.net |
| Sally Roberts | 14 Saratoga | NB 92660 | Sallyrobertson3@gmail.com |
| Sharon Naeie | 109 YORKTOWN | NB 92662 | schnewport@aol.com |
| Margo O'Connor | 90 Linda Isle | NB 92660 | margo949@rr.com |
| William O'Connor | " | " | wjoc2@rr.com |
| Laurel Pele | 32 Saratoga | NB 92660 | vanpele_laurence@yahoo.com |
| Ed Attlesey | 91 YORKTOWN | NB 92660 | edaattlesey@Hotmail.com |

City of Newport Beach Sign-in Sheet

Scoping Meeting for the Draft Environmental Impact Report
Back Bay Landing Project
October 17, 2012

Please print:

| Name | Address | City, Zip Code | Email Address |
|-------------------|--|-------------------------------|-------------------------------|
| RICHARD HOAGLAND | 31 SARATOGA | N.B 92660 | SACC60LFR@AOL |
| Nancy Hoagland | " | " | nancyhoagland@gmail |
| Haley Pearson | 22022 Islander Lane | Huntington Beach, CA 92646 | pearsongirlie@yahoo |
| Terese Pearson | " | " | pearsonport@yahoo |
| Carolyn Lobell | 18101 Von Karman Ave. ^{Ste 1800} Irvine CA 92612 | Irvine CA 92612 | clobell@vossaman.com |
| Dita Vaughn | 128 Liberty NB 92660 | → | |
| MALCOLM READ | 54 SARATOGA, ^{B.V.} 92660 | NB 92660 | MREAD@UNIGLOBE TRAVEL.COM |
| NICK NODOUST | 301 E. COAST HWY | NB 92660 | NICKNODOUST@SBC GLOBAL.NET |
| Darlene Covington | 3535 E Coast Hwy Nr | NB 92625 | dcov610@sbcglobal.net |
| | | | |

Murillo, Jaime

From: ALRON7099@aol.com
Sent: Monday, October 15, 2012 3:29 PM
To: Murillo, Jaime
Subject: Back Bay Landing Project

Dear Mr. Murillo:

please advise if this email is an accepted response to the notice.
I wish to file a negative comment, and request for notice on the project portion that is the planning area 2 .

the diagram that is notates on page 15 shows parking under coast highway?

the construction of a large retail office complex would not be in the best use of the neighborhood. it appears that tidelands will be converted to private use (filled) for the walkway and paddle board launching?

please advise.

Allyson Presta
property owner at 2888 Bayshore Drive
ALRON7099@aol.com
mailing address: P.O. Box 7099
Newport Beach, CA 92658
949-759-1275 phone

From: Phil Drachman [<mailto:phldrachman@hotmail.com>]
Sent: Wednesday, November 07, 2012 9:03 AM
To: Murillo, Jaime
Cc: Kiff, Dave
Subject: Re: Back Bay Landing Project

Thank you for your prompt response and I will continue to monitor the project timeline outlined below. I know all of my neighbors are dead set against this project for all the obvious reasons of density, traffic, noise and potential pollution. It will be interesting to see if the Coastal Commission approves this project since they have shown distain for these types of developments in the past.

Again thanks and please keep me updated with any changes.

Best regards,

Phil Drachman
Newport Beach, CA

Office: 949 642 3304
Mobile: 714 904 9008
Email: phldrachman@hotmail.com

From: [Murillo, Jaime](#)
Sent: Wednesday, November 07, 2012 8:50 AM
To: [Phil Drachman](#)
Cc: [Kiff, Dave](#)
Subject: RE: Back Bay Landing Project

Good Morning Mr. Drachman,
Thank you for your comment on this project. The project site is currently designated by the General Plan and Coastal Land Use Plan for Recreation and Marine Commercial uses and does not currently allow residential uses. The applicant is requesting to change the land use designation to Mixed-Use Horizontal, which would allow the development of up to 49 residential units in conjunction with recreation and marine commercial uses.

The property owner and applicant is:
Bayside Village Marina, LLC
Michael Gelfand
300 E. Coast Highway
Newport Beach, CA 92660

Project Timeline

- The first stage of the proposed project involves the requested land use change to Mixed-Use Horizontal and the adoption of a Planned Community Development Plan that would establish the regulatory framework for future development of the site (legislative approvals). These approvals would require both City Council and Coastal Commission review. These approvals are anticipated to be completed by the end of 2013.

- Following the legislative approval stage of the project (if approved), a project-level development design would be prepared and would be processed through the City's Site Development Review process. Once the development is approved by the City, a Coastal Development Permit would be required to be approved by the Coastal Commission. It is anticipated these approvals would be completed by 2015.
- Assuming all requests are approved, construction is expected to commence, therefore, in mid-2015 and completed in one phase lasting approximately 18 months, with occupancy by late 2016.

I will call you shortly to discuss the project in more detail and answer any further questions you may have.

Thanks,
Jaime

JAIME MURILLO :: ASSOCIATE PLANNER
PLANNING DIVISION :: COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF NEWPORT BEACH
3300 NEWPORT BOULEVARD, NEWPORT BEACH, CA 92658
PH. (949) 644-3209 :: FAX (949) 644-3229
jmurillo@newportbeachca.gov
<http://www.newportbeachca.gov>

From: Phil Drachman [<mailto:phldrachman@hotmail.com>]
Sent: Wednesday, November 07, 2012 7:26 AM
To: Murillo, Jaime
Cc: Kiff, Dave
Subject: Back Bay Landing Project

Jaime;

I am not in favor of developing the Back Bay Landing as outlined in your letter of October 1, 2012. The property has been a residential site for decades and should not be changed just to suit some developers. If the project is approved by the Coastal Commission, which is doubtful, who are the developers by company name, location and ownership. Please be completely transparent on this.

Also what is the time line on this proposed project. I have been a resident, tax payer and constituent of Newport Beach since 1970 and this type of project is not in the long term best interest of the community. Please get back to me with the answers I'm looking for at your earliest convenience.

Best regards,

Phil Drachman

Newport Beach, CA

Office: 949 642 3304

Mobile: 714 904 9008

Email: phidrachman@hotmail.com



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

Notice of Preparation

October 1, 2012

RECEIVED BY
COMMUNITY
OCT 4 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

To: Reviewing Agencies
Re: Back Bay Landing Project
SCH# 2012101003

Attached for your review and comment is the Notice of Preparation (NOP) for the Back Bay Landing Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Jaime Murillo
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2012101003
Project Title Back Bay Landing Project
Lead Agency Newport Beach, City of

Type NOP Notice of Preparation
Description The proposed project involves various legislative approvals for the future development of the Back Bay Landing Project (the "proposed project"), which is proposed to be an integrated, mixed-use waterfront village on 6.974 acres in the City of Newport Beach.

Lead Agency Contact

Name Jaime Murillo
Agency City of Newport Beach
Phone (949) 644-3209 **Fax**
email
Address 3300 Newport Boulevard
City Newport Beach **State** CA **Zip** 92685-8915

Project Location

County Orange
City Newport Beach
Region
Cross Streets East Coast Highway at Bayside Drive
Lat / Long
Parcel No. 440-132-60
Township **Range** **Section** **Base**

Proximity to:

Highways SR-1
Airports
Railways
Waterways Upper Newport Bay, Newport Harbor, Pacific Ocean
Schools
Land Use General Plan: Recreational and Marine Commercial CM 0.5 and CM 0.3
 Coastal Land Use Plan: CM-B (north of PCH); CM-A (south of East Coast Highway)
 Zoning: PC-9 (north of East Coast Highway); CM (south of East Coast Highway)

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Coastal Zone; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Boating and Waterways; California Coastal Commission; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 5; Native American Heritage Commission; State Lands Commission; California Highway Patrol; Department of Toxic Substances Control; Caltrans, District 12; Regional Water Quality Control Board, Region 8

Date Received 10/01/2012 **Start of Review** 10/01/2012 **End of Review** 10/30/2012

Resources Agency

- Resources Agency
Nadell Gayou
- Dept. of Boating & Waterways
Nicole Wong
- California Coastal Commission
Elizabeth A. Fuchs
- Colorado River Board
Gerald R. Zimmerman
- Dept. of Conservation
Elizabeth Carpenter
- California Energy Commission
Eric Knight
- Cal Fire
Dan Foster
- Central Valley Flood Protection Board
James Herota
- Office of Historic Preservation
Ron Parsons
- Dept of Parks & Recreation
Environmental Stewardship Section
- California Department of Resources, Recycling & Recovery
She O'Leary
- S.F. Bay Conservation & Dev't. Comm.
Steve McAdam
- Dept. of Water Resources Resources Agency
Nadell Gayou

Fish and Game

- Depart. of Fish & Game
Scott Flint
Environmental Services Division
- Fish & Game Region 1
Donald Koch

- Fish & Game Region 1E
Laure Harnsberger
- Fish & Game Region 2
Jeff Drongesen
- Fish & Game Region 3
Charles Amor
- Fish & Game Region 4
Julie Vance
- Fish & Game Region 5
Leslie Newton Reed
Habitat Conservation Program
- Fish & Game Region 6
Gabrina Gatchel
Habitat Conservation Program
- Fish & Game Region 6 I/M
Brad Henderson
Inyo/Mono, Habitat Conservation Program
- Dept. of Fish & Game M
George Isaac
Marine Region

Other Departments

- Food & Agriculture
Sandra Schubert
Dept. of Food and Agriculture
- Depart. of General Services
Public School Construction
- Dept. of General Services
Anna Garbelf
Environmental Services Section
- Dept. of Public Health
Jeffery Worth
Dept. of Health/Drinking Water
- Delta Stewardship Council
Kevan Samsam

Independent Commissions/Boards

- Delta Protection Commission
Michael Machado
- Cal EMA (Emergency Management Agency)
Dennis Castrillo

- Native American Heritage Comm.
Debbie Treadway
- Public Utilities Commission
Leo Wong
- Santa Monica Bay Restoration
Guangyu Wang
- State Lands Commission
Jennifer Deleong
- Tahoe Regional Planning Agency (TRPA)
Cherry Jacques

Business, Trans & Housing

- Caltrans - Division of Aeronautics
Philip Grimmins
- Caltrans - Planning
Terri Pencovic
- California Highway Patrol
Suzann Ikeuchi
Office of Special Projects
- Housing & Community Development
CEQA Coordinator
Housing Policy Division

Dept. of Transportation

- Caltrans, District 1
Rex Jackman
- Caltrans, District 2
Marcelino Gonzalez
- Caltrans, District 3
Gary Arnold
- Caltrans, District 4
Erik Alm
- Caltrans, District 5
David Murray
- Caltrans, District 6
Michael Navarro
- Caltrans, District 7
Dianna Watson

- Caltrans, District 8
Dan Kopulsky
- Caltrans, District 9
Gayle Rosander
- Caltrans, District 10
Tom Dumas
- Caltrans, District 11
Jacob Armstrong
- Caltrans, District 12
Marlon Regisford

Cal EPA

Air Resources Board

- Airport/Energy Projects
Jim Lerner
- Transportation Projects
Douglas Ito
- Industrial Projects
Mike Tollstrup
- State Water Resources Control Board
Regional Programs Unit
Division of Financial Assistance
- State Water Resources Control Board
Student Intern, 401 Water Quality Certification Unit
Division of Water Quality
- State Water Resources Control Board
Phil Crader
Division of Water Rights
- Dept. of Toxic Substances Control
CEQA Tracking Center
- Department of Pesticide Regulation
CEQA Coordinator

- RWQCB 1
Cathleen Hudson
North Coast Region (1)
- RWQCB 2
Environmental Document Coordinator
San Francisco Bay Region (2)
- RWQCB 3
Central Coast Region (3)
- RWQCB 4
Teresa Rodgers
Los Angeles Region (4)
- RWQCB 5S
Central Valley Region (5)
- RWQCB 5F
Central Valley Region (5)
Fresno Branch Office
- RWQCB 5R
Central Valley Region (5)
Redding Branch Office
- RWQCB 6
Lahontan Region (6)
- RWQCB 6V
Lahontan Region (6)
Victorville Branch Office
- RWQCB 7
Colorado River Basin Region (7)
- RWQCB 8
Santa Ana Region (8)
- RWQCB 9
San Diego Region (9)

- Other _____
- _____
- _____
- _____
Conservancy

Serving:

Anaheim

Brea

Buena Park

Cypress

Fountain Valley

Fullerton

Garden Grove

Huntington Beach

Irvine

La Habra

La Palma

Los Alamitos

Newport Beach

Orange

Placentia

Santa Ana

Seal Beach

Stanton

Tustin

Villa Park

Yorba Linda

County of Orange

Costa Mesa
Sanitary District

Midway City
Sanitary District

Irvine Ranch
Water District



October 30, 2012

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

SUBJECT: Notice of Preparation for the Back Bay Landing Project Environmental Impact Report

Thank you for the opportunity to review and comment on the Notice of Preparation for the Back Bay Landing Project Environmental Impact Report in the City of Newport Beach.

The proposed project is seeking legislative approval to construct a mixed-use development that would encompass a combination of residential, commercial and storage units on East Coast Highway between Bayside Drive and the Bayside Marina. The proposed project site is adjacent to the Orange County Sanitation District's (OCSD) Bay Bridge Pump Station and within the jurisdiction of OCSD.

Based on the proposed layout of the development, the OCSD pump station would be surrounded by retail stores, a restaurant, and residential units. As such OCSD would like to note the following items:

- 1) **Construction:** based on our 2009 Facility Master Plan, the pump station is scheduled to undergo major upgrades in 2020 to meet electrical and building safety codes.
- 2) **Aesthetics:** we are open and willing to work with the developer to address the look of the facility to create a cohesive look between the pump station and the new development.
- 3) **Odors:** while we take extreme efforts to mitigate odors, they do occur on occasion and can be perceived by sensitive receptors as a nuisance. We would suggest and highly encourage the installation of activated carbon filtration to filter all the air in conditioned spaces within the proposed development. This would include normal marine odors, vehicle exhaust and particulates from Pacific Coast Highway traffic, restaurant exhaust, occasional fugitive odor from Bay Bridge Pump Station, or any odor generated from the boat repair and storage facilities in the area.
- 4) **Maintenance:** the facility is a critical pumping station that is maintained on a regular basis and accessed during emergencies; as such adequate space is required to allow large vehicles access to the station and existing access cannot be blocked.
- 5) **Noise:** there is a stand-by generator onsite to that is used in case of power failure. The generator is tested on a monthly basis to ensure its functioning properly.

Jaime Murillo
Page 2
October 30, 2012

- 6) Vibration: slight vibration occurs in the area when the pumps are in use. This activity occurs sporadically throughout the day.
- 7) Fire protection: OCSD would like to know what the fire protection plan consists of for the buildings adjacent to our facility.

As mentioned in the Initial Study, a wastewater treatment analysis is required, please use the following flow factors to estimate the future flows of the development.

- 727 gpd/acre for estate density residential (0-3 d.u. /acre)
- 1488 gpd/acre for low density residential (4-7d.u. /acre)
- 3451 gpd/acre for medium density residential (8-16 d.u./acre)
- 5474 gpd/acre for medium-high density residential (17-25 d.u./acre)
- 7516 gpd/acre for high density residential (26-35 d.u./acre)
- 2262 gpd/acre for commercial/office
- 3167 gpd/acre for industrial
- 2715 gpd/acre for institutional
- 5429 gpd/acre for high intensity industrial/commercial
- 150 gpd/room for hotels and motels
- 50 gal./seat for restaurants
- 129 gpd/acre for recreation and open space usage

You may use more specific flow factors if you think it will more accurately portray the project's estimated flows and impacts to the local sewer system.

Also, please note that any construction dewatering operations that involve discharges to the local or regional sanitary sewer system must be permitted by OCSD prior to discharges. OCSD staff will need to review/approve the water quality of any discharges and the measures necessary to eliminate materials like sands, silts, selenium, and other regulated compounds prior to discharge to the sanitary sewer system.

Thank you for the opportunity to comment on the proposed development. For planning issues regarding this project, please contact Jim Burror at (714) 593-7335.



Daisy Covarrubias, MPA
Senior Staff Analyst

DC:sa
EDMS::003965837/1.7f



NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
ds_nahc@pacbell.net



RECEIVED BY
COMMUNITY

OCT 5 2012

DEVELOPMENT
CITY OF NEWPORT BEACH

October 3, 2012

Mr. Jaime Murillo, Associate Planner

City of Newport Beach

3300 Newport Boulevard
Newport Beach, CA 92663

Re: SCH#2012101003; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR); for the "Back Bay Landing Project" located in the City of Newport Beach; Orange County, California

Dear Mr. Murillo:

The Native American Heritage Commission (NAHC) is the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604).

This letter includes state and federal statutes relating to Native American historic properties or resources of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC recommends that the lead agency request that the NAHC do a Sacred Lands File search as part of the careful planning for the proposed project.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural

significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Pursuant to CA Public Resources Code § 5097.95, the NAHC requests cooperation from other public agencies in order that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties, including archaeological studies. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and California Public Resources Code Section 21083.2 (Archaeological Resources) that requires documentation, data recovery of cultural resources, construction to avoid sites and the possible use of covenant easements to protect sites.

Furthermore, the NAHC if the proposed project is under the jurisdiction of the statutes and regulations of the National Environmental Policy Act (e.g. NEPA; 42 U.S.C. 4321-43351). Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq.*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

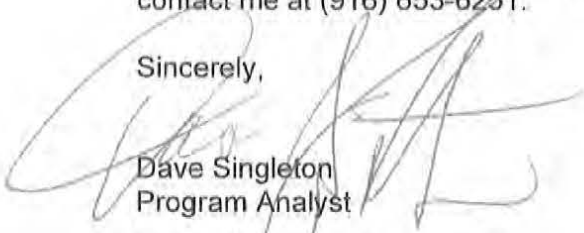
Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for inadvertent discovery of human remains mandate the processes to be followed in the event of a discovery of human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

Finally, when Native American cultural sites and/or Native American burial sites are prevalent within the project site, the NAHC recommends 'avoidance' of the site as referenced by CEQA Guidelines Section 15370(a).

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

**Native American Contacts
Orange County
October 3, 2012**

Ti'At Society/Inter-Tribal Council of Pimu
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Costa Mesa, CA 92626
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(949) 293-8522

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
Private Address Gabrielino Tongva

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310-570-6567

Gabrielino/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
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GTTribalcouncil@aol.com
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(626) 286-1758 - Home
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Sam Dunlap, Cultural Resources Director
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Gabrielino Tongva Indians of California Tribal Council
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Juaneno Band of Mission Indians
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This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SSCH#2012101003; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the Back Bay Landing Project; located in the City of Newport Beach; Orange County, California.

**Native American Contacts
Orange County
October 3, 2012**

Juaneno Band of Mission Indians
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Juaneno Band of Mission Indians Acjachemen Nation
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949-293-8522

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SSCH#2012101003; CEQA Notice of Preparation (NOP); draft Environmental Impact Report (DEIR) for the BAcK Bay Landing Project; located in the City of Newport Beach; Orange County, California.

Murillo, Jaime

From: margo949@roadrunner.com
Sent: Wednesday, October 24, 2012 5:43 PM
To: Campbell, James
Cc: Murillo, Jaime
Subject: BackBay Landing Project Scoping Meeting, 10/17/12

October 24, 2012

Mr. Jim Campbell
Principal Planner
Community Development Department
Planning Division
City of Newport Beach

Dear Mr. Campbell:

I appreciate all the time you spent with me, listening to my concerns, following the BackBay Landing Project Scoping Presentation on Wednesday, 10/16/12. As I mentioned at the time, I do wish that the audience had had the opportunity to make public comments.

Here is a summary of the concerns I mentioned as well as your responses:

1. Traffic: We spoke of the effect of this project on the already very congested Dover Bridge/PCH area, esp. during rush hour; the increase in traffic already expected from the Marina Pointe project at Dover & PCH; and the tragic fatal accident that recently occurred at PCH & Bayside Dr..

Response: A Traffic Study will be part of the EIR and will assess the impact of this project in conjunction with all other projects already underway/planned for in the area.

2. Noise: We discussed the close proximity of Linda Isle Homes to Project Building 11 (marina service/office building) and how the previous building near there (Anthony's Rest.) had resulted in Noise Decibels for Linda Isle that exceeded those allowed by the City of Newport Beach.

Response: Noise Tests will be included in the EIR and will include the area near Linda Isle.

3. Possible Negative EIR: Presenter said Projects can be approved despite a negative EIR.

Response: This is true.

Note: I am still not clear on what basis this is acceptable.

Why bother with an EIR if it can be ignored?

4. Building Height: On Exhibit 21, Building 11(the Marina Service/Office Bldg. near Linda Isle) shows a projected height of THIRTY FIVE feet for a TWO story building. Elsewhere, this 35' height is designated for THREE story buildings. Furthermore, the asterisk on Exhibit 21 allows for up to an additional FIVE feet. This would mean a possible total of FORTY FEET for what is described as a TWO STORY BUILDING. (?)

Response: You said that you would look into this and that maybe the height noted was a Typo.

Note: A clarification of this is important for the residents living across from this building.

5. Affordable Housing: Is Sec. 8 Housing part of this project?

Response: Project is small enough for the Developer to pay an "in lieu of" penalty.

6. Status of Approvals: Will we be notified of the calendar for approvals for this project - esp. Coastal Commission approval?

Response: You said we would be notified and that CC approval was well into the future.

I appreciate your willingness to discuss these concerns with me and thank you in advance for any further information you can provide.

Thank you,
Margo O'Connor
90 Linda Isle
Newport Beach, CA 92660

Murillo, Jaime

From: Sharon Haire [schnewport@aol.com]
Sent: Friday, October 19, 2012 11:14 AM
To: Murillo, Jaime
Subject: Back Bay Landing

Dear Mr.Murillo,

I live at Bayside Village next door to this project and am more than excited about it
.
It is a great piece of property and I look forward to being able to use the amenities there .
. . . restaurant, services, etc.
Thanks for the presentation . . .

Sharon Haire



Department of Toxic Substances Control



Matthew Rodriguez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
5796 Corporate Avenue
Cypress, California 90630

Edmund G. Brown Jr.
Governor

October 24, 2012

Mr. Jaime Murillo
Associate Planner
Community Development Department, Planning Division
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92663

RECEIVED BY
COMMUNITY
NOV 02 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL REPORT FOR THE BACK BAY LANDING PROJECT (SCH#2012101003), ORANGE COUNTY

Dear Mr. Murillo:

The Department of Toxic Substances Control (DTSC) has received your submitted Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the above-mentioned project. The following project description is stated in your document: "The proposed project is an integrated, mixed-use visitor-serving commercial, marine services and limited residential village on an improved but underutilized bay front site of 6.974 acres in the City of Newport Beach. The applicant is seeking General Plan and Coastal Land Use Plan Amendments that would allow for limited residential use on the site through reallocation of density within an existing three-parcel parcel map. The applicant has also prepared and is seeking approval of the Back Bay Landing Planned Community Development Plan (PCDP), which will serve as the controlling zoning ordinance for the project site and will provide a regulatory frame work for the five Planning Areas that comprise the 31.431acre Parcel 3 of Parcel Map 93-111. Within PCDP, the Back Bay Landing Design Guidelines will provide specific guidance on the physical implementation of the project and assist the City and community to visualize the architectural theme and desired character of the project. Specific project-level applications for a fully integrated, mixed-use development through the Site Development Plan and Coastal Development Permit (CDP) will be filed in the future.

The majority of the project site (6.332 acres) is located immediately north of East Coast Highway between Bayside Drive and the Bayside Marina adjacent to the Upper Newport Bay. The balance of the project site (0.642 acres) is located under and immediately south of the East Coast Highway Bridge."

Based on the review of the submitted document DTSC has the following comments:

1) The EIR should evaluate whether conditions within the Project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
- EnviroStor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

- 2) The EIR should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.
- 3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in

which hazardous substances were found above regulatory standards should be clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the EIR.

- 4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 7) If the project site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.
- 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 9) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a

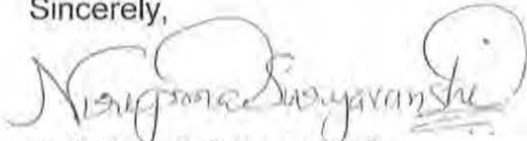
Mr. Jaime Murillo
October 24, 2012
Page 4

Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

- 10) Also, in future CEQA document, please provide your e-mail address, so DTSC can send you the comments both electronically and by mail.

If you have any questions regarding this letter, please contact me via e-mail [Suryavanshi, Nirupma@dtsc.ca.gov](mailto:Suryavanshi.Nirupma@dtsc.ca.gov), or phone (714) 484-5375.

Sincerely,



Dr Nirupma Suryavanshi
Project Manager
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov.

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
P.O. Box 806
Sacramento, California 95812
Attn: Nancy Ritter
nritter@dtsc.ca.gov

CEQA # 3655



October 29, 2012

Mr. Jamie Murillo
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Subject: Notice of Preparation and Initial Study – Back Bay Landing Project

Dear Mr. Murillo:

City of Irvine staff has received and reviewed the information provided for the referenced project and has no comments at this time.

Thank you for the opportunity to review and comment on the proposed project. Staff would appreciate the opportunity to review any further information regarding this project as the planning process proceeds.

If you have any questions, I can be reached at (949) 724-6314, or at dlaw@cityofirvine.org.

Sincerely,

A handwritten signature in black ink, appearing to read "D. R. Law", written over a light blue horizontal line.

David R. Law, AICP
Senior Planner

Cc: Bill Jacobs, Principal Planner (via email)

Sensitivity of Top Priority Rare Natural Communities in Southern California

Sensitivity rankings are determined by the Department of Fish and Game, California Natural Diversity Data Base and based on either number of known occurrences (locations) and/or amount of habitat remaining (acreage). The three rankings used for these top priority rare natural communities are as follows:

- S1.# Fewer than 6 known locations and/or on fewer than 2,000 acres of habitat remaining.
- S2.# Occurs in 6-20 known locations and/or 2,000-10,000 acres of habitat remaining.
- S3.# Occurs in 21-100-known locations and/or 10,000-50,000 acres of habitat remaining.

The number to the right of the decimal point after the ranking refers to the degree of threat posed to that natural community regardless of the ranking. For example:

- S1.1 = very threatened
- S2.2 = threatened
- S3.3 = no current threats known

Sensitivity Rankings (February 1992)

| <u>Rank</u> | <u>Community Name</u> |
|-------------|--|
| S1.1 | Mojave Riparian Forest Sonoran Cottonwood Willow Riparian Mesquite Bosque Elephant Tree Woodland Crucifixion Thorn Woodland Allthorn Woodland Arizonan Woodland Southern California Walnut Forest Mainland Cherry Forest Southern Bishop Pine Forest Torrey Pine Forest Desert Mountain White Fir Forest Southern Dune Scrub Southern Coastal Bluff Scrub Maritime Succulent Scrub Riversidean Alluvial Fan Sage Scrub Southern Maritime Chaparral Valley Needlegrass Grassland Great Basin Grassland Mojave Desert Grassland Pebble Plains Southern Sedge Bog Cismontane Alkali Marsh |

- S1.2 Southern Foredunes
Mono Pumice Flat
Southern Interior Basalt Flow Vernal Pool
- S2.1 Venturan Coastal Sage Scrub
Diegan Coastal Sage Scrub
Riversidean Upland Coastal Sage Scrub
Riversidean Desert Sage Scrub
Sagebrush Steppe
Desert Sink Scrub
Mafic Southern Mixed Chaparral
San Diego Mesa Hardpan Vernal Pool
San Diego Mesa Claypan Vernal Pool
Alkali Meadow
Southern Coastal Salt Marsh
Coastal Brackish Marsh
Transmontane Alkali Marsh
Coastal and Valley Freshwater Marsh
Southern Arroyo Willow Riparian Forest
Southern Willow Scrub
Modoc-Great Basin Cottonwood Willow Riparian
Modoc-Great Basin Riparian Scrub
Mojave Desert Wash Scrub
Engelmann Oak Woodland
Open Engelmann Oak Woodland
Closed Engelmann Oak Woodland
Island Oak Woodland
California Walnut Woodland
Island Ironwood Forest
Island Cherry Forest
Southern Interior Cypress Forest
Bigcone Spruce-Canyon Oak Forest
- S2.2 Active Coastal Dunes
Active Desert Dunes
Stabilized and Partially Stabilized Desert Dunes
Stabilized and Partially Stabilized Desert Sandfield
Mojave Mixed Steppe
Transmontane Freshwater Marsh
Coulter Pine Forest
Southern California Fellfield
White Mountains Fellfield
- S2.3 Bristlecone Pine Forest
Limber Pine Forest



State of California -The Natural Resources Agency

DEPARTMENT OF FISH AND GAME

South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
<http://www.dfg.ca.gov>

EDMUND G. BROWN JR., Governor

CHARLTON H. BONHAM, Director



October 29, 2012

Mr. Jamie Murillo
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915
JMurillo@newportbeachca.gov

Subject: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Back Bay Landing Project, Orange County SCH# 2012101003

Dear Ms. Murillo:

The Department of Fish and Game (Department) has reviewed the above-referenced Notice of Preparation (NOP) for the Back Bay Landing Project Draft Environmental Impact Report (DEIR). The following statements and comments have been prepared pursuant to the Department's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act, [CEQA] Guidelines §15386) and pursuant to our authority as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA, Fish and Game Code §2050 *et seq.*) and Fish and Game Code section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) program. The City of Newport Beach (City) participates in the NCCP program by implementing its approved Implementation Agreement.

The project area is located on an approximately 7 acre portion of a 31.4 acre parcel with the majority of 7 acres located north of East Coast Highway, south of Westcliff Park, west of Bayside Drive, and east of Newport Back Bay channel in the City of Newport Beach (City). A 0.64 acre portion (of 7 acre portion) extends below and immediately south of East Coast Highway bridge. The project involves land use amendments to provide the legislative framework for future development of the site. Amendments to the General Plan and Coastal Land Use Plan are required to change the land use designations to a Mixed-Use Horizontal designation and a Planned Community Development Plan. The requested approvals are to establish appropriate zoning regulations and development standards to provide for a horizontally distributed mix of uses that include visitor-serving recreational and marine commercial retail, office, marine office, boat services, marine service, and enclosed dry stack boat storage along with a vertical and horizontal mix of multi-family residential flats. No development is proposed for the De Anza Bayside Marsh Peninsula or the existing Bayside Village Marina.

In addition to the land use amendments, other requested approvals are a Lot Line Adjustment, Traffic Study pursuant to the City's Traffic Phasing Ordinance, Affordable Housing Implementation Plan, and Development Agreement. Specific project design and site improvement approvals would be proposed at later subsequent time.

Conserving California's Wildlife Since 1870

The Department offers the following comments and recommendations to assist the City in avoiding or minimizing potential project impacts on biological resources.

Specific Comments

1. Native eelgrass (*Zostera marina* or *Zostera pacifica*) is an important fish nursery habitat that exists in Upper Newport Bay. Eelgrass also provides foraging opportunities for marine birds, such as the California least tern (*Sterna antillarum brownii*) and the California brown pelican (*Pelecanus occidentalis*). The DEIR should include a comprehensive discussion of possible impacts to eelgrass beds in the project footprint, as well as eelgrass beds in the immediate area. The following surveys and analysis are recommended for the environmental assessment of impacts to eelgrass:
 - a) Pre-construction surveys should be conducted for eelgrass and potential eelgrass habitat in the area to determine if further protection of this marine plant and its preferred substrate is appropriate. If eelgrass is present or has been present historically, all potential impacts to this habitat should be fully avoided if feasible, minimized to the fullest extent and compensated.
 - b) Any unavoidable loss of eelgrass or potential eelgrass habitat that is anticipated should be approved through an eelgrass mitigation and monitoring plan approved by the Department. The eelgrass mitigation protocol can be found in the National Oceanographic and Atmospheric Administration's (NOAA) Southern California Eelgrass Mitigation Policy. The policy can be found at http://swr.nmfs.noaa.gov/hcd/policies/EELPOLrev11_final.pdf.
 - c) The project manager should submit eelgrass survey reports to Loni Adams of the Department. Collaboration with the Department on eelgrass impacts or mitigation plans should be done as early as possible prior to the development of the DEIR.
2. Native oyster beds (*Ostreola conchaphila*) are known to exist in Upper Newport Bay. The DEIR should identify and analyze potential impacts to native oyster beds. Surveys should be conducted if appropriate. The DEIR should include a discussion on how the project proponent will avoid, minimize or compensate for any potentially significant impacts.
3. California least terns are listed as endangered under CESA and the Endangered Species Act and are a fully protected bird under Fish and Game Code section 3511. California brown pelicans are also a fully protected species. Both birds may forage in the project area. Additionally, there is a California least tern nesting site in the near vicinity of the proposed project location. California least tern foraging or nesting activity occurs near the project area from April to September. The DEIR should fully analyze and address marine bird impacts to foraging, nesting and resting habitats. The discussion should include measures for avoidance and minimization.

General Comments

1. The Department has responsibility for wetland and riparian habitats. It is the policy of the Department to strongly discourage development in wetlands. We oppose any development or conversion which would result in a reduction of wetland acreage or wetland habitat values, unless, at a minimum, project mitigation assures there will be "no net loss" of either wetland habitat values or acreage. Development and conversion include but are not limited

to conversion to subsurface drains, placement of fill or building of structures within the wetland. All wetlands and watercourses, whether intermittent or perennial, should be retained and provided with substantial setbacks which preserve the aquatic values and maintain their value to on-site and off-site wildlife populations.

- a) The project area supports aquatic and wetland habitats; therefore, a jurisdictional delineation of associated aquatic and wetland habitats should be included in the DEIR. The delineation should be conducted pursuant to the U. S. Fish and Wildlife Service wetland definition adopted by the Department.¹
2. The Department considers adverse impacts to a species protected by CESA, for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085.) Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Department recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from the Department may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options (Fish and Game Code §§ 2080.1, 2081, subs. (b),(c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that the Department issue a separate CEQA document for the issuance of an ITP unless the project CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.
3. To enable the Department to adequately review and comment on the proposed project from the standpoint of the protection of plants, fish and wildlife, we recommend the following information be included in the DEIR.
 - a) A complete discussion of the purpose and need for, and description of, the proposed project, including all staging areas and access routes to the construction and staging areas.
 - b) A range of feasible alternatives to ensure that alternatives to the proposed project are fully considered and evaluated; the alternatives should avoid or otherwise minimize impacts to sensitive biological resources particularly wetlands. Specific alternative locations should be evaluated in areas with lower resource sensitivity where appropriate.

Biological Resources within the Project's Area of Potential Effect

4. To provide a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. The DEIR should include the following information.

¹ Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

- a) Per CEQA Guidelines, section 15125(c), information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis should be placed on resources that are rare or unique to the region.
- b) A thorough assessment of rare plants and rare natural communities, following the Department's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see: <http://www.dfg.ca.gov/habcon/plant/>) (hard copy available on request).
- c) A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. The Department's California Natural Diversity Data Base in Sacramento should be contacted at (916) 322-2493 or www.dfg.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- d) An inventory of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, §15380). This should include sensitive fish, wildlife, reptile, and amphibian species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with the Department and the U.S. Fish and Wildlife Service.

Analyses of the Potential Project-Related Impacts on the Biological Resources

5. To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR.
 - a) A discussion of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage should also be included. The latter subject should address: project-related changes on the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in water bodies; and post-project fate of runoff from the project site. The discussions should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat, if any, supported by the groundwater. Mitigation measures proposed to alleviate such impacts should be included.
 - b) Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a NCCP). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.

- c) The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the environmental document.
 - d) A cumulative effects analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
6. Any impacts leading to degradation or loss of marine habitats, such as soft bottom or rocky reef habitat and associated marine communities must be analyzed in the DEIR. Potential impacts may be due to dredging, deepening, turbidity, new seawall construction, shading, pile driving, boat propellers and anchors. Impacts to marine resources should be avoided or minimized, and unavoidable impacts causing the loss of marine resources or habitat should be mitigated, preferably on site with in-kind habitat replacement. The DEIR should include a discussion of mitigation and monitoring plans that may be appropriate for significant impacts to marine habitat.
7. The DEIR should include a discussion of overwater structures that would be installed and would cause shading of bay waters. Unavoidable impacts from the shading of Upper Newport Bay habitats must be minimized and fully mitigated. The DEIR should include a discussion of minimization measures and mitigation or monitoring plans that may be appropriate for significant shading impacts.
8. *Caulerpa taxifolia* and eight other banned species of *Caulerpa* in California are invasive green algal species that are highly destructive. *Caulerpa* species pose a substantial threat to marine ecosystems in California, particularly to the extensive eelgrass meadows and other benthic environments that make coastal waters such a rich and productive environment. The eelgrass beds and other coastal resources that could be directly impacted by an invasion of *Caulerpa* are part of a food web that is critical to the survival of numerous native marine species including those of commercial and recreational importance. The DEIR should include a discussion of the possible impacts associated with a *Caulerpa* infestation. Any bottom disturbing activity in Southern California marine waters is required to conduct a *Caulerpa* Survey. See below for survey protocols.
- a) Prior to initiation of any permitted Disturbing Activity, a pre-construction survey of the project area shall be conducted to determine the presence or absence of *Caulerpa*. This survey shall be conducted at a Surveillance Level.
 - b) Survey work shall be completed not earlier than 90 days prior to the Disturbing Activity and not later than 30 days prior to the Disturbing Activity and shall be completed, to the extent feasible, during the high growth period of March 1st – October 31st.
 - c) The protocols for conducting *Caulerpa* surveys can be found at http://www.sccat.net/Caulerpa_Control_Protocol_Version_4-0.pdf


Mitigation for the Project-related Biological Impacts

9. The DEIR should include measures to fully avoid and otherwise protect Rare Natural Communities (Attachment) from project-related impacts. The Department considers these communities as threatened habitats having both regional and local significance.
10. The DEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
11. For proposed preservation and/or restoration, the DEIR should include measures to perpetually protect the targeted habitat values from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.
12. In order to avoid impacts to nesting birds, the DEIR should require that clearing of vegetation, and when biologically warranted construction, occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January for some raptors). If project construction is necessary during the bird breeding season a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be a minimum width of 300 feet (500 feet for raptors), shall be delineated by temporary fencing, and shall remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project.
13. The Department generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Studies have shown that these efforts are experimental in nature and largely unsuccessful.
14. Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.

Mr. Jamie Murillo
October 29, 2012
Page 7 of 7

We appreciate the opportunity to comment on the referenced NOP. Questions regarding this letter and further coordination on terrestrial and marine issues should be directed to Staff Environmental Scientist, Mr. Matt Chirdon at (858- 467-4284) and Environmental Scientist, Ms. Loni Adams at (858-627-3985) respectively.

Sincerely,


Stephen M. Juarez
Environmental Program Manager
South Coast Region

Enclosure
Sensitivity of Top Priority Rare Natural Communities in Southern California

ec: Scott Morgan, State Clearinghouse, Sacramento
Jonathan Snyder, U.S. Fish and Wildlife Service, Carlsbad
Vicki Frey, CDFG Marine Region, Eureka



California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

October 29, 2012

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

RECEIVED BY
COMMUNITY
OCT 31 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

Dear Mr. Murillo,

Thank you for the opportunity to review and comment on the Notice of Preparation and Scoping Meeting for the Back Bay Landing Project Environmental Impact Report. We agree with the statement under V. CULTURAL RESOURCES b. on page 3-7 that "...despite the lack of known cultural resource sites on the property, there remains the potential for the presence of archaeological resources that could be adversely affected by the construction of the future improvements, particularly large excavations for subterranean parking."

However, we are concerned with the statement on page 3-8 that a Sacred Lands File review will be conducted to determine the need for monitoring the presence of human remains during construction. It is good to do this, but it is highly unlikely that the Files will have a record of ancient burials. The Sacred Lands Files are limited to ethnographically known sites, these are places that were known to Native American informants, so the Files will not have a record of ancient burials. Therefore the absence of a Sacred Lands record for the project area should not be used to determine the need for monitoring. Instead, a geomorphologist should be hired to determine the potential for the presence of soils with the potential for human remains and activities.

Sincerely,

Patricia Martz, Ph.D.
President

DEPARTMENT OF TRANSPORTATION

District 12

3347 Michelson Drive, Suite 100

Irvine, CA 92612-8894

Tel: (949) 724-2267

Fax: (949) 724-2592



*Flex your power!
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FAX & MAIL**October 30, 2012**

Jaime Murillo
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

File: IGR/CEQA
SCH#: 2012101003
Log #: 3089
SR-1

Subject: Back Bay Landing Project

Dear Ms. Murillo,

Thank you for the opportunity to review and comment on the **Notice of Preparation (NOP) for the Back Bay Landing Project**. The proposed project involves various legislative approvals for the future development of the Back Bay Landing Project, which is proposed to be an integrated, mixed-use waterfront village on 6.974 acres in the City of Newport Beach. The nearest State route to the project is SR-1.

The California Department of Transportation (Department), District 12 is a commenting agency on this project and has the following comments:

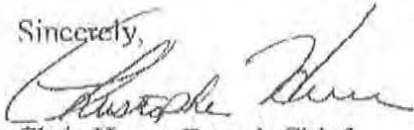
1. If any project work (e.g. storage of materials, street widening, emergency access improvements, sewer connections, sound walls, storm drain construction, street connections, etc.) will occur in the vicinity of the Department's Right-of-Way, an encroachment permit is required prior to commencement of work. Please allow 2 to 4 weeks for a complete submittal to be reviewed and for a permit to be issued. When applying for an Encroachment Permit, please incorporate Environmental Documentation, SWPPP/ WPCP, Hydraulic Calculations, Traffic Control Plans, Geotechnical Analysis, Right-of-Way certification and all relevant design details including design exception approvals. For specific details on the Department's Encroachment Permits procedure, please refer to the Department's Encroachment Permits Manual. The latest edition of the manual is available on the web site: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>
2. This project will impact State Route 1 and may cause operating conditions to deteriorate to deficient levels of service, or add to an existing deficient level of service condition which will require mitigation.
3. The Department has interest in working cooperatively to establish a Traffic Impact Fee (TIF) program to mitigate such impacts on a "fair share" basis. Local development project applicants would pay their "fair share" to an established fund for future transportation improvements on the state highway system. If there is an existing TIF program, it can be amended to include mitigation for the state highway system or a new TIF program may be

considered. The Department requests the opportunity to participate in the TIF for state highway improvements development process.

4. The Department requests to participate in the process to establish and implement "fair share" mitigation for the aforementioned project impacts. The Department has an established methodology standard used to properly calculate equitable project share contribution. This can be found in Appendix B of the Department's Guide for the Preparation of Traffic Impact Studies which is available at:
<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>.
5. The Department, in accordance with Section 130 of the California Streets and Highways Code, may enter into a contract with the lead agency to provide the mitigation measures listed in the EIR. This may include construction of the mitigation measures, the advancement of funds (proportional to the fair-share cost) to pay for mitigation measures, or the acquisition of rights-of-way needed for future improvements to the state highway system.
6. For CEQA purposes, the Department does not consider the Congestion Management Plan (CMP) significance threshold of an increase in v/c more than 1% ramps or 3% for mainline appropriate. For analysis of intersections connecting to State facilities, ramps and freeway mainline, we recommend early coordination occur to discuss level of significance thresholds related to traffic and circulation.
7. The Department understands that it is the lead agency's right and responsibility to choose an appropriate significance threshold when analyzing a project's environmental impacts. However, the significance threshold of 1% increase in V/C established by the city is not the type of significance threshold the Department would use for cumulative impacts. Per CEQA Case Law (*King County Farm Bureau et al. v. City of Handford, 1990*), a fixed ratio or percentage may not be an appropriate significance threshold for cumulative impact analysis. A minor increase (less than 1%) in traffic could affect the operation of State Route 73. Should there be any significant cumulative impacts on State Facilities, appropriate mitigation measures are to be identified and submitted for our review and comment. If the City has any questions about selecting appropriate significance threshold, we would be happy to provide assistance.
8. The Department endeavors to maintain a target LOS at the transition between LOS C and LOS D on State highway facilities. Any degradation of the LOS past this threshold should be mitigated to bring the facility back to the baseline/existing condition. The traffic study should analyze impacts in terms of LOS and hours of delay. For example, when the existing condition of a freeway segment is operating at LOS F and a project will add a significant number of new trips to this segment the LOS will not change but the total hours of delay would. Therefore, when fully disclosing the impacts a project will have on this segment, the total hours of delay would be a more accurate method to use. For future projects that may impact State facilities, we recommend that early coordination be done between the Department and the City to fully address level of significance thresholds (transition between LOS C and D) and appropriate methods for analyzing impacts (LOS vs. Hours of Delay).

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,



Chris Herre, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research



BACK BAY LANDING PROJECT

ISSUES & CONCERNS

BAYSIDE VILLAGE HOMEOWNER ASSOCIATION

Prepared by
BAYSIDE IMPROVEMENT COMMITTEE

October 2012

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INTRODUCTION

The Bayside Improvement Committee (BIC) represents the residents of Bayside Village Mobile Home Park (BVMHP) regarding the Back Bay Landing (BBL) Development. We have worked closely with the land owners of BVMHP for the past two years, and have communicated to the land owners our “conditional” support for the Back Bay Landing development. We believe the addition of retail, restaurants and residential units to the Dry Storage area is an improvement to our neighborhood. However, we have concerns that several aspects of the project could create negative impacts to our community if not addressed and mitigated.

As background to our concerns, it is essential that City Planners and EIR Consultants understand two critical issues.

First: it is important to understand that the owners of BVMHP also own and/or operate through various legal entities the land parcels immediately contiguous to BVMHP on three sides, and the owners are seeking development on each of these parcels. Specifically:

- They are currently seeking permission to develop the parcel to our west as “Back Bay Landing,” the subject of this current scoping process.
- The land owners have previously received approval to develop the parcel to our east as the so called, “Dunes Hotel” in the Newport Dunes Waterfront Resort and Marina.
- They have shared with us their interest in expanding the Marina to our north to allow more and larger boats.

Thus our community is surrounded on 3 sides by land on which development is sought. While we respect their right to pursue commercial development **we need our City and State authorities to ensure that the land owner’s commercial interests do not create negative consequences for BVMHP.**

(See satellite image that follows)



Second: it is important to understand that BVMHP is classified in currently approved public plans and legal property descriptions as a private community with private streets and a private beach. Specifically:

- The **Local Coastal Program** describes Bayside Village as:
“Accessible to Bayside Drive via Bayside Way, a private street. The shoreline is on the north side of the community and consists of bulkheads and a small sandy beach at the community center.”
- The **Land Use Plan** portion of the Local Coastal Plan, Section 3.1.5 states:
“Most of the shoreline in Newport Beach is publicly owned and accessible. However, there are a few private residential communities along the shoreline...Balboa Coves, Bayside Place, Bayshores and DeAnza Bayside Village are on the mainland, but are situated so as not to block public access other than to their immediate shoreline. In all of these areas, the shoreline consists of mainly bulkheads with a few small and isolated sandy beaches.”



Picture of Bayside Village from the Local Coastal Program, Land Use Plan, Section 3.1.5

-
- The **Title Map for Parcel 3**, (the BBL development) designates the north clubhouse beach area as an easement “*for the exclusive recreational use of Parcel 2.*” Parcel 2 is the North Side of BVMHP.
 - In numerous flyers, brochures and neighborhood descriptions dating back decades and including the current www.baysidevillagemhp.com; website, there are statements that “*Bayside Village is a Privately-Owned Community,*” and that one of the “*amenities*” of the mobile home park is a “private beach.”

The point of citing all these references is to state again that BVMHP is currently an approved part of Newport Beach as a private community with private streets and a private beach. Therefore any development which would alter, divide or diminish the established character of our community, including our privacy, our security, our access to recreational areas and our ability to peaceably enjoy our community must be identified, evaluated and mitigated to the fullest extent possible.

In this document, we have provided written documentation of our concerns regarding the Back Bay Landing development. In summary, they include our concerns about the following:

1. Parking

The project results in a loss of parking spaces within our community. We would like to at least maintain, if not increase parking spots within the community.

2. Storage

The project results in the loss of storage garages within our community. We would like to see the amount of storage maintained, if not increased.

3. Security

We are concerned about the security of our homes and property due to the higher number of non-residents expected to have some access to our community. We believe a comprehensive security plan is required.

4. Noise Abatement

We are concerned about increased noise levels during construction and due to the higher number of non-residents expected to have some access to our community. We believe a comprehensive noise abatement program is needed.

5. Traffic Management

We are concerned about the potential negative impacts of increased traffic on the sole ingress and egress to BVMHP. We believe a comprehensive Traffic Management plan is needed.

6. Property Boundary Walls

We are concerned about what boundary walls will be installed on the East and West ends of the North Side of BVMHP.

7. Public Access Requirements

We are strongly opposed to an “alternative” for connecting The BBL development with The Newport Dunes Waterfront Resort using the Marina Road. This alternative connection creates significant negative impacts to our community.

In conclusion, we appreciate the opportunity to express our concerns as part of the Scoping and EIR process and we pledge our continued involvement.

Bayside Improvement Committee

1. PARKING

The project results in a loss of parking spaces within our community. We would like to at least maintain, if not increase parking spots within the community.

Virtually all of the 270 residences in Bayside Village MHP have a single carport that accommodates 1 vehicle. According to the 2012 Bayside Village MHP Resident Directory, about 155 residences have one occupant and roughly 115 are occupied by 2 adults, up from 105 residences with 2 adults in 2010 directory (very few have more than 2 adults). About 50% of the 155 single-occupant households are believed to have 2 cars, and about 90% of 115 multi-occupant residences are thought to be 2-car families.

Trending, as evident between the 2010 and 2012 Resident Directories, has been for younger, often multi-occupant “families” moving into Bayside Village and this will exacerbate parking problems in the future since they are more apt to be 2-car families than the single, and often elderly, occupants they replace.

Consequently, approximately 182 “second” cars (78 + 104) must vie for 163 “open” parking spaces currently scattered throughout the village for a ratio of 1 : 1.3 (1 open space : 1.3 vehicles vying for them). Since all “open” parking spaces are first-come-first-serve, much “jockeying for a parking space” occurs between residents, workmen and guests (although the latter are “required” to park on Bayside Drive). On average, at least 20 second cars are forced to park on Bayside Drive, a considerable distance from the occupant’s residence resulting in inconveniences and safety issues, especially to single women and/or the elderly. Or, they park illegally in posted fire lanes.

A second important measurement of parking availability is the ratio of “open” parking spaces to the number of residences in the village, specifically on the North side (practically speaking, residents from the South side do not park on the North side, and vice versa). The North side currently has only 94 “open” parking spaces for 144 North side residences, for a ratio of .65 open parking spaces per residence. This means that about 1 out of 3 residences have no access to an “open” parking space for a second car, workmen, or guest.

The BBL development offers substantial benefits for all Bayside Village residents by replacing the unsightly, dusty and often broken-down boats and RV's in the dry storage area with a quality commercial and residential development. However, parking availability is a critical issue to the residents of Bayside Village MHP and any reduction in the number of "open" parking spaces would have a dramatic negative impact on, and inconvenience to, Bayside Village MHP residents.

Security gates, guards at entrances, and/or key card/electronic controls will not deter guests, workmen and marina tenants from gaining access to the village in search of convenient parking. Management has committed to use the footprint of the homes they have purchased and will raze on the North side for additional parking spaces to offset those lost due to moving the West Road to accommodate entry to the BBL project. The key is for BBL to take the necessary steps to ensure that the current number of parking spaces within Bayside Village MHP are maintained, and if possible, increased.

2. STORAGE

The project results in the loss of storage garages within our community. We would like to see the amount of storage maintained, if not increased.

During a meeting on 8/2/2011 with Mr. Gelfand (representing the land owners of BVMHP), the architect and the BBL team, it was decided the replacement storage (after demolition of the existing garages and marina restrooms) would be divided on the East Road, half of the storage would be at the north end of East Road, and half at the south end, with a total of 3,000 square feet altogether. We want to stress that 3,000 square feet is the minimum amount of storage we feel would be adequate. We would prefer additional storage.

The residents of Bayside Village have significant storage needs and many currently use the rental garages extensively. One of the benefits of living in the Bayside Village community is the access to water and many other recreational opportunities available for active living. The residents need storage for bicycles, kayaks, stand up paddleboards, small rowing boats, motorcycles, small watercraft, etc. Many residents have downsized moving into the village and need a place for excess furniture, household items, hobbies, holiday boxes, and much more. Most of our homes lack personal garages and other space for storage, so storage/garages are critical. However, as part of the BBL development, the garages are planned to be demolished and replaced. Losing the garages will have a negative impact for many residents. It is important to us to have **adequate, convenient, and secure** storage, at a very **reasonable cost**.

The actual design of the storage facilities can be determined during the design phase, but the residents will need some private units. In order to assure the residents have adequate storage and for security reasons, we would want the storage to be limited to BVMHP residents only. Marina users of rental storage should be on a "space available" basis only.

3. SECURITY

We are concerned about the security of our homes and property due to the higher number of non-residents expected to have some access to our community. We believe a comprehensive security plan is required.

Security is a major concern for the residents of Bayside Village. Our community has very little public awareness due to its location and its only access being the dead end portion of Bayside Drive. The removal of the dry storage lot which has virtually no current traffic and its replacement with retail, commercial and residential housing will greatly increase security concerns for the residents of BVMHP.

Bayside Drive and the new entrance to the BBL Project will expose the homes in BVMHP to hundreds if not thousands of cars and pedestrians. If we extrapolate crimes rates from Balboa Island and the Peninsula Strand where homes are much closer to public walkways, Bayside Village should expect a substantial increase in the incidence of Larceny-Theft, Burglary, Robbery and Crimes against Persons and Property.

To mitigate these security issues, the BBL ownership has promised to provide a "security plan" which will include security gates at all entrances to BVMHP. These gates will be located at the main North and South entrances as well as the Eastern most entrance off Bayside Drive, which is used mostly by marina tenants. In addition, security gates will be part of the new boundary wall to be installed on the common border between the BBL Project and BVMHP. The location and type of security gates are yet to be determined.

Security for BVMHP will also be important on major holidays, especially the Fourth of July when the fireworks display at the Dunes brings thousands of spectators to the Back Bay area. Also, during the summer months, this area has many visitors who camp at the Dunes or just pass through on their bicycles. This may require the BBL to cooperate in providing additional security for control of traffic.

Nighttime security lighting will also be of concern to BVMHP residents and a lighting plan has yet to be discussed. Security cameras at strategic locations should be a part of the BBL's "comprehensive security plan."

4. NOISE ABATEMENT

We are concerned about increased noise levels during construction and due to the higher number of non-residents expected to have some access to our community. We believe a comprehensive noise abatement program is needed.

Bayside Village residents enjoy a peaceful, tranquil village in which to live, so noise abatement is of utmost importance to our community. The upcoming transformation from a quiet neighborhood to neighboring a commercial environment is going to be a huge change for our residents, especially those on the western side near the proposed Back Bay Landing development.

Bayside Drive, a lightly traveled street, will be transformed to a more heavily traveled street, which will add more noise, exhaust fumes and car and truck traffic.

Our concerns on the subject of noise are two fold:

1. Noise created during construction. (Vending trucks, heavy equipment trucks, trash trucks, etc.).
2. Noise created at the completion of the project. (Additional traffic, delivery traffic, traffic to and from boat slips and storage).

Due to the residential nature of Bayside Village, construction hours should be limited to weekdays between the hours of 7:00 a.m. to 6:00 p.m. We also feel some type of temporary noise barrier should be constructed at both ends of the North side of the village. This barrier should be in place before construction is started and should remain until the permanent Boundary Wall is put into place (see Property Boundary Walls, Section 7).

5. TRAFFIC MANAGEMENT

We are concerned about the potential negative impacts of increased traffic on the sole ingress and egress to BVMHP. We believe a comprehensive Traffic Management plan is needed.

Traffic created by the new BBL project will have significant impact on Bayside Village. The intersection of Bayside Drive and PCH is currently problematic with only seconds to cross PCH going west from Bayside Village. The left turn off PCH to Bayside Drive is also a very short traffic light. Additionally, there is currently no Bike Lane.

The City traffic engineers will study the impact of the new traffic created by the proposed BBL and those studies will have a bearing on the concerns of Bayside Village Residents.

The stacking problems associated with the entrance to the BBL off Bayside Drive will also create congestion and possible problems for Bayside Village residents.

Traffic in and out of Bayside Village is currently not a problem, however during the summer months the Dunes RV Park traffic on Bayside Drive is significantly higher due to weddings, parties and the new children's center. In addition the bicycle traffic in and out of the bicycle trail is much greater in the warm summer months.

If and when the proposed new hotel is built at the Dunes, Bayside Drive could become a serious traffic problem.

It is likely that the BBL will install security gates for Bayside Village at three of the current entrances to the property. This will have some impact on traffic along Bayside Drive.

Because of the issues listed above, the residents of Bayside Village are concerned with the potential impacts the BBL will have on traffic. Bayside Village requests a copy of the traffic studies from the City's traffic engineers to further quantify our concerns.

6. PROPERTY BOUNDARY WALLS

We are concerned about what boundary walls will be installed on the East and West ends of the North Side of BVMHP.

Bayside Village is currently enclosed by walls, fencing and landscaping on most of its boundaries. The proposed BBL project will eliminate the storage yard buffer to Pacific Coast Highway on our Western border and removal of the garages will expose the East side of BV to the Dunes parking lots and possible future hotel.

The residents of Bayside Village are entitled to the same boundary wall protection they have enjoyed prior to the BBL project. In discussion with the BBL ownership, BV residents have been promised new boundary walls on the East and West perimeters of Bayside Village. This is particularly important on the western perimeter from Bayside Drive to the Back Bay.

BV homes along the western perimeter are currently insulated by a street, landscaped fencing and the storage yard. However, the BBL has purchased several homes along the western border of residential Parcel 2 with the intent of removing them to permit construction of a new street that will be the main entrance to the BBL project. In the process, BBL plans to change the parcel boundary between Parcel 3 and Parcel 2, expanding the width of Parcel 3 at that point, and eliminating much needed BV resident parking (see Parking, Section 2).

The planned new entry road will be directly contiguous to the homes of BV residents on our western border. This will necessitate that a new wall be built to screen these residents from the noise, lights and traffic entering and exiting the BBL project.

In addition to this Western boundary wall, the BBL has promised a wall along the Eastern boundary where the current garages will be eliminated. These new boundary walls should be of concrete block construction with an attractive stucco coat or equivalent. These walls should be at least 6 feet in height, 10' if possible. The BBL architect has promised an attractive wall design with planter areas for trees and shrubs.

Without these new walls, Bayside Village residents would be subjected to excessive noise and reduction in "quality of life" due to the construction and day-to-day operation of the BBL project.

7. PUBLIC ACCESS REQUIREMENTS AND ALTERNATIVES

We are strongly opposed to an “alternative” for connecting The BBL development with The Newport Dunes Waterfront Resort using the Marina Road. This alternative creates significant negative impacts to our community. Additionally, we believe there are other alternatives with fewer negative impacts.

Back Bay Landing is situated on the Back Bay waterfront and as such must consider “public access requirements” as part of the review by the City and the Coastal Commission. The BBL development includes significantly more public access in and around the area proposed for retail, restaurants and a boat storage facility. A sidewalk/pathway along the north side of Bayside Drive, beginning at the west entrance to the Dunes R.V. Park and culminating at the entrance to the BBL is also proposed. We support this “connection” between the Back Bay Landing proposed development and the Dunes Marina and Dunes Recreation area as it provides the most direct route and it is a connection that is currently actively used for cars, bicyclists, runners and pedestrians.

However, as part of the Back Bay Landing development, the owners have expressed interest in having a “Promenade Alternative” evaluated as part of the EIR. On September 25, 2012, our Committee reviewed a map entitled “Rejected Alternative Access Alignment.” This map includes numerous concerns of the land owners including Non Continuous gated access, a non publicly available beach, no feasible means of traversing across the beach, and conflicts with rights of entry to BVMHP. We agree with all of those concerns and more. **BVMHP is strongly opposed to the use of the Marina Road and North Clubhouse Beach for a “Promenade” as it creates negative consequences with regards to noise, security, emergency services and access to recreational areas.**

Our concerns are summarized in Exhibit I wherein we have attempted to define the negative impacts to BVMHP from our perspective.

EXHIBIT I

Bayside Improvement Committee

**Statement of Concerns Regarding the Proposed
“Promenade Alternative”**

**As Part of the Proposed
Bayside Landing Development**

Version 2.2

Current Situation

The park owners (or managing agent for the owners) Terra Vista Management LLC notified BVMHP residents that “*Expanded public access along the boardwalk fronting Bayside Village Mobile Home Park will not be proposed. It may be considered as one or more required Project Alternatives in the Environmental Impact Report accompanying project applications.*” This “*expanded public access along the boardwalk fronting Bayside Village Mobile Home Park*” is what is referred to herein as the “*Promenade Alternative*” that we are seriously concerned about.

The owners have prepared a diagram of a “Rejected Alternative Access Alignment” that summarizes their basis for rejecting the “Promenade Alternative.” As representatives of the residents of BVMHP, we have also documented how the “Promenade Alternative” creates multiple substantial adverse changes to existing environmental conditions for Bayside Village residents. These issues should be considered in addition to the “Rejected Alternative Access Alignment” submission by the land owners.

Impacts to Bayside Village

Consistent with other project Environmental Impact Reports presented to Newport Beach regulatory authorities, the impacts of this Promenade Alternative are identified and categorized using the following impact significance definitions:

Less Than Significant—results in no substantial adverse change to existing environmental conditions.

Potentially Significant—constitutes a substantial adverse change to existing environmental conditions that can be mitigated to less-than-significant levels by implementation of feasible mitigation measures or by the selection of an environmentally superior project alternative.

Significant and Unavoidable—constitutes a substantial adverse change to existing environmental conditions that cannot be fully mitigated by implementation of all feasible mitigation measures, or by the selection of an environmentally superior project alternative.

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| 1.0 Aesthetics and Visual Quality | |
| 1.1 Scenic vistas will be obstructed as the result of the necessary walls/hedges or other setbacks that will be required to provide homeowners security from increased public access via the Promenade Alternative. | Impact: Potentially Significant. Mitigation measures required to provide adequate security for homeowners, all 66 waterfront homeowners will have a loss of views. Additionally, the north side clubhouse beach will be blocked by a bridge obstructing the view of all community residents accessing the clubhouse or pool area. |
| 2.0 Geology and Soils | |
| 2.1 Implementation of the proposed Promenade Alternative could subject people and structures to hazards associated with lateral spreading, subsidence, collapse, differential settlement, or heaving. | Impact: Less than Significant. Geological testing completed by Terra Vista Management has determined that the land under the Promenade Alternative contains cavities and open areas. Waterfront homeowners wishing to build 2 story homes have been advised that they are required to conduct soils studies prior to construction. While the proposed Promenade Alternative will create an increase in public use of the north walkway, this soil condition hazard is a known risk with no adverse change from the Promenade Alternative. |
| 3.0 Land Use and Planning | |
| 3.1 Implementation of the proposed Promenade Alternative could involve new uses and structures that create incompatibilities with adjacent land uses. | Impact: Potentially Significant. Gates, Stairs or other structures necessary for security, time and use restrictions will conflict with the use of north walkway for emergency services. Short of neighborhood road widening and associated relocation of units, there are no alternatives for maintaining the current level of emergency services access. |
| 3.2 Implementation of the proposed Promenade Alternative will deny residents of a private community use of their private beach amenity. | Impact: Potentially Significant. Terra Vista, at one time proposed a raised bridge that will cover more than 75% of the private beach at high tide, obstruct water views from the clubhouse and restrict resident access to their private beach. |
| 3.3 Implementation of the proposed Promenade Alternative could conflict with applicable land use plans, policy, or regulations. | Impact: Potentially Significant. As an easement for the “exclusive recreational use of parcel 2,” and an established “amenity” for residents, any structure or public access is in conflict with current land use designations and HCD regulations. |
| 4.0 Noise | |
| 4.1 Implementation of the proposed Promenade Alternative could expose persons to substantial temporary or periodic ambient noise increases. | Impact: Potentially Significant. Increased public access to the Promenade Alternative will necessarily be accompanied with periodic increases in ambient noise. Setbacks, fencing and/or hedges along with other security, time and use restrictions could mitigate such increased noise levels. |

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| 5.0 Public Services | |
| <p>5.1 Implementation of the Promenade Alternative would be expected to increase the incidence of Larceny-Theft, Burglary, Robbery, Crimes against Persons and Property requiring additional protective services.</p> | <p>Impact: Potentially Significant. Incidence of Larceny-Theft, Burglary, Robbery and Crimes against Persons and Property are substantially higher in Newport Beach communities featuring public walkways immediately adjacent to residential homes than are current BVMHP crime rates. Gates, setbacks and security patrols are part of these other Newport Beach communities so BVMHP should reasonably expect increased crime rates from increased public access via the Promenade Alternative.</p> |
| <p>5.2 Implementation of the proposed Promenade Alternative could result in interference with an adopted emergency response plan or emergency evacuation plan.</p> | <p>Impact: Potentially Significant. Increased public access to a bayfront walkway requires that the local emergency evacuation plans be revised to include additional non-resident personnel. Adequacy of evacuation planning options unknown at this time.</p> |
| | |
| 6.0 Transportation/Traffic | |
| <p>6.1 Implementation of the proposed Promenade Alternative could result in inadequate emergency access.</p> | <p>Impact: Potentially Significant. Set back, fencing, hedges, gates and/or other structures on the Promenade Alternative would render it of limited use for emergency services vehicles and personnel.</p> |

2010 photo from east side of Promenade Alternative to west side across North Clubhouse Beach; A bridge connecting walkways across the beach will obstruct clubhouse views and restrict useable beach area of the Private Beach amenity of the BVMHP community.



Murillo, Jaime

From: BarryW5@aol.com
Sent: Wednesday, October 17, 2012 2:28 PM
To: Murillo, Jaime
Subject: Jamime- Your studies of the Bayside Village project are inadequate

A HUGE SAFETY PROBLEM has been swept under the table-**the possibility of a tide wave**. A few years ago the NP city council had a tidal wave committee and sent out a brochure showing the tidal wave effected area, Bayside Village was on of them. I didn't like what was happening to our project so I sent a letter threatening to sue, I might mention the last people I sued are the owners of Bayside Village. **That lawsuit went on for four years and i understand cost then \$2 million. I did all the letgal work and appearances and it cost me only \$12,000 for paper, ink and postage.** Anyway even before that happened the Committee was dissolved and mention of tidal waves disappeared from NP literature. Not a terribly bright move to try to hid a danger already admitted to by the entire city council

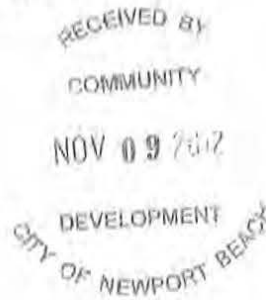
I want something from the costal commission saying adding hundreds of more human to a project with only one outlet to PCH is safe in aan already unsave area (by the number of humans already trapped here). Of course its not. Its the owners greed and a compliant NP Board looking for more taxes!

I want the Board to know that if this project goes forward without Tidal wave clearance that i will sue the owners, the City, and each director personally. And, I have a good case!



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov



November 1, 2012

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Beach Boulevard
Newport Beach, CA 92663

Notice of Preparation of a CEQA Document for the Back Bay Landing Project

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft CEQA document. Please send the SCAQMD a copy of the Draft EIR upon its completion. Note that copies of the Draft EIR that are submitted to the State Clearinghouse are not forwarded to the SCAQMD. Please forward a copy of the Draft EIR directly to SCAQMD at the address in our letterhead. **In addition, please send with the draft EIR all appendices or technical documents related to the air quality and greenhouse gas analyses and electronic versions of all air quality modeling and health risk assessment files. These include original emission calculation spreadsheets and modeling files (not Adobe PDF files). Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

Air Quality Analysis

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. The lead agency may wish to consider using land use emissions estimating software such as the recently released CalEEMod. This model is available on the SCAQMD Website at: <http://www.aqmd.gov/ceqa/models.html>.

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM_{2.5} emissions from construction and operational activities and processes. In connection with developing PM_{2.5} calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM_{2.5} emissions and compare the results to the recommended PM_{2.5} significance thresholds. Guidance for calculating PM_{2.5} emissions and PM_{2.5} significance thresholds can be found at the following internet address: http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html.

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

In the event that the proposed project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, it is recommended that the lead agency perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html. An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html. Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with new projects that go through the land use decision-making process. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

Data Sources

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD staff is available to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. If you have any questions regarding this letter, please call Ian MacMillan, Program Supervisor, CEQA Section, at (909) 396-3244.

Sincerely,



Ian MacMillan

Program Supervisor, CEQA Inter-Governmental Review
Planning, Rule Development & Area Sources

Juañeno Band of Mission Indians
Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628
Santa Ana, CA 92799
alfredgacruz@sbcglobal.net
Home ph/fax: 714-998-0721
Cell: 714-321-1944

June 3, 2013

Matthew Gonzalez
Associate Archaeologist/Paleontologist
PCR

Re: Proposed Newport Back Bay Landing Mixed-Use Project; City of Newport Beach

Thank you for the opportunity to comment on the above mentioned project.

Although sites were not identified by the records search, much of the area was developed prior to the enactment of environmental and historic preservation laws and there is the potential for the presence of buried cultural deposits. If buried cultural materials are discovered during future investigations, site evaluations and mitigation measures should take into consideration the impacts upon and/or destruction of archaeological sites, Native American traditional cultural sites, and traditional cultural landscapes with associated traditional Native American values.

State and Federal guidelines, including CEQA, provide that with respect to archaeological sites, preservation thorough avoidance is the preferred treatment. Archaeology is a destructive process and mitigation through data recovery excavations not only result in the destruction of an important part of our cultural patrimony, but it is also labor intensive and expensive. Most importantly, site evaluations and mitigation measures do not take into consideration the destruction of Native American traditional cultural sites and landscapes. The discovery of archaeological sites early in the planning process allows archaeological sites to be preserved through avoidance and incorporation into open space areas.

We request that you continue to keep us informed about the Project. We look forward to the results of archaeological and cultural investigations and to further participation in the environmental review process. To that end, we reserve our right to comment further in the future.

Sincerely,


Alfred G. Cruz

City of Newport Beach

Scoping Meeting for the Draft Environmental Impact Report (EIR) Back Bay Landing Project October 17, 2012

Written Comment Form

The purpose of the public scoping meeting is to obtain input from the public regarding the scope and the alternatives that will be analyzed in the Draft EIR for the Back Bay Landing Project. The proposed project is an integrated, mixed-use waterfront village on an approximately 7 acre portion of a 31.4 acre parcel located adjacent to the Upper Newport Bay in the City of Newport Beach. At this time, the applicant is seeking General Plan and Coastal Land Use Plan Amendments to change the land use designations to Mixed-Use Horizontal, which would allow for limited residential use on the site. The applicant has also prepared and is seeking approval of the Back Bay Landing Planned Community Development Plan (PCDP), which will serve as the controlling zoning ordinance and will provide a regulatory framework for the five Planning Areas that will comprise the project site. Within the PCDP, the Back Bay Landing Design Guidelines will provide specific guidance on the physical implementation of the project and assist the City and community to visualize the architectural theme and desired character of the project. Specific project-level applications for a fully integrated, mixed-use development through the Site Development Plan and Coastal Development Permit (CDP) will be filed in the future.

The deadline for submitting written comments to the City is **November 15, 2012**. In the space below (and on additional pages, if necessary), please provide any written comments you may have concerning the scope of the Draft EIR for the proposed project. Your comments will then be considered during preparation of the Draft EIR. If you would prefer to e-mail your comments to the City, please send them to JMurillo@newportbeachca.gov.

Name: Laminda De
Address: 32 Sorensen

Keep Parsons Park!

Please leave this form in the box provided or deliver or mail it to Mr. Jaime Murillo, Associate Planner, City of Newport Beach, Community Development Department – Planning Division, 3300 Newport Boulevard, Newport Beach, CA 92658-8915. This form can simply be folded and placed in a mailbox. Please remember to add postage.