

FINAL ENVIRONMENTAL IMPACT REPORT
ADDENDUM

BACK BAY LANDING PROJECT

CITY OF NEWPORT BEACH, CALIFORNIA



MARCH 2016

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STATE CLEARINGHOUSE #2012101003

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1. INTRODUCTION

1.0 INTRODUCTION

Pursuant to the requirements of Public Resources Code (PRC) section 30512(b), the City of Newport Beach (“City”) is processing the City’s required review and acceptance/denial of the California Coastal Commission’s (“Coastal Commission” or “CCC”) December 10, 2015, approval of Coastal Land Use Plan (“CLUP”) Amendment No. LC2011-007 (“Back Bay Landing”) with suggested modifications (see attached Notice of Approval from the Commission dated December 31, 2015, included in Appendix A of this Addendum). In addition to necessary revisions to the City Council’s original February 11, 2014 legislative approvals (“Original Project”), to assure consistency with the CLUPA as modified by the Commission, the applicant has requested two additional limited modifications to the Planned Community Development Plan (“PCDP”) and the previously approved Lot Line Adjustment. Consistent with PRC § 30512(b) no changes are proposed to the CLUPA other than those modifications approved by the Commission on December 10, 2015. Specifically, the modifications to be analyzed in this environmental document (“Modified Project”) are the following: 1) Coastal Land Use Plan Amendment (“CLUPA”) revisions; 2) General Plan Amendment (“GPA”) revisions; 3) Code Amendment/Zoning Map revisions; 4) Planned Community Development Plan (“PCDP”) revisions; and 5) a Lot Line Adjustment (“LLA”) revision. The Modified Project is the subject of analysis in this Addendum, which has been prepared in order to comply with the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines Section 15367, the City is the lead agency with principal responsibility for considering the Modified Project for approval.

This Introduction to the Back Bay Landing Modified Project Addendum will discuss: 1) the requirements of CEQA; 2) the Final Environmental Impact Report (EIR) (State Clearinghouse No. 2012101003) certified on February 11, 2014 by the Newport Beach City Council (“Certified EIR”) in compliance with CEQA; 3) the primary purpose of an EIR Addendum; 4) the standards for adequacy of an EIR Addendum pursuant to the State CEQA Guidelines; 5) the format and content of this EIR Addendum; and 6) the City’s timeline and processing requirements to consider the Modified Project for approval.

1.1 Project Background and Summary

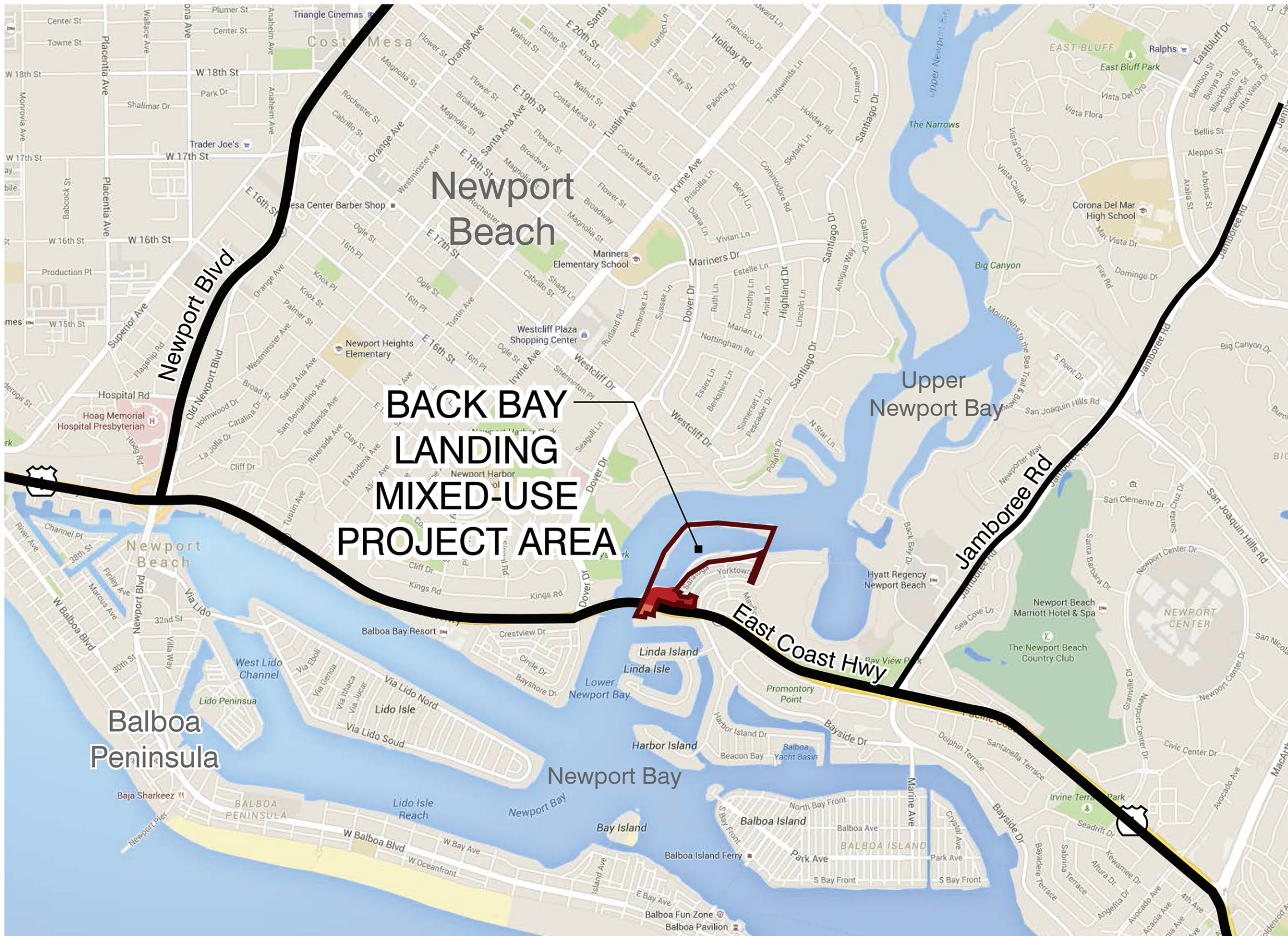
In February of 2014, the City Council (“Council”) approved land use amendments to provide the legislative framework for the future development of an integrated, mixed-use waterfront village on an approximately 7-acre portion of a 31.4-acre parcel located adjacent to the Upper Newport Bay, including: 1) amendments to the General Plan and Coastal Land Use Plan to change the land use designations from Recreational and Marine Commercial (CM) to Mixed-Use Horizontal (MU-H); 2) a Planned Community Development Plan to establish appropriate zoning regulations and development standards for the site, and 3) a Zoning Code Amendment to expand the Planned Community District boundaries. Please refer to **Figure 1, Project Location Map**, and **Figure 2, Planning Areas**, below, for the location of the project site and an illustration of the various planning areas provided for within the Planned Community District, respectively. The requested legislative amendments were intended to provide for a horizontally distributed mix of uses, including recreational and marine commercial, retail, marine services, enclosed dry stack boat storage, and a limited mix of freestanding multi-family residential and mixed-use structures with residential uses above the ground floor commercial. In addition to the land use amendments, other requested approvals included a Lot Line Adjustment, adjusting the boundaries between the subject property and the adjacent Bayside Village Mobile Home Park to improve site access, and a Traffic Study pursuant to the City’s Traffic Phasing Ordinance.

On July 11, 2014 the Council-approved Coastal Land Use Plan Amendment was submitted to the Coastal Commission and the City’s application was deemed complete by the CCC on October 9, 2015.

The other City Council-approved Back Bay Landing legislative actions (GPA, PCDP, ZC) were subject to and not effective until the final approval of the CLUPA by the CCC. As referenced above, the Coastal Commission approved the proposed CLUPA with suggested modifications (Appendix A of this Addendum) on December 10, 2015. City staff and the applicant indicated to the CCC, both in prior written communication and in oral statements on the record at the Commission hearing, with respect to late modifications proposed by Commission staff in the days prior to the hearing, that the suggested modifications were acceptable. However, final certification of City CLUP Amendment No. LC2011-007 is subject to the City Planning Commission and City Council's adoption of same within six (6) months of the Commission's December 10th action. As such, in order to respond to the CCC's suggested modifications, the City staff and Project Applicant are requesting the following revisions to the previously approved legislative and administrative approvals:

- **CLUP Amendment** - The CCC's submitted approval of the CLUP Amendment required several modifications to the CLUPA submitted by the City, including 1) Coastal Land Use Designation Change, 2) Elimination of Public View Tower Height Exception, 3) Enhanced Coastal Access, 4) Hazards Assessment, 5) Shoreline Management Plan preparation, and 6) CLUP Map Revisions.
- **General Plan Amendment** - For consistency with the Mixed Use Water Related Coastal Land Use Plan Designation, the previously adopted General Plan land use category of Mixed Use Horizontal (MU-H) is required to be changed to Mixed Use Water-Related (MU-W2).
- **Code Amendment (Zoning Map)** - An amendment to the Zoning Code to revise the Zoning Map is needed to expand the PC-9 boundaries to include the currently proposed 0.387-acre lot line adjustment area currently zoned as Bayside Village Mobile Home Park Planned Community (PC-1/MHP). The zone change would ensure consistent zoning and allow for the proposed PCDP to regulate development of the entire site.
- **Back Bay Landing Planned Community Development Plan Amendment** - In order to achieve consistency of the Planned Community Development Plan with the Coastal Commission's modifications of the CLUP land use designation and policies, revisions to the adopted PCDP for the site are needed. The purpose of the PCDP is to establish appropriate zoning regulations governing land use, site design and development standards on the site that would assure future development of the site as a high-quality mixed-use, marine-related, visitor-serving commercial development with integrated residential units and a unified architectural and landscape theme. Specifically, the PCDP sets the development limits, permitted land uses, development standards, design guidelines, and administrative procedures as the controlling zoning document for the entire approximately 31-acre project site. The PCDP Amendment also includes site location flexibility for the Orange County Sanitation District wastewater pump facility to be relocated in either Planning Area 2 or in Planning Area 1 (as was allowed under the Original Project PCDP).
- **Lot Line Adjustment** - A small, additional revised lot line adjustment proposed between Parcel 3 (mixed-use project site) and Parcel 2 (adjacent Bayside Village Mobile Home Park) of Parcel Map No. PM 93-111 to improve ingress and egress to the project site with a new driveway. No additional parcel or development rights are created.

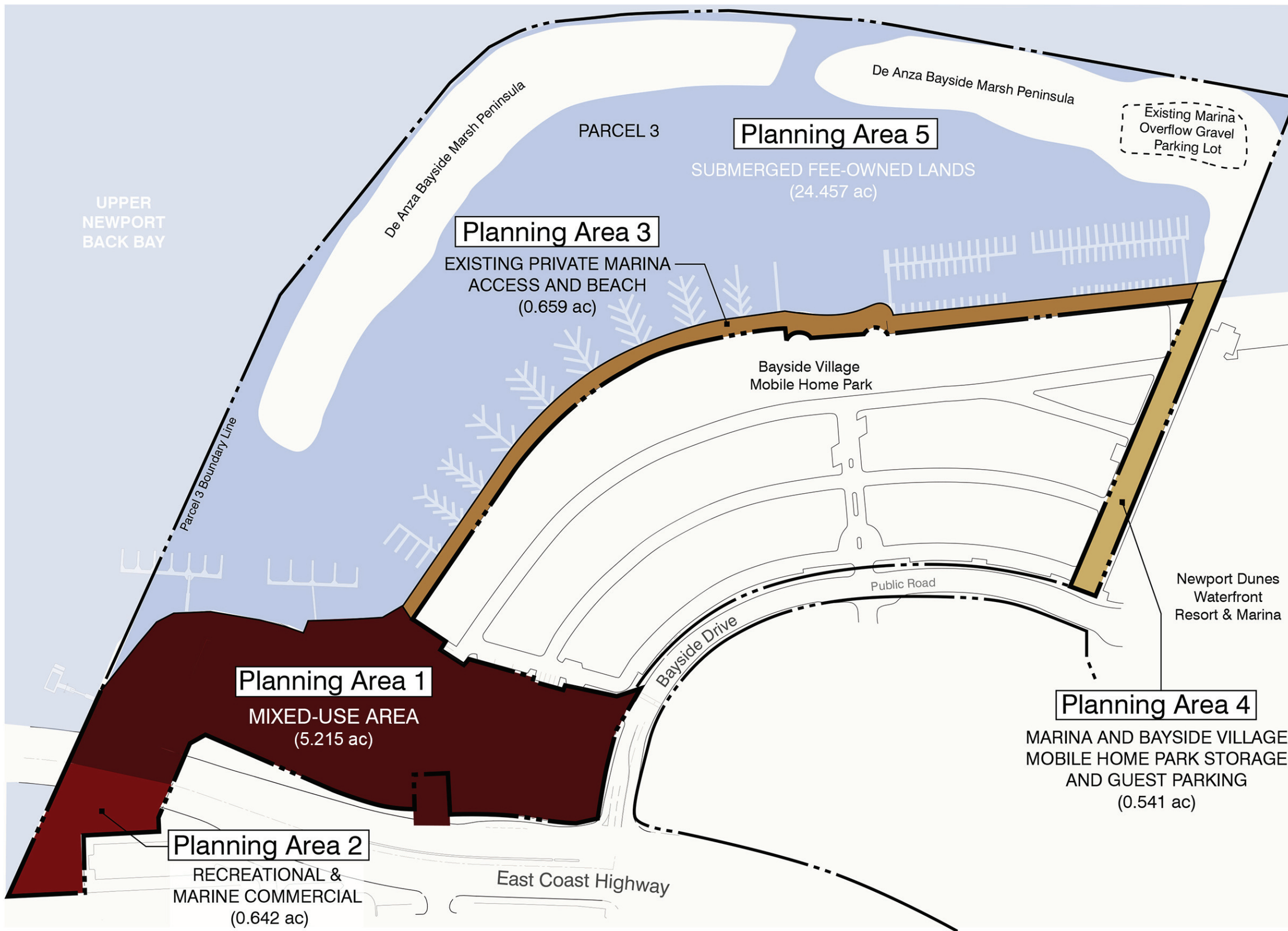
A detailed discussion and associated illustrations of the proposed revisions to the requested approvals are provided below in Section 2.0, Project Description, of this Addendum.



Back Bay Landing is located immediately north 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
- PC-9 Boundary



This Planned Community includes five distinct planning areas.

Parcel 3 Summary		
P.A.	Description	Acres
1	Mixed-Use Area (North of CH center line)	5.215 ac
2	Recreational & Marine Commercial (South of CH center line)	0.642 ac
3	Existing Private Marina Access and Beach	0.659 ac
4	Marina and Bayside Village Mobile Home Park Storage and Guest Parking	0.541 ac
5	Submerged Fee-Owned Lands (Area includes De Anza Bayside Marsh Peninsula)	24.457 ac
Parcel 3 Total Area		31.514 ac

1.2 The California Environmental Quality Act

CEQA, a statewide environmental law contained in Public Resources Code §§21000-21177, applies to most public agency decisions to carry out, authorize, or approve actions that have the potential to adversely affect the environment. The overarching goal of CEQA is to protect the physical environment. To achieve that goal, CEQA requires that public agencies inform themselves of the environmental consequences of their discretionary actions and consider alternatives and mitigation measures that could avoid or reduce significant adverse impacts when avoidance or reduction is feasible. It also gives other public agencies and the general public an opportunity to comment on the information. If significant adverse impacts cannot be avoided, reduced, or mitigated to below a level of significance, the public agency is required to prepare an EIR and balance the project's environmental concerns with other goals and benefits in a statement of overriding considerations.

1.3 Approved Back Bay Landing Project and Certified Back Bay Landing EIR

The City Council certified EIR (SCH No. 2012101003) on February 11, 2014, as adequately addressing the potential environmental impacts associated with the proposed legislative and administrative approvals and the future development such approvals could allow on the project site. The location of the project site, previous approvals granted, and the actions addressed as part of the Modified Project evaluated in this EIR Addendum are further addressed below in Section 2.0, Project Description.

On February 11, 2014, the Newport Beach City Council adopted Resolution No. 2014-10 certifying the Back Bay Landing EIR, and adopted associated Findings and Statement of Facts in compliance with CEQA. As the Original Project was determined not to result in any unavoidable significant effects on the environment, a Statement of Overriding Considerations was not required. The Certified EIR and Resolution No. 2014-10 are herein incorporated by reference pursuant to CEQA Guidelines Section 15150 and are available for review at City of Newport Beach Planning Division, 100 Civic Center Drive, Newport Beach, California 92660 and online at www.newportbeachca.gov.

1.4 California Environmental Quality Act Requirements

The CEQA Guidelines allow for the updating and use of a previously certified EIR for projects that have changed or are different from the previous project or conditions analyzed in the Certified EIR. In cases where changes or additions occur with no new significant environmental impacts, an Addendum to a previously certified EIR may be prepared. See CEQA Guidelines §15164.

The following describes the requirements of an Addendum to an EIR, as defined by CEQA Guidelines Section 15164:

- a. The lead agency or responsible agency shall prepare an Addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a Subsequent EIR have occurred.
- b. An Addendum need not be circulated for public review but can be included in or attached to the Final EIR.

- c. The decision-making body shall consider the Addendum with the Final EIR prior to making a decision on the project.
- d. A brief explanation of the decision not to prepare a Subsequent EIR pursuant to Section 15162 should be included in an Addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

As noted above, CEQA Guidelines Section 15164(a) allows for the preparation of an Addendum if none of the conditions described in Section 15162 are met. CEQA Guidelines Section 15162 describes the conditions under which a Subsequent EIR must be prepared, as follows:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternatives; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If none of these circumstances are present, and only minor technical changes or additions are necessary to update the previously certified EIR, an Addendum may be prepared. See CEQA Guidelines §15164. As described in detail herein, none of the above circumstances that warrant the preparation of a Subsequent EIR are present.

1.5 Type of CEQA Compliance Document and Level of Analysis

This document is an Addendum to the previously-certified Back Bay Landing Project EIR (SCH No. 2012101003). As such, this Addendum analyzes the potential differences between the impacts in the Certified EIR and those that would be associated with the Modified Project described in Section 2.0, Project Description. CEQA Guidelines Section 15161 states that a Project EIR should focus on the changes in the environment that would result from the development project, and shall examine all phases of the project including planning, construction, and operation. Although the Original Project only included legislative and other administrative approvals to allow for a future mixed-use development on the project site and not a specific development project, the Certified EIR addressed impacts associated with future implementation of the Back Bay Landing Project to the extent that project-specific details were available. . The need for additional environmental review pursuant to the State CEQA Guidelines would be determined by the City as part of the Site Development Review process at such time a specific development project is brought forth.

This EIR Addendum provides the environmental information necessary for the City to make an informed decision about the Modified Project, which consists of the actions summarized above in Section 1.1 and more fully described in Section 2.0, Project Description. The City has determined that an Addendum to the Certified EIR should be prepared, rather than a Supplemental or Subsequent EIR, based on the following facts:

- a. As demonstrated in the accompanying Environmental Checklist Form and its associated analyses (refer to Section 4.0), the Modified Project would not require major revisions to the previously-certified Program EIR because the Project would not result any new potentially significant impacts to the physical environment nor would it create substantial increases in the severity of the environmental impacts previously disclosed in the Certified EIR. In summary, the Modified Project consists of physical reconfiguration of land uses on the project site, with a minor alteration in lot line boundaries, with the same land use types and intensity as the Original Project and with expanded public waterfront access, as summarized above in Section 1.1 and described in detail below in Section 2.0. Although minor physical alterations to the land use plan for the project site are proposed under the Modified Project, the overall development pattern and intensity would remain unchanged.
- b. Although the Project would provide increased continuous public waterfront access for bicyclists and pedestrians through Planning Area 3, the provision of such access would not result in new or substantially increased environmental impacts compared to those evaluated in the Certified EIR.
- c. The Project's related discretionary actions, including but not limited to changes to the CLUPA, GPA, and PC Amendment, would not result in any new significant environmental impacts beyond those disclosed in the Certified EIR.
- d. Subsequent to the certification of the Certified EIR, no substantial changes in the circumstances under which the Project is undertaken have occurred.
- e. Subsequent to the certification of the Certified EIR, no new information of substantial importance has become available which was not known at the time the Certified EIR was prepared.

- f. Mitigation measures identified in the Certified EIR would be appropriate and feasible for the Modified Project.

Based on these facts, the City determined that an Addendum to the Certified EIR is the appropriate type of CEQA document to prepare for the Modified Project. The purpose of this Addendum is to evaluate the Modified Project's level of impact on the environment in comparison to the approved Back Bay Landing Project and its accompanying Certified EIR.

1.6 Format and Content of this EIR Addendum

The following components comprise the EIR Addendum in its totality:

- a. This Introduction (Section 1.0) and the Project Description (Section 2.0).
- b. The completed Environmental Checklist Form and its associated analyses (Sections 3.0 and 4.0), which concludes that the Modified Project would not result in any new significant environmental impacts or substantially increase the severity environmental impacts beyond the levels disclosed in the Certified EIR.
- c. Supporting background and technical information regarding the Modified Project, which are attached as EIR Addendum Appendices A – C as follows:
 - Appendix A: California Coastal Commission Correspondence
 - Appendix B: Revised Legislative and Administrative Approval Documents
- d. The Certified EIR, accompanying Mitigation Monitoring and Reporting Program (MMRP), Technical Appendices to the Certified EIR, Findings and Statement of Facts, and City Council Resolution No. 2014-10, which are all herein incorporated by reference pursuant to CEQA Guidelines Section 15150 and are available for review at City of Newport Beach Planning Division, 100 Civic Center Drive, Newport Beach, California 92660 and online at www.newportbeachca.gov.

1.7 Preparation and Processing of this EIR Addendum

The City of Newport Beach Planning Division directed and supervised the preparation of this EIR Addendum. Although prepared with assistance of the consulting firm PCR Services Corporation, the content contained within and the conclusions drawn by this EIR Addendum reflect the sole independent judgment of the City.

This EIR Addendum will be forwarded for review, along with the 2014 Certified EIR, to the Newport Beach Planning Commission and City Council for review as part of their deliberations concerning the Modified Project. A public hearing(s) will be held before the City of Newport Beach Planning Commission, which will provide a recommendation to the City Council as to whether to approve, or deny the Modified Project. A public hearing(s) will then be held before the City Council to consider the Modified Project and the adequacy of this EIR Addendum. Public comments will be heard at the hearing(s). At the conclusion of the public hearing process, the City Council will take action to approve, conditionally approve, or deny approval of the Modified Project. If approved, the City Council also will adopt findings relative to the Modified Project's environmental effects.

2. PROJECT DESCRIPTION

2.0 PROJECT DESCRIPTION

As noted above in Section 1.1, the Original Project approved by the City Council and evaluated in the Certified EIR included a number of legislative and administrative approvals, which have been subsequently modified in response to the CCC's approval with suggested modifications of the CLUPA dated December 10, 2015 (included in Appendix A of this Addendum). Please refer to Appendix B of this Addendum for copies of all text and map revisions to the various approval documents. As such, pursuant to the CCC's CLUPA comments, the Project Applicant is requesting the following revisions to the previously approved legislative and administrative approvals:

2.1 CLUP Amendment

The CCC's conditional approval of the CLUPA required a number of revisions to the CLUPA text and figures as previously proposed by the City, which are summarized as follows:

- **Land Use Designation Revision** - Modified the proposed CLUP land use category from Mixed-Use Horizontal (MU-H) to Mixed Use Water-Related (MU-W). The primary difference between the two designations is that the MU-W designation allows for the vertical mixed-use structures, where residential uses are located above the ground floor. Freestanding residential units are prohibited. The land use designation of the strip of land (Planning Area 3) seaward of the mobile home development would remain CM-B.
- **Eliminated Public View Tower Height Exception** - Eliminated a proposed height exception to the 35-foot Shoreline Height Limitation Zone under CLUP Policy 4.4.2-1 for a single, up to 65-foot tall coastal public view tower. The coastal public view tower, therefore, is no longer proposed as part of future development. Please refer to **Figure 3, Building Heights**, below, for proposed building height limits within the project site under the Modified Project.
- **Enhanced Coastal Access** - Included new site-specific CLUP Policies 2.1.9-2 and 2.1.9-3 with a requirement that the proposed public bayfront promenade continue within Planning Area 3, adjacent to the mobile home park, and provide a continuous bayfront link from the mixed-use project area on the west (Planning Area 1) to the Newport Dunes recreational trail to the east. Please see **Figure 4, Coastal Access and Regional Trail Connections**, and **Figure 5, Public Spaces**, below, for an illustration of the revised public bayfront access plan and other non-vehicular access opportunities within the project site.
- **Hazards Assessment** - Included a new site-specific CLUP Policy 2.1.9-4 requiring that a hazards assessment of the potential for erosion, flooding, and/or damage from natural forces be prepared and submitted with the future site development review phase of the project.
- **Shoreline Management Plan** - Included a new site-specific CLUP Policy 2.1.9-5 requiring the preparation and implementation of a shoreline management plan for the development and shoreline areas of the site subject to tidal action, flooding, wave hazards and erosion. Please see **Figure 6, Seawall/Bulkhead Section**, below, for an illustration of proposed seawall/bulkhead improvements for the project site, which would be implemented in accordance with the Shoreline Management Plan.
- **CLUP Map Revisions** - Requested that CLUP Coastal Access and Recreation Map 3-1 be revised to illustrate the proposed bayfront promenade as a future waterfront public access trail, similar to that depicted in Figure 4, and Bikeways and Trail Map 2 was also requested to be revised to illustrate the proposed bike lane and trail improvements on Bayside Drive (please see Figure 4).

2.2 General Plan Amendment

For consistency with the Mixed Use Water Related Coastal Land Use Plan Designation, the previously adopted General Plan land use category of Mixed Use Horizontal (MU-H) must also be changed to Mixed Use Water-Related (MU-W2). Other than changes to the Land Use Map, no other changes to the previously adopted General Plan development limits (density/intensity) are proposed. The specific GPA changes are included in Appendix B of this Addendum.

2.3 Amendment (Zoning Map)

An amendment to the Zoning Map of the Zoning Code is needed to expand the PC-9 boundaries to include the currently proposed 0.3-acre lot line adjustment (LLA) area currently zoned as Bayside Village Mobile Home Park Planned Community (PC-1/MHP). The zone change would ensure consistent zoning and allow for the proposed PCDP to regulate development of the entire site. See discussion below regarding the proposed revisions to the requested LLA area.

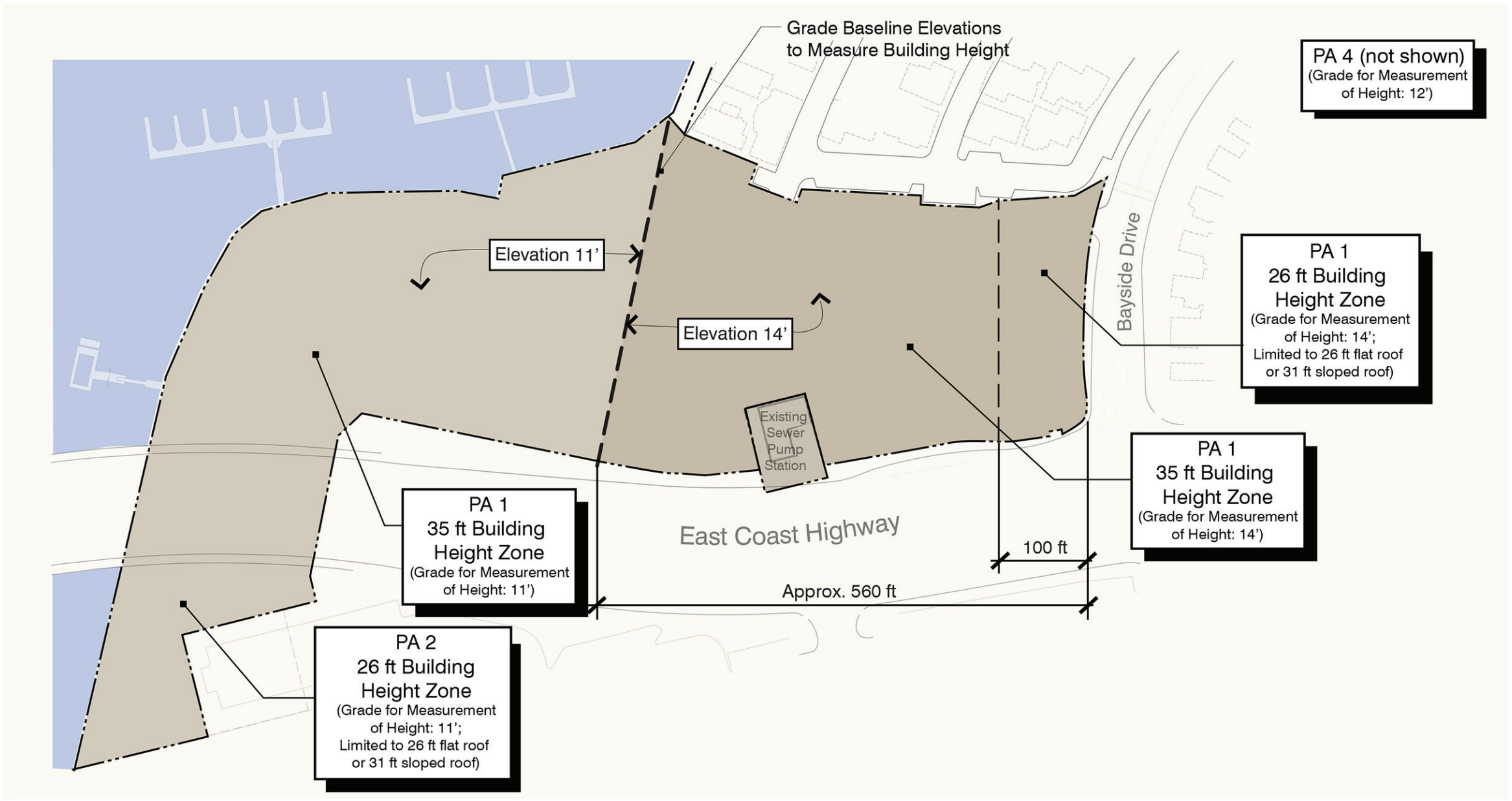
2.4 Back Bay Landing Planned Community Development Plan Amendment

For consistency with the Coastal Commission modifications with the CLUP land use designation and policies, revisions to the adopted PCDP for the project site are needed. Planning Area uses are also revised within the PCDP to allow for wastewater pump facilities in either Planning Area 2 or in Planning Area 1 (as was allowed under the Original Project PCDP). The proposed amendment to the PCDP under the Modified Project does not authorize or preclude an increase of total existing pumping capacity or permit the placement of any other component of a pumping facility, and is intended only to revise the PCDP to indicate that a pumping facility is an allowable use within Planning Area 2. The development of pumping facilities, if and when proposed, will be subject to all of the land use review requirements under the Modified Project PCDP and separate CEQA compliance and processing of regulatory approvals by OCSD. The purpose of the PCDP is to establish appropriate zoning regulations governing land use and development of the site that would allow for the future development of the site as a high-quality mixed-use, marine-related, visitor-serving commercial development with integrated residential units and a unified architectural and landscape theme. Specifically, the PCDP sets the development limits, allowed land uses, development standards, design guidelines, and administrative procedures that would serve as the controlling zoning document for the entire 31-acre project site.

A redline/strikeout version of the PCDP text illustrating the text changes is included in Appendix B of this Addendum. In summary, the text changes to the PCDP include:

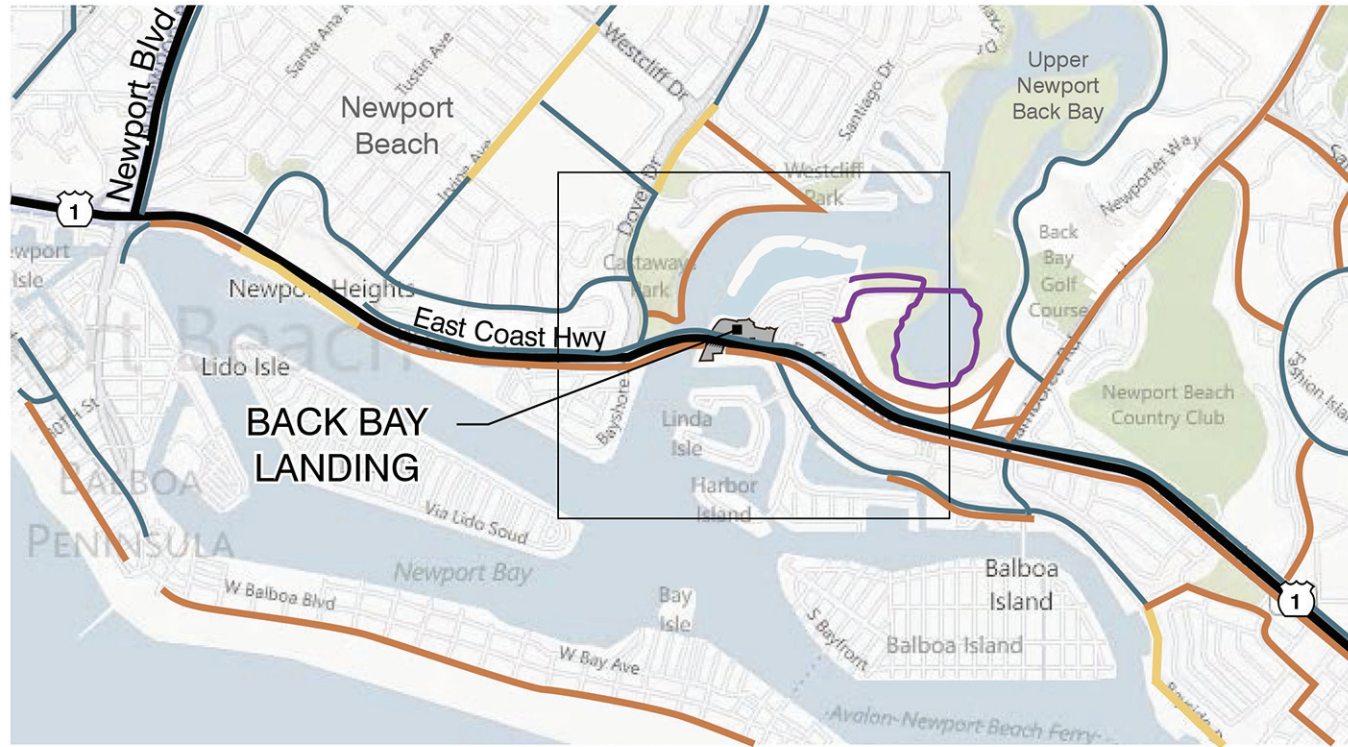
Section I: Introduction & Purpose

- Updated references from MU-H land use designations to MU-W per CCC suggested modifications.

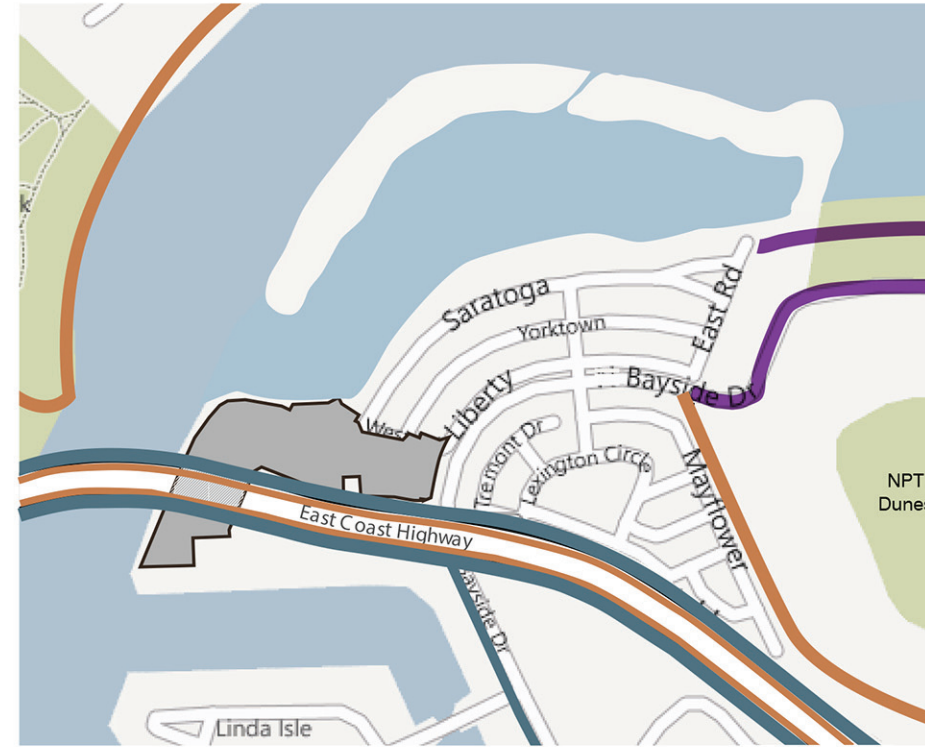


East Coast Highway is approximately 22 feet above the Back Bay Landing development site limiting the development's impact on views from East Coast Highway.

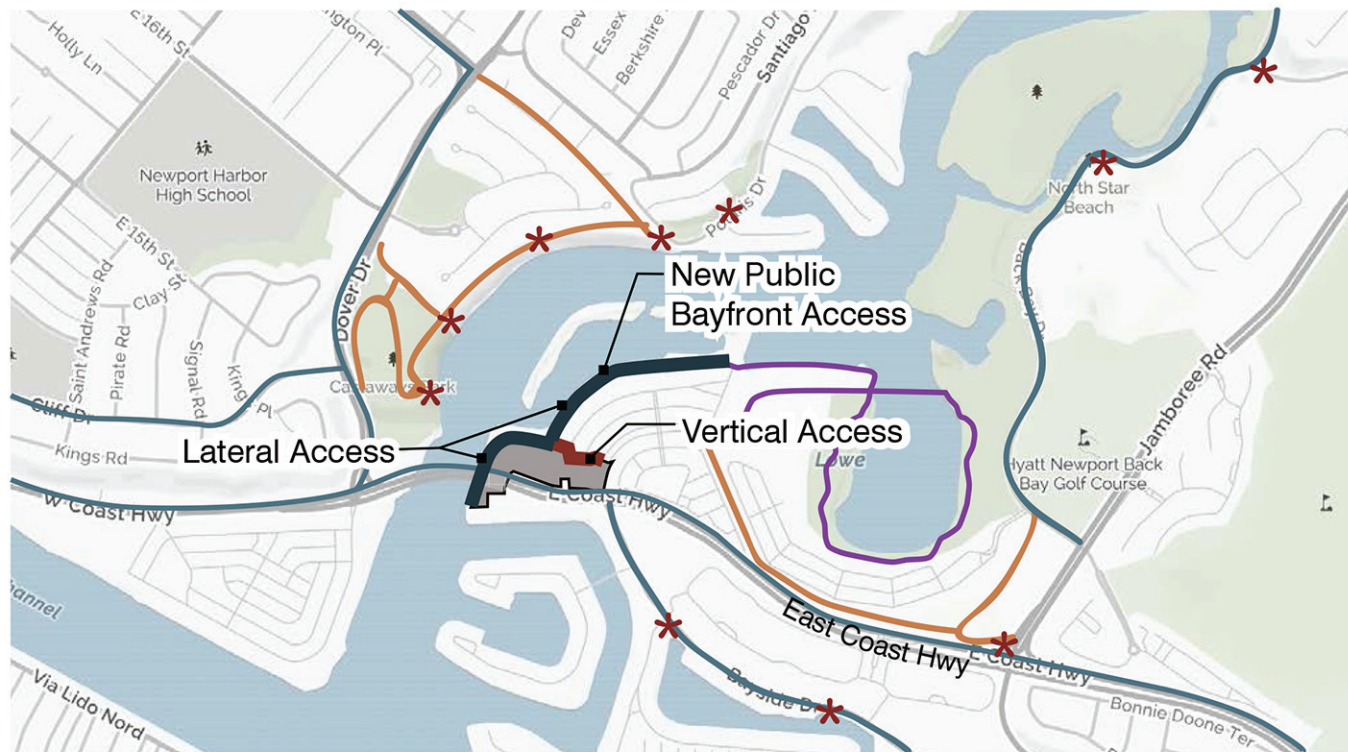
There are three finished grade baseline elevations indicated on the exhibit from which the building heights are measured: 11 and 14 feet, or as determined by Sea Level Rise and the Shoreline Management Plan.



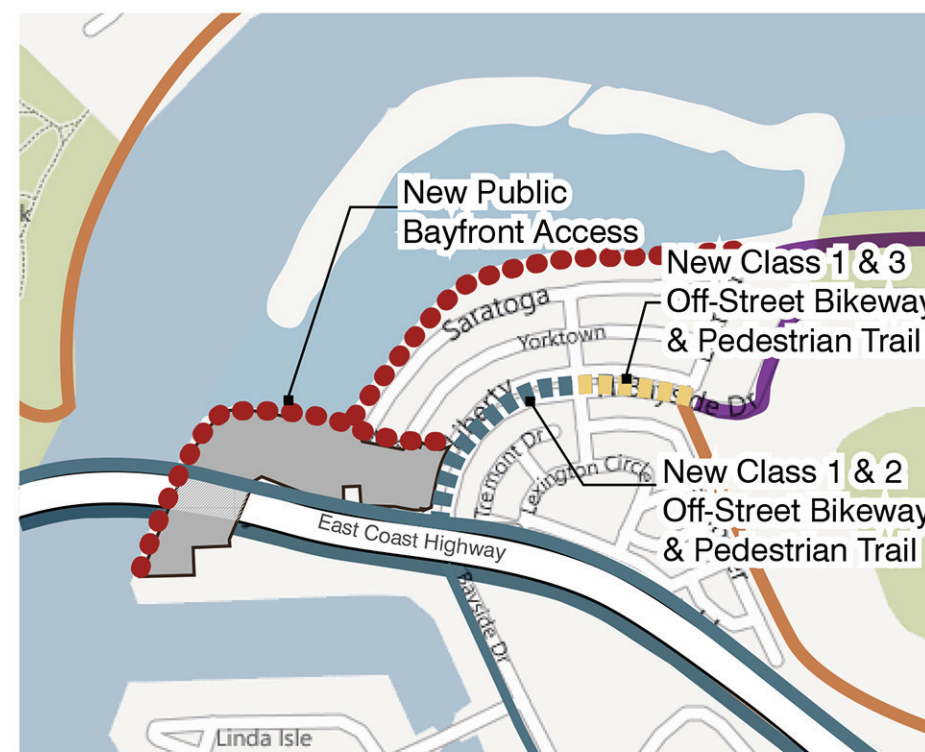
1. Regional Trail Connections



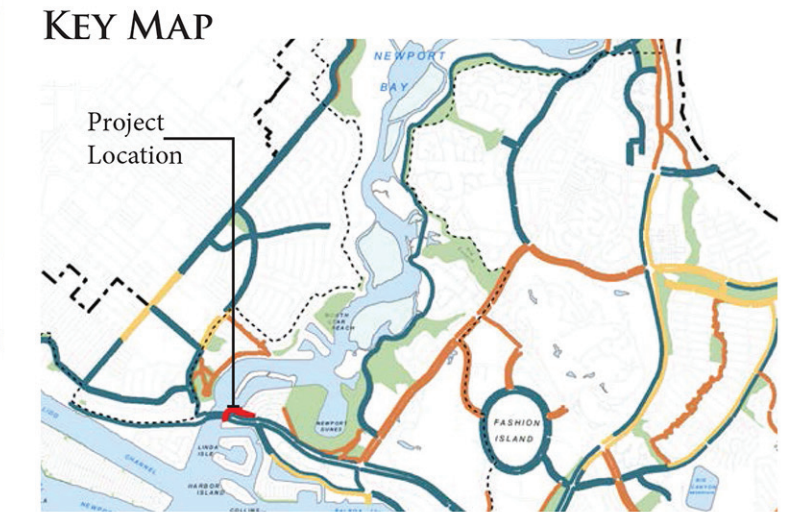
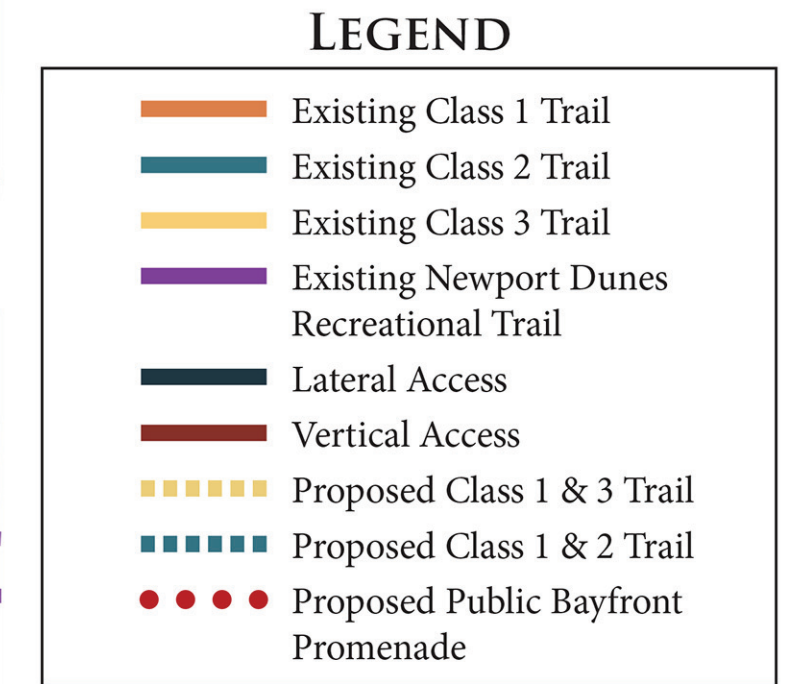
3. Current Lack of Trail Connection

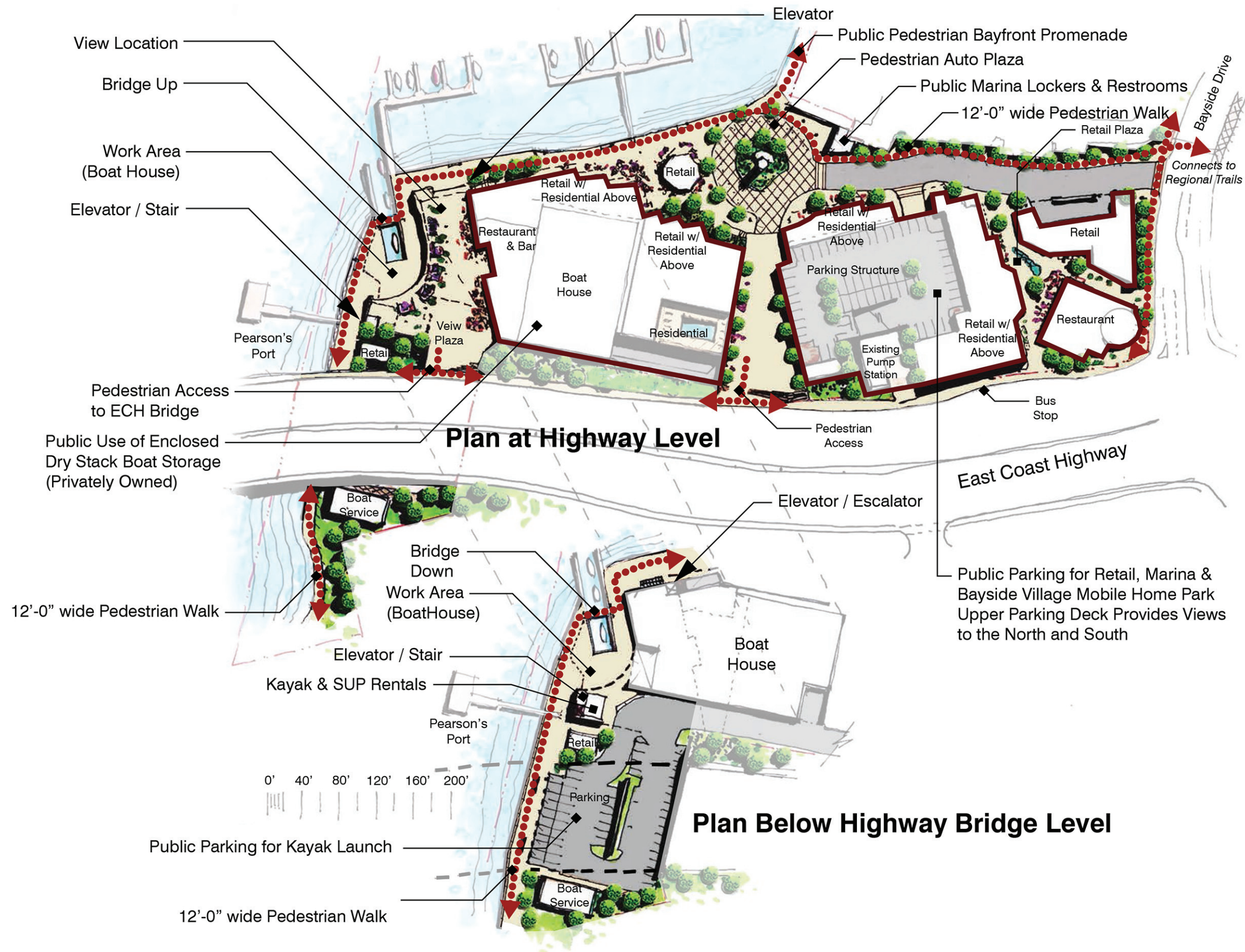


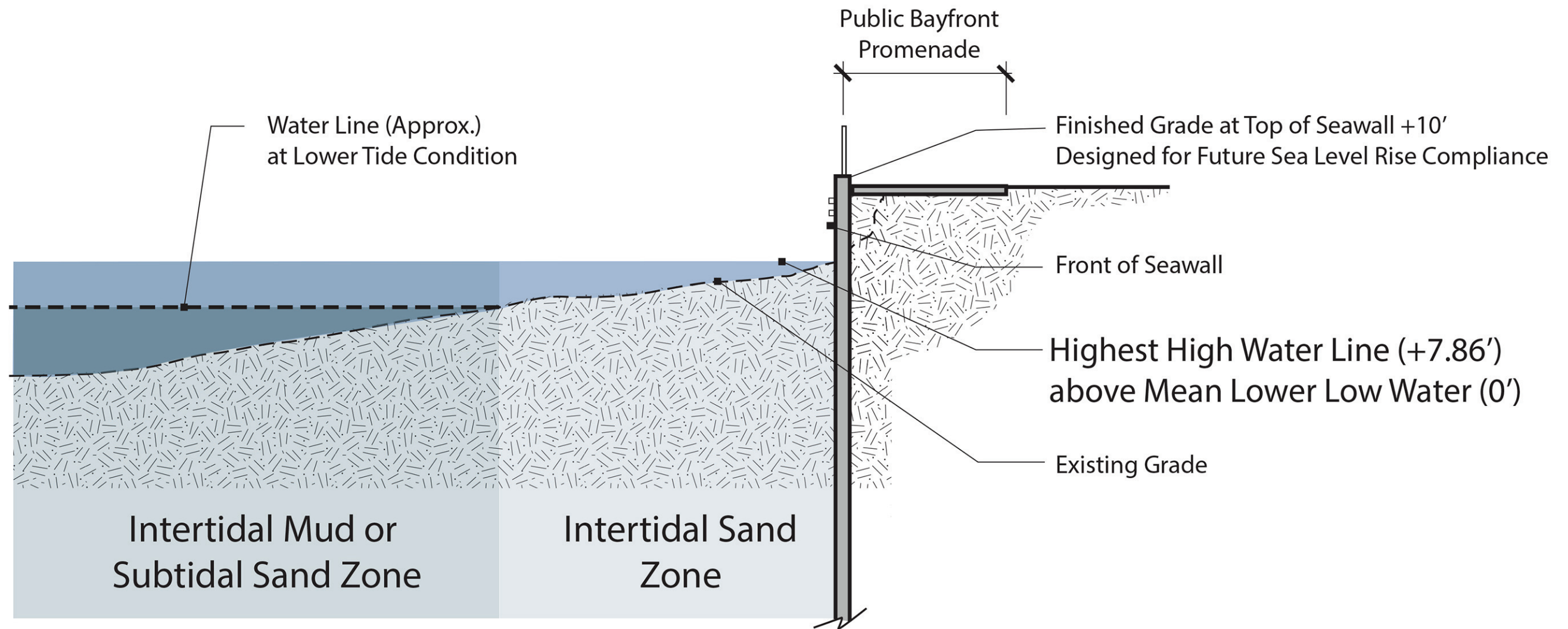
2. Proposed Coastal Access



4. Critical Trail Connections







BULKHEAD

The project bulkhead may be built to the Highest High Water elevation of 7.86' relative to Mean Lower Low Water (0.0') or 7.48'/NAVD 88 to preserve the natural profile along the shoreline adjacent to the County Tidelands, subject to consistency findings in the Coastal Act and City of Newport Beach Coastal Land Use Policies.

Section II: Development Limits and Land Use Plan

- Revisions to the public bayfront promenade requirement to include the continuous water trail connection along Planning Area 3, per CCC.
- Revisions to the Land Use Plan for Planning Area 1 consistent with the MU-W land use designation and to eliminate freestanding residential, per CCC.
- Revisions to the Land Use Plan for Planning Area 1 to require that the enclosed boat storage, public promenade and public plazas shall be sited adjacent to the bayfront, with public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market, per CCC. Please refer to **Figure 7, Conceptual Site Plan**, below, for an illustration of the proposed site plan under the Modified Project.

Section III: Permitted Uses

- Revised the Land Use Plan for Planning Area 2 to allow for the potential relocation of the OCSD pump station facilities within this area. OCSD is currently studying reconstruction/relocation options, including reconstructing in place of relocating elsewhere in Planning Area 1 or 2 (the Original Project PCDP allowed any potential relocated Bay Bridge pump station as a permitted use, only within Planning Area 1). It should be noted that this proposed amendment to the PCDP would not authorize or preclude either an increase of existing pumping capacity or relocation of any other component of the existing pump station. It is intended only to revise the PCDP to indicate that a "wastewater pump station" is an allowable use within Planning Area 2. Any relocation of the existing ECH pump station, if and when proposed, will be subject to all of the land use review requirements under the Modified Project PCDP and future CEQA review by OCSD.

Section IV: Development Standards

- Added public access connections as a permitted encroachment within the 20-foot development setback from the Coast Highway-Bay Bridge, subject to Site Development Review.
- Added a requirement for the preparation of Hazards Assessment, and Sea Level Rise and Shoreline Management Plan, per CCC.
- Included a provision that allows height to be measured from an elevation required by the Sea Level Rise and Shoreline Management Plan if it exceeds the established grades of the PCDP (Grade for the Purposes of Measuring Height), per CCC..
- Included a provision that requires the minimum height of the bulkhead wall to an elevation necessary to address sea level rise based on the required Sea Level Rise and Shoreline Management Plan, per CCC. Please refer to Figure 6 above.

Section V: Design Guidelines

- Eliminated all references to the public view tower and associated design guidelines, per CCC.
- Revised the Architectural Theme requirements from Coastal Mediterranean style to a Coastal influenced style that allows more design flexibility. Please refer to **Figure 8, Architectural Theme**, below, for an illustration of the proposed architectural theme under the Modified Project, per CCC.

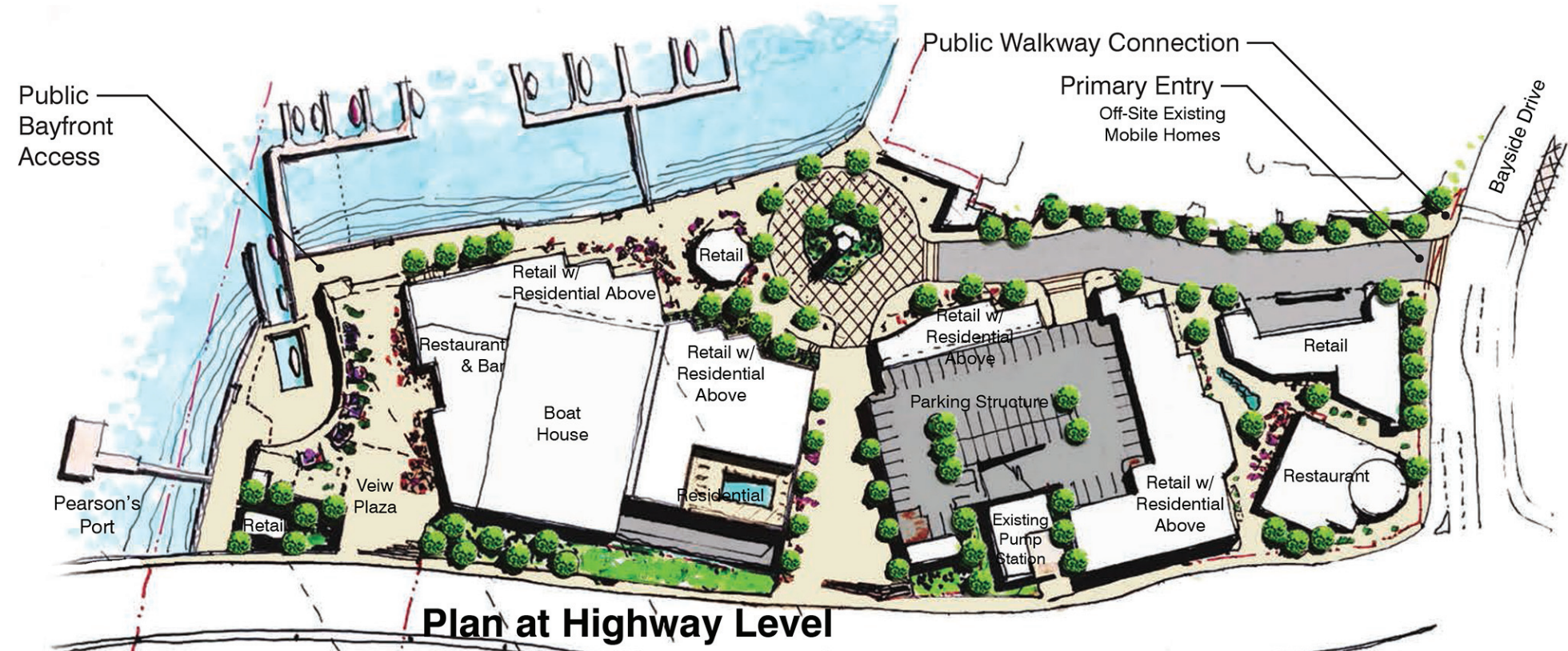
Appendix: Back Bay Landing Exhibits

For reference, the 2013 adopted PCDP exhibits, as well as the proposed revisions to those exhibits, are included Appendix B of this Addendum. In summary, the revisions to the exhibits include:

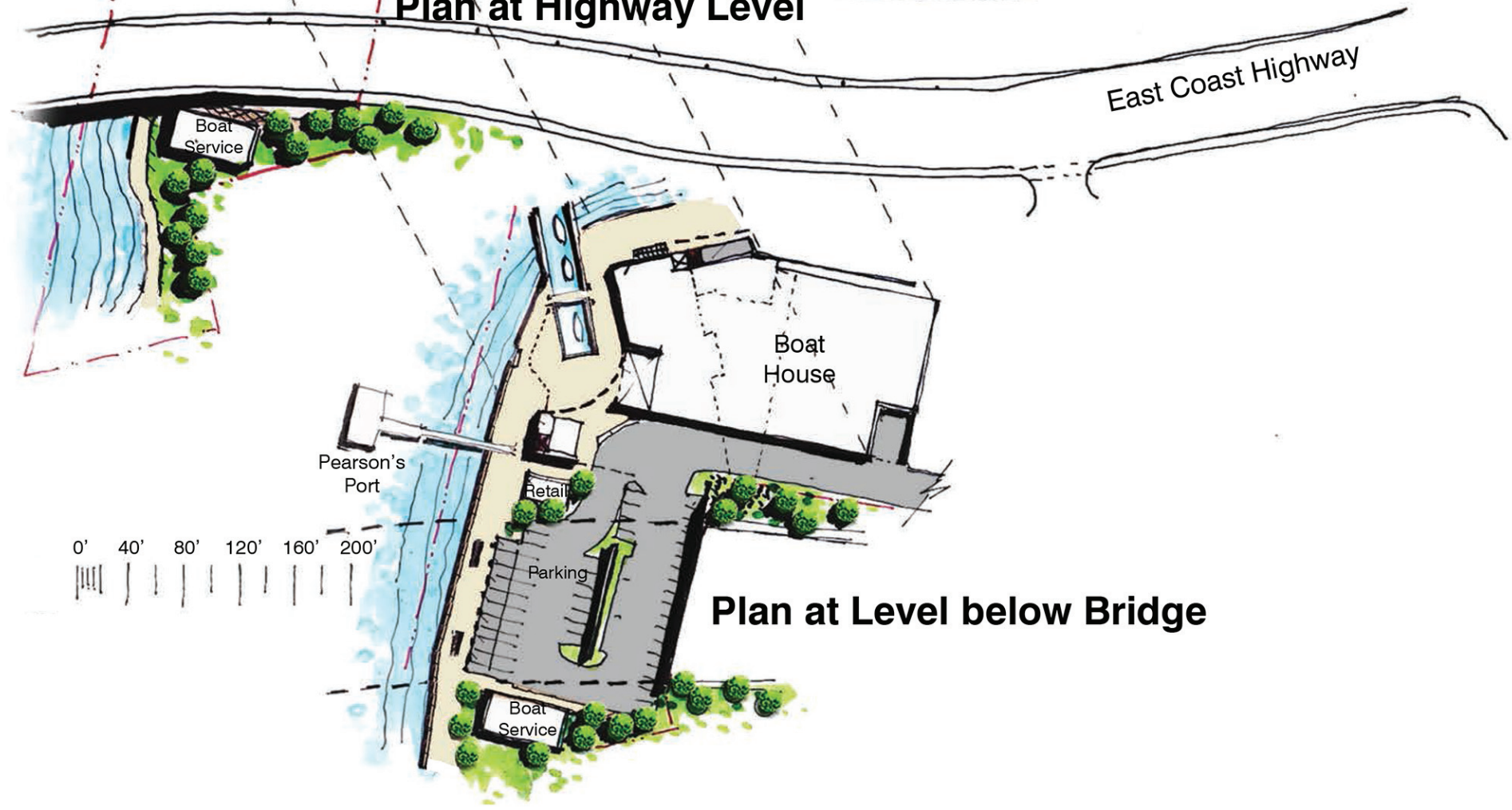
- Exhibit 2 (Planning Areas) - Revised Planning Area 1 acreage to reflect revised lot line adjustment area.
- Exhibit 3 (Building Heights) - Eliminated conceptual profile from exhibit and included a reference to the Sea Level Rise and Shoreline Management Plan.
- Exhibit 4 (Seawall/Bulkhead Section) - Included clarifying details to exhibit.
- Exhibit 5 (Public Spaces) - Revised conceptual site illustrating increased public spaces.
- Exhibit 6 (Coastal Access & Regional Trail Connections) - Revised to include the new continuous bayfront promenade connection along Planning Area 3 and connection to adjacent Newport Dunes trail.
- Exhibit 7 (Vehicular Circulation) – Revised for consistency with revised conceptual site plan.
- Exhibit 8 (Revised Vehicular Circulation & Parking) - Revised to reflect revised project boundaries and proposed driveway alignment based on revised lot line adjustment.
- Exhibit 11 (Architectural Theme) – Revised to eliminate rendering of freestanding residential.
- Exhibit 12 (Conceptual Site Plan) – Revised for consistency with Coastal Commission modifications.
- Exhibit 13 (East Coast Highway View Corridors) – Revised for consistency with revised conceptual site plan.
- Exhibit 14 (Parking Plan) – Revised for consistency with revised conceptual site plan.

2.5 Lot Line Adjustment

A revised lot line adjustment proposed between Parcel 3 (mixed-use project site) and Parcel 2 (adjacent Bayside Village Mobile Home Park) of Parcel Map No. PM 93-111 to improve ingress and egress to the project site with a new driveway. The revision increases the lot line adjustment area from 0.304-acres to 0.387-acres, and results in the need to demolish an additional mobile home (for a revised total of four mobile homes). The revised lot line adjustment area is illustrated below in **Figure 9, Revised Vehicular Circulation and Parking**, while the overall vehicular circulation plan for the project site (reflecting the revised lot line adjustment area) is shown in **Figure 10, Vehicular Access Plan**.



Plan at Highway Level

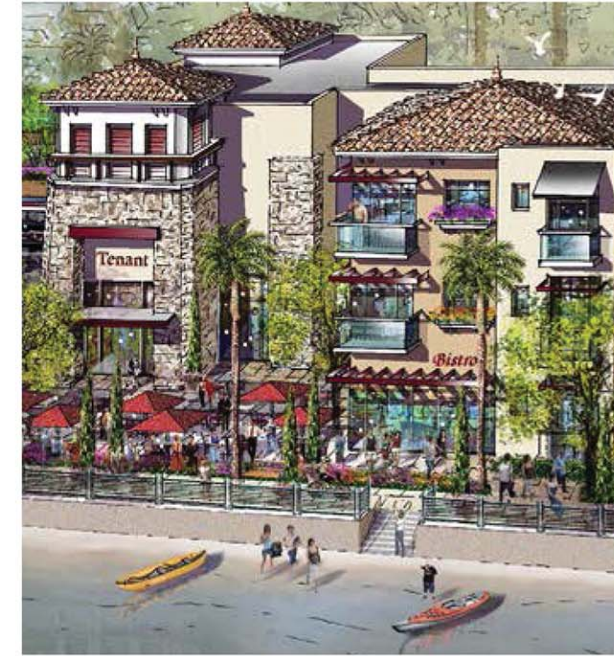


Plan at Level below Bridge

0' 40' 80' 120' 160' 200'



East Coast Highway and Bayside Drive



Coastal Access with Ground Floor Commercial and Residences Above



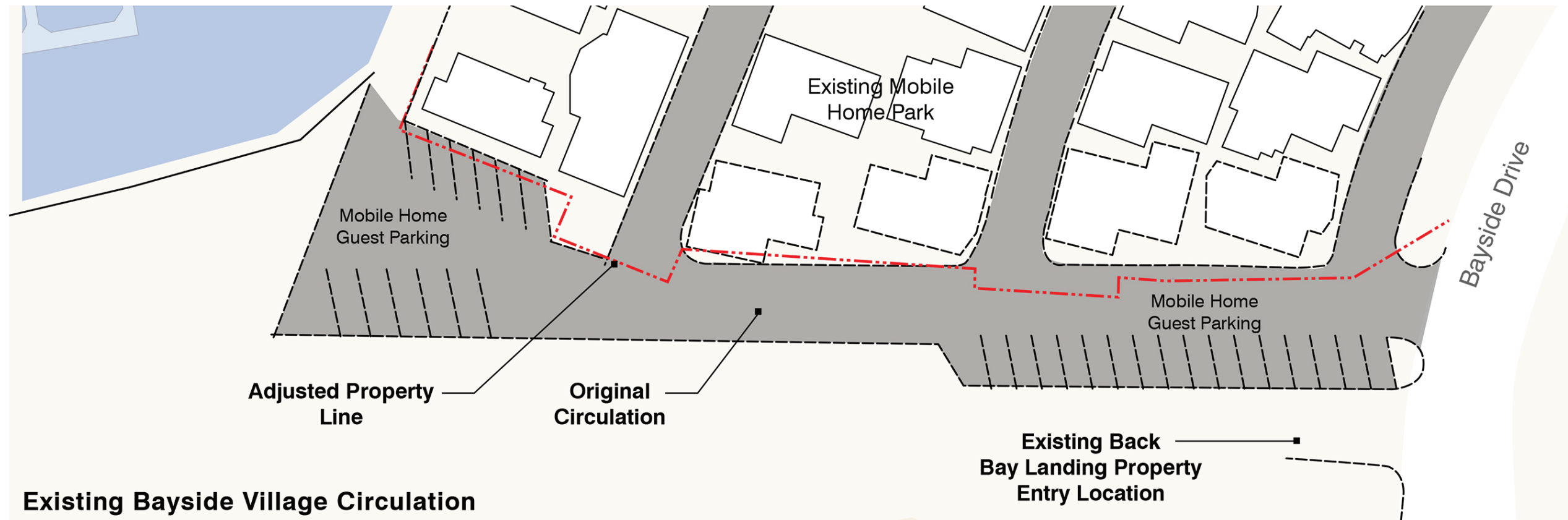
Public Bayfront Promenade



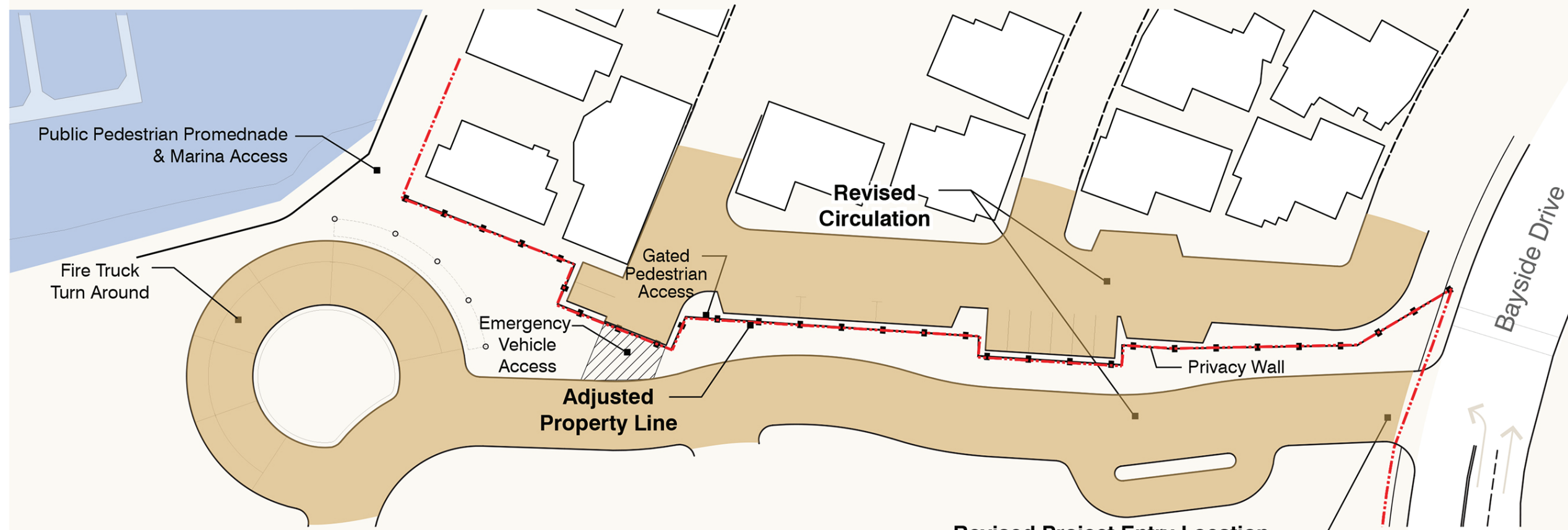
Visitor Serving Commercial



View Plaza Seating

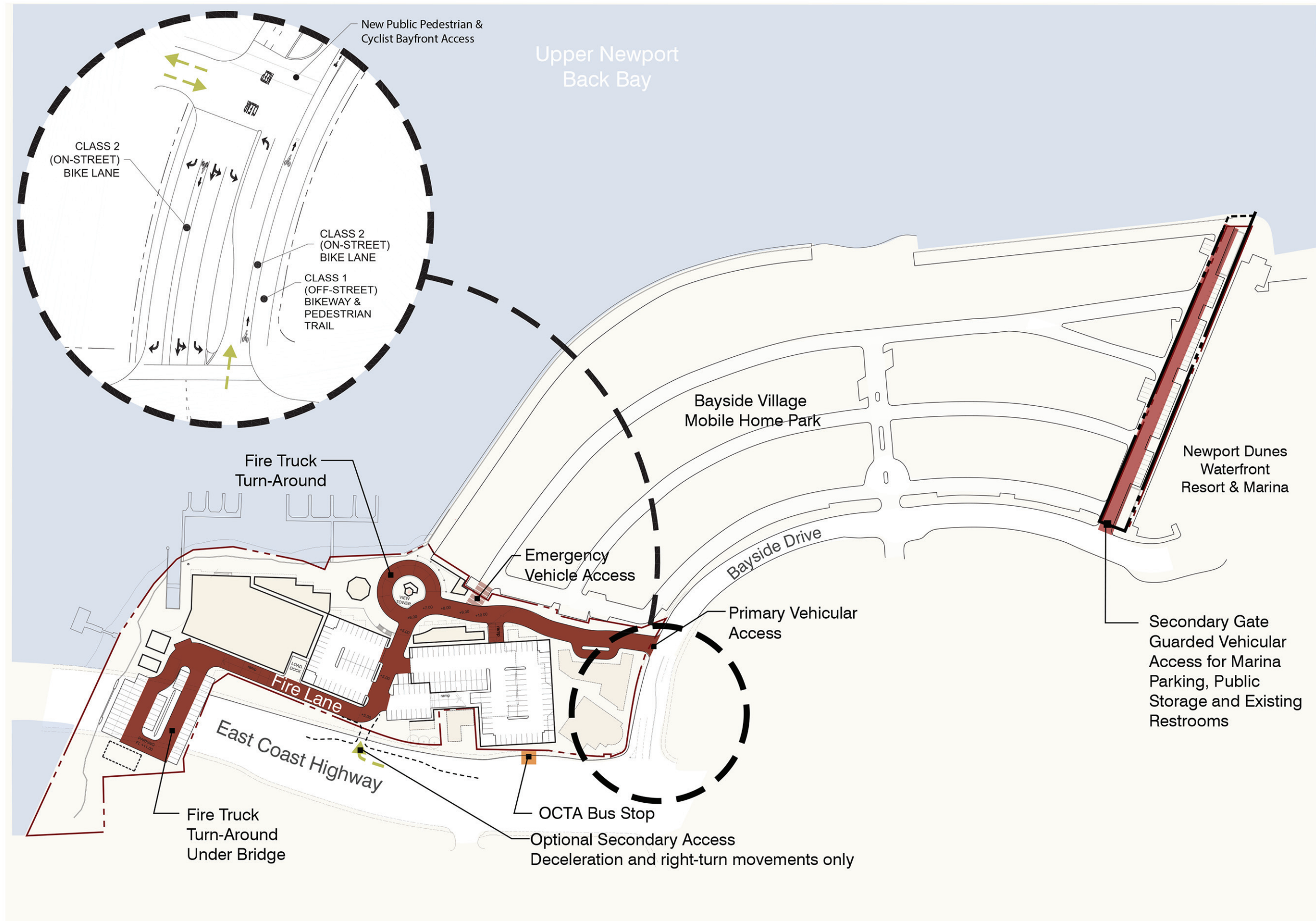


Existing Bayside Village Circulation



Proposed Bayside Village & Back Bay Landing Auto Circulation

Revised Project Entry Location
 (Moved approximately 45 ft north of existing entry)



3. PROJECT INFORMATION

3.0 PROJECT INFORMATION

1. **Project title:** Back Bay Landing
2. **Lead agency name and address:** City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660
3. **Contact person and phone number:** Jaime Murillo, Senior 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 approximately 7 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: Restaurants and marina south of 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 (OCSA) is located along the project site's southern boundary adjacent to 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.

4. ENVIRONMENTAL CHECKLIST AND ENVIRONMENTAL ANALYSIS

4.0 ENVIRONMENTAL CHECKLIST AND ENVIRONMENTAL ANALYSIS

4.1 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 |

4.2 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

3/3/16

 Date

Jaime Murillo

 Printed Name

Senior Planner

 Title

4.3 Evaluation of Environmental Impacts

4.3.1 Aesthetics

The following thresholds of significance are as set forth in the Certified EIR, which states:

“For purposes of this EIR, implementation of the proposed project may have a significant adverse impact on aesthetics/visual quality if it would result in any of the following:

Threshold 1: Have a substantial adverse effect on a scenic vista;

Threshold 2: 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 city-designated scenic highway;

Threshold 3: Substantially degrade the existing visual character or quality of the site and its surroundings;

Threshold 4: Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area; or

Threshold 5: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”

No Substantial Change from Previous Analysis. Aesthetic and visual resources impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Have a substantial adverse effect on a scenic vista

As discussed in the Certified EIR regarding the Original Project, future development of urban uses on the project site under the Original Project would have the potential to obstruct existing views of scenic resources in the project area, including views from City-designated Public View Points and Coastal View Roads. As illustrated in Figures 4.A-6, 4.A-7, 4.A-8, and 4.A-12, in Section 4.A, Aesthetics/Visual Resources, of the Certified EIR, while some foreground views from areas adjacent to the project site, particularly along East Coast Highway just west of Bayside Drive and along Bayside Drive, views of scenic resources would not be substantially altered relative to current conditions due to existing intervening topography, urban development, and landscaping. Further, foreground views of Upper Newport Bay and adjacent bluffs would generally be preserved from designated Coastal Land Use Plan Public View Points including Castaways Park, the bluff-top trail north of Castaways Park, and Westcliff Park, as well as from the East Coast Highway Bridge. Mid-range views of Upper Newport Bay, the Upper Newport Bay bluffs, the Fashion Island shopping center, Newport Dunes resort, and Newport Harbor could be partially obstructed from designated Public View Points such as Castaways Park and adjacent bluff tops (see Figures 4.A-9 and 4.A-10 in Certified EIR Section

4.A) and a Coastal View Road (East Coast Highway, see Figure 4.A-8), views of these features would primarily be preserved with little adverse effect. Additionally, long-range views of the San Joaquin Hills, Santa Ana Mountains, San Gabriel Mountains, Pacific Ocean, Palos Verdes Peninsula, Santa Monica Mountains, and Santa Catalina and San Clemente Islands would remain unaffected by future site development, with the exception of a limited number of viewpoints at lower elevations relative to the project site, as illustrated in Figure 4.A-9 in Certified EIR Section 4.A. Although future development on-site could obstruct short-, mid-, and long-range views of scenic resources from some locations in the project area, such obstructions would not represent a significant portion of the overall panoramic views currently available from public viewpoints. This is because the most substantial view obstructions would occur along a limited segment of East Coast Highway immediately adjacent to the project site, such that views northward from the roadway would only be obscured for a limited time as one travels along the roadway. Furthermore, project design features such as open space areas and plazas, and the associated view corridors they create, would preserve views through the site at various locations along the affected portion of East Coast Highway, while proposed landscaping and architectural design features would improve the quality of available views across the site relative to the poor visual quality of the property under existing conditions. As such, the proposed project would not have a substantial adverse effect on a scenic vista, and impacts in this regard would be less than significant.

Similar to the Original Project, the Modified Project would allow for a very similar pattern of development and range of building heights on the project site, with comparable landscaping, architectural features, and other amenities and improvements. Although the Modified Project would relocate some uses, such as residential uses, and other related building massing previously proposed along the project bayfront, to the project areas setback from the bayfront as shown in the Modified Project conceptual site plan (See Figure 7 above). The structural massing of building features would not notably vary from that of the Original Project. Thus the potential for view obstruction from the various publicly available viewpoints discussed above, would not be increased under the Modified Project. Specifically, as related to the potential relocation of the OCSD pump station from its current location adjacent to Planning Area 1 to another location within Planning Area 1 or to an alternative location within Planning Area 2, selection of the latter location would not measurably change the overall massing on the project site or potential for view obstructions since the location of the facility within Planning Area 2 would be adjacent to the raised East Coast Highway right-of-way (immediately contiguous to and behind the East Coast Highway Bridge) on the applicant's Planning Area 2 parcel previously identified in the Certified EIR as "Marine Services." Despite the lack of detailed plans for the relocated pump station, which would be undertaken by OCSD as a separate project, it is understood, based on indications from OCSD that structures and improvements would not be greater than 20 feet in height, consistent with the development standards contained in the Modified Project PCDP, and thus would not extend above the East Coast Highway bridge or street level or other surrounding structures, and would have no potential to further obstruct view of and across the site as viewed from surrounding locations. With regard to the proposed reconfiguration of land uses within the project site under the Modified Project, the integration of stand-alone residential uses into mixed-use commercial/residential buildings would not represent a material change in the height, bulk or overall massing of proposed structures on the project site, which must be designed in accordance with the development standards provided in the Modified Project PCDP (as under the Original Project). This change in the development pattern on the site is therefore not considered substantial. Accordingly, impacts to views or scenic vistas associated with the provision of residential uses only in mixed-use buildings (versus stand-alone residential buildings) would be less than significant and similar to those evaluated in the Certified EIR.

Similarly, the required Coastal Commission bayfront extension of the public promenade along the existing private waterfront marina access way within Planning Area 3 would not include any structural elements that could impact any views from the referenced public view points. The promenade improvements would be limited to enhanced paving materials, benches, ornamental landscaping and screening materials (which would provide privacy for adjacent residents in the Bayside Village Mobile Home Park). In addition the Coastal Commission required the elimination of the coastal public view tower feature that would incrementally reduce already less than significant impacts to views and scenic vistas as compared to the original project. In addition, the potential construction of a new seawall/bulkhead to allow construction of the CCC required continuous bayfront promenade through the existing Bayside Village Mobile Home Park beach area within Planning Area 3, if determined necessary, would be carried out in accordance with the requirements of the Modified Project PCDP and the proposed CCC-required Shoreline Management Plan. As such, if a seawall/bulkhead were constructed in this area, it would appear, aesthetically, very similar to the remainder of the project site bayfront and would not represent a notable visual change as viewed from surrounding locations. Therefore, implementation of the Modified Project would not result in any new impacts or increase in the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway

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 Original 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 under the Original Project.

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. 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 Original Project would not damage scenic resources in a state scenic highway, and therefore impacts would be less than significant.

Similarly, given the proposed development pattern, associated potential for tree removal, comparable landscaping and other design features, the Modified Project would not increase the potential for adverse impacts to scenic resources in a state scenic highway and impacts would be less than significant. It should be noted that although the Modified Project would potentially result in minor changes to the development pattern on the project site, including possible provision of both a new seawall/bulkhead across the beach area within Planning Area 3 and the relocated OCSD pump station within Planning Area 2, such improvements would be subject to the development standards and design guidelines contained in the Modified Project PCDP. These design guidelines and standards would ensure that such improvements are visually consistent with the remainder of future on-site development. Accordingly, a significant impact to scenic resources that may be visible from a state scenic highway would not occur with implementation of the

Modified Project thus it would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Substantially degrade the existing visual character or quality of the site and its surroundings

As discussed in Section 4.A of the Certified EIR, the Original Project would represent a substantial aesthetic improvement relative to the existing appearance of the site. The Original Project would not remove or demolish valued features or elements that contribute positively to the visual character of the vicinity. Additionally, the Original Project would not degrade or detract from the existing visual quality of the site and its surroundings. As such, the design of the Original Project would improve and enhance the visual character of the site and generally improve the identity of the area. The Original Project would also provide a new landscaped bayfront promenade along Upper Newport Bay, along with other landscaped interior pedestrian walkways and open-air plazas that are intended to provide a pedestrian-friendly environment as well as create a development acknowledged for its landmark design. Accordingly, the Original Project would not substantially degrade the existing visual character or quality of the site and its surroundings, and therefore visual quality impacts due to the Original Project would be less than significant, and no mitigation measures are required.

The Modified Project would improve the project site with new structures in a unified architectural theme, as well as landscaping and other amenities in a similar fashion as the Original Project. As noted above, the Modified Project includes amending the PCDP to identify wastewater pumping facilities as an allowable use within Planning Area 2. However, if this facility were ultimately constructed in this area, its design and construction would be subject to the requirements of the Modified Project PCDP which would ensure that the facility is visually consistent and integrated with other development on-site. In addition, the Modified Project would extend the proposed public bayfront promenade improvements from Planning Areas 1 and 2 to the existing marina accessway in Planning Area 3. This accessory is currently not landscaped and is characterized by black asphalt paving, fencing along the waterfront (including unpainted steel chain-link fencing and white painted wood fencing with vertical bars), and several small storage/refuse collection containers. As discussed, previously, the provision of public access through or across the existing Bayside Village Mobile Home Park private beach may entail construction of a new section of seawall/bulkhead in this area. Should such improvements be determined necessary, construction and operation of the seawall/bulkhead would be carried out in accordance with both the Modified Project PCDP and the proposed Shoreline Management Plan, as applicable. As such, the promenade-related improvements within Planning Area 3 under the Modified Project would be considered an improvement in terms of visual character relative to existing conditions. Given the similarity in allowable development under the Modified Project compared to the Original Project, which would be subject to the development standards and design guidelines of the Planned Community Development Plan (PCDP), impacts would be comparable to those evaluated in the Certified EIR. Therefore, the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Create a new source of substantial light or glare which would adversely affect day or nighttime views

Glare Impacts

Glare generation within the project vicinity is limited, as surrounding development consists predominately of low-rise residential and commercial buildings that generally lack large expanses of glass or other

reflective materials. Glare-sensitive uses in the project area include adjacent mobile homes and nearby single-family residential uses located to the north, south, and east of the project site. Construction activities under the Original Project are not anticipated to result in large expanses of flat, shiny surfaces that would reflect sunlight or cause other natural glare. Therefore, less than significant construction-related impacts with respect to reflected sunlight and natural glare are anticipated in the Certified EIR. With regard to operational glare effects, future development under the Original Project would be subject to the PCDDP development standards and design guidelines, which include provisions for architectural design, types of building materials, and landscape screening, and would therefore minimize glare impacts to adjacent or other off-site land uses. Given the nature of future uses and associated design requirements, operational glare impacts are anticipated to be less than significant.

As is the case for the Original Project, the Modified Project's construction activities would not include large expanses of flat, shiny surfaces that would reflect sunlight or cause other natural glare and thus construction glare impacts would be similar to under the Original Project and less than significant. Likewise, future development under the Modified Project would be very similar to that under the Original Project and would also be regulated by PCDDP requirements, which would preclude any substantial sources of glare to occur during long-term operations.

As such, the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact regarding glare as previously analyzed in the Certified EIR.

Lighting Impacts

Future implementation of the proposed project would increase the relatively low levels of ambient light that exist on-site under existing conditions. Light-sensitive land uses in the area include adjacent residential uses within the Bayside Village Mobile Home Park, bluff-top residential uses across Upper Newport Bay to the northwest, waterfront residences on the north side of Linda Isle to the south across East Coast Highway, and waterfront residences to the west within the Bayshore Apartments and single-family neighborhood across Newport Bay. Lighting needed during construction under the Original Project could generate light spillover in the vicinity of the project including residential uses to the south and east. However, construction activities would occur primarily during daylight hours and any construction-related illumination would be used for safety and security purposes only, in compliance with the requirements of Section 20.30.070, *Outdoor Lighting*, of the Newport Beach Municipal Code (NBMC). Construction lighting also would last only as long as needed in the finite construction process. Thus, given compliance with existing NBMC regulations, artificial light associated with construction activities under the Original Project would not significantly impact residential uses, substantially alter the character of off-site areas surrounding the construction area, or interfere with the performance of an off-site activity. Therefore, artificial light impacts associated with construction would be less than significant.

Once constructed, new light sources within the project area under the Original Project would include light from windows of residential structures and retail uses (and to a lesser extent office uses given typical business hours), outdoor architectural lighting, parking lot lighting, and sign-related lighting, as well as light from street lights, vehicles traveling along on-site and adjacent roadways, and security lighting. Exterior lighting would include lighting provided at vehicle entry points and areas of circulation; points of entry into buildings; along the exterior façades of buildings; and other outdoor areas (e.g., public bayfront promenade, sidewalks/trails, common open space areas) for both architectural highlighting and security purposes. Lighting for security purposes would occur from dusk to dawn to ensure the safety of residents, employees,

and visitors. Lighting would primarily consist of a mix of standard incandescent light fixtures, as well as various types of efficient/low energy fixtures. Lighting would be designed and strategically placed to minimize glare and light spill onto adjacent properties and marine environment. The project-related increase in ambient lighting is not expected to interfere with activities within adjacent residential areas, as they already are subject to similar lighting conditions within their own neighborhoods and overall light levels in these adjacent areas would not be measurably increased. Similarly, future on-site residential uses under the Original Project would not be significantly affected by proposed lighting, as it would be typical of residential and mixed-use development and would be designed to minimize impacts to light-sensitive uses. Overall, as concluded in the Certified EIR, with adherence to the PCDP lighting requirements and any other applicable NBMC regulations, lighting associated with the Original Project would not substantially alter the character of the off-site areas surrounding the project site and would not interfere with the performance of an off-site activity. Impacts attributable to project-induced artificial lighting would be less than significant.

With regard to the Modified Project, although building massing and land use locations would be reconfigured, the overall construction process, duration, and intensity would not be measurably changed relative to the Original Project. Thus, impacts would be less than significant and would be similar to those evaluated in the Certified EIR. In addition, despite the minor modifications to the building layout within Planning Area 1, the potential relocation of the OCSD pump station within Planning Area 2, and the extension of the public bayfront promenade through Planning Area 3 (including possible construction of a new seawall/bulkhead section at the Bayside Village Mobile Home Park beach), the Modified Project would not substantially alter operational lighting conditions compared to the Original Project. Specifically, development within Planning Areas 1 and 2 under the Modified Project would be substantially consistent with development within these areas under the Original Project, with comparable lighting requirements and anticipated intensity, and thus no notable changes to project-related lighting effects in these areas are anticipated. With regard to the extension of the public bayfront promenade in Planning Area 3, while only limited outdoor lighting currently occurs along the existing waterfront marina accessway, the introduction of new light sources along the improved public promenade under the Modified Project would not represent a substantial increase in lighting effects for nearby light-sensitive uses. This is because lighting for the bayfront promenade within Planning Area 3 (as is the case for Planning Areas 1 and 2) would be limited to that necessary to allow for adequate public safety and security, and all lighting would be required to be shielded and directed onto the project site as required by the NBMC, such that overall light intensity in Planning Area 3 would not be substantially increase. Furthermore, new landscaping features would provide visual relief and light shielding for waterfront-adjacent homes within the Bayside Village Mobile Home Park, and as discussed in the Certified EIR, the existing mobile home park currently includes numerous indoor and outdoor light sources which contribute to ambient light levels in the area under existing conditions. Therefore, the introduction of limited new light sources along the public bayfront promenade in Planning Area 3 would not create a source of substantial new light and impacts in this regard would be less than significant.

Accordingly, the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact regarding light as previously analyzed in the Certified EIR.

Threshold 5: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.

Implementation of the Original Project would not conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan, Local Coastal

Program Coastal Land Use Plan, California Coastal Act, and Municipal Code) as relates to aesthetics and visual resources. This impact is considered less than significant.

Likewise, given the limited nature of the proposed changes to future development under the Modified Project and the similarity in physical impacts related to aesthetics and visual resources compared to the Original Project, the Modified Project would also not conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project. Therefore, the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact regarding light as previously analyzed in the Certified EIR.

Mitigation Program

Impacts related to aesthetics and visual resources would be less than significant; therefore, no mitigation measures are required.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which states, “[a]ll impacts related to views, aesthetics/visual character, and light and glare would be less than significant given compliance with the project’s PCDDP development standards and design guidelines, or NBMC requirements, as applicable. Additionally, the proposed project is consistent with the applicable policies contained in the City’s General Plan, CLUP, and the California Coastal Act, and also would not result in conflicts with the NBMC. Therefore, impacts related to policy and regulatory compliance would be less than significant.”

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to aesthetics. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to aesthetics, as provided pursuant to CEQA Guidelines Section 15162.

4.3.2 Agriculture and Forestry Resources

The following thresholds of significance are as set forth in the Initial Study to the Certified EIR (Certified EIR Appendix A), which states:

“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:

- Threshold 1: 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;*
- Threshold 2: Conflict with existing zoning for agricultural use, or a Williamson Act contract;*
- Threshold 3: 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));*
- Threshold 4: Result in the loss of forest land or conversion of forest land to non-forest use; or*
- Threshold 5: 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 Substantial Change from Previous Analysis. A detailed analysis of potential impacts to Agricultural Resources was not included in the Certified EIR because a) the City of Newport Beach contains no designated farmland by the California Department of Conservation (CDC), Farmland Mapping and Monitoring Program (FMMP), b) no designated Farmland would be converted to non-agricultural use as a result of implementing the Original Project, c) no sites in the City are zoned for agricultural use, and d) no sites would be affected by a Williamson Act contract. Although impacts to forest resources were not evaluated as part of the 2006 Certified EIR, the City of Newport Beach similarly does not have any lands zoned for forest land, timberland, or Timberland Production, and implementing the General Plan would not directly or indirectly result in the loss of forest land or conversion of forest land to non- forest use.

Summary Analysis

Threshold 1: 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

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 Modified Project, like the Original Project, would not convert farmland to nonagricultural use, and no impact would occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Conflict with existing zoning for agricultural use, or a Williamson Act contract

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 thus neither the Original Project, nor the Modified Project, would have the potential to conflict with such a contract. No impact would occur and therefore implementation of the Modified Project would not result in

any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))

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. Therefore, implementation of the Modified Project, similar to the Original Project, would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Result in the loss of forest land or conversion of forest land to non-forest use

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 Original Project, as well as the Modified Project, would not convert forest land to non-forest use, and no impact would occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: 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 Farmland exists in the vicinity of the project site that could be converted to non-agricultural use as a result of either the Original Project or the Modified Project. All lands within the project vicinity already are designated by the General Plan for non-agricultural use. Accordingly, the Modified Project would not involve changes to the existing environment which, due to its location or nature, could result in conversion of Farmland to nonagricultural use. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Similarly, no forest land exists in the vicinity of the Modified Project site that could be converted to non-forest use, and no lands in the Project vicinity are designated for forest land production. Accordingly, the Modified Project would not involve changes to the existing environment which, due to its location or nature, could result in conversion of forest land to non-forest use. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

As indicated above, an analysis of impacts to Agriculture and Forestry Resources were focused out of the Certified EIR based on substantial evidence that no farmlands, forest lands, or agriculturally zoned properties or properties designated for forest land production are located in the City of Newport Beach; accordingly, no mitigation measures related to Agricultural Resources were included in the Certified EIR.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Initial Study to the Certified EIR, which states, "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."

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to agriculture and forestry resources. Additionally, there are no substantial changes to the circumstances under which the project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to agriculture and forestry resources, as provided pursuant to CEQA Guidelines Section 15162.

4.3.3 Air Quality

The following thresholds of significance are as set forth in the Certified EIR, which states:

"Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including air quality. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact to air quality would occur if the project would result in one or more of the following:

Threshold 1: Conflict with or obstruct implementation of the applicable air quality plan;

Threshold 2: Violate any air quality standard or contribute substantially to an existing or projected air quality violation;

Threshold 3: 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);

Threshold 4: Expose sensitive receptors to substantial pollutant concentrations;

Threshold 5: Create objectionable odors affecting a substantial number of people; or

Threshold 6: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”

No Substantial Change from Previous Analysis. Air quality impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Conflict with or obstruct implementation of the applicable air quality plan

Although the Original Project would result in an increase in density with the addition of 49 units on the project site, these units would be reallocated from unbuilt density on the adjacent mobile home property and which was already assumed in the General Plan growth projections. Therefore, as the Original Project’s non-residential uses would not exceed the allowed intensities for the existing designations and the project’s residential uses would not exceed the growth projections for the City or region, the proposed project would be consistent with the growth projections incorporated into the South Coast Air Quality Management District (SCAQMD)’s Air Quality Management Plan (AQMP). Thus, the Original Project would be consistent with the General Plan and, therefore, would be consistent with the Southern California Association of Governments (SCAG)’s Regional Comprehensive Plan and Guide (RCPG) and the AQMP. Furthermore, the Original Project would not conflict with applicable policies contained in the City’s General Plan regarding air quality. Future development pursuant to the PCDP under the Original Project would co-locate residential and commercial uses, which may provide a range of job opportunities, services, and entertainment. Future development would also include a multi-use trail across the property and construction of new Class 1 (off-road) and Class 3 (shared use) bicycle lanes on Bayside Drive, providing a connection to existing regional trails. Future development would also include provisions for the use of energy efficient lighting, fixtures, appliances, and other energy efficient equipment. Hence, the Original Project would not conflict with or obstruct implementation of the AQMP and impacts would be less than significant.

The Modified Project would allow for the identical type and intensity of land uses on the project site, but would simply reconfigure them to concentrate priority coastal-dependent uses along the bayfront. In addition, the Modified Project includes amending the PCDP to identify wastewater pumping facilities as an allowable use within Planning Area 2; however, the Modified Project (nor the Original Project) would not contribute to the need to relocate the facility, and the proposed amendment to the PCDP under the Modified Project does not authorize or preclude an increase of total existing pumping capacity or any other component of a pumping facility, and is intended only to revise the PCDP to indicate that a pumping facility is an allowable use within Planning Area 2. The development of pumping facilities, if and when proposed, will be subject to all of the land use review requirements under the Modified Project PCDP and future CEQA review by OCSD. Therefore, implementation of the Modified Project would not change the projected air emissions or conflict with applicable General Plan policies related to air quality, and thus would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Violate any air quality standard or contribute substantially to an existing or projected air quality violation

The worst-case daily emissions were calculated in Section 4.B, Air Quality, of the Certified EIR for each phase of construction under the Original Project. As shown therein, construction-related daily (short-term) emissions for all criteria and precursor pollutants studied (volatile organic compounds [VOCs], oxides of nitrogen [NO_x], carbon monoxide [CO], sulfur oxides [SO_x], respirable particulate matter [PM₁₀], and fine particulate matter [PM_{2.5}]) would not exceed SCAQMD significance thresholds. These calculations assume that appropriate dust control measures would be implemented during each phase of development, as required by SCAQMD Rule 403 - Fugitive Dust. Therefore, with respect to regional emissions from construction activities under the Original Project, this impact would be less than significant. It should be noted that although the Modified Project includes amending the PCDP to identify wastewater pumping facilities as an allowable use within Planning Area 2 (whereas the Original Project identified wastewater pumping facilities as an allowable use in Planning Area 1), the air pollutant emissions associated with the above modification would not change compared to the Original Project. This is due to the fact that the proposed amendment to the PCDP under the Modified Project does not authorize or preclude an increase of total existing pumping capacity or any other component of a pumping facility, and is intended only to revise the PCDP to indicate that a pumping facility is an allowable use within Planning Area 2. The development of pumping facilities, if and when proposed, will be subject to all of the land use review requirements under the Modified Project PCDP and future CEQA review by OCS D. The construction and operation of the pump station would be undertaken as part of a separate, future project by OCS D as part of its ongoing maintenance and upgrade of sewage facilities within its service area. The Modified Project, like the Original Project, would not trigger the need to relocate the pump station, but rather the applicant has included the potential relocation of the facility within Planning Area 2 of the project site as a concession to OCS D. Nonetheless, the pump station relocation and associated air quality impacts would be evaluated as part of separate, project-specific CEQA review by OCS D, as adequate information regarding the future facility is not currently available. A more in-depth evaluation of potential construction effects is not possible at this time.

In addition, the potential need for a new seawall/bulkhead segment along the private beach area within Planning Area 3 would nominally increase the level of construction needed in association with the public bayfront promenade. However, in the context of the overall Bayfront promenade construction efforts, particularly those related to seawall/bulkhead construction across the waterfront portions of Planning Areas 1 and 2, the additional seawall/bulkhead segment within the Planning Area 3 private beach area (if this improvement is ultimately required) would not represent a substantial increase in the scope or intensity of construction activities. The seawall/bulkhead improvements in this area would employ the same construction materials, equipment, and techniques as would be required for other portions of the seawall/bulkhead, the air quality impacts of which were comprehensively evaluated in the Certified EIR. As the Modified Project would result in the construction of the same type and intensity of land uses on the project site, but with a slightly modified configuration, construction activities would be comparable to those under the Original Project and impacts would likewise be less than significant.

The Original Project, like the Modified Project, would include retail, restaurant, and marine boat sales, rental and service repair. It would also include recreation commercial uses, enclosed dry stack boat storage with racks or bays and launching facilities; as well as a maximum of 49 residential units and parking. The Original Project includes features that result in fewer vehicular trips than traditional single-use developments. In addition, by expanding the boat storage, the Original Project would reduce the need for boat owners to tow their boats to a launching site, which results in fewer vehicle emissions compared with a vehicle towing a boat due to the increased weight. Operational emissions were assessed for mobile and stationary sources under the Original Project. Operational criteria pollutant emissions were calculated for the Original Project for the buildout year. Based on the nature of the mixed-use development and associated residents, users,

and patrons, it is expected that the traffic trips would increase in the area. Existing site criteria pollutant emissions were estimated based on 39 daily trips from the existing RV/Boat Storage and Kayak Launch facilities, as provided in the Traffic Impact Analysis.¹ The net change in emissions is based on the operational criteria pollutant emissions for the Original Project minus the emissions from the existing site. The net regional emissions resulting from the typical operation of the land uses under the Original Project would not exceed regional SCAQMD thresholds for all pollutants studied (VOC, NO_x, SO_x, CO, PM₁₀, or PM_{2.5}). Thus, regional operations emissions from Original Project operation would not result in a significant long-term regional air quality impact.

As noted previously, the Modified Project would allow for the identical mix of land types and intensities as contemplated under the Original Project. Therefore, air pollutant emissions and related impacts would be the same as those evaluated in the Certified EIR. Thus, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: 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)

As discussed in Section 4.B, Air Quality, of the Certified EIR, the Original Project would result in the emission of criteria pollutants for which the region is in non-attainment during both construction and operation. The Orange County portion of the Basin is designated non-attainment for the state and federal ozone, PM₁₀, and PM_{2.5} ambient air quality standards and NO₂ for the state ambient air quality standards. However, as stated in Section 4.B of the Certified EIR, worst-case emissions from construction and operation of the Original Project would not exceed applicable mass emission thresholds for regional or local impacts. In addition, as noted above, the potential relocation of the OCSD pump station within Planning Area 2 and the potential construction of an additional section of seawall/bulkhead in Planning Area 3 would not represent a substantial change in project-related air pollutant emissions relative to those evaluated in the Certified EIR. This is because the pump station relocation would be undertaken as a separate project irrespective of the Back Bay Landing Project (and was anticipated as such in the Certified EIR) and the additional seawall/bulkhead section (if ultimately determined to be necessary at this location) would only require an incremental increase in the duration of waterfront construction activities relative to the Original Project, and would not notably change the overall nature and intensity of construction activities. Therefore, construction and operation of the Original Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is non-attainment and therefore, impacts would be less than significant.

As stated above, the Modified Project would result in the same type and intensity of development on the project site, but with a slightly modified layout on the property. Accordingly, operational emissions under the Modified Project would not result in a new or more severe impact associated with a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality standard. Therefore, long-term operation of the Modified

¹ Kunzman Associates, Inc., Back Bay Landing Traffic Impact Analysis, (2013).

Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Expose sensitive receptors to substantial pollutant concentrations

Sensitive receptors can include uses such as long-term health care facilities, rehabilitation centers, retirement homes, residences, schools, playgrounds, child care centers, and athletic facilities. The closest sensitive receptors within the project vicinity include existing residential uses located within the adjacent Bayside Village Mobile Home Park, while additional residential uses are located to the east across Bayside Drive, to the north and northwest across the Upper Newport Bay Channel, and to the south across East Coast Highway.

As discussed in Section 4.B of the Certified EIR, maximum localized construction emissions for sensitive receptors under the Original Project would not exceed the localized thresholds for NO_x CO, PM₁₀ and PM_{2.5}. Therefore, with respect to localized construction emissions, impacts would be less than significant. The greatest potential for toxic air contaminant (TAC) emissions would be related to diesel particulate emissions associated with heavy equipment operations during grading and excavation activities. Given the relatively short-term construction schedule of 18 to 24 months, the Original Project would not result in a long-term (i.e., 70 years) substantial source of TAC emissions with no residual emissions after construction and corresponding individual cancer risk. As such, project-related toxic emission impacts during construction would be less than significant under the Original Project. The SCAQMD has established localized significance thresholds (LSTs) to analyze the potential for on-site emissions from long-term operation of the proposed changes to impact nearby sensitive land uses. As shown in Table 4.B-7 in Section 4.B, on-site emissions under the Original Project be below the applicable LST thresholds for all pollutants studied. With regard to CO hotspots, none of the intersections in the project area have peak hour traffic volumes that exceed those at the intersections modeled in the AQMP nor do the intersections have any geometric qualities, such as enclosed tunnels, that would result in higher concentrations than the intersections modeled by the SCAQMD. As a result, CO concentrations under the Original Project are expected to be less than 9.6 ppm (1-hour average) and 6.3 ppm (8-hour average), which would not exceed the thresholds. Therefore, the Original Project would result in less than significant impacts with respect to CO hotspots.

The SCAQMD recommends that health risk assessments be conducted for substantial sources of diesel particulates (e.g., truck stops and warehouse distribution facilities) and has provided guidance for analyzing mobile source diesel emissions.² The California Air Resources Board (CARB) siting guidelines, *Air Quality and Land Use Handbook*,³ which the SCAQMD cites in its own guidelines, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* (May 2005), defines a warehouse as having more than 100 truck trips or 40 refrigerated truck trips per day. The Original Project would generate minor amounts of diesel emissions from the proposed boat lift and incidental maintenance activities. However, the Original Project would not generate diesel emissions equivalent to 100 or more truck trips (or 40 or more refrigerated truck trips) per day. Therefore, the Original Project would not be considered a substantial source of diesel particulates. In addition, typical sources of acutely and chronically hazardous toxic air contaminants include industrial manufacturing processes, automotive repair facilities, and dry cleaning facilities. Minimal emissions of air toxics may result from the proposed land uses (e.g., architectural coating).

² SCAQMD, *Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions*, December 2002.

³ CARB, *Air Quality and Land Use Handbook: A Community Health Perspective*, (2005).

Toxic or carcinogenic air pollutants are not expected to occur in any meaningful amounts in conjunction with operation of the proposed land uses within the project site. In addition, most uses of such substances would occur indoors. Based on the uses expected on the site, potential impacts associated with the release of toxic air contaminants would be less than significant.

As discussed above, the Original Project would not result in any significant impacts related to exposure of sensitive receptors to substantial pollutant concentrations. Since the Modified Project would result in the same type and intensity of development on the project site, but with a slightly different configuration, impacts related to air pollutant emissions would be comparable to those evaluated in the Certified EIR. Furthermore, minor modifications to potential construction activities under the Modified Project related to a possible additional seawall/bulkhead segment in Planning Area 3 and the possible relocation of the OCS D pump station within Planning Area 2 would not represent a meaningful change in the overall air pollutant emissions and related impacts of the Original Project. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: Create objectionable odors affecting a substantial number of people

As discussed in Section 4.B of the Certified EIR with regard to the Original Project, potential sources that may emit odors during construction activities include the use of architectural coatings and solvents and diesel-powered on- and off-road equipment. SCAQMD Rule 1113 limits the amount of volatile organic compounds from architectural coatings and solvents. Due to mandatory compliance with SCAQMD Rules, no construction activities or materials are proposed which would create objectionable odors. Therefore, no impact would occur during construction of the Original Project and no mitigation measures would be required. Similarly, given the same type and intensity of allowable development under the Modified Project, construction-related odor impacts are expected to be less than significant.

According to the SCAQMD CEQA Air Quality 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. Neither the Original Project nor the Modified Project include any uses identified by the SCAQMD as being associated with odors. None of the uses allowable in the PCDP under either project would discharge any contaminants in quantities to cause injury or annoyance to the public or property pursuant to SCAQMD Rule 402. Therefore, the Modified Project, as was the case for the Original Project, would not create adverse odors as discussed above and would have no impact related to objectionable odors.

Since the project site is adjacent to the OCS D wastewater pump station, the PCDP for the Original Project required that the future development project be required to install odor filters, such as activated carbon filters or similar, to filter the indoor air in air conditioned spaces within the development and alleviate any potential odors associated with the facility. This requirement would reduce the potential for nuisance odors in indoor air to a less than significant level under the Original Project and impacts were determined to be less than significant in the Certified EIR. Under the Modified Project, the OCS D pump station may be relocated to another location within either Planning Area 1 or Planning Area 2, subject to future site acquisition, environmental clearance, feasibility analysis and permitting. Nonetheless, as was the case under the Original Project, the Modified Project would require installation of air filtration to address potential odors within buildings. Furthermore, the relocated pump station may include, subject to OCS D analysis, modernized odor control features and/or off-site odor venting to limit the potential emission of odors from

the facility throughout operation, which would reduce the source of potential odors that may affect proposed uses on the project site under both the Original Project and the Modified Project.

It should also be noted that the existing pump station does not currently have a dedicated odor control facility and provides odor control in a limited capacity through chemical injections. The preferred pump station alternatives may include, subject to OCSD analysis, a dedicated control odor building where more advanced odor control technology could be applied and maintained as compared to existing conditions. From an odor control perspective, the Original Project and Modified Project would allow for this public benefit.

The possible use of Planning Area 2 for potential relocation of the pump station would move odor emissions that currently occur on the north side of the Coast Highway Bridge to the south side of the bridge. However, new odor control technology, as noted above, would substantially reduce odor emissions that could potentially affect nearby sensitive receptors (i.e., residential uses on Linda Isle to the south and Bayshore Apartments across the Newport Bay Channel to the west). Despite the potential addition of pump station vent emissions in Planning Area 2 under the Modified Project, odor-related impacts are expected to be comparable to or less than those of the Original Project based on the relative distances to sensitive receptors in the area under each scenario. Specifically, under the Original Project, the closest sensitive receptors to the pump station would be the proposed on-site residential uses, which would require air filtration as a project design feature to address odors from the existing pump station (which assumes that the pump station has no odor control implemented). Under the Modified Project, depending on the ultimate location of the pump station once relocated, on-site residential uses would also include odor filtration in air conditioned spaces, but if relocated within Planning Area 2, the pump station would be located further from on-site receptors and would also implement odor control prior to emission of vented air, and thus impacts related to odors for on-site receptors would be incrementally reduced. Regarding off-site receptors on Linda Isle and the Bayshore Apartments (i.e., those closest to the potentially relocated pump station in Planning Area 2), the distance from the relocated pump station to such receptors would be a minimum of over 400 feet, compared to approximately 200 feet to the closest off-site receptors (i.e., residential uses within the adjacent Bayside Village Mobile Home Park) under the Original Project.

It is important to note that prevailing winds in the project area are on-shore (typically to the north and northeast), with only occasional shifts to off-shore winds during "Santa Ana" conditions; as such, sensitive uses to the north of the pump station (such as the existing mobile home park) would be expected to experience odor effects from the pump station (if any) much more frequently than uses to the south (such as those uses on Linda Isle). Therefore, despite the potential relocation of the pump station to Planning Area 2 under the Modified Project, impacts related to odors are expected to be similar to or less than those of the Original Project based on the following: (1) the distance of the pump station to the previously identified off-site receptors would be more than twice that of the Original Project; (2) prevailing winds would generally limit potential odor effects to uses to the south of Planning Area 2 despite the closer proximity compared to the Original Project; and (3) the relocated/reconstructed pump station may implement, subject to OCSD analysis, on-site odor control technology that would substantially lessen odor emissions from the facility compared to existing conditions. Thus, potential relocation of the OCSD pump station under the Modified Project would not create new sources of odors or substantially increase odors in the project area, and impacts would be less than significant.

In addition, the proposed dry-stack boat storage and service use within Planning Area 1 would be shifted to the west under the Modified Project, and thus diesel emissions (and associated odors) from operation of the fork lift and tractor systems would occur in an area further away from the nearest sensitive receptors within the Bayside Village Mobile Home Park. However, such odors would be located closer to the public view plaza and public bayfront promenade under the Modified Project. Nonetheless, while the lift and tractor systems (conservatively assumed to be diesel-powered, but could also be electric or natural gas-powered with substantially reduced pollutant and odor emissions) would release diesel emissions in proximity to these public areas, the nature and intensity of such emissions would be no greater than those anticipated for the Original Project, and would also be incidental (i.e., only generated when a vessel is being retrieved/launched or being moved within the facility), and therefore odor-related impacts associated with the dry-stack boat storage and service use in the alternate location within Planning Area 1 would be less than significant and comparable to those of the Original Project.

Therefore, construction and operation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 6: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

As discussed in Section 4.B, Air Quality, of the Certified EIR, the Original Project was determined not to conflict with any applicable plans, policies, or regulations regarding air quality, including the Newport Beach General Plan, SCAG Regional Plans, and the California Coastal Act and as such impacts were determined to be less than significant. Given the similarity in proposed development patterns allowable under both the Original Project and the Modified Project, impacts under the Modified Project would also be considered less than significant. Thus, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

No mitigation measures are necessary to reduce impacts for the project, beyond SCAQMD standard requirements.

Level of Significance After Mitigation

Consistent with the findings of the Certified EIR, which states “[p]roject impacts are less than significant and no mitigation measures are required.”

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to air quality. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to air quality, as provided pursuant to CEQA Guidelines Section 15162.

4.3.4 Biological Resources

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including biological resources. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact relative to biological resources would occur if the project would result in the following:

- Threshold 1: 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 CDFW or USFWS;*
- Threshold 2: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in the City or regional plans, policies, or regulations by the CDFW or USFWS;*
- Threshold 3: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (possibly including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;*
- Threshold 4: 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;*
- Threshold 5: 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); or*
- Threshold 6: 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 Substantial Change from Previous Analysis. Biological resources impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: 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 CDFW or USFWS

The project site consists of developed land that includes mobile homes (within Lot Line Adjustment area), parking lots, and limited ornamental landscaping. There were no sensitive species observed within the project site during prior field surveys. The project site does not feature unique or rare habitats whose alteration would significantly impact sensitive species in the area. Although not observed, sensitive species

that have the potential to exist in the proximate area include sensitive birds such as the California brown pelican, double-crested cormorant, and California least tern; sensitive reptiles such as Green turtles and Hawksbill turtles; and sensitive mammals such as Harbor seals and California sea lions. Given the lack of species and habitats located on-site, the potential for direct impacts to special status species resulting from implementation of the Original Project is considered low, though indirect impacts resulting from project implementation could occur. Indirect impacts to candidate, sensitive, or special status species could result from lighting effects, noise, vehicular collisions, domestic pet predation, water quality degradation, invasive species proliferation, or the overall increase in human activity on-site. These indirect effects can impact the species population and result in habitat modifications. However, as concluded in Section 4.C, Biological Resources, of the Certified EIR, such impacts would be reduced to less than significant with implementation of applicable mitigation measures, specifically Mitigation Measures C-1 through C-4.

Similarly, given the nature and location of allowable improvements under the Modified Project, such impacts to special status species would be reduced to less than significant with implementation of Mitigation Measures C-1 through C-4 included in the Certified EIR. Accordingly, implementation of the Modified Project would not have a substantial adverse effect, either directly or indirectly through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or the CDFG or USFWS. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in the City or regional plans, policies, or regulations by the CDFW or USFWS

Subtidal Unvegetated Habitat

The bulkhead wall, under both the Original Project and Modified Project, is proposed to be placed above the highest high tideline and would not result in a direct fill or coverage of subtidal unvegetated communities. However, it is possible that the placement of the bulkhead could increase shading of habitat immediately adjacent to the wall. Such shading could cause a reduction of primary productivity of planktonic and scattered benthic algal communities in the shadow of the bulkhead. The degree of shading, if any, cannot be quantified as the bulkhead design is conceptual at this time and will be subject to additional project level environmental review associated with required site development review and CDP applications. It is anticipated, however, that any minor reduction in primary productivity at such time as a new bulkhead or seawall is constructed (which is not part of the current approvals), could be offset by the increased area of soft bottom habitat created by dredging of a new water inlet for the dry stack boat storage and service facility in Planning Area 1. As such, impacts to subtidal unvegetated habitat would be less than significant and comparable under both the Original Project and Modified Project.

Subtidal Vegetated Habitat

Several patches of eelgrass occur adjacent to the shoreline within the project area (see Figure 4.C-2 in Section 4.C of the Certified EIR). Since the bulkhead wall is proposed to be placed above the highest high tide under both the Original Project and the Modified Project, there are no direct impacts anticipated to eelgrass from the proposed future bulkhead wall. However, there is potential risk of eelgrass damage during construction, either through increased turbidity associated with the construction work (from sediment or water runoff from adjacent upland construction), from accidental damage by equipment grounding or

through vessel maneuvering (should water-based equipment be utilized at any time), or from dredging activities associated with construction of the dry stack boat storage and service facility water inlet. Appropriate construction measures may include marking eelgrass beds, minimizing turbidity and runoff through implementation of an approved storm water pollution prevention plan (SPWPP), and restriction of contractor activities to avoid damage by equipment grounding or propeller wash. Furthermore, direct impacts to eelgrass habitat would be addressed through permit conditions required by the Regional Water Quality Control Board (RWQCB), United States Army Corps of Engineers (ACOE), California Department of Fish and Wildlife (CDFW), and the California Coastal Commission (CCC) under both the Modified Project and the Original Project. While project plans are currently in a conceptual design phase, and therefore impacts to subtidal vegetated habitat (including eelgrass habitat) cannot be determined or quantified at this time, future surveys and evaluation of project-specific impacts would be required as part of future Site Development Review. This potentially significant impact would be reduced to less than significant with implementation of applicable mitigation provided in Section 4.C of the Certified EIR, which is subject to additional analysis and revision or confirmation when a specific development project is proposed. Since the Certified EIR included mitigation measures that require further project-specific delineation and characterization of subtidal vegetated habitat (including eelgrass beds), assessment of impacts to such resources based on detailed project design, and replacement of affected resources in accordance with the City of Newport Beach Eelgrass Plan and the requirements of the Southern California Eelgrass Mitigation Policy (SCEMP), potential impacts to subtidal vegetated would be similar under both the Original Project and Modified Project. As such, although the proposed water inlet for the dry stack boat storage and service use in Planning Area 1 would be moved to the west under the Modified Project, with implementation of applicable mitigation measures impacts would be comparable to those of the Original Project.

Open Water

The Original Project and the Modified Project would result in no increase in bay surface area coverage over open water habitat. Therefore, there would be no adverse impact to foraging habitat available for piscivorous avian species. However, the Original Project and the Modified Project may have temporary impacts to water quality during construction, including during future dredging activities associated with creation of a new water inlet for the dry stack boat storage and service facility in Planning Area 1 (though the inlet under the Modified Project would be located further to the west than under the Original Project due to the reconfiguration of land uses on the project site). Temporary effects may include localized increases in turbidity and sedimentation, along with lowered dissolved oxygen levels associated with disturbance of anoxic sulfidic sediments as part of dredging for the dry stack boat storage inlet. This elevated turbidity could potentially affect the local foraging success of piscivorous avian species. These impacts are considered to be potentially significant; however, implementation of applicable water quality BMP's and an approved SWPPP would be used to control the distribution of elevated turbidity in the water column adjacent to the work area. Given the similarity in allowable development on-site, the short-term nature of construction, and containment of turbidity using BMPs, the temporary impacts to open water would be reduced to less than significant under both the Original Project and the Modified Project.

Intertidal Riprap Revetment

An intertidal riprap revetment is located immediately south of, and adjacent to, Planning Area 2. Although the future project is currently in the conceptual planning stages, it is not anticipated that the development, under both the Original Project and the Modified Project, would result in loss of riprap substrate due to bulkhead construction given its distance from the proposed bulkhead line, above which all physical improvements would occur under both scenarios. These temporary impacts are not considered to be

significant given the continued wide availability of comparable intertidal riprap habitat downshore of the project site that would serve as a temporary refuge. The riprap revetments consist of loosely placed concrete blocks with some crevices and structural complexity. However, most of the riprap revetment is above the Mean High Tide line, and few organisms were observed utilizing the space during previous field studies. Because of this relatively low quality habitat function of the existing riprap, along with the increase in open water, subtidal unvegetated bottom, and associated habitat values resulting from removal of riprap revetments, impacts to intertidal riprap revetments are not considered to be significant under both the Original Project and the Modified Project as the contemplated improvements would be identical at this location.

Intertidal Sand

Birds were the primary fauna observed on the intertidal sand area. No permanent impacts to intertidal sand areas are anticipated under either the Original Project or the Modified Project. Temporary impacts may include disturbance of loafing or foraging birds and reduced foraging area during future project construction. However, Newport Bay provides additional intertidal sand and mudflat foraging habitat in nearby areas and it is anticipated that birds would utilize these alternative locations during project construction. Other potential impacts include sediment or water runoff from land-based construction; these would be mitigated through implementation of project BMPs and an approved SWPPP, as noted above. Additionally, construction of the proposed future bulkhead wall along the Planning Area 1 waterfront under the Original Project and the Modified Project would not have any direct physical effects on intertidal sand, as the proposed PCDP requires that the entirety of the wall be constructed above the Highest High Water contour elevation of 7.86 feet relative to MLLW (0.0 feet). Indirect impacts from bulkhead construction in proximity to intertidal sand would be addressed through implementation of appropriate BMPs, as would occur for other construction activities on-site. Furthermore, under the Modified Project, the provision of public access across the Bayside Village Mobile Home Park beach area within Planning Area 3 would be addressed through preparation and implementation of the Shoreline Management Plan. The Shoreline Management Plan would, irrespective of the specific future design of the coastal access in this area of Planning Area 3, preserve coastal functions and processes to the maximum extent feasible while maintaining necessary public access through the beach area and the marina accessway to the east. Implementation of the Shoreline Management Plan, in addition to appropriate stormwater BMPs during construction, would minimize potential adverse effects to intertidal sand in Planning Area 3 resulting from future project implementation. As a result, any construction-related impacts to marine avian species are considered to be less than significant under both the Original Project and the Modified Project.

Pilings

Both the Original Project and the Modified Project would result in no change to existing docks or former bridge pilings, and no impacts are anticipated. However, BMPs would still be employed to prevent any adverse construction-related turbidity effects in adjacent waters.

Therefore, with regard to impacts to subtidal vegetated habitat, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (possibly including, but not limited to, marsh,

vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means

As discussed in Section 4.C, Biological Resources, of the Certified EIR, the Original Project would not result in direct impacts to wetlands; similarly, since the Modified Project would allow for the future construction of a seawall/bulkhead in the same location, impacts under the Modified Project would be comparable to those under the Original Project and therefore no direct wetlands impacts are anticipated. However, the proposed PCDP under both the Original Project and the Modified Project allows for the potential construction of a water inlet to the proposed dry stack boat storage and service facility in Planning Area 1 (albeit in different relative locations along the waterfront), which would require dredging of a small channel from the existing marina to the interior of the site and removal of pilings. In addition, the CCC revisions to the CLUPA would allow for a connection of the proposed expanded public bayfront promenade through the private beach within Planning Area 3, which may require construction of a seawall/bulkhead along this segment of the promenade. However, while the need for seawall/bulkhead improvements at this location has not yet been determined, if such improvements are ultimately deemed necessary as part of a future specific development proposal, the design and construction of this facility would be carried out in accordance with the provisions of the Modified Project PCDP and proposed Shoreline Management Plan, as applicable. As such, irrespective of the need for or actual implementation of a seawall/bulkhead across the private beach area in Planning Area 3, such improvements would occur above the highest high water elevation such that direct impacts to wetlands would not occur, as was the case for the Original Project as evaluated in the Certified EIR.

Although dredging of the marina is currently allowed when permitted by the City of Newport Beach, this dredging activity would also require permits from affected resource agencies such as the ACOE, CDFW, CCC, and RWQCB for dredging or filling in jurisdictional waters. As noted above, the specific design of future improvements has not been determined, and therefore it is not currently possible to quantify the areal extent of wetland impacts associated with construction of the proposed water inlet under either the Original Project or Modified Project. However, further analysis of wetlands impacts, including a project-specific jurisdictional delineation, would be required as part of future Site Development Review once a development proposal is brought forth. Nonetheless, the creation of new open water habitat through construction of the proposed inlet under either the Original Project or the Modified Project could potentially offset the loss of a limited area of wetland habitat (i.e., small strip of intertidal sand). Although the specific requirements of the resource agencies cannot be determined at this time, mitigation for wetlands impacts would generally include on- or off-site creation, restoration, or enhancement of wetland habitat. With implementation of applicable mitigation measures, impacts to wetlands would be less than significant under the Modified Project and similar to those of the Original Project. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: 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

The study area supports live-in and movement habitat for species on a local scale (i.e., some limited live-in and at least marginal movement habitat for reptile, bird, and mammal species), but it likely provides little to no function to facilitate wildlife movement for wildlife species on a regional scale, and the site itself is not identified as a regionally important dispersal or seasonal migration corridor. Movement on a local scale likely occurs with species adapted to urban environments due to the high level of development in the vicinity of the study area. Although implementation of the Modified Project, like the Original Project evaluated in the

Certified EIR, would result in disturbances to local wildlife movement within the site, those species adapted to urban areas would be expected to persist in the study area following future construction. As such, impacts under both the Original Project and Modified Project would be less than significant and no mitigation measures would be required. Similarly, since the study area does not function as a regional wildlife corridor and is not known to support wildlife nursery area(s), no impacts would occur under the Original Project or the Modified Project and no mitigation measures would be required.

The study area has the potential to support both raptor and songbird nests due to the presence of limited trees on-site, in addition to limited areas of shrubs and ground cover primarily on the project site perimeter. Nesting activity typically occurs from February 15 to August 31. Disturbing or destroying active nests is a violation of the MBTA (16 U.S.C. 703 et seq.). In addition, nests and eggs are protected under Fish and Game Code Section 3503. The removal of vegetation during the breeding season is considered a potentially significant impact as defined by the thresholds of significance provided in Section 4.C of the Certified EIR. Any potential impacts to raptor and songbird nests would be considered potentially significant. Compliance with the MBTA, as required by Mitigation Measure C-2, would reduce impacts to a less than significant level under both the Original Project and the Modified Project, as site conditions would be identical under both scenarios and implementation of future development would be comparable.

Accordingly, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: 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)

The Original Project, as discussed in Section 4.C of the Certified EIR, would not conflict with applicable policies contained in the City's General Plan, Local Coastal Program CLUP, and the California Coastal Act regarding biological resources. As shown in Tables 4.C-2, 4.C-3, and 4.C-4, in Section 4.C, impacts related to consistency with the Newport Beach General Plan, Coastal Land Use Plan, and the California Coastal Act regarding biological resources would be less than significant. Given the overall similarity in allowable development pattern and intensity under both the Original Project and Modified Project, the Modified Project would also not conflict with the applicable policies of relevant plans and other regulations. Accordingly, the Modified Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 6: Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State Habitat Conservation Plan

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 either the Original Project or the Modified Project. As such, no impact would occur in this regard. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included a number of mitigation measures (Mitigation Measures C-1 through C-12), which would address impacts related to biological resources. Mitigation Measure C-1 requires monitoring, construction delays, minimum separation distances, and if necessary cessation of construction activities to avoid impacts to least terns in the area. Similarly, Mitigation Measure C-2 requires surveys for nesting migratory birds in the project area, and avoidance of nests during the nesting season. Mitigation Measures C-3 and C-4 require monitoring for marine mammals in the area for in-water work and vehicle speed limitations for boats operating in the area. Mitigation Measures C-5 through C-7 require monitoring, avoidance, protection, and if necessary replacement of eelgrass habitat for impacts to eelgrass during in-water or near-shore construction activities. Mitigation Measure C-8 requires surveys to determine the presence or absence of the invasive *Caulerpa* seaweed species. Mitigation Measures C-9 through C-11 require implementation of stormwater Best Management Practices (BMPs) to minimize water quality-related indirect impacts to wetlands and open water habitat. Mitigation Measure C-12 requires that a project-specific jurisdictional delineation be prepared for future development on-site to determine the exact extent of impacts to wetlands. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which identifies that compliance with existing federal, State, and local regulations along with implementation of applicable mitigation measures (Mitigation Measures C-1 through C-12) would mitigate biological resources impacts to a level considered less than significant.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to biological resources. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to biological resources, as provided pursuant to CEQA Guidelines Section 15162.

4.3.5 Cultural Resources

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including cultural resources. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact relative to cultural resources would occur if the project would result in the following:

- Threshold 1: Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5;*
- Threshold 2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5;*
- Threshold 3: Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or*
- Threshold 4: Disturb any human remains, including those interred outside of formal cemeteries.*
- Threshold 5: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”*

No Substantial Change from Previous Analysis. Cultural resources impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed, to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5

As a result of the archival records search and discussed in Section 4.D, Cultural Resources, of the Certified EIR, it was determined that no known historic resources are located on these parcels. However, the project site contains the Storage Garages & Marina/Bayside Village Guest Parking constructed in 1961, two structures comprising the Orange County Sanitation District 5 Bay Bridge Station (pump station) that were built in 1966, and Bayside Village mobile home park itself was developed in 1961. Current CEQA Guidelines establish 45 years of age as the threshold at which buildings should be evaluated as historic resources. As these structures/uses are approximately 52 and 47 years old, respectively, they require evaluation as potential historical resources. Property research was conducted, a historic context prepared, and the identified buildings were evaluated for their potential as historical resources. The storage garages, Bayside Village mobile home park, and the pump station structures do not possess sufficient historical or architectural importance to reach the threshold of significance as historical resources. In addition, no known adjacent historic resources or eligible contributors to a historic district are within a quarter-mile of the subject property. Therefore, pursuant to CEQA, the proposed future redevelopment of the project site under either the Original Project or the Modified Project would result in no impact to historical resources. Also, the proposed redevelopment of the project site under either the Original Project or the Modified Project would

not impact any historical resources in the surrounding setting. The project area was developed during the mid-20th century with a mobile home park, parking lots, and docks; therefore the area has been redeveloped and lacks integrity for consideration as a potential historical resource or cultural landscape. Furthermore, Newport Bay has undergone substantial alterations over the years including changes in configuration, introduction of industrial and commercial activities, as well as construction of transportation, recreational and residential improvements. As such, no indirect impacts to historic resources would result from future project implementation, and no further analysis of this issue is necessary. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5

Results of the cultural resources records search revealed that no prehistoric or historic archaeological sites have been recorded on the project site itself. However, 18 prehistoric and historic archaeological resources have been recorded within one-half mile of the project site, several of which are less than a quarter-mile from the project site. The project site is located within an urbanized area, and the entire site has been subject to disruption by both development and flooding activities over the years. Thus, surficial archaeological resources that may have existed at one time have likely been previously disturbed or displaced. Nevertheless, both the Original Project and Modified Project propose a very similar grading plan with excavations that would extend beyond the six to eight feet of fill material that covers the majority of the project site, thus encountering previously undisturbed soils and sediments. While discovery of prehistoric archaeological remains in the fill deposits on the project site are unlikely, excavation occurring below the fill levels could potentially encounter prehistoric archaeological remains. However, with implementation of applicable mitigation measures, provided below, impacts to archaeological and Native American resources under both the Original Project and the Modified Project would be reduced to less than significant. As such, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature

As discussed in Section 4.D of the Certified EIR, the project site is located on fill material which ranges in depth due to disturbances from previous on-site development and demolitions. Although the project site has been previously disturbed through grading and/or development, it is likely that the deeper excavations under the Original Project would encounter previously undisturbed native soil/sediment that may contain intact paleontological resources. Therefore, if deeper excavations occur, there may be the possibility of encountering significant vertebrate fossils per the results of the paleontological records search through NHMLAC. However, mitigation provided in Section 4.D of the Certified EIR would be implemented, as necessary, to reduce impacts to less than significant. As noted above, based on the similarity in allowable development on-site under both the Original Project and the Modified Project, grading and excavation activities are anticipated to be very similar under both scenarios. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Disturb any human remains, including those interred outside of formal cemeteries

As discussed in Certified EIR Section 4.D, a Sacred Lands File search revealed that no recorded human remains have been identified within the project site. The project site is currently developed with multiple uses and it is likely that resources that may have once existed have now been displaced by disturbances associated with the current development. As a result, the overall sensitivity of the project site with respect to buried human remains appears to be low, irrespective of the specific development ultimately constructed. However, if such resources are accidentally encountered during implementation of either the Original Project or the Modified Project, mitigation provided in the Certified EIR would ensure that potential impacts to the resources are reduced to a less than significant level. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.

As summarized in Section 4.D of the Certified EIR, the Original Project would comply with all applicable State and federal regulations regarding cultural resources, including applicable policies of the City's General Plan, CLUP, and the CCA, and therefore no significant impacts regarding conflicts with such laws would result from project implementation. Given the similarity in allowable development under both the Original Project and the Modified Project, impacts under the Modified Project regarding consistency with regulatory framework are also considered less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included a number of mitigation measures (Mitigation Measures D-1 through D-3), which would address impacts related to cultural resources. Mitigation Measure D-1 requires future site-specific archaeological surveys and assessments as warranted by sensitivity, and collection and documentation of recovered resources, if any. Similarly, Mitigation Measure D-2 requires monitoring, recovery, and documentation of any recovered paleontological resources. Mitigation Measure D-3 requires consultation with the County Coroner and Native American tribes in the event human remains are encountered during project implementation. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which identifies that impacts to archaeological and paleontological resources, and human remains could be mitigated to a level considered less than significant.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to cultural resources. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have

been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to cultural resources, as provided pursuant to CEQA Guidelines Section 15162.

4.3.6 Geology and Soils

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including geology and soils. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact due to geology and soils would occur if the project would result in one or more of the following:

- Threshold 1: Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death, involving:*
- *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,*
 - *Strong seismic ground shaking,*
 - *Seismic-related ground failure, including liquefaction, or*
 - *Landslides;*
- Threshold 2: Result in substantial soil erosion or the loss of topsoil.*
- Threshold 3: 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.*
- Threshold 4: Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (2010), creating substantial risks to life or property.*
- Threshold 5: 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.*
- Threshold 6: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”*

No Substantial Change from Previous Analysis. Geology and soils impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: *Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death, involving:*

- *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,*
- *Strong seismic ground shaking,*
- *Seismic-related ground failure, including liquefaction, or*
- *Landslides;*

Threshold 3: *Would the project 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?*

Fault Rupture

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. Active faults with the potential for surface rupture are not known to be located 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 under both the Original Project or the Modified Project, as no fault rupture could occur under either development scenario.

Seismic Ground Shaking

As discussed in Section 4.E, Geology and Soils, of the Certified EIR, the project site is located in a seismically active region. There is potential for significant ground shaking at the project site during a strong seismic event on the Newport-Inglewood Fault Zone and other active regional faults in the Southern California area. According to the Geotechnical Feasibility Study, based on the location of the faults in the region, the maximum credible earthquake (MCE) is 0.743g for the site. Ground shaking at this intensity could result in significant damage to buildings and improvements associated with project implementation under both the Original Project and the Modified Project. This is considered to be a potentially significant impact. The City of Newport Beach requires that all new construction meet or exceed the City ordinances and policies and the latest standards of the California Building Code (CBC) for construction in seismic hazard zones, which requires structural design that can accommodate maximum ground accelerations expected from known faults. While the Original Project and Modified Project would both be required to comply with applicable seismic-related regulatory requirements, implementation of Mitigation Measure 4.E-1 would further ensure that potentially significant seismic-related groundshaking impacts would be reduced to a less than significant level. Mitigation Measure 4.E-1 would ensure that the recommendations in the design-level geotechnical report are included in the future project's site preparation and building design specifications. As such, seismicity in the region and in the project area would have a less-than-significant impact on the project with implementation of the prescribed mitigation measures and compliance with applicable regulatory requirements under both the Original Project and the Modified Project.

Ground Failure

As indicated in the Existing Conditions section above, the project site is located in an area that has been identified by the State of California as being potentially susceptible to liquefaction, which can also result in secondary effects such as lateral spreading and other earthquake-induced ground settlement. However, with implementation of applicable mitigation measures, impacts to future development pursuant to the Original Project or the Modified Project would be reduced to less than significant.

Landslides

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 would occur under both the Original Project and the Modified Project.

Overall, the recommendations presented in the design-level analysis per Mitigation Measure 4.E-1, along with the project's compliance to applicable codes and regulations, including the CBC and City of Newport Beach Municipal Code, would ensure that all potentially significant seismic and geologic stability impacts are reduced to a less than significant level. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Result in substantial soil erosion or the loss of topsoil.

Although construction activities under either the Original Project or the Modified Project would have the potential to result in the erosion of soils, this potential would be reduced by implementation of standard erosion control measures imposed during site preparation and grading activities. For instance, the future project would be subject to all existing regulations associated with the protection of water quality. Construction activities would be carried out in accordance with the requirements of the National Pollutant Discharge Elimination System (NPDES) General Construction Permit issued by the Regional Water Quality Control Board (RWQCB) and in accordance with the project's Storm Water Pollution Prevention Plan (SWPPP). The SWPPP would incorporate Best Management Practices (BMPs) in accordance with the applicable local and state regulations to control erosion during the project's construction period. BMPs could include, but are not limited to, water bars, silt fences, staked straw bales, development of and adherence to the construction SWPPP, avoidance of water bodies during construction, and development of and adherence to erosion and sediment control BMPs. Section 4.H, *Hydrology and Water Quality*, of this Draft EIR includes a detailed discussion of the applicable regulatory requirements and the project's consistency with such requirements. Implementation of a SWPPP and associated BMPs consistent with applicable regulatory requirements would ensure that impacts pertaining to soil erosion or loss of topsoil impacts from construction activities are less than significant.

During operation of the future project, site design features and BMPs included in the project's WQMP, as described in detail in Section 4.H of the Certified EIR, would be implemented to ensure that erosion and runoff impacts remain less than significant. As discussed in Section 4.H, due to the nature of the high imperviousness associated with the existing conditions, proposed runoff rates would remain consistent or decrease due to the minor increase in landscaping under the proposed condition. Accordingly, the post-project site would not result in significant hydrology impacts downstream such that erosion would occur on-

or off-site. Implementation of applicable site design features and BMPs in the WQMP, which is required under both the Original Project and the Modified Project, as well as compliance with applicable regulatory and permit requirements discussed in Section 4.H, would ensure that impacts related to erosion and topsoil loss during operation of the project are less than significant.

As such, a significant impact associated with erosion would have no potential to occur, as a SWPPP and WQMP would be required to be implemented under both the Original Project and the Modified Project. Therefore, long-term operation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (2010), creating substantial risks to life or property.

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. 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, and would be carried out as needed under either the Original Project or the Modified Project. Therefore, project implementation under either development scenario would result in less than significant impacts associated with expansive soils and substantial risks to life or property would not occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: 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.

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 under the Original Project or the Modified Project. As such, the Modified Project would not result in impacts related to the ability of soils to support septic tanks or alternative wastewater disposal systems. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 6: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.

As discussed in Section 4.E of the Certified EIR, the Original Project would comply with all applicable federal, state, and local laws and regulations related to geology and soils. The City of Newport Beach General Plan contains various policies related to geology and soils, including policies from the Harbor and Bay Element, Public Natural Resources Element, Safety Element. In addition, the City's Local Coastal Program Coastal Land Use Plan (CLUP) and the California Coastal Act also contain policies relevant geology and soils that are applicable to the project. Given the similarity in allowable development proposed under both the Original Project and the Modified Project, the Modified Project would also be consistent with the applicable policies of the City's General Plan and Coastal Land Use Plan and the California Coastal Act, and therefore impacts in this

regard would be less than significant. Implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included one mitigation measure (Mitigation Measure E-1), which would address impacts related to geology and soils. Mitigation Measure E-1 requires that a site-specific, design-level geotechnical investigation be prepared for each development parcel by a registered geotechnical engineer. This mitigation measure would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which states “[c]ompliance with applicable regulatory requirements and implementation of the prescribed mitigation measure would reduce potentially significant geology and soils impacts to a less than significant level.”

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to geology, soils, and mineral resources. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to geology, soils, and mineral resources, as provided pursuant to CEQA Guidelines Section 15162.

4.3.7 Greenhouse Gas Emissions

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Section 15064.7 of the CEQA Guidelines defines a threshold of significance as an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant. CEQA gives wide latitude to lead agencies in determining what impacts are significant and does not prescribe thresholds of significance, analytical methodologies, or specific mitigation measures. CEQA leaves the determination of significance to the reasonable discretion of the lead agency and encourages lead agencies to develop and publish thresholds of significance to use in determining the significance of environmental effects. However, the SCAQMD, the City of Newport Beach, and Orange County have not yet established specific quantitative significance thresholds for GHG emissions. The regulations required to meet the state goals under AB 32 are still under development. Additionally, OPR released preliminary draft CEQA guideline amendments for GHG emissions in January 2009. OPR does not identify a threshold of significance for GHG emissions, nor has it prescribed assessment methodologies or specific mitigation measures. The preliminary draft amendments encourage lead agencies to consider many factors in performing a CEQA analysis, but preserve the discretion granted by CEQA to lead agencies in making their own determinations based on substantial evidence. The guideline

amendments augmented Appendix G of the CEQA Guidelines, the environmental checklist form, to include a section on greenhouse gas emissions. The draft guideline amendments suggested thresholds to determine the significance of greenhouse gas emissions impacts. As such, a project would have a significant impact relative to greenhouse gas emissions if it would:

Threshold 1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, based on any applicable threshold of significance; and

Threshold 2: Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases.”

No Substantial Change from Previous Analysis. Greenhouse gas emissions impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment, based on any applicable threshold of significance

As discussed in Section 4.F, Greenhouse Gas Emissions, of the Certified EIR, construction and operation of the Original Project would result in the increased generation of greenhouse gases and would exceed the screening level resulting in a significant impact with regard to GHG emissions. However, with implementation of applicable mitigation measures, the Original Project was determined to have a less than significant impact related to GHG emissions. Since the Modified Project would result in an identical mix of potential land uses on-site as under the Original Project, with comparable traffic and associated emissions, impacts related to GHG emissions are expected to be similar to those of the Original Project and would be less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases

As discussed in Section 4.F of the Certified EIR, future development pursuant to the Original Project PCDP would meet the mandatory measures of the CALGreen Code by incorporating strategies such as providing Energy Star dishwashers, low flow water fixtures, tankless gas water heaters, on-demand hot water circulation pumps, installation of energy-efficient double-paned windows and high-efficiency irrigation systems, on-site water catchment and retention, and use of carpets and trims which contain recycled content. The PCDP under the Modified Project would also include these provisions.

Since AB 32 sets statewide targets for future GHG emissions, the Scoping Plan and other implementing tools of the law are clear that the reductions are not expected to occur uniformly from all sources or sectors. Table 4.F-4 in Section 4.F contains a list of numerous GHG-reduction strategies potentially applicable to the

Original Project, the identified related projects, and future development similar in scope and location. Included are the regulations or guidelines from which the strategies were developed. The Newport Beach General Plan does not have specific policies that relate to greenhouse gas emissions or global climate change. However, the General Plan does contain many goals and policies in various Elements that relate to water and energy conservation, alternative transportation, and sustainability. The Original Project would not conflict with applicable policies contained in the City's General Plan regarding these issues, which indirectly relate to greenhouse gas emissions, and thus impacts related to consistency with the Newport Beach General Plan related to greenhouse gas emissions would be less than significant. The Original Project's consistency with the applicable policies of the California Coastal Act relative to greenhouse gas emissions was evaluated in Table 4.F-6 of the Certified EIR. As discussed in Table 4.F-6, the Original Project would not conflict with the applicable policies of the CCA, and as such impacts in this regard would be less than significant. The Original Project would not conflict with local policies and ordinances, it is consistent with the overarching regulation to reduce GHG emissions. Therefore, implementation of the Original Project would not conflict with plans for reducing GHG emissions and impacts relative to this threshold would be less than significant.

Based on the similarity in allowable development under the Original Project and the Modified Project in terms of land use type and intensity, and associated potential for GHG emissions, it is anticipated that impacts related to conflicts with applicable GHG reduction plans and regulations would be less than significant. Thus, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included several mitigation measures (Mitigation Measures F-1 through F-14), which would address impacts related to greenhouse gas emissions. Mitigation Measures F-1 through F-14 require that a number of energy, water, and traffic reduction measures in order to minimize GHG emissions. Such measures include requirements for energy- and water-efficient appliances, fixtures, and landscaping during project operation, and use of high efficiency construction equipment and limitation of construction vehicle idling times. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which concludes that implementation of applicable mitigation measures (Mitigation Measures F-1 through F-14) would mitigate greenhouse gas emissions impacts to a level considered less than significant.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to greenhouse gas emissions. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to greenhouse gas emissions, as provided pursuant to CEQA Guidelines Section 15162.

4.3.8 Hazards and Hazardous Materials

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including hazards and hazardous materials. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact relative to hazards and hazardous materials would occur if the project would result in one or more of the following:

- Threshold 1: Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;*
- Threshold 2: Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment;*
- Threshold 3: Reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;*
- Threshold 4: Is the project 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;*
- Threshold 5: 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;*
- Threshold 6: 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;*
- Threshold 7: Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or*
- Threshold 8: Expose people or structures to the risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.*
- Threshold 9: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”*

No Substantial Change from Previous Analysis. Hazards and hazardous materials-related impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City

CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials

Hazardous materials may be used during the construction phase of the project's development components under both the Original Project and the Modified Project. 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 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 future development allowable under either the Original Project or the Modified 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, based on the similarity in allowable development under either scenario, construction and operation of the Original Project or the Modified 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. As such, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment

Threshold 4: Is the project 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

As discussed in Section 4.G, Hazards and Hazardous Materials, of the Certified EIR, hazardous materials site investigations for the project site identified a number of Recognized Environmental Conditions (RECs) affecting the project site. It was determined that, based on the presence of these RECs, implementation of the Original Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment. Also, it was determined that while the site is not a listed hazardous materials site, there is the potential for hazardous materials to be encountered during construction activities that could create a significant hazard to the public or the environment. These potentially significant impacts, however, would be reduced to a less than significant level with implementation of the prescribed mitigation measures and compliance to applicable regulatory requirements. Since the Original Project and the Modified Project would allow for a very similar development pattern on the project site, it is anticipated impacts under the Modified Project would also be considered less than significant with implementation of the prescribed mitigation measures and compliance to applicable regulatory requirements. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school

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. Accordingly, the Modified Project would have no potential to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school, and a significant impact would not occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: 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

Since a portion of the project site is located within the southernmost boundary of the AELUP for JWA, the project applicant is required to demonstrate compliance with the guidelines contained in the AELUP. The Original Project was evaluated for consistency with the current AELUP for JWA in Section 4.I, Land Use and Planning, of the Certified EIR. As discussed therein, the Original Project would be consistent with the applicable policies in the AELUP for JWA, including those related maximum height restrictions based on FAA requirements. Also, the project site is not located within the Clear Zone/Runway Protection Zones or the Accident Potential Zone for JWA, as designated in the City's General Plan (and illustrated in Figure S5 of the General Plan Safety Element). As such, the Original Project would not result in a safety hazard for people residing or working in the project area, and impacts in this regard would be less than significant. Based on the foregoing analysis, and the similarity in allowable development on-site under the Modified Project relative to the Original Project, implementation of the Modified Project is not expected to result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 6: For a project within the vicinity of a private airstrip, result in a safety hazard for people residing or working in the project area

As concluded in the Certified EIR, there are no existing private airstrips within the City of Newport Beach or within the immediate vicinity of the project site. Accordingly, the Modified Project would not expose people residing or working in the Project area to safety hazards associated with a private airstrip, and a significant impact would not occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 7: Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan

As discussed in Section 4.G of the Certified EIR, 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, which would be necessary under the Original Project, could temporarily restrict vehicular access to and from the project site while construction activities are occurring if a traffic control program is not in place. As such, future development could potentially interfere with emergency access to, or evacuation from, the project site and surrounding properties during construction activities. This is considered a potentially significant impact, and thus Mitigation Measures 4.G-6, 4.G-7, and 4.G-8 are required to address this impact. The mitigation measures require implementation of a Construction Traffic Management Plan, Traffic Control Plan, and proper notification to the police and fire departments to disclose and identify temporary closures and alternative travel routes. Implementation of the prescribed mitigation measure would ensure that construction-related activities under the Original Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. With implementation of these mitigation measures, potentially significant construction-related impacts would be reduced to a less than significant level. Similarly, as the Modified Project would require nearly identical traffic-related and utility improvements as those under the Original Project, impacts regarding emergency response and evacuation plans during construction would be comparable and would be less than significant with mitigation.

Given the comparable type and intensity of development on-site under both the Original Project and the Modified Project, operational impacts regarding emergency response and evaluation plans are expected to be similar. Therefore, while the Modified Project, like the Original Project, would involve the addition of residents, employees, and shoppers to the project area, implementation of the future development would not have a notable impact on the function of established emergency management and response plans. All future development projects in the City, including the Modified Project, would be required to provide sufficient emergency access, as required by the City's Fire Prevention Guidelines. Furthermore, given that future on-site development would be subject to review and approval by the Newport Beach Fire Department (NBFD), which is most directly responsible for emergency response in the project vicinity, the systems and facilities designed to protect public health and safety during emergencies would be adequate to effectively implement emergency management procedures within the project area. Coordination with the NBFD would preclude the possibility of inadequate access for emergency vehicles at the project site. As no apparent conflicts with adopted emergency response or evacuation plans would result from Modified Project implementation, impacts would be less than significant in this regard. As such, operation of future development within the project site would not interfere with an adopted emergency response plan and/or the emergency evacuation plan and impacts would be less than significant.

Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 8: 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

There is no native habitat or extensive vegetation susceptible to wildland fires on the project site. As illustrated in Figure S4 of the City of Newport Beach General Plan Safety Element, the project site is located in an area designated as “low/none wildfire hazard.” Future development under either the Original Project or the Modified Project, therefore, would not place buildings or structures at any risk from wildland fires, and no impacts would occur. Accordingly, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 9: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.

Future development of the project site under either the Original Project or the Modified Project would be required to comply with all applicable rules and regulations related to hazardous materials and emergency response/access, including federal and State laws, and local policies of the Newport Beach General Plan. An evaluation of the Original Project’s consistency with each of the applicable policies of the General Plan Safety Element is provided in **Table 4.G-2** in Section 4.G of the Certified EIR. As shown in Table 4.G-2, the Original Project would not conflict with the applicable policies contained in the General Plan Safety Element, and therefore regulatory consistency impacts regarding hazards and hazardous materials would be less than significant. Given the similarity in allowable development under the Modified Project, impacts in this regard would also be less than significant, and thus implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included a number of mitigation measures (Mitigation Measures G-1 through G-8), which would address impacts related to hazards and hazardous materials. Mitigation Measure G-1 requires that a remediation/removal plan be submitted and implemented for the existing on-site 550-gallon UST. Mitigation Measures G-2 and G-3 require testing and proper disposal of contaminated dredged soils and dewatering discharges. Mitigation Measures G-4 and G-5 require surveys for lead-based paint and asbestos in all on-site structures to be demolished. Preparation of a Construction Management Plan to address construction-related hazards is required by Mitigation Measure G-6, while Mitigation Measures G-7 and G-8 require preparation of a Traffic Control Plan for construction activities and coordination with the police and fire departments regarding temporary street or lane closures during construction. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The proposed project is consistent with the findings of the Certified EIR, which identifies that impacts to hazards and hazardous materials relevant to the Project could be mitigated to a level considered less than significant. No impacts to hazards and hazardous materials were identified for the Modified Project.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to hazards and hazardous materials. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to hazards and hazardous materials, as provided pursuant to CEQA Guidelines Section 15162.

4.3.9 Hydrology and Water Quality

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including hydrology and water quality. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact to hydrology and water quality would occur if the project would result in one or more of the following:

- Threshold 1: Violate any water quality standards or waste discharge requirements;*
- Threshold 2: 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;*
- Threshold 3: Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site;*
- Threshold 4: 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 that would result in flooding on- or off-site;*
- Threshold 5: 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;*

- Threshold 6: Otherwise substantially degrade water quality;*
- Threshold 7: Place housing within a 100-year flood plain as mapped on federal Flood Hazard Boundary or Flood Insurance Rate Maps or other flood hazard delineation maps;*
- Threshold 8: Place within a 100-year flood plain structures which would impede or redirect flood flows;*
- Threshold 9: 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; or*
- Threshold 10: Inundation by seiche, tsunami, or mudflow.*
- Threshold 11: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect."*

No Substantial Change from Previous Analysis. Hydrology and water quality-related impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Violate any water quality standards or waste discharge requirements

Threshold 6: Otherwise substantially degrade water quality

As discussed in Section 4.H, Hydrology and Water Quality, of the Certified EIR, construction and operation of the Original Project would comply with all applicable regulatory requirements regarding water quality. Compliance with applicable regulatory requirements (which require among other things implementation of a SWPPP to address water quality impacts during construction activities) and implementation of the project design features, including BMPs as part of the project's WQMP, would ensure that construction and operational water quality impacts are less than significant. In general, as discussed above, future development under the Modified Project would not vary substantially from that allowable under the Original Project, and further, the Modified Project would be subject to the same stormwater regulatory requirements and would implement a similar suite of Project Design Features (including BMPs as part of a project-specific WQMP), which would preclude significant adverse impacts to water quality. In addition, as relates to the provision of public access across the Bayside Village Mobile Home Park private beach area in Planning Area 3, including the potential addition of a new seawall/bulkhead at this location, such access and related improvements would be carried out in accordance with the proposed Shoreline Management Plan and all applicable construction-related and operational BMPs required by the future project-specific SWPPP and WQMP. As such, given implementation of a project-specific SWPPP during construction activities and a WQMP for long-term operations, impacts under the Modified Project would be comparable to those of the Original Project and impacts would be less than significant. Therefore, implementation of the Modified

Project would not result in any new adverse impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: 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

Implementation of the Original Project would not deplete groundwater supplies or interfere substantially with groundwater recharge. The Original Project would incrementally decrease (by approximately 5%) the amount of impervious surfaces on-site.⁴ Therefore, the Original Project was determined not to 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 new, or increase in existing, impervious surfaces. Furthermore, the project site is not located within a designated groundwater recharge area and does not serve as a primary source of groundwater recharge. As such, impacts would be less than significant. Based on the similarity in development patterns allowable on the project site under the Original Project and the Modified Project, the extent of impervious surfaces is anticipated to also be comparable, and thus impacts under the Modified Project would be considered less than significant. Accordingly, implementation of the Modified Project would not 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, and implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site

Threshold 4: 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 that would result in flooding on- or off-site

Threshold 5: 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

As discussed in Section 4.H of the Certified EIR, the entire site currently generally drains into the Upper Newport Bay at three main locations. As defined in the Existing Hydrology map (see Figure 4.H-2 in Section 4.H), Area A1 combines with existing off-site flows emanating from East Coast Highway and Bayside Drive, which are then conveyed to a local low point just adjacent to the existing sewer pump station. These flows

⁴ Fuscoe Engineering, Inc. "Preliminary Water Quality Management Plan (P-WQMP) Back Bay Landing Redevelopment Project." August 9, 2012.

are tied into an existing 30-inch storm drain within East Coast Highway that flows westerly through the project site before discharging into the Upper Newport Bay. Area A2 sheet flows to a low point within this sub area, which collects flows utilizing two grate inlets that convey the on-site run off into the Back Bay via an 8-inch diameter HDPE Pipe. Area A3 is the portion of the project beneath PCH, and currently sheet flows into the Upper Newport Bay. Based upon field surveys and site inspections, drainage facilities do not appear to exist within this area.

The proposed condition under the Original Project would be designed to maintain the overall existing drainage pattern in which the entire site would convey its runoff directly into the Upper Newport Bay. The off-site flows as described in the existing condition would be routed around the project site and tied into the existing 30-inch storm drain within East Coast Highway, approximately 350 feet upstream of the current tie in location. The Modified Project would not change the proposed drainage plan for the project site, and thus hydrology and drainage conditions are assumed to be comparable to those under the Original Project.

Generally, the Modified Project (like the Original Project) would be designed to convey storm flows in general conformance to the existing drainage patterns. However, all on-site flows would be directed to on-site areas where water quality measures would be provided to encourage filtration and treatment of the low flows. Curb and gutter, grate inlets, and storm drain pipe would be proposed to help convey flows to areas of treatment and discharge, as shown in Figure 4.H-4 in section 4.H of the Certified EIR. The Modified Project would also implement a design to protect against a 100-year storm event. Figure 4.H-4 conceptually demonstrates the location for the proposed storm drain facilities and models the post-project condition for a 25- and 100-year storm event.

Under the proposed conditions for both the Original Project and the Modified Project, the drainage patterns and discharge rates would be largely preserved. The southeastern portion of the site would continue to discharge into the existing 30-inch storm drain system via a new on-site storm drain collection system. The middle interior portion of the site would be collected in a new on-site system and continue to discharge into the Bay via a new outlet through the bulkhead in a similar location as the existing 8-inch HDPE pipe outlet. The western portion of the site would be picked up in a new storm drain system and either tie into the existing 30-inch reinforced concrete pipe (RCP) under PCH, or discharge via a new outlet into the Bay through the proposed bulkhead along the western portion of the site. With implementation of the proposed drainage system, the net change under the proposed conditions compared to existing conditions during a 25- and 100-year storm event would be less than one cfs.

The Preliminary WQMP for the Original Project also included an analysis as to whether any hydrology conditions of concern (HCOC) would occur on the site with respect to downstream flooding, erosion potential of natural channels downstream, impacts of increased flows on natural habitat, etc. As specified in Section 2.3.3 of the 2011 Model WQMP, projects must identify and mitigate any HCOCs. A HCOC is a combination of upland hydrologic conditions and stream biological and physical conditions that presents a condition of concern for physical and/or biological degradation of streams. If these conditions do not exist or streams are not potentially susceptible to hydromodification impacts, an HCOC does not exist and hydromodification does not need to be considered further. As discussed in the Certified EIR, the project site does not fall within an area susceptible to hydromodification and thus an HCOC does not exist at the site.

Overall, due to the nature of the high imperviousness associated with the existing conditions, proposed runoff rates would remain consistent or decrease due to the minor increase in landscaping under the proposed condition. Accordingly, the post-project site under either the Original Project or the Modified Project would not result in significant hydrology impacts downstream such that flooding or erosion would

occur on- or off-site. Furthermore, the Modified Project, like the Original Project, would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage. As such, impacts regarding changes in drainage patterns and stormwater flows would be less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 7: Place housing within a 100-year flood plain as mapped on federal Flood Hazard Boundary or Flood Insurance Rate Maps or other flood hazard delineation maps

Threshold 8: Place within a 100-year flood plain structures which would impede or redirect flood flows

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. Therefore, no impacts related to floodplains would occur and implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 9: 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

Threshold 10: Inundation by seiche, tsunami, or mudflow

Implementation of the Modified Project, similar to the Original Project, could expose people and structures to flood hazards from dam failure, seiches and tsunamis. However, with implementation of the policies and procedures set forth in the City's Emergency Management Plan, Safety Element of the General Plan, and Municipal Code, risks associated with inundation by dam failure, seiche, and tsunami under the Original Project were determined to be less than significant in the Certified EIR. As the Modified Project would be located on the same site with a very similar pattern of development and comparable site conditions, impacts would be considered less than significant. Furthermore, as required by the CCC in their suggested modifications to the CLUPA (see Appendix A of this Addendum), the Modified Project's revised CLUPA requires that a site-specific hazards assessment ("Hazards Assessment") and a sea level rise and shoreline management plan ("Shoreline Management Plan") be prepared and implemented for any future development on-site, both of which would be submitted along with the Site Development Review application. The Hazards Assessment would address the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes. The conditions that are considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 years) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Nino event. The Shoreline Management Plan would address shoreline areas of the project site subject to tidal action, flooding, wave hazards and erosion, and would incorporate measures to adapt to sea level rise over time and provide for the long-term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat. Given the similarity in allowable future development between the Original Project and the Modified Project, as well as the implementation of the Hazards Assessment and Shoreline Management Plan, impacts under the Modified Project are expected to be less

than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 11: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

The Modified Project, like the Original Project, would comply with all applicable federal, state, and local laws and regulations related to hydrology, drainage, flooding, and water quality. The City of Newport Beach General Plan contains various policies related to hydrology, drainage, flooding, and water quality, including policies from the Harbor and Bay Element, Public Natural Resources Element, Safety Element. In addition, the City's Local Coastal Program Coastal Land Use Plan (CLUP) and the California Coastal Act also contain policies relevant to hydrology and water quality that are applicable to the project. As shown in Table 4.H-5, Table 4.H-6, and Table 4.H-7, in Section 4.H of the Certified EIR, the Original Project would be consistent with the applicable policies of the City's General Plan and CLUP and the California Coastal Act, and therefore impacts in this regard would be less than significant. Based on the similar pattern of development on the project site and associated drainage patterns and proposed BMPs, impacts under the Modified Project would also be considered less than significant. Accordingly, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

Compliance with applicable regulatory requirements, in addition to implementation of project design features, would ensure that impacts to hydrology and water quality are less than significant. No mitigation measures are necessary.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which states, “[i]mpacts related to hydrology and water quality would be less than significant.”

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to hydrology and water quality. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to hydrology and water quality, as provided pursuant to CEQA Guidelines Section 15162.

4.3.10 Land Use and Planning

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including land use and planning. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact to land use and planning would occur if the project would result in one or more of the following:

Threshold 1: Physically divide an established community;

Threshold 2: 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; or

Threshold 3: Conflict with any applicable habitat conservation plan or natural community conservation plan.”

No Substantial Change from Previous Analysis. Land use and planning-related impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Physically divide an established community

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 Original Project or the Modified Project. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: 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

As discussed in Section 4.I, Land Use, of the Certified EIR and based on the City’s previously adopted findings, implementation of the Original Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the City’s General Plan and Local Coastal Program CLUP, SCAG regional plans, Airport Environs Land Use Plan, the California Coastal Act, or the City’s Municipal Code) adopted for the purpose of avoiding or mitigating an environmental effect. This impact is considered less than significant. Given the similarity in allowable future development under both the Original Project and the Modified Project, as well as the limited nature of proposed modifications to the PCDP, CLUPA, PC Amendment, and GPA under the Modified Project, impacts regarding consistency with applicable plans, policies, and regulations are expected to be similar to the Original Project and less than significant, though based on CCC review and revisions to the CLUPA, the Modified Project’s consistency with various policies would vary from that of the Original Project.

Specifically, with regard to CLUP Policy 3.1.1-9, as discussed on page 4.I-24 of the Certified EIR, the project applicant explored an expanded bayfront access option that would have increased public coastal access along the project bayfront by extending the coastal walkway through Planning Areas 3 and 4. This area is currently developed with a private marina accessway used by marina lessees and mobile home park residents, as well as a private beach that is for the exclusive use of the mobile home park residents. While maximizing the provision of public coastal access is a stated objective of the proposed project, this potential alignment of the project's new bayfront access was determined to be infeasible and rejected by the City Council for several reasons evaluated in the context of Coastal Act section 30214 and discussed in the Certified EIR. However, based on its December 10, 2015 approval with modifications of the Back Bay Landing CLUPA, the Coastal Commission has determined that the extension of the public bayfront promenade is, in fact, feasible and thus this improvement has been incorporated into future development under the Modified Project. Since the Modified Project would more thoroughly respond to CLUP Policy 3.1.1-9 compared to the Original Project, it is also considered consistent with this policy. In addition, the Modified Project would also be consistent with several Coastal Act policies that are supportive of the extended public bayfront promenade through Planning Area 3, including Coastal Act Policies 30210, 30212, and 30214. Coastal Act Policy 30210 requires that "maximum access" to coastal areas be provided, and therefore the provision of expanded public waterfront access under the Modified Project would implement this policy to a greater extent than the Original Project, and thus would be considered consistent. Likewise, Coastal Act Policy 30212 requires that new development projects provide public coastal access where feasible and not restricted by various factors. As such, based on the CCC's determination that the extension of the public bayfront promenade through Planning Area 3 is feasible, the Modified Project would implement this improvement to provide increased public coastal access relative to the Original Project, and thus it would be considered consistent with this policy. Lastly, Coastal Act Policy 30214 relates to, among other issues, preservation of private property rights and privacy of nearby residents associated with the provision of public coastal access. Although the Modified Project requires public coastal access adjacent to private residences within Planning Area 3, where public access was previously not provided, substantial adverse effects on residents in this area are not expected to occur given PCDP requirements for landscaping, setbacks and defensible space along the proposed promenade, which would address such adjacency issues. In addition, the introduction of public access within Planning Area 3 is not expected to result in any increase in noise impacts to nearby residences, as discussed below in Section 4.3.12 of this Addendum. The specific components and design of this public access, along with time, place and manner restrictions are to be determined during the Coastal Development permit approval process. Accordingly, the provision of expanded public coastal access under the Modified Project would not result in adverse effects on existing land uses and thus the Modified Project would be consistent with Coastal Act Policy 30214.

Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Conflict with any applicable habitat conservation plan or natural community conservation plan

Both the Original Project and the Modified 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, and implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The proposed project would not conflict with relevant land use plans, policies and regulations, therefore, impacts related to land use and planning would be less than significant and no mitigation measures are required.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which states, “[t]he proposed project would not conflict with or substantially impede attainment of relevant goals, policies and regulations associated with the City’s General Plan, CLUP, and Municipal Code, SCAG plans and programs, JWA AELUP, and the California Coastal Act. As such, impacts would be less than significant.”

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to land use and planning. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to land use and planning, as provided pursuant to CEQA Guidelines Section 15162.

4.3.11 Mineral Resources

The following thresholds of significance are as set forth in the Initial Study to the Certified EIR (Certified EIR Appendix A), which states that a project would result in a significant impact regarding mineral resources if it would:

“Threshold 1: 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

Threshold 2: 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 Substantial Change from Previous Analysis. Noise impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: 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

Threshold 2: 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

There are no known local mineral resources within the project area. No known State-designated mineral resource areas have been identified within the project site or surrounding area. Neither the Original Project nor the Modified Project incorporate heavy industrial uses of any type or propose mineral development activities. Further, implementation of the Original Project or Modified Project would not impede the potential for direct use or future exploration of mineral resources. Therefore, like the Original Project, the Modified Project would result in no impact regarding mineral resources, and thus implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

No impacts to mineral resources would result from project implementation; as such, no mitigation measures are required.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which identifies that mineral resources impacts are considered less than significant.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to mineral resources. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to mineral resources, as provided pursuant to CEQA Guidelines Section 15162.

4.3.12 Noise

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines contains the Initial Study Environmental Checklist form used during preparation of the project Initial Study, which is contained in Appendix A of this EIR. The Initial Study Environmental Checklist questions relating to noise have been utilized as the thresholds of significance in this section. Accordingly, a project may create a significant environmental impact if it would result in one or more of the following:

Threshold 1: Exposure of persons to or generation of noise levels in excess of standards presumed in the local general plan or noise ordinance, or applicable standards of other agencies.

Threshold 2: Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.

Threshold 3: A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

- Threshold 4: A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.*
- Threshold 5: 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, the project would expose people residing or working in the project area to excessive noise levels.*
- Threshold 6: For a project within the vicinity of a private airstrip, the project would expose people residing or working in the project area to excessive noise levels.*
- Threshold 7: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”*

No Substantial Change from Previous Analysis. Noise impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

- Threshold 1: Exposure of persons to or generation of noise levels in excess of standards presumed in the local general plan or noise ordinance, or applicable standards of other agencies***
- Threshold 4: A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project***

As discussed in Section 4.J, Noise, of the Certified EIR, construction activities under the Original Project, which are considered comparable in nature and intensity to those under the Modified Project, would temporarily increase the existing ambient noise in close proximity to the construction site. However, construction activities would be required to comply with the City’s allowable construction hours, as described in Section 4.J, and would also be temporary in nature. Since temporary construction noise is exempt from the City’s noise ordinance requirements, construction-related noise would result in a less than significant noise impact under both the Original Project and the Modified Project. Although no significant impacts are identified related to project construction activities, mitigation measures derived from Policy N2.6 of the City’s General Plan Noise Element are required to be implemented as part of any future on-site development to ensure that the noise impacts associated with construction activities would be reduced to the maximum extent feasible. Therefore, construction-related noise under the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

- Threshold 2: Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels***

Both the Original Project and the Modified Project would allow for a similarly designed future mixed-use development on-site that would be constructed using typical construction techniques. As such, it is anticipated that the equipment to be used during construction would not cause excessive groundborne noise or vibration. Post-construction on-site activities would be limited to residential, commercial, and boat storage operation uses that would not generate excessive groundborne noise or vibration, and thus the focus

of project-related impacts is on construction-related vibration. Construction activities that typically generate the most severe vibrations are blasting and impact pile driving, which would not be utilized for either the Original Project or the Modified Project. The Modified Project, like the Original Project, would be expected to utilize typical construction equipment and methods such as the use of bulldozers and excavators, which would generate limited ground-borne vibration during excavation and foundation activities. Based on the vibration data by the FTA, the typical vibration velocity from the operation of a large bulldozer would be approximately 0.089 inches per second PPV at 25 feet from the source of activity. The nearest residential building (mobile home uses at Location R2), which is approximately 35 feet from the project construction site, would be exposed to a vibration velocity of 0.05 inches per second PPV. As this value is considerably lower than the 0.5 inches per second PPV significance threshold regarding potential building damage for older residential buildings, vibration impacts associated with construction would be less than significant at the nearest residential building. Although this level of vibration would not result in potential structural damage to nearby structures, such vibration could cause temporary annoyance effects for residents occupying the mobile homes closest to Planning Area 1. This is because the anticipated vibration velocity of 0.05 inches per second PPV would slightly exceed the 0.04 inches per second PPV significance threshold for potential human annoyance. However, this analysis assumes a worst-case scenario where the equipment is operating at the perimeter of Planning Area 1, as close to the adjacent mobile home uses as could possibly occur, when in reality this condition would occur for only a few days at any one location during future demolition and excavation phases. Since vibration-producing equipment moves around the site, any annoyance caused by vibration generated by construction equipment would be sporadic and short-term in nature. Therefore, vibration-related annoyance impacts during construction activities under the Modified Project are considered less than significant and similar to those of the Original Project. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 1: Exposure of persons to or generation of noise levels in excess of standards presumed in the local general plan or noise ordinance, or applicable standards of other agencies

Threshold 3: A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project

As discussed in Section 4.J of the Certified EIR, the existing noise environment in the project vicinity is dominated by traffic noise from East Coast Highway, as well as nearby commercial and residential activities. Long-term operation of the Modified Project, as is the case for the Original Project, would have a minimal effect on the noise environment in proximity to the project site. Noise generated by future on-site development under either the Original Project or the Modified Project would result primarily from parking activities, normal operation of building mechanical equipment, refuse collection area, outdoor dining areas at restaurants, public promenade activity, boat storage-related activities, and off-site traffic.

As noted previously, the Modified Project would result in the identical type and intensity of land uses within the project site, and thus operational traffic generation and associated off-site vehicular noise impacts, would be similar to the Original Project and would be less than significant. However, due to a number of minor modifications to future development under the Modified Project, noise impacts would vary slightly from those of the Original Project. Specifically, three changes under the Modified Project that could affect long-term operational noise include 1) reconfiguration of land uses within Planning Area 1 (including Coastal Commission required relocation of proposed residential uses, the dry-stack boat storage and service use, and

waterfront outdoor dining areas), 2) extension of the public bayfront promenade through Planning Area 3, and 3) potential relocation of the existing OCS D pump station within Planning Area 2, and 4) modification of the lot line adjustment area.

First, the reconfiguration of land uses within Planning Area 1 would generally move the dry stack boat storage and service use and restaurant uses with waterfront outdoor dining areas to the west closer to the Upper Newport Bay waterfront (and away from existing residential uses within the Bayside Village Mobile Home Park), and move previously proposed stand-alone residential uses (no longer allowed per the CCC's CLUPA revisions) to the center of Planning Area 1 and incorporated into mixed-use buildings with ground-floor commercial uses. Overall, this Coastal Commission modification would not represent a measurable change in noise generation on the project site given the same type and intensity of land uses within Planning Area 1 and distances to sensitive receptors, most notably the residential uses within the Bayside Village Mobile Home Park. Of the proposed changes, the relocation of the dry stack boat storage and service use under the Modified Project would represent the greatest potential to affect the future noise environment, since it would produce much higher noise levels than other on-site uses such as restaurants with outdoor dining areas (i.e., up to 80 dBA at a distance of 50 feet for the boat storage and service use versus up to 64 dBA at a distance of 5 feet for outdoor dining areas), and thus would be the most noticeable activity in terms of noise.

As was assumed for the Original Project, a combination lift/tractor system is anticipated to be used to retrieve and launch boats from the dry stack boat storage inlet (see Figure 5 above). It is likely that most boats would be moved by the lift or tractor system into and out of both the dry stack storage building in Planning Area 1. As discussed in the Certified EIR, this analysis assumed that a diesel-powered lift tractor system would be utilized for the boat retrieval/storage system at the dry-stack storage and service location in Planning Area 1 (which generates greater noise levels than other types of systems and is therefore considered conservative). However, new technology to reduce noise levels and energy consumption may be implemented as available (i.e., natural gas, electric, etc.). The enclosed dry stack boat storage and launching facilities would be located within a wrap-around structure along the project site's western/northwestern bayfront. It is assumed, as noted above, that both a diesel-powered fork lift and the diesel lift tractor system would be utilized for the boat storage system and repair activities at this location. For the dry-stack interior storage and outdoor service area, the fork lift and tractor would generate noise levels of approximately 75 dBA and 80 dBA at a distance of 50 feet, respectively.

The nearest mobile home uses under the Modified Project (which are the closest sensitive uses and thus those with the highest sensitivity to noise impacts) are located approximately 450 feet northeast of the boat storage and launching facilities. The relocated boat inlet area would be obstructed from the mobile home community by the dry-stack storage structure and public view plaza in the northwest corner of Planning Area 1, and would be further obstructed by adjacent on-site retail and residential buildings that would be located between the launching facilities and the nearest mobile home uses. Based on noise level source strengths of 75 dBA and 80 dBA for the dry-stack interior storage and outdoor service area, respectively, at a reference distance of 50 feet, and accounting for barrier-insertion loss for project buildings (minimum 10 dBA insertion loss) and distance attenuation (minimum 19 dBA loss for the 450-foot distance), the noise associated with long-term operation of the fork lift and tractor under the Modified Project would be reduced to 46 dBA and 51 dBA at the nearest mobile home uses, represented by Location R2, respectively, which would be well below than the measured ambient noise level of 60 dBA at the nearest mobile home uses, Location R2. For comparison, the noise levels for the interior dry-stack storage and outdoor service area

under the Original Project were 53 dBA and 58 dBA, respectively, which is due to the previous location of this use further east within Planning Area 1 and thus closer to the mobile home residences.

It should be noted that moving the dry stack boat storage/service use which may include additional outdoor waterfront dining areas would reduce noise impacts to the closest sensitive receptors (i.e., at Locations R1 and R2), as the dining areas would be farther away from these locations. However, these noise sources would be closer to other more distant sensitive receptors, including Location R5 to the northwest across Upper Newport Bay and Location R3 south of Planning Area 2 on Linda Isle. Despite the closer proximity of the dry-stack boat storage/service use and outdoor dining areas to Locations R3 and R5 under the Modified Project, noise generated by these uses would not result in a notable increase in noise levels at these locations based on the distance of these receptors to the relocated noise sources. In other words, although relocation of the boat storage/service use and outdoor dining areas in Planning Area 1 may incrementally increase noise effects at more distant receptor Locations R3 and R5, such an increase would not be perceptible and would be less than noise levels at the most proximate Locations R1 and R2, which were determined in the Certified EIR to be less than significant without the need for mitigation. Therefore, fork lift and tractor noise levels associated with the boat storage and service use and outdoor dining areas associated with restaurant uses within Planning Area 1 would be comparable to those presented in the Certified EIR.

As relates to extension of the public bayfront promenade through Planning Area 3, the introduction of additional pedestrians and bicyclists along this alignment would not represent a substantial increase in noise sources or noise generation relative to the ambient noise environment at the project site. Although the proposed promenade alignment in Planning Area 3 is currently a private paved access road for Bayside Village Marina members and residents of the Bayside Village Mobile Home Park, and the introduction of groups of pedestrians, joggers, bicyclists, and other visitors would likely increase noise generation in the immediate area, such an increase would not be perceptible in the context of the existing noise environment, which currently has ambient noise levels of 60 dBA. Based on the ambient noise levels in the area, and a reference noise level for typical human conversation of 55 dBA at a distance of three feet, the additional pedestrian and bicycle traffic within Planning Area 3 would be expected to remain below the ambient noise level of 60 dBA. Thus, the provision of the extended public bayfront promenade within Planning Area 3 would not result in a significant increase in operational noise at the nearest sensitive receptors and impacts would be less than significant.

Lastly, the potential relocation of the existing OCS D pump station from its currently location north of East Coast Highway within Planning Area 1 to the south side of the Coast Highway Bridge within Planning Area 2 could change the future noise environment relative to the Original Project. However, while the possible relocation of this facility to Planning Area 2 would vary from the proposed land use plan under the Original Project, the construction of the pump station in this area would not result in a substantial change in noise generation or related noise effects on nearby sensitive receptors. This is due to the fact that the Original Project anticipated potential development of a boat service use, which would generate noise levels at similar or higher levels than the pump station facility (since pumps and other equipment would be enclosed), along the southern boundary of Planning Area 2, which is most proximate to residential uses to the south of the project site on Linda Isle. Under the Modified Project, if the relocated OCS D pump station were constructed within Planning Area 2 it would be located just south of and adjacent to the East Coast Highway right-of-way, which is farther away from residences on Linda Isle than the boat service use proposed under the Original Project. Furthermore, regarding future pump station maintenance activities, the operation of vacuum trucks (e.g., Vactor trucks) for periodic servicing of the pump station could generate noise levels up to 80 dBA at a reference distance of 50 feet. Assuming the same noise reduction of 10 dBA for insertion loss due to

intervening structures and a reduction of 18 dBA for the distance to sensitive receptors (over 400 feet), noise levels at Location R3 on Linda Isle would be reduced to 52 dBA, which is well below the measured ambient noise level of 60 dBA at this location. As such, the effect of pump station maintenance activities within Planning Area 2, if they were to occur, would not be noticeable in the context of the existing noise environment and impacts would be less than significant. Thus, while the Modified Project would allow the construction of the relocated OCSD pump station within Planning Area 2, this change would not result in a notable increase in noise generation or associated adverse noise effects on nearby sensitive receptors. Thus, impacts would be less than significant in this regard.

Therefore, long-term operation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: 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, the project would expose people residing or working in the project area to excessive noise levels

As discussed in Section 4.J of the Certified EIR, given the project site's distance from John Wayne Airport, and the site's location outside of the airport's existing 60-dBA noise contour, adverse aircraft noise impacts are not expected to occur. Accordingly, the Modified Project, like the Original Project, would not result in the exposure of people residing or working in the area to excessive airport-related noise levels. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 6: For a project within the vicinity of a private airstrip, the project would expose people residing or working in the project area to excessive noise levels

The project area is not located in the vicinity of a private airstrip. Therefore, neither the Original Project nor the Modified Project would not expose people residing or working in the project area to excessive noise levels from such uses. No impact would occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 7: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

The Original Project would not conflict with applicable policies contained in the City's General Plan regarding noise, as discussed below in Table 4.J-10 in Section 4.J of the Certified EIR. As shown in Table 4.J-10, impacts related to consistency with the Newport Beach General Plan regarding noise would be less than significant. As such, given the similarity in allowable future development under the Original Project and the Modified Project, impacts under the Modified Project are also considered less than significant, and therefore implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included two mitigation measures (Mitigation Measures J-1 and J-2), which would address impacts related to noise and vibration. Mitigation Measure J-1 requires that temporary sound barriers be employed during construction activities in order to reduce noise effects at nearby sensitive receptor locations. Mitigation Measure J-2 requires that an acoustical analysis of the architectural plans of the proposed residential building be prepared by a qualified acoustical engineer, prior to issuance of building permits, to ensure that the building construction (i.e., exterior wall, window, and door) would provide adequate sound insulation to meet the acceptable interior noise level of 45 dBA CNEL. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which identifies that construction-related and operational noise impacts would be mitigated to a level considered less than significant, and .

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to noise and vibration. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to noise, as provided pursuant to CEQA Guidelines Section 15162.

4.3.13 Population and Housing

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including population, housing, and employment. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact to population, housing, and employment would occur if the proposed project would result in one or more of the following:

- Threshold 1: Induce substantial population growth in an area, either directly (e.g. by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure);*
- Threshold 2: Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or*
- Threshold 3: Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.*

Threshold 4: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”

No Substantial Change from Previous Analysis. Population and housing impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Induce substantial population growth in an area, either directly (e.g. by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)

Implementation of the Original Project, as discussed in Section 4.K, Population, Housing, and Employment, of the Certified EIR, would not induce substantial population, housing, or employment growth in the project area beyond that anticipated by SCAG projections, and thus this impact is considered less than significant. Likewise, the Modified Project would result in the same type and intensity of development on-site and thus development pursuant to the Modified Project would be consistent with SCAG growth projections and impacts would be less than significant with regard to growth inducement. Therefore, implementation of the Modified Project would not result in any new impacts or substantially increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere

Threshold 3: Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere

The Modified Project, like the Original Project, would generate up to 49 new residential dwelling units. Although project implementation under the Modified Project would result in the removal of existing residential units (i.e., four mobile homes within the proposed LLA area, compared to three mobile homes under the Original Project), it would not displace substantial numbers of existing housing or people, since such removal would be limited to four housing units that would be offset by the future provision of up to 49 dwelling units on-site. Therefore, impacts would be less than significant and implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

Implementation of the Modified Project, similar to the Original Project, would not conflict with any applicable plan, policy, or regulation regarding population, housing, and employment growth including the California Coastal Act, SCAG RTC/SCS and RHNA, and the City of Newport Beach General Plan. This impact is

considered less than significant under the Modified Project, and thus its implementation would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

All impacts related to population, housing, and employment would be less than significant; as such, no mitigation measures are required.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which states “[p]roject-related and cumulative impacts associated with population, housing, and employment growth would be less than significant.”

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to population, housing, and employment. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to population, housing, and employment, as provided pursuant to CEQA Guidelines Section 15162.

4.3.14 Public Services

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including public services. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact relative to public services would occur if the project would result in the following:

Threshold 1: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government 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 and Emergency Medical Services;*
- *Police Protection and Law Enforcement Services;*
- *Parks and Recreational Services;*
- *Schools;*
- *Library Services.*

Threshold 2: 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; and

Threshold 3: 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 and

Threshold 4: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”

No Substantial Change from Previous Analysis. Public service impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government 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 and Emergency Medical Services***

The Modified Project would result in the same type and intensity of future development on-site and would therefore increase demands for fire protection and emergency medical services at the project site in the same manner as the Original Project. Accordingly, and consistent with the findings of the Certified EIR, the Modified Project would not result in or require the provision of new or physically altered fire protection and emergency medical services facilities, the construction of which would result in substantial adverse environmental impacts. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 1: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government 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:

- ***Police Protection and Law Enforcement Services***

The Modified Project would result in the same type and intensity of future development on-site and would therefore increase demands for police protection and law enforcement services at the project site in the same manner as the Original Project. Accordingly, the Modified Project would not result in nor require new or physically altered police protection or law enforcement facilities, the construction of which could cause

significant environmental impacts. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 1: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government 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:

- ***Parks and Recreational Services***

Threshold 2: 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

Threshold 3: 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

The Modified Project would result in the same type and intensity of future development on-site and would therefore increase demands for parks and recreational services and facilities in the same manner as the Original Project. As discussed in Section 4.L, Public Services, of the Certified EIR, implementation of the Original Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives parks and recreational facilities. Further, the Original Project would not 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, and the Original Project does not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. This impact is concluded to be less than significant in the Certified EIR. Given the comparable demand for parks and recreational services and facilities under both the Original Project and the Modified Project, impacts under the Modified Project are considered less than significant and similar to the Original Project. In addition, the Modified Project would include expanded pedestrian and bicycle facilities, including larger waterfront public view plazas, additional off-site bike lane and trail improvements, and extension of the proposed public bayfront promenade through Planning Area 3, which would provide additional recreational opportunities for on-site visitors and residents. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 1: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government 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:

- ***Schools***

As discussed previously for other public services, the Modified Project would result in the same type and intensity of future development on-site and would therefore increase demands for school services and facilities in the same manner as the Original Project. The Modified Project is located within the Newport Mesa Unified School District (NMUSD), and any future school-age children residing on-site would attend the Lincoln Elementary School, Corona Del Mar Middle School, or the Corona Del Mar High School should they attend public schools. Accordingly, demand for school facilities associated with the Modified Project in conjunction with the cumulative demand throughout the entire school district would be consistent with the level of impacts identified and disclosed as part of the Certified EIR. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 1: Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government 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:

- ***Libraries***

As discussed previously for other public services, the Modified Project would result in the same type and intensity of future development on-site and would therefore increase demands for library services and facilities in the same manner as the Original Project. As under the Original Project, in order to ensure that the library services are not eroded by future development under the Modified Project, prior to the issuance of a building permit for the construction of residential and commercial/marine-related uses, the Applicant shall pay the required Property Excise Tax to the City of Newport Beach, as set forth in its Municipal Code (Section 3.12) for the public improvements and facilities associated with the Newport Beach Public Library (NBPL). These fees would be utilized to fund additional services and improvements that may be required to provide adequate library services to the project area. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

As discussed in Section 4.L of the Certified EIR, implementation of the Original Project would not conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project including the Newport Beach General Plan, California Coastal Act, California Fire Code, Quimby Act, California Education Code, Senate Bill 50, and the Newport Beach Municipal Code with regard to public services. This impact was determined in the Certified EIR to be less than significant for the Original Project. Given the similarity in development type and intensity under the Modified Project, impacts are likewise anticipated to be less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

All impacts related to public services would be less than significant; as such, no mitigation measures are required.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, which identifies that impacts to public services would be less than significant.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to public services. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to public services, as provided pursuant to CEQA Guidelines Section 15162.

4.3.15 Transportation/Traffic

The following thresholds of significance are as set forth in the Certified EIR and/or in the Initial Study for the Certified EIR (included in Appendix A of the Certified EIR), which state:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including traffic and transportation. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact relative to traffic and transportation would occur if the project would result in one or more of the following:

- Threshold 1: 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;*
- Threshold 2: 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 and highways;*
- Threshold 3: 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;*
- Threshold 4: Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment);*

- Threshold 5: Result in inadequate emergency access;*
- Threshold 6: Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities; or*
- Threshold 7: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect.”*

No Substantial Change from Previous Analysis. Transportation impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 1: 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, 84 streets, highways and freeways, pedestrian and bicycle paths, and mass transit

Construction Traffic

Construction of the Original Project was anticipated in the Certified EIR to take up to 24 months to complete. The first phase of the construction process would be demolition, site clearing, debris removal, and staging occurring over approximately one month; followed by excavation and de-watering over approximately two months; infrastructure installation and foundation construction for approximately six months; vertical construction for a duration of 15 months; landscaping over approximately three months; Bayside Drive roadway improvements and multi-use trail construction for approximately four months; and reconfiguration of Bayside Village Mobile Home Park over approximately six months. The Modified Project would result in a very similar development pattern on the project site, and thus the construction assumptions for the Original Project are applicable to the Modified Project. Therefore, construction-related impacts under the Modified Project as relates to grading and excavation (and associated haul truck trips) and site construction activities including equipment operation, equipment staging, materials storage, deliveries, and construction worker vehicle trips and parking would be similar to the Original Project and would be less than significant.

Operational Traffic

As noted previously, the Modified Project would allow the identical type and amount of land uses to be implemented on the project site, but with a slightly modified configuration to allow for greater public waterfront access. As such, future development on-site under the Modified Project would result in the same trip generation and trip distribution as under the Original Project. Despite the minor changes in primary site access (associated with the revised LLA, see Figure 9 above), and waterfront pedestrian/bicycle access improvements, the Modified Project would not trigger any significant impacts at any affected facilities within the study area under Existing Plus Project conditions or any future condition scenarios. Furthermore, no

substantial changes to traffic levels or the City's traffic system or other affected facilities have occurred since certification of the Certified EIR. As such, implementation of the Modified Project under Existing Plus Project and Future With Project conditions would not 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. This impact is considered less than significant.

Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 2: 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 and highways

As discussed in Section 4.M, Transportation/Traffic, of the Certified EIR, two of the study area intersections evaluated as part of the project TIA for the Original Project are CMP intersections: East Coast Highway at MacArthur Boulevard and West Coast Highway at Newport Boulevard. Based on CMP standards, a significant impact occurs if the project related traffic increases the intersection capacity utilization (ICU) by 3% or more, causing or worsening Level of Service F. The City's threshold is only a 1% increase in ICU, causing or worsening Level of Service E or F. Because the City's definition of a significant impact is more sensitive than the CMP, if the project does not cause a significant impact based on the City's definition, it also will not trigger a significant impact based on the less sensitive CMP definition. Therefore, based on the lack of significant impacts per the City's methodology, CMP impacts would be less than significant and no mitigation is necessary. Because the Modified Project and the Original Project would result in the same amount of vehicle trips and associated traffic system impacts, CMP impacts under the Modified Project would also be considered less than significant. Accordingly, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 3: Result in a change in air traffic patterns, including either an increase in traffic levels or a change in locations that results in substantial safety risks

The Original Project did not allow for any future structures that would interfere with air traffic patterns, as the maximum height of future project components would be 65 feet above grade (i.e., the proposed public coastal view tower); and the Original Project would not be anticipated to increase use of any airport in more than a de minimus way. Thus, the Certified EIR determined that no impact regarding air traffic patterns would occur with project implementation. Similarly, as the Modified Project would result in a comparable development pattern with only a de minimus increase in airport traffic, and would also remove the previously proposed coastal public view tower, no impact in this regard would occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 4: Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)

The Certified EIR determined that the Original Project, with implementation of applicable mitigation measures, would result in less than significant impacts regarding vehicular site access/circulation and safety. The Modified Project would result in a nearly identical circulation/access plan as the Original Project (see Figure 9 above), and in fact, the primary access would be improved compared to the Original Project in terms of direct line-of-sight/sight distance along the on-site entry driveway due to the revised LLA proposed under the Modified Project. The Modified Project, nonetheless, would implement the same mitigation measures as the Original Project, and thus impacts would be less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 5: Result in inadequate emergency access

Please see discussion above under Section 4.3.8, Hazards and Hazardous Materials, regarding emergency response and evacuation plans (Threshold 7). As discussed therein, impacts related to emergency access would be less than significant under the Modified Project, as was the case for the Original Project evaluated in the Certified EIR. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 6: Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities

Threshold 7: Conflict with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

As discussed in Section 4.M of the Certified EIR, implementation of the Original Project would not conflict with (1) adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities, or (2) any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the California Coastal Act, SCAG RTP/SCS, SCAG Compass Blueprint, Newport Beach General Plan, Newport Beach Coastal Land Use Plan, and Newport Beach Municipal Code). As such, impacts associated with conflicts with applicable plans, policies, and regulations related to traffic and transportation (including alternative transportation) were determined to be less than significant in the Certified EIR. Given the similarity in development patterns allowable under both the Original Project and the Modified Project, including access to public transit and proposed public pedestrian and bicycle access improvements, the Modified Project also not expected to conflict with any such plans, policies, or regulations. In fact, based on the extension of the public bayfront promenade through Planning Area 3 under the Modified Project, the Modified Project would be even more supportive of alternative transportation plans and policies than the Original Project, particularly those of the Coastal Act and CLUP, and thus impacts would be less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included several mitigation measures (Mitigation Measures M-1 through M-3), which would address impacts related to traffic and circulation. Mitigation Measures M-1 through M-3 require

future City review of project-specific access and circulation plans to verify adequate site distances, signage and striping, and final design of an optional secondary entrance-only access off of East Coast Highway. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project would be consistent with the findings of the Certified EIR, which identifies that traffic- and transportation-related impacts would be less than significant with mitigation.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to transportation and traffic. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to transportation and traffic, as provided pursuant to CEQA Guidelines Section 15162.

4.3.16 Utilities and Service Systems

The following thresholds of significance are as set forth in the Certified EIR, which states:

“Appendix G of the CEQA Guidelines provides a checklist of questions to assist in determining whether a proposed project would have a significant impact related to various environmental issues including utilities and service systems. Based on the following issue areas identified in Appendix G of the CEQA Guidelines, a significant impact relative to utilities and service systems would occur if the project would result in one or more of the following:

- Threshold 1: Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;*
- Threshold 2: 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;*
- Threshold 3: 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;*
- Threshold 4: Have sufficient water supplies available to serve the project from existing entitlements and resource, or are new or expanded entitlements needed;*
- Threshold 5: 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;*

Threshold 6: Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs;

Threshold 7: Comply with federal, state, and local statutes and regulations related to solid waste.

Threshold 8: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect."

No Substantial Change from Previous Analysis. Utility and service system impacts have been previously analyzed as part of the Certified EIR, which was prepared and certified pursuant to State and City CEQA Guidelines. Minor additions and/or clarifications are needed to make the previous document adequate to cover the actions that are currently proposed, which are documented below and serve as an Addendum to the Certified EIR.

Summary Analysis

Threshold 2: Require or result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects

Threshold 4: Have sufficient water supplies available to serve the project from existing entitlements and resource, or are new or expanded entitlements needed

As discussed in Section 4.N, Utilities and Service Systems, of the Certified EIR, the Original Project would require a number of on- and off-site water distribution system improvements to serve future uses on-site, and once operational, would increase demands for domestic water supplies relative to existing conditions. However, compliance with applicable regulatory requirements and implementation of the prescribed mitigation measures would reduce potentially significant impacts to infrastructure to a less than significant level. Further, the site would have sufficient water supplies available to serve the Original Project from existing entitlements and resources. Thus, impacts regarding water supply would be less than significant. Likewise, since the Modified Project would require the same suite of on- and off-site improvements given the similarity in development allowable on-site (with the same landscaping and irrigation requirements, stormwater BMPs, and water-conserving fixtures and other features), albeit with minor modifications to address variations in building footprints or other physical constraints, and projected water demands would be identical to those under the Original Project, impacts related to construction or expansion of water facilities and impacts to water supply would be comparable to those of the Original Project and would be less than significant, though mitigation would still be required for infrastructure-related impacts (i.e., payment of City water connection fees). Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 1: Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board

Threshold 2: Require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects

Threshold 5: 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

Similar to the discussion above for water-related facilities and impacts, the Certified EIR determined that implementation of the Original Project would not (1) exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board; (2) require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effects; or (3) result in a determination by the wastewater treatment provider, which serves or may serve the proposed project, that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. This impact is considered less than significant with implementation of applicable mitigation measures under the Original Project.

Given the comparable nature and intensity of construction activities under both the Original Project and the Modified Project, construction-related impacts under the Modified Project are expected to be roughly the same as those described in the Certified EIR for the Original Project. Thus, construction-related impacts to wastewater conveyance and treatment facilities are considered minimal and less than significant. Regarding long-term operation of future on-site uses under the Modified Project, the proposed improvements necessary to serve the future project would be nearly the same as those proposed under the Original Project, which would be sized and located to meet the projected demands of on-site uses, though the specific location of future facilities on-site would vary slightly between the two scenarios given the reconfiguration of land uses under the Modified Project. Additionally, under both the Original Project and the Modified Project, relocation of the existing OCSD pump station would be allowable, though under the Modified Project, any potential relocated pump station could also potentially be constructed south of East Coast Highway within Planning Area 2, which was not previously allowable under the Original Project. Nonetheless, while the placement of the pump station within Planning Area 2 was not specifically addressed in the Certified EIR, adequate details were not (and currently are not) available to more accurately evaluate potential impacts associated with the relocation. Thus, future environmental review for the OCSD pump station relocation would be required to be undertaken by OCSD once additional information is available, though impacts of the relocation would not vary substantially between the Original Project and the Modified Project. Furthermore, irrespective of the specific location of the pump station relocation, impacts regarding demands on wastewater facilities including the existing pump station would not be measurably different between the Original Project and the Modified Project since the projected wastewater generation under either scenario would be identical based on the same proposed square footage of development for each land use type. The potential relocation of the OCSD pump station within Planning Area 2, therefore, would not change the Certified EIR's conclusions regarding impacts to wastewater conveyance and treatment facilities and impacts would remain less than significant under the Modified Project with implementation of applicable mitigation (i.e., payment of OSCD sewer connection fees).

Therefore, implementation of the Modified Project would not result in any new impacts related to wastewater treatment or facilities, or increase the severity of a previously identified significant impact related to wastewater facilities, as compared to what was previously analyzed in the Certified EIR.

Threshold 3: 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

As discussed previously, the Modified Project and the Original Project would allow for a very similar development pattern on the project site, and thus are anticipated to require similar stormwater improvements on-site in order to address projected stormwater flows. Specifically, as described in detail in Section 4.8, *Hydrology and Water Quality*, of the Certified EIR, the Original Project would include new on-site stormwater drainage facilities that would be constructed in accordance with applicable regulatory requirements, as would also be required under the Modified Project. The Original Project (and the Modified Project), therefore, would be designed to maintain the overall existing drainage patterns and discharge rates in which the entire project site would convey its runoff directly into the Upper Newport Bay. The south eastern portion of the project site would continue to discharge into the existing 30-inch storm drain system via a new on-site storm drain collection system. The middle interior portion of the site would be collected in a new on-site system and continue to discharge into the Bay via a new outlet through the bulkhead in a similar location as the existing 8-inch HDPE pipe outlet. The western portion of the site would be picked up in a new storm drain system and either tie into the existing 30-inch reinforced concrete pipe (RCP) under East Coast Highway, or discharge via a new outlet into the Bay through the proposed bulkhead along the western portion of the project site. All on-site flows would be directed to on-site areas where water quality measures would be provided to encourage filtration and treatment of the low flows. Curb and gutter, grate inlets, and storm drain pipe would be proposed to help convey flows to areas of treatment and discharge. The off-site flows would be routed around the project site and tied into the existing 30-inch storm within East Coast Highway, approximately 350 feet upstream of the current tie in location. Although the Modified Project would result in the improvement of the existing paved waterfront access road in Planning Area 3 in association with the extension of the proposed public bayfront promenade, since this access road is currently paved and composed almost entirely of impervious surfaces, the proposed improvements would not have a notable effect on the amount of stormwater generated on-site or result in an increase in the rate of volume of stormwater flows exiting the site during storm events.

Per the Modified Project PCDP, like the Original Project PCDP, future development would include Low Impact Development (LID) features for storm water quality improvement where none exist today. Potential LID features may include storm water planters, permeable pavement and proprietary bioretention systems. Through the development of a project-specific Water Quality Management Plan (WQMP), the appropriate site design, source control and LID control features would be implemented to improve water quality in Newport Bay. As concluded in the Certified EIR, all potentially significant impacts associated with development of the Original Project, including on-site stormwater drainage facilities, would be less than significant after implementation of the project design features. Therefore, impacts would be less than significant in this regard, and would be substantially the same as those impacts under the Modified Project. Therefore, implementation of the Modified Project would not result in any new impacts related to stormwater infrastructure, or increase the severity of a previously identified significant impact, as compared to what was previously analyzed in the Certified EIR.

Threshold 6: Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs

As noted above, the duration and intensity of proposed construction activities under the Modified Project would be essentially the same as those assumed for the Original Project, and thus impacts related to solid waste generation and disposal are considered similar to those evaluated in the Certified EIR. Thus, construction-related solid waste impacts would be less than significant with implementation of applicable mitigation measures, which ensure that construction contractors are required to recycle construction-

related waste and provide temporary waste separation bins on-site during demolition and construction activities.

As summarized in Table 4.N-10 in Section 4.N of the Certified EIR, operation of the Original Project would result in a net increase of 683 pounds per day (or approximately 0.34 tons per day) of solid waste. The Original Project's daily solid waste generation, which is assumed to be the same under the Modified Project, represents approximately 0.003 percent of the maximum permitted daily capacity at the Frank R. Bowerman (FRB) Landfill. Based on the remaining capacity of the FRB Landfill and the County's long-term planning programs required to meet the California Integrated Waste Management Board (CIWMB)'s requirements, there would be adequate waste disposal capacity within the permitted County's landfill system to meet the needs of the Original Project, and by comparison also the Modified Project. Further, the Modified Project's PCPD (and the Original Project's PCDP) requires recycling bins to be located at appropriately to promote recycling of paper, metal, glass, and other recyclable material. As such, project-generated waste would not exceed the capacity of landfills serving the project area under either the Original Project or the Modified Project since solid waste generation would be the same under both scenario. In addition, the Original Project and the Modified Project would not generate solid waste at a level that would generate the need for new or substantially expanded recycling or disposal facilities. The available capacity of the existing and/or planned future landfills would not be exceeded, and therefore impacts regarding solid waste generation from project operations would be less than significant. Accordingly, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact related to solid waste disposal facilities as compared to what was previously analyzed in the Certified EIR.

Threshold 7: Comply with federal, state, and local statutes and regulations related to solid waste

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).⁵ 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. Accordingly, the Modified Project would be fully compliant with all applicable Federal, State, and local statutes and regulations related to solid waste, and significant impact would not occur. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Threshold 8: Comply with any applicable plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan and municipal code) adopted for the purpose of avoiding or mitigating an environmental effect

As discussed in Section 4.N of the Certified EIR, the Original Project was determined not to conflict with any applicable plans, policies, or regulations related to utilities and service systems, and thus impacts would be less than significant. Based on the similarity in allowable development on the project site under both the Original Project and the Modified Project, the Modified Project is also not expected to conflict with any such

⁵ CalRecycle. "Jurisdiction Diversion/Disposal Rate Summary (1995 - 2006)". <http://www.calrecycle.ca.gov/LGCentral/reports/diversion-program/JurisdictionDiversion.aspx>. Accessed September 2012.

plans, policies, or regulations, including those of the City's General Plan, SCAG regional plans, California Coastal Act, California Urban Water Management Plan Act, Senate Bills 610, 221, and 7, California Code of Regulations (Title 20), and Newport Beach Municipal Code. Based on the lack of conflicts with these plans, policies, and regulations, impacts under the Modified Project would be considered less than significant. Therefore, implementation of the Modified Project would not result in any new impacts or increase the severity of a previously identified significant impact as previously analyzed in the Certified EIR.

Mitigation Program

The Certified EIR included a number of mitigation measures (Mitigation Measures N-1 through N-4), which would address impacts related to utilities and service systems. Mitigation Measures N-1 and N-2 require payment of water and sewer connection fees prior to occupancy of a future project on-site. Mitigation Measures N-3 and N-4 require that recycling of construction-related waste is implemented on-site during future construction activities. These mitigation measures would be implemented, as appropriate, under the Modified Project as proposed for the Original Project to reduce impacts to less than significant.

Level of Significance After Mitigation

The Modified Project is consistent with the findings of the Certified EIR, the Certified EIR identifies that all utility and service system impacts can be mitigated to a level less than significant.

Finding of Consistency with Certified EIR

Pursuant to Section 15162 of the CEQA Guidelines, the City of Newport Beach has determined, on the basis of substantial evidence in the light of the whole record, that the Modified Project would not involve new significant impacts or a substantial increase in previously identified impacts to utilities and service systems. Additionally, there are no substantial changes to the circumstances under which the Project will be undertaken, and no new information of substantial importance which was not known and could not have been known when the Certified EIR was certified has since been identified. Therefore, the Modified Project does not meet the standards for a subsequent or supplemental EIR with regards to utilities and service systems, as provided pursuant to CEQA Guidelines Section 15162.

APPENDIX A

CALIFORNIA COASTAL COMMISSION CORRESPONDENCE

CALIFORNIA COASTAL COMMISSION

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



December 31, 2015

City of Newport Beach
Planning Department
Attn: Jaime Murillo, Senior Planner
100 Civic Center Drive
P.O. Box 1768
Newport Beach, CA 92658

Re: City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 (LCP-5-NPB-14-0820-2).

Dear Mr. Murillo:

You are hereby notified that the California Coastal Commission, at its December 10, 2015 meeting in Monterey, approved City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 with suggested modifications. Coastal Land Use Plan (CLUP) Amendment No. 2-14 was submitted pursuant to City Council Resolution No. 2014-12. Coastal Land Use Plan (CLUP) Amendment No. 2-14 incorporates changes to the certified LUP to accommodate a future, mixed-use project known as Back Bay Landing and would change the land-use designation of a 6.97-acre portion of the 31-acre property located at 300 East Coast Highway from Recreational and Marine Commercial (CM-B) to Mixed-Use Water Related (MU-W).

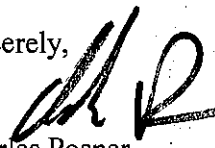
The Commission approved the CLUP Amendment with suggested modifications. Thus, the Amendment will become final once: 1) the City of Newport Beach City Council adopts the Commission's suggested modifications, 2) the City of Newport Beach City Council forwards the adopted suggested modifications to the Commission by Resolution, and, 3) the Executive Director certifies that the City has complied with the Commission's December 10, 2015 action. The Coastal Act requires that the City's adoption of the suggested modifications be completed within six (6) months of the Commission's action.

Pursuant to the Commission's action on December 10, 2015, certification of City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 is subject to the attached Suggested Modifications (Attachment "A").

Please note that, in addition to the suggested modifications to the CLUP Policies, changes to the CLUP Map 1, Coastal Access Map 3-1 and the Bikeways and Trails: Map 2 will need to be made to be consistent with the suggested modifications.

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please call Fernie Sy or myself at (562) 590-5071 if you have any questions regarding the modifications required for effective Certification of City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14

Sincerely,


Charles Posner
Supervisor of Planning

Attachment: Attachment "A" Suggested Modifications

Certification of City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 is subject to the following modifications.

Text added by the suggested modification is ***bold, italicized and underlined***, and text suggested to be deleted is ~~struck through~~. Only those subsections of the LUP for which modifications are being suggested are shown below.

2.1.9 Back Bay Landing

Located at 300 East Coast Highway at the northwesterly corner of the intersection of East Coast Highway and Bayside Drive, the Back Bay Landing site is an approximately 7-acre ***privately-owned*** site adjacent to the Upper Newport Bay. The site is the landside portion of Parcel 3 of Parcel Map 93-111 and is currently improved with existing structures and paved areas utilized for outdoor storage space of RVs and small boats, parking and restrooms facilities for the Bayside Marina, a kayak rental and launch facility, parking and access to Pearson's Port ***seafood market*** and marine service equipment storage under the Coast Highway Bridge.

The site would accommodate the development of an integrated, mixed-use waterfront project consisting of coastal dependent and coastal related visitor-serving commercial and recreational uses allowed in the current CLUP CM-A and CM-B designation, while allowing for ~~limited freestanding multifamily residential and mixed-use structures with residential uses above the ground floor.~~ Residential development would be contingent upon the ~~concurrent~~ development of the above-referenced marine-related and visitor-serving commercial and recreational facilities ***on the ground floor, including a boat storage facility.*** ~~including the enclosed dry stack boat storage facility, and completion of a new public bayfront promenade connecting with Bayside Drive and Newport Dunes/County trails.~~ ***The public bayfront promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west, to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111) and then to the bike and waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). Bike lanes and pedestrian access will be provided along Bayside Drive from the intersection of Bayside Drive/East Coast Highway intersection running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area as shown on Coastal Access Map 3-1 and Bikeways and Trails: Map 2. These public bike and pedestrian improvements shall occur prior to or concurrent with any new development at Back Bay Landing.***

Policy 2.1.9-1

The Back Bay Landing site shall be developed as a unified site with ***coastal-dependent, coastal-related, and visitor-serving development as priority uses, with residential uses allowed above the ground floor only*** ~~marine-related and visitor-serving commercial and recreational uses.~~ Limited freestanding multifamily residential and mixed-use structures with residential uses above the ground floor are allowed as integrated uses as described below.

The Mixed Use Horizontal – MU-H category is applicable to the project(s) site; permitted uses include those allowed under the CM, CV, RM, and MU-V categories; however, a minimum of 50 percent of the permitted building square footage shall be devoted to nonresidential uses;

The Mixed-Use Water Related – MU-W category is applicable to the project(s) site; it is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Freestanding residential uses shall be prohibited. Overnight accommodations (e.g. hotels, motels, hostels) are allowed. Limited Use Overnight Visitor Accommodations (e.g. time shares, fractionals, condominium-hotels) may be permitted in lieu of allowable residential development provided the use is above the ground floor. A minimum floor area to land area ratio of 0.25 and a maximum of 0.5 shall be used for non-residential uses. The amount of residential floor area shall not exceed the amount of non-residential floor area (commercial plus boat storage).

The site shall be limited to a maximum floor area to land area ratio as established in General Plan Land Use Element Anomaly Cap No. 80. A minimum of 50 percent of the residential units shall be developed in mixed use buildings with nonresidential use on the ground floor.

The boat storage, public promenade and public plazas, shall, as priority uses, be sited adjacent to the bayfront, with the public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market. A seafood market is planned to be preserved as a priority visitor-serving/coastal-related commercial use.

A public coastal access proposal shall be submitted with any coastal development permit application for Parcel 3 (Back Bay Landing) which Development shall incorporate amenities that assure access for the coastal-visitors public, including the development of a public pedestrian promenade along the bayfront (as described in Policy 2.1.9-2); bikeways with connections to existing regional trails and paths; an enclosed dry stack boat storage facility; a public launch area for non-trailerred, non-motorized watercraft; public access parking; marina parking; public restrooms; and public plazas and open spaces that provide public views, view corridors, and new coastal view opportunities.

Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive originating at the Bayside Drive/East Coast Highway intersection and running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.

The site shall be developed as a unified site to prevent fragmentation and to assure each use's viability, quality, and compatibility with adjoining uses. Development shall be designed and planned to achieve a high level of architectural quality with pedestrian, non-automobile and vehicular circulation and adequate parking provided.

Policy 2.1.9-2

A public bayfront pedestrian promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west), to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111 and then connecting to the waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). These public access improvements shall be provided and made available for public use concurrent with the development of the Back Bay Landing site. Restrictions on the hours of public access, if any, and landscape improvements shall only be established if they are approved as part of a coastal development permit for development of Back Bay Landing.

Policy 2.1.9-3

As a condition of approval on any coastal development permit issued for development of the Back Bay Landing site, the applicant/landowner shall record a public easement, or an Offer to Dedicate (OTD) a public access easement, across the entire width and length of the public accessways described in Policy 2.9.1-2, including over the marina accessway adjacent to the mobile home development and also across the private beach/submerged fee owned land located on Parcel 3 of Parcel Map 93-111, and across any portion of Parcel 2 underlying the private beach or marina access way necessary to provide sufficient width to complete a continuous, connected, bayfront walkway.

Policy 2.1.9-4

A site-specific hazards assessment of the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes, shall be submitted as part of any coastal development permit application for Parcel 3 (Back Bay Landing). The conditions that shall be considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

Policy 2.1.9-5

Require any coastal development permit application for Parcel 3 (Back Bay Landing) to develop and implement a shoreline management plan for the development and shoreline areas subject to tidal action, flooding, wave hazards and erosion. The shoreline management plan shall incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat.

2.1.910 Coastal Land Use Plan Map

The Coastal Land Use Plan Map depicts the land use category for each property and is intended to provide a graphic representation of policies relating to the location, type, density, and intensity of all land uses in the coastal zone.

Policy 2.1.910-1. Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.

4.4.2 Bulk and Height Limitation

Policy 4.4.2-1

Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone, as graphically depicted on Map 43, except for Marina Park and the following sites:

- A. Marina Park...[no change to existing language]
- B. Former City Hall Complex...[no change to existing language]
- C. ~~Back Bay Landing at East Coast Highway/Bayside Drive: A single, up to 65-foot tall coastal public view tower, that will be ADA compliant and publicly accessible, to provide new coastal and Upper Newport Bay view opportunities where existing views are impacted by the East Coast Highway Bridge, other existing structures and topography.~~

2. Except for the area seaward of the mobile home park described further below, amending Figure 2.1.7-1 of the Coastal Land Use Plan to change the designation of the existing 6.028-acre portion of the project site designated as Recreational and Marine Commercial (CM-B) to Mixed-Use Horizontal (MU-H) *Mixed-Use Water Related (MU-W)* and the 0.304-acre lot line adjustment area designated as Multiple Unit Residential (RM-C) to MU-HW. *The land use designation over the strip of land seaward of the mobile home development shall remain Recreation and Marine Commercial (CM-B) as it is currently designated.*

***Changes to the Coastal Land Use Map 1, Coastal Access Map 3-1 and the Bikeways and Trails: Map 2 will need to be made to be consistent with the above suggested modifications.**

APPENDIX B

**REVISED LEGISLATIVE AND
ADMINISTRATIVE APPROVAL DOCUMENTS**

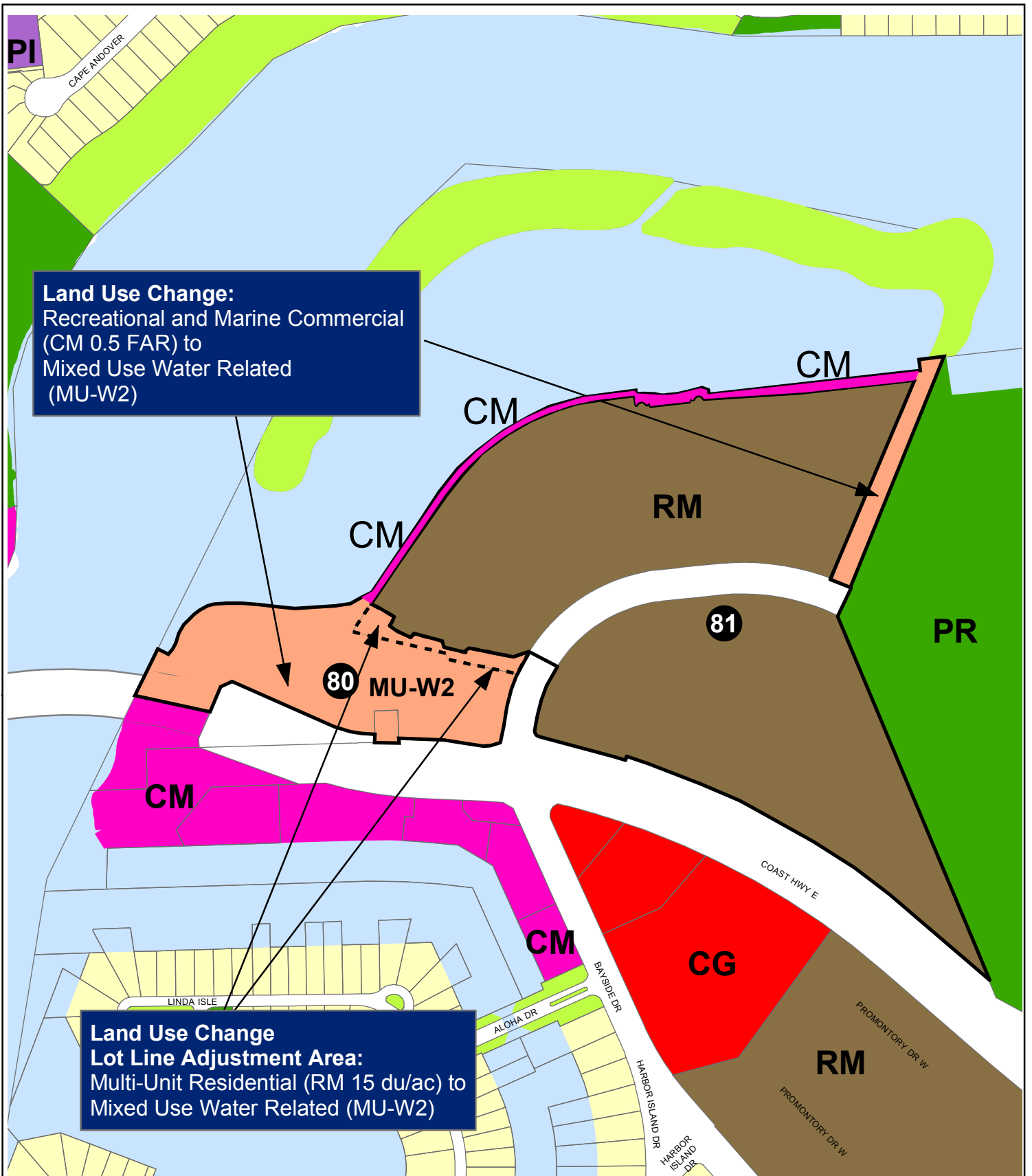
EXHIBIT B
GENERAL PLAN AMENDMENT NO GP2011-011

Consists of:

1. Amending Table LU2 of the Land Use Element of the General Plan to revise the project site land use designation to MU-W2 and to include the following two new anomalies:

Table LU2 Anomaly Locations					
Anomaly Number	Statistical Area	Land Use Designation	Development Limit (sf)	Development Limit (Other)	Additional Information
80	K-1	MU-W2	Nonresidential development: 131,290 sf Mixed-use development: 171,288 sf	49 residential units	For mixed-use development, residential floor area shall not exceed a 1:1 ratio to nonresidential floor area
81	K-1	RM		296 residential units	

2. Amending the Land Use Map of the Land Use Element to identify the locations of Anomaly Nos. 80 and 81 and to change the designation of a portion of the project site (except for the area seaward of the mobile home park described further below) designated as Recreational and Marine Commercial (CM 0.5) to Mixed-Use Water-Related (MU-W2) and the 0.387-acre lot line adjustment area designated as Multiple Unit Residential (RM) to MU-W2. The land use designation over the strip of land seaward of the mobile home development shall remain Recreation and Marine Commercial (CM-B) as it is currently designated.



GP2011-011 (PA2011-216)
 General Plan Amendment
 300 Coast Hwy E

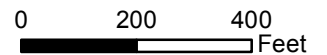


EXHIBIT C
COASTAL LAND USE PLAN AMENDMENT NO. LC2011-007

Consists of:

1. Amending Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan to include the following sections and policies (deletions illustrated in ~~strikeouts~~/ additions illustrated in underline) :

2.1.9 Back Bay Landing

Located at 300 East Coast Highway at the northwesterly corner of the intersection of East Coast Highway and Bayside Drive, the Back Bay Landing site is an approximately 7-acre privately-owned site adjacent to the Upper Newport Bay. The site is the landside portion of Parcel 3 of Parcel Map 93-111 and is currently improved with existing structures and paved areas utilized for outdoor storage space of RVs and small boats, parking and restrooms facilities for the Bayside Marina, a kayak rental and launch facility, parking and access to Pearson's Port seafood market, and marine service equipment storage under the Coast Highway Bridge.

The site would accommodate the development of an integrated, mixed-use waterfront project consisting of coastal dependent and coastal related visitor-serving commercial and recreational uses allowed in the current CLUP CM-A and CM-B designation, while allowing for mixed-use structures with residential uses above the ground floor. Residential development would be contingent upon the development of the above-referenced marine-related and visitor-serving commercial and recreational facilities on the ground floor, including a boat storage facility. The public bayfront promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west, to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111) and then to the bike and waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). Bike lanes and pedestrian access will be provided along Bayside Drive from the intersection of Bayside Drive/East Coast Highway intersection running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area as shown on Coastal Access Map 3-1 and Bikeways and Trails: Map 2. These public bike and pedestrian improvements shall occur prior to or concurrent with any new development at Back Bay Landing.

Policy 2.1.9-1

The Back Bay Landing site shall be developed as a unified site with coastal-dependent, coastal-related, and visitor-serving development as priority uses, with residential uses allowed above the ground floor only.

The Mixed-Use Water Related – MU-W category is applicable to the project(s) site; it is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Freestanding residential uses shall be prohibited. Overnight accommodations (e.g. hotels, motels, hostels) are allowed. Limited Use Overnight Visitor Accommodations (e.g. time shares, fractionals, condominium-hotels) may be permitted in lieu of allowable residential development provided the use is above the ground floor. A minimum

floor area to land area ratio of 0.25 and a maximum of 0.5 shall be used for non-residential uses. The amount of residential floor area shall not exceed the amount of non-residential floor area (commercial plus boat storage).

The site shall be limited to a maximum floor area to land area ratio as established in General Plan Land Use Element Anomaly Cap No. 80.

The boat storage, public promenade and public plazas, shall, as priority uses, be sited adjacent to the bayfront, with the public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market. A seafood market is planned to be preserved as a priority visitor-serving/coastal-related commercial use.

A public coastal access proposal shall be submitted with any coastal development permit application for Parcel 3 (Back Bay Landing) which shall incorporate amenities that assure access for the public, including the development of a public pedestrian promenade along the bayfront (as described in Policy 2.1.9-2); bikeways with connections to existing regional trails and paths; boat storage; a public launch area for non-trailerred, non-motorized watercraft; public access parking; marina parking; public restrooms; and public plazas and open spaces that provide public views, view corridors, and new coastal view opportunities.

Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive originating at the Bayside Drive/East Coast Highway intersection and running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.

The site shall be developed as a unified site to prevent fragmentation and to assure each use's viability, quality, and compatibility with adjoining uses. Development shall be designed and planned to achieve a high level of architectural quality with pedestrian, non-automobile and vehicular circulation and adequate parking provided.

Policy 2.1.9-2

A public bayfront pedestrian promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west), to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111 and then connecting to the waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). These public access improvements shall be provided and made available for public use concurrent with the development of the Back Bay Landing site. Restrictions on the hours of public access, if any, and landscape improvements shall only be established if they are approved as part of a coastal development permit for development of Back Bay Landing.

Policy 2.1.9-3

As a condition of approval on any coastal development permit issued for development of the Back Bay Landing site, the applicant/landowner shall record a public easement, or an Offer to Dedicate (OTD) a public access easement, across the entire width and length of the public

accessways described in Policy 2.9.1-2, including over the marina accessway adjacent to the mobile home development and also across the private beach/submerged fee owned land located on Parcel 3 of Parcel Map 93-111, and across any portion of Parcel 2 underlying the private beach or marina access way necessary to provide sufficient width to complete a continuous, connected, bayfront walkway.

Policy 2.1.9-4

A site-specific hazards assessment of the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes, shall be submitted as part of any coastal development permit application for Parcel 3 (Back Bay Landing). The conditions that shall be considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

Policy 2.1.9-5

Require any coastal development permit application for Parcel 3 (Back Bay Landing) to develop and implement a shoreline management plan for the development and shoreline areas subject to tidal action, flooding, wave hazards and erosion. The shoreline management plan shall incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat.

2.1.9 10 Coastal Land Use Plan Map

The Coastal Land Use Plan Map depicts the land use category for each property and is intended to provide a graphic representation of policies relating to the location, type, density, and intensity of all land uses in the coastal zone.

Policy 2.1.9-10-1

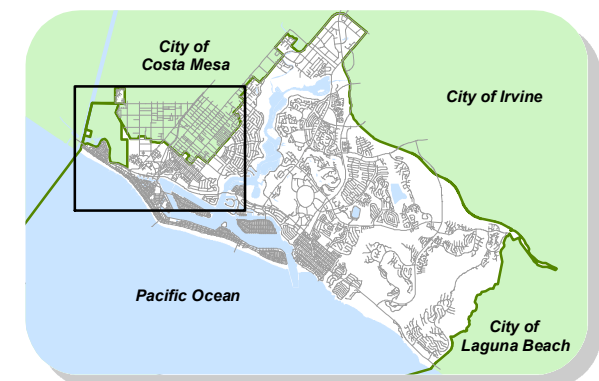
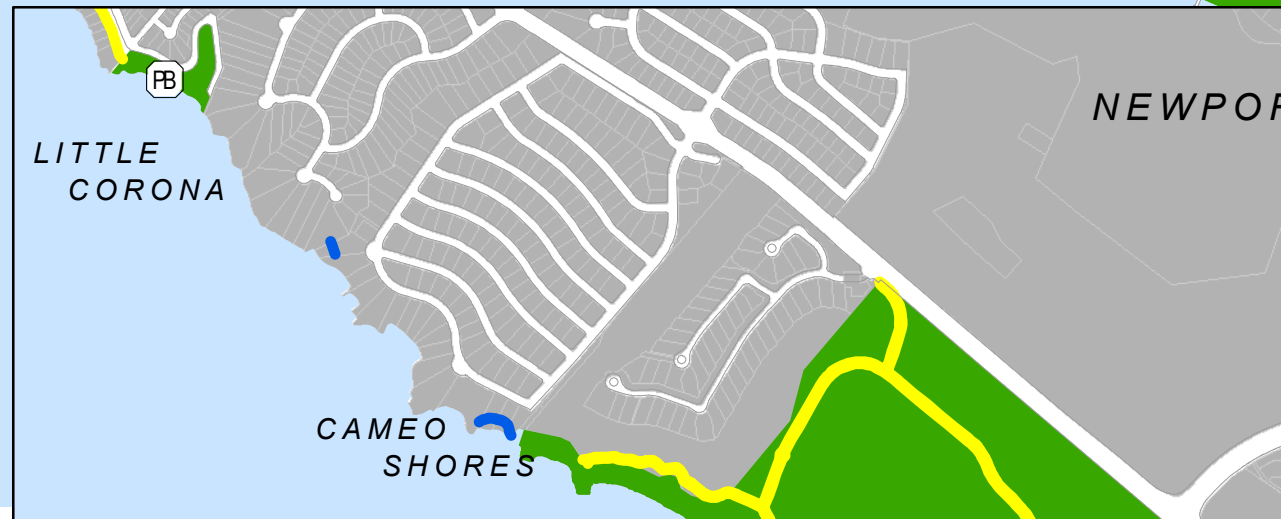
Land use and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.

2. Except for the area seaward of the mobile home park described further below, amending Figure 2.1.7-1 of the Coastal Land Use Plan to change the designation of the existing 6.028-acre portion of the project site designated as Recreational and Marine Commercial (CM-B) to Mixed-Use Water Related (MU-W) and the 0.387-acre lot line adjustment area designated as Multiple Unit Residential (RM-C) to MU-W. The land use designation over the strip of land seaward of the mobile home development shall remain Recreation and Marine Commercial (CM-B) as it is currently designated.
3. Amending CLUP Coastal Access and Recreation Map 3-1 to illustrate the proposed bayfront promenade as a future waterfront public access trail and Bikeways and Trail Map 2 to illustrate the proposed bike lane and trail improvements on Bayside Drive.

Coastal Access and Recreation:
Map 3-1
 (Map 3 of 3)

LEGEND

-  Public Beach Location
-  Public Beach Access Location
-  Potential Access Point
-  Coastal Zone Boundary
-  Lateral Access
-  Potential Lateral Access
-  Vertical Access
-  Potential Vertical Access
-  Blufftop Access
-  Potential Blufftop Access
-  City Boundary
-  Proposed Park
-  Public Beach or Park




City of Newport Beach, California (Harbor Area)



**Local Coastal Program
 Coastal Land Use Plan**

MAP3-1LCP05AccessRecHarb.mxd


 NORTH
 1 Miles
 December / 2005

Bikeways and Trails: Map 2

LEGEND

Trail Types

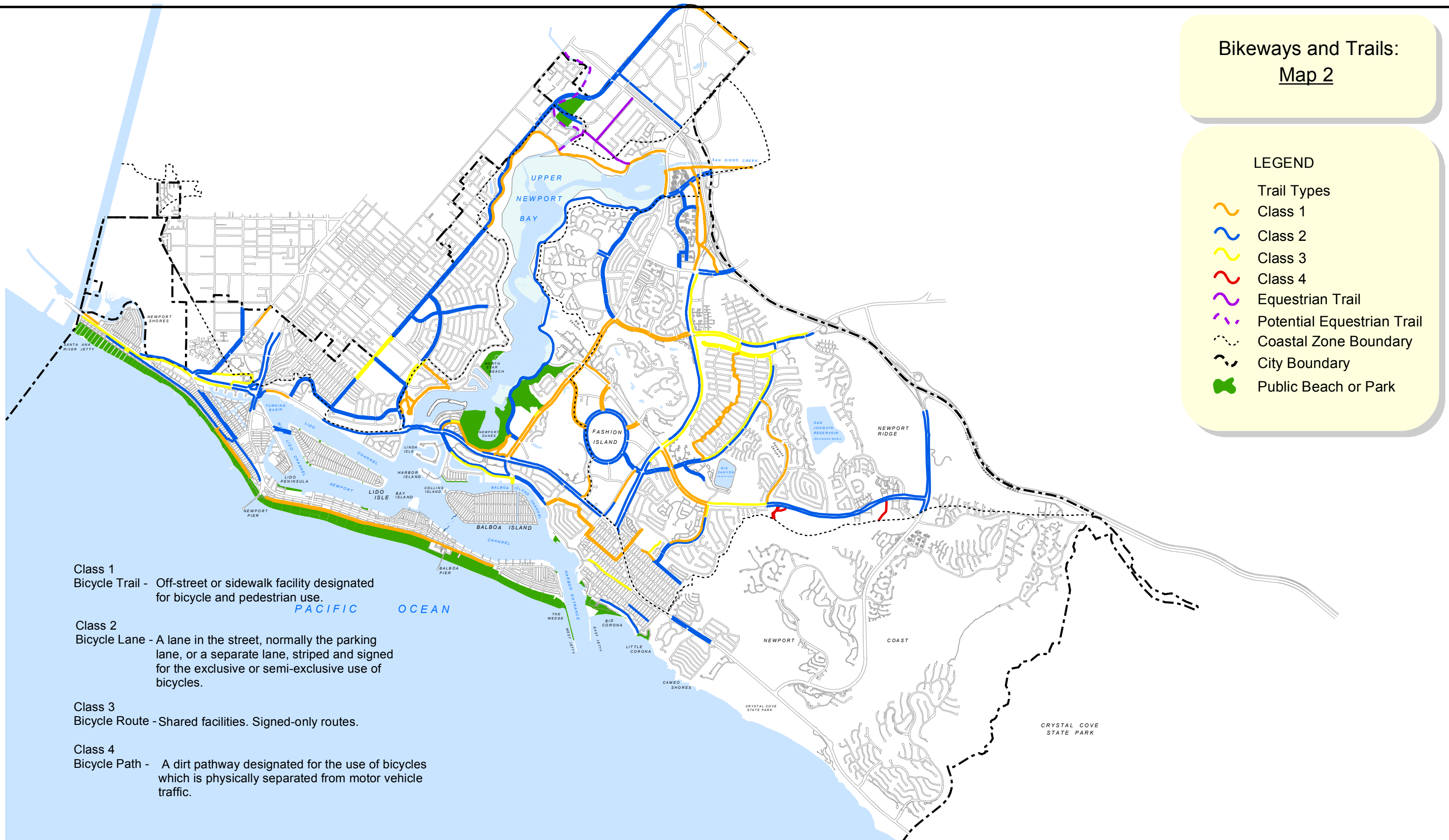
-  Class 1
-  Class 2
-  Class 3
-  Class 4
-  Equestrian Trail
-  Potential Equestrian Trail
-  Coastal Zone Boundary
-  City Boundary
-  Public Beach or Park

Class 1
Bicycle Trail - Off-street or sidewalk facility designated for bicycle and pedestrian use.

Class 2
Bicycle Lane - A lane in the street, normally the parking lane, or a separate lane, striped and signed for the exclusive or semi-exclusive use of bicycles.

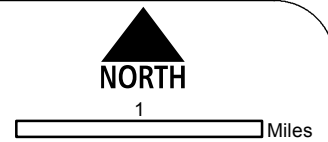
Class 3
Bicycle Route - Shared facilities. Signed-only routes.

Class 4
Bicycle Path - A dirt pathway designated for the use of bicycles which is physically separated from motor vehicle traffic.



City of Newport Beach, California
Local Coastal Program
Coastal Land Use Plan

MAP2-LCP05BikeTrails_no_nc.mxd



July / 2009

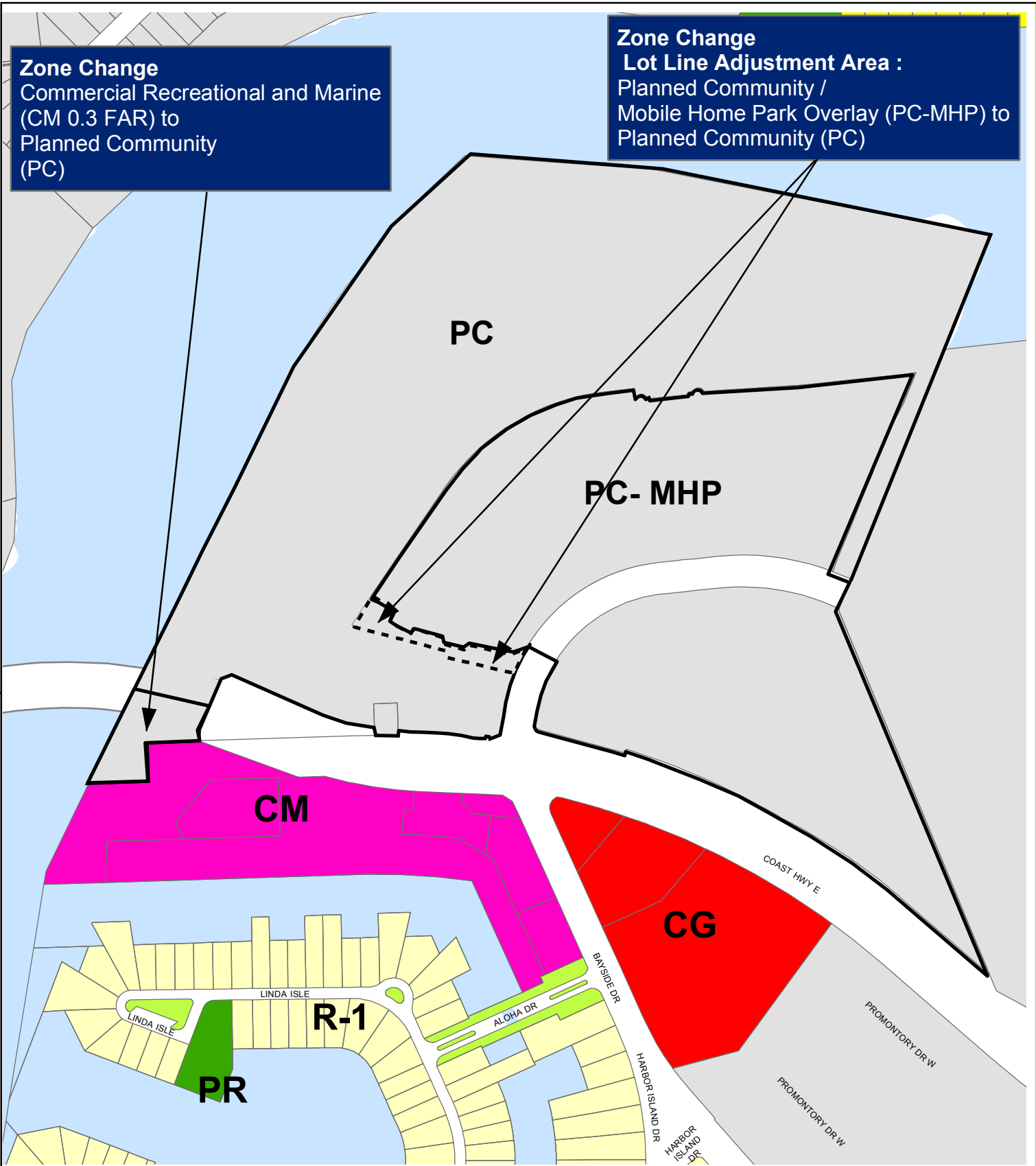
EXHIBIT D
CODE AMENDMENT NO. CA2013-009

Consists of:

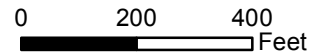
1. Amending the Zoning Map of the Newport Beach Zoning Code (Title 20) to expand the boundaries of PC-9 to include: 1) the 0.387-acre lot line adjustment area currently zoned as Bayside Village Mobile Home Park Planned Community (PC-1/MHP); and, 2) the existing 0.642-acre portion of the project site currently zoned as Recreational and Marine Commercial (CM).

Zone Change
 Commercial Recreational and Marine
 (CM 0.3 FAR) to
 Planned Community
 (PC)

Zone Change
 Lot Line Adjustment Area :
 Planned Community /
 Mobile Home Park Overlay (PC-MHP) to
 Planned Community (PC)



CA2013-009 (PA2011-216)
Zoning Code Amendment
300 Coast Hwy E



Back Bay Landing
PLANNED COMMUNITY
DEVELOPMENT PLAN (PC-9)

DRAFT

Prepared February 11, 2014
Adopted February 25, 2014, Ordinance No. 2014-4 (PA2011-216)
Amended April 12, 2016, Ordinance No. 2016-

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LIST OF ACRONYMS

ABC	California State Department of Alcoholic Beverage Control
CDP	Coastal Development Permit
CLUP	Coastal Land Use Plan
CM	Recreational and Marine Commercial
CUP	Conditional Use Permit
ESA	Environmental Study Area
ESHA	Environmentally Sensitive Habitat Area
LID	Low Impact Development
HHW	Highest High Water
MLLW	Mean Lower Low Water
<u>MU-H4W2</u> <u>Designation</u> 4	Mixed-Use Horizontal <u>Water-Related 2 (General Plan</u>
<u>MU-W</u>	<u>Mixed-Use Water-Related (CLUP Designation)</u>
NAVD 88	North American Vertical Datum of 1988
OCSD	Orange County Sanitation District
OCTA	Orange County Transportation Authority
PC-9	Back Bay Landing Planned Community
PCDP	Planned Community Development Plan
WQMP	Water Quality Management Plan

I. Introduction and Purpose of the Planned Community Development Plan (PCDP)

A. Introduction

The Back Bay Landing site is envisioned to be developed as an integrated, mixed-use waterfront village on an approximately 7-acre portion of a 31.54-acre parcel located adjacent to the Upper Newport Bay in the City of Newport Beach. The City of Newport Beach Municipal Code allows a Planned Community Development Plan (PCDP) to address land use designations and regulations in Planned Communities. The Back Bay Landing PCDP serves as the controlling zoning ordinance for the site and is authorized and intended to implement the provisions of the Newport Beach General Plan and Coastal Land Use Plan.

The Back Bay Landing PCDP Design Guidelines provide a comprehensive vision of the physical implementation of the project and have been drafted to assist the City and community to visualize the architectural theme and desired character of the development.

B. Project Location

The Back Bay Landing Planned Community (PC-9) is located within the City of Newport Beach, in Orange County, California. The approximately 7-acre primary project area is generally located north of East Coast Highway and northwest of Bayside Drive in the western portion of the City, as shown on Exhibit 1, Location Map. The project area is bounded by the Upper Newport Back Bay to the north and west, the Newport Dunes Waterfront Resort and the Bayside Village Mobile Home Park to the east, East Coast Highway and various marina commercial and restaurant uses south of the Highway to the southeast. As shown on Exhibit 2, Planning Areas, the Back Bay Landing Planned Community is comprised of five distinct Planning Areas: Mixed-Use Area (PA 1), Recreational and Marine Commercial (PA 2), Existing Private Marina Access and Beach (PA 3), Marina and Bayside Village Mobile Home Park Storage and Guest Parking (PA 4), and Submerged Fee-Owned Lands (PA 5).

C. Purpose and Objectives

The purpose of the PCDP is to establish appropriate zoning regulations governing land use and development of the site consistent with the City of Newport Beach General Plan and Coastal Land Use Plan. The PCDP provides a vision for the land uses on the site, sets the development standards and design guidelines for specific project approvals at the Site Development Review and Coastal Development Permit (CDP) approval stage, and regulates the long term operation of the developed site.

Implementation of the PCDP will:

- Provide a high quality mixed-use, marine-related, visitor-serving commercial development with integrated residential units and a unified architectural and landscape theme.
- Implement the MU-~~H1-W2~~ (Mixed-Use ~~Horizontal-Water-Related~~ 24) General Plan and MU-~~H-W~~ (Mixed-Use ~~HorizontalWater Related~~) Coastal Land Use Plan categories on an underutilized bayfront location in a manner that provides for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related land uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Freestanding residential uses shall be prohibited. ~~a horizontally distributed mix of uses, which includes general or neighborhood commercial, offices, multi-family residential, visitor-serving and marine-related uses, and buildings that vertically integrate residential with commercial uses, adjacent to Coast Highway, and on or near the waterfront locations.~~
- Maintain and expand core coastal dependent and coastal-related land uses, including the development of marina parking and an enclosed dry stack boat storage and launching facility.
- Provide new housing opportunities in response to demand for housing, reduce vehicle trips and encourage active lifestyles by increasing the opportunity for residents to live in proximity to jobs, services, entertainment, and recreation.
- Protect and enhance significant visual resources from identified public vantage points, such as Coast Highway, Castaways Park, and Coast Highway-Bay Bridge, to the bay and the cliffs of upper Newport Beach through view corridors designed into the project. New public view opportunities will be created on-site.
- Expand bayfront access to and along the bay where it does not exist at the present time, in a manner that protects environmental study areas (ESA) and/or environmentally sensitive habitat areas (ESHA) and does not adversely impact existing private residences adjacent to the site.
- Provide continuous public coastal access with a new minimum 12-foot-wide bayfront access promenade along the bayfront edge of Planning Areas 1, ~~and 2,~~ and 3. This new, public bayfront promenade will link the public docks and marina property south of the Coast Highway-Bay Bridge along the bayfront, to the ~~existing~~ Newport Dunes recreational area. In addition, bike lanes and pedestrian access will be provided along Bayside Drive from the intersection of Bayside Drive/East Coast Highway intersection running northerly to the terminus of Bayside Drive at the

~~Newport Dunes recreational area, pedestrian/bicycle trail off of Bayside Drive, and ultimately to the Newport Dunes recreational areas, as well as to an existing Class 1 Regional Trail~~

7

D. Relationship to the Newport Beach Municipal Code

Whenever the development regulations contained in this PCDP conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in this PCDP shall take precedence. The Municipal Code shall regulate all development within the PCDP when such regulations are not provided within the PCDP. All construction within the Back Bay Landing PCDP (PC-9) shall be in compliance with the California Building Code, California Fire Code, and all other ordinances adopted by the City pertaining to construction and safety features. All words and phrases used in this Back Bay Landing PCDP shall have the same meaning and definition as used in the City of Newport Beach Zoning Code unless defined differently in Section VIII, Definitions.

E. Relationship to Design Guidelines

Development within the site shall be regulated by both the Development Plan and the Design Guidelines.

II. Development Limits and Land Use Plan

The development limits in this Development Plan are consistent with those established by the General Plan and are identified in the following Table 1, Development Limits by Planning Area. Parking structures, carts, kiosks, temporary and support uses are permitted and are not counted towards square footage development limits. In addition, the OCSD wastewater pump station shall not be counted towards square footage development limits.

Table 1 Development Limits by Planning Area ^{1,2}						
Land Use	Planning Area 1	Planning Area 2	Planning Area 3	Planning Area 4	Planning Area 5	Total Per Land Use
Commercial	49,144 sf	8,390 sf	0	4,000 sf	0	61,534 sf
Residential	49 du (85,644 sf)	0	0	0	0	49 du (85,644 sf)
Marina	0	0	0	0	220 wet slips	220 wet slips
Dry Stack Boat Storage	32,500 sf (140 spaces)	0	0	0	0	32,500 sf (140 spaces)
TOTAL						179,679 SF
<i>Notes:</i> (1) All limits expressed as "sf" are gross square feet as defined in the Newport Beach Zoning Code. (2) Development limits are subject to General Plan Land Use Plan and Table LU2, Anomaly Caps.						

A. Planning Area 1 – Mixed-Use Area

The primary land-side parcel immediately north of East Coast Highway to the northwest is intended to allow commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related land uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor~~for integration of a mixed-use waterfront project with marine-related and visitor-serving commercial and recreational uses, while allowing for~~. Freestanding residential uses shall be prohibited~~residential uses~~. Priority uses include retail, restaurants, boat storage, marine and boat sales, boat rentals, boat service/repair, and recreational commercial uses such as kayak and paddle board rentals.

The total gross floor area of Planning Area 1 shall be limited to 49,144 square feet of marine-related and visitor-serving commercial and recreational uses; a new 32,500-square foot full-service and fully enclosed dry stack boat storage (up to a maximum of 140 boat spaces) and launching facility; and a maximum of 49 residential units within a maximum of 85,644 square feet of residential floor area.

Development shall incorporate amenities that assure bayfront access for coastal visitors, including the development of a minimum 12-foot-wide public pedestrian and bicyclist promenade along the waterfront with connections to existing regional trails and paths, an enclosed dry stack boat storage facility, public plazas and open spaces that provide public views and view corridors, and construction of a coastal public view tower.

Any mixed-use development that includes integration of residential units shall be subject to the following additional development limitations:

1. A minimum of 50 percent of the total proposed gross floor area located within Planning Area 1 shall be limited to non-residential uses. This non-residential use may consist of any combination of visitor-serving retail, restaurants, marine boat sales, office, and/or enclosed dry stack boat storage.
2. At minimum, a total of 68,955 square feet of non-residential gross floor area shall be developed within Planning Area 1 and 4.
3. The enclosed boat storage, public promenade and public plazas shall be sited adjacent to the bayfront, with public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market. A minimum of 50 percent of the total proposed residential units shall be developed within mixed-use buildings with non-residential use located on the ground floor level.

B. Planning Area 2 - Recreational and Marine Commercial

Planning Area 2 is located immediately south of the Coast Highway-Bay Bridge and is intended to be developed with recreational and marine-related commercial uses. The total gross floor area of Planning Area 2 shall be limited to 8,390 square feet.

Development shall incorporate a minimum 12-foot-wide public pedestrian and bicyclist promenade along the waterfront with connections to existing and/or planned regional trails and paths, and open spaces that provide public views and view corridors. An integrated connection to the planned public/private marina, pier, and trail to the south shall be developed.

C. Planning Area 3 – Existing Private Marina Access and Beach

Planning Area 3 consists of an existing narrow strip of private marina access walkway and non-publicly accessible beach area located between the Bayside Village Mobile Home Park and Bayside Marina, which provides marina lessee access to private boat slips and docks. Development shall incorporate a minimum 12-foot-wide public pedestrian and bicyclist promenade within the existing marina access walkway and also across the private beach/submerged fee owned land with the width necessary to complete a continuous connection to the existing or planned regional trails and paths, and to the Newport Dunes recreational area. Allowed improvements shall be limited to ~~access~~ walkways/public promenade, guardrails, seawall/bulkhead replacement, landscaping, and screening and lighting. ~~The non-publicly accessible beach area is currently utilized by the existing Bayside Village Mobile Home Park.~~ No other development shall occur within this walkway and the beach area, ~~which shall remain as private open space.~~

D. Planning Area 4 – Marina and Bayside Village Mobile Home Park Storage and Guest Parking

Planning Area 4 is a narrow strip of land located on the eastern project boundary and development shall be limited to a gross floor area of 4,000 square feet. This area is intended to be re-used primarily as standard sized parking for residents and guests of the Bayside Village Mobile Home Park. Additional standard sized parking will be provided for the Bayside Village Marina tenants. New replacement storage, replacement restrooms, laundry facilities and lockers will be built for the Bayside Village Mobile Home Park and Marina tenants. A new replacement gate entry for this area is allowed. Development shall incorporate a minimum 12-foot-wide public pedestrian and bicyclist promenade with the width necessary to complete a continuous connection to the existing or planned regional trails and paths, and to the Newport Dunes recreational area. No other uses shall be allowed in this storage/parking/facilities area.

E. Planning Area 5 - Submerged Fee-Owned Lands

This fee-owned submerged land area consists of an existing 220-slip marina and is bordered by the earthen De Anza Bayside Marsh Peninsula. The De Anza Bayside Marsh Peninsula was originally constructed with dredging spoils and rip-rap as fill to provide a protected harbor and overflow parking for the Bayside Marina. No new development shall occur within the De Anza Bayside Marsh Peninsula. A small gravel parking and access road currently exists on the

eastern portion of the peninsula and is used for overflow parking for the marina. The existing gravel parking lot shall not be expanded in area or paved; however, maintenance activities shall be permitted. The marina shall be regulated by Title 17 of the Newport Beach Municipal Code.

III. Permitted Uses

Permitted uses are those uses set forth in this Section for each Planning Area as shown on Table 2, Permitted Uses. The uses identified within the table are not comprehensive but rather major use categories. Specific uses are permitted consistent with the definitions provided in Section VIII of this PCDP. Uses determined to be accessory or ancillary to permitted uses, or uses that support permitted uses are also permitted. The Community Development Director may determine other uses not specifically listed herein are allowed, provided they are consistent with the purpose of this PCDP, Planning Areas, and are compatible with surrounding uses. The initial construction of any new structure, or the significant reconstruction or major addition, shall be subject to Site Development Review pursuant to Section VII of this PCDP.

Table 2 Permitted Uses					
Uses	Planning Areas				
	Planning Area 1	Planning Area 2	Planning Area 3	Planning Area 4	Planning Area 5
Commercial Recreation and Entertainment	CUP	-	-	-	-
Cultural Institution	P	P	-	-	-
Eating and Drinking Establishments					
Bar, Lounge, and Nightclubs	-	-	-	-	-
Fast Food (No Drive Thru)	P*	-	-	-	-
Food Service, No Late Hours	P*	-	-	-	-
Food Service, Late Hours	CUP	-	-	-	-
Take-Out Service, Limited	P	P	-	-	-
Take-Out Service, Only	P	P	-	-	-
Marina	-	-	-	-	MC Title 17
Marina Support Facilities	P	P	-	P	-
Marine Rentals and Sales					
Marine Retail Sales	P	P	-	-	-
Boat Rentals and Sales	MUP	MUP	-	-	-
Marine Services	MUP	MUP	-	-	-
Entertainment and Excursion Vessels	CUP	-	-	-	-
Office	P	P	-	-	-
Personal Services					
General	P	-	-	-	-
Restricted	MUP	-	-	-	-
Residential (Located above 1st floor)	P	-	-	-	-
Visitor-Serving Retail	P*	P*	-	-	-

Utilities					
Wastewater Pump Station	P	P	-	-	-
<p>P=Permitted CUP=Conditional Use Permit MUP=Minor Use Permit *=A Minor Use Permit is required for the sale of alcohol -= Not Permitted</p>					

IV. Development Standards

The following site development standards shall apply:

A. Setback Requirements

Setbacks are the minimum distance from the property line to building or structure, unless otherwise specified.

1. Street Setback

- a) East Coast Highway - 0 feet (provided a minimum 10-foot landscape buffer is provided to the back of sidewalk)
- b) Coast Highway-Bay Bridge - 20 feet to edge of bridge (public access connections, kayak/paddleboard rentals, storage, and launch uses may be permitted within this setback and beneath the bridge, subject to Site Development Review).
- c) Bayside Drive - 5 feet

2. Perimeter Setback

- a) Abutting Non-residential - 0 feet
- b) Abutting Existing Residential - 25 feet, except:
 - i. In Planning Area 1, public restrooms and marina lockers may provide a minimum 5-foot setback.
 - ii. In Planning Area 4, a minimum 5-foot setback may be provided.

3. Bayfront Setback

- a) Bulkhead - 15 feet from constructed bulkhead wall to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.
- b) No Bulkhead
 - i. In Planning Area 1, 15 feet from the Highest High Water contour elevation noted as 7.86' above Mean Lower low Water (0.0') or 7.48'/NAVD 88 to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.

- ii. In Planning Area 2, 15 feet from contour elevation 10 (NAVD 88) to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.

4. Setback Encroachments

a) Fences, Walls, and Hedges

- i. Permitted within the Perimeter Setback Abutting Existing Residential up to a maximum height of 8 feet.
- ii. Within Bayfront Setback, see subsection c. below.
- iii. Permitted in all other setback areas up to a maximum height of 42 inches.

b) Architectural Features

- i. Roof overhangs, brackets, cornices and eaves may encroach 30 inches into a required Perimeter Setback area, provided a minimum vertical clearance above grade of 8 feet is maintained.
- ii. Decorative architectural features (e.g., belt courses, ornamental moldings, pilasters, and similar features) may encroach up to 6 inches into any required Perimeter Setback.

c) Bayfront Setback

- i. Benches, sculptures, light standards, hedges, open guardrails and safety features, and other similar features that enhance the public bayfront promenade may encroach into the bayfront setback, provided a 12-foot-wide clear path is maintained.

- d) Other- Other encroachments may be permitted through the Site Development Review.

B. Permitted Height of Structures

1. Building Height

The maximum allowable building height shall be 35 feet for structures with flat roofs and 40 feet for structures with sloped roofs (minimum 3:12 pitch), except as follows:

a) As illustrated on Exhibit 3, Building Heights, 100 feet from back of curb along Bayside Drive within the eastern portion of Planning Area 1, maximum allowable building height shall not exceed 26 feet for flat roofs and 31 feet for sloped roofs.

~~b) Within Planning Area 1, a single coastal public view tower, or similar structure, that includes public access to a functioning public viewing platform may be developed at a maximum height of 65 feet.~~

~~e)b)~~ Within Planning Area 1, maximum allowable height for any parking structure shall not exceed 30 feet for flat roofs and 35 feet for sloped roofs.

~~e)c)~~ Maximum allowable building height within Planning Area 2 shall not exceed 26 feet for flat roofs and 31 feet for sloped roofs.

~~e)d)~~ Within Planning Area 4, maximum allowable building height shall not exceed 20 feet for flat roofs and 25 feet for sloped roofs.

~~f)e)~~ All other exceptions to height shall be regulated pursuant to Section 20.30.060.D of the Newport Beach Municipal Code.

2. Grade for the Purposes of Measuring Height

a) Within Planning Area 1, height shall be measured from the established baseline elevation of either 11 feet or 14 feet (NAVD 88) as illustrated on Exhibit 3, Building Heights, or as determined by the Sea Level Rise and Shoreline Management Plan.

b) Within Planning Area 2, height shall be measured from the established baseline elevation of 12 feet (NAVD 88)

c) Within Planning Area 4, height shall be measured from the established baseline elevation of 12 feet (NAVD 88)

C. Residential Units

1. Open Space

a) Common Open Space - A minimum of 75 square feet per dwelling shall be provided for common open space (e.g., pool, patio, decking, and barbecue areas, common meeting rooms, etc.). The minimum dimension (length and width) shall be 15 feet. The common open space areas shall be separated from non-residential uses on the site and shall be sited and designed to limit intrusion by non-residents and customers of non-residential uses. However, sharing of

common open space may be allowed, subject to Site Development Review, when it is clear that the open space will provide a direct benefit to project residents. Common open space uses may be provided on rooftops for use only by project residents.

b) Private Open Space - Five percent of the gross floor area for each unit. The minimum dimension (length and width) shall be 6 feet. The private open space shall be designed and located to be used by individual units (e.g., patios, balconies, etc.).

2. **Non-residential Use Required on Ground Floor** - All of the ground floor frontage of a mixed-use structure shall be occupied by retail and other compatible non-residential uses, with the exception of common/shared building entrances for residences on upper floors.
3. **Sound Mitigation** - An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the exterior and interior noise standards. The residential units shall be attenuated in compliance with the report.
4. **Buffering and screening** - Buffering and screening shall be provided in compliance with Municipal Code Section 20.30.020 (Buffering and Screening). Mixed-use projects shall locate loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development to the greatest extent feasible.
5. **Notification to owners and tenants** - A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from boats, planes, commercial activity on the site and vehicles on Coast Highway) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical

suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

6. **Deed notification** - A deed notification shall be recorded with the County Recorder's Office, the form and content of which shall be satisfactory to the City Attorney. The deed notification document shall state that the residential unit is located in a mixed-use development and that an owner may be subject to impacts, including inconvenience and discomfort, from lawful activities occurring in the project or zoning district (e.g., noise, lighting, odors, high pedestrian activity levels, etc.).

D. Parking Requirements

1. General Standards

Parking requirements are shown in the following Table 3, Parking Requirements, per land use. Kiosks for retail sales shall not be included in the calculation of parking.

Table 3 Parking Requirements	
Land Use	Parking Ratio
Boat Rentals and Sales	As established per MUP
Eating and Drinking Establishments	1 space per 30 to 50 SF of Net Public Area*
Take-Out Service, Limited	1 space per 250 square feet
Marina Support Facilities	0.5 spaces per 1,000 SF
Marina Wet Slips	0.6 spaces per slip
Marine Services	
Enclosed Dry Stack Boat Storage	0.33 spaces per slip
Entertainment and Excursion Services	1 per each 3 passengers and crew members or as required by MUP
Other	As established per MUP
Office	1 space per 250 square feet
Medical Office	1 space per 200 square feet
Residential Units (Attached)	2 spaces per unit, plus 0.5 resident guest spaces per unit
Retail Sales	1 space per 250 square feet
Other	Municipal Code
* Including outdoor dining, but excluding first 25% or 1,000 SF of outdoor dining per restaurant, whichever is less.	

2. Parking Management Plan

Off-street parking requirements may be reduced with the approval of a Conditional Use Permit based upon complementary peak hour parking demand of uses within the development. The Planning Commission may grant a joint-use of parking spaces between uses that result in a reduction in the total number of required parking spaces in compliance with the following conditions:

- a) The most remote space is located within a convenient distance to the use it is intended to serve.
- b) The probable long-term occupancy of the structures, based on their design, will not generate additional parking demand.

- c) The applicant has provided sufficient data, including a parking study if required by the Director, to indicate that there is no conflict in peak parking demand for the uses proposing to make joint-use of parking facilities.
- d) The property owners, if more than one, involved in the joint-use of parking facilities shall record a parking agreement approved by the Director and City Attorney. The agreement shall be recorded with the County Recorder, and a copy shall be filed with the Department.
- e) A parking management plan shall be prepared to address potential impacts associated with a reduction in the number of required parking spaces.

- 3. Access, location, and improvements.** Access, location, parking space and lot dimensions, and parking lot improvements shall be in compliance with the Development Standards for Parking Areas Section of the Municipal Code.

E. Landscaping

A detailed landscape and irrigation plan shall be prepared by a licensed landscape architect and submitted with the Site Development Review application. All landscaping shall comply with the applicable landscaping requirements specified in the Municipal Code, including the Landscaping Standards and Water-Efficient Landscaping Sections. In addition, vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources.

F. Seawall/Bulkhead Standards

As shown on Exhibit 4, Seawall/Bulkhead Section, a new bayfront seawall/bulkhead may be constructed along the bayfront to protect existing and future development, subject to the following:

1. Planning Area 1

- a) Any new bulkhead structure shall not extend bayward beyond the Highest High Water contour elevation of 7.86' relative to MLLW (0.0') or 7.48'/NAVD 88 (see also applicable *General Requirements* below) to preserve the shoreline profile.

2. Planning Area 2

- a) Any new bulkhead structure shall not extend bayward beyond the 10' contour elevation (NAVD 88) to preserve the shoreline profile.

3. Planning Area 3

- a) Maintenance, repair, and replacement of the existing bulkhead wall shall be permitted to protect existing development.

a)b) Improvements are permitted to provide the required public access connection across, over or around the private beach and intertidal area and shall take into consideration and be consistent with measures identified in the Sea Level Rise and Shoreline Management Plan to adapt to sea level rise and to ensure the long term protection of public improvements, coastal access and adjacent existing residential areas.

4. Planning Area 4 and 5

- a) No bulkheads shall be permitted.

5. General Requirements

- a) The minimum top of bulkhead elevation shall be 10 feet (NAVD 88) or a higher elevation if the Sea Level Rise and Shoreline Management Plan requires a higher elevation to address sea level rise.
- b) Seawalls, bulkheads, revetments and other such construction that alters the existing shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In addition, such improvements shall only be permitted when found consistent with applicable sections of the Coastal Act and City's Coastal Land Use Plan policies.

- c) Bulkheads shall be designed to provide access points to the shoreline.

G. Diking, Filling, and Dredging Standards

The diking, filling, or dredging of open coastal waters, wetlands and estuaries shall be permitted in accordance with applicable provisions of the Coastal Act and City's Coastal Land Use Plan policies.

H. Public Bayfront Promenade and Trail

~~A continuous, minimum 12-foot-wide bayfront access promenade shall be constructed along the bayfront edge of Planning Areas 1, 2, and 3. This new, public bayfront promenade will link the public docks and marina property south of the Coast Highway-Bay Bridge along the bayfront and to the Newport Dunes recreational 12-foot-wide public bayfront promenade shall be constructed, as illustrated in Exhibit 5, Public Spaces, and 6, Coastal Access and Regional Trail Connections, Public Spaces, along the length of the seawall/bulkhead to the boundary with the Bayside Village Mobile Home Park, and continuing along the project entrance to Bayside Drive. The construction of the promenade shall include a connection across the private beach/submerged fee owned land located within Planning Area 3 necessary to complete a continuous path.~~ The design details of the public bayfront promenade shall be submitted with Site Development Review. The public bayfront promenade shall comply with the following requirements:

1. An easement for public access shall be provided to the City along the entire length of the proposed public bayfront promenade. The easement area shall be maintained in good condition and repaired at no cost to the City.
2. The public bayfront promenade shall be accessible to pedestrians and bicyclists, and shall extend along the waterfront under the Coast Highway-Bay Bridge and shall connect to an existing trail system on the south side of East Coast Highway.
3. The bayfront promenade shall interface with restaurants and outdoor dining areas, ~~the coastal public view tower~~, the enclosed dry stack boat storage, ~~residential public plaza~~, and marine boat service areas to the maximum extent feasible. Amenities such as seating, trash enclosures, lighting, and other pedestrian-oriented improvements shall be provided along its length where appropriate, provided a 12-foot-wide clear path is maintained.
- 3.4. Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway

east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive that originates at the Bayside Drive / East Coast Highway intersection and runs northerly to the terminus of Bayside Drive, as shown on Exhibit 6, Coastal Access and Regional Trail Connections, to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.

4.5. Trails shall be located and designed consistent with Coastal Land Use Plan (CLUP) Policy 3.1.1-1 and the Coastal Act, with appropriate landscaping and screening where necessary to protect the privacy of adjacent new or routing to protect the privacy of existing Bayside Village Mobile Home Park residents or residential uses, consistent with Public Resources Code section 30214 (Coastal Act).

I. Vehicular Circulation

1. Primary vehicular and pedestrian access to the site shall be set back from its current location on Bayside Drive to approximately 200 feet north of the East Coast Highway intersection, as shown on Exhibit 7, Vehicular Circulation, and Exhibit 8, Revised Vehicular Circulation and Parking. This project driveway will service both inbound and outbound movements, improve the existing driveway connection further into the site, and will be relocated approximately 45 feet north of its current location. Any guest parking that is displaced in the adjacent mobile home park complex as a result of this new driveway alignment shall be replaced within the mobile home park complex or within Planning Area 4 on the east side of Bayside Village Mobile Home Park.
2. Intersection improvements at Bayside Drive shall maintain the existing left-turn lane, add a shared left-turn/through lane, and add an exclusive right-turn lane on the southbound approach of the signalized intersection with East Coast Highway. Project access enhancements shall include an exclusive left-turn lane on the northbound approach of the Bayside Drive and project driveway intersection.
3. Primary circulation within the development shall accommodate adequate fire truck turn-around. Emergency vehicle access to and from Bayside Village Mobile Home Park to the site shall be provided consistent with Exhibit 8, Revised Vehicular Circulation and Parking.
4. An optional secondary access may be constructed, subject to the review and approval of the Public Works Department, California Department of Transportation, Orange County Transportation Authority (OCTA), and the Orange County Sanitation District (OCSA) that would add an exclusive right-turn lane along westbound East Coast Highway, as shown on Exhibit 7, Vehicular Circulation. This connection would be located approximately 430

feet west of the Bayside Drive intersection with East Coast Highway, and would allow for inbound right-turn movements only. Outbound movements at this connection point would be prohibited.

J. Lighting

A detailed lighting plan with lighting fixtures and standard designs shall be submitted with the Site Development Review application. The lighting plan shall illustrate how all exterior lighting is designed to reduce unnecessary illumination of adjacent properties, conserve energy, minimize detrimental effects on sensitive environmental areas, and provide minimum standards for safety. At minimum, exterior lighting shall comply with the following:

1. **Protection from glare.**
 - a. **Shielding required.** Exterior lighting shall be shielded and light rays confined within boundaries of the site.
 - b. **Light spill prohibited.** Direct rays or glare shall not create a public nuisance by shining onto public streets, adjacent sites, or beyond the perimeter of the bayfront promenade.
 - c. **Maximum light at property line.** No more than one candlefoot of illumination shall be present at the property line.
 - d. **Maximum light beyond bayfront.** No more than 0.25 candlefoot of illumination shall be present beyond the perimeter of the bayfront promenade.
2. **Photometric study.** A photometric study plan shall be incorporated into the lighting plan to ensure lighting will not negatively impact surrounding land uses and adjacent sensitive coastal resource areas.
3. **Lighting fixtures.** Exterior lights shall consist of a light source, reflector, and shielding devices so that, acting together, the light beam is controlled and not directed across a property line or beyond the bayfront promenade.
4. **Parking lot light standards.** Light standards within parking lots shall be the minimum height required to effectively illuminate the parking area and eliminate spillover of light and glare onto adjoining properties. To accomplish this, a greater number of shorter light standards may be required as opposed to a lesser number of taller standards.
5. ~~**Tower illumination.** Illumination of the public view tower shall consist of soft accent lighting so as not to become a visual disturbance to the nighttime view in the area.~~

K. Signs

A comprehensive sign program with sign materials and lighting details shall be submitted with the Site Development Review application. All signage shall comply with the Sign Standards Section of the Municipal Code, with the following exceptions:

1. Temporary Signs- Temporary signs that are visible from public right-of-ways and identify new construction or remodeling may be displayed for the duration of the construction period beyond the 60-day limit. Signs mounted on construction fences are allowed during construction and may be rigid or fabric.
2. Directional signs oriented to vehicular or pedestrian traffic within internal drives or walkways, such as electronic display signs, kiosk signs, internal banners, and three-dimensional sculptural advertising associated with individual businesses are allowed, or similar, and are not regulated as to size, content, or color; however, signs shall require permits and shall be subject to the review of the City Traffic Engineer to ensure adequate sight distance in accordance with the provisions of the Municipal Code.

L. Utilities

Existing and proposed water and sewer locations are shown on Exhibit 9, Utilities Plan, and existing and proposed storm drain locations are shown on Exhibit 10, Drainage Plan. A Final Utilities Plan shall be submitted with the Site Development Review application. The final alignment and location of utilities shall be reviewed and approved by the Public Works Department. Adequate access for maintenance vehicles shall be provided. A 30-foot-wide accessible easement shall be provided for the relocated water transmission line. Buildings shall maintain a minimum distance of 15 feet from the water line, unless otherwise approved by the Public Works Department.

M. Sustainability

The development shall be designed as a sustainable community which will allow residents, tenants and visitors to enjoy a high quality of life while minimizing their impact on the environment. A Sustainability Plan that addresses topics such as water and energy efficiency, indoor environmental quality and waste reduction shall be submitted with the Site Development Review application.

Sustainable programming shall be used to maximize efficiency by conserving water, minimizing construction impacts, minimizing energy use and reducing construction and post-construction waste. California-friendly landscaping shall

be utilized in public areas and reclaimed water use (if available) on-site or off-site will further reduce water demand. Appropriate best management practices shall be incorporated into landscape design. Energy reduction, recycling, and the smart use of existing resources shall be implemented. The development shall incorporate a walkable community design to promote walking and bicycling, and thus reduce reliance on automotive transport.

The development shall include Low Impact Development (LID) features for storm water quality improvement where none exist today. Potential LID features may include storm water planters, permeable pavement and proprietary bioretention systems. Through the development of a project-specific Water Quality Management Plan (WQMP), the appropriate site design, source control and LID control features shall be implemented to improve water quality in the Bay, including weekly street sweeping of all drive aisles and parking areas.

N. Public Improvements

A public improvements plan shall be submitted with the Site Development Review application specifying the public improvements to be constructed in conjunction with the development of the site and phasing of such improvements. At minimum, the plan shall discuss and illustrate utility improvements, the bayfront promenade, Bayside Drive street and bikeway improvements, and improvements to the OCSD facility.

O. Hazards Assessment

A site-specific hazards assessment shall be submitted with the Site Development Review application addressing the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes. The conditions that shall be considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 years) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Nino event.

P. Sea Level Rise and Shoreline Management

A sea level rise and shoreline management plan shall be prepared for the site and submitted with the Site Development Review application. The plan shall address shoreline areas of the site subject to tidal action, flooding, wave hazards and erosion, and incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat.

V. Design Guidelines

The Back Bay Landing Design Guidelines are intended to express the desired character of the future mixed-use waterfront village. These guidelines set parameters for future design efforts and help achieve overall consistency and quality of architectural design and landscape features at build-out. They also explore the aesthetic quality and functionality of the upper limit of acceptable development intensity, and are structured to allow the City considerable flexibility in review of future project submittals and subsequent approvals. All development within the Planned Community shall be in conformance with these Design Guidelines.

The purpose of the Design Guidelines is:

- To provide the City of Newport Beach, the California Coastal Commission, and future residents and visitors with the necessary assurances that, when completed, the development will be built in accordance with the design character proposed herein;
- To provide guidance to developers, builders, engineers, architects, landscape architects and other professionals in order to maintain the desired design character and appearance of the project, as well as expand upon these concepts in order to maximize the success of the development consistent with market needs, aesthetic satisfaction, and community goals;
- To provide guidance to the City Staff, Planning Commission, City Council members and the California Coastal Commission in the review of future development submissions; and
- To encourage building plans that allow flexibility for innovative and creative design solutions that respond to contemporary market trends.

A. Architectural Theme

The development shall be designed with a Coastal ~~Mediterranean~~ architectural theme. This architectural theme is influenced by the ~~climate-marine climate of the countries it comes from, emulating palettes of the landscape and architecture in the North-Mediterranean-Sea~~ the California coastline, with varied historical vernacular and casually elegant palette, with building forms and massing that define and create unique and often seamless indoor/outdoor spaces. The project will follow principles of quality design, exhibiting a high level of architectural standards and shall be compatible with the surrounding area, sensitive to scale, proportion, and identity with a focus on place-making. Massing offsets, variation of roof lines, varied textures, openings, recesses, and design accents on all

~~building elevations shall be provided to enhance the architectural design and be constructed with quality materials and applications. Thick and textured walls, bull-nose borders, terracotta colors with rustic metal and stone details produce the style that has been adopted worldwide. The style is marked by the use of smooth plaster, low-pitched clay tile, and cast concrete or stone ornaments. Other characteristics typically include small porches or balconies, arcades, wood casement windows and doors, canvas awnings, and decorative iron trim.~~ The intent is not to select a historically specific or rigid architectural style for the project, but to create an active, mixed-use village. ~~help shape the character of the area and reflect its setting within the City.~~

The project should ~~be configured as a village, which~~ accommodates marine-oriented and visitor-serving retail, restaurants, enclosed dry stack boat storage, and residential units residential uses, while integrating the public spaces, bayfront promenade and plaza in a pedestrian-friendly manner. ~~and a coastal public view tower.~~ The “village look” may be expressed through several techniques. Visual interest may be created by multiple one-, two- and three-level buildings, with varied roof heights and planes. Light and shadows may be created through the use of trellises, decks, and canopies. The planes of the buildings should include recesses and vertical elements to create the village feeling. Varied roof heights should communicate the break-up of architectural forms.

The parking structure shall be designed to add to the public and visitor-serving retail experience and be easily accessible. The project’s architectural style, with the recommended use of stone, tile and glass modern or traditional, sustainable materials, should blend in color and form with existing similarly themed facilities within Newport Beach, and provide a high standard of quality for future neighboring development. Sample imagery is provided on Exhibit 11, Architectural Theme.

B. Site Planning

1. As illustrated in Exhibit 12, Conceptual Site ~~and Landscape~~ Plan, the development shall be designed as an integrated, mixed-use waterfront village that encourages public access to and along the bayfront.
2. A public bayfront promenade shall be developed between the Balboa Marina development to the south and the Newport Dunes and the regional trail system to the east. Special features of this public bayfront promenade shall include coastal plazas, vista points and connections with City/County trails and Newport Dunes as shown on Exhibit 5, Public Spaces.
3. Back Bay Landing restaurants, visitor-serving commercial and plaza areas shall be accessible to the community by public and private vehicular transportation, pedestrian and bike paths, and public dock space.

4. Scenic view corridors should be incorporated throughout the project to maintain or enhance existing coastal views from East Coast Highway as shown on Exhibit 13, East Coast Highway View Corridors.
5. Outdoor dining and plaza areas shall be designed to interface with the street and bayfront. Siting of outdoor dining facilities shall minimize potential impacts on occupants of adjacent residential units.
- ~~6. The development shall include a coastal public view tower that serves to identify the entry location and promote the activity of the site. The coastal public view tower shall be public and ADA-accessible and designed to provide expansive coastal view opportunities.~~
- 7.6. The development shall create a strong pedestrian interface with the waterfront, maximizing accessibility and providing visual corridors enhancing the public/visitor experience.
- 8.7. Buildings should be arranged to create opportunities for public gathering spaces, encourage outdoor living and invite patronage. Mixed-use areas should emphasize pedestrian orientation by utilizing features such as plazas, courtyards, interior walkways, trellises, seating, fountains, and other similar elements.
- 9.8. The development shall promote connectivity throughout the village and to adjacent developments and trails systems through the use of shared facilities such as driveways, parking areas, pedestrian plazas and walkways.
- 10.9. Ground level equipment, refuse collection areas, storage tanks, infrastructure equipment and utility vaults should be screened from public right-of-way views with dense landscaping and/or walls of materials and finishes compatible with adjacent buildings.
- 11.10. Site-specific analyses (wind patterns, noise assessments, etc.) and special design features shall be incorporated into the proposed buildings surrounding the OCSD pump station facility to offset potential noise and odor control issues associated with the existing operations of the facility. Indoor air conditioned spaces within the development shall include the installation of odor filters, such as activated carbon filters or similar, to filter indoor air.

C. Building Massing

1. Avoid long, continuous blank walls, by incorporating a variety of materials, design treatments and/or modulating and articulating elevations to promote visual interest and reduce massing.
2. Layering of wall planes and volumes are encouraged to provide rhythm, dynamic building forms, and shadows.

3. Building massing should consist of a mix of heights to add visual interest and enhance views to the bay above or between buildings.
4. Taller buildings should use articulation to create visual interest. Articulation should include vertical and horizontal offsets, use of multiple materials and finishes, and the entry/corner elements.
5. Towers or other vertical/prominent building features should be used to accentuate key elements such as building entries, pedestrian nodes, plazas, and courtyards.
6. To maintain a low profile at the corner of East Coast Highway and Bayside Drive, the development should consist of reduced height commercial retail buildings closest to the intersection and may step up in height further away from the intersection, as shown on Exhibit 3, Building Heights.

D. Facade Treatments

1. Ground floors of commercial buildings should have storefront design with large windows and entries encouraging indoor and outdoor retailing.
2. Architectural elements that create sheltered pedestrian areas are encouraged.
3. The quality of the pedestrian environment should be activated by architecturally vibrant storefronts with features such as planter walls, outdoor seating and dining spaces, enhanced trellises, accent or festive lighting, awnings or canopies, large transparent windows, recessed openings and entry ways.
4. Create a unified and consistent alignment of building facades that define and address the street and waterfront.
5. Horizontal definition between uses, generally between the first and second floor is strongly encouraged.
6. For residential uses, balconies and sill treatments are encouraged on upper stories to articulate the facade.
7. Building facades should respect the public realm edge by controlling and limiting encroachments that could impede pedestrian connectivity and retail exposure. Building designs will be encouraged to support and activate the public realm and plazas, and encourage accessibility.

8. "Back of House Areas" and service corridors shall be avoided along primary street and waterfront elevations.
9. Roof-mounted mechanical equipment shall not be visible in any direction from a public right-of-way, as may be seen from a point 6 feet above ground level, including from the Coast Highway-Bay Bridge curb elevation. In addition, screening of the top of the roof-mounted mechanical equipment may be required if necessary to protect views.
10. Subject to the approval of the OCSD, the existing building exterior of the OCSD facility located adjacent to East Coast Highway and at the property's southwestern boundary shall undergo aesthetic improvements (refacing, reroofing, etc.) to reflect the architectural design standards contained in this PCDP. Should the OCSD facility be relocated and/or reconstructed, the architectural design of the structure shall be compatible with the architectural design of the Back Bay Landing development and design standards contained in this PCDP or architectural design of adjacent developments, as determined appropriate – during the Site Development Review process.

E. Public Views

1. As illustrated on Exhibit 13, East Coast Highway View Corridors, buildings should be oriented to maximize view opportunities while minimizing the visual impact of the building on existing view sheds.
2. Buildings proposed adjacent to the Coast Highway-Bay Bridge shall preserve coastal views that are afforded due to the differential in height between the elevation of the bridge and the elevation of the site. ~~Buildings located within View Corridors 5, 6, and 7, as shown in Exhibit 13, East Coast Highway View Corridors, shall maintain a low profile against East Coast Highway, allowing coastal views over the development.~~ The public coastal views shall be consistent with Section 4.4.1-8 of the Newport Beach Coastal Land Use Plan policies.
3. A pedestrian view corridor shall be designed at the southeast corner of Bayside Drive and East Coast Highway, shown as View Corridor 2 on Exhibit 13, East Coast Highway View Corridors, allowing northbound pedestrians and motorists to see into the project and the coastal view beyond.
4. The enclosed dry stack boat storage building shall be designed with multiple heights to create a distinct view corridor from East Coast Highway to the Bay, illustrated ~~as View Corridor 4~~ on Exhibit 13, East Coast Highway View Corridors. This corridor shall be visible to north and south bound pedestrians, bicyclists and motorists.

5. The development shall be designed to frame existing bay views and should create new bay views where they are currently blocked by fencing and outdoor vehicle/boat storage.

~~6. The coastal public view tower shall be publicly accessible and designed to provide panoramic coastal views and include interpretive elements.~~

F. Parking and Parking Structure

1. Parking areas and structures shall promote efficient circulation for vehicles and pedestrians.
2. Convenient, well-marked and attractive pedestrian access shall be provided from parking areas and structures to buildings.
3. Parking facilities should be physically separated for non-residential uses and residential uses, except for residential guest parking. If enclosed parking is provided for an entire mixed-use complex, separate areas/levels shall be provided for non-residential and residential uses with separate building entrances, whenever possible.
4. A semi-subterranean level should be incorporated, if feasible, to minimize height and bulk of parking structure.
5. Parking structures shall be screened from the public right-of-way to the maximum extent feasible. Portions of the structure that cannot be screened shall incorporate decorative screening, landscape walls, artistic murals, or application of stylized facades.
6. Commercial retail and residential uses should wrap and mask the parking structure.
7. The parking structure shall complement the design vocabulary of the attached or adjacent buildings, and incorporate form, materials, color, and details from the attached or adjacent buildings.
8. Adequate parking that is located within a convenient distance from the use it is intended to serve shall be provided for all uses proposed on-site, as well as marina users, displaced Bayside Village Mobile Home Park guest parking, and for public access. General parking locations are shown on Exhibit 14, Parking Plan.
9. The upper level of the parking structure shall be designed to eliminate vehicle headlight and rooftop lighting spill-over.

10. To encourage alternative means of transportation, the parking structure shall incorporate bicycle parking storage accommodations, and electric vehicle charging stations.

G. Public Spaces

The development shall provide extensive outdoor public spaces, as shown on Exhibit 5, Public Spaces, and described below.

1. An elevated coastal public view ~~tower plaza that includes public access to a functioning public viewing platform at the top~~ is strongly encouraged. This elevated ~~platform plaza~~ can provide exceptional public coastal view opportunities of Newport Harbor and Upper Newport Bay. ~~In the evening business hours, it may be lit from within and may have exterior up-lighting.~~
2. A pedestrian and automobile plaza should be incorporated into the design that seamlessly and safely blends pedestrian, bicycle and vehicular movement. This plaza may provide an opportunity for valet parking, provided a valet operation plan is reviewed and approved by the City. Bollards and potted plants should define the plaza edge in a park-like setting and should visually connect the east and west ends of the mixed-use project area as the center point of the project, while still allowing unhindered pedestrian movement to the retail areas and public bayfront promenade.
3. Restaurants shall be designed to be accessible from the public bayfront promenade and should provide both indoor and outdoor dining areas with scenic coastal views of the bay ~~and coastal public view tower.~~
4. Vendor carts selling specialty items are encouraged in the outside plazas and along retail walkways to enhance the shopping or dining experience by activating the plaza areas. However, vendor carts shall not be permitted within the 12-foot-wide public bayfront promenade.
5. Passive recreation opportunities and waterfront viewing shall be provided along the public bayfront promenade.
6. A public launching area and parking for kayak and paddleboard users shall be incorporated into the development.
7. New marina boat-slip tenant lockers shall be provided near the entry to the Bayside Village Marina.
8. Public restrooms for visitors to the site shall be provided along the public bayfront promenade.

H. Landscaping

1. The landscaping should reflect the project's coastal marine location and provide visual ties to the coastal bluffs, sand beaches, tidelands and wetlands, tide pools, local marinas and sea life.
2. Creativity in combining plant materials to emulate natural features is encouraged. Some examples of possible design strategies are using swaying grasses to emulate water movement, using water fountains to emulate the sound and rhythm of waves, and emulating sea colors in plant selection.
3. The use of water fountains, waterfalls, water sculptures, or water features are encouraged.
4. Marine murals and other forms of public art are encouraged throughout the project.
5. Landscaping should include tree plantings around buildings to enhance architectural character and provide shade in the summer and sun in the winter.
6. California-friendly plant species with low watering requirements and characteristics that are compatible with the climate, soils, and setting should compose the majority of the plant palate.
7. The irrigation system shall be designed, constructed, managed, and maintained to achieve a high level of water efficiency.
8. Landscaping in the view corridors should not block these views but rather frame and enhance them.
9. Green walls, water features and selective placement of potted plants and trees can improve and soften the appearance of the buildings while preserving and enhancing desired views.

I. Hardscaping

1. An enhanced permeable paving should be used at the project entry to create rich texture and color while also helping to mitigate urban runoff.
2. Pedestrian spaces should be developed with specialty paving to provide interest and definition and compliment architectural and landscape features.
3. Selection of hardscape material should reflect the coastal marine theme of the project, for example: sand stone, sea glass, pebbles, drift wood, ocean/beach inspired colors or textures, etc.
4. Private streets, driveways, and drive aisles should be multi-purpose and accommodate pedestrian, bike, emergency vehicles, and slow automobile

movements. Generous use of planters, large pots and bollards are encouraged with raised curbs only where necessary.

J. Signs

1. The preferred approach to signing is through creating a strong architectural statement that announces development, rather than large distracting signs.
2. Monument signs identifying the development may be permitted at the primary entrance off Bayside Drive and possibly the optional secondary entrance off East Coast Highway, if approved.
3. Signage should be appropriately scaled to the building or surface onto which it is placed, should not obscure important architectural features, and should be readable by both pedestrians and drivers approaching the site.
4. Signage shall be integrated with the design and scale of the architecture.
5. A coordinated approach to signage throughout the development is particularly important due to the multiple storefronts that are envisioned. Signs of similar size, proportion, and materials should be used on each store.

VI. Phasing

The Back Bay Landing mixed-use development is anticipated to be developed as one phase during an 18- to 24-month construction period. The integrated mixed-use and parking structure combined with the relatively small site necessitates construction in a single phase. The Back Bay Landing development will necessitate the construction of a seawall/bulkhead, but does not include reconstruction of the existing Bayside Village Marina.

The general sequence of construction is provided below although certain activities will overlap thereby reducing the total duration of the project.

- Demolition – 1 month
- Excavation and De-watering – 2 months
- Infrastructure / Foundations – 6 months
- Vertical Construction – 15 months
- Final Landscaping – 3 months
- Bayside Drive Roadway Improvements and Trail – 4 months
- Reconfiguration of ~~Bayside Village Mobile Home Park~~ Lot Line Adjustment Area – 6 months

VII. Back Bay Landing PCDP Implementation/ Site Development Review

A. Purpose and Intent

The purpose of the Site Development Review process is to ensure the development of the Back Bay Landing PCDP (PC-9) is consistent with the goals and policies of the General Plan, provisions of this PCDP, and the findings set forth below in Section VII.C. It is the intent of the Site Development Review process that all aspects of the design of the project will be reviewed and approved at one time. Conceptual architectural theme, site plan, landscape plan and other conceptual Exhibits attached to this PCDP are preliminary and may be modified through the Site Development Review process.

B. Application

1. Approval of the Site Development Review application by the Planning Commission shall be required prior to the issuance of a grading or building permit for the construction of any new structure at the project. The Planning Commission's decision is final, unless appealed in accordance with the Newport Beach Municipal Code.
2. The following items are exempt from the Site Development Review Process and are subject to the City's applicable permits:
 - a) Tenant (interior) improvements to any existing buildings, kiosks, and temporary structures.
 - b) Repair and maintenance activities.
 - c) Replacement of existing structures found in substantial conformance with previously approved plans and/or permits.

C. Findings

In addition to the general purposes set forth in Section VII.A and in order to carry out the purposes of the Back Bay Landing PCDP, the following findings must be made to approve or conditionally approve a Site Development Review application:

1. The development shall be in compliance with the General Plan, Coastal Land Use Plan, Back Bay Landing Planned Community Development Plan, including design guidelines, and any other applicable plan or criteria related to the development;

2. The development shall not be incompatible with the character of the neighboring uses and surrounding sites;
3. The development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways, properties, and waterfront, with special consideration given to providing a variety of building heights, massing, and architectural treatments to provide public views through the site;
4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development; and
5. The development shall not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.

D. Submittal Contents

The Site Development Review application shall include all of the information and materials specified by the Community Development Director and any additional information requested by the Planning Commission in order to conduct a thorough review of the application. The following plans/exhibits may include, but are not limited to the following: ~~Existing conditions including adjacent structures and proposed improvements.~~

1. Existing conditions including adjacent structures and proposed improvements.

~~4.2.~~ Comprehensive site and grading plan.

- ~~2.3.~~ Comprehensive elevation drawings, material boards and floor plans for new structures with coordinated and complementary architecture, design, materials and colors. The elevation drawings shall indicate the colors and materials that will be used on the exterior surfaces of the buildings, walls, fences and other visible structures.
- ~~3.4.~~ Permitted and proposed floor area, and residential units.
- ~~4.5.~~ A parking and circulation plan showing pedestrian paths, streets and fire lanes.
- ~~5.6.~~ Landscaping, lighting, signage, utilities, sustainability, and public improvements plans as required by Section IV.
- ~~6.7.~~ Parking management plan (if applicable).
- ~~7.8.~~ Hazards Assessment, and Sea Level Rise and Shoreline Management Plan as required by Section IV.
- ~~8.9.~~ A comprehensive, cohesive and coordinated preliminary landscape plan, illustrating general location of all plant materials, by common and botanical names (with pictures), size of plant materials, and irrigation concept.
- ~~9.10.~~ A comprehensive, cohesive and coordinated lighting plan of exterior and parking structure lighting, including locations, fixture height, fixture product type and technical specifications.
- ~~10.11.~~ Comprehensive text and graphics describing the design philosophy for the architecture, landscape architecture, material and textures, color palette, lighting, and signage.
- ~~11.12.~~ Location and text describing drainage and water quality mitigation measures.
- ~~12.13.~~ Open Space Plans (indoor and/or outdoor) for residential units.
- ~~13.14.~~ A statement that the proposed new structure is consistent with the goals, policies, and actions of the General Plan and Planned Community Development Plan.
- ~~14.15.~~ Any additional background and supporting information, studies, or materials that the Community Development Director deems necessary for a clear representation of the project.

E. Public Hearing

A Planning Commission public hearing shall be held on all Site Development Review applications. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with the Municipal Code Chapter 20.62 (Public Hearings).

F. Expiration and Revocation of Site Development Review Approvals

1. Expiration. Any Site Development Review approved in accordance with the terms of this Planned Community Development Plan shall expire within twenty-four (24) months from the effective date of final approval as specified in the Time Limits and Extensions Section of the Newport Beach Municipal Code, unless at the time of approval the Planning Commission has specified a different period of time or an extension is otherwise granted.
2. Violation of Terms. Any Site Development Review approved in accordance with the terms of this Planned Community Development Plan may be modified or revoked if any of the conditions or terms of such Site Development Review are violated or if any law or ordinance is violated in connection therewith.
3. Public Hearing. The Planning Commission shall hold a public hearing on any proposed modification or revocation after giving written notice to the permittee at least ten (10) days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within sixty (60) days after receipt of the recommendation of the Planning Commission.

G. Parcel or Tract Maps

No parcel or tract map shall be recorded prior to the approval of the Site Development Review for the entire project. Covenant, Conditions and Restrictions shall be required in connection with any subdivisions at the project so that the responsibility for performance of, and payment for, maintenance are clear. Such CC&R's shall be subject to the approval of the City Attorney.

H. Fees

The applicant shall pay a fee as established by Resolution of the Newport Beach City Council to the City with each application for Site Development Review under this planned community development plan.

I. Minor Changes by the Director

1. The following minor changes to an approved site plan may be approved by the Director in compliance with Section 20.54.070 (Changes to an approved project) of the Newport Beach Municipal Code:
 - a) Minor relocation of any proposed structure.
 - b) Reconfiguration of the parking lot, including drive aisles and/or parking spaces, subject to review and approval of the City Traffic Engineer.
 - c) Reconfiguration of landscaping.
 - d) Any other minor change to the site plan provided it does not increase any structure area, height, number of units, and/or intensity of uses.
2. Any proposed changes that are not deemed minor shall be subject to review and approval by the Planning Commission.

VIII. Definitions

All words, phrases, and terms used in this Back Bay Landing PCDP (PC-9) shall have the same meaning and definition as provided in the City of Newport Beach Zoning Code unless defined differently in this section.

Architectural Features: A visually prominent or formally significant element of a building which expresses its architectural language and style in a complementary fashion. Architectural features should be logical extensions of the massing, details, materials, and color of the building which complement and celebrate its overall aesthetic character.

Backfill: Material used to fill or refill an excavated or natural slope area.

Building Elevation: The drawing of the exterior wall surface formed by one (1) side of the building.

Bulkhead: A retaining wall/structural wall constructed along shorelines for the purpose of controlling beach erosion, supporting buildings and protecting areas of human habitation, conservation and leisure activities. Also referred to as a seawall. The depth of the bulkhead will be determined by a licensed structural engineer.

Carts and Kiosks: Carts and kiosks are small, freestanding structures used for retail sales and services. Generally mobile in terms of ease or relocation, the structures can be seasonal, temporary or for a more permanent use.

Commercial Recreation and Entertainment: Establishments providing participant or spectator recreation or entertainment, either indoors or outdoors,

for a fee or admission charge. Commercial recreation and entertainment uses shall not include arcades or electronic games centers, billiard parlors, cinemas, and theaters, except as accessory to a permitted use.

Cultural Institution: A public or private institution that displays or preserves objects of community or cultural interest in one or more of the arts or sciences. Illustrative examples of these uses include libraries and museums.

Eating and Drinking Establishments:

Bar, Lounge, and Nightclub. An establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premise license from the California State Department of Alcoholic Beverage Control (ABC) (i.e., ABC License Type 42 [On Sale Beer & Wine-Public Premises], ABC License Type 48 [On Sale General-Public Premises], and ABC License Type 61 [On Sale Beer-Public Premises]). Persons under 21 years of age are not allowed to enter and remain on the premises. The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee.

Fast Food. An establishment whose design or principal method of operation typically includes the following characteristics:

1. A permanent menu board is provided from which to select and order food;
2. A chain or franchise restaurant;
3. Customers pay for food before consuming it;
4. A self-service condiment bar and/or drink service is/are provided;
5. Trash receptacles are provided for self-service bussing; and
6. Furnishing plan indicates stationary seating arrangements.

A fast food establishment may or may not have late hour operations. Alcoholic beverages are not sold, served, or given away on the premises. If alcoholic beverages are sold, served, or given away on the premises, the use shall be considered a food service use. See "Food Service." Drive thru service shall not be allowed.

Food Service, No Late Hours. An establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and typically has the following characteristics:

1. Establishment does not have late hour operations;

2. Customers order food and beverages from individual menus;
3. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and
4. Customers pay for food and beverages after service and/or consumption.

Food Service, Late Hours. An establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and typically has the following characteristics:

1. Establishment does have late hours;
2. Customers order food and beverages from individual menus;
3. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and
4. Customers pay for food and beverages after service and/or consumption.

Late Hour Operations. Facilities that provide service after 11:00 p.m.

Outdoor Dining, Accessory. An outdoor dining area contiguous and accessory to a food service establishment.

Take-Out Service, Limited. An establishment that sells food or beverages and typically has the following characteristics:

1. Sales are primarily for off-site consumption;
2. Customers order and pay for food at either a counter or service window;
3. Incidental seating up to 6 seats may be provided for on-site consumption of food or beverages; and
4. Alcoholic beverages are not sold, served, or given away on the premises.

Typical uses include bakeries, candy, coffee, nut and confectionery stores, ice cream and frozen dessert stores, small delicatessens, and similar establishments.

Take-Out Service Only. An establishment that offers a limited variety of food or beverages and has all of the following characteristics:

1. Sales are for off-site consumption;
2. Seating is not provided for on-site consumption of food or beverages; and
3. Alcoholic beverages are not sold, served, or given away on the premises.

Green Building: The practice of increasing the efficiency of buildings and their use of energy, water, and materials, and reducing building impacts on human health and the environment through better siting, design, construction, operation, maintenance, and removal.

High Tide: The tide at its fullest, when the water reaches its highest level.

Marina: A commercial berthing facility (other than moorings or anchorage) in which five or more vessels are continuously wet-stored (in water) for more than 30 days. Marinas are regulated by Title 17. See Marina Support Facilities.

Marina Support Facilities: An on-shore facility (e.g., administrative offices, bathrooms, laundry facilities, storage lockers, picnic areas, snack bar, etc.) that directly supports a marina.

Marine Rentals and Sales: Establishments engaged in renting, selling or providing supplies and equipment for commercial fishing, pleasure boating, or related activities.

Boat Rentals and Sales. An establishment that rents or sells vessels, including storage and incidental maintenance. See “Vessel.” Does not include “Marine Services.”

Marine Retail Sales. An establishment that provides supplies and equipment for commercial fishing, pleasure boating, or related activities. Examples of goods sold include navigational instruments, marine hardware and paints, nautical publications, nautical clothing (e.g., foul-weather gear), and marine engines. Does not include uses in which fuel for boats and ships is the primary good sold (see “Marine Services.”).

Marine Services:

Boat Storage. Storage of operative or inoperative boats or ships on land or racks for more than 30 days. Unenclosed boat storage on racks are not permitted.

Boat Yard. Construction, maintenance, or repair of boats or ships, including the sale, installation, and servicing of related equipment and parts.

Entertainment and Excursion Vessels. A vessel engaged in carrying passengers for hire for the purposes of entertainment or excursions (e.g., fishing, whale watching, diving, educational activities, harbor and coastal tours, dining/drinking, business or social special events and entertainment, etc.). See "Vessel."

Marine Service Station. A retail establishment that sells gasoline, diesel, and alternative fuels, lubricants, parts, and accessories for vessels and other convenience items. No fuel docks shall be allowed. See "Vessel."

Water Transportation Service. An establishment that provides vessels to carry passengers for hire who are traveling to destinations within and outside of Newport Harbor. See "Vessel."

Highest High Water (HHW) Line: The average of all the highest high tides occurring over a certain period of time, usually 18.6 years (one lunar epoch). Based on the 2004 Tide Planes & Tidal Datum Relationships for City of Newport Beach, HHW elevation is 7.86' relative to Mean Lower Low Water (0.00').

Mean Lower Low Water (MLLW) Line: The average of the lower low tides occurring over a certain period of time, usually 18.6 years (one lunar epoch). Based on the 2004 Tide Planes & Tidal Datum Relationships for City of Newport Beach, Mean Lower Low Water is elevation 0.00'.

Multi-Family Residential Flat: A condominium on a single level.

North American Vertical Datum of 1988 (NAVD 88): The vertical control datum of orthometric height established for vertical control surveying in the United States.

Parking Structure: Structures containing more than one story principally dedicated to parking. Parking structures may contain accessory, ancillary, and resident support uses such as solar panels and trellis structures.

Perimeter Setback: An established distance between a building/structure and the perimeter of the project site other than along East Coast Highway, Coast Highway-Bay Bridge, Bayside Drive, and the bayfront.

Personal Services (Land Use):

General. Establishments that provide recurrently needed services of a personal nature. Illustrative examples of these uses include:

- Barber and beauty shops
- Clothing rental shops
- Dry cleaning pick up stores with limited equipment
- Locksmiths
- Shoe repair shops
- Tailors and seamstresses
- Laundromats

These uses may also include accessory retail sales of products related to the services provided.

Restricted. Personal service establishments that may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize adverse impacts, including:

- Day spas
- Healing arts (acupuncture, aromatherapy, etc.) with no services qualifying under “Massage Establishments”
- Tanning salons
- Tattoo services and body piercing studios

These uses may also include accessory retail sales of products related to the services provided.

Public Bayfront Promenade: A pedestrian walkway that extends along the waterfront length of the Back Bay Landing project.

Seawall: See previous definition of “bulkhead” above.

Setback: Shall mean the space between an object, such as the face of a building or fence, and the perimeter property line.

Sign: Any media, including their structure and component parts which are used or intended to be used outdoor to communicate information to the public.

Temporary Sign: Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, plywood, light fabric, cardboard, wallboard or other

light materials, with or without frames, intended to be displayed for a limited period of time.

Vehicle Entry: Any intersection points along the public right-of-way that provide access for automobiles.

Vessel: Every type of watercraft that is used or capable of being used as a means of transportation on water. This includes all vessels of any size homeported, launched/retrieved, or visiting in Newport Harbor, arriving by water or land, and registered or unregistered under State or Federal requirements, except a seaplane on the water.

Visitor-Serving Retail: Retail establishments engaged in selling goods or merchandise to tourists and visitors. Examples of these establishments and lines of merchandise include:

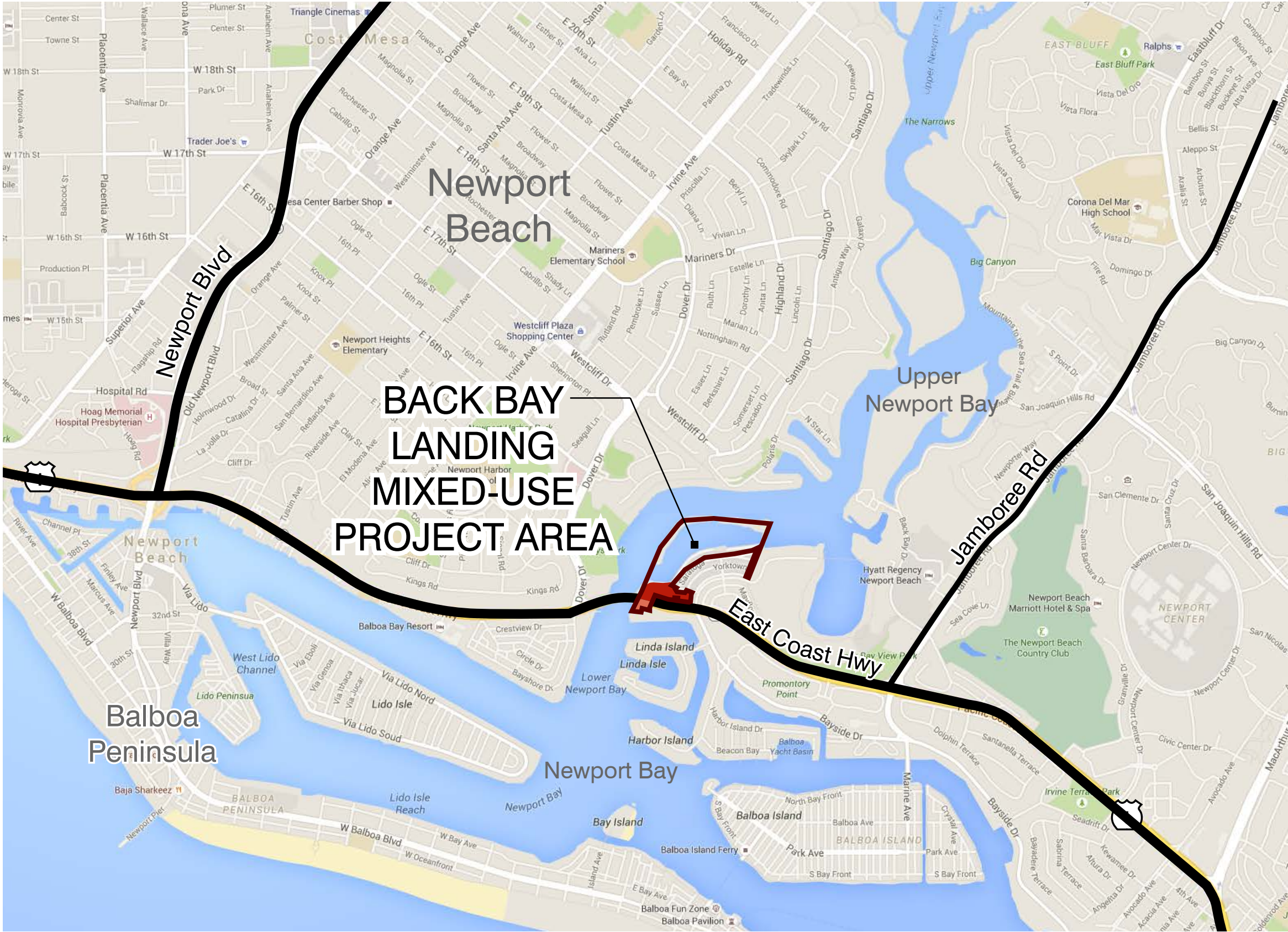
- Antiques
- Appliances
- Art galleries
- Artists' supplies
- Bakeries (retail only)
- Bicycle sales and rentals
- Books
- Cameras and photographic supplies
- Clothing and accessories
- Convenience market
- Drug and discount stores
- Gift shops
- Handcrafted items
- Hobby materials
- Jewelry
- Luggage and leather goods
- Newsstands
- Pharmacies
- Specialty food and beverage
- Specialty shops
- Sporting goods and equipment
- Tobacco
- Toys and games
- Travel services

Appendix

Back Bay Landing Exhibits

EXHIBIT 1 LOCATION MAP

Back Bay Landing is located immediately north 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.



**BACK BAY
LANDING
MIXED-USE
PROJECT AREA**

LEGEND

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

LOCATION MAP

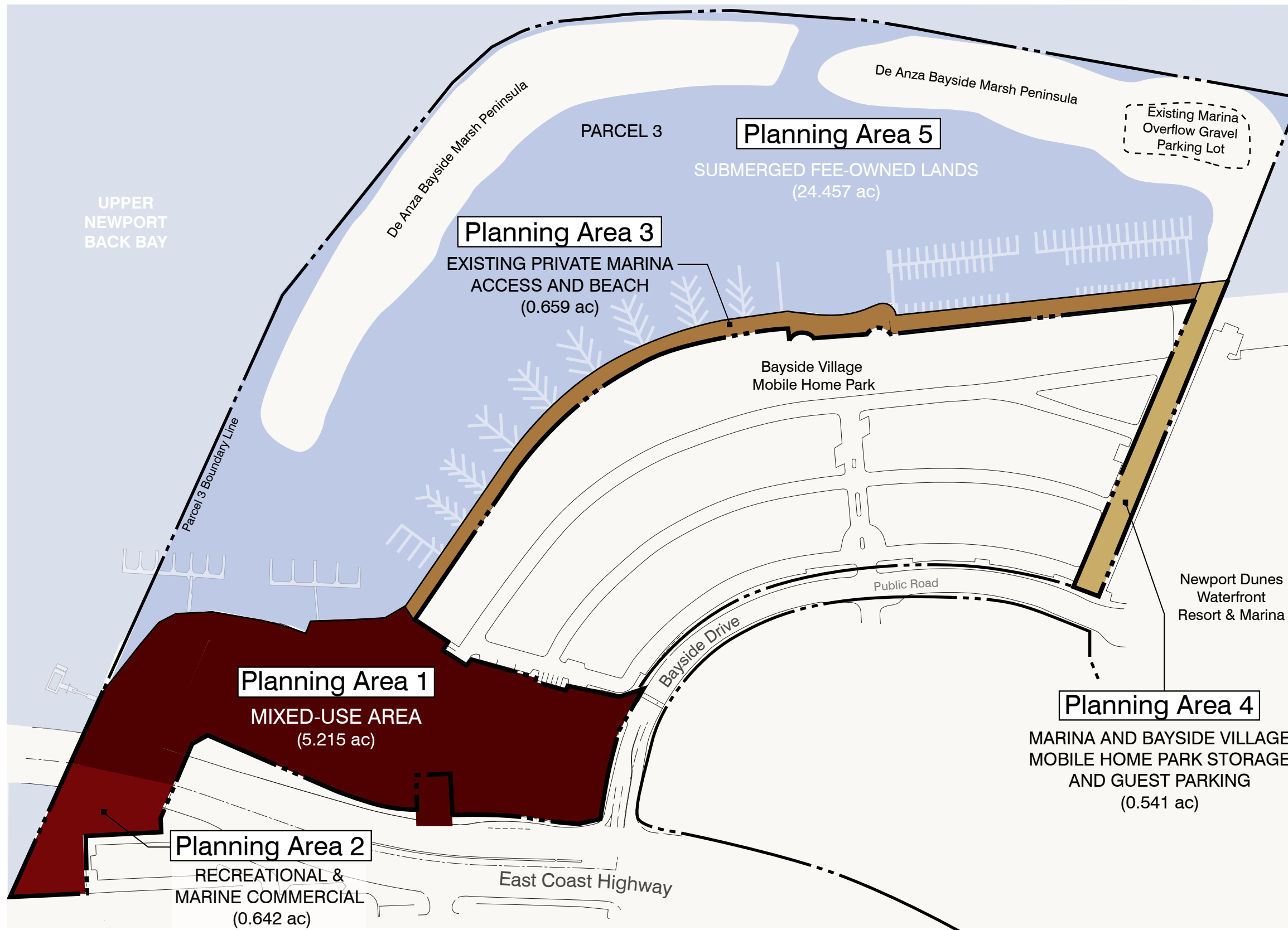


02.02.2016
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BACK BAY LANDING NEWPORT BEACH, CA

EXHIBIT 2 PLANNING AREAS

This Planned Community includes five distinct planning areas.



Parcel 3 Summary		
P.A.	Description	Acres
1	Mixed-Use Area (North of CH center line)	5.215 ac
2	Recreational & Marine Commercial (South of CH center line)	0.642 ac
3	Existing Private Marina Access and Beach	0.659 ac
4	Marina and Bayside Village Mobile Home Park Storage and Guest Parking	0.541 ac
5	Submerged Fee-Owned Lands (Area includes De Anza Bayside Marsh Peninsula)	24.457 ac
Parcel 3 Total Area		31.514 ac

PLANNING AREAS



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BACK BAY LANDING
NEWPORT BEACH, CA

EXHIBIT 3 BUILDING HEIGHTS

DESIGN GUIDELINES

East Coast Highway is approximately 22 feet above the Back Bay Landing development site limiting the development's impact on views from East Coast Highway.

There are three finished grade baseline elevations indicated on the exhibit from which the building heights are measured: 11 and 14 feet, or as determined by Sea Level Rise and the Shoreline Management Plan.

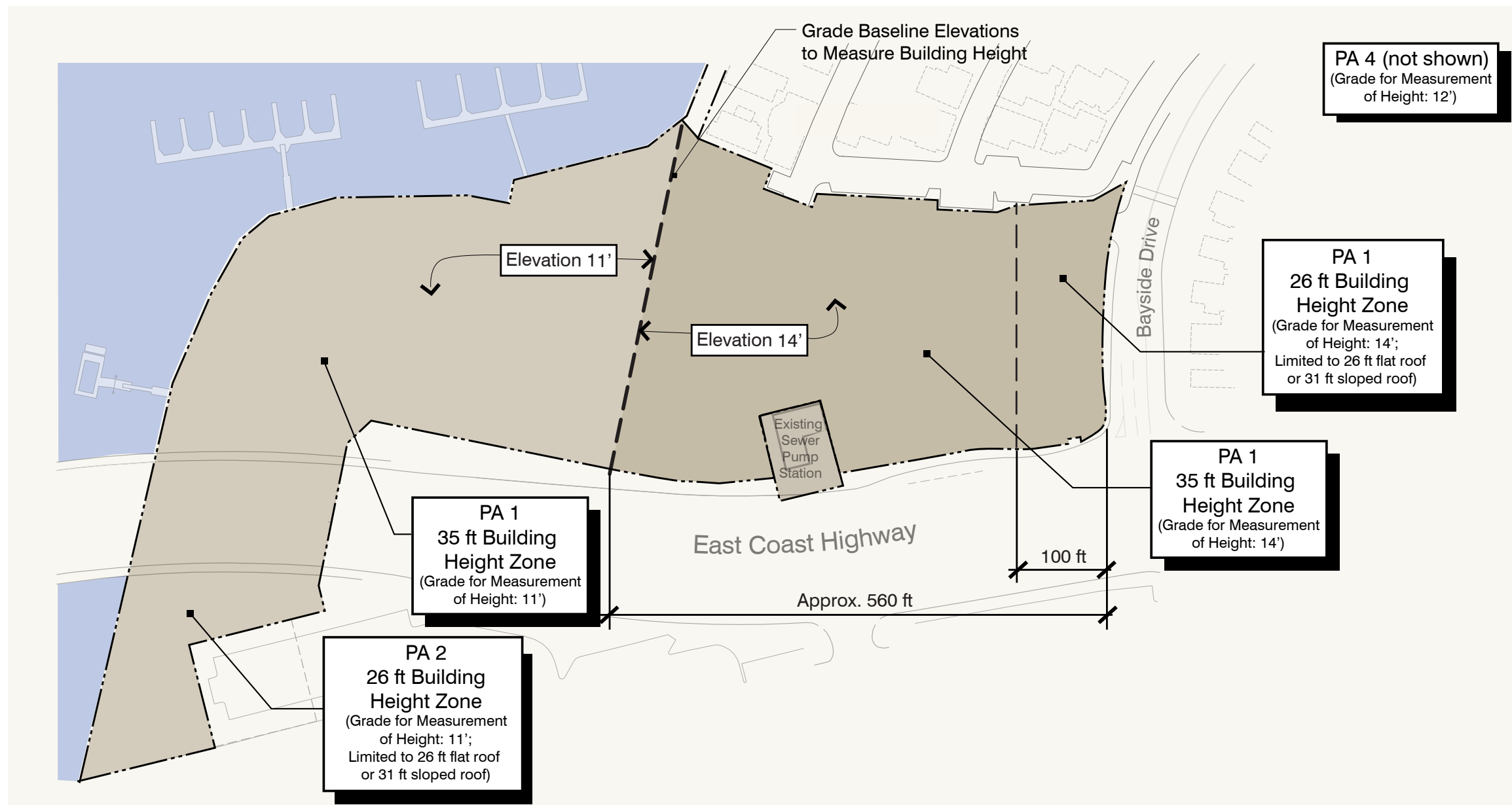
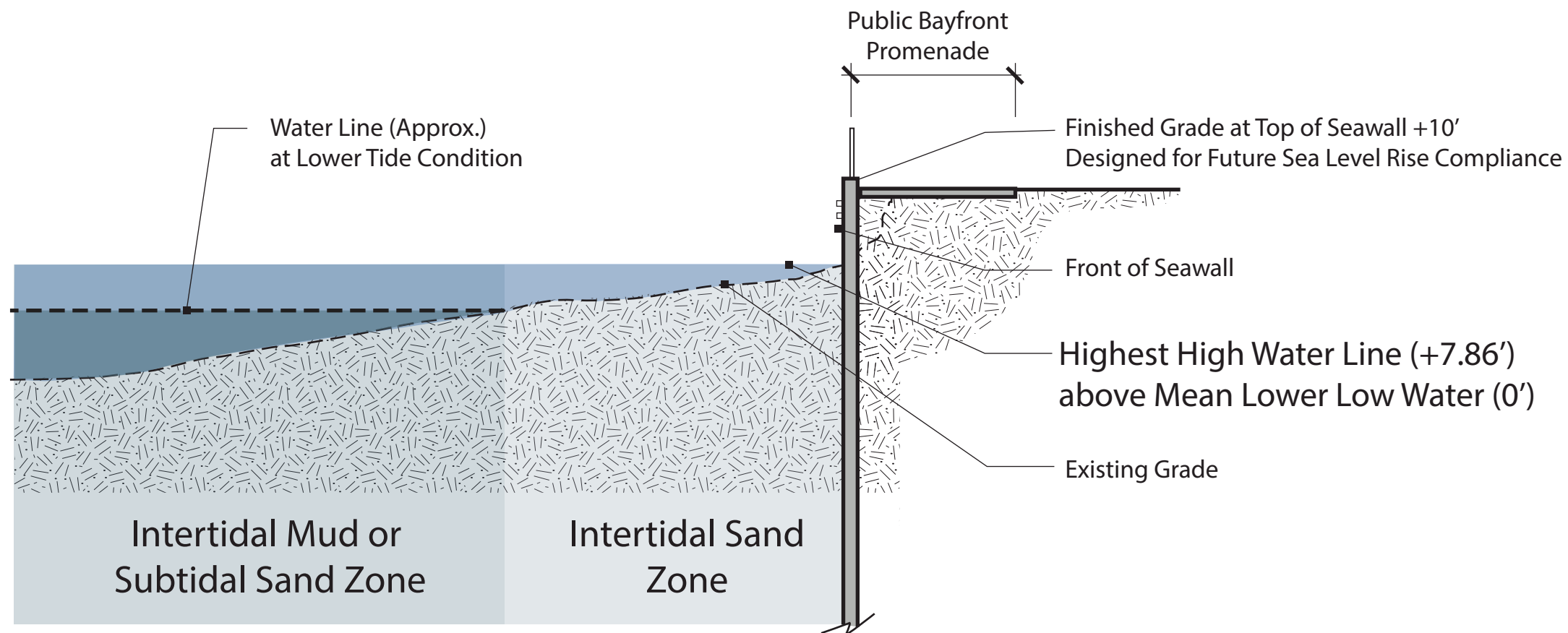


EXHIBIT 4 SEAWALL/BULKHEAD SECTION

BULKHEAD

The project bulkhead may be built to the Highest High Water elevation of 7.86' relative to Mean Lower Low Water (0.0') or 7.48'/NAVD 88 to preserve the natural profile along the shoreline adjacent to the County Tideland, subject to consistency findings in the Coastal Act and City of Newport Beach Coastal Land Use Policies.



SEAWALL/BULKHEAD SECTION



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NEWPORT BEACH, CA

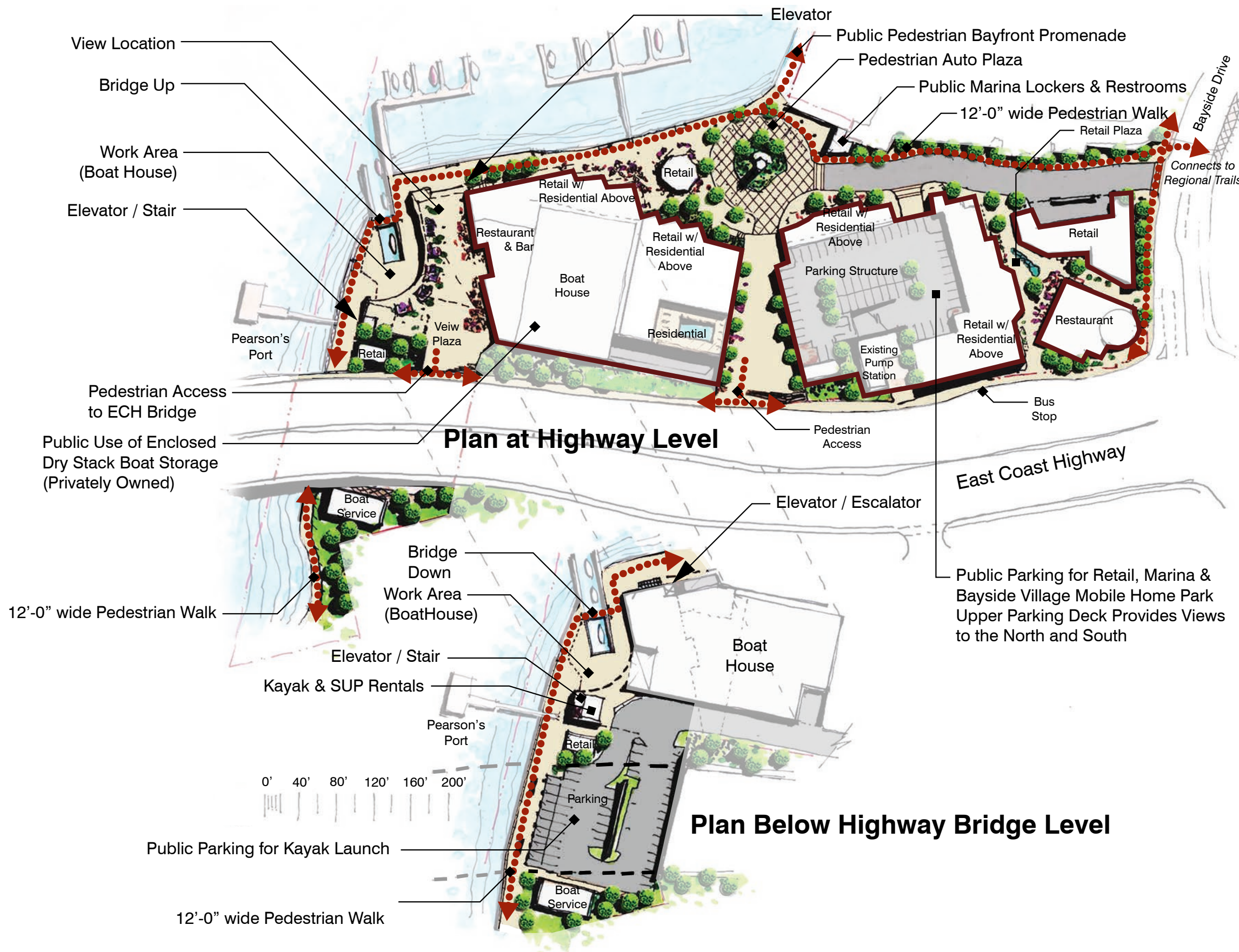
EXHIBIT 5 PUBLIC SPACES

DESIGN GUIDELINES

Back Bay Landing contains extensive outdoor public space, including:

- A linear continuous Public Bayfront Promenade along the bay and connecting to regional trails.
- Class 1, 2, and 3 off-street bikeway and pedestrian trails connecting to East Coast Highway along Bayside Drive.
- A large retail plaza with enhanced paving street furniture, water features and shade trees.
- A Bayside Plaza with enhanced paving, seating and shade trees.
- A kayak and SUP rental and launch area with storage lockers and water access.
- Public Restrooms accessed from the Public Bayfront Promenade.

Additional public spaces are provided within retail, restaurant and the enclosed dry stack boat storage buildings.



PUBLIC SPACES



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BACK BAY LANDING
NEWPORT BEACH, CA

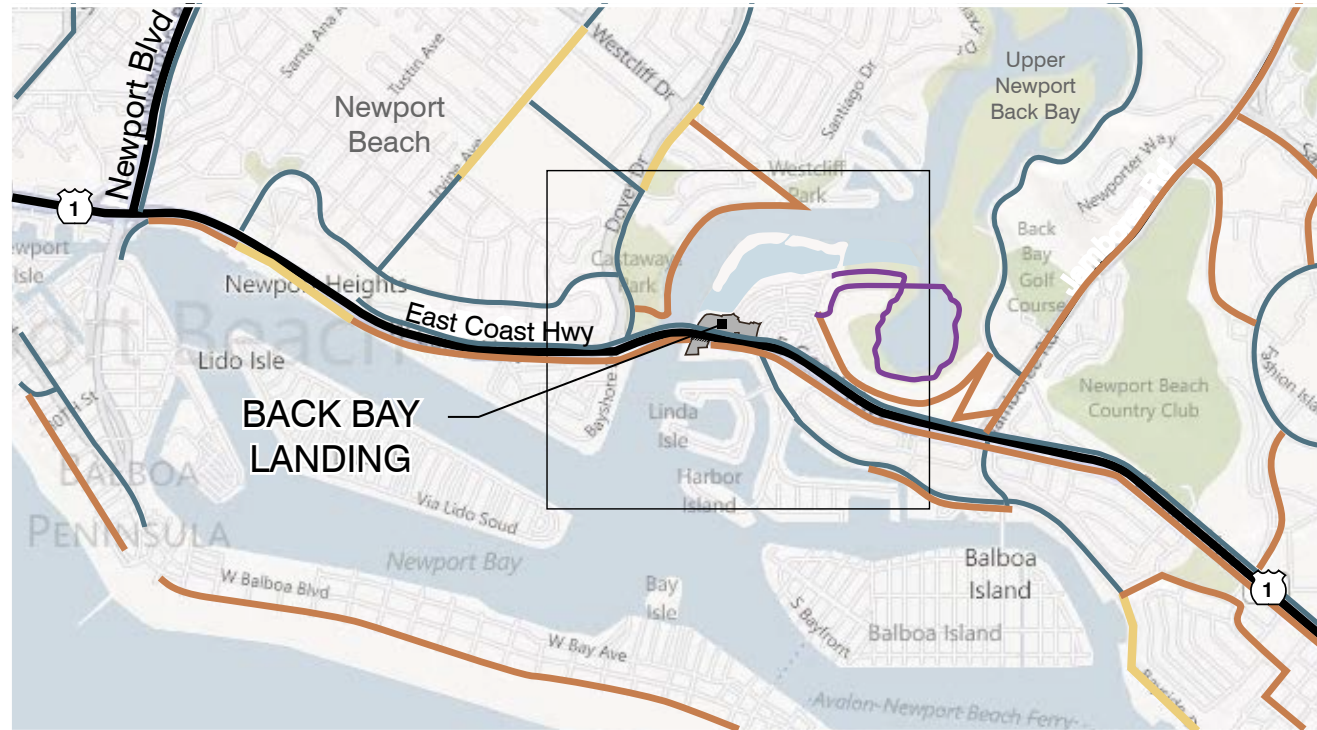
EXHIBIT 6 COASTAL ACCESS & REGIONAL TRAIL CONNECTIONS

Back Bay Landing provides coastal access and a critical link between existing regional trails.

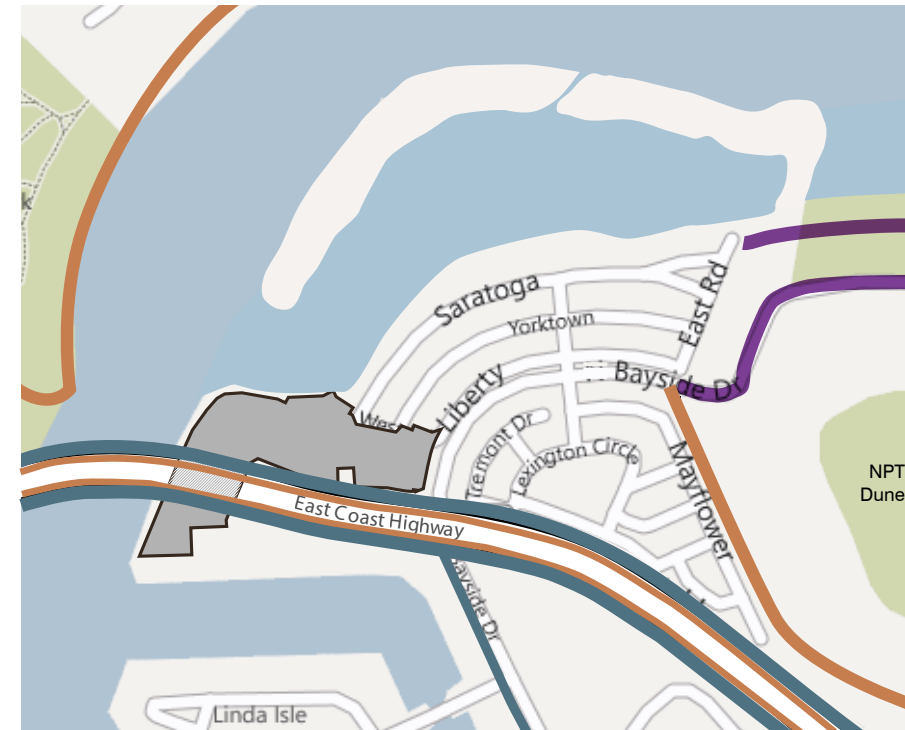
1. Regional Trail Connections
2. Proposed Coastal Access
3. Current Lack of Trail Connection
4. Critical Trail Connections

LEGEND

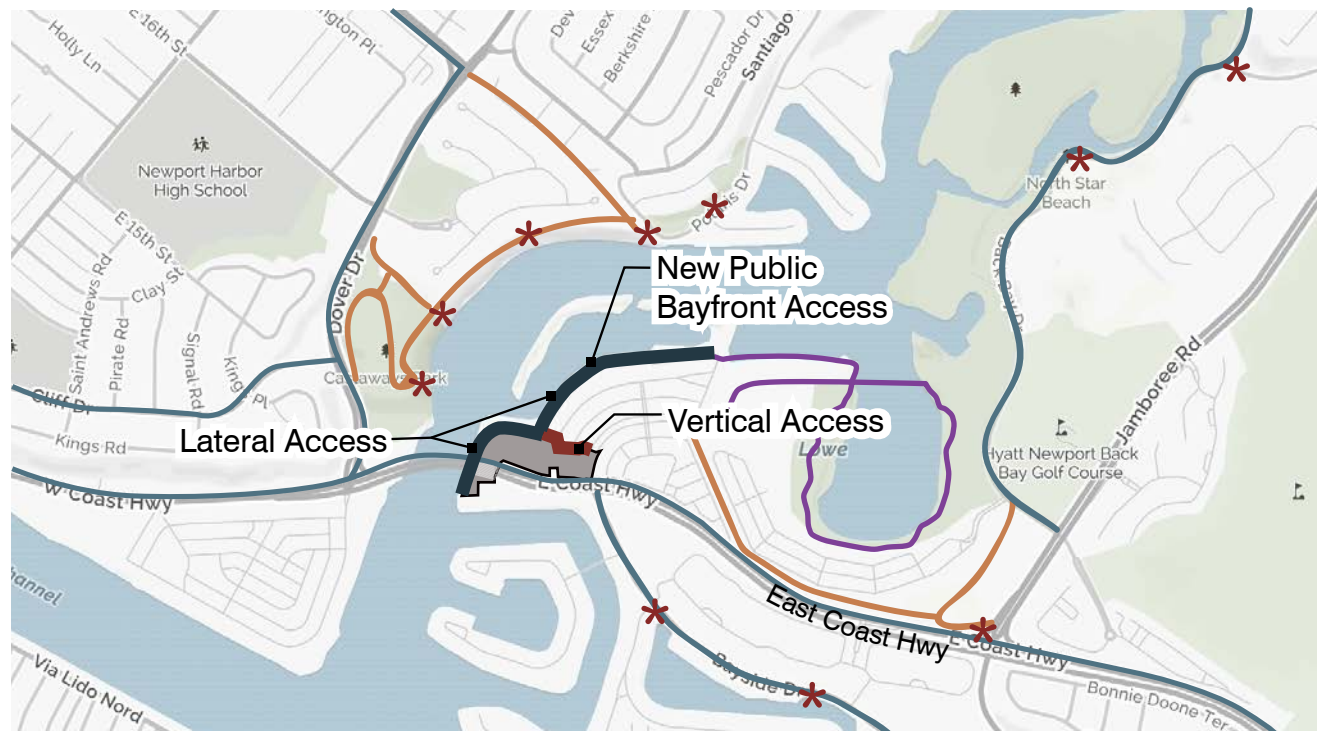
	Existing Class 1 Trail
	Existing Class 2 Trail
	Existing Class 3 Trail
	Existing Newport Dunes Recreational Trail
	Lateral Access
	Vertical Access
	Proposed Class 1 & 3 Trail
	Proposed Class 1 & 2 Trail
	Proposed Public Bayfront Promenade



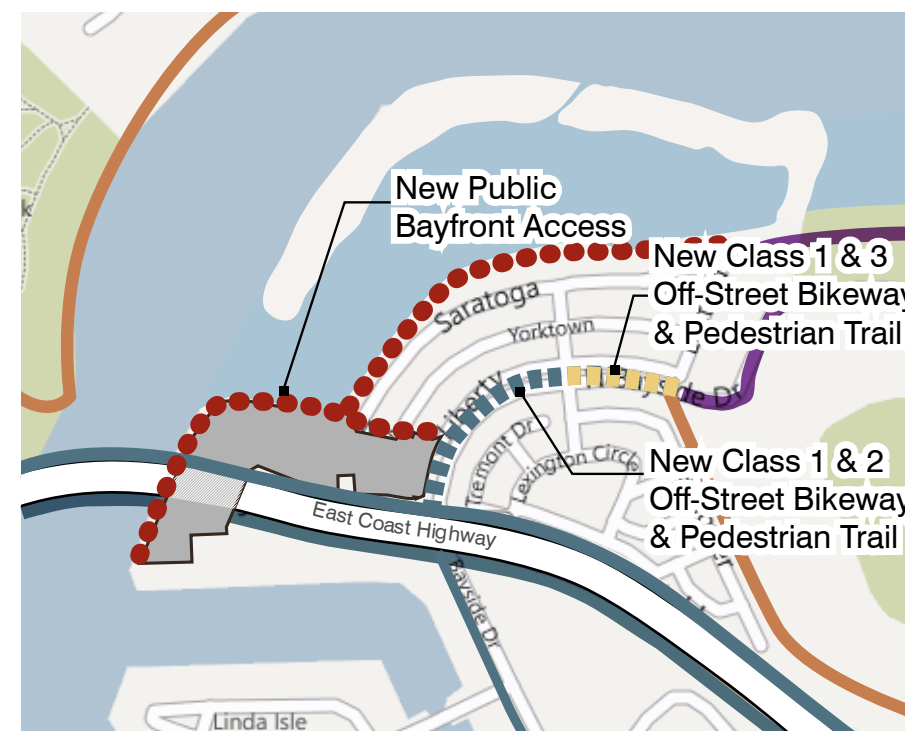
1. Regional Trail Connections



3. Current Lack of Trail Connection



2. Proposed Coastal Access



4. Critical Trail Connections

KEY MAP

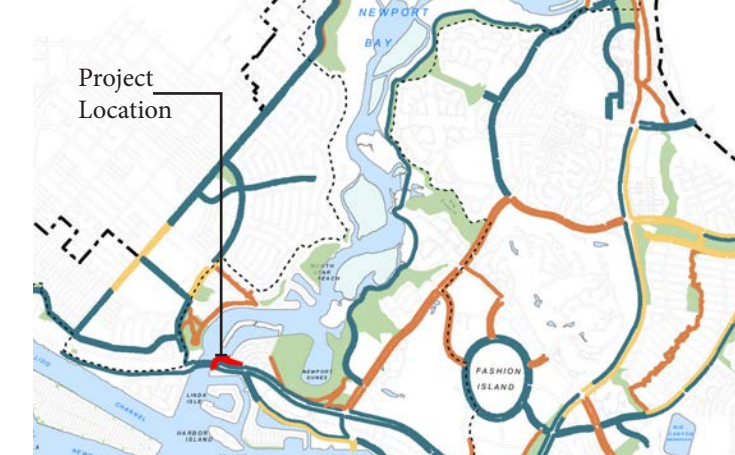


EXHIBIT 7 VEHICULAR CIRCULATION

DESIGN GUIDELINES

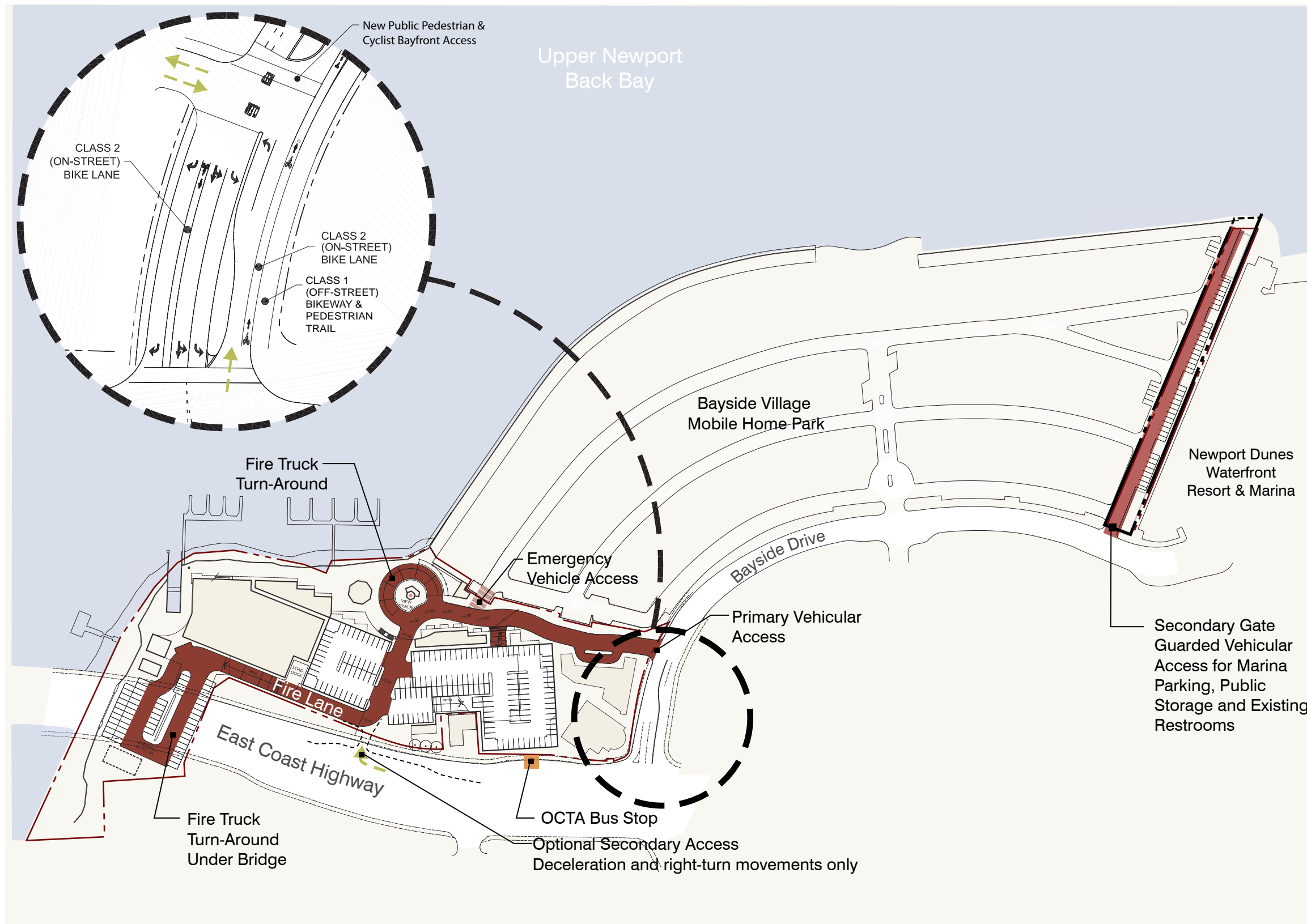
Primary vehicular access to the site will be from Bayside Drive approximately 200 feet north of the East Coast Highway intersection. This project driveway would service both inbound and outbound movements, improve the existing driveway connection further into the site, and will be relocated approximately 45 feet north of its current location.

Intersection improvements will maintain the existing left-turn lane, add a shared left-turn through lane, and add an exclusive right turn lane on the southbound approach of the signalized intersection of Bayside Drive with East Coast Highway. Project access enhancements will include an exclusive left-turn lane on the northbound approach of the Bayside Drive and project driveway intersection.

Primary circulation includes two fire truck turnarounds. An Emergency Vehicle Access from Bayside Village Mobile Home Park provides an additional layer of safety.

Secondary marina access for marina parking and public storage is located directly off Bayside Drive.

An optional secondary access located approximately 430 feet west of the Bayside Drive intersection with East Coast Highway, would add an exclusive right-turn lane along westbound East Coast Highway. This connection would allow for inbound right-turn movements only. Outbound movements would be prohibited.



VEHICULAR CIRCULATION



02.02.2016
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BACK BAY LANDING
NEWPORT BEACH, CA

EXHIBIT 8 REVISED VEHICULAR CIRCULATION & PARKING

DESIGN GUIDELINES

New & Improved Project Access

Revised vehicular circulation will provide a new and improved access to the proposed project. The primary entry is located on Bayside Drive approximately 200 feet north of the East Coast Highway intersection. The entry is proposed to be relocated approximately 45 feet north of its existing location.

The reconfiguration will remove four (4) mobile homes and relocate thirty one (31) mobile home guest parking spaces and two trash bins to allow for the expanded project entry.

New landscaping with decorative walls and pedestrian gates will separate the mixed use project from the mobile homes. The mobile home vehicular circulation will be reconfigured and will include twelve (12) mobile home guest parking spaces. An additional nineteen (19) mobile home guest parking spaces will be relocated in Planning Area 4. There will be no net loss of guest parking to the mobile home community.

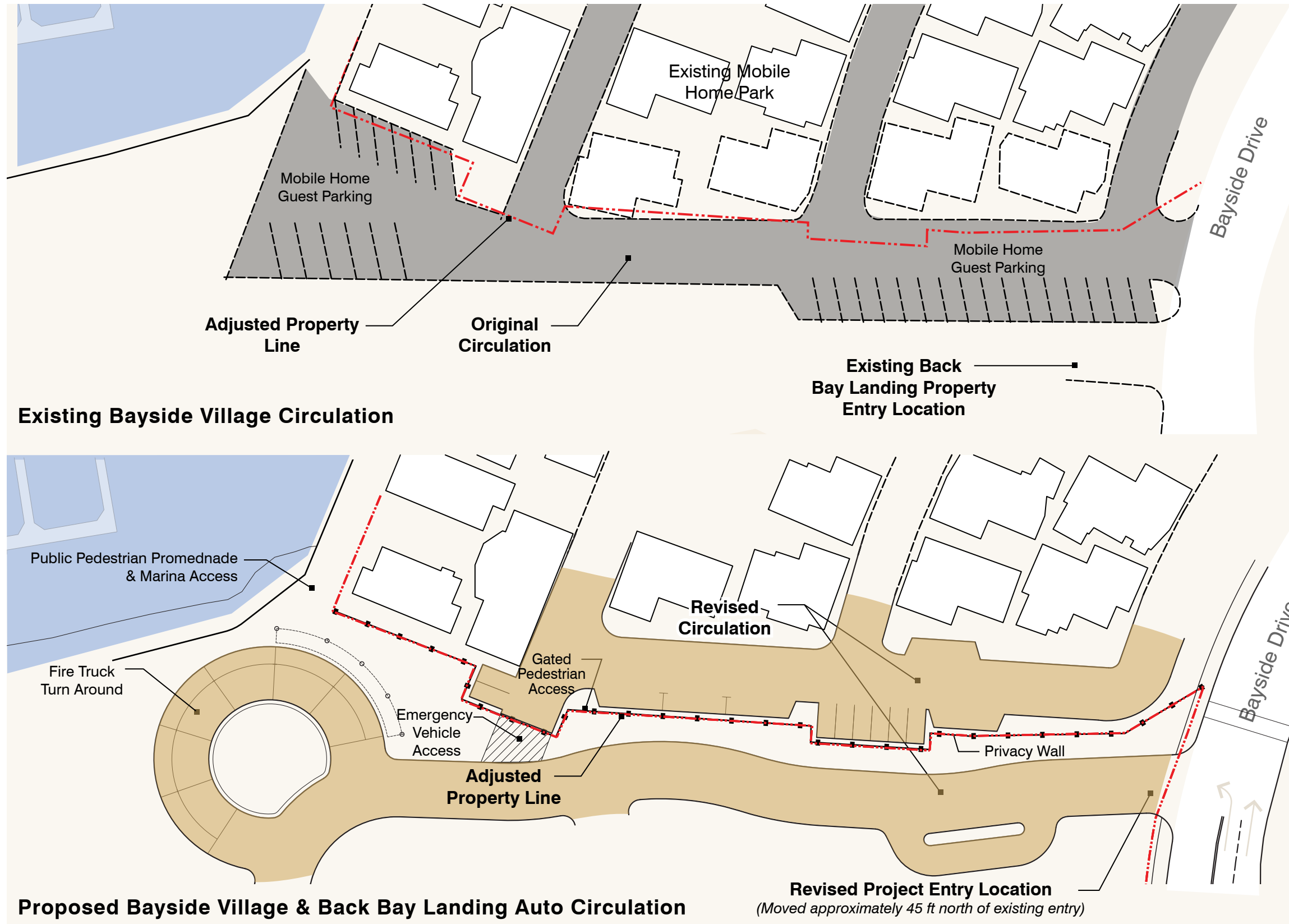
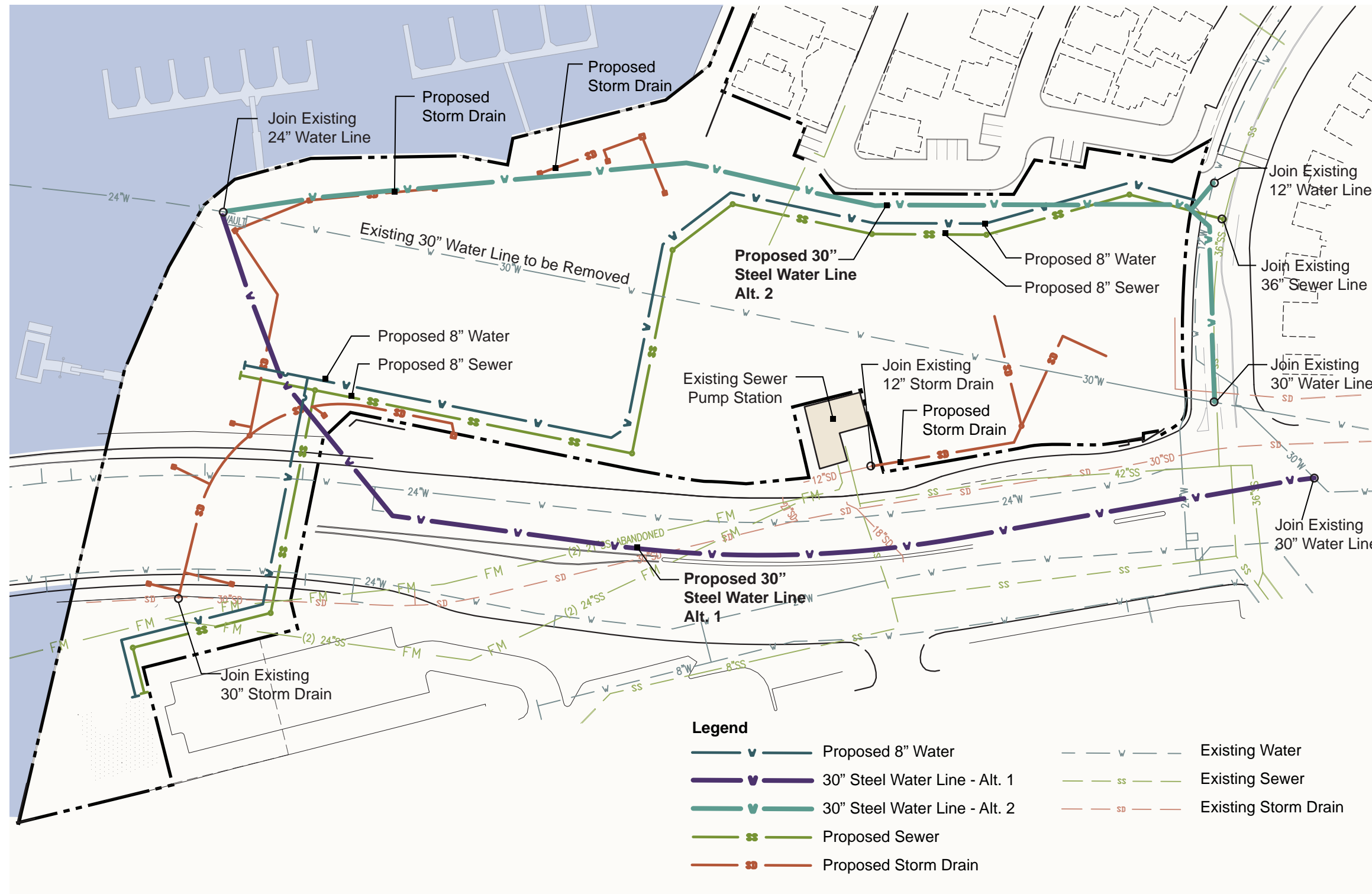


EXHIBIT 9 UTILITIES PLAN



Sewer

A new 8" sewer line is proposed to serve the Back Bay Landing project. It will connect into the existing 36" sewer line within Bayside Drive north of the proposed project. Based on the 2006 Strategic Plan Update for OCSD, capacity exists within the existing 36" line to accommodate the proposed project.

Water

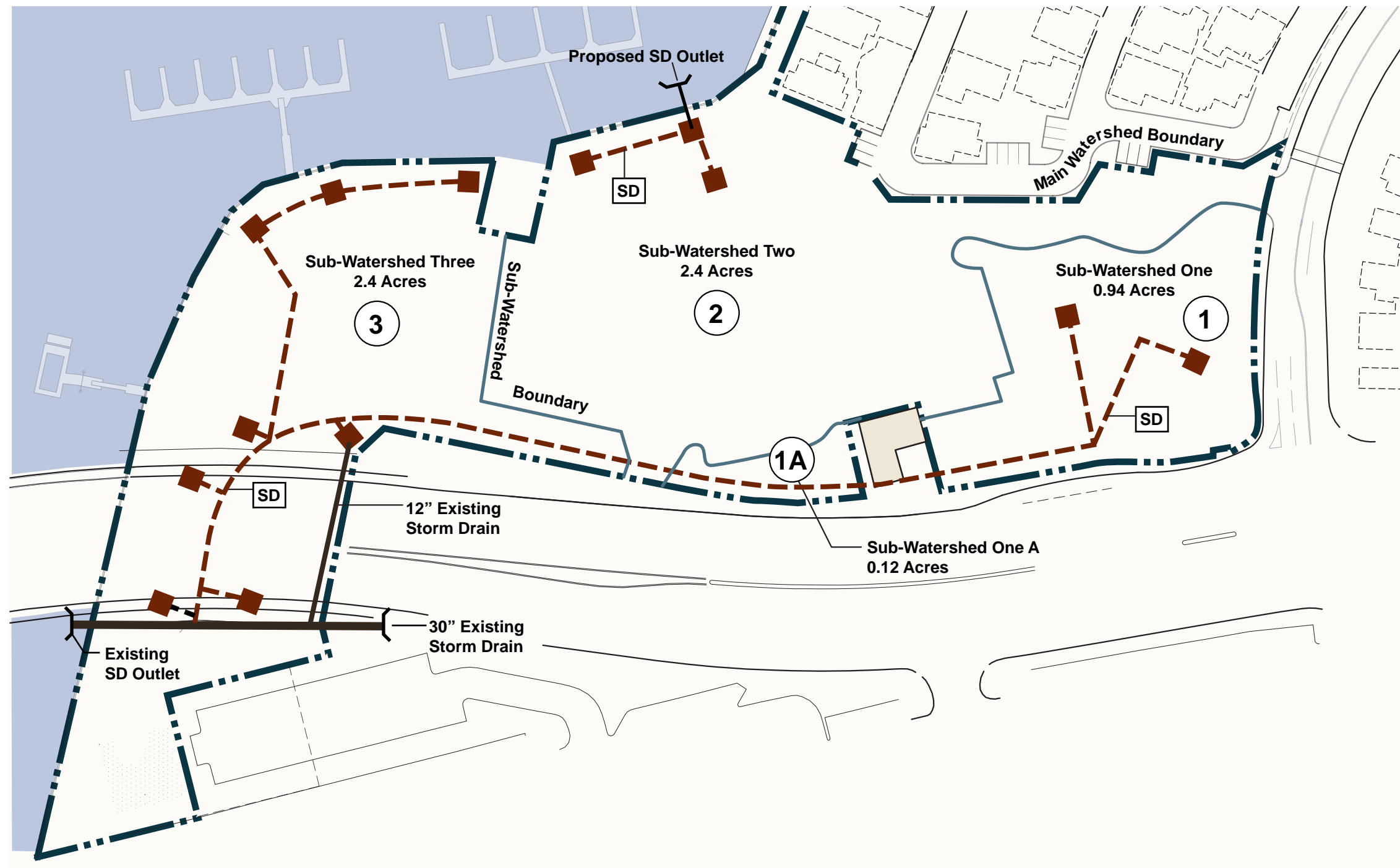
The existing 30" water transmission line traversing the project site will be abandoned to minimize conflicts with the proposed project and allow easy access and maintenance to the proposed lines. Two alternatives are currently proposed to replace the capacity of the line and continue to provide reliable water service in case of an emergency to the western region of Newport Beach.

Additionally, a new 8" water line will serve the proposed project and tie into the existing 12" water line in Bayside Drive. The increased demand on the existing line will be consistent with the proposed sewer generation rates. Water capacity is not anticipated to be an issue based on the redundant water transmission lines that surround the project site.



EXHIBIT 10 DRAINAGE PLAN

The proposed drainage plan consists of four sub-watersheds. Stormwater will be collected at various inlets throughout the project site which will connect into the existing 30-inch storm drain that discharges south of the East Coast Highway Bridge or drain directly out an existing or new outlet through the bulkhead.



DRAINAGE PLAN



02.02.2016
NTS

BACK BAY LANDING
NEWPORT BEACH, CA

EXHIBIT 11 ARCHITECTURAL THEME

DESIGN GUIDELINES

The development shall be designed with a coastal architectural theme. The intent is not to select a historically specific or rigid architectural style for the project, but to use it as the design guidelines to help shape the character of the area and reflect its setting within the City.

Back Bay Landing will be designed and constructed to evoke the experience of a seaside village, with compatible architecture and community character to existing waterfront portions of Newport's Mariner's Mile, Lido and Newport Peninsulas.



East Coast Highway and Bayside Drive



Coastal Access with Ground Floor Commercial and Residences Above



Public Bayfront Promenade



Visitor Serving Commercial



View Plaza Seating

ARCHITECTURAL THEME



02.02.2016
NTS

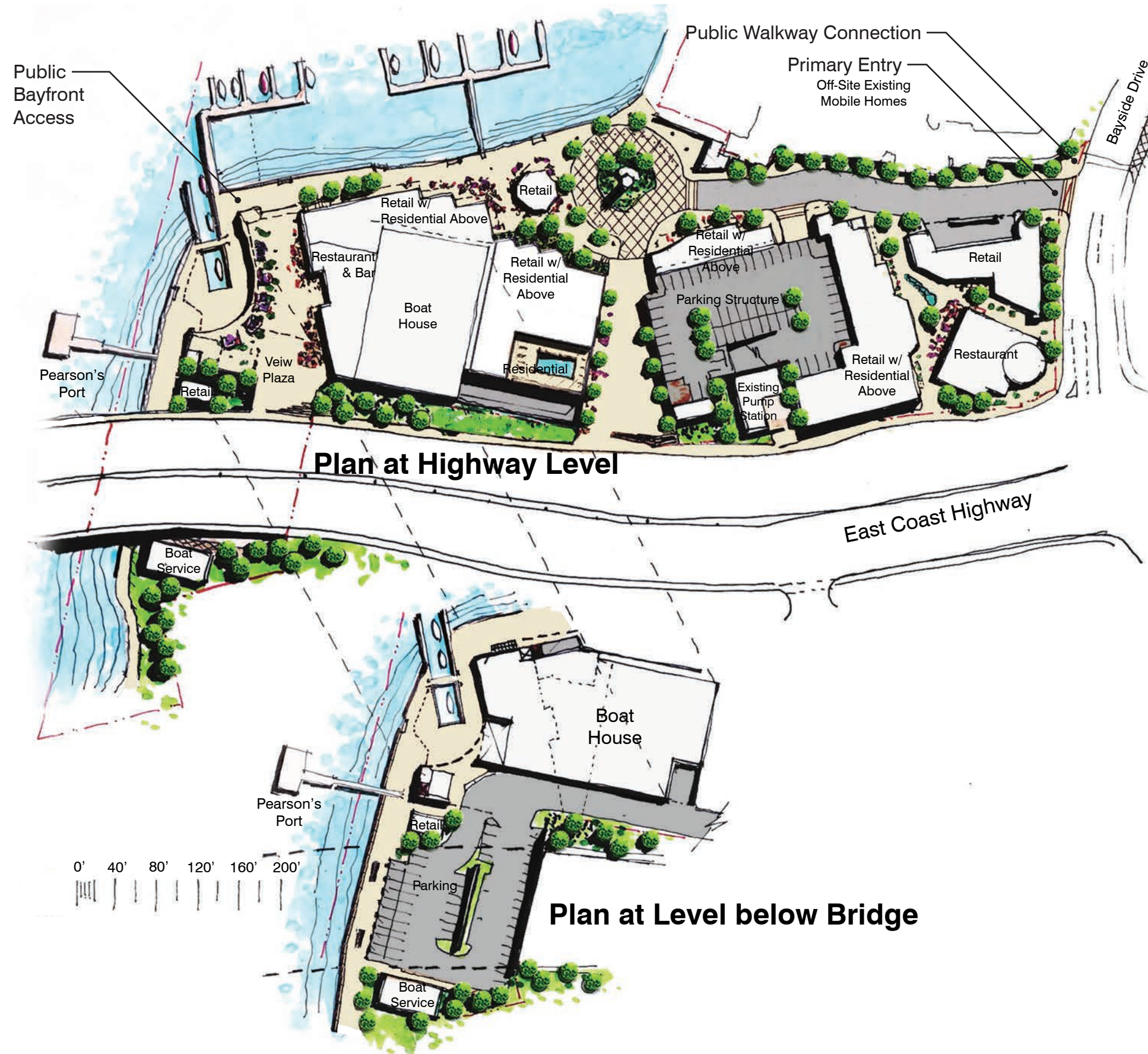
BACK BAY LANDING
NEWPORT BEACH, CA

EXHIBIT 12
CONCEPTUAL SITE PLAN

DESIGN GUIDELINES

Back Bay Landing is an integrated, mixed-use waterfront village with visitor-serving retail and marine service commercial facilities, as well as a limited amount of attached residential uses.

It is designed to evoke a seaside village and has a strong focus on the pedestrian experience.



CONCEPTUAL SITE PLAN



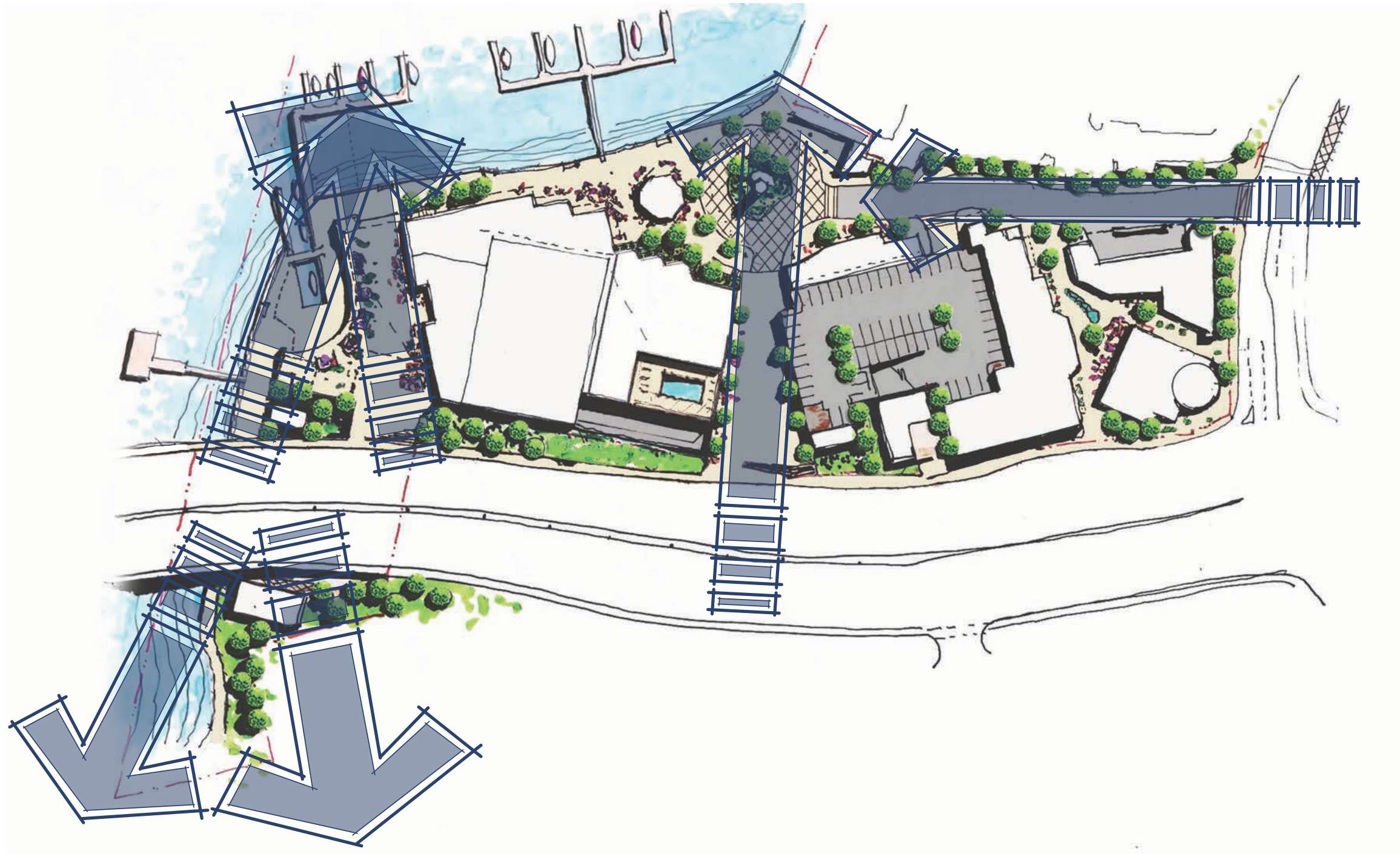
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BACK BAY LANDING
 NEWPORT BEACH, CA

EXHIBIT 13 EAST COAST HIGHWAY VIEW CORRIDORS

DESIGN GUIDELINES

Varied roof heights and undulating buildings add variety to the street scene. Along East Coast Highway and Bayside Drive six scenic view corridors are preserved.





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