



City of Newport Beach

General Plan/LCP Implementation Committee Agenda
Newport Beach Civic Center - 100 Civic Center Drive
Newport Coast Meeting Room (Bay E, Second Level, Room 2017)
Wednesday, April 23, 2014 - 12:30 p.m. to 2:30 p.m.

Committee Members:

Edward Selich, Mayor Pro Tem (Chair)
Tony Petros, Council Member
Nancy Gardner, Council Member
Bradley Hillgren – Planning Commission Chair
Fred Ameri – Planning Commissioner
Jay Myers – Planning Commissioner
Michael Toerge – At-Large Member

Staff Members:

Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director
Patrick Alford, Planning Manager
Leonie Mulvihill, Assistant City Attorney

1) CALL MEETING TO ORDER

2) ROLL CALL

3) APPROVAL OF MINUTES

Recommended Action: Approve March 26, 2014, Minutes (attached)

4) CURRENT BUSINESS

- A. **Coastal Commission Update.** An update on recent discussions with the Coastal Commission staff.

Recommended Action: Receive information; provide direction to staff.

- B. **Draft Implementation Plan.** Draft Chapter 21.30C (Harbor and Bay Regulations).

Recommended Action: Review draft chapter (attached); provide direction to staff.

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

6) PUBLIC COMMENTS

Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Committee. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Committee has the discretion to extend or shorten the speakers' time limit on agenda or non-agenda items, provided the time limit adjustment is applied equally to all speakers.

7) NEXT MEETING

Wednesday, May 28, 2014, 12:30 p.m.

8) ADJOURNMENT

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

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. If requested, this agenda will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Please contact the City Clerk's Office at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3005 or cityclerk@newportbeachca.gov.

VIII. ADJOURNMENT

THIS COMMITTEE IS SUBJECT TO THE RALPH M. BROWN ACT. AMONG OTHER THINGS, THE BROWN ACT REQUIRES THAT THE COMMITTEE'S AGENDA BE POSTED AT LEAST SEVENTY-TWO (72) HOURS IN ADVANCE OF EACH REGULAR MEETING AND THAT THE PUBLIC BE ALLOWED TO COMMENT ON AGENDA ITEMS BEFORE THE COMMITTEE AND ITEMS NOT ON THE AGENDA BUT ARE WITHIN THE SUBJECT MATTER JURISDICTION OF THE COMMITTEE. THE COMMITTEE MAY LIMIT PUBLIC COMMENTS TO A REASONABLE AMOUNT OF TIME, GENERALLY THREE (3) MINUTES PER PERSON.

IT IS THE INTENTION OF THE CITY OF NEWPORT BEACH TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT (ADA) IN ALL RESPECTS. IF, AS AN ATTENDEE OR A PARTICIPANT AT THIS MEETING, YOU WILL NEED SPECIAL ASSISTANCE BEYOND WHAT IS NORMALLY PROVIDED, THE CITY OF NEWPORT BEACH WILL ATTEMPT TO ACCOMMODATE YOU IN EVERY REASONABLE MANNER. PLEASE CONTACT LEILANI BROWN, CITY CLERK, AT LEAST 72 HOURS PRIOR TO THE MEETING TO INFORM US OF YOUR PARTICULAR NEEDS AND TO DETERMINE IF ACCOMMODATION IS FEASIBLE (949)-644-3005 OR CITYCLERK@NEWPORTBEACHCA.GOV).



NEWPORT BEACH

ITEM TITLE: Minutes of March 26, 2014

RECOMMENDED ACTION: Recommended Action: Approve March 26, 2014 Minutes (attached)

ATTACHMENTS:

Description

[Minutes of March 26, 2014](#)

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**City of Newport Beach
General Plan/LCP Implementation Committee Minutes**

Date: March 26, 2014

Location: Newport Beach Civic Center – 100 Civic Center Drive
Newport Coast Meeting Room (Bay E, Second Level, Room 2017)

Members Present: Edward Selich, Mayor Pro Tem (Chair); Nancy Gardner, Council Member; Fred Ameri, Planning Commissioner; and Michael Toerge, Member-At-Large

Members Absent: Tony Petros, Council Member Bradley Hillgren, Planning Commission Chair

Staff: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Patrick Alford, Planning Manager; and Leonie Mulvihill, Deputy City Attorney.

Public: Sandie Haskell, Jo Overman, Clyde Harkins, Michelle Brown, Tom Mathews, Isabella Villasenor, and Jim Mosher

Due to the lack of a quorum, Chair Selich took the agenda out of order.

2) ROLL CALL

Chair Selich invited everyone to introduce themselves.

4) CURRENT BUSINESS

A. Coastal Commission Update

Planning Manager Patrick Alford informed the Committee that City staff and California Coastal Commission (CCC) staff would be meeting on the Monday preceding the Committee meeting to discuss and resolve the outstanding key issues. He reported that the March 24, 2014, meeting was on the proposed coastal zone boundary adjustments and gave a summary of the CCC staff's responses. He said that staff would have updated maps at the next Committee meeting.

Director Kimberly Brandt and Deputy Director Brenda Wisneski responded to questions from the Committee on upcoming meetings with CCC staff, which will cover the continuation of the categorical exclusion order.

1) CALL MEETING TO ORDER

Commissioner Ameri arrived at approximately 1:05 pm and the meeting was called to order.

3) APPROVAL OF MINUTES

Mr. Jim Mosher pointed out a few typographical errors.

The minutes of the January 29, 2014, meeting were approved as amended by a vote of 4-0 with Selich, Gardner, Ameri, and Toerge voting in favor.

4) CURRENT BUSINESS

A. Coastal Commission Update (Continued)

Mr. Jim Mosher noted that the new CCC staff member Matt Stone will be working on projects other than the Implementation Plan.

B. Draft Implementation Plan

Mr. Alford noted that contents of proposed Implementation Plan Chapter 21.30A (Public Access and Recreation) and Chapter 21.30B (Environmentally Sensitive Areas) were first proposed by the predecessor LCP committee in 2006, and then again with the Zoning Code Update in 2009. He then proceeded to give an overview of Chapter 21.30A.

Council Member Gardner raised questions about City acceptance of public access dedications and historic use.

Deputy City Attorney Leonie Mulvihill expressed concerns about those two issues and will work with Planning staff to address them.

Council Member Gardner stated that repair and maintenance of shoreline protective structures needed to allow the replacement seaward of the existing structure.

Committee Member Michael Toerge pointed out an error in Section 21.30A.020. He also said that the applicability section should make it clear when the public access would be required and when it would not.

Chair Selich expressed concern on how some of these provisions would be interpreted by State agencies and asked the Office of the City Attorney to work with the Planning Division on the language.

Commissioner Ameri questioned the practicality of providing access within setback areas and privacy buffers.

A discussion ensued on prioritizing onshore lateral access over offshore lateral access.

Mr. Mosher pointed out some errors in the cross-references. He also questioned having the Office of the City Attorney setting policy.

Ms. Michelle Brown asked if the public access regulations apply to Buck Gully.

Mr. Alford gave an overview of Chapter 21.30B.

Council Member Gardner commented on wetlands delineation, buffer areas, and post-mitigation monitoring.

Commissioner Ameri called for more flexibility on development on the edges of wetlands.

A discussion ensued on how the cost of biological surveys, ESHA determination, and the boundaries of environmental study areas.

Ms. Sandie Haskell related her experience with getting approvals for her project in Buck Gully.

Mr. Clyde Harkins spoke about how the water flow in Buck Gully had increased in recent years.

A discussion ensued on how Newport Coast drainage had impacted Buck Gully.

Ms. Michelle Brown spoke about her frustration on getting stringline determinations for properties on Buck Gully and the impact on property values.

A discussion ensued about the City's efforts over the past 10 years to develop Buck Gully standards that could be approved by the Coastal Commission.

Mr. Mosher pointed out that the Coastal Commission could revoke the categorical exclusion order if it is found that there is the potential of significant adverse impacts on coastal resources.

Responding to a question from Ms. Isabella Villasenor, Council Member Gardner said that public access would only be provided in Upper Buck Gully.

Ms. Haskell commented on the draft development zone exhibit for Buck Gully.

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

None.

6) PUBLIC COMMENTS

None.

7) NEXT MEETING

Wednesday, April 23, 2014, at 12:30 p.m.

8) ADJOURNMENT

The meeting adjourned at approximately 4:43 p.m.

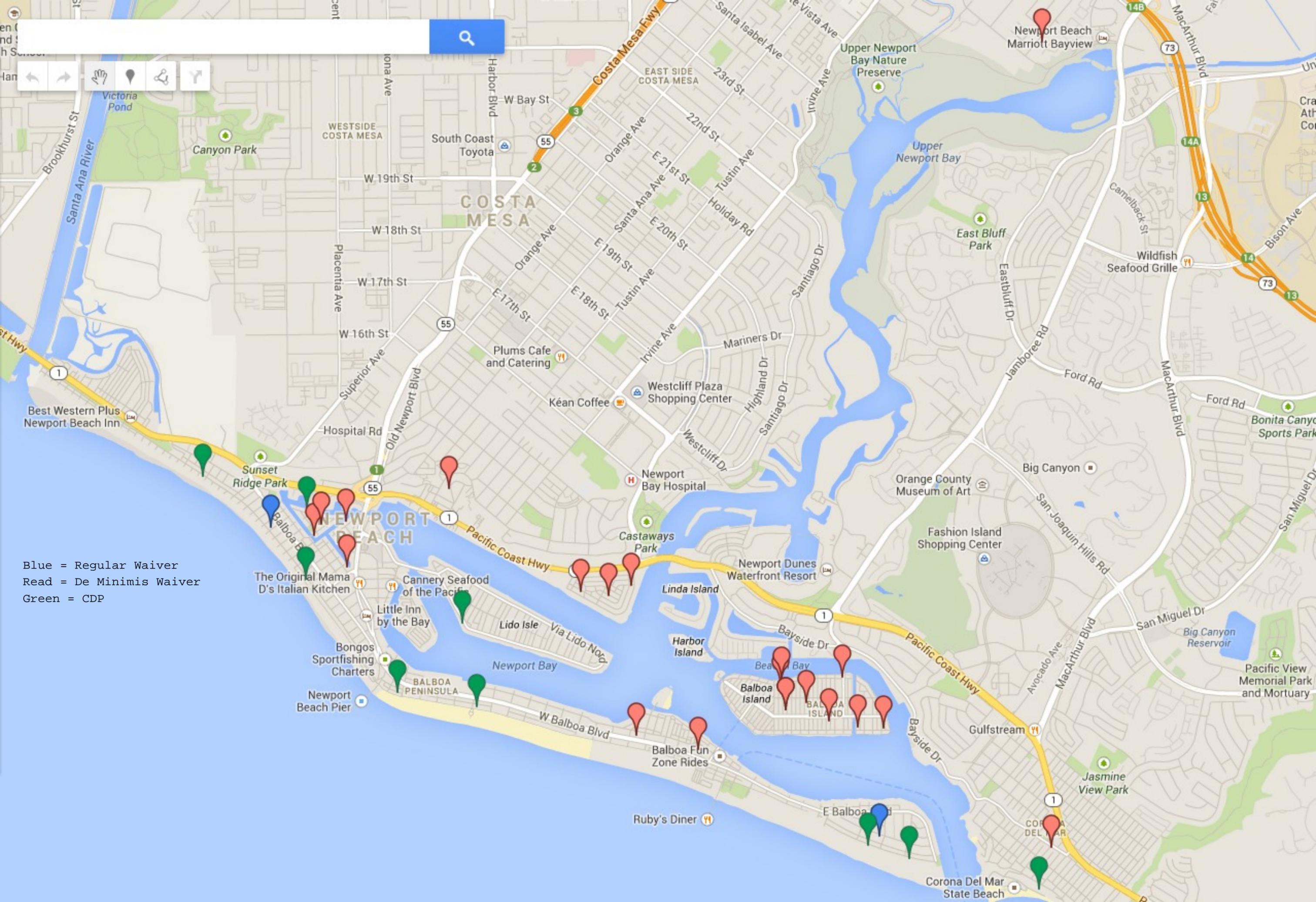
Edward Selich, Chair

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CCC Actions
Oct 2013 - March 2014

Project info					Rationale							
Address	Description	Waiver Type	Cat Ex?	FAR	Height Limit	BTW First Pub Rd & Sea?	2-parking spaces?	Compatible?	Public Access Nearby?	Water Quality	Landscaping	Coastal visual, resource, recreation, access impacts?
1755 Miramar Drive	Addition and remodel of an existing 2,162 square foot two-story singlefamily residence with an attached 527 square foot two-car garage .	RW	No	>1.5	N/S	No	Yes	Yes	Yes	Storm drain runoff to permeable surface	N/S	No
111 41st Street	Remodel and addition to an existing 2,797 sq. ft., two-story duplex, with a carport for 3 covered spaces.	RW	No (FAR)	>1.5	OK	N/S	Yes	Yes	Yes	Permeable paving, gutters/downspouts connect to system	Drought-tolerant, non-invasive	No
120 Amethyst Avenue	Demolition of the existing two-story single-family residence and construction of a new three-story, 2,791 sq. ft., 29 ft. tall, single family dwelling with a two-car garage, 792 sq. ft. roof deck, and 137 sq. ft. of balconies.	DW	No (FAR)	>1.5	OK	No	Yes	Yes	Yes	Drain to planters, gutters/downspouts to underground drainage system	Drought-tolerant, non-invasive	No
703 North Bay Front	Demolition of two-story wooden framed residence and construction of a 2375 sq. ft., three-story, wooden framed, single family residence with a maximum height of 29 ft.; an attached 383 sq. ft., two-car ga rage; a 753 sq. ft. roof top deck; and a 220 sq. ft. balcony.	DW	No (First Row)	N/S	N/S	Yes	Yes	Yes	Yes	Water runoff from the roof, roof deck and surface areas will be directed to permeable areas, landscaped areas or toward area drains at the back, alley facing, portion of the property, which lead to an underground drainage system directed to catch basins,	drought-tolerant, non-invasive plants	No
20382 Bay View Ave	Addition of a 380 square foot, 10 foot high, bedroom and bathroom to an existing 13 foot high, 1,497 square foot single family residence; widening of the existing 432 square foot garage by four inches for an additional 8 additional square feet; and interior remodel of the kitchen, living room and bathroom.	DW	No (PC)	N/S	OK	Yes	Yes	Yes	N/S	N/S	N/S	No
2821 Bayshore Drive	Demolish existing 1,825 sq. ft. single family residence and construct new 2-story 28' 6" tall, 3,878 sq. ft. single family residence with attached 712 sq. ft. garage on level lot.	DW	No (Gated)	N/S	N/S	Yes	Yes	N/S	No	Adequate water quality measures have been addressed through on-site water filtration drains designed by a civil engineer.	N/S	No
221 Coral Avenue	Demolition of an existing 2-story single-family dwelling and construction of a new 2-story 2,351 square foot single-family residence (excluding attached two-car garage) on a level lot.	DW	No (FAR)	>1.5	N/S	No	Yes	Yes	Yes	Adequate measures have been incorporated during construction and into the project design to filter water onsite using downspouts, filtration planter boxes, and an underground drainage system.	N/S	No
120 E. Balboa Blvd	Demolition of a single family residence with no on-site parking and construction of a 3-story, 29 foot tall, 2,582 square foot single family residence including an attached, 465 square foot, two-cat garage.	DW	???	N/S	N/S	No	Yes	Yes	N/S	Adequate water quality measures have been addressed through on-site water filtration drains designed by a civil engineer.	Drought-tolerant, non-invasive	No
319 Ruby Avenue	Demolition of an existing duplex and construction of a new three-story 2,206 square foot single-family residence with an attached 410 square foot two-car garage.	DW	No (FAR)	>1.5	OK	No	Yes	Yes	N/S	Directing storm drain runoff to permeable surfaces is consistent with the marine protection policies of the Coastal Act.	N/S	No

Project info					Rationale							
Address	Description	Waiver Type	Cat Ex?	FAR	Height Limit	BTW First Pub Rd & Sea?	2-parking spaces?	Compatible?	Pubic Access Nearby?	Water Quality	Landscaping	Coastal visual, resource, recreation, access impacts?
605 36th Street	Demolish the roof over the one-story section at the rear of the existing 1,926 sq. ft. single family residence. Construct a 432 sq. ft. addition to the master bedroom and a 200 sq. ft. covered deck on the bayfront side of second floor.	DW	No (First Row)	N/S	N/S	N/S	Yes	Yes	Yes	Plans call for directing storm water runoff through a subterranean pipe to dry well drains on the north side of the house, drain boxes on the south side, planter boxes at the front and back of the property, and a trench drain across the driveway.	Drought tolerant, non-invasive, low water consumption plants	No
308 38th Street	Demolition of an existing single-family dwelling and construction of a new three-story 2,243 square foot single-family residence with an attached 393 square foot two-car garage.	DW	No (First Row)	N/S	Yes	Yes	Yes	Yes	Yes	Drainage from the roof and surface water will be directed to permeable areas/trench drains/bottomless catch basins before entering the main storm drain system.	N/S	No
1311 North Bayfront	Demolition of existing single-family residence and construction of a new 2,828 sq. ft., three-story, 28' tall (above finished grade), single-family residence including attached 504 sq. ft. 2-car garage, hardscape and landscape improvements on a bulkhead lot.	DW	No (First Row)	N/S	N/S	Yes	Yes	Yes	Yes	Drainage from the site will be directed to landscaped areas and permeable side yards.	Landscaping consists of drought tolerant, noninvasive	No
208 Ruby Avenue	Convert existing duplex into a single family residence. Demolish the existing one-story residential unit at the front of the property.	DW	???	N/S	N/S	No	Yes	Yes	N/S	Stormwater runoff would, be conveyed by gutters, downspouts, drainage swales, and underground pipes to catch basins at the back of each side yard and front yard planters.	Drought tolerant, non-invasive, low water consumption plants.	No
413 Harding Street	Demolition of an existing one-story single family home and construction of a new three-story, 32-foot tall single family residence with 2,600 sq. ft. of living area; a two-car, 400 sq. ft. attached garage; 371 sq. ft. of decks and a 55 sq. ft. patio.	DW	No (MFR)	N/S	N/S	No	Yes	Yes	Yes	Storm water runoff to permeable surfaces (decomposed granite) and to deck drains, drop inlets, infiltration trenches, and a trench drain across the driveway.	Drought tolerant, non-invasive, low water consumption plants.	
2601 Circle Drive	Demolish the existing one-story, single-family home and attached garage and construct a new two-story, 29-foot tall single family residence with a livable area of 3,598 square feet; an attached three-car, 645 square foot garage; 340 square feet of roof decks; and an 85 square foot porch.	DW	No (Gated)	N/S	N/S	Yes	Yes	Yes	No	Roof drains, gutters, downspouts, area drains, and an underground system that will convey stormwater runoff to two perforated trench drains and two drain boxes at the front of each side yard.	Drought-tolerant, non-invasive, low-water plants	No



Blue = Regular Waiver
 Red = De Minimis Waiver
 Green = CDP

Search bar with a magnifying glass icon and navigation controls (back, forward, home, location, share, compass).

The map displays Newport Beach, California, with various locations marked by colored pins. Major roads shown include Pacific Coast Hwy (1), Costa Mesa Fwy (55), Harbor Blvd, and MacArthur Blvd. Landmarks such as Newport Bay, Balboa Peninsula, and Balboa Island are clearly visible. Numerous businesses and points of interest are labeled, including restaurants like 'The Original Mama D's Italian Kitchen' and 'Cannery Seafood of the Pacific', and hotels like 'Newport Beach Marriott Bayview'. The map also shows parks like Canyon Park and East Bluff Park, and the Orange County Museum of Art. The legend in the bottom left corner indicates that blue pins represent Regular Waivers, red pins represent De Minimis Waivers, and green pins represent CDPs.



NEWPORT BEACH

ITEM TITLE: Draft Implementation Plan

ITEM SUMMARY: **Summary:** Draft Chapter 21.30C (Harbor and Bay Regulations).

RECOMMENDED ACTION: **Recommended Action:** Review draft chapter (attached); provide direction to staff.

ATTACHMENTS:

Description

[Draft IP Chapter 21.30C](#)

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Chapter 21.30C – Harbor and Bay Regulations

Sections:

21.30C.010	Purpose
21.30C.020	Applicability
21.30C.030	General Provisions
21.30C.040	Vessel Berthing and Storage
21.30C.050	Harbor Development Regulations
21.30C.060	Harbor Development Permits
21.30C.070	Dredging Permits

21.30C.010 – Purpose

This Chapter provides regulations and procedures for development and uses within the Harbor and other tidelands and submerged lands.

21.30C.020 – Applicability

This Chapter applies to and within Newport Harbor and all tidelands and submerged lands under the jurisdiction of the City of Newport Beach, except where otherwise provided in this Chapter.

21.30C.030 – General Provisions

- A. **Establishment of Channels and Harbor Lines.** All channels, turning basins, anchorage areas, and Project, Pierhead, and Bulkhead Lines in Newport Harbor shall be as established by the Federal Government or by the City Council upon recommendation of the Harbor Commission. A map thereof shall be kept on file in the offices of the City Clerk and the Harbor Resources Division for public inspection.
- B. **Review of Applications.**
1. Harbor development permit applications shall be reviewed to insure conformity with the policies and regulations of the certified Local Coastal Program.
 2. All uses of the marine environment shall be carried out in a manner consistent with sustaining the biological productivity of coastal waters and to support populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.
 3. Where applicable, development in Newport Harbor shall:
 - a. Protect, and where feasible, expand and enhance vessel-launching facilities in Newport Harbor.
 - b. Protect, and where feasible, expand and enhance low-cost public

launching facilities, such as trailer launch ramps, boat hoists, commercial landing facilities, launch sites, and organized recreational boating launch facilities.

- c. Provide a variety of berthing opportunities reflecting State and regional demand for slip size and affordability throughout Newport Harbor.
- d. Protect, and where feasible, enhance and expand marinas and dry boat storage facilities.
- e. Protect shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor.
- f. Protect, and where feasible, enhance and expand dinghy docks and guest docks at public facilities, yacht clubs and at privately owned-marinas, restaurants and other appropriate locations.
- g. Protect, and where feasible, expand and enhance facilities and services for visiting vessels, including public mooring and docking facilities, dinghy docks, guest docks, club guest docks, pump-out stations and other features, through City, County, and private means.
- h. Protect, and where feasible, expand and enhance facilities necessary to support vessels berthed or moored in the harbor, such as boat haul out facilities.
- i. Protect, and where feasible, expand and enhance existing harbor support uses serving the needs of existing waterfront uses, recreational boaters, the boating community, and visiting vessels. In considering the essential nature of land uses that support the harbor, consider whether or not such support uses can be relocated to inland locations and/or if technological advances will eliminate the need such support uses in the foreseeable future.
- j. Support private sector uses, such as vessel assistance, that provide emergency, environmental enhancement and other services that are not provided by the public sector and that are essential to the operation of a harbor.
- k. Provide, expand and enhance, where feasible, existing recurring and year round harbor special permits and special purpose uses such as boat shows and boating festivals, boat sales displays and delivery / commissioning facilities.

C. Public Trust Lands.

1. **Applicability.** Public Trust Lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the Public Trust at any time.

2. **Limits On Uses.** Public Trust Lands are subject to the Common Law Public Trust, which limits uses to navigation, fishing, commerce, public access, water-oriented recreation, open space and environmental protection.
3. **Exceptions to Land Use Limits.** State legislation has modified public trust restrictions for the historic tidelands in Beacon Bay, the Balboa Bay Club, and Harbor Island.
 - a. **Beacon Bay.** The Beacon Bay Bill (Chapter 74, Statutes of 1978) and Senate Bill 573 (Chapter 317, Statutes of 1997) allow the residential lots of Beacon Bay located within State tidelands to be leased for residential purposes until June 27, 2043.
 - b. **Balboa Bay Club.** The Beacon Bay Bill (Chapter 74 of the Statutes of 1978) and Assembly Bill 3139 (Chapter 728, Statutes of 1994) allow Parcel D of the Balboa Bay Club to be leased for residential purposes until December 31, 2044.
 - c. **Harbor Island.** Chapter 715, Statutes of 1984 allow the filled or reclaimed land on Harbor Island to be leased for non-permanent recreational and landscaping purposes.
4. **Leases.** The following restrictions shall apply to leases of public trust lands:
 - a. **Land Use.** Land uses shall be consistent with the public trust land use restrictions and subsection (C) of this section. Priority shall be given to the provision of coastal-dependent uses.
 - b. **Public Access.** Public access shall be provided in a manner consistent with Chapter 21.30A (Public Access and Recreation).
 - c. **Revenue.** Rent under this section shall be based upon fair market value, as determined by the City Council. Such determination shall be based, in part, upon the findings of a City-selected appraiser.

21.30C.040 Vessel Berthing and Storage

- A. **Anchorage and Mooring Location.** No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within the designated areas. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation, and the economy of space.
- B. **Berthing.**
 1. Boats berthed at private or public piers shall not extend beyond the projection of the property lines of the property to which the pier is connected in accordance with Section 21.30C.050 (E).

2. Any boat berthed at a pier or slip shall not extend bayward a distance of more than the maximum width of its beam beyond the end of the pier, or slip. Between Bulkhead Station 256, beginning at Collins Avenue to Bulkhead Station 255, boats moored at a pier or slip shall not extend more than fifteen (15) feet bayward from the end of the pier or slip or more than the width of the beam of the boat, whichever is less.
- C. **Permit Required.** No person shall place, erect, construct or maintain moorings or buoys in the waters of Newport Harbor over City-owned or controlled tidelands without first having obtained a mooring permit. No person shall place, erect, construct or maintain a pier mooring or buoy in the waters of Newport Harbor over City-owned or controlled tidelands without first having obtained a permit pursuant to this Chapter.
 - D. **Unauthorized Use of Mooring.** No person shall use a mooring unless he holds a current and valid permit therefore, except with the permission of the Harbor Resources Manager for temporary use, as herein provided.
 - E. **Vessel Condition.** Vessels assigned must be maintained in an operable and seaworthy condition.

21.30C.050 – Harbor Development Regulations

- A. **Protection of Coastal Access and Resources.** All harbor structures, including remodels of and additions to existing structures, shall be designed and sited so as not to obstruct public lateral access and to minimize impacts to coastal views and coastal resources.
- B. **Appearance.** All structures permitted to encroach into open coastal waters, wetlands, and estuaries shall be designed and sited to harmonize with the natural appearance of the surrounding area.
- C. **Eelgrass Protection.** The use of materials in pier and dock construction design, materials and methods shall consider minimal impacts to eelgrass and marine habitat.
- D. **Docking Facilities.** Docking facilities shall be designed and sited in relationship to the water's depth and accessibility.
- E. **Pollution Control.** The permittee shall maintain the area delineated on the harbor development permit free and clear from beached or floating rubbish, debris or litter at all times. Adequate safeguards shall be maintained by the permittee to avert any other type of pollution of Newport Harbor from recreational and/or commercial use of the tidelands.
- F. **Piers.**
 1. **Limits on Use.** Only piers, floats and patio decks and their appurtenances pursuant to subsection (F) (4) of this section shall be permitted bayward of the bulkhead.
 2. **Street Ends.** No private piers shall be permitted at street ends.

3. **Setbacks.**

- a. All piers and slips for residential properties shall be set back a minimum of five feet from the prolongation of the property line.
- b. With the prior approval of the City, piers and slips for commercial properties may extend past the prolongation of the property line.
- c. The prolongation of the property line bayward of the same bearing from the bulkhead shall generally be used in determining the allowable setbacks for piers and slips. Because there are certain physical conditions which preclude the strict application of this policy without prejudice to adjoining properties, special consideration will be given to areas where precise prolongation of the property line has not been determined and the following conditions exist:
 - (1) Where property lines are not approximately perpendicular to the bulkhead line;
 - (2) Where curves or angles exist in the bulkhead line;
 - (3) Where bridges, topography, street ends or publicly owned facilities adjoin the property.
- d. Setbacks apply to joint ownership piers with the exception that the slips, floats and piers may extend over the common property line.

4. **Joint Ownership.** Permits may be granted for joint ownership piers at the prolongation of common lot lines. The permit for joint ownership piers shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the permit.

5. **Patio Decks.** Patios are not permitted to extend over the waters of Newport Harbor unless the waters are adjacent to the upland property and outside the areas described in the tidelands trust, and provided the patio complies with the following conditions:

- a. The maximum projection of patio decks encroachments beyond the bulkhead line shall be limited to five feet.
- b. The minimum setbacks from the prolongations of the side property lines shall be five feet.
- c. No float shall be permitted within one foot of the decks.
- d. No permanent structure shall be permitted on the projecting portion of the patios except:
 - (1) Planters and benches not over sixteen (16) inches in height;

(2) Railings not over forty-two (42) inches in height with approximately ninety-five (95) percent open area.

e. A harbor and building permit has been obtained.

6. **Storage Lockers.** Storage lockers and boat boxes may be installed on shore-connected piers and floats subject to the following limitations:

a. The overall height shall not exceed thirty (30) inches when located bayward of residential property zones.

b. The overall height shall not exceed thirty (30) inches when located bayward of commercial and industrial property zones where the piers and floats are used primarily for the mooring of pleasure boats.

c. The overall height shall not exceed sixty (60) inches when located on facilities bayward of commercial and industrial zoned property where the use is not primarily for the mooring of pleasure boats.

d. The overall height shall be measured from the deck of the pier or float to the top of the storage locker and overall height to include the enclosed portion of the locker or box.

F. **Other Structures.**

1. **Race Committee Platforms.** Race committee platforms and instruction platforms may be constructed bayward of the bulkhead line at recognized yacht clubs and recognized sailing schools. All work shall require issuance of a Harbor Development Permit.

2. **Floating Dry Docks.** Permits for floating dry docks may be approved by the Harbor Resources Division, subject to the following conditions:

a. The location is in waters bayward of commercial, manufacturing or unclassified zones;

b. The prior approval of a Harbor Use Permit by the Harbor Commission;

c. Permits for floating dry docks are issued for one location only. A new permit must be obtained to move a floating dry dock from one location to another location within the harbor.

G. **Bulkheads.**

1. All bulkheads in residential districts shall be installed on the established bulkhead line or at a location behind the bulkhead line that would preserve the design profile of the harbor. Any retaining or ornamental wall installed landward of the bulkhead line shall be considered a bulkhead if it also serves to contain the waters of the harbor and shall be processed in the same manner as if it were on the bulkhead line. The establishment of bulkhead lines does not necessarily allow the property owner to build to the limits of the bulkhead line, due to the potential environmental

considerations established by the State of California and/or the Federal Government.

The Harbor Resources Division may approve bulkheads located between U.S. Bulkhead Station Nos. 112 and 109, not to exceed the bayward side of the "Vacated East Bay Avenue." U.S. Bulkhead Station No. 104 for the addresses at 2209, 2223, 2227, 2231 and 2233 Bayside Drive: staff recommendation for a bulkhead at these properties shall not exceed a point bayward of the average high tide line established at a point forty (40) feet landward of the face of the bulkhead at the property at 2137 Bayside Drive, and then on a straight line from that point to the bayward most point of the bulkhead at the property at 2301 Bayside Drive.

2. Bulkheads shall be designed and sited to protect the character of the existing shoreline profiles and avoid encroachment onto public tidelands.
3. Maintenance or replacement of existing bulkheads is permitted when expansion or encroachment into coastal waters is limited to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and the backfill is not used to create new usable residential land areas.

21.30C.060 – Harbor Development Permits

A. **Application.** The application and plans and specifications shall be reviewed by the Harbor Resources Division and Building Division to determine whether the proposed work meets all the requirements of this Implementation Plan and any standards and policies adopted by the City Council for such construction or work.

B. **Approval by Other Agencies.**

1. **Coastal Commission.** Proof of prior approval, when applicable, from the California Coastal Commission shall be required before issuing any permit.
2. **U.S. Army Corps of Engineers.** Proof of prior approval of the U.S. Corps of Engineers will be required.
3. **County of Orange.** Proof of prior approval of the County of Orange will be required when work extends over County tidelands.
4. **Approval in Concept.** All development in areas where the Coastal Commission retains coastal development permit authority shall require an approval in concept pursuant to Section 21.52.040 (B) prior to application to the Coastal Commission.

C. **Rendering of Decision.**

1. Approval. The Department is authorized to approve and issue new permits and revisions to existing permits that conform to the design criteria and all applicable standards and policies in conjunction with plan reviews by the Harbor Resources Division.
2. The application shall be denied if:

- a. The application does not conform to the provisions of this Implementation Plan; or
- b. The proposed application is likely to create navigational congestion, or otherwise interfere with the rights of other harbor permittees within Newport Harbor, or other oceanfront property owners.
- c. The proposed application does not conform to the policies and regulations of the certified Local Coastal Program.

D. Permit Conditions.

- 1. In granting any such application, the Harbor Resources Manager shall issue the permit to the owner or long-term lessee of the abutting upland property and may impose conditions in the permit which are deemed necessary to protect commerce, navigation or fishing, or the use, operation or development of Newport Harbor.
- 2. When appropriate where projects involve construction on or near the waterway, eelgrass (*Zostera marina*) and *Caulerpa taxifolia* protocol surveys shall be required as a condition of City approval of projects in the Newport Bay. The Southern California Caulerpa Action Team (SCCAT) shall be immediately notified if *Caulerpa taxifolia* is found.

21.030C.070 – Dredging Permits

A. Permit Required.

- 1. Dredging bayward of residential and commercial property shall be the responsibility of the harbor permittee for the area delineated by the bayward prolongations of upland side property lines and the U.S. project line. All such dredging will require a dredging permit from the Harbor Resources Division and other agencies with jurisdictional authority and may be subject to engineering approval by the Public Works Department.
- 2. Dredging outside the established harbor lines will require prior approval by the Harbor Resources Division and the U.S. Army Corps of Engineers.

B. Required Materials. Applications shall be accompanied by all plans, maps, and other materials required by the prescribed forms, unless specifically waived by the Harbor Resources Manager. Applications shall include the following:

- 1. Authorization to proceed from the Coastal Commission and the U.S. Army Corps of Engineers;
- 2. Eelgrass (*Zostera marina*) and *Caulerpa taxifolia* protocol surveys;
- 3. Grain size analysis;
- 4. Identification of the dredge disposal site and dredge quantities;

5. Any other materials the Harbor Resources Manager deems necessary to support the application.

C. **Limits on Development.** Development involving the diking, filling, or dredging of open coastal waters, wetlands, or estuaries shall only be permitted under the following circumstances:

1. Only if there is no feasible, less environmentally damaging alternative.
2. If there is no feasible, less environmentally damaging alternative, mitigation measures shall be provided to minimize adverse environmental effects.
3. Dredged materials suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment.

The permittee shall be encouraged to work with the City in making sure materials are available for harbor beach replenishment.

4. Diking, filling or dredging projects shall sustain the functional capacity of the wetland, or estuary. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:
 - a. That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project;
 - b. That the project does not harm or destroy a species or habitat that is rare or endangered;
 - c. That the project does not harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary;
 - d. That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem.
5. Dredging and dredged material disposal shall avoid significant disruption to marine and wildlife habitats and water circulation.

C. **Limits on Development and Uses.** Development involving diking, filling, or dredging of open coastal waters, wetlands, and estuaries shall be limited to uses consistent with the Section 30233 of the California Public Resources Code (Coastal Act) and Section 21.30B.040 (Allowed Activities and Uses).