FINAL EIR
NEWPORT BAY MARINA PROJECT
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Tom Daly, Clerk-Recorder

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CITY OF NEWPORT BEACH
NOTICE OF DETERMINATION

To:

✓ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

✓ County Clerk-Recorder
County of Orange
12 Civic Center Plaza
Santa Ana, CA 92701-4095

FILED
NOV 28 2006
TOM DALY, CLERK-RECORDER
By DEPUTY

From: City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658-8915
(Orange County)

POSTED
NOV 28 2006
TOM DALY, CLERK-RECORDER
By

Subject: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Name of Project: Newport Bay Marina Mixed-Use Project

Lead Agency: City of Newport Beach, 3300 Newport Blvd, Newport Beach, CA 92658-8915 (949) 644-3200

Project Applicant: ETCO Investments, LLC., Steve Shapel, 2222 Newport Blvd, Newport Beach, CA 92663 949) 200-7223.

State Clearinghouse Number:	City Contact Person:	Telephone No.:
SCH #2003071144	James Campbell, Senior Planner	(949) 644-3210

Project Location: 2300 Newport Boulevard, Newport Beach, California.

Project Description: The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units with a total of 77,100 square feet. The project will require the demolition of all existing buildings on the site totaling approximately 922 cubic yards of demolition debris (structure debris). The project proposal includes a subterranean garage. The construction of the garage will require excavation of earth material. Approximately 34,000 cubic yards of dirt will be excavated from the site for the subterranean parking structure. For the residential portion of the project, 68 parking spaces are provided primarily on the upper deck. They consist of 54 garages and 10 guest spaces. 4 guest spaces are provided on the parking level. For the retail/office portion of the site, there are 16 deck level parking spaces and 152 parking level spaces, totaling 168 spaces. There are 15 marina spaces provided in the parking level. A total of 251 spaces are provided which complies with the City Code requirement of 227 spaces. The project includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the previous ship building/repair use of the property. The remediation includes removal of sediment that has accumulated to form a shoal in front of the smaller of the two boat slipways. The sediment (approximately 200 square foot area) is contaminated with metals that are considered a hazardous waste. This material will be excavated using shore based equipment (i.e. long reach backhoe) and then disposed of at a licensed facility. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront). The existing sheet pile and concrete bulkhead will be demolished and removed using shore based construction equipment. Once the new bulkhead is constructed to tie in the property lines along the subject site, the former bulkhead will be demolished. The project also proposes reconfiguration of the existing 21-boat slip marina to 19-boat slips located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widen and remain open) used for boat berthing. The boat slipway to remain open and improved will also include a vehicular/pedestrian bridge crossing. The reconfiguration of the boat slips will involve removal of the existing docks and associated pierheads (existing pilings) and replacement of the boat slips and pierheads in the reconfigured layout. The reconfigured layout will facilitate an improved marina use. The number of boat slips will not be increased. The length of each boat slip ranges from 56 feet to 65 feet with the exception of Slip No. 19 (the large slipway with proposed vehicular/pedestrian bridge) which is approximately 150 feet in slip length. This large slipway will accommodate a variety of boats for temporary visitor berthing with no overnight berthing. .

This is to advise that the *City of Newport Beach, Planning Commission,* has approved the above described project on **November 16, 2006** and has made the following determinations regarding the above described project:

1. The City is ☑ Lead Agency ☐ Responsible Agency for the project.
2. The project ☑ will ☐will not have a significant effect on the environment.
3. ☑An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
4. ☐A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
5. Mitigation measures ☑ were ☐ were not made a condition of the approval of the project.
6. A Statement of Overriding Considerations ☑ was ☐was not adopted for this project.
7. Findings ☑ were ☐ were not made pursuant to the provisions of CEQA.

The EIR and record of project approval is available for review at the Planning Department of the City of Newport Beach, 3300 Newport Blvd., Newport Beach, California 92658-8915, (949) 644-3200.

William Cunningham
Signature (Public Agency)

CONTRACT PROJECT PLANNER
Title

Date: November 20, 2006

Date received for filing at OPR: _____

FILED
NOV 28 2006
TOM DALY, CLERK-RECORDER
By _____ DEPUTY

POSTED
NOV 28 2006
TOM DALY, CLERK-RECORDER
By _____ DEPUTY

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME
ENVIRONMENTAL FILING FEE CASH RECEIPT
DFG 753.5a (8-03)

Lead Agency: City of Newport Beach Date: 11/28/06
County / State Agency of Filing: OC Recorder Document No.: 2006850012 98
Project Title: Newport Bay Marina Mixed Use Proj.
Project Applicant Name: Etco Davest LLC. Phone Number: (949) 644-3200
Project Applicant Address: 2222 Newport Blvd Newport Bch Ca 92663
Project Applicant *(check appropriate box)*: Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity ☒

CHECK APPLICABLE FEES:

(X) Environmental Impact Report	$850.00	$ 850.-
( ) Negative Declaration	$1,250.00	$
( ) Application Fee Water Diversion *(State Water Resources Control Board Only)*	$850.00	$
( ) Projects Subject to Certified Regulatory Programs	$850.00	$
(X) County Administrative Fee	43 ~~$25.00~~	$ 43
( ) Project that is exempt from fees		
	TOTAL RECEIVED	$ 893.00

Signature and title of person receiving payment: _____

WHITE-PROJECT APPLICANT YELLOW-DFG/FASB PINK-LEAD AGENCY GOLDENROD-STATE AGENCY OF FILING

RESOLUTION NO. 1705

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH. NO. 2003071144) FOR NEWPORT BAY MARINA LOCATED AT 2300 NEWPORT BOULEVARD IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE AND LOCAL GUIDELINES, MAKING CERTAIN FINDINGS AND DETERMINATIONS THERETO, APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS

WHEREAS, an application was filed by ETCO Development, Inc. with respect to property located at 2300 Newport Boulevard (PA2001-210) and legally described as Lot 1 of Parcel Map P.M.B. 68/48. The applicant seeks approval of a Site Plan Review, Vesting Tentative Tract Map, and Use Permit for the construction of a mixed use development consisting of 27 residential units, 36,000 square feet of commercial floor area, and the reconstruction of bulk heads and boat slips on approximately 2.36 acres in the Cannery Village/McFadden Square area.

WHEREAS, it was determined pursuant to CEQA and the CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 et seq.) that the Project could have a significant effect on the environment, and thus warranted the preparation of an Environmental Impact Report ("EIR"); and

WHEREAS, on February 23, 2005, the City of Newport Beach, as lead agency under CEQA, prepared a Notice of Preparation ("NOP") of the EIR; mailed that NOP to public agencies, organizations, and persons likely to be interested in the potential impacts of the proposed Project; and

WHEREAS, the City thereafter caused to be prepared a Draft Environmental Impact Report ("DEIR"), which, taking into account the comments it received on the NOP, described the Project and discussed the environmental impacts resulting there from, and on July 19, 2006, circulated the DEIR for public and agency comments; and

WHEREAS, the public comment period closed on September 2, 2006; and

WHEREAS, the EIR has been prepared and circulated for public review in accordance with the California Environmental Quality Act, Public Resources Code section 21000, et seq. ("CEQA"); and

WHEREAS, staff of the City of Newport Beach has reviewed the comments received on the draft EIR, has prepared full and complete responses thereto, and on September 22, 2006 distributed the responses in accordance with Public Resources Code section 21092.5; and

WHEREAS, the Planning Commission of the City of Newport Beach, California, did on the 5th day of October, 2006 and 16th day of November, 2006, hold a duly noticed

public hearing to consider: (1) the certification of the Final Environmental Impact Report (EIR), (2) the adoption of certain findings and determinations and adopt statement of overriding considerations; and

WHEREAS, the Planning Commission has reviewed and considered the information and the comments pertaining to the DEIR and FEIR at duly noticed meetings held on the 5th day of October, 2006 and on the 16th day of November, 2006; and

WHEREAS, a combined Final Environmental Impact Report (collectively, "FEIR") for the Project was presented to the Planning Commission, as the decision making body of the lead agency, for certification as having been completed in compliance with the provisions of CEQA and State and local guidelines implementing CEQA; and

WHEREAS, the Planning Commission has read and considered all environmental documentation comprising the FEIR, including the comments and the responses to comments, and has found that the FEIR considers all potentially significant environmental impacts of the proposed project and is complete and adequate, and fully complies with all requirements of CEQA and of the State and local CEQA Guidelines; and

WHEREAS, prior to action on this Project, the Planning Commission has considered all significant impacts and Project alternatives identified in the FEIR and has found that all potentially significant impacts of the Project have been lessened or avoided to the extent feasible; and

WHEREAS, CEQA and the CEQA Guidelines provide that no public agency shall approve or carry out a project for which an EIR has been completed and which identifies one or more significant effects of the project unless the public agency makes written findings for each of the significant effects, accompanied by a statement of facts supporting each finding; and

WHEREAS, CEQA and the CEQA Guidelines require, where the decision of the Planning Commission allows the occurrence of significant environmental effects which are identified in the EIR, but are not mitigated, the Planning Commission must state in writing the reasons to support its action based on the FEIR and/or other information in the record; and

WHEREAS, the Planning Commission has determined that the Project is consistent with the General Plan and Zoning Regulations of the City of Newport Beach.

WHEREAS, the Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger; and

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Based on its review and consideration of the FEIR, all written communications and oral testimony regarding the Project which have been submitted to and received by the Planning Commission, the Planning Commission certifies that the FEIR for the Project has been completed in compliance with CEQA and the State and local CEQA Guidelines. The Planning Commission, having final approval authority over the Project, adopts and certifies as complete and adequate the FEIR, which reflects the Planning Commission's independent judgment and analysis. The Planning Commission further certifies that the FEIR was presented to the Planning Commission and that the Planning Commission reviewed and considered the information contained in it prior to approving the Project.

SECTION 2. CEQA Finding and Statement of Facts. Pursuant to CEQA Guidelines section 15091, the Planning Commission has reviewed and hereby adopts the CEQA Finding and Statement of Facts as shown on the attached Exhibit "A" entitled "CEQA Finding and Statement of Facts," which exhibit is incorporated herein by reference.

SECTION 3. Statement of Overriding Considerations. Pursuant to CEQA Guidelines section 15093, the Planning Commission has reviewed and hereby makes the Statement of Overriding Considerations to adverse environmental impacts, attached also as Exhibit "B" entitled "Statement of Overriding Considerations," which exhibit is incorporated herein by reference.

SECTION 4. Mitigation Monitoring and Reporting Program. Pursuant to CEQA Guidelines section 15097, the Planning Commission has reviewed and hereby adopts the "Mitigation Monitoring and Report Program" which is included as Exhibit "C", which exhibit is incorporated herein by reference.

SECTION 5. Location and Custodian of Record of Proceedings. The Planning Department of the City of Newport Beach, located at 3300 Newport Boulevard, Newport Beach, California 92263, is hereby designated as the custodian of the documents and other materials which constitute the record of proceedings upon which the Planning Commission's decision is based, which documents and materials shall be available for public inspection and copying in accordance with the provisions of the California Public Records Act (California Government Code Section 6250 et seq.).

SECTION 6. Notice of Determination. The Planning Director shall cause the filing of a notice of determination with the County Clerk of the County of Orange and with the state Office of Planning and Research within five working days of this approval.

SECTION 7. Certification, Posting and Filing. This resolution shall take effect immediately upon its adoption by the Planning Commission of the City of Newport Beach, and the Secretary to the Planning Commission shall certify to the vote adopting this resolution and shall cause a certified copy of this resolution to be filed.

PASSED, APPROVED AND ADOPTED this 16th day of November 2006

AYES: Eaton, Peotter, Cole, Toerge and McDaniel

NOES: Hawkins

ABSENT: _____

BY: _____
Jeffrey Cole, Chairman

BY: _____
Robert Hawkins, Secretary

EXHIBIT A

CEQA STATEMENT OF FINDINGS AND FACTS
Newport Bay Marina Project
ENVIRONMENTAL IMPACT REPORT

1. Introduction

The California Environmental Quality Act (CEQA) and the State CEQA Guidelines (Guidelines) provide that:

> "No public agency shall approve or carry out a Project for which an Environmental Impact Report has been completed and which identifies one or more significant environmental effects of the Project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding." (CEQA Guidelines §15091)

Because the EIR identified significant effects which may occur as a result of the Project, and in accordance with the provisions of the Guidelines, the City of Newport Beach, Planning Commission ("Planning Commission") hereby adopts these findings as part of the approval of the Project.

The City of Newport Beach has prepared an EIR for the proposed Project in accordance with CEQA and CEQA Guidelines requirements. It is not considered reasonable, required or feasible for this Planning Commission to recite every single detail forming the basis for its findings herein, since the voluminous record, incorporated herein by reference and made publicly available, contains the substantial evidence explaining the facts in support. The Planning Commission considers this incorporation approach justified, especially in light of the fact that the Planning Commission has responded in writing to each oral and written comment raising environmental issues and has made this information widely available through staff reports and mailings. Where appropriate and helpful to understanding the basis of the Planning Commission's findings herein, the Commission has mentioned certain aspects of the record arising from public input.

2. Description of the Approved Project

2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site. The project proposal includes a partial subterranean garage. The construction of the garage will require excavation of earth material.

The project includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the previous ship building/repair use of the property. The remediation includes removal of sediment that has accumulated to form a shoal in front of the smaller of the two boat slipways. The sediment is contaminated with metals that are considered a hazardous waste. This material (200 square foot area) will be excavated using shore based equipment (i.e. long reach backhoe) and then disposed of at a licensed facility. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront). The existing sheet pile and concrete bulkhead will be demolished and removed using shore based construction equipment. Once the new bulkhead is constructed to tie in the property lines along the subject site, the former bulkhead will be demolished.

The project also proposes reconfiguration of the existing 21-boat slip marina located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widen and remain open) used for boat berthing. The boat slipway to remain open and improved will also include a vehicular/pedestrian bridge crossing. The reconfiguration of the boat slips will involve removal of the existing docks and associated pierheads (existing pilings) and replacement of the boat slips and pierheads in the reconfigured layout. The reconfigured layout will facilitate an improved marina use. The number of boat slips will not be increased. The length of each boat slip ranges from 56 feet to 65 feet with the exception of Slip No. 19 (the large slipway with proposed vehicular/pedestrian bridge) which is approximately 150 feet in slip length. This large slipway will accommodate a variety of boat sizes.

3. Alternatives

The EIR addressed the proposed Project and several alternatives to this Project. The alternatives examined in the EIR include:

(1) No Project alternative

(2) Reduced Development Alternative

(3) Commercial Development Alternative

(4) Residential Development Alternative

Three Project alternatives were presented in the EIR. The Planning Commission has reviewed and considered such alternatives in light of the adverse environmental effects which may result from the Project and the reduction or elimination of such effects which might be accomplished by selection of one of the alternatives.

Each alternative is summarized below and the specific economic social or other considerations that are considered to render such alternatives infeasible are set forth. The discussions below are intended to summarize and not fully restate the evidence contained in the Draft EIR, Response to Comments, and the administrative records as a whole.

PROJECT ALTERNATIVES:

No Project Alternative

Under the No Project Alternative, the proposed mixed-use project would not be constructed. This project alternative also assumes that the site would not be developed with residential and/or commercial retail uses. The no project alternative would result in less environmental impacts for several topic areas compared to the proposed project (i.e. air quality, cultural resources, noise, utilities/services etc.). For example, the No Project would not involve the development of 27 residential units and 36,000 square feet of commercial/retail uses at the subject property. The No Project Alternative would not provide for improved and enhanced view corridor to The Rhine Channel and pedestrian access along the waterfront. This alternative also would not provide for the remedial cleanup of the contaminants present within the site (i.e. boat bays – the two inlets) and improvements related to water quality (filter all surface runoff before entering bay). The alternative would not improve the aesthetic appearance of the site nor provide a development that meets current seismic standards and uniform building code (UBC) requirements. All of the environmental impacts associated with the development of the proposed project can be mitigated to a less than significant level with the exception of Cultural Resources (Historical). The No Project would result in reduced environmental impacts than the proposed project (for Historical resources by retaining the existing structures); however, this project alternative does not meet the immediate and long-term project objectives and goals providing housing opportunities to meet the current and future demand of the community and region. Therefore, this alternative has been rejected.

Reduced Development Alternative

This project alternative would involve development of the site with a reduced development in size from that of the proposed project. This alternative assumes development of approximately twelve (12) residential units and 18,000 square feet of commercial retail uses. Although a few environmental impacts may be lessened in comparison to the proposed project (air quality, noise, traffic, utilities and services), overall, the impacts would be roughly the same and not significant reduced from that of the project. The Reduced Development Alternative also would still require demolishing the existing structures on-site; therefore, significant impacts relative to cultural resources (historical) would not be lessened from that of the proposed project. This development alternative would not significant reduce environmental impacts and would not provide the needed housing and commercial development proposed by the project. Therefore, for these reasons, this alternative has been rejected.

Commercial Development Alternative

This project alternative includes evaluating potential the developing the site with only commercial uses. The City's current development regulations would allow for up 51,400 square feet of commercial uses at the site. This alternative would not significantly lessen any environmental impacts from that of the proposed project. Many of the environmental impacts would be the same including those associated with air quality, biology, cultural resources (historical), noise, traffic/parking, utilities and services. Development of this alternative would have the same beneficial impacts as that of the project in regards to aesthetics (attractive new buildings, view corridor, provision of pedestrian access along waterfront) , hydrology/water (improved drainage and filtration of runoff before entering bay), and hazardous materials (remedial cleanup). Since the environmental impacts would not be lessened and the project does not provide needed housing (a project objective) this alternative has been rejected.

Residential Development Alternative

This alternative involves development of all residential uses on the property. This alternative assumes that no commercial/retail/office uses would be constructed. The City's current development regulations would allow for the development of up to 45 residential units. However, an all residential component would not be found consistent with the City's Land Use Element (LUP) and applicable Specific Plan. As with the all commercial development alternative, none of the environmental impacts associated with the proposed project would be significantly lessened with implementation of this alternative. This alternative would still require demolishing the existing structures on the site to accommodate the construction of 45 residential units. Therefore, adverse significant impacts to cultural resources (historical) would be reduced with this development alternative. Additionally, impacts associated with aesthetics, air quality, biology, traffic, utilities and services would not be lessened with this development alternative. Development of this alternative does not reduce environmental impacts nor provide an economic benefit; therefore, this alternative has been rejected.

4. Findings of Fact

The Planning Commission has reviewed the final EIR prepared to evaluate the proposed Project and has considered the public record on the Project as earlier described in these findings.

These findings summarize the data and conclusions contained in the Draft EIR, the various response to comments and the administrative record. The Draft EIR, the various responses to comments and the administrative record are incorporated into these findings as set forth in full.

Consistent with the requirements of the CEQA Guidelines, the EIR for the Newport Bay Marina Project discusses environmental effects in proportion to their severity and probability of occurrence. To that end, the EIR recognizes that certain areas of impact from the Project are unlikely to occur, or if potentially occurring can be mitigated to a

level of less than significant by imposition of conditions to the Project. It is not reasonably anticipated that potential additional impacts will be discovered as a result of future studies (as identified per the mitigation measures) because of the substantial evidence in the administrative record (including the EIR presently). Therefore, these studies are incorporated into the mitigation measures to further assure protection and recognize responsible agency involvement occurring in the normal course of affairs after the lead agency acts.

The Planning Commission therefore finds, based on all the data currently available, that while no significant adverse impacts are expected to be discovered as a result of any of these subsequent studies, the requirements of such studies in connection with the Project and the reservation of the power to incorporate any mitigation measures required to mitigate any previously unknown impacts to less than significant levels, is itself adequate mitigation for any impacts disclosed by such subsequent surveys and studies, however, unlikely.

The EIR identifies a number of potentially significant adverse environmental effects of the Project. The EIR also identifies mitigation measures which would reduce or eliminate potential adverse effects. These effects and the mitigation measures are summarized below.

All mitigation measures have been written as monitoring programs pursuant to *Public Resources Code* §21081.6. The drafting of these measures have been designed to ensure compliance during Project implementation as explained further in the EIR.

These findings merely summarize data in the EIR administrative record for purposes of identifying the significant impacts and mitigation measures for the Project. The EIR is incorporated by reference into these findings as substantial evidence therefore as if set forth fully in the findings.

AESTHETICS

Significant Effects

Development of the proposed mixed-use project will be visible from locations on-site as well as surrounding areas (residences, open space and roadways). The project will also include landscaping which will further soften the aesthetic appearance of the buildings. The mixed-use project will be visible to travelers on Newport Boulevard, from areas across the Rhine Channel and the immediate surrounding area. Additionally, lighting will also be visible but is not considered significant since the project is located in a developed urbanized area. The project is not considered visually offensive to viewers. Project construction activities will also be visible to viewers. Construction activities are short-term impacts and not considered a significant impact to aesthetics. The project site is not a designated scenic vista nor located near a designated scenic vista. Additionally, the project would not substantially damage scenic resources, including, but not limited to trees, rock outcroppings. The project will have an impact structures which are considered significant historical resources. This topic is addressed in the Cultural Resources Section.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

MM 4.1.4-1: *Prior to the issuance of a building permit, a landscape plan shall be prepared by a licensed landscape architect for the project for review and approval by the Planning Director. Said landscape plan shall enhance the property and provide visual softening of the proposed three-story buildings and site lighting. The landscaping shall be installed in recognition of vehicular and pedestrian circulation (site distance considerations etc.) and safety.*

MM 4.1.4-2: *Prior to the issuance of a building permit, a site lighting plan shall be prepared and submitted to the Planning Department for review and approval. Building and parking lot lighting shall be designed and installed so that all direct lighting rays are confined to the site and adjacent properties and roadways are protected from glare.*

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

AIR QUALITY

Significant Effects

The Pollutant (Nox & PM10) emissions associated with the grading and demolition activities on the project site are projected to be greater than the Significance Thresholds established by the SCAQMD in the CEQA Air Quality Handbook. Therefore, grading and demolition of the proposed project will result in a significant air quality impact. Long term emissions are below the significant threshold levels defined by the SCAQMD, and therefore, project will not have an adverse impact upon the regional emissions.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

MM 4.3.4-1: *During construction activities, the applicant shall ensure that the following measures are complied with to reduce short-term (construction) air quality impacts associated with the project: a) controlling fugitive dust by regular watering, or other dust palliative measures to meet South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust); b) maintaining equipment engines in proper tune; and c) phasing and scheduling construction activities to minimize project-related emissions.*

MM 4.3.4-2: *During demolition and excavation, daily total haul trucks shall travel no more than cumulative 2,600 miles hauling materials from the project site to the dumping site and back again. Prior to commencement of demolition and grading, the project applicant shall submit to the City calculations showing the proposed travel route for haul trucks, the distance traveled, and how many daily truck trips that can be accommodated while keeping the cumulative miles traveled to bellowed 2,600 miles each day. The daily haul truck trips shall not exceed this amount during the demolition and excavation.*

MM 4.3.4-3: *During construction activities, the applicant shall ensure that the project will comply with SCAQMD Rule 402 (Nuisance), to reduce odors from construction activities.*

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

BIOLOGICAL RESOURCES

Significant Effects

Impacts of this project to the marine environment appear to result in a positive effect on the marine environment by replacement of most of the existing habitat with habitat of equal or greater value than that disturbed during the course of the project. The existing boat slipways were surveyed and found to be depauperate in species probably due to their location in a dead end channel and the contaminants that are known to reside there. The impacts to the biota from the project are expected to be short term as most of the biota of the intertidal community are species such as compound ascidians, barnacles, mussels, limpets, and oysters with swimming larval forms that will readily colonize new substrate. Intertidal and subtidal algae such as Ulva and Enteromorpha are very fast growing and will readily attach to the new substrate. Other species such as nudibranchs and fish will swim free of the construction area and recolonize the habitat once construction is complete. Disturbances to the substrate in areas outside of the construction areas will have minor effects on polychaete worms, but they too will readily recolonize disturbed areas, so the loss to the infauna will be relatively small, short term in duration, and the impacts are, therefore, considered less than significant.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

MM 4.3.4-1: *Prior to issuance of a grading permit, a survey will be conducted for the presence of eelgrass and Caulerpa. The biological assessments conducted by CRM and MBC indicate that neither species is present in the project locations, but it is required that not more than 90 days nor less than 30 days prior to initiation of actual construction that both eelgrass and Caulerpa surveys be conducted in September or*

October, in which case the results are relevant until the following growth period beginning in March. In no case, will an eelgrass or Caulerpa survey conducted from November to February (non-growth period) be acceptable.

MM 4.3.4-2: *Prior to the issuance of any Certificates of Use and Occupancy, the project applicant shall implement the recommended mitigation pertaining to the replacement and restoration Pickleweed and the mudflat area presented in the biological resources report prepared by MBC Applied Environmental Sciences.*

Mitigation Measures Added
None.

Mitigation Measures Not Incorporated

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

CULTURAL RESOURCES

Significant Effects
As a result of the records and literature search and the field walkover surveys, no significant cultural resources were found to be present on or immediately adjacent to the project area. Therefore, no further archaeological investigations are recommended by ARMC. Paleontological resources, including fossil remains and associated scientific data, fossil sites, and fossiliferous rocks, could be adversely affected by the direct and indirect environmental impacts accompanying the grading and excavation activities needed for the development of the Newport Bay Marina Mixed-Use Project Area in Newport Beach. Direct impacts would result from the ground-disturbing activities associated with the clearing of the vegetation and soil, excavation of aggregate and increased development of the proposed processing facility. If a significant paleontological resource is identified within the boundaries of the proposed project ground disturbance could result in the loss of paleontological resources, including scientifically important fossil remains, associated geologic data, fossil sites, and fossiliferous rocks, by disturbing fossil-bearing and potentially fossiliferous rocks. Although construction would be a short-term activity, the loss of some fossil remains and the fossil-bearing rocks would be a permanent adverse environmental impact. On this particular parcel the project-related construction activities may have an affect any fossil-bearing formations.

The South Coast Shipyard appears to be eligible for listing in the California Register as a historical resource at the local level of significance under Criteria 1 and 3. Under Criterion 1, the South Coast Shipyard is associated with the development of the

maritime economy of Newport Beach and with World War II, as a local contributor to the war effort. Under Criterion 3, the South Coast shipyard represents an excellent example of maritime architecture in the City of Newport Beach, particularly on Balboa Peninsula. The buildings are in good condition and retain integrity of location, design, feeling, association, workmanship, materials, and setting. The South Coast Shipyard buildings exhibit a collective distinction as a historic district. All of the buildings located within the South Coast Shipyard are contributors to this district. None of the buildings appear to be individually eligible for listing in the California Register, as the shipyard represents a significant and distinguishable entity whose components lack individual distinction. None of the buildings appear to be individually eligible for listing in the California Register.

The South Coast Shipyard does not appear to be eligible for listing in the California Register under Criteria 2 or 4. Although the shipyard was connected to several prominent business people and noted residents of Newport Beach, none of these individuals were associated with any activities that were demonstrably important to the history of Newport Beach, California, or the nation (Criterion 2). The South Coast Shipyard does not appear to be able to answer questions important in history (Criterion 4). In 1974, the South Coast Shipyard was identified as a historical landmark by the Newport Beach Historical Society. In 1992, the Ad Hoc Historic Preservation Advisory Committee conducted a Historic Resources Inventory for the City of Newport Beach. The South Coast Shipyard was identified as a local historic site, representing historic/architectural themes of local importance. While the South Coast Shipyard was recognized as a locally significant property, the City of Newport Beach does not have a Historic Preservation ordinance, and only encourages the adaptive reuse and preservation of buildings, recognized by the City to be Landmark Buildings. The South Coast Shipyard is not recognized by the City of Newport Beach to be a Landmark Building.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Finding 2 - Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or Project alternatives identified in the EIR.

Mitigation Measures

MM 4.4.4-1: During construction activities, if archaeological and/or paleontological resources are encountered, the contractor shall be responsible for temporary halting construction activities in the area of the encountered resources and is responsible for the immediate notification and securing of the site area. A qualified archaeologist and/or paleontologist approved by the City of Newport Beach, Planning Director shall be

retained to establish, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of cultural resource finds. If major archaeological and/or paleontological resources are discovered which require long-term halting or redirecting of grading, a report shall be prepared identifying such findings to the City and to the County of Orange. Discovered cultural resources shall be offered to the County of Orange or its designee or a first-refusal basis.

MM 4.4.4-2: The historical study prepared by LSA dated October 2005 recommends the mitigation to reduce the significant impacts to historical resources through the following methods:

- Documentation of the South Coast Boatyard shall be provided by the developer prior to issuance of demolition permits by the City of Newport Beach. Prior to issuance of demolition permits, the Planning Director shall be provided an historic narrative, photographs, and architectural drawings of all on-site buildings in accordance with Historic American Building Survey (HABS) Level 1 documentation requirements. The Planning Director shall ensure that the HABS documentation is deposited with the Newport Beach Historical Society, the City of Newport Beach Public Library, the Newport Harbor Nautical Museum, and the SCCIC located at California State University, Fullerton, prior to issuance of demolition permits.

- Prior to issuance of building permits, the Planning Director shall review project building plans and permits to ensure incorporation of design features referencing and memorializing the character-defining features of the South Coast Boatyard into design of the project, including, but not limited to, incorporation of a commemorative plaque depicting the buildings and their context to the historical importance of the structures on site. Such plaque shall be oriented to a public right-of-way (i.e. facing Newport Boulevard), so as to be visible and accessible to the public from such right-of-way.

- If previously undocumented cultural resources are found during construction activities within the current project area, a qualified professional archaeologist shall assess the nature and significance of the find in order to recommend appropriate mitigation measures, halting construction activity in the vicinity of the find, if necessary.

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant
The Project will result in an unavoidable significant impact to Cultural Resources (historical).

GEOLOGY AND SOILS

Significant Effects
The topography of the site is relatively flat. The site is not located in an area of unique geologic or physical features. There are no evident faults on the site itself. Field observation during the geotechnical investigation (Petra) did not reveal the existence of any active or ancient landslide in the vicinity of the project site. The closest slope in the area of the site is the bluff north of the site on West Coast Highway. The closest known active or potentially active fault is the Newport-Inglewood Fault. Strong ground shaking is the principle cause of most damage sustained during an earthquake. The most severe ground shaking at the site is expected to originate from an earthquake along the Newport-Inglewood fault zone, which the site lies within (Petra). Groundwater at the project site is relatively shallow. Evaluation and analysis during the geotechnical field explorations conducted by Petra indicate fill materials and marine deposit soils located from a depth of 4 to 30 feet below the ground surface are susceptible to liquefaction. Significant total and differential settlement of the foundation may occur due to seismically induced settlement.

All potential impacts associated with geology and soils are mitigated to a level of less than significant per the project design and compliance with the City Excavation and Grading Code (NBMC Sec.15.10.140) will reduce any potential impacts to an insignificant level.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures
MM 4.5.4-1: *The project shall implement the recommendations presented in the geotechnical reports prepared by Petra presented in Appendix D, Volume II of the EIR.*

MM 4.5.4-2: *Prior to the commencement of construction, design criteria and project specifications that include ground improvement techniques such as stone columns, use of deep foundations which penetrate below the liquefiable zone, pressure grouting, or appropriate combinations of these measures shall be incorporated into the plans for the project.*

MM 4.5.4-3: *Develop design criteria and project specifications that recognize groundwater may be encountered at the proposed depth of the partially subterranean parking area. Construction of mat foundations or structural slabs may be required.*

Design of utility lines and surface drainage in the subterranean parking should also consider the presence of a shallow groundwater table.

MM 4.5.4-4: *Use appropriate type of cement and concrete specification according to Table 19-A-4 of the Uniform Building Code to mitigate contract with corrosive soils and sea water that may come in contact with footings in the area.*

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

HAZARDS AND HAZARDOUS MATERIALS

Significant Impacts

During construction activities, the potential exists for localized spills of petroleum-based products, concrete, or other chemicals. These spills could expose workers and the public to hazardous materials either directly, at the site of the spill, or indirectly, by introducing these substances into the watershed. Such impacts are potentially significant; therefore, mitigation measures are provided to reduce the likelihood of a spill and prevent surface water contamination in the event of a spill. Based on compliance with existing regulations regarding hazardous materials, no increase in risk of upset related to hazardous materials is anticipated with the proposed project.

The proposed project does involve the transport and disposal of some hazardous materials from waste located in sediment near the slipways. The geological assessments (October 11, 2002, Petra Geotechnical, Inc.) consisted of drilling and sampling four borings to assess the environmental condition of sediments which form a shoal near the slipways. The geologic and chemical data obtained during this assessment indicates that local contamination of the sediments in the shoal (near the slipways) has occurred. Concentrations above the Soluble Threshold Limit Concentration (STLC) for copper and lead are present in the upper three feet below the mudline in the shoal area. The detected concentrations of copper and lead (above the STLC) require that these specific sediments be handled as a hazardous waste if they are excavated and removed.

The project is not located within an airport land use plan or close vicinity of a private airstrip (or public airport) that would result in a safety hazard for people residing or

working in the project area. The closest airport to the project site is the John Wayne Airport. This airport is approximately 5 miles from the project site. The project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. However, during construction activities, the project will need to be coordinated with the City (i.e. construction traffic control plan) especially during summer months when the Newport Beach area is very congested with tourist and beachgoers. To ensure that the project does not interfere with any potential emergency response vehicles, a mitigation measure is presented in (Transportation/Traffic). The site itself does not pose any unusual significant risk of wildland fires. The project construction will be required to comply with applicable safety regulations including fire prevention and an emergency operations plan. Additionally, the project will not interfere with any emergency plan and/or access for emergency operations.

Findings

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Finding 2 - Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Mitigation Measures

MM 4.6.4-1: *If during grading and/or construction activities a potential contaminated area is encountered, construction shall cease in the vicinity of the contaminated area. An assessment shall be performed by a qualified hazardous materials specialist to determine the extent and type of contamination. If the site investigation reveals that contamination with pollutant concentrations in excess of Action Levels, as defined by the California Department of Health Services and the California Regional Water Quality Control Board, the site shall be remediate during the project construction phase in compliance with the State of California Hazardous Substances Control Law (Health and Safety Code Division 20, Chapter 6.5) standards established the California Department of Health Services, Office of Statewide Health Planning and Development, and the requirements of California Administrative Code, Title 30, Chapter 22 and applicable Federal regulations.*

MM 4.6.4-2: *The proper use and maintenance of construction equipment, along with the use of general common sense, greatly reduces the potential for contamination. All grading and building plans will include the following construction related measures and that the measures shall be followed by the construction contractor and crew:*

a. *The storage of hazardous materials, chemicals, fuels, and oils and fueling of construction equipment shall be a minimum of 45 meters (150 feet) from any drainage, water supply, or other water feature.*
b. *Hazardous materials stored onsite shall be stored in a neat, orderly manner in the appropriate containers and, if possible, under a roof or other enclosure.*
c. *Whenever possible, all of a product shall be used up before disposal of its container.*
d. *If surplus product must be disposed of, the manufacturers or the local and state recommended methods for disposal shall be followed.*
e. *Spills shall be contained and cleaned up immediately after discovery. Manufacturer's methods for spill cleanup of a material shall be followed as described on the Material Safety Data Sheets (MSDS) for each product.*

MM 4.6.4-3: *Prior to the issuance of any certificate of use and occupancy permit(s), the project applicant shall submit written evidence from the California Regional Water Quality Control Board Santa Ana Region that no further action is needed and all remediation is completed and construction can proceed.*

Mitigation Measures Added

MM 4.6.4-4: *Prior to the issuance of a grading permit, the applicant shall provide evidence that a Final Work Plan (for remediation) has been approved by the RWQCB and that said plan provides for protective measures for contaminated material removal including measures such as use of silt curtains and a watertight clamshell bucket for minimizing the dispersion of containments. Said Plan shall be subject to review and approval by the RWQCB.*

MM 4.6.4-5: *Prior to the issuance of a demolition permit, the applicant shall submit to the Fire Chief a hazardous material disposal plan which identifies the procedures and method of removing and disposing of lead and asbestos in relation to the existing buildings on the site.*

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

HYDROLOGY AND WATER QUALITY

Significant Impacts

The proposed project will have a beneficial impact to water quality. The existing shipyard is proposed to be removed and remediation (contaminants in the sediments of the boat bays) of the site will be conducted in compliance with the requirements of the California Regional Water Quality Control Board Santa Ana Region. Water quality implementation of the project will include compliance with the adopted Drainage Area Management Plan and adoption of Best Management Practices for handling any runoff from the proposed housing buildings or hardscape. Therefore, impacts to water quality are not anticipated. The proposed project would not substantially increase water runoff. The site is already developed with existing buildings and is located in an urbanized area of the City. The site is largely covered with impervious surface (e.g. asphalt, concrete, etc.) at the present time. The proposed expansion will include demolition of three corrugated metal structures and the asphalt parking lot to accommodate the new buildings. Since the site is presently covered with impervious surface and will continue to be after project implementation, the project will result in an insignificant increase in runoff.

The project is located in close proximity to the beach and ocean front. All on-site surface water will be conveyed to a drainage system that includes catch basin filters and that eventually flows toward the bay. The project will result in short-term and long-term impacts to water quality. Short-term impacts will occur as a result of construction and grading activities. Long-term impacts will occur as a result of increased usage of the site by vehicles and people. These impacts can be reduced by procedures that protect the quality of stormwater runoff, such as: site construction, erosion and sediment control programs, sweeping streets, managing solid waste, recycling programs, storm drain and catch basin maintenance, enforcing prohibitions on illegal discharges, controlling spills, supervising waste discharges through permitting, and enforcing the prohibition on certain discharges. Water quality implementation of the project will include compliance with the adopted Drainage Area Management Plan and adoption of Best Management Practices for handling any runoff from the proposed project. The project site is located within a 500-year flood hazard area. Due to close proximity of the project site to the Pacific Ocean (and the Rhine Channel), the site could potentially experience impacts associated with inundation by tsunami (but unlikely a seiche or mudflow due to the location and topography). The project itself does not expose people or structures to a significant risk involving flooding, or flooding as a result of the failure of a levee or dam. The City of Newport Beach has emergency procedures in the event of a major event (i.e. flooding, earthquake, evacuation plans etc.)

Finding 1 - Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Finding 2 - Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Mitigation Measures

MM 4.7.4-1: *Prior to the issuance of any grading permit, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and provide evidence that a NPDES Notice of Intent (NOI) has been filed with the State Regional Water Quality Control Board. Such evidence shall consist of a copy of the NOI stamped by the Regional Water Quality Control Board. The SWPPP shall be developed to reduce the risk of the transport of sediment and pollutant from site. The SWPPP shall implement measures to minimize risks from material delivery and storage; spill prevention and control, vehicle and equipment fueling and maintenance, material use, structure construction and painting, paving operations, solid waste management, sanitary waste management, and hazardous waste management.*

MM 4.7.4-2: *During construction and following completion of development, the recommendations presented in the Water Quality Management Plan (WQMP) prepared by SP Consulting Group dated February 20, 2006 shall be implemented and complied with to ensure that all potential project impacts to water quality will be reduced to a less than significant level and all applicable local and state water quality requirements complied with by the project applicant (property owner).*

MM 4.7.4-3: *During construction activities the following shall to be implemented:*

a. *During construction and maintenance activities, equipment shall be in proper working condition and inspected for leaks and drips on a daily basis. The project contractor or representative thereof shall develop and implement a spill prevention and remediation plan and workers shall be instructed as to its requirements. Construction supervisors and workers and maintenance personnel shall be instructed to (1) be alert for indications of equipment-related contamination such as stains and odors, and (2) respond immediately with appropriate actions as detailed in the spill prevention and remediation plan if indications of equipment-related contamination are noted.*
b. *During construction and maintenance activities, fuels, solvents, and lubricants shall be stored in a bermed area so that potential spills and/or leaks shall be contained. Soil contamination resulting from spills and/or leaks shall be remediated as required by Federal and/or state law. Storage areas shall be constructed so that containers shall not be subjected to damage by construction and maintenance equipment.*

c. *Stockpiles of bulk granular building materials shall be covered and secured.*

d. *Any areas of exposed soil, such as dirt stockpiles, dirt berms, and temporary dirt roads, shall be stabilized with controlled amounts of sprinkled water.*

e. *At the close of each working day, any materials tracked onto the street or laying uncontained in the construction areas shall be swept up, and any trash accumulated in construction areas shall be disposed.*

f. *Concrete, asphalt, and masonry wastes shall be contained and these wastes shall be disposed away from project construction sites.*

g. *Spill kits containing absorbent materials will be kept at the construction site.*

h. *Fuels and other hazardous materials will be stored away from project drainage.*

MM 4.7.4-4: *Prior to the issuance of a building permit, the applicant shall submit a landscape plan, which includes a maintenance program to control the use of fertilizers and pesticides, and an irrigation system designed to minimize surface runoff and over watering. This plan shall be reviewed by the City of Newport Beach Planning Department. The landscaping shall be installed and maintained in conformance with the approved plan and maintenance program.*

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

LAND USE AND PLANNING

Significant Impacts

The proposed project does not result in any significant impacts relative to land use and planning. The project is consistent with applicable regulation plans and development regulations (i.e. General Plan, Specific Plan, & LCP).

The project does not impact any applicable habitat conservation plan (HCP) or natural community conservation plan (NCCP). The project site is not part of a HCP or NCCP.

The proposed project will not result in any significant impacts to land use and planning. Mitigation related to other topical areas such as biological resources, cultural resources etc. are presented in the appropriate EIR Sections addressing those areas.

Findings

Finding 1 - Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or Project alternatives identified in the EIR.

Mitigation Measures

None.

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

NOISE

Significant Impacts

Construction noise represents a short-term impact on ambient noise levels. Noise generated by construction equipment, including trucks, graders, bulldozers, concrete mixers and portable generators can reach high levels. Typical noise construction levels are shown in Exhibit 4.9-3. Construction of the project includes demolition of all existing buildings, grading and excavation associated with the construction of the parking garage and site remediation. However, the project does not propose construction outside of the hours permitted in the Noise Ordinance.

The proposed residences are required to meet an outdoor noise standard of 65 CNEL and an indoor noise standard of 45 CNEL. Residences along Newport Boulevard may be exposed to noise levels in excess of 70 CNEL. A few second and third floor balcony units are planned along Newport Boulevard.

Noise barrier heights were calculated for sample outside balcony locations facing along

Newport Boulevard. Balcony barriers of 5 feet high may be required. In general, noise barrier heights may be reduced considerably through site design, such as setbacks from the roadway, grade separations, and exterior living area orientation. The residential buildings facing Newport Boulevard will experience traffic noise levels of 70 CNEL or greater, and will require outdoor-to-indoor noise reduction of at least a 25 dB. In some cases standard construction will achieve this level of reduction, however, these residences will likely require upgraded windows to achieve the required outdoor to indoor noise reduction. With typical residential construction, a minimum of 20 dB of outdoor-to-indoor noise reduction is achieved with windows closed. With windows open outdoor-to-indoor, noise reduction falls to 12 dBA. Therefore, units requiring more than 12 dB of noise reduction require adequate ventilation per the Uniform Building Code to allow windows to remain closed. Typically this is provided through mechanical ventilation. Mechanical ventilation may be required for all homes in the project. The commercial buildings must comply with an interior noise standard of 50 CNEL. The commercial buildings along Newport Boulevard could experience noise levels in excess of 70 CNEL.

Findings

Finding 1 - Changes or alterations had been required in or incorporated into the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

MM 4.9.4-1: *Prior to the issuance of any building permits, detailed engineering construction plans will be submitted to the City for review and approval. The engineering plans shall provide details such as roof and wall elements, room dimensions, window and door dimensions, attic configuration and building insulation. Said plans shall demonstrate and ensure that the City's noise standards are met for proposed mixed-use project (residential and commercial).*

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

PUBLIC SERVICES

Fire

The proposed project may potentially increase the number of calls for service to the location; however, it is anticipated that the project will not require any new facilities/staff or affect emergency response times. all proposed structures will be required to be fully fire sprinklered. At this time, the Newport Beach Fire Department has indicated that the project will not result in any significant impacts to facilities, staff and/or services. All fire protection project features must be designed as an integral part of the construction process with all improvements and/or modernization of equipment systems or devices identified and agreed upon by the City of Newport Beach Fire and Marine Department prior to any construction approval.

Police

There are no plans for additional facilities or expansion of current facilities and/or additional staff. The Newport Beach Police Department (NBPD) indicated that the construction of the project may have an impact on the area, especially if the construction is done in the summer months. The area becomes very busy with traffic and parking issues because of the beachgoers and tourist business that occurs between May and September.

Schools

The proposed project consists of a mixed-use development that includes 27 new residential units. The project will generate new students, however, the project is consistent with the land use designation of the City's General Plan and zoning and therefore included in the student generation projections for buildout of the City. Based on the current student generation rates, the project could result in the generation of approximately 7 K-12 students (27 units x 0.259 K-12 student/dwelling unit). While the development is not expected to generate significant numbers of students, the District's facilities are overcrowded. Therefore, in compliance with state law the project applicant will be required to pay applicable development impact fees adopted by school district.

Parks

The proposed project is not anticipated to significantly increase the use of existing neighborhood and regional parks and recreational facilities. The project will provide additional marine recreation opportunities to the public. Existing parks in the area and beaches are available to the public. Due to the limited population expected in relation to the 27 residential units the increase will be limited in regards to the potential use of parks and recreational facilities in the area. The project applicant will be required to pay applicable park impact fees.

Findings

Finding 1 - Changes or alterations had been required in or incorporated into the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Finding 2 - Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Mitigation Measures

MM 4.10.4-1: *Prior to the issuance of a grading permit, project construction plans shall be submitted to the City Fire Chief for review to verify that all fire protection is designed in compliance with the requirements of the City of Newport Beach Fire and Marine Department.*

MM 4.10.4-2: *Prior to the issuance of any building permits, the project applicant shall pay any applicable development school impact fees as required by State law.*

MM 4.10.4-3: *Prior to the issuance of any building permits, the project applicant shall pay any applicable park impact fees as required by City of Newport Beach and State law.*

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

TRANSPORTATION

Significant Impacts

The proposed development is projected to generate approximately 682 trip-ends (net increase) per day with -2 (net) vehicles per hour during the AM peak hour and 28 vehicles per hour during the PM peak hour. Six intersections were evaluated per the traffic study conducted for the project. Additionally analysis for one intersection was warranted. The ICU analysis for the intersection of Newport Boulevard and Via Lido assumes existing land configurations and a capacity of 1,600 vehicles per hour per lane with no clearances factor. The traffic study concluded that the project will have no impact on the intersection of Newport Boulevard and Via Lido during the peak hours, which will

operate at LOS (Level of Service) "A". The project has no significant impact on the study intersections.

Parking for the project will be provided by a underground parking structure, an upper deck parking lot, and on-street parking. No on-street parking will be lost on Newport Boulevard along the project frontage, and two new on-street parking spaces on Newport Boulevard are proposed by relocating an existing fire hydrant. No on-street parking will be lost on 22nd Street. Five on-street parking spaces on The Arcade will be relocated on The Arcade along the project frontage.

Findings

Finding 1 - Changes or alterations had been required in or incorporated into the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Mitigation Measures

None.

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

UTILITIES AND SERVICE SYSTEMS

Significant Impacts

Water and Sewer Services
Based on water consumption factors, development of the project will result in a water consumption of 32,618 gallons of water daily (102,800 sq.ft. of residential uses and 36,000 sq.ft. of commercial uses, 235 gallons/1,000 sq.ft.). The total of 32,618 does not take into account the deduction of the consumption by the existing use to be demolished to accommodate the new development. Based on sewer flow generation factors (5,429 gallons per day (gpd)/acre), development of the project is anticipated to generate 282,308 gallons of wastewater annually.

The project will generate an estimated 6,902 gallons of sewage each day (based on OCSD use flow coefficients of 3,451 gpd/acre for medium density residential, 8-16 du/ac); however, no significant discharges that would exceed wastewater treatment requirements will occur as a result of the development.

The project does not include uses that would necessitate treatment beyond that provided by the OCSD and raw sewage generated by the project will not exceed wastewater treatment requirements established by the Santa Ana Regional Water Quality Control Board.

Electrical Services

The project will require extension of existing electrical facilities to serve the new school buildings and parking area. Based on consumption factors from the SCAQMD CEQA Air Quality Handbook it is projected that the project will have a consumption rate of 1,221,440 kWh (based on computing square footage by 8.8 KWh/sq.ft. per year). The project is not anticipated to have any significant impacts on electrical services.

Natural Gas Services

The project will require expansion of gas services to serve the school buildings. No significant adverse impacts associated with providing gas service to the project are anticipated as a result of the proposed project.

Solid Waste Services

The demolition of the existing structures and surfaces on the project site will result in the generation of solid waste. The majority of the demolition waste can be diverted through a recycle process of wood, metal, concrete, and other building materials. It is estimated that the project will generate approximately 292 pounds of solid waste per day (based on IWMD generation rate of 4 lbs/unit and 0.005/sq.ft. for commercial/retail). The project will comply with federal, state, and local statutes and regulations related to solid waste. It is not anticipated that there are any significant impacts relative to providing solid waste pick up and disposal generated by the project.

Telephone Services

The proposed project will require extension of existing telephone facilities to serve the new buildings. No significant adverse impacts associated with providing telephone service to the project are anticipated as a result of the project.

Findings

Finding 1 - Changes or alterations had been required in or incorporated into the Project which avoid or substantially lessen many of the significant environmental effects as identified in the EIR.

Finding 2 - Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

Mitigation Measures

MM 4.13.4-1: Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.

MM 4.13.4-1: Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.

Mitigation Measures Added

None.

Mitigation Measures Not Included

None.

Effects Not Mitigated to a Level of Less Than Significant

None.

EXHIBIT B

STATEMENT OF OVERRIDING CONSIDERATIONS

A. UNAVOIDABLE IMPACTS IDENTIFIED IN THE EIR

The City of Newport Beach finds that the mitigation measures discussed in Exhibit A (Findings of Facts) will, when implemented, mitigate or substantially reduce most of the environmental effects identified in the Final EIR. Nonetheless, certain significant environmental impacts of the project are unavoidable. For such effects, the City of Newport Beach has balanced the benefits of the project against such unavoidable impacts in its approval. The unavoidable impacts associated with the Newport Bay Marina Project are in the following areas:

Cultural Resources

The project site buildings appear to be eligible for listing in the California Register as a historical resource at the local level of significance under Criteria 1 and 3. Under Criterion 1, the property (aka the South Coast Shipyard) is associated with the development of the maritime economy of Newport Beach and with World War II, as a local contributor to the war effort. Under Criterion 3, the South Coast shipyard represents an excellent example of maritime architecture in the City of Newport Beach, particularly on Balboa Peninsula. The buildings are in good condition and retain integrity of location, design, feeling, association, workmanship, materials, and setting. The site (aka South Coast Shipyard) buildings exhibit a collective distinction as a historic district. All of the buildings located within the subject property are contributors to this district. None of the buildings appear to be individually eligible for listing in the California Register, as the shipyard represents a significant and distinguishable entity whose components lack individual distinction. None of the buildings appear to be individually eligible for listing in the California Register.

To approve the project the City of Newport Beach, Planning Commission, must make a statement of overriding considerations pursuant to State CEQA Guidelines Sections 15043 and 15093. This statement allows a lead agency to cite a projects general economic, social or other benefits as a justification for choosing to allow the occurrence of specified significant environmental effects that have not been avoided. The statement explains why, in the agency=s judgment, the project=s benefits outweigh the unavoidable significant effects. CEQA does not require lead agencies to analyze beneficial impacts in an EIR. Rather, EIR's are to focus on potential significant effects on the environment, defined to be adverse (Public Resources Code, Section 21068). However, these benefits can be cited, if necessary, in a statement of overriding considerations (CEQA Guidelines, Section 15093).

B. IDENTIFIED PUBLIC BENEFITS

The City of Newport Beach, Planning Commission, in its review and consideration of the proposed Newport Bay Marina project, and in consideration of the unavoidable adverse impacts associated with the project on Cultural Resources, makes the following determinations and finding regarding the Unavoidable Adverse Impacts for the overriding reasons listed below:

1. The project will contribute housing in the City of Newport Beach by the provision of additional residential units (27 dwelling units). The provision of additional housing is a public benefit of the project. The project would provide housing opportunities that assist in meeting the objectives and policies the City's Housing Element and SCAG's Regional Housing Needs Assessment.

2. The project provides for the remediation of hazardous materials (contaminated sediment) located within the project boundary. The remediation will clean up the site and assure a healthy environment for future residents and businesses. Therefore, there is a public benefit of the remediation of hazardous materials that will occur as a result of the implementation of the project.

3. The project will provide an attractive and viable mixed use (residential/commercial) development that optimizes the project site's prime location adjacent to the marina. Additionally, the marina will continue to be provided as well as an enhanced and larger boat slipway. The project will also improve water quality (post-construction) by the implementation of Best Management Practices (BMP's) and treatment of water prior to entering the bay. Currently, the site does not have a treatment system. Therefore, the project will provide an economic and public benefit of providing mixed-use of the property (residential, commercial, and marine uses) as well as improving the water quality from that which currently exists on site.

4. The project will provide for public access along the waterfront by implementing planned pedestrian walkways as well as a pedestrian/vehicular bridge crossing. The provisions of pedestrian walkways and the bridge crossing is a public benefit of the project.

5. Alternatives to the Project were evaluated and considered by the City of Newport Beach Planning Commission, the alternatives included the following; No Project Alternative, Reduced Development Alternative, Commercial Development Alternative, and the Residential Development Alternative. Based on the analysis, it was determined that the Project is the alternative that best meets the City's objectives and goals in providing educational facilities and opportunities to the public in accordance with State law.

The Planning Commission hereby finds that all feasible mitigation measures identified in the Final EIR have been and will be implemented with the project, and that any significant unavoidable effects remaining are acceptable due to the above stated specific economic, social and other considerations, based upon the facts set forth above, in the Final EIR and in the public record of the consideration of this project.

EXHIBIT C

MITIGATION MONITORING AND REPORTING PROGRAM SUMMARY
CITY OF NEWPORT BEACH
Newport Bay Marina Project - EIR

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
AESTHETICS					
MM 4.1.4-1: *Prior to the issuance of a building permit, a landscape plan shall be prepared by a licensed landscape architect for the project for review and approval by the Planning Director. Said landscape plan shall enhance the property and provide visual softening of the proposed three-story buildings and site lighting. The landscaping shall be installed in recognition of vehicular and pedestrian circulation (site distance considerations etc.) and safety.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of grading permit*	*Planning Director*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.1.4-2: *Prior to the issuance of a building permit, a site lighting plan shall be prepared and submitted to the Planning Department for review and approval. Building and parking lot lighting shall be designed and installed so that all direct lighting rays are confined to the site and adjacent properties and roadways are protected from glare.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of grading permit*	*Planning Director*	
AIR QUALITY					
MM 4.3.4-1: *During construction activities, the applicant shall ensure that the following measures are complied with to reduce short-term (construction) air quality impacts associated with the project: a) controlling fugitive dust by regular watering, or other dust palliative measures to meet South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust); b) maintaining equipment engines in proper tune; and c) phasing and scheduling construction activities to minimize project-related emissions.*	*Condition of Approval*	*Field Inspections as necessary*	*During construction activities*	*Code Enforcement Division*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.3.4-2: *During demolition and excavation, daily total haul trucks shall travel no more than cumulative 2,600 miles hauling materials from the project site to the dumping site and back again. Prior to commencement of demolition and grading, the project applicant shall submit to the City calculations showing the proposed travel route for haul trucks, the distance traveled, and how many daily truck trips that can be accommodated while keeping the cumulative miles traveled to bellowed 2,600 miles each day. The daily haul truck trips shall not exceed this amount during the demolition and excavation.*	*Condition of Approval*	*Field Inspections as necessary*	*During construction activities*	*Code Enforcement Division*	
MM 4.3.4-3: *During construction activities, the applicant shall ensure that the project will comply with SCAQMD Rule 402 (Nuisance), to reduce odors from construction activities.*	*Condition of Approval*	*Field Inspections as necessary*	*During construction activities*	*Code Enforcement Division*	
BIOLOGICAL RESOURCES					

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.3.4-1: *Prior to issuance of a grading permit, a survey will be conducted for the presence of eelgrass and Caulerpa. The biological assessments conducted by CRM and MBC indicate that neither species is present in the project locations, but it is required that not more than 90 days nor less than 30 days prior to initiation of actual construction that both eelgrass and Caulerpa surveys be conducted in September or October, in which case the results are relevant until the following growth period beginning in March. In no case, will an eelgrass or Caulerpa survey conducted from November to February (non-growth period) be acceptable.*	*Condition of Approval*	*Plan Check & Field Inspection*	*Prior to start of construction*	*Planning Dept.*	
MM 4.3.4-2: *Prior to the issuance of any Certificates of Use and Occupancy, the project applicant shall implement the recommended mitigation pertaining to the replacement and restoration Pickleweed and the mudflat area presented in the biological resources report prepared by MBC Applied Environmental Sciences.*	*Condition of Approval*	*Plan Check & Field Inspection*	*Prior to issuance of Certificates of Occupancy*	*Planning Dept.*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
CULTURAL RESOURCES					
MM 4.4.4-1: During construction activities, if archaeological and/or paleontological resources are encountered, the contractor shall be responsible for temporary halting construction activities in the area of the encountered resources and is responsible for the immediate notification and securing of the site area. A qualified archaeologist and/or paleontologist approved by the City of Newport Beach, Planning Director shall be retained to establish, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of cultural resource finds. If major archaeological and/or paleontological resources are discovered which require long-term halting or redirecting of grading, a report shall be prepared identifying such findings to the City and to the County of Orange. Discovered cultural resources shall be offered to the County of Orange or its designee or a first-refusal basis.	*Condition of Approval*	*Field Inspection as necessary*	*During construction*	*Code Enforcement Division*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.4.4-2: The historical study prepared by LSA dated October 2005 recommends the mitigation to reduce the significant impacts to historical resources through the following methods: • Documentation of the South Coast Boatyard shall be provided by the developer prior to issuance of demolition permits by the City of Newport Beach. Prior to issuance of demolition permits, the Planning Director shall be provided an historic narrative, photographs, and architectural drawings of all on-site buildings in accordance with Historic American Building Survey (HABS) Level 1 documentation requirements. The Planning Director shall ensure that the HABS documentation is deposited with the Newport Beach Historical Society, the City of Newport Beach Public Library, the Newport Harbor Nautical Museum, and the SCCIC located at California State University, Fullerton, prior to issuance of demolition permits. • Prior to issuance of building permits, the Planning Director shall review project building plans and permits to ensure incorporation of design features referencing and memorializing the character-defining features of the South Coast Boatyard into design of the project, including, but not limited to, incorporation of a commemorative plaque depicting the buildings and their context to the historical importance of the structures on site. Such plaque shall be oriented to a public right-of-way (i.e. facing Newport Boulevard), so as to be visible and accessible to the public from such right-of-way. • If previously undocumented cultural resources are found during construction activities within the current project area, a qualified professional archaeologist shall assess the nature and significance of the find in order to recommend appropriate mitigation measures	*Condition of Approval*	*Plan Check*	*Prior to issuance of Certificates of Use & Occupancy*	*Planning Dept.*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
GEOLOGY & SOILS					
MM 4.5.4-1: *The project shall implement the recommendations presented in the geotechnical reports prepared by Petra presented in Appendix D, Volume II of the EIR.*	*Condition of Approval*	*Final Design & Field Inspections as necessary*	*During construction activities*	*Building Department*	
MM 4.5.4-2: *Prior to the commencement of construction, design criteria and project specifications that include ground improvement techniques such as stone columns, use of deep foundations which penetrate below the liquefiable zone, pressure grouting, or appropriate combinations of these measures shall be incorporated into the plans for the project.*	*Condition of Approval*	*Plan Check*	*Prior to start of construction*	*Building Department.*	
MM 4.5.4-3: *Develop design criteria and project specifications that recognize groundwater may be encountered at the proposed depth of the subterranean parking area. Construction of mat foundations or structural slabs may be required. Design of utility lines and surface drainage in the subterranean parking should also consider the presence of a shallow groundwater table.*	*Condition of Approval*	*Plan Check*	*Prior to start of construction*	*Building Department*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.5.4-4: *Use appropriate type of cement and concrete specification according to Table 19-A-4 of the Uniform Building Code to mitigate contract with corrosive soils and sea water that may come in contact with footings in the area.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of Building Permits*	*Building Department*	
HAZARDS & HAZARDOUS MATERIALS					
MM 4.6.4-1: *If during grading and/or construction activities a potential contaminated area is encountered, construction shall cease in the vicinity of the contaminated area. An assessment shall be performed by a qualified hazardous materials specialist to determine the extent and type of contamination. If the site investigation reveals that contamination with pollutant concentrations in excess of Action Levels, as defined by the California Department of Health Services and the California Regional Water Quality Control Board, the site shall be remediate during the project construction phase in compliance with the State of California Hazardous Substances Control Law (Health and Safety Code Division 20, Chapter 6.5) standards established the California Department of Health Services, Office of Statewide Health Planning and Development, and the requirements of California Administrative Code, Title 30, Chapter 22 and applicable Federal regulations.*	*Condition of Approval*	*Site inspection as needed*	*During construction activities*	*Code Enforcement*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.6.4-2: *The proper use and maintenance of construction equipment, along with the use of general common sense, greatly reduces the potential for contamination. All grading and building plans will include the following construction related measures and that the measures shall be followed by the construction contractor and crew:* *a. The storage of hazardous materials, chemicals, fuels, and oils and fueling of construction equipment shall be a minimum of 45 meters (150 feet) from any drainage, water supply, or other water feature.* *b. Hazardous materials stored onsite shall be stored in a neat, orderly manner in the appropriate containers and, if possible, under a roof or other enclosure.* *c. Whenever possible, all of a product shall be used up before disposal of its container.* *d. If surplus product must be disposed of, the manufacturers or the local and state recommended methods for disposal shall be followed.* *e. Spills shall be contained and cleaned up immediately after discovery. Manufacturer's methods for spill cleanup of a material shall be followed as described on the Material Safety Data Sheets (MSDS) for each product.*	*Condition Approval*	*Site inspections*	*During construction*	*Code Enforcement Division*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.6.4-3: Prior to the issuance of any certificate of use and occupancy permit(s), the project applicant shall submit written evidence from the California Regional Water Quality Control Board Santa Ana Region that no further action is needed and all remediation is completed and construction can proceed.	*Condition of Approval*	*Plan Check*	*Prior to issuance of Certificate of Use & Occupancy*	*Building Department*	
MM 4.6.4-4: *Prior to the issuance of a grading permit, the applicant shall provide evidence that a Final Work Plan (for remediation) has been approved by the RWQCB and that said plan provides for protective measures for contaminated material removal including measures such as use of silt curtains and a watertight clamshell bucket for minimizing the dispersion of contaminants. Said Plan shall be subject to review and approval by the RWQCB.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of a grading permit*	*Building Department*	
MM 4.6.4-5: *Prior to the issuance of a demolition permit, the applicant shall submit to the Chief Building Official a hazardous material disposal plan which identifies the procedures and method of removing and disposing of lead and asbestos in relation to the existing buildings on the site.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of a demolition permit*	*NB Fire Dept. – Fire Chief*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
HYDROLOGY & WATER QUALITY					
MM 4.7.4-1: Prior to the issuance of any grading permit, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and provide evidence that a NPDES Notice of Intent (NOI) has been filed with the State Regional Water Quality Control Board. Such evidence shall consist of a copy of the NOI stamped by the Regional Water Quality Control Board. The SWPPP shall be developed to reduce the risk of the transport of sediment and pollutant from site. The SWPPP shall implement measures to minimize risks from material delivery and storage, spill prevention and control, vehicle and equipment fueling and maintenance, material use, structure construction and painting, paving operations, solid waste management, sanitary waste management, and hazardous waste management.	*Condition of Approval*	*Plan Check & Field Inspections as necessary*	*Prior to the issuance of a grading permit.*	*Building Department.*	
MM 4.7.4-2: *During construction and following completion of development, the recommendations presented in the Water Quality Management Plan (WQMP) prepared by SP Consulting Group dated February 20, 2006 shall be implemented and complied with to ensure that all potential project impacts to water quality will be reduced to a less than significant level and all applicable local and state water quality requirements complied with by the project applicant (property owner).*	*Condition of Approval*	*Plan Check & Field Inspections as necessary*	*During construction*	*Building Department*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
MM 4.7.4-3: *During construction activities the following shall to be implemented:* *a. During construction and maintenance activities, equipment shall be in proper working condition and inspected for leaks and drips on a daily basis. The project contractor or representative thereof shall develop and implement a spill prevention and remediation plan and workers shall be instructed as to its requirements. Construction supervisors and workers and maintenance personnel shall be instructed to (1) be alert for indications of equipment-related contamination such as stains and odors, and (2) respond immediately with appropriate actions as detailed in the spill prevention and remediation plan if indications of equipment-related contamination are noted.* *b. During construction and maintenance activities, fuels, solvents, and lubricants shall be stored in a bermed area so that potential spills and/or leaks shall be contained. Soil contamination resulting from spills and/or leaks shall be remediated as required by Federal and/or state law. Storage areas shall be constructed so that containers shall not be subjected to damage by construction and maintenance equipment.* *c. Stockpiles of bulk granular building materials shall be covered and secured.* *d. Any areas of exposed soil, such as dirt stockpiles, dirt berms, and temporary dirt roads, shall be stabilized with controlled amounts of sprinkled water.* *e. At the close of each working day, any materials tracked onto the street or laying uncontained in the construction areas shall be swept up, and any trash accumulated in construction areas shall be disposed.*	*Condition of Approval*	*Site inspections as necessary*	*During construction activities*	*Code Enforcement*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
f. Concrete, asphalt, and masonry wastes shall be contained and these wastes shall be disposed away from project construction sites. *g. Spill kits containing absorbent materials will be kept at the construction site.* *h. Fuels and other hazardous materials will be stored away from project drainage.*					
MM 4.7.4-4: *Prior to the issuance of a building permit, the applicant shall submit a landscape plan, which includes a maintenance program to control the use of fertilizers and pesticides, and an irrigation system designed to minimize surface runoff and over watering. This plan shall be reviewed by the City of Newport Beach Planning Department. The landscaping shall be installed and maintained in conformance with the approved plan and maintenance program.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of a building permit.*	*Planning Dept*	
NOISE					
MM 4.9.4-1: *Prior to the issuance of any building permits, detailed engineering construction plans will be submitted to the City for review and approval. The engineering plans shall provide details such as roof and wall elements, room dimensions, window and door dimensions, attic configuration, ventilation systems, and building insulation. Said plans shall demonstrate and ensure that the City's noise standards are met for proposed mixed-use project (residential and commercial).*	*Condition of Approval*	*Plan Check*	*Prior to issuance of a building permit*	*Building Department*	

Mitigation Measures	Implementation Action	Method of Verification	Timing of Verification	Responsible Person	Verification Date
PUBLIC SERVICES					
MM 4.10.4-1: *Prior to the issuance of a grading permit, project construction plans shall be submitted to the City Fire Chief for review to verify that all fire protection is designed in compliance with the requirements of the City of Newport Beach Fire and Marine Department.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of a grading permit*	*NB Fire Dept. – Fire Chief*	
MM 4.10.4-2: *Prior to the issuance of any building permits, the project applicant shall pay any applicable development school impact fees as required by State law.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of any building permits*	*Building Department*	
MM 4.10.4-3: *Prior to the issuance of any building permits, the project applicant shall pay any applicable park impact fees as required by City of Newport Beach and State law.*	*Condition of Approval*	*Plan Check*	*Prior to issuance of any building permits*	*Building Department*	
PUBLIC UTILITIES & SERVICE SYSTEMS					
MM 4.13.4-1: *Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.*	*Condition of Approval*	*Plan Check*	*Prior to start of construction activities*	*Building Department*	

RESOLUTION NO. 1706

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING SITE PLAN REVIEW NO. 2001-004, USE PERMIT NO. 2001-038, AND NEWPORT TRACT MAP NO. 2004-003 (VESTING TENTATIVE TRACT MAP. NO. 16594) FOR PROPERTY LOCATED AT 2300 NEWPORT BOULEVARD (PA2001-210).

The Planning Commission of the City of Newport Beach does hereby find, resolve and order as follows:

WHEREAS, an application was filed by ETCO Development, Inc. with respect to property located at 2300 Newport Boulevard (PA2001-210) and legally described as Lot 1 of Parcel Map P.M.B. 68/48. The applicant seeks approval of a Site Plan Review, Vesting Tentative Tract Map, and Use Permit for the construction of a mixed use development consisting of 27 residential units, 36,000 square feet of commercial floor area, and the reconstruction of bulk heads and boat slips on approximately 2.36 acres in the Cannery Village/McFadden Square area.

WHEREAS, a public hearing was held on October 5, 2006 and continued to November 2, 2006, November 16, 2006 and December 7, 2006 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meetings was given. Evidence, both written and oral, was presented to and considered by the Planning Commission at the meeting.

WHEREAS, the Planning Commission finds as follows:

Consistent with the General Plan

1. The Land Use Element of the General Plan designates the project site as Mixed Use Water 2 (MU-W2) which allows retail and office commercial uses and residential uses above the first floor provided that development does not exceed established floor area limits. The proposed project includes a mix of commercial and residential development that will replace the existing commercial development occupying the site. The project will provide a range of coastal-related and visitor-serving commercial uses and will provide residential uses above the first floor, as prescribed by the Land Use Element and zoning regulations that regulate development. Public access to the marina area is provided along the frontage of the project from Newport Boulevard. No significant natural landforms, including coastal bluffs and cliffs, are located on the site or in the immediate area. Public views of the marina area will be maintained through the public walk located along the frontage of the development and from Newport Boulevard via a view and access corridors through the development. The existing boat slips will be reconstructed and will continue to accommodate marine uses and a new 10-foot wide public walkway will provide

public access to the waterfront. The proposed project is designed to complement the nautical and historical maritime character of the area. Therefore, the project is consistent with the Land Use Element of the General Plan.

2. The Coastal Land Use Plan designates the project site as Recreational and Marine Commercial and permits retail and commercial uses and residential uses above the first floor. Further, the CLUP outlines a number of policies that require new developments to provide lateral public access along the bayfront and access from public streets. The project proposes to establish commercial uses with residential uses above, and to provide both vertical and lateral access to and along the waterfront. Due to these factors, the project is deemed consistent with the Local Coastal Plan Land Use Plan.

Consistent with the Cannery Village/McFadden Square Specific Plan

1. The Cannery Village Specific Plan is intended to provide an active pedestrian-oriented, specialty retail area with a wide range of uses including retail, professional offices that provide service directly to the public, residential uses above the first floor, commercial and marine-related uses. The project provides commercial retail and office uses with residences above the first floor, and incorporates publicly accessible plaza and walkway along the waterfront to promote pedestrian-orientation.

2. The proposed architecture of the project incorporates building materials that reflect an image of permanence, stability and strength, and quality, including the use of ceramic tile, stone, brick and brass consistent with the McFadden Square design theme. Therefore, the project is consistent with the Cannery Village/McFadden Square Specific Plan.

Use Permit for Building Height

1. The project incorporates open terraces and balconies on upper floors, undulating wall planes along the Newport Boulevard that result in visual relief, and an open corridor has been provided within the center of the project. In addition, the roof lines have been varied in order to give visual relief that results in an appearance that is in scale with the overall design of the project. These features increase open space that is visible by the public. The open aspects of the terraces and balconies and location of the portions of the buildings that exceed the basic 26-foot height limit will provide a slightly greater view of the sky for someone on the street and result in building design that is balanced and in more in scale with the overall building bulk than could be constructed within the basic height limit.

2. The building height above 26 feet creates the ability to construct two levels of residential use above first floor commercial. The increase by 9 feet also allows more open space and less building area/bulk at the Plaza Level, thereby decreasing overall building bulk on the site and increasing the view corridor through the project form the public streets. The increase height allows greater flexibility in design, which is exhibited

in the project, and is architecturally superior to that achievable within the 26-foot height limit.

3. Consistent with the eclectic nature of McFadden Square, there is a variety of building heights in the area. Surrounding buildings are generally one and two story at or near the 26-foot height limit. Some projects include adjacent restaurants, and other projects in the vicinity that exceed the 26-foot height limit. A variety of roof planes, vertical wall setbacks and balcony areas are incorporated into the design of the buildings as well as interior open space, plaza and pedestrian corridors within the interior of the project, which helps lessen the bulk of the buildings as perceived from Newport Boulevard and the Arcade. As a result of the presence of other buildings of comparable height in the area and the location, design and bulk of features of the project that exceed 26 feet, and the setback of upper floors on the buildings fronting Newport Boulevard, the increased height to accommodate these specific features is not an abrupt change in scale. Restricting the buildings to 26 feet in height would not improve views of the bay through the property. In addition, the project has been designed to be consistent with the design theme, building materials and design features included in the Specific Plan #6.

4. The commercial floor area ratio of the project is 0.35, which is below the maximum of 0.50 FAR and the maximum residential floor area ratio of 0.75 has not been exceeded. In addition, the proposed number of dwelling units is 27, which is less than the permitted maximum of 43 dwelling units; therefore the project does not achieve any additional floor area due to the additional height.

Site Plan Review

1. The site is flat, developed with older buildings and paved with concrete and asphalt with limited landscaping. There are no unique natural landforms or coastal bluffs or other environmental resources. No known archaeological and paleontological resources are known to exist and are unlikely to exist due to the disturbed nature of the site. The site will be graded to maintain the top of bulkhead elevation at 9 feet above mean low water (8.67 NAVD 88). This results in a grade level that approximates the current grade level and does not constitute significant alteration of the site as the grade will be similar to abutting properties. The development of the lots provides a 10-foot bulkhead setback, within which a 10-foot easement will be dedicated for public access to the waterfront, which does not exist today.

2. The proposed eleven buildings are consistent with the development standards of the Cannery Village/McFadden Square Specific Plan with the exception of building height. Their height and bulk is comparable to other structures located in the vicinity.

3. The development proposes to increase and enhance the view from Newport Boulevard through the center of the property by providing a plaza area in front of and on either side of the slipway that is proposed to be maintained. No public parks are in the vicinity where views would be impacted. The project provides a 10-foot public access easement within the 10-foot bulkhead setback along the channel and access will be

provided from Newport Boulevard via the Plaza area and from Arcade/22nd Street via a Paseo. From these easements and access/view corridors, that presently do not exist, public views will be enhanced.

4. The project has been designed in a manner to preserve and enhance environmentally sensitive areas in that the loss of an existing slipway is mitigated by the expansion and upgrading of the additional existing slipway and other mitigation measures have been incorporated to enhance the marine environment of the site.

5. The project site is not subject to any increased potential of geologic hazard due to its location over that of other properties in the area. All applicable City and State building codes and seismic design recommendations contained within the Preliminary Geotechnical investigation will be applied through the issuance of a building permit, which will minimize possible risks of liquefaction damage during an earthquake.

6. A noise analysis was completed for the project and it indicates that noise levels will be maintained at levels consistent with the Noise Element of the General Plan and the Community Noise Ordinance through appropriate noise mitigation measures that have been included in the Environmental Impact Report and incorporated as conditions of approval, therefore, it is not anticipated that the project will be subject to excessive noise. The residential portions of the project will need to be sound insulated sufficiently to ensure compliance with interior and exterior noise standards of the Community Noise Ordinance.

7. The Planning, Public Works and Building Departments have reviewed the site plan for proper pedestrian and vehicle function, and a traffic study has been completed in conjunction with the preparation of the Environmental Impact Report. The Public Works Department is satisfied with access and circulation on Newport Boulevard and area intersections are not expected to be impacted. Public access to the water front along the Rhine Channel is provided in accordance with the Zoning Code. A 10-foot wide horizontal easement that is parallel to the water front will be dedicated to the public and will be improved with a walkway by the applicant. The easement and walkway will be directly accessible by the public from Newport Boulevard and Arcade/22nd Street via two access easements. The project has been conditioned to require the dedication and recordation of vertical access easements from Newport Boulevard and Arcade/22nd Street.

8. The project is compatible with the Land Use Element of the General Plan and with the Cannery Village McFadden Square Specific Plan in that in that both documents designate the site for Recreational and Marine Commercial Uses, which allows marine-related retail and office commercial land uses and residential uses above the first floor commercial uses. Further, the project has been evaluated against the policies and objectives of the General Plan and the McFadden Square Specific Plan and a determination has been made that the project is consistent with those policies and objectives.

9. The project has been developed in a manner to take into consideration of site characteristics, particularly as they relate to submerged areas and other sensitive areas in that mitigation measures have been included as conditions for the project approval requiring enhancement of the marine biota, and the bulkheads, boat docks and slipway.

10. The air conditioning units will be located on the roofs of the buildings behind roof parapets and will not be visible from the ground. Trash storage areas will be accommodated within the subterranean parking level and within enclosed trash areas on the deck level, and will only be visible for trash-pickup.

11. There are no known archaeological resources on the project site, and the historic significance of the site and structures on the site has been evaluated, and mitigation measures have been incorporated into the project approval to mitigate the loss of older buildings on the site and to otherwise document the past use of the site as a shipyard.

12. There are no residences adjacent to or in close proximity to the project site. Due to the small size of the commercial uses and the fact that that they are within a mixed use project, land use conflicts or other negative impacts to nearby residences are not anticipated.

Tract Map

1. The subdivision is consistent with the General Plan and the Cannery Village/McFadden Specific Plan. Additionally, the proposed subdivision is consistent with the Newport Beach Subdivision Code and Subdivision Map Act and conditions of approval have been included to ensure compliance.

2. The site to be subdivided is flat and developed with urban uses. No other physical constraints to construction are known. The proposed subdivision will result in a single lot subdivision for condominium purposes in order to sell individual residential units. Applicable planning policies and codes permit mixed use development where one residential unit is permitted above a commercial space with a maximum number of dwelling units not exceeding one dwelling unit for every 2,375 square feet of net lot area. That standard results in a maximum of 43 dwelling units permitted, and the project proposes 27 dwelling units. Therefore, the site is suitable for the type and density of development proposed.

3. An Environmental Impact Report has been prepared for the project. It concludes that the environmental impacts of the project can be mitigated to a less than significant level with the exception of historical resources, in which case mitigation measures have been included and a Statement of Overriding Considerations prepared in accordance with the CEQA Guidelines. The site is developed in a highly urbanized area and no significant natural resources exist in the area of the project site except for Newport Bay. The project includes a system of filtering storm runoff on site before it is discharged into the storm water system. The project also includes improvements to the local storm water system, where a fossil type filter will be installed to treat the first or low flow

discharge prior to discharge to Newport Bay. In addition, the loss of marine habitat area resulting from the closure of an existing slipway will be mitigated through the expansion and enhancement of the second slipway. These features will mitigate and improve water quality thereby avoiding impacts to fish or wildlife.

4. The project consists of a mixed use commercial and residential that includes 27 condominium dwelling units permitted by local ordinances and the General Plan. No evidence is known to exist that would indicate that the proposed subdivision pattern would generate any serious public health problems.

5. An existing view easement through the approximate center of the project site will be maintained and enlarged. Public utility easements for utility connections that serve the project site are present and will be modified, if necessary, to serve the new project. The project will result in the creation of public access easements through the property and along the waterfront that do not currently exist. Therefore the proposed subdivision will not adversely impact public easements. Public improvements may be required of a developer per Section 19 of the Municipal Code and Section 66411 of the Subdivision Map Act and public improvements may be required of a developer per Section 20.91.040 of the Municipal Code.

6. The project site does not include any lands subject to the California Land Conservation Act of 1965 (Williamson Act).

7. The project is consistent with the Cannery Village/McFadden Square Specific Plan and the provisions of the Recreational and Marine Commercial (RMC) District regulations of the Specific Plan.

8. The design of the proposed project provides each lot with direct southern exposure to the maximum extent feasible, therefore, solar access and passive energy conservation goals are met.

9. The proposed subdivision facilitates the creation of 27 new residential units that likely would not be developed due to current housing trends although they could be developed under existing zoning provisions without the subdivision. These 27 new units will assist the city in meeting its housing needs. Public services are available to serve the proposed development of the site and the Environmental Impact Report prepared for the project indicates that the project's potential environmental impacts can be mitigated to a level of less than significance with the exception of historical resources, in which case mitigation measures have been incorporated and a Statement of Overriding Considerations has been included.

10. Waste discharge into the existing sewer will be consistent with retail commercial, office and residential use due to the design and limitations of the use property established by existing zoning regulations. It is not anticipated that waste discharge into the sewer from these uses would violate any Regional Water Quality Control Board (RWQCB) requirements or Orange County Sanitation District standards.

11. The proposed project is entirely within the coastal zone and the site is presently developed or occupied with both coastal-related and non-coastal related uses, coastal-dependent uses or water-oriented recreational uses. Although the City of Newport Beach does not have a certified Local Coastal Program, the project is consistent with the city's certified Local Coastal Program Land Use Plan: Coastal access, both visually and physically, is improved by the project through proposed public walkway/access easements and by an increase in the view corridor through the property. The Recreation policies of the Coastal Act require that sites suitable for water-oriented recreational activities that cannot be supplied inland must be protected. These policies prioritize water-oriented recreational activities over other land uses and encourage aquaculture and water-oriented recreational support facilities. The portion of the project site proposed to be subdivided is not suitable for water-oriented recreational activities due to its size and location, however, the existing marina is being upgraded and a slipway is being enlarged and enhanced to allow for increased boating activity. Further, the project preserves and enhances the primary marine dependent use by reconstructing the marina consistent with the California Department of Boating and Waterways standards.

WHEREAS, the Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger; and

NOW THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

Section 1. Based on the aforementioned findings, the Planning Commission hereby approves Site Plan Review No. 2001-004, Use Permit No. 2001-038, and Newport Tract Map No. 2004-003 (Vesting Tentative Tract Map. No. 16594), subject to the conditions set forth in Exhibit "A" attached.

Section 2. This action shall become final and effective fourteen (14) days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk or this action is call for review by the City Council in accordance with the provisions of Title 20, Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 7th DAY OF DECEMBER, 2006.

AYES: Cole, Eaton, Hawkins, Henn, Poetter

NOES: Toerge

ABSENT: None

BY: _____
Jeffrey Cole, Chairman

BY: _____
Robert Hawkins, Secretary

Exhibit "A"

Conditions of Approval

1. The development shall be in substantial conformance with the approved plans dated September 11, 2006, except as modified below.

2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

3. Project approvals, with the exception of the Vesting Tentative Tract Map, shall expire unless exercised within 24 months from the effective date of approval as specified in Section 20.91.050A of the Newport Beach Municipal Code. Reasonable extensions may be granted by the Planning Director in accordance with applicable regulations.

4. The applicant shall obtain a Coastal Development Permit from the California Coastal Commission prior to the issuance of any building or grading permit for the project.

5. In lieu of the requirement for 15% of the proposed dwelling units to be affordable as defined by the City's Housing Element, a fee of $25,000 per unit built for a total of $675,000 shall be paid to the City to satisfy the project's affordable housing requirement.

6. The developer shall pay a parkland dedication in-lieu fee pursuant to Chapter 19.52 of the Municipal Code prior to the issuance of a building permit for each unit or recordation of the final tract map. If the project is recorded in phases, the fee attributable to each phase is due prior to the recordation of each phase.

7. Exterior decks, exterior balconies, exterior terraces, setback areas, breezeways for vehicular parking areas, open vehicular parking areas or exterior walkways shall not be covered or enclosed without the prior approval of the Building and Fire Departments and the Planning Commission.

8. The proposed project shall conform to the requirements of the Uniform Building Code, any local amendments to the UBC, and State Disabled Access requirements, unless otherwise approved by the Building Department.

9. All trash receptacles shall be stored within approved enclosed spaces or shall otherwise be screened from public view as determined by the Planning Director.

10. The commercial spaces within the project shall not be converted or used for residential purposes. Residential spaces shall be used for residential purposes and shall not be converted or used for exclusive commercial purposes. Commercial activity within the residential portions of all buildings shall comply with Section 20.60.100 (Home Occupations in Residential Districts).

11. The applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect or licensed architect for on-site and adjacent off-site planting areas. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Director prior to the issuance of a building permit. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials

selected. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer. In addition, any plants located in the View Corridor Easement shall be of a species and size and located in a manner so as not to impede views through the property.

12. All landscape materials and landscaped areas shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

13. Prior to the issuance of building permits, the applicant shall dedicate a 10-foot wide public access easement along the entire water frontage of the property to the City of Newport Beach. The access easement shall be subject to the review and approval of the Newport Beach City Attorney and Coastal Commission prior to recordation. The easement shall be improved with a hard paved surface and railings as approved by the Public Works Department. In addition, minimum, 6-foot wide lateral easements shall be provided within the plaza area from Newport Boulevard and the paseo area from the Arcade to connect to the 10-foot waterfront easement. The easements shall be directly accessible by the public from Newport Boulevard and not be gated, enclosed or otherwise blocked by present or future property owners or occupants of the property. Present or future property owners or occupants shall not place or store any objects including but not limited to boats, tables, chairs, umbrellas and shade canopies within the easement area. All of the foregoing easements shall be delineated on the final parcel map prior to recordation of said map and on the building plans prior to issuance of building permits. If the applicant proposes to pull building permits prior to the recordation of the easements, a separated instrument shall be prepared and recorded to the approval of the Planning Director and the City Attorney prior to issuance of the building permits.

14. The project must comply with the interior and exterior noise standards of the Noise Ordinance. An acoustic study shall be performed by a qualified professional that demonstrates compliance with these standards of the Noise Ordinance. This acoustic study shall be performed and submitted to the City Planning Department prior to occupancy of the project. If the exterior noise levels exceed applicable standards, additional mitigation shall be required which may include the installation of additional sound attenuation devices as recommended by the acoustic study and subject to the approval of the Planning Director.

15. Each residential unit and each commercial building shall be separately served with an individual water service and sewer lateral connection to the public water and sewer systems unless otherwise approved by the Public Works Department and the Building Department.

16. All improvements within the public right of way shall be constructed as required by Ordinance and the Public Works Department.

17. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagmen. Traffic control and transportation of equipment and materials shall be conducted in accordance with state and local requirements. Large construction vehicles shall not be permitted to travel narrow streets and alleys as determined by the Public Works Department.

18. Arrangements shall be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements, if it is desired to obtain a building permit prior to completion of the public improvements.

19. A hydrology and hydraulic study shall be prepared by the applicant and approved by the Public Works Department, along with a master plan of water, sewer and storm drain facilities for the on-site improvements and public improvements prior to recording of the tract map. Any modifications or extensions to the existing storm drain, water and sewer systems shown to be required by the study shall be the responsibility of the developer.

20. The applicant shall provide wheel stops or other approved protective barrier methods as necessary within the parking areas. The parking spaces shall be marked with approved traffic markers subject to the approval of the Public Works Department or painted white lines not less than 4 inches wide.

21. Fair Share traffic mitigation fees shall be paid to the City prior to the issuance of any building or grading permit for new construction on the project site.

22. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets within the limits authorized by this permit, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.

23. Overhead utilities serving the site to be subdivided shall be undergrounded to the nearest appropriate pole in accordance with Section 19.24.140 of the Municipal Code unless it is determined by the City Engineer that such undergrounding is physically infeasible.

24. The final tract map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the final map, the surveyor/engineer preparing the map shall submit to the County Surveyor and to the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. That prior to recordation of the final map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Section s 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. The map to be submitted to the City shall comply with the City's CADD Standards – scanned images will not be accepted. Monuments (one inch iron pipe with tag) shall be set <u>on each lot corner</u> unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.

25. Easements for public emergency and security ingress/egress, weekly refuse service, and public utility purposes shall be dedicated to the City and shall be made part of the tract map.

26. Construction surety in a form acceptable to the City, guaranteeing the completion of the various required public improvements, shall be submitted to the Public Works Department prior to the City approval of the Final Tract Map.

27. The existing curb drain located under the Newport Boulevard sidewalk near the northerly property line that discharges onto Newport Boulevard shall be removed and reconstructed with a minimum 5-foot section of the existing concrete curb and gutter at said location.

28. The entire length of the existing Newport Boulevard concrete sidewalk fronting the development shall be reconstructed. The existing curb access ramp that serves the existing Newport Boulevard crosswalk shall be reconstructed to comply with current ADA requirements. Provide full width cold mill and reconstruct the top 2-inch of the existing Arcade roadway pavement fronting the development.

29. The applicant shall reimburse the Public Works Department for the cost of curb repainting/stencil along Newport Boulevard in the vicinity of the project.

30. The applicant shall adjust the existing and/or install new water valve boxes and sanitary sewer manhole frames and covers within the existing Newport Boulevard sidewalk fronting the development.

31. The applicant shall replace all existing street light pull boxes within the Newport Boulevard sidewalk fronting the development with Eisel Enterprises No. 3-1/2F pull boxes and covers per City Standard Plan No. STD-204-L. Any damage done to the existing electrical wiring will require full length wiring replacement between pull boxes. No splices between pull boxes shall be allowed.

32. Construction of waterway improvements shall be to the approval of the Public Works Department, including the requirement for installation of water agitator(s) if deemed necessary by the Department. Construction of the bulkhead and gangways shall be performed only during periods of low tide. Plastic sheeting shall be placed below the work location to collect the fallen construction debris. The collected debris shall be removed and disposed of at the end of each workday.

33. Where deemed applicable by the Public Works Department, ADA compliant curb access ramps shall be constructed along the length of the on-site pedestrian path.

34. All storm drain and sanitary sewer mains shall be installed with MacWrap to minimize the potential of seawater contamination from potential main leakage.

35. Garages and carports shall have a minimum clear interior width of 9 ft.-3 inches and depth of 18 ft.-6 inches, and all garage doors shall be a minimum of 8 feet wide. Columns located at or near the rear of parking stalls shall be pulled back at least 2 feet. The proposed parking layout shall comply with City Standards STD-805-L-A and STD-805-L-B.

36. The on-site parking, vehicular circulation and pedestrian circulation systems shall be subject to further review by the Traffic Engineer.

37. All work within the public right of way shall be completed under an encroachment permit issued by the Public Works Department.

38. Street, drainage and utility improvements shall be shown of standard improvement plans prepared by a licensed civil engineer and approved by the City Engineer. All non-standard improvements shall be shown on standard improvement plans prepared by a licensed civil engineer and approved by the City Engineer and the City Council.

39. In accordance with the provisions of Chapter 13 of the Newport Beach Municipal Code or other applicable section or chapter, street trees shall be required and shall be subject to the review and approval of the General Services and Public Works Departments.

40. An encroachment agreement is required for all non-standard improvements within the public right-of-way. Prior to the issuance of an encroachment permit for the construction of non-standard improvements, an association or maintenance assessment district shall be formed that will be responsible for the maintenance of the non-standard improvements. This association or assessment district must be formed and approved by the City prior to recordation of the tract map or issuance of any Grading or Building Permits unless otherwise approved by the Public Works Department.

41. A site plan shall be provided prior to recordation of any tract map or issuance of a building permit for new construction showing the location of all proposed street lights, fire hydrants, trees, landscape, vents and other obstructions.

42. The applicant shall be responsible for the payment of all applicable City plan check and inspection fees.

43. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. Parking area lighting shall have zero cut-off fixtures.

44. All access drives into the parking area shall be designed with ramp widths and gradients to the requirements and approval of the City Fire Department, shall be capable of supporting fire apparatus with a total weight of 72,000 pounds, and shall be marked as fire lanes. Ramp slopes shall not exceed 15 percent maximum with a maximum grade change of 11 percent and shall comply with City standards STD-160-L-B and STD-160-L-C.

45. Fire hydrants shall be spaced at a maximum of 300 apart to the approval of the Fire Department.

46. Automatic fire sprinkler system (NFPA13) shall be required for all buildings including the underground parking area.

47. Class I Standpipes shall be provided in the underground parking area, on the fire access road on the deck, and in stairwells of Buildings B and C.

48. A fire alarm system shall be provided to the approval of the Fire Department, including provisions for occupant alerting in the retail and office suites. Residential units shall be provided with smoke detectors located in accordance with the California Building Code and powered through the fire alarm control panel. The residential system shall be two phases: first smoke detector activated shall alarm in the unit only; second smoke detector or activation of waterflow switch shall put all buildings into alarm.

49. The docks shall be provided with a Class III Standpipe System in accordance with City of Newport Beach guideline "Fire Protection for Marinas, Wharves and Piers."

50. Prior to the issuance of a Public Works Encroachment Permit or the first grading permit, whichever occurs first, the applicant shall prepare to the approval of the Planning Director and Traffic Engineer a Construction Traffic Management and Control Plan that shall include phasing details, construction timing/hours, all construction-related traffic including timing, haul routes, signage, detours, and location(s) that debris will be trucked to for disposal. The plan shall include provisions for a traffic staging area to be located off-site and in a location

outside of Balboa Peninsula. Staging shall be prohibited at all times on The Arcade/22nd Street except for prior approval of the Traffic Engineer; shall provide that all construction related vehicles including the vehicles used by workers to commute to the site, be parked either on site or in an off-site staging area; and shall include provisions for construction-related activities and traffic during summer months (beginning the Friday preceding Memorial day and ending on Labor Day) be restricted in a manner so as not to impact normal vehicle and pedestrian traffic along Newport Boulevard, Balboa Boulevard and 22nd Street/The Arcade. In addition, the Plan shall include those additional component parts and revisions as recommended by City Traffic Engineer in his November 9, 2006 memo. The Construction Traffic Management and Control Plan as recommended for approval shall be submitted to the Planning Commission for review and a notice shall be sent out to all property owners within a 300-foot radius advising of the Planning Commission review of the plan.

51. All noise generating construction activities shall be limited to the hours of between 7:00 a.m. and 6:30 p.m. weekdays and between 8:00 a.m. and 6:00 p.m. on Saturdays. Construction activities are prohibited on Sundays and Federal holidays. The provisions of Municipal Code Section 10.28.040, Construction Activity – Noise, shall be met at all times.

52. Mitigation Measures – Aesthetics:

    a. Prior to the issuance of a building permit, a landscape plan shall be prepared by a licensed landscape architect for the project for review and approval by the Planning Director. Said landscape plan shall enhance the property and provide visual softening of the proposed three-story buildings and site lighting. The landscaping shall be installed in recognition of vehicular and pedestrian circulation (sight distance considerations, etc.) and safety.

    b. Prior to the issuance of a building permit, a site lighting plan shall be prepared and submitted to the Planning Department for review and approval. Building and parking lot lighting shall be designed and installed so that all direct lighting rays are confined to the site and adjacent properties and roadways are protected from glare.

53. Mitigation Measures – Air Quality:

    a. During construction activities, the applicant shall ensure that the following measures are complied with to reduce short-term (construction) air quality impacts associated with the project: a) controlling fugitive dust by regular watering, or other dust palliative measures to meet South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust); b) maintaining equipment engines in proper tune; and c) phasing the scheduling construction activities to minimize project-related emissions.

    b. During demolition and excavation, daily total haul trucks shall travel no more than a cumulative 2,600 miles hauling materials from the project site to the dumping site and back again. Prior to commencement of demolition and grading, the project applicant shall submit to the City calculations showing the proposed travel route for haul trucks, the distance traveled, and how many daily truck trips that can be accommodated while keeping the cumulative miles traveled to below 2,400 miles each day. The daily truck trips shall not exceed this amount during demolition and excavation.

c. During construction activities, the applicant shall ensure that the project will comply with SCAQMD Rule 402 (Nuisance), to reduce odors from construction activities.

54. Mitigation Measures – Biological Resources:

a. Prior to issuance of a grading permit, a survey will be conducted for the presence of eelgrass and Caulerpa. The biological assessments conducted by CRM and MBC indicate that neither species is present in the project locations, but it is required that nor more than 90 days nor less than 30 days prior to initiation of actual construction that both eelgrass and Caulerpa surveys be conducted in September or October, in which case the results are relevant until the following growth period beginning in March. In no case, will an eelgrass or Caulerpa survey be conducted from November to February (non-growth period) be acceptable.

b. Prior to the issuance of any Certificates of Use and Occupancy, the project applicant shall implement the recommended mitigation pertaining to the replacement and restoration Pickleweed and the mudflat area presented in the mudflat area presented in the biological resources report prepared by MBC Applied Environmental Sciences.

55. Mitigation Measures – Cultural Resources:

a. During construction activities, if archaeological and/or paleontological resources are encountered, the contractor shall be responsible for immediate notification and securing of the site area immediately. A qualified archaeologist and/or paleontologist approved by the City of Newport Beach Planning Director shall be retained to establish procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of cultural resource finds. If major archaeological and/or paleontological resources are discovered which require long-term halting or redirecting of grading, a report shall be prepared identifying such findings to the City and to the County of Orange. Discovered cultural resources shall be offered to the County of Orange or its designee on a first refusal basis.

b. The historical study prepared by LSA dated October 2005 recommends the mitigation to reduce the significant impacts to historical resources through the following methods:

i. Documentation of the South Coast Boatyard shall be provided by the developer prior to issuance of demolition permits by the City of Newport Beach. Prior to issuance of demolition permits, the Planning Director shall be provided an historic narrative, photographs, and architectural drawings of all on-site buildings in accordance with Historic American Building Survey (HABS) Level 1 documentation requirements. The Planning Director shall ensure that the HABS documentation is deposited with the Newport Beach Historical Society, the City of Newport Beach Public Library, the Newport Harbor Nautical Museum, and the SCCIC located at California State University, Fullerton, prior to the issuance of demolition permits.

ii. Prior to issuance of building permits, the Planning Director shall review project building plans and permits to ensure incorporation of design features referencing and memorializing the character-defining features of the South Coast Boatyard into design of the project, including, but not limited to, incorporation of a commemorative plaque depicting the buildings and their context to the historical importance of the

structures on site. Such plaque shall be oriented to a public right-of-way, so as to be visible and accessible to the public form such right-of-way.

iii. If previously undocumented cultural resources are found during construction activities within the current project area, a qualified professional archaeologist shall assess the nature and significance of the find in order to recommend appropriate mitigation measures, halting construction activity in the vicinity of the find, if necessary.

56. Mitigation Measures– Geology and Soils:

a. The project shall implement the recommendations presented in the geotechnical reports prepared by Petra presented in Appendix D, Volume II of the EIR.

b. Prior to the commencement of construction, design criteria and project specifications that include ground improvement techniques such as stone columns, use of deep foundations which penetrate below the liquefiable zone, pressure grouting, or appropriate combinations of these measures shall be incorporated into the plans for the project.

c. Develop design criteria and project specifications that recognize groundwater may be encountered at the proposed depth of the subterranean parking area. Construction of mat foundations or structural slabs may be required. Design of utility lines and surface drainage in the subterranean parking should also consider the presence of a shallow groundwater table.

d. Use appropriate type of cement and concrete specification according to Table 19-A-4 of the Uniform Building Code to mitigate contact with corrosive soils and sea water that may come in contact with footings in the area.

57. Mitigation Measures– Hazards and Hazardous Materials:

a. If during grading and/or construction activities a potential contaminated area is encountered, construction shall cease in the vicinity of the contaminated area. An assessment shall be performed by a qualified hazardous materials specialist to determine the extent and type of contamination. If the site investigation reveals that contamination with pollutant concentrations in excess of Action Levels, as defined by the California Department of Health Services and the California Regional Water Quality Control Board, the site shall be remediated during the project construction phase in compliance with the State of California Hazardous Substances Control Law (Health and Safety Code Division 20, Chapter 6.5) standards established the California Department of Health Services, Office of Statewide Health Planning and Development, and the requirements of California Administrative Code, Title 30, Chapter 22 and applicable Federal regulations.

b. The proper use and maintenance of construction equipment, along with the use of general common sense, greatly reduces the potential for contamination. All grading and building plans will include the following construction related measures and that the measure shall be followed by the construction contractor and crew:

i. The storage of hazardous materials, chemicals, fuels, and oils and fueling of construction equipment shall be a minimum of 45 meters (150 feet) from any drainage, water supply, or other water feature.

ii. Hazardous materials stored onsite shall be stored in a neat, orderly manner in the appropriate containers and, if possible, under a roof or other enclosure.

iii. Whenever possible, all of a product shall be used up before disposal of its container.

iv. If surplus product must be disposed of, the manufactures or the local and state recommended methods for disposal shall be followed.

v. Spills shall be contained and cleaned up immediately after discovery. Manufacturer's methods for spill cleanup of a material shall be followed as described on the Material Safety Data Sheets (MSDS) for each product.

c. Prior to the issuance of any certificate of use and occupancy permit(s), the project applicant shall submit written evidence from the California Regional Water Quality Control Board Santa Ana Region that no further action is needed and all remediation is completed and occupancy can proceed.

d. Prior to the issuance of a grading permit, the applicant shall provide evidence that a Final Work Plan (for remediation) has been approved by the RWQCB and that said plan provides for protective measures for contaminated material removal including measure such as use of silt curtains and a watertight clamshell bucket for minimizing the dispersion of contaminants. Said Plan shall be subject to review and approval by the RWQCB.

e. Prior to the issuance of a demolition permit, the applicant shall submit to the Chief Building Official a hazardous material disposal plan which identifies the procedures and method of removing and disposing of lead and asbestos in relation to the existing buildings on the site.

58. Mitigation Measures – Hydrology and Water Quality:

a. Prior to the issuance of any grading permit, the applicant shall prepare a Storm Water Pollution prevention Plan (SWPPP) and provide evidence that a NPDES Notice of Intent (NOI) has been filed with the State Regional Water Quality Control Board. Such evidence shall consist of a copy of the NOI stamped by the Regional Water Quality Control Board. The SWPPP shall be developed to reduce the risk of the transport of sediment and pollutant from the site. The SWPPP shall implement measures to minimize risks from material delivery and storage, spill prevention and control, vehicle and equipment fueling and maintenance, material use, structure construction and painting, paving operations, solid waste management, and hazardous waste management.

b. During construction and following completion of development, the recommendations presented in the Water Quality Management Plan (WQMP) prepared by SP Consulting Group dated February 20, 2006 shall be implemented and complied with to ensure that all potential project impacts to water quality will be reduced to a less than significant level and all applicable local and state water quality requirements complied with by the project applicant.

c. During construction activities the following shall be implemented:

i. During construction and maintenance activities, equipment shall be in proper working condition and inspected for leaks and drips on a daily basis. The project contractor or representative thereof shall develop and implement a spill prevention and remediation

plan and workers shall be instructed as to its requirements. Construction supervisors and workers and maintenance personnel shall be instructed to (1) be alert for indications of equipment-related contamination, such as stains and odors, and (2) respond immediately with appropriate actions as detailed in the spill prevention and remediation plan if indications of equipment-related contamination are noted.

ii. During construction and maintenance activities, fuels, solvents, and lubricants shall be stored in a bermed area so that potential spills and/or leaks shall be contained. Soil contamination resulting from spills and/or leaks shall be remediated as required by Federal and/or state law. Storage areas shall be constructed so that containers shall not be subjected to damage by construction and maintenance equipment.

iii. Stockpiles of bulk granular building materials shall be covered and secured.

iv. Any areas of exposed soil, such as dirt stockpiles, dirt berms, and temporary dirt roads, shall be stabilized with controlled amounts of sprinkled water.

v. At the close of each working day, any materials tracked onto the street or laying uncontained in the construction areas shall be swept up, and any trash accumulated in construction areas shall be disposed.

vi. Concrete, asphalt, and masonry wastes shall be contained and these wastes shall be disposed away from project construction sites.

vii. Spill kits containing absorbent materials will be kept as the construction site.

viii. Fuels and other hazardous materials will be stored away from project drainage.

d. Prior to the issuance of a building permit, the applicant shall submit a landscape plan, which includes a maintenance program to control the use of fertilizers and pesticides, and an irrigation system designed to minimize surface runoff and over watering. This plan shall be reviewed by the City of Newport Beach Planning Department. The landscaping shall be installed and maintained in conformance with the approved plan and maintenance program.

59. Mitigation Measure – Noise:

Prior to the issuance of any building permits, detailed engineering construction plans will be submitted to the City for review and approval. The engineering plans shall provide details such as roof and wall elements, room dimensions, window and door dimensions, attic configuration, ventilation systems and building insulation. Said plans shall demonstrate and ensure that the City's noise standards are met for proposed mixed-use project (residential and commercial).

60. Mitigation Measures – Public Services:

a. Prior to the issuance of a grading permit, project construction plans shall be submitted to the City Fire Chief for review to verify that all fire protection is designed in compliance with the requirements of the City of Newport Beach Fire and Marine Department.

b. Prior to the issuance of any building permits, the project applicant shall pay any applicable development school impact fees as required by State law.

c. Prior to the issuance of any building permits, the project applicant shall pay any applicable park impact fees as required by City of Newport Beach and State law.

61. Mitigation Measures – Public Utilities and Service Systems:

a. Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.

b. Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.

62. Prior to issuance of any Certificate of Occupancy, applicant shall provide a disclosure statement at the time of purchase contract, in form and content acceptable to the City Attorney in consultation with adjacent property owners and the Planning Director, which shall be provided to each prospective purchaser of one of the 27 residential units on the site advising of the potential noxious characteristics of the nearby boatyards and restaurant uses which could adversely affect the prospective owner's enjoyment of the property. The disclosure statement shall be included and recorded with the Conditions, Covenants and Restrictions (CC&R's) at the County Recorder's Office and each purchaser shall be required to acknowledge receipt of the disclosure statement, in writing, prior to executing a deed and the written acknowledgement shall be recorded together with the deed with the County Recorder. The form shall also be provided to future buyers of a re-sold residential unit and similarly included and recorded with the CC&R's for those future buyers.

63. Left turns into the project site at the north driveway along Newport Boulevard shall be prohibited, and the applicant shall be required to construct a 4-foot wide raised median along Newport Boulevard to prevent left-turn access into and out of the site or other improvement acceptable to the City Traffic Engineer. If left-turn access along Newport Boulevard is requested at a future date, a study shall be conducted to review vehicle queuing and safety issues for providing left-turn access to the site and improvement plans shall be prepared for review and approval by the Public Works Department. To accommodate left-turn access, an extension of the two-way left-turn median which terminates just north of the project site would be required which would include widening of Newport Boulevard.

64. Prior to issuance of a building permit, the applicant shall prepare and submit for approval by the Planning Director and City Traffic Engineer, a Parking Management Plan. The Plan shall include a description any proposed gating to the parking areas, including a description of how the access to the gated areas will function, use of attendants for parking, valet parking, pay parking, and any proposed night time or week end use of the parking structure for other off-site users such as area restaurants. The plan shall provide noticing to surrounding property owners that the plan has been prepared and is available for review. The plan shall also include those additional component issues as recommended by City Traffic Engineer in his memo dated November 9, 2006. The parking management plan shall be reviewed and approved by the Planning Commission prior to the issuance of a building permit.

65. The marina shall be limited to a total of 18 slips for use by individually privately owned vessels. Use of the slipway area identified as slip 19 for the permanent berthing of vessels is not

permitted. The temporary berthing of vessels at slip 19 may be permitted; however it is not permitted overnight, and vessels shall not berth for a period exceeding two hours and vessels may not exceed a height of four feet above the adjacent public walkway. Any proposed future use of the boat docks by commercially operated sport fishing, charter or other similar use requiring more than 0.8 parking space per marina slip, shall be subject to administrative and/or discretionary review as determined necessary by the Planning Director. Any future change in the use of the marina may also require a parking analysis and/or preparation of a parking allocation plan and/or shared parking plan as determined necessary by the Planning Director.

66. The proposed loading zone located adjacent to the northerly property boundary shall be redesigned in a manner to facilitate the parking of delivery vehicles without requiring large vehicles to make multiple turning movements to the approval of the City Traffic Engineer. Delivery vehicles shall be prohibited from backing out onto Newport Boulevard.

67. The project shall provide prominent signage and pavement marking to designate vehicular circulation, subterranean parking areas and loading areas, and other appropriate on-site traffic-related signage as required by the City Traffic Engineer.

68. Design of the subterranean parking areas shall incorporate features such as white painted ceilings and lighting to ensure uniform light levels throughout.

69. The stairway and landing area located on the westerly side of Building C shall be setback so as to be out of The Arcade right-of-way.

70. Adequate sight distance shall be provided at all driveway access points, ramp locations and internal intersections to the approval of City Traffic Engineer.

71. Prior to issuance of final building permits, on-site circulation for final building plans shall be subject to further review and approval of the City Traffic Engineer.

72. Building K shall be redesigned in a manner to provide office space within northerly portion of the second and third levels of that building. In addition, a 12-foot high wall, 8-foot solid masonry and 4-foot clear glass or Plexiglas measured from the northerly side of the wall, shall be provided along the northerly property boundary between Building K and the abutting property from the street right-of-way to the bay. The wall shall be architecturally compatible with the project and it shall be aesthetically pleasing. The wall shall be stepped down beginning at the driveway ramp to provide adequate sight distance. The final design of the wall shall be subject to the approval of the Planning Director and City Traffic Engineer.

73. The site plan shall be revised to move Building G a minimum of 4 feet to the south. The separation between Buildings D & E and F & G may be decreased accordingly. A view easement shall be provided over the central plaza area, bridge, slipway, abutting public walkways, and abutting landscape areas. The specific area to be included within the view easement shall be subject to the review and approval by the Planning Director prior to the recordation. The view easement shall be specifically described (legal description and map exhibit) and recorded against the property in favor of the public prior to the issuance of a building permit for the mixed-use building unless said view easement is first recorded on the tract map.

74. The public access easements shall be identified by directional signage to be provided on Newport Boulevard and 22nd Street/The Arcade as approved by Director of Planning. All public

access easements shall be depicted on the final tract map or by separate recorded instrument should a subdivision map not be recorded at the time of the issuance of a building permit.

75. Additional glass/plexiglass sound attenuating wall (full height) shall be provided along the residential unit balconies located on the third level of Building B. Additional sound attenuating glass and insulation shall be provided in the south walls of those units that will, as deemed necessary by the City Building Official to effectively mitigate the interior noise levels within those units from noise generated by the operation of the adjacent restaurant.

76. The enclosed garages and carports located on the Deck Level for the residential units shall remain unobstructed and available for the parking of vehicles at all times. Carports shall not be equipped with garage doors.

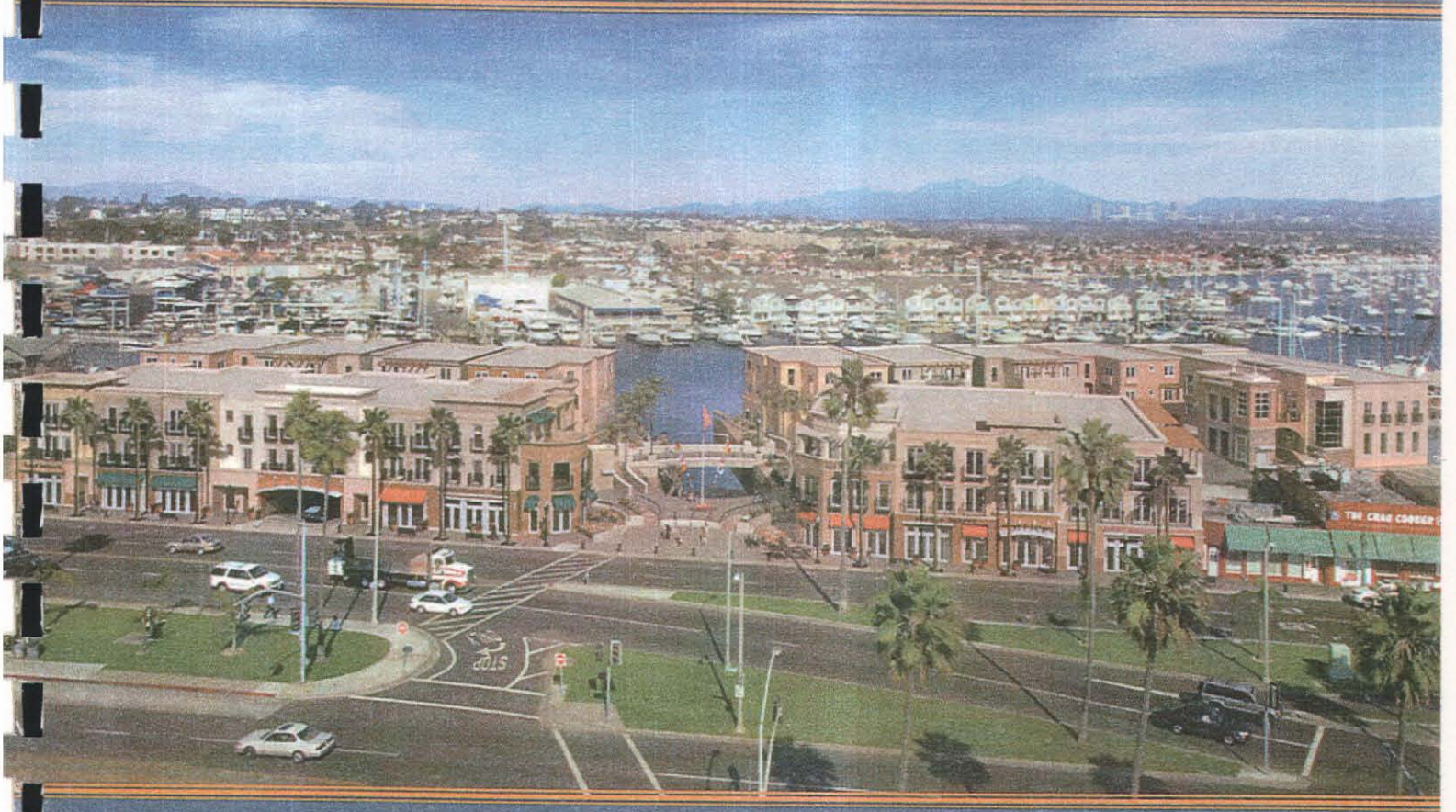
77. The clear walkway width of the Bayfront walk and the walkways on each side of the slipway shall be maintained at a minimum of eight feet. In addition, the bridge over the slipway on the Deck Level shall re-designed to provide a minimum 6-foot wide pedestrian area connecting the bayfront walkways across the slip. The walkway across the bridge shall be grade separated (elevated) from vehicular traffic by a minimum of 6 inches.

78. The Deck Level and Subterranean Parking Level shall be re-designed to provide open areas for natural light into the lower parking level where feasible.

79. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Newport Bay Marina Project including, but not limited to, the approval of Site Plan Review No. 2001-004, Use Permit No. 2001-038, and Newport Tract Map No. 2004-003 (Vesting Tentative Tract Map No. 16594); and/or the City's related California Environmental Quality Act determinations, the certification of the Environmental Impact Report and/or the adoption of a Mitigation Monitoring Program for the Newport Bay Marina Project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

NEWPORT BAY MARINA

ENVIRONMENTAL IMPACT REPORT
DRAFT



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VOLUME I

CITY OF NEWPORT BEACH
RESPONSE TO COMMENTS

DRAFT
ENVIRONMENTAL IMPACT REPORT
Newport Bay Marina Project

September 22, 2006

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Introduction

This document has been prepared to respond to public comments received on the Draft Environmental Impact Report (EIR) for the Newport Bay Marina Project. The DEIR was subject to a 45-day public review period from July 18, 2006 to September 1, 2006. The California Environmental Quality Act (CEQA) Guidelines Section 15105(a) identifies that when a Draft EIR is submitted to the State Clearinghouse for review by state agencies, the public review period shall not be less than 45-days, unless a shorter period (not less than 30-days) is approved by the State Clearinghouse. The Draft EIR (both volumes) was made available for public review at the City of Newport Beach Planning Department and the Public Library in Newport Beach.

The City of Newport Beach ("City") received 5 comment letters on the Draft EIR during the 45-day public review period. Pursuant to CEQA, the District is under no obligation to respond to comments submitted after the conclusion of the Draft EIR public review. At the time of preparation of this document, 1 written public comment letter was received by the City following conclusion of the review period on September 1, 2006.

Pursuant to Section 15132(d) of the California Environmental Quality Act (CEQA) Guidelines, the District has provided responses to "significant environmental points raised in the review and consultation process." CEQA Guidelines Section 15204 provides that in reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effect of the project might be avoided or mitigated. The CEQA Guidelines (15204(a)) also note that reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requests by reviewers, as long as a good faith effort at full disclosure is made in the EIR.

CEQA Section 15204(c) further advises, "Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence." Section 15204 (d) also states, "Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency's statutory responsibility." Section 15204 (e) states, "this section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or the lead agency to reject comments not focused as recommended by this section."

Each comment letter received during and after the public review period is included in its entirety in the Appendix of this document. In order to organize responses and avoid verbatim reiteration of each comment, a number has been given to each comment and is shown in the right margin of the comment letter. Comments and Responses are identified in accordance with this numbering system. For example, the response to Letter Number 1's second comment is labeled as "1-2".

Comment Letter No. 1
State of California, Dept. of Fish & Game
August 9, 2006

Response to
Comment:

1-1 The comment does not require a reply since it primarily describes the project as identified in the DEIR and defines the role of the Department of Fish & Game in relation to the proposed project.

1-2 The project applicant will be required to obtain approval of all applicable permits including a remediation plan from the California Regional Water Quality Control Board (RWCQB). The applicant as well as the City of Newport Beach has been closely coordinating with the RWQCB in regards to the project's remediation. The remediation will include protective measures such as the use of silt curtains etc. The removal and disposal of the containments will be subject to compliance with all applicable Federal, State, and local regulations. The Draft EIR, Volume II, Appendix F presented a Work Plan (for site remediation) that has been prepared for the project by Anchor Environmental CA L.P. dated July 7, 2006. The document addresses the work plan for implementing a water quality monitoring program to ensure field construction activities at the project site do not result in the redistribution of contaminated sediments known to be present in the adjacent waters of the Rhine Channel. This draft Work Plan was submitted to the RWQCB. A final Work Plan in conjunction with a planned application for a 401 Water Quality Certification under the Clean Water Act. The Work Plan presented in Volume II of the Draft EIR is detailed in addressing contaminated sediment dredging and monitoring. The activities will be closely monitored, for example, water column turbidity will be monitored on an hourly basis at several locations for the first four hours of construction and then once per day thereafter within 10 feet of the outside of the silt curtain. The recommendation by CDFG regarding the use of the watertight clamshell bucket for minimizing the dispersion of containments will be considered and evaluated as part of the Final Work Plan. The Work Plan is subject to review and approval by the RWQCB and must meet their requirements.

The following mitigation measure will be included in the Final EIR (Section 4.6, Hazards and Hazardous Materials) to ensure implementation and compliance of a Work Plan for site remediation.

MM 4.6.4-3: Prior to the issuance of a grading permit, the applicant shall provide evidence that a Final Work Plan (for remediation) has been approved by the RWQCB and that said plan provides for protective measures for contaminated material removal including measures such as use of silt curtains and a watertight clamshell bucket for minimizing the dispersion of containments. Said Plan shall be subject to review and approval by the RWQCB.

1-3 The project description (Section 3) of the Final EIR will be revised to include the approximate amount (i.e. 200 square feet of area) of contaminated sediment to be removed. A work plan (remediation plan) has been prepared and was presented in Appendix F of the Draft EIR. The work plan addressed measures that would be implemented during the contamination clean up, including methods to minimize the dispersion of contaminated sediment and on-site monitoring. Additionally, the final work plan is subject to review and approval by the RWQCB who is charged with the authority over this aspect of the project.

1-4 This comment does not require a response since it acknowledges that the project would not have an adverse effect on existing marine resources and habitats within the area when considered with the Department's comments in this letter, and that previous agency comments have been adequate addressed in this EIR.

Comment Letter No. 2
State of California, Dept. of Transportation – District 12
August 18, 2006

Response to
Comment:

2-1 The comment does not require a response since it does not raise any CEQA related concerns and/or issues.

Comment Letter No. 3
City of Newport Beach – Environmental Quality Affairs Citizens Committee
August 21, 2006

Response to
Comment:

3-1 The FEIR will be revised to identify the existing number of boat slips as the "existing 21- boat slip marina," and the proposed, reconfigured marina as the "proposed 19-boat slip marina." Upon implementation of the project, the marina will have two less slips than currently exist.

3-2 Section 15381 of CEQA defines a "Responsible Agency" as a public agency which proposes to carry out or approve a project, for which lead agency is preparing or has prepared an EIR or negative declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the lead agency which have discretionary approval power of the project. There are only two responsible agencies that have been identified for the project: the California Coastal Commission and the Regional Water Quality Control Board. The SCAQMD does not have a "responsible agency" role but rather a consulting (or reviewing) interest in the project since an EIR was required and air quality was evaluated as part of the EIR scope of analysis.

3-3 Detailed project building plans showing components such as stairwells and elevators are on file with the Planning Department. The Final EIR will include a corrected Exhibit 3-7 that removes references to the City of Corona and that defines RCP, CCP, CP and V.

3-4 In regards to the project construction schedule, Appendix A is the Air Quality Study which includes a projected construction schedule for the purposes of evaluating potential air quality impacts that could occur as a result of project construction activities including site preparation (remediation etc.) and building construction. The schedule presented in Section 3.2, page 3-24 of the Draft EIR describes the construction timing the applicant is anticipating could occur. The construction of the project will occur in phases since the site contains existing structures and also requires remediation. The first phase will include demolition of existing structures on site, remediation of contaminated material, and construction of the new seawall. The second phase of the project will involve construction of the proposed structures. To provide further clarification each phase could take up to 24 months.

3-5 The reconfiguration the marina (and construction of new sea wall) is part of the overall project. This aspect of the project is included in the construction phasing estimates and will be included in Phase 1. The project's conditions of approval (COA) include a requirement for a detailed construction traffic management and control plan that will include phasing details (i.e., dates and times), traffic control measures and so forth.

3-6 Section 3.5 listing of project alternatives will include identification of the alternative presented in Section 8.0. The Final EIR Table of Contents and Section 3 will be revised in response to the comment relative to listing the project alternatives evaluated in the Draft EIR

3-7 The existing 21-boat slip marina will be reconfigured. The existing marina as well as the future reconfigured marina has the right to operate per that allowed by the Specific Plan. Allowable uses include commercial uses such as charter boats. The project itself does not propose any marine use different than that which is already allowed at the site. The project is required to comply with all City applicable regulations pertaining to parking, noise and traffic. This includes all uses (i.e. commercial/retail, residential, and charter boats etc.).

3-8 Section 3 (Project Description) of the Final EIR will identify the square footages of the residential units (parking is calculated and shown as part of the parking structure). The 27 residential units total 77,101 square feet. Parking for the residential portion of the project is provided on the upper deck of the parking structure. On-site parking is provided for approximately 58 vehicles in combination of garages, carports, and open parking spaces. The upper parking deck and underground parking lot provide a total of 226 spaces which complies with the City Code requirement of 226 spaces. The project statistical (data) summary is also provided in Appendix A (Notice of Preparation) in Volume 1 of the Draft EIR. The Draft EIR (page 3-5) identified that full size project plans are available at the City of Newport Beach Planning Department. The full size plans included detailed legends that show all square footage of uses and parking data

3-9 The comment raises the concern regarding potential aesthetic impacts specifically those on a "scenic vista" as a result of the implementation of the project. From the bayward view, the vista not only includes the water but also the site itself. The site currently is developed with existing uses and is not considered a "scenic" resource. Therefore, the view from across the bay would continue to experience a view of the water but with project implementation would also have a view of the project site which is proposed to be developed with new structures compared to that which exists on site today (i.e., buildings, boat slipways, outdoor areas containing parking/boats and other storage). Although the view will change from that which currently exists, the view will be aesthetically pleasing. In regards to the view from Newport Boulevard, the view currently is limited. The view from Newport Boulevard consists of site buildings, parking lot, boats and some view of the bay depending on vehicles/boats parked in the parking area. Exhibit 4.1-1 through Exhibit 4.1-3 clearly

show that from Newport Boulevard the existing view is limited and defining it as "scenic" and a substantial loss does not correspond with what's experienced at the location. The EIR concluded that the project does impact the visual character of the area but also determined that this impact is not considered substantial and adverse. The landscaping plan presented in the EIR is a conceptual plan. A detailed landscape plan (including plant species, sizes, locations, irrigation etc.) will be required to be reviewed and approved by the City as part of the project conditions of approval.

3-10 All project construction (including demolition and site contaminant removal) will comply with applicable Federal, State and local regulations. Due to the age of the existing structures on-site there is the potential that the buildings will require removal of lead and asbestos materials during demolition activities. The Draft EIR, Volume II (Appendices) contained a Work Plan which identified measures that would be implemented in relation to the removal and disposal of contaminated soils. Also see response 1-2 (page 3 of this document) which addresses the Work Plan for remediation of contaminated soils.

The following mitigation measure will be included in the Final EIR (Section 4.6, Hazards and Hazardous Materials) to ensure implementation and compliance with the demolition of existing structures on site and compliance with applicable regulations pertaining to the proper removal and disposal of containments (i.e. lead, asbestos etc.).

> MM 4.6.4-4: Prior to the issuance of a demolition permit, the applicant shall submit to the Fire Chief a hazardous material disposal plan which identifies the procedures and method of removing and disposing of lead and asbestos in relation to the existing buildings on the site.

3-11 Mestre Greve Associates, Inc. confirmed that several sources were utilized for computing emission factors. These sources include the EMFAC 2002 model (SCAQMD), CEQA Air Quality Handbook (SCAQMD) as well as the URBEMIS 2002 model (SCAQMD). The URBEMIS model was used for computing heavy construction equipment and it was also used for on-site (post construction) emissions. The tables presented in the appendix of the Air Quality Study also list the source utilized to model air quality calculations.

3-12 The mitigation measures presented on page 4-25 will be correctly reflected in the Executive Summary Table 1 (page 2-4).

3-13 A detailed construction traffic management and control plan will be required per the project's conditions of approval. This plan will include phasing details, staging areas, construction timing/hours, construction traffic controls including; construction timing, haul routes, signage, detours, and location(s) that debris etc. will be trucked to for disposal. The plan will include special attention to the timing (season such as summer months) of construction traffic conditions. Prior to any commencement of

construction activities the plan will be subject to review and approval by the City of Newport Beach.

3-14 Marine biological resources were evaluated by a qualified marine biologist. The biologist assessed the site on land as well as in the water (under water). In addition to the 2004 survey, MBC Applied Environmental Sciences conducted surveys on February 9, 2006 and June 27, 2006. The biology report addresses the potential impacts of the project taking into consideration the site location (i.e. low or high tide). MBC Applied Environmental Sciences have confirmed that the site surveys conducted did take into account change in tides (i.e. low and high tide). Since fish are water dependent, high tide would have the most fish present. Fish would move (swim) to other areas during work activities (i.e. during high tide).

3-15 The Final EIR, pages 4-37 and 4-40 will be revised in response to the comment.

3-16 The Final EIR pages 4-44 and 4-63 will be revised in response to the comment.

3-17 The Draft EIR correctly discloses the information that corresponds to that presented in the Paelontolgoical Assessment (page 7) prepared by ARMC. Therefore, no revisions are necessitated per the comment.

3-18 The Final EIR will include the recommended revisions to page 4-65, 4-66 and 4-68 (mitigation measures will be revised as suggested by the comment) in response to the comment.

3-19 The Final EIR page 4-69, 4-72 and Exhibit 4.5-3 will be revised in response to the comment.

3-20 The site lies within the Newport-Inglewood fault zone and the Final EIR will clarify the discrepancy identified by the comment. Page 4-74, 4th paragraph will be corrected in the Final EIR to replace the word "top" with "to".

3-21 Given the location of the site, the property is susceptible to a tsunami which is common to low elevation coastal areas. The Final EIR page 4-76 will be revised in response to the comment.

3-22 The Phase 1 (December 3, 2003) identified potential PCBs present in fluorescent light ballasts (based on the age of these transformers) in the existing buildings. The light fixtures will be removed and disposed of in compliance with applicable hazardous materials regulations. The Phase II (January 6, 2004) identified PCBs concentrations in the soil (350 cy) but are below the threshold requiring disposal.

3-23 The project applicant and City of Newport staff have been coordinating with the State of California Regional Water Quality Control Board (RWQCB). All site assessments and a work plan have been submitted and reviewed by the RWQCB. A proposed final remediation plan (work plan) will be subject to the review and

approval the RWQCB. The project will be required to comply with all requirements of the RWQCB.

3-24. See response 3-15 above. The remediation plan (work plan) will include stringent safeguards for the removal of the contaminants as required by the RWQCB. The contaminated soils will be removed from the site. Also see response to comment 1-2 (page 3 of this document) which addresses the Work Plan which will be implemented during remediation of the site. In addition to the Work Plan, a conceptual Water Quality Management Plan was prepared by SP Consulting Group dated February 20, 2006. The Draft EIR (page 4-96 through 4-101) identifies BMP's and mitigation in regards to water quality that will be required by the City and the RWQCB. Currently, the site does not provide for treatment of water that enters the bay. During construction and post-construction, the project will implement BMP's that will improve the water quality from that which exists now.

3-25 The Final EIR page 4-103 2nd Paragraph, 2nd sentence will be revised to add an "a" before 102,800 sq foot lot.

3-26 The project (including the residential units) will be required to comply with the City's noise requirements for indoor and outdoor noise levels (regardless of the season).

3-27 The noise assessment was conducted by an acoustical engineer who determined the appropriate locations for noise measurement monitoring. These locations were based on the potential for the greatest amount of noise levels for a 24-hour average time period. The locations also have to take into consideration the greatest amount of noise (i.e., the greatest source is associated with vehicular traffic) and the location of proposed uses such as residential.

3-28 The purpose of this exhibit is to show typical construction equipment noise levels. The construction equipment that will be used on site is comparable to that identified per Exhibit 4.9-3. With the advancement in technology and upgrades to construction equipment over the years, there is the likelihood that that these noise levels represents a "worst case" scenario.

3-29 The development is required to comply with all applicable fire safety regulations. The DEIR identifies as an example the various aspects of fire safety that will be evaluated by the City's Fire Department. The Fire Department determines what will be implemented and required per fire safety regulations. The Draft EIR (page 4-130) has identified that all proposed structures will be fully fire sprinklered. Additionally, the Newport Beach Fire Department has reviewed the proposed project design plans and has determined that the project will not result in any significant impacts to facilities, staff and/or services.

3-30 See response to comment 3-5 which states that a detailed construction traffic management and control plan is required per project conditions of approval. This plan will address construction timing and hours (including those during summer

months). No project construction activities can commence until all potential construction details are approved by the City of Newport Beach in consultation with the Fire Department and Police Department.

3-31 Mitigation measures are stated directly above Draft EIR Section 4.10.5 in Section 4.10.4. The mitigation measures are numbered MM 4.10-4-2 and MM 4.10-4.-3.

3-32 See response to comment 3-5 and 3-22.

3-33 The traffic analysis was prepared by Austin-Foust Associates, Inc. retained and under direction by the City of Newport Beach. The scope of analysis (including timing of counts, location, intersection analysis etc) was determined based on the recommendations of the Public Works Department and consulting traffic engineer. In regards to parking, the project is designed to meet the City parking code requirements.

3-34 The project includes demolition of all existing structures on-site (44,000 square feet). Therefore, the project involves construction of 27 residential units (trip generation is based on type of units not square footage) and 36,000 square feet of retail uses.

3-35 The project alternatives were evaluated in compliance with the requirements of the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

3-36 See response to comment 3-26. The project is eliminating 44,000 square feet and providing 27 residential units and 36,000 square feet of retail (not 94,000 sq.ft.). The traffic study takes into account the vehicular traffic currently being generated by the existing use. The comment also raises the point that page 4-135 of the Draft EIR assumes that all residential traffic will leave the area. The comment raises the question that people who live at the site will be traveling locally to the grocery store, dinner, hardware store etc. The traffic study analysis identified that all residential traffic will leave the area as a worst case scenario (from a traffic impact calculation) during peak hour distribution only. This assumption actually provides a conservative analysis of the traffic conditions. Since many uses (i.e. restaurants, grocery stores etc.) are within walking distance of the site, the traffic study does not take this into account for peak hour distribution but rather utilizes a calculation based on all residential traffic leaving the area (i.e. this would result in a higher peak hour trip generation).

The traffic study evaluated primary intersections. The numbered intersections (22nd, 23rd, and 28th etc.) are operating at acceptable levels of service.

3-37 The project parking meets the City parking code requirement. All uses (commercial, retail and residential uses) will be parked per code on-site. The parking analysis meets the requirements of CEQA.

3-38 The traffic report includes the dates November and December 2005 since that is when the study was printed and made available for use in the Draft EIR. It is not uncommon that analysis and report preparation for any technical study (including traffic) be conducted prior to the date that the report is printed. Additionally, the traffic study was revised following the initial draft so that the traffic numbers would be updated to reflect the most current City traffic modeling. The contents of the report are clear to disclose when surveys were conducted and so forth.

3-39 The traffic study refers to a u-turn (since from a traffic engineering perspective this is how it's defined). However, this turn primarily allows vehicles headed south on Newport Boulevard to turn left and then drive in a southerly direction on Newport Boulevard. This turning movement (or u-turn) currently exists within the project vicinity and near the site.

3-40 See response to comment 3-25 and 3-29. The parking is required to meet City code. Initially when the traffic/parking study was prepared on-street parking along Newport Boulevard was calculated for the project's parking total. However, the Draft EIR clarified that all parking for the project will meet code and be provided on-site. The total parking provided is 226 spaces which meet the City Code requirement of 226 spaces.

3-41 The parking structure ramp (down) off Newport Boulevard has a grade of 12.4% and the ramp up is 4.6% (up in the direction of the residential). The ramp grade down is 10.6% from the Arcade Street entrance and a 7.2% grade going up (towards the residential). Additionally, a truck delivery area is provided for the project on the deck of the parking structure.

3-42 See response to comment 3-25 and 3-29. The parking is required to meet City code. Additionally, commercial spaces are required to comply with City standards (STD-805-L-A and STD-805-L-B).

3-43 See response to comment 3-25. Additionally, the traffic analysis evaluates the project's impacts as well as cumulative traffic impacts per the City's traffic model. Therefore, regardless of the "season" when the traffic counts are done a "worst case" scenario is evaluated on a cumulative analysis basis. Additionally, the TPO analysis conducted studies typical weekdays. In regards to construction traffic please see response to comment 3-5 and 3-22.

3-44 A complete traffic analysis has been conducted by an experienced and qualified traffic engineer and in consultation with the City's traffic engineer. Exhibit 3-3 (Aerial Photo) in Section 3 (Project Description) portion of the Draft EIR is for the purpose to acquaint the EIR reader with the location of the subject project site in relation to the surrounding developed land uses and nearby roadways.

3-45 The Final EIR will reflect "4.12 Utilities and Service Systems" instead for 4.13. The project is required to comply with the RWQCB regulations including ground water.

All public service and utility agencies (i.e. phone, electrical water, sewer, solid waste, trash pick up, etc.) were consulted during the Notice of Preparation (dated February 23, 2005), during he preparation of the EIR and also notified of the Draft EIR. No concerns were raised by any of these entities in regards to the proposed project. Additionally, a mitigation measure is presented requiring consultations with utility and service organizations.

3-46 The Draft EIR (page 3-5) identified that full size project plans are available at the City of Newport Beach Planning Department. The full size plans included detailed legends that show all square footage of uses and parking data. The EIR for the proposed project evaluated the project based on the project design plans and site uses that have been proposed by the project applicant. The applicant will be required to submit for review and approval detailed building plans addressing final location of stairwells, elevations, trash enclosures. In regards to parking, the project meets City code.

3-47 The mitigation measure is included in the Draft EIR to require the applicant to consult with and plan for existing and project relative utilities and services relative to the project. Some of these entities are separate from the City of Newport Beach. For example, solid waste service, telephone/cable service, sewer etc. Therefore, the purpose of this mitigation measure is to involve these outside entities and develop the property minimizing any impacts relative to these facilities and services. Also see response to comment 3-46. Public service and utility agencies were consulted with in relation to the preparation of the Draft EIR. None of these agencies raised any concerns relative to the project.

3-48 Page 5-1 of the Final EIR will be revised in response to the comment. The reference to a school a will be deleted and the EIR analysis provided in this section does relate directly to the proposed mixed-use project.

3-49 See response to comment 3-5.

3-50 The Final EIR (page 6-2 and pg 4-141) will be revised in response to the comment for clarification purposes.

3-51 The Draft EIR analysis in each topical section takes into consideration the cumulative impact of the project. For example, the air quality, noise and transportation analyses include an evaluation of existing conditions, project completion, and build-out of the City (includes all approved/planned projects). The proposed mixed-use project is replacing existing site uses (& structures) with 27 residential units and 36,000 square feet of commercial uses. Although this project involves different components that may not seem typical (i.e. site remediation, demolition of structures etc.) the actual proposed use (27 units and 36,000 sq. ft. of commercial/retail) of the site is limited in size. It should also be recognized that regardless of the proposed project, the site is currently contributing to environmental

factors such as traffic, air quality, noise, and water quality impacts. The Draft EIR concluded that no adverse cumulative impacts were identified. The only impact that can not be fully mitigated to a level of less than significant are those in relation to historical resources.

3-52 The project alternatives evaluated in the Draft EIR comply with the requirements of the CEQA Guidelines. Section 15126.6 of the CEQA Guidelines identifies that an EIR need not consider every feasible alternative to the project but rather a reasonable range of alternatives that will foster informed decision making and public participation. Additionally, the alternatives are evaluated not only as a comparison of potential environmental impacts but also in light of the project objectives of the proposed project. Section 8.1.2 (page 8-2) of the Draft EIR concludes that the environmental impacts of the reduced development alternative would roughly be the same and not significantly reduced from that of the project. Additionally, this alternative reduces the housing that would be provided and does not strive to meet the goals and objectives of the City's housing element. The EIR provides the reasonable array of alternatives and evaluates the project alternatives in compliance with the CEQA Guidelines and for consideration by the decision makers and the public.

Comment Letter No. 4
Central Newport Beach Community Association
August 31, 2006

Response to Comment:

4-1 See response to comment 3-3 (Comment Letter No. 3).

4-2 The project design including architecture complies with the Specific Plan (page 3). The site is technically within the McFadden Square area as the border between the areas is 26th Street as specified in the City's General Plan. Page 4-110 identifies the area theme including architectural styles and elements.

4-3 The project as designed provides for a view corridor between the buildings (this also breaks up the massing of the structures) and maximizes public access by providing a pedestrian/vehicular bridge and walkways along the waterfront. The comment suggesting elimination of Building K has been considered and it has been determined that little would be gained by removing this building from the project design. The existing view in this area primarily consists of a parking area associated with the existing building on the site. This parking area is currently used by vehicles, boats and other storage (marine related) that further limits and minimized the aesthetic quality experienced by motorists and pedestrians passing by the property. With the provision of the view corridor and improved public access to the waterfront, impacts relative to the limited existing view associated with development of the project are not considered substantial or adverse.

4-4 See response to 3-15 and 3-16 (Comment Letter No. 3). Additionally, Section 4.6 (Hazards & Hazardous Materials) of the Draft EIR addresses this topic.

4-5 The mitigation measure meets the requirements of the CEQA Guidelines as well as complies with City environmental procedures. The project design and building plans are subject to City of Newport Beach staff review and approval. The Specific Plan also provides additional architectural guidelines to ensure that the project is compatible given the location and surrounding land uses. The project as architecturally designed is consistent with the applicable Specific Plan.

In regards to the existing structures on site, the historical resources study prepared by LSA Associates, Inc. noted that the South Coast Shipyard was identified as a local historical site, representing historic/architectural themes of local importance. The LSA study also identified that the City of Newport Beach does not have a Historic Preservation ordinance and only encourages the adaptive reuse and preservation of buildings that are recognized by the City to be Landmark Buildings. The shipyard is not recognized by the City to be a Landmark Building.

4-6 See response to 3-15 and 3-16 (Comment Letter No. 3) and Comment Letter 5. The WQMP is subject to review and approval by the RWQCB and is the governing authority relative to the WQMP.

4-7 See response to comment 3-5 (Comment Letter No. 3) which addresses construction related impacts and mitigation.

4-8 See response to comment 3-25 and 3-31 (Comment Letter No. 3) which addresses traffic and parking.

4-9 The project is required to comply with all City codes including parking. The marina uses are allowed per the Specific Plan.

4-10 The project alternatives presented in the Draft EIR included a No Project Alternative. This alternative assumes that the proposed development would not take place and that the site would remain as currently used. Additionally, it should be noted that although the project site will not be used as a shipyard, the site will continue to retain marine uses by the provision of the 19-boat slips (a coastal depend use), preservation and enhancement of the larger boat slipway, and by providing pedestrian access by means of the bridge and walkway along the waterfront.

4-11 The Draft EIR included an analysis of potential noise impacts. The noise study conducted by an acoustical engineer identified that the most significant noise source would be that from vehicular traffic (i.e. Newport Blvd.). The study also recommended mitigation specifically for residential units to reduce the noise levels to acceptable levels and in compliance with the City's noise regulations. Additionally, in regards to potential noise associated with nearby commercial/retail and restaurant uses, as with all new development projects, the buyers of residential units will be presented with disclosure statements in compliance with applicable state law.

Comment Letter No. 5
Orange County Sanitation District
Letter dated September 1, 2006

Response to Comment:

5-1 Comment noted. The project will be required to comply with the California Regional Water Quality Control Board (RWQCB) requirements and City of Newport Beach.

Comment Letter No. 6
State of California – California Coastal Commission
Letter dated August 31, 2006
(Letter received by City on September 7, 2006)

Response to Comment:

6-1 The comment letter dated August 21, 2003 previously submitted by the Coastal Commission commented on a project design quite different than that proposed by the current property owner (ETCO Development). The previous development proposed filling both boat slipways. In response to the concerns raised by the Coastal Commission in 2003, the current owner completely redesigned the project to retain and enhance the larger of the two boat slipways. Not only will this slipway be retained as an open water area on-site but will also be enlarged and existing containments removed. The proposed project also provides for a pedestrian/vehicle bridge, a view corridor between the buildings, and pedestrian access to the waterfront by providing walkways within the site in addition to along the waterfront.

6-2 The project has been designed so that there is a mixed-use of commercial/retail and residential uses within the property. Commercial parking areas are provided on the ground floor of the parking structure located on the bayward side that faces the waterfront in conjunction with commercial/retail uses. At this time there is not a predetermined list of the tenants but it's anticipated that the type of tenants will comply with applicable requirements of the LUP and the Specific Plan which governs the development of the site.

COMMENT LETTERS

State of California – The Resources Agency
ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
Marine Region
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940

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August 9, 2006

RECEIVED BY
PLANNING DEPARTMENT
CITY OF NEWPORT BEACH
AUG 14 2006
AM PM

James Campbell
Senior Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

COMME

Dear Mr. Campbell:

The Department of Fish and Game (Department) has reviewed the City of Newport Beach's Draft Environmental Impact Report (DEIR) for the Newport Bay Marina Project, located at 2300 Newport Blvd., Newport Beach, California (SCH No. 2003071144). The proposed project involves the redevelopment of a 2.4 acre site along the Rhine Channel that currently accommodates 44,300 square feet of office and commercial space on a 102,800 square foot lot. The proposed project would involve a mixed-use development with 27 residential units and 36,000 square feet of commercial uses. All existing buildings would be demolished and new buildings would be constructed in their place. A partial subterranean garage would be built. The existing 485-foot long bulkhead would be replaced with a portion of the bulkhead being moved inland. The 21-boat marina would be reconfigured and the overall coverage of bay habitat would be reduced from 9,818 square feet to 8,543 square feet. An existing boat slipway (slipway 1) that extends 10 meters in from the bulkhead (currently covered by wood planks) would be closed and filled. A second boat slipway (slipway 2) that extends 20 meters in from the bulkhead would be widened to 35 feet. The project also involves removal of contaminated sediments near and within the boat slipways. The contaminated material will be dredged with land based equipment and disposed of at a licensed facility. Biological surveys of the area did not reveal any eelgrass habitat within the project vicinity. 1-1

The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA), Sections 15386 and 15381, respectively. Pursuant to Section 1802 of the Fish and Game Code, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency, the Department must be consulted by the Lead Agency during the preparation and public review for project-specific CEQA documents if there are potential impacts to biological resources. The Department is a Responsible Agency for a project affecting biological resources where the Department will exercise its discretion after the lead agency, to approve or carry out a proposed project or some facet thereof (CEQA Guidelines Section 15381). Under the California Endangered Species Act (CESA), it is the Department's charge to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat (Section 2052 of the Fish and Game Code). We provide the following comments on your project.

COMMENT 1

Filling in slipway 1 will result in the permanent loss of 765 square feet of intertidal habitat. However, slipway 2 will be reconfigured and widened resulting in a net increase of 790 square feet of intertidal habitat and 136 square feet of subtidal habitat. Additionally, a portion of the existing seawall will be moved inland creating an additional 412 square feet of new bay bottom habitat and the entire seawall will be moved inland by 1.5 feet resulting in a gain of 658 square feet of new bay bottom habitat. Mitigation measure 4.3.4-2 will restore the pickleweed currently present in slipway 2 and will add additional pickleweed. Overall, the project design will result in an increase of intertidal mudflat, benthic bay bottom, and open water habitat.

Page 4-36 of the DEIR states 200 square feet of contaminated material will be dredged as part of the proposed project. Disturbing contaminated sediments has the potential to result in the resuspension and redistribution of sediments and increased exposure of chemical contaminants to marine and estuarine resources, as well as a temporary decrease in dissolved oxygen. Accordingly, we recommend the use of silt curtains to contain the fine sediments, and if feasible, a watertight clamshell bucket for minimizing the dispersion of contaminants. Additionally, removal and disposal of contaminated materials should be done in accordance with applicable state and federal regulations. The Department understands that the removal of hazardous waste will have a beneficial effect to water quality and the marine environment in general. 1-2

The project description (section 3) does not include the amount of contaminated sediment or other sediment to be removed, the resultant depth of water after dredging, and best management practices to avoid spread of contamination during removal activities. The final EIR should discuss these issues in greater detail. 1-3

The Department reviewed this project in 2003. At that time we were concerned about the loss of intertidal and subtidal habitat, the fate of contaminated sediments, and bay coverage. However the project's redesign and the current project description have alleviated these concerns. Accordingly, the Department believes that the proposed project, as currently described, would not have a significant adverse effect on existing marine resources and habitats within the area, provided our above comments are taken into consideration. 1-4

As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion please contact Ms. Marilyn Fluharty, Environmental Scientist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (858) 467-4231.

Sincerely,

Gary B. Stacey

Gary B. Stacey
Regional Manager
Marine Region

cc: See page 3

cc: State Clearinghouse (original sent to Lead Agency)
1400 Tenth Street
Sacramento, CA 95814

Marilyn Fluharty
CDFG- San Diego

Robert Hoffman
NOAA Fisheries
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802-4213

DEPARTMENT OF TRANSPORTATION
District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
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CITY OF NEWPORT BEACH
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August 14, 2006

Mr. James Campbell
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, California 92658

File: IGR/CEQA
SCH#: 2003071144
Log #: 1281-B
SR #: PCH

Subjects: Newport Bay Marina

COMMENT 1

Dear Mr. Campbell,

Thank you for the opportunity to review and comment on the **Draft Environmental Impact Report for the Newport Bay Marina Project.** The proposed project consists of demolition of all existing buildings on site and a mixed-use development of 36,000 square feet of commercial uses and 27 residential units. The site is located at 2300 Newport Boulevard. The nearest State Route to the project site is Pacific Coast Highway.

Caltrans District 12 status is a reviewing agency on this project and has no comment at this time. However, in the event of any activity in Caltrans' right-of-way, an encroachment permit will be required. Applicants are required to plan for sufficient permit processing time, which may include engineering studies and environmental documentation. 2-1

Please continue to keep us informed of this project and any future developments, which could potentially impact the transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,

Ryan Chamberlain, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research
Terri Pencovic, Caltrans HQ IGR/Community Planning
Gale McIntyre, Deputy District Director
Raouf Moussa, Traffic Operations South

To: Patricia Temple, Planning Director, City of Newport Beach

From: Environmental Quality Affairs Citizens Advisory Committee
City of Newport Beach

Subject: Draft Environmental Impact Report (DEIR) for Newport Bay Marina Project

Date: August 21, 2006

Thank you for the opportunity to comment on the DEIR for the subject project. We offer the following comments in hopes of improving the final Environmental Impact Report on this important project for the city of Newport Beach and the Balboa Peninsula

COMMEN

1.0 Introduction

Page 1-1 (please note that the page numbering is wrong) discusses reconfiguration of "the existing 19-boat slip marina". However, elsewhere in the DEIR (pg. 3-5 for example) the discussion refers to "reconfiguration of the existing 21-boat slip marina" and existing slipways. To avoid confusion, the DEIR should use consistent numbers and terminology regarding the number of boats that can be accommodated in the completed project configuration. Will the completed project be able to accommodate more, less or the same number of boats as the current configuration? 3-

Section 1.7 (bottom of page 1-3) states that "Responsible agencies in respect to this project may include..." It seems that the authors should be clear on which agencies are responsible versus those that have a less rigorous consultation role. Are responsible agencies those that must give specific approval for the project to proceed? Does SCAQMD have a responsible or consulting role in this project? 3-2

3.0 Project Description

Although the project description is generally informative, the colored Exhibits would be much more useful is they had better annotation. For example, "Exhibit 3-6 has red arrows which denote public walkway access and a clear note to that effect would be useful. Exhibits 3-10 to 18 show plans for various project levels, but do not clearly identify elevators and stairways and their terminations/destination. RCP, CCP, CP and V should be defined on the Exhibits. Exhibit 3-7 has note 7 referring coordination with the city of Corona. Is this correct? What does Corona have to do with these easements? 3-3

Section 3.2, page 3-24, states that "project (structures) will be constructed in phases and is estimated to have an 18-24 month construction schedule per phase". This could be interpreted to mean that construction would least from 36 months to 48 months (2 phases) or longer. This statement seems to be in conflict with the schedule discussed in Volume II, Appendix A, pp 11-12, where demolition, grading, excavation and construction are said to be completed in 3 years (January 2008 - December 2010). The most correct estimate of the project schedule would be helpful in the Project Description Section. 3-

Furthermore, neither reference to the schedule includes specific reference to the 3-5

COMMENT #

Section 3.5, page 3-26 mentions 3 project alternatives (i.e., No Project, Reduced Development, Commercial Development), but this is inconsistent with Section 8.0, pp 8-1 to 4, where 4 project alternatives including residential only, are evaluated. This fourth alternative should be recognized in Section 3.5 3-6

The project description should be clarified with regard to the commercial uses of the marina. If these uses are to include charter or party boats, the noise, traffic and parking impacts of those uses should be analyzed. 3-7

The project description should also clarify the square footage of the residential units, and whether the square footage includes any parking space. 3-8

4.1 Aesthetics

Sections 4.1.2, pages 4-3, identifies an aesthetic significant impact if "the project would have a substantial adverse effect on a scenic vista". The report goes on to explain the architectural features of over 260 ft. of building on Newport Blvd., which is at least 35 ft. high (and nearly twice that frontage on the bay side). Even with careful attention to keeping the architecture compatible with other structures in the McFadden Wharf area, it is impossible to avoid an "adverse effect on scenic vistas" from Newport Blvd., the bays and residences across the bay. Because of this, the conclusion on pg. 4-10 that "project impacts relative to scenic vistas have been determined to less than significant" is exceedingly optimistic. Refer to Exhibit 4.1-1 (the Newport Blvd. View) and Exhibit 4.1-4 (the bay view). They leave no doubt that the scenic vistas are adversely affected. Since the project is expected to meet all of the zoning and planning department requirements, the only mitigation available is landscaping and foliage. Since the referenced exhibits show sparse plantings, which are barely visible against the buildings and do little to soften the building features, it is important to put heavy emphasis on MM 4.1.4-1 (pg. 4-12). It would be helpful in the DEIR to show better examples of how this mitigation measure would be effective in providing "visual softening of the proposed three-story buildings" from both Newport Blvd. and bay viewing locations. 3-9

4.2 Air Quality

Volume II, Appendix A deals with various air pollution issues relating to proposed project. One contaminant, lead (Pb), is described as a potential problem, but never analyzed or discussed again. Since this project involves demolition of old structures, which probably contain lead products, and excavation of soils that may contain lead contaminants from old shipyard activities, what provisions are planned to protect the work crews and other persons in the vicinity from danger of exposure to lead products in fugitive dust and/or demolition debris? 3-10

Appendix A contains several tables of air-pollutant emissions for various phases of the proposed project and draws conclusions from these tables. SCAQMD recommends that Urban Emissions (URBEMIS) Model 2002 be used for the computations needed here, but it is not mentioned as the source for the data presented. Was URBEMIS 2002 used to compute the project data? 3-11

Air quality mitigation measures for this project are listed on page 4-25 of the DEIR (MM 4.2.4-1, 2 and 3) and seem reasonable in the context of the analyses of Appendix A.

However, Executive Summary Table 1 (pg. 2-4) does not make correct reference to these mitigation measures. This should be corrected to eliminate potential confusion regarding the intentions of the proponent. 3-

Section 4.2.3 Impacts

Short -Term Air Quality Impacts

Page 4-19, last paragraph states the following:
"The project information indicates that approximately 44,300 sq. ft. of the existing building will be demolished. Based on these square footages, it is estimated that a total of 166,125 cubic feet of structures or 922 cubic yards of demolition debris will be hauled off site. If the project removed material at a rate of 100 trucks per day, the demolition would be removed in one day."

They also indicate there will be 10 worker vehicles traveling to and from the site each day-

Page 4-20, next paragraph discusses dirt removal and states the following: 3-
"Approximately 30,000 cubic yards of dirt will be excavated from the site for the subterranean parking structure. Where the material will be hauled will not be known until after the grading permit is issued and just before the excavation begins. ..... If the project removed material at a rate of 100 trucks per day, the excavated material would be removed in 22 days".

The DEIR neglects to inform the reader that to get 100 trucks off and on to the site in one day is virtually impossible. The DEIR fails to tell the reader of a plan to accomplish this. There is no mitigation measure which describes what impact 100 trucks in a day will have on the Peninsula since there is only one way in and one way out. It further does not tell the reader how they will be staged, how they will get on and off the property, and where the employees will park.

Section 4.3 Biological Resources

Page 4-31 Mudflats - During the December 2004 field observations, the tide was low and muddy. Should consideration be given during times of high tides with the possibility of other creatures present? Could they be present during high tide?

Pages 4-36 to 4-37 - If they are concerned with the dredging impact and the turbidity impact, are they taking into consideration: 3-

1. Which tide has the most fish present

2. Flow of the water in the harbor with the moving tides? For example; if they are working during high tide, what would the impact be when the tide pulls

COMMENT #

Page 4-37 Contaminants - 2nd sentence - The past dredge survey dates should be included in that section.

Page 4-40 Indentation needs to be more consistent.

Page 4-40 Last Paragraph - Perhaps instead of using the word "depauperate," a more layman term might be more appropriate.

3–15

Section 4.4 Cultural Resources

Page 4-44, last paragraph. Add the words "architectural resources" to the end of the last sentence.

Page 4-63, Last paragraph, last sentence. Add the words "one of" after the phrase "if the resource meets."

3–16

Page 4-64, Section 4.4.3 Impacts, Section (b) Paleontology Resources. The entire section needs to be revised because it indicates the project may have an impact on Paleontology Resources. This conflicts with Page 4-43, which states the project site possesses no valuable paleontological resources because it is underlain with artificial fill (see Page 4-43, Section 4.4.1 Environmental Setting, Section b)

3–17

Page 4-65, the bottom of the page includes three separately headed paragraphs that discuss artificial soil. Consider consolidating all three paragraphs into a single paragraph.

Page 4-66, Section C, Historical Resources, 1st Sentence. Change "National Register" to "California Register" in accordance with the significance criteria discussed on Page 4-62.

Page 4-68, 1st complete bullet point, 1st sentence. Add the word "former" and "the" to the end of the first sentence so it reads "... historical importance of the *former* structures on *the* site."

Page 4-68, 1st complete bullet point, last sentence. Clarify that the public right-of-way where the plaque will be placed will be oriented to Newport Boulevard and not the other public right-of-way on Arcade Street where the plaque would be more difficult for the public to observe.

3–18

Page 4-68, 2nd complete bullet point. If undocumented archaeological resources are discovered, the current mitigation measure halts construction activity once the archaeologist is brought to the site and assesses the nature of the find. By this time, any valuable resources would likely be destroyed. Revise the mitigation measure so that construction activity halts as soon as cultural resources are found. For example:

> If previously undocumented cultural resources are found during construction activities within the project area, construction activity shall halt in the vicinity of the find until a qualified professional archaeologist assesses the nature and significance of the find and recommends appropriate mitigation measures.

COMMEN

Section 4.5 Geology and Soils

Page 4-69, 3rd paragraph, 3rd sentence. Remove the word "as" between the words "consist of" and "asphalt covered".

Page 4-72, 3rd paragraph, 3rd sentence. The sentence appears to be missing a word, such as "sand" at the end of the sentence.

Page 4-72, 3rd paragraph, 5th sentence. To be consistent with the Petra study in Appendix D, add the word "clay" to the sentence, as in "one inch thick *clay* layer..". 3-1

Page 4-72, 4th paragraph, 3rd sentence. Define the word "en-echelon".

Exhibit 4.5-3 Correct the spelling of "Southern" California.

Page 4-74, 1st and 3rd paragraphs. There appears to be a conflict between these two paragraphs. The 1st paragraph states that the site is not located within the Newport-Inglewood fault zone, and the 3rd paragraph states that the site is located within the Newport-Inglewood fault zone. This apparent conflict is also stated in the Petra report, Appendix D, page 10. 3-2

Page 4-74, 4th paragraph, last sentence. Replace the word "top" with "to".

Page 4-76, 1st paragraph. The last sentence states that secondary effects of seismic activity, such as ground failure, liquefaction is unlikely at the site. This conclusion conflicts with the findings in the Petra report, Appendix D, Page 11.

3-

Page 4-76, 4th paragraph. The report states that the site elevation of 5-6 feet above sea level makes the site moderately susceptible to a tsunami. This elevation seems too low for a moderate susceptibility. For context purposes, identify the sea level elevations that would categorize a site as high and low tsunami susceptibility.

Section 4.6 – Hazards and Hazardous Materials

4.6.1 refers to one area with PCB's above the EPA preliminary remediation goal. Five bullet points later the study notes the PCB's are below the threshold requiring disposal as hazardous waste. This conclusion may be correct or may be an error; noting that there is no need to dispose of the PCB soil as a hazard in the same bullet point would clear up any confusion. 3-

4.6.3 has a discussion that the upper three feet of shoal in the mudline is contaminated with copper and lead, and that a conceptual plan for removal of these soils has been submitted to SARWQCB. No affirmation of removal has been made. 3-2

Because that plan is only conceptual, a affirmative statement that the soils will not be abandoned in place should be included, otherwise, should the plan change to that, the DEIR will not have addressed the issue.

COMMENT #

4.7 Hydrology & Water Quality

Essentially, no comment on what is addressed in the section itself - all identified impacts are mitigated or less than existing.

Several areas were not addressed in 4.7:

Dewatering Operations/Water Quality. There is significant contamination present on the site from its former use as a shipyard. A large dewatering operation is contemplated, per the verbal presentation by the project developer. No mention is made of the potential for the dewatering operation to spread contaminates from the soil, nor how this might be controlled. 3-24

Local large scale dewatering operations have had contamination issues and fines (see Balboa Bay Club Construction).

There is little comment about the control of underwater contamination during removal other than the plan is being submitted to SARWQCB and an unsupported statement that the dredging is expected to have little or no impact. This statement needs to be substantiated with further analysis. Given the potential for dangerous contamination, the EIR should examine the adequacy of the safeguards for removal of the contaminants.

Section 4.8 Land Use and Planning

Page 4-103 Environmental Setting - 2nd Paragraph, 2nd Sentence - please add an "a" before 102,800 sq foot lot. 3-25

Section 4.9 Noise

Page 4-119 Existing Site Monitoring Procedure - Thursday February 23, 2006 is when the noise measurements were made. Perhaps they should have done the noise measurements during the height of the Peninsula activity, perhaps during the summer months in addition to the slowest activity times. This would at least provide possible residents a range of sound possibilities. 3-26

Exhibit 4.9-2 - The location of #2 should have been closer to the Crab Cooker to pick up the highest activity location. Or perhaps in line with location #1, which is at least in the center of the project. 3-27

Exhibit 4.9-3 - All of the A-Weighted Sound Level dBA measurements were done in 1979. With all the technological advances, perhaps some sound level dBA measurements should at least be done in the most recent decade. 3-28

Section 4.10 Public Services

4.10.3 Impacts- **Fire:**

The DEIR states that the proposed project may potentially increase the number of calls for service to the location; ..... current emergency equipment and facilities at the project site must be evaluated to ensure that the current facilities are adequate and serviceable. 3-29

COMMEN

Items that will be evaluated as part of the construction project plans include, but are not limited to, the following: firefighter communication equipment, fire pump and on-site water supply. Please note the DEIR states that these will be evaluated, not implemented. 3-29

The DEIR goes on to state "all fire protection project features must be designed as an integral part of the construction process with all improvements and /or modernization of equipment systems or devices identified and agreed upon by the City of Newport Beach Fire and Marine departments prior to any construction approval."

Again, the document does not give the reader any information as to what will be implemented to provide fire safety besides sprinklers, which are required by law.

Police: The DEIR says the following:
"There are no plans for additional facilities...or staff. The NBPD indicated that the construction of the project may have an impact on the area, especially if the construction is done in the summer months". 3-30

The DEIR states no mitigation measures for how to handle the "very busy traffic and parking issues because of the beachgoers and tourist business that occurs between May and September.

4.10.5 Level of Significance After Mitigation
"With implementation of recommended mitigation measures, all potential impacts are anticipated to be a level of less than significant." What mitigation measures? 3-3

Section 4.11 Transportation

The report is unclear as to the length of time the project will take to complete. In one location (traffic report) it indicates it will be completed in 2006 and in other locations it indicates construction times of 18 to 24 months. Considering the length of time to build the project, if in fact it is the 24-month figure, does the developer have any suggestions for Saturday and Sunday and agreeing to no summer work on Saturdays and Sunday because of the traffic problems that would be created in this area. 3-32

Are there any proposals for traffic corrections during the construction phase that specifically relate to the summer months in this area on the peninsula? Because of the location of this site and the roadways adjacent to it, traffic counts should be made in the summer on at least Saturdays so the decision-makers would have some knowledge of the problems that might be created by this project if Saturday work was allowed. The impact of construction traffic during peak construction periods, such as demolition, soil removal and foundation pours, should be analyzed in the EIR.

It appears that the traffic counts that are being utilized for this project are "shoulder counts" which does not do traffic analysis during the summer. However, because of the length of this project taking at least 18 to 24 months according to some portions of the report this could involve construction during two summers and the City must be realistic about a construction project this large if they're going to be blocking lanes and large trucks are going to be coming and trying to unload. Aren't they going to be blocking lanes and other activities that would create tremendous traffic problems for this specific site? This should be further detailed in a subsequent EIR or traffic analysis? 3-33

The DEIR does not include any plans on how to contain traffic and vehicles on the construction site during the lengthy construction period. Considering the roadways in the area and the congestion that can be in the area, especially during summer months, the project proponents should be required to set forth in the EIR how they intend to handle construction vehicles and workers vehicles, i.e. are they all going to be parked on-site or are they going to be parked in available public parking which is near the site?

The EIR doesn't deal with parking permitted during construction. We're talking here about the construction workers and wouldn't it be appropriate for the DEIR to indicate, in view of the very lengthy construction phase, whether those workers will be able to park on-site or will they have to park in available public parking off the site?

Because the DEIR doesn't discuss parking issues during construction, the City might want to consider conditions on the project with regard to workers off-site parking during the construction phase because of the difficulties with parking in this area especially during the summer months.

What does the owner propose to advise prospective buyers of the residential units with regards to parking available on site for their vehicles? The report discusses the residences, the size, total number of parking spaces, and then designates a certain amount of parking spaces for residential but doesn't indicate how they arrived at that particular number of parking spots for residential. 3-33

The DEIR does not discuss the number of parking spaces that should be made available for this size of residential and what the project proponent suggests for vehicles in excess of that number as to where they should locate or park if there are more vehicles for people who live on the site than there are parking spaces designated for those residents.

What on-site parking is exactly proposed? What is the exact size of the parking spaces "between the lines" that are proposed? This is an issue that should be addressed in the DEIR because increasingly people have large vehicles and unless parking spaces are expanded in size then these large vehicles will overlap into adjacent spaces and therefore make the parking spaces available not truly the amount that is indicated in the DEIR. This is such a significant issue in today's parking lots that this is something that this particular DEIR should specifically address and the decision-makers should require that it be addressed specifically.

The DEIR indicates the only increase in traffic from this new development will be 600 car trips per day. The EIR should explain certainly in more detail than has been explained in this DEIR and all the studies done in this DEIR how you can go from a project which currently has 44,000 square feet of development and about 577 car trips a day associated with that development and then you add 94,000 square feet and you only increase traffic by 600 car trips a day. That is so difficult to understand it should be detailed much more than it is in this particular report. 3-34

It is unclear in the DEIR whether the additional square footage proposed by this project includes the underground parking and the ground level parking or does it only include construction of the buildings that will house businesses or residents. This should be detailed so that the decision-makers will in fact know what the real size of the project will

be from a square footage standpoint considering the substantially increased size of this development over what exists and that the total size of the lot area is 102,800 square feet and the proposal is to build 138,800 square feet.

3-

The DEIR does not indicate the nature of the portion of the project that is going to be occupied by commercial or retail. The type of retail and commercial should be indicated because it makes it different for parking needs and car trips generated depending on the type of retail that is to be proposed.

On page 3-26 there is a reduced development alternative. This should be considered by the decision-makers because the project alternative would obviously involve development of a site with substantially reduced residential units and commercial that would then take a much shorter time to build than the projected time of 24 months in some portions of this report. This reduced alternative has viability especially when one considers the location of this particular project located on a place where two major roads on the peninsula come together and unfortunately create "choke points" that would have effects upon traffic up and down the peninsula. The decision-makers must decide if they can force the peninsula to put up with two or more years of construction at this site with all the traffic problems we know that such developments can cause. This alternative as well as other alternatives should be carefully evaluated in view of the recent court decision in PAC vs. San Jose (2006) DJ DAR 10233.

3-3

Transportation, page 4-133 indicates the existing site generates 577 ADT and that the new project will only add 682 ADT and then when you vary that between the peak hours you have a minus 2 vehicles in the peak hour in the morning and plus 28 in the P.M. This should be explained in more detail than is in this DEIR because we know that we had a marina and a boat yard and various business activities on this property that generated 577 ADT with only 60 to 70 peak hours and now we're going to have both residential and retail with a project that shall increase in size by about 94,000 square feet and it's only going to increase by 26 car trips in both A.M. and P.M. the peak hour traffic. I do think it important for the decision-makers that they make the traffic engineer explain it more detail how he came up with these calculations going from a project of 44,000 square feet of commercial to a project of 138,000 square feet and adds only a total of 26 car trips per day during the peak hours.

3-36

The traffic study at page 4-135 indicates that it's assumed in the traffic study that all residential traffic will leave the area. It should be explained what this assumption is based upon. Aren't the people who live there going to go to dinner, the grocery store, the hardware store and the drug store, which are all located in the local area? (Also see Appendix H - page 2.)

The traffic report indicates that the staff suggested they study six intersections for traffic impacts. None of these intersections were any of the numbered streets (22nd, 23rd, 28th, etc.). This project is located only a few feet from the intersection of Newport Boulevard and Balboa Boulevard at McFadden Square and no road in that area was studied. The nearest intersection was Newport Boulevard at Via Lido and that was the only intersection that was studied that didn't pass the one percent test. The other areas that were studied were the intersection of Tustin Avenue at PCH and Riverside Avenue at

PCH and then Superior Avenue at PCH. This is an insufficient traffic study for the area, especially one that should be conducted during the summertime with construction going on because otherwise the decision-makers are being given a false impression of the character of traffic and the problems that will be created for traffic by the building of this site for at least a 24-month period of time. The EIR must study the intersections that would be affected by the project and it does not appear that that was done. The decision-makers should require that this additional study be done for the benefit of the people who live and use the peninsula especially during the summer hours. 3-36

On page 4-141 the on-site parking recommended for residential is 58 spaces. This is only a couple of more spaces than two per unit and these units are going to be 3,000 to 4,000 square feet according to the calculations. The EIR should contain studies of these size units and the number of cars that are generally utilized by units of this size. It is submitted that units of this size would certainly have at least two cars per unit but then we also have live-in maids and nannies and high school and college students who have cars. With a total of 226 parking spaces provided why does this DEIR indicate they only proposing 58 of those for residential. More details on this should be supplied in the EIR so the decision-makers can determine whether this is sufficient parking for the residential that's being proposed.

There is concern by this committee following reading this report that there may be some restrictions on residents to parking in some of the 226 parking spaces that are being provided. Maybe the decision-makers should put a condition on the project, if granted as requested, to provide residential parking stickers to all vehicles owned by residents and that anyone with a residential sticker be allowed to park anywhere on the property. What the members of this committee are concerned about is that after the residences are sold, the developer of the project may still own the retail and commercial and will want to keep those people happy by designating certain parking areas reserved for those retail and commercial uses and restrict the use by residents. It is this committee's recommendation that the project should be conditioned so that the developer is not allowed to do this, i.e. designate certain spaces as being reserved for his commercial and retail business. The concern by the committee is that if this is done then the residents will be forced onto the available public parking in the area to park their vehicles. This site is of sufficient size to handle all of the residents parking if it is made available to them and that should be the first concern of the decision-makers in this case. 3-37

The DEIR does not indicate anything with regard to the anticipated parking that is required for the marina users. Let us assume that one of the marina users has a party and a trip to Catalina with a weekend planned and eight people are going to be going and they all arrive in separate cars. Has this been taken into account? Considering the size of the residential units it is submitted that the DEIR should detail how this project can provide two or three parking spaces per residential unit and still supply adequate parking for all the other retail. The types of retail is not indicated but if it's restaurants or night clubs sometimes those people would be parking there in the evening in a lot of spaces that might be utilized by residents.

Because of parking problems on the site that might be generated by nighttime use of the retail, maybe conditioning the project not to have any sit down food service or no on site alcohol sale would resolve the problem of nighttime parking.

The traffic report is dated in November and December 2005. I submit the report had to be prepared a substantial length of time before that and therefore is dated incorrectly. If you look at Table 2 on page 9 of the traffic report you will see a number of projects that they indicate are incomplete but that are on line to be completed. Two of the items which "jump off the page" are the Cannery Lofts and the Newport Technology Center. Both of those have been completed for at least two years and report wasn't prepared in November/December of 2005. The currency of the traffic study needs to be reviewed because it refers to two projects that are 2-4 years old as future projects. 3-

There is not a traffic signal at 22nd Street. The document should explain how people approaching the project can make U- turns and change lanes with no signal on a street that carries 40,000 ADT. 3-

Details with regard to the existing parking in the street and the number of spaces and also the parking in something called the arcade should be given in more detail. It is unclear from the DEIR what parking does exist and what is going to happen to that parking during the construction phase.

On page 16 the project wants to utilize the on street parking for part of its required parking. This should be carefully analyzed by the decision-makers as to whether that's providing adequate parking on the proposed project. The decision-makers might want to decrease the size of the project so that adequate parking can be provided on site and not have this project utilizing the public streets. 3-4

On page 16 of Appendix H, the problem with large vehicles and parking areas is discussed with not enough detail given as to how these vehicles are going to be able to function on this particular site. It should be explained by the traffic engineers in detail how these businesses and residents are going to get deliveries from large trucks. How are they going to do it? The project probably should be conditioned with a prohibition of any delivery parking on Newport Boulevard because if it's not prohibited than this arterial road would have lanes blocked and access blocked when large delivery vehicles are trying to deliver to the site after its built and occupied. Let's solve the problem now before the project is built rather than having the problem come up after it's built and we have these delivery vehicles causing problems.

On page 16 it indicates the radius of the ramps connecting the portions to the underground parking lot as 80 feet, which the report says "is adequate". The question not answered in the report is it's adequate for what size vehicle? Further detail on this should be given on the report especially in view of comments about difficulties with delivery vehicles on site and also some problems with available parking spaces. 3-

What are the grades on the ramps? What size vehicles will be able to use the underground parking? It appears the decision-makers would certainly want it to be able to handle at least large SUV's and pickup trucks and vans for a project of this type consisting of retail and residential and yet this is not set forth in the report as to what restrictions will be on the size of vehicles that would be using the available underground parking.

COMMENT #

Someone should analyze the parking on this site that is being proposed with the actual plans with the existing walls and pillars to see if this project really does have the required parking. If certain parking spaces are inaccessible if other adjacent spaces are occupied, then it's critical to know this at this time and whether the parking spaces that are claimed are in fact going to be usable. I can't think of any way to determine this other than having staff or the traffic engineers make further studies by laying out such a parking lot and indicating walls and pillars to see if the parking spaces truly are usable and by what size vehicles they would be usable. Then the decision-makers would indeed know how many real parking spaces there are available. 3-42

Traffic studies on the weekends in the summer should be done. The reasonable thing to propose for this project is some traffic studies that are done both in the winter and summer because if they're going to have a construction schedule that takes two or more years then it is appropriate for some additional accommodation to be required from the developer or the project to ease the traffic concerns of residents and users of the peninsula that will be substantially interfered with because of the length of the construction of this project. 3-43

This site has a very unique roadway situation immediately adjacent to it. The traffic problems with this site can probably be seen by a layman by looking at the aerial photo which is Exhibit 3-3. The diagram will also show the concern about the unique traffic problems for this particular site that are not adequately being addressed in this DEIR. 3-44

4.13 (aka 4.12) Utilities and Service Systems

There are no statements regarding the undergrounding of all utilities and what type of mitigation measures need to be implemented since they found water 4 feet under ground. Whether the water is tidal in nature or not, there is still water with no mention in the DEIR of what mitigation measures need to be implemented. The water is not a question of "if", but how it is to be handled. 3-45

Exhibit 3-10 shows the parking plan of the project showing only one (1) trash enclosure located by 22nd & the Arcade. What is the one trash enclosure supposed to service, both the 27 residential units and the 36,000 sq. ft. of commercial? The DEIR neglects to inform the reader how the trash service will be implemented. Also, the Parking Plan (exhibit noted above) does not clearly designate for the reader the location of the stairs, elevators, bathrooms or showers. 3-46

Mitigation Measures (page 4-149):
MM 4.13.4-1: "Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies". This does not really say anything specific enough to be evaluated. 3-47

COMMENT

5.0 Significant Unavoidable Adverse Impacts

The second paragraph on pg. 5-1 refers to "proposed elementary school and middle school project". Is this a result of inserting some boilerplate? How does it relate to this proposed mixed-use project? 3-

This section asserts that, for the proposed project, "all impacts can be reduced to less than significant level, except for Cultural Resources". Considering that the proposed project will be conducted over at least 3 years and at least 3 intense summer visitor periods, and that it is being conducted in the intensely impacted McFadden Square area, it is apparent that there could be significant, unavoidable impacts in some environmental areas during the summer vacation periods. Other projects (e.g. Balboa Village Revitalization) have imposed a summer hiatus and/or construction restrictions to minimize potentially serious impacts on traffic, air quality, parking, noise, public services and aesthetics (to name a few). Has this project considered this form of mitigation? 3-4

6.0 Effects Not Found to be Significant

This first paragraph on pg. 6-2 refers to the "proposed middle school and elementary school" again. Please clarify.

The DEIR further states that "mitigation measures are provided for Geology and Soils,.....Transportation/Traffic...." However, Section 4.12.4, pg. 1-141 states that no mitigation is required for traffic, circulation and parking. Please clarify this discrepancy. 3-

7.0 Long Term Implications of the Proposed Project

Section 7.2, pg. 7-2, asserts that "the project will not have a cumulative adverse impact currently or in year 2025". This is not intuitively obvious. Please provide supporting analyses showing the cumulative effects of this and all other projects planned for the Balboa Peninsula in this time frame. 3-5

8.0 Alternatives

As previously noted, the 4 alternatives identified on pp. 8-2 to 4, should be listed in the Project Description.

The discussion on alternatives is superficial and generally self-serving for the proposed project. It is a given that it is desirable to improve the existing, under-performing property to a configuration with better revenue production for the city. In this context, revenue to the city from the project should be addressed in detail. If revenue is not a driver, then Item 8.1.2., Reduced Development Alternative, would seem to be the most favorable from an environmental point of view (i.e., less time to accomplish, less traffic, less air pollution, less noise etc.). Please explain and analyze why this is not the preferred alternative. 3-

Central Newport Beach Community Association

P.O. Box 884 • Newport Beach, California 92661

August 31, 2006

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Mr. James Campbell, Senior Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Draft Environmental Impact Report – Newport Bay Marina - Comments

Dear Mr. Campbell:

COMMENT #

Subject DEIR has been reviewed by members of the Board of Directors of the Central Newport Beach Association. This project is adjacent to the CNBCA boundaries and has the potential to substantially impact the residents of our area, especially due to the limited access to Balboa Peninsula. This project sits directly in the path of ingress and egress to the Peninsula. Following are comments on subject DEIR:

3.1.2 Existing Site Characteristics – this section mentions the view from the northerly side of the property is of a marina with the bay and mainland beyond (actually Lido Peninsula). Throughout the balance of the document (e.g. 3.1.3), however, this view, which actually approximates 25% of the frontage of the property, is barely mentioned. This view will be lost should the project be constructed and appropriately detailed mitigation measures should be addressed in the EIR. 4-1

4.1.3 Aesthetic Impacts – Building elevations are proposed to "project a level of formality." This style of architecture and colors (we are not in Tuscany) proposed do not reflect the local maritime aesthetic and are reminiscent of an urban downtown style of architecture currently in use around Southern California. The project should be required to redesign the facades so that they are compatible with the Peninsula and its history as a coastal waterfront community. 4-2

4.1.4 Aesthetics - Mitigation Measures – We recommend a mitigation measure that will reduce the frontage of or eliminate Building K in order to preserve the existing view and to provide a buffer for the adjacent restaurant use. The project proposed "enhancing" of existing public view and access easements that have been allowed to degrade is inadequate mitigation for the proposed loss of an existing view from Newport Boulevard that includes approximately 25% of the property. The proposed view corridor appears to be offset from Newport Boulevard, thus reducing its value. Also, the view appears to be blocked or 4-3

minimized by the proposed bridge. These points, along with the fact there is an existing public view easement renders the proposed mitigation to little worth. 4-3

4.3.4 Construction – Mitigation Measures – A mitigation measure should be added to address dredging, bulkhead construction/removal and piling construction/removal as they impact the suspension of contaminated sediments. Mitigation should ensure that there is no drift of contamination from the site. The dredging should include removal of contamination from the Rhine Channel immediately adjacent to the property's tidelands leasehold that resulted from the historic boatyard activities and the marina. 4-4

4.4.4 Cultural Resources – Mitigation Measures – The mitigation measure requiring Planning Director review should be expanded. We recommend that the proposed architectural design be forwarded to the City Arts and Cultural Commission which is charged with historic review. The architecture should be required to reflect the maritime vernacular of the buildings it replaces. The existing buildings are not protected due to the weak support of existing City ordinances and the inadequacy of the City's historic inventory. The existing buildings reflect an important component of the City's history and their open interiors, sail-like roof lines and the art-deco style of the boat sales building would be treasured in many communities. The least the new development must do to mitigate their loss is to reflect the style of the heritage architecture. 4-5

4.7.4 Water Quality - Mitigation Measures - Water from the subterranean garage is proposed to be filtered and discharged to the bay. Because of the hydrocarbons and particulates in a garage, this discharge should be made to the sewer system. There should be a minimal amount of water accumulating from the garage and its impact on the sewer system should be little. An enforcement mechanism to ensure appropriate maintenance and replacement of drain filters in perpetuity should be in place. While there is a boilerplate check-list of uses that can impact water quality in the DEIR, there is nothing that addresses the boats in the marina. There should be a requirement that prohibits washing boats in this narrow, polluted channel and a pump-out station for the marina should be required. A program to maintain water circulation and trash removal in the long slipway/channel 19 should be required to prevent the pollution and stagnation that now exists. 4-6

4.10.4 Public Services – Mitigation Measures – There are no mitigation measures to address the concerns expressed by Police regarding congestion around the site, especially during construction, and the delivery of emergency services. CNBCA is very concerned with intensification of congestion at this vital intersection during the summer. The five minute response time is not realistic during some periods of the summer. Currently, traffic backs up on summer weekend afternoons and evenings to 10th Street and beyond. This is also a peak time for the need for paramedic services, as well as for lifeguard and police emergencies. Often fire trucks with paramedics and ambulances have to use the lanes of opposing traffic 4-7

COMMENT #

to bypass traffic. Mitigation should include prohibition of construction after 3 P.M. on weekdays during the summer and no construction on weekends. There should be strategy sessions held with the developer and public emergency service personnel to ensure maximum emergency access to and from the Peninsula or the project should be reduced in scope. Currently there is very little traffic generated by the uses on the site during these peak times. Under the subject of Parks there is a statement that the project will provide additional marine recreation opportunities to the public. Please clarify what these opportunities are so that their impact can be assessed. 4-7

4.11.4 Transportation – Mitigation Measures – Existing traffic generation was calculated using a substantial industrial component that equates to almost one half of the traffic credits. In reality there is little industrial use on the site (38.4 TSF is stated in the Austin-Foust report Table 1). Thus the net new trips from the proposed project are unfairly represented and reduced. A realistic assessment should be performed. Table 2 should be updated. The intersections of 21st Street, 23rd Street, 28th Street and 32nd Street should be included in the analysis. These are the intersections at which back-ups occur during the summer. During these times LOS is worse than F and it can over one half hour to traverse the Peninsula. There is an additional lane by the time traffic reaches Via Lido, the intersection chosen for analysis.

The project is "right in, right out" except for the left turn possibility at the Arcade. Currently there is little use for a left turn at the Arcade for the public because there is little parking although visitors, seeing the Crab Cooker Restaurant sometimes try. This project will greatly increase demand for a left turn at this intersection because there will be someplace to go. Resulting congestion must be mitigated. There is mention of a u-turn possibility at 21st Street. Currently no u-turns are allowed and for good reason inasmuch as the "mixmaster" intersection has been studied extensively. Motorists choosing to access the proposed new structures by turning left will overcrowd The Arcade (which is actually a narrow alley) between the Spaghetti Factory exit and a boatyard. The resulting increased traffic will unfavorably impact the homes facing 21st Street. Because of the confusing access to ramps, visitors unfamiliar with the project will hesitate to enter thus adding to congestion. There is no area for deliveries to businesses in the project. The retail and office space must have delivery areas in order to sustain their businesses and to avoid interference with public access. 4-8

Traffic was analyzed during winter/spring. One third of the year the lives of Peninsula residents are impacted by tourists. A more realistic analysis should be undertaken. This project will peak with activity during the summer. Condominium residents will be home and will have guests, the retail establishments will experience their peak business and the boats will be used to their maximum. This impact must be analyzed and mitigated. The parking proposed is the minimum using normal planning standards and does not accommodate this peak. There will be spillover into spaces used by the public

destined for the beach, Newport Pier and McFadden Square. Currently over 100 parking spaces on the site are available for a fee to the public evenings and weekends. This loss of public parking will be exacerbated by the inadequate parking proposed for the project. 4-

There are only 14 parking spaces allotted for the boat slips. The boat slip are all 50' or over. Boats of this size often have a crew, have maintenance personnel who visit frequently, accommodate many guests and, in general, generate a need for parking in excess of the slightly less than .75:1 ratio proposed. There are no controls proposed on the type of vessels using the slips. Therefore a mitigation measure must be included to prohibit use of the boat slips by charters, open-party boats, sport-fishing vessels or any type of commercial use. Traffic associated with the boats also needs to be included in the traffic analysis. Use of on-street parking is discussed. This must be eliminated from consideration and the project made parking self-sufficient based on summer usage. Parking controls must be discussed and used in mitigation. There will be an increase in pedestrian activity and that impact on traffic should be addressed. Pedestrian safety must be addressed by including an off-site mitigation measure of the installation of blinking lights in the pavement at crosswalks accessing the project. 4-

8.0 Alternatives – This section does not include the possibility of using the site again for a boatyard or for another coastal dependent use. It also fails to address adaptive reuse of the historic buildings. 4

Other: There must be an agreement executed by the developer, each purchaser and his/her successors acknowledging the presence of adjacent busy restaurants, which are visitor serving, and of the adjacent and active boatyard. To a new resident these may become unfavorable uses and they may press for removal or limitations on them. In fact, these are coastal dependent uses of long standing and popularity and should have priority over occupants of the new project who buy "with their eyes open." 4-

Thank you for the opportunity to comment.

Sincerely,

Louise Fundenberg

Louise Fundenberg, President
Central Newport Beach Community Association

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Member Agencies

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Seal Beach
Stanton
Tustin
Villa Park
Yorba Linda

County of Orange

Sanitary Districts

Costa Mesa
Midway City

Water Districts

Irvine Ranch

September 1, 2006

James Campbell
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

SUBJECT: Draft Environmental Impact Report, Newport Bay Marina

COMMENT

This letter is in response to the above referenced Draft Environmental Impact Report (EIR), Newport Bay Marina (Project).

The Project area is located at 2300 Newport Boulevard, and is on the Balboa Peninsula. The Project area is currently developed with commercial, office, and marine uses. The proposed Project consists of a mixed use development with approximately 36,000 square feet of commercial uses and 27 residential units.

The Orange County Sanitation District (OCSD) is primarily concerned with long term de-watering systems that may be planned to serve the underground structures. OCSD will only accept these flows into its sanitary sewer system via special permit. However, OCSD does not intend to issue a permit because water can be discharged to a public waterway via a NPDES permit from the Southern California Regional Water Quality Control Board. 5-1

The City of Newport Beach plan check personnel should be made aware of this requirement when reviewing plans for all future projects.

Thank you for the opportunity to comment on this Draft Environmental Impact Report. Please contact Adam Nazaroff at (714) 593-7854, if you have any questions.

John D. Linder, P.E.
Engineering Manager

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cc: Adam Nazaroff
EIR File

STATE OF CALIFORNIA - THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

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

SEP 7 2006 August 31, 2006

Mr. James W. Campbell, AICP, Senior Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Newport Bay Mixed-Use Project
Draft Environmental Impact Report (SCH# 2003071144)

Dear Mr. Campbell,

Thank you for the opportunity to review the Draft Environmental Impact Report for the Newport Bay Marina Mixed-Use Project. According to the Draft Environmental Impact Report, the proposed project is a mixed-use development of residential and commercial uses on the former South Coast Shipyard and Design Center property.

The proposed project is located within the coastal zone in the City of Newport Beach. The proposed development will require a coastal development permit from the California Coastal Commission.

The following comments address the issue of the proposed project's consistency with the Chapter 3 policies of the California Coastal Act of 1976. The comments contained herein are preliminary and those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself. As described below, the proposed project raises issues related to fill of open coastal waters and consistency with the City of Newport Beach Land Use Plan (LUP).

COMMENT

Below are the comments by Commission staff on the Draft Environmental Impact Report.

1. Fill of Open Coastal Waters

One component of the proposed project consists of the closure and fill of one (1) of the existing boat slipways. In a letter by Commission staff dated August 21, 2003 (a copy of this letter has been attached to this letter) issues regarding the proposed fill were raised. Currently, Commission staff still has the same concerns regarding this project component. Please review Commission staff concerns in the attached letter dated August 21, 2003. 6-1

2. Land Use Plan (LUP)

The City of Newport Beach Land Use Plan (LUP) designates the site as Recreational and Marine Commercial (CM-C). This designation intends to encourage a continuation of marine-oriented uses, maintain the marine theme and character of the area, and encourage public physical and visual access to the bay. Professional and business offices are permitted only in conjunction with a marine-related theme. In addition, residential uses are permitted on the second floor or above where the ground floor is occupied by commercial uses. Four (4) of the buildings (buildings J, I, F and E) located on the bayward side of the 6-2

COMMENT #

property have been designated entirely for residential. This is inconsistent with LUP designation as stated previously. Thus, the project should be revised to be consistent with the LUP. 6–2

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Newport Bay Marina Mixed-Use Project. Commission staff request notification of any future activity associated with this project or related projects. Please note, the comments provided herein are preliminary in nature. Additional and more specific comments may be appropriate as the project develops into final form and when an application is submitted for a coastal development permit. Please feel free to contact me at 562-590-5071 with any questions.

Sincerely,

Fernie Sy
Coastal Program Analyst II

Attachment Letter dated August 21, 2003

Cc: State Clearinghouse

H:\fsy\EIR's\Comment Letters\Newport Bay Mixed-Use Project (SCH# 2003071144)NB

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

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

August 21, 2003

Mr. James W. Campbell, Senior Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Re: South Coast Shipyard and Design Center
Initial Mitigated Negative Declaration (SCH# 2003071144)

Dear Mr. Campbell,

Thank you for the opportunity to review the Initial Mitigated Negative Declaration for the South Coast Shipyard and Design Center project. According to the Initial Mitigated Negative Declaration, the proposed project is a mixed-use development of residential and commercial uses on the South Coast Shipyard property.

The proposed project is located within the coastal zone in the City of Newport Beach. The proposed development will require a coastal development permit from the California Coastal Commission.

The following comments address the issue of the proposed project's consistency with the Chapter 3 policies of the California Coastal Act of 1976. The comments contained herein are preliminary and those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself. As described below, the proposed project raises issues related to the protection of wetland habitat, water quality, and coastal access and recreation.

Below are the comments by Commission staff on the Initial Mitigated Negative Declaration.

1. Wetlands. One component of the proposed project consists of the fill of two (2) current boat haul inlets. On page 43 of the Initial Mitigated Negative Declaration, it states these two boat haul outlets are not considered true "open waters" of the harbor because they are not subject to adequate water circulation and flushing and thus do not result in the "Fill" of open coastal waters. The Initial Mitigated Negative Declaration further states that the area of fill has no environmental value and no mitigation of any potential loss of sensitive habitat is required. Section 30108.2 of the Coastal Act defines "Fill" as the placement of earth or any other substance or material placed in a submerged area. Section 30233 of the Coastal Act limits the fill of wetlands and open coastal waters to eight uses and it appears that the proposed project does result in "Fill" of open coastal waters and is not one of the eight uses where "Fill" is allowed. Projects, which propose the fill of wetlands and/or coastal waters, must demonstrate that the proposed impact would be allowable under the Coastal Act. If allowable the project must then provide adequate mitigation, preferably on-site. Commission staff requests that you re-evaluate the proposed "Fill" of the two (2) boat haul inlets in reference to Section 30233 of the Coastal Act. A biological study should also be prepared that addresses the presence of wetlands and open coastal waters using the

Coastal Act definition.

2. Coastal Access and Recreation. Section 30222 of the Coastal Act places a priority on visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over general commercial development. The project site currently consists of 44,300 square feet of commercial, office and marine industrial uses, including a shipyard, two (2) boat slipways, office buildings, retail shops and associated parking. The proposed project would consist of a mixed-use development with 30,000 square feet of commercial uses and 28 residential units. The City's certified Land Use Plan (LUP) designates the area as Recreational and Marine Commercial. It appears that the proposed mixed-use development would not adequately provide the types of uses on the project site as required by the LUP. Recreational and Marine Commercial uses such as the shipyard and boat slipways are being replaced with residential uses. Commission staff requests additional discussion regarding the proposed project's conformance with the LUP use designation of "Recreational and Marine Commercial."

3. Water Quality. The Initial Mitigated Negative Declaration discusses water quality in terms of CEQA requirements and Regional board requirements. In addition to CEQA, Regional Board and other regulatory requirements, the proposed project will undergo review based upon water quality provisions in the Coastal Act. Sections 30230 and 30231 of the California Coastal Act provide the broad basis for protecting coastal waters, habitats, and biodiversity from degradation of water quality associated with new and redevelopment.

   Sound water quality management utilizes a three-pronged approach: site design, source control, and treatment control Best Management Practices. A successful program would first incorporate site design measures to minimize impact to the hydrologic landscape and source control Best Management Practices (BMPs) to reduce dry weather flows and the generation and introduction of pollutants into runoff. A few examples of site design practices include minimizing impervious surfaces, using porous pavements or alternative pavers in parking areas, preserving native vegetation and root systems, minimizing erosion and sedimentation, and reducing roadway or parking lot length. Some examples of source control BMPs include planting native, drought tolerant, non-invasive vegetation; minimizing pesticide and fertilizer use; using efficient irrigation systems; and implementing parking lot and street sweeping programs, among other measures.

   After site design and source control BMPs have been designed, treatment control BMPs (typically in a treatment train approach for an extensive development like the one proposed) should be designed for the development. Treatment control BMPs should be designed to treat the specific pollutants generated on each portion of the site. In addition, the proposed measures must be sized and designed to mitigate water quality impacts generated by the development. As a goal, the Commission has required post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

   Based on Section 30230 and 30231 of the Coastal Act, the Coastal Commission must ensure that a development minimizes to the maximum extent feasible polluted runoff and its impact to coastal waters. Even where there is existing development on a site, a redevelopment project needs to demonstrate that it is minimizing to the maximum extent

feasible the impact to coastal water quality. Therefore, the development should incorporate, and the Mitigated Negative Declaration should discuss, the site design, source control, and treatment control Best Management Practices (BMPs) that will be used in association with the entire site. Parking lots, landscaped areas, loading and unloading docks, dry weather flows, and trash and debris are common constituents in commercial and residential areas, and BMPs should be designed to address these constituents.

Finally, Commission staff suggest use of catch basin inserts throughout the development, use of filtration systems near areas with especially high risk of pollutant generation (loading/unloading docks, parking lots, etc.), and the use of biofiltration.

Thank you for the opportunity to comment on the Initial Mitigated Negative Declaration for the South Coast Shipyard and Design Center project. Commission staff request notification of any future activity associated with this project or related projects. Please note, the comments provided herein are preliminary in nature. Additional and more specific comments may be appropriate as the project develops into final form and when an application is submitted for a coastal development permit. Please feel free to contact me at 562-590-5071 with any questions.

Sincerely,

Fernie Sy
Coastal Program Analyst

Cc: State Clearinghouse
California Department of Fish and Game
U.S. Fish and Wildlife Service

H:\fsy\EIR's\Comment Letters\South Coast Shipyard and Design Center Project (SCH# 2003071144)NB

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

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

August 21, 2003

Mr. James W. Campbell, Senior Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Re: South Coast Shipyard and Design Center
Initial Mitigated Negative Declaration (SCH# 2003071144)

Dear Mr. Campbell,

Thank you for the opportunity to review the Initial Mitigated Negative Declaration for the South Coast Shipyard and Design Center project. According to the Initial Mitigated Negative Declaration, the proposed project is a mixed-use development of residential and commercial uses on the South Coast Shipyard property.

The proposed project is located within the coastal zone in the City of Newport Beach. The proposed development will require a coastal development permit from the California Coastal Commission.

The following comments address the issue of the proposed project's consistency with the Chapter 3 policies of the California Coastal Act of 1976. The comments contained herein are preliminary and those of Coastal Commission staff only and should not be construed as representing the opinion of the Coastal Commission itself. As described below, the proposed project raises issues related to the protection of wetland habitat, water quality, and coastal access and recreation.

Below are the comments by Commission staff on the Initial Mitigated Negative Declaration.

1. Wetlands. One component of the proposed project consists of the fill of two (2) current boat haul inlets. On page 43 of the Initial Mitigated Negative Declaration, it states these two boat haul outlets are not considered true "open waters" of the harbor because they are not subject to adequate water circulation and flushing and thus do not result in the "Fill" of open coastal waters. The Initial Mitigated Negative Declaration further states that the area of fill has no environmental value and no mitigation of any potential loss of sensitive habitat is required. Section 30108.2 of the Coastal Act defines "Fill" as the placement of earth or any other substance or material placed in a submerged area. Section 30233 of the Coastal Act limits the fill of wetlands and open coastal waters to eight uses and it appears that the proposed project does result in "Fill" of open coastal waters and is not one of the eight uses where "Fill" is allowed. Projects, which propose the fill of wetlands and/or coastal waters, must demonstrate that the proposed impact would be allowable under the Coastal Act. If allowable the project must then provide adequate mitigation, preferably on-site. Commission staff requests that you re-evaluate the proposed "Fill" of the two (2) boat haul inlets in reference to Section 30233 of the Coastal Act. A biological study should also be prepared that addresses the presence of wetlands and open coastal waters using the

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Coastal Program Analyst

Cc: State Clearinghouse
California Department of Fish and Game
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H:\fsy\EIR's\Comment Letters\South Coast Shipyard and Design Center Project (SCH# 2003071144)NB

Newport Bay Marina Project
Errata to Draft EIR
Planning Commission Hearing
November 16, 2006

Volume 1-Draft Environmental Impact Report (EIR)

Section 3.0 Project Description, 3.1.3 Project Characteristics, Page 3-5.

A portion of the project description is revised to provide further clarification as follows:

"The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units **with a total of 77,101 square feet**. The project will require the demolition of all existing buildings on the site **totaling approximately 922 cubic yards of demolition debris (structure debris).** The project proposal includes a ~~partial~~ subterranean garage. The construction of the garage will require excavation of earth material. **Approximately 34,000 cubic yards of dirt will be excavated from the site for the subterranean parking structure. For the residential portion of the project, 68 parking spaces are provided primarily on the upper deck. They consist of 45 garages, 9 carports and 10 guest spaces. 4 guest spaces are provided on the parking level. For the retail/office portion of the site, there are 8 deck level parking spaces and 135 parking level spaces, totaling 143 spaces. There are 15 marina spaces provided in the parking level. A total of 226 spaces are provided which complies with the City Code requirement of 226 spaces.**

The project includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the previous ship building/repair use of the property. The remediation includes removal of sediment that has accumulated to form a shoal in front of the smaller of the two boat slipways. The sediment **(approximately 200 square foot area)** is contaminated with metals that are considered a hazardous waste. This material will be excavated using shore based equipment (i.e. long reach backhoe) and then disposed of at a licensed facility. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront). The existing sheet pile and concrete bulkhead will be demolished and removed using shore based construction equipment. Once the new bulkhead is constructed to tie in the property lines along the subject site, the former bulkhead will be demolished (Exhibit 3-4).

The project also proposes reconfiguration of the existing 21-boat slip marina **to a 19-boat slips** located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widen and remain open) used for boat berthing. The boat slipway to remain open and improved will also include a vehicular/pedestrian bridge crossing. The reconfiguration of the boat slips will involve removal of the existing docks and associated pierheads (existing pilings) and replacement of the boat slips and pierheads in the reconfigured layout (Exhibit 3-5). The reconfigured layout will facilitate an improved marina use. The number of boat slips will not be increased. The length of each boat slip ranges from 56 feet to 65 feet with the exception of Slip No. 19 (the large slipway with proposed vehicular/pedestrian bridge) which is approximately 150 feet in slip length. This large slipway will accommodate a variety of boat sizes. "

Section 3.0 Project Description

The Final EIR will include a corrected Exhibit 3-7 that removes references to the City of Corona that the project engineer inadvertently placed on the proposed vesting tentative tract map. The reference should be to the City of Newport Beach.

The Final EIR will include revised plans that contain a parking space legend (where applicable) that defines RCP, CCP, CP and V. The following parking spaces and symbols are found on the plans:

<u>Parking Legend</u>
V – Residential visitor
G – Residential garage
RCP – Residential carport
CCP – commercial carport
CP – Carport (residential)

Note: the plans supplied by the applicant for the use in the DEIR inadvertently use different symbols for the same parking space (i.e. on Exhibit 3-10 a space is identified as a "RCP" and on the same space on Exhibit 3-11 it is referred to as a "CP").

Section 3.5 listing of project alternatives is amended by adding an identification of the "Residential Alternative" presented in Section 8.0 of the Draft EIR as follows.

"3.54 Residential Alternative

This project alternative involves the development of the site with up to 45 residential units and no commercial uses."

It should be noted that Section 8.1.4, which discusses this alternative, incorrectly assumes that a project with only residential uses could be permitted pursuant to adopted development regulations. The General Plan Land Use Element, Coastal Land Use Plan and zoning regulations only allow residential uses within a mixed use development with permitted commercial uses on the ground floor.

Section 2.0 Executive Summary
Section 4.6 Hazards and Hazardous Materials

The following mitigation measure is hereby added to the Final EIR (Section 2.0, Executive Summary and Section 4.6, Hazards and Hazardous Materials) to ensure implementation and compliance of a Work Plan for site remediation.

> "MM 4.6.4-4: Prior to the issuance of a grading permit, the applicant shall provide evidence that a Final Work Plan (for remediation) has been approved by the RWQCB and that said plan provides for protective measures for contaminated material removal including measures such as use of silt curtains and a watertight clamshell bucket for minimizing the dispersion of containments. Said Plan shall be subject to review and approval by the RWQCB."

The following mitigation measure is hereby added to the Final EIR (Section 2.0, Executive Summary and Section 4.6, Hazards and Hazardous Materials) to ensure implementation and compliance with the demolition of existing structures on site and compliance with applicable regulations pertaining to the proper removal and disposal of containments (i.e. lead, asbestos etc.).

> "MM 4.6.4-5: Prior to the issuance of a demolition permit, the applicant shall submit to the Building Official a hazardous material disposal plan which identifies the procedures and method of removing and disposing of lead and asbestos in relation to the existing buildings on the site."

Section 2.0 Executive Summary
Section 4.2 Air Quality

The mitigation measures presented on page 4-25 will be correctly reflected in the Executive Summary Table 1 (page 2-4).

> MM 4.3.4-3: *During construction activities, the applicant shall ensure that the project will comply with SCAQMD Rule 402 (Nuisance), to reduce odors from construction activities.*

Section 2.0 Executive Summary
Section 4.9 Noise

The Final EIR shall reflect the following modification to MM 4.9.4-1.

"MM 4.9.4-1: Prior to the issuance of any building permits, detailed engineering construction plans will be submitted to the City for review and approval. The engineering plans shall provide details such as roof and wall elements, room dimensions, window and door dimensions, attic configuration, **ventilation systems,** and building insulation. Said plans shall demonstrate and ensure that the City's noise standards are met for proposed mixed-use project (residential and commercial)."

Section 4.3 – Biological Resources

The Final EIR, pages 4-37 is modified as follows:

"Contaminants
Dredging operations could spend contaminated sediments hereby dispersing the contaminants into the water column. However, based on past dredge surveys **(MBC Applied Environmental Sciences. 1999. Elegrass Transplant Report Grand Canal Balboa Island Maintenance Dredging Project)** the extent and duration of the dredge plume, and the transport and availability of contaminants within the dredge plume, are expected to be very limited..."

Page 4-40 last paragraph will be revised to correct the indention and to replace the word "depauperate" with "depleted".

Section 4.4 – Cultural Resources

The Final EIR page 4-44, last paragraph is revised to add the words "architectural resources" to the end of the last sentence.

Page 4-63, land paragraph, last sentence is revised to add the words "one of" after the phrase "If the resource meets."

Page 4-65, bottom of page is revised to consolidate all three paragraphs into a single paragraph.

Page 4-66, 1st sentence is revised to change "National Register" to "California Register" in accordance with the significance criteria discussed on page 4-62.

Page 4-68, 1st complete bullet point, last sentence is revised to clarify that the plaque shall be placed and oriented towards Newport Boulevard.

Page 4-68, mitigation measure is revised to identify if resources are encountered that work will be halted until an archaeologist is brought to the site and assesses the nature of the find.

Section 4.5 – Geology and Soils

Page 4-69, 3rd paragraph, 3rd sentence is revised to remove the word "as" between the words "consist of" and "asphalt covered".

Page 4-72, 3rd paragraph, 3rd sentence. The word "sand" is added to the end of the sentence.

Pate 4-72, 3rd paragraph, 5th sentence is revised to add the word "clay" to the sentence , as in "one inch thick clay layer..".

Page 4-72-4th paragraph, 3rd ,sentence is revised to eliminate the word "en-echelon" as it provides no significant meaning in the context of the sentence.

Exhibit 4.5-3 is revised for the correct spelling "Southern" California.

Page 4-74 is revised to clarify that the site lies within the Newport-Inglewood fault zone.

Page 4-74, 4th paragraph is corrected in the Final EIR to replace the word "top" with "to".

Section 4.8 – Land Use and Planning

The Final EIR page 4-103 2nd Paragraph, 2nd sentence is revised to add an "a" before 102,800 sq foot lot.

Section 4.12 – Utilities and Service Systems

The Final EIR page 4-143 will reflect "4.12 Utilities and Service Systems" instead for 4.13.

Section 5.0 – Significant Unavoidable Adverse Impacts

Page 5-1 of the Final EIR will be revised to delete the reference to a school.

Section 6.0 – Effects Not Found to be Significant
Section 4.11 - Transportation

Page 6-1 will delete the reference to a proposed "middle school and elementary school" and replace it with a reference to the proposed "mixed use (residential/commercial) project." The reference to Transportation/Traffic in the 4th and 6th sentences is deleted as there are no mitigation measures for transportation/traffic.

FOREWORD

Pursuant to the California *Public Resources Code* §21082.1, the City of Newport Beach has independently reviewed and analyzed the information contained in this Environmental Impact Report. The conclusions and discussions contained herein reflect the independent judgment of the City of Newport Beach as to those issues at the time of publication.

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A	AIR QUALITY
B	BIOLOGY (MARINE)
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D	GEOTECHNICAL
E	HAZARDS AND HAZARDOUS MATERIALS
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G	NOISE
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1.0 INTRODUCTION

The City of Newport Beach (hereinafter "City") has prepared this Draft Environmental Impact Report (EIR) to evaluate the environmental impacts that could occur from the proposed construction and operation of the Newport Bay Marina mixed-use project. This introductory section describes the proposed mixed use project which consists of residential and retail uses (hereinafter "project") and its existing and projected future uses; discusses the objectives of the proposed action; and briefly describes the agency use of the document and related studies.

Pursuant to Section 21165 of the California Environmental Quality Act (CEQA), the City is the Lead Agency responsible for preparing the Draft EIR to address the potential impacts associated with the proposed project.

1.1 PROJECT SUMMARY

The proposed project site is approximately 2.4± acres in size and is located at 2300 Newport Boulevard in the City of Newport Beach, Orange County, California. The site will be accessed from Newport Boulevard and 22nd Street. The application is a request to permit the approval of a Vesting Tentative Tract Map 16594, Use Permit and a Site Plan Review for the proposed mixed-use development of residential and commercial uses on the project site. The project site is currently developed with 44,300 square feet of commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront), reconfiguration of the existing 19-boat slip marina located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widened and remain open) used for boat berthing. The project proposal includes a partial subterranean garage. The construction of the garage will require excavation of earth material. The project also includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the previous ship building/repair use of the property. The proposed project is described in further detail in Chapter 3 of this EIR.

1.2 STATUTORY AUTHORITY

The preparation of Environmental Impact Reports is governed by two principal sets of documents. The California Environmental Quality Act (hereinafter "CEQA", *Public Resources Code* §21000, et seq.), and the CEQA Guidelines (California *Code of Regulations* §15000, et.seq.). Where appropriate and supportative to an understanding of the issues, reference will be made to the statute, Guidelines, or appropriate cases.

On February 23, 2005, the City issued a Notice of Preparation (NOP) and Initial Study (IS) for a 30-day public review period in compliance with CEQA and the CEQA Guidelines for the proposed project. The NOP was provided to surrounding cities, organizations and individuals who have expressed interest in the project. The NOP was distributed for public review in excess of state law requirements in an effort to encourage the broadest possible basis for public input. The NOP and the Initial Study addressing the proposed project, together with the comments received thereon, appear in Appendix A of this EIR.

1.3 ISSUES TO BE ADDRESSED

The issues to be addressed in this EIR were derived from the Initial Study review, preliminary consultation with other public agencies and the public, and a review of existing documentation for the subject property. During the course of this project, there may exist disagreement among experts as to the significance of certain aspects of the project. CEQA provides a context for considering these disagreements, which is explained in Section 1.5 of this EIR.

1.4 IMPACTS FOUND NOT TO BE SIGNIFICANT

Section 15128 of the CEQA Guidelines requires that the EIR identify those impacts found not to be significant in the Initial Study process as well as the EIR process, accompanied by a brief explanation of why these impacts were found not significant. Reference may be made to the Initial Study in Appendix A of this document, and the appropriate topical sections of this EIR for identification and justification as to why those impacts were found not significant.

1.5 DISAGREEMENT AMONG EXPERTS

This EIR contains substantial evidence to support all of the conclusions presented herein. That is not to say that there will not be potential disagreements with these conclusions. Both the CEQA Guidelines and case law clearly provide standards for treating disagreement among experts.

Where evidence and opinions of experts conflict on an issue concerning the environment, and the agency knows of these controversies in advance, the EIR must acknowledge the controversies, summarize the conflicting opinions of the experts, and include sufficient information to allow the public and the decision makers to take intelligent account of the environmental consequences of their action. In rendering a decision on a project where there is disagreement among experts, the decision makers are not obligated to select the most conservative, environmentally protective or liberal viewpoint. They may give more weight to one expert than another, and need not resolve a dispute among experts. In their proceedings, they must consider the comments received and address objections but need not follow said comments or objections so long as they state the basis for their decision and that the decision is supported by substantial evidence. At the time of preparation of this EIR, the CITY is not aware of any disagreement among experts in regards to the proposed mixed use project.

1.6 INCORPORATION BY REFERENCE

Certain documents are incorporated by reference into this EIR pursuant to CEQA Guidelines Section 15150. Where a document is referenced, its pertinent sections will be briefly summarized in the discussions in this environmental document. These documents are identified in Chapter 9 of this EIR as well as the location where they can be inspected is also identified.

1.7 RESPONSIBLE AGENCIES AND AGENCIES CONSULTED

Responsible agencies include all public agencies other than the Lead Agency which have discretionary approval power over the project (CEQA Guidelines §15381). Responsible agencies in respect to this project may include: California Coastal Commission, State of California Department of Toxics, and

California Regional Water Quality Control Board (CRWQCB). Agencies consulted include U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service, the California Department of Fish and Game, and the Newport Unified School District. Other agencies expected to be involved in the project include:

- City of Newport Beach Fire Department
- City of Newport Beach Police Department
- Utilities; SEMPRA, GTE, Edison

1.8 ENVIRONMENTAL PROCESS

This Draft EIR has been prepared by the CITY consistent with the California Environmental Quality Act (CEQA) of 1970 (Public Resources Code, Sections 21000-21177); however, it is not intended to be used as a decision making tool for Federal discretionary actions. The analysis contained in this document has been conducted at a project construction level of detail, consistent with state laws regarding tiering of environmental documents (Public Resources Code Section 21068.5, 21093; CEQA Guidelines Section 15385).

1.9 AGENCY USE OF DOCUMENT

This Draft EIR is intended to be used as a decision making tool for the City's decision-makers consideration and action on the proposed project. This EIR is subject to applicable CEQA requirements. Responsible Agencies (i.e. regulatory agencies) may elect to use this environmental analysis for discretionary actions associated with the implementation of the proposed project.

The DEIR is intended to provide decision-makers and the public with information concerning the potential environmental effects associated with the adoption and implementation of the proposed project, and potential ways to reduce or avoid possible environmental impacts. The CEQA Guidelines Section 15161 describes a Project EIR as an EIR that examines the environmental impacts of a specific development project. The EIR should focus primarily on the changes in the environment that would result from the project. The EIR should also evaluate all phases of the project including planning, construction, and operation.

1.10 ORGANIZATIONS AFFILIATED WITH THE PROJECT

The City is the lead agency for this project, which will be heard by the City Planning Commission.

Contact persons for the entities involved in the preparation of this EIR are as follows:

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Other organizations and persons affiliated with and consulted in regards to the project are listed in Chapter 10 of this EIR.

2.0 EXECUTIVE SUMMARY

2.1 Project Environmental Summary

The Executive Summary presented in this Section of the Draft EIR provides the reader at a glance with an understanding of the project impacts, mitigation measures, and level of significance of impacts after mitigation. Since this is a summary, the reader must look to the body of the EIR for detailed discussion of issues and impacts.

2.2 Project Alternatives

Project alternatives, presented in Chapter 8, have been designed to alleviate identified environmental problems, or were specifically requested for consideration during the preparation of this EIR. Each of the alternatives has been measured against the project objectives. These alternatives focus on approaches capable of eliminating significant environmental impacts, or reducing them to a level of insignificance.

2.3 Areas of Controversy/Issues to be Resolved

Section 15123 of the CEQA Guidelines requires that an EIR contain a brief summary of the proposed action and its consequences. Sections 15123(b)(2) and (3) also require that the EIR summary identify areas of controversy known to the lead agency, issues raised by agencies and the public, and issues to be resolved, including the choice among alternatives and whether or how to mitigate significant impacts.

Areas of public controversy and issues to be resolved which are known or which have been called to the attention of the City of Newport Beach during the Initial Study and Notice of Preparation process is noted below. Because each issue to be resolved involves some degree of controversy, the distinction between the area of controversy and an issue to be resolved is not critical.

- Remediate any potential hazards located within the project boundary.
- Provide for adequate on-site and off-site circulation and parking for proposed land uses.
- Preservation/restoration of existing boat slipways.

- Preserve/enhance the existing scenic view corridor from Newport Boulevard to the Bay and improve public access to the Bay.

It is recognized that other issues may be raised during the review and hearing process which were not and could not have been known at the time of the publication of the Draft EIR.

Table 1
Executive Summary Matrix

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
AESTHETICS		
Development of the proposed mixed-use project will be visible from locations on-site as well as surrounding areas (residences, open space and roadways). The project will also include landscaping which will further soften the aesthetic appearance of the buildings. The mixed-use project will be visible to travelers on Newport Boulevard, from areas across the Rhine Channel and the immediate surrounding area. Additionally, lighting will also be visible but is not considered significant since the project is located in a developed urbanized area. The project is not considered visually offensive to viewers. Project construction activities will also be visible to viewers. Construction activities are short-term impacts and not considered a significant impact to aesthetics. The project site is not a designated scenic vista nor located near a designated scenic vista. Additionally, the project would not substantially damage scenic resources, including, but not limited to trees, rock outcroppings. The project will have an impact structures which are considered significant historical resources. This topic is addressed in the Cultural Resources Section.	**MM 4.1.4-1:** *Prior to the issuance of a building permit, a landscape plan shall be prepared by a licensed landscape architect for the project for review and approval by the Planning Director. Said landscape plan shall enhance the property and provide visual softening of the proposed three-story buildings and site lighting. The landscaping shall be installed in recognition of vehicular and pedestrian circulation (site distance considerations etc.) and safety.* **MM 4.1.4-2:** *Prior to the issuance of a building permit, a site lighting plan shall be prepared and submitted to the Planning Department for review and approval. Building and parking lot lighting shall be designed and installed so that all direct lighting rays are confined to the site and adjacent properties and roadways are protected from glare.*	Less than significant with implementation of the mitigation measures.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
AIR QUALITY		
Pollutant (Nox & PM10) emissions associated with the grading and demolition activities on the project site are projected to be greater than the Significance Thresholds established by the SCAQMD in the CEQA Air Quality Handbook. Therefore, grading and demolition of the proposed project will result in a significant air quality impact. Long term emissions are below the significant threshold levels defined by the SCAQMD, and therefore, project will not have an adverse impact upon the regional emissions.	**Mitigation Measure No. 4.3.4-1** *During construction activities, the applicant shall ensure that the following measures are complied with to reduce short-term (construction) air quality impacts associated with the project: a) controlling fugitive dust by regular watering, or other dust palliative measures to meet South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust); b) maintaining equipment engines in proper tune; and c) phasing and scheduling construction activities to minimize project-related emissions.* **Mitigation Measure No. 4.3.4-2** *During construction activities, the applicant shall ensure that the project will comply During construction activities, the applicant shall ensure that the project will comply with SCAQMD Rule 402 (Nuisance), to reduce odors from construction activities.*	With implementation of the recommended mitigation measures (short-term construction related impacts) the project will not result in any significant impacts to air quality.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
BIOLOGICAL RESOURCES		
Impacts of this project to the marine environment appear to result in a positive effect on the marine environment by replacement of most of the existing habitat with habitat of equal or greater value than that disturbed during the course of the project. The existing boat slipways were surveyed and found to be depauperate in species probably due to their location in a dead end channel and the contaminants that are known to reside there. The impacts to the biota from the project are expected to be short term as most of the biota of the intertidal community are species such as compound ascidians, barnacles, mussels, limpets, and oysters with swimming larval forms that will readily colonize new substrate. Intertidal and subtidal algae such as Ulva and Enteromorpha are very fast growing and will readily attach to the new substrate. Other species such as nudibranchs and fish will swim free of the construction area and recolonize the habitat once construction is complete. Disturbances to the substrate in areas outside of the construction areas will have minor effects on polychaete worms, but they too will readily recolonize disturbed areas, so the loss to the infauna will be relatively small, short term in duration, and the impacts are, therefore, considered less than significant.	**MM 4.3.4-1:** *Prior to issuance of a grading permit, a survey will be conducted for the presence of eelgrass and Caulerpa. The biological assessments conducted by CRM and MBC indicate that neither species is present in the project locations, but it is required that not more than 90 days nor less than 30 days prior to initiation of actual construction that both eelgrass and Caulerpa surveys be conducted in September or October, in which case the results are relevant until the following growth period beginning in March. In no case, will an eelgrass or Caulerpa survey conducted from November to February (non-growth period) be acceptable.* **MM 4.3.4-2:** *Prior to the issuance of any Certificates of Use and Occupancy, the project applicant shall implement the recommended mitigation pertaining to the replacement and restoration Pickleweed and the mudflat area presented in the biological resources report prepared by MBC Applied Environmental Sciences.*	With implementation of mitigation (preservation and restoration of the slipway), all potential impacts relative to biological (marine) resources will be reduced to a less than significant level.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
CULTURAL RESOURCES		
As a result of the records and literature search and the field walkover surveys, no significant cultural resources were found to be present on or immediately adjacent to the project area. Therefore, no further archaeological investigations are recommended by ARMC. Paleontological resources, including fossil remains and associated scientific data, fossil sites, and fossiliferous rocks, could be adversely affected by the direct and indirect environmental impacts accompanying the grading and excavation activities needed for the development of the Newport Bay Marina Mixed-Use Project Area in Newport Beach. Direct impacts would result from the ground-disturbing activities associated with the clearing of the vegetation and soil, excavation of aggregate and increased development of the proposed processing facility. If a significant paleontological resource is identified within the boundaries of the proposed project ground disturbance could result in the loss of paleontological resources, including scientifically important fossil remains, associated geologic data, fossil sites, and fossiliferous rocks, by disturbing fossil-bearing and potentially fossiliferous rocks. Although construction would be a short-term activity, the loss of some fossil remains and the fossil-bearing rocks would be a permanent adverse environmental impact. On this particular parcel the project-related construction activities may have an affect any fossil-bearing formations.	**MM 4.4.4-1:** During construction activities, if archaeological and/or paleontological resources are encountered, the contractor shall be responsible for immediate notification and securing of the site area immediately. A qualified archaeologist and/or paleontologist approved by the City of Newport Beach, Planning Director shall be retained to establish, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of cultural resource finds. If major archaeological and/or paleontological resources are discovered which require long-term halting or redirecting of grading, a report shall be prepared identifying such findings to the City and to the County of Orange. Discovered cultural resources shall be offered to the County of Orange or its designee or a first-refusal basis. **MM 4.4.4-2:** The historical study prepared by LSA dated October 2005 recommends the mitigation to reduce the significant impacts to historical resources through the following methods: • Documentation of the South Coast Boatyard shall be provided by the developer prior to issuance of demolition permits by the City of Newport Beach. Prior to issuance of demolition permits, the Planning Director shall be provided an historic narrative, photographs, and architectural drawings of all on-site buildings in accordance with Historic American Building Survey (HABS) Level 1 documentation requirements. The Planning Director shall ensure that the HABS documentation is deposited with the Newport Beach Historical Society, the City of Newport Beach Public Library, the Newport Harbor Nautical Museum, and the SCCIC located at California State University, Fullerton, prior to issuance of demolition permits.	With implementation of the recommended mitigation measure, the proposed project will not result in any significant impacts to archeological and paleontological resources. With demolition of all buildings on-site, mitigation as described above will mitigate impacts to these historical resources to the degree feasible; however, because the resources are eligible for the California Register under Criteria 1 and 3, these mitigation measures will not reduce project impacts below the level of significance.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
CULTURAL RESOURCES (CONTINUED)		
The South Coast Shipyard appears to be eligible for listing in the California Register as a historical resource at the local level of significance under Criteria 1 and 3. Under Criterion 1, the South Coast Shipyard is associated with the development of the maritime economy of Newport Beach and with World War II, as a local contributor to the war effort. Under Criterion 3, the South Coast shipyard represents an excellent example of maritime architecture in the City of Newport Beach, particularly on Balboa Peninsula. The buildings are in good condition and retain integrity of location, design, feeling, association, workmanship, materials, and setting. The South Coast Shipyard buildings exhibit a collective distinction as a historic district. All of the buildings located within the South Coast Shipyard are contributors to this district. None of the buildings appear to be individually eligible for listing in the California Register, as the shipyard represents a significant and distinguishable entity whose components lack individual distinction. None of the buildings appear to be individually eligible for listing in the California Register.	• Prior to issuance of building permits, the Planning Director shall review project building plans and permits to ensure incorporation of design features referencing and memorializing the character-defining features of the South Coast Boatyard into design of the project, including, but not limited to, incorporation of a commemorative plaque depicting the buildings and their context to the historical importance of the structures on site. Such plaque shall be oriented to a public right-of-way, so as to be visible and accessible to the public from such right-of-way. • If previously undocumented cultural resources are found during construction activities within the current project area, a qualified professional archaeologist shall assess the nature and significance of the find in order to recommend appropriate mitigation measures, halting construction activity in the vicinity of the find, if necessary.	Therefore, the project as proposed will result in unavoidable adverse impacts to historical resources.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
CULTURAL RESOURCES (CONTINUED)		
The South Coast Shipyard does not appear to be eligible for listing in the California Register under Criteria 2 or 4. Although the shipyard was connected to several prominent business people and noted residents of Newport Beach, none of these individuals were associated with any activities that were demonstrably important to the history of Newport Beach, California, or the nation (Criterion 2). The South Coast Shipyard does not appear to be able to answer questions important in history (Criterion 4). In 1974, the South Coast Shipyard was identified as a historical landmark by the Newport Beach Historical Society. In 1992, the Ad Hoc Historic Preservation Advisory Committee conducted a Historic Resources Inventory for the City of Newport Beach. The South Coast Shipyard was identified as a local historic site, representing historic/architectural themes of local importance. While the South Coast Shipyard was recognized as a locally significant property, the City of Newport Beach does not have a Historic Preservation ordinance, and only encourages the adaptive reuse and preservation of buildings, recognized by the City to be Landmark Buildings. The South Coast Shipyard is not recognized by the City of Newport Beach to be a Landmark Building.		

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
GEOLOGY AND SOILS		
The topography of the site is relatively flat. The site is not located in an area of unique geologic or physical features. There are no evident faults on the site itself. Field observation during the geotechnical investigation (Petra) did not reveal the existence of any active or ancient landslide in the vicinity of the project site. The closest slope in the area of the site is the bluff north of the site on West Coast Highway. The closest known active or potentially active fault is the Newport-Inglewood Fault. Strong ground shaking is the principle cause of most damage sustained during an earthquake. The most severe ground shaking at the site is expected to originate from an earthquake along the Newport-Inglewood fault zone, which the site lies within (Petra). Groundwater at the project site is relatively shallow. Evaluation and analysis during the geotechnical field explorations conducted by Petra indicate fill materials and marine deposit soils located from a depth of 4 to 30 feet below the ground surface are susceptible to liquefaction. Significant total and differential settlement of the foundation may occur due to seismically induced settlement. All potential impacts associated with geology and soils are mitigated to a level of less than significant per the project design and compliance with the City Excavation and Grading Code (NBMC Sec.15.10.140) will reduce any potential impacts to an insignificant level.	**MM 4.5.4-1:** *The project shall implement the recommendations presented in the geotechnical reports prepared by Petra presented in Appendix D, Volume II of the EIR.* **MM 4.5.4-2:** *Prior to the commencement of construction, design criteria and project specifications that include ground improvement techniques such as stone columns, use of deep foundations which penetrate below the liquefiable zone, pressure grouting, or appropriate combinations of these measures shall be incorporated into the plans for the project.* **MM 4.5.4-3:** *Develop design criteria and project specifications that recognize groundwater may be encountered at the proposed depth of the partially subterranean parking area. Construction of mat foundations or structural slabs may be required. Design of utility lines and surface drainage in the subterranean parking should also consider the presence of a shallow groundwater table.* **MM 4.5.4-4:** *Use appropriate type of cement and concrete specification according to Table 19-A-4 of the Uniform Building Code to mitigate contract with corrosive soils and sea water that may come in contact with footings in the area.*	With implementation of the recommended mitigation measures, the project will not result in unavoidable adverse significant impacts to geology and soils.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
HAZARDS AND HAZARDOUS MATERIALS		
During construction activities, the potential exists for localized spills of petroleum-based products, concrete, or other chemicals. These spills could expose workers and the public to hazardous materials either directly, at the site of the spill, or indirectly, by introducing these substances into the watershed. Such impacts are potentially significant; therefore, mitigation measures are provided to reduce the likelihood of a spill and prevent surface water contamination in the event of a spill. Based on compliance with existing regulations regarding hazardous materials, no increase in risk of upset related to hazardous materials is anticipated with the proposed project. The proposed project does involve the transport and disposal of some hazardous materials from waste located in sediment near the slipways. The geological assessments (October 11, 2002, Petra Geotechnical, Inc.) consisted of drilling and sampling four borings to assess the environmental condition of sediments which form a shoal near the slipways. The geologic and chemical data obtained during this assessment indicates that local contamination of the sediments in the shoal (near the slipways) has occurred. Concentrations above the Soluble Threshold Limit Concentration (STLC) for copper and lead are present in the upper three feet below the mudline in the shoal area. The detected concentrations of copper and lead (above the STLC) require that these specific sediments be handled as a hazardous waste if they are excavated and removed.	**MM 4.6.4-1:** *If during grading and/or construction activities a potential contaminated area is encountered, construction shall cease in the vicinity of the contaminated area. An assessment shall be performed by a qualified hazardous materials specialist to determine the extent and type of contamination. If the site investigation reveals that contamination with pollutant concentrations in excess of Action Levels, as defined by the California Department of Health Services and the California Regional Water Quality Control Board, the site shall be remediate during the project construction phase in compliance with the State of California Hazardous Substances Control Law (Health and Safety Code Division 20, Chapter 6.5) standards established the California Department of Health Services, Office of Statewide Health Planning and Development, and the requirements of California Administrative Code, Title 30, Chapter 22 and applicable Federal regulations.* **MM 4.6.4-2:** *The proper use and maintenance of construction equipment, along with the use of general common sense, greatly reduces the potential for contamination. All grading and building plans will include the following construction related measures and that the measures shall be followed by the construction contractor and crew:*	Less than significant with implementation of the mitigation measures.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
The project is not located within an airport land use plan or close vicinity of a private airstrip (or public airport) that would result in a safety hazard for people residing or working in the project area. The closest airport to the project site is the John Wayne Airport. This airport is approximately 5 miles from the project site. The project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. However, during construction activities, the project will need to be coordinated with the City (i.e. construction traffic control plan) especially during summer months when the Newport Beach area is very congested with tourist and beachgoers. To ensure that the project does not interfere with any potential emergency response vehicles, a mitigation measure is presented in Section 4.11 (Transportation/Traffic). The site itself does not pose any unusual significant risk of wildland fires. The project construction will be required to comply with applicable safety regulations including fire prevention and an emergency operations plan. Additionally, the project will not interfere with any emergency plan and/or access for emergency operations.	*a. The storage of hazardous materials, chemicals, fuels, and oils and fueling of construction equipment shall be a minimum of 45 meters (150 feet) from any drainage, water supply, or other water feature.* *b. Hazardous materials stored onsite shall be stored in a neat, orderly manner in the appropriate containers and, if possible, under a roof or other enclosure.* *c. Whenever possible, all of a product shall be used up before disposal of its container.* *d. If surplus product must be disposed of, the manufacturers or the local and state recommended methods for disposal shall be followed.* *e. Spills shall be contained and cleaned up immediately after discovery. Manufacturer's methods for spill cleanup of a material shall be followed as described on the Material Safety Data Sheets (MSDS) for each product.* *f.* **MM 4.6.4-3:** *Prior to the issuance of any certificate of use and occupancy permit(s), the project applicant shall submit written evidence from the California Regional Water Quality Control Board Santa Ana Region that no further action is needed and all remediation is completed and construction can proceed.*	

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
HYDROLOGY AND WATER QUALITY		
The proposed project will have a beneficial impact to water quality. The existing shipyard is proposed to be removed and remediation (contaminants in the sediments of the boat bays) of the site will be conducted in compliance with the requirements of the California Regional Water Quality Control Board Santa Ana Region. Water quality implementation of the project will include compliance with the adopted Drainage Area Management Plan and adoption of Best Management Practices for handling any runoff from the proposed housing buildings or hardscape. Therefore, impacts to water quality are not anticipated. The proposed project would not substantially increase water runoff. The site is already developed with existing buildings and is located in an urbanized area of the City. The site is largely covered with impervious surface (e.g. asphalt, concrete, etc.) at the present time. The proposed expansion will include demolition of three corrugated metal structures and the asphalt parking lot to accommodate the new buildings. Since the site is presently covered with impervious surface and will continue to be after project implementation, the project will result in an insignificant increase in runoff.	**MM 4.7.4-1:** ***Prior to the issuance of any grading permit, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and provide evidence that a NPDES Notice of Intent (NOI) has been filed with the State Regional Water Quality Control Board. Such evidence shall consist of a copy of the NOI stamped by the Regional Water Quality Control Board. The SWPPP shall be developed to reduce the risk of the transport of sediment and pollutant from site. The SWPPP shall implement measures to minimize risks from material delivery and storage, spill prevention and control, vehicle and equipment fueling and maintenance, material use, structure construction and painting, paving operations, solid waste management, sanitary waste management, and hazardous waste management.*** **MM 4.7.4-2:** *During construction and following completion of development, the recommendations presented in the Water Quality Management Plan (WQMP) prepared by SP Consulting Group dated February 20, 2006 shall be implemented and complied with to ensure that all potential project impacts to water quality will be reduced to a less than significant level and all applicable local and state water quality requirements complied with by the project applicant (property owner).* **MM 4.7.4-3:** *During construction activities the following shall to be implemented:* *a. During construction and maintenance activities, equipment shall be in proper working condition and inspected for leaks and drips on a daily basis. The project contractor or representative thereof shall develop and implement a spill prevention and remediation plan and workers shall be instructed as to its requirements. Construction supervisors and workers and maintenance personnel shall be instructed to (1) be alert for indications of equipment-related contamination such as stains and odors, and (2) respond immediately with appropriate actions as detailed in the spill prevention and remediation plan if indications of equipment-related contamination are noted.*	Less than significant with implementation of recommended mitigation measures.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
The project is located in close proximity to the beach and ocean front. All on-site surface water will be conveyed to a drainage system that includes catch basin filters and that eventually flows toward the bay. The project will result in short-term and long-term impacts to water quality. Short-term impacts will occur as a result of construction and grading activities. Long-term impacts will occur as a result of increased usage of the site by vehicles and people. These impacts can be reduced by procedures that protect the quality of stormwater runoff, such as: site construction, erosion and sediment control programs, sweeping streets, managing solid waste, recycling programs, storm drain and catch basin maintenance, enforcing prohibitions on illegal discharges, controlling spills, supervising waste discharges through permitting, and enforcing the prohibition on certain discharges. Water quality implementation of the project will include compliance with the adopted Drainage Area Management Plan and adoption of Best Management Practices for handling any runoff from the proposed project. The project site is located within a 500-year flood hazard area. Due to close proximity of the project site to the Pacific Ocean (and the Rhine Channel), the site could potentially experience impacts associated with inundation by tsunami (but unlikely a seiche or mudflow due to the location and topography). The project itself does not expose people or structures to a significant risk involving flooding, or flooding as a result of the failure of a levee or dam. The City of Newport Beach has emergency procedures in the event of a major event (i.e. flooding, earthquake, evacuation plans etc.)	*b. During construction and maintenance activities, fuels, solvents, and lubricants shall be stored in a bermed area so that potential spills and/or leaks shall be contained. Soil contamination resulting from spills and/or leaks shall be remediated as required by Federal and/or state law. Storage areas shall be constructed so that containers shall not be subjected to damage by construction and maintenance equipment.* *c. Stockpiles of bulk granular building materials shall be covered and secured.* *d. Any areas of exposed soil, such as dirt stockpiles, dirt berms, and temporary dirt roads, shall be stabilized with controlled amounts of sprinkled water.* *e. At the close of each working day, any materials tracked onto the street or laying uncontained in the construction areas shall be swept up, and any trash accumulated in construction areas shall be disposed.* *f. Concrete, asphalt, and masonry wastes shall be contained and these wastes shall be disposed away from project construction sites.* *g. Spill kits containing absorbent materials will be kept at the construction site.* h. Fuels and other hazardous materials will be stored away from project drainage. **MM 4.7.4-4:** *Prior to the issuance of a building permit, the applicant shall submit a landscape plan, which includes a maintenance program to control the use of fertilizers and pesticides, and an irrigation system designed to minimize surface runoff and over watering. This plan shall be reviewed by the City of Newport Beach Planning Department. The landscaping shall be installed and maintained in conformance with the approved plan and maintenance program.*	

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
LAND USE AND PLANNING		
The proposed project does not result in any significant impacts relative to land use and planning. The project is consistent with applicable regulation plans and development regulations (i.e. General Plan, Specific Plan, & LCP). The project does not impact any applicable habitat conservation plan (HCP) or natural community conservation plan (NCCP). The project site is not part of a HCP or NCCP. The proposed project will not result in any significant impacts to land use and planning. Mitigation related to other topical areas such as biological resources, cultural resources etc. are presented in the appropriate EIR Sections addressing those areas.	Not Applicable	The project will not result in any significant impacts. Therefore, no mitigation is necessary.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
NOISE		
Construction Noise Construction noise represents a short-term impact on ambient noise levels. Noise generated by construction equipment, including trucks, graders, bulldozers, concrete mixers and portable generators can reach high levels. Typical noise construction levels are shown in Exhibit 4.9-3. Construction of the project includes demolition of all existing buildings, grading and excavation associated with the construction of the parking garage and site remediation. However, the project does not propose construction outside of the hours permitted in the Noise Ordinance. *Long-Term On-Site Impacts* The proposed residences are required to meet an outdoor noise standard of 65 CNEL and an indoor noise standard of 45 CNEL. Residences along Newport Boulevard may be exposed to noise levels in excess of 70 CNEL. A few second and third floor balcony units are planned along Newport Boulevard. Noise barrier heights were calculated for sample outside balcony locations facing along Newport Boulevard. Balcony barriers of 5 feet high may be required. In general, noise barrier heights may be reduced considerably through site design, such as setbacks from the roadway, grade separations, and exterior living area orientation.	**Mitigation Measure 4.9.4-1:** *Prior to the issuance of any building permits, detailed engineering construction plans will be submitted to the City for review and approval. The engineering plans shall provide details such as roof and wall elements, room dimensions, window and door dimensions, attic configuration and building insulation. Said plans shall demonstrate and ensure that the City's noise standards are met for proposed mixed-use project (residential and commercial).*	Less than significant with implementation of the mitigation measures.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
NOISE (CONTINUED) The residential buildings facing Newport Boulevard will experience traffic noise levels of 70 CNEL or greater, and will require outdoor-to-indoor noise reduction of at least a 25 dB. In some cases standard construction will achieve this level of reduction, however, these residences will likely require upgraded windows to achieve the required outdoor to indoor noise reduction. With typical residential construction, a minimum of 20 dB of outdoor-to-indoor noise reduction is achieved with windows closed. With windows open outdoor-to-indoor, noise reduction falls to 12 dBA. Therefore, units requiring more than 12 dB of noise reduction require adequate ventilation per the Uniform Building Code to allow windows to remain closed. Typically this is provided through mechanical ventilation. Mechanical ventilation may be required for all homes in the project. The commercial buildings must comply with an interior noise standard of 50 CNEL. The commercial buildings along Newport Boulevard could experience noise levels in excess of 70 CNEL.		

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
PUBLIC SERVICES		
Fire The proposed project may potentially increase the number of calls for service to the location; however, it is anticipated that the project will not require any new facilities/staff or affect emergency response times. all proposed structures will be required to be fully fire sprinklered. At this time, the Newport Beach Fire Department has indicated that the project will not result in any significant impacts to facilities, staff and/or services. All fire protection project features must be designed as an integral part of the construction process with all improvements and/or modernization of equipment systems or devices identified and agreed upon by the City of Newport Beach Fire and Marine Department prior to any construction approval. **Police** There are no plans for additional facilities or expansion of current facilities and/or additional staff. The Newport Beach Police Department (NBPD) indicated that the construction of the project may have an impact on the area, especially if the construction is done in the summer months. The area becomes very busy with traffic and parking issues because of the beachgoers and tourist business that occurs between May and September.	**MM 4.10.4-1:** *Prior to the issuance of a grading permit, project construction plans shall be submitted to the City Fire Chief for review to verify that all fire protection is designed in compliance with the requirements of the City of Newport Beach Fire and Marine Department.* **MM 4.10.4-2:** *Prior to the issuance of any building permits, the project applicant shall pay any applicable development school impact fees as required by State law.* **MM 4.10.4-3:** *Prior to the issuance of any building permits, the project applicant shall pay any applicable park impact fees as required by City of Newport Beach and State law.*	Less than significant with implementation of the mitigation measures

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
PUBLIC SERVICES (CONTINUED)		
Schools The proposed project consists of a mixed-use development that includes 27 new residential units. The project will generate new students, however, the project is consistent with the land use designation of the City's General Plan and zoning and therefore included in the student generation projections for buildout of the City. Based on the current student generation rates, the project could result in the generation of approximately 7 K-12 students (27 units x 0.259 K-12 student/dwelling unit). While the development is not expected to generate significant numbers of students, the District's facilities are overcrowded. Therefore, in compliance with state law the project applicant will be required to pay applicable development impact fees adopted by school district. **Parks** The proposed project is not anticipated to significantly increase the use of existing neighborhood and regional parks and recreational facilities. The project will provide additional marine recreation opportunities to the public. Existing parks in the area and beaches are available to the public. Due to the limited population expected in relation to the 27 residential units the increase will be limited in regards to the potential use of parks and recreational facilities in the area. The project applicant will be required to pay applicable park impact fees.		

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
TRANSPORTATION		
The proposed development is projected to generate approximately 682 trip-ends (net increase) per day with -2 (net) vehicles per hour during the AM peak hour and 28 vehicles per hour during the PM peak hour. Six intersections were evaluated per the traffic study conducted for the project. Additionally analysis for one intersection was warranted. The ICU analysis for the intersection of Newport Boulevard and Via Lido assumes existing land configurations and a capacity of 1,600 vehicles per hour per lane with no clearances factor. The traffic study concluded that the project will have no impact on the intersection of Newport Boulevard and Via Lido during the peak hours, which will operate at LOS (Level of Service) "A". The project has no significant impact on the study intersections. Parking for the project will be provided by a underground parking structure, an upper deck parking lot, and on-street parking. No on-street parking will be lost on Newport Boulevard along the project frontage, and two new on-street parking spaces on Newport Boulevard are proposed by relocating an existing fire hydrant. No on-street parking will be lost on 22nd Street. Five on-street parking spaces on The Arcade will be relocated on The Arcade along the project frontage.	As concluded in the traffic study the proposed project will not result in any significant impacts to traffic, circulation or parking. Therefore, no mitigation is required.	The project will not result in any significant impacts to transportation. Therefore, no mitigation is necessary.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
PUBLIC UTILITIES AND SERVICE SYSTEMS		
Water and Sewer Services Based on water consumption factors, development of the project will result in a water consumption of 32,618 gallons of water daily (102,800 sq.ft. of residential uses and 36,000 sq.ft. of commercial uses, 235 gallons/1,000 sq.ft.). The total of 32,618 does not take into account the deduction of the consumption by the existing use to be demolished to accommodate the new development. Based on sewer flow generation factors (5,429 gallons per day (gpd)/acre), development of the project is anticipated to generate 282,308 gallons of wastewater annually. The project will generate an estimated 6,902 gallons of sewage each day (based on OCSD use flow coefficients of 3,451 gpd/acre for medium density residential, 8-16 du/ac); however, no significant discharges that would exceed wastewater treatment requirements will occur as a result of the development. The project does not include uses that would necessitate treatment beyond that provided by the OCSD and raw sewage generated by the project will not exceed wastewater treatment requirements established by the Santa Ana Regional Water Quality Control Board.	**MM 4.13.4-1:** *Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.*	

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
Electrical Services The project will require extension of existing electrical facilities to serve the new school buildings and parking area. Based on consumption factors from the SCAQMD CEQA Air Quality Handbook it is projected that the project will have a consumption rate of 1,221,440 kWh (based on computing square footage by 8.8 KWh/sq.ft. per year). The project is not anticipated to have any significant impacts on electrical services. **Natural Gas Services** The project will require expansion of gas services to serve the school buildings. No significant adverse impacts associated with providing gas service to the project are anticipated as a result of the proposed project. **Solid Waste Services** The demolition of the existing structures and surfaces on the project site will result in the generation of solid waste. The majority of the demolition waste can be diverted through a recycle process of wood, metal, concrete, and other building materials. It is estimated that the project will generate approximately 292 pounds of solid waste per day (based on IWMD generation rate of 4 lbs/unit and 0.005/sq.ft. for commercial/retail). The project will comply with federal, state, and local statutes and regulations related to solid waste. It is not anticipated that there are any significant impacts relative to providing solid waste pick up and disposal generated by the project.	**MM 4.13.4-1:** *Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.*	Less than significant with implementation of recommended mitigation measure.

Project Impacts Prior to Mitigation	Mitigation Measures	Level of Significance After Mitigation
UTILITIES AND SERVICE SYSTEMS (CONTINUED)		
Telephone Services The proposed project will require extension of existing telephone facilities to serve the new buildings. No significant adverse impacts associated with providing telephone service to the project are anticipated as a result of the project.		

3.0 PROJECT DESCRIPTION

3.1 PROJECT DESCRIPTION AND CHARACTISTICS

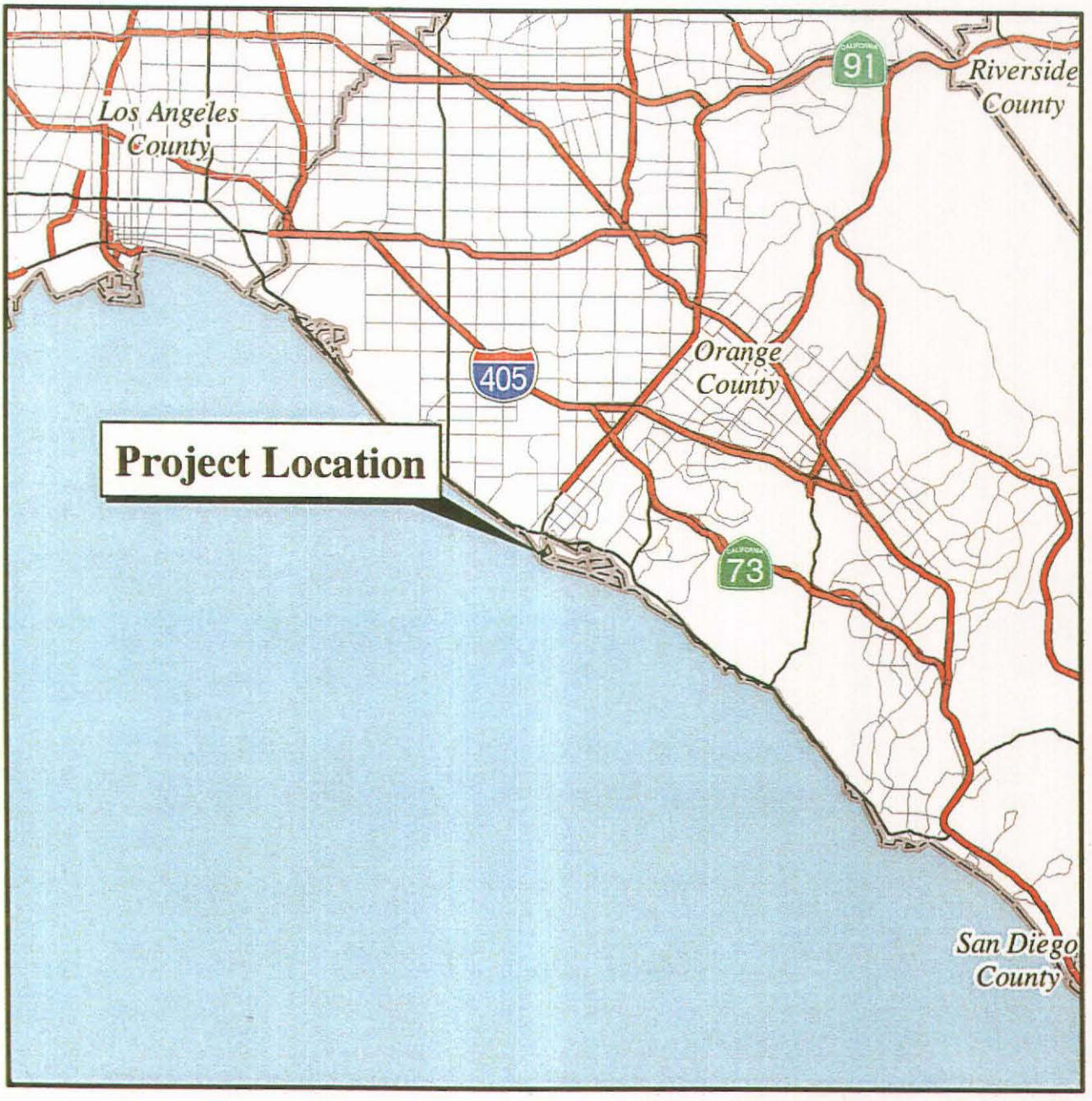
The Project Description for this EIR provides an understanding of all components of the project. The components of the project that are to be analyzed are both physically constructed components and operational characteristics. A project description and Initial Study for the proposed project was provided to the public and various agencies on February 23, 2005 to address the proposed mixed-use project (Appendix A of this document).

3.1.1 Project Location and Boundaries

The 2.4± acre project site is located at the 2300 Newport Boulevard in the City of Newport Beach, Orange County, California. The site is accessed from Newport Boulevard, 22nd Street and The Arcade. The Regional Location is shown in Exhibit 3-1 and project vicinity in Exhibit 3-2. An aerial photo of the site and surrounding area is presented in Exhibit 3-3.

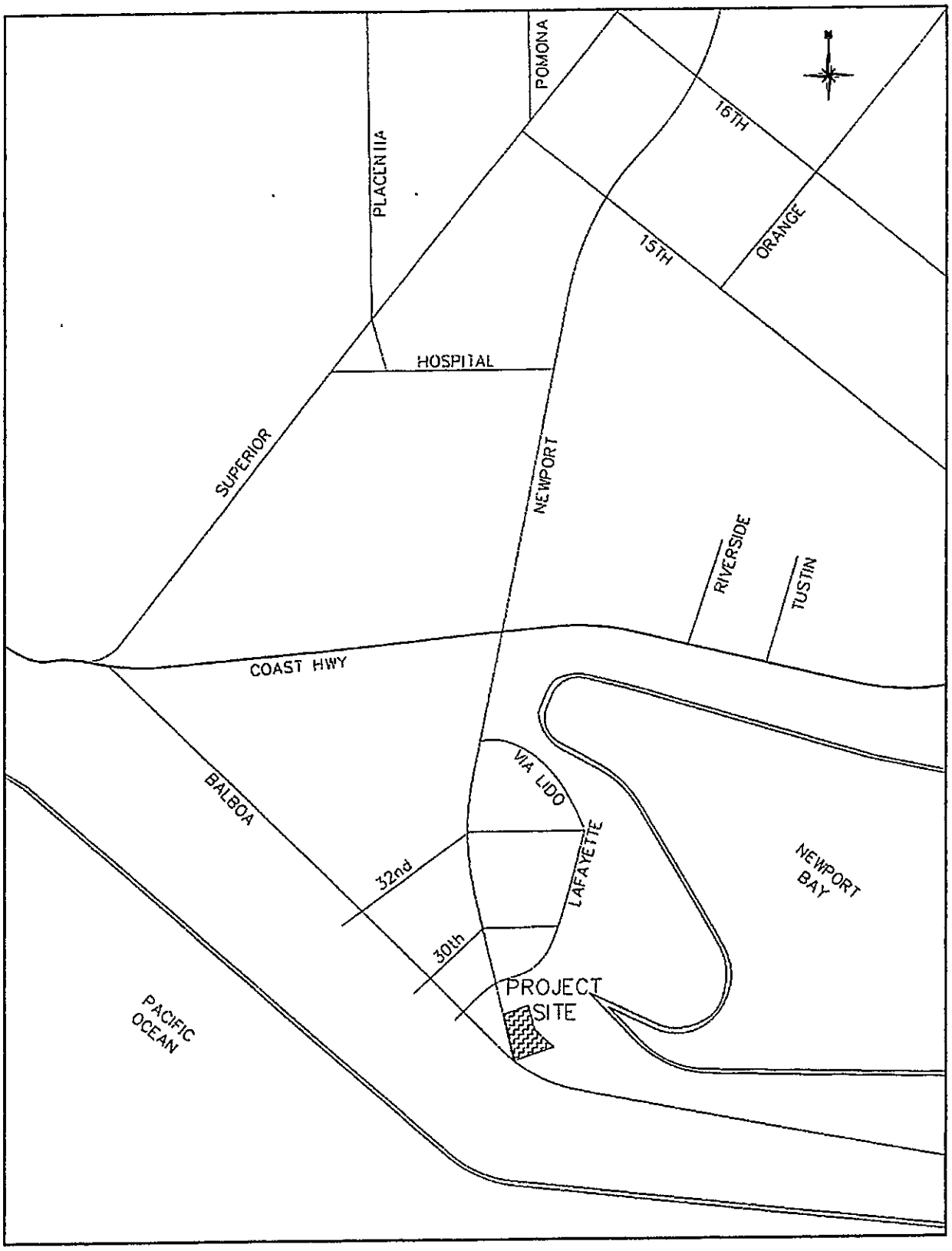
3.1.2 Existing Site Characteristics

The project is located on the Newport Peninsula and bay area of Newport Beach. The site currently is developed and utilized for commercial/retail, office and marina uses. The existing development consists of 44,300 square feet of office and commercial space that is located on 102,800 square foot lot. The site contains three groupings of buildings that share a site located between Newport Boulevard and Newport Bay which is located at the northerly boundary of the project site. The buildings are rustic and/or industrial in appearance and have retained a maritime flavor. The view from the northerly side of the property is of a marina with the bay and mainland beyond. Ground covering is mostly asphalt. Vegetation is minimal, with plantings for the most part limited to ornamental landscape elements situated very near the buildings. In late 2003, the existing boat repair and storage facility operated by the South Coast Shipyard was closed for economic and environmental reasons and the facility no longer operates at the site.



Regional Location

EXHIBIT 3–1



Project Vicinity

EXHIBIT 3–2

Aerial Photo of Project Site and Surrounding Area

EXHIBIT 3-3

3.1.3 Project Characteristics

The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site. The project proposal includes a partial subterranean garage. The construction of the garage will require excavation of earth material.

The project includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the previous ship building/repair use of the property. The remediation includes removal of sediment that has accumulated to form a shoal in front of the smaller of the two boat slipways. The sediment is contaminated with metals that are considered a hazardous waste. This material will be excavated using shore based equipment (i.e. long reach backhoe) and then disposed of at a licensed facility. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront). The existing sheet pile and concrete bulkhead will be demolished and removed using shore based construction equipment. Once the new bulkhead is constructed to tie in the property lines along the subject site, the former bulkhead will be demolished (Exhibit 3-4).

The project also proposes reconfiguration of the existing 21-boat slip marina located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widen and remain open) used for boat berthing. The boat slipway to remain open and improved will also include a vehicular/pedestrian bridge crossing. The reconfiguration of the boat slips will involve removal of the existing docks and associated pierheads (existing pilings) and replacement of the boat slips and pierheads in the reconfigured layout (Exhibit 3-5). The reconfigured layout will facilitate an improved marina use. The number of boat slips will not be increased. The length of each boat slip ranges from 56 feet to 65 feet with the exception of Slip No. 19 (the large slipway with proposed vehicular/pedestrian bridge) which is approximately 150 feet in slip length. This large slipway will accommodate a variety of boat sizes.

The project plans (site plan, grading, tentative tract map, building elevations etc.) are presented in Exhibits 3-6 thru 3-19. Full size project plans are available for inspection at the City of Newport Beach, Planning Department, 3300 Newport Boulevard, Newport Beach, Califiornia 92658.

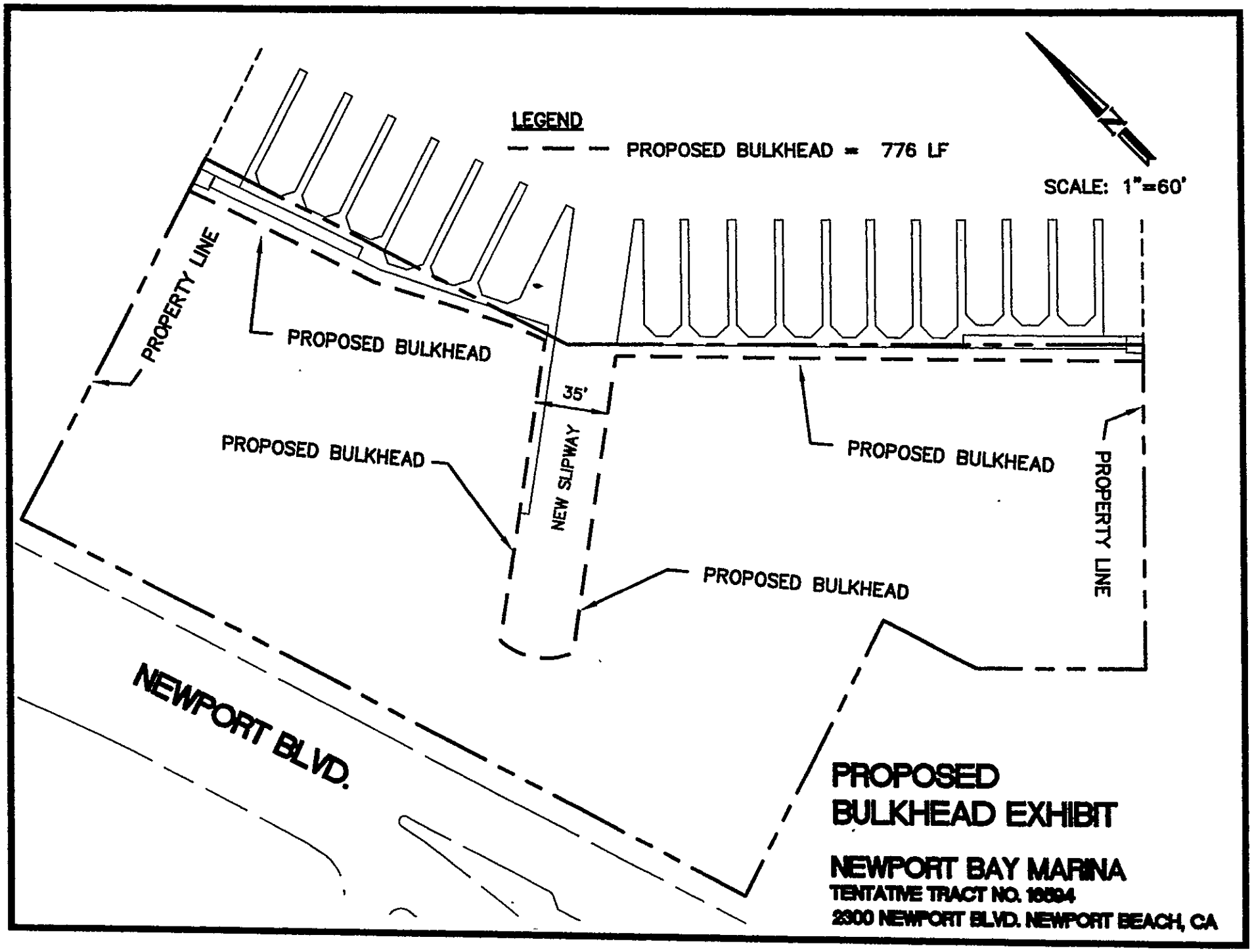
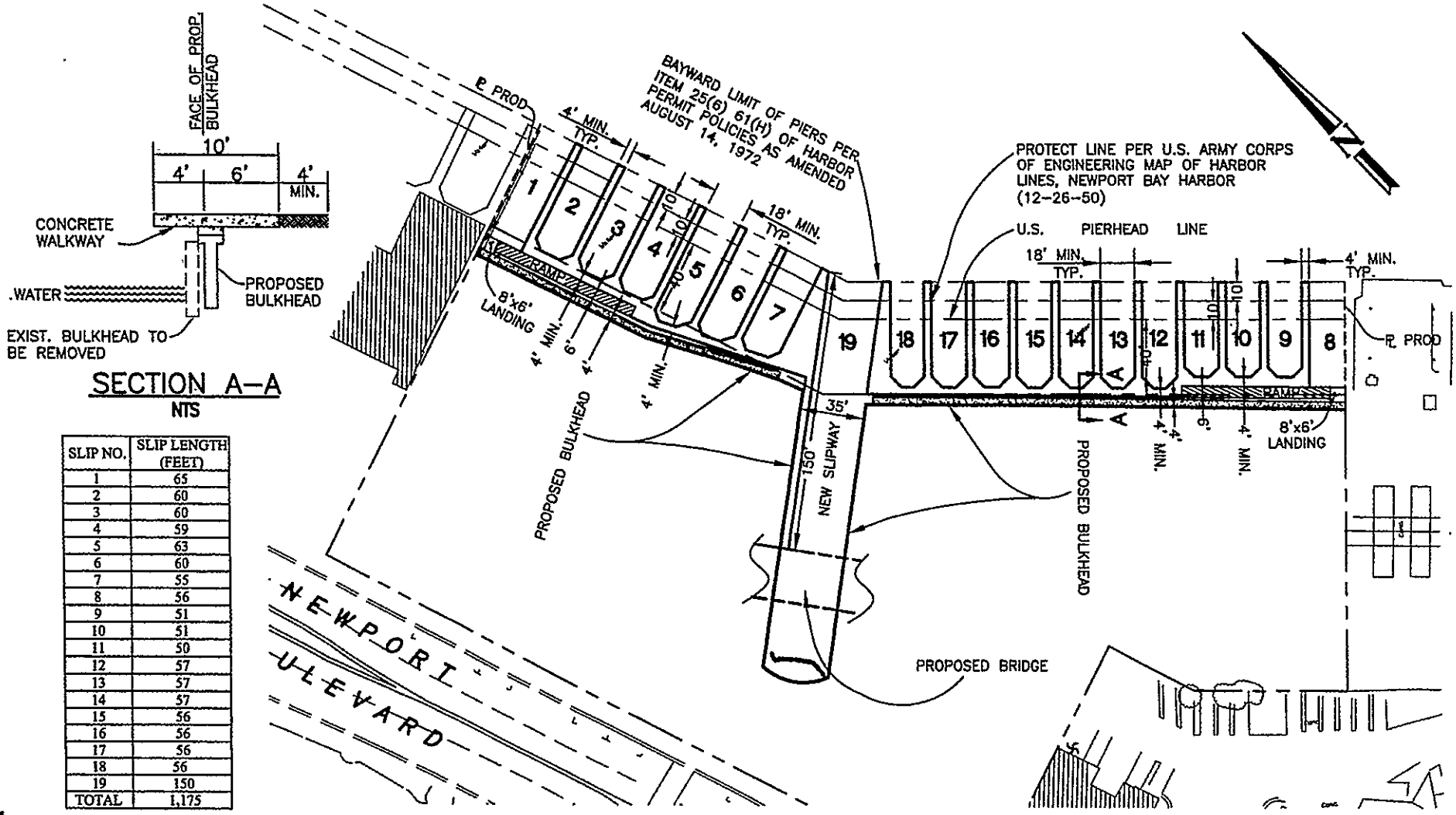

LEGEND
PROPOSED BULKHEAD = 776 LF
SCALE: 1"=60'
PROPERTY LINE
PROPOSED BULKHEAD
35'
NEW SLIPWAY
PROPOSED BULKHEAD
PROPOSED BULKHEAD
PROPOSED BULKHEAD
PROPERTY LINE
NEWPORT BLVD.
PROPOSED
BULKHEAD EXHIBIT
NEWPORT BAY MARINA
TENTATIVE TRACT NO. 16594
2300 NEWPORT BLVD. NEWPORT BEACH, CA

EXHIBIT 3-4



SLIP NO.	SLIP LENGTH (FEET)
1	65
2	60
3	60
4	59
5	63
6	60
7	55
8	56
9	51
10	51
11	50
12	57
13	57
14	57
15	56
16	56
17	56
18	56
19	150
TOTAL	1,175

DOCK LAYOUT PLAN

SCALE: 1" = 50'

OWNER:
Newport Bay Marina , LLC
9601 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212
TEL: (310) 601-[illegible] FAX: (310)-[illegible]

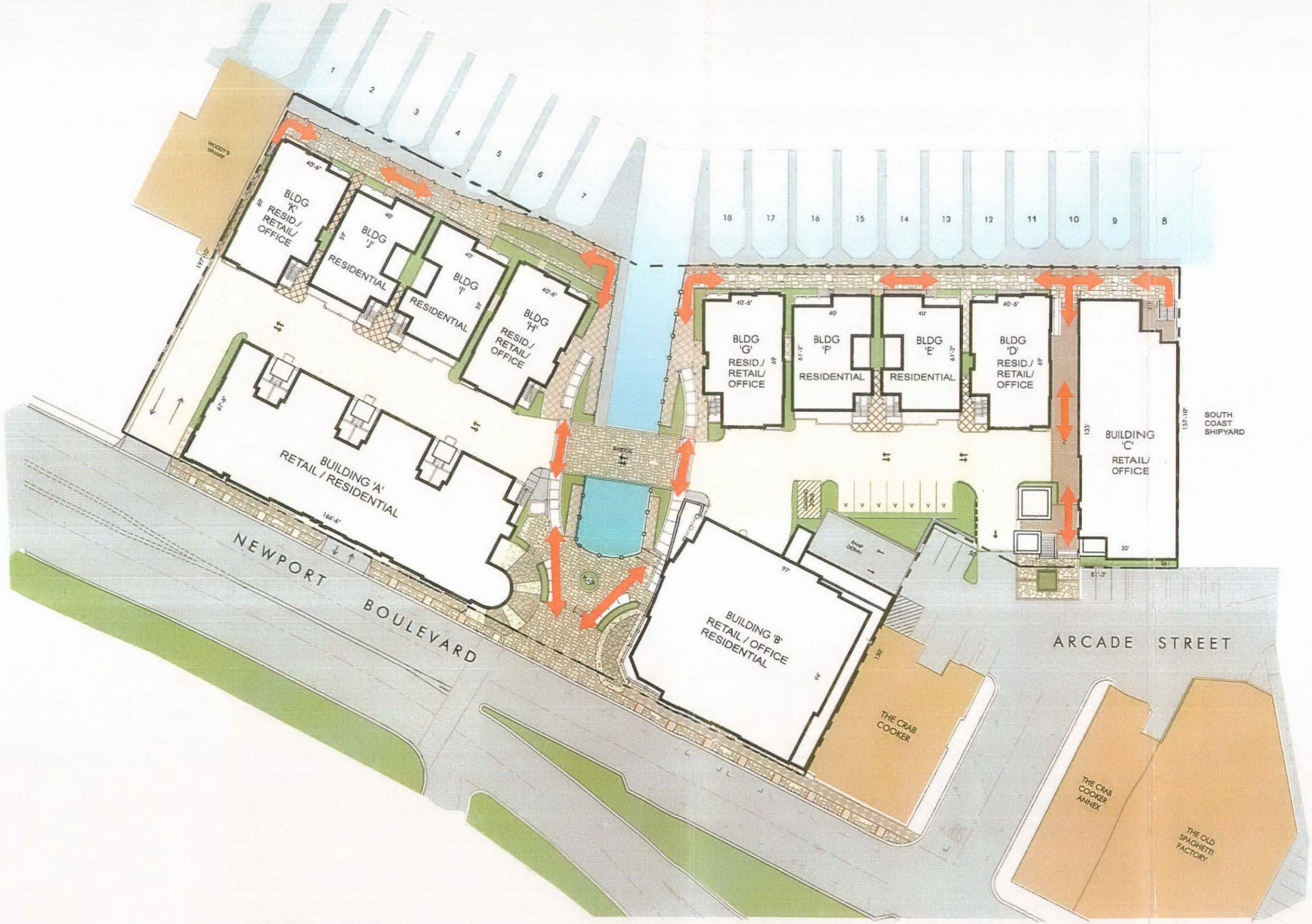
SUBMITTER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA [illegible]
TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

SP Consulting Group
500 Saint Vincent
Irvine, California 92618
(949) 387-7035 FAX (949) 387-7534

DOCK LAYOUT PLAN
DP–01

EXHIBIT 3–5



OWNER:

El-Bridgeport, LLC

9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:

ETCO Development, Inc.

2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

McKently Malak ARCHITECTS

234 East Colorado Blvd, Suite 725
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

SITE PLAN

05.26.06 03104MMA

EXHIBIT 3-6

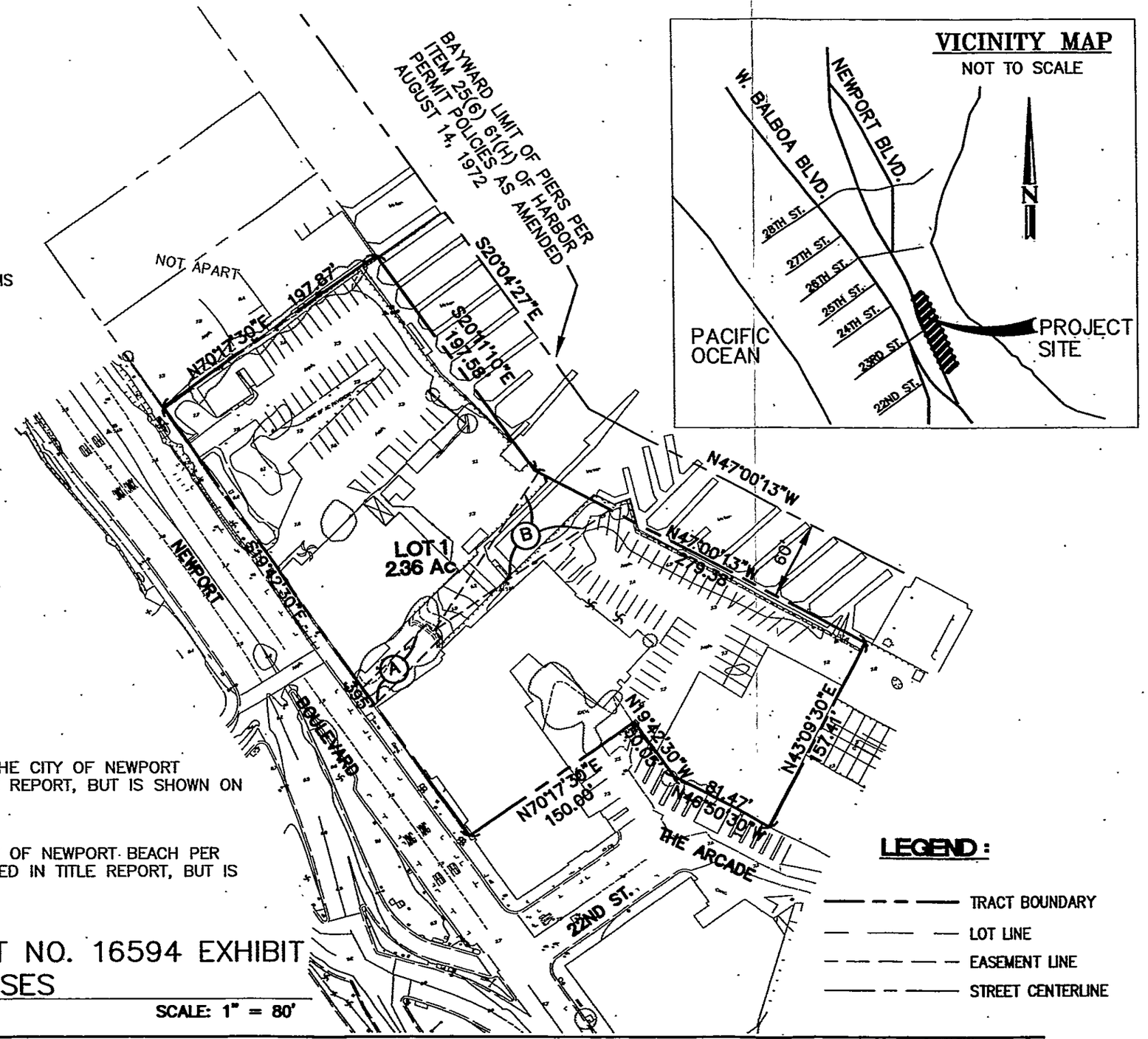
GENERAL NOTES:

1. TOTAL PROJECT AREA: 2.36 AC
2. LAND USE:
   EXISTING USE: COMMERCIAL
   PROPOSED USE: COMMERCIAL AND RESIDENTIAL CONDOMINIUMS
   ADJACENT: NORTH-- 26TH STREET
   SOUTHWEST-- WEST BALBOA BLVD.
3. PARCEL SUMMARY:
   PARCEL 1: 2.36 AC.
4. EXISTING ZONING: SPECIFIC PLAN DISTRICT #6
5. ASSESSOR MAP NUMBERS: 047-120-31
6. TOPOGRAPHIC SOURCE: AERIAL MAPPING WITH 1' CONTOURS
7. ALL EASEMENTS OF RECORD NOT SHOWN HEREON SHALL BE HONORED, ABANDONED AND/OR RELOCATED TO THE SATISFACTION OF ALL INTERESTED PARTIES. DRAINAGE EASEMENTS AND PUBLIC UTILITY EASEMENTS NECESSARY TO SERVE THIS PROJECT SHALL BE COORDINATED WITH THE CITY OF CORONA AND SERVING UTILITY COMPANIES.

EXISTING EASEMENT:

(A) EASEMENT FOR PEDESTRIAN ACCESS PURPOSES TO THE CITY OF NEWPORT BEACH. SAID EASEMENT IS NOT MENTIONED IN TITLE REPORT, BUT IS SHOWN ON PARCEL MAP P.M.B. 68/48.

(B) EASEMENT FOR SCENIC VIEW PURPOSES TO THE CITY OF NEWPORT BEACH PER O.R. 11343/1970. SAID EASEMENT IS NOT MENTIONED IN TITLE REPORT, BUT IS SHOWN ON PARCEL MAP P.M.B. 68/48.



VESTING TENTATIVE TRACT NO. 16594 EXHIBIT FOR CONDOMINIUM PURPOSES

SCALE: 1" = 80'

OWNER:
Newport Bay Marina , LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212
TEL: (310) 601-5500 FAX: (310)-202-0193

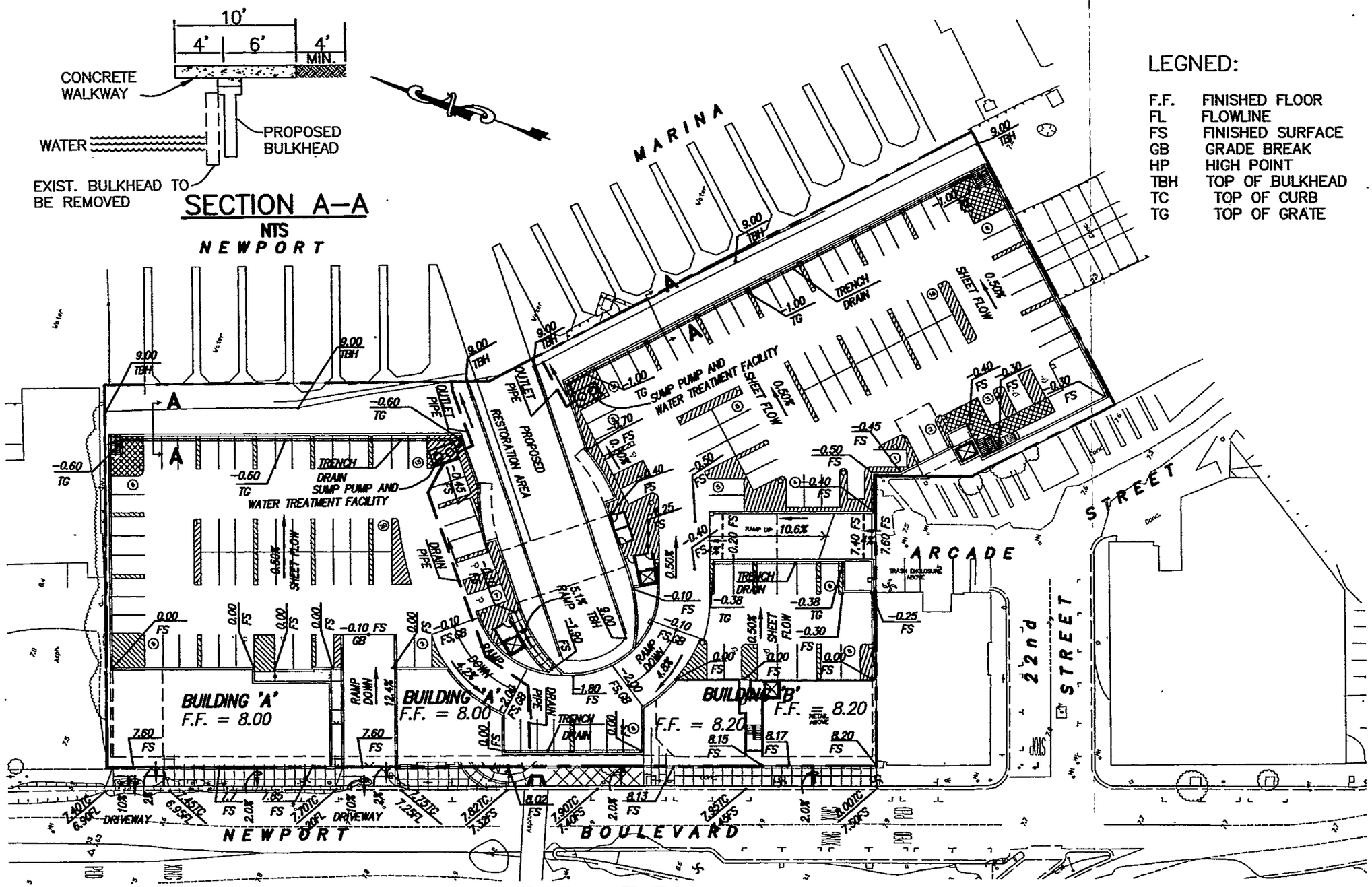
SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

SP Consulting Group
500 Saint Vincent
Irvine, California 92618
(949) 387-7035 FAX (949) 387-7534

VESTING TENTATIVE TRACT MAP EXHIBIT

EXHIBIT 3-7



CONCEPTUAL GRADING PLAN – GARAGE LEVEL

SCALE: 1" = 50'

OWNER:
Newport Bay Marina , LLC
9882 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212
TEL: (310) 601-5000 FAX: (310)-282-0083

SUBMITTER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
TEL: (949) 200-7220 FAX: (949) 200-7240

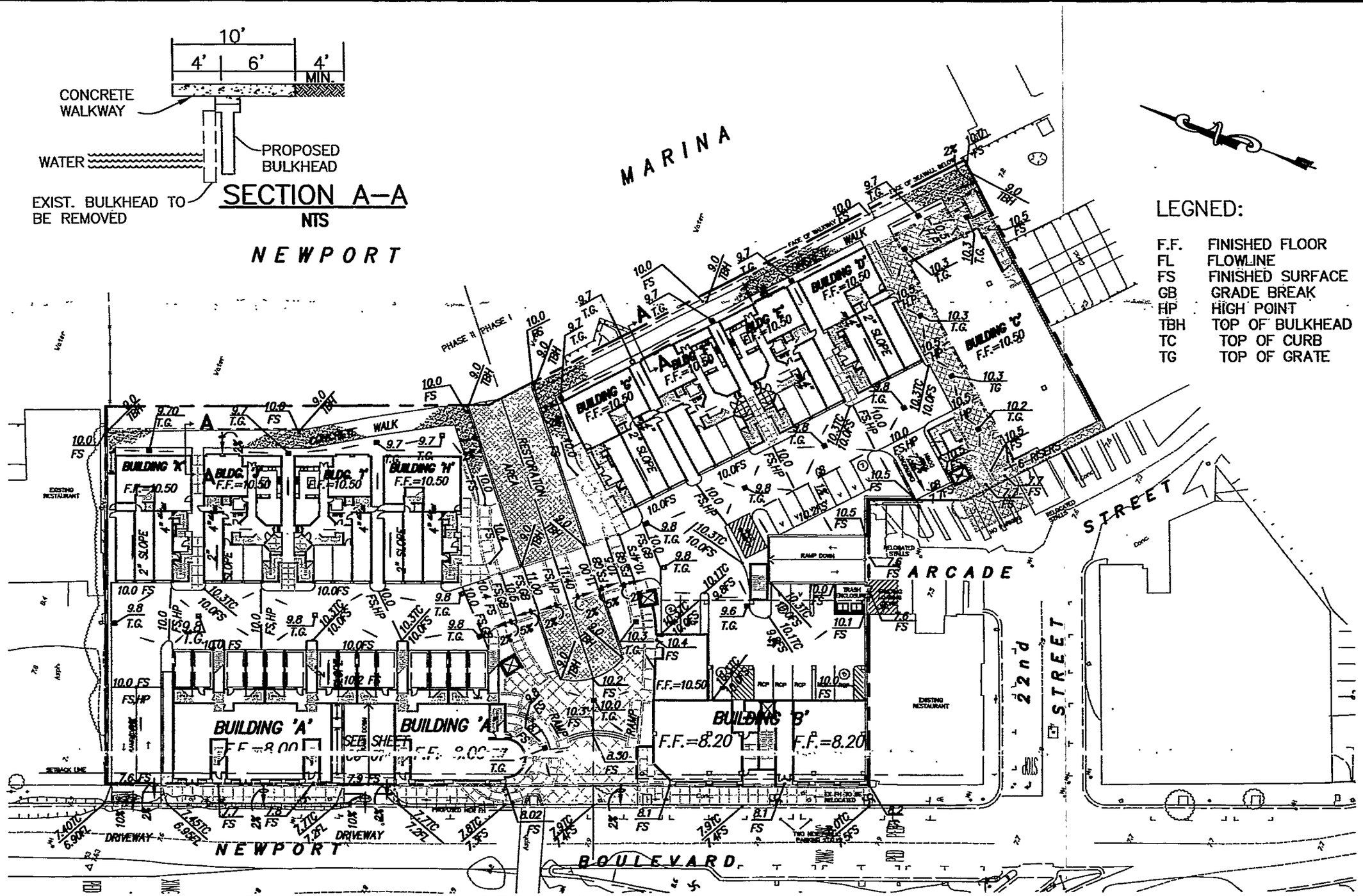
NEWPORT BAY MARINA

2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

SP Consulting Group
500 Saint Vincent
Irvine, California 92618
(949) 387-7035 FAX (949) 387-7534

CONCEPTUAL GRADING PLAN

EXHIBIT 3-8



CONCEPTUAL GRADING PLAN – DECK LEVEL

SCALE: 1" = 50'

OWNER:
Newport Bay Marina , LLC
9932 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212
TEL: (310) 601-5000 FAX: (310)-282-8103

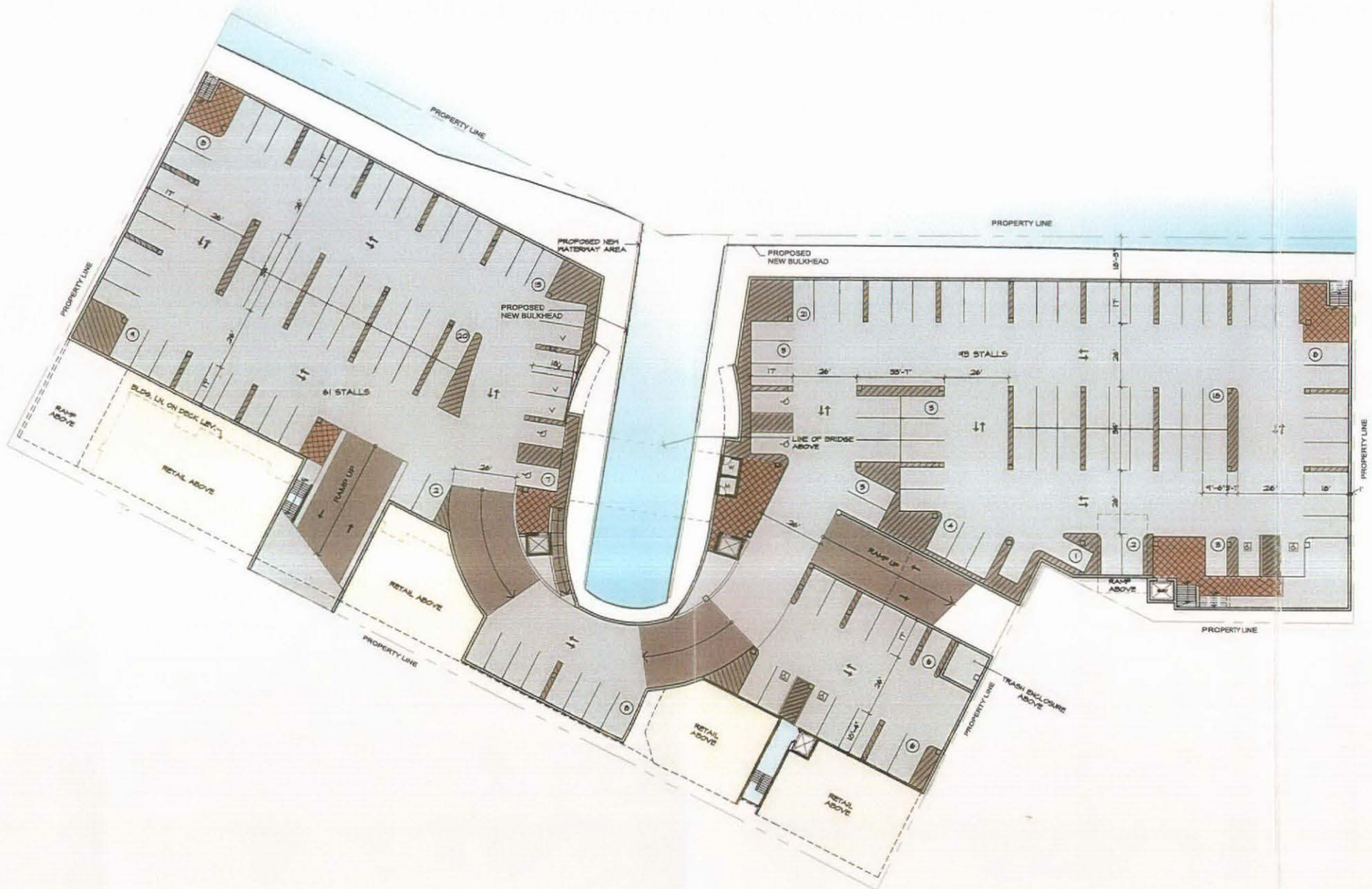
SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

SP Consulting Group
500 Saint Vincent
Irvine, California 92618
(949) 387-7035 FAX (949) 387-7534

CONCEPTUAL GRADING PLAN

EXHIBIT 3-9



PARKING LEVEL PLAN

GRAPHIC SCALE: 0 5 10 20 40 80

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

McKently Malak ARCHITECTS
234 East Colorado Blvd, Suite 725
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

PARKING LEVEL

07.01.05 03104MMA

EXHIBIT 3-10

DECK LEVEL PLAN

GRAPHIC SCALE:
0 5 10 20 40 80

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212
TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

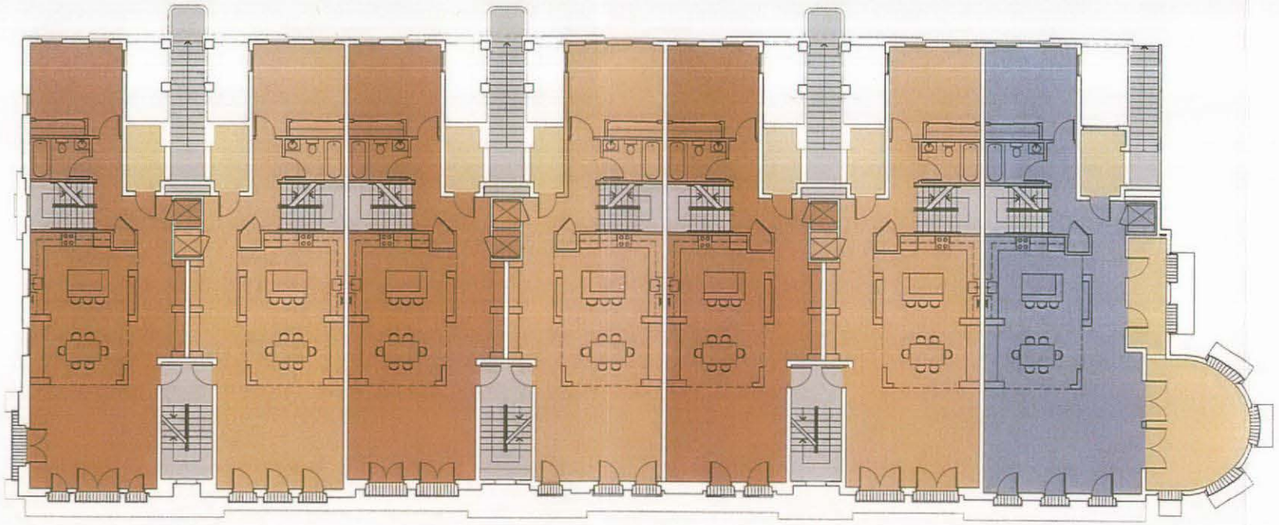
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

McKently Malak ARCHITECTS
234 East Colorado Blvd. Suite 725
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

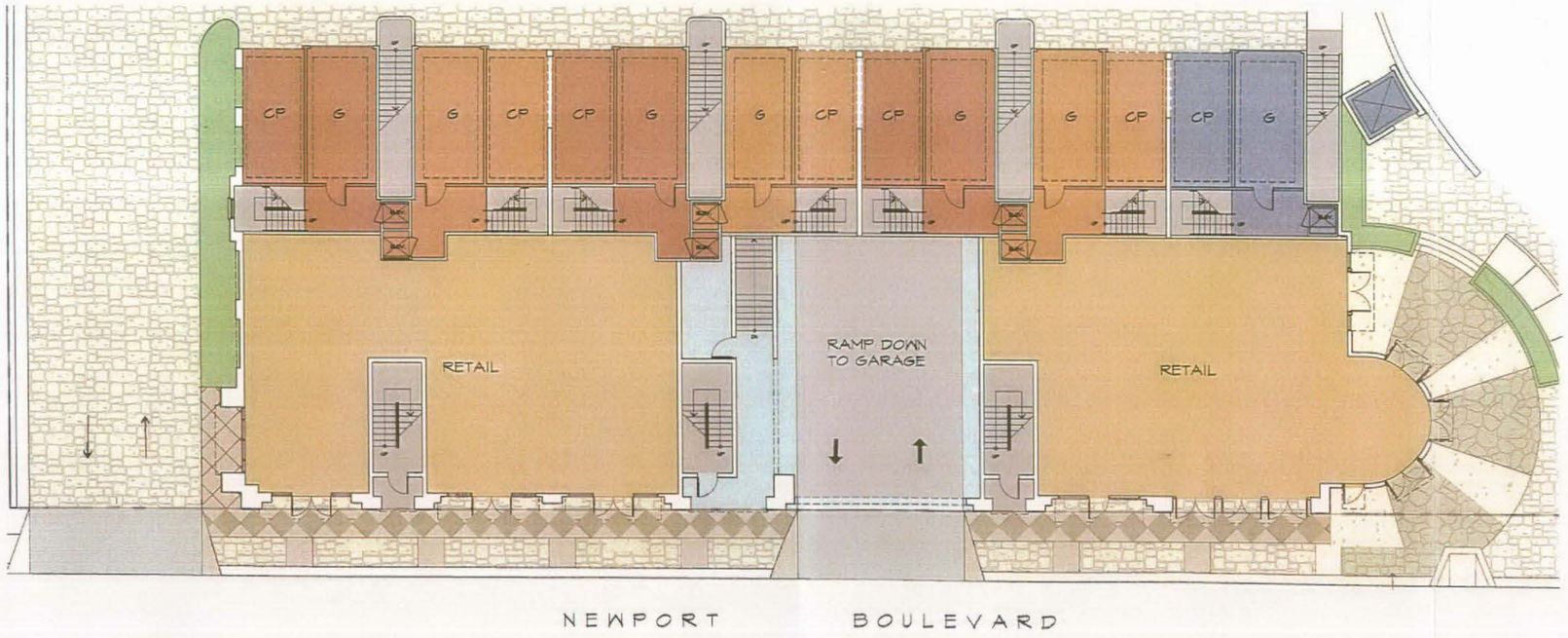
DECK LEVEL

05.26.06 03104MMA

EXHIBIT 3-11



SECOND LEVEL PLAN



DECK LEVEL PLAN

BUILDING 'A' FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
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TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA
2300 NEWPORT BOULEVARD
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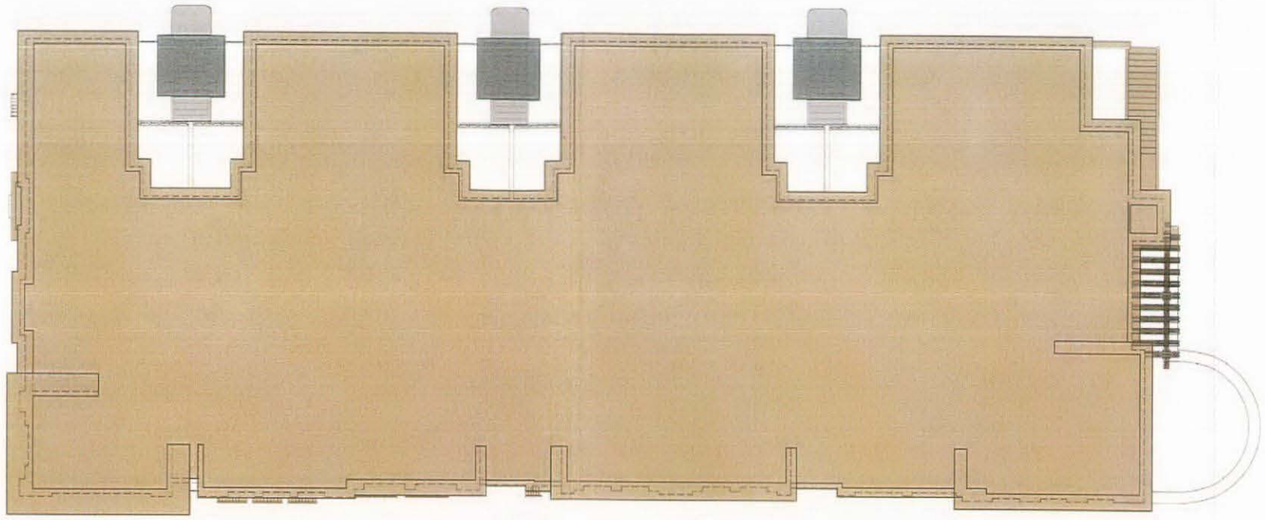
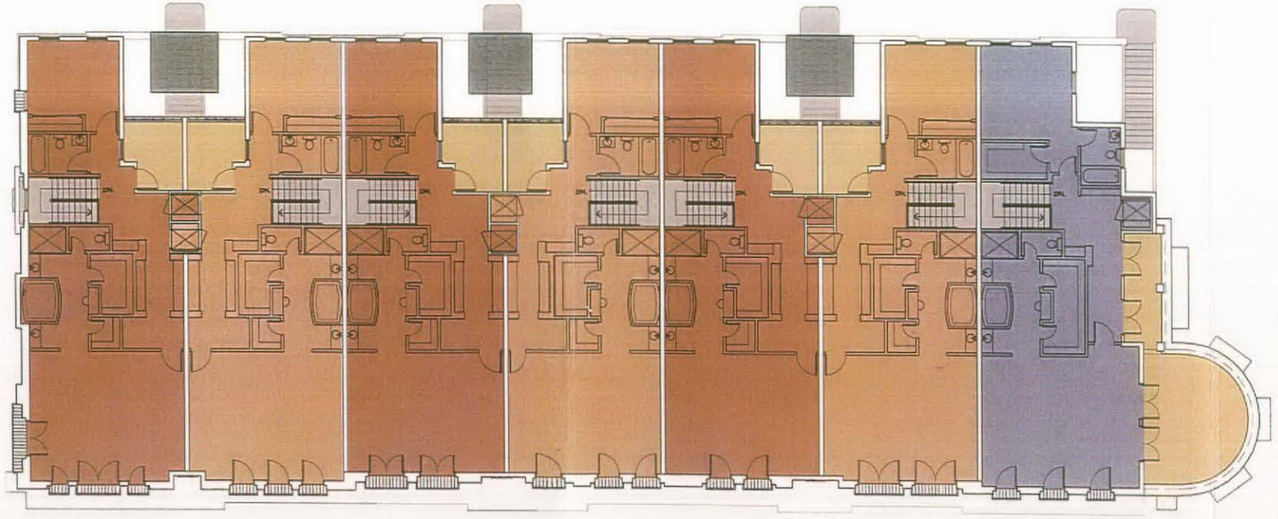
BUILDING 'A'
1ST & 2ND FLOOR PLANS

05.26.06 03104MMA

EXHIBIT 3–12



ROOF PLAN



THIRD LEVEL PLAN

BUILDING 'A' FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:

El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:

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NEWPORT BEACH, CA 92663

TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

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NEWPORT BEACH, CA 92663

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Pasadena, California 91101-2201
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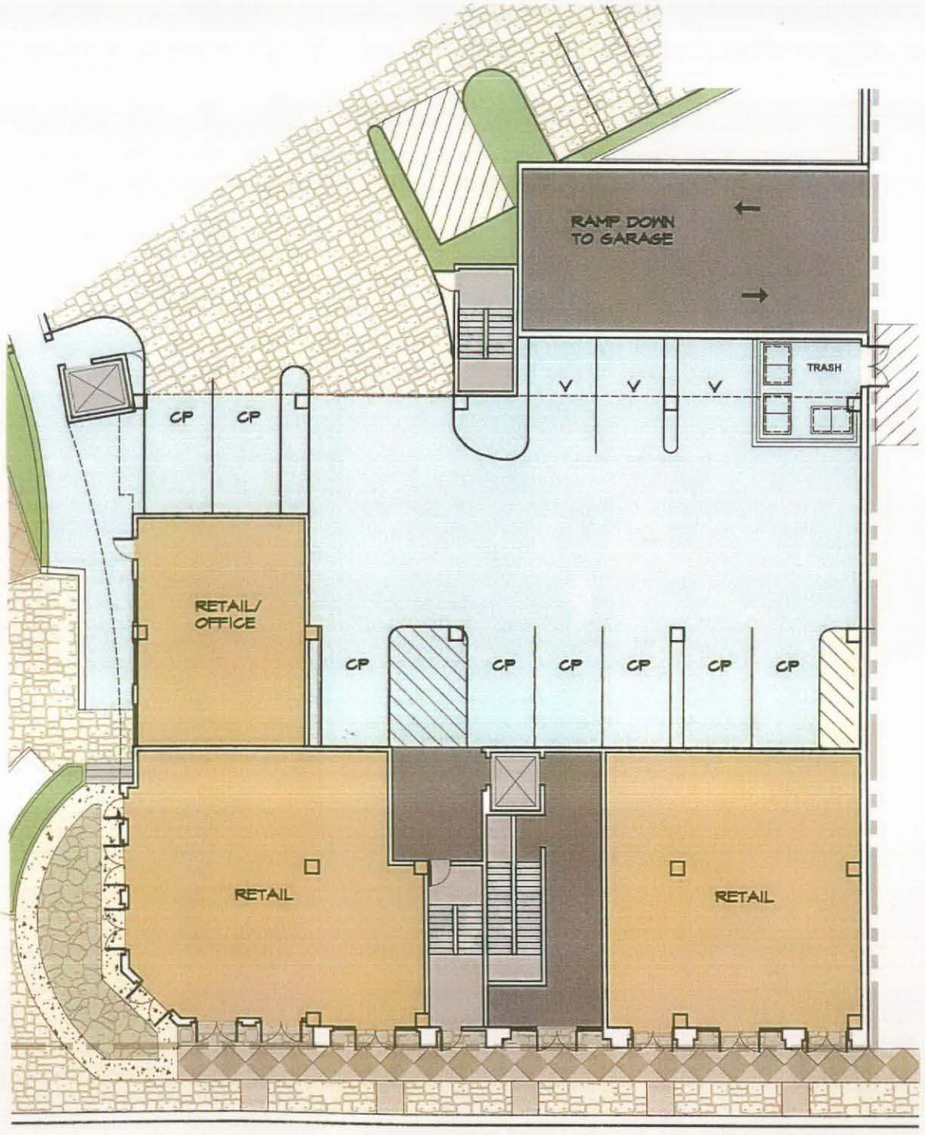
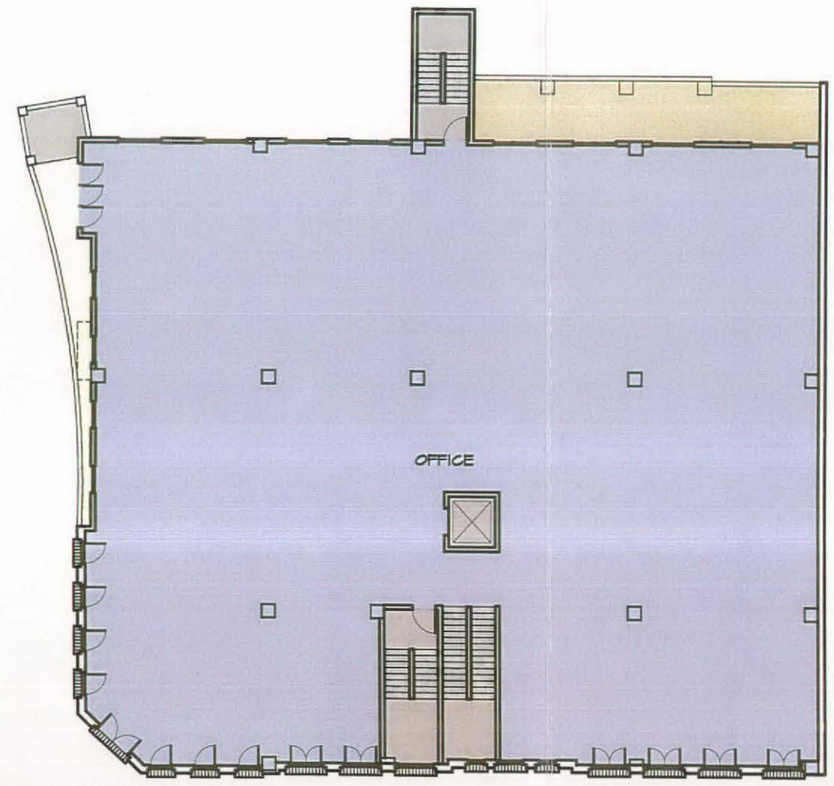
BUILDING 'A'
3RD & ROOF FLOOR PLANS

05.26.06 03104MMA

EXHIBIT 3-13



DECK LEVEL PLAN



SECOND LEVEL PLAN

BUILDING 'B' FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
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NEWPORT BEACH, CA 92663

TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

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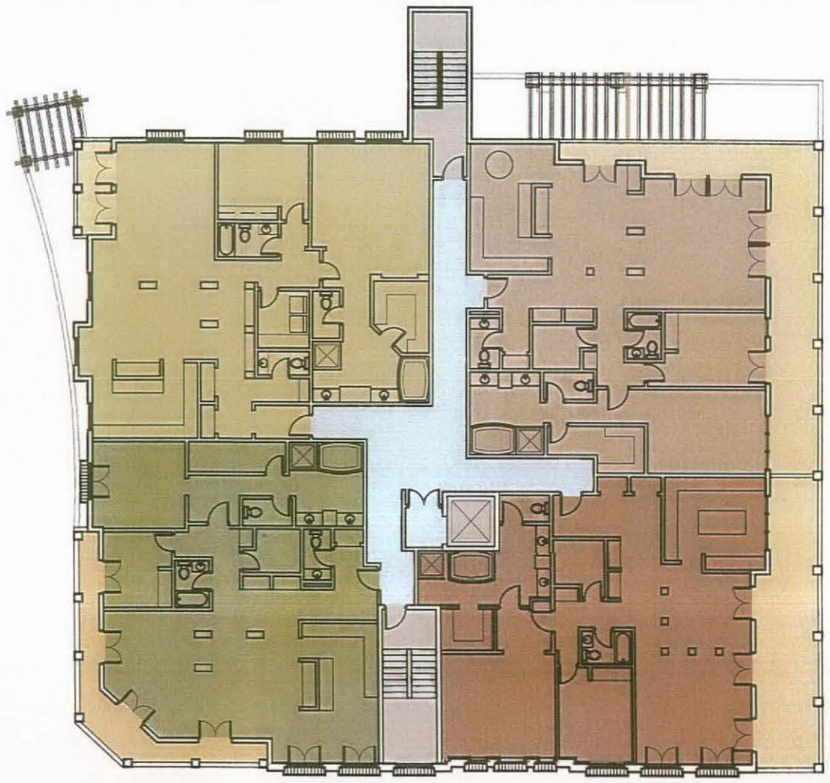
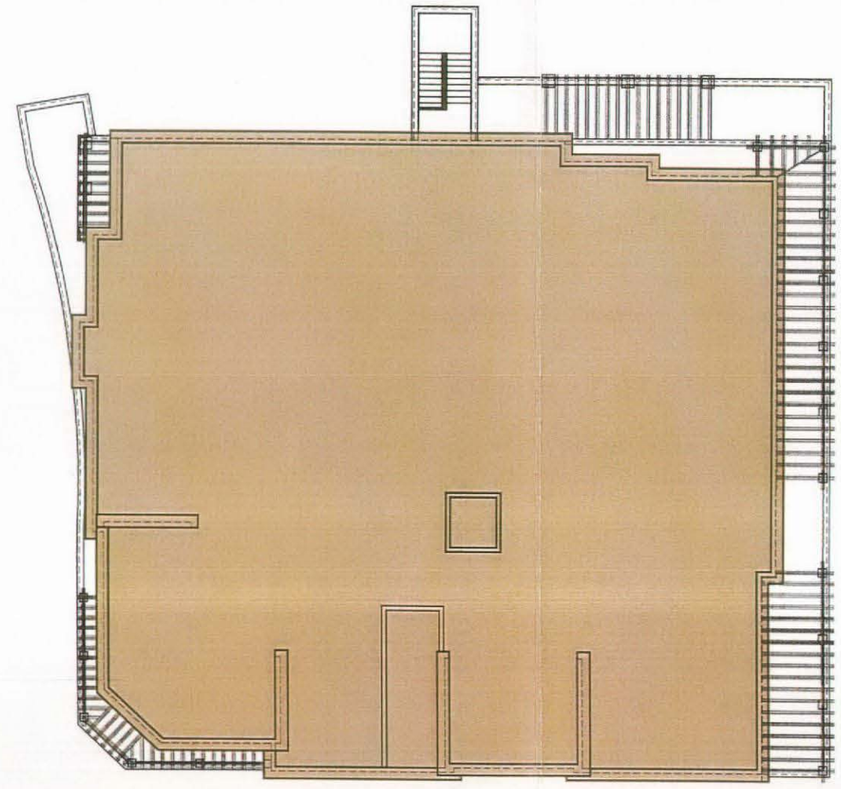
ARCHITECTS
234 East Colorado Blvd, Suite 725
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

BUILDING 'B'
1ST & 2ND FLOOR PLAN
05.26.06 03104MMA

EXHIBIT 3-14



THIRD LEVEL PLAN



ROOF PLAN

BUILDING 'B' FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

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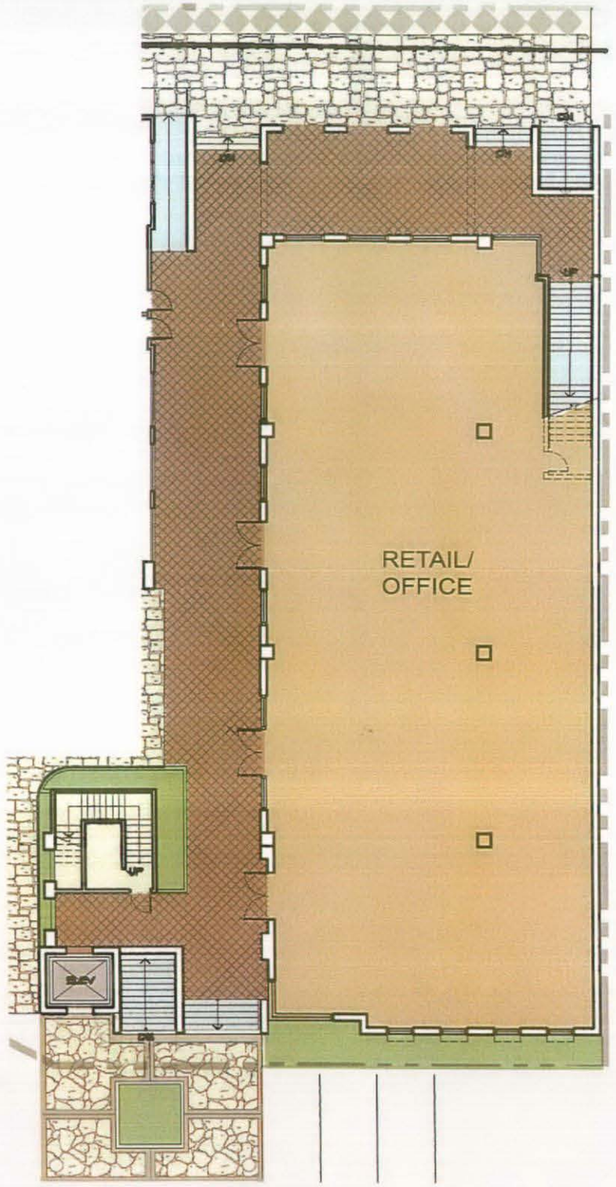
TEL. 626 583.8348 FAX. 626 583.8387

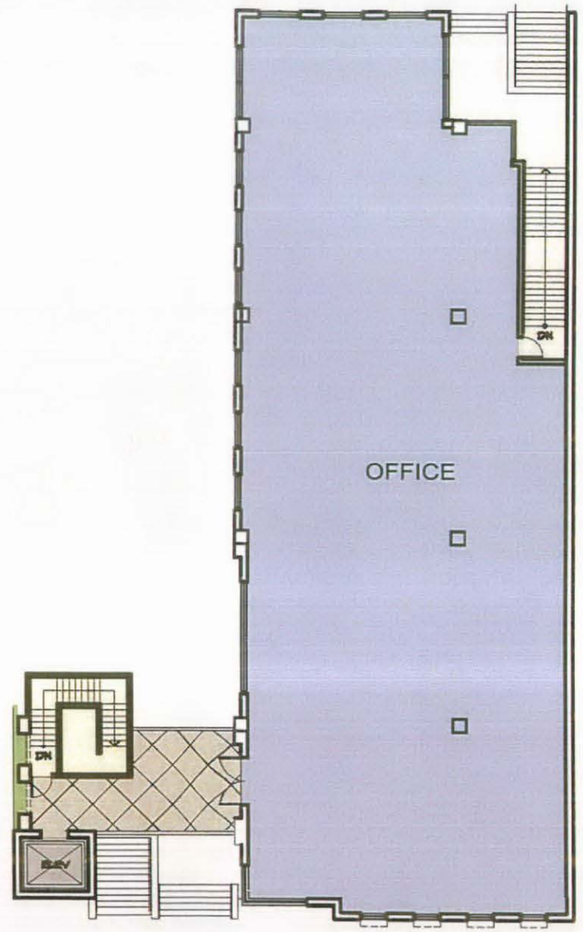
BUILDING 'B'
3RD LEVEL & ROOF PLAN

05.26.06 03104MMA

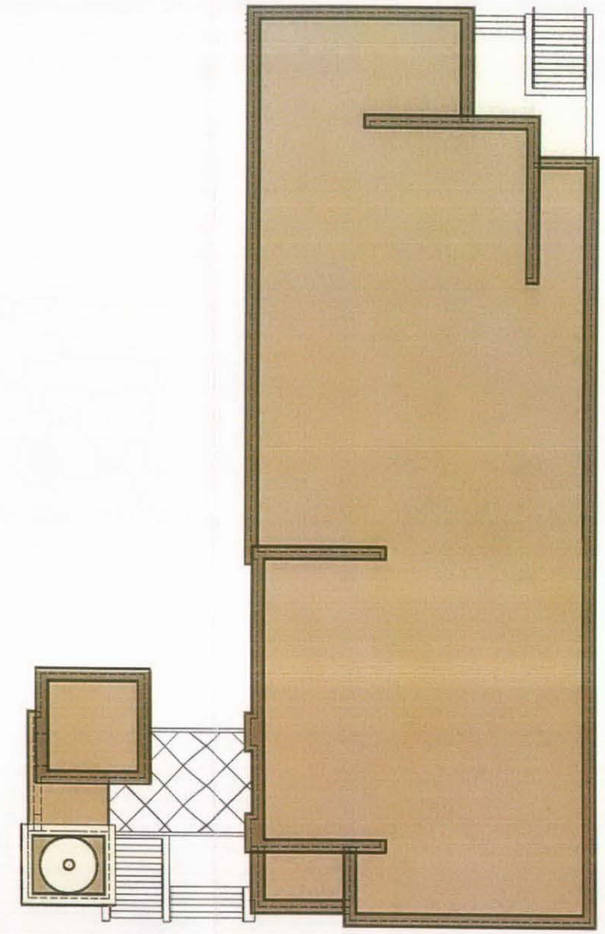
EXHIBIT 3-15



DECK LEVEL PLAN



SECOND LEVEL PLAN



ROOF PLAN

BUILDING C - FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
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NEWPORT BAY MARINA
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

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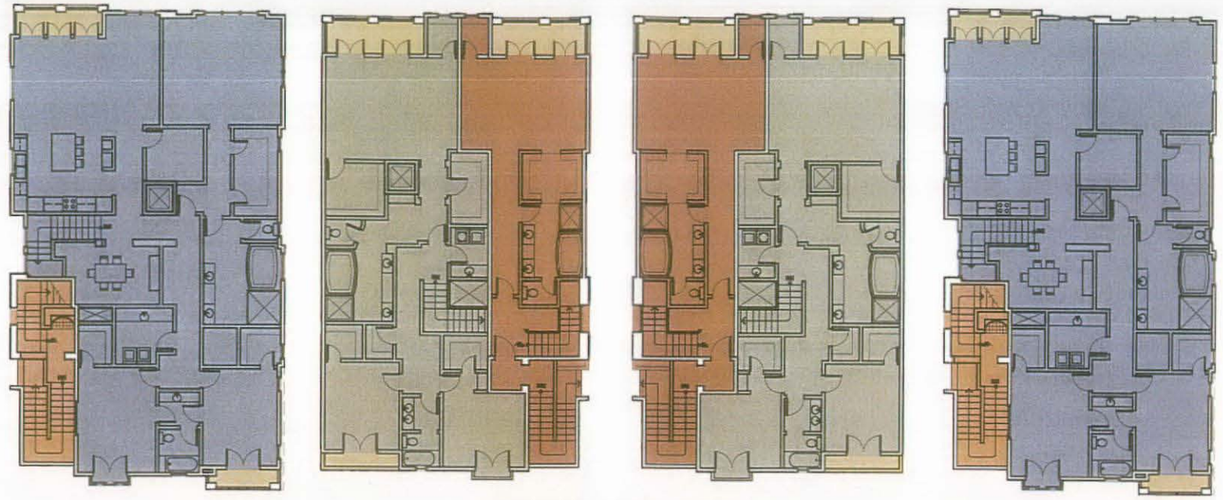
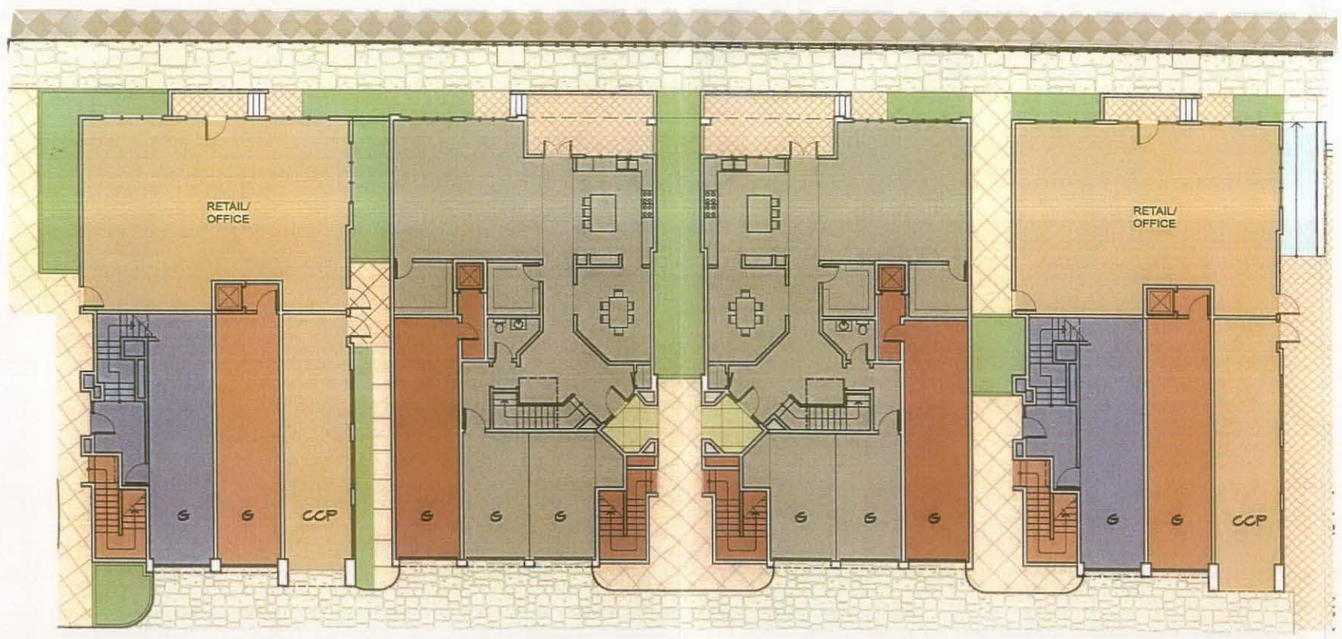
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

BUILDING C
FLOOR PLANS
05.26.06 03104MMA

EXHIBIT 3–16



SECOND LEVEL PLAN



BLDG. 'G' 'H' & 'K' BLDG. 'F' & 'J' BLDG. 'E' & 'I' BLDG. 'D'

DECK LEVEL PLAN

TYPICAL BAY UNITS FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:

El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

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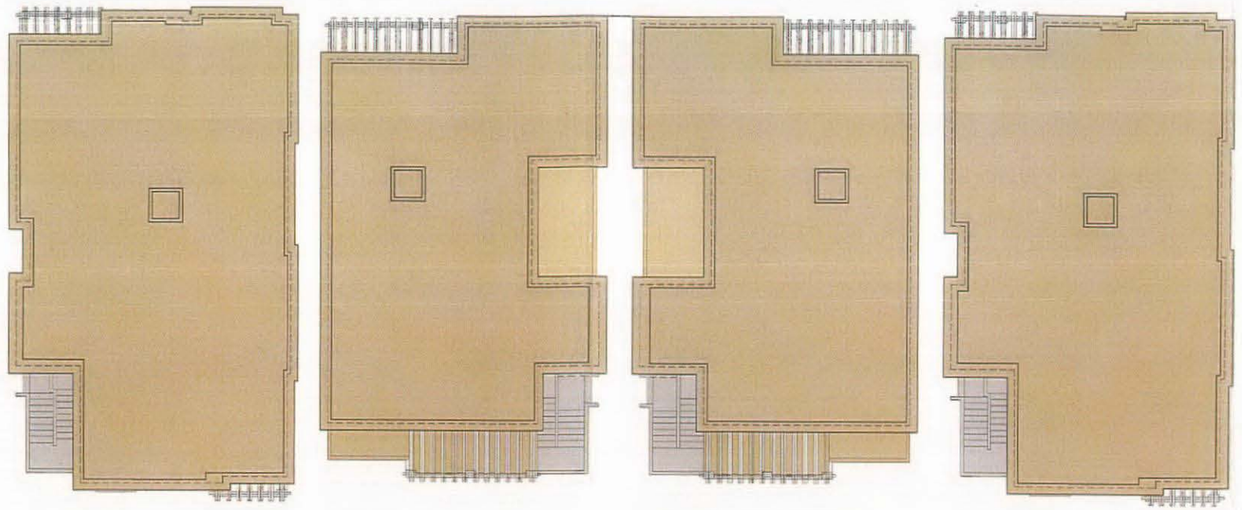
TEL. 626 583.8348 FAX. 626 583.8387

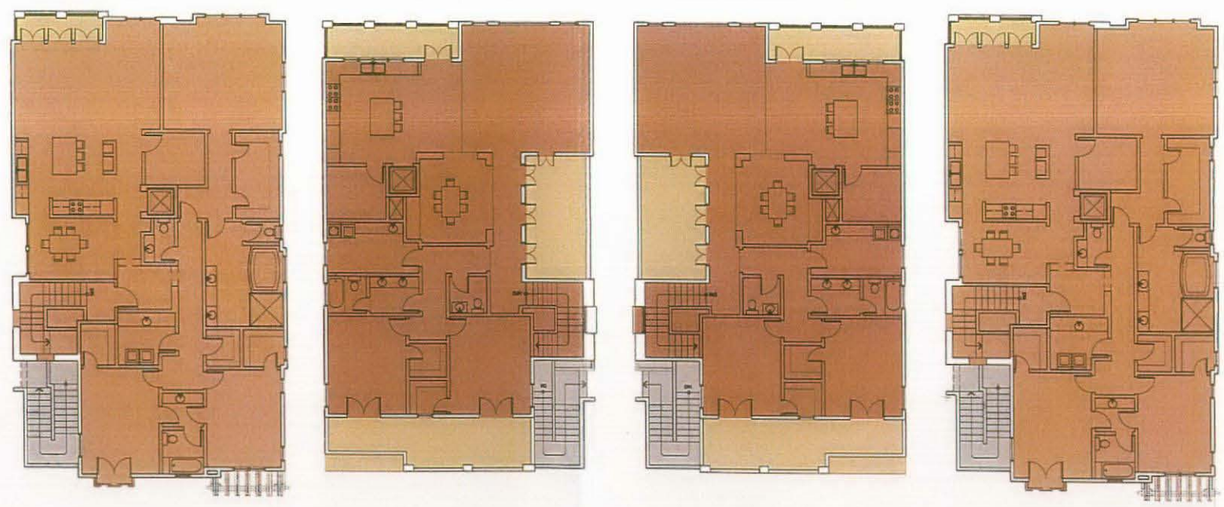
TYPICAL BAY UNITS
FLOOR PLANS

05.26.05 03104MMA

EXHIBIT 3-17



ROOF PLAN



BLDG. 'G' 'H' & 'K'

BLDG. 'F' & 'J'

BLDG. 'E' & 'I'

BLDG. 'D'

THIRD LEVEL PLAN

TYPICAL BAY UNITS FLOOR PLANS

GRAPHIC SCALE:
0 2.5 5 10 20

OWNER:

El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212

TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:

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NEWPORT BEACH, CA 92663

TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

McKently Malak
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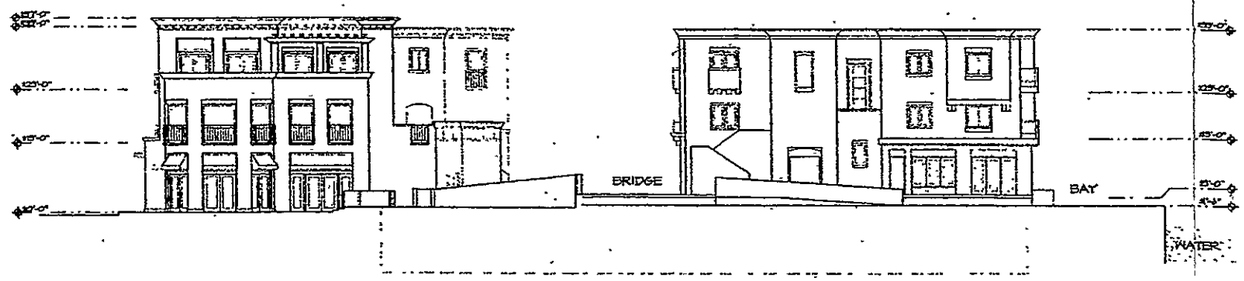
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

TYPICAL BAY UNITS
FLOOR PLANS

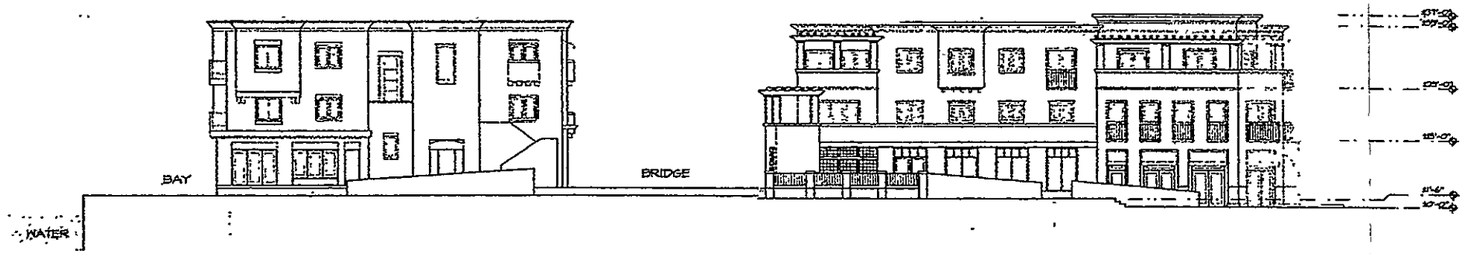
05.26.06 03104MMA

EXHIBIT 3–18



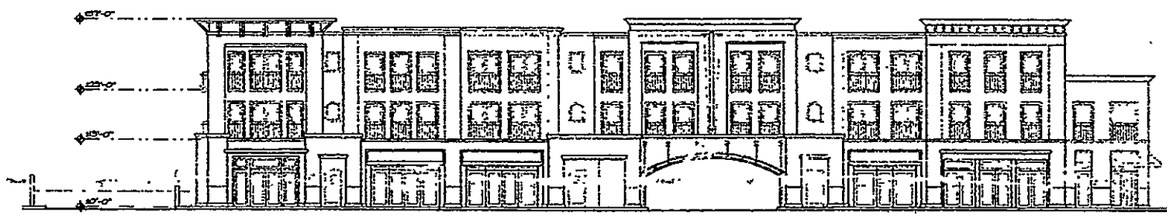
BUILDING 'A' SOUTH ELEVATION

BUILDING 'H' SOUTH ELEVATION

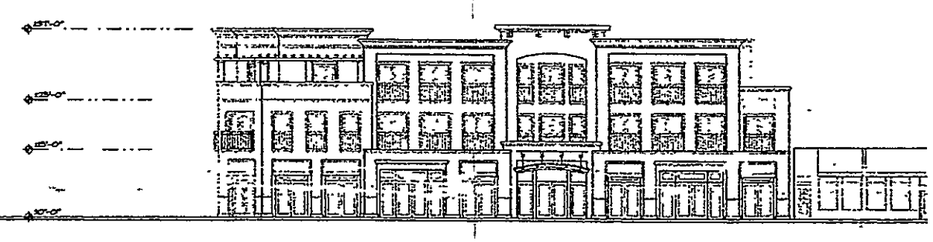


BUILDING 'G' NORTH ELEVATION

BUILDING 'B' NORTH ELEVATION



BUILDING 'A' WEST ELEVATION (NEWPORT BOULEVARD)

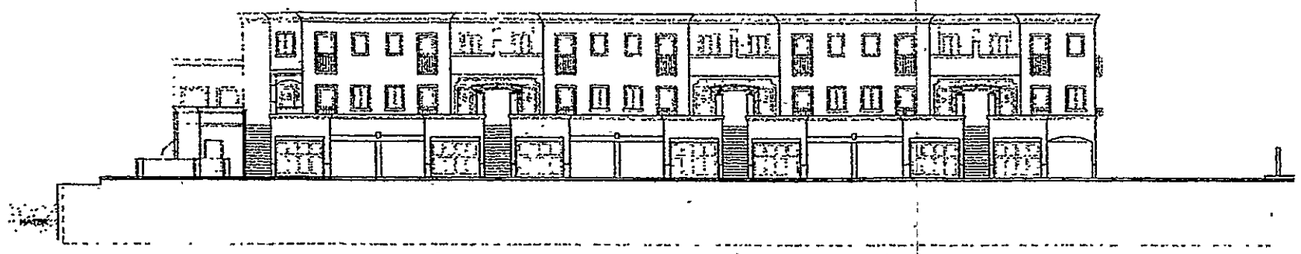


BUILDING 'B' WEST ELEVATION

Building Elevations

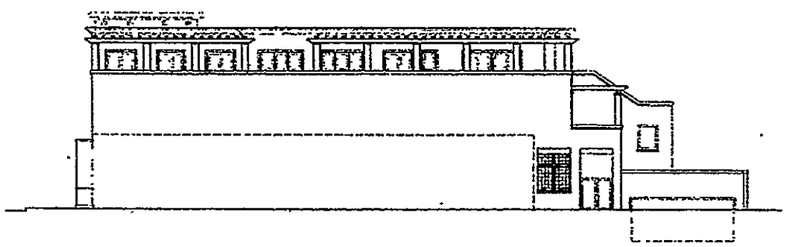
EXHIBIT 3–19

BUILDING 'B' EAST ELEVATION



BUILDING 'A' EAST ELEVATION

RESIDENTIAL UNITS ENTRY LEVEL

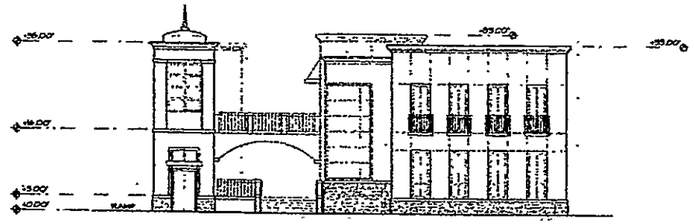


BUILDING 'B' SOUTH ELEVATION

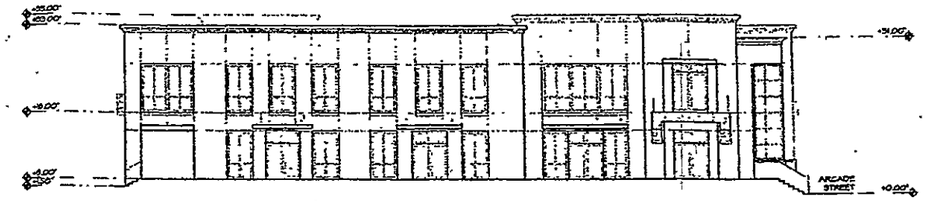
RESIDENTIAL UNITS ENTRY LEVEL

Building Elevations

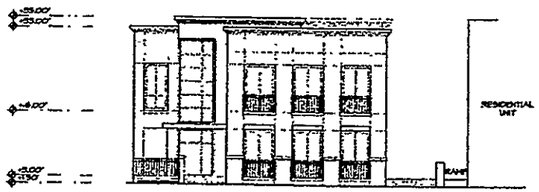
EXHIBIT 3–20



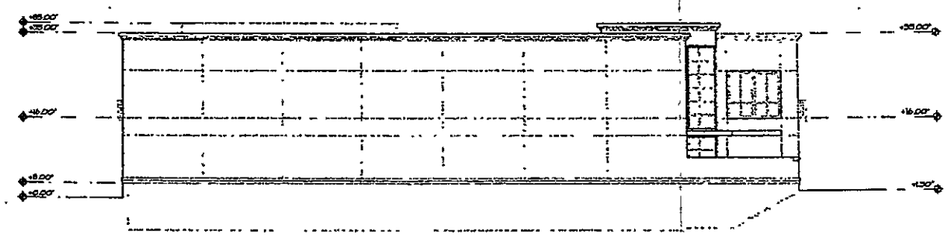
WEST ELEVATION



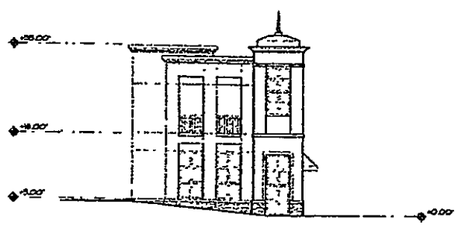
NORTH ELEVATION



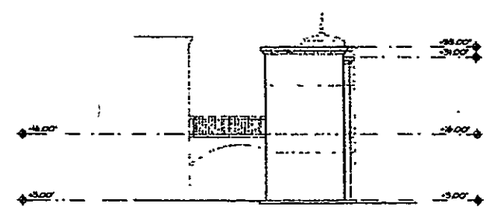
EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION (TOWER)



EAST ELEVATION (TOWER)

Building Elevations

EXHIBIT 3–21

3.1.4 Approvals Required

The CEQA compliance (i.e. EIR) is subject to review and certification by the City of Newport Beach Planning Commission. In addition to project related actions (i.e. site selection, CEQA compliance, purchase of property etc.); the project applicant must obtain approval of a Coastal Development Permit (CDP) from the California Coastal Commission. Other approvals include (i.e. ministerial permits) from utility and service providers (i.e. water, sewer, electrical, gas, telephone etc.), and applicable requirements of the California Regional Water Quality Control Board Santa Ana, California Department of Fish Game, and the U.S. Army Corps of Engineers. The project includes a request for approval of a Use Permit (UP 2001-038), Site Plan Review (SR 2001-004) and Vesting Tentative Tract Map 16594 (for condominium purposes).

3.2 PROJECT CONSTRUCTION AND PHASING

It is anticipated that the project (structures) will be constructed in phases and is estimated to have an 18- to 24-month construction schedule per phase. It's anticipated that construction would commence soon after obtaining all applicable entitlements and permits (i.e. City, Coastal Commission, Regional Water Quality Control Board etc.).

3.3 PROJECT HISTORY & BACKGROUND

The existing development consists of approximately 44,300 square feet of office and commercial space that is located on 102,800 square foot lot. In 1933, the property was purchased by the South Coast Boat Building Company. Among the features added to the shipyard site by South Coast: a warehouse with a derrick and a welding/painting shop (2201 West Bayfront), built in 1933; another large warehouse (2208 West Central Avenue), also built in 1933; a third warehouse with conveyor tracks (2107 West Bayfront) built in 1934; and a boat shop and showroom on "The Arcade" built in 1938. During the early 1940's the shipyard was primarily utilized for U.S. Navy boat building, repair, and conversion. By the mid-1950s, the Shipyard had returned to the production and maintenance of pleasure craft. In 1964, the South Coast Company was disbanded. Its site was briefly owned by a swimming pool company, but remained largely unused for the next nine years. In 1973, William E. Blurock, a local architect, purchased the property. The original 1926 ship-building structures were converted into offices for Mr. Blurock's architecture design firm. The property has since been known as the South Coast Shipyard and Design Center.

On July 23, 2003 a draft Initial Study and Mitigated Negative Declaration (IS/MND) was made available for a 30-day public review period. The IS/MND (State Clearinghouse No. 200307114) addressed a mixed-use project proposed by the previous property owner and project applicant, Mr. Blurock. However, the project was not further pursued by the project applicant and the property was sold to ETCO Development, Inc. in 2003. The new owner has redesigned the project and the same land uses are proposed. The City of Newport Beach has determined that in consideration of the previous IS/MND public comments and the redesigned project plans, it would be appropriate to prepare an Environmental Impact Report.

3.4 STATEMENT OF OBJECTIVES

The CEQA Guidelines §15124(b) requires that an EIR include a statement of the objectives sought by the proposed project. Project objectives can also be helpful in developing a reasonable range of alternatives to evaluate in the proposed EIR. The project objectives identified are as follows (objectives are not listed in any particular ranked order):

- Develop an attractive and viable mixed use (residential/commercial) project that optimizes the project site's prime location adjacent to the marina that results in a reasonable return on investment.
- Remediate any potential hazards located within the project boundary to assure a healthy environment for future customers and residents.
- Facilitate efficient on-site and off-site circulation with adequate onsite parking for proposed land uses.
- Renovate the commercial boat marina, replace the existing seawall and combine the two smaller "slipways" into one to ensure no net loss in tidelands.
- Preserve/enhance the existing scenic view corridor from Newport Boulevard to the Bay and improve public access to the Bay.
- Assure that required infrastructure improvements are provided to support the proposed development.

3.5 ALTERNATIVES

The CEQA Guidelines require that the EIR assess a range of reasonable alternatives to the proposed project or the proposed location. The discussion must focus on opportunities for eliminating or reducing any significant adverse environmental effects of the proposed project, although the alternative(s) may impede to some degree the attainment of the project objectives, or would be more costly. The following briefly describes the alternatives identified at this time to be evaluated in the Draft EIR:

3.5.1 No Project Alternative

Under the No Project Alternative, the proposed mixed-use project would not be constructed. This project alternative also assumes that the site would not be developed with residential and/or commercial retail uses.

3.5.2 Reduced Development Alternative

This project alternative would involve development of the site with a reduced development in size from that of the proposed project. This alternative assumes development of approximately twelve (12) residential units and 18,000 square feet of commercial retail uses.

3.5.3 Commercial Development Alternative

This project alternative includes evaluating developing the site with only commercial uses. No residential uses would be constructed at the property.

4.0 ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION MEASURES

The following sections include a project-level analysis, by issue area, of the proposed Newport Bay Marina mixed-use project on the environment consistent with Section 15126 of the CEQA Guidelines. The environmental issue areas analyzed in this section are as follows:

- Aesthetics
- Air Quality
- Biology (Marine)
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation and Parking
- Utilities and Service Systems

Each environmental issue area includes the following subsections:

- Environmental Setting
- Significance Criteria
- Impacts
- Mitigation Measures
- Level of Significance After Mitigation

4.1 AESTHETICS

4.1.1 Environmental Setting

The project is located on the Newport Peninsula and bay area of Newport Beach and is located in the coastal zone. The site is located along Newport Boulevard in Newport Beach. The site contains three groupings of buildings that share a site located between Newport Boulevard and the southerly bay front. The buildings are rustic and/or industrial in appearance and have retained a maritime flavor. The view from the northerly side of the property is of a marina (Rhine Channel) with the bay and mainland beyond. Ground covering is mostly asphalt. Vegetation is minimal, with plantings for the most part limited to landscape elements situated very near the buildings. The property includes existing boat docks (21-boat slips) and two (2) boat slipway areas one of which is covered and has unused for many years. An aerial photo of the site and surrounding area was previously presented in Chapter 3 of this EIR (Exhibit 3). The conceptual grading plan, tentative tract map, site plan, and building elevations were presented in Chapter 3 (Project Description). Photos of the existing condition of the project site and photo simulations (with project implementation) are presented in Section 4.1.3 (Impacts) of this EIR Chapter. Surrounding land uses include restaurant, commercial retail, industrial, office, and residential. The site and surrounding areas are developed with existing land uses.

4.1.2 Significance Criteria

Visual sensitivity is dependent upon viewer attitudes, the types of activities in which people are engaged when viewing a given feature, and the distance from which the respective feature is viewed. Overall, higher degrees of visual sensitivity are correlated with areas where people live, are engaged in outdoor recreational pursuits, or participate in scenic trips. Conversely, visual sensitivity is considered low to moderate in industrial or commercial areas where the scenic quality of the environment does not affect the value of the activity.

The significance of visual change depends on a variety of factors, including the degree to which the project would be seen by potentially sensitive viewers, viewer attitudes and activities, the distance from which the project would be observed, and the extent to which the project would be consistent with the established visual goals and objectives of the applicable jurisdictions. A number of variables affect the degree of visibility and visual contrast, including the scale and size of facilities, site design, color and texture, and influences of adjacent scenery or land uses.

Impacts are considered significant when one of the following occurs:

- The project would have a substantial adverse effect on a scenic vista; or
- the project would substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway; or
- the project would substantially degrade the existing visual character or quality of the site and its surroundings; or
- the project would create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

4.1.3 Impacts

This section describes the physical environmental impacts to aesthetics that would result due to the development and operation of the proposed project. The following environmental significance criteria were previously described in Section 4.1.2.

Does the project result in a substantial adverse effect on a scenic vista; or

The project site is not a designated scenic vista nor located near a designated scenic vista. The City of Newport Beach Local Coastal Plan/Land Use Plan (LCP/LUP) identifies several "coastal view areas" in Newport Beach where it is the City's policy to require development to be sited and designed to maximize protection of coastal views; however, the subject property is not identified as one of the "coastal view areas" identified by the City. Partial visual access to the Rhine Channel and marina area currently exists through the portions of the project site from Newport Boulevard. The project is located on the Newport Peninsula and bay area of Newport Beach and is located in the coastal zone. The site is located along Newport Boulevard in Newport Beach. The site contains three groupings of buildings that share a site located between Newport Boulevard and the southerly bay front. The view from the northerly side of the property is of a marina (Rhine Channel) with the bay and mainland beyond. Ground covering is mostly asphalt. Vegetation is minimal, with plantings for the most part limited to landscape elements situated very near the buildings. The site is currently developed with existing commercial, office and industrial uses. These existing structures would be demolished to accommodate the proposed mixed-use project. The proposed building will be three stories in height and subterranean parking will be provided. The building elevations (presented in Section 3) identify that the building heights will be 35' in height (does not include architectural

treatments and elements. The Specific Plan allows a height of up to 35 feet with approval of a Use Permit. The height and bulk of the new building is sufficient that it will be visible from many locations within and around the immediate area. The buildings are proposed to be plaster with stone ledger masonry veneer, with balcony and trellis treatments. Visual exhibits showing existing conditions as well as photo simulations with the proposed project are provided in Exhibits 4.1-1 through 4.1-4. Exhibit 4.1.-5 shows the view corridor that the proposed project will provide. The following is a description of the architecture and materials of the proposed buildings:

Newport Boulevard, Arcade Street and Marina Paseo:
Building elevations along the Newport Boulevard frontage are intended to project a level of formality; building facades will include a variety of materials including brick, ledge stone, and smooth trowelled plaster. Details will include painted iron balconies, cornices with corbel and dentil features and decorative lighting. Building and parking entries will be accentuated with suspended arched metal canopies and a combination of wood and painted metal storefront. Wood trellises crown third floor balconies where the facades turn in toward the paseo and step down to the adjacent building to the south. The building massing will be varied with alternating parapet heights and modulated by varying color across storefront segments. The color palette will range from neutral earth tones and willow greens to deep tuscan reds and umbers.

Pedestrian Paseo and Boat Slips
The pedestrian paseo between Newport Boulevard and the Bay will contain a combination of hardscape finishes and materials including scored, colored and sandblasted concrete paving, ledge stone walls with concrete caps, decorative pole lighting and accent planting.

Interior Residential Auto Courts:
The design and materials of the residential units flanking the north and south interior auto courts vary between the more formal townhouse units on the west which are punctuated by vaulted entry canopies; to the less formal units on the east that incorporate asymmetrical stepped massing with corner stairs and towers. Both elevations will be softened by wood trellises and balconies. Finishes will include a combination of smooth trowelled and fine sand float plaster.

Bayside Frontage:
The office areas and residential units along the bay frontage include larger glass areas and transparent railings. Cornices and belt trim detailing wrap the corners of the buildings in order to highlight the key horizontal elements of the project, while variation in paint between buildings, projections and recesses in massing reinforce the smaller scale of the individual units. Fabric awnings, ironwork and decorative lighting details will provide additional punctuation to wall surfaces.

Existing Condition

Source: Focus 360

Proposed Condition

EXHIBIT 4.1-1

View of Existing Condition and Proposed Project

Existing Condition

Source: Focus 360

Proposed Condition

EXHIBIT 4.1-2

View of Existing Condition and Proposed Project

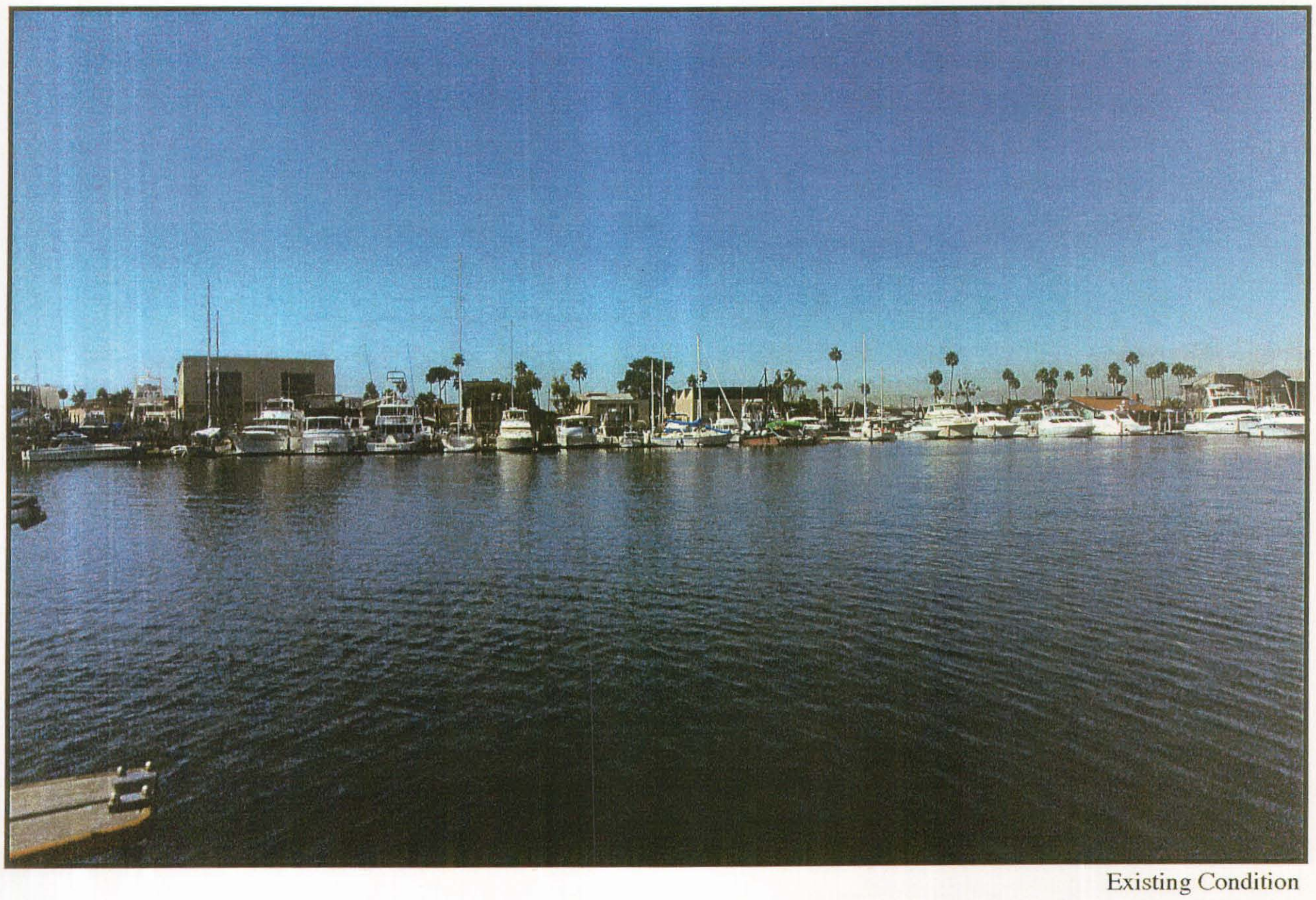
Existing Condition

Source: Focus 360

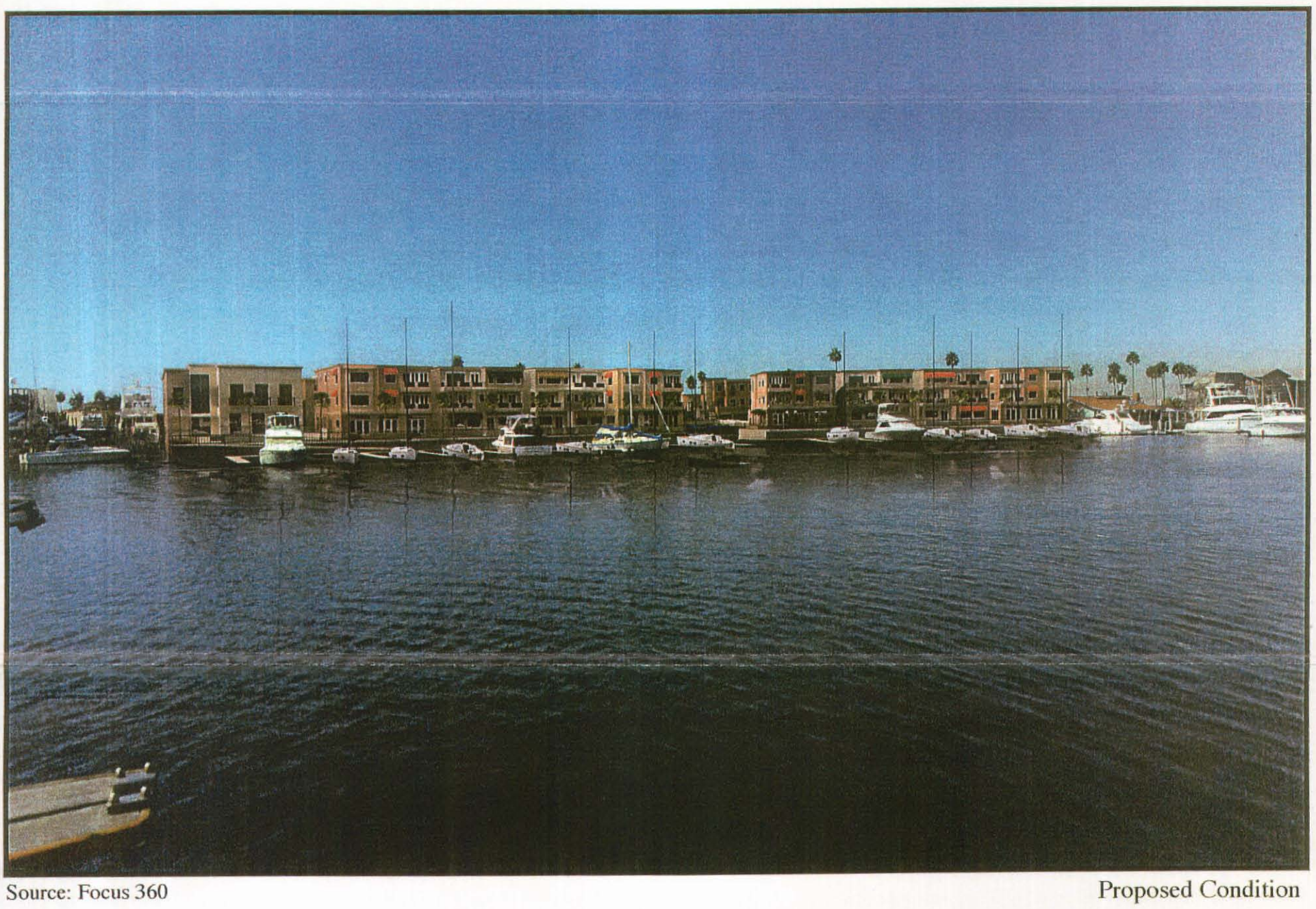
Proposed Condition

View of Existing Condition and Proposed Project

EXHIBIT 4.1-3



Existing Condition

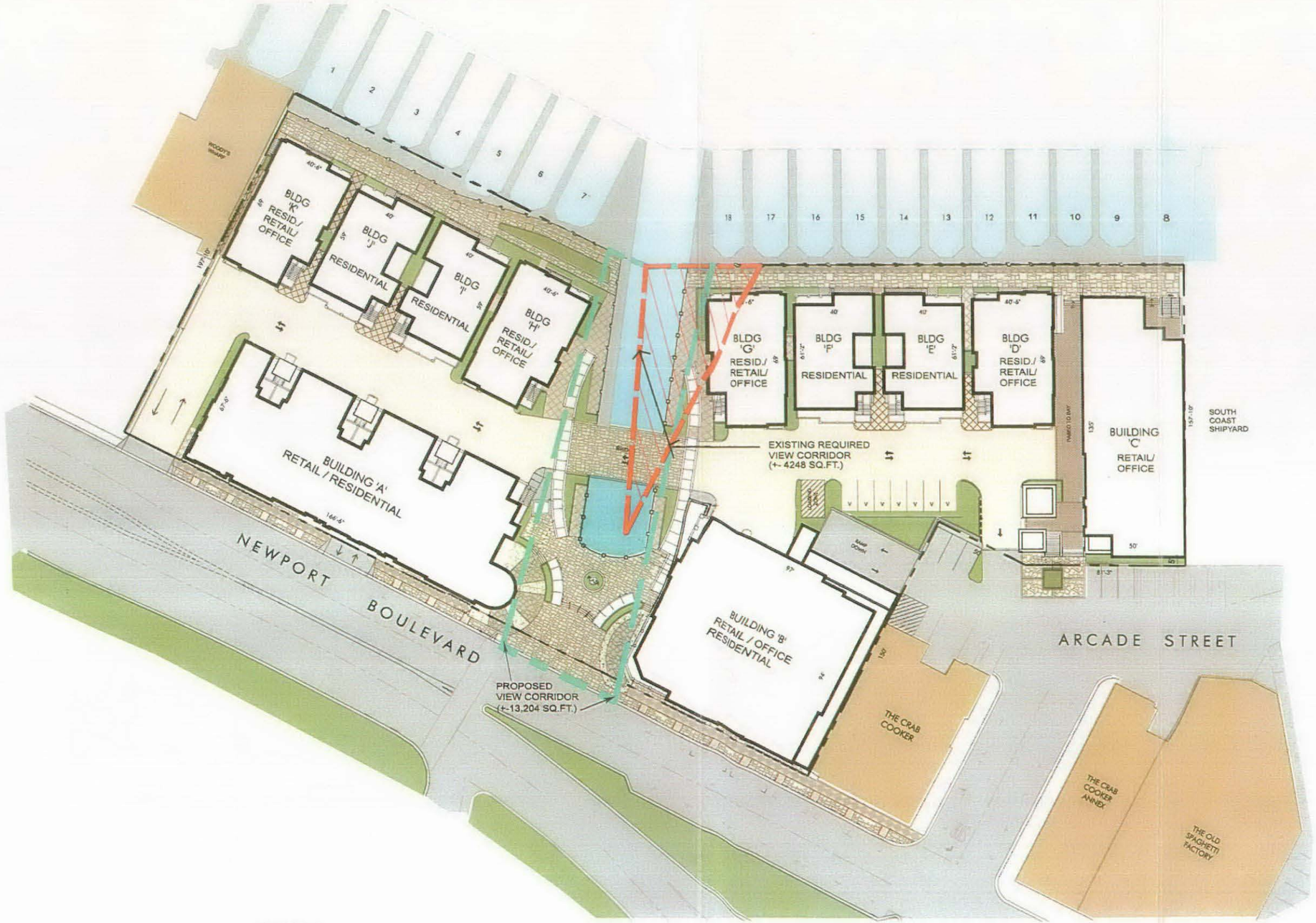


Source: Focus 360

Proposed Condition

View of Existing Condition and Proposed Project

EXHIBIT 4.1-4



VIEW CORRIDOR

GRAPHIC SCALE: 0 5 10 20 40 80

OWNER:
El-Bridgeport, LLC
9952 SANTA MONICA BOULEVARD, SUITE 200
BEVERLY HILLS, CA 90212
TEL: (310) 691-5500 FAX: (310)-282-8193

SUBDIVIDER/ APPLICANT:
ETCO Development, Inc.
2222 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
TEL: (949) 200-7220 FAX: (949) 200-7240

NEWPORT BAY MARINA

2300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663

McKently Malak ARCHITECTS
234 East Colorado Blvd, Suite 725
Pasadena, California 91101-2201
TEL. 626 583.8348 FAX. 626 583.8387

SITE PLAN

05.26.06 03104MMA

EXHIBIT 4.1-5

Exhibit 4.1-5
View Corridor Provided by the Proposed Project

The project area and the site of the proposed project are visible from Newport Boulevard, 22nd Street, The Arcade, the Rhine Channel, and existing uses across the channel from the project site. The proposed project creates an existing view corridor and public access as shown on project plans presented in Section 3 (Project Description). The project also provides for new public access which will open public pedestrian viewing areas of the bay along a new 10-foot easement that abuts the waterfront. The project has been designed to reduce significant environmental impacts to a scenic vista. The project provides for new public access to the waterfront and views of the bay, and the design provides for retaining, enlarging and enhancing one of the boat slipways. Therefore, project impacts relative to a scenic vista have been determined less than significant.

Will the project substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

The project will not substantially damage scenic resources, including, but not limited to trees, rock outcroppings, since they do not exist on the site nor are they located in close proximity to the property. The project will have a significant impact on historic buildings (see Cultural Resources Section 4.4); however, these buildings are not located within a state scenic highway. Therefore, the project will not result in significant impacts relative to this impact topic.

Will the project substantially degrade the existing visual character or quality of the site and its surroundings?

Construction activities will involve demolition of existing structures and paved asphalt areas. Construction activities (construction equipment, vehicles, supplies/materials, workers etc.) will be visible to the existing surrounding uses (i.e. restaurants, office, and residential areas including those across the Rhine Channel, and marine uses of the channel) and adjacent roadway vehicle and pedestrian traffic. These visual impacts associated with the construction of the project are short-term and not considered significant.

The project site is not a designated scenic vista nor located near a designated scenic vista. The City of Newport Beach Local Coastal Plan/Land Use Plan (LCP/LUP) identifies several "coastal view areas" in Newport Beach where it is the City's policy to require development to be sited and designed to maximize protection of coastal views; however, the subject property is not identified as one of the "coastal view areas" identified by the City. Partial visual access to the Rhine Channel and marina area currently exists through the portions of the project site from Newport Boulevard. In

addition, the City's Harbor and Bay Element of the General Plan also address visual character (Goal HB-4). It is the City's goal to preserve and enhance the visual character and historical resources of the harbor and the bay through the maintenance and enhancement of the diverse waterfront image of Newport Harbor by preserving its variety of beach/bulkhead profiles that characterize its residential and commercial waterfronts and, at the same time, maintaining the unique historical resources of Newport Harbor.

The project provides visual access to The Rhine Channel and boat dock area, even though the site will be developed with a combination of commercial, professional office, and residential uses. The buildings proposed along The Rhine Channel are set back in excess of existing requirements (a 10-foot setback from the existing bulkhead, including the public access way along the dock). The project is compatible with the existing development and will not result in a visually offensive sight to viewers.

Will the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The exterior lighting will be designed so that rays do not significantly impact the immediate vicinity. The site is located in a developed area of the City, therefore, it is not anticipated that the project will create a new source of substantial light or glare which would adversely impact views in the area.

4.1.4 Mitigation Measures

The project design features provide for mitigation of the loss of views from Newport Boulevard by retaining the view corridor and providing new public access and pedestrian viewing areas of the bay along the waterfront. Therefore, impacts relative to aesthetics have been reduced to a less than significant level. The project design as proposed will not result in adverse significant aesthetics impacts as concluded from the environmental significance criteria evaluated. Building and parking area lighting will also be visible. The project as designed will compliment the existing surrounding uses and is not considered visually offensive to viewers. Project construction activities will also be visible to viewers. Construction activities are short-term impacts and not considered a significant impact to aesthetics. The mitigation measures presented below are recommended to ensure that the project design provides an aesthetic compatible development that compliments the existing surrounding uses.

MM 4.1.4-1: *Prior to the issuance of a building permit, a landscape plan shall be prepared by a licensed landscape architect for the project for review and approval by the Planning Director. Said landscape plan shall enhance the property and provide visual softening of the proposed three-story buildings and site lighting. The landscaping shall be installed in recognition of vehicular and pedestrian circulation (site distance considerations etc.) and safety.*

MM 4.1.4-2: *Prior to the issuance of a building permit, a site lighting plan shall be prepared and submitted to the Planning Department for review and approval.*

4.1.5 Level of Significance After Mitigation

Implementation of the recommended proposed mitigation measures will reduce identified aesthetic impacts including light and glare to a level of less than significant. The proposed project does not result in any adverse significant impacts to aesthetics.

4.2 AIR QUALITY

The information and analysis presented in this Air Quality Chapter of the EIR is based on the air quality assessment dated February 10, 2006 prepared by Mestre Greve Associates (MGA). The complete air quality assessment is provided in the Technical Appendices to the EIR (Volume II, Appendix A). This air quality assessment is herein incorporated by reference.

4.2.1 Environmental Setting

The project is located on the Newport Peninsula of Newport Beach in Orange County. This area is a portion of the larger South Coast Air Basin (SCAB), which is comprised of Los Angeles and Orange Counties, the western portion of Riverside County, and the southwestern portion of San Bernardino County. Air quality in the SCAB is under the jurisdiction of the South Coast Air Quality Management District (SCAQMD). Rules and regulations of this agency are designed to achieve established air quality standards that are protective of public health. To this purpose, they limit the emissions and the permissible impacts of emissions from projects and specify emission controls and control technologies for each type of emitting source.

Climate

The regional climate in the SCAB is classified as Mediterranean, characterized by cool, dry summers and mild, wet winters. The climate in and around the project area, as with all of Southern California, is controlled largely by the strength and position of the subtropical high pressure cell over the Pacific Ocean. It maintains moderate temperatures and comfortable humidity, and limits precipitation to a few storms during the winter "wet" season. Temperatures are normally mild, excepting the summer months, which commonly bring substantially higher temperatures. In all portions of the basin, temperatures well above 100 degrees F. have been recorded in recent years. The annual average temperature in the basin is approximately 62 degrees F. Winds in the project area are usually driven by the dominant land/sea breeze circulation system. Regional wind patterns are dominated by daytime onshore sea breezes. At night the wind generally slows and reverses direction traveling towards the sea. Wind direction will be altered by local canyons, with wind tending to flow parallel to the canyons. During the transition period from one wind pattern to the other, the dominant wind direction rotates into the south and causes a minor wind direction maximum from the south. The frequency of calm winds (less than 2 miles per hour) is less than 10 percent.

Southern California frequently has temperature inversions, which inhibit the dispersion and dissipation of pollutants. Inversions may be either ground based or elevated. Ground-based

inversions sometimes referred to as radiation inversions, are most severe during clear, cold early winter mornings. Under conditions of a ground-based inversion, very little mixing or turbulence occurs, and high concentrations of primary pollutants may occur locally to major roadways. Elevated inversions can be generated by a variety of meteorological phenomena. Elevated inversions act as a lid or upper boundary and restrict vertical mixing. Below the elevated inversion, dispersion is not restricted. Mixing heights for elevated inversions are lower in the summer and more persistent. This low summer inversion puts a lid over the SCAB and is responsible for the high levels of ozone observed during summer months in the air basin.

Air Quality Regulations

The project site is located in the South Coast Air Basin (SCAB). The South Coast Air Quality Management District (SCAQMD) sets and enforces regulations for stationary sources in the basin. THE SCAQMD sets and enforces regulations for stationary sources in the basin and develops and implements transportation control measures. The California Air Resources Board (CARB) is charged with controlling motor vehicle emissions. CARB establishes legal emission rates for new vehicles and is responsible for the vehicle inspection program. Other important agencies in the air quality management field for the basin include the U. S. Environmental Protection Agency (EPA) and the Southern California Association of Governments (SCAG). The EPA implements the provisions of the federal Clean Air Act. This Act establishes ambient air quality standards that are applicable nationwide. In areas that are not achieving the standards, the Clean Air Act requires that plans be developed and implemented to meet the standards. The EPA oversees the efforts in this air basin and insures that appropriate plans are being developed and implemented. The primary agencies responsible for writing the plan are SCAG and the SCAQMD, and the plan is called the Air Quality Management Plan (AQMP). SCAG prepares the transportation component of the AQMP.

The AQMP provides the blueprint for meeting state and federal ambient air quality standards for the basin. The 1997 AQMP is the current federally approved applicable air plan. However, the 2003 AQMP was adopted locally on August 1, 2003, by the governing board of the SCAQMD. The California Air Resources Board (CARB) adopted the plan as part of the California State Implementation Plan on October 23, 2003. The Environmental Protection Agency (EPA) adopted the mobile source emissions budgets from the plan on March 25, 2004. The PM10 attainment plan received final approval on November 5, 2005 with an effective date of December 14, 2005. The AQMP includes a comprehensive analysis of future emissions forecasts, which reflect demographic and economic growth forecasts provided by the Southern California Association of Governments (SCAG). The build out of the County of Orange and the City of Newport Beach is included in these forecasts.

Air Quality Monitoring

Air quality at any site is dependent on the regional air quality and local pollutant sources. Regional air quality is determined by the release of pollutants throughout the air basin. Estimates for the SCAB have been made for existing emissions ("2003 Air Quality Management Plan"). .The data indicate that mobile sources are the major source of regional emissions.

The California Air Resources Board monitors ambient air quality at approximately 250 air-monitoring stations across the state. Air quality monitoring stations usually measure pollutant concentrations 10 feet above ground level; therefore, air quality is often referred to in terms of ground level concentrations. Ambient air pollutant concentrations in the South Coast Air Basin are measured at 36 air quality-monitoring stations operated by the SCAQMD.

The SCAQMD has divided the SCAB into 38 source receptor areas (SRA) with a designated ambient air monitoring station representative of most of these areas. The project is located in SCAQMD Source Receptor Area 18, North Orange Country Coastal. The air quality monitoring station designated for this area is the Costa Mesa Station. This is the nearest air quality monitoring station to the project site. The Costa Mesa Station is located near Mesa Verde Drive west of Harbor Boulevard approximately 4 miles north of the project site. The air pollutants measured at the Costa Mesa station include ozone (O3), carbon monoxide (CO), nitrogen dioxide (NO2), and sulfur dioxide (SO2). Monitored concentrations of these pollutants for the years 2003 to 2005 at the Costa Mesa monitoring station are shown in Table 4.2-1.

Particulate (PM10) concentrations are not measured at the Costa Mesa station. The nearest station where PM10 is monitored in the Mission Viejo station. The Mission Viejo monitoring station is the designated station for SRA 19, Saddleback Valley. This station is located east of Los Alisos Boulevard between Jeronimo Road and Trabuco Road, approximately 15 miles east of the project site. The air pollutants measured at the Mission Viejo station include ozone, carbon monoxide, PM10 and PM2.5. Monitored concentrations of these pollutants for the years 2003 to 2005 at the Mission Viejo Monitoring station are shown in Table 4.2-2.

Table 4.2-1
Air Quality Levels Measured at Costa Mesa Monitoring Station

Pollutant	California Standard	National Standard	Year	% Meas.[1]	Max. Level	Days State Standard Exceeded[2]	Days National Standard Exceeded[2]
Ozone	0.09 ppm for 1 hr.	0.12 ppm for 1 hr.	2005	40	0.085	0	0
			2004	98	0.104	2	0
			2003	100	0.107	4	0
Ozone	0.070 ppm[3] for 8 hr.	0.08 ppm for 8 hr.	2005	40	0.072	--	0
			2004	98	0.087	--	1
			2003	100	0.088	--	1
CO	20 ppm for 1 hour	35 ppm for 1 hour	2005	40	4.1	0	0
			2004	97	4.9	0	0
			2003	97	7.4	0	0
CO	9.0 ppm for 8 hour	9 ppm for 8 hour	2005	40	3.2	0	0
			2004	97	4.1	0	0
			2003	97	5.9	0	0
NO_2 (1-Hour)	0.25 ppm for 1 hour	None	2005	32	0.062	0	n/a
			2004	97	0.097	0	n/a
			2003	96	0.107	0	n/a
NO_2 (Annual)	None	0.053 ppm AAM[4]	2005	32	--	n/a	--
			2004	97	0.016	n/a	No
			2003	96	0.018	n/a	No
SO_2 (24 Hour)	0.04 ppm For 24 Hr.	0.14 ppm for 24 hr.	2005	29	0.008	0	0
			2004	98	0.008	0	0
			2003	93	0.012	0	0
SO_2 (Annual)	None	0.030 ppm AAM[4]	2005	29	0.001	n/a	No
			2004	98	0.002	n/a	No
			2003	93	0.001	n/a	No

1. Percent of year where high pollutant levels were expected that measurements were made
2. For annual averaging times a yes or no response is given if the annual average concentration exceeded the applicable standard.
3. This concentration standard was approved by the ARB on April 28, 2005 and is expected to become effective in early 2006.
4. Annual Arithmetic Mean
-- Data Not Reported
n/a indicates there is no applicable standard.
Source: CARB Air Quality Data Statistics web site www.arb.ca.gov/adam/ accessed 11/30/05

Table 4.2-1
Air Quality Levels Measured at Mission Viejo Monitoring Station

Pollutant	California Standard	National Standard	Year	% Meas.[1]	Max. Level	Days State Standard Exceeded[2]	Days National Standard Exceeded[2]
Ozone	0.09 ppm for 1 hr.	0.12 ppm for 1 hr.	2005	47	0.125	2	1
			2004	99	0.116	11	0
			2003	99	0.153	16	4
Ozone	0.070 ppm[3] for 8 hr.	0.08 ppm for 8 hr.	2005	47	0.085	--	1
			2004	99	0.090	--	4
			2003	99	0.105	--	8
CO	20 ppm for 1 hour	35 ppm for 1 hour	2005	56	2.2	0	0
			2004	97	2.4	0	0
			2003	97	2.5	0	0
CO	9.0 ppm for 8 hour	9 ppm for 8 hour	2005	56	1.6	0	0
			2004	97	1.5	0	0
			2003	97	1.6	0	0
Particulates PM10 (24 Hour)	50 $\mu g/m^3$ for 24 hr.	150 $\mu g/m^3$ for 24 hr.	2005	13	41	--	0
			2004	93	47	0/0	0
			2003	93	64	2/13	0
Particulates PM10 (Annual)	12 $\mu g/m^3$ AAM[4]	50 $\mu g/m^3$ AAM[4]	2005	13	--	--	No
			2004	93	24	Yes	No
			2003	93	27	Yes	No
Particulates PM2.5 (24 Hour)	None	65 $\mu g/m^3$ for 24 hr.	2005	--	35	n/a	0
			2004	--	49.4	n/a	0
			2003	--	50.6	n/a	0
Particulates PM2.5 (Annual)	12 $\mu g/m^3$ AAM[4]	15 $\mu g/m^3$ AAM[4]	2005	--	--	--	--
			2004	--	12.0	No	No
			2003	--	--	--	--

1. Percent of year where high pollutant levels were expected that measurements were made
2. For annual averaging times a yes or no response is given if the annual average concentration exceeded the applicable standard. n/a indicates that there is no applicable standard. For the PM10 24 hour standard, daily monitoring is not performed. The first number shown in Days State Standard Exceeded column is the actual number of days measured that State standard was exceeded. The second number shows the number of days the standard would be expected to be exceeded if measurements were taken every day.
3. This concentration standard was approved by the ARB on April 28, 2005 and is expected to become effective in early 2006.
4. Annual Arithmetic Mean
-- Data Not Reported or insufficient data available to determine the value.
Source: CARB Air Quality Data Statistics web site www.arb.ca.gov/adam/ accessed 11/7/05

Existing Air Quality Levels

The project site is located in the north coastal area of Orange County in the South Coast Air Basin. At the Costa Mesa station, the federal 1-hour ozone standard has not been exceeded in the past three years. At the Mission Viejo station, the standard was exceeded 4 days in 2003, 1 day in 2005, and none in 2004. The more stringent state 1-hour ozone standard was exceeded 4 days in 2003, 2 days in 2004, and was not exceeded in 2005 at the Costa Mesa station. The state standard was exceeded 16 days in 2003, 11 days in 2004, and 2 days in 2005 at the Mission Viejo station.

The federal 8-hour ozone standard was exceeded 1 day in 2003 and 2004, and was not exceeded in 2005 at the Costa Mesa station. The standard was exceeded 8 days in 2003, 4 days in 2004, and 1 day in 2005 at the Mission Viejo station.

Particulate matter (including both PM10 and PM2.5) is another air pollutant of primary concern in the area. The state 24-hour standard for PM10 was exceeded at the Mission Viejo monitoring station 13 days in 2003, and was not exceeded in 2004 and 2005. The federal standard for PM10 was not exceeded in the past three years. There appears to be a trend toward fewer days of exceedances and maximum levels for PM10. The 24-hour federal PM2.5 standard was not exceeded in the last three years. The state and federal PM2.5 annual average standards were not exceeded in 2004, the last year provided by CARB.

The monitored data show that other than ozone and PM10 exceedances as mentioned above, state or federal standards were not exceeded for the remaining criteria pollutants at the Costa Mesa and Mission Viejo monitoring stations.

4.2.2 Significance Criteria

In the "1993 CEQA Air Quality Handbook," the SCAQMD has established significance thresholds to assess the regional impact of project-related air pollutant emissions. There are separate thresholds for short-term construction and long-term operational emissions. A project with daily emission rates below these thresholds are considered to have a less than significant effect on regional air quality throughout the South Coast Air Basin.

To assess local air quality impacts, the significance thresholds are relative to the State Ambient Air Quality Standards. Because the area is, technically, in attainment of the CO state standards, exceedances of these standards, 20 ppm for 1-hour Carbon Monoxide (CO) concentration levels, and

9 ppm for 8-hour CO concentration levels, result in a significant local air quality impact. The thresholds account for the continued degradation of the local air quality. If the ambient air quality standards are exceeded then pollutant concentrations that exceed the thresholds are considered significant.

4.2.3 Impacts

Short-Term Air Quality Impacts

The principal sources of pollutant emissions during construction would be fugitive dust and construction equipment engine exhaust. Fugitive dust would be created during site demolition and construction; vehicle travel on roads; and material blown from unprotected construction areas, stockpiles or haul trucks. Fugitive dust includes PM10 and PM2.5, which are potential health hazards, and also often contribute to visibility and nuisance impacts which occur when dust from construction activities is deposited on homes, vehicles and plants. In construction equipment exhaust, the principal pollutants of concern are NO, and ROC, the primary constituents in the formation of ozone, a regional non-attainment pollutant.

Construction of the project would result in air quality emissions. Temporary impacts will result from project construction activities. Air pollutants will be emitted by construction equipment and fugitive dust will be generated during grading on site. Temporary impacts will result from project construction activities. Construction of the project includes demolition of all existing buildings, grading and excavation associated with the construction of the subterranean parking lot and site remediation. Air pollutants will be emitted by construction equipment, fugitive dust will be generated during grading, demolition/excavation of the project site, and Reactive Organic Gases (ROG—an ozone precurser) will be released during asphalt laying and the application of architectural coatings.

Typically, the greatest levels of air pollutant emissions during construction activities occur during site grading, demolition and/or excavation. Operating more than four pieces of the largest heavy construction equipment for 8 hours a day or 6 to 8 pieces of smaller equipment will generate Nox emissions in excess of the SCAQMD's 100 pounds per day significance threshold. However, actively disturbing the entire site of 2.4 acres per day during site preparation will not generate PM10 emissions greater than the 150 pounds per day significance threshold.

The project information indicates that approximately 44,300 square feet of the existing building structures will be demolished. Based on these square footages, it is estimated that a total of 166,125

cubic feet of structures or 922 cubic yards of demolition debris will be hauled off site. If the project removed material at a rate of 100 trucks per day, the demolition debris would be removed in one day. The heavy equipment required to perform the demolition includes an excavator, a backhoe with hoe ram, a front loader, and a water truck. It is estimated that there will be 10 worker vehicles traveling to and from the site each day and the average trip length for each worker vehicle is 20 miles. Using the estimates presented here the peak construction emissions for the project were calculated. The results presented in the Air Quality Assessment show that NOx pollutant emissions associated with the demolition are projected to be greater than the Significance Thresholds established by SCAQMD in the CEQA Air Quality Handbook. The primary source of NOx emissions is from the debris hauling trucks with construction equipment contributing substantially to the total NOx emissions.

Approximately 30,000 cubic yards of dirt will be excavated from the site for the subterranean parking structure. Where this material will be hauled will not be known until after the grading permit is issued and just before excavation begins. The location is dependant on what sites, often construction sites, are accepting fill material at the same time as the excavation of the project. As a worst-case estimate, it was assumed that a one-way trip to the haul site would be 25 miles. If the project removed material at a rate of 100 trucks per day, the excavated material would be removed in 22 days. The heavy equipment required to perform the excavation includes an excavator, two backhoes with hoe ram, a front loader and a water truck. It is estimated that there would be 10 worker vehicles traveling to and from the site each day and the average trip length for each worker is 20 miles. Using the estimates here the peak construction emissions were calculated. The data shows that Nox emissions associated with the excavation are projected to be greater than the Significance Thresholds established by the SCAQMD in the CEQA Air Quality Handbook. The primary source of NOx emissions is from the haul trucks with construction equipment contributing significantly to the total Nox emissions.

Long Term Air Quality Impacts

Increased traffic volumes due to the project emit increased pollutants in the vicinity of the roads utilized by this traffic, which can cause pollutant levels to exceed the ambient air quality standards. Carbon monoxide (CO) is the pollutant of major concern along roadways because the most notable source of carbon monoxide is motor vehicles. For this reason, carbon monoxide concentrations are usually indicative of the local air quality generated by a roadway network, and are used as an indicator of its impacts on local air quality. CO concentrations are highest near the intersections where queuing increases emissions. Local air quality impacts can be assessed by comparing future carbon monoxide levels with State and Federal carbon monoxide standards, moreover by comparing future CO concentrations with and without the project.

The proposed project is projected to increase peak hour traffic volumes at intersections in the vicinity of the project site. However, the project would increase peak hour traffic by less than one percent and would not affect the LOS, and hence, pollutant concentrations at the intersections. Except for the Newport Boulevard and Via Lido intersection, peak hour traffic volume increases due to the project by more than one percent would not be expected to alter CO concentrations significantly. The Newport Boulevard and Via Lido intersection is projected to operate with an LOS of "A" at the project's build-out year (2010). Because of this, CO concentrations at this intersection would not be expected to exceed the standards. Generally, only intersections operating at LOS of D or worse are considered to have the potential to cause CO concentrations to exceed the state ambient air quality standards of 20 ppm for a 1-hour averaging time and 9 ppm for an 8-hour averaging time. Since the Newport Boulevard and Via Lido intersection will be operating at LOS "A", no CO modeling was performed. Significant local air quality impact is not projected for the project.

The primary source of regional emissions generated by the proposed project will be from motor vehicles. Other emissions will be generated by the combustion of natural gas for space heating and the generation of electricity. Emissions will also be generated by the use of natural gas and oil for the generation of electricity off-site.

Emission factors from EMFAC2002 published by the SCAQMD on their CEQA Handbook web site were used to estimate vehicular emissions. EMFAC2002 is a computer program generated by the California Air Resources Board (CARB) that calculates emission rates for vehicles. The composite trip lengths were derived from data contained in the SCAQMD CEQA Handbook. The average trip lengths were calculated to be 9 miles for the project area.

The data used to estimate the on-site combustion of natural gas, and off-site electrical usage are based on the proposed land uses in terms of building square footages, and emission factors taken from the 1993 CEQA Handbook. The analysis presented in the air quality report is consistent with the Handbook.

Land use and trip generation information for the Bridgeport project were provided by the traffic engineer for the project, Austin Foust Associates, Inc., November 2005. Emissions presented in Table 4.2-3 were calculated for the earliest expected build-out year of the project, 2010. As vehicular emissions are projected to be reduced in future years, due to more vehicles complying with more stringent air pollution emission standards, consideration of the earliest build-out year of the project results in the highest emissions generation by the project.

Table 4.2-3
2010 Project Emissions – Net New Increase

	Pollutant Emissions (lbs/day)				
Source	**CO**	**ROG**	**NOx**	**PM10**	**SOx**
Vehicular Trips	63.1	7.3	17.6	0.7	0.1
Natural Gas Consumption	0.2	0.0	0.8	0.0	0.0
Consumer Product Usage	0.0	1.8	0.0	0.0	0.0
Electrical Generation	0.3	0.0	1.5	0.1	0.2
Project Emission Net Increase	**63.5**	**9.2**	**19.9**	**0.7**	**0.2**
SCAQMD Thresholds	550	55	55	150	150

The project consists of 27 condominium units, and approximately over 36,000 square feet of general commercial and office spaces. The proposed project generates a total of 1,259 average daily trips (of this amount 682 are net new trips) (ADT). With the implementation of the proposed project, approximately 44,000 square feet of existing commercial, office and marine uses will be demolished. The ADT generated by these existing land uses is approximately 577. As a result, the net increase due to the project will be 682 daily trips. Table 4.2-3 presents the estimate of emissions from the proposed project. Table 4.2-3 indicates that the project emissions net increases are not projected to exceed the SCAQMD threshold of significance. Therefore, the project will not result in a significant air quality impact. No mitigation is recommended.

Table 4.2-4 compares the project emissions to the 2020 emissions projected for the South Coast air Basin presented in the 2003 AQMP. The table shows that the emissions associated with the proposed project are a very small fraction, 0.0024 percent or less, of the basin's emissions.

Table 4.2-4
Project Net Emissions Compared With Regional Emissions

	Pollutant Emissions (tons/day)				
	CO	**ROG**	**NO_x**	**PM10**	**SO_x**
Project Net Emissions	0.032	0.005	0.010	0.000	0.000
2020 South Coast Air Basin*	2,414	584	532	318	76
Project as Percentage of Basin	0.0013%	0.0008%	0.0019%	0.0001%	0.0002%

* Source: 2003 AQMP Tables 3-5A & 3-5B

Consistency with Regional Air Quality Management Plans

An EIR must discuss any inconsistencies between the proposed project and applicable general plans and regional plan (CEQA Guidelines, Section 15125). Regional plans that apply to the project include the South Coast Air Quality Management Plan (AQMP). In this regard, this section will discuss any inconsistencies between the proposed project and the federally-approved applicable AQMP.

The purpose of the consistency discussion is to set forth the issues regarding consistency with the assumptions and objectives of the AQMP and discuss whether the project would interfere with the region's ability to comply with federal and state air quality standards. If the decision-makers determine that the project is inconsistent , the lead agency may consider project modifications or inclusion of mitigation to eliminate the inconsistency.

The SCAQMD's CEQA Handbook states that "New or amended GP Elements (including land use zoning and density amendments), Specific plans, and significant projects must be analyzed for consistency with the AQMP." Strict consistency with all aspects of the plan is usually not required. A proposed project should be considered to be consistent with the plan if it furthers one or more policies and does not obstruct other policies. The Handbook identifies two key indicators of consistency:

1. Whether the project will result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emissions reductions specified in the AQMP (except as provided for CO in Section 9.4 for relocating CO hot spots).

2. Whether the project will exceed the assumptions in the AQMP in 2010 or increments based on the year of project build-out and phase.

Both of these criteria are evaluated as follows:

Criterion 1 – Increase in the Frequency or Severity of Violations?

Based on the air quality analysis contained in the report, there will be significant short term construction impacts due to the project based on the SCAQMD's thresholds of significance. While emissions will be generated in excess of SCAQMD's threshold criteria, it is unlikely that short term construction activities will increase the frequency or severity of existing air quality violations as

monitored at the SCAQMD station due to required compliance with SCAQMD Rules and Regulations. Similarly, the long-term operational emissions from the project are projected to be a fraction of a percentage of the basin wide emissions. The analysis for long-term air quality impacts showed that local pollutant concentrations are not projected to exceed any of the air quality standards.

The proposed project is not projected to contribute to the exceedance of any air pollutant concentration standards, thus the project is found to be consistent with the AQMP for the first criterion.

Criterion 2 – Exceed Assumptions in the AQMP?

Consistency with the AQMP assumptions is determined by comparing the project's population, housing and employment growth with the growth assumptions in the AQMP. Thus, the emphasis of this criterion is to insure that the project growth and associated emissions do not exceed those assumed as a basis for the AQMP. AQMP growth assumptions are based upon the General Plans for the cities in the Basin. The project development is included in the City's General plan and therefore is the basis for the AQMP growth assumptions.

Since the SCAG forecasts are not detailed, the test for consistency of this project is not specific. The AQMP assumptions are based upon projections from local general plans at the time the AQMP is developed. Projects that are consistent with the local general plan when the AQMP was developed are consistent with the AQMP assumptions.

Table 4.2-3 shows that emissions with the proposed project will be less than the significant thresholds. Since the AQMP predictions are based on the General Plan and the project will result in emissions less than the significance thresholds for all pollutants compared to the General Plan, the project is consistent with the AQMP assumptions.

4.2.4 Mitigation Measures

Short-Term Demolition/Construction Emission Control

The analysis presented in Section 4.2.2 (Impacts) showed that NOx emissions are projected to exceed the significance thresholds during demolition and excavation. This is primarily due to the trucks that will haul demolition debris and excavated dirt from the site. The only practical way to reduce the emissions is to limit the number of trucks hauling materials from the site. By limiting

truck trips to a daily vehicle miles traveled of 2,600 miles or less, NOx emissions will remain below the 100 pounds per day significance threshold. For demolition this means limiting the hauling of demolition debris off-site to 52 trucks per day, a side effect of this is that it extends the time it will take to haul demolition debris off site from 1 day to about 2 days. For the excavation it will depend upon where the materials will be hauled. If the round trip distance to the haul site is 25 miles or less, then materials could be removed at a rate of 48 truckloads per day. If the travel distance is greater, the number of daily truck trips would need to be reduced so that the total daily haul truck vehicle miles traveled did not exceed 2,400 miles. Depending upon the distance to be traveled this could extend the duration of the excavation. The daily vehicle miles traveled by the haul trucks is calculated simply by multiplying the number of daily truck trips by the round trip travel distance.

MM 4.2.4-1: *During construction activities, the applicant shall ensure that the following measures are complied with to reduce short-term (construction) air quality impacts associated with the project: a) controlling fugitive dust by regular watering, or other dust palliative measures to meet South Coast Air Quality Management District (SCAQMD) Rule 403 (Fugitive Dust); b) maintaining equipment engines in proper tune; and c) phasing and scheduling construction activities to minimize project-related emissions.*

MM 4.2.4-2: *During demolition and excavation, daily total haul trucks shall travel no more than a cumulative 2,600 miles hauling materials from the project site to the dumping site and back again. Prior to commencement of demolition and grading, the project applicant shall submit to the City calculations showing the proposed travel route for haul trucks, the distance traveled, and how many daily truck trips that can be accommodated while keeping the cumulative miles traveled to below 2,400 miles each day. The daily haul truck trips shall not exceed this amount during demolition and excavation.*

MM 4.2.4-3: *During construction activities, the applicant shall ensure that the project will comply with SCAQMD Rule 402 (Nuisance), to reduce odors from construction activities.*

Long-Term Impacts

The project would increase peak hour traffic by negligible proportions, but would not affect the LOS, and hence, pollutant concentrations at local intersections. Because of this, CO concentrations at Newport Boulevard and Via Lido would not be expected t exceed the standards. Significant local air quality impact is not projected for the project. Likewise, the project's long term emissions are projected to be below the threshold of significance. Therefore, no mitigation is required.

4.2.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measures, the project will not result in unavoidable adverse significant impacts to air quality.

4.3 BIOLOGICAL RESOURCES

The information and analysis presented in this Biological Resources Chapter of the EIR is based on the biological assessment dated June 2006 prepared by MBC Applied Environmental Sciences and Coastal Resources Management (CRM) in 2000. These studies are provided in the Technical Appendices to this EIR (Volume II, Appendix B). These assessments are herein incorporated by reference.

4.3.1 Environmental Setting

The project site is located on the Rhine Channel in west Newport Bay. The project waterfront consists of a small marina with 21 boat slips that extend, 18 to 19 meters (m) into the Rhine Channel. In the two areas along the water front, the bulkhead ends and two slipways extend into an intertidal areas, one (Slipway 1) about 10 m inland and the other (Slipway 2) about 20 m inland of the surrounding bulkheads on either side of the slipways. The slipway on the northwest side (Photo 1 – Pictures of Slipway 1) extends in from the bulkhead about 20 m, but has not been used since the 1960s. Since that time it has been covered by wood planks with the only light below being that which filters in from the entrance 20 m away. The slipway entrance is a very small mud flat at low tide that has scattered mussels, railroad tracks, and terrestrial debris including old boat parts strewn upon it. As insufficient light is present for photosynthesis beyond the entrance, no algae or other marine plants are present. This area was a marine railway launch ramp used to launch minesweepers and other small naval craft during World War II. Its prior use as a launch ramp is evident as railroad tracks extend from the back of the slipway out through the intertidal at the entrance to the slipway and then extend steeply into the water from the intertidal to a depth of approximately -13 ft MLLW.

A second slipway (Photo 2 – Slipway 2), slightly to the southeast of the Slipway 1 is set between two buildings on the property. Slipway 2 is open to the sky and has a dock on the north side of the slipway that runs its length extending past the bulkheads on either side of the slipway and into the channel about 40 m (Photo 3 – Slipway 2). The shoreward extent of Slipway 2 terminates in a larger mud flat than noted at Slipway 1 with marina and shipyard debris strewn in the intertidal mixed with scattered patches of mussels.

Photo 1 – Top View of Slipway 1

Photo 3 – View of Slipway 1

Photo 3 – Slipway 2

Photo 4 – Green algae covering mudflat with debris visible.

Photo 5 – Picklweed on mudflat

Photo 6 – Slipway 2 showing dock/bulkhead

Photo 7 – Intertidal invertebrates on bulkhead

Photo 8 – Rusty bulkheads along Slipway 2

The mud flat terminates at a 0.5 m high embankment with a manicured grass lawn inland from the edge of the embankment. Along the face of the embankment, a small patch of pickleweed habitat (totaling about 1.5 m^2) is present just above the mud flat (Photos 4 and 5 – pickleweed and back). The bulkhead, docks, floats, and marina show signs of disrepair (Photo 6- docks). These conditions include cracks in the cement bulkheads, shoaled areas in front of the shipyard upon which docks and boats settle during low tides, and extensive boatyard debris on the bay bottom.

Marine biological field surveys were conducted on December 2, 2004 and February 9, 2006. On December 2, 2004, the subtidal biota in the slipways was examined beneath the docks, and offshore of the docks about 30 m bayward of the bulkheads. MBC biologists also examined the intertidal zone of the two slipways on December 2, 2004, February 9, 2006, and June 27, 2006, and noted types of salt marsh vegetation present and noted the biota living on the bulkheads. MBC conducted a survey to assess the underwater marine like and bay bottom conditions. Biologist-divers swam underwater transects to examine the types of biota present on the bay bottom and to search for the presence of eelgrass (Caulerpa). Several transects were conducted parallel and seaward of the bulkhead along its length on either side of the slipways and perpendicular to shore into each of the slipways and slips. Parallel transect were offshore of the bulkhead at depths of-8ft, -10 ft, and -13 f. MLLW, respectively. Perpendicular transects into the slipways and slips ranted from 0 ft to -13ft. MLLW.

The following identifies MBC Applied Environmental Sciences survey results.

Sediment and Water Column Observations

Sediments in the survey area were unconsolidated silt-clays with black sulfide muds present just below the surface layer in the areas beneath the docks. Marina and shipyard associated debris was common on the bayfloor. Debris included sheets of glass, several old lobster traps, mops, nets, shopping carts, wood and metal debris, paper, styrofoam cups, and other miscellaneous materials. Because most of the area surveyed underwater was beneath boat docks and boats, visibility was limited by low light levels. Underwater visibility during the transects ranged from 1.5 m to 0.5 m.

Marine Habitats in the Project Area

Marine habitat types in the project area include mudflat, intertidal and subtidal hard bottom consisting of the bulkheads, pier pilings, and docks, and silt-mud unvegetated bay bottom. The intertidal zone extended from -0.6 m MLLW to +2.2 m MLLW. Subtidally, water depths in the project area ranged from -0.6 m to -5 m MLLW.

Depths at the edges of the boat docks were about -2.5 m to -3 m MLLW. The bay bottom habitat was unconsolidated silts and clays.

Mudflats

During the December 2004 field observations, the tide was low and muddy intertidal habitat in Slipway 1 was covered with fouling debris. No algae or epibenthic marine organisms were observed in Slipway 1 during the December 2004 survey or during the CRM 2000 survey. Based on the steeper intertidal slope reflecting its prior use as a boat ramp (with submerged rails), the mudflat area of Slipway 1 is approximately 17 ft wide by 45 ft in length intertidally covering about 765 ft during a 7 ft tidal range. The shoreward extent of the mudflat at Slipway 2 was more gradual and wider (about 29 ft wide by 50 ft during a 7 ft tidal range) than noted at Slipway 1 and was vegetated with about 1.5 m (increasing to about 3.0 m in June 2006) of pickleweed (Salicornia) in February 2006 along the upper embankment (CRM observed a similarly low amount in February 2000). Green algae (Enteromorpha sp.) covered approximately 60% of the exposed mudflat in this slipway (Photo 3).

Hard substrate - Bulkheads, Pilings, and Boat Docks

The bulkhead hard substrate supports a few intertidal algae and invertebrates (Photos 5 and 6 - Bulkhead Biota). The bulkhead that continues into Slipway 2 has similar biota to that observed on the outer bulkhead; however, the biota on the bulkhead into Slipway 1 terminates a few feet into the slipway where it is dark and covered by boards. Pier support pilings and the undersides of boat floats and docks provide habitat for a fouling community of algae and invertebrates. Parts of the bulkhead are degraded and rusting sheet metal was exposed along Slipway 2 (Photo 8 - Rusty Bulkhead).

Intertidal Organisms Associated with* Hard *Substrates

A total of 12 species, including the same nine species of intertidal invertebrates observed on the bulkheads, pilings, and dock floats by MBC in December 2004, three more species than recorded by CRM in 2000. As would be expected, the splash zone intertidal habitat was colonized by barnacles (*Chthamalus fissus/dalli*); along with *C. fissus/dalli*; the barnacle *Balanus glandula* was also present in the high tide zone. In the mid and low intertidal zones limpets (*Collisella limatula*), bay mussels [*Mytilus edulis* (=*galloprovincialis*)], oysters (*Ostrea conchaphilia*), sea squirts (*Styela montereyensis*) and *Styela plicata*), and the bryozoan *Zoobotryon verticillatum* were common-to-abundant. Encrusting sponges were also noted in the lower intertidal zone. Overall, this community exhibited signs of reduced

diversity as might be expected in a back channel area with reduced tidal currents. The following table identifies the Intertidal Invertebrates (MBC Survey, June 2006):

Table 4.3-1
Intertidal Invertebrates

Scientific Name	Common Name	Intertidal Zone	Relative Abundance
Porifera	**Sponge**	low	uncommon
halicilona sp.	sponge		
Cnidaria	**Anemones**	low to mid	uncommon
Anthropleura elangantissima	anemone		
Arthropoda	**Crustaceans**		
alanus glandula	barnacle	high	abundant
chthamalus fissus/dalli	barnacle	high	abundant
Mollusca-Gastrooda	**Snails-Nudbranchs**		
collisella limatula	finger limpit	high	common
diaululu sandiegensis	ring-spotted dorid	low	uncommon
Mollusca-Palecypoda	**Bivalves**		
chamaidae, unid	rock jingle	low to mid	uncommon
ostrea conchilcola	oyster	low to mid	uncommon
mytilus galloprovincialis	bay mussel	low to mid	common
Urochordata	**Tunicates**		
styela montereyensis	sea squirt	low	common
styela plicata	sea squirt	low	uncommon
Bryozoan (Ectoprocta)	**Moss Animals**		
zoobotryon verticllaturm	spagetti bryozoan	low	common

Subtidal Organisms Associated with Hard Substrates

Several species of algae and invertebrates were observed on the bulkheads, pilings, dock floats, the railroad track, and bottom debris that are common in Lower Newport Bay. Species observed during the survey included green algae (*Enteromorpha* sp. and *Ulva* sp.), brown algae (*Dictyota* sp.), unidentified red turf algae, sponges (*Haliclona* sp.), bay mussels,

compound ascidians (*Botryllus/Botrylloides*), and solitary ascidians (Ascidiacea unid. and *Styela montereyensis*).

Subtidal Soft Bottom Benthos

The subtidal bay bottom (benthic) environment consists primarily of silt and clay sediments. This habitat supports a community of organisms that live on the surface (epifauna) of, or within (infauna) these sediments. Epifaunal invertebrates observed by divers at depths between -0.6 m and -4 m MLLW included the hydroid *Corymorpha palma*, the cerianthid anemone *Pachycerianthus fimbriatus*, and *Timarete luxuriosa* and other terrebellid and cirratulid polychaete worms. Historically, the benthic infaunal community in this location had low numbers of species, but high abundance of a few species of invertebrates that reproduce well and out compete other species under stressed environmental conditions (Bernard and Reish 1959, CSWRCB et al. 1998).

Opportunistic species such as the polychaete worm *Capitella capitata* were common (Bernard and Reish 1959). The health of the benthic community in the Rhine Channel has improved only slightly between the early studies conducted based upon a comparison of the number of the pollution indicator species such as *Capitella capitata* (SWRCB et al. 1998).

Fishes

While several types of fishes are known to occur in the channels and in the vicinity of boat docks in Newport Bay (Horn and Allen 1979), only four species were observed during the field survey; the spotted bay bass (*Paralabrax maculatofasciatus*), opaleye perch *Girella nigricans*, topsmelt (*Atherinops affinis*), and a California halibut (*Paralichthys californicus*). A school of approximately 15 to 20 opaleye were seen underwater, congregated within and around wood debris and an empty barrel in Slipway 1. The flatfish was seen at a depth of -12 ft MLLW immediately outside the boat docks. A large school (numbering several hundred individuals) of topsmelt were observed in the intertidal area of Slipway 2 on June 27, 2006.

Species commonly associated with Newport Harbor include the arrow goby (*Clevelandia ios*), bay goby (*Lepidogobius lepidus*), California halibut (*Paralichthys californicus*), topsmelt (*Atherinops affinis*), black surfperch (*Embiotica jacksoni*), white surfperch (*Phanerodon furcatus*), shiner perch (*Cymatogaster aggregata*), and walleye surfperch (*Hyperprosopon argenteum*) (Horn and Allen 1979).

Sensitive Species

Eelgrass

Eelgrass is a marine angiosperm that forms meadows in mud-and-sand substrates of bays and wetland channels. In response to comments by the California Department of Fish & Game (CDFG) and the California Coastal Commission (CCC) (letters dated August 29, 2003 and August 21, 2003 presented in Appendix of this EIR), the area was surveyed for the presence of eelgrass as it is an important biological habitat for invertebrates and fishes. In Newport Bay, eelgrass grows in the lower intertidal and the shallow subtidal substrates at depths between 0.0 and -5 m, MLLW, although more commonly, at depths shallower than -2.5 m MLLW. It grows along the low intertidal and shallow subtidal fringes of the Harbor entrance channel, Balboa Island, Harbor Island, and the seawall on the west side of the channel between the Turning Basin and the Coast Highway Bridge, as well as in the lower portion of the Upper Newport Bay along De Anza Peninsula (MBC 1999, MBC 2004, Recon and MBC 2004).

An eelgrass survey was conducted according to the protocols promulgated in the Southern California Eelgrass Mitigation Policy (NMFS 1991). Eelgrass was not found during the December 2004 survey, nor was it found during the previous surveys by CRM in 2000. It is not currently known to occur in the Rhine Channel.

Caulerpa

Caulerpa is an invasive green algal species that is of concern to the resource agencies because of its potential to rapidly propagate and smoother other native biota as evidenced by the destruction this species caused in the Mediterranean Sea. It was also addressed by CDFG and CCC in their letters of August 29, 2003 and August 21, 2003, respectively. It has been found in an isolated lagoon in Huntington Harbor in Huntington Beach, California and in Agua Hedionda Lagoon in Oceanside, California. A thorough search at the surveillance level by a resource agency certified *Caulerpa* surveyor covering more than 20% of the bottom with a visual survey did not reveal any *Caulerpa* infestation (NMFS and CDF&G 2003).

4.3.2 Significance Criteria

Impacts to biological resources are considered significant when one of the following occurs (per Appendix G of the CEQA Guidelines):

- have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; or
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; or
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means; or
- 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; or
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan; or

4.3.3 Impacts

The habitats in the vicinity of the project site were analyzed to determine project impacts on marine resources. The habitats in the vicinity of the project site were analyzed to determine project impacts on marine resources. Impacts will result from the implementation of this project. These impacts include the removal of bulkheads, docks, and pilings, the dredging of a portion of the channel, the filling of a slipway, and indirect effects from turbidity in the water column caused by the construction.

Indirect Impacts to Habitat Due to Construction

Dredging Impacts Benthic Infauna and Fish

Dredging would remove sediments and associated benthic populations which are an important food source for many fish species and could increase turbidity if not conducted properly. Removal of bulkheads and pilings would also remove associated hard-substrate communities and habitat structure for fish from the water column. Adverse short-term impacts on benthic communities and fish populations would result from direct mortality of organisms, burial by settling of suspended sediments, arrested development, reduction in growth, reduced ingestion, depressed filtration rates, increased mucous secretion, and increased susceptibility to disease. However, these impacts would affect a very small portion of the harbor. Furthermore, over time the benthic communities would re-colonize both soft bottom and new hard substrate habitats, beginning immediately after dredging ceases and replacement of bulkheads and pilings occur. Previous studies (MEC 1988, SAIC and MEC 1996, MEC 2002) indicate that species composition over time would recover to mature communities similar to those present before the project. No permanent loss of most of the intertidal hard substrate or benthic habitat would occur. In addition, the small area to be dredged (200 ft^2) for the dock area would provide a positive contribution insofar as the Rhine Channel is known to be contaminated from a number of sources. The resulting dredge operation would permanently remove and sequester the contaminated sediments in the area to be dredged ultimately providing a healthier environment to begin recolonization of the epibenthic and infauna biota. This would occur as soon as dredging was completed, due to adult and larval intrusion from surrounding substrate. In summary, impacts from dredging will be limited in scope, short-term, and will be less than significant.

Turbidity Impacts

Although fish could be affected by turbidity as well as by the disruption and removal of habitat as a result of dredging activities, studies have shown that even large-scale channel dredging and landfill operations in nearby harbors in the 1980s and 1990s did not have long-term adverse effects on fish populations (MEC 1988, SAIC and MEC 1996). Noise and disturbance associated with project activities could have short-term adverse impacts on aquatic habitat, but because noise and disturbance from boat traffic and other activities in Newport Harbor are part of the ambient conditions, the project impacts on fish in the project

vicinity are expected to be temporary and minor. Turbidity would be minimized during project construction by following Best Management Practices (BMPs) such as berming the construction area to prevent runoff erosion to avoid decreases in water clarity. Turbidity will be controlled by the implementation BMPs and adherence to applicable permit requirements and regulations. Aside from stormwater runoff, there are no other anticipated sources of runoff resulting from the proposed project. In summary, all decreases in water clarity resulting from the construction and operation of the proposed project would be limited in scope, short-term, and will be less than significant.

Contaminants

Dredging operations could suspend contaminated sediments, thereby dispersing the contaminants into the water column. However, based on past dredge surveys, the extent and duration of the dredge plume, and the transport and availability of contaminants within the dredge plume, are expected to be very limited. Pre-dredge sediment evaluations and dredge water quality monitoring requirements imposed by the Santa Ana Regional Water Quality Control Board (SARWQCB) will ensure contaminant dispersal and potential effects on wildlife communities will be limited in scope, short-term, and will be less than significant.

Shading Effects

The area that will be shaded due to construction will be less than is presently shaded. A survey conducted for benthic biota did not reveal any significant amount of subtidal algae (most grew on the floats of the docks) and no eelgrass was found in the project vicinity nor has it been found in the Rhine Channel. A walkway that crosses Slipway 2 is sufficiently high over the water to minimize any shading effects as enough light will penetrate in the morning and afternoons to provide adequate light penetration for algal growth and its height will allow its use by marine birds as a resting space and also to provide feeding opportunities. Impacts due to shading effects will be limited in scope, short-term, and will be less than significant.

Direct Effects to Habitat Due to Construction

In response to the CDF&G and the CCC letters (August 21, 2003 and August 29, 2003) addressing concerns about the loss of benthic habitat and the design of the bulkhead, the project was redesigned to actually increase the overall amount of benthic habitat and the docks and floats were reconfigured to result in a net increase of open water habitat from that of the existing configuration. The net impact of the reconstruction of the waterfront will result in an increase in benthic bay bottom,

intertidal habitat, and open water habitat. In addition, contaminated sediments will be removed and water circulation will be increased in the area providing a more desirable habitat for marine species.

Benthic Bay Bottom

The project will result in the loss of bay soft bottom habitat. Removing Slipway 1 will eliminate about 765 ft^2 of this subtidal marine habitat. This is a permanent loss, is considered significant under CEQA and NEPA guidelines, and requires mitigation. However, the reconfiguration of the second slipway and widening to 35 ft (Figure 3) will result in the addition of over 926 ft^2 of new habitat and the removal of a portion of the existing outer seawall and moving it inland will create an additional 412 ft^2 of new bay bottom (Figure 2). In addition, moving the entire bulkhead 1.5 feet inland (as recommended by CDF&G) and extending the intertidal area an additional 14 ft inland will create about 926 ft^2 of new soft bottom habitat, resulting in the total creation of 1,986 ft^2 of new bay soft bottom (Figure 3). This is a net gain of 1,221 ft^2 of bay soft bottom (Table 4.3-2). No mitigation will be necessary for this impact to the biota from the project as it will be short duration and ultimately result in the creation of more habitat than originally disturbed reducing the impact to a level less than significant.

Open Water Habitat

The configuration of the docks of the proposed project cover 9,818 ft^2 of open water while the proposed plan will cover only 8,543 ft^2, an increase of 1,275 ft^2 from the elimination and reconfiguration of the docks (Table 4.3-2). The increase of 1,275 ft^2 of open water habitat will mitigate for the loss of habitat from the footprint of the new docks. Based on the creation of the new area, the impact of the project on open water area is reduced to a level less than significant.

Table 4.3-2
Type & Amount of Habitat Before and After Project Implementation

Habitat type	Before	After	Net loss or gain
Benthic bay bottom	765 ft^2	1,985 ft^2	+1,221 ft^2
Covered open water habitat	9,818 ft^2	8,543 ft^2	+1,275 ft^2
Hard substrate	5,621 ft^2	5,432 ft^2	-189 ft^2
Intertidal mud flat (Slipway 1)	765 ft^2	0 ft^2	-765 ft^2
Intertidal mud flat (Slipway 2)	1,450 ft^2	2,240 ft^2	+790 ft^2

Hardscape Habitat

The loss of about 107 linear ft of bulkhead, due to its location and the creation of additional area, results in the loss of only about 189 ft^2 of intertidal biota along the bulkheads. While the total area lost is small, it is a permanent loss and is considered significant based on CEQA and NEPA guidelines and will require mitigation.

When the marina concept was redesigned to address agency concerns, it resulted in the creation of an additional 1,275 ft^2 of open water area. Typically hard substrate is more valuable than open water habitat, the biological resources report recommends a 6 to 1 ratio to mitigate the loss of the 189 ft^2 of the degraded hard substrate by the addition of 1,275 ft^2 of open water habitat. The proposed project would also increase the amount of shallow soft bottom benthos by 1,221 ft^2. The biology report recommends that to mitigate the loss of intertidal mud flat by the addition of the 1,221 ft^2 of soft bottom benthos. The minor loss of hard substrate habitat is mitigated by the additional open water and the shallow soft bottom benthos created by the project resulting in an overall impact at a level less than significant.

Intertidal Mudflat Habitat

The project will result in the loss of 765 ft^2 of intertidal habitat at Slipway 1, but a slightly larger amount (790 ft^2) of habitat will be created in Slipway 2, resulting in an overall increase of about 25 ft^2. The loss in Slipway 1 is a significant and permanent loss requiring mitigation. The ideal mitigation is the replacement in kind with similar or better benthic habitat in Newport Harbor. The new project design results in an overall increase in area and an increase in the quality of the intertidal substrate. In addition, Slipway 2 currently supports a small patch of pickleweed. This pickleweed habitat could be restored to a more natural small salt marsh habitat by the addition of more pickleweed in the upper portion of the intertidal. This replacement of intertidal area with an in-kind creation of habitat and the proposed restoration of the small mudflat as mitigation will more than compensate for the loss of the heavily degraded habitat of Slipway 1. Implementation of this proposed plan will reduce the impact on the intertidal mud flats to less than significant.

The biological resources report prepared by MBC Applied Environmental Sciences identified that an impact to the aquatic habitat and biota and fauna that live in or associate with the habitat, would be considered significant if the following are found to be impacted:

Substantial loss of an aquatic habitat
The project will cause a loss of aquatic habitat; however, the project design results in an increase in overall aquatic habitat

Substantial loss of individuals, or the reduction of existing habitat, of a state- or federally-listed endangered, threatened, rare, protected, candidate, or sensitive plant or animal species or a Species of Special Concern.
There are no endangered, threatened, rare, protected, candidate, or sensitive plant or animal species or a Species of Special Concern in the area proposed for renovation.

Substantial loss of individuals or the reduction of existing habitat of a locally designated species or a reduction in a federally-, state-, or locally-designated natural habitat or plant community, including alteration or loss of an existing wetland habitat.

There will be a loss of wetland habitat from this project; however, it will be mitigated by the creation of equal amount of habitat on site as detailed below.

Interference with or alteration of habitat such that normal species abundance or behaviors are disturbed (e.g., from the introduction of noise, light, pollutants) to a degree that may diminish the chances for long-term survival of a sensitive species or causes measurable changes in ecological function within a localized area.
There will be no impacts to the long-term survival of any sensitive species nor will there be any measurable changes in ecological function within the project area.

Introduction of non-native species into the harbor.
There will be no potential for an introduction of non-native species from this project.

Interference with wildlife movement/migration corridors that may diminish the chances for long-term survival of a sensitive species.
There will be no potential for interference with wildlife movement or migration corridors which might jeopardize the survival of any sensitive species from this project.

Impacts of this project to the marine environment appear to result in a positive effect on the marine environment by replacement of most of the existing habitat with habitat of equal or greater value than that disturbed during the course of the project. The existing boat slipways were surveyed and found to be depauperate in species probably due to their location in a dead end channel and the contaminants that are known to reside there. The impacts to the biota from the project are expected to be short term as most of the biota of the intertidal community are species such as compound ascidians, barnacles, mussels, limpets, and oysters with swimming larval forms that will readily colonize new substrate. Intertidal and subtidal algae such as Ulva and Enteromorpha are very fast

growing and will readily attach to the new substrate. Other species such as nudibranchs and fish will swim free of the construction area and recolonize the habitat once construction is complete. Disturbances to the substrate in areas outside of the construction areas will have minor effects on polychaete worms, but they too will readily recolonize disturbed areas, so the loss to the infauna will be relatively small, short term in duration, and the impacts are, therefore, considered less than significant.

4.3.4 Mitigation Measures

MM 4.3.4-1: *Prior to issuance of a grading permit, a survey will be conducted for the presence of eelgrass and Caulerpa. The biological assessments conducted by CRM and MBC indicate that neither species is present in the project locations, but it is required that not more than 90 days nor less than 30 days prior to initiation of actual construction that both eelgrass and Caulerpa surveys be conducted in September or October, in which case the results are relevant until the following growth period beginning in March. In no case, will an eelgrass or Caulerpa survey conducted from November to February (non-growth period) be acceptable.*

MM 4.3.4-2: *Prior to the issuance of any Certificates of Use and Occupancy, the project applicant shall implement the recommended mitigation pertaining to the replacement and restoration Pickleweed and the mudflat area presented in the biological resources report prepared by MBC Applied Environmental Sciences.*

4.3.5 Level of Significance After Mitigation

With implementation of mitigation (preservation and restoration of the slipway), all potential impacts relative to biological (marine) resources will be reduced to a less than significant level.

4.4 CULTURAL RESOURCES

The information and analysis presented in this Cultural Resources section of the EIR is based on the cultural resources (archaeological and paleontological) assessments dated August 29, 2005 and September 2, 2005, respectively, by Archaeological Resource Management Corporation. In addition to these studies, an historical resource assessment dated October 2005 was prepared by LSA. The studies are provided in the Technical Appendices to this EIR (Volume II, Appendix C). These assessments are herein incorporated by reference.

4.4.1 Environmental Setting

a. Archeological Resources

The project area (USGS Newport Beach 7.5' Quadrangle, Section 33, Township 6S, Range 10W) is located is located along Newport Boulevard, 21st Street, 22nd Street, and the Rhine Channel in the City of Newport Beach. The area is completely developed, consisting of either commercial buildings, pavement (asphalt, brick, or wooden planks), or landscaping. There is no native vegetation present. In prehistoric and early historic times, the area was marshland. Native plant communities would have consisted of salt marsh varieties, such as prairie bulrush, iceplant, Parish's pickleweed, halberd-leaved saltbush, and sea blite. A detailed description of the prehistory, ethnohistory, and historical overview is provided in the Archeological Assessment prepared by ARMC presented in Appendix C of this EIR.

Records Search Results

ARMC conducted a records and literature search at the SCCIC. The results were that only one archaeological study had been carried out in the project vicinity and no sites were recorded. A check of the listings of historic resources for the National Register of Historic Places did not reveal any listings within a ¼-mile radius of the property. The State of California, Department of Parks of Recreation, listings included a State Historical Landmark, No. 794, McFadden Wharf, within a ¼-mile radius. The original wharf was built in 1888 by the McFadden brothers as the western terminus of their Santa Ana and Newport Railway. The wharf was the primary conduit for lumber and other goods that were necessary for the development of Orange, San Bernardino, and Riverside counties from 1891 to 1907. The actual location is at Newport Pier, southeast corner of W. Oceanfront and McFadden Place.

A check of the historic USGS topographic map of the Newport Beach area (Santa Ana 30' quadrangle, 1896) revealed that the project area was then a marsh. The Santa Ana and Newport Railway had its western terminus at McFadden Wharf roughly ¼-mile from the study area. There was light development around the wharf. By 1901 (Santa Ana 15' quadrangle), the project area was still marshland. The Southern Pacific Railroad (Smeltzer Branch) connected with the Santa Ana and Newport Railway just to the northeast of the wharf. The area surrounding the wharf was still only lightly developed.

A check of the historic resource listings at the federal level did not disclose any listings within a ¼-mile radius of the project area. The Historic Resources Inventory (HRI) for the State of California, Department of Parks and Recreation lists a State Historical Landmark No. 974, the McFadden Wharf, within a ¼-mile radius of the study area. It is located at Newport Pier, at the southeast corner of West Oceanfront and McFadden Place in Newport Beach.

Field Survey and Results

The area is completely developed and is covered by either commercial buildings, pavement (asphalt, bricks, or wood planks), or landscaping throughout. No native vegetation or soil was available for inspection. No evidence of prehistoric occupation was observed during the field walkover survey.

b. Paleontological Resources

The evidence from the field survey strongly suggests that the entire parcel is underlain by artificial fill placed along the northwestern margin of Newport Bay earlier in the 20th Century. It is possible that organic material may be encountered during earth-moving activities that penetrate this fill, but it is out of geologic context and of no value to the scientific community. This paleontology report presents the results of a record and archival search and a field survey. The purpose of the report is to provide an assessment of potentially significant fossil resources that might occur on the parcel.

One sedimentary unit underlies the proposed project area. The entire parcel appears to be underlain by artificial fill placed at this site during the development of Newport Bay. This unit is mapped as either Quaternary alluvium, colluvium or as artificial fill. The latter is the most accurate term applied to the deposits that underlie the study parcel.

Quaternary Alluvium –Artificial Fill (Qal, Qac, Qya)

The deposits underlying the asphalt and structures at the corner of 21st Street and Newport Boulevard in Newport Beach is mapped as Qal (Vedder, Yerkes and Scheolhamer, 1957; Rogers, 1965), Qac

(Morton and Miller, 1973, 1981), and Qya (Yerkes and Schoellhamer, 1976). Vedder and others (1957) indicate on their map of this region of Orange County that deposits mapped as Qal are Holocene in age and consist of alluvium, beach sand and artificial fill. On the other maps cited these deposits are mapped as Holocene alluvium or colluvium, bounded on the west by Qb (Holocene beach sand). Based upon the proximity of Lido Isle (mapped as Quaternary alluvium), a man-made island composed of artificial fill dredged to develop Newport Bay, it is assumed that the eastern edge of Newport Beach near the pier is composed of dredged mud and sand that has been converted to useable land for Newport and Balboa Beach.

The Holocene to historic age of this region of Newport Beach is supported by statements made by Vedder (1970:3) where he indicates that all the mouths of the principal drainages including the Santa Ana River at Newport Bay are drowned as a result of a post-Wisconsin rise in sea-level (latest Pleistocene) and that the incised channel at Newport Bay is as much as 123 feet below sea level near the upper bay. This indicates that the sand spit that forms the beach along the western edge of Newport and Balboa beach and associated deposits on the western margin of Newport Bay are of Holocene or historic age and are not old enough to contain fossils. "Fossil" material of late Pleistocene age may be present in artificial fill dredged to form Newport Bay, but such specimens are not of value to the scientific community as their provenience and stratigraphic context is unknown.

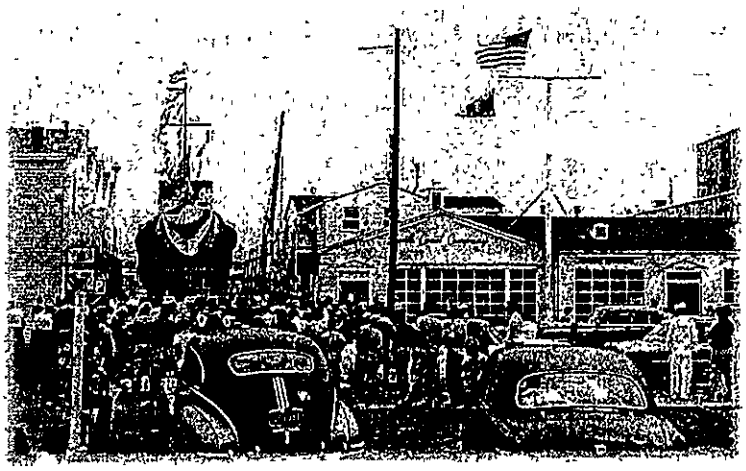
C. Historical Resources

LSA conducted a historical resource assessment of the South Coast Shipyard. This study was undertaken to determine whether historical resources are present within the South Coast Shipyard project area and to evaluate their importance under the provision of CEQA (as amended January 1, 2004): PRC, Division 13 (Environmental Quality), Chapters 2.6 §21083.2 (Archaeological Resources) and 2.6 §21084.1 (Historical Resources) and the Guidelines for CEQA (as amended December 1, 2003), CCR Title 14, Chapter 3, Article 5 §15064.5 (Determining the Significance of Impacts on Historical and Unique Archaeological Resources). In addition, the project area was assessed for significance in accordance with the City of Newport Beach's Landmark Buildings Ordinance, Chapter 20.62-7 of the Planning Code. Sites determined to be important under CEQA are considered eligible for listing on the California Register.

The South Coast Shipyard consists of three groups of industrial and office buildings that total 43,500 square feet of space. These architectural resources were built between 1926 and 1938. The project area also consists of a commercial marina, two boat slipways, and parking lots. The proposed project would require demolition of these existing.

South Coast Shipyard Historical Background

In November 1926, Harry J. Bauer began construction on a new boatyard on Balboa Peninsula. Bauer was a wealthy Southern California attorney who later became the president of the Automobile Club of Southern California (1931) and president of Southern California Edison (1932). Bauer was an established yachtsman who wanted his own boatyard to maintain and repair his yacht. He purchased Lots 1 and 2 of the newly subdivided Tract No. 814 for the sum of $25,000. The tract was located on the Balboa Peninsula, along West Central Avenue (Newport Boulevard) between 22nd and 26th Streets (County of Orange Assessor, Felton 1981:210, *Los Angeles Times*, Dec. 5, 1926).



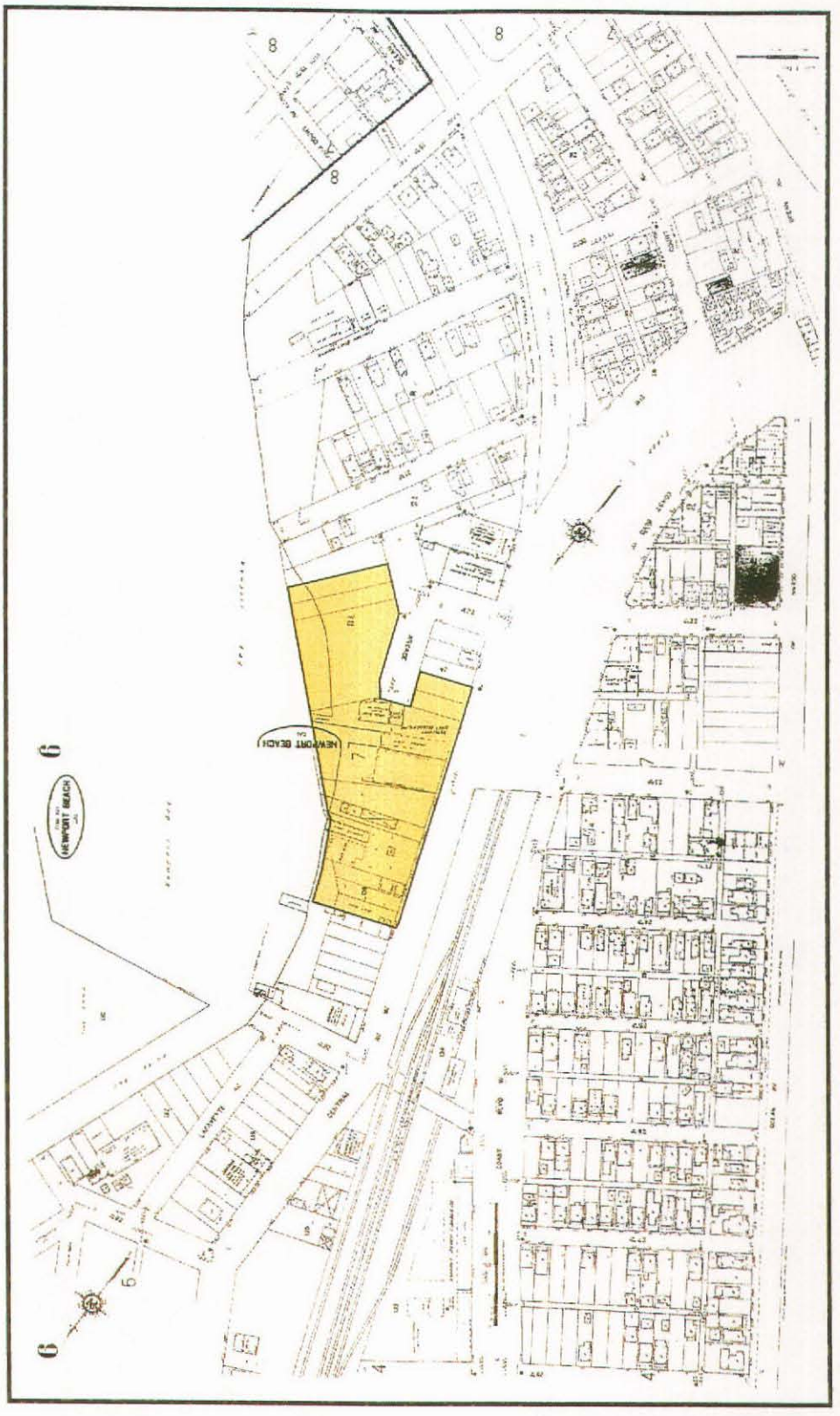
Bauer entered into partnership with local Newport Beach resident and boat builder, Ben Cope. Cope set about designing and constructing the new shipyard at a cost of $22,000. Two buildings were constructed on the property: a large warehouse and a machine shop. Operating under the name Better Boats, Inc., it was one of the largest boatyards built at the time, with the ability to handle construction of yachts over 100 feet in length. The warehouse was designed to be 80 feet by 100 feet in ground dimensions with walls approximately 20 feet in height. Special ways leading into the bay were added so that the shipyard could accommodate the largest boats entering Newport Harbor (*Los Angeles Times*, Dec. 5, 1926). Twenty-five men worked continuously on the new shipyard until it was completed in March of 1927. Cope doubled his workforce when the shipyard was finished, as he already had contracts to construct three new boats (*Los Angeles Times*, March 6, 1927).

The first boat to be constructed at the new shipyard, a 26-foot runabout, was built for George D. Hoffman of Los Angeles (*Los Angeles Times*, March 27, 1927). Although the new shipyard was an immediate success, the partnership of Cope and Bauer was short-lived. Upon completion of the project, Bauer sold his interest in the business to Cope. Cope quickly grew tired of the business himself, and on April 15, 1928, sold his interests to Charles Lockard and Frank Rhinehart. Lockard was a former owner of the Seattle baseball club and an associate of William Wrigley, Jr. (*Los Angeles Times* Oct 7, 1928). Rhineheart had previously operated the Balboa Motion Picture Company and worked for the Gas Company, later becoming a superintendent. Lockard and Rhinehart began operating the business as the Newport Boat Builders, Inc. (Sherman 1931:67, 124-125)

Three months after purchasing the property, Lockard and Rhineheart entered into partnership with earthworks contractors, Sparks and McCellan, who owned a suction dredger, referred to as *Little Aggie*. By November, the group was securing several large boat-building and dredging contracts within Newport Bay. They made several improvements to the shipyard, including the addition of a new marine way between the shipyard's two buildings. Lockard and Rhinehart later sold their interest in the company to Sparks and McCellan. By 1930, the Newport Beach Boat Builders was one of the largest shipyards in Newport Beach, despite the high turnover in ownership during its short existence. The company boasted an annual payroll of $80,000 and secured some of the largest contracts in the bay.

In 1933, the shipyard was purchased by the Hubbard family. The owners incorporated, and the name of the business was changed to the South Coast Boat Building Company. The company was operated by several members of the Hubbard family, including Dr. Walton Hubbard, Sr. and two Lewellan brothers (of Lewellan Steel), who were cousins of the Hubbards. Walton Hubbard, Jr. was the general manager of the company. Hubbard Jr. was a noted sailor, a member of the Newport Harbor Yacht Club, and winner of the International Star Boat competition in 1927 (Felton 1981:211). Following the change of ownership, the new owners made several additions to the property. They purchased the adjacent parcels, Lots 3 through 9 of Tract No. 814. A new warehouse was constructed in 1933. Several new offices, shops, and a foundry also were built during the 1930s. Later, the company expanded again and purchased Lots 10 through 14.

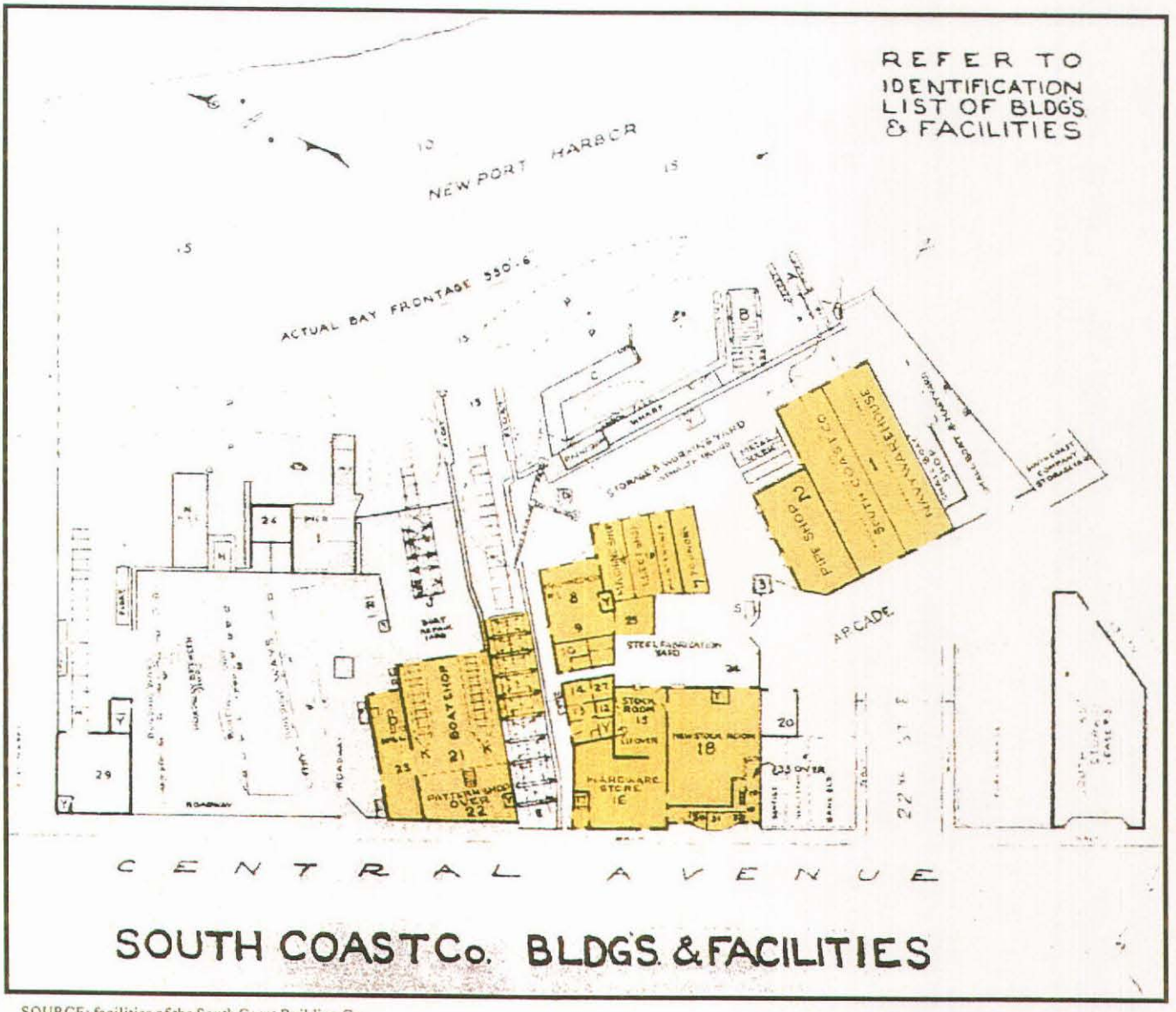
Exhibits 4.4-1 through 4.4-3 are historical maps and photos of the shipyard from year 1929 to 1945.



SOURCE: Sanborn Fire Insurance Co.

1929 Sanborn Map

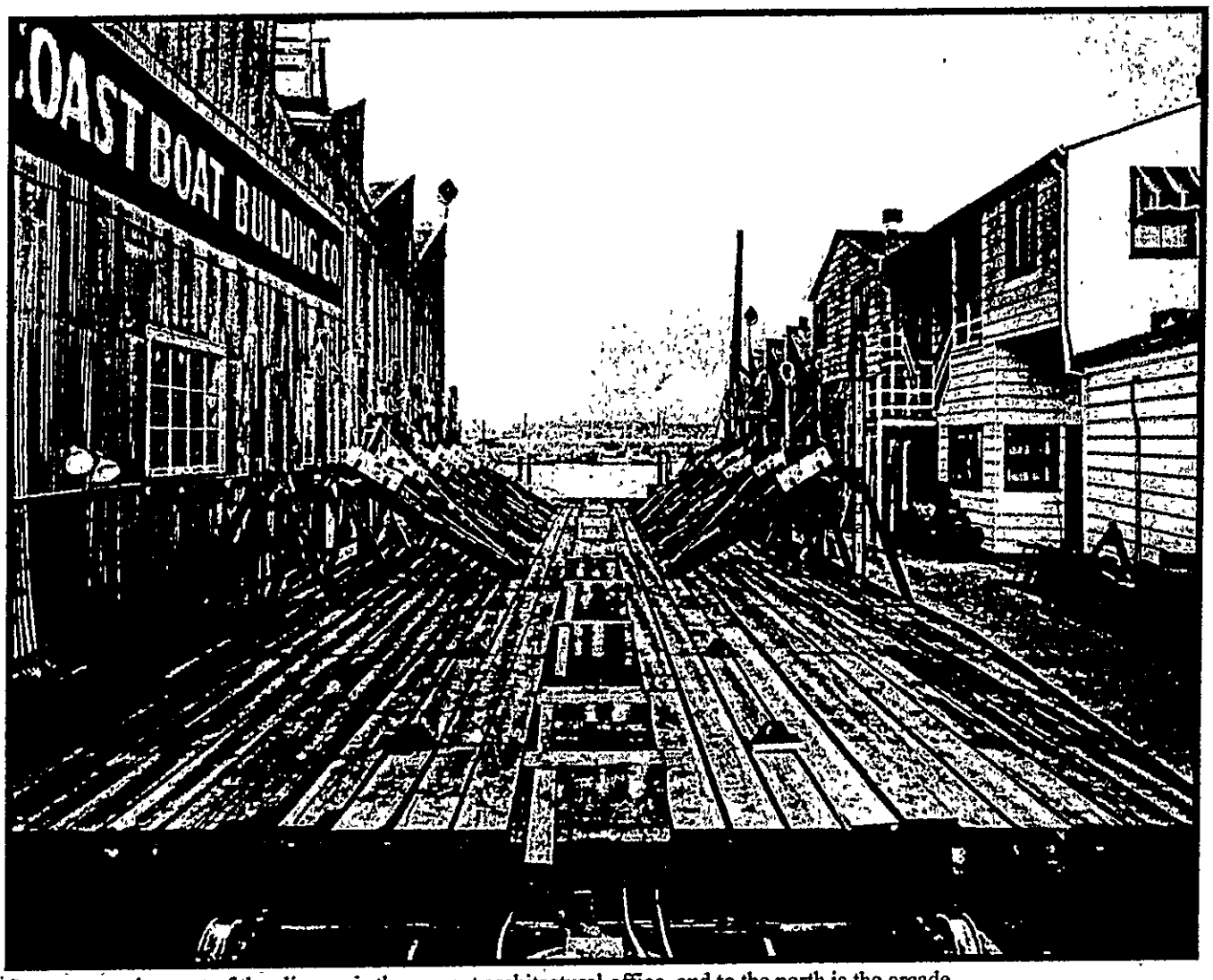
EXHIBIT 4.4-1



SOURCE: facilities of the South Coast Building Co.
on file - Sherman Library, Corona Del Mar, California

1945 South Coast Co. Buildings and Facilities

EXHIBIT 4.4–2

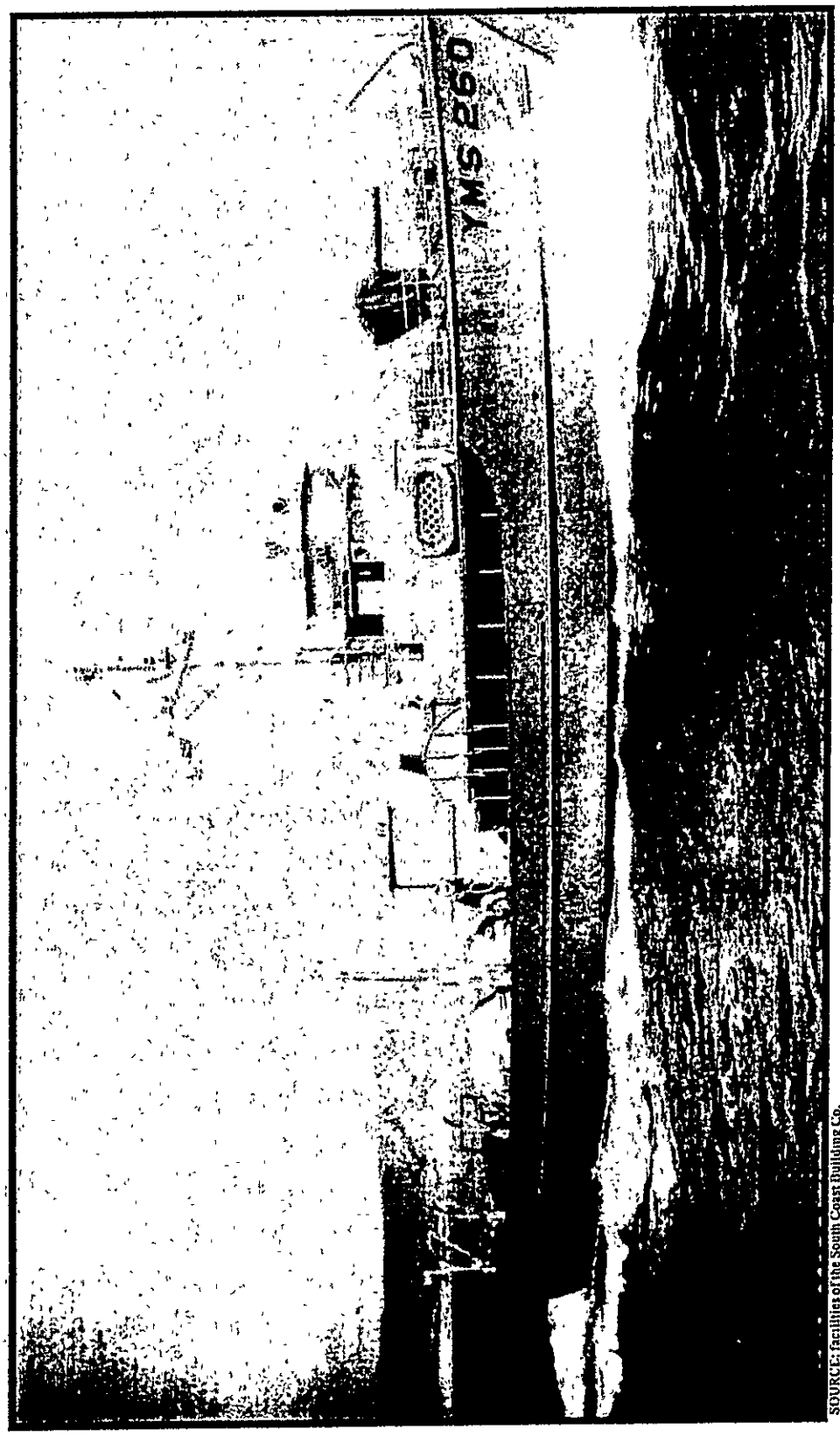


Structure on the west of the slipway is the current architectural office, and to the north is the arcade.

SOURCE: facilities of the South Coast Building Co.
on file - Sherman Library, Corona Del Mar, California

1942 View North of South Coast Co.

EXHIBIT 4.4-3



SOURCE: facilities of the South Coast Building Co.
on file - Sherman Library, Corona Del Mar, California

Photo of Minesweeper Boat

EXHIBIT 4.4-4

In 1936, nineteen new boat slips and approximately 250 feet of new ocean frontage were added to the shipyard. In 1938, a new Art Deco Style showroom was built at the Arcade, and a pipe shop was built next to the warehouse (Orange County Assessor, Felton 1981:211).

The South Coast Boat Building Company maintained the shipyard's high reputation, building custom yachts and race boats for Southern California's wealthy citizens. The larger vessels built at the shipyard ranged from 70 to 150 feet in length. Some the most famous race boats they built include the *Wayfarer*, built by Ed Carpenter, and the *Vagabundo*, built for Louie Cass. Other types of boats they built included Star Boats (Star Class), Snowbirds, and Rhodes Class. Smaller vessels were also constructed at the shipyard, ranging in size from 16–30 feet in length; these were built on a production line basis. In addition to building boats, the company maintained and repaired boats. The company also manufactured its own line of marine hardware supplies, which it sold nationally (Felton 1981:211, South Coast Company 1942).

Shortly before the U.S. entered into World War II, the South Coast Boat Building Company began working on contracts for the U.S. Navy, building and repairing boats for the war effort. During this time, the company expanded from 150 to 1,000 employees. The company first received contracts to convert tuna boats into mine sweepers, towing the boats down from San Pedro (Felton 1981:211). Later, they were awarded contracts to build "Wherries" picket boats, 110-foot sub chasers, 45- and 63-foot aircraft rescue boats, and 47- and 135-foot mine sweepers (*Los Angeles Times*, January 3, 1944). By 1942, nearly 100 percent of the Company's work force was devoted to government contracts, building, repairing, and converting an array of war craft for the U.S. Navy and Army (Exhibit 27) (*Los Angeles Times*, Dec 25 1951, South Coast Company 1942).

The South Coast Shipyard was the first west coast shipbuilder to receive the Navy "E" flag for excellence from the U.S. Navy, which is the highest award granted to a wartime shipyard. Given to only a few companies during World War II, the company received this honor six times (South Coast Company 1942, Felton 1981:212-213).

After World War II, the shipyard again began to construct pleasure craft and fishing boats. However, the company continued to secure U.S. Navy contracts well into the 1950s, supplying the Korean War effort. In late December 1951, the company announced it had received a multi-million dollar contract to construct six new AMS 60-class minesweeper boats. Each minesweeper boat measured over 144 feet long, with a wooden hull, and cost $1M to construct. Earlier that same month, the company secured a Navy contract to build five MSB 5 class ships (*Los Angeles Times*, Dec 25 1951).

The South Coast Shipyard remained a successful shipbuilding plant until it was sold in 1964 to a pool company (Felton 1981:213). For nearly nine years the shipyard remained relatively unused until local architect William E. Blurock purchased the property. Blurock chose to keep the existing structures intact, using the 1926 warehouse as the office of his architecture design firm. The remaining buildings within the shipyard were converted for use as retail and office space.

Methodology

Records Research

A historical resource record search was conducted at the SCCIC of the CHRIS, located at California State University, Fullerton; it included a review of all recorded historic and prehistoric archaeological sites and of known cultural resource survey and excavation reports within one-half mile of the facility. In addition, LSA examined the National Register, California Register, California Historical Landmarks, and California Points of Historical Interest. The Historic Properties Directory (2005) was also inspected for the address of the South Coast Shipyard.

Archival Research

Archival research for the South Coast Shipyard focused on examining historic maps, City directories, written histories, and previous reports on the history of the area. The following repositories, publications, and individuals were contacted to identify known historic land uses and the locations of research materials pertinent to the project area:

- Office of the Orange County Clerk-Recorder, Archives Division, County of Orange
- Office of the Assessor, County of Orange
- City of Newport Beach, Department of Building and Planning
- Newport Beach City Directories, 1930s–1950s
- Phil Brigandi, County Archivist, County of Orange.
- Newport Beach Public Library, City of Newport Beach
- California Heritage Room, Santa Ana Public Library, Santa Ana, California
- Sherman Library, City of Newport Beach
- Sanborn Fire Insurance Maps
- Other miscellaneous publications as noted in the Bibliography

Records Search

Results of the record search indicate that there are no previously recorded cultural resources within the South Coast Shipyard project boundaries. There are no properties listed on the National Register,

California Register, California Historical Landmarks, or the California Points of Historical Interest within the project area. In addition, the project area is not listed in the Historic Properties Directory (2004). Three cultural resources are located within one-half mile of the facility. The closest resource, the McFadden Wharf (State Historic Landmark #794), is located 800 feet south of the project area. Research conducted at the City of Newport revealed that in 1974, the South Coast Shipyard was identified as a historical landmark by the Newport Beach Historical Society. In 1992, the Ad Hoc Historic Preservation Advisory Committee conducted a Historic Resources Inventory for the City of Newport Beach. The South Coast Shipyard was identified as a local historic site, representing historic/architectural themes of local importance.

Field Survey

The purpose of the field survey was to identify any historical resources that may be impacted by the proposed project. The field survey consisted of a visual inspection of all the buildings and structures within the shipyard. The buildings were photographed and documented on State Department of Parks and Recreation (DPR 523 Series) Primary and Building, Structure, and Object Forms. Architectural Historian Judith Marvin evaluated the buildings for listing in the California Register and assessed the potential impacts of the proposed project to the buildings. Digital photographs and notes recording the general condition of the property were taken during the survey.

Field Survey Results

The South Coast Shipyard is comprised of three groupings of buildings that total 43,500 square feet of space. Photos of the existing buildings are shown in Exhibits 4.4-5 through 4.4-9. The buildings within the shipyard were built between 1926 and 1938 and consist of the following architectural resources and features: (1) a boat shop, mill, and slipway; (2) The Arcade: a complex of industrial and office buildings and a boat showroom; and (3) a pipe shop and warehouse.

Boat Shop, Mill and Slipway

There are two conjoined buildings (a boat shop and a planning mill) and a marine slipway located in the northwestern corner of the shipyard. The two-story boat shop was built in 1926 by Ben Cope. The building is rectangular in plan and rests on a concrete foundation. The roof consists of a series of five corrugated metal clad sawtooth projections, each featuring a band of clerestory windows on the east, vertical plane. The original wall claddings of corrugated sheet metal and clapboard siding are still partially visible on the west, east, and south elevations. The primary western facade is partially clad in new wooden shingles and

View to the east of the warehouse and pipe shop.

View to the south of the warehouse and pipe shop.

View of Existing Warehouse

EXHIBIT 4.4-5

View to the west of the foundry and shops.

View to the south of the center of the arcade.

View of Existing Shops and Arcade Area

EXHIBIT 4.4–6

View to the south of the machine shop.

View to the southwest of the offices.

View of Existing Machine Shop and Offices

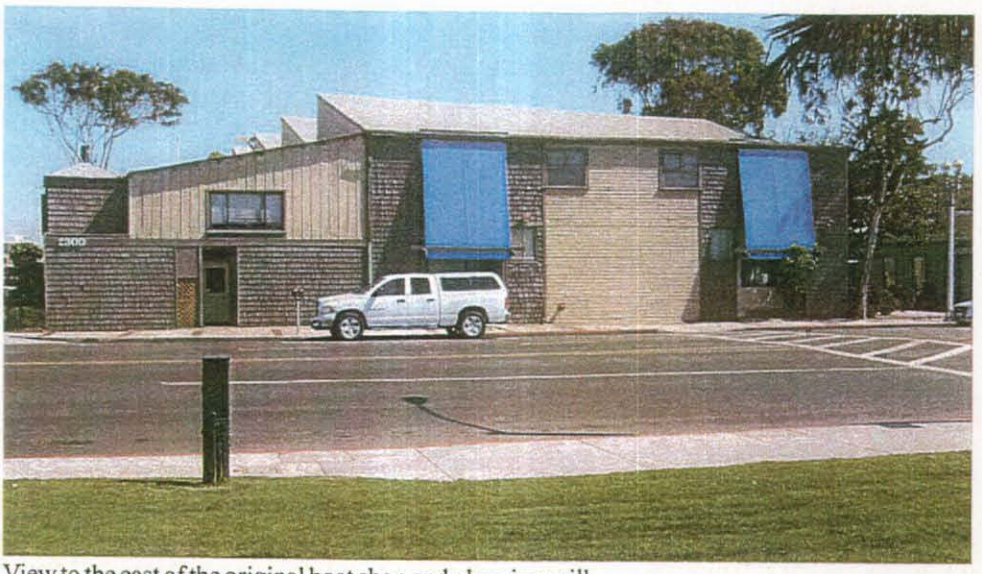
EXHIBIT 4.4-7

View to the east of the hardware shops.

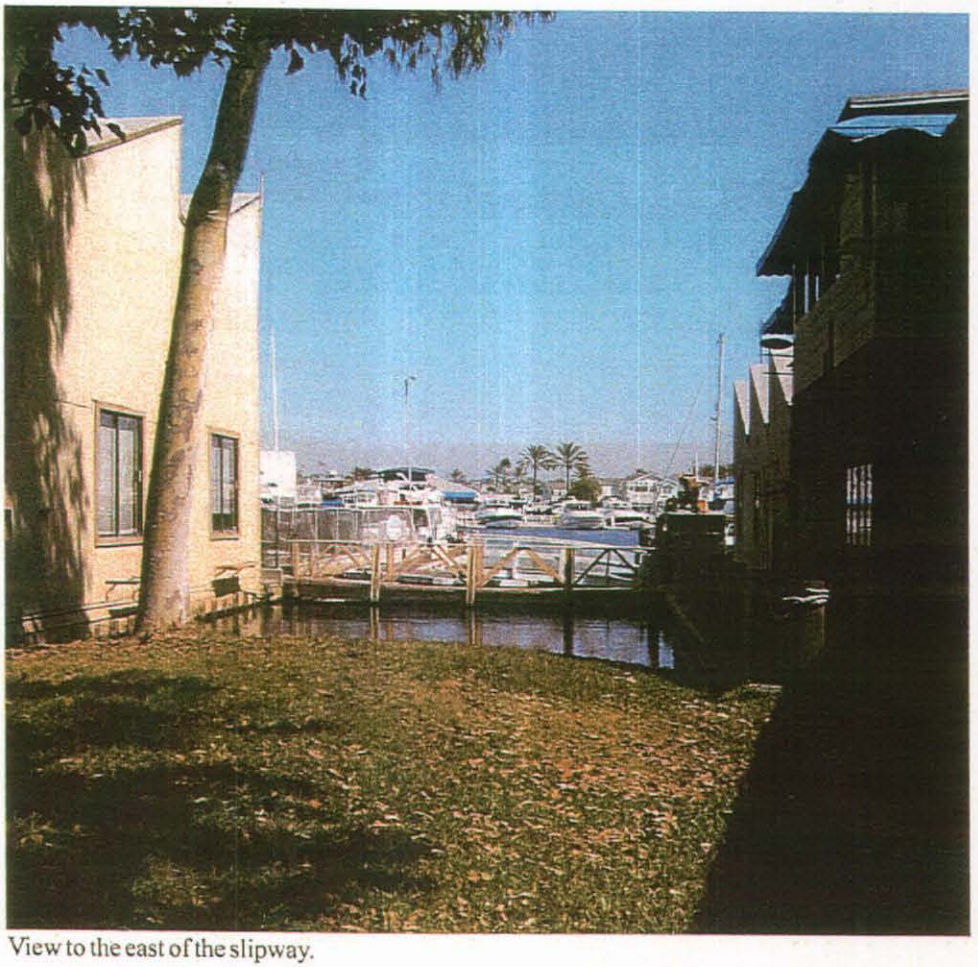
View to the east of the boat showroom.

View of Existing Hardware Shops and Boat Showroom

EXHIBIT 4.4–8



View to the east of the original boat shop and planning mill.



View to the east of the slipway.

View of Existing Boat Shop and Slipway

EXHIBIT 4.4-9

clapboard siding. Fenestration consists of wooden sash and modern metal slider windows. Two 2/1 wooden sash windows are located on the second story of the primary facade. The original main entrance on the primary facade was boarded over, leaving no entrance from the street.

To the south of the original boat shop building are the remains of the slipway, which was constructed in 1926. The slipway originally contained a wood plank dock, which was used to repair and maintain the boats that entered the quay from the bay. The boat dock no longer remains, and part of the quay has been filled in and landscaped. A metal plaque indicating that the site was the location of the "South Coast Boat Building Co., 1933–1964" is mounted here.

Adjacent to the boat shop is the planning mill, constructed in 1938. It has a flat, lean-to roof clad in corrugated metal with exposed rafters. It has a rectangular plan and rests on a concrete foundation. The walls are clad in horizontal wood and vinyl siding. Fenestration consists of several original wooden frame sash and metal frame windows. In 1975, the planning mill and adjacent boat shop underwent major alterations. The buildings were joined together and converted for use as an architectural office. A main entrance was created on the northern elevation of the mill; new steel frame windows were added and the walls were clad in wood shingles. The boat shop and planning mill were originally given street addresses of 2300 and 2302 Newport Boulevard, respectively. Both buildings face southwest toward Newport Boulevard.

The Arcade

The Arcade is a U-shaped group of conjoined buildings built between 1926 and 1938. This cluster of buildings, located to the south of the boat shop, feature varying architectural styles. Originally these buildings were used as workshops, offices, and showrooms for the South Coast Shipyard. These buildings are now used for retail and office space.

Located to the south of the slipway, facing west toward Newport Boulevard, is the boat hardware shop, built between 1933 and 1938 and converted into two retail buildings in 1958. The one-story shops feature elements of the Colonial Revival Style. These buildings have gabled roofs clad in composition shingles. Wall cladding consists of horizontal tongue-in-groove siding.

The shop front directly adjacent to the slipway also features an addition of cobblestone wainscoting. Fenestration consists of wooden frame multi-light windows and steel frame sash windows. Both buildings face west toward Newport Boulevard.

Adjacent to the hardware/retail shops is the South Coast Shipyard boat showroom (Figure 11). This two-story Art Deco building was built in 1938 by the South Coast Boat Building Company to display the boats sold by the company. The building is rectangular in plan and has a reinforced concrete foundation. It has a flat roof and walls clad in smooth stucco. Designed with a nautical theme, the primary west facade features wood doors on each end of the building. These doors have rounded edges and central window panes, similar to those found on ships. Above both doors on the primary facade, there are two bands of decorative moldings, designed to look like the rivets featured on the outside hull of a ship. A small round window is featured above this door between the bands of moldings. Between the doors there is a ribbon of curving vertical steel frame windows. Above these windows there is a curving metal lattice that features panels of downward curving bars, designed to look like the railing on a ship. According to building permit and assessor records, the building was altered in 1954. The building faces west toward Newport Boulevard, is in good condition, and retains integrity.

To the east of the hardware/retail shops are the machine shop and offices. The office building, built between 1933 and 1938, is two stories and features elements of the Colonial Revival Style. It has a gabled roof with extended eaves clad in rolled composition roofing. The walls are clad in wood shingles on the first story and horizontal wood siding on the second story. Fenestration consists of wooden frame multi-light casement and sash windows, hung in ribbons of two and three. Several original windows have been replaced with aluminum sliders. A single-story lean-to addition is located on the western facade. The office building is joined to the eastern elevation of the hardware shops and faces north towards the slipway.

The original machine shop is located to the east of the office building. It was built in 1926 by Ben Cope. The building is rectangular in plan and rests on a concrete foundation. Similar to the original boat shop also built by Cope, the machine shop has a sawtooth roof consisting of a series of three corrugated metal clad projections. Each projection features a band of clerestory windows on the east vertical plane. The building is clad in corrugated sheet metal. Fenestration consists of 1/1 wooden sash and modern metal slider windows. The eastern

facade has been substantially altered; the walls are clad in wood paneling, and the original doors were replaced with residential sliding glass doors. The machine shop faces towards Newport Bay.

To the south of the machine shop, on the eastern side of the Arcade, are the foundry and shops, built between 1933 and 1938. These two- and one-story buildings were built in a Maritime Vernacular Style. The walls are clad in corrugated sheet metal. Fenestration consists of wood frame, multi-light fixed, casement, and sash windows, hung in ribbons. Several original windows have been replaced with aluminum sliders. Along the western elevation of the building there is a row of single-story additions that are now used for retail/office space. The foundry and machine shops face west, toward the interior courtyard of the Arcade. Originally a paved street, and later used as the steel fabrication yard, the Arcade is now a landscaped courtyard. A large tree enclosed in a brick planter is located in the center of the Arcade, and the floor is lined with brick. To the east of the foundry and machine shops is Newport Bay.

Warehouse and Pipe Shop

Located to the south of the Arcade buildings are the warehouse and pipe fabrication shop. The warehouse is a three-story building with a rectangular plan and a concrete foundation. Built in 1933 by the South Coast Company, it is similar in construction to the original boat shop and machine shop. The warehouse has a sawtooth roof featuring eight corrugated metal clad projections. The walls are also clad in corrugated metal. Fenestration consists of wooden frame sash and modern metal slider windows. The eastern facade features floor-to-ceiling ribbons of metal frame fixed windows.

The original doors on this facade were replaced with metal frame sliding glass doors. The northern elevation had the words "Crow's Nest" painted on the wall. The warehouse is joined to the southern elevation of the pipe shop and faces west toward the Arcade entrance.

Located to the north of the warehouse is the pipe shop, built in 1938. The two-story building is rectangular in plan and rests on a concrete foundation. The pipe shop also has a sawtooth roof, consisting of two corrugated metal clad projections. Each projection features a band of clerestory windows on the north vertical plane. The building is clad in corrugated sheet metal. Fenestration consists of wooden frame multi-light fixed and sash windows. Several original windows have been replaced with aluminum sliders. The northern elevation features large metal bay doors. The

western facade was substantially altered in 1950; the walls are clad in decorative wood paneling and feature two shop fronts. The original doors were replaced with Dutch doors. The pipe shop faces west toward the Arcade entrance. To the east of the pipe shop is Newport Bay.

4.4.2 Significance Criteria

Impacts to cultural resources are considered significant when one of the following occurs:

- The project would cause a substantial adverse change in the significance of a historical resources (as defined per Section 15064.5 of the CEQA Guidelines); or
- the project would cause a substantial adverse change in the significance of an archeological resource; or
- the project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature; or
- the project would disturb any human remains, including those interred outside of formal cemeteries.

In regards to historical resources, the buildings within the South Coast Shipyard were evaluated to determine whether they are eligible for listing in the California Register. The State administers historic preservation programs through the Office of Historic Preservation in the Department of Parks and Recreation. The California Register, adopted in 1992, is the "authoritative guide to be used by State and local agencies, private groups, and citizens to identify the State's historical resources and indicate which properties are to be protected, to the extent prudent and feasible, from substantial adverse change."[1]

California Register of Historical Resources

The California Register criteria are based on National Register criteria. California properties that meet these criteria may be listed in the California Register. For a property to be eligible for inclusion on the California Register, one of the following criteria must be met:

[1] Title 14, State Historical Resources Commission, Regulations for the Nomination of Historical Resources to the California Register of Historical Resources.

1. It is associated with the events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States
2. It is associated with the lives of persons important to local, California, or national history
3. It embodies the distinctive characteristics of a type, period, region, or method or construction, or represents the work of a master, or possesses high artistic values
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation

In addition to meeting one or more of the above criteria, the California Register requires that sufficient time has passed since a resource's period of significance to "obtain a scholarly perspective on the events or individuals associated with the resource." Fifty years is used as a general estimate of time needed to develop the perspective to understand the resource's significance (CCR 4852 [d][2]).

The California Register also requires that a resource possess integrity, which is defined as the authenticity of an individual historical resource's physical identity evidenced by "the survival of characteristics that existed during the resource's period of significance." To retain integrity, a resource should have its original location, design, setting, materials, workmanship, feeling, and association. The importance of these factors will depend on the particular criteria under which the resource is considered eligible for listing. Resources that are significant, meet the age guidelines, and possess integrity will generally be considered eligible for listing on the California Register.

If the owner of a historic resource objects to the nomination, the property is not listed in the California Register, but the State Commission may formally designate the resource as eligible for listing. Being listed in or eligible for the California Register does not protect the resource from demolition or alteration, but it does require an environmental review for projects that could have an effect on these resources.

The State *CEQA Guidelines* require that "a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources."[2]

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2 Title 14 CCR Sec.15064.5(a)(3).

City of Newport Beach Ordinance on Landmark Buildings (Chapter 20.62-7)

Although the City of Newport Beach does not have a Historic Preservation ordinance, Chapter 20.62-7 of the Planning Code encourages the adaptive reuse and preservation of buildings, recognized by the City to be Landmark Buildings. The following types of buildings are recognized as having importance to the history and architecture of the City of Newport Beach and are designated as Landmark Buildings:

1. Landmark Theaters: The term Landmark Theaters shall mean any building constructed for use as a cinema or theater that (a) was constructed on or before December 12, 1950; (b) has a single screen or stage; and (c) was designed to seat more than 300 people.

2. Landmark Structure: The term Landmark Structure shall mean any building listed on the National Register of Historic Places, constructed prior to December 12, 1950.

4.4.3 Impacts

a. Archeological Resources

As a result of the records and literature search and the field walkover surveys, no significant cultural resources were found to be present on or immediately adjacent to the project area. Therefore, no further archaeological investigations are recommended by ARMC. The records search did not reveal any recorded archaeological resources in proximity to the proposed development, nor did the author see any evidence of prehistoric occupation during the field walkover survey. The only recorded resource is historic (SHL #794). Thus no significant archaeological resources will be impacted by the proposed development. Thus there are no recommendations for additional archaeological studies on the project area prior to development. If in the course of construction, archaeological resources are encountered, a qualified archaeologist should be called in to evaluate the resources, design and implement a recovery plan, where appropriate.

b. Paleontological Resources

Paleontological resources, including fossil remains and associated scientific data, fossil sites, and fossiliferous rocks, could be adversely affected by the direct and indirect environmental impacts accompanying the grading and excavation activities needed for the development of the Newport Bay Marina Mixed-Use Project Area in Newport Beach.

Direct impacts would result from the ground-disturbing activities associated with the clearing of the vegetation and soil, excavation of aggregate and increased development of the proposed processing facility. If a significant paleontological resource is identified within the boundaries of the proposed project ground disturbance could result in the loss of paleontological resources, including scientifically important fossil remains, associated geologic data, fossil sites, and fossiliferous rocks, by disturbing fossil-bearing and potentially fossiliferous rocks. Although construction would be a short-term activity, the loss of some fossil remains and the fossil-bearing rocks would be a permanent adverse environmental impact. On this particular parcel the project-related construction activities may have an affect any fossil-bearing formations.

Easier access to fossil sites and the accompanying potential for unauthorized fossil collecting by construction personnel, rock hounds, and amateur and commercial fossil collectors would not disturb fossiliferous rocks to a significant degree, but could result in the loss of additional fossil remains, associated scientific data, and fossil sites.

The level of potential significance (high, low, unknown, or none) of these adverse impacts in a particular area to be affected is based on the paleontologic importance of the formation underlying the area, and the potential for disturbing fossil localities and remains therein. The adverse impacts on any fossil locality containing identifiable remains, as well as on the fossiliferous bed that produced them, depends on the paleontologic importance of the formation in which the locality and bed occur, the extent of the impact, and the occurrence of other comparable remains nearby. Additionally, the feasibility of reducing impacts by scientific collection of data is also considered.

Quaternary Alluvium-Artificial Fill (Qal, Qac, Qya)
The parcel at the corner of 21st Street and Newport Boulevard in the City of Newport Beach appears to be underlain by artificial fill either dredged from Newport Bay or rock imported from a local source. These deposits do not have a potential for producing significant fossils during earthmoving activities related to redevelopment of this property.

Quaternary Alluvium-Artificial Fill (Qal, Qac, Qya)
Holocene to historic age deposits of artificial fill appears to underlie the parcel. No fossils valuable to the scientific community could be recovered from these deposits and they have no potential for yielding significant fossils.

Quaternary Alluvium-Artificial Fill (Qal, Qac, Qya)
The ground surface area within the boundaries of the parcel appears to be underlain by artificial fill either dredged from Newport Bay or imported from some local source rock. These deposits are of

Holocene to historic in age and have no potential for yielding significant fossils and are therefore not considered to be paleontologically sensitive. Therefore, they do not require mitigation for paleontological resources.

c. Historical Resources

A resource's period of significance is defined as the span of time in which a property attains the significance for which it meets the National Register criteria. The architectural resources that were evaluated for this report are identified with maritime development and World War II. The South Coast Shipyard in its current form dates from 1926, when the first warehouse was constructed on the property, to 1964, when the shipyard business was sold and the buildings were no longer collectively used in the boat-building business. This period of significance reflects its development as a working shipyard during the boom years of boat building in Southern California to its transition from local yacht builder to a contributor of the war effort during World War II. The period of significance includes all the buildings on the 2.4-acre parcel constructed between 1926 and 1938. The first buildings on the property, a two-story boat shop and a machine shop, were constructed by local boat builder Ben Cope in 1926. The remaining buildings were built by the South Coast Company between 1933 and 1938. The South Coast Shipyard is in good condition and retains integrity to its period of significance. Although most of the buildings have undergone alterations of some type, each retains integrity to the period of significance and exhibit a collective distinction as a historic district.

The South Coast Shipyard appears to be eligible for listing in the California Register as a historical resource at the local level of significance under Criteria 1 and 3. Under Criterion 1, the South Coast Shipyard is associated with the development of the maritime economy of Newport Beach and with World War II, as a local contributor to the war effort. Under Criterion 3, the South Coast shipyard represents an excellent example of maritime architecture in the City of Newport Beach, particularly on Balboa Peninsula. The buildings are in good condition and retain integrity of location, design, feeling, association, workmanship, materials, and setting. The South Coast Shipyard buildings exhibit a collective distinction as a historic district. All of the buildings located within the South Coast Shipyard are contributors to this district. None of the buildings appear to be individually eligible for listing in the California Register, as the shipyard represents a significant and distinguishable entity whose components lack individual distinction. None of the buildings appear to be individually eligible for listing in the California Register.

The South Coast Shipyard does not appear to be eligible for listing in the California Register under Criteria 2 or 4. Although the shipyard was connected to several prominent business people and noted

residents of Newport Beach, none of these individuals were associated with any activities that were demonstrably important to the history of Newport Beach, California, or the nation (Criterion 2). The South Coast Shipyard does not appear to be able to answer questions important in history (Criterion 4). In 1974, the South Coast Shipyard was identified as a historical landmark by the Newport Beach Historical Society. In 1992, the Ad Hoc Historic Preservation Advisory Committee conducted a Historic Resources Inventory for the City of Newport Beach. The South Coast Shipyard was identified as a local historic site, representing historic/architectural themes of local importance. While the South Coast Shipyard was recognized as a locally significant property, the City of Newport Beach does not have a Historic Preservation ordinance, and only encourages the adaptive reuse and preservation of buildings, recognized by the City to be Landmark Buildings. The South Coast Shipyard is not recognized by the City of Newport Beach to be a Landmark Building.

4.4.4 Mitigation Measures

The following mitigation measure is recommended for archeological and paleontological resources in the event that said resources are discovered during construction activities:

MM 4.4.4-1: During construction activities, if archaeological and/or paleontological resources are encountered, the contractor shall be responsible for immediate notification and securing of the site area immediately. A qualified archaeologist and/or paleontologist approved by the City of Newport Beach, Planning Director shall be retained to establish, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of cultural resource finds. If major archaeological and/or paleontological resources are discovered which require long-term halting or redirecting of grading, a report shall be prepared identifying such findings to the City and to the County of Orange. Discovered cultural resources shall be offered to the County of Orange or its designee or a first-refusal basis.

MM 4.4.4-2: The historical study prepared by LSA dated October 2005 recommends the mitigation to reduce the significant impacts to historical resources through the following methods:

- Documentation of the South Coast Boatyard shall be provided by the developer prior to issuance of demolition permits by the City of Newport Beach. Prior to issuance of demolition permits, the Planning Director shall be provided an historic narrative, photographs, and architectural drawings of all on-site buildings in accordance with Historic American Building Survey (HABS) Level 1 documentation requirements. The Planning Director shall ensure that the HABS documentation is deposited with the Newport Beach Historical Society, the City of Newport Beach Public Library, the Newport Harbor Nautical Museum, and the

SCCIC located at California State University, Fullerton, prior to issuance of demolition permits.

- Prior to issuance of building permits, the Planning Director shall review project building plans and permits to ensure incorporation of design features referencing and memorializing the character-defining features of the South Coast Boatyard into design of the project, including, but not limited to, incorporation of a commemorative plaque depicting the buildings and their context to the historical importance of the structures on site. Such plaque shall be oriented to a public right-of-way, so as to be visible and accessible to the public from such right-of-way.

- If previously undocumented cultural resources are found during construction activities within the current project area, a qualified professional archaeologist shall assess the nature and significance of the find in order to recommend appropriate mitigation measures, halting construction activity in the vicinity of the find, if necessary.

4.4.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measure, the proposed project will not result in any significant impacts to archeological and paleontological resources. With demolition of all buildings on-site, mitigation as described above will mitigate impacts to these historical resources to the degree feasible; however, because the resources are eligible for the California Register under Criteria 1 and 3, these mitigation measures will not reduce project impacts below the level of significance. Therefore, the project as proposed will result in unavoidable adverse impacts to historical resources.

4.5 GEOLOGY AND SOILS

The information and analysis presented in this Geology and Soils Chapter of the EIR is based on the geotechnical report dated August 19, 2002 prepared by Petra. The geotechnical studies are provided in the Technical Appendices to this EIR (Volume II, Appendix D). The geotechnical report is herein incorporated by reference.

4.5.1 Environmental Setting

Topography and Landform

The site has been utilized for marine-serving commercial and office uses. The site is located to the north of the intersection of Newport Boulevard and 22nd Street in the City of Newport Beach and extends approximately 450 feet to the northwest along Newport Boulevard from 22nd Street. The irregularly-shaped property is bounded on the southwest by Newport Boulevard, an the northwest by an existing commercial property, on the southeast by 22nd Street, The Arcade and an existing commercial property, and on the northeast by Newport Bay. Four corrugated metal buildings and a stucco building (The Crab Cooker) presently occupy the property.

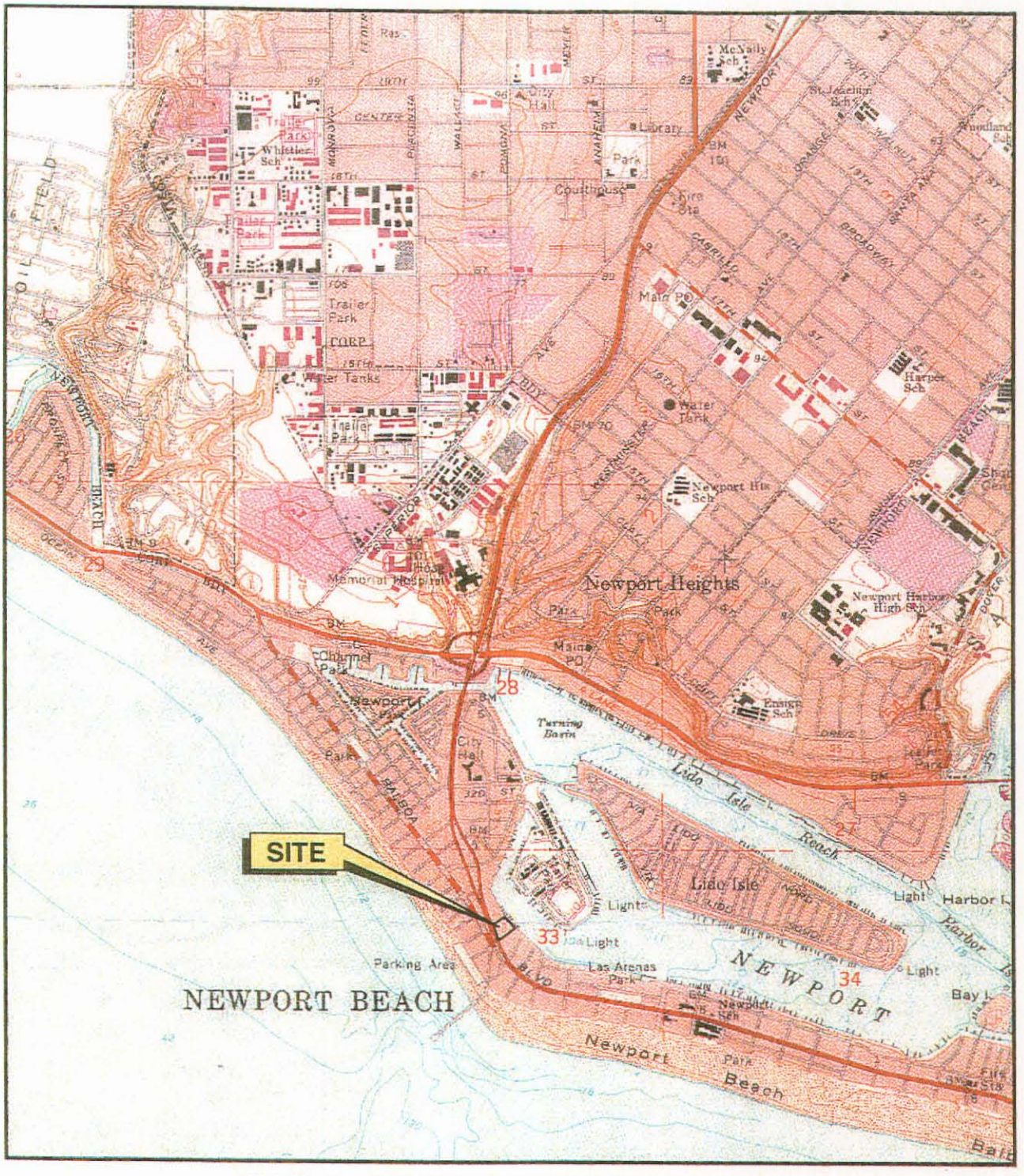
An existing sea wall bulkhead is present along the northeasterly property boundary. The bulkhead has two slipways that extend approximately 60 and 140 feet, respectively, into the property. Other improvements within the site consist of as asphalt covered automobile parking and boat storage areas, planter areas, and concrete sidewalks and curbs adjacent to streets. The site is relatively level and lies at an elevation of approximately 5 to 6 feet above mean sea level.

Geology

The methods of investigation employed during this study included: (1) a site reconnaissance, (2) a subsurface exploration consisting of the drilling of five exploratory borings, and the collection of relatively undisturbed and bulk earth materials, and (3) laboratory testing of collected samples.

Regional Geology

The subject site is located within the southeasterly portion of the Los Angeles Basin within the Lower Bay area of Newport Harbor (Exhibit 4.5-1 and 4.5-2). While the Upper Bay area of the Newport Harbor is still in a somewhat natural condition, the Lower Bay area has been extensively developed and altered.

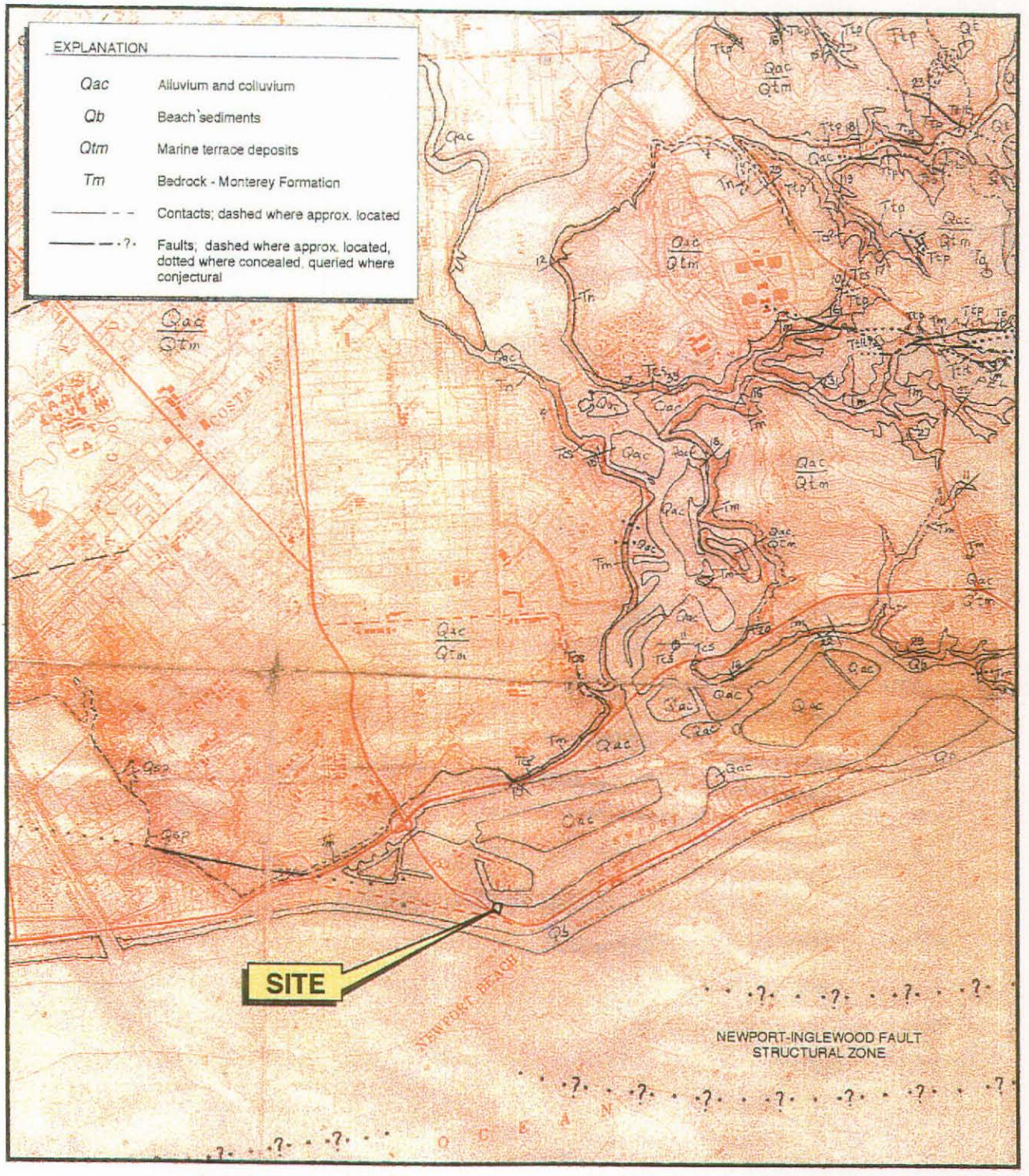


Ref: Portion of USGS NEWPORT BEACH QUADRANGLE,
7.5 Minute Topographic Series 1965,
Photorevised 1981

SCALE: 1 inch = 2000 feet

USGS Newport Beach Quadrangle

EXHIBIT 4.5–1



Ref: Portion of GEOLOGIC MAP OF ORANGE COUNTY, CALIFORNIA
Compiled by Paul K. Morton and Russell V. Miller, 1973

SCALE: 1 inch = 4000 feet

Geological Map of Orange County

EXHIBIT 4.5–2

The natural harbor was dredged and islands and peninsulas were then constructed by reworking the dredged materials, and by constructing bulkhead sea walls and placing fill materials behind these walls. More specifically, the subject site is located at the western end of the Newport Peninsula, an area composed of both recent marine sands and dredged fill materials. Wave and tidal action deposited the marine sands.

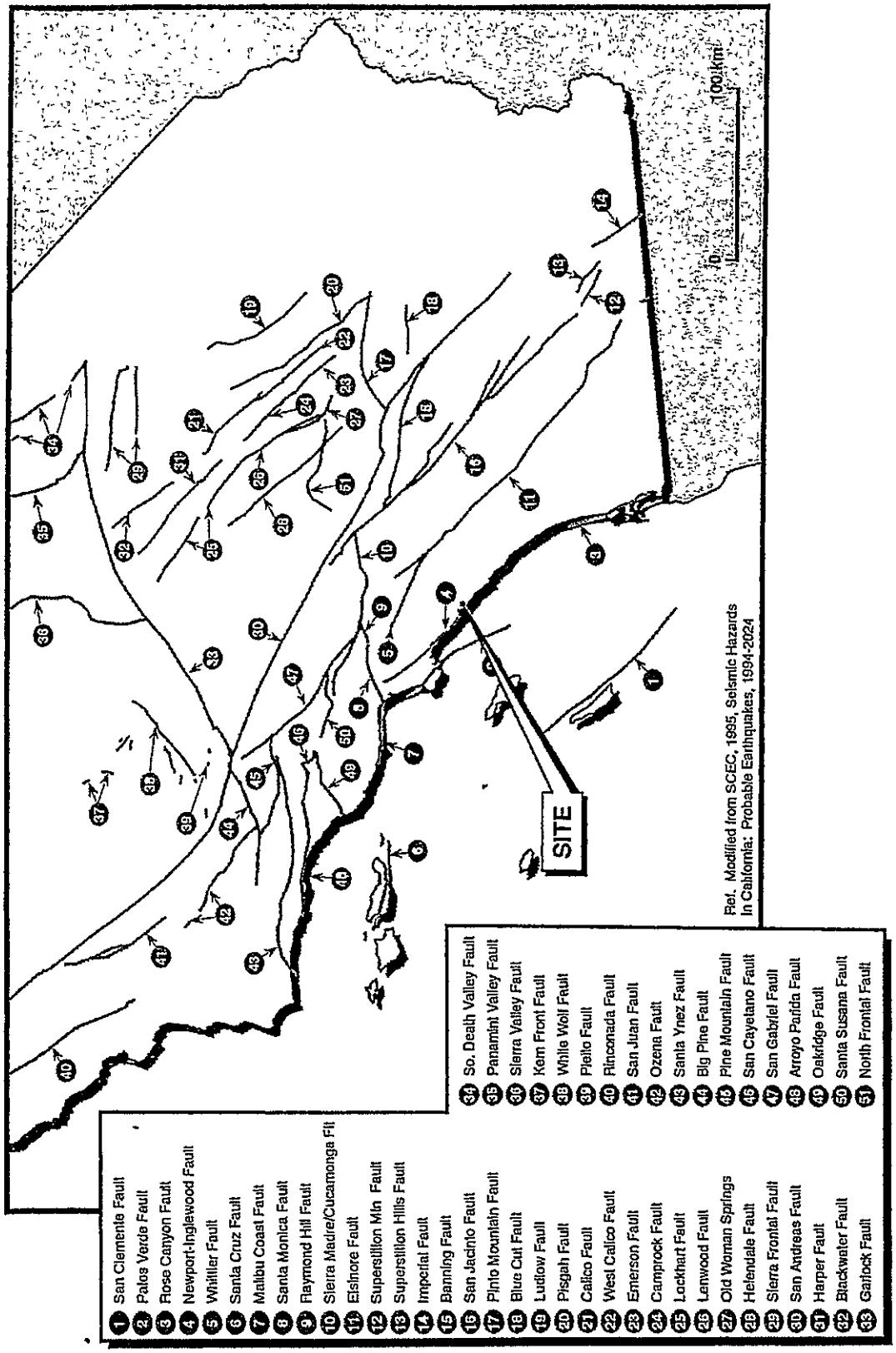
Local Geology

Artificial fill materials were encountered in each exploratory boring to depths ranging from 2 to 11 feet below the existing ground surface. These materials are likely dredged fill materials that were placed during construction of the Newport islands and peninsula. The materials generally consist of sand with minor amounts of silt and were observed to be slightly moist to wet and very loose to medium dense. The artificial fill materials encountered in borings B-2 and B-5 contained significant amounts of debris such as concrete, wood, asphalt, and metal. This material was likely incorporated into the backfill of the existing sea wall during its construction.

Native marine deposits were encountered beneath the artificial fill materials to the maximum depth explored (51.5 feet). These materials consist of alternating layers of poorly graded sand, sand with silt and moderately graded sand. The upper approximately 15 to 25 feet became more coarse-grained and medium dense to dense. The materials encountered below a depth of 25 feet generally consisted of fine, poorly graded sand that were observed to be medium dense to dense. Additionally, a thin, approximately 1-inch thick layer was observed in boring B-4 and B-5 and noted to be wet and soft.

Faults and Seismicity

Traces of the major active faults in the southern California area are shown on Exhibit 4.5-3. Based on Petra's review of published and unpublished geotechnical maps and literature pertaining to site and regional geology, the site lies within the Newport-Inglewood Fault Zone. This fault zone consists of a series of parallel and en-echelon, northwest-trending faults and folds extending from the southern edge of the Santa Monica Mountains southeast to the offshore area of Newport Beach. This zone has a history of moderate to high seismic activity, with numerous earthquakes greater than magnitude 4, including the 6.3 Long Beach earthquake, which was centered near Newport Beach on March 11, 1933. At the time of the 1933 earthquake, secondary effects were noted in Long Beach and Huntington Beach areas (i.e., sand boils, ground cracking and liquefaction). Subsurface fault displacement of a few inches was associated with the October 21, 1941 earthquake (magnitude 4.9), and with the June 18, 1944 earthquake (magnitude 4.5) in the Dominguez Hills area (Barrows, 1974).



Major Active Faults in Souther California

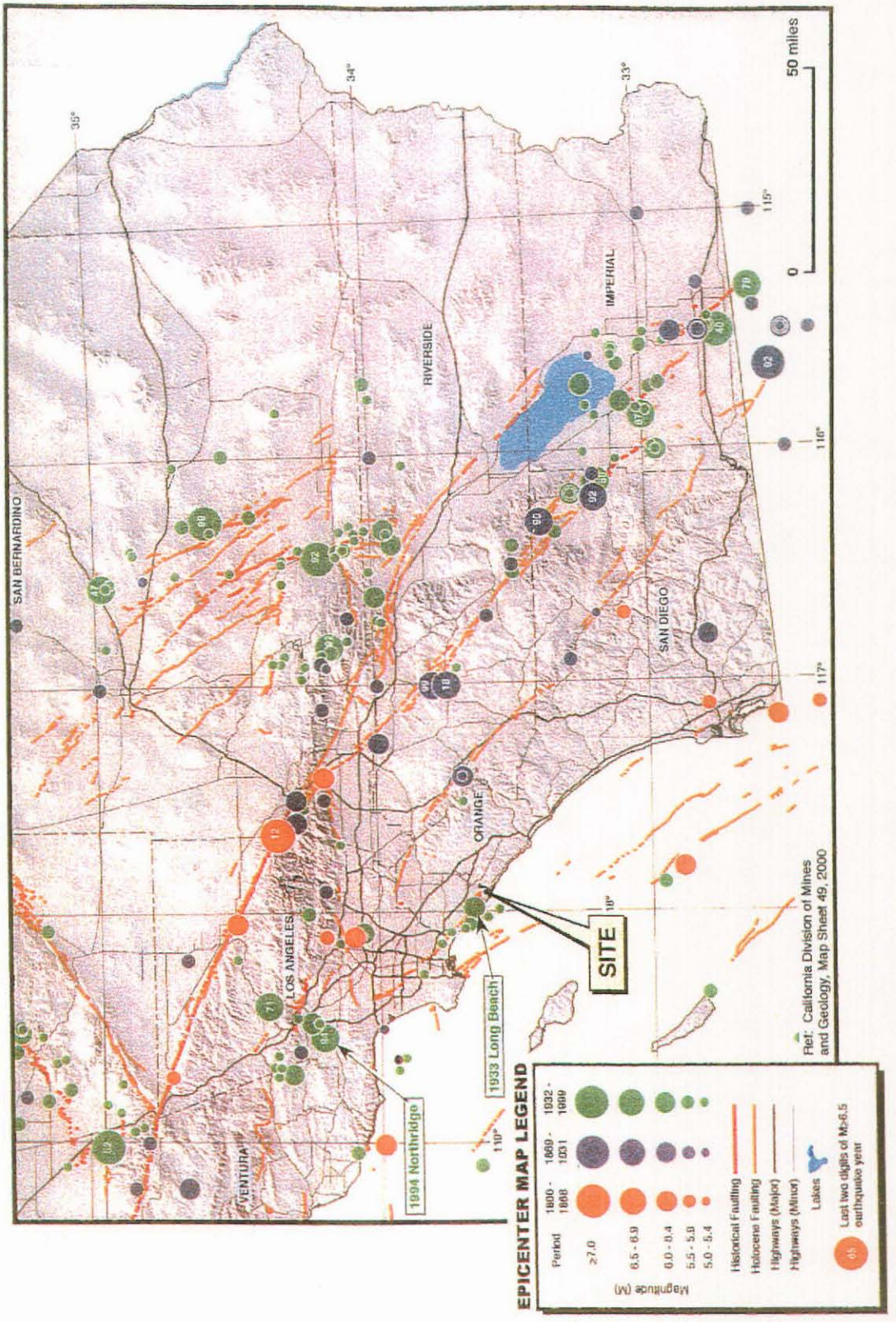
EXHIBIT 4.5-3

No active or potentially active faults project through the site. In addition, the Newport-Inglewood Fault is not sufficiently well defined in the area of the subject site to be placed within the boundaries of an "Earthquake Fault Zone" as defined by the State of California in the Alquist-Priolo Earthquake Fault Zoning Act.

Seismicity is the phenomenon of earthquakes, and is an important consideration in the development of property in a seismically active area such as southern California. Earthquakes can cause extensive damage to man-made structures if not properly considered during design and construction. Earthquakes release large amounts of energy that generate forces that result in strong ground shaking, and can cause several different types of ground failure including ground rupture, liquefaction, lateral spreading, dynamic settlement, and landslides. They can also generate damaging sea waves (tsunamis) and standing wave oscillations (seiches) that pose risks to structures along the shorelines of oceans, lakes, and reservoirs. Exhibit 4.5-4 shows the epicenter locations of significant historical earthquakes that have occurred over the last two hundred years within the southern California area (Toppozada, et. Al., 2000).

Strong ground shaking is the principal cause of most damage sustained during an earthquake. The most severe ground shaking at the site is expected to originate from an earthquake along the Newport-Inglewood fault zone, which the site lies within. According to the California Geological Survey (CDMG, 1997, revised 2001), the site has a 10 percent probability of experiencing a peak ground acceleration of about 0.4g, where g is the acceleration of gravity over a 50-year period. This acceleration is a preliminary value and site specific studies would be required to refine this estimate.

In addition to strong ground shaking, the site is also susceptible to liquefaction, seismically-induced settlement, and seismic-induced flooding. The probability of occurrence of each type of ground failure depends on the severity of the earthquake, distance from faults, topography, sub-soils and groundwater conditions, in addition to other factors. These effects could occur during an earthquake and could cause damage to overlying structures. The California Geological Survey (CDMG, 1997, revised 2001) report and indicates that the site is located within an area susceptible to liquefaction. This is due primarily to the presence of loose sands underlying the area, top the presence of shallow groundwater, and to the proximity of the Newport-Inglewood fault.



Historical Earthquake EPIcenters 1800-1999

EXHIBIT 4.5–4

Geologic-Seismic Hazards

Ground failure, liquefaction, seiching and dam failure are secondary seismic hazards which may result from an earthquake. Ground failure in the form of landslides, rock falls, subsidence, and other surface and near surface ground failures can occur as a result of a seismic event. Also, complete loss of strength of water-saturated subsurface foundation soil (liquefaction) may occur. The potential for liquefaction is associated with the soil types and shallow ground water. Ground water that is less than 10 feet below the surface can cause the highest liquefaction susceptibility. Ground water 10 to 30 feet below the surface represents a moderately high to moderate susceptibility. Ground water 30 to 50 feet deep poses as a moderate to low susceptibility. The geotechnical study prepared by Petra concluded that secondary effects of seismic activity are considered unlikely at the site.

Ground Water

Groundwater was measured at a depth of 3.8 to 4.5 feet below the existing ground surface within the exploratory borings on April 3, 2000 at approximately 11 a.m. to 5:30 p.m. Although the sea level fluctuates as much as 5 to 7 feet between high and low tides (depending on astronomical conditions), it has been the geo-technical consultant's experience that corresponding fluctuations in groundwater elevations within subsurface soils at some distance from the ocean and bay is considerably less; generally on the order of 1 to 2 feet between low and high tides.

In order to evaluate the possible fluctuations in groundwater levels beneath the site, the consultant reviewed the 2000 Orange Coast Tide Calendar. The calendar is based on National Ocean Survey Tables produced by the U.S. Department of Commerce. According to the tide calendar, Petra took groundwater measurements at high tide and a few hours after. The tide level was approximately 5 to 6 feet above the mean low tide (the reference elevation for the tide calendar). Based on these conditions, the groundwater levels beneath the site are expected to rise to within approximately 3.5 to 4 feet of the ground surface during high tide conditions.

Tsunamis, Inundation, Seiches and Flooding

Seismically induced flooding which might be considered as a potential hazard to a particular site normally includes flooding due to a tsunami (seismic sea wave), a seiche, or a failure of a major reservoir retention structure upstream of the site. The site is located in close proximity to the Pacific Ocean at an elevation of approximately 5 to 6 feet above mean sea level; therefore, the potential for seismically-induced flooding due to tsunami run-up is considered moderate.

Although the site is located adjacent to Lower Newport Bay (The Rhine Channel), the potential for induced flooding at the site due to a seiche (i.e., a wave-like oscillation of the surface of water in an enclosed basin that may be initiated by strong earthquakes) is considered very low due to the elevation of the site above the bay and to the existence of a protective bulkhead sea wall between the bay and the subject site. In addition, no major reservoirs lie upstream of the site. Therefore, the probability of flooding at the site as a result of earthquake-induced damage to a reservoir is considered non-existent.

4.5.2 Significance Criteria

This analysis addresses the potential for the project to result in impacts related to geology and soils. Factors considered in determining impact significance include whether the proposed project would cause:

- Expose people or structures to potential substantial adverse effecting, including the risk of loss, injury, or death involving:
  1. Rupture of 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 know fault.
  2. Strong seismic ground shaking.
  3. Seismic-related ground failure, including liquefaction.
  4. Landslides.
- Result in substantial soil erosion or the loss of topsoil.
- 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.
- Be located on expansive soil, as defined in Table 18- 1-B of the Uniform Building Code (1994), creating substantial risks to life or property.
- Have soils incapable of adequately supporting the use septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.

4.5.3 Impacts

A full discussion of the potential geotechnical and seismic constraints is included in Appendix D of Volume II of this EIR. The following addresses potential impacts relative to geology and soils based on the significance criteria previously presented in Section 4.5.2:

Expose people or structures to potential substantial adverse effecting, including the risk of loss, injury, or death involving:

1. ***Rupture of 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 know fault.***
2. ***Strong seismic ground shaking.***
3. ***Seismic-related ground failure, including liquefaction.***
4. ***Landslides.***

Property development feasibility is strongly influenced by the site's underlying geologic conditions and exposure to natural hazards including earthquakes and flooding. The subject property is located in a seismically active area and is susceptible to the effects of strong ground motions. Thus, development of the property will require design and implementation of the remedial measures to minimize the impact of several geotechnical and seismic constraints. The topography of the site is relatively flat. The site is not located in an area of unique geologic or physical features. There are no evident faults on the site itself. Field observation during the geotechnical investigation (Petra) did not reveal the existence of any active or ancient landslide in the vicinity of the project site. The closest slope in the area of the site is the bluff north of the site on West Coast Highway. The closest known active or potentially active fault is the Newport-Inglewood Fault. Strong ground shaking is the principle cause of most damage sustained during an earthquake. The most severe ground shaking at the site is expected to originate from an earthquake along the Newport-Inglewood fault zone, which the site lies within (Petra). Compliance with the City Excavation and Grading Code (NBMC Sec.15.10.140) will reduce any potential impacts to an insignificant level.

Ground failure, liquefaction, seiching and dam failure are secondary seismic hazards which may result from an earthquake. Ground failure in the form of landslides, rock falls, subsidence, and other surface and near surface ground failures can occur as a result of a seismic event. In turn, this may result in complete loss of strength of water-saturated subsurface foundation soil (liquefaction). The potential for liquefaction is associated with the soil types and shallow groundwater. The geotechnical investigation conducted by Petra addresses ground failure and liquefaction potential.

Groundwater at the project site is relatively shallow. Evaluation and analysis during the geotechnical field explorations conducted by Petra indicate fill materials and marine deposit soils located from a depth of 4 to 30 feet below the ground surface are susceptible to liquefaction. Significant total and differential settlement of the foundation may occur due to seismically induced settlement.

Result in substantial soil erosion or the loss of topsoil.

The project will require site preparation (e.g. grading, excavation and demolition activities). With implementation of recommended mitigation, it is not anticipated that the grading and construction activities associated with the implementation of the project will result in substantial soil erosion or the loss of top soil. Therefore, all potential impacts relative to this topic can be mitigated to a less than significant level.

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.

The property was originally graded in conjunction with the development of the existing marine services, office, industrial and commercial uses of the South Coast Shipyard site. However, the project site is located in an area that has a high potential for liquefaction. Mitigation is recommended that requires compliance with applicable building codes, seismic design guidelines and the recommendations of the geotechnical report prepared by Petra Geotechnical, Inc. Therefore, with implementation of the recommended mitigation measures, potential impacts will be reduced to a less than significant level.

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

The project is located in area subject to expansive soils. The project will be subject to comply with applicable building codes, seismic design guidelines and the recommendations of the geotechnical report prepared by Petra. Based on the geology/soils investigations conducted by Petra for the site and proposed project, implementation of recommendations of the Petra reports will mitigate potential impacts relative to this topic to a less than significant level.

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

The project site is currently developed with the existing commercial/retail, office and marina uses. The site will not be utilizing septic tanks or alternative waste water disposal systems. The site can be served by an existing sewer system. Therefore, the project will not result in any significant impacts associated with septic tanks or alternative waste water disposal systems.

4.5.4 Mitigation Measures

The following mitigation measure is recommended to reduce potential geology and soils impacts.

MM 4.5.4-1: *The project shall implement the recommendations presented in the geotechnical reports prepared by Petra presented in Appendix D, Volume II of the EIR.*

MM 4.5.4-2: *Prior to the commencement of construction, design criteria and project specifications that include ground improvement techniques such as stone columns, use of deep foundations which penetrate below the liquefiable zone, pressure grouting, or appropriate combinations of these measures shall be incorporated into the plans for the project.*

MM 4.5.4-3: *Develop design criteria and project specifications that recognize groundwater may be encountered at the proposed depth of the partially subterranean parking area. Construction of mat foundations or structural slabs may be required. Design of utility lines and surface drainage in the subterranean parking should also consider the presence of a shallow groundwater table.*

MM 4.5.4-4: *Use appropriate type of cement and concrete specification according to Table 19-A-4 of the Uniform Building Code to mitigate contract with corrosive soils and sea water that may come in contact with footings in the area.*

4.5.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measures, the project will not result in unavoidable adverse significant impacts to geology and soils.

4.6 HAZARDS AND HAZARDOUS MATERIALS

The information and analysis presented in this EIR Chapter is based on site assessments prepared by Petra Environmental Division dated January 6, 2004 (Phase II Assessment), December 3, 2003 (Phase 1 Assessment), October 11, 2002 (Subsurface Environmental Assessment), July 17, 2002 (Work Plan for Additional Site Investigation), March 18, 2002 (Draft Work Plan for Additional Site Investigation), and July 5, 2002 (Results of Limited Sediment Sampling). In addition to the site assessments that have been conducted, the California Regional Water Quality Control Board (CRWQCB) has been consulted as part of these site assessments and during the environmental process for the proposed project.

4.6.1 Environmental Setting

Hazardous materials and wastes include substances that pose a potential hazard to human health or the environment. A number of properties may cause a substance to be considered hazardous, including toxicity, ignitability, corrosivity, or reactivity. A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal or state regulatory agency, or if it has characteristics defined as hazardous by such an agency. The California Department of Toxic Substances Control (DTSC), formerly the Department of Health Services, defines hazardous materials as follows:

> *A hazardous material is a substance or combination of substances which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may either: (1) cause, or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating irreversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.*

Hazardous materials can be released into the environment by either point or non-point sources. An example of a point source release would be when contaminants are released from a specific site, such as a pipe or tanker. A non-point source of contamination is when contaminants enter the environment in a diffused fashion. Examples of non-point source releases include urban or agricultural runoff into a river.

Regulatory Setting

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) provide the United States Environmental Protection Agency (USEPA) the authority to identify and clean up contaminated hazardous waste sites. The CERCLA also contains enforcement provisions for the identification of liable parties, it details the legal claims which arise under the statute, and provides guidance on settlements with the USEPA. Section 120 of this Act addresses hazardous waste cleanups at Federal facilities and requires the creation of a Federal Agency Hazardous Waste Compliance Docket, which lists facilities that have the potential for hazardous waste problems. In addition, a Hazardous Substance Superfund was established to pay the USEPA's cleanup and enforcement costs and certain natural resource damages, but also to pay for private party claims.

With USEPA approval, individual states may implement hazardous waste programs under the Resource Conservation and Recovery Act (RCRA). The approved California Hazardous Waste Control Law (HWCL), which is generally more stringent than the RCRA, is administered by the California Environmental Protection Agency (EPA). The HWCL lists chemicals and materials that may be hazardous; establishes criteria for identifying, packaging and labeling these wastes; prescribes the management controls; establishes permit requirements for treatment, storage, disposal and transportation; and identifies wastes that cannot be disposed of in landfills.

The existing site development consists of 44,300 square feet of office and commercial space that is located on 102,800 square foot lot. The site contains three groupings of buildings that share a site located between Newport Boulevard and Newport Bay which is located at the northerly boundary of the project site. The buildings are rustic and/or industrial in appearance and have retained a maritime flavor. The view from the northerly side of the property is of a marina with the bay and mainland beyond. Ground covering is mostly asphalt. Vegetation is minimal, with plantings for the most part limited to ornamental landscape elements situated very near the buildings. The property also includes two boat slipways (slipways) and 19 boat slips. The slipways are located near the center of the waterfront (485 lineal feet) and are 15 feet by 60 feet and 25 feet by 150 feet in size. Shipyard uses of the site date back to 1915. Activities have included construction of wooden-hulled mine sweepers for the U.S. Navy from the 1940s until the 1950s. The minesweeper construction reportedly involved the use of chemical wood preservatives. Other site uses that may have contributed to the condition of the site include boat maintenance activities involving the use of petroleum compounds and paints or discarding of redundant vessel related products into areas surrounding the boat docks.

Drilling and sampling during Phase A portion of the field investigation was conducted by Petra on October 30, 2003 and November 3, 2003. The Phase B sampling was conducted by Petra on November 18 and November

Field Work and Site Assessments

The following is a summary of the field work and site assessments that have been conducted by Petra Geotechnical Inc.:

Sediment Sampling (report dated July 5, 2000)

In June 2000, Petra conducted limited sediment sampling to evaluate channel sediments in the boat slips and along the docks adjacent to the site. Sediment samples were analyzed for the presence of total petroleum hydrocarbons (TPH), benzene, toluene, ethylbenzene, and total xylenes (BTEX), methyl tertiary butyl ether (MTBE), organiochlorine pesticides, and metals. Twenty-two sediment samples were collect and analyzed. The results of the analyses are summarized below:

TPH, BTEX, and MTBE

No detectable concentration of TPH, BTEX, or MTBE were detect in any of the samples analyzed.

Organochlorine Pesticides

No detectable concentrations of organochlorine pesticides were detected in any of the samples; however, due to materials in the soil interfering with the laboratory analysis, it was necessary to dilute three samples. As a result, the detection limit for several compound since these three samples exceeded the Total Threshold Limit Concentration (TTLC). Therefore, it was not possible to determine if organochlorine pesticides were present in the three samples at concentrations that would be considered a hazardous waste. The remaining six samples analyzed did not show significant concentrations of organochlorine pesticides. The elevated detection limits in the remaining three samples are not anticipated to be of concern.

Metals

Results indicate that the one sample (HA5 at 5 feet), located near the center of ways Channel, contained hazardous concentrations of lead (2,500 part per million). Lead concentrations in excess of 1,000 ppm are deemed hazardous waste according to State law. Four other samples contained elevated concentrations of lead, cooper, and/or mercury. Two of these samples (HA2A-5.0 and HA9-1.0) were analyzed for

soluble metals by the waste extraction test (WET) to determine whether the elevated concentrations of lead, copper, and/or mercury were present at hazardous concentrations. No hazardous concentrations of copper, lead, or mercury were detected in the samples tested.

Work Plan for Additional Site Investigation (July 2002)
In July 2002, Petra submitted a Work Plan for Additional Site Investigation of the property to the Santa Ana Regional Water Quality Control Board. The Work Plan identified the procedures, techniques, and equipment that would be used during the next phase of field work, sample collection activities and analyses.

Additional Subsurface Environmental Assessment (October 11, 2002)
The Work Plan field investigation results were presented in a report dated October 11, 2002 "Report of Additional Subsurface Environmental Assessment." The additional field work was conducted on August 19, 2002. The October 11, 2002 report concluded that the geologic and chemical data indicate that local contamination of the sediments in the shoal has occurred. Concentration above the Soluble Threshold Limit Concentration (STLC) for copper and lead are present in the upper three feet below the mudline in the shoal area. Concentrations of polychlorinated biphenyls (PCBs) above preliminary remediation goal (PRG) are present at depths of 3-feet in borings BD-1 and BD-4. The concentration of PCBs in the samples is not at levels which will require handling as a hazardous waste.

The contamination appears to be limited to sediments of the bay mud or in the sand deposits immediately underlying the bay mud. The level and distribution of metals and PCBs indicate that contamination has occurred sporadically through time and area. This occurrence is consistent with materials being discarded over the docks from the surface (as a result of unwanted redundant materials or past maintenance of vessels), sinking into the soft bay mud, and being retained by the underlying sand layer. The current findings support the results of the preliminary assessment conducted by Petra in June 2000, in that concentrations of metals appear to be sporadic in location and the elevated concentrations are present in the upper portion of the channel sediments. It is anticipated that higher concentrations of contamination may be present in the slipways (slipways) due to their usage as vessel maintenance area. The detected concentrations of copper and lead (above the STLC) require that these specific sediments be handled as a hazardous waste if they are excavated and removed.

Phase 1 Environmental Site Assessment (December 3, 2003)

The Phase 1 investigation was conducted to determine if any recognized environmental conditions exist on the subject site. Recognized environmental conditions are defined by the American Society for Testing and Materials (ASTM) as any hazardous substances or petroleum product under conditions that indicate an existing, past, or material threat of release into the structures, ground, groundwater, or surface water at the site. The following is a summary of the report findings:

Surface Water

With the exception of the marine ways, there were no impoundments of surface water observed on the subject site.

Groundwater

The site is located in the Orange County Coastal Basin Pressure Area (Metropolitan Water District, 1987). During drilling investigations conducted by Petra at the site, groundwater was encountered beneath the site at approximately 4 feet below ground surface. Due to the close proximity of the site to the Rhine Channel, it is anticipated that the groundwater at the site is tidally influenced, therefore gradient direction would be expected to fluctuate based on the tide.

Database Research

A search of federal, state, and local government listings was performed by Environmental Data Resources, Inc. (EDR) for the purposes of this report. The EDR report identified 78 database listings for sites within the search radius. None of the sites listed in the EDR report are considered to present an environmental risk with respect to the subject site due to the nature of the listings and/or the relative distance of the sites from the subject property. A description of each of the listings is provided in the Phase 1 Report presented in Appendix E of this EIR.

Local Agencies

In addition to the EDR database, information was obtained from local agencies (i.e. County Health Care Agency, City of Newport Beach, CRWQCB, California Department of Conservation, Division of Oil, Gas, and Geothermal Resources). In summary, no sites were identified in the search of various government agency database records which may have impacted soils or groundwater beneath the subject site.

Aerial Photo Analysis & Historical USGS Topographic Maps
Petra reviewed photos from the years 1928 through 1998 and USGS topographical maps dating from 1901 through 1981. A summary of the photos and maps is presented in the Phase 1 Report (Appendix E, Volume II of this EIR).

The Phase I Report concluded that based on the age of the existing buildings on the site it's likely that asbestos-containing materials and lead-based paints are present in the construction materials. Fluorescent lights were observed in many of the buildings and it's possible that PCBs are present in the fluorescent light ballasts. Based on the estimated age of these transformers, they may contain PCBs. No staining or indications of a release were noted relative to the light fixtures or transformers. No recognized significant environmental conditions were identified with the current use of the buildings on the site.

Phase II Environmental Site Assessment (January 6, 2004)
The Phase II report presented the results of environmental assessment work conducted on October 30, November 3 18, and 26, 2003. The environmental assessment work consisted of drilling and sampling twenty-six borings to assess the environmental condition of artificial fill soils, natural beach sediments, and groundwater which are present in the subsurface on the site. The report concluded the following:

- Three areas of the site contain lead in subsurface soils in concentrations above the U.S. Environmental Protection Agency (EPA) preliminary remediation goal (PRG) for lead of 150 mg/kg. Soluble Threshold Limiting Concentration analysis indicates that hazardous concentrations of lead are present on the site.

- On one area of the site contains soil with polychlorinated biphenyls (PCBs) above the EPA PRG.

- Groundwater in the areas of elevated lead did not contain concentrations of lead, copper, cadmium, or zinc above the Total Maximum daily loads (TMDLs) as developed by the Santa Ana Regional Water Quality Control Board and adopted by the U.S. EPA Regional 9.

- Groundwater containing elevated concentrations of fuel hydrocarbons appears to be confined to water in the sand backfill within the concrete structure of the former winch system.

- Groundwater in the area of elevated PCB concentrations did not contain detectable concentrations of PCBs.

- Approximately 850 to 1,050 cubic yards of soil with hazardous concentrations of lead is present on the project site.

- Approximately 350 cubic yards of soil with elevated concentrations are present on the site. The PCB concentrations are below the threshold requiring disposal as a hazardous waste.

4.6.2 Significance Criteria

Impacts related to hazardous materials are considered significant if project related activities:

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

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

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

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

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

- 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;

- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan;

- 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.

4.6.3 Impacts

The following addresses potential impacts associated with the implementation of the project per the significance criteria previously presented in Section 4.6.2.

During construction activities, the potential exists for localized spills of petroleum-based products, concrete, or other chemicals. These spills could expose workers and the public to hazardous materials either directly, at the site of the spill, or indirectly, by introducing these substances into the watershed. Such impacts are potentially significant; therefore, mitigation measures are provided to reduce the likelihood of a spill and prevent surface water contamination in the event of a spill. Based on compliance with existing regulations regarding hazardous materials, no increase in risk of upset related to hazardous materials is anticipated with the proposed project.

The proposed project does involve the transport and disposal of some hazardous materials from waste located in sediment near the slipways. The geological assessments (October 11, 2002, Petra Geotechnical, Inc.) consisted of drilling and sampling four borings to assess the environmental condition of sediments which form a shoal near the slipways. The geologic and chemical data obtained during this assessment indicates that local contamination of the sediments in the shoal (near the slipways) has occurred. Concentrations above the Soluble Threshold Limit Concentration (STLC) for copper and lead are present in the upper three feet below the mudline in the shoal area. The detected concentrations of copper and lead (above the STLC) require that these specific sediments be handled as a hazardous waste if they are excavated and removed. The project applicant has indicated that the project will include removing the hazardous waste and a conceptual removal action plan (dated May 5, 2003) has been prepared and was submitted to the California Regional Water Quality Control Board, Santa Ana Region office. Mitigation measures are presented in Section 4.6.4 to reduce any potential impacts associated with hazards and hazardous materials to a less than significant level.

The project is not located within an airport land use plan or close vicinity of a private airstrip (or public airport) that would result in a safety hazard for people residing or working in the project area. The closest airport to the project site is the John Wayne Airport. This airport is approximately 5 miles from the project site.

The project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. However, during construction activities, the project will need to be coordinated with the City (i.e. construction traffic control plan) especially during summer months when the Newport Beach area is very congested with tourist and beachgoers. To ensure that the project does not interfere with any potential emergency response vehicles, a mitigation measure is presented in Section 4.11 (Transportation/Traffic). The site itself does not pose any unusual significant risk of wildland fires. The project construction will be required to comply with applicable safety regulations including fire prevention and an emergency operations plan. Additionally, the project will not interfere with any emergency plan and/or access for emergency operations.

4.6.4 Mitigation Measures

MM 4.6.4-1: *If during grading and/or construction activities a potential contaminated area is encountered, construction shall cease in the vicinity of the contaminated area. An assessment shall be performed by a qualified hazardous materials specialist to determine the extent and type of contamination. If the site investigation reveals that contamination with pollutant concentrations in excess of Action Levels, as defined by the California Department of Health Services and the California Regional Water Quality Control Board, the site shall be remediate during the project construction phase in compliance with the State of California Hazardous Substances Control Law (Health and Safety Code Division 20, Chapter 6.5) standards established the California Department of Health Services, Office of Statewide Health Planning and Development, and the requirements of California Administrative Code, Title 30, Chapter 22 and applicable Federal regulations.*

MM 4.6.4-2: *The proper use and maintenance of construction equipment, along with the use of general common sense, greatly reduces the potential for contamination. All grading and building plans will include the following construction related measures and that the measures shall be followed by the construction contractor and crew:*

a. *The storage of hazardous materials, chemicals, fuels, and oils and fueling of construction equipment shall be a minimum of 45 meters (150 feet) from any drainage, water supply, or other water feature.*

b. *Hazardous materials stored onsite shall be stored in a neat, orderly manner in the appropriate containers and, if possible, under a roof or other enclosure.*

c. *Whenever possible, all of a product shall be used up before disposal of its container.*

d. *If surplus product must be disposed of, the manufacturers or the local and state recommended methods for disposal shall be followed.*

e. *Spills shall be contained and cleaned up immediately after discovery. Manufacturer's methods for spill cleanup of a material shall be followed as described on the Material Safety Data Sheets (MSDS) for each product.*

MM 4.6.4-3: *Prior to the issuance of any certificate of use and occupancy permit(s), the project applicant shall submit written evidence from the California Regional Water Quality Control Board Santa Ana Region that no further action is needed and all remediation is completed and construction can proceed.*

4.6.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measures, the project will not result in unavoidable adverse significant impacts to hazards/hazardous materials.

4.7 HYDROLOGY AND WATER QUALITY

The information and analysis provided in this EIR Chapter is based on a hydrology study and hydraulic analysis prepared for the project by SP Consulting Group dated February 22, 2006 and a water quality management plan prepared by SP Consulting Group dated February 20, 2006. These studies are presented in the Technical Appendices of this EIR (Volume II, Appendix F).

4.7.1 Environmental Setting

The project site covers an area of 2.36 acres. The site is currently developed with commercial uses, office space, marina/dock use and parking areas. Ninety percent of the site is impermeable. The project site is located with the San Diego Creek Watershed, and drains into the Lower Newport Bay to the east and the Pacific Ocean without treatment prior to discharge.

Methodology

The modified rational method was used to analyze the run-off from the project site. Runoff was calculated using the AES program for Orange County and was calculated for 25-year and 100-year storms. The total Pre-Development Q25 (25 year) runoff from the site is 3.7 cfs (cubic feet per second) per acre and Q100 runoff from the site is 10.4 cfs per acre.

The Newport Beach area rainfall intensities as indicated in Orange County Flood Control October 1986 Manual area as following:

10 year storm – 10 minutes intensity = 2.8 inches/hour
10 year storm – 60 minutes intensity = 1.0 inches/hour
100 year storm – 10 minutes intensity = 4.2 inches/hour
100 year storm – 60 minutes intensity = 1.5 inches/hour

The site is in an area identified as "Flood Zone X" per the Federal Emergency Management Agency (FEMA) floodplain maps for the area.

Water Quality

The project area is located within the Santa Ana River Basin. The project area is under the jurisdiction of the California Regional Water Quality Control Board (RWQCB) Santa Ana Region

for issues related to water quality. The Santa Ana Region of the RWQCB is nearly 3,000 square miles in size, with a population of almost five (5) million people.

The Santa Ana Region includes cities and municipalities in a portion of Orange County, and Riverside and San Bernardino Counties. Each of the nine Regional Boards within California is required to adopt a Water Quality Control Plan, or Basin Plan. Each Basin Plan is designed to preserve and enhance water quality and protect the beneficial uses of all regional waters. Specifically, the Basin Plan: (1) designates beneficial uses for surface and ground waters; (2) sets narrative and numerical objectives that must be attained or maintained to protect the designated beneficial uses and conform to the state's antidegradation policy; (3) describes implementation programs to meet the objectives and protect the beneficial uses of all waters in the region; and (4) describes surveillance and monitoring activities to evaluate the effectiveness of the Basin Plan.

The project site is located in an area that is subject to compliance with a Drainage Area Management Plan (DAMP) which is implemented by the Orange County Flood Control District. The DAMP was prepared in compliance with specific requirements of the National Pollutant Discharge Elimination System (NPDES) storm water program. The DAMP includes a wide range of Best Management Practices (BMPs) and control techniques to further reduce the amount of pollutants entering the storm drain system including those from construction activities. Construction sites that are over one acre in size are required to prepare a Storm Water Pollution Prevention Plan (SWPPP) and file a Notice of Intent with the State Water Resources Control Board (SWRCB).

The existing site has typical pre-existing water quality problems associated with a commercial site. Commercial buildings, parking lots and marina/boat operations currently occupy the site. The site is located in a high water table with no opportunity to infiltrate run-off.

4.7.2 Significance Criteria

Impacts resulting from the implementation of the project would be considered significant if the project:

- Violate any water quality standards or waste discharge requirements;
- Substantially deplete ground water supplies or interfere substantially with ground water recharge such that there would be a net deficit in aquifer volume or a lowering of the local ground water table level;

- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
- 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;
- Otherwise substantially degrade water quality;
- Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map;
- Place within a 100-year flood hazard area structures which would impede or redirect flood flows;
- 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;
- Inundation by seiche, tsunami, or mudflow.

4.7.3 Impacts

The following addresses potential impacts of the project per the significance criteria previously presented in Section 4.7.2.

In accordance with National Pollutant Discharge Elimination System (NPDES) regulations, the State of California requires that any construction activity disturbing one acre or more of soil comply with the State General Construction Activity Storm Water Permit (Water Quality Order 99-08-DWQ). To obtain authorization for proposed stormwater discharges pursuant to this permit, the landowner (discharger) is required to submit a Notice of Intent to the State Water Resources Control Board (SWRCB) and implement best management practices (BMPs) during construction activities. Dischargers are required to implement Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or eliminate stormwater pollution. The purpose of implementing BMPs is to prevent all construction pollutants from contacting stormwater and to keep all erosion products from moving off site into receiving waters. Certain discharges of nonstormwater, such as irrigation, and pipe flushing and testing are permitted

as long as they do not cause or contribute to a violation of any water quality standard; violate any provision of the General Permit; or require a nonstormwater permit (such as that issued by the Santa Ana Regional Water Quality Control Board [SARWQCB], Region 8). The proposed project is subject to the General Construction Permit because it will disturb one acre or more of soil during the construction phases. The project will be required to prepare a Storm Water Pollution Prevention Plan (SWPPP). The proposed project will be required to demonstrate accomplishment of the following NPDES objectives:

- Use of structural and non-structural Best Management Practices (BMPs) to mitigate projected increases in pollutant loads and flows.
- Minimized pollutant loading flow velocity during and after construction.
- Minimized amounts of impervious surfaces and directly connected impervious surfaces.
- Maximized on-site infiltration and runoff and temporary on-site retention areas.
- Limited disturbance of natural water bodies and natural drainage systems.
- Pollution prevention methods, source controls and treatment using small collection strategies located at, or as close as possible to, the source.

There are two primary types of source pollution, single-point source and nonpoint Source pollution. Single-point sources are water pollutants that originate from a single-point source such as factories. Potential impacts to water quality associated with this type of project (mixed-use, commercial, office, residential and parking area) are nonpoint source pollution. Nonpoint source pollution includes materials and/or chemicals (i.e. motor oils/grease, paint, pet wastes, garden chemicals, trash etc.) that may be washed into the storm drain system from various sources.

Nonpoint source pollutants are typically washed into the storm drain system by rainwater and other means from streets, parking areas, residential neighborhoods, commercial/retail centers, construction sites. Since storm drains flow directly into the ocean without treatment, potential pollution can have an impact on water quality and wildlife.

For many years the City of Newport Beach has been following the procedures that protect the quality of stormwater runoff, such as: site construction erosion and sediment control programs, sweeping streets, managing solid waste, recycling programs, storm drain and catch basin maintenance, enforcing prohibitions on illegal discharges, controlling spills, supervising industrial waste discharges through permitting, and enforcing ordinances prohibiting certain discharges. Recognized effective BMPs for pollutant control include activities such as litter control, solid waste collection/recycling, drainage facility maintenance, catch basin stenciling, street sweeping, hazardous materials management/environmental performance reporting, household hazardous waste

collection, emergency spill response and fertilizer, pesticide management and public information and education program. The following tables show source control BMPs (routine and non-structural and routine structural) that are included in the proposed project and those not included.

Table 4.7-1

Routine Non-Structural BMP's

Identifier	Name	Check One		If not applicable, state brief reason
		Included	Not Applicable	
N1	Education for Property Owners, Tenants and Occupants	X		
N2	Activity Restrictions	X		
N3	Common Area Landscape Mangement	X		
N4	BMP Maintenance	X		
N5	Title 22 CCR Compliance (How development will comply)		X	Not an industrial use project
N6	Local Industrial Permit Compliance		X	
N7	Spill Contigency Plan		X	No Hazardous Materials Stored or used On-site
N8	Underground Storage Tank Compliance		X	No Underground storage fuel tanks
N9	Hazardous Materials Compliance Disclosure		X	No Fuel Dispensing or Vehicle Maintenance
N10	Uniform Building Code		X	No Fuel Dispensing or Vehicle Maintenance
N11	Common Area Litter	X		
N12	Employee Training	X		
N13	Housekeeping of Loading Docks		X	No loading docks
N14	Common Area Catch Basins	X		
N15	Street Sweeping Private Streets and Parking Lots	X		
N16	Commercial Vehicle Washing		X	No commercial vehicle washing area

Table 4.7-2

Routine Structural BMP's

Name	Check One		If not applicable, state brief reason
	Included	Not Applicable	
Provide storm drain system stenciling and signage	X		
Design and construct outdoor material storage areas to reduce pollution introduction		X	No outdoor storage
Design and construct trash and waste storage areas to reduce pollution introduction	X		
Use efficient irrigation systems & landscape design, water conversation, smart controllers and source control	X		
Protect slopes and channels and provide energy dissipation	X		
Incorporate requirements applicable to individual priority project categories (from SDRWQCB NPDES Permit)	X		
a. Dock areas		X	No dock areas
b. Maintenance bays		X	No maintenance bays
c. Vehicle wash areas		X	No vehicle wash areas
d. Outdoor processing areas		X	No processing areas
e. Equipment wash areas		X	No equipment wash areas
f. Fueling areas		X	No fueling areas
g. Hillside landscaping		X	No hillside landscaping
h. Wash water control for food preparation areas		X	No food preparation areas
i. Community car wash racks		X	No car wash areas

Table 4.7-3

Site Design BMP's

Name	Check One		Brief Description of Method
	Included	Not Applicable	
Minimize Impervious Area/Maximize Premeability (C-Factor Reduction)		X	
Minimize Directly Connected Impervious Areas (DCIAs) (C-Factor Reduction)		X	
Conserve Natural Areas (C-Factor Reduction)		X	

Site Design BMP's

The project site is located in a high water table area with no opportunity to infiltrate run-off. Permeable surfaces provide no benefit to the project. The project intercepts all runoff into a site drainage system and filters it prior direct discharge in the adjacent Newport Bay Harbor to the east.

On site irrigation drainage and subdrainage will not discharge in a uncontrolled manner into streets surrounding areas. An on-site drainage system is proposed to intercept all site drainage. Subdrainage is present on the site since the site is adjacent to the Newport Harbor Bay and experiences fluctuations in subdrainage as a result of tidal action. The subdrainage will intercepted in the below ground parking structure and drain into the same treatment system used for site storm run-off. Roof drains will connect to drainage system that drains to the adjacent bay. Roof drains will either connect to the drainage system or outlet into the parking lot where runoff is intercepted by the catch basin and drainage system. A 'Stormfilter' system device will be located in the underground parking garage.

Treatment Control BMPs

'Stormfilter' system used to treat runoff from developments that discharge directly into ocean waters. The system will be designed to treat dissolved metals, nutrients, trash, debris, oil, grease, organics, and TSS (80% removal of mean size of 16 micron).

Table 4.7-4

Treatment BMP's

Name	Check One		If not applicable, state brief reason
	Included	Not Applicable	
Vegetated (grass) swales		X	None used or required
Proprietary Control Measures	X		
Dry Detention Basin		X	None used or required
Wet Detention Basin		X	None used or required
Constructed Wetland		X	None used or required
Detention Basin/Sand Filter		X	None used or required
Porous Pavement Detention		X	No dock areas
Infiltration Basin		X	None used or required typical landscape filtration
Infiltration Trench		X	None used or required
Media Filter	X		

The proposed project will have a beneficial impact to water quality. The existing shipyard is proposed to be removed and remediation (contaminants in the sediments of the boat bays) of the site will be conducted in compliance with the requirements of the California Regional Water Quality Control Board Santa Ana Region. Water quality implementation of the project will include compliance with the adopted Drainage Area Management Plan and adoption of Best Management Practices for handling any runoff from the proposed housing buildings or hardscape. Therefore, impacts to water quality are not anticipated.

The proposed project would not substantially increase water runoff. The site is already developed with existing buildings and is located in an urbanized area of the City. The site is largely covered with impervious surface (e.g. asphalt, concrete, etc.) at the present time. The proposed expansion will include demolition of three corrugated metal structures and the asphalt parking lot to accommodate the new buildings. Since the site is presently covered with impervious surface and will continue to be after project implementation, the project will result in an insignificant increase in runoff.

The project is located in close proximity to the beach and ocean front. All on-site surface water will be conveyed to a drainage system that includes catch basin filters and that eventually flows toward the bay. The project will result in short-term and long-term impacts to water quality. Short-term impacts will occur as a result of construction and grading activities. Long-term impacts will occur as a result of increased usage of the site by vehicles and people. These impacts can be reduced by procedures that protect the quality of stormwater runoff, such as: site construction, erosion and sediment control programs, sweeping streets, managing solid waste, recycling programs, storm drain and catch basin maintenance, enforcing prohibitions on illegal discharges, controlling spills, supervising waste discharges through permitting, and enforcing the prohibition on certain discharges. Water quality implementation of the project will include compliance with the adopted Drainage Area Management Plan and adoption of Best Management Practices for handling any runoff from the proposed project.

Hydrology

The project site is located within a 500-year flood hazard area. Due to close proximity of the project site to the Pacific Ocean (and the Rhine Channel), the site could potentially experience impacts associated with inundation by tsunami (but unlikely a seiche or mudflow due to the location and topography). The project itself does not expose people or structures to a significant risk involving flooding, or flooding as a result of the failure of a levee or dam. The City of Newport Beach has emergency procedures in the event of a major event (i.e. flooding, earthquake, evacuation plans etc.)

With implementation of the recommended mitigation measures, flood and erosion will be minimized and potential impacts reduced to less than significant.

4.7.4 Mitigation Measures

The following measures will reduce potentially significant impacts associated with the proposed project to a less than significant level:

MM 4.7.4-1: *Prior to the issuance of any grading permit, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and provide evidence that a NPDES Notice of Intent (NOI) has been filed with the State Regional Water Quality Control Board. Such evidence shall consist of a copy of the NOI stamped by the Regional Water Quality Control Board. The SWPPP shall be developed to reduce the risk of the transport of sediment and pollutant from site. The SWPPP shall implement measures to minimize risks from material delivery and storage, spill prevention and control, vehicle and equipment fueling and maintenance, material use, structure construction and painting, paving operations, solid waste management, sanitary waste management, and hazardous waste management.*

MM 4.7.4-2: *During construction and following completion of development, the recommendations presented in the Water Quality Management Plan (WQMP) prepared by SP Consulting Group dated February 20, 2006 shall be implemented and complied with to ensure that all potential project impacts to water quality will be reduced to a less than significant level and all applicable local and state water quality requirements complied with by the project applicant (property owner).*

MM 4.7.4-3: *During construction activities the following shall to be implemented:*

a. *During construction and maintenance activities, equipment shall be in proper working condition and inspected for leaks and drips on a daily basis. The project contractor or representative thereof shall develop and implement a spill prevention and remediation plan and workers shall be instructed as to its requirements. Construction supervisors and workers and maintenance personnel shall be instructed to (1) be alert for indications of equipment-related contamination such as stains and odors, and (2) respond immediately with appropriate actions as detailed in the spill prevention and remediation plan if indications of equipment-related contamination are noted.*

b. *During construction and maintenance activities, fuels, solvents, and lubricants shall be stored in a bermed area so that potential spills and/or leaks shall be contained. Soil contamination resulting from spills and/or leaks shall be remediated as required by Federal and/or state law. Storage areas shall be constructed so that containers shall not be subjected to damage by construction and maintenance equipment.*

c. *Stockpiles of bulk granular building materials shall be covered and secured.*

d. *Any areas of exposed soil, such as dirt stockpiles, dirt berms, and temporary dirt roads, shall be stabilized with controlled amounts of sprinkled water.*

e. *At the close of each working day, any materials tracked onto the street or laying uncontained in the construction areas shall be swept up, and any trash accumulated in construction areas shall be disposed.*

f. *Concrete, asphalt, and masonry wastes shall be contained and these wastes shall be disposed away from project construction sites.*

g. *Spill kits containing absorbent materials will be kept at the construction site.*

h. *Fuels and other hazardous materials will be stored away from project drainage.*

MM 4.7.4-4: *Prior to the issuance of a building permit, the applicant shall submit a landscape plan, which includes a maintenance program to control the use of fertilizers and pesticides, and an irrigation system designed to minimize surface runoff and over watering. This plan shall be reviewed by the City of Newport Beach Planning Department. The landscaping shall be installed and maintained in conformance with the approved plan and maintenance program.*

4.7.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measures, the project will not result in any significant impacts to hydrology, flood hazard, or water quality.

4.8 LAND USE AND PLANNING

A number of sources were evaluated for the preparation of the data contained in this Section. These sources include (but are not limited to); the City of Newport Beach General Plan, Local Coastal Program, and Specific Plan #6 – Cannery Village/McFadden Square. All of the document sources are identified in the References (Section 9) of this EIR.

4.8.1 Environmental Setting

This section focuses on existing conditions of land uses at the project site, the immediate surrounding land uses, and summarizes the applicable plans, policies, and regulations in regards to land use.

Existing Land Uses On-Site

The site currently is developed and utilized with existing commercial/retail and office uses. The existing development consists of 44,300 square feet of office and commercial space that is located on 102,800 square foot lot. The site contains three groupings of buildings that share a site located between Newport Boulevard and Newport Bay which is located at the northerly boundary of the project site. The buildings are rustic and/or industrial in appearance. The view from the northerly side of the property is of a marina with the bay and mainland beyond. Ground covering is mostly asphalt. Vegetation is minimal, with plantings for the most part limited to ornamental landscape elements situated very near the buildings.

The following describes the most notable relevant planning programs which influence land uses within the project area.

City Planning Programs/Documents

City of Newport Beach General Plan: The General Plan provides a planning and development framework for objectives, policies and land use patterns for the City of Newport Beach. Section 65302 of the California *Government Code* requires that all counties and cities adopt general plans.

The City is currently in the process of updating the General Plan. On January 27, 2006 the City published the Notice of Preparation (NOP) for the Draft Environmental Impact Report for the General Plan Update. The current General Plan includes the following elements: (1) Land Use (dated 1988 with several amendments since that time), Housing (dated 2003 with amendments and re-certification in 2005), Recreation and Open Space (1998), Conservation of Natural Resources (1974), Circulation (1998), Public Safety (1975), Noise (1994), Growth Management (1992), and the Harbor and Bay (2001) element.

The following summary describes the relevance of each element of the City's current General Plan to the proposed project area.

Land Use Element - The Land Use Element contains policies on the location and character of land uses necessary for orderly growth and development. This element contains the City's land use objectives, policies and land use patterns. The element establishes the development criteria and standards, including population density and building density.

The General Plan Land Use Map identifies the site Statistical Area B5, Subarea 6 – Cannery Village/McFadden Square Specific Plan.

Circulation Element - The City's Circulation Element identifies that its intent is to address major roadways and transportation routes; roadway and intersection improvements; estimated costs and funding allocations; and bikeways. The site is currently accessed off of Newport Boulevard and 22nd Street. Transportation (circulation) associated with the project area and site is described in Section 4.11 (Transportation) of this EIR.

Recreation and Open Space Element – This Element identifies the City's objectives for high quality open space and recreation facilities. The Goal of the Element is to maintain a recreation and open space system which meets the recreational needs of the citizens of Newport Beach and which enhances the unique recreational and environmental resources of the City. Resources pertaining to this element of the General Plan (i.e. biological, cultural, etc.) associated with the project site are described in the appropriate topical sections of this EIR (4.3, 4.4, and 4.10).

Conservation of Natural Resources Element – This Element addresses the existing natural resources in the City of Newport Beach and their current conditions; the agencies involved in, and programs for the conservation of the resources, and the actions that will be taken by the City, or which the City will encourage other agencies to take, which will assure conservation of natural resources. The major natural resources in the City include the bay and ocean waters, the beaches and the air, and archaeological and paleontological resources, and natural land and wildlife areas.

Public Safety Element - The Safety Element contains City policies on identified and potential hazards and safety considerations, their mitigation and implications for development. The State *Government Code* requires general plans to include a safety element for the protection of the community from any unreasonable risks associated with the effects of geological conditions (i.e., seismic events, landslides, geological hazards), flooding, wildland and urban fires.

The basic purpose of the Safety Element is to comprehensively inventory hazards which primarily impact persons and property in the City. This hazards inventory identifies information necessary for the development of goals, objectives, policies and implementation programs. The goals and objectives of the Safety Element are consistent with state requirements and are based on an assessment of safety-related needs, and the identification of problems impeding the resolution of hazards and safety concerns. The Safety Element serves to guide and direct local government decision-making in safety-related matters, and also foster coordination with regional, state, and federal policies and programs. Safety hazards associated with the project area and site (i.e., geological, fire, flood and hazardous materials) are described in the various appropriate sections of this EIR (Sections 4.5, 4.6, 4.7, 4.10, and 4.12).

Noise Element - The purpose of the Noise Element is to provide a statement of public policy and a decision framework for the maintenance of a quiet environment and, in particular, the development of uses compatible with the existing and future noise environment. The Noise Element identifies sources of noise, analyzes the extent of noise intrusion, and estimates its potential impact upon the City. Existing, future and potential noise conditions associated with the proposed project and site are described in Section 4.9 of this EIR.

Housing Element - The goal of this element is to provide a variety of housing opportunities to meet the needs of all economic segments of the City. The Housing Element is based on state law, and includes the assessment of housing needs and the identification of opportunities and

constraints as they pertain to the improvement of housing. The element serves to guide and direct local government decision-making in all housing-related matters.

Harbor and Bay Element – The Harbor and Bay Element focuses on the uses of the water and waterfront property in Newport Harbor and supplements the provisions of the Land Use and the Recreation and Open Space Elements. The Harbor and Bay Element addresses the diversity of uses, public access, water quality and the environment, and visual character.

City of Newport Beach Local Coastal Program (LCP): The LCP designates the project site as CM-C "Recreational and Marine Commercial". The LCP consists of a land use plan and an implementation plan. The land use plan indicated the kinds, location, and intensity of land uses, the applicable resource protection and development policies, and, where necessary, a listing of implementing actions. The implementation plan consists of the zoning ordinances, zoning district maps, and other legal instruments necessary to implement the land use plan.

The coastal development permit authority is delegated to the appropriate local government once the government has a certified LCP. The Coastal Commission retains original permit jurisdiction over certain specified lands, such as submerged lands, tidelands, and public trust lands, and has appellate authority over development approved by local government in specified geographic areas. In authorizing coastal development permits, the local government must make the finding that the development conforms to the certified LCP.

On February 8, 2006, the Coastal Commission certified the Coastal Land Use Plan (CLUP) for the City of Newport Beach. The Coastal Commission concurred with the Executive Director's determination that the CLUP adopted by the City Council on December 13, 2005 was "legally adequate". The next step in the certification process is the adoption of the Implementation Plan. The City's LCP Certification Committee is currently reviewing the first draft of the plan.

The certified CLUP addresses land use and development, public access and recreation, and coastal resource protection. The project site is located within the coastal zone and is subject to the CLUP.

State Planning Programs

California Department of Fish and Game - §1601/1603 Agreements - The California Department of Fish and Game (CDFG) regulates alterations of "streambeds" through development of a Streambed Alteration Agreement pursuant to Division 2, Chapter 6, §§ 1600-

1603 of the *Fish and Game Code*. An Agreement is required whenever a project would "divert, obstruct or change the natural flow or bed, channel or bank of any river, stream or lake designated by the Department." §1600 *et seq.* does not extend to isolated wetlands and waters such as small ponds not located on a drainage course, wet meadows, vernal pools, or tenajas as does federal jurisdiction. The CDFG jurisdiction does not extend over tidal waters. However, §1600 *et seq.* jurisdictions extends over all riparian habitat supported by a river, stream, or lake regardless of the riparian area's federal wetland status. The Streambed Alteration Agreement is developed between the CDFG and an applicant for an agreement.

The CDFG previously stated in a letter to the City of Newport Beach dated August 29, 2003 that the agency is a "Trustee Agency" in regards to the proposed project per CEQA, Section 15386. Section 4.3 of the EIR includes a complete assessment of biological resources, and the reader is referred to this Section of the EIR.

California Regional Water Quality Control Board – Santa Ana Region - The project area is located within the Santa Ana River Basin. The project area is under the jurisdiction of the California Regional Water Quality Control Board (RWQCB) Santa Ana Region for issues related to water quality. The proposed project is subject to the General Construction Permit because it will disturb one acre or more of soil during the construction phases. The project will be required to prepare a Storm Water Pollution Prevention Plan (SWPPP). The proposed project will be required to comply with the National Pollution Discharge Elimination System (NPDES). The project will require Section 401 Water Quality Certification from the Regional Water Quality Control Board (Regional Board) and mitigation pursuant to regulatory requirements.

Federal Planning Programs

U.S. Army Corps of Engineers - §404 of the Clean Water Act - Under §404 of the Clean Water Act, the U.S. Army Corps of Engineers (ACOE) has regulatory authority over the discharge of dredged or fill materials into the waters of the United States (1344 USC). The term "waters of the United States" is defined at 33 *Code of Federal Regulations* (CFR) Part 328. A permit pursuant to §404 of the Clean Water Act is required prior to discharging any dredge or fill material into waters of the U.S. and adjacent wetlands. All permits issued by the ACOE are subject to consultation and/or review by the U.S. Fish and Wildlife Service (USFWS) and the U.S. Environmental Protection Agency (EPA), which is responsible for administration of the

Clean Water Act. A §404 permit may be required if any portion of an area to be developed is determined to impact waters of the U.S. and wetlands under the ACOE.

4.8.2 Significance Criteria

Impacts resulting from the implementation of the project would be considered significant if:

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect;
- Conflict with any applicable habitat conservation plan or natural community conservation plan.

4.8.3 Impacts

The following is a summary of potential project impacts to land use (based on the significance thresholds presented in the previous section 4.8.2), including impacts to the various relevant planning programs which influence the land uses within the project area. The Table 4.8-1 identifies the plans, policies and regulations that have been adopted by the City of Newport Beach ***for the purpose of environmental protection*** which are applicable to the project:

Table 4.8-1

GENERAL PLAN	APPLICABILITY TO PROPOSED PROJECT
Land Use Element Police B - Redevelopment of properties - ensure that traffic does not exceed the level of service desired y the City. Policy C –provide for access to the water for residents and visitors, as well as maintain the high quality of life and the unique and beautiful residential areas that border the harbor. Policy D - the preservation of public views, the preservation of unique natural resources, and to minimize the alteration of natural land forms along bluffs and cliffs. Policy E – provisions for the encouragement or development of	*The proposed project complies with Policies B, C, De, E, F, and L. The traffic study conducted for the project concluded that the project does not result in any significant impacts to traffic and the project meets the parking code. The project provides access to the waterfront for residents and visitors and greatly enhances the aesthetics of the property. The project also provides a view corridor.* *No unique natural resources or landforms are present at the project site. The site is not a coastal bluff. Public views are enhanced with the creation of a vertical and horizontal public access. Therefore, no conflict with this policy is expected and public view of The Rhine Channel is provided from Newport Boulevard over the property.* *The project is consistent with the City's General Plan and aesthetically enhances the property while also continuing to provide marine uses.*

suitable and adequate sites for commercial marine related facilities. Policy F –commercial and office projects are aesthetically pleasing and compatible with surrounding land uses Policy L –promote the prosperity of its several community commercial districts through the adoption and application of its planning, zoning, building and public works codes, regulations, policies and activities.	
Conservation Element Water quality protection and enhancement	*The project has been designed to comply with applicable water quality requirements and incorporates storm water filters to treat initial drainage. The project also includes the remediation of existing contaminated sediments within the Bay resulting from past historical use of the site in accordance with the oversight and requirements of the Regional Water Quality Control Board. Section 4.7 of this EIR discusses the issue of water quality, and with the implementation of mitigation measures and the implementation of the Storm Water Pollution Prevention Plan, the project will not conflict with the policy to protect and enhance water quality.*
Archaeological & Paleontological resource preservation and mitigation	No archaeological or paleontological resources are known to exist at the project site. However, the Cultural Resources Section of this EIR (Section 4.4) provides mitigation to ensure that all potential impacts will be mitigated to a less than significant level in event said resources are discovered during project construction activities.
Energy Conservation	*The development of the project must comply with applicable energy conservation regulations of the California Building Code, which will ensure that no conflict with this policy results.*

Harbor and Bay Element Goal HB-3 Water Quality and the Environment	*See response provided for Conservation Element (Water Quality Protection & Enhancement)*
Objective HB-4.2 Maintain unique historical resources	*Section 4.4 of this EIR addresses this issue and provides mitigation. None of the buildings appear to be individually eligible for listing in the California Register, as the shipyard represents a significant and distinguishable entity whose components lack individual distinction.*
Recreation and Open Space Element Objective 6 – Scenic Vistas and Resources (maintenance and enhancement of scenic character)	*Public views are enhanced with the creation of a vertical and horizontal public access. The existing public view easement through the center of the site will be preserved and the sitting of the structures ensures no obstruction of the existing view easement. Therefore, no conflict with this policy is expected as a result of development of the proposed project.*
Objective 9 – Maintain and Enhance City's environmental resources (ESHA's and cultural)	*The project site is fully developed. No eelgrass is present in Newport Bay within the area that may be disturbed by site remediation or reconstruction of the marina. Implementation of a Remedial Action Plan for site cleanup as discussed in Section 4.6 of this EIR will ensure that no conflict with the policy to preserve and protect ESHA's will occur. The cultural significance of the site is addressed in Section 4.4 of this EIR with the incorporation of the mitigation measures contained in that section*
Specific Plan #6 **Cannery Village/McFadden Square** Architectural theme to preserve and enhance the visual character.	*McFadden Square: The McFadden Square area theme includes the following:* *a. Use of materials reflecting and image of permanence, stability and strength, and quality. Materials such as ceramic tile, stone, brick and brass fit this image.* *b. Use of architectural styles and details reminiscent of the turn of the century era in which the area was constructed.*

	Structures in this style in general have a strong architectural emphasis on both vertical and horizontal structural members, a regular rhythm of vertical windows, and a restrained use of ornament. *The site is technically within the McFadden Square area as the border between the areas is 26th Street as specified in the General Plan.*
Local Coastal Program, Certified Land Use Plan (Note: Sections 3.0 and 4.0 have been adopted and certified by the City and the California Coastal Commission) ESHA's shall be preserved and protected – Dredging, Diking and Filling of open coastal waters, wetlands and estuaries is highly regulated to avoid or minimize negative environmental effects.	*The LCP designates the subject project site as CM-C "Recreational and Marine Commercial". The project site is fully developed and no environmentally sensitive habitat areas or areas of biological value are present at the site. No eelgrass is present in Newport Bay within the area that may be disturbed by site remediation or reconstruction of the marina. Implementation of a Remedial Action Plan for site cleanup as discussed in Section 4.6 of this EIR will ensure that no conflict with the policy to preserve and protect ESHA's will occur.* *The project site is not a delineated wetland and the project does involve the filling of one boat haul out slipway. Dredging per se is not part of the project description; however, contaminated sediments will be removed from the harbor in a process similar to dredging to accommodate the filling of the slipway and reconstruction of the marina.* *The policy allows the construction or expansion of harbor facilities including marinas and the maintenance of navigational depths for channels, turning basins vessel berthing and mooring areas. The policy also states that the filling of open coastal waters (for non-coastal-dependent industrial/commercial development (marinas, boatyards, piers, etc.) or port/marine facilities or to create useable land area) should not be allowed if mitigation of valuable habitat is required and there is no less environmentally damaging alternative.* *The slipways are not considered true "open waters" of the harbor. The two slipways presently accumulate trash and are not subject to adequate water circulation and flushing. The filling of the smaller covered slipway is mitigated by enlargement and enhancement of the open slipway. A complete assessment of the two slipways and marine biology is presented in the Biological Resources Section 4.3 of this EIR.*
Water quality preservation and enhancement.	*The project has been designed to comply with applicable water quality requirements and incorporates storm water filters to treat initial drainage. The project also includes the remediation of*

	existing contaminated sediments within the Bay resulting from past historical use of the site in accordance with the oversight and requirements of the Regional Water Quality Control Board. Section 4.7 of this EIR discusses the issue of water quality, and with the implementation of mitigation measures and the implementation of the Storm Water Pollution Prevention Plan, the project will not conflict with the policy to protect and enhance water quality.
Coastal bluff development	*No unique natural resources or landforms are present at the project site. The site is not a coastal bluff.*
Archaeological, paleontological and historical resources.	*Archaeological or paleontological resources are not known to exist at the project site. Section 4.4 of this EIR addresses this issue and with the incorporation of the mitigation measures contained in these sections, no conflict with this policy will result. The project site has historical significance due to its past use as noted in the historical assessment (Appendix C). Section 4.4 addresses this issue and with the incorporation of the mitigation measures contained in that section. None of the buildings appear to be individually eligible for listing in the California Register, as the shipyard represents a significant and distinguishable entity whose components lack individual distinction.*
Water Quality Ordinance Chapter 14.36	*The project has been designed to comply with applicable water quality requirements and incorporates storm water filters to treat initial drainage. The project also includes the remediation of existing contaminated sediments within the Bay resulting from past historical use of the site in accordance with the oversight and requirements of the Regional Water Quality Control Board. Section 4.7 of this EIR discusses the issue of water quality, and with the implementation of mitigation measures and the implementation of the Storm Water Pollution Prevention Plan, the project will not conflict with the policy to protect and enhance water quality.*
Council Policy Manual	
H-2 Bay pollution control	*See the response for Water Quality Ordinance above.*
H-3 Newport Marine Refuge protection and administration.	*The project site is located in the lower Newport Bay near the mouth of the Rhine Channel and is not located near the Newport Marine*

	Refuge, therefore no conflict with the policies related to the refuge will occur.
K-2 Places of Historical significance.	*The project site has historical significance due to its past use as noted in the historical assessment (Appendix C). Section 4.4 of this EIR) addresses this issue and with the incorporation of the mitigation measures contained in that section, no conflict with this policy will result.*
K-3 CEQA Guidelines	*Policy K-3 provides guidance for the implementation of the California Environmental Quality Act. This EIR has been prepared and processed in accordance with the policy and applicable State of California statues and guidelines.*
K-4 Paleontological Guidelines	*No paleontological resources are known to exist at the project site. Section 4.4 of this EIR addresses this issue and with the incorporation of the mitigation measures contained in these sections, no conflict with this policy will result.*
K-5 Archaeological Guidelines	*No archaeological resources are known to exist at the project site. Section 4.4 of this EIR addresses this issue and mitigation is presented..*
L-22 Protection of water quality	*See the response for Water Quality Ordinance above.*

Does the project conflict with any applicable habitat conservation plan or natural community conservation plan? The proposed project does not impact an applicable conservation plan. The project site is not part of a HCP or NCCP.

4.8.4 Mitigation Measures

The proposed project will not result in any significant impacts to land use and planning. Mitigation related to other topical areas such as biological resources, cultural resources etc. are presented in the appropriate EIR Sections addressing those areas.

4.8.5 Level of Significance After Mitigation

No impacts in this topical area are anticipated, even without mitigation.

4.9 NOISE

The information and analysis presented in this section of the EIR is based on the noise (acoustical assessment) study dated June 16, 2006 prepared by Mestre Greve Associates (MGA). The complete study is provided in the Technical Appendices to this EIR (Volume II, Appendix G). This noise study is herein incorporated by reference.

4.9.1 Environmental Setting

This chapter analyzes the potential noise impacts associated with the project. Potential noise impacts from construction of the project are examined as well as potential impacts from increased traffic noise on the roadways in the vicinity of the project. Potential noise impacts from activity on the project site during operation on nearby residential areas are also discussed. Traffic noise impacts on the project are also identified.

Measurement of Sound

Sound is technically described in terms of the loudness (amplitude) of the sound and frequency (pitch) of the sound. The standard unit of measurement of the loudness of sound is the decibel (dB). Decibels are based on the logarithmic scale. The logarithmic scale compresses the wide range in sound pressure levels to a more usable range of numbers in a manner similar to the Richter scale used to measure earthquakes. In terms of human response to noise, a sound 10 dB higher than another is judged to be twice as loud; and 20 dB higher four times as loud; and so forth. Everyday sounds normally range from 30 dB (very quiet) to 100 dB (very loud).

Since the human ear is not equally sensitive to sound at all frequencies, a special frequency-dependent rating scale has been devised to relate noise to human sensitivity. The A-weighted decibel scale (dBA) performs this compensation by discriminating against frequencies in a manner approximating the sensitivity of the human ear. Community noise levels are measured in terms of the "A-weighted decibel," abbreviated dBA.

Sound levels decrease as a function of distance from the source as a result of wave divergence, atmospheric absorption and ground attenuation. As the sound wave form travels away from the source, the sound energy is dispersed over a greater area, thereby dispersing the sound power of the wave. Atmospheric absorption also influences the levels that are received by the observer. The greater the distance traveled, the greater the influence and the resultant fluctuations. The degree of absorption is a function of the frequency of the sound as well as the humidity and temperature of the

air. Turbulence and gradients of wind, temperature and humidity also play a significant role in determining the degree of attenuation. Intervening topography can also have a substantial effect on the effective perceived noise levels.

The Basis of Noise Criteria

Noise has been defined as unwanted sound and it is known to have several adverse effects on people. From these known effects of noise, criteria have been established to help protect the public health and safety and prevent disruption of certain human activities. This criteria is based on such known impacts of noise on people as hearing loss, speech interference, sleep interference, physiological responses and annoyance. Each of these potential noise impacts on people are briefly discussed in the following narratives:

HEARING LOSS is not a concern in community noise situations of this type. The potential for noise induced hearing loss is more commonly associated with occupational noise exposures in heavy industry or very noisy work environments. Noise levels in neighborhoods, even in very noisy airport environs, is not sufficiently loud to cause hearing loss.

SPEECH INTERFERENCE is one of the primary concerns in environmental noise problems. Normal conversational speech is in the range of 60 to 65 dBA and any noise in this range or louder may interfere with speech. There are specific methods of describing speech interference as a function of distance between speaker and listener and voice level.

SLEEP INTERFERENCE is a major noise concern for traffic noise. Sleep disturbance studies have identified interior noise levels that have the potential to cause sleep disturbance. Note that sleep disturbance does not necessarily mean awakening from sleep, but can refer to altering the pattern and stages of sleep.

PHYSIOLOGICAL RESPONSES are those measurable effects of noise on people that are realized as changes in pulse rate, blood pressure, etc. While such effects can be induced and observed, the extent is not known to which these physiological responses cause harm or are sign of harm.

ANNOYANCE is the most difficult of all noise responses to describe. Annoyance is a very individual characteristic and can vary widely from person to person. What one person considers tolerable can be quite unbearable to another of equal hearing capability.

The description, analysis and reporting of community noise levels around communities is made difficult by the complexity of human response to noise and the myriad of noise metrics that have been developed for describing noise impacts. Each of these metrics attempts to quantify noise levels with respect to community response.

Most of the metrics use the A-Weighted noise level to quantify noise impacts on humans. A-Weighting is a frequency weighting that accounts for human sensitivity to different frequencies.

Noise metrics can be divided into two categories: single event and cumulative. Single event metrics describe the noise levels from an individual event such as an aircraft fly over or perhaps a heavy equipment pass-by. Cumulative metrics average the total noise over a specific time period, which is typically 1 or 24-hours for community noise problems. For this type of analysis, cumulative noise metrics will be used.

Several rating scales have been developed for measurement of community noise. These account for: (1) the parameters of noise that have been shown to contribute to the effects of noise on man, (2) the variety of noises found in the environment, (3) the variations in noise levels that occur as a person moves through the environment, and (4) the variations associated with the time of day. They are designed to account for the known health effects of noise on people described previously. Based on these effects, the observation has been made that the potential for a noise to impact people is dependent on the total acoustical energy content of the noise. A number of noise scales have been developed to account for this observation. Two of the predominant noise scales are the: Equivalent Noise Level (LEQ) and the Community Noise Equivalent Level (CNEL).

LEQ is the sound level corresponding to a steady-state sound level containing the same total energy as a time-varying signal over a given sample period. LEQ is the "energy" average noise level during the time period of the sample. LEQ can be measured for any time period, but is typically measured for one hour. This 1 hour noise level can also be referred to as the Hourly Noise Level (HNL). It is the energy sum of all the events and background noise levels that occur during that time period.

CNEL, Community Noise Equivalent Level, is the predominant rating scale now in use in California for land use compatibility assessment. The CHEL scale represents a time weighted 24-hour average noise level based on the A-weighted decibel. Time weighted refers to the fact that noise occurs during certain sensitive time periods is penalized for occurring at those times. The evening time period (7 p.m. to 10 p.m.) penalizes noises by 5 dBA, while nighttime (10 p.m. to 7 a.m.) noises are

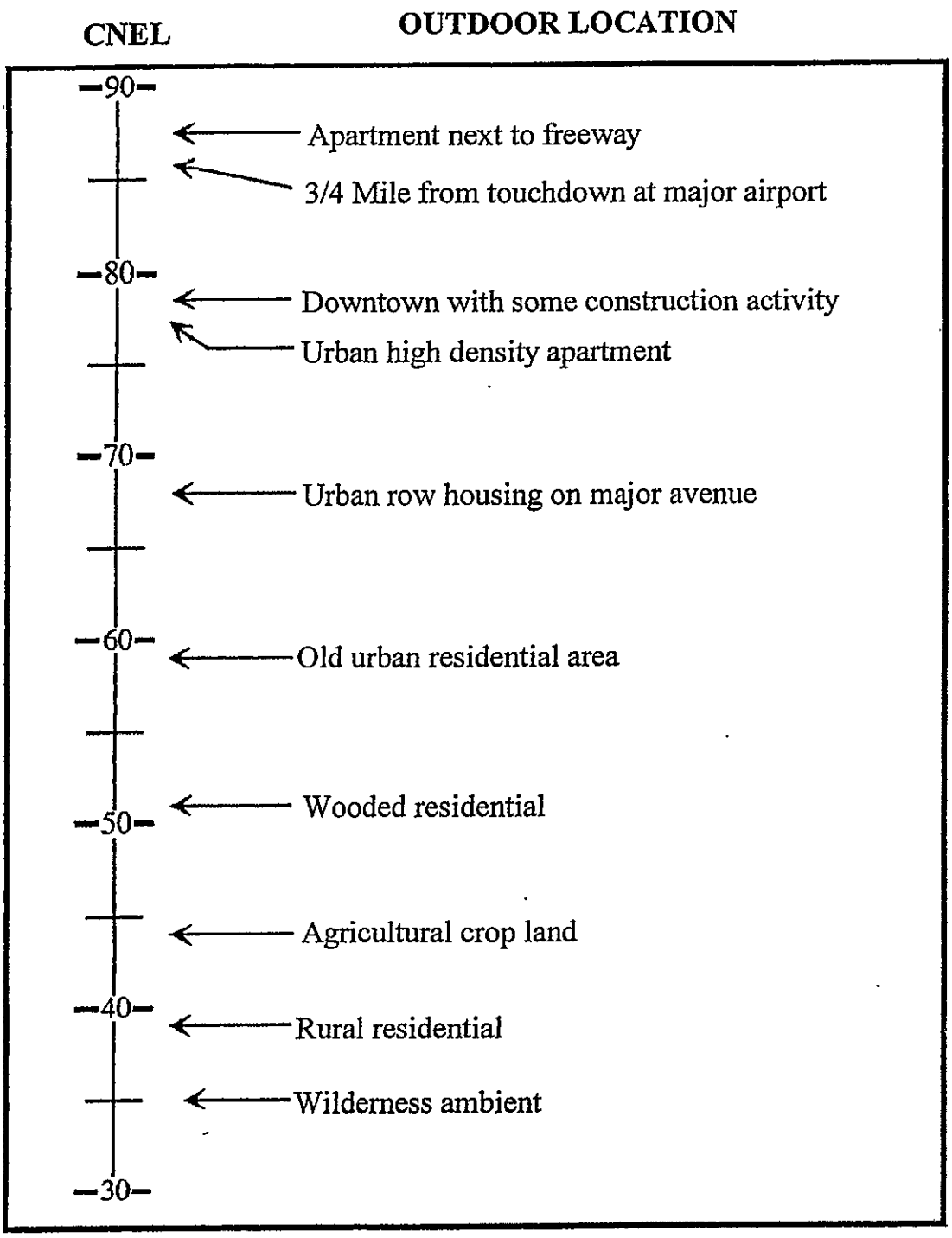
penalized by10 dBA. These time periods and penalties were selected to reflect people's increased sensitivity to noise during these time periods. A CNEL noise level may be reported as a "CNEL of 60 dBA," "60 dBA CNEL," or simply "60 CNEL." Typical noise levels in terms of the CNEL scale for different types of communities are presented in Exhibit 4.9-1.

Ldn, the day-night scale is similar to the CNEL scale except that evening noises are not penalized. It is a measure of the overall noise experienced during an entire day. The time-weighted refers to the fact that noise that occurs during certain sensitive times is penalized for occurring at these times. In the Ldn scale, those noise levels that occur during the night (10 p.m. to 7 a.m.) are penalized by 10dB. This penalty was selected to attempt to account for increased human sensitivity to noise during the quieter period of a day, where home and sleep is the most probable activity.

L(%) is a statistical method of describing noise which accounts for variance in noise levels throughout a given measurement period. L (%) is a way of expressing the noise level exceeded for a percentage of time in a given measurement period. For example, since 5 minutes is 25% of 20 minutes, L(25) is the noise level that is equal to or exceeded for five minutes in a twenty minute measurement period. It is L(%) that is used for most noise ordinance standards. For example, most daytime city, state and county noise ordinances use an ordinance standard of 55 dBA for 30 minutes per hour or an L(50) level of 55 dBA. In other words, the noise ordinance states that no noise level should exceed 55 dBA for more than 50 percent of a given period.

Newport Beach Noise Criteria

The Noise Ordinance and Noise Element of the General plan containing the City's policies on noise. The Noise Ordinance applies to noise on one property impacting a neighboring property. Typically, it sets limits on noise levels that can be experienced at the neighboring property. The Noise Ordinance is part of the City's Municipal Code and is enforceable throughout the City. The Noise Element of the General Plan presents limits on noise levels from transportation noise sources, vehicles on public roadways, railroads and aircraft. These limits are imposed on new developments. The new developments must incorporate the measures to insure that the limits are not exceeded. The City of Newport Beach Noise Ordinance and Noise Element policies are presented below.



Typical CNEL Noise Levels

MESTRE GREVE ASSOCIATES

EXHIBIT 4.9–1

Noise Ordinance

The Newport Beach Noise Ordinance (Chapter 10.26 Community Noise Control) establishes exterior and interior noise standards for noise generated on private property affecting a neighbor. The noise ordinance is designed to control unnecessary, excessive and annoying sounds from sources such as parking lots, loading docks, and mechanical equipment at the residential property line. The noise ordinance requirements can not be applied to mobile noise sources such as heavy trucks when traveling on public roadways. Federal and State laws preempt control of the mobile noise sources on public roads. However, the requirements can be applied to vehicles traveling on public property.

The City of Newport Beach exterior and interior noise criteria are given in terms of 15 minute Leq and Lmax noise levels (peak noise level). The noise levels specified are those that are not to be exceeded at a property from noise generated at a neighbor property. Noise levels are to be measured with A-weighting and a slow time response. Greater noise levels are permitted during the day (7 a.m. to 10 p.m.) as compared to the nighttime period (10 p.m. to 7 a.m.).

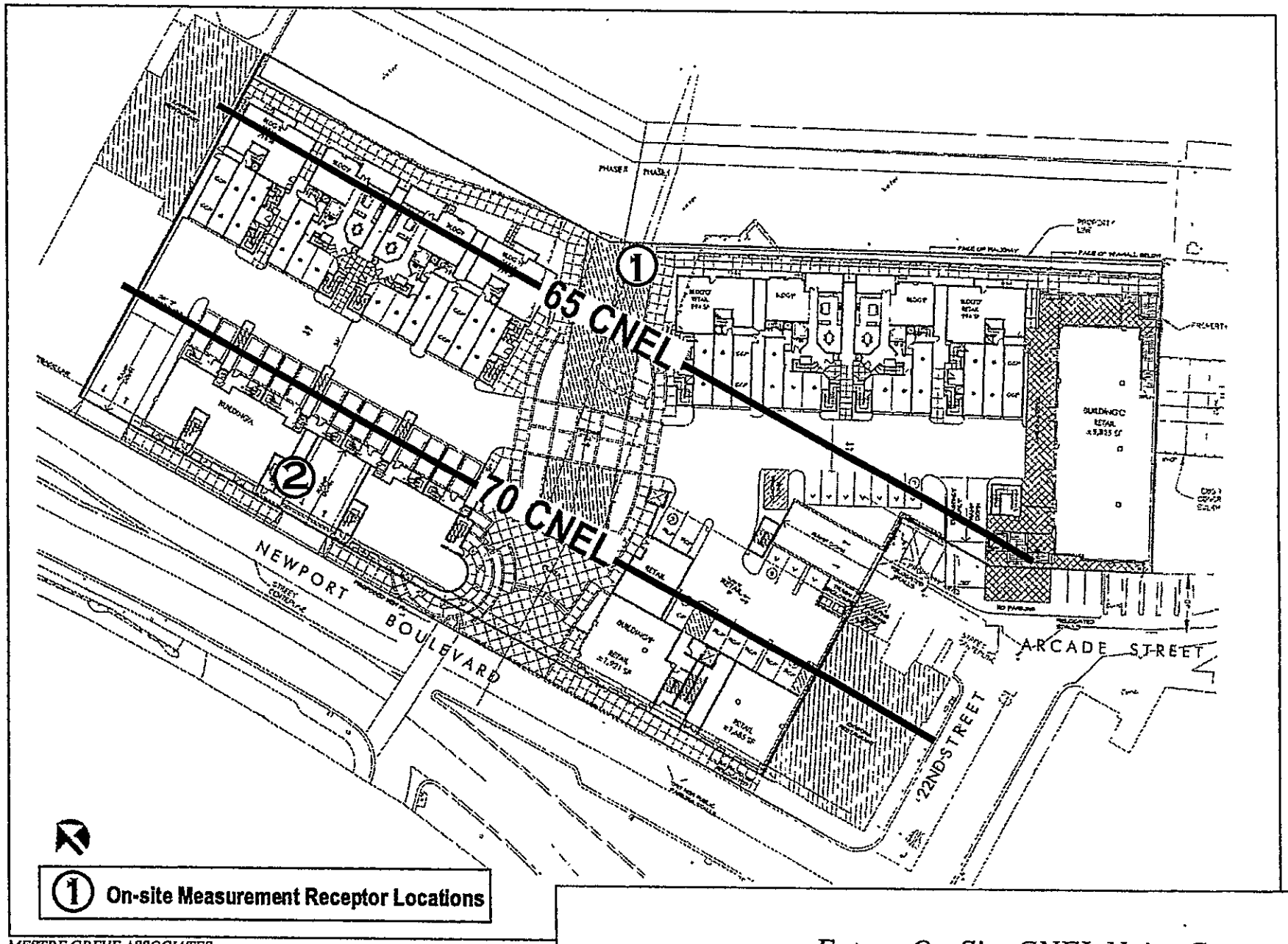
Noise Element

The City of Newport Beach specifies outdoor and indoor noise limits for various land uses impacted by transportation noise sources. The noise limits specified in the City's Noise Element are in terms of the Community Noise Equivalent Level (CNEL). The proposed project consists of both residential and commercial land uses. The standards state that for residential (single-family and multi-family) land uses, the exterior noise exposure level shall not exceed 65 CNEL and the interior noise exposure level shall not exceed 45 CNEL. Commercial buildings shall not exceed an interior noise standard of 50 CNEL.

Existing Site Monitoring Procedure

Noise measurements were made during the morning hours (between 10 a.m. and 12 p.m.) on February 23, 2006. The purpose of the noise measurements was to determine the existing ambient noise levels. The measurements were made with a Bruel & Kjaer Modular Precision Sound Level Meter, Type 2236. The system was calibrated before and after each measurement series. The wind speed during the time of measurements was light (0 to 5 miles per hour).

Measurements were made at two locations on the project site. Measurement Site 1 was located along the northeast property line facing the harbor. Site 2 was located adjacent to Newport Boulevard, approximately 20 feet from the edge of the roadway. The noise measurement locations are shown in Exhibit 4.9-2.



MESTRE GREVE ASSOCIATES

Future On-Site CNEL Noise Contours

EXHIBIT 4.9-2

Two 10-minute period measurement periods were made at each site. The measurement results are given in Table 4.9-1. They are presented in terms of the equivalent noise level (Leq), peak noise level (Lmax), minimum noise level (Lmin), and noise levels exceeded for a percentage of time (L%). The Leq is the average noise level on an energy basis in any period. The Lmax and Lmin levels are maximum and minimum noise levels during the measurement periods. The L percentile noise levels are the noise levels that are exceed for a specific percentage of the measurement period. The L50 is the noise level exceeded for half of the measurement period. It is the median noise level. The L90 is the noise level exceeded 90 percent of the period and describes the background noise level.

Table 4.9-1
Ambient Noise Measurements (dBA)

Location	Leq	Lmax	Lmin	L1.7	L8.3	L25	L50	L90	L99
1 Facing the harbor– on-site	53.0	65.0	46.0	59.5	57.0	52.0	50.5	48.0	46.5
	51.5	59.7	46.6	57.0	54.5	51.5	50.0	48.5	47.0
2 Along Newport Blvd. – on-site	66.3	78.0	49.0	71.5	69.5	67.0	64.5	56.0	49.5
	65.2	76.2	48.6	71.0	69.0	66.0	63.5	56.0	50.0

The noise measurement data at Site 1 mainly reflect noise from the harbor such as boat maintenance activities and shipyard operations across the harbor. Other noise sources that influenced the measurement data were small boat pass-bys, distant helicopters, on-site parking lot activities. Occasionally overhead airplanes also contributed to the noise environment. Distant traffic noise from Newport Boulevard was not discernible and represents the background noise. The data show that the site experienced ambient (L50) noise levels in the low 50s dBA and background (L90) levels in the high 40s dBA. A maximum noise level of 65 dBA was from a distant helicopter.

Measurement Site 2 was conducted adjacent to Newport Boulevard, approximately 20 feet from the edge of the roadway. The primary noise source was traffic on Newport Boulevard. Other noise sources that influenced the measurement data were car pass-bys on the adjacent parking lot, as well as other urban noise sources such as people, cars parked on the street, and distant traffic.

The data show that the site experienced ambient (L50) noise levels in the mid 60s dBA and a background (L90) level of approximately 50 dBA. A maximum noise level of 78 dBA was from a heavy truck on the nearest lane.

An estimate of highway noise levels in terms of CNEL was computed for the roadways affected by project traffic. The Highway Noise Model published by the Federal Highway Administration ("FHWA Highway Traffic Noise Prediction Model," FHWA-RD-11-108, December, 1978) was utilized. The CALVENO noise emission curves developed by Caltrans were used with the FHWA model. These curves better model the California vehicle mix. The FHWA Model uses traffic volume, vehicle mix, vehicle speed, and roadway geometry to compute the "equivalent noise level." A computer code has been written which computes equivalent noise levels for each of the time periods used in the calculation of CNEL. Weighting these noise levels and summing them results in the CNEL for the traffic projections used. CNEL contours are found by iterating over many distances until the distances to the 60, 65, and 70 CNEL contours are found.

The distances to the existing 60, 65, and 70 CNEL contours for the roadways in the vicinity of the proposed project site are given in Table 4.9-2. These represent the distance from the centerline of the road to the contour value shown. The CNEL at 100 feet from the roadway centerline is also presented. The values given in Table 4.9-2 represent existing noise levels and do not take into account the effect of any existing noise barriers or topography that may affect ambient noise levels.

Table 4.9-2 shows that noise levels in the areas immediately adjacent to Newport Boulevard and Balboa Boulevard are substantial. The noise levels along these roadways are in excess of 70 CNEL. Residential uses along these roadways with existing noise barriers (concrete block walls) likely do not experience noise levels in excess of 65 CNEL City standard.

Table 4.9-2
Modeled Existing Roadway Traffic Noise Levels

Roadway Segment	CNEL Level @ 100' †	Distance To CNEL Contour from Centerline of Roadway (feet) 70 CNEL	65 CNEL	60 CNEL
NEWPORT BOULEVARD				
North of Pacific Coast Highway	*68.8*	83	179	385
South of Pacific Coast Highway	*68.6*	81	175	376
BALBOA BOULEVARD				
South of Pacific Coast Highway	*65.6*	51	110	237

4.9.2 Significance Criteria

Potential noise impacts are commonly divided into two groups: temporary and long term. Temporary impacts are usually associated with noise generated by construction activities. Long term impacts are further divided into impacts on surrounding land uses generated by the proposed project and those impacts which occur at the proposed project site.

City of Newport Beach Noise Ordinance

Off-site impacts from on-site activities, temporary and long-term, are measured against the City of Newport Beach Noise Ordinance presented previously. Any activity on private property must comply with the noise ordinance. Any activity that could not comply with the noise ordinance would result in a significant noise impact.

Long-term off-site impacts from traffic noise are measured against two criteria. Both criteria must be met for a significant impact to be identified. First, project traffic must cause a noise level increase greater than 3dB on a roadway segment adjacent to a noise sensitive land use. Second, the resulting future with project noise level must exceed the criteria level for noise sensitive land use. In this case the criteria level is 65 CNEL for residential land uses.

Long-term on-site impacts are measured against the noise level limits given in the City of Newport Beach Noise Element standards. The proposed project includes both residential and commercial land uses. The standards applicable to the project are 45 CNEL interior and 65 CNEL exterior noise standards for residential uses, and 50 CNEL interior standards for commercial purposes.

Construction Noise Standards

Section 10.26.035D of the Newport Beach Municipal Code exempts construction equipment from the provisions of the Noise Ordinance and requires them to comply with Section 10.28 of the Code. Section 10.28.040 of the Code restricts hours of construction to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturday. Noise generating construction activities are not allowed on Sundays or holidays. The project does not propose any construction activities outside of these hours and, therefore, will not result in a significant noise impact.

4.9.3 Impacts

Potential noise impacts are commonly divided into two groups; temporary and long term. Temporary impacts are usually associated with noise generated by construction and demolition activities. Long-term impacts are further divided into impacts on surrounding land uses generated by the proposed project and those impacts which occur at the proposed project site.

Temporary Impacts

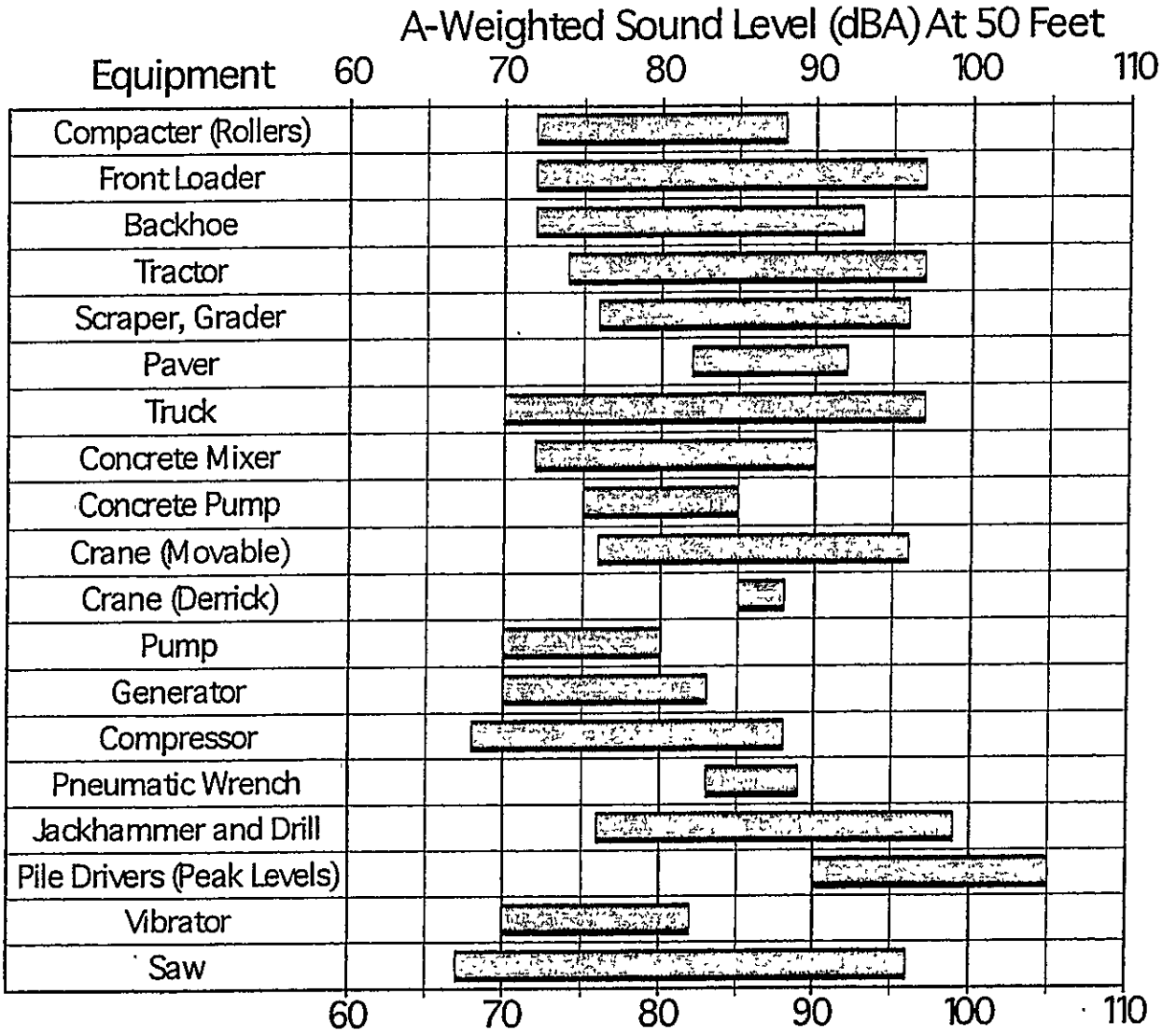
Construction Noise

Construction noise represents a short-term impact on ambient noise levels. Noise generated by construction equipment, including trucks, graders, bulldozers, concrete mixers and portable generators can reach high levels. Typical noise construction levels are shown in Exhibit 4.9-3. Construction of the project includes demolition of all existing buildings, grading and excavation associated with the construction of the parking garage and site remediation. However, the project does not propose construction outside of the hours permitted in the Noise Ordinance. Therefore, the construction of the project will not result in significant noise impact and no mitigation is required.

Demolition debris and dirt excavated for the subterranean parking garage will be trucked off site top remote locations. These trucks will generate noise along public roadways. The trucks are expected to travel on Newport Boulevard, entering and exiting the site from the project's main entrance. At this time, information such as the maximum number of haul trucks per day for the demolition of the project is not available. For the proposed project, it is assumed that material will be removed from the site at a rate of 100 trucks per day. This would add 200 daily truck trips to Newport Boulevard. This would increase existing noise level on Newport Boulevard due to the addition of the trucks by 0.3 dBA. This noise increase is not significant.

Long Term Off-Site Impacts

The project is not projected to result in any significant long-term off-site traffic noise impacts. No mitigation is required.



Source: "Handbook of Noise Control," by Cyril Harris, 1979

Construction Equipment Noise Levels

Mestre Greve Associates

EXHIBIT 4.9–3

Long-Term On-Site Impacts

The proposed residences are required to meet an outdoor noise standard of 65 CNEL and an indoor noise standard of 45 CNEL. Residences along Newport Boulevard may be exposed to noise levels in excess of 70 CNEL. A few second and third floor balcony units are planned along Newport Boulevard.

Noise barrier heights were calculated for sample outside balcony locations facing along Newport Boulevard. Balcony barriers of 5 feet high may be required. In general, noise barrier heights may be reduced considerably through site design, such as setbacks from the roadway, grade separations, and exterior living area orientation. Noise barriers must be continuous, with no openings or gaps, and have a minimum density of 3.5 pounds per square foot. The noise barriers may be constructed of ¼-inch plate glass, 5/8-inch plexiglass, any masonry material, or any combination of these materials. Wood and other materials may also be used only if specifically designed as a noise barrier.

The residential buildings facing Newport Boulevard will experience traffic noise levels of 70 CNEL or greater, and will require outdoor-to-indoor noise reduction of at least a 25 dB. In some cases standard construction will achieve this level of reduction, however, these residences will likely require upgraded windows to achieve the required outdoor to indoor noise reduction.

With typical residential construction, a minimum of 20 dB of outdoor-to-indoor noise reduction is achieved with windows closed. With windows open outdoor-to-indoor, noise reduction falls to 12 dBA. Therefore, units requiring more than 12 dB of noise reduction require adequate ventilation per the Uniform Building Code to allow windows to remain closed. Typically this is provided through mechanical ventilation. Mechanical ventilation may be required for all homes in the project.

The commercial buildings must comply with an interior noise standard of 50 CNEL. The commercial buildings along Newport Boulevard could experience noise levels in excess of 70 CNEL.

4.9.4 Mitigation Measures

Mitigation Measure 4.9.4-1: *Prior to the issuance of any building permits, detailed engineering construction plans will be submitted to the City for review and approval. The engineering plans shall provide details such as roof and wall elements, room dimensions, window and door dimensions, attic configuration and building insulation. Said plans shall demonstrate and ensure that the City's noise standards are met for proposed mixed-use project (residential and commercial).*

4.9.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measures, all potential impacts to noise will be reduced to a less than significant level. There are no unavoidable noise impacts associated with the project.

4.10 PUBLIC SERVICES

4.10.1 Environmental Setting

The information and analyses presented in this section is based on data obtained from public records of the public entities, responses to the request for service/facilities information dated January 23, 2006 sent to the various governmental agencies, and responses to the Notice of Preparation (NOP) for this EIR received by the City of Newport Beach.

Fire Service

The City of Newport Beach Fire and Marine Department are currently providing fire protection and emergency response services for the site. The City of Newport Beach Fire and Marine Department will continue to provide fire protection and emergency response services to the site if developed with the proposed mixed-use residential commercial project. The closest emergency response facility to the site is the station located on at 475 32nd Street (Fire Station No. 2 – Lido Station). This station is located approximately .76 miles from the project site; response time is less than five minutes. Equipment consists of one three-person fire engine, basic EMT-1 services; one three-person fire truck, basic EMT-1 services; one two-person paramedic ambulance, advance life support Station 1, located at 110 E. Balboa., will be the second responding station to the project site. This station is located approximately 1.44 miles from the site; the response time is less than five minutes. Equipment consists of one three-person fire engine; basic EMT-1 services.3 Other facilities are also available for emergency response service. Response times to the site are dependent on various factors. Response time is generally five minutes or less. Emergency calls receive the quickest response times with alarm calls and non-emergency calls having longer response times respectively. The availability of personnel and extenuating circumstances may further affect response times.

Police Service

The City of Newport Beach Police Department is currently providing Law enforcement services to the site. The City of Newport Beach Police Department will continue to provide law enforcement services to the site once the construction is complete. The City's police facility is located at 870 Santa Barbara Drive. The policy facility is approximately five miles from the project site. Response times to the site are dependent on various factors including the location of patrol vehicles at the given moment. Emergency calls receive the quickest response times with alarm calls and non-

3 Letter dated February 8, 2006 from the Newport Beach Fire Department to Hodge & Associates.

emergency calls having longer response times respectively. The availability of personnel and extenuating circumstances may further affect response times. Response times city wide are just under 4 minutes for emergency calls and 7 minutes for non-emergency calls.4 The Newport Beach Police Department has a staffing ratio of 1.87 sworn officers per 1,000 populations. This is based on a year-round resident population of 72,623 persons and equates to a total of 136 sworn police officers.

Schools

The project site is located within the Newport Mesa Unified School District (NMUSD). The District currently serves 21, 138 students. There are currently 22 elementary schools, 2 middle schools, 4 high schools, and 2 alternative education centers, 1 adult education center, and 1 pre-school) within the school district. The closest school to the site is Newport Elementary, 1327 West Balboa Boulevard which is approximately 0.5 miles from the project site.

Parks

The proposed project will result in an increase the use of existing neighborhood and regional parks and recreational facilities. The proposed project will demolish of all existing buildings on the site to accommodate residential, retail and office uses and subterranean parking. The project will provide additional marine recreation opportunities to the public. Existing parks in the area and beaches are available to the public.

4.10.2 Significance Criteria

Significant impacts to public services would occur if the project results in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction 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
- Police protection
- Schools
- Other public facilities

4 Letter dated February 3, 2006 from the Newport Beach Police Department to Hodge & Associates.

4.10.3 Impacts

The proposed project will result in a minimal increase in public services and facilities. The project will increase potential demand on police, fire, and other public services. Potential impacts to other public facilities are addressed in Section 4.12 Utilities and Service Systems. The following addresses potential impacts to Public Services.

Fire

The proposed project may potentially increase the number of calls for service to the location; however, it is anticipated that the project will not require any new facilities/staff or affect emergency response times. Current emergency equipment and facilities at the project site must be evaluated to ensure that the current facilities are adequate and serviceable. Items that will be evaluated as part of the construction project plans include, but are not limited to, the following: firefighter communication equipment, fire pump, and on site water supply. Additionally, all proposed structures will be required to be fully fire sprinklered. At this time, the Newport Beach Fire Department has indicated that the project will not result in any significant impacts to facilities, staff and/or services.[5]

All fire protection project features must be designed as an integral part of the construction process with all improvements and/or modernization of equipment systems or devices identified and agreed upon by the City of Newport Beach Fire and Marine Department prior to any construction approval. The project has been reviewed by the Fire Marshal and given a preliminary approval of the access plan (i.e. adequate access will be provided). Therefore, no impact will occur provided that the final project plans comply with the City's Building and Fire codes.

Police

There are no plans for additional facilities or expansion of current facilities and/or additional staff. The Newport Beach Police Department (NBPD) indicated that the construction of the project may have an impact on the area, especially if the construction is done in the summer months. The area becomes very busy with traffic and parking issues because of the beachgoers and tourist business that occurs between May and September.

5 Letter dated February 8, 2006 from the City of Newport Beach Fire Department to Hodge & Associates.

The NBPD has indicated that following project completion, it does not appear that the population increase brought by the residential use will be significant. A "calls for service" increase may potentially occur depending on the nature of the business that would be conducted as part of the retail uses.

Schools

The proposed project consists of a mixed-use development that includes 27 new residential units. The project will generate new students, however, the project is consistent with the land use designation of the City's General Plan and zoning and therefore included in the student generation projections for buildout of the City. Based on the current student generation rates, the project could result in the generation of approximately 7 K-12 students (27 units x 0.259 K-12 student/dwelling unit). While the development is not expected to generate significant numbers of students, the District's facilities are overcrowded. Therefore, in compliance with state law the project applicant will be required to pay applicable development impact fees adopted by school district. With implementation of the mitigation measure, it is anticipated that any potential impacts to schools will be reduced to a less than significant level. Therefore, it is not anticipated that there will be any significant impacts to schools in relation to the proposed project with payment of the State-mandated statutory school fees.

Parks

The proposed project is not anticipated to significantly increase the use of existing neighborhood and regional parks and recreational facilities. The project will provide additional marine recreation opportunities to the public. Existing parks in the area and beaches are available to the public. Due to the limited population expected in relation to the 27 residential units the increase will be limited in regards to the potential use of parks and recreational facilities in the area. The project applicant will be required to pay applicable park impact fees. With implementation of the mitigation measure, it is anticipated that any potential impacts to parks will be reduced to a less than significant level.

4.10.4 Mitigation Measures

MM 4.10.4-1: *Prior to the issuance of a grading permit, project construction plans shall be submitted to the City Fire Chief for review to verify that all fire protection is designed in compliance with the requirements of the City of Newport Beach Fire and Marine Department.*

MM 4.10.4-2: *Prior to the issuance of any building permits, the project applicant shall pay any applicable development school impact fees as required by State law.*

MM 4.10.4-3: *Prior to the issuance of any building permits, the project applicant shall pay any applicable park impact fees as required by City of Newport Beach and State law.*

4.10.5 Level of Significance After Mitigation

With implementation of recommended mitigation measures, all potential impacts are anticipated to be a level of less than significant.

4.11 TRANSPORTATION

The information and analysis presented in this section of the EIR is based on the traffic study dated December 8, 2005 prepared by Austin-Foust Associates, Inc. The complete transportation and traffic assessment is provided in the Technical Appendices to this EIR (Volume II, Appendix H).[6] The traffic analysis prepared by Austin-Foust Associates, Inc. is herein incorporated by reference.

4.11.1 Environmental Setting

The project site is located on the northwest corner of Newport Boulevard and 22nd Street in Newport Beach. The site is developed with a mixture of office, retail and industrial uses. Access to the site is provided by driveways on Newport Boulevard and 22nd Street.

Existing Trip Generation

Trip rates for the existing uses were determined by City staff in consultation with Austin-Foust Associates, Inc. for marine services businesses. A combined retail/industrial rate was applied to these marine services uses to reflect the nature of the operations. Traffic generated by the existing uses was subtracted from the trips generated by the proposed project to obtain the net new trips being added to the surrounding circulation system.

The existing site use generates 577 average daily trips (ADT), 62 trips in the AM Peak Hour and 70 trips in the PM Peak Hour.

A field count of existing traffic at the intersection of Newport Boulevard and 22nd Street was conducted on Thursday evening in September, 2004 to determine the typical peak vehicle storage and congestion associated with left- and U-turns at this location. The results identified that during the peak hour approximately one vehicle per minute (approximately two vehicles per minute during the peak 15 minute period) currently makes the left turn onto 22nd Street. The maximum queue observed during the count period was three vehicles.

6 There have not been any significant changes in traffic data (existing and/or long-term) since the preparation of the traffic study dated December 8, 2005 per consultation with David Keely, Public Works Department, City of Newport Beach on May 17, 2006.

Public Transit Service

The study area is currently served by Orange County Transportation Authority (OCTA) along Newport Boulevard. The OCTA provides public bus service in the Newport Beach including the area of the project site.

4.11.2 Significance Criteria

A significant impact on traffic would occur if the project:

- causes an increase in traffic that is substantial in relation to the existing traffic load and capacity of the intersections or the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections);
- exceeds either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways;
- results in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks;
- substantially increases hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment);
- results in inadequate emergency access;
- results in inadequate parking capacity;
- conflicts with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks).

4.11.3 Impacts

Construction Impacts

Construction of the project will result in significant short-term traffic-related impacts. Additionally, significant building materials will need to be trucked out (due to demolition of the existing structures) of and into the site during construction of the project.

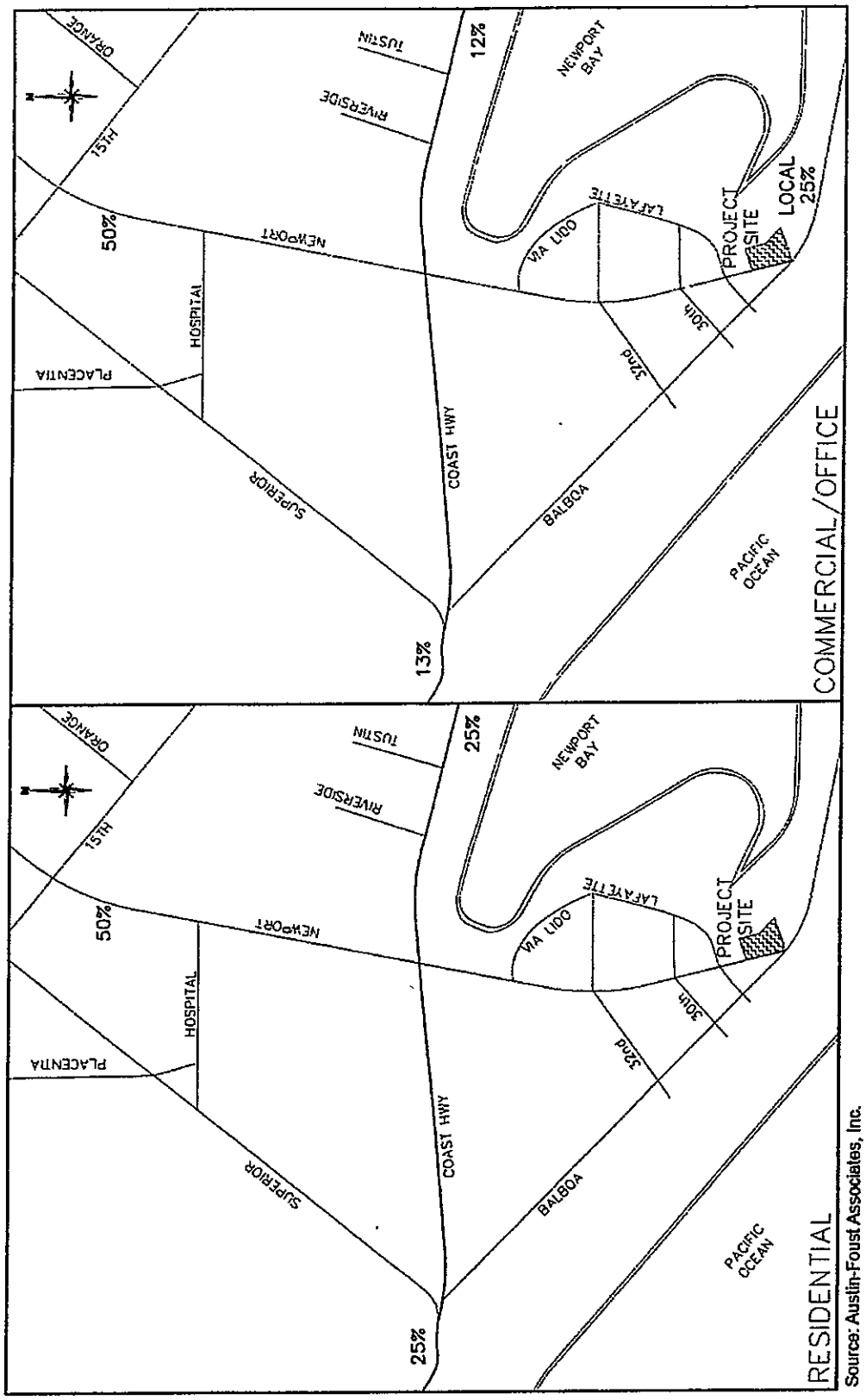
Project Traffic Conditions

Trip Generation

Trip generation represents the amount of traffic that is attracted and produced by a development. The traffic generation for the project is based upon the specific land use that has been planned for this development. Trip generation rates for the proposed development are from the Institute of Transportation Engineers (ITE) Trip Generation, 7th Edition. This publication provides a comprehensive evaluation of trip generation rates for a variety of land uses. Trip distribution for the existing uses was subtracted from the trips generated by the proposed project to obtain the net new trips being added to the surrounding circulation system as a result of project implementation. The proposed development is projected to generate approximately 682 trip-ends (net increase) per day with -2 (net) vehicles per hour during the AM peak hour and 28 vehicles per hour during the PM peak hour.

Trip Distribution and Assignment

Trip distribution represents the directional orientation of traffic to and from the project site. Trip distribution is heavily influenced by the geographical location of the site, the location of residential, employment and recreational opportunities and the proximity to the regional freeway system. Trip distribution of the project-generated traffic onto the surrounding circulation system was determined from observed travel patterns in the vicinity of the project site as well as from locations and levels of development in relation to the site. The residential units will have a different distribution pattern than the general commercial and office uses. The commercial shops and office are small and will have a large proportion of local trips which do not impact any of the study intersections; whereas, virtually all traffic from the residential units is assumed to leave the area. The general distribution is shown in Exhibit 4.11-1.



Source: Austin-Foust Associates, Inc.

Project Distribution

EXHIBIT 4.11–1

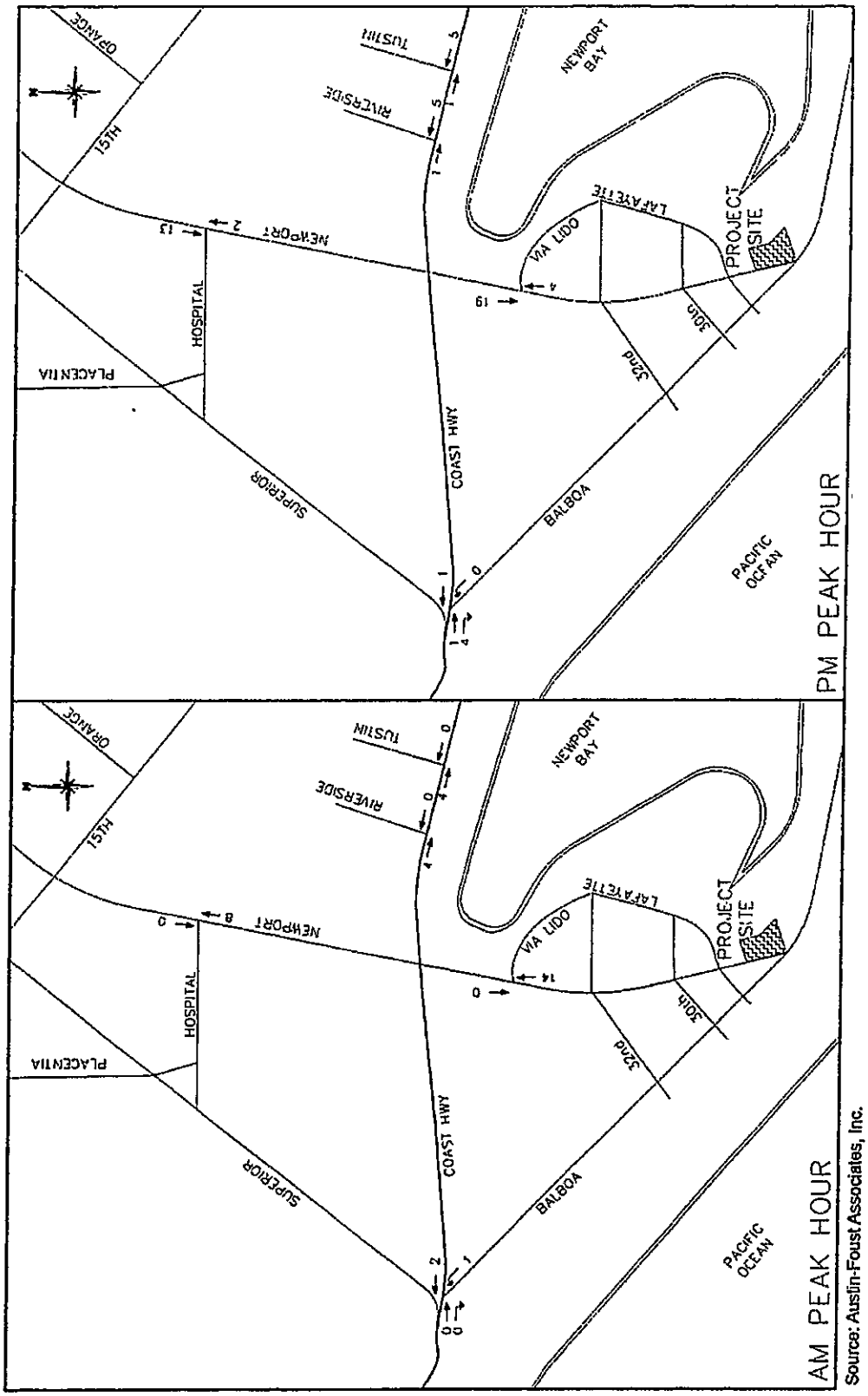
Approximately 50 percent of residential project traffic is oriented toward the north, 25 percent is oriented toward the west, and 25 percent is oriented toward the east. Approximately 50 percent of the commercial and office uses traffic is oriented toward the north, 13 percent is oriented toward the west, 12 percent is oriented toward the east, and 25 percent is assumed to remain in the Balboa Peninsula area. Project generated trips were distributed to the circulation system according to these distribution patterns. Exhibit 4.11-2 illustrates the AM and PM peak hour project trips.

TPO Traffic Impacts

Six intersections were identified for analysis to determine the impact of the proposed project. The intersections include:

Newport Boulevard and Hospital Road
Balboa Boulevard/Superior Avenue and Coast Highway
Riverside Avenue and Coast Highway
Tustin Avenue and Coast Highway
Newport Boulevard and Via Lido
Newport Boulevard and Coast Highway

The TPO analysis consists of a one percent analysis and an ICU analysis at each study intersection. The one percent analysis compares the proposed project traffic with projected background peak hour volumes. To pass the one percent analysis, peak hour traffic from the proposed project must be less than one percent of the projected background peak hour traffic on each leg of the intersection. If the proposed project passes the one percent analysis, then the ICU analysis is not required and no further analysis is necessary. If the project does not pass the one percent analysis, then the ICU analysis must be performed for the intersection which fails to pass the one percent test. Table 4.11-1 shows the results of the one percent analysis. This table identifies the project passes the one percent analysis at all study intersections during the AM and PM peak hour, with the exception of Newport Boulevard and Via Lido during the PM peak hour, therefore, an ICU analysis is required for this intersection.



Source: Austin-Foust Associates, Inc.

AM and PM Peak Hour Trips

EXHIBIT 4.11–2

Table 4.11-1

Summary of One Percent Analysis

Intersection	AM Peak Hour Volumes				Less Than 1% of Peak Hour Volumes
	NB	SB	EB	WB	
1. Newport & Hospital	8	0	0	0	Yes
2. Balboa/Superior & Coast Hwy	1	0	0	2	Yes
3. Riverside & Coast Hwy	0	0	4	0	Yes
4. Tustin & Coast Hwy	0	0	4	0	Yes
5. Newport & Via Lido	14	0	0	0	Yes
6. Newport & Coast Hwy	0	0	0	2	Yes

Intersection	PM Peak Hour Volumes				Less Than 1% of Peak Hour Volumes
	NB	SB	EB	WB	
1. Newport & Hospital	2	13	0	0	Yes
2. Balboa/Superior & Coast Hwy	0	0	5	1	Yes
3. Riverside & Coast Hwy	0	0	1	5	Yes
4. Tustin & Coast Hwy	0	0	1	5	Yes
5. Newport & Via Lido	4	19	0	0	No
6. Newport & Coast Hwy	0	0	1	6	Yes

The ICU analysis for the intersection of Newport Boulevard and Via Lido assumes existing land configurations and a capacity of 1,600 vehicles per hour per lane with no clearances factor. The traffic study concluded that the project will have no impact on the intersection of Newport Boulevard and Via Lido during the peak hours, which will operate at LOS (Level of Service) "A". The project has no significant impact on the study intersections.

Cumulative Conditions Analysis

Trip generation and distribution for each cumulative project was also evaluated. The peak hour cumulative intersection volumes were added to background volumes, then project-generated traffic was compared to one percent of the background-plus-cumulative traffic. The project passes the one percent test at all study intersections, with the exception of Newport Boulevard and Via Lido. The traffic study included a cumulative ICU analysis for this intersection and concluded that the proposed project will have no significant impact on this intersection and that during peak hours, the intersection will operate at a LOS "A".

Site Access and Circulation

The project will be served by two driveways on Newport Boulevard and one driveway on The Arcade. An emergency access driveway to the upper level parking deck will be provided on The Arcade. The southern driveway on Newport Boulevard will be a right-turn only also and will provide access to the underground parking area of the parking structure. A driveway on The Arcade will provide additional access to the underground parking structure.

The proposed project will generate 37 AM peak hour inbound trips and 39 PM peak hour inbound trips. The vehicles which arrive from the north via Newport Boulevard and make U-turns or left turns can be accommodated at 22nd Street. There are 23 AM peak hour outbound trips and 59 PM peak hour outbound trips that will be generated by the project and will be distributed over the three driveways. The portion of these inbound and outbound trips which utilize The Arcade entrance will not have a significant impact on The Arcade.

As described previously, a field count of existing traffic at the intersection of Newport Boulevard and 22nd Street was conducted on Thursday evening in September, 2004 to determine the typical peak vehicle storage and congestion associated with left- and U-turns at this location. The results identified that during the peak hour approximately one vehicle per minute (approximately two vehicles per minute during the peak 15 minute period) currently makes the left turn onto 22nd Street. The maximum queue observed during the count period was three vehicles. The available storage is about 200 feet which can safely store 9 to 10 vehicles before interfering with traffic on Newport Boulevard. The proposed project is expected to add no more than 39 additional vehicles per hour or less than one vehicle per minute to the current demand for this left turn movement. The available

storage is more than adequate to accommodate all existing plus project trips. Also, some project trips could utilize the existing signal at 21st Street to access the site via The Arcade to avoid delays and/or congestion at 22nd Street. The PM peak hour volumes making a southbound left turn at 21s Street is 20 vehicles. Southbound U-turns are prohibited at this location.

Parking

Parking for the project will be provided by a underground parking structure, an upper deck parking lot, and on-street parking. No on-street parking will be lost on Newport Boulevard along the project frontage, and two new on-street parking spaces on Newport Boulevard are proposed by relocating an existing fire hydrant. No on-street parking will be lost on 22nd Street. Five on-street parking spaces on The Arcade will be relocated on The Arcade along the project frontage.

Parking for the residential portion of the project is provided on the upper deck. On-site parking is provided for approximately 58 vehicles in combination of garages, carports, and open parking spaces. Access to the upper parking deck will be provided by a single driveway on Newport Boulevard, and additional emergency access to the upper deck parking lot is provided on The Arcade. Approximately five vehicles inbound will be generated by the residential portion of the project during the AM peak hour and 12 vehicles inbound will be generated by the PM peak hour. These low volumes are not expected to create queuing problems on Newport Boulevard at the single right-turn only driveway.

The upper parking deck and underground parking lot provide a total of 226 spaces which complies with the City Code requirement of 226 spaces. No significant impacts associated with parking are anticipated to result with implementation of the project.

The project is not expected to have any impact on OCTA's public bus service nor conflict with adopted policies, plans, or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks).

4.12.4 Mitigation Measures

As concluded in the traffic study the proposed project will not result in any significant impacts to traffic, circulation or parking. Therefore, no mitigation is required.

4.12.5 Level of Significance After Mitigation

The project will not result in any significant transportation impacts.

4.13 UTILITIES AND SERVICE SYSTEMS

4.13.1 Environmental Setting

The information and analysis presented in this section is based on consultation with utility and service providers and researched data (Section 9.0 References and 10.0 List of Persons & Organizations Consulted) in addition to a review of the project design plans.

Water and Sewer Services

The City of Newport Beach Utilities Department currently provides water and wastewater services to the site. Existing facilities within the project area and site include the following:

The Arcade: 8" ACP Water Main
18" RCP Storm Drain
8" VCP Sewer

22nd Street: 8" ACP Water Main
18" RCP Storm Drain
8" VCP Sewer

Newport Blvd: 16" CICP Water Main
21" VCP Sewer (Orange County Sanitation District)
8" VCP Sewer

Balboa Blvd: 21" Trunk Sewer (Regional Sewer Service)7

The Orange County Sanitation District (OCSD) provides waste treatment facilities and service to approximately 2.5 million people in Orange County. OCSD operates the third largest wastewater system on West Coast, consisting of over 650 miles of sewers and two regional wastewater treatment plants.8 The treatment plants are situated along the Santa Ana River (SAR). Reclamation Plant No. 1 is located in Fountain Valley, and Treatment Plant No. 2 is located in Huntington Beach near the

7 OCSD response dated February 10, 2006 to Hodge & Associates letter dated January 23, 2006 requesting service availability/capacity information.
8 Source: Orange County Sanitation District (OCSD) website at http://www.ocsd.com.

coast. Treated effluent is discharged through a 120-inch diameter ocean outfall that extends approximately four miles into the ocean. The two treatment plants have a combined capacity of 450 million gallons per day. Wastewater from Newport Beach and surrounding areas is conveyed to Treatment Plant No. 2 through a network of gravity sewers, pump stations, force mains, and the District's Newport Trunk Sewer. The Bitter Point Pump Station is one of four principal pump stations in Newport Beach that operate in parallel to one another.

The OCSD has a Strategic Plan (dated 1999) that identifies projects and programs needed to accommodate projected population growth in its service area through 2020. In addition to the planned projects identified per the Strategic Plan, the OCSD prepared and processed an EIR for the Replacement of the Newport Trunk Sewer and Force Mains.9 This project involves replacing the existing trunk sewer and force mains to accommodate 2020 peak flow projections. OCSD projects currently underway in the Newport Beach area include construction of a new pump station at 810 E. Balboa Boulevard and at 1514 W. Balboa Boulevard. It is anticipated that these projects will be completed in the summer of 2006 and fall of 2006, respectively.

Electrical Services

The project site is located within the service area of the Southern California Edison (SCE) Company. SCE currently provides electrical service to the project area. Due to the developed condition of the project, electrical services are currently being provided to the subject property.

Natural Gas Services

The project vicinity including the site is provided natural gas services by Sempra Energy Utility (The Gas Company.). The Gas Company has facilities in the area of the project site. There is an existing main located within Newport Boulevard and 21st Street.10

Waste Services

The site is currently being provided solid waste services by Waste Management of Orange County. Waste Management of Orange County will continue to provide solid waste disposal services to the proposed mixed-use development once the project is complete.

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9 Final Environmental Impact Report for the Replacement of Newport Trunk Sewer and Force Mains (Contract no. 5-58), SCH # 2003051125.

10 Letter and attached maps dated February 28, 2006 from The Gas Company (Sempra Energy Utility) to Hodge & Associates..

The County of Orange, Integrated Waste Management Department (IWMD) is responsible for solid waste facilities and services in Orange County. The IWMD currently provides the following:

- Operates three open and active County-owned landfills,
- Manages four Household Hazardous Waste Collection Centers (HHWCC)
- Administers County unincorporated area waste collection and recycling,
- Maintains two closed landfills,
- Monitors various former disposal facilities,
- Administers the Countywide Integrated Waste Management Plan (CIWMP)

The County of Orange, Integrated Waste Management Agency (IWMA) operates the County's 3 landfills. These landfills accept municipal solid waste (trash) and are managed by the Integrated Waste Management Department (IWMD).11 The following is a description of each landfill:

Olinda Alpha Landfill

This landfill opened in 1960 and is located near the City of Brea. Originally, the landfill was named Olinda Landfill, after the canyon in which it was located, the Olinda Canyon. Alpha came about due to two canyons located next to the Olinda Landfill. Known as Canyon A and Canyon B, they were referred to by site staff as Alpha and Beta. When the landfill expanded into Canyon A in 1981, the landfill was renamed Olinda Alpha Landfill.

Prima Deshecha Landfill

The Prima Deshecha Landfill opened in 1976. It is located near the cities of San Juan Capistrano and San Clemente. This landfill was named for the canyon in which it is located, the Prima Deshecha Cañada, Spanish for First Rough Canyon.

Frank R. Bowerman Landfill

The Frank R. Bowerman Landfill opened in 1990. It is located near the City of Irvine. It was originally named Bee Canyon Landfill. This landfill was named for the canyon in which it is located, Bee Canyon, a location formerly used by beekeepers. The name was changed to honor Frank R. Bowerman after his retirement from the County of Orange. Frank R.

11 Source: County of Orange – Integrated Waste Management Department website at http://www.oclandfills.com.

Bowerman was the first Director of IWMD and Chief Engineer of the Bee Canyon Landfill planning and development project.

In 1989, the California Legislature enacted the California Integrated Waste Management Act (AB 939). AB 939 was passed with the goal of decreasing the waste stream in order to save decreasing landfill space. AB 939 mandated a 25 percent reduction of waste being disposed of in the landfill system by the year 1995 and a 50 percent reduction by the year 2000. The California Integrated Waste Management Board (CIWMB) was established in Sacramento to oversee waste disposal reduction efforts in the various jurisdictions. The first step was for each California County to prepare and submit a Countywide Integrated Waste Management Plan (CIWMP) to the CIWMB. The CIWMP consists of many parts. Each city in the County and the County unincorporated area has several planning documents that outline their proposals for waste diversion methods.

The County Integrated Waste Management Department (IWMD) is responsible for ensuring that County waste is disposed of in a way that protects public health, safety and the environment. Long-range strategic planning is necessary to ensure that waste generated by the County is safely disposed of and that the County's future disposal needs are met. The Regional Landfill Options for Orange county (RELOOC) program has been created for this reason. The RELOOC is a 40-year strategic plan being prepared by the IWMD. The purpose of the RELOOC is to evaluate options for trash disposal for Orange County citizens.

Telephone Services

The project vicinity is located within the service area of AT&T. Due to the existing developed condition of the site and immediate area, telephone service is currently being provided to the subject property per existing facilities.12

4.13.2 Significance Criteria

Significant impacts to utilities and service systems would occur as a result of the project if the following occurs:

12 Telephone communications on March 9, 2006 between Patrick McDonnel (AT&T, Facilities) and Cheryle Hodge, Hodge & Associates.

- exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- 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.
- Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed;
- 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;
- Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs;
- Comply with federal, state, and local statutes and regulations related to solid waste.

4.13.3 Impacts

Water and Sewer Services

The project will require extension of existing water and sewer facilities to serve the new residential and commercial development. Development of the project will increase the demand for water and sewer services. Based on water consumption factors, development of the project will result in a water consumption of 32,618 gallons of water daily (102,800 sq.ft. of residential uses and 36,000 sq.ft. of commercial uses, 235 gallons/1,000 sq.ft.). The total of 32,618 does not take into account the deduction of the consumption by the existing use to be demolished to accommodate the new development. Based on sewer flow generation factors (5,429 gallons per day (gpd)/acre), development of the project is anticipated to generate 282,308 gallons of wastewater annually.

The project will generate an estimated 6,902 gallons of sewage each day (based on OCSD use flow coefficients of 3,451 gpd/acre for medium density residential, 8-16 du/ac); however, no significant discharges that would exceed wastewater treatment requirements will occur as a result of the development. The project will be required to pay OCSD Capital Facilities Capacity Charge

(development impact fees). For residential development, the fee is based on the number of bedrooms per dwelling unit and for commercial development it's based on square footage.

It is anticipated that all wastewater treatment generated by the project can be accommodated and treated by existing facilities or those planned by the Orange County Sanitation District (OCSD). The project does not include uses that would necessitate treatment beyond that provided by the OCSD and raw sewage generated by the project will not exceed wastewater treatment requirements established by the Santa Ana Regional Water Quality Control Board.

The points of connection for all applicable water and sewer lines will need to be identified and agreed to by the City of Newport Beach Utilities Department prior to the start of the project construction. The project will not result in the significant alteration or expansion of existing water and sewer service systems since the site is already developed and being served. However, to ensure that there are no adverse impacts associated with the proposed project, a mitigation measure is presented which requires coordination with utility and service organizations prior to the commencement of construction.

Electrical Services

The project will require extension of existing electrical facilities to serve the new school buildings and parking area. Based on consumption factors from the SCAQMD CEQA Air Quality Handbook it is projected that the project will have a consumption rate of 1,221,440 kWh (based on computing square footage by 8.8 KWh/sq.ft. per year). The project is not anticipated to have any significant impacts on electrical services.

Natural Gas Services

The project will require expansion of gas services to serve the school buildings. No significant adverse impacts associated with providing gas service to the project are anticipated as a result of the proposed project.

Solid Waste Services

The demolition of the existing structures and surfaces on the project site will result in the generation of solid waste. The majority of the demolition waste can be diverted through a recycle process of wood, metal, concrete, and other building materials. It is estimated that the project will generate approximately 292 pounds of solid waste per day (based on IWMD generation rate of 4 lbs/unit and

0.005/sq.ft. for commercial/retail). The project will comply with federal, state, and local statutes and regulations related to solid waste. It is not anticipated that there are any significant impacts relative to providing solid waste pick up and disposal generated by the project.

Telephone Services

The proposed project will require extension of existing telephone facilities to serve the new buildings. No significant adverse impacts associated with providing telephone service to the project are anticipated as a result of the project.

4.13.4 Mitigation Measures

Although significant impacts to utilities and service systems are not anticipated, the following measures are provided to ensure that impacts would be less than significant if underground utility lines are encountered during construction and that service to the project will be provided:

MM 4.13.4-1: Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.

4.13.5 Level of Significance After Mitigation

With implementation of the recommended mitigation measures, it is not anticipated that the project will result in any unavoidable adverse impacts to utilities and services.

5.0 SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS

CEQA Guidelines (§ 15126.2[b]) require that EIRs include a description of any significant impacts, including those that can be mitigated, but not to a less than significant level.

The environmental effects of the proposed elementary school and middle school project are discussed in Chapter 4.0 (Environmental Setting, Impacts, Mitigation Measures, and Level of Significance After Mitigation). The project-level analysis in Section 4.0 addresses whether implementation of the project would result in a significant adverse impact in any of 12 specific environmental issue areas. Significance thresholds were defined for each issue area addressed in Chapter 4.0. When potentially significant impacts were identified, mitigation measures were developed that could reduce impacts to below the respective significance threshold(s), provided that such mitigation could feasibly be accomplished. Based on the project-level analysis prepared for this document, all impacts can be reduced to a less than significant level, except for Cultural Resources (Historical).

Significant unavoidable impacts have been identified for this topical area due to the existing structures on the site that have been deemed historically significant and eligible for State listing as historical. In regards to avoiding or mitigating an environmental effect, this EIR evaluates all potential physical environmental impacts that may occur as a result of implementation of the project and provides mitigation for those identified environmental effects. The proposed project has been designed to be environmentally sensitive and incorporates mitigation measures to further reduce potential impacts to the environment. Based on the foregoing environmental analysis contained herein, the project will not result in any significant unavoidable adverse impacts for all other topical areas.

6.0 EFFECTS NOT FOUND TO BE SIGNIFICANT

Chapter 4.0 of this Project EIR analyzes the impacts of the proposed middle school and elementary school project with respect to the 12 specific environmental issue areas. As discussed in Chapter 4.0, the environmental issue areas that were found to be potentially impacted by the project would be reduced to less than significant levels with implementation of recommended mitigation measures for 11 of the 12 topical areas addressed in this EIR. Therefore, all environmental impacts associated with the implementation of the proposed project will be mitigated to a less than significant level except for Cultural Resources as described in Section 5.0 of this EIR. Mitigation measures are provided for the following topical areas; Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards/Hazardous Materials, Hydrology and Water Quality, Noise, Public Services, Transportation/Traffic, Utilities and Service Systems. In many cases, the mitigation measures presented in the topical areas are for environmental impacts related to short-term construction activities. Topical areas that have mitigation identified for the project beyond that associated with construction, but rather project design or project operations, include; aesthetics, biological resources, geology and soils, hydrology and water quality, noise, and transportation/traffic.

7.0 LONG-TERM IMPLICATIONS OF THE PROPOSED PROJECT

This section discusses the long-term implications of the project with regard to growth inducing impacts, cumulative impacts, and irreversible and irretrievable impacts.

7.1 Growth Inducing Impacts

CEQA Guidelines (Section 15126.2[d]) require that an EIR address the growth-inducing impacts of a proposed project. A project is defined as growth inducing when it:

- fosters economic growth, population growth, or construction of additional housing, either directly or indirectly, in the surrounding environment;
- removes obstacles to population growth;
- results in further taxes to existing community service facilities; and/or
- encourages or facilitates other activities that could significantly affect the environment, either individually or cumulatively.

The project would not result in significant growth-inducing impacts. The project proposes construction of 27 residential units and 36,000 square feet of commercial/retail/office uses. The project is limited in size and is consistent with the City's General Plan growth projections. The project would not increase long-term population levels or have a long-term effect on the economy due to the scale and duration of the proposed construction activities and the availability of skilled construction workers in the region. The project would not result in significant growth impacts due to the provision of infrastructure or service capacity to accommodate growth beyond the levels currently permitted by local or regional plans and policies (i.e., City of Newport Beach General Plan and existing adopted specific plan). The benefits that would be provided by the project include the following (not listed in any particular ranked order):

1. Replacing the existing severely deteriorated bulkhead with a new bulkhead
2. Providing pedestrian access (via pedestrian pathways) to the waterfront and marine uses;
3. Preserving and enhancing the visual corridor to The Rhine Channel;
4. Preserving an enhancing the marine uses (retaining the boat slips);
5. Preserving and enhancing the existing boat slipway (inlet);

6. Provide housing opportunities;
7. Remedial cleanup of the site including the existing boat slipways (inlets);
8. Improve water quality by providing by filtration of runoff which currently does not exist;
9. Provide commercial, retail and office uses and thereby providing an economic benefit to the City and community.

The project would not encourage or facilitate other activities that would significantly affect the environment, either individually or cumulatively.

7.2 Cumulative Impacts

CEQA Guidelines require an assessment of "closely related past, present, and probable future projects," in the immediate vicinity of the projects actions, combined with those of the proposed project for the evaluation of significant environmental impacts (CEQA Guidelines, § 15130 (b)(1)(A)). CEQA defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts" (CEQA Guidelines, § 15355).

The project is located within an area developed with urban uses. The project will convert existing utilized land (former shipyard uses) into an active use (the proposed residential/commercial project w/marine uses). Based on the analysis presented in this EIR for each topical area (i.e. air quality, noise, traffic/parking etc.), the impacts of the project have been determined not significant or significant but with incorporation of mitigation reduced to a level of less than significant except for Cultural Resources (Historical). Significant unavoidable impacts have been identified for the this topical area

The environmental analysis and significance determination for each topic area takes into consideration the cumulative growth per the build-out of the City's General Plan. The environmental analysis of the project's impacts and the project with build-out of the City's General Plan (i.e., traffic analysis, etc.) determined that the project will not have a cumulative significant adverse impact currently or in year 2025.

7.3 Irreversible and Irretrievable Impacts

The *CEQA Guidelines,* Section 15126.2(c) require that an EIR evaluate significant irreversible environmental changes which would be caused by the project. An impact would be considered significant if any of the following occurs as a result of the project:

a. Large uses of nonrenewable resources during the initial and continued phased of the project;
b. Primary and secondary impacts of the project would generally commit future generations to similar uses;
c. Irreversible damage could result form any potential environmental incidents associated with the project;
d. Consumption of resources is not justified.

The project would involve the commitment of some resources, particularly the labor and materials required for construction of the buildings and those associated with the ongoing operations of the residential/commercial uses. The project will represent a permanent commitment of the site to the proposed use; however, no important natural resources will be significantly impacted as result of the project. Based on the existing condition of the project site, the proposed project does result in significant irreversible environmental damage since the project's design and incorporation of mitigation measures reduces all potential environmental impacts associated with the implementation of the project. The irreversible and irretrievable impacts associated with the project have been reduced by design features and mitigation and are not significant in comparison to the overall benefits of the project.

8.0 ALTERNATIVES

CEQA requires that an EIR consider alternatives to the proposed project, even if mitigation measures reduce the project's impacts to a less than significant level. In compliance with CEQA, alternatives are presented here for this project. Each of the alternatives have been evaluated against the project objectives as stated in the Project Description of this EIR, and a statement as to whether or not those objectives can be met under these alternatives is included. A reasonable array of alternatives has been presented herein. However, the EIR itself, as well as the "Alternatives" section provides adequate documentary material from which to construct any permutation of alternatives on the project. Therefore, this Alternatives section is intended to present a reasonable palette of alternatives for discussion and evaluation in compliance with CEQA and the CEQA Guidelines.

8.1 ALTERNATIVES CONSIDERED BUT NOT CARRIED FORWARD

The following describes and evaluates each alternative. Table 8-1 provides a comparison summary of the proposed project with each alternative evaluated.

8.1.1 No Project Alternative

Under the No Project Alternative, the proposed mixed-use project would not be constructed. This project alternative also assumes that the site would not be developed with residential and/or commercial retail uses. The no project alternative would result in less environmental impacts for several topic areas compared to the proposed project (i.e. air quality, cultural resources, noise, utilities/services etc.). For example, the No Project would not involve the development of 27 residential units and 36,000 square feet of commercial/retail uses at the subject property, therefore no impacts would occur that have been identified for some of the topical sections of this EIR.

The proposed development is projected to generate approximately 1,259 trip-ends per day with 60 vehicles per hour during the AM peak hour and 98 vehicles per hour during the PM peak hour. However, the traffic study prepared by Austin-Foust Associates, Inc. (Volume II, Appendix H) identified that the existing developed use of the site generates approximately 577 trip ends per day with 62 in the AM peak hour and 70 in the PM peak hour. Therefore, the No Project Alternative does not result in a significant reduction in traffic. During the AM Peak hour the traffic is actually 2 trips more than with development of the proposed project. The traffic study concluded that the roadway links in the vicinity are projected to operate at levels the same with or without the project. The Level of Service (LOS) for existing conditions and future (year 2025) will remain the same with

or without the project. Therefore, although the project will increase traffic beyond that associated with the No Project alternative, the impacts are not considered significant. The proposed project will result in short-term construction impacts related to air quality, noise, water quality, transportation (construction traffic).

The No Project Alternative would not provide for improved and enhanced view corridor to The Rhine Channel and pedestrian access along the waterfront. This alternative also would not provide for the remedial cleanup of the contaminants present within the site (i.e. boat bays – the two inlets) and improvements related to water quality (filter all surface runoff before entering bay). The alternative would not improve the aesthetic appears of the site nor provide a development that meets current seismic standards and uniform building code (UBC) requirements.

All of the environmental impacts associated with the development of the proposed project can be mitigated to a less than significant level with the exception of Cultural Resources (Historical). The No Project would result in reduced environmental impacts than the proposed project (for Historical resources by retaining the existing structures); however, this project alternative does not meet the immediate and long-term project objectives and goals providing housing opportunities to meet the current and future demand of the community and region. Therefore, this alternative has been rejected.

8.1.2 Reduced Development Alternative

This project alternative would involve development of the site with a reduced development in size from that of the proposed project. This alternative assumes development of approximately twelve (12) residential units and 18,000 square feet of commercial retail uses. Although a few environmental impacts may be lessened in comparison to the proposed project (air quality, noise, traffic, utilities and services), overall, the impacts would be roughly the same and not significant reduced from that of the project.

This project would provide housing opportunity but very limited due to the insignificant number of units. Additionally, although this alternative would provide commercial retail uses, the square footage developed would not be significant and would not represent a significant economic benefit to the City. The Reduced Development Alternative also would still require demolishing the existing

structures on-site; therefore, significant impacts relative to cultural resources (historical) would not be lessened from that of the proposed project. This development alternative would not significant reduce environmental impacts and would not provide the needed housing and commercial development proposed by the project. Therefore, for these reasons, this alternative has been rejected.

8.1.3 Commercial Development Alternative

This project alternative includes evaluating potential the developing the site with only commercial uses. The City's current development regulations would allow for up 51,400 square feet of commercial uses at the site. This alternative would not significantly lessen any environmental impacts from that of the proposed project. Many of the environmental impacts would be the same including those associated with air quality, biology, cultural resources (historical), noise, traffic/parking, utilities and services. Development of this alternative would have the same beneficial impacts as that of the project in regards to aesthetics (attractive new buildings, view corridor, provision of pedestrian access along waterfront), hydrology/water (improved drainage and filtration of runoff before entering bay), and hazardous materials (remedial cleanup). However, this project alternative does not meet all the project objectives since it does not provide any housing. Since the environmental impacts would not be lessened and the project does not provide needed housing (a project objective) this alternative has been rejected.

8.1.4 Residential Development Alternative

This alternative involves development of all residential uses on the property. This alternative assumes that no commercial/retail/office uses would be constructed. The City's current development regulations would allow for the development of up to 45 residential units. As with the all commercial development alternative, none of the environmental impacts associated with the proposed project would be significantly lessened with implementation of this alternative. This alternative would still require demolishing the existing structures on the site to accommodate the construction of 45 residential units. Therefore, adverse significant impacts to cultural resources (historical) would be reduced with this development alternative. Additionally, impacts associated with aesthetics, air quality, biology, traffic, utilities and services would not be lessened with this development alternative. This alternative would provide additional housing greater than that proposed by the project; however, the amount that would be allowed per current development regulations would result in an increase of 18 additional units beyond that proposed by the project. This additional amount is not significant and therefore although more housing opportunities would be provided, the alternative does not reduce any physical environmental impacts significantly from

that associated with the proposed project. Also, this alternative does not provide any commercial/retail development therefore; the alternative does not provide any economic benefit to the City. Development of this alternative does not reduce environmental impacts nor provide an economic benefit; therefore, this alternative has been rejected.

TABLE 8-1
COMPARISON OF PROPOSED PROJECT WITH PROJECT ALTERNATIVES

Environmental Topic	No Project Alternative	Reduced Development Alternative	Commercial Development Alternative
Aesthetics	-	=	=
Air Quality	+	=	=
Biological Resources	-	=	=
Cultural Resources	+	=	=
Geology & Soils	-	=	=
Hazards & Hazardous Materials	-	=	=
Hydrology & Water Quality	-	=	=
Land Use & Planning	-	=	=
Noise	+	=	=
Public Services	+	=	=
Transportation	+	+	+
Utilities and Service Systems	+	=	=

- Project Alternative would have a greater impact than the Proposed Project
+ Project Alternative would have less of an impact than Proposed Project
= Project Alternative would have a comparable impact as the Proposed Project

9.0 REFERENCES

1. Archeological Resource Management Corporation, Bridgeport Mixed-Use Project, Archeological Assessment dated August 29, 2005

2. Archeological Resource Management Corporation, Bridgeport Mixed-Use Project, Paleontological Assessment dated August 29, 2005

3. Austin Foust Associates, Inc., 2300 Newport Boulevard, TPO, Traffic Analysis dated December 8, 2006.

4. City of Newport Beach General Plan, including all its elements.

5. LSA, Historical Resource Assessment, The South Coast Shipyard, City of Newport Beach, Orange County, California dated October 2005.

6. MBC Applied Environmental Sciences, Biological Assessment, Bridgeport Project (South Coast Shipyard), Newport Beach, California, dated February 2006.

7. Mestre Greve Associates, Air Quality Assessment for Bridgeport Mixed Use Project (2300 Newport Boulevard), City of Newport Beach, dated February 23, 2006

8. Mestre Greve Associates, Noise Assessment for Bridgeport Mixed Use Project (2300 Newport Boulevard), City of Newport Beach, dated February 23, 2006

9. Mestre Greve Associates, Noise Assessment for Bridgeport Mixed Use Project (2300 Newport Boulevard), City of Newport Beach, dated February 23, 2006

10. Noble Consultants, Inc., Coastal Engineering Assessment for Bulkhead Replacement at South Coast Shipyard & Design Center, 2300 Newport Boulevard, CA 92663, dated June 26, 2000.

11. Petra, Geotechnical and Seismic Input for Environmental Impact Report, South Coast Shipyard and design Center, 2300 Newport Boulevard, Newport Beach, California, dated August 18, 2002.

12. Petra, Results of Limited Sediment Sampling at South Coast Shipyard and Design Center, 2300 Newport Boulevard, Newport Beach, California, dated July 5, 2000.

13. Petra, Revised Draft Work Plan for Additional Site Investigation at the South Coast Shipyard and Design Center, 2300 Newport Boulevard, Newport Beach, California, dated July 17, 2002.

14. Petra, Revised Draft Work Plan for Additional Site Investigation at the South Coast Shipyard and Design Center, 2300 Newport Boulevard, Newport Beach, California, dated March 18, 2002.

15. Petra, Report of Additional Subsurface Environmental Assessment, South Coast Shipyard and Design Center, 2300 Newport Boulevard, Newport Beach, California, dated October 11, 2002.

16. Petra, Phase I Environmental Assessment; Proposed Mixed Use Development at 2300 Newport Boulevard, Newport Beach, County of Orange, California, dated December 3, 2003.

17. Petra, Report of Limited Phase II Environmental Site Assessment; 2300 Newport Boulevard, Newport Beach, County of Orange, California, dated January 6, 2004.

18. South Coast Air Quality Management District, Air Quality Management Plan 2003.

19. South Coast Air Quality Management District, Air Quality Management Plan EIR, 2003.

20. South Coast Air Quality Management District, CEQA Air Quality Handbook, 1993.

21. SP Consulting Group, Hydrology Study and Hydraulic Analysis for Bridgeport Plaza, Tentative Tract No. 16594, 2300 Newport Boulevard, City of Newport Beach, California dated February 22, 2006.

22. SP Consulting Group, Water Quality Management Plan for Bridgeport Plaza, Tentative Tract Map No. 16594, 2300 Newport Boulevard, City of Newport Beach, California, dated February 20, 2006.

23. State of California, California Environmental Quality Act as amended January 1, 2006. §§21000-21178 of the Public Resources Code.

24. State of California, Guidelines for California Environmental Quality Act as amended December 1, 2005. §15000-15387 of the California Code of Regulations, Title 14, Chapter 3.

10.0 LIST OF PERSONS AND ORGANIZATIONS CONSULTED

This Environmental Impact Report was prepared for the **City of Newport Beach** by **Hodge & Associates**. The distribution list of agencies and organizations consulted during the Notice of Preparation (NOP) process is provided in Appendix of this EIR. A list of persons and organizations involved with the preparation of this EIR is provided below (the lead agency, environmental consultant and project applicant are listed first and the remainder of this section is in alphabetic order).

City of Newport Beach
Ms. Patricia Temple, Planning Director
Mr. James Campbell, Senior Planner
Mr. Rich Edmunston, Traffic Engineer
Mr. William Cunningham, Contract Planner
Fong Tse, P.E., Development Services Engineer
Todd Hughes, Environmental Services Coordinator, Office of the Chief of Police
Nadine Morris, Fire Prevention Division, Newport Beach Fire Department
Steve Bunting, Fire Marshal, Newport Beach Fire Department
Tom Rossmiller
Dave Kiff

Hodge & Associates
Cheryle L. Hodge, President

ETCO
Steve Shapel, Director of Land Development

Archeological Resource Management Corporation
Carol R. Demcak, President

AT & T
Patrick McDonnel, Facilities

Austin-Foust Associates, Inc.
Joe Foust, P.E., Principal

California Coastal Commission
Janna Shackeroff

California Regional Water Quality Control Board
Terri S. Reeder, Associate Engineering Geologist, Coastal Waters Planning Section

California State Coastal Conservancy
Karen Bane

Coastal Resources Management

County of Orange Health Care Agency
Joyce L. Krall

Governmental Solutions
Carol Mentor McDermott
Katie Newman

LSA
Judith Marvin
Shannon Carmack

MBC Applied Environmental Sciences
M.D. Curtis, Project Manager & Marine Scientist
T.C. Duvall, Marine Scientist
A.K. Morris, Marine Scientist
M.R. Pavilick, Report Preparation
K. L. Mitchell, Report Preparation

McKently Malak Architects

Mestre Greve Associates
Fred Greve
Matt Jones
Tanya Moon

Orange County Sanitation District
Adam Nazaroff

PETRA
Brian Villalobs, Project Geologist
Callie L. Cullum, Project Geologist
Marlaign Hudnall, Vice President/Division Manager
Wilbert P. Gaston, Project Geologist
David Darrow, Division Manager
Almad Ghazinoor, Senior Associate Engineer

Sempra Energy Utility (The Gas Company)
Mike Harriel, Technical Supervisor, Pacific Coast Region

SP Consulting Group
Thomas A. Petersen, P.E.

Southern California Coastal Water Research Project
Steve Bay

USEPA Region IX Water Division
Peter Kozelka

APPENDIX A

NOTICE OF PREPARATION

CITY OF NEWPORT BEACH
PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD, P.O. BOX 1768
NEWPORT BEACH, CALIFORNIA 92658-8915

NOTICE OF PREPARATION

DATE: February 23, 2005

SUBJECT: Notice of Intent to Prepare Draft Environmental Impact Report

PROJECT TITLE: Bridgeport Mixed Use Project

APPLICANT: ETCO Development, Inc.

PROJECT CONTACT: James W. Campbell, Senior Planner PHONE: (949) 644-3210
Planning Department, City of Newport Beach

The City of Newport Beach Planning Department has conducted an Initial Study for the subject project and has determined that an Environmental Impact Report (EIR) is necessary. The City of Newport Beach will be the Lead Agency for the subject project and will prepare the EIR. In order for the concerns of your agency to be incorporated into the Draft EIR, we need to know the views of your agency as to the scope and content of the environmental information relevant to your agency's statutory responsibilities in connection with the proposed project. Your agency must consider the EIR prepared by the City of Newport Beach when considering your permit or approval for the project. The project description, location, and an analysis indicating the probable environmental effects of the proposed action are contained in the attached materials. Interested individuals and groups are also invited to comment on the scope of the anticipated EIR.

Pursuant to Section 21080.4 of CEQA, your response must be sent as soon as possible but not later than 30 days after receipt of this notice.

All parties that have submitted their names and mailing addresses will be notified if any significant changes in the proposed project occur. If you wish to be placed on the mailing list, please submit your name and mailing address to the contact person at the address below. If you have any questions or need additional information, please call the Project Contact at the number listed above. The mailing address is City of Newport Beach, Planning Department, Attn: James W. Campbell, P.O. Box 1768, Newport Beach, CA 92658-8915.

Submitted by:

Cheryle J. Hodge

Cheryle Hodge for
James W. Campbell, Senior Planner

Attachment: Initial Study

NOTICE OF INTENT TO PREPARE (NOP)

DRAFT ENVIRONMENTAL IMPACT REPORT EIR

BRIDGEPORT MIXED USE PROJECT

I. INTRODUCTION

Pursuant to Section 21165 of CEQA, the City of Newport Beach is the Lead Agency responsible for preparing the Draft Environmental Impact Report (EIR) to address the potential impacts associated with the proposed Bridgeport development project. The Draft EIR is intended to provide decision-makers and the public with information concerning the potential environmental effects associated with the adoption and implementation of the proposed project and potential ways to reduce or avoid possible environmental impacts.

It is the intent that the Draft EIR will be used by the City of Newport Beach, the Lead Agency, in its review and consideration of the proposed project and the impacts associated with its implementation. Also, Responsible Agencies (such as California Coastal Commission and the Regional Water Quality Control Board) may have an interest in specific environmental effects associated with various aspects of the project.

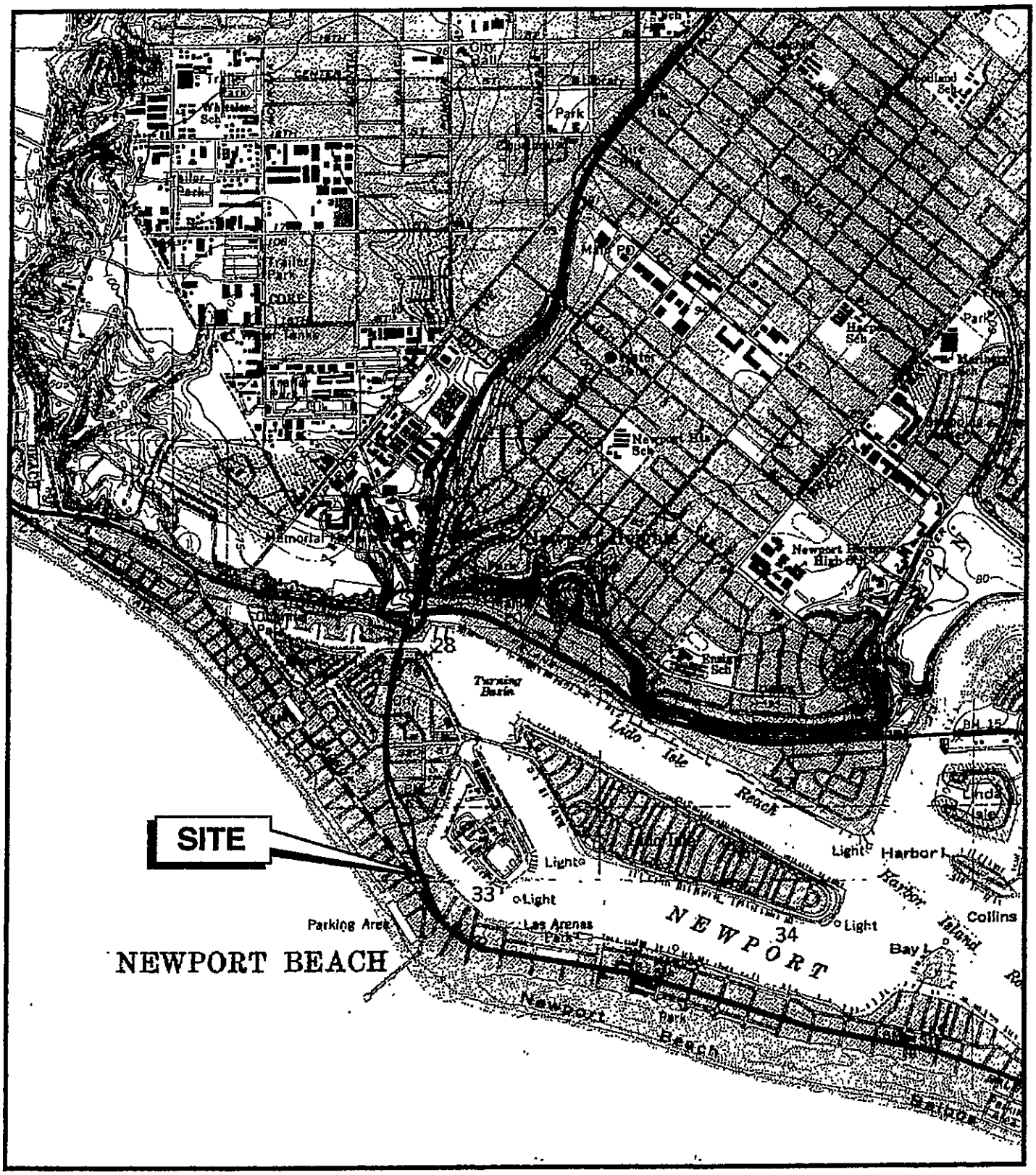
Discretionary actions associated with the proposed project include a Vesting Tentative Tract Map (for Condominium purposes), Use Permit, and a Site Plan Review from the City of Newport Beach. Therefore, the proposed project is subject to review, and approval or denial by the City of Newport Beach. The project applicant will also be required to obtain approval of the Coastal Development Permit from the California Coastal Commission since the project is located within the Coastal Zone

II. PROJECT LOCATION

The 2.4 acre project site is located at 2300 Newport Boulevard in the City of Newport Beach, Orange County, California. The regional location of the site is depicted on Exhibit 1, the project vicinity on Exhibit 2, and aerial photo shown on Exhibit 3.

III. PROJECT BACKGROUND

The site currently is developed and utilized as the South Coast Shipyard and Design Center. The existing development consists of approximately 44,300 square feet of office and commercial space that is located on 102,800 square foot lot. In 1933, the property was purchased by the South Coast Boat Building Company. Among the features added to the shipyard site by South Coast: a warehouse with a derrick and a welding/painting shop (2201 West Bayfront), built in 1933; another large warehouse (2208 West Central Avenue), also in 1933; a third warehouse

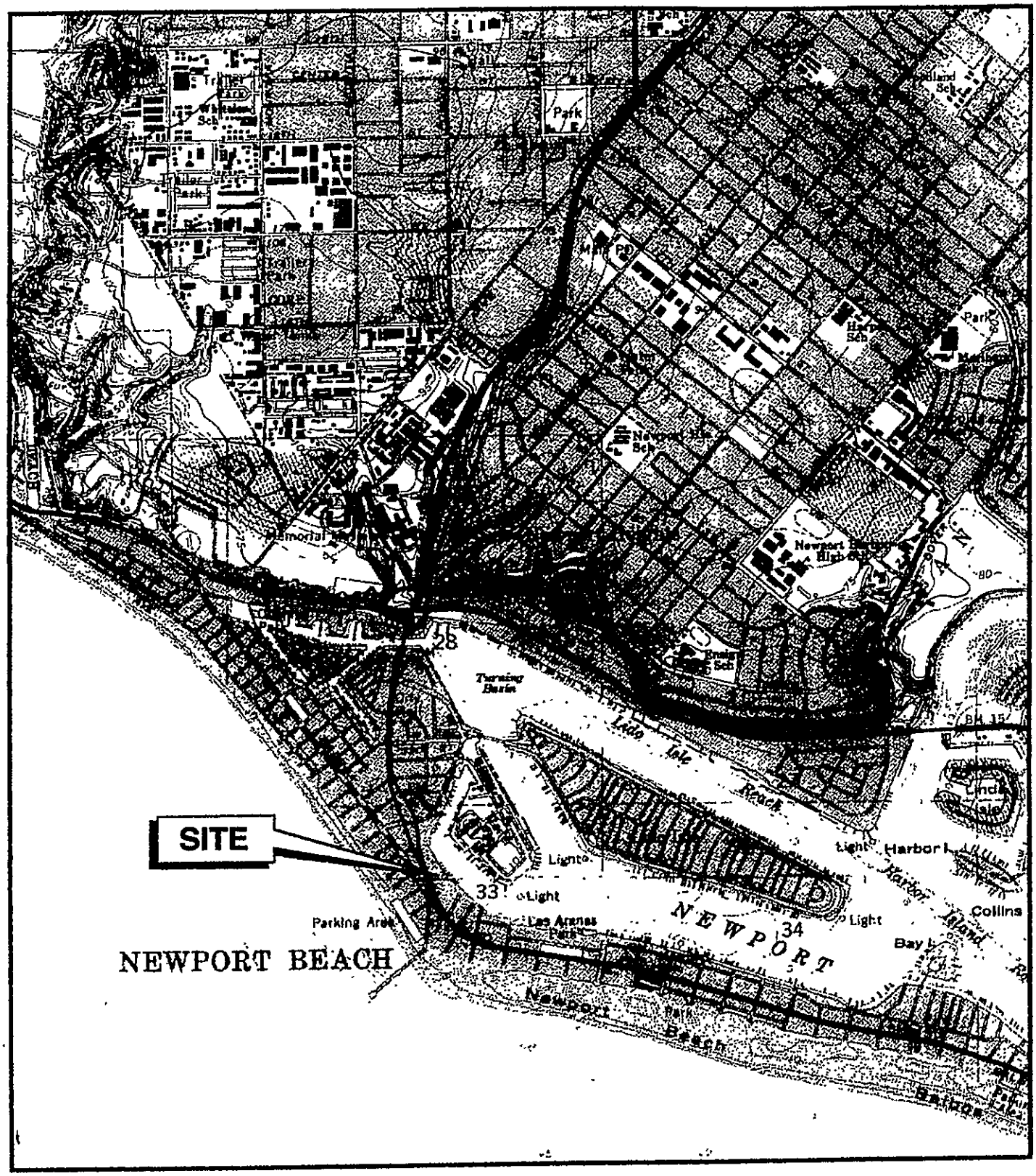


SITE LOCATION MAP

Ref: Portion of USGS NEWPORT BEACH QUADRANGLE,
7.5 Minute Topographic Series 1965,
(Photorevised 1981)

SCALE: 1 inch = 2000 feet

EXHIBIT 2



SITE LOCATION MAP

Ref: Portion of USGS NEWPORT BEACH QUADRANGLE,
7.5 Minute Topographic Series 1965,
(Photorevised 1981)

SCALE: 1 inch = 2000 feet

EXHIBIT 2

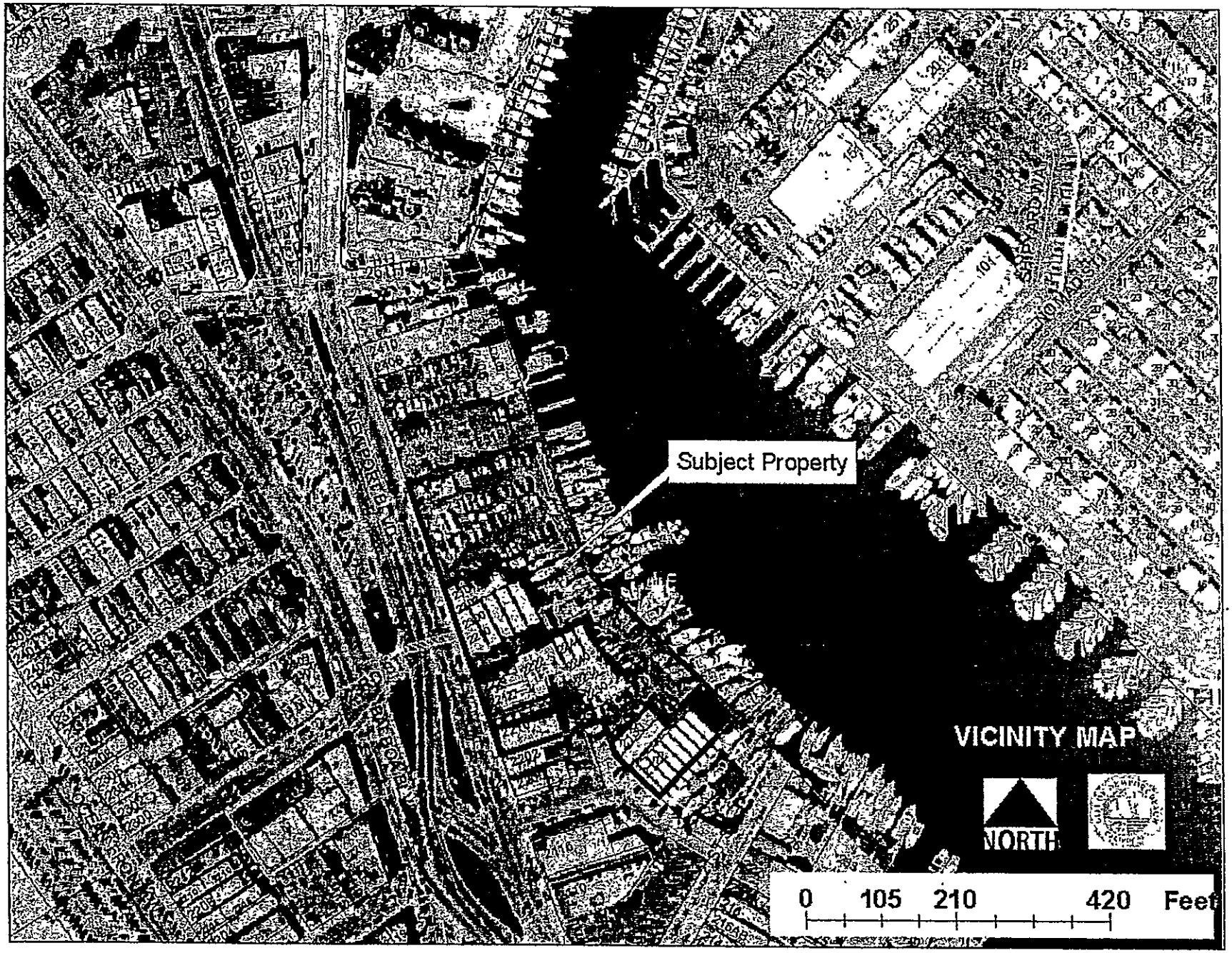


EXHIBIT 3

with conveyor tracks (2107 West Bayfront) in 1934; and a boat shop and showroom on "The Arcade" in 1938. During the early 1940's the shipyard was primarily utilized for U.S. Navy boat building, repair, and conversion. By the mid-1950s, the Shipyard had returned to the production and maintenance of pleasure craft. In 1964, the South Coast Company was disbanded. Its site was briefly owned by a swimming pool company, but remained largely unused for the next nine years. In 1973, William E. Blurock, a local architect, purchased the property. The original 1926 ship-building structures were converted into offices for Mr. Blurock's architecture design firm. The property has since been known as the South Coast Shipyard and Design Center.

On July 23, 2003 a draft Initial Study and Mitigated Negative Declaration (IS/MND) was made available for a 30-day public review period. The IS/MND (State Clearinghouse No. 200307114) addressed a mixed-use project proposed by the previous property owner and project applicant, Mr. Blurock. However, the project was not further pursued by the project applicant and the property was sold to ETCO Development, Inc. in 2003. The new owner has redesigned the project and the same land uses are proposed. The City of Newport Beach has determined that in consideration of the previous IS/MND public comments and the redesigned project plans, it would be appropriate to prepare an Environmental Impact Report.

In late 2003, the existing boat repair and storage facility operated by the South Coast Shipyard was closed for economic and environmental reasons and the facility no longer operates at the site.

IV. PROJECT DESCRIPTION

The application is a request to permit the approval of a Vesting Tentative Tract Map 16594, Use Permit and a Site Plan Review for the proposed mixed-use development of residential and commercial uses on the project site. The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with 44,300 square feet of commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront), reconfiguration of the existing 19-boat slip marina located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widen and remain open) used for boat berthing. The project proposal includes a partial subterranean garage. The construction of the garage will require excavation of earth material. The project also includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the historical ship building/repair use of the property. The project plans are presented in Appendix B of this document

V. ENVIRONMENTAL ANALYSIS CHECKLIST CATEGORIES TO BE ADDRESSED IN THE DRAFT PROJECT EIR

An Initial Study has been completed analyzing the proposed project pursuant to the requirements of the State CEQA Guidelines and the City of Newport Beach Procedures. It has been determined that there is substantial evidence that significant effects may occur if the project is implemented, thereby necessitating the preparation of an EIR. The EIR will address the following topical areas with potentially significant impacts: Aesthetics, Biological Resources, Cultural Resources, Geology/Soils, Hazardous and Toxic Materials, Hydrology/Water Quality; Land Use, Transportation/Circulation, and Cumulative impacts. The following categories, although anticipated to have less than significant impacts, will also be addressed in the EIR: Air Quality, Noise, Population and Housing, Recreation, Public Services and Utilities. The following will not be discussed further: Agriculture and Mineral Resources.

VI. PROJECT OBJECTIVES

The CEQA Guidelines Section 15124(b) requires that an EIR include a statement of the objectives sought by the proposed project. Project objectives can also be helpful in developing a reasonable range of alternatives to evaluate in the proposed EIR. The following project objectives have been identified by the applicant (objectives are not listed in any particular ranked order):

- Develop an attractive and viable mixed use (residential/commercial) project that optimizes the project site's prime location adjacent to the marina that results in a reasonable return on investment.
- Remediate any potential hazards located within the project boundary to assure a healthy environment for future customers and residents.
- Facilitate efficient on-site and off-site circulation with adequate onsite parking for proposed land uses.
- Renovate the commercial boat marina, replace the existing seawall and combine the two smaller "slipways" into one to ensure no net loss in tidelands.
- Preserve/enhance the existing scenic view corridor from Newport Boulevard to the Bay and improve public access to the Bay.
- Assure that required infrastructure improvements are provided to support the proposed development.

VII. ALTERNATIVES TO BE ANALYZED IN THE DRAFT PROGRAM EIR

The CEQA Guidelines require that the EIR assess a range of reasonable alternatives to the proposed project or the proposed location. The discussion must focus on opportunities for eliminating or reducing any significant adverse environmental effects of the proposed project, although the alternative(s) may impede to some degree the attainment of the project objectives, or would be more costly. At time of this writing, it is anticipated that the EIR will include the following (but not limited) project alternatives: No Project, Reduced Development Alternative (i.e. smaller project); and Commercial Development Alternative (i.e. no residential uses).

VIII. INITIAL STUDY

The Initial Study is attached to this NOP for review.

ENVIRONMENTAL ANALYSIS
INITIAL STUDY

A. INTRODUCTION

The following is an Initial Study conducted pursuant to the California Environmental Quality Act ("CEQA", Public Resources Code 21000 et seq. and 21082.2; Cal. Code of Regs. Section 15000). The purpose of the Initial Study is to document the evidence before the City of Newport Beach that led to the determination that an EIR is required for the proposed project. The Initial Study is also used as the first step in scooping the content of the EIR prior to beginning the Notice of Preparation (NOP) process.

B. ENVIRONMENTAL CHECKLIST ANALYSIS

I. AESTHETICS

a) Have a substantial adverse effect on a scenic vista? (Potentially Significant Impact)

The proposed project is located in an area that contains a scenic vista of the City of Newport Bay. Views through the site are provided over the westerly portion of the site and through a public view easement through the center of the site roughly over the larger of the two slipways. The project is located on the Newport Peninsula and bay area of Newport Beach and is located in the coastal zone. The project will require a Coastal Development Permit subject to review and approval by the California Coastal Commission.

The site contains three groupings of buildings that share a site located between Newport Boulevard and Newport Bay which is located at the northerly boundary of the project site. The buildings are rustic and/or industrial in appearance and have retained a maritime flavor. The view from the northerly side of the property is of a marina with the bay and mainland beyond. Ground covering is mostly asphalt. Vegetation is minimal, with plantings for the most part limited to ornamental landscape elements situated very near the buildings.

The proposed project consists of a mixed-use development that will reduce the existing commercial and office uses on the property and add residential uses. There will be multi-story buildings and subterranean parking in the new development. The project is subject to comply with the development regulations of the City of Newport Beach including the Specific Plan District #6 Cannery Village/McFadden Square requirements. The EIR will include an analysis of Aesthetics including visual simulations.

b) **Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Less Than Significant Impact)**

The project will not result in any impacts to historic buildings within a State scenic highway. The project is not located within a state scenic highway. The former use of the site has some historic value and the EIR will include a historical resources analysis to determine potential impacts and if needed recommend mitigation measures.

c) **Substantially degrade the existing visual character or quality of the site and its surroundings? (Potentially Significant Impact)**

See response to I (a) above. The project may result in potential impacts to aesthetics. The EIR will include an analysis of aesthetics and recommend mitigation measures if any are necessary.

d) **Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Less Than Significant Impact)**

The project site is located in an area that is already developed and urbanized. Although, the project will add three new two-story buildings and will include more potential light sources. It is not anticipated that the project will not adversely affect day or nighttime views in the area since the project will be required to comply with City design standards to minimize light and glare.

II. AGRICULTURE RESOURCES

a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (No Impact)**

The project site has no agricultural use. The project does not propose conversion of farmland to non-agricultural use. The proposed project will not have any impacts on agriculture resources. Therefore, it is not intended that this topic be further evaluated in the Draft EIR.

b) **Conflict with existing zoning for agricultural use, or a Williamson Act contract? (No Impact)**

See response to Section II (a) above. The site is not zoned for agricultural use. The project does not conflict with the existing zoning for the site nor is subject to a Williamson Act contract.

c) **Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (No Impact)**

See response to Section II (a) above. The proposed project will not have any impact on farmland or agricultural uses. Therefore, the project will not have any impact that could result in the conversion of property to non-agricultural use.

III. Air Quality

a) Conflict with or obstruct implementation of the applicable air quality plan? (Potentially Significant Impact Unless Mitigation Incorporated)

The project site is located in the South Coast Air Basin (SCAB). The South Coast Air Quality Management (SCAQMD) sets and enforces regulations for stationary sources in the basin. The California Air Resources Board (CARB) is responsible for controlling motor vehicle emissions. The SCAQMD in coordination with the Southern California Association of Governments (SCAG) has developed the Air Quality Management Plan (AQMP) for the air basin. The AQMP goals include the implementation of technological and innovative changes that provide for achieving clean air goals while maintaining a healthy economy. The AQMP also addresses state and federal planning requirements and programs.

It is anticipated that short-term air quality emissions associated with construction activities will occur with implementation of the project. Long-term air quality impacts associated with the project will also occur. However, the existing uses of the property are proposed to be redeveloped with commercial and residential uses. Therefore, the net change in development is not considered significant and is also consistent with the development projections of the City's General Plan. The net increase in development intensity when compared to AQMD screening tables would indicate a less than significant impact. The project includes the excavation of earth material which will require exportation off-site. The potential impact of grading and excavation activities is not known at this time. The EIR will address potential air quality impacts and mitigation.

b) Violate any air quality standard or contribute to an existing or projected air quality violation? (Potentially Significant Impact Unless Mitigation Incorporated)

See Response to III(a) above. Potential air quality impacts from project construction activities will be minimized through mitigation measures, including short-term impacts to air quality from air pollutants being emitted by construction equipment and dust generated during site preparation. The EIR will address potential air quality impacts and mitigation.

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

See response to Section III (a) above. The project is located in the South Coast Air Basin that is a designated non-attainment area. However, the proposed project does not represent significant growth beyond that already previously evaluated and forecasted for air quality cumulative impacts of basin-wide growth and development. The project will result in short-term construction related air quality emissions. The EIR will address air quality impacts and mitigation.

d) Expose sensitive receptors to substantial pollutant concentrations? (Less Than Significant Impact)

The project is not located in an area that would expose sensitive receptors (e.g. elementary schools etc.) to substantial pollutant concentrations. The closest school to the site is Newport Elementary, 1327 West Balboa Boulevard which is approximately 0.5 miles from the project site. The site is located in an area already developed with retail and service commercial uses; therefore, it is not anticipated that the project will result in any significant impacts to sensitive receptors.

e) Create objectionable odors affecting a substantial number of people? (Less Than Significant Impact)

Potential impacts to surrounding properties from construction operations (including emissions and odors associated with construction) will be short-term in duration and minimal. These effects are not considered significant. Additional potential long-term air quality impacts associated with the proposed project are not anticipated due to the type of project (residential and retail/office use). Therefore, the proposed project is not anticipated to generate objectionable odors that would affect a substantial number of people and create a significant impact.

IV. BIOLOGICAL RESOURCES

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

The project site is currently developed with the existing South Coast Shipyard and Design Center. The site is also located in an area which is developed with urban uses such as retail and marine service and restaurants. The project site is located on the Rhine Channel of Newport Bay. The project includes a new bulkhead and reconfigured marina. Although no candidate, sensitive or special status species are known to exist at the project site based upon prior field surveys, the EIR will include an evaluation of biological resources and recommended mitigation if impacts are identified.

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

See response to Section IV (a) above. The EIR will include an evaluation of biological resources and recommended mitigation measures.

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

See response to Section IV (a) above. The project will replace an aging bulkhead and will remediate some pollution from previous shipbuilding and servicing on the site that is covered elsewhere in this report. The EIR will include an evaluation of biological resources and recommended mitigation measures.

d) **Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Less Than Significant Impact)**

See response to Section IV (a) above. The site does not contain any migratory fish or wildlife species based upon previous site surveys conducted (source: City of Newport Beach, South Coast Shipyard Initial Study and Mitigated Negative Declaration 7/23/03, State Clearinghouse No. 200307114). Therefore, the project will not have any impacts to such species.

e) **Conflict with any local policies or ordinance protecting biological resources, such as a tree preservation policy or ordinance? (Less Than Significant Impact)**

See response to Section IV (a) above. The site does not contain any trees protected by a preservation policy or ordinance. The City of Newport Beach does not have any applicable policies or ordinances in effect for the protection of biological resources other than local CEQA implementing policies. Preparation of an EIR in accordance with these policies will satisfy local policies and ordinances related to biological resource protection. The EIR will include an evaluation of biological resources.

f) **Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Less Than Significant Impact)**

No known HCP's or NCCP apply to the project site or immediate vicinity. Therefore, the project will not conflict with any policies or ordinance pertaining to biological resources.

V. CULTURAL RESOURCES

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? (Potentially Significant Impact)

The project site is currently developed with the existing South Coast Shipyard and Design Center. The current buildings were used for shipbuilding during the 1940's and 1950's and the site and former use may have some historical value. Therefore, the EIR will include an evaluation of cultural resources and recommended mitigation.

b) Cause a substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5? (Potential Significant Impact)

See response to Section V (a) above. The project site is already developed. No known archeological sites exist at the property. The project will require some site preparation (e.g. grading, excavation). Although, it is not anticipated that the project will have any impacts on archeological resources, the EIR will include an evaluation of cultural resources and if needed recommended mitigation.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (Potential Significant Impact)

See response to Section V (b) above. No known unique paleontological resource or unique geological feature is known to exist at the project site.

d) Disturb any human remains, including those interred outside formal cemeteries? (Less Than Significant Impact)

See response to Section V (a) above. The EIR will include a cultural resources analysis, however, based on existing historical use of the property, it is not anticipated that any potential impacts in relation to disturbing human remains will occur as a result of the proposed project.

VI. GEOLOGY & SOILS

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State

Geologist for the area or based on other substantial evidence of a known fault? (Potentially Significant Impact)

The subject site is located within the southeasterly portion of the Los Angeles Basin within the Lower Bay area of Newport Harbor. The potential for damage from seismic-related events exists within the City as it does throughout the Southern California. Seismic hazards include ground shaking, ground failure, ground displacement, tsunamis and seiches.

The topography of the site is relatively flat with an average elevation of approximately 7 feet above mean sea level. The site is not located in an area of unique geologic or physical features. There are no evident faults on the site itself. Field observation during the geotechnical investigation (Petra) did not reveal the existence of any active or ancient landslide in the vicinity of the project site. The closest slope in the area of the site is the bluff north of the site on West Coast Highway approximately 3 miles away from the site. The closest known active or potentially active fault is the Newport-Inglewood Fault. Strong ground shaking is the principle cause of most damage sustained during an earthquake. The most severe ground shaking at the site is expected to originate from an earthquake along the Newport-Inglewood fault zone.

The EIR will include an evaluation of geology and soils although typically the UBC and the inclusion of construction techniques specified by the soils engineer in consultation with the Building Official mitigate hazards associated with soils and geology.

ii) Strong seismic ground shaking? (Potentially Significant Impact)

See response to Section VI (a)(i) above. The various project sites would be susceptible to levels of seismic ground shaking typical for much of Southern California. All structural features would be designed and constructed to withstand the type and intensity of ground shaking associated with faults. The EIR will include an evaluation of geology and soils.

iii) Seismic-related ground failure, including liquefaction? (Potentially Significant Impact)

See response to Section VI (a)(i) above. Ground failure, liquefaction, seiching and dam failure are secondary seismic hazards which may result from an earthquake. Ground failure in the form of landslides, rock falls, subsidence, and other surface and near surface ground failures can occur as a result of a seismic event. In turn, this may result in complete loss of strength of water-saturated subsurface foundation soil (liquefaction). The potential for liquefaction is associated with the soil types and shallow groundwater which are factors with this project site. The EIR will include an evaluation of geology and soils.

iv) Landslides? (No Impact)

The project site is located in a developed area of the City and the topography of the site is very flat. The closest slope in the area of the site is the bluff north of the site on West Coast Highway. The Public Safety Element of the City's General Plan does not designate the project area as a high potential for landslides. It's not anticipated that the project will result in any significant impacts associated with landslides. The EIR will include an evaluation of geology and soils.

b) **Result in substantial soil erosion or the loss of topsoil? (Less Than Significant Impact)**

See response to Section VI(a)(i). The project will require site preparation (e.g. grading, excavation and demolition activities). The EIR will include an evaluation of geology and soils.

c) **Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (Potentially Significant Impact)**

There are no known unique geologic features or geologic features of unusual scientific value for study or interpretation located within the study area. The property was originally graded in conjunction with the development of the existing marine services, office, industrial and commercial uses of the South Coast Shipyard site. However, the project site is located in an area that has a high potential for liquefaction due to soil types an the water table. The project will be required to comply with applicable building codes and seismic design recommendations from a soils engineer. Additionally, the EIR will include a geotechnical analysis and recommended mitigation measures.

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

Expansive soils are generally defined as those soils that exhibit a change in volume when moisture content of the soil is varied. Chapter 18, Section 1803 (Soil Classification – Expansive Soil) of the 1998 Uniform Building Code (UBC) addresses expansive soil. Foundations for structures resting on soils with an expansion index greater than 20, as determined by the UBC Standard, shall require special design consideration. If the soil expansion varies, the variation is to be included in the engineering analysis of the structure. Expansive and collapsible soils can effect building foundations resulting in damage to the structure. Movements may very under different part of a building with the result that the foundations crack, with vertical displacement, causing various structural portions of the building to be damaged and/or destroyed. Expansive soil consideration can be identified and addressed by engineering and construction practices. The EIR will include a discussion of the geotechnical analysis performed and recommended mitigation measures.

e) **Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? (No Impact)**

Sewer service is presently provided to the site and the proposed project is required to be served by the sewer system Therefore, the project will not result in any significant impacts associated with septic tanks or alternative waste water disposal systems.

VII. HAZARDS AND HAZARDOUS MATERIALS

a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials? (Potentially Significant Impact)

The proposed project does involve the transport and disposal of some existing hazardous materials from waste located in near shores sediment near the slipways and marina. Previous geological assessments conducted consisted of drilling and sampling borings to assess the environmental condition of sediments which form a shoal near the slipways. The geologic and chemical data obtained during the assessment indicates that local contamination of the sediments in the shoal (near the slipways) has occurred. Concentrations above the Soluble Threshold Limit Concentration (STLC) for copper and lead are present in the upper three feet below the mudline in the shoal area. The detected concentrations of copper and lead (above the STLC) require that these specific sediments be handled as a hazardous waste if they are excavated and removed. The project applicant has indicated that the project will include removing the hazardous waste and a remedial action plan will be coordinated with the staff of the California Regional Water Quality Control Board, Santa Ana Region 8 office. The EIR will include an evaluation of hazards and hazardous materials related to the planned remediation.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (Less Than Significant Impact)

See response to VII (a) above. The long term use of the site for residential, retail, office and boating is not anticipated to create a reasonably foreseeable event where hazardous materials would be released into the community.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (Less Than Significant Impact)

See response to VII (a) above. There are no schools within one-quarter mile of the project site. The closest school to the site is Newport Elementary, 1327 West Balboa Boulevard which is approximately 0.5 miles from the project site. Due to the type, use and limited size of the project and distance from the closest schools, it is not anticipated that the project will have any significant impact on schools.

d) Be located on a site which is included on a list of hazardous materials sites which complied pursuant to Government Code Section 65962.5 and, as a result,

would it create a significant hazard to the public or the environment? (Potential Significant Impact)

See response to VII (a) above. Additionally, the EIR will identify if the project is located on a site included on a list of hazardous materials sites.

e) **For a project 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? (No Impact)**

The project site is located over five miles from John Wayne Airport (JWA and is not subject to the JWA Airport Land Use Plan (ALUP). Therefore, the project is not anticipated to have any safety impacts associated with the operations of John Wayne Airport.

f) **For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (No Impact)**

No private airstrip is located within 10 miles of the project. site. Therefore, no impacts to this topic area are anticipated as a result of development of the project.

g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (No Impact)**

The project itself will not result in any impacts to an adopted emergency response plan or emergency evacuation plan. Therefore, no impacts to this topic area are anticipated as a result of development of the project.

h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (No Impact)**

The proposed project is located in an urbanized area of the City and not located near any wildland area. Therefore, the project will not be a significant risk due to possible wildland fires.

VIII. HYDROLOGY & WATER QUALITY

a) **Violate any water quality standards or waste discharge requirements? (Potentially Significant Impact)**

The City of Newport Beach (and the project site) is located in the Santa Ana River Basin. The project area is under the jurisdiction of the California Regional Water Quality Control Board (RWQCB) Santa Ana Region for issues related to water quality. The EIR will include an evaluation of hydrology and water quality and recommended mitigation measures.

b) **Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (No Impact)**

Water service will be provided by the municipal water service. The project will not pump groundwater and the site is not a groundwater recharge area. Therefore, no impacts to this topic area are anticipated as a result of development of the project.

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

The site presently drains directly into Newport Bay and the site is nearly 100% impervious. Although the site plan includes small amounts of landscape areas, the percentage of impervious surface will not substantially change. The proposed drainage plan captures a majority of on-site run-off and directs it to clarifiers. The EIR will include an analysis of water quality.

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

See response to Section VIII (c) above. The EIR will include an analysis of the drainage system.

e) **Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (Less Than Significant Impact)**

See response to Section VIII (a)(c) and (d) above.

f) **Otherwise substantially degrade water quality? (Potentially Significant Impact)**

See response to Section VIII (a)(c) above. The EIR will address potential impacts to water quality and recommended mitigation measures.

g) **Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (No Impact)**

The site is not located within special flood hazard area or a 100 year flood hazard area as depicted on the FEMA Flood Insurance Rate Map #06059C0381H revised 2/15/04. The reconstructed bulkhead and minimum habitable areas for the proposed residences must comply with the minimum 6.27 feet above mean sea level (National Geodetic Vertical Datum 1929). According to information contained in the City's Public Safety Element, the potential for loss due to flooding is greatest in the low-lying areas immediately adjacent to the Santa Ana River. Other areas subject to flooding and inundation include the Newport Back Bay area and drainages tributary to that feature. The subject property is not located in any of the flood-prone areas delineated in the City of Newport Beach.

No portion of the subject property is located within the designated 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA). Therefore, none of the structures, including the residential component will be located within a FEMA 100-year flood plain; no significant impacts are anticipated as a result of project implementation.

h) **Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (No Impact)**

See response to Section VIII (a)(c) and (g) above.

i) **Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? (No Impact)**

See response to Section VIII (a)(c) and (g) above.

j) **Inundation by seiche, tsunami, or mudflow? (Less Than Significant Impact)**

See response to Section VIII (a)(c) above. The Public Safety Element of the City of Newport Beach General Plan identified the possibility of inundation by seiche or tsunami within the lower bay area as extremely remote in the project area. A study conducted for the Public Safety Element concluded that the bulkhead elevation in the interior waterways provides adequate freeboard for estimated possible storm surges within the bay. The potential for seiches (i.e., the

oscillation of sloshing of water in an enclosed body of water caused by seismic activity or land sliding) to occur in the City, including within the vicinity of the subject property, is low and does not represent a potential hazard to public safety. Finally, the risk to public safety on the site from tsunamis was determined to be extremely remote within the City. However, there is a tsunamis warning system which if activated would lead to evacuation in accordance with adopted emergency management procedures. Therefore, no significant impacts are anticipated to result from implementation of the proposed project.

IX. LAND USE AND PLANNING

a) Physically divide an established community? (No Impact)

The project site is located at 2300 Newport Boulevard in the Lower Newport Bay area of Newport Beach. The project is an in-fill development. The site does not function as a "thru-way" for the public. The project incorporates public access to the Bay and therefore does not separate the community from the bay. The site is located in the Cannery Village/McFadden Square area of Newport Beach. The development of the project will not physically divide an established community. Therefore, the project will not result in significant impacts to an established community and this topic will not be further analyzed in the EIR.

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

See response to IX (a) above. The Land Use Element of the City's General Plan (page 39) and the Local Coastal Program, Land Use Plan identifies that commercial areas allow residential development on the second floor in conjunction with ground floor commercial up to a total floor area ration of 1.25. In these commercial areas, one dwelling unit is allowed for each 2,375 square feet of buildable lot area with a minimum of one unit allowed on each lot. The McFadden Square is allocated 168 dwelling units. The City's General Plan Land Use Element identified an estimated growth for the McFadden Square area as 63 dwelling units. It is not anticipated that the project will result in any significant impacts relative to land use as the project complies with applicable land use regulations and density standards. However, the EIR will include a discussion that addresses the applicable General Plan (i.e. Housing Element etc.), Specific Plan, local coastal program and the development regulations pertaining to the property.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan? (No Impact)

The project is not subject to any applicable habitat conservation plan or natural community conservation plan. Therefore, no impacts to this topic area are anticipated as a result of development of the project.

X. MINERAL RESOURCES

a) **Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? (No Impact)**

There are no known mineral resources that exist at the property. Additionally, the use of natural resources will not be significantly affected by this project due to the type of project. Therefore, no significant increase in the use of energy or natural resources is anticipated as a result of the project.

b) **Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? (No Impact)**

See response to Section X (a) above. The site is not designated as a mineral recovery site.

XI. NOISE

a) **Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (Potentially Significant Impact Unless Mitigation Incorporated)**

The area surrounding the project site is fully developed with urban and harbor related uses. The project consists of construction of a mixed-use residential and commercial development. Future on-site noise will not significantly differ from those which now exist. The proposed project will result in temporary noise during construction activities. Construction activities associated with the development of the site (including grading) will be limited to daytime hours as required by the City's noise regulations. The project will be required to comply with UBC regulations and the Community Noise Ordinance that will ensure that people will not be subjected to excessive noise. Also, the project will be required to comply with City's standards regarding construction equipment operations to reduce noise levels. The EIR will address noise, although it is not anticipated that the project will result in any significant noise impacts.

b) **Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (Potentially Significant Impact Unless Mitigation Incorporated)**

See response to XI (a) above. The EIR will include an evaluation of noise and recommend mitigation. It is anticipated that will implementation of noise reducing measures impacts can be reduced to a level of less than significant.

c) **A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (Potentially Significant Unless Mitigation Incorporated)**

See response to XI (a) above. Following implementation of the project, it is not anticipated that the project will generate a substantial permanent increase in noise levels above that existing since the site has been previously developed with urban and harbor related uses. Therefore, permanent noise levels associated with the project will not significantly differ from those, which now exist.

d) **A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (Potentially Significant Impact)**

Construction noise represents a short-term impact on ambient noise levels. Noise generated by construction equipment, including trucks, graders, bulldozers, concrete mixers and portable generators can reach high noise levels. The short-term construction related noise may potentially impact sensitive receptors (i.e. humans and/or wildlife species). The EIR will include an evaluation of noise and recommended mitigation.

e) **For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (No Impact)**

The project site is located over five miles from the John Wayne Airport (JWA). The site is not located within the JWA Airport Land Use Plan (ALUP). The Noise Element of the City's General Plan identifies that the site is located outside the CNEL (Community Noise Equivalent Level) noise contour for the airport. The proposed project is consistent with the General Plan land use designation for the site and surrounding area. The project will be required to comply with Uniform Building Code regulations and the City's design requirements and noise control measures. Therefore, it is anticipated that any potential noise impacts will be reduced to less than significant.

f) **For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (No Impact)**

The project site is not located within the vicinity of a private airstrip. Therefore, there are no project impacts associated with a private airstrip.

XII. POPULATION AND HOUSING

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

The proposed project includes the provision of 27 new residential units on the South Coast Shipyard site. The proposed project will also provide a total of 36,000 square feet of commercial uses while eliminating the existing commercial and office uses (approximately 44,300 square feet). The project proposes housing which supports the General Plan objective for the creation of additional housing; therefore, the project is consistent with the goals and polices of the City's General Plan. The property is located in an area that infrastructure exists and will serve the site. Due to the limited size of the project it is not anticipated that the project will induce substantial population growth in the area, either directly or indirectly.

b) **Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (No Impact)**

The site does not contain any existing housing. Therefore, no impacts are anticipated for this topical area.

c) **Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (No Impact)**

See response to XII (b) above. See response to XII (b) above. The project will not result in the displacement of substantial numbers of people and/or housing. The project will not displace people, necessitating the construction of replacement housing. The project provides 27-units of housing. Therefore, no impacts to this topical area will result due to the project.

XIII. PUBLIC SERVICES

a) **Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the 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: (Potentially Significant Impact)**

Utilities and service systems are already servicing the project area. The EIR will include an analysis of Public Services.

XIV. RECREATION

a) **Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Less Than Significant Impact)**

The proposed project is not anticipated to significantly increase the use of existing neighborhood and regional parks and recreational facilities. Existing parks in the area and beaches are available to the public. Due to the limited population expected in relation to the 27 residential units, no significant impact to recreation facilities is anticipated. Therefore, this topic will not be further evaluated in the EIR.

b) **Does the project include recreational facilities or require the construction of or expansion of recreational facilities which might have an adverse physical effect on the environment? Opportunities? (Less Than Significant Impact)**

The proposed mixed-use project will include on-site recreation amenities such as the marina and rental sport-fishing opportunities. It is not anticipated that the project will have an adverse physical effect on the environment since the activities currently take place at the site include recreational boating. Therefore, this topic will not be further evaluated in the EIR.

XV. TRANSPORTATION/TRAFFIC

a) **Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? (Potential Significant Impact)**

The development of the project will result in an increase in traffic. The project will also result in short-term impacts associated with construction (traffic) of the project. The EIR will include an evaluation of transportation that will address this topic.

b) **Exceed either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? (Potential Significant Impact)**

See response to Section XV (a) above. The EIR will include an analysis of transportation that will address this topic.

c) **Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? (No Impact)**

See response to Section XV (a) above. The project is a mixed-use development. The project does not propose any use that would result in a change in air traffic patterns. The project does include retail and residential uses, however due to the limited size of the project (27 residential units and 36,600 commercial uses) it is not anticipated that the project would result in any significant increase in air traffic levels or a change in location that results in substantial safety risks.

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

See response to Section XV (a) above. The EIR will include an analysis of transportation, circulation and parking. With compliance with applicable design standards and City regulations, it is not anticipated that the project would result in any significant impacts related to design feature hazards.

e) **Result in inadequate emergency access? (Less Than Significant Impact)**

See response to Section XV (a) above. The project will be required to comply with the City's Building and Fire codes. All fire protection must be designed as an integral part of the construction process with all improvements and/or modernization of equipment systems or devices identified and agreed upon by the City of Newport Beach Fire and Marine Department prior to any construction approval.

The project site is fully developed and emergency access is currently provided by City of Newport Beach Fire and Police. Response times will not increase due to the project. The closest emergency response facility to the site is the station located on at 475 32nd Street (Fire Station No. 2 – Lido Station). Five other facilities are also available for emergency response service. Response times to the site are dependent on various factors. Response time is generally five minutes or less. Emergency calls receive the quickest response times with alarm calls and non-emergency calls having longer response times respectively. The availability of personnel and extenuating circumstances may further affect response times. The City's police facility is located at 870 Santa Barbara Drive. The policy facility is approximately eight miles from the project site. Response times to the site are dependent on various factors including the location of patrol vehicles at the given moment.

f) **Result in inadequate parking capacity? (Potentially Significant Impact)**

See response to Section XV (a) above. The EIR will a include transportation and parking. The project provides off-street parking in accordance with the Newport Beach Zoning Code (2.5

parking spaces for each residential units, 1 space of each 250 square feet of commercial space, and 0.5 space for each boat slip in the marina).

g) **Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (No Impact)**

See response to Section XV (a) above. The Orange County Transportation Authority (OCTA) provides public transportation services to and around the site. The OCTA currently provides local bus service in the vicinity of the project site along Newport Boulevard. The project is not expected to negatively impact any current facility, service or service expansion plans for the project area and/or site. The project will be required to comply with Chapter 20.04, Transportation Demand Management (TDM) Ordinance. The TDM Ordinance applies to the project and the project must either comply or demonstrate that will produce less than 100 employees. Therefore, no impacts are anticipated due to the project. The proposed project will not conflict with adopted policies, plans, or programs supporting alternative transportation.

XVI. UTILITIES AND SERVICE SYSTEMS

a) **Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (Less Than Significant Impact)**

See response to XVI (b) below. The project will not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board. The project will be required to comply with all applicable (RWQCB) requirements. No significant issues or impacts were identified by the RWQCB per the previous IS/MND prepared for the South Coast Shipyard dated July 23, 2003. The EIR will include an evaluation of utilities and service systems, however, impacts relative to wastewater treatment are not anticipated to be significant.

b) **Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Potentially Significant Impact Unless Mitigation Incorporated)**

The City of Newport Beach Utilities Department currently provides water and wastewater services to the site. No significant issues were identified per the previous IS/MND dated 7/23/03 prepared for the South Coast Shipyard mixed-use project. Therefore, it is anticipated that there is adequate capacity to serve the proposed project based upon population increase projections, however, this will be verified and addressed for the proposed project in the EIR. The points of connection for all applicable water and sewer lines will need to be identified and agreed to by the City of Newport Beach Utilities Department prior to any construction approval. The EIR will include an evaluation of utilities and service systems.

c) **Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Potentially Significant Impact Unless Mitigation Incorporated)**

See response to Section XVI (a) (b) above. The EIR will include an evaluation of utilities and service systems and recommend mitigation measures if necessary.

d) **Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (Potentially Significant Impact Unless Mitigation Incorporated)**

See response to Section XVI (a) (b) above. The EIR will include an evaluation of utilities and service systems and determine whether the project will have a significant impact and recommend mitigation measures if necessary.

e) **Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (Potentially Significant Impact Unless Mitigation Incorporated)**

See response to Section XVI (a) (b) above. The EIR will include an evaluation of utilities and service systems and determine whether the project will have a significant impact and recommend mitigation measures if necessary.

f) **Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (Potentially Significant Impact Unless Mitigation Incorporated)**

The site is currently being provided solid waste services by Waste Management of Orange County. Waste Management of Orange County will continue to provide solid waste disposal services to the proposed mixed-use development once the project is complete. The EIR will include an evaluation of utilities and service systems and determine whether the project will have a significant impact and recommend mitigation measures if necessary.

g) **Comply with federal, state, and local statutes and regulations related to solid waste? (Potentially Significant Impact Unless Mitigation Incorporated)**

The EIR will include an evaluation of utilities and service systems and determine whether the project will have a significant impact and recommend mitigation measures if necessary.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

Pursuant to CEQA Section 21083, the following Mandatory Findings have been included.

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

The project site is located in a developed urbanized area of the City. The site is located within the coastal zone and requires approval of a Coastal Development Permit. The site is surrounded by developed properties and it is not anticipated that the proposed project will impact any significant environmental resources, including plants or wildlife. However, the implementation of the project may impact marine habitat/wildlife during construction activities. It is not anticipated that the project will have a long-term adverse impact on habitat/wildlife, however potential cumulative impacts relative to this topic need to be explored and will be addressed in the EIR. The EIR will evaluate biological resources and recommend mitigation of potential impact associated with the project.

B) **Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals? (Potentially Significant Impact)**

The project will require demolition of all existing buildings to enable development of a mixed-use residential and commercial project. The project will be evaluated for compatibility with the surrounding land uses and marine oriented uses in compliance with the City's General Plan and Cannery Village/McFadden Square Specific Plan. The EIR will evaluate potential environmental impacts and recommend appropriate mitigation.

C) **Does the project have possible environmental effects which are individually limited, but cumulatively considerable? (Potentially Significant Impact)**

The project is consistent with the type of land uses developed in the area. The EIR will include an evaluation of project, projected growth and planned projects for the project area to assess cumulative impacts and if needed any appropriate mitigation.

D) **Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? (Potentially Significant Impact)**

The EIR will include an environmental evaluation of direct and indirect impacts that may occur as a result of implementation of the project.

Appendix A
Environmental Analysis Checklist

CITY OF NEWPORT BEACH
ENVIRONMENTAL CHECKLIST FORM

1. Project Title: **Bridgeport Mixed-Use Project**

2. Lead Agency Name and Address: **City of Newport Beach**
Planning Department
3300 Newport Boulevard,
Newport Beach, CA 92658-8915

3. Contact Person and Phone Number: **James Campbell, Senior Planner**
Planning Department (949) 644-3210

4. Project Location: **The site is located at 2300 Newport Boulevard in the City of Newport Beach.**

5. Project Sponsor's Name and Address: **ETCO, 1351 Pomona Road, Suite 210, Corona, CA 92882.**

6. General Plan Designation: **Recreation Marine Commercial**

7. Zoning: **Specific Plan District #6, (Cannery Village/McFadden Square Specific Plan), Recreation Marine Commercial**

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 application is a request to permit the approval of a Vesting Tentative Tract Map 16594; Use Permit and a Site Plan Review for the proposed mixed-use development of residential and commercial uses on the project site. The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with 44,300 square feet of commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront), reconfiguration of the existing 19-boat slip marina located on the bayward side of the project site, and closure of one existing boat slipway (one slipway will be widen and remain open) used for boat berthing. The project proposal includes a partial subterranean garage. The construction of the garage will require excavation of earth material. The project also includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the historical ship building/repair use of the property..

9. Surrounding Land Uses and Setting: (Briefly describe the project's surroundings.)

Current Development:	**The proposed site is currently developed with four existing two-story buildings and a 19-slip boat marina.**
To the south:	**Newport Boulevard, retail uses and marine service uses**
To the north:	**Rhine Channel, Lido Isle**
To the east:	**Restaurant, 22nd Street, Shipyard**
To the west:	**Restaurants**

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) **Coastal Commission (Coastal Development Permit) and U.S. Army Corps of Engineers Section 10 & 404 permits.**

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.

☐ Land Use Planning	☑ Transportation/ Circulation	☑ Public Services
☐ Population & Housing	☑ Biological Resources	☑ Utilities & Service Systems
☑ Geological Problems	☐ Energy & Mineral Resources	☑ Aesthetics
☑ Hydrology/Water Quality	☑ Hazards	☑ Cultural Resources
☑ Air Quality	☑ Noise	☐ Recreation
	☑ Mandatory Findings of Significance	

DETERMINATION (To be completed by the Lead Agency.)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. ☐

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions ☐

in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect on the environment, and ENVIRONMENTAL IMPACT REPORT is required. ☑

I find that the proposed project MAY have a significant effect(s) 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, if the effect is a "potentially significant impact" or "potentially significant unless mitigated." 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, there WILL NOT be a significant effect in this case 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, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required. ☐

Cheryle L. Hodge for
James W. Campbell, Senior Planner
City of Newport Beach, Planning Department

2/22/05
Date

CITY OF NEWPORT BEACH
ENVIRONMENTAL CHECKLIST

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
☑					
I.	**AESTHETICS.** Would the project:				
a)	Have a substantial adverse effect on a scenic vista?	☑	☐	☐	☐
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☑	☐
c)	Substantially degrade the existing visual character or quality of the site and its surroundings?	☑	☐	☐	☐
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☑	☐
II.	**AGRICULTURE RESOURCES.** Would the project:				
a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☑
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☑
c)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☑
III.	**AIR QUALITY.** Would the project:				
a)	Conflict with or obstruct implementation of the applicable air quality plan?	☐	☑	☐	☐

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b)	Violate any air quality standard or contribute to an existing or projected air quality violation?	☐	☑	☐	☐
c)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☑	☐	☐
d)	Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☑	☐
e)	Create objectionable odors affecting a substantial number of people?	☐	☐	☑	☐
IV. BIOLOGICAL RESOURCES. Would the project:					
a)	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☑	☐	☐	☐
b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☑	☐	☐	☐
c)	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☑	☐	☐	☐

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
d)	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impeded the use of native wildlife nursery sites?	☐	☐	☑	☐
e)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☑	☐
f)	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☑	☐
V.	**CULTURAL RESOURCES.** Would the project:				
a)	Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☑	☐	☐	☐
b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☑	☐	☐	☐
c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☑	☐	☐	☐
d)	Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☑	☐
VI.	**GEOLOGY AND SOILS.** Would the project:				
a)	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☑	☐	☐	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☑	☐	☐	☐
ii) Strong seismic ground shaking?	☑	☐	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☑	☐	☐	☐
iv) Landslides?	☐	☐	☐	☑
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☑	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☑	☐	☐	☐
d) Be located on expansive soil, as defined in Table 18- 1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☑	☐	☐	☐
e) Have soils incapable of adequately supporting the use septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☑
VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?	☑	☐	☐	☐

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☑	☐
c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☑	☐
d)	Be located on a site which is included on a list of hazardous materials sites which complied pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☑	☐	☐	☐
e)	For a project 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?	☐	☐	☐	☑
f)	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☑
g)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☑
h)	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☑

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY.	Would the project:				
a)	Violate any water quality standards or waste discharge requirements?	☑	☐	☐	☐
b)	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☑
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☑	☐
d)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of a course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?	☐	☐	☑	☐
e)	Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☑	☐
f)	Otherwise substantially degrade water quality?	☑	☐	☐	☐
g)	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☑

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
h)	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☑
i)	Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☑
j)	Inundation by seiche, tsunami, or mudflow?	☐	☐	☑	☐
IX. LAND USE AND PLANNING. Would the proposal:					
a)	Physically divide an established community?	☐	☐	☐	☑
b)	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☑	☐
c)	Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☑
X. MINERAL RESOURCES. Would the project:					
a)	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☑
b)	Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☑

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
XI. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☑	☐	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☑	☐	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☑	☐	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☑	☐	☐	☐
e) For a project located within an airport land use land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☑
XII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☑
XIII. PUBLIC SERVICES Would the project:	☑	☐	☐	☐
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the 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?	☐	☑	☐	☐
Police protection?	☐	☑	☐	☐
Schools?	☐	☑	☐	☐
Other public facilities?	☐	☑	☐	☐
XIV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☑	☐
b) Does the project include recreational facilities or require the construction of or expansion of recreational facilities which might have an adverse physical effect on the environment? Opportunities?	☐	☐	☑	☐

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☑	☐	☐	☐
b) Exceed either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☑	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☑
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☑	☐
e) Result in inadequate emergency access?	☐	☐	☑	☐
f) Result in inadequate parking capacity?	☑	☐	☐	☐
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☑
XVI. UTILITIES & SERVICE SYSTEMS Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☑	☐

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b)	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☑	☐	☐
c)	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☑	☐	☐
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☑	☐	☐
e)	Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☑	☐	☐
f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☑	☐	☐
g)	Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☑	☐	☐
XVII.	**MANDATORY FINDINGS OF SIGNIFICANCE.**				
A)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major period of California history or prehistory?	☑	☐	☐	☐

		Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b)	The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☑	☐	☐	☐
c)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☑	☐	☐	☐
d)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☑	☐	☐	☐

XVII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case a discussion should identify the following on attached sheets:

a) Earlier analyses used. Identify earlier analyses and state where they are available for review.

b) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation measures. For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

SOURCE LIST

The following enumerated documents are available at the offices of the City of Newport Beach, Planning Department, 3300 Newport Boulevard, Newport Beach, California 92660.

1. California Environmental Quality Act as amended January 1, 2005. §§21000-21177 of the Public Resources Code, State of California.

2. Guidelines for California Environmental Quality Act as amended December 1, 2004. §15000-15387 of the California Code of Regulations, Title 14, Chapter 3, State of California.

3. Final Program EIR – City of Newport Beach General Plan

4. General Plan, including all its elements, City of Newport Beach.

5. Specific Plan, District #6, Cannery Village/McFadden Square.

6. Title 20, Zoning Code of the Newport Beach Municipal Code.

7. City Excavation and Grading Code, Newport Beach Municipal Code.

8. Chapter 10.28, Community Noise Ordinance of the Newport Beach Municipal Code.

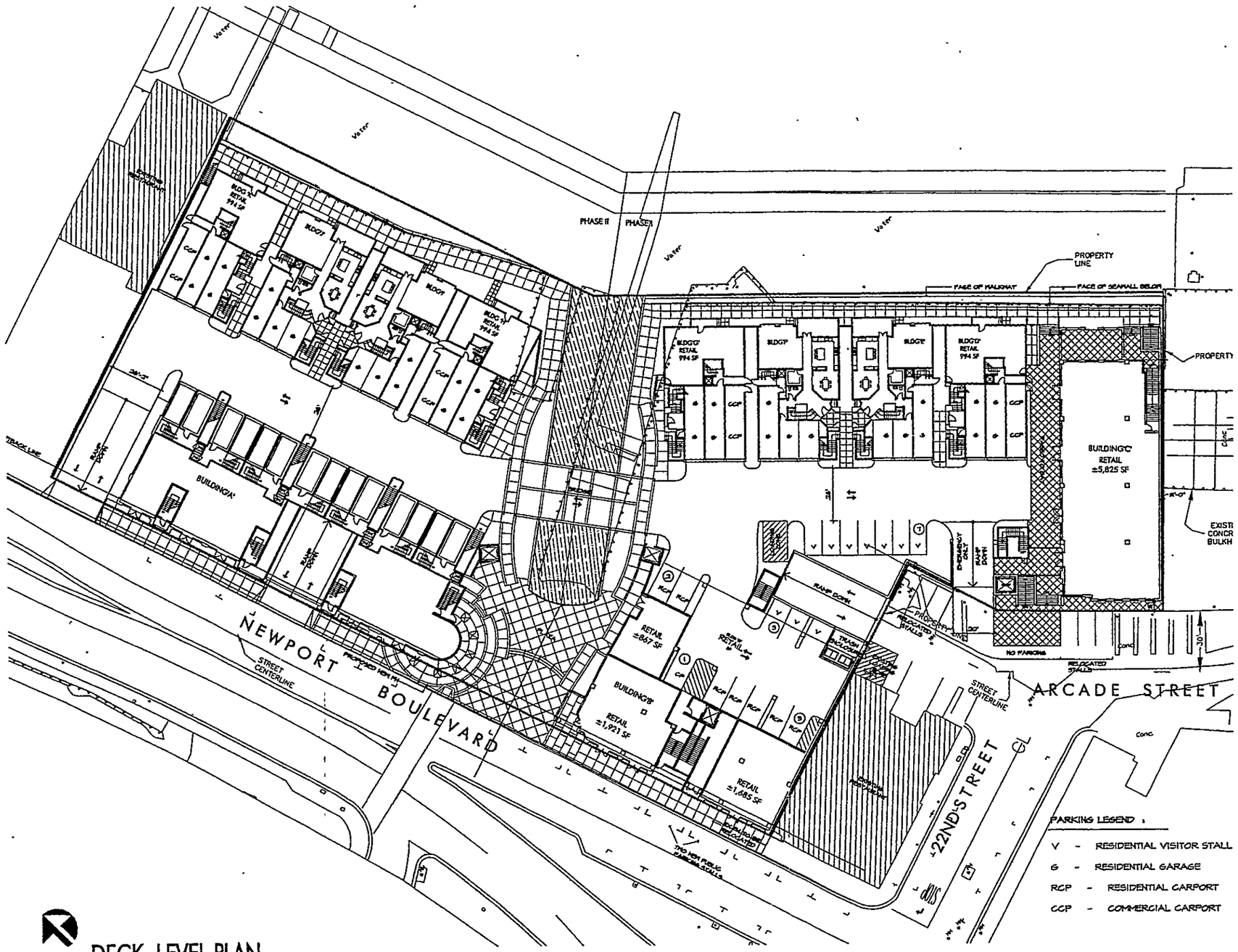
9. South Coast Air Quality Management District, Air Quality Management Plan 2003.

10. South Coast Air Quality Management District, Air Quality Management Plan EIR, 2003.

11. Project Plans dated November 18, 2004 prepared for the Bridgeport Mixed-Use Project by McKently and Associates.

12. Draft Mitigated Negative Declaration and Initial Study prepared for the South Coast Shipyard & Design Center Project dated July 23, 2003 (State Clearinghouse No. 2003071144).

Appendix B
Project Plans



PARKING LEGEND :

V - RESIDENTIAL VISITOR STALL
G - RESIDENTIAL GARAGE
RCP - RESIDENTIAL CARPORT
CCP - COMMERCIAL CARPORT

DECK LEVEL PLAN

PROJECT DATA

OWNER :	ETCO INVESTMENTS, LLC 1351 POMONA ROAD, STE. 210 CORONA, CA. 92882
PROJECT ADDRESS:	2300 NEWPORT BOULEVARD NEWPORT BEACH, CA. 92663
LEGAL DESCRIPTION: PARCEL I	LOT I OF PARCEL MAP P.M.B. 68/48 IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CA. AS RECORDED IN THE OFFICE OF COUNTY RECORDER OF THE SAID COUNTY
DATE PREPARED:	DECEMBER 2003
TOTAL PROJECT AREA:	2.36 A.C. (102,800 S.F.)
LAND USE:	EXISTING USE: COMMERCIAL PROPOSED USE: CONDOMINIUM
EXISTING ZONING:	C - COMMERCIAL
ASSESSOR MAP NO.	047-120-31

STATISTICAL SUMMARY

USES:	ALLOWED	PROPOSED
RESIDENTIAL AREA ALLOWED (0.75x102,800)	77,101	77,101
RESIDENTIAL UNITS ALLOWED 102,800 SF / 2,375 =	43	27
8 DUPLEX TYPE I UNIT		
8 DUPLEX TYPE II UNIT		
4 FLAT UNITS		
7 TOWNHOME UNITS		
COMMERCIAL AREA ALLOWED (0.5x102,800)	51,400	± 36,000
NEWPORT BOULEVARD RETAIL		± 9,468
BAYSIDE RETAIL		± 9,801
OFFICE		± 16,724

PARKING REQUIRED :	
RESIDENTIAL : 27 UNITS	
2 SPACES PER D.U.	54 STALLS
GUEST PARKING @ .5/D.U.	14 STALLS
OFFICE :	
1 STALL / 250 SF	67 STALLS
RETAIL :	
1 STALL / 250 SF	77 STALLS
MARINE SLIPS	
0.8 STALL/SLIP x 18 SLIPS	14 STALLS
TOTAL STALLS REQUIRED :	226 STALLS
PARKING PROVIDED :	
GARAGES	27 STALLS
CARPORTS	27 STALLS
COMMERCIAL STALLS/ SLIPS STALLS	172 STALLS
TOTAL STALLS PROVIDED :	226 STALLS

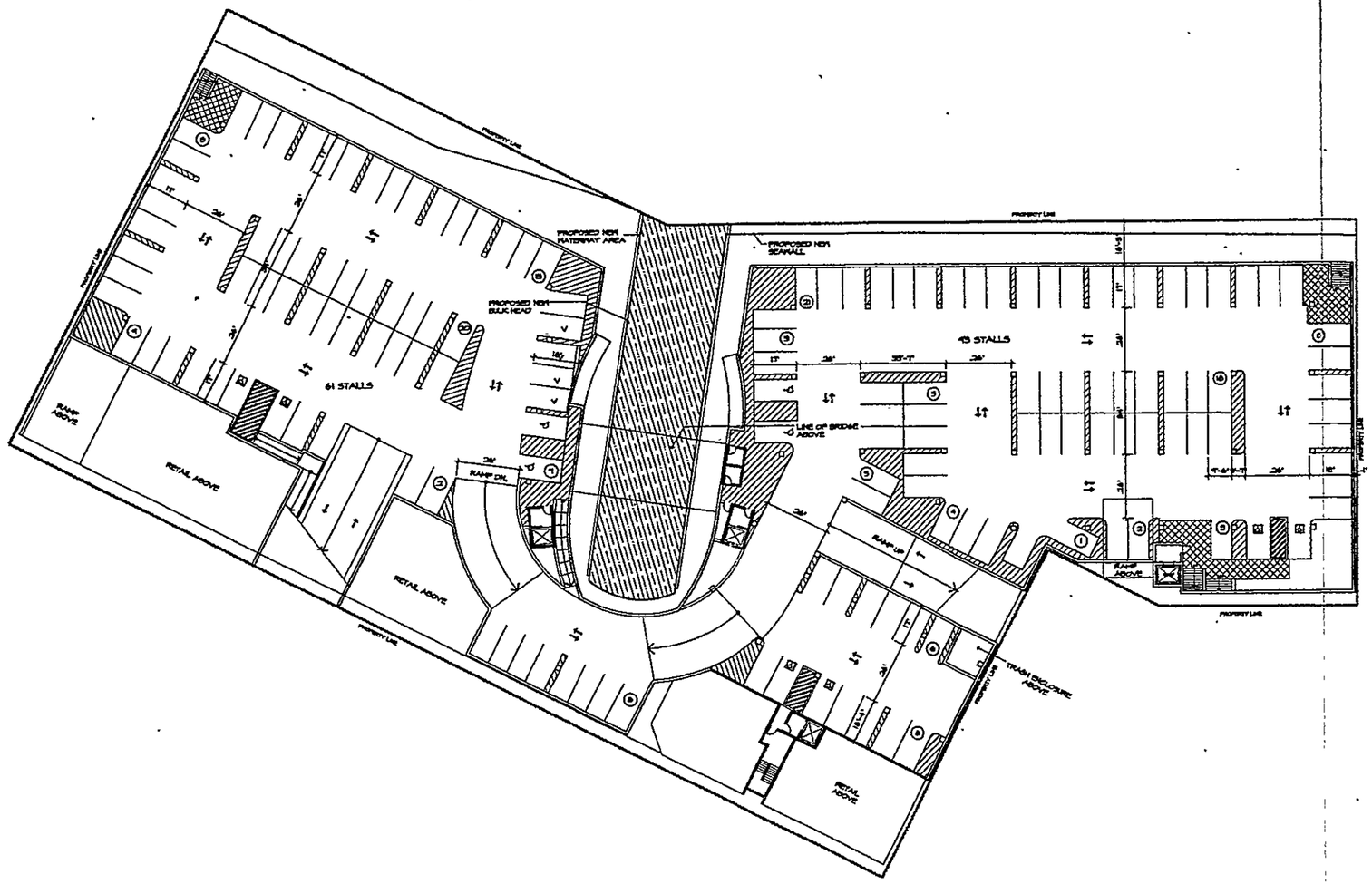
BUILDING HEIGHT :	ALLOWED	PROPOSED
	26/35 FT.	26/35 FT.
BUILDING SETBACKS :		
NEWPORT BLVD.	5 FT. MIN	0 FT.+
ARCADE STREET	5 FT. MIN.	5 FT.+
SIDEYARDS	NON REQD.	VARIES
BULKHEAD LINE	10 FT. MIN.	10 FT+

BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA
ETCO INVESTMENTS, LLC
1351 POMONA ROAD STE. 210

McKENTLY+ASSOCIATES
ARCHITECTURE PLANNING DESIGN
234 East Colorado Blvd, Ste 725
Pasadena, California 91101-2201
626.583.8348 ph 626.583.8387 fax

DECK LEVEL

DL-01



PARKING LEVEL PLAN

Scale: 1"=20'-0"

BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA

ETCO INVESTMENTS, LLC
1351 POMONA ROAD STE. 210
CORONA, CALIFORNIA 92683

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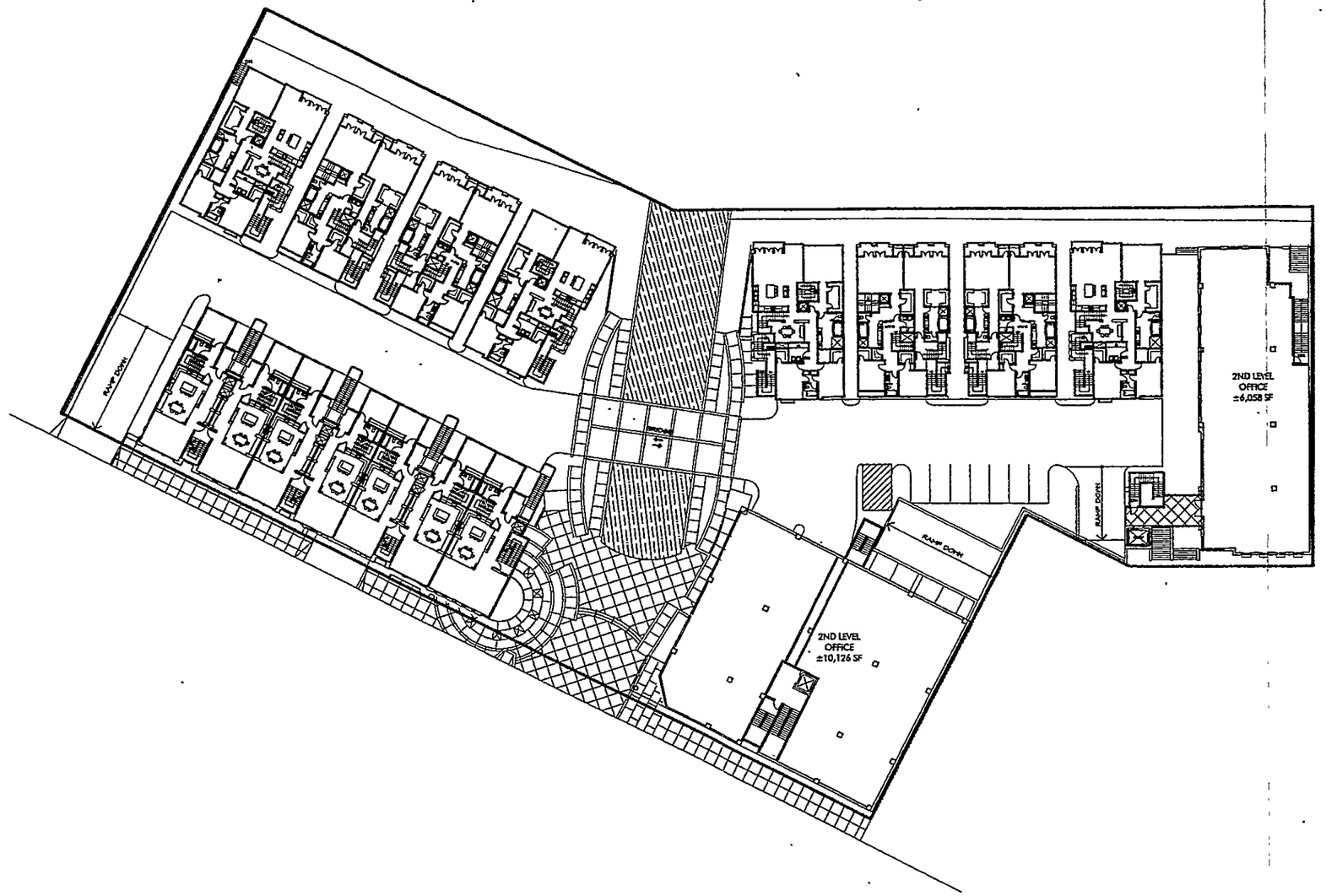
626.583.8348 ph 626.583.8387 fax

03104MMA

11.18.04

PARKING LEVEL

PL-01



SECOND LEVEL PLAN

BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA

ETCO INVESTMENTS, LLC
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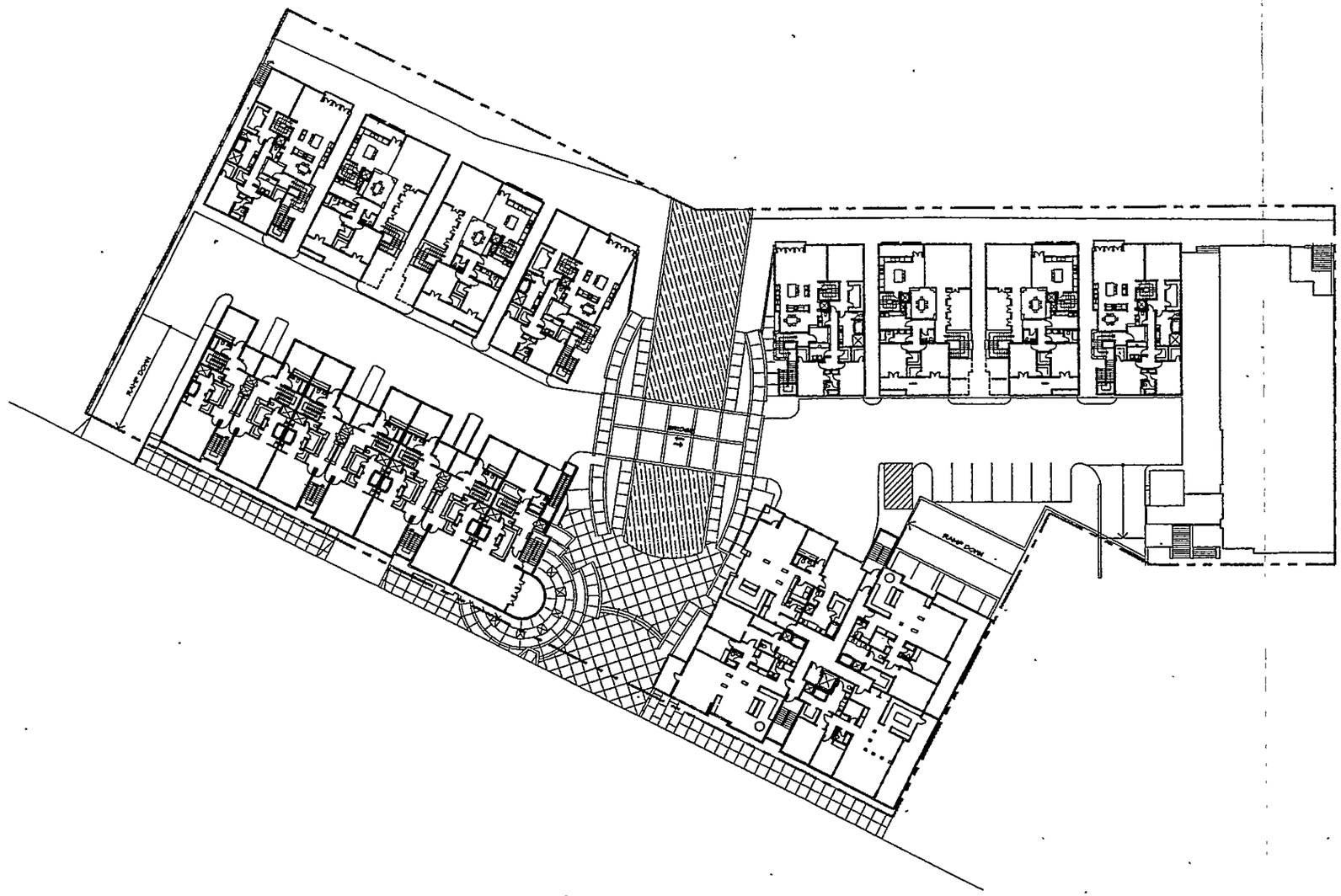
SECOND LEVEL

L2-01

2.14.05



THIRD LEVEL PLAN

Scale: 1"=20'-0"

BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA

ETCO INVESTMENTS, LLC
1351 POMONA ROAD STE. 210
CORONA, CALIFORNIA 92683

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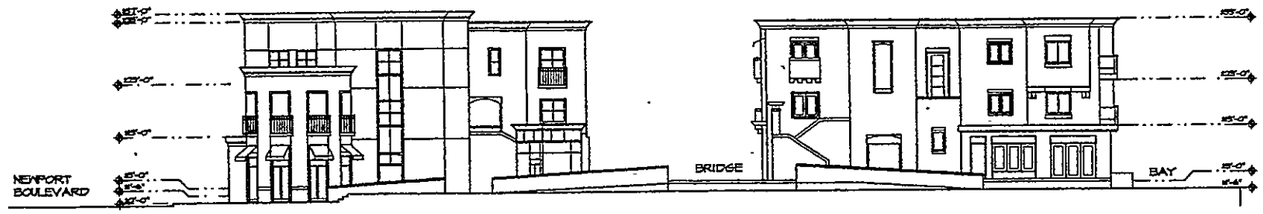
03104MMA 11.01.04

THIRD LEVEL

L3-01

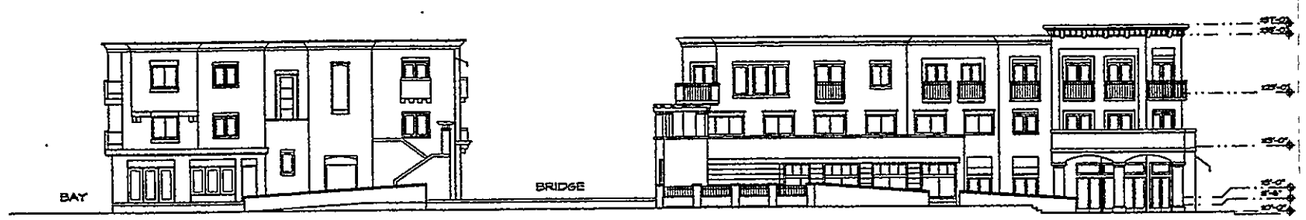


BUILDING 'A' SOUTH ELEVATION

Scale: 3/32" = 1'-0"

BUILDING 'H' SOUTH ELEVATION

Scale: 3/32" = 1'-0"



BUILDING 'G' NORTH ELEVATION

Scale: 3/32" = 1'-0"

BUILDING 'B' NORTH ELEVATION

Scale: 3/32" = 1'-0"

BUILDING 'A' WEST ELEVATION (NEWPORT BOULEVARD)

Scale: 3/32" = 1'-0"

BUILDING 'B' WEST ELEVATION

Scale: 3/32" = 1'-0"

BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA

ETCO DEVELOPMENT
540 WESTMINSTER MALL
WESTMINSTER, CALIFORNIA 92683

McKENTLY+ASSOCIATES
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234 East Colorado Blvd, Ste 725
Pasadena, California 91101-2201
626.583.8348 ph 626.583.8387 fax

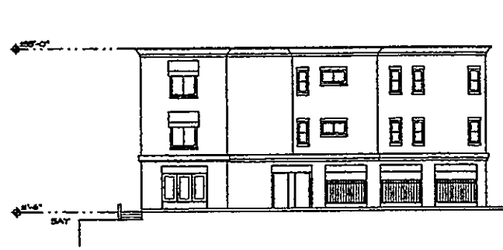
03104MMA 02.14.05

BLDG. ELEVATIONS

EL-01

RESIDENTIAL UNITS BAY ELEVATION

Scale: 3/32" = 1'-0"



BUILDING 'K' NORTH ELEVATION

Scale: 3/32" = 1'-0"

BUILDING 'A' NORTH ELEVATION

Scale: 3/32" = 1'-0"

BRIDGEPORT
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NEWPORT BEACH, CALIFORNIA

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WESTMINSTER, CALIFORNIA 92683

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626.583.8348 ph 626.583.8387 fax

03104MMA 02.14.05

BLDG. ELEVATIONS

EL-02

BUILDING 'B' EAST ELEVATION

BUILDING 'A' EAST ELEVATION

RESIDENTIAL UNITS ENTRY ELEVATION

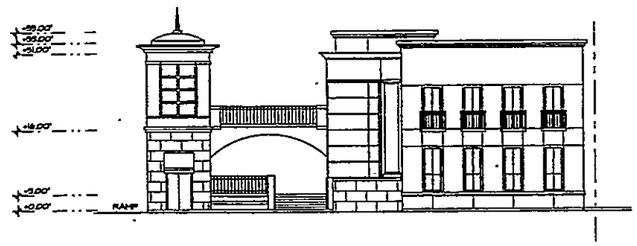
BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA

ETCO DEVELOPMENT
540 WESTMINSTER MALL
WESTMINSTER, CALIFORNIA 92683

McKENTLY+ASSOCIATES
ARCHITECTURE PLANNING DESIGN
234 East Colorado Blvd, Ste 725
Pasadena, California 91101-2201
626.583.8348 ph 626.583.8387 fax

BLDG. ELEVATIONS

EL-03



WEST ELEVATION

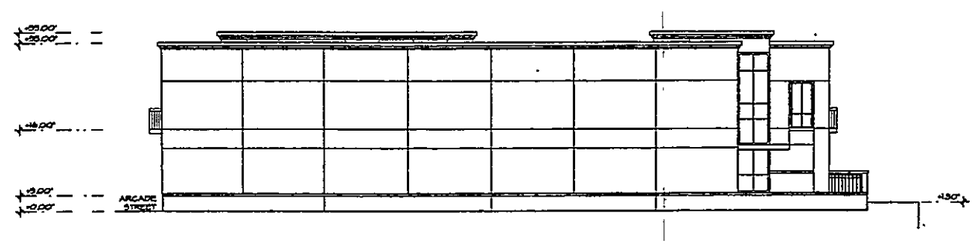
Scale: 3/32" = 1'-0"

NORTH ELEVATION

Scale: 3/32" = 1'-0"

EAST ELEVATION

Scale: 3/32" = 1'-0"



SOUTH ELEVATION

Scale: 3/32" = 1'-0"

BRIDGEPORT
2300 NEWPORT BOULEVARD
NEWPORT BEACH, CALIFORNIA

ETCO INVESTMENTS, LLC
1351 POMONA ROAD STE. 210
CORONA, CALIFORNIA 92683
PH-(714) 379-3279 FAX-(714) 379-9223

McKENTLY+ASSOCIATES
ARCHITECTURE PLANNING DESIGN
234 East Colorado Blvd, Ste 725
Pasadena, California 91101-2201
626.583.8348 ph 626.583 8387 fax

031044MA

11.01.04

OFFICE BUILDING
ELEVATIONS

EL-04

NOTICE OF PREPARATION
COMMENT LETTERS

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Sean Walsh
Director

Notice of Preparation

RECEIVED BY
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CITY OF NEWPORT BEACH
MAR 01 2005
AM 7|8|9|10|11|12|1|2|3|4|5|6 PM

February 23, 2005

To: Reviewing Agencies

Re: Bridgeport MIxed Use Project
SCH# 2003071144

Attached for your review and comment is the Notice of Preparation (NOP) for the Bridgeport MIxed Use Project draft Environmental Impact Report (EIR).

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

Please direct your comments to:

James Campbell
City of Newport Beach
P.O. Box 1768
Newport Beach, CA 92658-8915

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

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

Sincerely,

C. Rodriguez for:

Scott Morgan
Associate Planner, State Clearinghouse

Attachments
cc: Lead Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2003071144
Project Title Bridgeport Mixed Use Project
Lead Agency Newport Beach, City of

Type NOP Notice of Preparation

Description The application is a request to permit the approval of a Vesting Tentative Tract Map 16594, Use Permit and a Site Plan Review for the proposed mixed-use development of residential and commercial uses on the project site. The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with 44,300 square feet of commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site. The project also includes replacement of the existing bulkhead (along approximately 485 feet of waterfront), reconfiguration of the existing 19-boat slip marina locted at the backward side of the project site, and closure of one existing boat slipway (one slipway will be widened and remain open) used for boat berthing. The project proposal includes a partial subterranean garage. The construction of the garage will require excavation of earth material. The project also includes site remediation in relation to contaminants (located in sediment near and within the boat slipways) associated with the historical ship beuilding/repair use of the property.

Lead Agency Contact

Name James Campbell
Agency City of Newport Beach
Phone 949-644-3210 **Fax**
email
Address P.O. Box 1768
City Newport Beach **State** CA **Zip** 92658-8915

Project Location

County Orange
City Newport Beach
Region
Cross Streets 2300 Newport Boulevard
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways 1
Airports
Railways
Waterways Newport and Harbor/Rhine Channel
Schools Newport Elementary
Land Use General Plan - Recreatioon Marine Commercial
Zoning - Specific Plan #6, Cannery Village, McFadden Square SP

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Population/Housing Balance; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Water Quality; Wetland/Riparian; Landuse

---

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

Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report
State Clearinghouse Data Base

Date Received 02/23/2005 ***Start of Review*** 02/23/2005 ***End of Review*** 03/24/2005

Note: Blanks in data fields result from insufficient information provided by lead agency.

NOP Distribution List

County: Orange

SCH# 2005071144

Resources Agency

- [x] Resources Agency
  Nadell Gayou
- [x] Dept. of Boating & Waterways
  David Johnson
- [x] California Coastal Commission
  Elizabeth A. Fuchs
- [ ] Colorado River Board
  Gerald R. Zimmerman
- [ ] Dept. of Conservation
  Roseanne Taylor
- [ ] California Energy Commission
  Environmental Office
- [ ] Dept. of Forestry & Fire Protection
  Allen Robertson
- [x] Office of Historic Preservation
  Wayne Donaldson
- [x] Dept of Parks & Recreation
  B. Noah Tilghman
  Environmental Stewardship Section
- [ ] Reclamation Board
  DeeDee Jones
- [ ] Santa Monica Mountains Conservancy
  Paul Edelman
- [ ] S.F. Bay Conservation & Dev't. Comm.
  Steve McAdam
- [x] Dept. of Water Resources
  Resources Agency
  Nadell Gayou

Fish and Game

- [ ] Depart. of Fish & Game
  Scott Flint
  Environmental Services Division
- [ ] Fish & Game Region 1
  Donald Koch
- [ ] Fish & Game Region 2
  Banky Curtis
- [ ] Fish & Game Region 3
  Robert Floerke
- [ ] Fish & Game Region 4
  William Laudermilk
- [x] Fish & Game Region 5
  Don Chadwick
  Habitat Conservation Program
- [ ] Fish & Game Region 6
  Gabrina Gatchel
  Habitat Conservation Program
- [ ] Fish & Game Region 6 I/M
  Tammy Allen
  Inyo/Mono, Habitat Conservation Program
- [ ] Dept. of Fish & Game M.
  George Isaac
  Marine Region

Other Departments

- [ ] Food & Agriculture
  Steve Shaffer
  Dept. of Food and Agriculture
- [ ] Depart. of General Services
  Public School Construction
- [ ] Dept. of General Services
  Robert Sleppy
  Environmental Services Section
- [x] Dept. of Health Services
  Veronica Ramerez
  Dept. of Health/Drinking Water

Independent Commissions,Boards

- [ ] Coachella Valley Mountains Conservancy
- [ ] Delta Protection Commission
  Debby Eddy
- [ ] Office of Emergency Services
  Dennis Castrillo
- [ ] Governor's Office of Planning & Research
  State Clearinghouse
- [x] Native American Heritage Comm.
  Debbie Treadway
- [ ] Public Utilities Commission
  Ken Lewis
- [ ] San Gabriel & Lower LA Rivers
- [ ] San Joaquin River Conservancy
- [x] State Lands Commission
  Jean Sarino
- [ ] Tahoe Regional Planning Agency (TRPA)
  Cherry Jacques

Business, Trans & Housing

- [ ] Caltrans - Division of Aeronautics
  Sandy Hesnard
- [ ] Caltrans - Planning
  Terri Pencovic
- [ ] California Highway Patrol
  John Olejnik
  Office of Special Projects
- [ ] Housing & Community Development
  Lisa Nichols
  Housing Policy Division

Dept. of Transportation

- [ ] Caltrans, District 1
  Mike Eagan
- [ ] Caltrans, District 2
  Don Anderson
- [ ] Caltrans, District 3
  Jeff Pulverman
- [ ] Caltrans, District 4
  Tim Sable
- [ ] Caltrans, District 5
  David Murray
- [ ] Caltrans, District 6
  Marc Birnbaum
- [ ] Caltrans, District 7
  Cheryl J. Powell
- [ ] Caltrans, District 8
  John Pagano
- [ ] Caltrans, District 9
  Gayle Rosander
- [ ] Caltrans, District 10
  Tom Dumas
- [ ] Caltrans, District 11
  Mario Orso
- [x] Caltrans, District 12
  Bob Joseph

Cal EPA

Air Resources Board

- [ ] Airport Projects
  Jim Lerner
- [ ] Transportation Projects
  Kurt Karperos
- [ ] Industrial Projects
  Mike Tollstrup

- [ ] California Integrated Waste Management Board
  Sue O'Leary
- [ ] State Water Resources Control Board
  Jim Hockenberry
  Division of Financial Assistance
- [ ] State Water Resources Control Board
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- [ ] State Water Resouces Control Board
  Steven Herrera
  Division of Water Rights
- [x] Dept. of Toxic Substances Control
  CEQA Tracking Center
- [ ] Department of Pesticide Regulation

Regional Water Quality Control Board (RWQCB)

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

- [ ] Other _____

Last Updated on 9/16/04

DEPARTMENT OF TRANSPORTATION
District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
Tel: (949) 2724-2267
Fax: (949) 724-2592

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CITY OF NEWPORT BEACH
MAR 23 2005
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Flex your power!
Be energy efficient!

FAX & MAIL

March 23, 2005

Mr. James Campbell
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, California 92658

File: IGR/CEQA
SCH#: 2003071144
Log #: 1281A
SR #: PCH

Subject: Bridgeport Mixed Use Project

Dear Mr. Campbell,

Thank you for the opportunity to review and comment on the **Notice of Preparation for the Bridgeport Mixed Use Project Draft Environmental Impact Report**. The application is a request to permit the approval of a Vesting Tentative Map 16594, Use Permit and Site Plan for the proposed mixed-use development of residential and commercial uses on the project site. The site is located at 2300 Newport Boulevard. The nearest State Route to the project site is Pacific Coast Highway.

Caltrans District 12 status is a reviewing agency on this project and has the following comments:

Please continue to keep us informed of this project and any future developments, which could potentially impact the transportation facilities. We appreciate the opportunity to review and comment on the EIR and wish to continue close coordination throughout the planning of this project.

If you have any questions or need to contact us, please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,

ROBERT F. JOSEPH, Chief
IGR/Community Planning Branch

C: Terry Roberts, Office of Planning and Research
Terri Pencovic, Caltrans HQ IGR/Community Planning
Gale McIntyre, Deputy District Director
Isaac Alonso Rice, Traffic Operations North

State of California – The Resources Agency ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov
475 Aviation Blvd. Suite 130
Santa Rosa, CA 95403
(707) 576-2129

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CITY OF NEWPORT BEACH

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March 29, 2005

Mr. James Campbell
City of Newport Beach
P O Box 1768
Newport Beach, CA 92658-8915

Subject: Comments on the Notice of Preparation for the Bridgeport Mixed Use Project

Dear Mr. Campbell:

The Department of Fish and Game (Department) has reviewed the City of Newport Beach's Notice of Preparation for the Bridgeport Mixed Use Project Draft Environmental Impact Report (DEIR), located at 2300 Newport Blvd., Newport Beach, California (SCH No. 2003071144). The proposed project involves the redevelopment of a 2.4 acre site, currently utilized as the South Coast Shipyard and Design Center, with 36,000 square feet of commercial uses, 27 residential units, and a partial subterranean garage. Existing buildings on the site would be demolished and new buildings would be constructed in their place while the garage would require excavation. A 485 foot bulkhead would be replaced and the 19-boat marina would be reconfigured. One existing boat slipway, used for boat berthing, would be closed while a second slipway would be widened and would remain open. The project also includes site remediation of contaminated sediments located within the boat slipways.

The Department appreciates this opportunity to comment on the above-referenced project, relative to impacts to biological resources. To enable Department staff to adequately review and comment on the proposed project, we recommend the following information be included in the DEIR:

The Document should contain a complete assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, and locally unique species and sensitive habitats (e.g. eelgrass, *Zostera marina*). Additionally, a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts should be included.

The Department is particularly concerned with the proposed project's potential impact on intertidal and subtidal habitat from construction of the new bulkhead and from fill of the slipway. It is the Department's position to recommend that bulkhead projects be constructed in such a manner as to be the least environmentally damaging, with minimal impacts to marine habitats. The bulkhead redesign should not result in the loss of marine habitat by being placed further seaward than the current configuration. Bulkhead replacements should be within the existing footprint or further shoreward.

The DEIR should contain a detailed discussion of the bulkhead design, including graphics (with elevations in Mean Lower Low Water [MLLW]) depicting the bulkhead's footprint relative to adjacent intertidal habitat. We are also concerned with the proposed project's impact on intertidal/subtidal habitat from fill of the boat slipway. Fill of the slipway will have a significant impact on marine habitat as the habitat will be permanently lost. Any loss of intertidal/subtidal marine bay habitat should be thoroughly discussed in conjunction with compensation for the unavoidable loss. Compensation for habitat loss should be proposed in the form of habitat replacement, restoration, and improvement.

The document should also discuss reconfiguration of the marina, including any increase in surface area (changes in square foot coverage) and benthic habitat loss. Increases in the surface area of structures covers a portion of the water column and results in the loss of foraging habitat for sight foraging marine birds such as the state and federally listed California brown pelican (*Pelecanus occidentalis californicus*) and California least tern (*Sterna antillarum brownii*). Additionally, structures may shade marine plants such as eelgrass, algae, and benthic invertebrates.

The document should provide a thorough discussion of the contaminated sediments, including the amount of sediment to be removed, methodologies to remove the sediment, fate of contaminated sediment, resultant depth of water after dredging, and best management practices to avoid spread of contamination during removal activities. Contaminated materials that enter the water or have the potential to enter the water is a violation of Fish and Game Code 5650.

We are also concerned with any potential for excessive turbidity or siltation. Shoreline erosion conditions before, during, and after construction, and the fate of eroded materials should be studied and discussed. The DEIR should address any erosion which might be caused by deflected wave or water current energy or other forces influenced by structures proposed to be placed in the water. Any influences on water currents, flushing, sedimentation, and normal sediment transport should be addressed. Potential water quality problems such as sewage, litter, petroleum products, cleaning agents and wash down waters,

fertilizers, heavy metals, pesticides and other toxic or oxidizable materials which may enter the water, should also be discussed.

A range of alternatives should be analyzed to ensure that alternatives to the proposed project are fully considered and evaluated. A range of alternatives which avoid or otherwise minimize impacts to sensitive biological resources should be included. Specific alternative locations should also be evaluated in areas with lower resource sensitivity where appropriate.

We look forward to reviewing your DEIR. As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion please contact Ms. Marilyn Fluharty, Environmental Scientist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (858) 467-4231.

Sincerely,

Eric J. Larson
Ecosystem Coordinator
Marine Region

cc: State Clearinghouse (original sent to Lead Agency)
1400 Tent Street
Sacramento, CA 95814

Marilyn Fluharty
Department of Fish and Game
4949 Viewridge Avenue
San Diego, CA 92123

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

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April 8, 2005

Mr. James W. Campbell
City of Newport Beach
Planning Department
P.O. Box 1768
Newport Beach, CA 92658-8915

Dear Mr. Campbell:

Notice of Preparation of a Draft Environmental Impact Report for
Bridgeport Mixed Use Project

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the Draft Environmental Impact Report (EIR). Please send the SCAQMD a copy of the Draft EIR upon its completion.

Air Quality Analysis

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2002 Model. This model is available on the CARB Website at: www.arb.ca.gov.

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

quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis. It is recommended that lead agencies for projects generating or attracting vehicular trips, especially heavy-duty diesel-fueled vehicles, perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA webpages at the following internet address: http://www.aqmd.gov/ceqa/handbook/mobile_toxic/diesel_analysis.doc. An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

Data Sources

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

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Charles Blankson, Ph.D., Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,

Steve Smith

Steve Smith, Ph.D.
Program Supervisor, CEQA Section
Planning, Rule Development and Area Sources

SS:CB:li

ORC050405-02LI
Control Number

Department of Toxic Substances Control

Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

5796 Corporate Avenue
Cypress, California 90630

Arnold Schwarzenegger
Governor

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7 8 9 10 11 12 1 2 3 4 5 6

April 14, 2005

Mr. James Campbell
Senior Planner
City of Newport Beach
P.O. Box 1768
Newport Beach, California 92658

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BRIDGEPORT MIXED USE PROJECT (SCH#2003071144)

Dear Mr. Campbell:

The Department of Toxic Substances Control (DTSC) has received your submitted Draft Environmental Impact Report (EIR) for the above-mentioned project called the Bridgeport Mixed Use Project. Your document states:" The application is a request to permit the approval of a Vesting Tentative Tract map 16594, use Permit and a site Plan Review for the proposed mixed-use development of residential and commercial uses on the project site. The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with 44,300 square feet of commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site." The EIR further states," The project also includes site remediation in relation to contaminants..."

DTSC previously commented on the Notice of Preparation (NOP) on August 8, 2003. All applicable comments should be addressed before final approval of the project.

The EIR states that a remedial action plan will be coordinated through the California Regional Water Quality Control Board, Santa Ana Region.

If you have any questions regarding this letter, please contact Ms.Teresa Hom, Project Manager, at (714) 484-5477 or email at thom@dtsc.ca.gov.

Sincerely,

Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

CEQA# 1070

Department of Toxic Substances Control

Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA

5796 Corporate Avenue
Cypress, California 90630

Arnold Schwarzenegger
Governor

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April 18, 2005

Mr. James Campbell
Senior Planner
City of Newport Beach
P.O. Box 1768
Newport Beach, California 92658

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE BRIDGEPORT MIXED USE PROJECT (SCH#2003071144)

Dear Mr. Campbell :

The Department of Toxic Substances Control (DTSC) has received your submitted Draft Environmental Impact Report (EIR) for the above-mentioned project called the Bridgeport Mixed Use Project. Your document states:" The application is a request to permit the approval of a Vesting Tentative Tract map 16594, use Permit and a site Plan Review for the proposed mixed-use development of residential and commercial uses on the project site. The 2.4 acre project site is located at 2300 Newport Boulevard and is currently developed with 44,300 square feet of commercial, office and marine uses, including a commercial marina, two boat slipways, office buildings, retail shops, and associated parking. The proposed project consists of a mixed-use development with approximately 36,000 square feet of commercial uses and 27 residential units. The project will require the demolition of all existing buildings on the site." The EIR further states," The project also includes site remediation in relation to contaminants..."

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If you have any questions regarding this letter, please contact Ms.Teresa Hom, Project Manager, at (714) 484-5477 or email at thom@dtsc.ca.gov.

Sincerely,

Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

CEQA# 1070