Draft Initial Study/ Mitigated Negative Declaration

BALBOA MARINA WEST

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Planning Division
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Joint Project Applicants:

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LIST OF TECHNICAL APPENDICES

The reports identified below are included within the Technical Appendices to this MND, and are herein incorporated by reference pursuant to CEQA Guidelines §15150. These reports are attached to this MND (bound separately) and also are available for review at the City of Newport Beach, Community Development Department, Planning Division, 100 Civic Center Drive, Newport Beach, CA 92660, during regular business hours.

A. Air Quality and Greenhouse Gas Assessment

B. Marine Biological Impact Assessment

C. Jurisdictional Delineation Report

D. Coastal Engineering Study

E. Impact Assessment for Proposed Project Alternatives

F. Dredged Material Evaluation Sampling and Analysis Report

G. Geotechnical Investigation

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1.0 Introduction

The Balboa Marina West Project evaluated in this Mitigated Negative Declaration (MND) is jointly proposed by the City of Newport Beach and Irvine Company. The Project proposes to add a new public boat dock in Lower Newport Bay and improve and expand the existing Balboa Marina. The Project site consists of 4.4 acres, of which 0.87 acres is comprised of water surface and 3.5 acres is comprised of land. The site is located south of East Coast Highway between the Coast Highway Bridge and Bayside Drive, and east of the Lower Newport Bay channel in the City of Newport Beach, Orange County, California.

1.1 Purpose of this Document

The Balboa Marina West Project is the subject of analysis in this document pursuant to CEQA. The content of this MND complies with all criteria, standards, and procedures of CEQA (California Public Resource Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15000 et seq.).

CEQA is a statewide environmental law contained in Public Resources Code §§21000-21177 that applies to most public agency decisions to carry out, authorize, or approve actions that have the potential to adversely affect the environment. CEQA requires that before a public agency makes a decision to approve a project that could have one or more adverse effects on the physical environment, the agency must inform itself about the project's potential environmental impacts, give the public an opportunity to comment on the environmental issues, and take feasible measures to avoid or reduce potential harm to the physical environment.

As defined by CEQA Guidelines §15367, the City of Newport Beach is the Lead Agency for the proposed Project. "Lead Agency" refers to the public agency that has the principal responsibility for carrying out or approving a project. Approvals required of the City of Newport Beach to implement the proposed Project include, but are not limited to, an Approval in Concept, Harbor Development Permit, Site Development Review, and Conditional Use Permit. These actions and other approval actions required of the City, County of Orange, California Coastal Commission, other state agencies, and federal agencies to fully implement the Project are described in more detail in Section 3.0, *Project Description*. If this MND is approved by the City of Newport Beach, Responsible and Trustee agencies with approval authorities over the Project can use this MND as the CEQA compliance document as part of their decision making processes.

1.2 CEQA Requirements for Mitigated Negative Declarations (MNDs)

An MND is a written statement by the Lead Agency briefly describing the reasons why a proposed project, which is not exempt from the requirements of CEQA, will not have a significant effect on the environment and therefore does not require preparation of an Environmental Impact Report (EIR) (CEQA Guidelines §15371). The CEQA Guidelines require the preparation of a MND if the Initial Study prepared for a project identifies potentially significant effects, but: 1) revisions in the project plans or proposals made by,

or agreed to by the applicant before a proposed MND and Initial Study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and 2) there is no substantial evidence, in light of the whole record before the Lead Agency, that the project as revised may have a significant effect on the environment. (CEQA Guidelines §15070[b])

1.3 Format and Content of this Mitigated Negative Declaration

The following components comprise the MND in its entirety:

1) This document, including all Sections. Section 5.0 contains the completed Environmental Checklist/Initial Study and its associated analyses, which document the reasons to support the findings and conclusions of the Initial Study.

2) The Mitigation Monitoring and Reporting Program (MMRP), which summarizes all mitigation measures imposed on the proposed Project to ensure that effects to the environment are reduced to less-than-significant levels. The basis for the MMRP is found in the Environmental Checklist/Initial Study. The MMRP also indicates the required timing for the implementation of each mitigation measure, identifies the parties responsible for implementing and/or monitoring the mitigation measures, and identifies the level of significance following the incorporation of mitigation. In addition, Project Design Features (PDFs) have been incorporated where appropriate to reduce potential environmental effects through the use of development components that ensure impacts are minimized.

3) Fourteen technical reports that evaluate the effects of the proposed Project, which are attached as Technical Appendices A through M2. These technical reports also are on file and available for public review at the City of Newport Beach Community Development Department, Planning Division (100 Civic Center Drive; Newport Beach, California 92660) and are hereby incorporated by reference pursuant to CEQA Guidelines §15150.

    A. Air Quality & Greenhouse Gas (GHG) Assessment, prepared by KPC EHS Consultants, and dated June 2014.

    B. Marine Biological Impact Assessment for the Balboa Marina West Project, prepared by Coastal Resources Management, Inc., and dated December 12, 2013.

    C. Jurisdictional Delineation Report Balboa Marina West Expansion, prepared by Anchor QEA, LP, and dated Revised December 2013.

    D. Balboa West Marina Expansion Project Coastal Engineering Study, prepared by Everest International Consultants, Inc., and dated July 2013.

E. Balboa West Marina Expansion Project Impact Analysis for Proposed Alternatives, prepared by Everest International Consultants, Inc., and dated March 2013.

F. Balboa Marina West Expansion Project Dredged Material Evaluation Sampling and Analysis Report, prepared by New Fields, and dated February 7, 2014.

G. Geotechnical Investigation Proposed Restaurant Balboa Marina Newport Beach, California, prepared by Geotechnical Professionals, Inc., and dated April 8, 2014.

H. Phase I Environmental Site Assessment, prepared by Environmental Engineering & Contracting, Inc., and dated April 30, 2014 and Phase II Environmental Site Assessment Report, prepared by Environmental Engineering & Contracting, Inc., and dated May 16, 2014.

I. Preliminary Water Quality Management Plan (WQMP) Balboa Marina West Redevelopment Project, prepared by Fuscoe Engineering, Inc., and dated April 23, 2014.

J. Environmental Noise Study for the Proposed Balboa Marina West in the City of Newport Beach, CA, prepared by Wieland Acoustics, and dated July, 17 2014.

K. Balboa Marina West Traffic Impact Analysis, prepared by Kunzman Associates, Inc., and dated April 17, 2014.

L. Visual Simulations, prepared by BCV, and dated June 23, 2014.

M1. General Plan Consistency Analysis for the Balboa Marina West Project, Prepared by T&B Planning, Inc. and dated July 30, 2014.

M2. Coastal Land Use Plan Consistency Analysis for the Balboa Marina West Project, Prepared by T&B Planning, Inc. and dated July 30, 2014.

1.4 Preparation and Processing of this Mitigated Negative Declaration

The City of Newport Beach Community Development Department, Planning Division directed and supervised the preparation of this MND. Although prepared with assistance of the consulting firm T&B Planning, Inc., the content contained within and the conclusions drawn by this MND reflect the sole independent judgment of the City of Newport Beach.

This MND and a Notice of Intent (NOI) to adopt the MND will be distributed to the following entities for a 30-day public review period: 1) organizations and individuals who have previously requested such notice in writing to the City of Newport Beach; 2) direct mailing to the owners of property contiguous to the Project site and property owners within a 300-foot radius as shown on the latest equalized assessment roll; 3) responsible

and trustee agencies (public agencies that have a level of discretionary approval over some component of the proposed Project); 4) the County of Orange Clerk; and 5) the California Office of Planning and Research, State Clearinghouse, for review by State agencies. The NOI identifies the location(s) where the MND and its associated MMRP and Technical Appendices are available for public review. In addition, notice of the public review period also will occur via posting of a notice on- and off-site (at City Hall, 100 Civic Center Drive) in the area where the Project is to be located and publication in a newspaper of general circulation in the Project area. The NOI also establishes a 30-day public review period during which comments on the adequacy of the MND document may be provided to the City of Newport Beach Planning Division.

Following the 30-day public review period, the City of Newport Beach will review any comment letters received and determine whether any substantive comments were provided that may warrant revisions to the MND document. If substantial revisions are not necessary (as defined by CEQA Guidelines §15073.5(b)), then the MND will be finalized and forwarded to the City of Newport Beach Planning Commission for review as part of their deliberations concerning the proposed Project. A public hearing(s) will be held before the City's Planning Commission to consider the proposed Project and the adequacy of this MND. Public comments will be heard and considered at the hearing(s). If the MND is approved, the Planning Commission will adopt findings relative to the Project's environmental effects as disclosed in the MND and a Notice of Determination (NOD) will be filed with the County of Orange Clerk.

2.0 Environmental Setting

2.1 Project Location

Balboa Marina is located in the northern portion of Lower Newport Bay in the City of Newport Beach, California. The entire Newport Bay is approximately 1,600 acres in size. Lower Newport Bay is approximately 800 acres in size with about 750 acres of open water. It serves as a small boat harbor containing concrete bulkheads and floating docks. As such, Newport Harbor is one of the largest small boat harbors on the United States' Pacific coastline. Properties surrounding Lower Newport Bay are used for a variety of purposes including but not limited to tourism, residential, commercial, marina, and recreation. As shown on Figure 2-1, *Regional Location Map*, and Figure 2-2, *Vicinity Map*, the Project site is located south of East Coast Highway between the Coast Highway Bridge and Bayside Drive. Specifically, the Project site comprises 4.4 acres, of which 0.87 acres is comprised of water surface and 3.5 acres is comprised of land. The Project site encompasses Assessor Parcel Numbers (APN) 050-451-01, 050-451-02, 050-451-03, 050-451-10, 050-451-55, 050-451-59, 050-451-060, 440-132-39, and 440-132-51.

2.2 Project Background

Prior to approximately1947 the land-side portion of Project site was an undeveloped lot. In approximately 1947, the property began to be used as a marina. Around 1953, the current on-site commercial building was constructed and the property and adjacent water-side area began functioning as the Balboa Marina. Part of the water-side portion of the site was occupied for approximately 40 years by a floating vessel that housed the Ruben E. Lee Riverboat restaurant and later by the Newport Harbor Nautical Museum, but the vessel was dismantled and removed from the site in 2008. Only the cement bulkhead that served the vessel remains under existing conditions.

In 2005, Irvine Company filed a Planning Application with the City of Newport Beach proposing the reconstruction of the aging marina, which was nearing the end of its useful life. During the City Harbor Commission review of the project, a request was made of Irvine Company to set aside four (4) boat slips for use by the general public in the private marina. A MND was approved for the Balboa Marina Dock Replacement project by the City of Newport Beach on February 14, 2007 (State Clearinghouse (SCH) No. 2007011017). The Project as approved consisted of replacing the then-existing 132 slip, 27,550 SF dock with a 20,483 SF dock to accommodate 105 boat slips available to vessel sizes from 22 to 58 feet in length.

An Addendum to the Balboa Marina Dock Replacement MND (SCH 2007011017) was prepared in December 2008 to evaluate the installation of a seawall earth anchor system to improve the stability of the existing seawall. In 2008, the California Coastal Commission issued a Coastal Development Permit allowing for the reconstruction of the marina, which was completed in 2009. Under existing conditions, the Balboa Marina provides 105 slips for boats ranging in length from 22 to 58 feet, including four (4) transient slips available to general public.

Since 2009, Irvine Company has discovered that management of the marina is challenging in terms of providing security for the private lessees while still providing open access to the four (4) public slips. In 2011 the City of Newport Beach Harbor Commission, Harbor Resources Department, and Irvine Company initiated discussions about the potential for relocating the public slips out of the private marina to a new public transient dock. A City Council Study session took place on March 27, 2012, in which the joint effort of the City and Irvine Company was discussed and supported for additional analysis.

2.3 CEQA Requirements for Environmental Setting and Baseline Conditions

CEQA Guidelines §15125 establishes requirements for defining the environmental setting to which the environmental effects of a proposed project must be compared. The environmental setting is defined as "…the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time the environmental analysis is commenced…". (CEQA Guidelines §15125[a]) In the case of the proposed Project, the Initial Study determined that an MND is the appropriate form of CEQA compliance document, which does not require a Notice of Preparation (NOP). Thus, the environmental setting for the proposed Project is the approximate date that the Project's environmental analysis commenced.

The City of Newport Beach deemed the proposed Project's application complete and commenced environmental review of the Project in December 2013. Accordingly, the environmental setting for the proposed Project is defined as the physical environmental conditions on the Project site and in the vicinity of the Project site as they existed in December 2013. Section 2.0, *Environmental Setting*, provides a summary of the existing physical environmental conditions of the Project site and surrounding areas as they existed in December 2013.

2.4 Existing Site and Area Characteristics

2.4.1 Site Access

Direct roadway access to the existing Balboa Marina parking lot is via East Coast Highway. Secondary roadway access is provided via Bayside Drive. East Coast Highway provides access to State Route 55 (SR-55), located approximately 1.6 miles west of the Project site. Jamboree Road is located approximately 0.75 miles east of the Project site and provides access to Interstate 405 (I-405), which is located approximately 5.9 miles to the north of the Project site.

Primary access from the Pacific Ocean from the west is via the channel of Lower Newport Bay and the private boat dock area and four (4) transient public boat slips located in the existing Balboa Marina.

2.4.2 Existing Site Conditions

Under existing conditions, the land-side portion of the Project site comprises 3.5 acres. The land-side development area is occupied by a 1,200 SF building, located at 201 East Coast Highway, which houses a yacht brokerage business and marina restrooms. The

remainder of the ground surface is comprised of the existing Balboa Marina parking lot. The existing 313 parking stalls currently serve the marina and the adjacent Sol Restaurant. The parking lot is enclosed by ornamental vegetation with access to the private boat slips restricted by an approximately three (3)-foot high aluminum gate. Light poles and trees in planters are interspersed throughout the parking lot. Two (2) approximately three (3)-foot high cement monuments containing the words "Balboa Marina" flank each side of the driveway entrance to Balboa Marina from East Coast Highway. Two palm trees surrounded by ground vegetation exist behind the entrance monument on one side of the entrance driveway. The paved parking lot has a seawall on the south side and a descending slope toward the water on the west side. The existing seawall consists of a series of concrete panels with two sets of tie-back anchors (Geotechnical Professionals, Inc, 2014, p. 3).

The water-side portion of the Project site comprises 0.87 acres of water surface and submerged land. The submerged lands are designated State Tidelands administered and under the jurisdiction of the County of Orange. The water-side development area currently supports a private dock area with 107 boat slips, including four (4) public transient boat slips. Rock riprap extends several meters seaward into the low intertidal/shallow subtidal. Beyond the riprap, the Lower Newport Bay floor consists of silts, sands, and shell debris (Coastal Resources Management, Inc., 2013, p. 8).

2.4.3 Surrounding Land Uses and Development

The Project site is located along the eastern side of Newport Harbor in the northern portion of Lower Newport Bay. As shown on Figure 2-4, *Existing and Surrounding Land Uses*, the Project site is bounded on the north by East Coast Highway and commercial development comprised of outside Recreational Vehicle (RV) and boat storage, a floating fish market, pump station, and parking; on the south by water surface and Linda Isle, a man-made island consisting of residential development with private residential docks around its perimeter; on the east by commercial development comprised of restaurants, office buildings, a gas station, and associated parking lots; and on the west by the channel of Lower Newport Bay.

2.5 City Planning Context

2.5.1 City of Newport Beach General Plan

As shown on Figure 2-5, *Existing General Plan Land Use Designations*, the Project site is designated Recreational and Marine Commercial (CM 0.3 FAR) by the City's General Plan. The CM designation is intended to provide for commercial development on or near Newport Bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive business, encourage visitor-serving and recreational uses, and encourage physical and visual access to the Bay on sites located on or near Newport Bay (City of Newport Beach, 2006).

Properties north of the Project site and north of East Coast Highway are also designated by the General Plan as Recreational and Marine Commercial, but a greater floor area ratio is allowed than permitted on the Project site (CM 0.5 FAR). Properties bordering the

channel and located east of the Project site have the same General Plan land use designation as the Project site, which is Recreational and Marine Commercial (CM 0.3 FAR). East of Bayside Drive, properties are designated by the General Plan as General Commercial (CG 0.3 FAR). Properties located across the water on Linda Isle are designated by the General Plan as Single Unit Residential Detached (RS-D).

2.5.2 City of Newport Beach Coastal Land Use Plan

The Coastal Zone Management Act (Title 16 U.S.C. 1451-1464) declares it a national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone and prohibits development 1,000 feet inland from California's mean high tide without a permit from the state coastal commission. The California Coastal Act of 1976 established the California Coastal Commission and identified coastal resource planning and management policies to address public access, recreation, marine environment, land resources, and development. Implementation of California Coastal Act policies is accomplished primarily through the preparation of a Local Coastal Program (LCP) by the local government that is reviewed and certified (approved) by the Coastal Commission.

The City of Newport Beach does not have a certified LCP, and therefore, does not have the jurisdiction to issue Coastal Development Permits (CDP). The City does, however, have a Coastal Land Use Plan that has been certified by the California Coastal Commission. Because the City does not have permit jurisdiction, the City reviews pending development projects for consistency with the City's General Plan, Coastal Land Use Plan, and Zoning regulations before a CDP application can be filed with the California Coastal Commission.

As shown on Figure 2-6, *Existing Coastal Land Use Plan Designations*, the City of Newport Beach's Coastal Land Use Plan designates the Project site as Recreational and Marine Commercial (CM-A, 0.00-0.30 FAR). The CM category is intended to provide for commercial development on or near Newport Bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to Newport Bay on the waterfront and commercial and industrial building sites on or near the Bay (City of Newport Beach, 2009).

Properties located north of the Project site and north of East Coast Highway are also designated by Coastal Land Use Plan as Recreational and Marine Commercial but development is allowed at a higher floor area ratio than allowed on the Project site (CM-B, 0.00-0.50 FAR). Properties bordering the channel and located east of the Project site have the same Coastal Land Use Plan designation as the Project site, which is Recreational and Marine Commercial (CM-A 0.00-0.30 FAR). East of Bayside Drive, properties are designated by the Coastal Land Use Plan as General Commercial (CG-A, 0.00-0.30 FAR). Properties located across the water on Linda Isle are designated Single Unit Residential Detached 6.0-9.9 DU/AC (RSD-B).

2.5.3 City of Newport Beach Zoning Designations

As shown on Figure 2-7, *Existing Zoning Designations*, the Project site is zoned Commercial Recreational and Marine (CM 0.3 FAR). The CM Zoning District is intended to provide for areas appropriate for commercial development on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive business, encourage visitor-serving and recreational uses, and encourage physical and visual access to Newport Bay on sites located on or near the Bay (City of Newport Beach Municipal Code, 2014).

Properties north of the Project site and north of East Coast Highway are zoned by the Newport Beach Municipal Code as Planned Community (PC-9). Properties bordering the channel and located east of the Project site have the same zoning designation as the Project site, which is Commercial Recreational and Marine (CM 0.3 FAR). East of Bayside Drive, properties are zoned Commercial General (CG 0.3 FAR). Properties located across the water on Linda Isle are zoned Single-Unit Residential (R-1).

2.6 Existing Environmental Characteristics

2.6.1 Air Quality

The City of Newport Beach is located within the South Coast Air Basin (SCAB, or "Basin"), which is within the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The climate of Southern California found in the Newport Beach area of the SCAB is described as a Mediterranean-type climate characterized by long warm summers and moderate winters with moderate precipitation and a maritime influence giving a marine layer and a temperature inversion layer. The coastal areas of the SCAB, including the Project site, have better air quality than inland portions of the Basin. Regardless, the SCAQMD reports a severe air pollution problem in the SCAB as a consequence of the combination of emissions and meteorological conditions which are adverse to the dispersion of those emissions. In the SCAB, high concentrations of ozone are normally recorded during the spring and summer months, while high concentrations of carbon monoxide (CO) are generally recorded in late fall and winter. High particulate matter concentrations can occur throughout the year, but occur most frequently in the fall and winter.

2.6.2 Topography, Geology and Soils

Under existing conditions, the land-side portion of the Project site consists of approximately 85% impervious conditions containing a 1,200 SF building and a paved parking lot with a concrete seawall on the south side and a descending slope toward the water on the west side. An approximately 3- to 4- foot change in elevation separates the beach from the parking lot (Anchor QEA, L.P., 2013, p. 3). The parking lot slopes upward toward East Coast Highway and Bayside Drive. The subsurface soil profile on the land-side portion of the Project site consists of mostly fine grain to medium sands with variable silt content, along with some minor amounts of compressible organic clay with peat and elastic silt. These sands are typically medium dense to dense in the upper 20 to 25 feet and become very dense at greater lengths. (Geotechnical Professionals,

Inc, 2014, p. 3) In the water-side portion of the Project site, soils on the water bottom consist of sand.

Southern California is a seismically active area and properties in the City of Newport Beach, including the Project site, are subject to periodic ground shaking and other effects from earthquake activity. The Project site is not located within an Alquist-Priolo earthquake fault zone, so there is no potential for ground rupture at the site. Faults zones in the regional vicinity (as shown on General Plan EIR Figure 4.5-1, Regional Faults (City of Newport Beach, 2006b, Figure 4.5-1)) with the potential to cause moderate ground shaking in the City of Newport Beach include the Newport-Inglewood fault zone, the San Joaquin fault zone, and the Elysian fault zone.

2.6.3 Hydrology and Water Quality

The Project site is located in the northern portion of Lower Newport Bay, which is approximately 800 acres in size with about 750 acres of open water. It serves as a small boat harbor containing concrete bulkheads and floating docks. The 13.2 square mile Newport Bay Watershed drains into the Santa Ana Delhi Channel and the San Diego Creek that discharges into Upper Newport Bay. Both Upper Newport Bay and Lower Newport Bay are linked as an integrated estuary ecosystem that begins in the mud flats and tidal marshes of the Upper Newport Bay Ecological Reserve, continues into the eelgrass beds of the Lower Newport Bay, and finally reaches the coastal marine intertidal and subtidal habitats of the Newport Coast (Harbor Resources Division, City of Newport Beach, 2010, p. 4). The ocean inlet for Newport Bay is defined by two jetties that enable tidal exchange between the ocean and the Bay. Tidal currents throughout the Bay and at the Project site vary with the rise and fall of the water level.

Under existing conditions, storm water runoff from the land-side portion of the Project site generally sheet flows south to an existing trench drain along the water-side perimeter of the site that ultimately outlets through the existing bulkhead into Newport Harbor at two locations (Fuscoe Engineering, 2014, p. 8).

The California Porter-Cologne Water Quality Control Act (Section 13000 ("Water Quality") et. seq., of the California Water Code), and the Federal Water Pollution Control Act Amendment of 1972 (also referred to as the Clean Water Act (CWA)) require that comprehensive water quality control plans be developed for all waters within the State of California. The CWA requires all states to conduct water quality assessments of their water resources to identify water bodies that do not meet water quality standards. Water bodies that do not meet water quality standards are placed on a list of impaired waters pursuant to the requirements of Section 303(d) of the CWA. Lower Newport Bay is listed as impaired by several water quality pollutants, including chlordane, copper, DDT, indicator bacteria, nutrients, PCBs, pesticides, and sediment toxicity.

2.6.4 Biological Resources

On the land-side portion of the Project site, the surface of the existing parking lot is largely devoid of vegetation with the exception of ornamental landscaping occurring within and bordering the existing parking lot. The beach is devoid of vegetation with the

exception of the transitional slope between the parking lot and the beach that is dominated with non-native vegetation. Marine birds, including but not limited to California brown pelican and California least tern, may rest on the land-side portion of the Project site and may rest and forage on the water-side portion of the Project site.

Newport Harbor and Upper Newport Bay are considered waters of the state and U.S. These waters contain some areas of sensitive habitat, such as eelgrass, that are afforded additional protection by state and federal agencies to conserve and protect sensitive biological resources. TTwo small eelgrass beds were mapped within the Project area totaling 515 SF. Of this total, 379.3 SF (73.7%) is located at the southern edge of the sandy beach and 135.7 SF (26.3%) is located south of this location off of the southerly tip of the existing parking lot (Coastal Resources Management, Inc., 2013, p. 9).

The water-side portion of the Project site also is designated as Essential Fish Habitat (EFH) for coastal pelagic fish and groundfish habitat. The Magunson-Stevens Fishery Conservation and Management Act defined EFH as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity. The only managed species likely to be present in Newport Bay, however, is the northern anchovy. Although several other coastal pelagic and groundfish FMP species are known from the Project area, data indicate that their presence at the Project site is likely sporadic and their numbers in the Project region would be extremely low (Coastal Resources Management, Inc., 2013, p. 18). The water-side portion of the Project site provides habitat for various other fish and marine reptiles, including California halibut, green turtle, and hawskbill. Marine mammals also use Lower Newport Bay and periodically enter the water-side portion of the Project site, including sea lions and bottlenose dolphin. Sea lions are not known to beach on the Balboa Marina gangways or land-side portion of the Project site.

2.6.5 Historical, Archaeological, and Paleontological Resources

According to General Plan EIR Figure 4.4-1, the Project site is not identified as containing any historical resources (Newport Beach, 2006b, Figure 4.4-1). None of the Project site's features are included on the National Register of Historic Places or on the California Register of Historical Resources, nor are they eligible for listing. Due to the developed nature of the Project site as marina, the Project site is unlikely to contain subsurface archaeological resources. The Project site also is not located within a portion of the City that is identified as having the potential to contain fossil-bearing soils or rock formations (Newport Beach, 2006b, p. 4.4-17; PSI, Inc., 2012a).

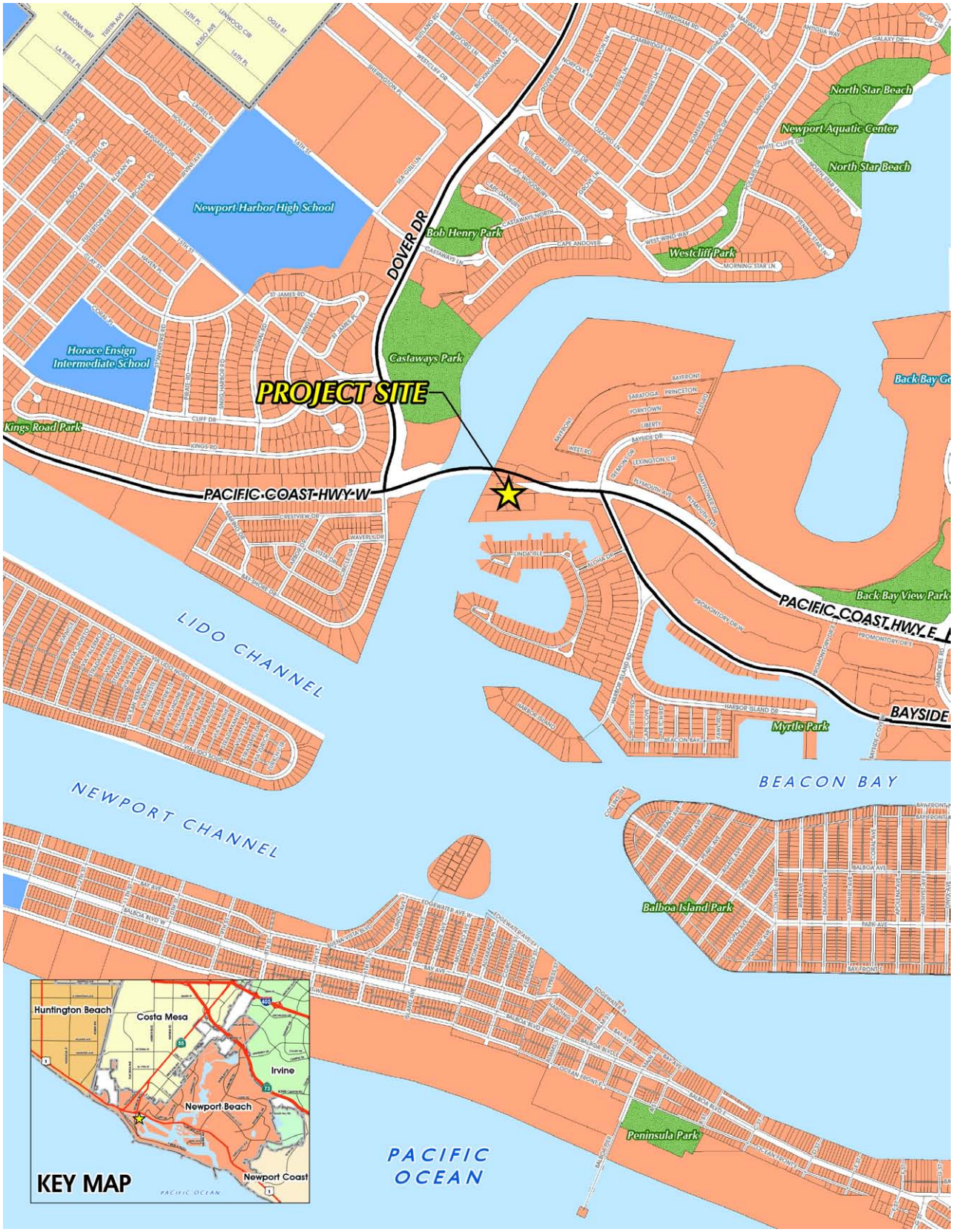
2.6.6 Rare and Unique Resources

As required by CEQA Guidelines Section 15125(c), "Special emphasis should be placed on resources that are rare or unique to that region and would be affected by the project." Based on the Project site's existing condition and developed nature, the proposed Project site does not contain any resources that are rare or unique to the region; however, special emphasis is placed on wetland and marine resources located on the water-side portion of the Project site.

Source(s): ESRI, CASIL, Tiger Files (USCB)

NOT TO SCALE

Figure 2-1
REGIONAL LOCATION MAP



Source(s): ESRI, City of Newport Beach

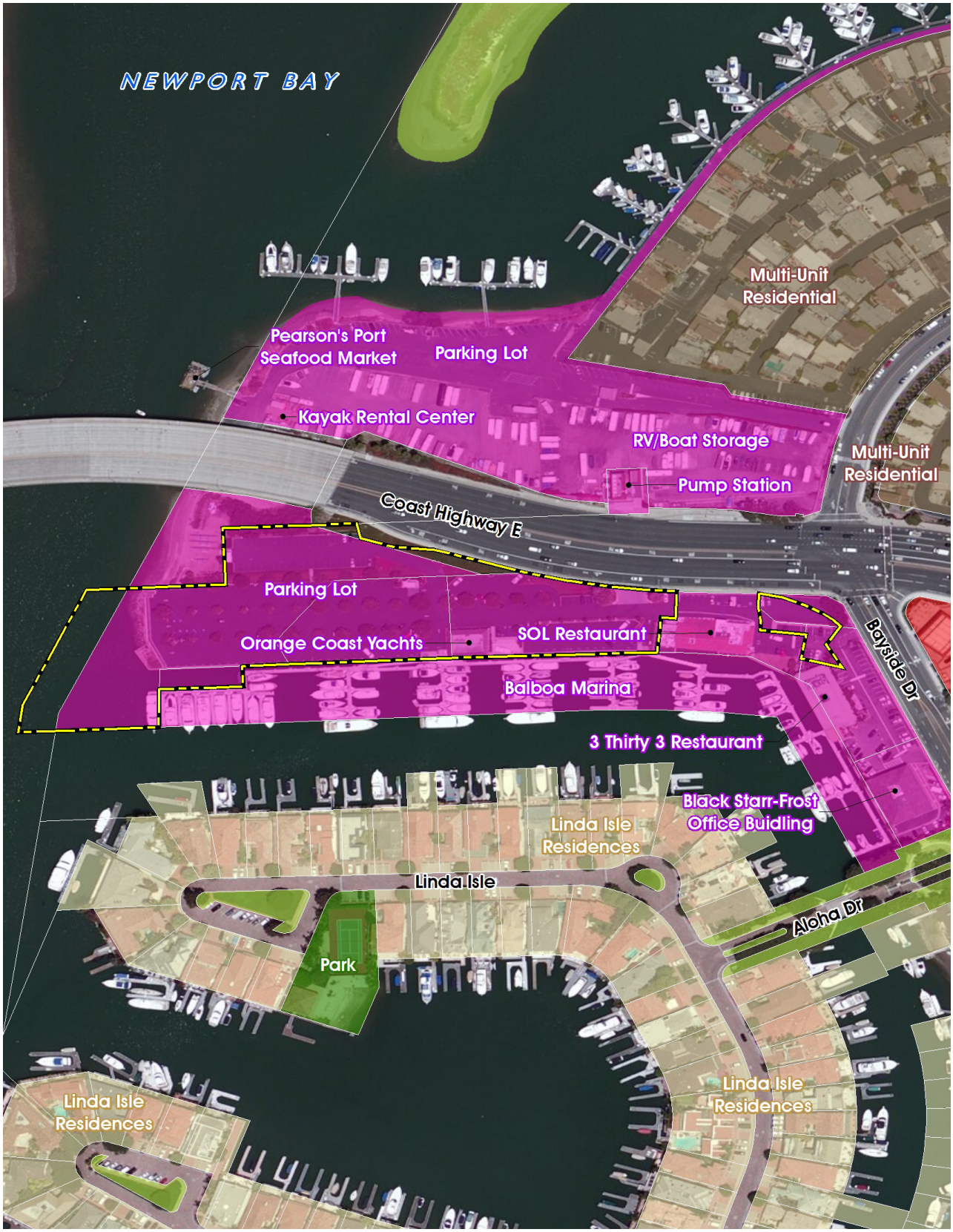
NOT TO SCALE

Figure 2-2
VICINTY MAP

Source(s): ESRI, Digital Globe

NOT TO SCALE

Figure 2-3
AERIAL PHOTOGRAPH



Source(s): ESRI, Digital Globe, City of Newport Beach

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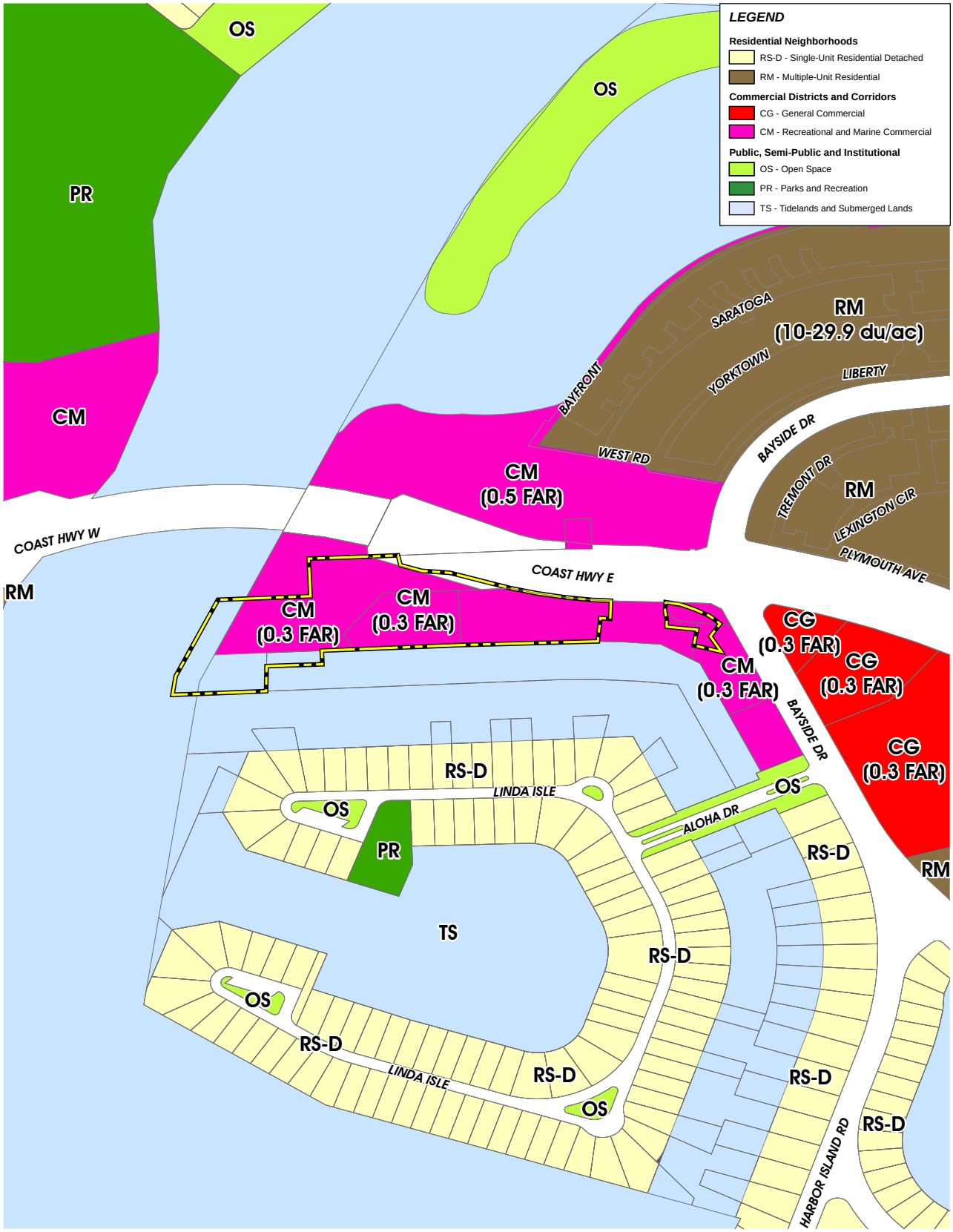
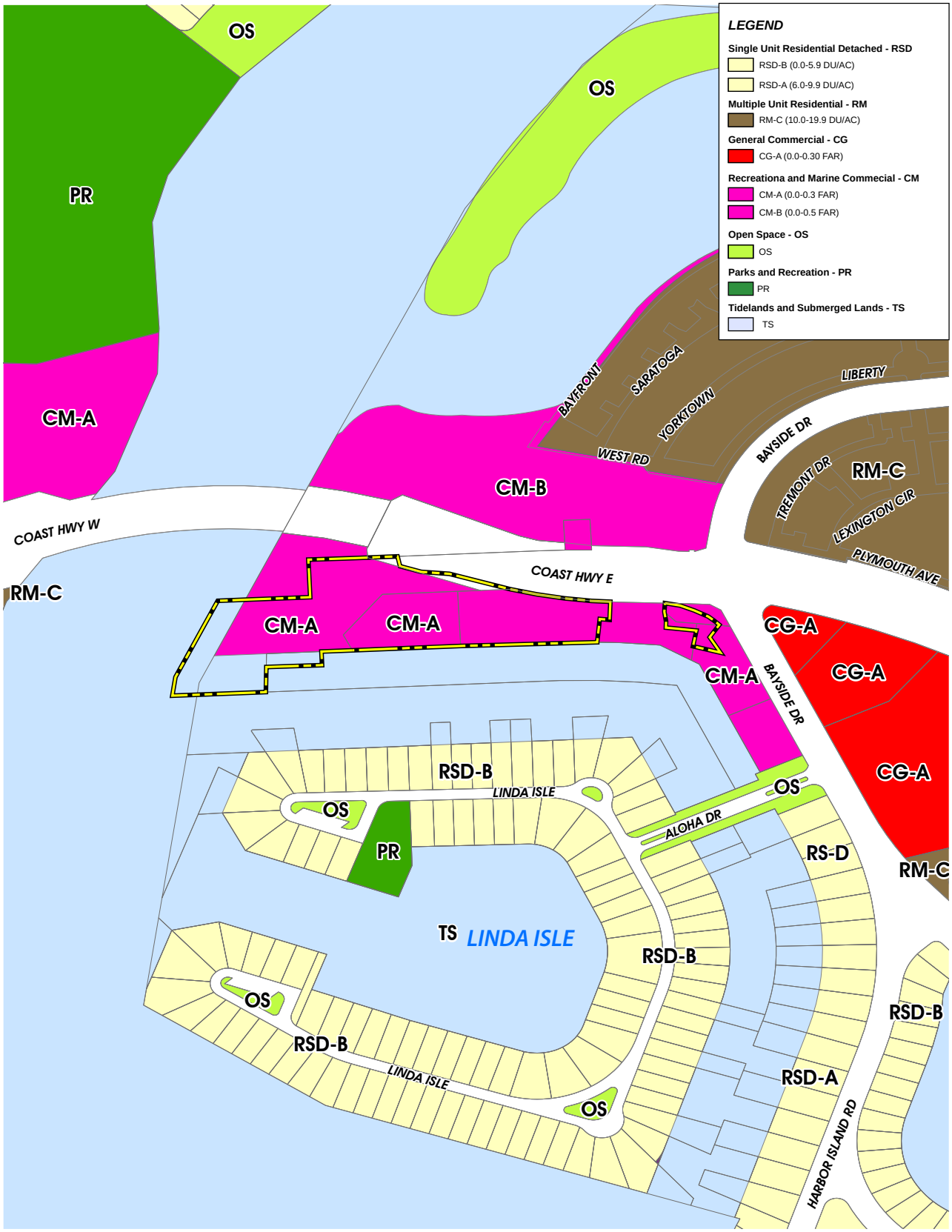
Figure 2-4
EXISTING AND SURROUNDING LAND USES



Source(s): City of Newport Beach

Figure 2-5
EXISTING GENERAL PLAN LAND USE DESIGNATIONS



Source(s): City of Newport Beach

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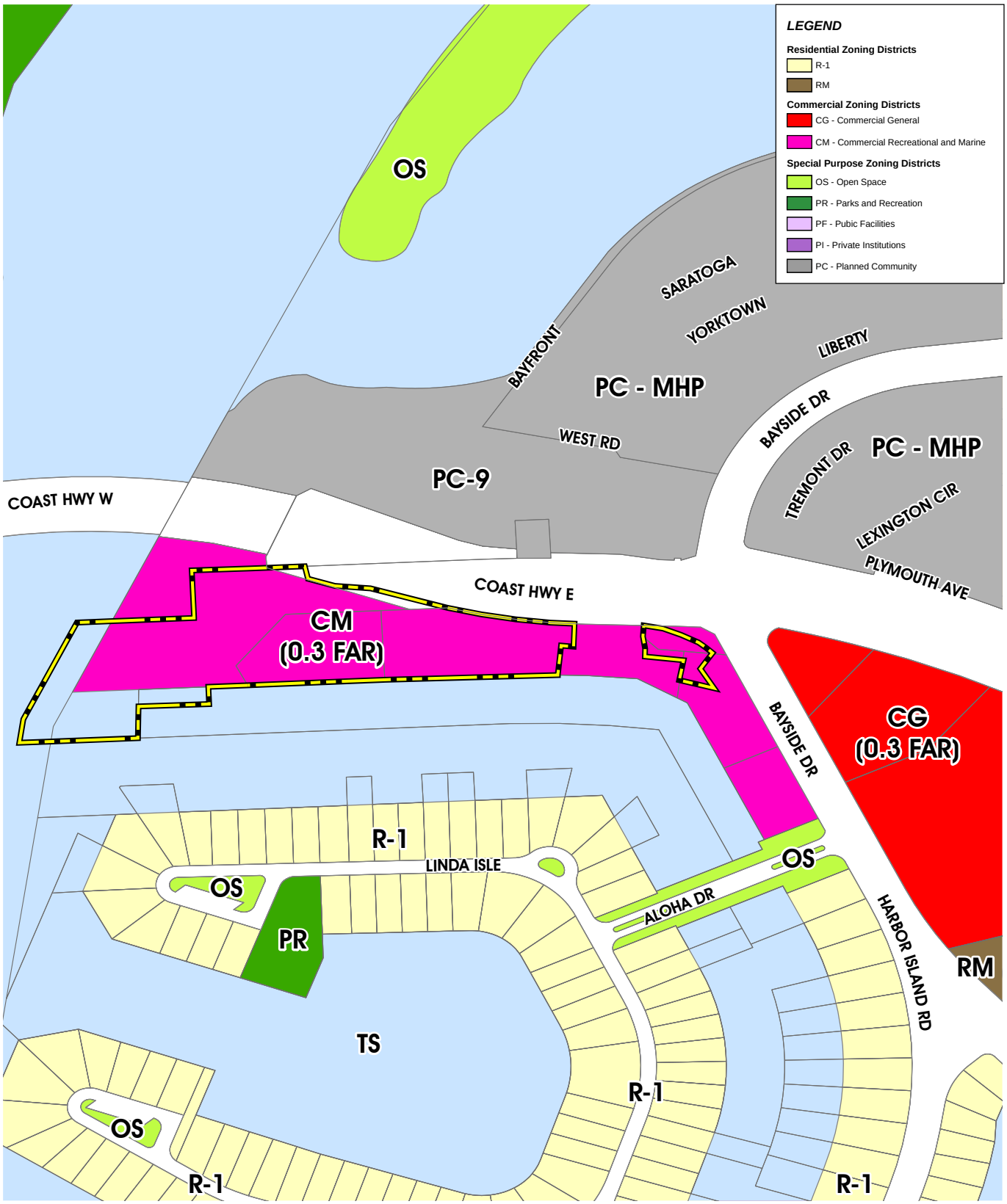
Figure 2-6
EXISTING COASTAL LAND USE PLAN DESIGNATIONS



Source(s): City of Newport Beach

NOT TO SCALE

Figure 2-7
EXISTING ZONING DESIGNATIONS

3.0 Project Description

This section provides all of the information required by CEQA Guidelines §15124, including: a description of the Project's precise location and boundaries; a statement of the Project's objectives; a description of the Project's technical, economic, and environmental characteristics; a list of government agencies that are expected to be involved in the Project's decision-making processes and a list of the permits and approvals that are required to implement the Project; and a list of related environmental review and consultation requirements.

The Project evaluated in this MND is jointly proposed by the City of Newport Beach and Irvine Company and is referred to as "Balboa Marina West." The Project site is located south of East Coast Highway, between the Coast Highway Bridge and Bayside Drive, in the City of Newport Beach, Orange County, California. The Project site is bounded on the west by the channel of Newport Bay and on the north by East Coast Highway and outside RV and boat storage, a floating fish market, pump station, and parking. On the south is water surface and Linda Isle, a man-made island containing residential development with private residential docks around its perimeter. To the east is Bayside Drive, commercial development comprised of restaurants, office buildings, a gas station, and associated parking lots.

As shown in Figure 3-1, *Marina Existing Conditions*, the Project site consists of 4.4 acres, of which 0.87 acres is comprised of water surface and 3.5 acres is comprised of land. As previously described in Section 2.0, *Environmental Setting*, the water-side area supports floating docks of the existing Balboa Marina. The land-side area contains a paved parking lot and one, one-story building that houses a yacht brokerage business and marina restrooms.

The proposed Project evaluated herein includes all components of the Project, including planning, construction, and operation, in addition to any and all discretionary and administrative approvals that may be required of the City of Newport Beach and other governmental approval authorities and agencies to fully implement the proposed Project. The Project proposes to reconfigure the arrangement of uses on the Project site to establish a new public boat dock in an area of Newport Harbor that currently lacks a public dock, and to improve the private Balboa Marina including its water-side and land-side areas. The new public dock would include a gangway and approximately 12 public boat slips including eight (8) new boat slips and four (4) transient boat slips that would be relocated to the public dock from the existing private Balboa Marina. In the private Balboa Marina, 24 private boat slips accommodating a range of vessel sizes and a new gangway are proposed to be added. In the land-side area of the marina, the Project proposes to demolish the existing Balboa Marina parking lot and a 1,200 SF building located at 201 East Coast Highway. In their place, a reconfigured parking lot and a new 19,400 SF marine commercial building with tuck-under parking would be constructed.

As shown on Figure 3-2, *Concept Plan*, the proposed public boat dock area is identified as Area A, the proposed private Balboa Marina boat dock improvement area is

identified as Area B, and the proposed reconfigured parking lot and marine commercial building area is identified as Area C. Area A and Area B are referred to in this MND as the "water-side development." The water-side development would occupy approximately 0.87 acres of water surface. Area C is referred to as the "land-side development" and comprises 3.5 acres. Figure 3-3, *Public Transient Dock and Marina Expansion Concept Plan (Page 1)*, and Figure 3-4, *Public Transient Dock and Marina Expansion Concept Plan (Page 2)*, show the water-side and land-side development areas in more detail.

3.1 Purpose and Need and Project Objectives

The primary purpose and benefit of the Project is the development of a new public boat dock in an area of Newport Harbor that is more easily accessible to the public than the four (4) transient public boat slips currently available in the private Balboa Marina. The following is a list of specific objectives sought by the proposed Project.

A. To establish a new public transient boat dock in Lower Newport Bay to provide a new point of vertical public access.

B. To relocate four (4) existing transient public boat slips out of the private Balboa Marina to an area of Lower Newport Bay that is more easily accessible to transient public boaters.

C. To enhance resident and visitor boater's ability to access the land from the water.

D. To allow transient public boaters to easily navigate from a new public dock in Lower Newport Bay to marine commercial uses in and around the Balboa Marina.

E. To assist in meeting the need for a variety of boat slip sizes in Newport Harbor by adding a new public dock and additional boats slips at the Balboa Marina that accommodate a range of vessel sizes, including slips for vessels 20-feet in length and under.

F. To provide additional private boat slips and a new gangway in the Balboa Marina that would enable boaters to dock and access the land-side development areas.

G. To provide a more efficient circulation and vehicle parking pattern in the Balboa Marina parking lot.

H. To provide a new marine commercial building that can house a restaurant, yacht brokerage, and public restrooms that are accessible from both a vehicular parking lot and boat tie-ups.

3.1.1 Water-Side Development Areas A and B

Water-Side Development Area A, known as the public transient dock area, would provide 12 public boat slips, including eight (8) new boat slips and four (4) slips relocated from the private Balboa Marina. The public boat slips would be transient in nature, meaning that there would be no overnight tie ups allowed. There would be no boat launches from this area. It is anticipated that boaters would access the public dock from the water-side and use the slips to tie up and access the land-side restaurants and commercial uses. Under existing conditions, there are no public docks in this area of Lower Newport Bay. Therefore, relocating the four (4) public boat slips that currently exist in the private Balboa Marina and adding eight (8) new public boat slips would enhance the public's ability to access the land from the water. In an effort to serve a wide range of public boaters, the 12 public boat slips would accommodate a variety of vessel sizes, including boats 20-feet in length and under.

Water-Side Development Area B, known as the private dock expansion area, would add 24 private boat slips that would be accessible from the existing private Balboa Marina and a new private gangway. The marina expansion would include ten (10) new slips for boats 20-feet in length and fourteen (14) new slips for boats 35-feet and longer. Vessel pump-out accommodation would be provided for the new private boat slips similar to the system constructed at the existing private Balboa Marina. Due to the transient nature of the slips at the public docks, no pump out facility is proposed for the public slips. Dock and gangway lighting would be provided as currently exists at the private Balboa Marina. Lighting would be located under the handrails to allow for safe nighttime pedestrian movement at the marina. The maintenance of the private dock would be the responsibility of Irvine Company. The maintenance of the public dock and boat slips would be the responsibility of the City of Newport Beach.

Refer to Figure 3-5, *Public Transient Dock and Marina Expansion*, for the physical location of the total thirty-six (36) new boat slips that are proposed in Development Area A and Development Area B. The total surface area of the new docks and floats would be 9,045 square feet (SF). Of this, 2,258 SF would be public docks and 6,787 SF would be private docks (Coastal Resources Management, Inc., 2013, p. 21). Thirty-seven (37) piles would be driven into the Lower Newport Bay floor. These include eleven (11) 20-inch diameter piles and twenty-six (26) 16-inch diameter piles. The combined bottom surface area for all piles is 54.4 SF. (Coastal Resources Management, Inc., 2013, p. 21) (CAA Planning, 2014) In addition, eight (8) 16-inch diameter platform piles would be installed at elevations higher than the mean tide line.

Water-Side Development Area A and Development Area B would require dredging of approximately 9,900 cubic yards (CY) of sediment, as well as the removal of 1,300 CY of upland soils (material from above the Mean Higher High Water (MHHW) to accommodate the new boat slips (NewFields, 2014, p. 1). In order to accommodate the proposed number of boat slips, a riprap embankment would be constructed approximately 15-feet landward of the existing riprap embankment, along the western edge of the Project site. The relocation of the riprap slope would create approximately 600 SF (3.9 feet wide by 155 feet long) of new mudflats (Coastal Resources Management, Inc., 2013, p. 21). The reconstruction of the riprap embankment inland

has the direct project benefit of creating a 6,772 SF increase in waters of the United States (Anchor QEA, L.P., 2013, p. 11). A new cap wall would be installed at the top of the riprap slope.

3.1.2 Land-Side Development- Area C

Development Area C, referred to in this MND as the "land-side" development area, includes approximately 3.5 acres of the existing parking lot located immediately north of the existing Balboa Marina docks (refer to Figure 3-2). To implement proposed land-side improvements, the existing marina parking lot and an existing 1,200 SF structure (201 East Coast Highway) containing a yacht brokerage business and marina restrooms would be demolished. The parking lot would be re-established in a modified configuration containing drive aisles, parking spaces, landscaping, and pole-mounted lighting. A new proposed marine commercial building would be developed in the southwestern portion of Development Area C containing up to 19,400 SF of building space with tuck under parking. The building is anticipated to house a restaurant with outdoor patio, marina restrooms, and an office to accommodate the yacht brokerage business displaced from the existing building that would be demolished.

Because the design of the new commercial building is conceptual in nature at this time, specifics regarding its architectural characteristics are not yet available. The building would be required to comply with the non-residential shoreline height limit, so the building height with a flat roof may be constructed to a maximum 35 feet, or 40 feet with a sloped roof, with approval of a future Site Development Review application by the City of Newport Beach. As shown on Figure 3-4, *Public Transient Dock and Marina Expansion Concept Plan (Page 2)*, the marine commercial structure would be supported on approximately 40-foot deep piles. The tuck under parking would occur at approximately nine (9) feet above mean sea level (AMSL), which is the approximate elevation of the existing parking lot closest to the edge of Lower Newport Bay. The finish floor of the commercial structure, above the tuck-under parking, would occur at approximately 20.9 feet AMSL, which is the approximate elevation of the existing Project site closest to East Coast Highway.

As shown on Figure 3-6, *Public Transient Dock and Marina Expansion Site Sections*, the existing parking lot would be reconfigured to provide internal circulation and parking to accommodate the proposed land-side development. The parking lot near the Bayside Drive entry would be modified in order to reduce turning movements, and the overall layout of the parking lot would be reconfigured to improve circulatory access through the site. A pedestrian walkway through the parking lot would provide access from the public dock to the land-side development. New landscaped areas and plant materials would be added throughout the parking lot. The maintenance of the land-side improvements would be the responsibility of Irvine Company.

A. Parking Lot Characteristics

As depicted in Figure 3-7, *Concept Plan with Parking Lot Circulation and Pedestrian Access*, the existing parking lot would be reconfigured to provide internal circulation and parking to accommodate the proposed land-side development.

The existing large surface parking lot was used formerly to serve the Reuben E. Lee floating restaurant that was located in the water area adjacent to the west end of the parking lot and that is no longer present. Currently, the parking lot provides 313 parking stalls and serves the Balboa Marina and the Sol Restaurant.

Parking lot lighting is proposed to be upgraded to energy-efficient fixtures. Fixtures would be placed to reduce "spill over" lighting to surrounding properties. The proposed fixtures are a combination of decorative and utilitarian poles and are required to be spaced to comply with City of Newport Beach minimum light level requirements and to meet standard safety requirements.

Landscape areas in the parking lot would be reconfigured to conform to the revised parking lot layout. There would be a resulting net increase in the amount of landscape area on the property. Pedestrian access would be provided via a connection from the sidewalk on East Coast Highway to the internal pedestrian walkways within the Project. In addition, a long handicap access ramp is proposed to provide a connection from the curved vehicular drop off at the proposed, new marine commercial building to provide access to the public dock area.

Under existing conditions, storm water runoff from the parking lot generally sheet flows south to an existing trench drain located along the water-side perimeter of the Project site that ultimately outlets through the existing bulkhead into Newport Harbor at two locations. Under proposed conditions, runoff would continue to flow in a southerly direction and discharge at the two existing bulkhead outlet locations. New area drains are proposed to be constructed to direct low-flow and first-flush runoff to mechanical water quality bio-treatment systems prior to discharging runoff water through the existing bulkhead outlets.

B. Commercial Building Characteristics

As shown on Figure 3-8, *Conceptual Architectural Rendering - Building Design*, the marine commercial building is proposed in concept as a light-colored two-story structure with pitched roof and tuck under parking. Maximum building height would be 40 feet from finish grade. The parking floor would be at-grade and its northern wall would serve as a retaining wall. Large non-reflective windows and an outdoor patio would face the water above the parking level. The structure would contain up to 19,400 SF of building space to accommodate a restaurant use with outdoor patio and an office for the yacht brokerage business that would be displaced from the on-site building that is proposed for demolition. Based on typical utility usage rates for restaurants and commercial establishments, the building is expected to generate a utility demand for 3,395 gallons per day (gpd) of water, 2,755 gpd of wastewater treatment capacity, and 2,500 kwhd of energy (Stantec, 2014). Approval of the specific building design would be subject to subsequent approval of a Site Development Review by the City of Newport Beach. Approval of a restaurant use for the building would be subject to subsequent approval of a Conditional Use Permit by the City of Newport Beach.

C. Conceptual Landscape Plan

The proposed Project would reduce impervious surface areas on the land-side portion of the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As shown on Figure 3-9, *Conceptual Landscape Plan*, landscaping pockets would be installed in the reconfigured parking lot. Six (6) Canary Island Date Palms would be planted near the entrance driveway, King Palms would be planted along the primary parking lot drive aisle, two Senegal Date Palms would be planted at the entrance to the new commercial building, and Coral trees would be planted in other planting pockets. Each planting pocket would also include a variety of shrubs. The landscaping material is proposed to include non-invasive and drought tolerant species.

3.2 Construction Characteristics-Water-Side Development

To implement the proposed water-side development, site preparation would include dredging of sediment and grading of upland soils, transport of the materials to a disposal location, installation of concrete piles, and then installation of the floats, docks, and gangways. It is estimated that between eight (8) and 15 construction workers would be working on the water-side component of the Project on any given day during various phases of construction activity.

Implementation of the proposed improvements in Development Area A and Development Area B would require dredging of approximately 9,900 CY of sediment, as well as the removal of 1,300 CY of upland soils (material from above the Mean Higher High Water (MHHW) (NewFields, 2014, p. 1). Refer to Figure 3-10, *Water-Side Dredging Footprint*. Upland soils would be disposed as construction fill on-site. Dredged sediment would be transported by barge for ocean disposal at site LA-3, which is a U .S. Environmental Protection Agency (EPA) approved location for the disposal of ocean-dredged material off the coast of Newport Beach. The U.S. EPA has the authority to designate ocean dredge material disposal sites under Section 102 of the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 (33USC 1401 et seq.). LA-3 was approved as a permanent disposal site by the U.S. EPA in 2005, in accordance with Federal Register, Vol. 70, No. 175, dated September 12, 2005. LA-3 is approved to accept a maximum annual dredged material disposal quantity of 2,500,000 cubic yards of dredged material originating from the Los Angeles and Orange County region. The circular boundary of the permanently designated LA-3 site is centered at 33°31'00" N and 117°53'30" W and has a 305-meter (1,000-foot) radius at the water surface. The ocean depth at the center of the site is approximately 1,600 feet.

Ocean material from the Project site would be dredged using clam-shell dredging techniques. Dredging of ocean material is anticipated to be conducted 5 days a week for approximately 4 weeks, which would include mobilization and demobilization. All dredge material would be transported via barge pushed by a tugboat to LA-3. It is anticipated that 5 to 8 barge trip(s) per week (for approximately 4 weeks) would be required depending on the size of the barge. Silt curtains would be deployed around the dredge site and barge to confine suspended sediment particles from drifting

beyond the job site when bottom sediments are disturbed. Dredging would take place between the hours of 8 am to 5 pm.

During the dredging phase, ocean dredging equipment would be placed within the Project site when internal dredging efforts are occurring and just outside the pierhead line when dredging is occurring along the channel/pierhead line interface. With the concurrence of the City of Newport Beach Harbor Resources Department and U.S. Coast Guard, the ocean dredging equipment could be temporarily staged in the middle of the adjacent Newport Harbor channel, with appropriate illumination and security lighting to warn potential boaters of its location after working hours.

The proposed public and private docks would be supported by concrete piles that are set in place using high pressure water jetting and a pile driver. The contractor would use high pressure water jets to place the piles within approximately five (5) feet of tip elevations, and then use a diesel hammer to drive the piles down to tip elevation. Tip elevation is also known as the "toe," "base," "bottom," or "lower end" of the pile. Use of water jetting for the initial phase of each pile placement would reduce noise and vibration when compared with the exclusive use of a diesel hammer.

3.3 Construction Characteristics-Land-Side Development

In order to construct the land-side portion of the Project, the existing 1,200 SF one-story building located at 201 East Coast Highway, which houses a yacht brokerage business and marina restrooms, would be demolished. Additionally, portions of the existing parking lot would be demolished to prepare the site for redevelopment. Refer to Figure 3-11, *Land-Side Demolition*. Earthwork associated with the land-side development would be comprised of 4,325 CY of cut and 5,688 CY of fill requiring 1,364 CY of import. Analysis throughout this MND assumes a haul distance of one-mile as the source for imported material. After the site is prepared, primary construction activities would include utility line installation, building construction, paving, light pole installation, surface coatings, and landscaping.

Demolition activities are expected to last approximately 30 days. Construction activities are expected to last approximately 14 months. Equipment would be staged on the job site behind screened fencing when not in use. Demolition activity is anticipated to result in 14,700 CY of demolition material composed of asphalt, landscape material, soil, and deconstructed building material. Demolition material would be deposited into a landfill and asphalt would be recycled offsite at an approved recycling facility. Demolition material would be removed from the site during City approved hours via dump trucks and transported via an approved haul route to the nearest landfill accepting demolition material.

The equipment that would be used for the land-side development includes dozers, skip loaders, excavators, end dumps, motor graders and scrapers as well as a drill rig to install the auger piles that are required for the construction of the marine commercial building. Approximately 235 piles would be required to support the marine commercial building, but unlike the water-side piles, the land-side piles would be auger cast pressure grouted, which produces less noise and vibration than the installation process

for the water-side piles. It is estimated that between 15 and 50 construction workers would be working on the land-side component of the Project on any given day during various phases of construction activity.

No full or partial temporary lane closures would occur along East Coast Highway or Bayside Drive during Project construction. The driveway to Balboa Marina from East Coast Highway would remain functional and accessible during a majority of the construction process. When the driveway connecting to East Coast Highway is temporarily closed, vehicles would access the parking lot from the driveway connection at Bayside Drive near the Sol and 3Thirty3 restaurants. At all times during the land-side construction process, parking demands for the Balboa Marina and adjacent restaurants would be met on-site. No temporary off-site parking is proposed nor anticipated to be necessary (CAA Planning, 2014).

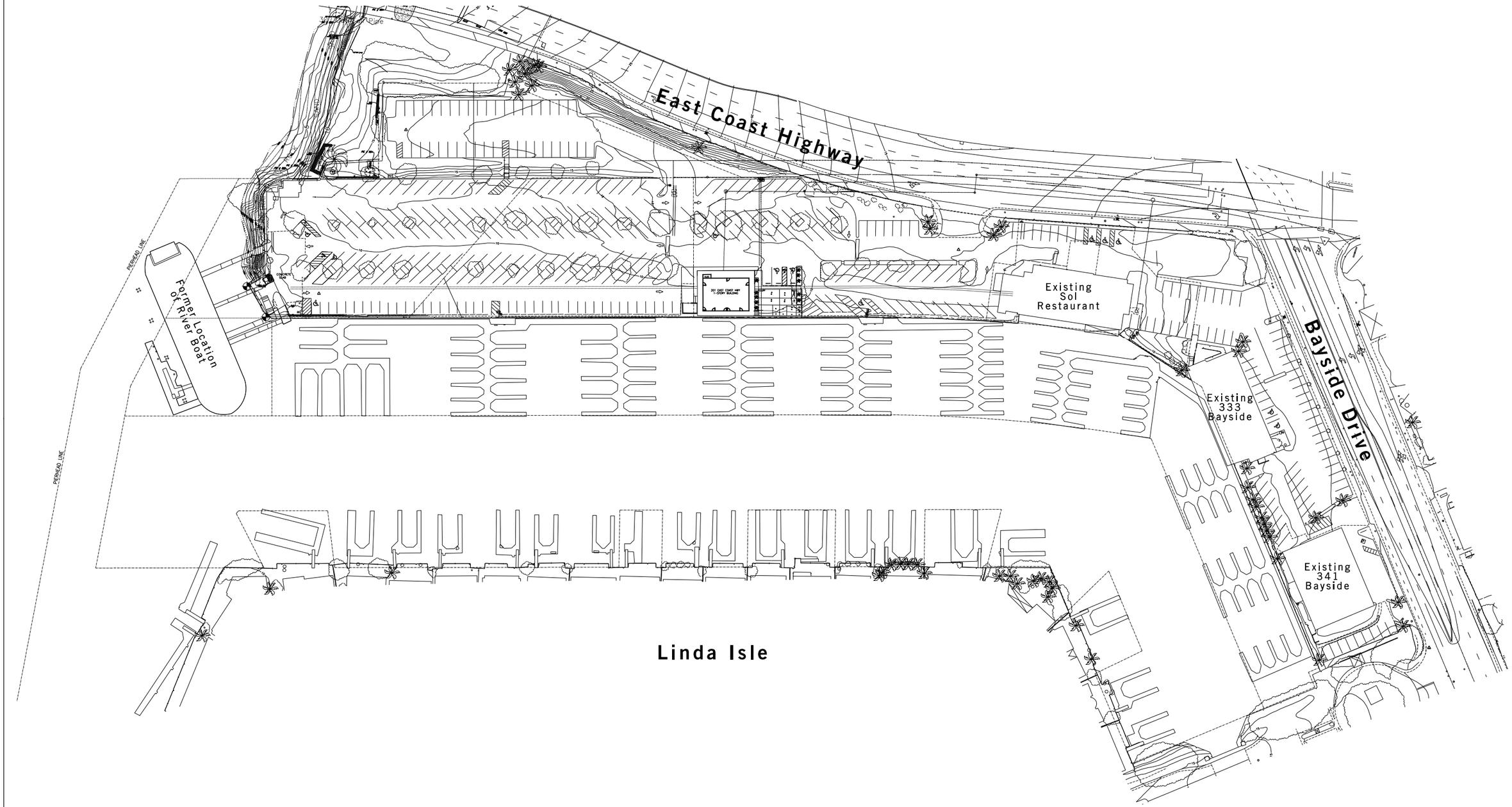
3.4 Project Approval Process

This section describes the discretionary and ministerial approvals needed to implement the proposed Project. The water-side components of the proposed Project will be reviewed by the Harbor Commission and the MND and the land-side components of the proposed Project will be reviewed by the Planning Commission. The Harbor Commission will review the Project and make a recommendation to the Manager of Harbor Resources regarding the issuance of an Approval in Concept (AIC) for the water-side components. The Planning Commission will review the MND for compliance with CEQA and approve the MND. Following approval of the MND, the Planning Commission will review a Site Development Review, a Conditional Use Permit, and/or any other discretionary permit required for the land-side marine commercial uses as specified by the Marine Commercial zoning designation. Following completion of the Harbor Commission and Planning Commission reviews, the City will issue an AIC, and a joint City/Irvine Company application will be filed with the California Coastal Commission requesting issuance of a Coastal Development Permit (CDP). The CDP application will include both the water-side and land-side Project components.

Prior to the issuance of any ministerial permit such as a grading permit or building permit, the City of Newport Beach Public Works Department requires evidence that all discretionary permits or clearances have been obtained from the California Coastal Commission, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Coast Guard, National Marine Fisheries, Regional Water Quality Control Board, and any other agency having approval authority. A list of the primary discretionary and ministerial permits under the jurisdiction of the City of Newport Beach and state and federal agencies are listed below in Table 3-1, *Matrix of Project Approvals/Permits*. This MND was prepared based on the AIC application, but is intended to cover all permits and approval actions required for implementation of the Project, including but not limited to those listed in the table below.

Table 3-1 Matrix of Project Approvals/Permits

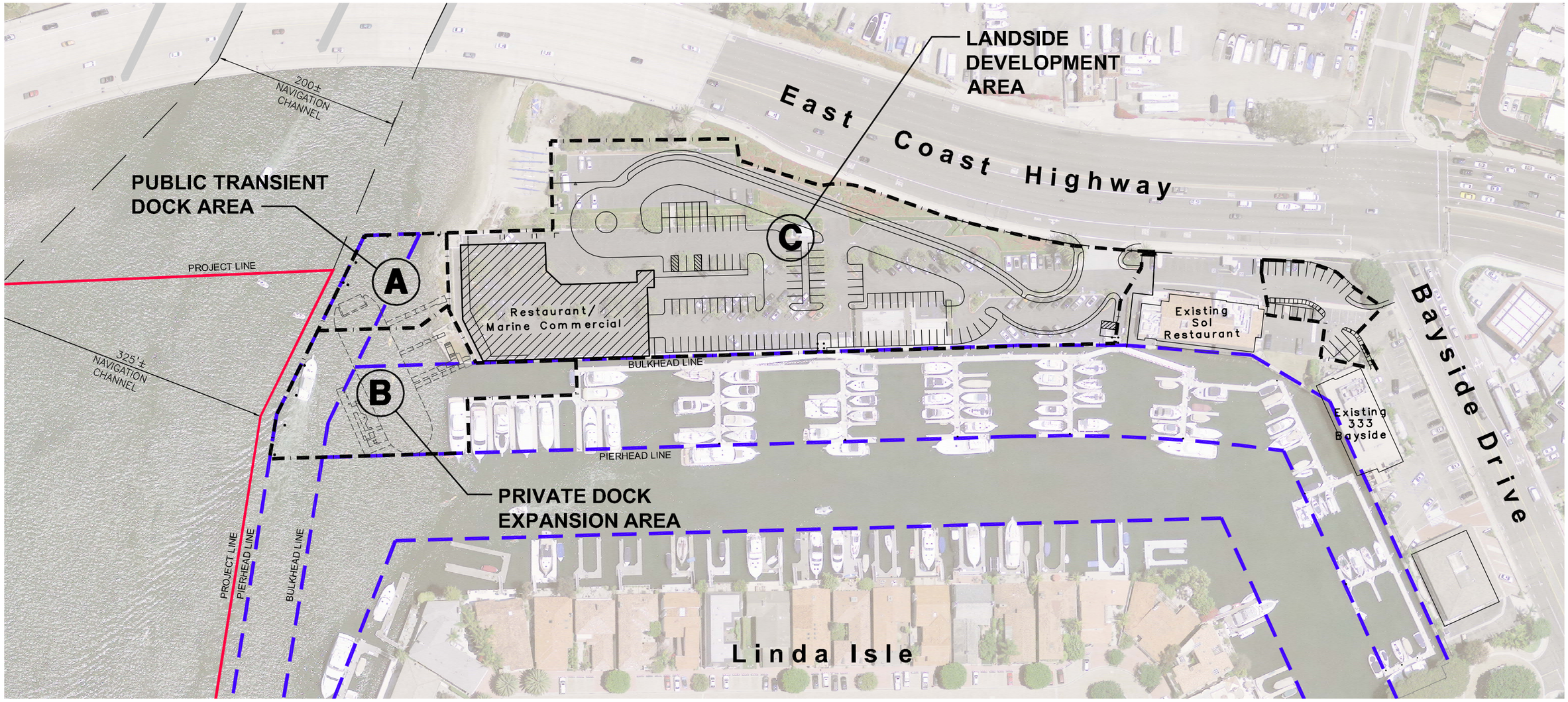
Public Agency	Approvals and Decisions
City of Newport Beach	• Approval of this IS/MND • Approval of Site Development Review • Approval of Conditional Use Permit (for restaurant) • Issuance of Approval in Concept (AIC) • Approval of temporary in-water staging location for dredging equipment (in consultation with the U.S. Coast Guard) • Issuance of Grading Permit and Building Permit • Issuance of Harbor Development Permit
California Coastal Commission	• Issuance of Coastal Development Permit
County of Orange	• Coordination with State Lands Commission as Trustee for submerged lands • Issuance of an Encroachment Permit
U.S. Army Corps of Engineers (USACE)	• Issuance of Clean Water Act Section 404 Permit • Issuance of Rivers and Harbors Act Section 10 Permit • Issuance of Section 103 Permit to the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)
National Marine Fisheries Service (NMFS)	• Compliance with the Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act, through consultation led by USACE
U.S. Fish and Wildlife Service (USFWS)	• Consultation with USACE regarding compliance with the Endangered Species Act (ESA) through Section 404 Permit
U.S. Environmental Protection Agency (USEPA)	• Consultation regarding suitability of dredged material management team (DMMT) approval process
U.S. Coast Guard	• Approval of temporary in-water staging location for dredging equipment
Regional Water Quality Control Board (RWQCB)	• Issuance of Section 401Water Quality Certification • Issuance of Section 402 National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit
California Department of Fish and Wildlife (CDFW)	• Letter of Authorization for harvesting and transplanting Eelgrass.



Source(s): URS (01-30-2014)

NOT TO SCALE

Figure 3-1
MARINA EXISTING CONDITIONS



Source(s): URS (11-14-2013)

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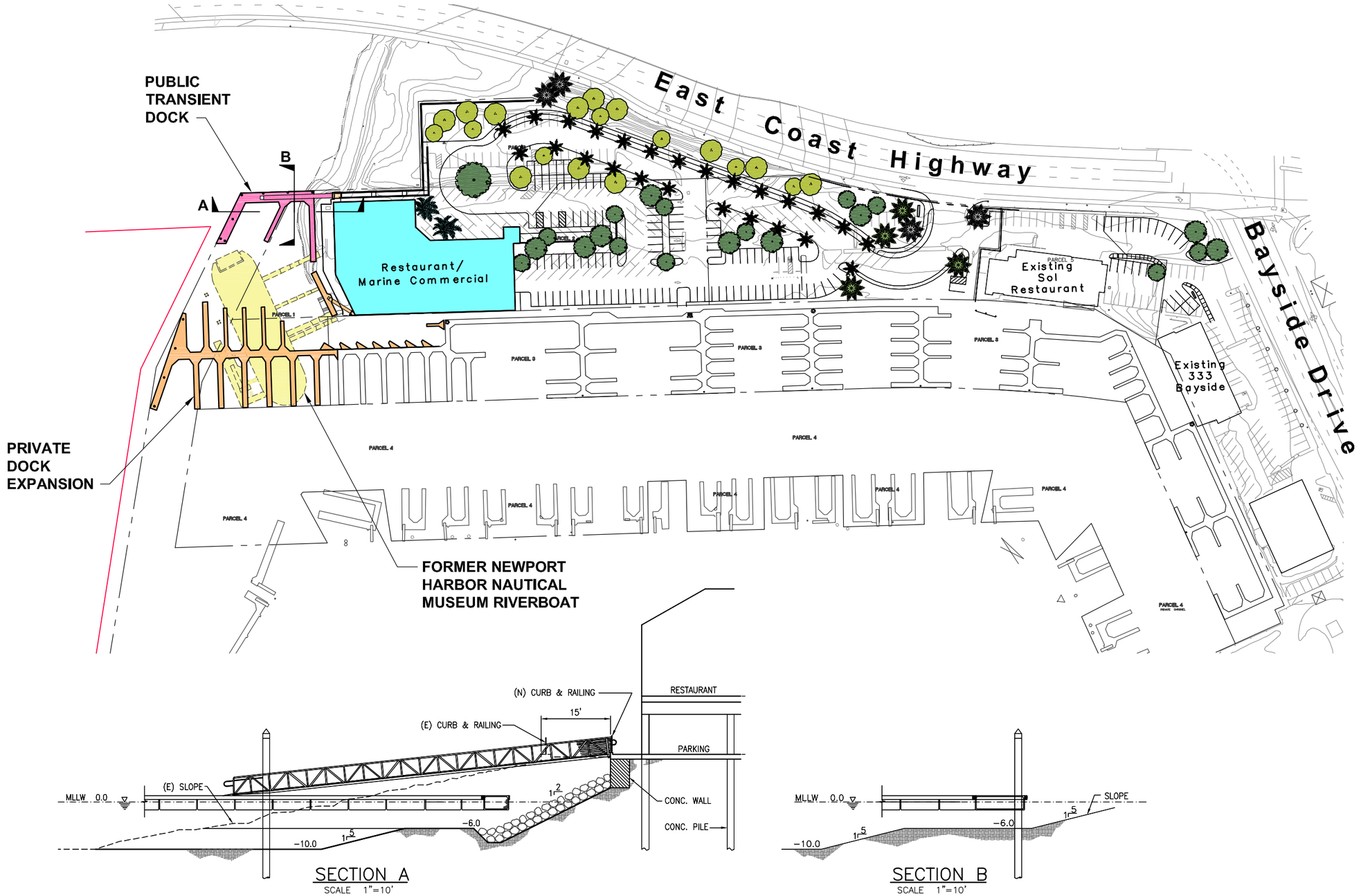
Figure 3-2
CONCEPT PLAN



Source(s): URS (11-14-2013)

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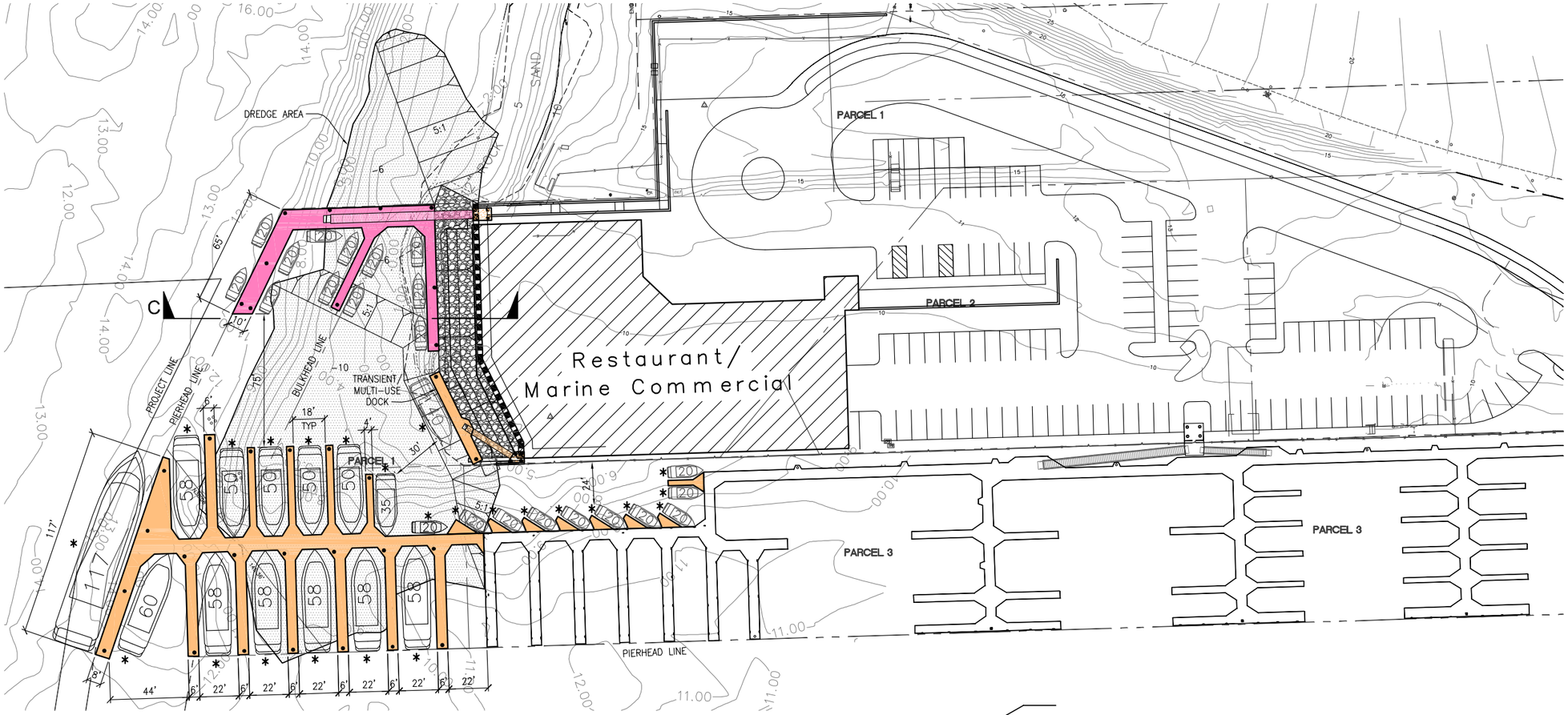
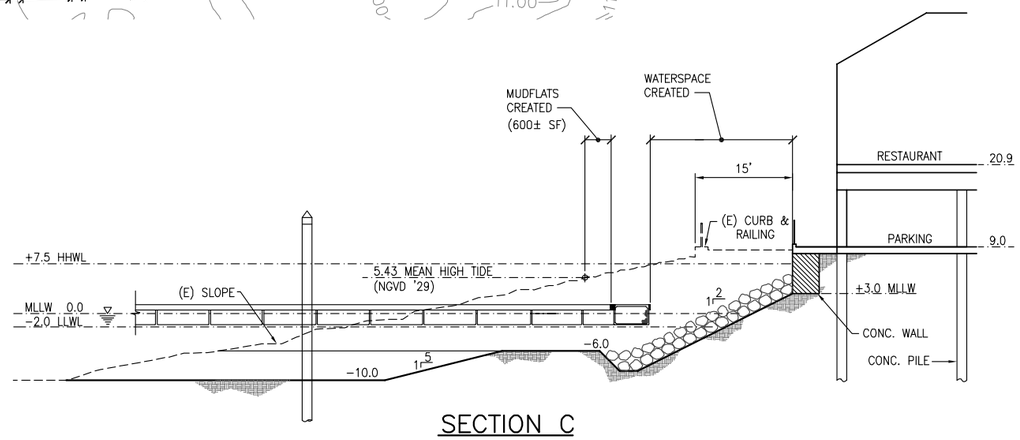
Figure 3-3
PUBLIC TRANSIENT DOCK AND MARINA EXPANSION CONCEPT PLAN (PAGE 1)



PROPOSED BOAT COUNT	
PRIVATE DOCK	14 (35' & Over) 10 (20' Electric) 24 Total
PUBLIC DOCK	12 (20' class transient equivalents)

* NEWLY CREATED BOAT SLIP



SECTION C
SCALE 1"=10'

Source(s): URS (11-14-2013)

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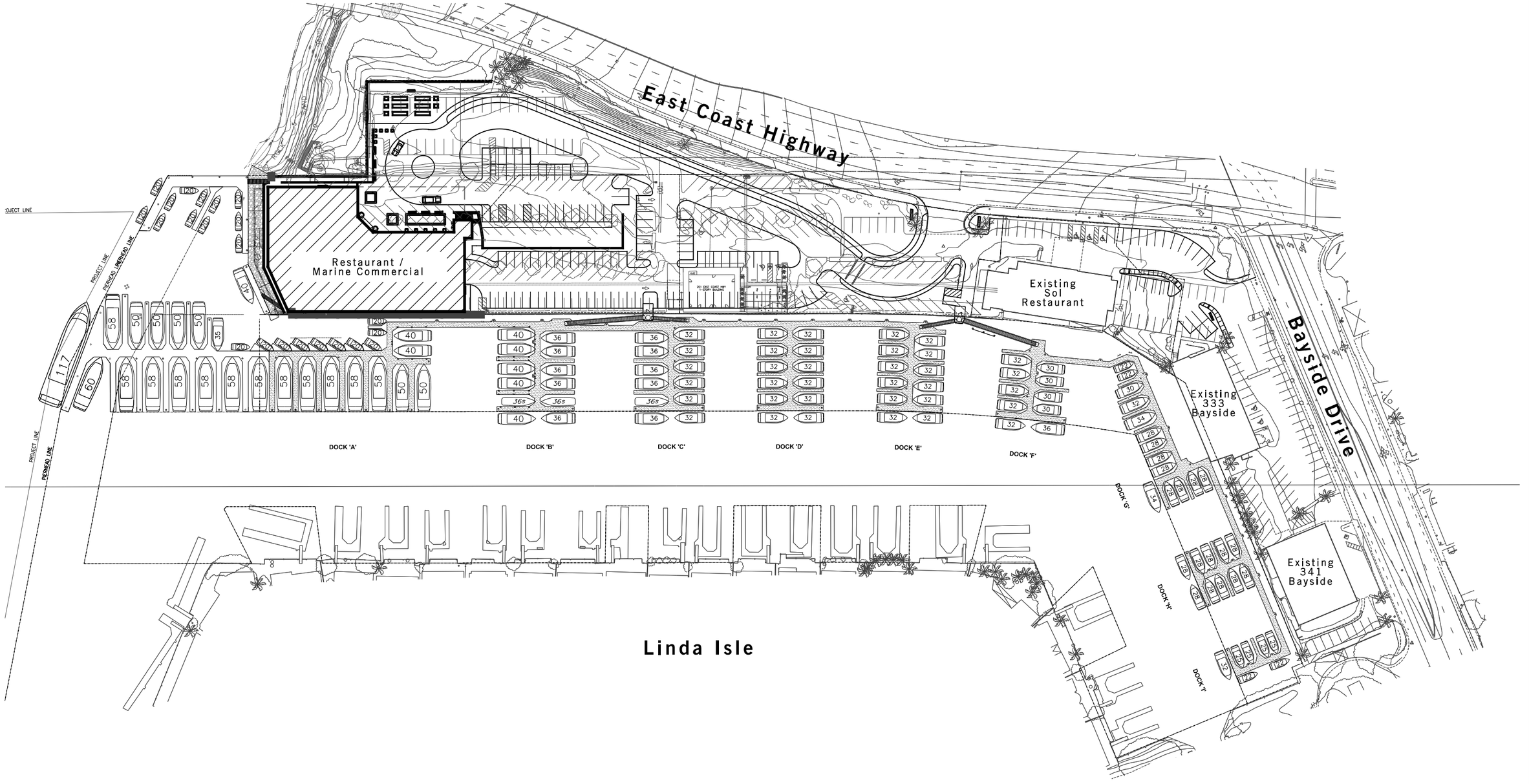
Figure 3-4
PUBLIC TRANSIENT DOCK AND MARINA EXPANSION CONCEPT PLAN (PAGE 2)



Source(s): URS (01-30-2014)

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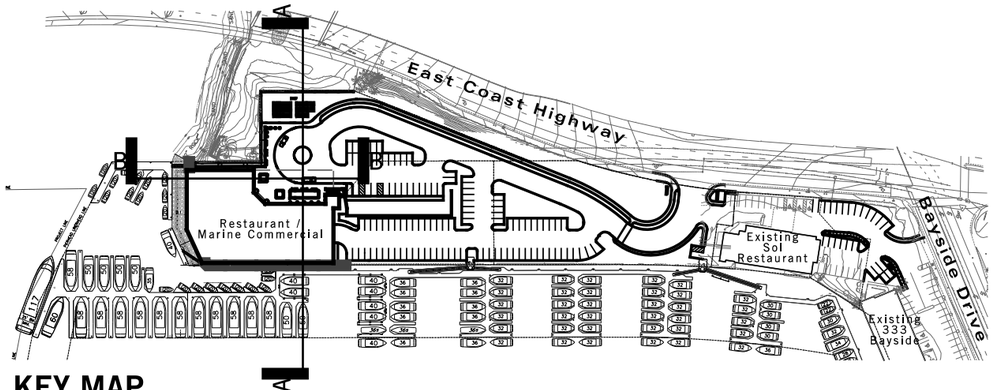
Figure 3-5
PUBLIC TRANSIENT DOCK AND MARINA EXPANSION (CONCEPT PLAN OVERLAIN ON EXISTING CONDITION)



KEY MAP
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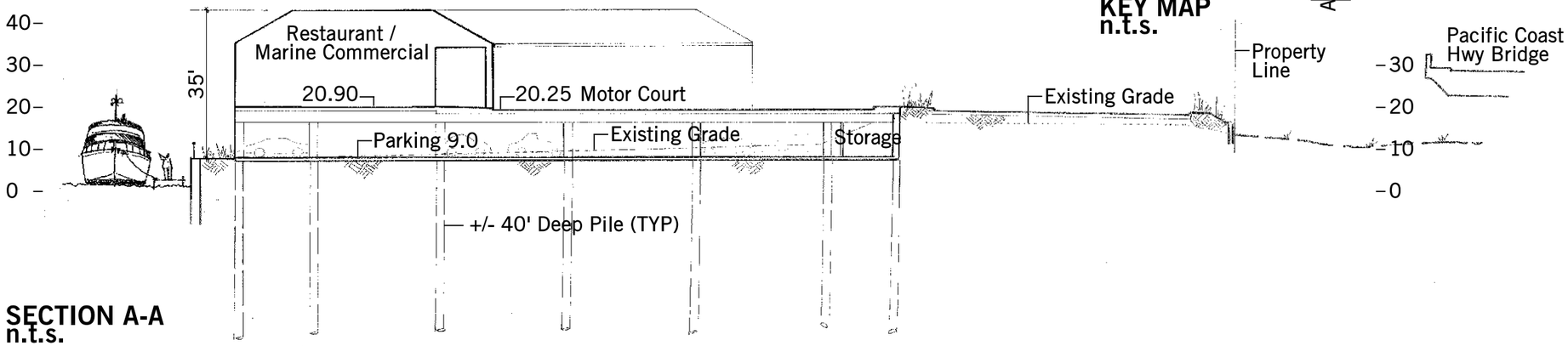
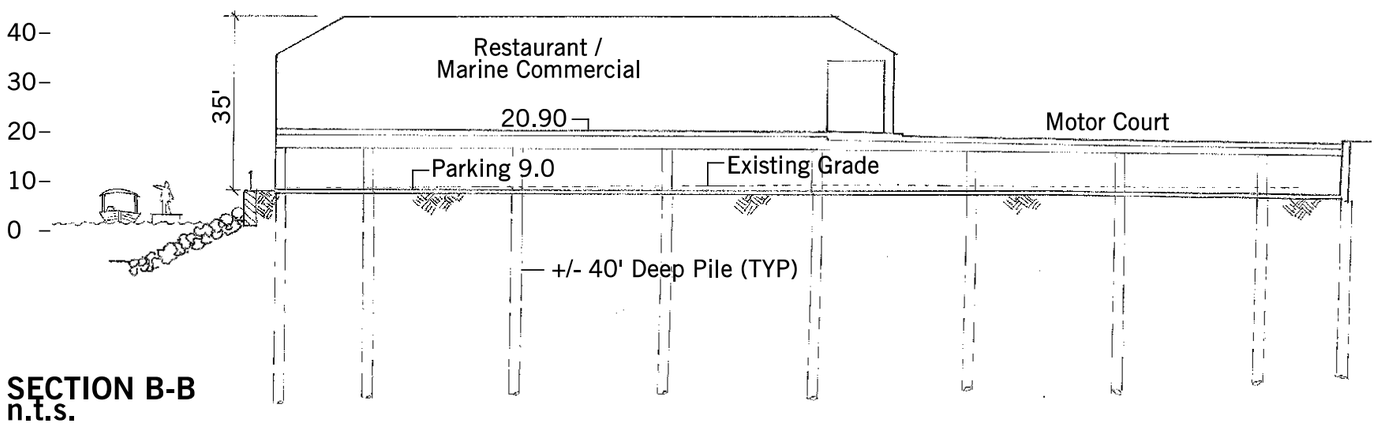


SECTION A-A
n.t.s.



SECTION B-B
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Source(s): URS (01-30-2014)

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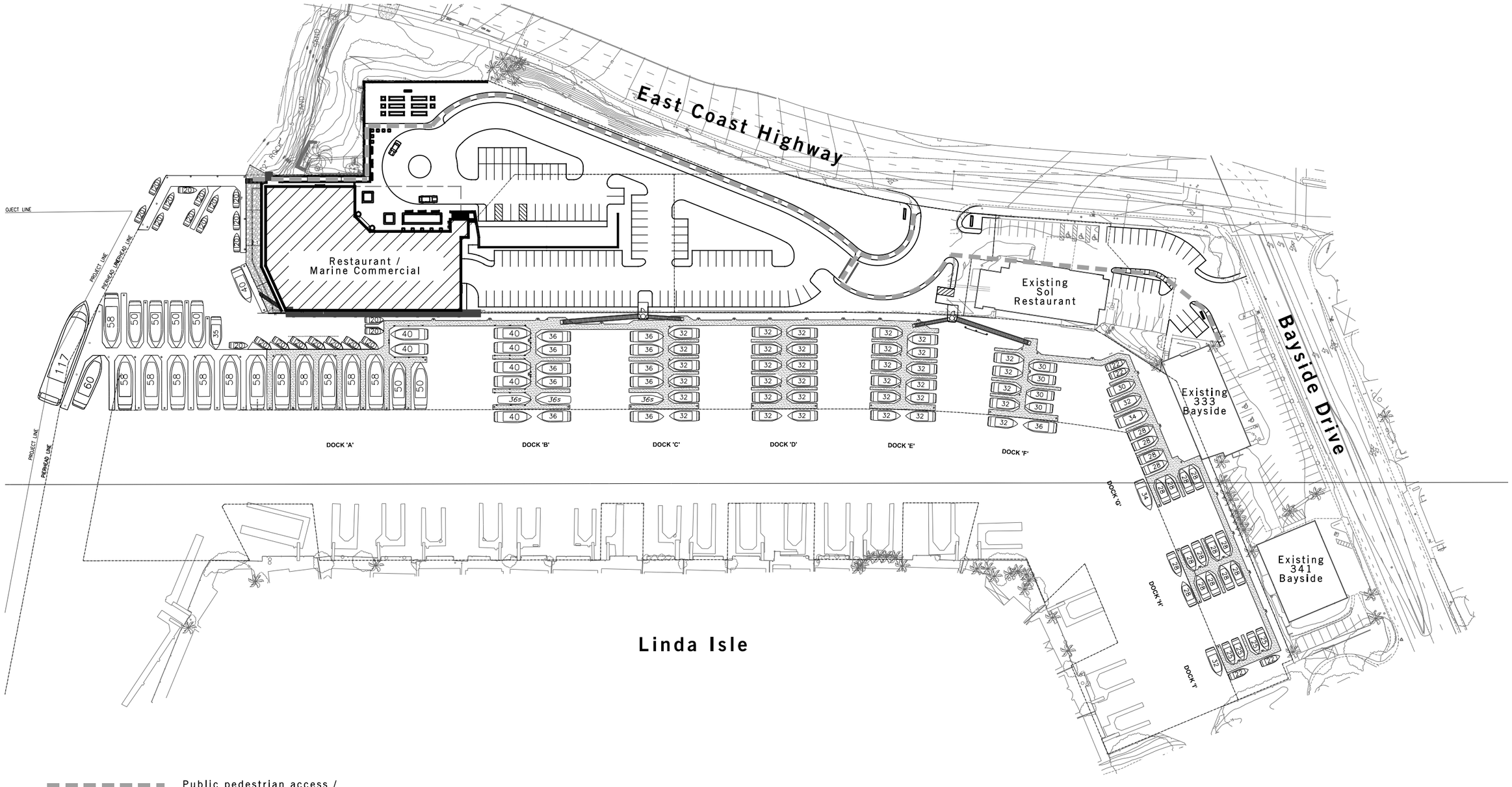
Figure 3-6
PUBLIC TRANSIENT DOCK AND MARINA EXPANSION SITE SECTIONS



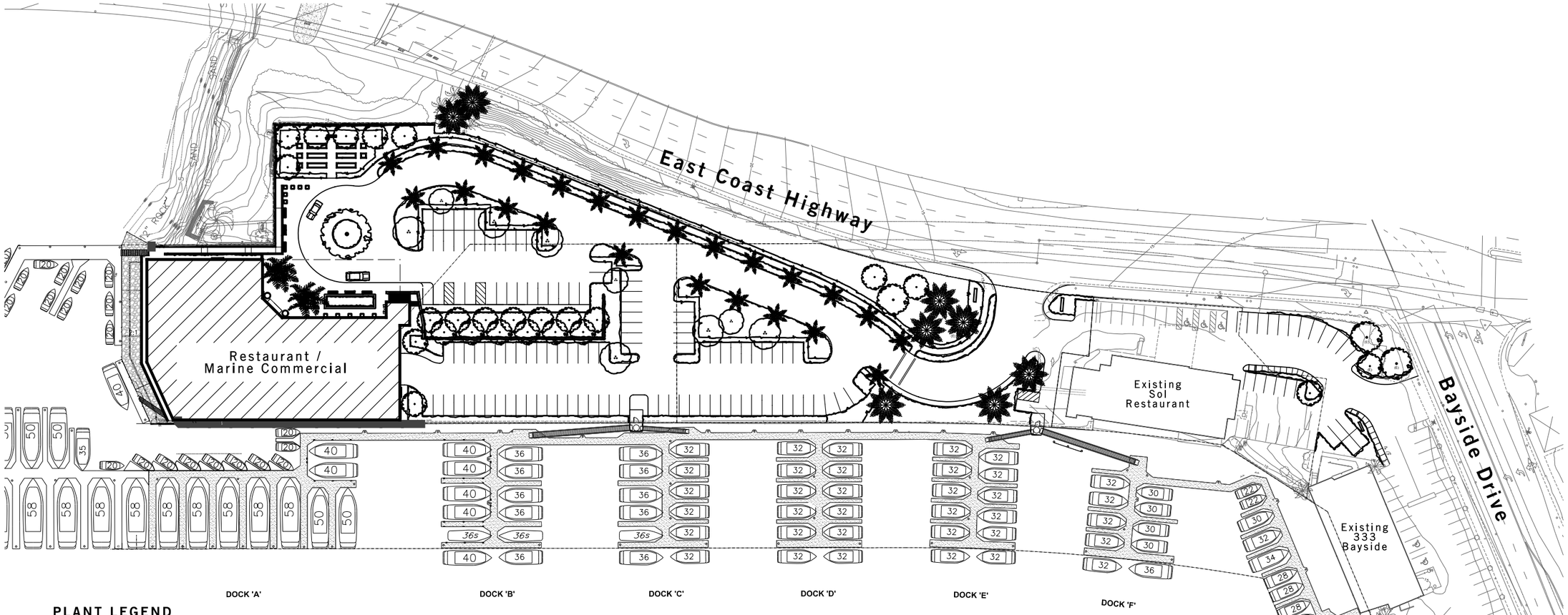
Source(s): URS (01-30-2014)

Figure 3-7
CONCEPT PLAN WITH PARKING LOT CIRCULATION AND PEDESTRIAN ACCESS

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 3-8
CONCEPTUAL ARCHITECTURAL RENDERING - BUILDING DESIGN



PLANT LEGEND

TREES

Phoenix reclinata (Senegal Date Palm)
Ficus rubiginosa (Rusty Leaf Fig)
Phoenix canariensis (Canary Island Date Palm)
Erythrina caffra (Coral Tree)
Archontophoenix cunninghamiana (King Palm)

SHRUBS

Agave attenuata (Foxtail Agave)
Alocasia spp.
Alpinia spp.
Aspidistra elatior (Cast-Iron Plant)

SHRUBS

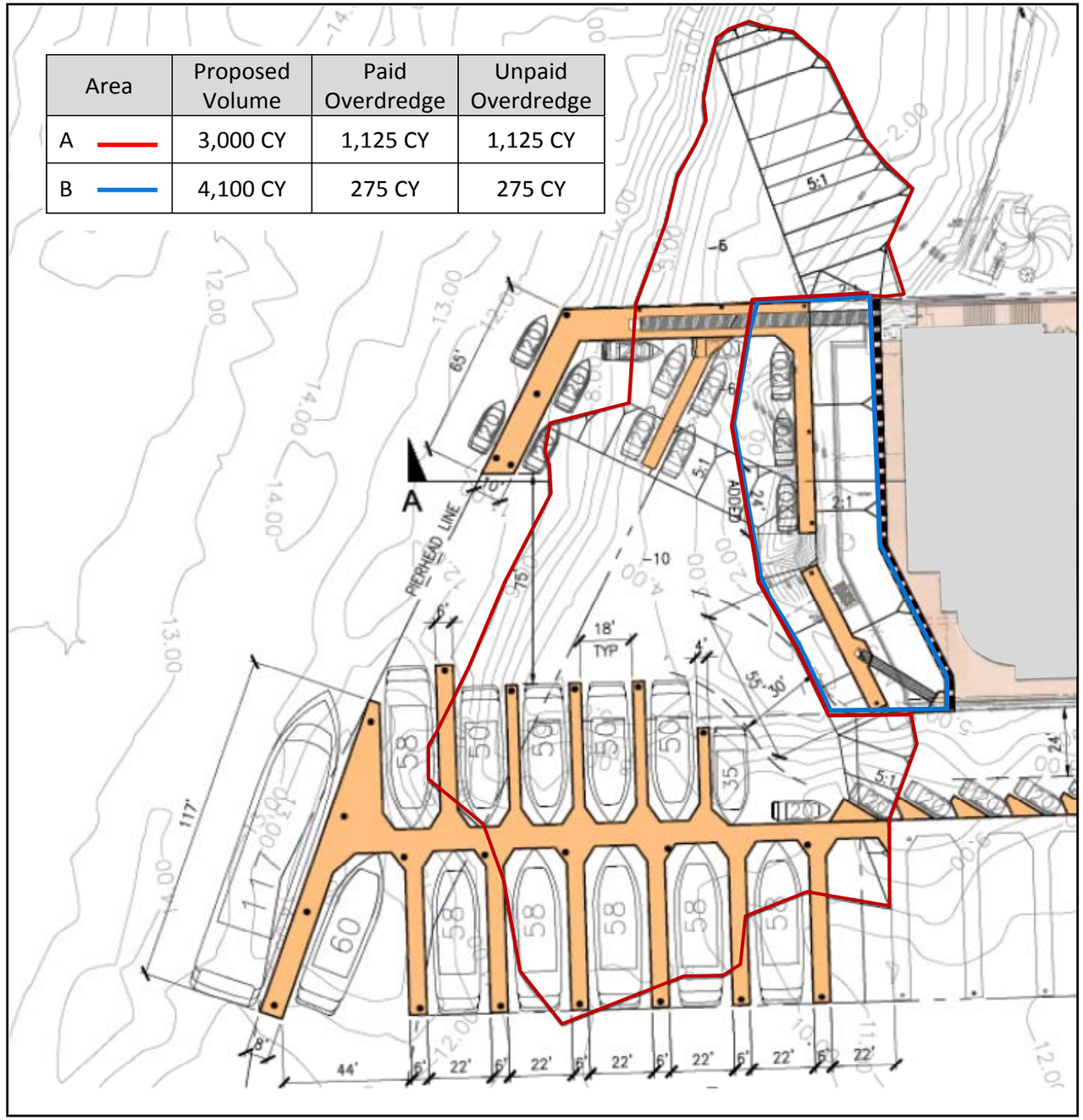
Bambusa spp.
Bougainvillea spp. (Bougainvillea)
Carissa m. 'Green Carpet' (Natal Plum)
Clivia miniata (
Dietes spp. (Fortnight Lily)
Ligustrum j. 'Texanum' (Texas Privet)
Liriope spp.
Melaleuca spp.
Nephrolepis cordifolia (Sword Fern)
Philodendron spp.
Pittosporum spp.
Prunus spp.
Rhaphiolepis i. 'Clara' (Indian Hawthorn)
Rhapis excelsa (Slender Lady Palm)
Strelitzia nicolai (Giant Bird of Paradise)
Strelitzia reginae (Bird of Paradise)

Source(s): URS (01-30-2014)

NOT TO SCALE

Figure 3-9
CONCEPTUAL LANDSCAPE PLAN

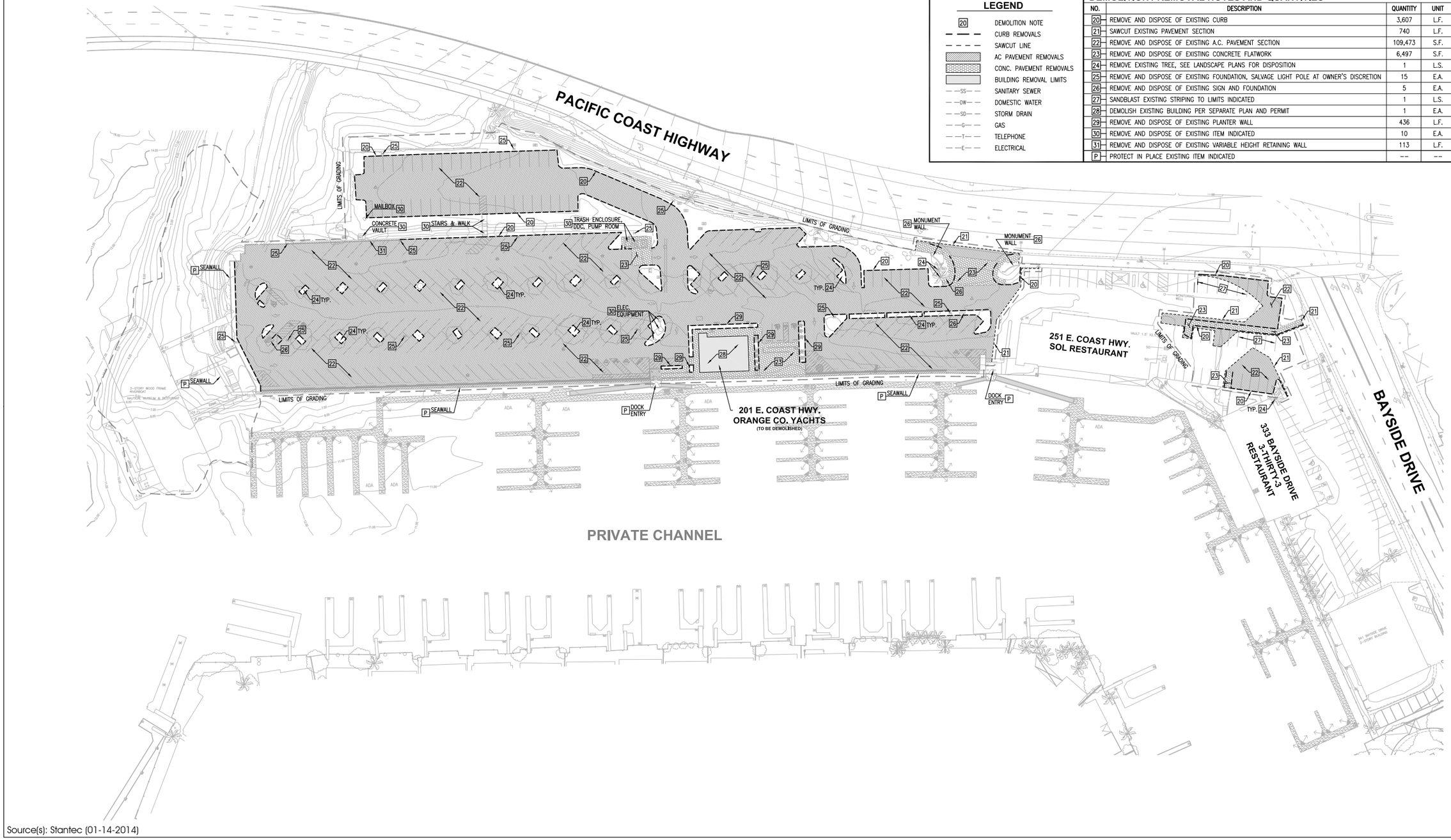
Area	Proposed Volume	Paid Overdredge	Unpaid Overdredge
A	3,000 CY	1,125 CY	1,125 CY
B	4,100 CY	275 CY	275 CY



Source(s): Newfields (02-07-2014)

NOT TO SCALE

Figure 3-10
WATER-SIDE DREDGING FOOTPRINT



LEGEND

20	DEMOLITION NOTE
	CURB REMOVALS
	SAWCUT LINE
	AC PAVEMENT REMOVALS
	CONC. PAVEMENT REMOVALS
	BUILDING REMOVAL LIMITS
—SS—	SANITARY SEWER
—DW—	DOMESTIC WATER
—SD—	STORM DRAIN
—G—	GAS
—T—	TELEPHONE
—E—	ELECTRICAL

DEMOLITION / REMOVAL NOTES AND QUANTITIES

NO.	DESCRIPTION	QUANTITY	UNIT
20	REMOVE AND DISPOSE OF EXISTING CURB	3,607	L.F.
21	SAWCUT EXISTING PAVEMENT SECTION	740	L.F.
22	REMOVE AND DISPOSE OF EXISTING A.C. PAVEMENT SECTION	109,473	S.F.
23	REMOVE AND DISPOSE OF EXISTING CONCRETE FLATWORK	6,497	S.F.
24	REMOVE EXISTING TREE, SEE LANDSCAPE PLANS FOR DISPOSITION	1	L.S.
25	REMOVE AND DISPOSE OF EXISTING FOUNDATION, SALVAGE LIGHT POLE AT OWNER'S DISCRETION	15	E.A.
26	REMOVE AND DISPOSE OF EXISTING SIGN AND FOUNDATION	5	E.A.
27	SANDBLAST EXISTING STRIPING TO LIMITS INDICATED	1	L.S.
28	DEMOLISH EXISTING BUILDING PER SEPARATE PLAN AND PERMIT	1	E.A.
29	REMOVE AND DISPOSE OF EXISTING PLANTER WALL	436	L.F.
30	REMOVE AND DISPOSE OF EXISTING ITEM INDICATED	10	E.A.
31	REMOVE AND DISPOSE OF EXISTING VARIABLE HEIGHT RETAINING WALL	113	L.F.
P	PROTECT IN PLACE EXISTING ITEM INDICATED	--	--

Source(s): Stantec (01-14-2014)

NOT TO SCALE

Figure 3-11
LAND-SIDE DEMOLITION

4.0 Project Information

1. Project Title

Balboa Marina West

2. Lead Agency Name and Address

City of Newport Beach
Community Development Department
Planning Division
100 Civic Center Drive (P.O. Box 1768)
Newport Beach, CA 92658-8915

3. Contact Person and Phone Number

Patrick Alford, City of Newport Beach Planning Program Manager (949)644-3535

4. Project Location

The Project site is located south of East Coast Highway between the Coast Highway Bridge and Bayside Drive in the City of Newport Beach, California. Specifically, the Project site comprises 4.4 acres, of which 0.87 acres is comprised of water surface and 3.5 acres is comprised of land.

5. Project Sponsors' Name and Address

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Irvine Company
550 Newport Center Drive
Newport Beach, CA 92660

6. General Plan Designation

Recreational and Marine Commercial (CM 0.3 FAR)

7. Zoning

Commercial Recreational and Marine (CM 0.3 FAR)

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.)

Please refer to Section 3.0 for a detailed description of the proposed Project.

9. Surrounding Land Uses and Setting: Briefly describe the Project's surroundings:

As previously discussed in Section 2.0 and presented in Figure 2-4, the Project site is bounded on the north by East Coast Highway and commercial development comprised of outside Recreational Vehicle (RV) and boat storage, a floating fish market, pump station, and parking, on the south by Linda Isle, a man-made island consisting of residential development with private residential docks around its perimeter, and on the east by commercial development comprised of restaurants, office buildings, a gas station, and associated parking lots, and on the west by the channel of the Lower Newport Bay.

10. Other Public Agencies Whose Approval is Required (e.g., permits, financing approval, or participation agreement)

Public Agency	Approvals and Decisions
California Coastal Commission	• Issuance of Coastal Development Permit for the Project
County of Orange	• Coordination with State Lands Commission as Trustee for submerged lands • Issuance of an Encroachment Permit
U.S. Army Corps of Engineers (USACE)	• Issuance of Clean Water Act Section 404 Permit • Issuance of Rivers and Harbors Act Section 10 Permit • Issuance of Section 103 Permit to the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)
National Marine Fisheries Service (NMFS)	• Compliance with the Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act, through consultation led by USACE
U.S. Fish and Wildlife Service (USFWS)	• Consultation with USACE regarding compliance with the Endangered Species Act (ESA) through Section 404 Permit
U.S. Environmental Protection Agency (USEPA)	• Consultation regarding suitability of dredged material management team (DMMT) approval process
U.S. Coast Guard	• Approval of temporary in-water staging location for dredging equipment
Regional Water Quality Control Board (RWQCB)	• Issuance of Section 401Water Quality Certification • Issuance of Section 402 National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit
California Department of Fish and Wildlife (CDFW)	• Letter of Authorization for harvesting and transplanting Eelgrass.

5.0 Environmental Checklist and Environmental Analysis

5.1 Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is "Less than Significant with Mitigation Incorporated," as indicated by the checklist on the following pages. There were no issues identified as a "Potentially Significant Impact."

☒ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☒ Biological Resources	☒ Cultural Resources	☐ Geology/Soils
☐ Greenhouse Gas Emissions	☒ Hazards & Hazardous Materials	☒ Hydrology/ Water Quality
☒ Land Use and Planning	☐ Mineral Resources	☒ Noise
☐ Population and Housing	☐ Public Services	☐ Recreation
☐ Transportation/ Traffic	☐ Utilities/ Service Systems	☒ Mandatory Findings of Significance

5.2 Determination (To Be Completed By the Lead Agency)

On the basis of this initial evaluation:

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

Submitted by: Patrick Alford, City of Newport Beach Planning Manager (Signature) Date 8/13/14

5.3 City of Newport Beach Environmental Checklist Summary

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
I. AESTHETICS					
Would the Project:					
a)	*Have a substantial adverse effect on a scenic vista?*	☐	☑	☐	☐
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 AND FOREST 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)	*Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*	☐	☐	☐	☑
d)	*Result in the loss of forest land or conversion of forest land to non-forest use?*	☐	☐	☐	☑

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
e)	*Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?*	☐	☐	☐	☑
III. AIR QUALITY					
Would the Project:					
a)	*Conflict with or obstruct implementation of the applicable air quality plan?*	☐	☐	☑	☐
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 Wildlife or U.S. Fish and Wildlife Service?*	☐	☑	☐	☐

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 Wildlife 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?*	☐	☑	☐	☐
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?*	☐	☑	☐	☐

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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:*	☐	☐	☑	☐
	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?*	☐	☐	☐	☑

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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. GREENHOUSE GAS EMISSIONS					
Would the Project:					
a)	*Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*	☐	☐	☑	☐
b)	*Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*	☐	☐	☐	☑
VIII. 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?*	☐	☑	☐	☐
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?*	☐	☐	☐	☑

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☑
IX. 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)?	☐	☐	☐	☑

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?*	☐	☐	☐	☑
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?*	☐	☐	☑	☐
X. LAND USE AND PLANNING					
Would the Project:					
a)	*Physically divide an established community?*	☐	☐	☐	☑

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?*	☐	☐	☐	☑
XI. MINERAL RESOURCES				
Would the Project:				
a) *Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*	☐	☐	☐	☑
b) *Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*	☐	☐	☐	☑
XII. NOISE				
Would the project result in:				
a) *Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*	☐	☑	☐	☐
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?*	☐	☐	☑	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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?	☐	☐	☐	☑
XIII. POPULATION AND HOUSING				
Would the Project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☑
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?	☐	☐	☐	☑
XIV. 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:				
Fire protection?	☐	☐	☐	☑
Police protection?	☐	☐	☐	☑
Schools?	☐	☐	☐	☑
Other public facilities?	☐	☐	☐	☑

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
XV. RECREATION					
a)	*Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*	☐	☐	☐	☑
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?*	☐	☐	☐	☑
XVI. TRANSPORTATION/TRAFFIC					
Would the Project:					
a)	*Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?*	☐	☐	☑	☐
b)	*Conflict with an applicable congestion management program, including, but not limited to level of service standard and travel demand measures, or other standards 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?*	☐	☐	☐	☑

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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)	*Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities?*	☐	☐	☐	☑
XVII. UTILITIES & SERVICE SYSTEMS					
Would the Project:					
a)	*Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*	☐	☐	☑	☐
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?*	☐	☐	☑	☐

		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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 regulation related to solid waste?*	☐	☐	☑	☐
XVIII.	**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?*	☐	☑	☐	☐
b)	*Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)*	☐	☐	☑	☐
c)	*Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*	☐	☐	☑	☐

5.4 Evaluation of Environmental Impacts

5.4.1 Aesthetics

a) Would the Project have a substantial adverse effect on a scenic vista?

Finding: Less than Significant with Mitigation Incorporated. Implementation of the proposed Project has the potential to adversely affect scenic vistas in the surrounding area. Mitigation is recommended to ensure that the future marine commercial building is designed in compliance with City General Plan and Coastal Land Use Plan policies. With implementation of the required mitigation, impacts would be reduced to a level below significant.

Figure 5-1, *Site Photos Key Map*, along with the nine (9) site photographs shown on Figure 5-2 and Figure 5-3, depict the existing conditions of the Project site as viewed from within the site and from the surrounding area. As shown on the photographic inventory, the land-side portion of the Project site is fully developed under existing conditions. The water-side portion of the site contains 105 boat slips and associated gangways accommodating vessels ranging in length from 22 to 58 feet.

As depicted on Site Photos 1 through 3 (Figure 5-2), the eastern portion of the Project site consists primarily of a paved parking lot with ornamental landscaping and light poles. Landscaping elements mostly consist of shrubs within and along the northern edge of the site, with some scattered trees provided throughout the parking lot. To the south of the parking lot is the marina, with docked boats visible beyond the pedestrian access gates. In the distance, beyond the marina, are existing residential homes located on Linda Isle. The on-site, one-story commercial marina building occupied by a yacht brokerage business also is visible in the distance in the west-central portion of the site.

As shown on Site Photo 4 (Figure 5-2) and Site Photo 5 (Figure 5-3), the western portions of the site also consist of a parking lot, with trees and shrubs scattered throughout the parking lot and a landscaped slope occurring at the north end of the parking lot. Along the western and southern edges of the parking lot is a low iron fence. A trash enclosure also occurs in the central portion of the site. Docked boats within the marina can be seen in the southwestern portions of the site, with more boats and existing residential homes on Linda Isle also visible to the south.

Site Photos 6 through 8 (Figure 5-3) shows views of the Project site from off-site locations to the west. As shown on these photos, under existing conditions the Project site appears as a parking lot with shade trees visible from areas to the west. The parking lot is surrounded by white wrought iron fencing along the north, and a low iron fence along the western and southern edges of the site. An advertisement for the existing yacht brokerage is visible on the iron fence along the site's western boundary. Along the waterfront is an existing rock embankment with sea wall, above which is bare ground with scattered vegetation. Immediately north of the site,

Source(s): ESRI, Digital Globe

NOT TO SCALE

Figure 5-1
SITE PHOTOS KEY MAP

Site Photo 1: Northwest of Project Site, along East Pacific Coast Highway, looking Southeast to Northwest

Site Photo 2: Midpoint of Project Site, looking South to North

Site Photo 3: Northwestern Edge of Project Site, along East Pacific Coast Highway, looking Southeast to Northwest

Site Photo 4: Western Point of Project Site, looking Northwest to Southwest

NOT TO SCALE

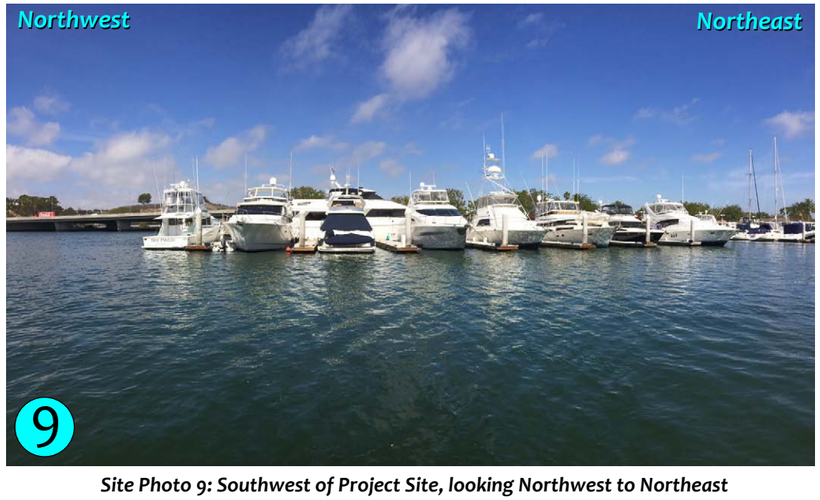
Figure 5-2
SITE PHOTOS 1 THROUGH 4

Site Photo 5: Northern Edge of Project Site, along East Pacific Coast Highway, looking Southeast to Northwest

Site Photo 6: Northwest of Project Site, along East Pacific Coast, looking East to South

Site Photo 7: Northwest of Project Site, along East Pacific Coast Highway, looking Northeast to Southeast

Site Photo 8: Southwest of Project Site, looking North to East, from Newport Bay



Site Photo 9: Southwest of Project Site, looking Northwest to Northeast

NOT TO SCALE

Figure 5-3
SITE PHOTOS 5 THROUGH 9

off-site, is an existing beach and parking lot used for boat rentals. As shown on Site Photo 6 (Figure 5-3), docked boats and residential homes are visible beyond the site to the south. As shown on Site Photos 7 and 8 (Figure 5-3), tall buildings associated with Fashion Island are visible along the horizon to the east of the site, with the Newport Bay Bridge visible immediately north of the site. Coastal bluffs also can be seen in the distance beyond the Newport Bay Bridge.

Site Photo 9 (Figure 5-3) depicts a representative view of the Project site from Linda Isle and the water surface between the Project site and Linda Isle. As shown, views of the Project site from this location primarily are composed of views of the existing boat slips and docked vessels. Shade trees within the Balboa Marina parking lot also are visible in the distance, as is the Newport Bay Bridge.

General Plan Visual Resources Policies

The Natural Resources Element of the City's General Plan identifies goals and policies for the protection of visual resources within the City. The General Plan also identifies key public view points and coastal view roads for protection and/or enhancement, which are depicted on Figure 5-4, *General Plan Coastal Views Map*. As shown on Figure 5-4, East Coast Highway and Bayside Drive are both designated as "Coastal View Roads." Additionally, and as also shown on Figure 5-4, the General Plan identifies the following public view points within close proximity to the Project site:

- Harbor Island Road at Bayside Drive
- West Coast Highway within Mariner's Mile
- Western Shore of Newport Bay Immediately North of the Coast Highway Bridge

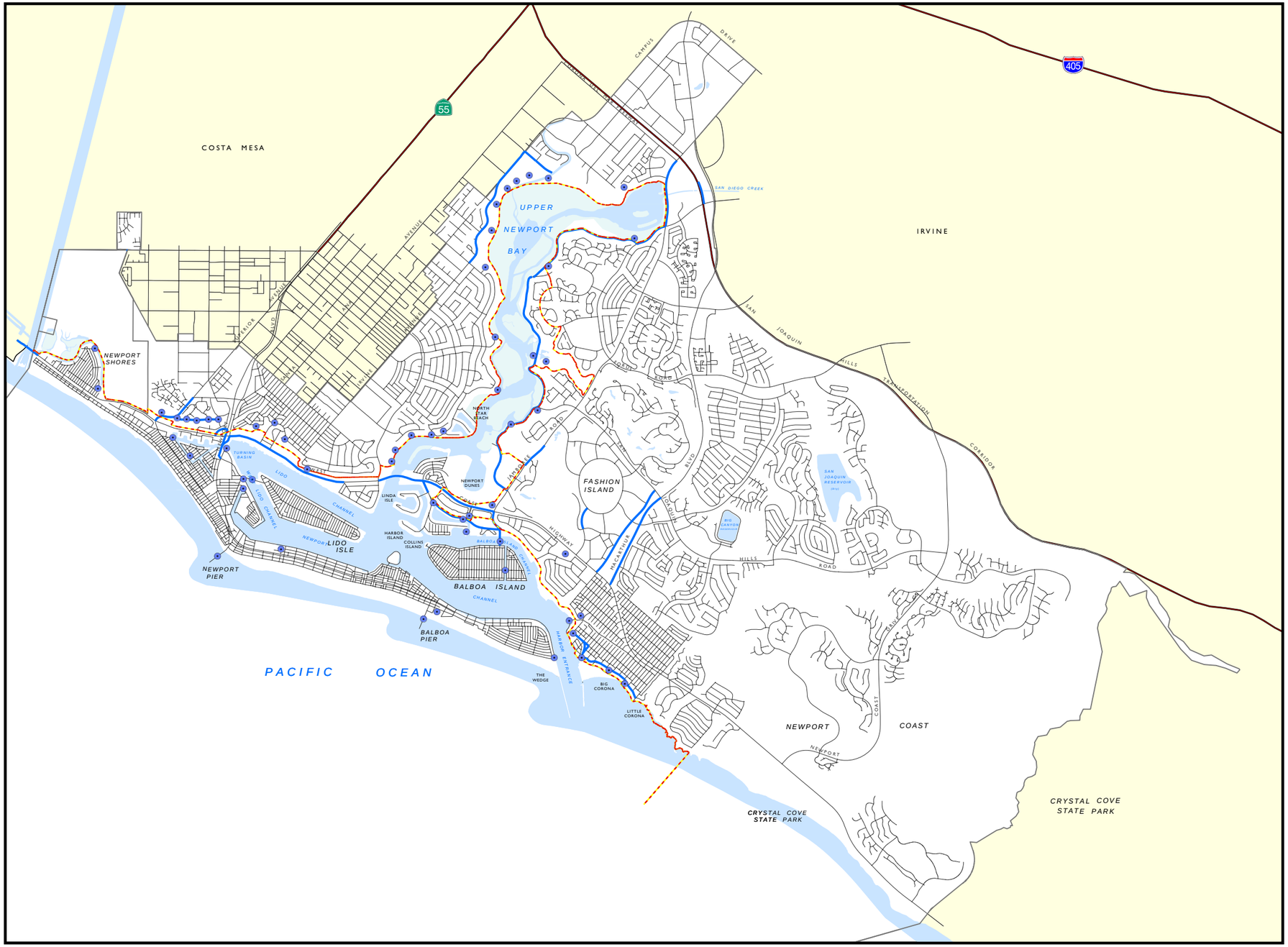
Applicable General Plan policies related to the City's coastal views are as follows:

Policy NR 20.1 *Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points, as shown in Figure NR3.*

Policy NR 20.3 *Protect and enhance public view corridors from the [Coast Highway/Newport Bay Bridge], and other locations may be identified in the future.*

Policy NR 20.4 *Design and site new development, including landscaping, on the edges of public view corridors, including those down public streets, to frame, accent, and minimize impacts to public views.*

Related to the City's key public view points and coastal view roads, Site Photo 1 (Figure 5-2) depicts views of the Project site from Bayside Drive near the intersection with East Coast Highway. Site Photos 5 and 6 (Figure 5-3) depict views of the site from the Newport Bay Bridge.



Source(s): City of Newport Beach General Plan (07-24-2006)

NOT TO SCALE

Figure 5-4
GENERAL PLAN COASTAL VIEWS MAP

Site Photo 5 also represents views of the site from Newport Bay north of the Coast Highway Bridge. Although the Project site is in close proximity to Mariner's Mile, the site is not visible along East Coast Highway within Mariner's Mile due to intervening development and landscaping. The site also would not be visible from the intersection of Harbor Island Road at Bayside Drive, as views of the site from this location are completely obstructed by existing residential development and associated landscaping. Additional public view points are identified on Figure 5-4 within relatively close proximity to the site; however, the Project site is not visible from these additional view points due to intervening topography, landscaping, and development.

Although not identified as a public view point on Figure 5-4, an existing public access ramp occurs at the west end of the Newport Bay Bridge, along the south side of East Coast Highway. This location, which is depicted on Site Photo 7 (Figure 5-3), provides prominent views of Newport Bay and the Project site. The existing pathway at this location is utilized by the public to access trails available along the western shore of Newport Harbor, beneath the Newport Harbor Bridge. As such, this location also is analyzed herein.

An existing residential community occurs on Linda Isle. Homes along the northern shore of Linda Isle and boaters in Newport Bay have prominent views of Balboa Marina. Because the proposed Project has the potential to affect views from Newport Bay, this location also is analyzed herein. Private views from residential properties on Linda Isle are not subject to analysis under CEQA; regardless, views from Linda Isle would be affected in approximately the same manner as views experienced by boaters using Newport Bay and the water channel between Linda Isle and the Project site.

As previously indicated, and to summarize, the Project site would only be visible from one (1) of the view points identified on the General Plan Coastal Views Map (Figure 5-4): along the western shore of Newport Bay immediately north of the Coast Highway Bridge. Additionally, the Project site would be visible from portions of East Coast Highway and Bayside Drive, both of which are identified by the General Plan as Coastal View Roads. Moreover, Newport Bay is a major recreational resource within the City, and the Project has the potential to adversely affect views from Newport Bay.

Analysis of Potential Impacts to Coastal View Roads

- *Bayside Drive and East Coast Highway Easterly of Bayside Drive*

Site Photo 1 (Figure 5-2) depicts views of the Project site from Bayside Drive near the intersection with East Coast Highway. This is the only portion of Bayside Drive from which the Project site is visible, as views from the remaining segments of Bayside Drive are obstructed by existing development and landscaping. As shown, existing views of the Project site from Bayside Drive and from segments of East Coast Highway located easterly of Bayside Drive encompass the existing parking lot and the existing Sol Restaurant. Views of the remaining portions of the site are obstructed from this location by the existing restaurant building and parking lot landscaping. Upon implementation of the proposed Project, only minor improvements to the reconfigured parking lot and associated landscaping would be visible from this location. The proposed marine commercial building would not be visible from any portion of Bayside Drive, nor would it

be visible from segments of East Coast Highway located easterly of Bayside Drive. Because the Project site appears as an existing parking lot with landscaping under existing conditions, and the only Project-related improvements that would be visible would consist of the reconfigured parking lot and new landscaping, the Project would have a less-than-significant impact on these Coastal View Roads.

- *East Coast Highway Westerly of Bayside Drive*

Visual Simulation Nos. 2, 3, and 4 (refer to Figure 5-7 through Figure 5-9) depict a comparison of existing views available from this segment of East Coast Highway, along with renderings of how the site would appear following Project implementation. As shown, under existing conditions the Project site appears as an existing parking lot with shade trees visible throughout. The rip-rap slope and seawall also are visible at the Project site's interface with Newport Bay. Several docked boats are visible along the southern edge of the site. The existing one-story on-site marine commercial building occupied by a yacht brokerage is not visible from the Newport Bay Bridge, although views of this existing building are afforded further east along East Coast Highway (i.e., between the bridge and Bayside Drive).

As shown on Figure 5-7 through Figure 5-9, with implementation of the proposed Project, the proposed marine commercial building, gangways, and new public and private boat slips (and associated boats) would be visible from this segment of East Coast Highway. The proposed boat slips and docked boats would not represent a substantial change in the site's existing visual character, as the new boat slips would merely comprise an extension of the existing boat slips occurring in this portion of Newport Harbor. Likewise, improvements planned to the parking lot would not represent a substantial change to the site's existing visual character, as such improvements would be scarcely visible from off-site locations. However, the proposed marine commercial building would represent a substantial change to existing views from East Coast Highway, and therefore has the potential to adversely affect views from East Coast Highway westerly of Bayside Drive.

Because the Approval in Concept (AIC) application currently on file with the City of Newport Beach includes a conceptual building design, specifics regarding the building's architectural characteristics are not definitive at this time. The visual simulations presented on Figure 5-7 through Figure 5-9 reflect a conceptual design for the building. Specifics regarding the building's architecture would be identified as part of the Project's Site Development Review (SDR), which is a subsequent application that would be submitted to the City should the AIC be approved. Although the proposed building's massing, height, color scheme, and general architectural style would be compatible with similar uses in the Project vicinity, including the existing restaurants located east of the Project site, it is not possible by review of the AIC to definitely determine if the architectural components of the proposed marine commercial building would adversely affect views from this segment of East Coast Highway. Therefore, in order to ensure that the proposed building would not adversely affect views from East Coast Highway, the City has imposed Mitigation Measure MM AE-1 on the proposed Project to ensure compliance with General Plan and Coastal Land Use Plan policies, which specify architectural standards that must be incorporated into the

design for the proposed marine commercial building. The standards identified in the General Plan and Coastal Land Use Plan would ensure that the future design of the marine commercial building is aesthetically enhanced and compatible with existing development in the surrounding area.

Accordingly, although the construction of a new 19,400 SF marine commercial building would represent a substantial change to the site's existing appearance, mandatory compliance with Mitigation Measure MM AE-1 would ensure that the future building is designed to comply with City of Newport Beach General Plan and Coastal Land Use Plan policies. With implementation of Mitigation Measure MM AE-1, the proposed marine commercial building would appear as a continuation of existing development patterns visible in this portion of Newport Harbor. Accordingly, with implementation of the required mitigation, the Project's potential visual impacts to this segment of East Coast Highway would be reduced to a level below significant.

Analysis of Potential Impacts to Public View Points

- *Western Shore of Newport Bay Immediately North of Coast Highway Bridge*

Visual Simulation 5 (Figure 5-10) depicts existing views of the site from a publicly-accessible trail located in Castaways Park, west of Newport Bay and north of East Coast Highway. As shown, under existing conditions the Project site is scarcely visible beyond the Coast Highway Bridge from this location. Existing site elements visible from this location include shade trees within the parking lot, small portions of the parking lot itself, and docked boats located along the southern edge of the Project site. Dominating views from this location are the Coast Highway Bridge and existing residences located on Linda Isle, as well as Newport Harbor itself.

As shown in the visual simulation presented on Figure 5-10, with implementation of the proposed Project the upper portions of the proposed marine commercial building would be visible, as would additional boats that would utilize the new public and private boat slips. The proposed boat slips and docked boats would not represent a substantial change in the site's existing visual character, as the new boat slips would merely comprise an extension of the existing boat slips available in this portion of Newport Harbor. Additionally, improvements to the parking lot would not be prominently visible from this location and would not appear substantially different from the existing condition. Although some minor changes to the configuration of the site's shade trees are proposed, the new landscaping would not substantially change the site's visual character as viewed from this location. The introduction of the new marine commercial building to this vantage point would be visible and perceived as a visual change as compared to the existing condition.

Because the AIC application currently on file with the City of Newport Beach includes a conceptual building design, specifics regarding the building's architectural characteristics are not definitive at this time. The visual simulation presented in Figure 5-10 is based on a conceptual design of the building. Specifics regarding the building's architectural details would be specified in a subsequent application, as part of the Project's Site Development Review (SDR), should the AIC be approved.

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 5-5
PHOTO SIMULATION KEY MAP

BEFORE

AFTER

Source: BCV (06-23-2014)

NOT TO SCALE

Figure 5-6
VISUAL SIMULATION 1

BEFORE

AFTER

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 5-7
VISUAL SIMULATION 2

BEFORE

AFTER

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 5-8
VISUAL SIMULATION 3

BEFORE

AFTER

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 5-9
VISUAL SIMULATION 4

BEFORE

AFTER

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 5-10
VISUAL SIMULATION 5

BEFORE

AFTER

Source(s): BCV (06-23-2014)

NOT TO SCALE

Figure 5-11
VISUAL SIMULATION 6

Although the proposed building's massing, height, color scheme, and architectural style would appear generally consistent with the existing residential homes on Linda Isle from this vantage, it is not possible to definitively determine whether the proposed architectural components of the building would adversely affect views from this location based on the conceptual building design contained in the AIC application. Therefore, in order to ensure that the proposed building does not adversely affect views from this public view point, the City has imposed Mitigation Measure MM AE-1, which specifies architectural standards that must be incorporated into the design of the proposed marine commercial building. The standards identified in Mitigation Measure MM AE-1 are intended to ensure that the future design of the marine commercial building is aesthetically enhanced and compatible with existing development in the surrounding area.

Accordingly, although the construction of a new 19,400 SF marine commercial building would represent a substantial change to the site's existing appearance, mandatory compliance with Mitigation Measure MM AE-1 would ensure that the future building is designed to comply with applicable City of Newport Beach General Plan and Coastal Land Use Plan policies. With implementation of Mitigation Measure MM AE-1, the proposed marine commercial building would appear as a continuation of existing development patterns visible in this portion of Newport Harbor. Accordingly, impacts to publicly accessible areas located northerly of the Coast Highway Bridge on the west side of Newport Harbor would be less than significant.

- *Existing Pedestrian Ramp at West End of Coast Highway Bridge*

Existing views of the Project site from the existing pedestrian ramp are similar to those described above for the segment of East Coast Highway located westerly of Bayside Drive (refer to Figure 5-7 through Figure 5-9). As indicated in the above analysis of this segment of East Coast Highway, the only element of the Project that has the potential to adversely affect scenic views available from the existing pedestrian ramp would be the proposed marine commercial building, primarily because the architectural components of the proposed structure would not be defined until future applications for an SDR are filed with the City. In order to ensure that the proposed building does not adversely affect views from this existing pedestrian ramp, the City has imposed Mitigation Measure MM AE-1 on the proposed Project, which specifies that the building must comply with the City's General Plan and Coastal Land Use Plan policies, which include architectural standards that must be incorporated into the design for the proposed marine commercial building. Compliance with applicable policies would ensure that the future design of the marine commercial building is aesthetically enhanced and compatible with existing development in the surrounding area.

Accordingly, although the construction of a new 19,400 SF marine commercial building would represent a substantial change to the site's existing appearance, mandatory compliance with Mitigation Measure MM AE-1 would ensure that the future building is designed to comply with City of Newport Beach General Plan and Coastal Land Use Plan policies. With implementation of Mitigation Measure MM AE-1, the proposed marine commercial building would appear as a continuation of existing development patterns visible in this portion of Newport Harbor. Accordingly, with implementation of

the required mitigation, the Project's visual impacts to the existing pedestrian ramp would be reduced to a level below significant.

- *Boaters in Newport Bay (and Linda Isle Residences)*

Boaters in Newport Bay have prominent views of the Balboa Marina and the proposed Project has the potential to affect existing public views from the water. Private views from residential properties on Linda Isle are not subject to analysis under CEQA; regardless, views from Linda Isle would be affected in approximately the same manner as views experienced by boaters using Newport Bay and the water channel between Linda Isle and the Project site. Site Photo 9 (Figure 5-3) depicts a representative view of the Project site from Newport Bay. As shown, views of the Project site from this location under existing conditions primarily include views of the existing boat slips and docked vessels. Shade trees within the parking lot also are visible in the distance, as is the Newport Bay Bridge.

Figure 5-11 and Figure 5-6 depict visual simulations of the proposed marine commercial building and new boat slips as they would be visible from Linda Isle and the Newport Bay Channel. As shown, with implementation of the Project, additional docked boats would be visible at the west end of the existing boat slips, while the proposed marine commercial building and portions of the site's landscaping would be visible above the docked boats. The addition of boat slips would not represent a significant adverse change, as the new docked boats and boat slips would merely appear as a continuation of the existing boat slips that dominate this portion of the Newport Harbor. Additionally, proposed landscape elements would not appear substantially different from the existing condition. Thus, the Project's only potential to impact views from boaters using Newport Bay would be associated with the proposed marine commercial building.

Because the AIC application currently on file with the City of Newport Beach includes a conceptual building design, specifics regarding the building's architectural characteristics are not definitive at this time. The visual simulation presented on Figure 5-11 reflects a conceptual design for the building. Specifics regarding the building's architecture would be identified as part of the Project's SDR, which is a subsequent application that would be submitted to the City should the AIC be approved. Although the proposed building's massing, height, color scheme, and general architectural style would appear generally consistent with the existing developments visible from this location (i.e., existing restaurants located easterly of the Project site), it is not possible by review of the AIC to definitely determine if the architectural components of the proposed marine commercial building would adversely affect views from the water surface of Newport Bay. Therefore, in order to ensure that the proposed building does not adversely affect views, the City has imposed Mitigation Measure MM AE-1 on the proposed Project, which specifies that the building design must comply with applicable General Plan and Coastal Land Use Plan policies, compliance with which would ensure that the future design of the marine commercial building is aesthetically enhanced and compatible with existing development in the surrounding area.

Accordingly, although the construction of a new 19,400 SF marine commercial building would represent a substantial change to the site's existing appearance, mandatory compliance with Mitigation Measure MM AE-1 would ensure that the future building is designed to comply with City of Newport Beach General Plan and Coastal Land Use Plan policies. With implementation of Mitigation Measure MM AE-1, the proposed marine commercial building would appear as a continuation of existing development patterns visible in this portion of Newport Harbor. Accordingly, impacts to public views would be less than significant.

Conclusion

As indicated in the preceding analysis, although the Project would introduce a new marine commercial building that could be perceived as a substantial change to the existing views of the site from off-site locations, implementation of Mitigation Measure MM AE-1 would ensure that the future marine commercial building is designed in a manner that provides architecturally enhanced components while demonstrating compatibility with existing developed elements in the surrounding viewshed. Changes due to the introduction of new boat slips would be less than significant because the new boat slips would merely appear as an extension of the existing boat slips that occur in Newport Harbor. Additionally, improvements to the parking lot and associated landscaping would not be prominently visible from off-site locations and would not represent a substantial change as compared to the existing condition. Therefore, and assuming implementation of Mitigation Measure MM AE-1, Project-related impacts to scenic vistas would be reduced to below a level of significance.

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b) Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?

Finding: No Impact. Implementation of the proposed Project would not damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway. The Project site is not visible from a State scenic highway. Therefore, there is no potential for impacts to occur.

The State Legislature created a Scenic Highway Program in 1963, which is intended to preserve and protect scenic highway corridors from change that would diminish the aesthetic value of lands adjacent to highways. There are no officially designated scenic vistas or scenic highways within the City of Newport Beach; however, State Route 1 (SR-1, "East Coast Highway") is identified as Eligible for State Scenic Highway designation. A State scenic highway changes from eligible to officially designated when the local jurisdiction adopts a scenic corridor protection program, applies to the California Department of Transportation (Caltrans) for scenic highway approval, and receives notification from Caltrans that the highway has been designated as a Scenic Highway. The City must also adopt ordinances to preserve the scenic quality of the corridor or document such regulations that already exist in local codes. (Newport Beach, 2006b, p. 4.1-13)

There are no officially designated scenic vistas or scenic highways within Newport Beach. Although SR-1 (East Coast Highway) is identified as Eligible, the City has not applied for State designation.

Under existing conditions, the Project site consists of the existing Balboa Marina, including an improved parking lot, one one-story building, and 105 boat slips with associated gangways. As shown on Site Photos 1 through 4 (Figure 5-2) and Site Photo 5 (Figure 5-3), the Project site does not contain scenic trees or rock outcroppings. Additionally, no historic resources are located on the property. Newport Harbor is considered scenic. The proposed Project has no potential to damage scenic resources within a State scenic highway, because East Coast Highway is not a State scenic highway. Accordingly, no impact would occur to scenic resources visible from a State scenic highway.

c) Would the Project substantially degrade the existing visual character or quality of the site and its surroundings?

Finding: Less than Significant with Mitigation Incorporated. Because the AIC application currently on file with the City of Newport Beach includes a conceptual design of the Project's proposed marine commercial building, specifics regarding the building's architectural characteristics are not definitive at this time. In order to ensure that the future design of the building does not degrade the existing visual character of the site and its surroundings, mitigation is recommended. With implementation of the required mitigation, impacts would be reduced to a level below significant.

The Project proposes to demolish the existing Balboa Marina parking lot and existing one-story building containing a yacht brokerage, construct a new marine commercial building, reconfigure the existing parking lot and associated landscaping, construct a new public boat dock, and add 24 new private boat slips to the private marina. As discussed earlier in this section, installation of a new public boat dock and additional private boat slips would appear as an extension of the existing boat slips located in this portion of Newport Harbor; accordingly, the proposed boat slips would not substantially degrade the existing visual character or quality of Newport Harbor or its surroundings. Similarly, the proposed reconfiguration of the existing parking lot and associated landscape improvements would not be prominently visible from off-site locations, and to the extent these improvements are visible, they would not differ markedly from the site's existing condition. The amount of landscaping is proposed to increase from approximately 15% coverage to 25% coverage, which would provide greater visual relief to the paved parking surfaces.

The proposed marine commercial building is the Project's only component with a potential to adversely affect the existing visual character or quality of the site or its surroundings. Because the AIC application currently on file with the City of Newport Beach includes a conceptual design of the Project's proposed marine commercial building, specifics regarding the building's architectural characteristics are not definitive at this time. Specifics regarding the building's architecture would be identified

as part of the Project's SDR, which is a subsequent application that would be submitted to the City should the AIC be approved. Although the proposed building's massing, height, color scheme, and general architectural style would be compatible with similar uses in the Project site's vicinity, it is not possible by review of the AIC to definitely determine if the components of the proposed marine commercial building would adversely affect the visual quality or character of the site or its surroundings.

In order to ensure that no elements of the proposed structure's architectural design would degrade the existing visual character of the site or its surroundings, Mitigation Measure MM AE-1 is recommended related to architectural standards that must be incorporated into the design of the proposed marine commercial building. Mandatory compliance with Mitigation Measure MM AE-1 would ensure that the future building is designed to comply with City of Newport Beach General Plan and Coastal Land Use Plan policies and reduce potential visual character impacts to a level below significant.

During the Project's temporary construction period, construction equipment, supplies, and activities would be visible on the subject property from immediately surrounding areas. The major construction equipment expected to be used is described in Section 3, *Project Description*. Construction activities are a common occurrence in the City of Newport Beach and the region of southern California and are not considered to substantially degrade the area's visual quality. All construction equipment would be removed from the Project site following completion of the Project's construction activities. For these reasons, the temporary visibility of construction equipment and activities at the Project site would not substantially degrade the visual character of the surrounding area. Visual character changes associated with construction would be less-than-significant.

d) Would the Project create a new source of substantial light or glare which would adversely affect day or nighttime views?

Finding: Less-than-Significant Impact with Mitigation Incorporated. With mandatory adherence to the City of Newport Beach Zoning Code Section 20.30.070 (Outdoor Lighting), the Project would not produce a new source of artificial light that could adversely affect day or nighttime views. Because the AIC application currently on file with the City of Newport Beach includes a conceptual design of the Project's proposed marine commercial building, specifics regarding the building's exterior architectural materials are not definitive at this time. In order to ensure that the future design of the building does not include reflective materials that could cause glare, PDFs are recommended. With implementation of the recommended PDFs, impacts would be reduced to a level below significant.

Section 20.30.070 (Outdoor Lighting) of the City's Zoning Code regulates outdoor lighting, and includes standards that are intended "…to reduce the impacts of glare, light trespass, overlighting, sky glow, and poorly shielded or inappropriately directed lighting fixtures…" (Newport Beach, 2012a, § 20.30.070). The City of Newport Beach is primarily built-out; therefore, a substantial amount of ambient light from urban uses

already exists. Similar to other developed urban areas, sources of light and glare include neon signs, glass building facades, streetlights, parking lot lights, automotive headlights, etc. (City of Newport Beach, 2006b, pp. 4.1-13)

All development within the City is required to comply with Section 20.30.070 (Outdoor Lighting) of the City's Zoning Code, including the following requirements:

> *All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures* (Newport Beach, 2012a, § 20.30.070.A.1).
>
> *Spotlighting or floodlighting used to illuminate buildings, statues, signs, or any other objects mounted on a pole, pedestal, or platform or used to accentuate landscaping shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the feature with minimum spillover. The lighting shall not shine directly into the window of a residence or directly into a roadway. Light fixtures attached to a building shall be directed downward* (Newport Beach, 2012a, § 20.30.070.C).

Dock and gangway lighting would be provided as currently exists at the Balboa Marina and would be located under the handrails. Parking lot lighting is proposed to be upgraded to energy-efficient fixtures. Fixtures would be placed to reduce "spill over" lighting to surrounding properties. The proposed fixtures are a combination of decorative and utilitarian poles and are required to be spaced to comply with City of Newport Beach minimum light level requirements and to meet standard safety requirements. The proposed marine commercial building would also introduce artificial light sources, including lights inside the building and visible through windows, lights mounted on the exterior walls of the building, and lights placed in the proposed outdoor patio that would be visible from off-site locations.

Because the parking lot is illuminated by light fixtures under existing conditions, there would be no increase in the amount of ambient light generated by the parking lot with implementation of the proposed Project. As such, planned replacement of the parking lot lighting elements would not represent a new source of light or glare that could adversely affect daytime or nighttime views. Therefore, there would be no impact in association with parking lot lighting elements.

The primary source of new lighting elements associated with the Project would be from the new gangway lighting fixtures as well as lighting elements anticipated as part of the new marine commercial building. Although this represents an increase in lighting levels on the site as compared to the existing condition, the proposed lighting elements would be consistent with other lighting elements that occur both on-site and within the surrounding area. The new gangway lighting would be similar in character to the lighting elements already associated with the Balboa Marina's existing gangways. Furthermore, the gangway lighting would be installed under the handrails, thereby

preventing any light from spilling on to adjacent properties or creating a new source of sky glow.

Similarly, lighting that would be associated with the marine commercial building and its outdoor patio would be similar to existing lighting sources in the area. Lighting is anticipated to consist of relatively low levels of illumination, and would appear similar in intensity to lighting associated with existing restaurant and residential uses in the Project's viewshed.

Furthermore, proposed lighting elements would be subject to Section 20.30.070 (Outdoor Lighting) of the City's Zoning Code, which regulates outdoor lighting, and includes standards that are intended "…to reduce the impacts of glare, light trespass, overlighting, sky glow, and poorly shielded or inappropriately directed lighting fixtures…" (Newport Beach, 2012a, § 20.30.070). Due to mandatory compliance with Zoning Code Section 20.30.070 and the relatively minor increase in lighting intensity proposed by the Project, Project lighting elements would have a less-than-significant impact on nighttime views.

Although not anticipated, the proposed marine commercial building has the potential to create new sources of glare if constructed of materials with a high reflective value (e.g., metal, glass, etc.). Because the AIC application currently on file with the City of Newport Beach includes a conceptual design of the Project's proposed marine commercial building, specifics regarding the building's exterior architectural materials are not definitive at this time. However, the architectural design concept is a Mediterranean style, which does not typically include expansive metal and reflective glass elements. In order to ensure that the future design of the building does not include reflective materials that could cause glare, Mitigation Measure MM AE-2 is recommended. With implementation of the required mitigation, impacts would be reduced to a level below significant.

Aesthetics : Mitigation Measures

MM AE-1 Prior to approval of a Site Development Review, the City Planning Division shall review the proposed architectural design of the marine commercial building to ensure that the design complies with applicable policies of the City's General Plan and Coastal Land Use Plan related to architectural character and aesthetics.

MM AE-2 Prior to approval of a Site Development Review, the City Planning Division shall review the architectural design of the proposed marine commercial building to ensure that non-reflective materials and colors that are complimentary to the surrounding area are used.

Implementation of Mitigation Measures MM AE-1 and MM AE-2 would reduce the Project's potential impacts to aesthetics to below a level of significance.

5.4.2 Agriculture and Forestry Resources

a) Would the Project 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?

Finding: No Impact. The Project site contains developed marina and water surface and is identified by the California Department of Conservation (CDC) as containing "Urban and Built-Up Land." In addition, the Project site does not contain any soils mapped by the CDC as Prime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance. Accordingly, the proposed Project would not 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 would occur and mitigation is not required.

The City of Newport Beach, including the Project site, is almost entirely built-out and does not contain any significant agricultural resources (City of Newport Beach, 2006b, Appendix A, p. 23). Additionally, according to mapping conducted by the CDC as part of the Farmland Mapping & Monitoring Program (FMMP), the Project site is identified as containing "Urban and Built-Up Land." The Project site and surrounding areas do not contain any soils mapped by the CDC as P rime Farmland, Farmland of Statewide Importance, Unique Farmland, or Farmland of Local Importance. (CDC, 2010)

Accordingly, implementation of the proposed Project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the FMMP of the California Resources Agency, to non-agricultural use. Thus, no impact would occur and no mitigation is required.

b) Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?

Finding: No Impact. According to information available from the California Department of Conservation (CDC), there are no agricultural lands subject to a Williamson Act Contract within the City of Newport Beach. The Project has no potential to conflict with existing zoning for agricultural use, or a Williamson Act Contract. No impact would occur and mitigation is not required.

The Project site is zoned Commercial Recreational and Marine (CM 0.3 FAR). Properties north of the Project site and north of East Coast Highway are zoned as Planned Community (PC-9). Properties bordering the Lower Newport Bay channel and located east of the Project site are zoned Commercial Recreational and Marine (CM 0.3 FAR). East of Bayside Drive properties are zoned Commercial General (CG 0.3 FAR).

Properties located to the south on Linda Isle are zoned Single-Unit Residential (R-1). There are no existing or proposed agricultural zoning designations affecting the Project site or surrounding area. As such, the Project has no potential to conflict with agricultural zoning designations, and no impact would occur.

According to information available from the California Department of Conservation (CDC), there are no agricultural lands subject to a Williamson Act Contract within the City of Newport Beach. Accordingly, the proposed Project would not conflict with a Williamson Act contract. (CDC, 2012). No impact would occur and no mitigation is required.

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c) Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

Finding: No Impact. There are no lands within the City of Newport Beach, including the Project site and properties surrounding the Project site, that are zoned for forest land, timberland, or timberland zoned Timberland Production. The Project site contains a developed marina and water surface area. Accordingly, the proposed Project has no potential to conflict with existing forest land, timberland, or timberland zoned Timberland Production areas. No impact would occur and mitigation is not required.

The Project site and surrounding land areas are fully developed with urban uses under existing conditions. There are no forest resources on the site or within the vicinity of the Project site.

There are no lands within the City of Newport Beach, including the Project site and properties surrounding the Project site, that are zoned for forest land, timberland, or timberland zoned Timberland Production (Newport Beach, 2010). Accordingly, the proposed Project has no potential to impact properties zoned for forest land, timberland, or timberland zoned Timberland Production. As such, no impact would occur and no mitigation is required.

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d) Would the Project result in the loss of forest land or conversion of forest land to non-forest use

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Finding: No Impact. The Project site is comprised of a developed marina and water surface area and does not contain forest land. Accordingly, the proposed Project would not result in the loss of forest land or conversion of forest land to non-forest use. No impact would occur and mitigation is not required.

The City of Newport Beach, including the Project site and properties surrounding the Project site, does not contain any forest lands (City of Newport Beach, 2006b, Table 3-2). Accordingly, the proposed Project has no potential to result in the loss of forest land

or the conversion of forest land to non-forest use. No impact would occur and no mitigation is required.

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

Finding: No Impact. The proposed Project would not involve any changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or the conversion of forest land to non-forest use. No impact would occur and mitigation is not required.

As indicated in the analysis presented above under the discussion and analysis of Thresholds a) through d) of this section, the Project site and surrounding areas do not contain any lands that are used for farmland or forest land. Accordingly, the proposed Project would not involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or the conversion of forest land to non-forest use. Thus, no impact would occur and no mitigation is required.

Agriculture and Forestry Resources: Mitigation Measures

Implementation of the proposed Project would not impact agriculture and forestry resources. Thus, no impact would occur and no mitigation measures are required.

5.4.3 *Air Quality*

a) Would the Project conflict with or obstruct implementation of the applicable air quality plan?

Finding: Less-than-Significant Impact. The proposed Project would not conflict or obstruct implementation of the South Coast Air Quality Management District's (SCAQMD's) 2012 Air Quality Management Plan (AQMP). Impacts would be less than significant and mitigation is not required.

The Project site is located within the South Coast Air Basin (SCAB or "Basin"). The SCAB encompasses approximately 6,745 square miles and includes Orange County and the non-desert portions of Los Angeles, Riverside, and San Bernardino counties. The SCAB is bound by the Pacific Ocean to the west; the San Gabriel, San Bernardino, and San Jacinto Mountains to the north and east, respectively; and the San Diego County line to the south. The South Coast Air Quality Management District (SCAQMD) works directly with the Southern California Association of Governments (SCAG), county transportation commissions, local governments, and state and federal agencies to reduce emissions from stationary, mobile, and indirect sources to meet state and federal ambient air quality standards.

The Federal Clean Air Act (1977 Amendments) required that designated agencies in any area of the nation not meeting national clean air standards must prepare a plan demonstrating the steps that would bring the area into compliance with all national standards. The SCAB could not meet the deadline for meeting federal attainment standards for ozone, nitrogen dioxide, carbon monoxide, or course particulate matter (PM_{10}). In response, the SCAQMD has adopted a series of Air Quality Management Plans (AQMPs) to reduce air emissions in the Basin. The current attainment status of the SCAB is shown on Table 5-1, *SCAB Regional Criteria Pollutant Attainment Status*, below.

SCAQMD adopted the most recent updates to their AQMP in December 2012. The 2012 AQMP provides an outline to achieve reductions in emissions while improving air quality within the SCAB. (KPC EHS, 2014, p. 6) The 2012 AQMP relies on the Southern California Association of Governments' (SCAG's) 2012 Regional Transportation Plan (RTP), which assumes the implementation of land uses called for by adopted General Plans throughout the SCAG region, to predict air pollutant emissions and plan for air quality improvement.

The SCAQMD has established criteria for determining consistency with their AQMP. These criteria are defined in Chapter 12, Sections 12.2 and 12.3 of the SCAQMD CEQA Air Quality Handbook and are discussed below. As indicated in the below analysis, the proposed Project would be consistent with the 2012 AQMP. There are no other air quality plans applicable to the Project area. Accordingly, impacts due to a potential conflict with or obstruction of the implementation of an applicable air quality plan would be less than significant. (KPC EHS, 2014, p. 31)

Table 5-1 SCAB Regional Criteria Pollutant Attainment Status

Pollutant	State	Federal
Ozone	Extreme Non-attainment	Non-attainment
PM10	Serious Non-attainment	Non-attainment
PM2.5	Non-attainment	Non-attainment
SOx	Attainment	Attainment
CO	Attainment	Attainment
NOx	Attainment	Attainment
Lead	Attainment	Attainment
Other (vinyl chloride, hydrogen sulfide, etc)	Unclassified or Attainment	Unclassified or Attainment

(KPC EHS, 2014, Table 4-2)

- *<u>Consistency Criterion No. 1</u>: The Project will not result in an increase in the frequency or severity of existing air quality violations or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP.*

The violations that Consistency Criterion No. 1 refers to are the California Ambient Air Quality Standards (CAAQS) and the National Ambient Air Quality Standards (NAAQS). CAAQS and NAAQS violations would occur if local significance thresholds (LSTs) were

exceeded. As evaluated as part of the proposed Project's LST analysis (refer to Threshold b), below, the Project's localized construction-source emissions would not exceed applicable LSTs, and a less-than-significant impact would occur. According to SCAQMD LST methodology, LSTs would apply to the operational phase of a proposed project, if the project includes stationary sources, or attracts mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities) (SCAQMD, 2008b). The proposed Project does not include such uses; thus, due to the lack of stationary source emissions associated with the proposed Project, long-term operation of the proposed Project would not exceed the LSTs and the proposed Project's operational activities are determined to be consistent with the first criterion and a less-than-significant impact would occur. Therefore, construction and operational activities associated with the proposed Project are determined to be consistent with Criterion No. 1.

- *Consistency Criterion No. 2: The Project will not exceed the assumptions in the AQMP based on the years of Project build-out phase.*

The 2012 AQMP assumes development associated with the build-out of General Plans adopted by cities and counties in the SCAG region. The proposed Project is consistent with the site's existing General Plan land use designation of "Recreational and Marine Commercial (CM 0.3 FAR)." As such, the Project would be consistent with the 2012 AQMP assumptions for the Project site, and the Project would not exceed the air emissions projected in the 2012 AQMP based on General Plan land use assumptions. Based on the foregoing analysis, the Project would be consistent with Criterion No. 2.

b) Would the Project violate any air quality standard or contribute to an existing or projected air quality violation?

Finding: Less-than-Significant Impact. Construction and operation of the Project would not violate any air quality standard or contribute to an existing or projected air quality violation. Impacts would be less than significant and mitigation is not required.

The Project site is located within the SCAB and within the jurisdiction of the SCAQMD. The SCAB does not attain State of California or federal air quality standards for ozone, PM_{10}, or fine particulate matter (PM-2.5) (refer above to Table 5-1). The Air Basin's air pollution problem is a consequence of the combination of emissions and meteorological conditions which are adverse to the dispersion of those emissions. The summertime maximum mixing height (an index of how well pollutants can be dispersed vertically in the atmosphere) in Southern California averages the lowest in the U.S. Additionally, the Southern California area has abundant sunshine, which drives the photochemical reactions that form pollutants such as ozone. In the SCAB, high concentrations of ozone are normally recorded during the spring and summer months, while high concentrations of carbon monoxide (CO) are generally recorded in late fall and winter. High PM_{10} and $PM_{2.5}$ concentrations can occur throughout the year, but occur most frequently in the fall and winter. Although there are changes in air pollutant emissions by season, the observed variations in the pollutant concentrations are largely a result of seasonal differences in weather conditions. (KPC EHS, 2014, p. 2)

According to the current data from the SCAQMD and the California Air Resource Board (CARB), in 2012 there were a total of 111 days during which the new 8-hour ozone standard in SCAB locations were exceeded. The number of days exceeding the federal ozone standard varied widely by area, from zero to 86 exceedances, depending on location, with the majority of exceedances occurring in the Riverside and San Bernardino County regions. Exceedances were fewer at the coast (including the City of Newport Beach), increasing to a m aximum in the Basin's Central San Bernardino Mountains and inland valleys, and then decreasing further downwind in the Basin's far inland areas. In 2012, CO concentrations in the SCAB did not exceed the State of California or federal standards for either the 1-hour or 8-hour concentrations. (KPC EHS, 2014, p. 10)

Table 4-3 and Table 4-4 of *Technical Appendix A* summarizes the most recently released air quality monitoring data for the monitoring stations closest to the Project site (e.g., SRA #17 and SRA #18). The most recent data (2012) indicates that there was one day on which the federal 8-hour ozone standard was exceeded, one day on which the State of California 8-hour ozone standard was exceeded, and two days on which the State of California 1-hour ozone standard was exceeded. The CO concentrations in the region did not exceed federal or state standards with the maximum measured levels at 2.8 ppm for the 8-hour CO standards. (KPC EHS, 2014, p. 10)

To identify projects that will adversely affect the region's air quality through direct and indirect sources, the SCAQMD has established significance thresholds for air pollutants. The SCAQMD established these significance thresholds, in part, based on Section 182 (e) of the Federal Clean Air Act, which identified levels of volatile organic gases (VOCs) from stationary sources operating in extreme non-attainment regions for ozone at 10 tons per year. The value set by the CAA was converted into threshold levels in pounds per day for the construction and operational phases of a project. (KPC EHS, 2014, p. 14)

The SCAQMD states that any project located in the SCAB having daily emissions from both direct and indirect sources that exceed the following emissions thresholds should be considered significant on both a direct and cumulative basis. Thus, if the proposed Project would produce air emissions that equal or exceed any of the criteria listed in Table 5-2, the emissions will be considered significant on both a direct and cumulative basis. In addition, the California State 1-hour and 8-hour CO standard is used for determining the existence of CO Hotspots created directly or indirectly by a p roject. (KPC EHS, 2014, p. 14). (KPC EHS, 2014, p. 14)

Air quality impacts/emissions associated with a p roject can be placed into two categories, temporary (short-term) or long-term emissions. Temporary (short-term) emissions are generally associated with the demolition, grading, and construction activities of the project while long-term emissions are associated with the day-to-day operation, use, and area emissions from such activities as vehicle use, consumer product use, and energy generation/consumption. (KPC EHS, 2014, p. 15) The following provides an analysis based on the applicable significance thresholds established by the SCAQMD, which are based on State of California and federal air quality standards.

Table 5-2 SCAQMD Regional Significance Thresholds

Pollutant	Construction	Operation
NO_x	100 lbs/day	55 lbs/day
ROG/VOC	75 lbs/day	55 lbs/day
PM10	150 lbs/day	150 lbs/day
SOx	150 lbs/day	150 lbs/day
CO	550 lbs/day	550 lbs/day
PM2.5	55 lbs/day	55 lbs/day

(KPC EHS, 2014, Table 4-5)

Construction-Related Air Pollutant Emissions

The firm KPC EHS Consultants prepared a report on the Project's calculated air emissions, which is contained as *Appendix A* to this document. To perform the calculations, the proposed Project's construction schedule is based on 15 months for all construction-related activities (dredging, pile installation (water and land), demolition, site preparation, grading, building construction, paving, and architectural coating). The emissions calculations assume that the majority of the equipment is operating 5 days per week for 6 to 8 hours each day. This is an aggressive estimate because it is highly unlikely that the majority of the equipment would be operated at this assumed schedule producing the calculated emissions each day; thus, the analysis herein is conservative in nature. (KPC EHS, 2014, p. 15)

The proposed Project's construction equipment estimates are b ased on details provided to KPC EHS Consultants from the Joint Project Applicants and by use of CalEEMod Defaults. The type and number of equipment chosen for each phase of construction was selected to present a "worst-case" scenario for construction related emissions; in most cases the equipment types and numbers may be less than those disclosed. (KPC EHS, 2014, pp. 15-16) The analysis for the proposed Project is unique in that it includes both land-side and water-side components. The schedule for construction activities are estimated to occur over 15-months of active construction, with land-side and water-side activities occurring simultaneously. Increasing the construction timeline to longer than 15 months would allow for each task in the project to be completed over a greater timeline, which in some cases, such as demolition, grading and coatings, would decrease the estimated daily emissions presented *Appendix A* and summarized herein. The analysis in *Appendix A* presents a "worst-case" scenario as it assumes that all equipment in the various phases will be operating each day for the total estimated hours during project schedule. By analyzing the total number of equipment and hours each day it provides estimations for emissions at the highest anticipated levels. (KPC EHS, 2014, p. 16)

Construction emissions can be distinguished as either on-site or off-site. On-site emissions generated during construction principally consist of exhaust emissions from construction equipment, fugitive dust from grading and excavation, and reactive organic gas (ROG) emissions from asphalt paving and architectural painting. Off-site emissions during construction typically consist of exhaust emissions from truck traffic and worker

commute trips; road dust associated with traffic to and from the construction site; and fugitive dust from trucks hauling materials, construction debris, or excavated soils from the site. (KPC EHS, 2014, p. 16)

Tables 5-2 through 5-10 found in *Technical Appendix A* present the unmitigated emission levels for the following phases of Project construction: dredging; demolition and site preparation; site grading; pile installation (land-side); pile installation and dock construction (water-side); building construction; pile installation and dock construction (land-side); site work, drainage, and paving; and tenant improvements and architectural coatings. Below, Table 5-3, *Maximum Daily Unmitigated Construction Emissions*, presents the Project's projected maximum daily construction emissions for each pollutant prior to the incorporation of mitigation or compliance with mandatory regulatory requirements, such as SCAQMD Rule 403, "Fugitive Dust;" SCAQMD Rule 431.2, "Sulfur Content of Liquid Fuels;" SCAQMD Rule 1113, "Architectural Coatings;" SCAQMD Rule 1186, "PM10 Emissions from Paved and Unpaved Roads, and Livestock Operations;" and SCAQMD Rule 1186.1, "Less-Polluting Street Sweepers." Implementation of regulatory requirements would decrease the emissions lower than indicated in Table 5-3. Emissions from the various Project phases were estimated using the CalEEMod modeling program. (KPC EHS, 2014, p. 16)

As shown in Table 5-3, the maximum daily construction-related emissions for the proposed Project would be below the SCAQMD's significance thresholds for all regulated air pollutants. Therefore, the Project's near-term construction emissions would be less than significant. These emissions would be short-term and cease at the completion of construction activity. (KPC EHS, 2014, p. 16)

Table 5-3 Maximum Daily Unmitigated Construction Emissions

Maximum Daily Emissions	Emissions (pounds per day)					
	NOx	ROG	CO	SOx	PM10	PM2.5
	70.23	33.96	47.81	0.11	7.96	4.96
Regional Threshold	**100**	**75**	**550**	**150**	**150**	**55**
Exceeds Regional Threshold?	NO	NO	NO	NO	NO	NO
Source: SCAQMD and CalEEMod						

(KPC EHS, 2014, Table 5.1)

NO_x – nitrogen oxide
ROG – reactive organic gasses
CO – carbon monoxide
SO_X – sulfer dioxide
PM_{10} – course particulate matter
$PM_{2.5}$ – fine particulate matter

Area and Operational-Related Air Pollutant Emissions

The firm KPC EHS Consultants prepared a report on the Project's calculated air emissions, which is contained as *Appendix A* to this document. Data contained in *Appendix A* and summarized below was obtained by KPC EHS Consultants using the CalEEMod program reports and EPA NonRoad Model to calculate the total values for Area and Operational Emissions. The Area and Operations Emissions calculated in

Appendix A are presented in Table 5-4, *Area and Operational Emissions*. Table 5-4 includes emissions from the day-to-day operation and maintenance of the Project site, consumer product use, and from vehicle trips associated with the movement of materials, products, residents, visitors and employees, and watercraft/marina operations. No mitigation measures were employed in the modeling and calculation of the area and operational emissions. As shown in Table 5-4, Project area and operational emissions would be below the SCAQMD regional significance thresholds for all criteria pollutants prior to mitigation. Therefore, long-term area and operational air quality emissions associated with the Project would be less than significant.

Table 5-4 Area and Operational Emissions

Maximum Daily Emissions	Emissions (pounds per day)					
	NOx	VOC	CO	SOx	PM10	PM2.5
Area	0.00029	2.6713	0.0307	0.0000	0.0001	0.0001
Energy	1.1468	0.1262	0.9633	0.0068	0.0872	0.0872
Mobile	8.1948	9.3431	36.2211	0.0680	4.7338	1.3327
Watercraft/Marina	34.63	(*2)	6.46	0.90	0.72	(*2)
Total (*1)	43.97	12.14	43.68	0.97	5.54	1.4200
Regional Threshold	55	55	550	150	150	55
Exceeds Regional Threshold?	NO	NO	NO	NO	NO	NO

Source: SCAQMD, CalEEMod, and EPA NonRoad Model.
(*1) Totals are from the CalEEMod reports and NonRoad Calculations for watercraft, due to rounding total may higher than total of the columns when added.
(*2) Emissions VOC & PM2.5 are not modeled for watercraft by EPA NonRoad Model.

(KPC EHS, 2014, Table 5-14)

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c) Would the Project 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)?

Finding: Less-than-Significant Impact. Construction and operation of the Project would not 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. Impacts would be less than significant and mitigation is not required.

As previously indicated in Table 5-1, the SCAB does not achieve the State of California and/or federal standards for ozone, PM_{10}, and $PM_{2.5}$. As indicated in the discussion and analysis of Threshold b) above, and as previously presented in Table 5-3, Project-related construction-related emissions of VOCs, NO_X, and CO (all of which are ozone precursors), and construction-related emissions of $PM_{2.5}$ and PM_{10}, are all calculated to be below the SCAQMD's regional thresholds of significance. As previously shown in Table 5-4, Project-generated area and operational emissions of VOCs, NOx, CO, $PM_{2.5}$, and PM_{10} also are calculated to be below the SCAQMD's regional thresholds.

Furthermore, Table 5-5, below under Threshold d), shows that construction activities associated with the Project would not exceed the SCAQMD's localized significance thresholds. Given these factors, near-term construction and long-term operational emissions would not substantially contribute to a net increase of any criteria pollutant for which the Project region is non-attainment; therefore, impacts would be less than significant and less than cumulatively considerable.

d) Would the Project expose sensitive receptors to substantial pollutant concentrations?

Finding: Less-than-Significant Impact. The Project would not expose sensitive receptors to substantial construction-related pollutant concentrations. Under long-term conditions, the Project would not expose sensitive receptors to substantial pollutant concentrations. Impacts would be less than significant and no mitigation is required.

A sensitive receptor is a person in the population who is particularly susceptible to health effects due to exposure to an air contaminant than is the population at large. Sensitive receptors and associated facilities that house them in proximity to local CO sources, toxic air contaminants, or odors are of particular concern. Sensitive receptors include the very young, elderly, and persons suffering from illness and are normally associated with locations such as schools, day-care facilities, convalescent care facilities, medical facilities, and residential areas. Sensitive receptors located closest to the Project site include the residential homes on Linda Isle located south of the Project site. (KPC EHS, 2014, p. 15)

CO Hot Spot Analysis

High levels of CO are associated with traffic congestion and in particular slow moving and idling vehicles. Depending on the existing background concentrations of CO, roadways have the potential to be CO hot spots. Evaluations according to SCAQMD recommendations need to be conducted to ensure that sensitive receptors will not be exposed to localized concentrations of the criteria pollutant CO. (KPC EHS, 2014, p. 15)

CO Hot Spots are typically associated with idling vehicles at extremely busy intersections (i.e., intersections with an excess of 100,000 vehicle trips per day) in areas with unusual meteorological and topographical conditions. Over the years CO standards have become increasingly strict resulting in a decrease in CO emissions from mobile sources (cars, trucks, etc.). CO attainment was analyzed as part of the 2003 Air Quality Management Plan prepared by the SCAQMD, and the 1992 Federal Attainment Plan for Carbon Monoxide. The 1992 Federal CO Attainment Plan included CO Hotspot analyses which were conducted at four major intersections in the City of Los Angeles. The busiest of the four intersections evaluated was at Wilshire Boulevard and Veteran Avenue, with a daily traffic volume at the time of the study being in excess of 100,000 vehicles per day. None of the four intersections modeled as part of the study were found to have CO emissions that exceeded State of California or federal standards. (KPC EHS, 2014, p. 28)

At buildout of the proposed Project, the busiest intersections in the Project vicinity would attract traffic that is well below the 100,000 vehicle trips per day threshold typically associated with CO Hot Spots. In addition, there are no unique topographical or meteorological conditions in the Project site's vicinity that could contribute to the formation of a CO Hot Spot. The SCAB has been designated as an attainment area for CO since 2007. Therefore, Project-related vehicular emissions would not create a Hot Spot and would not substantially contribute to an existing or projected CO Hot Spot. Impacts would be less than significant and mitigation is not required. (KPC EHS, 2014, p. 28)

Localized Significance Thresholds Analysis

In addition, Localized Significance Thresholds (LSTs) were developed by the SCAQMD in response to environmental justice and health concerns raised by the public regarding exposure of individuals to criteria pollutants in local communities. To address the issue of localized significance, the SCAQMD adopted LSTs that show whether a project would cause or contribute to localized air quality impacts and thereby cause or contribute to potential localized adverse health effects. LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard at the nearest residence or sensitive receptor. (KPC EHS, 2014, p. 26)

The significance of localized emissions impacts depends on whether ambient levels in the vicinity of a project are above or below State of California standards. In the case of CO and NO_2, if ambient levels are below the standards, a project is considered to have a significant impact if project emissions result in an exceedance of one or more of these standards. If ambient levels already exceed a State of California or federal standard, then project emissions are considered significant if they increase ambient concentrations by a measurable amount. This would apply to PM_{10} and $PM_{2.5}$, both of which are non-attainment pollutants. (KPC EHS, 2014, p. 26) The LST methodology is applicable to projects where emission sources occupy a fixed location. This means that the LST methodology applies to projects during construction because, although construction equipment may move around a construction site, their movements are restricted to a fixed location. (KPC EHS, 2014, p. 27)

A construction LST analysis for the proposed Project was performed by the firm KPC EHS Consultants, and the results are included a report attached as ***Appendix A*** to this document. The LST analysis is based on the applicable LSTs established by the State of California and SCAQMD. This analysis assumes the Project would comply with applicable regional air quality requirements, including: SCAQMD Rule 403, "Fugitive Dust;" SCAQMD Rule 431.2, "Sulfur Content of Liquid Fuels;" SCAQMD Rule 1113, "Architectural Coatings;" SCAQMD Rule 1186, "PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations;" and SCAQMD Rule 1186.1, "Less-Polluting Street Sweepers." Table 5-5, *LST Emissions – Construction*, depicts the results of the LST analysis. (KPC EHS, 2014, p. 27)

Table 5-5 LST Emissions – Construction

Pollutant	LST Significance Threshold Lbs/Day*	Project Emissions CalEEMod Lbs/Day	Exceeds Threshold?
(NO_X)	**190**	70.23	**No**
(CO)	**1,864**	47.81	**No**
PM10 (Construction)	**44**	7.96	**No**
PM10 (Operations)	**11**	5.54	**No**
PM2.5 (Construction)	**11**	4.96	**No**
PM2.5 (Operations)	**3**	1.42	**No**

*Based on LST SRA #18 Receptor at 50 meters.
(KPC EHS, 2014, Table 5-15)

The LST emissions analysis was based on the SCAQMD's 5-acre model with emissions data from the CalEEMod analysis with values for equipment and construction phase scheduling per the Joint Project Applicants' estimates or default values. As shown in Table 5-5, the Project's construction-related impacts to sensitive receptors would be less than significant because the LST emissions are all projected to be below the SCAQMD's LST significance thresholds. (KPC EHS, 2014, p. 27)

In regards to Project operation, the proposed Project involves the construction and operation of a new marine commercial building, improvements to Balboa Marina to provide a new public boat dock and additional private boat slips, and the reconfiguration of an existing parking lot. According to SCAQMD LST methodology, LSTs would apply to the operational phase of a proposed project only if the project includes stationary sources, or attracts mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities) (SCAQMD, 2008b). The proposed Project does not include such uses; thus, due to the lack of stationary source emissions associated with the proposed Project, no long-term localized significance threshold analysis is needed.

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e) Would the Project create objectionable odors affecting a substantial number of people?

Finding: Less-than-Significant Impact. Impacts associated with odors generated during the proposed Project's construction and long-term operation would be less than significant, and mitigation is not required.

Normally, odor impacts that generate complaints are associated with projects that involve agriculture and livestock operations, wastewater treatment, chemical manufacturing, refineries, landfills, and composting facilities. The Project proposes to construct and operate a marine commercial building anticipated to accommodate a

restaurant, make improvements to the Balboa Marina to provide a new public transient dock and additional private boat slips, and reconfigure the Balboa Marina parking lot. Such land uses would not normally be considered to create objectionable odors. Nonetheless, provided below is a discussion of potential odor impacts during construction and long-term operation of the proposed Project. (KPC EHS, 2014, p. 30)

Potential Construction Odor

During Project construction, odors associated with diesel exhaust from heavy equipment, dust from earth movement, asphalt paving, and architectural coatings would be temporary, short-term in duration, and would end at the completion of construction. Construction-related odors would be temporary and intermittent in nature and would cease upon completion of the respective phases of construction activity. Construction-related odors are common in urban and suburban areas and are not objectionable to a large majority of the population. Additionally, mandatory compliance with SCAQMD Rules would limit odor emissions from construction vehicles. For these reasons, the short-term and temporary nature of construction odors would be considered a less-than-significant impact. (KPC EHS, 2014, p. 30)

Potential Operational Odor

Odors emitted during proposed Project's operation would be the result of cooking odors from the marine commercial building's restaurant tenant and diesel exhaust from increased boating-related activities at the marina. The proposed Project's source(s) of odors are not normally associated with nuisance odors and complaints. The closest sensitive receptors would be located approximate 400 to 500 feet west/south west of the site on Linda Isle. Two other restaurants, Sol and 3Thirty3, are operating within 800 to 1,000 feet of the proposed marine commercial building and are situated closer to the potential odor-sensitive receptors that are located on Linda Isle. For these reasons, the proposed Project would not contribute to significant changes in operational odors already present around the Project site. Project-related operational odors would be less than significant. (KPC EHS, 2014, p. 30)

Air Quality: Mitigation Measures

Implementation of the proposed Project would result in less than significant air quality impacts. Thus, no mitigation measures are required.

5.4.4 Biological Resources

a) Would the Project 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 Wildlife or U.S. Fish and Wildlife Service?

Finding: Less-than-Significant Impact with Mitigation Incorporated. Project construction activities would result in short-term temporary impacts to the

California brown pelican and California least tern, marine mammals, California halibut, Fishery Management Species (FMS) Essential Fish Habitat (EFP), and Habitats of Particular Concern (HAPC). In the case of these species, impacts would result from temporary construction activities in the water, such as dredging and pile driving. Species are expected to temporarily leave the Project area due to short-term construction-related disturbance and/or irritation. These species are expected to return to the area upon completion of the construction activities. Due to dredging activities in the water, Project implementation would result in long-term impacts to HAPC and eelgrass for which either mitigation is required or Project design features balance out the loss of habitat in another area, as in the case of eelgrass, or increases to the habitat area, as in the case of HAPC.

Under existing conditions, the land-side portion of the Project site is fully developed. The surface of the existing parking lot is largely devoid of vegetation with the exception of ornamental landscaping occurring within and bordering the existing parking lot. The beach is devoid of vegetation with the exception of a transitional slope between the parking lot and the beach that is dominated with non-native vegetation.

Plant and wildlife species identified as candidate, sensitive, or special status species in local, or regional plans, policies, or regulations or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS) and that were identified through field work conducted on the Project site by Coastal Resources Management, Inc. are summarized below. More information is contained in technical report attached as *Technical Appendix B* to this document. R efer to *Appendix B* for additional information.

- *Eelgrass.* The Project area occurs within the vicinity of estuarine and eelgrass habitats, which are considered HAPC for various federally-managed fish species within the Pacific Groundfish FMP under the Magnuson-Stevens Fishery Conservation Management Act. HAPC are described in the regulations of EFP as being rare, particularly susceptible to human induced degradation, especially ecologically important, or located in an environmentally stressed area. Two small eelgrass beds were mapped within the Project area totaling 515 SF or 12.6 square meters. Of this total, 379.3 SF (73.7%) was mapped at the southern edge of the sandy beach and 135.7 SF (26.3%) was mapped south of this location off of the southerly tip of the existing Balboa Marina parking lot. *(Coastal Resources Management, Inc., 2013, p. 9)*. Eelgrass would be adversely impacted by the proposed dredging of the shallow water habitat that would result in the loss of 515 SF of eelgrass vegetation *(Coastal Resources Management, Inc., 2013, p. 27)*. Proposed docks and floats would shade 9,045 SF of shallow water habitat, but would not adversely affect any additional eelgrass, because all of the eelgrass

would be removed during dredging *(Coastal Resources Management, Inc., 2013, p. 27)*. Project implementation would result in a long-term, significant impact to eelgrass and mitigation would be required.

- *Marine Birds.* California Brown pelicans and California least terns forage in Newport Harbor waters in the general Project vicinity. Both species may react to construction disturbances by altering their normal foraging behaviors. No direct mortality of endangered seabirds would result from the dredging or excavation activities in the water-side portion of the Project site *(Coastal Resources Management, Inc., 2013, p. 30)*. Turbidity plumes caused by dredging activities may potentially impact California brown pelicans and California least terns by limiting their ability to see their prey and thereby causing them to temporarily move out of the area in search of food. Accordingly, construction activities causing turbidity in the water that could cause turbidity plumes to spread beyond the immediate dredging area would result in a potential short-term impact to the foraging habitat of the California least tern and a potential short-term impact to the foraging and shoreline resting habitat of the California brown pelican. Ocean material is proposed to be dredged over a period of approximately 4 weeks, 5 days per week, which would include mobilization and demobilization of the dredging equipment. The proposed area of dredging is shown in Figure 3-10, *Water-Side Dredging Footprint*.

  - *California least tern.* The State and Federally-listed California least tern does not breed or nest near the Project site but will forage in Newport Bay and nearshore coastal waters during their March through September breeding season. During this period, adults will forage on juvenile baitfish and take their prey back to their fledglings. Least terns forage within several miles of their nesting sites at Bolsa Chica Marsh and Upper Newport Bay. The nearest least tern nesting sites are located approximately 2.5 miles west (upcoast) at the mouth of the Santa Ana River and 4.2 miles northeast in Upper Newport Bay near the Jamboree Road Bridge. (Coastal Resources Management, Inc., 2013, p. 16)

  - *California brown pelican*. The California brown pelican is a federally endangered species but is proposed for delisting by both the federal government and the State of California due to its population resurgence along the California coastline. The California brown pelican is designated as a Fully Protected Species under the Fish and Wildlife Code, and that designation will not change as a result of the delisting. (Coastal Resources Management, Inc., 2013, p. 16) This species is found in Newport Bay year-round but does not breed locally. The brown pelican utilizes Newport Harbor waters for foraging on baitfish and utilizes the shoreline as resting habitat. Brown pelicans do not breed in the Project region and therefore an alteration of their foraging behavior would not affect young-on-the-nest. (Coastal Resources Management, Inc., 2013, p. 30)

- *California Halibut and Other Fish.* Although the California halibut does not have a formal species status, it is considered a sensitive species by resources agencies

because of its commercial value and a continued region-wide reduction of its nursery habitat in bays and wetlands. Project dredging activity would temporarily degrade soft bottom habitat where this species is present, which would cause individuals to temporarily move to non-impacted areas precluding any direct or indirect adverse impacts. Proposed Project construction activities would not result in the mortality of any individuals. Habitat degradation would result in a short-term less-than-significant impact on halibut. *(Coastal Resources Management, Inc., 2013, p. 30)*. The proposed Project would have no long-term impact on any California halibut or any other sensitive species of fish and no mitigation is required.

- *Marine Mammals.* The Project's construction activity is expected to result in a sound exposure level that may reach up to 88 decibels (dBA) at 50 feet. Marine mammals have been observed at other construction sites flushing from haul out sites at a sound exposure of less than 100 dBA. Accordingly, it is possible that marine mammals may temporarily modify their behavior as a result of noise produced by water-side construction activities. Sound noise levels are expected to be below that identified as harassment during dredging operations. Sea lion and bottlenose dolphin occurrences in Newport Bay have shown that they have the ability to adapt to noise and vessel traffic *(Coastal Resources Management, Inc., 2013, p. 31)*. However, construction activity pile driving in the air and water may result in avoidance behavior by marine mammals. Few, if any, marine mammals would be expected to be present at the construction site. If they are present, they are unlikely to be harmed because they would either move out of range of sound produced by pile driving, or they would adapt to expected sound intensities *(Coastal Resources Management, Inc., 2013, p. 31)*. Construction activities would result in the potential short-term displacement of marine mammals and impacts would be less than significant. *(Coastal Resources Management, Inc., 2013, p. 36)* The proposed Project would have no long-term impact on marine mammals.

- *Marine Reptiles.* The green turtle and hawksbill occasionally occur in the nearshore environment offshore Orange County. However, their occurrence within Newport Bay is rare. Because Newport Bay has a productive eelgrass system, green sea turtles may occasionally utilize the seagrass beds as one source of their nutritional requirements. But if this occurred, it would be a rare occurrence. *(Coastal Resources Management, Inc., 2013, p. 17)* No sea turtles were observed in the Project area by CRM biologists during their surveys conducted on June 4 and July 19, 2013, and the potential for sea turtles to be in the Project area is extremely low *(Coastal Resources Management, Inc., 2013, p. 30)*. The proposed Project would thus have no impact on marine reptiles and no mitigation is required.

- *Fishery Management Plan (FMP) Species, Essential Fish Habitat (EFH), and Habitats of Particular Concern (HAPC).* The proposed Project is located within an area designated as EFH for Coastal Pelagics Management and Groundfish Management Plan designated species *(Coastal Resources Management, Inc., 2013, p. 18)*. EFH is defined by the Magunson-Stevens Fishery Conservation and Management Act as those waters and substrate necessary to fish for spawning,

breeding, feeding or growth to maturity *(Magunson-Stevens Fishery Conservation and Management Act, 1996)*. In addition, estuaries are considered HAPC for various federally managed fish species. Coastal pelagic fish inhabit sunlit waters up to about 655 feet deep, typically above the continental shelf. Four (4) costal pelagic species (northern anchovy, pacific sardine, jack mackerel, and Pacific mackerel) potentially occur in the waters offshore of Newport Beach. Six (6) groundfish species also occur, including California scorpion fish, vermillion rockfish, calico rockfish, California skate, spiny dogfish shark, and leopard shark. *(Coastal Resources Management, Inc., 2013, p. 18)* The only managed species likely to be present in Newport Bay, however, is the northern anchovy, which is unlikely to be benefitted or adversely affected in this part of Newport Harbor *(Coastal Resources Management, Inc., 2013, pp. 36-37)*. Groundfish are likely to be extremely rare or absent in the Project site. However, should they be present, the potential for direct mortality on northern anchovy juveniles or adults is minimal. Increased water turbidity would instead result in the species temporarily avoiding the Project site which is a less-than-significant impact. *(Coastal Resources Management, Inc., 2013, p. 33)* Site excavation, pile driving, and dredging activities may result in increased water turbidity. Increased water turbidity may result in 1) the avoidance of juvenile and adult FMP species to the affected turbid waters, 2) an increase in the suspended sediment load in the water column that could introduce contaminants to FMP species, and 3) the clogging of the gill apparatus of filter feeds that would reduce the ability of the fish to breathe and/or feed. Based on the life histories and the distribution of identified FMP species that indicate coastal pelagic and groundfish-managed species occur in very low abundances in Newport Harbor, the potential for long-term adverse impacts on FMP species would be less than significant *(Coastal Resources Management, Inc., 2013, p. 34)* and no mitigation is required.

- *Noxious algae.* Caulerpa algae has a potential to cause ecosystem-level impacts on California's bays and nearshore systems due to its extreme ability to out-compete other algae and seagrasses and impact fish, invertebrates, marine mammals, and sea birds dependent on native marine vegetation. Caulerpa algae is not present at the Project site under existing conditions and no component of the Project has a significant potential to increase the probability of caulerpa. However, in the unlikely event that it colonizes the marina, an eradication program would be required to be implemented immediately under the Regional Water Quality Control Board (RWQCB), National Marine Fisheries Service (NMFS), and the California Department of Fish and Wildlife (CDFW) Caulerpa Eradication Protocol. Project-related impacts would be less than significant; nonetheless, mandatory compliance with the Caulerpa algae Eradication Protocol is specified as a mitigation measure herein.

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b) Would the Project 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 Wildlife or U.S. Fish and Wildlife Service?

Finding: Less-than-Significant Impact with Mitigation Incorporated. The proposed Project iwould result in short-term impacts to wetland habitat, Essential Fish Habitat (EFH), and Habitats of Particular Concern (HAPC) in the water-side

portion of the Project site. In addition, a long term impact would occur to eelgrass, a HAPC, as a result of dredging activity. No intertidal sandy beach or mudflats would be adversely impacted. Implementation of the Project would create 600 SF of mudflats, resulting in a net increase of soft bottom habitat. Thus, the Project would have a beneficial long-term effect on mudflats and associated resource groups.

Newport Harbor and Upper Newport Bay are considered waters of the state and U.S. These waters contain sensitive habitat, such as eelgrass, that are afforded additional protection by state and federal agencies to conserve and protect biological resources.

The Project proposes to construct a new public transient boat dock in Newport Harbor and add additional private boat slips to the existing, private Balboa Marina. Refer to Figure 3-5, *Public Transient Dock and Marina Expansion*, for the physical location of the new boat slips that are proposed. The total surface area of the new docks and floats would be 9,045 SF. Of this, 2,258 SF would be public docks and 6,787 SF would be private docks (Coastal Resources Management, Inc., 2013, p. 21). Thirty-seven (37) piles would be driven into the Lower Newport Bay floor to support the new docks. These include eleven (11) 20-inch diameter piles and twenty-six (26) 16-inch diameter piles. The combined bottom surface area for all piles is 54.4 SF. (Coastal Resources Management, Inc., 2013, p. 21) (CAA Planning, 2014) Additionally, the Project would require dredging, using clamshell dredging techniques, of approximately 9,900 CY of sediment over a bottom surface area of approximately 1.0 acre. Dredging would permanently impact eelgrass habitat, an HAPC, and temporarily reduce benthic (bottom dwelling) invertebrate habitat. Upon completion of the dredging activities, benthic invertebrates would recolonize the shallow subtidal habitat. Therefore, impacts to the shallow subtidal habitat would be a short-term less-than-significant impact, with no long-term reduction in benthic diversity, function or structure. The long-term impact to eelgrass would be significant and require mitigation, as discussed in Threshold a), above. Also refer to Threshold a), above, for a discussion of EFH, to which impacts would be temporary and less than significant.

In order to accommodate the new public dock and additional private boat slips, a riprap embankment would be constructed approximately 15-feet landward of the existing riprap embankment, along the western edge of the Project site. The relocation of the riprap slope would create approximately 600 SF (3.9 feet wide by 155 feet long) of new mudflats (Coastal Resources Management, Inc., 2013, p. 21). The loss of 54.4 SF of soft bottom surface area for the piles would be compensated for by the 600 SF mudflat creation area, resulting in a net increase of 545.6 SF of soft surface bottom habitat. Accordingly, implementation of the proposed Project would have a beneficial long-term impact on mudflats and associated resource groups (Coastal Resources Management, Inc., 2013, p. 37) In addition, the new docks and piles would result in a net increase in biomass of marine community organisms that live on hard surface (algae, mussels, limpets, chitons, sea squirts, and moss animals).

c) Would the Project 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?

Finding: Less-than-Significant Impact with Mitigation Incorporated. Construction activities would result in short-term temporary impacts to waters of the United States as defined by the U.S. Army Corps of Engineers (ACOE). Short-term impacts would be mitigated by the implementation of Project-specific Best Management Practices (BMPs). The proposed Project would result in approximately 9,045 SF of new overwater coverage; however, the proposed Project also includes replacement of the existing riprap embankment that would be reconstructed 15 feet landward of the existing embankment. This replacement would result in removal of existing fill material and an increase of 6,772 SF of waters of the United States, which includes all waters which are subject to the ebb and flow of the tide. The increase in waters of the Unites States is a Project benefit that is considered sufficient mitigation to offset the increase in overwater cover.

A jurisdictional delineation of the Project site was conducted by Anchor QEA, L.P., and a copy of the report is contained in *Appendix C* to this document. The landward extent of potential waters of the United States as defined by the USACE and the California Coastal Commission (CCC) were established along the beach area in the northwest corner of the study area. No USACE jurisdictional wetlands were identified by Anchor QEA biologists and the extent of wetlands as defined by the CCC was limited to the high tide line.

The Project proposes to construct a new public transient boat dock in Newport Harbor and add additional private boat slips to the existing, private Balboa Marina. Refer to Figure 3-5, *Public Transient Dock and Marina Expansion*, for the physical location of the total thirty-six (36) new boat slips that are proposed. The total surface area of the new docks and floats would be 9,045 SF, constituting new overwater coverage. However, the proposed Project also includes replacement of the existing riprap embankment that would be reconstructed 15 feet landward of the existing embankment. This replacement would result in removal of existing fill material and an increase of 6,772 SF of waters of the United States, which includes all waters which are subject to the ebb and flow of the tide. The increase in waters of the Unites States is a Project benefit that may be considered sufficient mitigation to offset the increase in overwater cover resulting from construction of the proposed new docks. Specific details of the mitigation program would be determined during the Project's regulatory approval process with the USACE, Regional Water Quality Control Board, and the CCC (Coastal Resources Management, Inc., 2013, p. 11). In summary, construction activities would result in short-term temporary impacts to waters of the United States, but these short-term impacts would be mitigated by the implementation of the Project's riprap embankment replacement. With USACE, Regional Water Quality Control Board, and CCC approval, long-term impacts would be less than significant.

d) Would the Project 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?

Finding: Less-than-Significant Impact. Although Project construction activities would result in short-term temporary displacement impacts to the California brown pelican, California least tern, marine mammals, California halibut, and Fishery Management Species (FMS), the impacts would be temporary (approximately 4 weeks) and the species are expected to return to the area upon completion of the construction activities. There would be no substantial interference with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors. The Project site is not a wildlife nursery, so the Project has no potential to impede the use of native wildlife nursery sites.

As discussed above under Threshold a), brown pelicans and California least terns forage in Newport Harbor waters in the general Project vicinity. Both species may react to construction disturbances by altering their normal foraging behaviors. Turbidity plumes caused by dredging activities over a period of approximately 4 weeks may potentially impact California brown pelicans and California least terns by limiting their ability to see their prey and thereby causing them to temporarily move out of the area in search of food. Similarly, species that inhabit the water would be temporarily disturbed by in-water construction activities. Project dredging activity would temporarily degrade habitat for California halibut and other fish species, as well as marine mammals. The Project's construction activity may cause marine mammals to temporarily modify their behavior as a result of noise produced by water-side construction activities. Sea lion and bottlenose dolphin occurrences in Newport Bay have shown that they have the ability to adapt to noise and vessel traffic *(Coastal Resources Management, Inc., 2013, p. 31)*. However, construction activity pile driving in the air and water may result in temporary avoidance behavior by marine mammals. *(Coastal Resources Management, Inc., 2013, p. 36)* Although Project construction activities would result in short-term temporary displacement impacts, the impacts would be temporary (approximately 4 weeks) and the species are expected to return to the area upon completion of the construction activities. Nonetheless, mitigation measures applied herein for temporary impacts to these species and their habitats would also apply to the less-than-significant impacts associated with their movement.

e) Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Finding: Less-than-Significant Impact with Mitigation Incorporated. City Council Policy G-1 is not applicable to the proposed Project because the Project does not propose the removal of any City trees. The Project would not conflict with City of Newport Beach Municipal Code Chapter 7.26, *Protection of Natural Habitat for Migratory and Other Waterfowl*, although temporary disturbances to waterfowl and marine birds would occur

during the Project's construction process. These temporary impacts would be mitigated to a level below significant. In the long-term, the Project would benefit waterfowl habitat by replacing an existing riprap embankment and reconstructing it 15 feet landward of the existing embankment, as well as by creating 600 SF of new mudflats.

Applicable Newport Beach policies and ordinances related to the protection of biological resources include City Council Policy G-1 (Retention or Removal of City Trees) and Chapter 7.26 of the City's Municipal Code (Protection of Natural Habitat for Migratory and Other Waterfowl). For an analysis of consistency with the City's General Plan and Coastal Land Use Plan, refer to Section 5.4.10, Land Use and Planning, of this document.

Council Policy G-1

The City of Newport Beach City Council Policy G-1, *Retention or Removal of City Trees*, establishes requirements to ensure diversity in tree species and age classes within the City, and requires tree removal or reforestation to be approved by the City to ensure that tree removal requests do not adversely impact the overall inventory, diversity, or age of the City's Urban Forest.

Implementation of the proposed Project would remove trees in the private Balboa Marina parking lot and plant trees, in the reconfigured parking lot. As shown on Figure 3-9, *Conceptual Landscape Plan*, landscaping pockets would be installed in the reconfigured parking lot. Six (6) Canary Island Date Palms would be planted near the entrance driveway, King Palms would be planted along the primary parking lot drive aisle, two Senegal Date Palms would be planted at the entrance to the new commercial building, and Coral trees would be planted in other planting pockets. No City trees would be removed or planted as part of the Project; therefore, City Council Policy G-1 does not apply.

Municipal Code Chapter 7.26

City of Newport Beach Municipal Code Chapter 7.26, *Protection of Natural Habitat for Migratory and Other Waterfowl*, is intended to maintain the value of natural habitat for migratory waterfowl and other birds such as ducks, gulls, terns, and pelicans. As stated in Municipal Code Section 7.26.010, Findings, *"[t]he City of Newport Beach finds and declares that:*

A. The waters of Newport Bay contain important natural habitat for migratory waterfowl and other birds such as ducks, gulls, terns and pelicans.

B. The value of this habitat is maximized when the bay and its environs are, to the maximum extent practicable, maintained in a manner that replicates the natural environment.

C. Replicating the natural environment means improving water quality, maintaining native grasses and plants, and not supplementing to, nor removing food from, the environment.

D. Supplementing certain foods outside of the natural habitat can result in direct harm to waterfowl, including discouraging natural migration, causing avian diseases and limiting the birds' intake of more nutritional natural foods.

E. Replicating the natural environment also means not incubating or otherwise intervening in the propagation of waterfowl unless licensed to do so by resources agencies.

F. Incidental or de minimus feeding of waterfowl on a sporadic, non-routine basis does not distort or alter migratory patterns or the natural behavior of waterfowl.

As discussed above under Threshold a), California Brown pelicans and California least terns forage in Newport Harbor waters in the general Project vicinity. Other waterfowl and birds likely use the site as well. The Project proposes to construct a new public boat dock in Newport Harbor and add additional private boat slips in the Balboa Marina that would result in temporary impacts in the water. Refer to Figure 3-5, *Public Transient Dock and Marina Expansion*, for the physical location of the new boat slips that are proposed. The total surface area of the new docks and floats would be 9,045 SF. The Project also proposes dredging and replacement of the existing riprap embankment by moving it 15 feet landward of the existing embankment, which would create additional water surface. In addition, the relocation of the riprap slope would create approximately 600 SF (3.9 feet wide by 155 feet long) of new mudflats (Coastal Resources Management, Inc., 2013, p. 21). The increase in water surface and mudflats is a long-term Project benefit to Newport Bay and complies with City of Newport Beach Municipal Code Chapter 7.26.

During the Project's construction process, however, waterfowl and bird species may react to construction disturbances by temporarily altering their normal behaviors. As discussed under Threshold a), above, turbidity plumes caused by dredging activities may potentially impact California brown pelicans and California least terns by limiting their ability to see their prey and thereby causing them to temporarily move out of the area in search of food. Similar temporary behavior modifications can be expected of other waterfowl and birds as well, resulting in a potential short-term impact.

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f) Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Finding: No Impact. The Project would not conflict with the Orange County Central and Coastal Orange County NCCP/HCP, which is the only Habitat Conservation Plan, Natural Community Conservation Plan, or other

approved local, regional, or state habitat conservation plan applicable to the Project site.

The Orange County Central and Coastal Orange County Natural Community Conservation Plan (NCCP) and Habitat Conservation Plan (HCP) were completed in 1996, and the City of Newport Beach became a signatory agency in July of 1996. The purpose of the NCCP/HCP is to create a multi-species multi-habitat reserve system and implementation of a long-term management program that will protect primarily coastal sage scrub and the species that utilize this habitat. The NCCP/HCP focuses on multiple species and habitats and addresses the conservation of these species in a regional context. The three main target species are the coastal California gnatcatcher, cactus wren, and orange-throated whiptail, in addition to 26 other species that are also identified and afforded management protection under the NCCP/HCP. An additional ten species of plants and animals that are either federally listed or treated as if they were listed according to FESA Section 10(a) are addressed within the NCCP/HCP.

According to Figure 11 of the NCCP/HCP, *Preliminary Reserve Concept*, the Project site and surrounding areas are not targeted for conservation as part of the NCCP/HCP (Orange County, 1996, Figure 11). Therefore, the proposed Project has no potential to conflict with any of the provisions of the NCCP/HCP. No impact would occur.

Biological Resources: Mitigation Measures

MM BR-1 Prior to the issuance of construction permits, the Project Applicant shall provide evidence to the City of Newport Beach that all required permits and clearances regarding biological resources have been obtained from the regulatory and resource agencies.

MM BR-2 The Project Applicant shall conduct a pre-construction Caulerpa taxifolia survey within 30 to 90 days prior to dredging and a post-construction Caulerpa taxifolia survey within 30 to 90 days after project construction is complete. Said surveys shall be consistent with the National Marine Fisheries Service Control Protocol. If this species is found, protocols for the eradication of Caulerpa taxifolia shall be implemented to remove this species from the Project site.

MM BR-3 Prior to the issuance of construction permits, an eelgrass mitigation plan shall be prepared requiring a minimum 1.2:1 mitigation ratio for eelgrass impacts pursuant to the provisions of the Southern California Eelgrass Mitigation Policy (NMFS 1991 as amended). At least 618 SF (57.4 square meters) of eelgrass shall be successfully transplanted at the end of a five-year post-transplant monitoring period. The location of the transplant area shall be the Balboa Eelgrass Mitigation Area which was established during the reconstruction of the Balboa Marina in 2008-2009 or as determined by the resource agencies.

MM BR-4 Prior to commencement of construction activities, the Project Applicant shall ensure that dredging and excavation operations are surrounded with

a silt curtain to reduce the level of turbidity. The curtain shall be maintained in good condition throughout the dredging and excavation process.

MM BR-5 Prior to commencement of construction activities, the Project Applicant shall ensure that a qualified biological monitor is retained to monitor turbidity and effects on marine mammals during pile driving operations. Said monitor shall comply with standards of the Santa Ana Regional Water Quality Control Board for water quality protection and applicable requirements for protection of marine mammals.

MM BR-6 The following Conditions of Approval shall be placed on the Project's applicable implementing permits and approvals.

COA: Construction contracts shall disclose and require strict compliance with applicable requirements of the federal Marine Mammal Protection Act overseen by the National Marine Fisheries Service (NMFS). Contracts shall include a provision that in the unlikely event of a construction vessel collision with a marine mammal, the contractor shall immediately contact the NMFS Southwest Regional Office's Standing Coordinator, submit a report to the NMFS Regional Office and comply with all associated and feasible directives.

COA: Pile driving shall be conditioned to require employment of a "soft-start" approach to lessen the potential for short-term construction impacts to marine mammals. This approach requires slowly ramping up pile driving activities at the start of the day and at restarting after breaks or any interruption longer than 15 minutes. An Incidental Harassment Authorization (IHA) under the Marine Mammal Protection Act shall be required if the "soft-start" approach is not employed.

Implementation of Mitigation Measures MM BR-1through MM BR-6 would reduce the Project's impacts to biological resources to below a level of significance.

5.4.5 Cultural Resources

a) Would the Project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

Finding: No Impact. No significant historical resources are located on the Project site and no significant historical resources would be impacted by the construction or operation of the proposed Project. Although the existing building located at 201 East Pacific Coast Highway would be demolished, the structure is not a significant historical resource as defined by CEQA Guidelines §15064.5. Accordingly, the proposed Project would not cause a substantial adverse change in the significance of a historical resource as defined in §15064.5. No impact would occur and no mitigation is required.

Prior to approximately 1947, the land-side portion of subject property was an undeveloped lot. In approximately 1947, the property began to be utilized as a marina. In approximately 1953, the current on-site commercial building was constructed and the property began functioning as the Balboa Marina. Part of the water-side portion of the site was occupied for approximately 40 years by a floating vessel that housed the Ruben E. Lee Riverboat restaurant and later by the Newport Harbor Nautical Museum, but the vessel was dismantled and removed from the site in 2008. In 2009, the aging marina was renovated and the current boat docks, slips, and gangways were constructed on the water-side portion of the site.

CEQA Guidelines §15064.5(a) defines a significant historical resource as the following:

1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources.
2. A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements [of] section 5024.1(g) of the Public Resources Code.
3. Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.

The City's General Plan EIR Figure 4.4-1 shows the location of recognized historical resources in Newport Beach, none of which occur on the Project site (City of Newport Beach, 2006b). Under existing conditions, the land-side development area is occupied by a paved parking lot and a 1,200 SF commercial building located at 201 East Pacific Coast Highway that was constructed in approximately 1953. The building houses a yacht brokerage business and marina restrooms. The building is not listed in the National Register of Historic Places (NRHP) and is not eligible for listing. Pursuant to the criteria used by the California State Parks Office of Historic Preservation (OHP), the existing structure is not eligible for inclusion on the California Register of Historical Resources because: 1) it is not associated with events that have made a significant contribution to the broad patterns of California's history; 2) it is not associated with the lives of persons important to California history; 3) it does not embody the distinctive characteristics of a type, period, region or method of construction or represent the work of a master, possess high artistic values, or represent a distinguishable entity whose components may lack individual distinction ; and 4) it has not yielded, nor does it have the potential to yield, information important in prehistory or history. The existing structure also is not included in any local register of historical resources, nor is it identified as significant in any historical resource surveys (City of Newport Beach, 2006b). Moreover, the existing structure is not historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California; rather, the structure exhibits a relatively modern architectural style and exhibits no unique architectural characteristics.

There are no other structures or resources located within the Project site's boundary that could be considered a significant historical resource pursuant to CEQA Guidelines

§15064.5(a). Based on the foregoing analysis, the existing structure and features on the Project site are not historical resources. Thus, the proposed Project would not impact historical resources as defined by CEQA Guidelines §15064.5 and no mitigation is required.

b) Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

Finding: Less-than-Significant Impact with Mitigation Incorporated. Although unlikely, there is a remote possibility that archaeological resources could be encountered during grading of native soils in the land-side portion of the Project site. Mitigation Measure MM CR-1 would ensure that impacts to archaeological resources, if unearthed during construction activities, are reduced to a level below significance.

The City of Newport Beach is known to have been occupied by Native American groups prior to settlement by Euro-Americans. The City's General Plan EIR notes that archaeological materials associated with Native American occupation may be located beneath the ground surface and have the potential to be discovered, particularly in areas that have not been previously developed with urban uses (City of Newport Beach, 2006b, pp. 4.4-15). The land-side portion of the Project site is fully developed with recreation commercial uses, including a paved parking lot and one commercial building. The water-side portion of the Project site is located in Newport Harbor and the Lower Newport Bay channel, which have been subjected to water-bottom dredging on numerous occasions. Thus, both the land and water-bottom surfaces of the Project site are developed and disturbed. Furthermore, the City of Newport Beach has no record of reported archaeological resource discoveries associated with the Project site (City of Newport Beach, 2007).

Construction of the proposed Project would involve dredging in the water-side portion of the site and ground disturbance in the land-side portion of the site. In the water-side portion, dredging would involve removal of bayfloor sediments by a clam shell dredge to a depth of 10 feet Mean Low Lower Water (MLLW) (Anchor QEA, L.P., 2013, p. 26). Due to the dynamic nature of the water bottom and prior dredging activities in Newport Harbor and Lower Newport Bay, there is little to no potential that archaeological resources have the potential to be discovered in the dredged material.

As part of the Project's construction process in the land-side portion, some portions of the property would receive fill material and other portions of the property would be excavated. According to the proposed Project's grading plans, the maximum depth of land-side excavation would extend to approximately 3.6 feet (Stantec, 2014). Additionally, Geotechnical Professionals, Inc. (GPI), states in a geotechnical report prepared for the Project's proposed, new restaurant building, that excavations to maximum depths of approximately 6.0 feet would be required to accommodate over-excavations for the restaurant building. These over-excavations would be required to remove highly compressible organic clays, excavate for footings, and trench for utility lines (Geotechnical Professionals, Inc, 2014, p. 8). Based on soil boring samples tested by GPI in 2013, the subsurface of the land-side portion of the Project site consists mostly of

fine to medium sands with variable silt content, which are medium dense to dense in the upper 20 to 25 feet and become very dense at greater depths. The subsurface also contains compressible organic clay with peat, elastic silt, and sand. (Geotechnical Professionals, Inc, 2014, p. 3). Because some of the soil to be excavated is native and has not been previously disturbed, there is a remote possibility that archaeological resources could be encountered during excavation activities. If significant archaeological resources are unearthed, they could be significantly impacted if not appropriately treated. This is a potentially significant impact and mitigation is required.

c) Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Finding: No Impact. No paleontological resources are known to occur beneath the surface of the Project site or have the potential to be discovered during Project construction activities. Accordingly, the Project would not directly or indirectly destroy a unique paleontological resource or unique geologic feature. No impact would occur and no mitigation is required.

Areas within the City and its sphere of influence (SOI) that are known to have a high likelihood of containing fossils, include portions of the Vasqueros foundation that underlie the Newport Coast, the Newport Banning Ranch portion of the SOI, the Topanga and Monterey Formations, and the Fossil Canyon in the North Bluffs area (City of Newport Beach, 2006b, pp. 4.4-17). The Project site is not located in any of these areas.

Construction of the proposed Project would involve dredging in the water-side portion of the site and ground disturbance in the land-side portion of the site. There is no potential for paleontological resources to be discovered during the Project's construction process because no fossil-bearing soils or rock formations are proposed to be disturbed or excavated. In the water-side portion of the site, dredging of sand material would occur to a depth of 10 feet Mean Low Lower Water (MLLW) (Anchor QEA, L.P., 2013, p. 26). Sand is not a fossil-bearing soil. In the land-side portion, some portions of the property would receive fill material and other portions of the property would be excavated to maximum depths of approximately 6.0 feet. Based on soil boring samples tested by GPI in 2013, the subsurface of the land-side portion of the Project site consists mostly of fine to medium sands with variable silt content, along with some minor amounts of compressible organic clay with peat and elastic silt. These are not fossil-bearing soils. Excavations to maximum depths of 6.0 feet as proposed by the Project would not encounter fossil-bearing soils or rock formations. Accordingly, the proposed Project has no potential to directly or indirectly destroy a unique paleontological resource or a unique geologic feature. No impact would occur and no mitigation is required.

d) Would the Project disturb any human remains, including those interred outside of formal cemeteries?

Finding: No Impact. No human remains, including those interred outside of formal cemeteries are present on the Project site or known to be present

beneath the surface of the site. No impact would occur and no mitigation is required.

Under existing conditions, the water-side portion of the site consists of water surface and boat docks, slips, and gangways. The land-side portion of the site is occupied by a paved parking lot and a 1,200 SF commercial building. The Project site is not known to have ever been used as a cemetery and the possibility of uncovering human remains during Project-related dredging and grading activities is very remote. Regardless, in the unlikely event that human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Pursuant to California Public Resources Code Section 5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made by the Coroner. If the Coroner determines the remains to be Native American, the California Native American Heritage Commission (NAHC) must be contacted and the NAHC must then immediately notify the "most likely descendant(s)" of receiving notification of the discovery. The most likely descendant(s) shall then make recommendations within 48 hours, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code Section 5097.98. Mandatory compliance with these policies would ensure that potential impacts associated with the discovery of human remains would be less than significant.

Cultural Resources: Mitigation Measures

Mitigation for potential impacts to archaeological resources is as follows:

MM CR-1 Prior to the issuance of grading permits, the City shall verify that the following note is included on the grading plan(s).

> "If suspected archaeological resources are encountered during ground-disturbing construction activities, the construction contractor shall temporarily halt work in a 100-foot radius around the find until a qualified archaeologist can be called to the site to assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with the City of Newport Beach."

The grading contractor shall be responsible for complying with the note. If the archaeologist determines that the find does not meet the CEQA Guidelines §15064.5(a) criteria for cultural significance, construction shall be permitted to proceed. However, if the archaeologist determines that further information is needed to evaluate significance, the City of Newport Beach shall be notified and a data recovery plan shall be prepared in consultation with the City, which may include the implementation of a Phase II and/or III archaeological investigation per City guidelines. All significant cultural resources recovered shall be documented on California Department of Parks and Recreation Site Forms to be filed with the California Historical Resources Information

System, South Central Coastal Information Center (CHRIS-SCCIC). The archaeologist shall incorporate analysis and interpretation of any significant find(s) into a final Phase IV report that identifies the level of significance pursuant to Public Resources Code § 21083.2(G). The City and Project Applicant, in consultation with the archaeologist, shall designate repositories in the event that resources are recovered.

Implementation of Mitigation Measure MM CR-1 would reduce the Project's potential impacts to archaeological resources to below a level of significance.

5.4.6 Geology and Soils

a) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.
ii) Strong seismic ground shaking?
iii) Seismic-related ground failure, including liquefaction?
iv) Landslides?

Finding: Less-than-Significant Impact. With mandatory compliance to the California Building Code and recommendations of the site-specific geotechnical investigation, the proposed Project would not significantly expose people or structures to potential adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault, strong seismic ground shaking, seismic-related ground failure (including liquefaction), and landslides. Impacts would be less than significant and no mitigation is required.

a) 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*

There are no known faults on the Project site and the Project site is not located within an Alquist-Priolo earthquake fault zone. As such, there is no potential for ground rupture at the site.

a) ii) *Strong seismic ground shaking*

Southern California is a seismically active area and properties in the City of Newport Beach, including the Project site, are subject to periodic ground shaking and other effects from earthquake activity. Faults zones in the regional vicinity (as shown on General Plan EIR Figure 4.5-1, Regional Faults (City of Newport Beach, 2006b, Figure 4.5-

1)) with the potential to cause moderate ground shaking in the City of Newport Beach include the Newport-Inglewood fault zone, the San Joaquin fault zone, and the Elysian fault zone. On the water-side portion of the Project site, a new public boat dock would be constructed and additional boat slips would be added to the private Balboa Marina. Thirty-seven (37) piles would be driven into the Lower Newport Bay floor to support the new gangways. These include eleven (11) 20-inch diameter piles and twenty-six (26) 16-inch diameter piles, which would secure the docks and prevent significant adverse effects, including the risk of loss, injury, or death involving seismic shaking.

The marine commercial building that would be constructed on the land-side portion of Project site would be required to comply with the building design standards of the California Building Code (CBC) Chapter 13 for the construction of new buildings/and or structures. Approximately 235 auger cast pressure grouted piles are proposed to support the marine commercial building. A site-specific analysis, based on CBC requirements, was conducted as part of the Project's geotechnical investigation prepared by Geotechnical Professionals, Inc. (GPI) and is attached to this document as *Appendix G*. The geotechnical investigation sets forth site-specific recommendations to attenuate seismic hazards at the land-side portion of the Project site in accordance with the CBC requirements and standards. Compliance with applicable requirements and standards of the CBC and the specifications listed in the Project's site-specific geotechnical investigation would be assured through future City review of grading and building permits for the land-side portion of the Project, which would assure that effects from strong seismic ground shaking are attenuated. The proposed building would be supported on auger-cast grouted piles in order to minimize surcharge loads on the existing seawall. As such, impacts are less than significant and mitigation is not required.

a) iii) *Seismic-related ground failure, including liquefaction*

The subsurface soil profile on the land-side portion of the Project site consists of mostly fine grain to medium sands with variable silt content, along with some minor amounts of compressible organic clay with peat and elastic silt. These sands are typically medium dense to dense in the upper 20 to 25 feet and become very dense at greater lengths. (Geotechnical Professionals, Inc, 2014, p. 3) In the water-side portion of the Project site, soils on the water bottom consist of sand.

The Project site is located within a liquefaction hazards zone as mapped by the California Geological Survey (Geotechnical Professionals, Inc, 2014, p. 4). In addition, as shown on General Plan EIR Figure 4.5-2, *Seismic Hazards* (City of Newport Beach, 2006b,Figure 4.5-2), the Project area is identified as an area with liquefaction potential. Based on the CBC, which is based on the ASCE 7.10 Standard, the peak ground acceleration for the Project site, derived from the USGS Design Maps website, is 0.71g. Analysis performed by GPI indicates that most sandy soils at the Project site are dense enough to resist liquefaction even under high ground motion. In addition, marginal resistance to liquefaction was indicated in limited relatively thin layers of medium dense sands found mostly at shallow depths (Geotechnical Professionals, Inc, 2014, p. 4). GPI calculated the magnitude of seismic settlement under high levels of ground motion to be relatively small and concluded that the potential for liquefaction would result in a

temporary loss of strength in limited layers, which in turn would result in some permanent slope movement in the western portions of the Project site. None of these layers evaluated by GPI contained very loose to loose sands that would be susceptible to flows upon liquefaction. GPI analyses indicated lateral spreading potential less than 5 inches for a peak ground acceleration of 0.71g. Thus, GPI concluded the potential for lateral spreading due to liquefaction is considered to be negligible.

As stated in a) i and ii) above, the marine commercial building proposed to be constructed on the Project site would be required to comply with the building design standards of CBC Chapter 13 for the construction of new buildings/and or structures. With compliance with applicable requirements and standards of the CBC and the specifications listed in the Project's site-specific geotechnical investigation (refer to *Appendix G*), which would be assured through future City review of building and grading permits, impacts would be less than significant and mitigation is not required.

a) iv) Landslides

Under existing conditions, the land-side portion of the Project site is a paved parking lot with a concrete seawall on the south side and a descending slope toward the water on the west site. An approximately 3 to 4 foot change in elevation separates the beach from the parking lot. The proposed marine commercial building would be supported on pile foundations in order to limit surcharge loads on the existing seawall. Approximately 235 auger-cast pressure grouted piles would support the marine commercial building. As stated in a) i and ii) above, the building proposed to be constructed on the Project site would be required to comply with the building design standards of the CBC Chapter 13 for the construction of new buildings/and or structures. Compliance with applicable requirements and standards of the CBC and the specifications listed in the Project's site-specific geotechnical investigation (refer to *Appendix G*), would be assured through future City review of grading and building permits, which would assure that effects from landslides are attenuated. As such, impacts are less than significant and mitigation is not required.

b) Would the Project result in substantial soil erosion or the loss of topsoil?

Finding: Less-than-Significant Impact. The proposed Project would not result in substantial soil erosion or the loss of topsoil. Impacts would be less than significant and no mitigation is required.

Under existing conditions, the land-side portion of the Project site consists of 85% impervious conditions containing a 1,200 SF building and a paved parking lot with a concrete seawall on the south side and a descending slope toward the water on the west side. Under existing conditions, storm water runoff generally sheet flows south to an existing trench drain along the water-side perimeter of the site that ultimately outlets through the existing bulkhead into Newport Harbor at two locations. The subsurface soil profile consists mostly of fine to medium sands with variable silt content. These sands are typically medium dense to dense in the upper 20 to 25 feet and become very dense at greater lengths. (Geotechnical Professionals, Inc, 2014, p. 3) The land-side portion of the site is developed with a building and parking lot with established landscaping and does

not contain exposed topsoil. Therefore, little to no erosion occurs under existing conditions with the exception of limited natural erosion at the beach area located between the land-side and water-side portions of the Project site around the rip-rap embankment beyond the western boundary of the existing parking lot.

Proposed demolition and grading activities associated with the Project's construction would temporarily expose soils underlying the land-side portion of the Project site to water and air which would increase erosion susceptibility while the soils are exposed. Exposed soils would be subject to erosion during rainfall events or high winds when erodible materials are exposed to wind and water.

Pursuant to the requirements of the State Water Resources Control Board, the Joint Project Applicants are required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for construction activities. The NPDES permit is required for all projects that include construction activities, such as clearing, grading, and/or excavation that disturb at least one acre of total land area. Additionally, during grading and other construction activities involving soil exposure or the transport of earth materials, Chapter 15.10 (Excavation and Grading Code) of the City of Newport Beach would apply to the Project, which establishes requirements for the control of dust and erosion during construction (Newport Beach, 2012a, § 15.10). As part of the requirements of Chapter 15.10 (Excavation and Grading Code), the Project Applicant would be required to prepare an erosion control plan that would address construction fencing, sand bags, and other erosion-control features that would be implemented during the construction phase to reduce the site's potential for soil erosion or the loss of topsoil. Requirements for the reduction of particulate matter in the air also would apply, pursuant to SCAQMD Rule 403. Mandatory compliance to the Project's NPDES permit and these regulatory requirements would ensure that water and wind erosion impacts would be less than significant and mitigation is not required.

Upon Project completion, land-side areas that were disturbed during construction activities would be covered with impervious surfaces or landscaped. Thus, wind and water erosion would be minimized as occurs under existing conditions. The potential for erosion effects to occur during Project operation would be the result of indirect effects from storm water discharges from the property. Under proposed conditions, runoff would continue to flow in a southerly direction (as it does under existing conditions) and discharge at the two existing bulkhead outlet locations. New on-site drains would be constructed to direct low-flow and first-flush runoff to proposed BMPs prior to discharging off-site through the existing bulkhead outlets. Because the proposed Project would not increase the volume or velocity of water discharged from the Project site into Newport Bay, no increased erosion effects would occur. As concluded in the Project-specific Water Quality Management Plan (WQMP) included as *Appendix I* to this document, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, more water would soak into the ground and the Project would reduce the runoff rate as compared to the existing condition, which would reduce any siltation or erosion effects associated with water discharge.

The Project Applicant is required to prepare and submit to the City for approval a Project-specific Storm Water Pollution Prevention Plan (SWPPP) and WQMP. The WQMP has been prepared by Fuscoe Engineering and is attached as *Appendix I* to this document. *Appendix I* is consistent with the current Orange County Drainage Area Management Plan(DAMP) and the intent of the non-point source NPDES Permit for Waste Discharge Requirements for the County of Orange, Orange County Flood Control District and the incorporated Cities of Orange County within the Santa Ana Region. Collectively, the WQMP and SWPPP are required to identify and implement an effective combination of erosion control and sediment control measures (i.e., BMPs) to reduce or eliminate discharge to surface water from storm water and non-storm water discharges. Adherence to the requirements in the Project's required WQMP and site-specific SWPPP would further ensure that potential erosion and sedimentation effects would be less than significant and mitigation is not required. No mitigation is required.

On the water-side portion of the Project site, tidal currents in the Project vicinity are ebb dominant, meaning the ebb currents are higher than the flood currents. According to analysis conducted by Everest International Consultants, Inc., overall tidal currents in the Project area are small under existing and proposed conditions and thus unlikely to cause any erosion. The impact of the proposed water-side development to tidal and flood velocities would be localized, limited to within a few hundred feet downstream of the East Coast Highway bridge along the main channel and beneath the bridge (Everest International Consultants, Inc. , 2013, p. 60) Erosion impacts would be less than significant and no mitigation is required.

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c) Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Finding: Less-than-Significant Impact. With mandatory compliance with the CBC requirements and the recommendations of the Project-specific geotechnical investigation, the proposed Project would not be located on a geologic unit or soil that is unstable that would potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. Impacts would be less than significant and no mitigation is required.

Potential landslide, lateral spreading, and liquefaction hazards are addressed above under the discussion and analysis of Thresholds a) and b). As discussed under Thresholds a) and b), with mandatory compliance with applicable requirements and standards of the CBC and the specifications listed in the Project's site-specific geotechnical investigation for the land-side portion of the Project site, impacts due to landslides, lateral spreading, and liquefaction would less than significant and mitigation is not required.

The Project-specific geotechnical investigation (refer to *Appendix G*) disclosed the presence of two highly compressible cohesive soil layers in the eastern portion of the Project site. The compressibility of these layers found below depths of 5 feet and 29 feet,

respectively, would mainly impact the support of the retaining wall and fill planned east of the proposed marine commercial building. Up to approximately 3.5 inches of settlement is expected under the weight of 10 feet of fill. (Geotechnical Professionals, Inc, 2014, p. 6) The Project-specific geotechnical investigation recommends Project design features to attenuate settlement. Following these recommendations, the building is proposed to be supported on pile foundations in order to limit surcharge loads on the existing seawall. Approximately 235 auger-cast pressure grouted piles would support the marine commercial building. With compliance with applicable requirements and standards of the CBC and the specifications listed in the Project's site-specific geotechnical investigation, which would be assured through future City review of building and grading permits, impacts would be less than significant and mitigation is not required.

d) Would the Project 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?

Finding: No Impact. The Project would not be located on an expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994) an no associated, substantial risks to life or property would occur. No impact would occur and no mitigation is required.

The majority of the soils identified on the Project site by GPI are non-expansive sands. Such soils are suitable for re-use in fills. Clayely soils, identified by GPI in a limited thin layer below 5 feet, could be used in deep fills provided they are thoroughly blended with the non-expansive sands. (Geotechnical Professionals, Inc, 2014, p. 9) Because the surficial soils exhibit a low potential for potential for expansion, no special reinforcement is necessary to resist expansive forces. However, nominal reinforcement, as a minimum is recommended (Geotechnical Professionals, Inc, 2014, p. 18). The Project would not be located on expansive soil, as defined in Table 18- 1-B of the Uniform Building Code (1994) and would, therefore, not create associated substantial risks to life or property. Thus, no impact would occur and mitigation is not required.

e) Would the Project 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?

Finding: No Impact. The land-side portion of the Project site would not require the use of septic tanks. The marine commercial building would be connected to the domestic sewer system. Vessel pump out accommodation is proposed for the additional private boat slips, which is not reliant on soils. Therefore, no impact would occur and no mitigation is required.

The City of Newport Beach is almost entirely built out with established utility services and new development would not require the use of septic tanks (City of Newport Beach, 2006b, pp. 4.5-1). The marine commercial building would be connected to the domestic sewer system. On the water-side portion of the Project site, vessel pump-out accommodation would be provided for the new private boat slips similar to the system

constructed at the existing private Balboa Marina. The pump-out system is not reliant on soils. Accordingly, the Project would not require the use of septic tanks or any other alternative waste water disposal system dependent on soils. No impact would occur and no mitigation is required.

Geology and Soils: Mitigation Measures

Implementation of the proposed Project would result in less-than-significant impacts to geology and soil conditions. With mandatory compliance with CBC requirements, the recommendations of the Project-specific geotechnical investigation, and City of Newport Beach Municipal Code requirements, no mitigation is required.

5.4.7 Greenhouse Gas Emissions

a) Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Finding: Less-than-Significant Impact. The Project would result in GHG emissions that are below the City of Newport Beach's screening threshold of 3,000 metric tons of CO_2e per year. Based on the City's interim threshold of significance for the evaluation of GHG emissions, the Project's emissions of GHGs would be less-than-significant and mitigation is not required.

The greenhouse gas effect is a natural process in which energy is trapped in the earth's atmosphere. Greenhouse gases (GHGs) essentially act as a blanket causing a warming of the earth. The greenhouse effect is necessary for life on earth; however excessive heat captured as a result of a buildup of GHGs may result in changes in the earth's climate, which ultimately could affect human health and ecosystems. (KPC EHS, 2014, p. 7)

GHGs are the six gases identified in the Kyoto Protocol: carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), hydro fluorocarbons (HFCs), per fluorocarbons (PFCs), and sulfur hexafluoride (SF_6). GHGs are expressed in metric tons (MT) of CO_2e (carbon dioxide equivalents). CO_2e is calculated by the various individual GHGs and multiplying by their global warming potential (GWP). The global warming potential is a ratio of a gas' atmospheric heat trapping characteristics as compared to CO_2, which is represented by a GWP of 1. The CO_2e estimated value is calculated as part of the CalEEMod program data output, as developed by the SCAQMD. (KPC EHS, 2014, p. 7)

The GHGs associated with projects similar to the proposed Project include CO_2, CH_4, and N_2O, which are emitted as a result of internal combustion sources and activities. The other gases listed as part of the overall GHG makeup generally are related to industrial activities and would not be produced in measurable quantities by the Project. (KPC EHS, 2014, p. 7)

Local GHG Regulations

In 2008, the SCAQMD provided guidance to lead agencies on the determination of significance of GHG project emissions. As part of the process, the SCAQMD assembled a GHG Significance Threshold Working Group with the goal to develop and reach a consensus on acceptable significance thresholds to be used in CEQA analyses. The Working Group developed and presented significance threshold for various project types (e.g.: residential, industrial, and commercial); however, at the current time, the only threshold approved by the SCAQMD Board is for industrial projects stationary source emissions with a significance threshold of 10,000 $MTCO_2e$/year applied to projects for which the SCAQMD serves as the CEQA lead agency.

The SCAQMD is considering a tiered approach in determining the significance of residential and commercial projects as indicated in draft guidance issued by the SCAQMD 2012 which includes: (KPC EHS, 2014, p. 9)

- Tier 1: If the project is exempt under existing statutory or categorical exemptions there is a presumption of "less-than-significant" impacts with respect to climate change.

- Tier 2: If the project's GHG emissions are within the GHG budgets in an approved regional plan (plans consistent with CEQA sections 15064(h)(3), 15125(d), or 15152(s)), there is a presumption of "less-than-significant" impacts with respect to climate change.

- Tier 3: Is the project's incremental increase in GHG emissions below or mitigated to less than the significance screening level (10,000 $MTCO_2e$/year for industrial projects stationary source emissions; 3,000 $MTCO_2e$/year for residential projects, commercial projects, and mixed-use or other land use projects)? If yes, there is a presumption of "less-than-significant" impacts with respect to climate change.

- Tier 4: Does the project meet one of the following performance standards? If yes, there is a presumption of "less-than-significant" impacts with respect to climate change.

    - Option 1: Achieve some percentage reduction of GHG emissions from a base case scenario, including land use sector reductions from AB32 (e.g., 28% reduction as currently recommended).
    - Option 2: For individual projects, achieve a project-level efficiency target of 4.6 $MTCO_2e$ per service population by 2020 or a target of 3.0 $MTCO_2e$ per service population by 2035. For plans, achieve a plan-level efficiency target of 6.6 $MTCO_2e$ per service population by 2020.

- Tier 5: Projects should obtain GHG emissions offsets to reduce significant impacts. Offsets in combination with any mitigation measures should achieve the target thresholds for any of the above Tiers. Otherwise, project impacts would remain significant.

With the exception of the Industrial Stationary Source threshold of 10,000 MTCO2e/year, the SCAQMD has not finalized or presented the final version of the threshold guidelines to the SCAQMD Governing Board. (KPC EHS, 2014, p. 9) Nonetheless, the analysis herein relies on the SCAQMD's Interim Threshold wherein if Project-related emissions exceed 3,000 $MTCO_2e$/year, then Project-specific GHG emissions would be potentially significant and require further study according to Tier 4, above . The screening threshold is based on a review of the Governor's Office of Planning and Research database of CEQA projects. Based on their review, 90 percent of CEQA projects would exceed 3,000 $MTCO_2e$/year. Projects that exceed the screening threshold would require additional technical analysis to determine the level of significance. The City of Newport Beach relies upon the SCAQMD draft screening level threshold; therefore, for purposes of analysis herein, the proposed Project may have a significant adverse impact on GHG emissions if it would generate GHG emissions that exceed the SCAQMD's 3,000 $MTCO_2e$ per year screening threshold.

Based on the modeling assumptions described under the topic of Air Quality in Section 5.4.3 of this document, and using the SCAQMD's proposed Tier 3 option for determining the significance of a project's GHG impacts, Table 5-6, ***Project Greenhouse Gas Emissions***, presents the Project's projected unmitigated GHG emissions. The emissions presented in Table 5-6 include emissions from construction activities, amortized over a 30-year period per SCAQMD recommendation, as well as operational and area source emissions. As shown, the proposed Project would produce approximately 1,402.00 $MTCO_2e$/year from operational, area, and amortized construction GHG emissions. The proposed Project's estimated GHG emissions of 1,402.00 $MTCO_2e$/year would be less than the SCAQMD's interim threshold 3,000 $MTCO_2e$/year. Therefore, the proposed Project would result in a less-than-significant impact due to GHG emissions. (KPC EHS, 2014, p. 29) Mitigation is not required.

Table 5-6 Project Greenhouse Gas Emissions

Source		GHG Emissions MT/yr.		
	N20	Total CO2	CH4	CO2e
Mobile Sources	0.000	901.4828	0.0379	902.2795
Area	0.000	0.0528	0.00001	0.00559
Energy	0.00619	439.1639	0.0141	441.3775
Solid Waste	0.000	3.3778	0.1996	7.5698
Water/Wastewater	0.00426	23.0104	0.1728	27.9596
30-year Amortized Construction GHG				22.81
TOTAL				*1,402.00*
SCAQMD Threshold				**3,000**
Exceed Threshold?				**NO**

(KPC EHS, 2014, Table 7-1)

b) Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Finding: No Impact. The proposed Project would comply with all applicable plans, policies, and regulations adopted for the purpose of reducing GHG

emissions; accordingly, no impact due to a conflict with any plans, policies, or regulations adopted for the purpose of reducing GHG emissions would occur. Mitigation is not required.

Presently there are no federal regulations applicable to the proposed Project regarding the reduction of GHG emissions (KPC EHS, 2014, p. 7). The following discussion is a brief summary of the State of California and City of Newport Beach regulatory setting regarding GHGs.

- *Assembly Bill 32 (AB 32)*

In the State of California Assembly Bill 32 (AB32), known as the Global Warming Solutions Act, was passed by the state legislature in August of 2006. AB32 requires that levels of GHG be reduced to 1990 levels by the year 2020 and by 80 percent of the 1990 levels by the year 2050. (KPC EHS, 2014, p. 7)

Under the requirements of AB32, the California Air Resources Board (CARB) approved the 1990 GHG emissions inventory, which established the emissions limits for the year 2020. The 2020 emission limit was established at 427 million $MTCO_2e$. The inventory breakdown of GHG sources for 1990 indicated transportation accounted for 35%; industrial emissions, 24%; imported electricity generation, 14%; local electricity generation, 11%; residential usage, 7%; agriculture, 5%; commercial usage, 3%; and forestry emissions, 1%. Reducing GHG's to 427 $MTCO_2e$ would require a reduction of approximately 173 $MTCO_2e$. Compliance with AB32 does not require that each individual sector meet or lower their 1990 GHG inventory percentage; the law instead requires the total inventory be reduced to 1990 levels by 2020. (KPC EHS, 2014, pp. 7-8)

As part of the requirements of AB32, in December of 2008 CARB adopted an initial scoping plan that included recommendations to reduce GHGs to 1990 levels by 2020 through the use of green building policies, recycling, solid waste reduction, and a cap-and-trade program. (KPC EHS, 2014, p. 8)

- *Senate Bill 97 (SB97)*

In order to address GHG emissions and comply with AB32 in General Plans and CEQA documents, Senate Bill 97 (SB97) required the Governor's Office of Planning and Research (OPR) to develop guidelines for CEQA compliance on how to address GHG emissions along with measures to reduce project GHG emissions. Regulations that have been adopted by California to address GHG emissions include the following: (KPC EHS, 2014, p. 8)

- Global Warming Solutions Act of 2006 (AB32)
- Regional GHG Emissions Reduction Targets/Sustainable Communities Strategies (SB 375)
- Pavely Fuel Efficiency Standards (AB1493). Establishes fuel efficiency ratings for new vehicles.
- Title 24 California Code of Regulations (California Building Code). Establishes energy efficiency requirements for new construction.

- Title 20 California Code of Regulations (Appliance Energy Efficiency Standards). Establishes energy efficiency requirements for appliances.
- Title 17 California Code of Regulations (Low Carbon Fuel Standard). Requires carbon content of fuel sold in California to be 10% less by 2020.
- California Water Conservation in Landscaping Act of 2006 (AB1881). Requires local agencies to adopt the Department of Water Resources updated Water Efficient Landscape Ordinance or equivalent to ensure efficient landscapes in new development and reduced water waste in existing landscapes.
- Statewide Retail Provider Emissions Performance Standards (SB 1368). Requires energy generators to achieve performance standards for GHG emissions.
- Renewable Portfolio Standards (SB 1078). Requires electric corporations to increase the amount of energy obtained from eligible renewable energy resources to 20 percent by 2010 and 33 percent by 2020.

As indicated in the discussion and analysis of Threshold a), above, the proposed Project would generate GHG emissions below the SCAQMD's screening threshold and the interim significance thresholds established by the City of Newport Beach for evaluating the significance of a project's GHG emissions. Additionally, activities associated with the Project would be subject to all applicable federal, state, and regional requirements adopted for the purpose of reducing GHG emissions, including, but not limited to: AB 32; SB 375; AB 1493; Titles 17, 20, and 24 of the California Code of Regulations; AB 1881; SB 1368; SB 1078; and the applicable policies of the City's General Plan that reduce GHG emissions. There are no other plans, policies, or regulations adopted for the purpose of reducing GHG emissions that are applicable to the Project area; therefore, the proposed Project would have no potential to conflict with such plans, policies, or regulations. Accordingly, no impact would occur and mitigation is not required.

Greenhouse Gas Emissions: Mitigation Measures

Implementation of the proposed Project would result in less-than-significant impacts due to GHG emissions; therefore, mitigation measures would not be required.

5.4.8 Hazards and Hazardous Materials

a) Would the Project create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials?

b) Would the Project 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?

Finding: Less-than-Significant Impact with Mitigation Incorporated. Based on the findings of Phase I and II Environmental Site Assessments (ESAs), although Underground Storage Tanks (UST) were not identified on the land-side portion of the property, no tank removal permits were located in building records. Accordingly, the potential exists that USTs may be uncovered during grading activities. In addition, the existing building on the property that would be demolished may contain friable asbestos materials and

materials coated with lead-based paint, both of which have the potential to expose construction workers and/or nearby sensitive receptors to health risks during demolition activities. Asbestos-containing materials and materials containing lead-based paints have the potential to create a significant hazard to the public or the environment. In addition, there is an empty vault on the southwest corner of the land-side portion of the property, previously used to house an electrical transformer that may contain Polychlorinated biphenyls (PCBs), which has the potential to create a significant hazard to the public or the environment. With implementation of the required mitigation, impacts would be reduced to a level below significant.

The analysis herein is based on a Phase I and a Phase II Environmental Site Assessment (ESA) conducted by the firm Environmental Engineering & Contracting, Inc. (EEC). The reports are attached as *Appendix H* to this document. Refer to *Appendix H* for additional information.

The Project site is listed in the Emergency Response Notification System (ERNS) and California Hazardous Material Incident Reporting System (CHMIRS) environmental databases for a minor oil release for a boat overflow, two minor diesel spills from vessel bilge pumps, and the washing of paint waste into Newport Harbor. These listings do not represent a Recognized Environmental Condition (REC) or a Historical Recognized Environmental Condition (HREC) for the property because events were in reference to releases into the water and have since dissipated. (Environmental Engineering & Contracting, Inc., 2014b, p. 1) No off-site environmental conditions were identified by EEC that represent a REC, a controlled recognized environmental condition (CREC), vapor encroachment condition (VEC), or a HREC within 0.5 mile of the property (Environmental Engineering & Contracting, Inc., 2014b, p. 2).

During a search of building records conducted by EEC during their Phase I ESA, building records included applications dating 1956 and 1957, for the installation of one 1,500 gallon fuel UST and one 4,000 gallon UST. EEC did not locate any tank removal permits for the property. According to a map included with building records, the specific location of the USTs could not be determined. In addition, no visual evidence of USTs was identified by EEC at the Project site during the Phase I ESA. (Environmental Engineering & Contracting, Inc., 2014b, p. 5) The potential presence of fuel USTs represents a REC for the property. In addition to the potential presence of USTs on the land-side portion of the Project site, documentation provided to EEC from the current property owner indicated that a petroleum odor was identified in soil during previous investigation activities. The potential of petroleum in soil also represents a REC for the property. The Phase II ESA also performed by EEC included a geophysical survey to determine if any subsurface features such as USTs or pipelines remain on the property. Based on the results of the Phase II ESA, no petroleum odors were observed in any of the soil cuttings derived from hand auger borings. Depth to groundwater in the borings ranged from approximately 8 feet to 9.6 feet below ground surface. EEC analyses confirmed that the two potential REC's identified on the property had not impacted the soils and/or groundwater conditions beneath the property. Although the soil and groundwater beneath the property was not impacted, the potential still exists that USTs

may be uncovered during grading activities. Accordingly, grading activities may result in a potentially significant hazard to construction workers if an UST is discovered; therefore, mitigation is required.

EEC did not observe any hazardous materials being used at the Project site under existing conditions. However, EEC was not able to inspect the interior of the existing building on the property scheduled to be demolished as part of the proposed Project. Due to the date of the building construction (1953), there is a potential for Asbestos-containing Material (ACM) to exist inside the building (Environmental Engineering & Contracting, Inc., 2014a, p. 7). Accordingly, during demolition of the building, there is a potential that construction workers could be exposed to friable asbestos materials, which are known to cause human health problems, including cancer. ACMs also have the potential to become airborne during demolition activities, potentially affecting nearby sensitive receptors. The demolition of structures containing ACMs is regulated by Air Quality Management District (AQMD) Rule 1403, which identifies requirements that must be adhered to during demolition of buildings containing ACMs. Mandatory compliance with the provisions of Rule 1403 would ensure that Project demolition activities do not expose construction workers or nearby sensitive receptors to significant health risks associated with ACMs. Because the Project would be required to comply with AQMD Rule 1403 during demolition activities, impacts due to asbestos would be less than significant. Mitigation is provided below to ensure compliance with all applicable provisions of Rule 1403.

Due to the date of the building (1953) there also is a potential that lead-based paint (LBP) exists on the property. Accordingly, there is a potential to expose construction workers to health hazards associated with lead during demolition activities. The Project would be required to comply with Title 17, California Code of Regulations (CCR), Division 1, Chapter 8, which includes requirements such as employer provided training, air monitoring, protective clothing, respirators, and hand washing facilities. In addition, there are standard work practices required such as the use of wet methods and HEPA vacuums. Mandatory compliance with Title 17, California Code of Regulations (CCR), Division 1, Chapter 8 would ensure that construction workers are not exposed to significant LBP health hazards during demolition, and impacts would be reduced to less than significant. Although compliance with these provisions is mandatory, mitigation is provided herein to ensure Project compliance with the CCR requirements for LBPs.

EEC observed an empty vault on the southwest corner of the land-side portion of the Project site. According to site representatives interviewed by EEC, the vault was previously used to house an electrical transformer (Environmental Engineering & Contracting, Inc., 2014a, p. 6). Polychlorinated biphenyls (PCBs) were historically used in electrical transformers, hydraulic fluids, and electrical equipment. PCB's are carcinogenic substances, and their use has been prohibited in most products since 1978. No date of construction of the vault was noted or discovered. During removal of this vault, there is a potential that construction workers could be exposed to PCBs. In California, the U.S. EPA enforces the federal regulations for PCB disposal and storage, and the California Department of Toxic Substances Control (DTSC) administers and enforces the state's additional requirements for PCB hazardous waste. Mandatory compliance with Title 40 of the US. Code of Federal Regulations (40 CFR) would ensure

that property procedures are followed so that construction workers are not exposed to significant health hazards associated with potential PCBs. As such, impacts would be reduced to less than significant. Although compliance with 40 CFR is mandatory, mitigation is provided below to ensure Project compliance with SFR 40 requirements for PCBs, should they be present on an electrical transformer that would be removed as part of the proposed Project's construction process.

Heavy equipment would be used during construction on the land-side and water-side portions of the Project site. Equipment would be fueled and maintained by substances such as oil, diesel fuel, gasoline, hydraulic fluid, and other liquid materials that would be considered hazardous if improperly stored or handled. In addition, materials such as paints, roofing materials, solvents, and other substances typically used in building construction would be located on the land-side portion of the Project site during construction. Improper use, storage, or transportation of hazardous materials could result in accidental releases or spills, potentially posing health risks to workers, the public, and the environment. This is a standard risk on all construction sites, and there would be no greater risk for improper handling, transportation, or spills associated with the proposed Project than would occur on any other similar construction site, and such impacts would be less than significant. Nonetheless, mitigation measures are provided herein to further reduce the potential for environmental hazards to Newport Bay as a result of potential releases of hazardous materials associated with their routine transport and use and possible accidental upset.

Construction work in the water-side area of the Project site would require dredging of approximately 9,900 CY of sediment, as well as the removal of 1,300 CY of upland soils (material from above the Mean Higher High Water (MHHW) (NewFields, 2014, p. 1). According to the results of a Dredged Material Evaluation Sampling and Analysis Report prepared by the firm NewFields, LLC and attached as *Appendix F* to this document, marine sediments beyond the current riprap line and cement revetment are suitable for ocean disposal and are not considered hazardous material. (NewFields, 2014, p. ii) Upland soils would be disposed as construction fill on-site. Dredged sediment would be transported by barge for ocean disposal at site LA-3, which is a U.S. EPA-approved location for the disposal of ocean-dredged material off the coast of Newport Beach. The U.S. EPA has the authority to designate ocean dredge material disposal sites under Section 102 of the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 (33USC 1401 et seq.). LA-3 was approved as a permanent disposal site by the U.S. EPA in 2005, in accordance with Federal Register, Vol. 70, No. 175, dated September 12, 2005. LA-3 is approved to accept a maximum annual dredged material disposal quantity of 2,500,000 cubic yards of dredged material originating from the Los Angeles and Orange County region. Dredging activities would not result in a significant hazard to the public or the environment through routine transport, use or disposal of hazardous materials. No impact would occur and mitigation is not required for hazardous materials associated with the dredging operation.

During Project operation, an additional 36 boat slips would be located in Newport Harbor. Boating activities occur under existing conditions and the addition of boat slips would not result in any new hazard to the public or the environment through routine transport, use, or disposal of hazardous materials associated with boating. Impacts

would be less than significant and mitigation is not required. Refer to MM BR-9 in Section 5.4.4, *Biological Resources*, of this document, which requires the preparation and ongoing implementation of a Marina Management Plan for the Balboa Marina. The Management Plan would include reasonable BMPs, safety guidelines, and steps to take in response to accidental spills, leakages, and fires to reduce the potential for water quality degradation. The marina operator will be required to supply a copy of the Management Plan to boat slip renters at the Balboa Marina.

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c) Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Finding: No Impact. The nearest school is located approximately 1.0 mile from the Project site. The proposed Project would therefore have no potential to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. Accordingly, no impact would occur and mitigation is not required.

The Project site is not located within one-quarter mile of an existing or proposed school. The nearest school to the Project site is Horace Ensign Intermediate School located approximately 1.0 mile northwest of the Project site. Accordingly, the proposed Project has no potential to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. No impact would occur and no mitigation is required.

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

Finding: No Impact. The Project is not included on a list of hazardous materials compiled pursuant to Government Code Section 65962.5. Accordingly, the Project would not create a significant hazard to the public or the environment. No impact would occur and mitigation is not required.

According to the analysis of the Project-site's Phase I and Phase II ESAs (refer to *Appendix H*), the Project site is not identified on a list of hazardous material sites complied pursuant to Government Code Section 65962.5. Accordingly, the proposed Project would not create a significant hazard to the public or the environment. No impact would occur and no mitigation is required.

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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?

Finding: No Impact. The Project site is not located within an airport land use plan or within two miles of a public airport or public use airport. Accordingly, the

Project would not result in an airport safety hazard for people residing or working in the Project area. No impact would occur and mitigation is not required.

The nearest airport to the Project site is the John Wayne Airport (JWA) which is located approximately 6.1 miles north of the Project site. According to the Airport Environs Land Use Plan (AELUP) for JWA, the Project site is not located within the Airport Planning Area or the Airport Impact Zones, the AELUP Notification Area for JWA, or the Airport Safety Zones (OCALUC, 2008, Figure 1). The Project site does, however, occur within the JWA Obstruction Imaginary Surfaces zone established pursuant to Federal Aviation Regulations (FAR) Part 77, although review by the ALUC only would apply if a project is proposed that exceeds the height limits established by FAR Part 77. (OCALUC, 2008) The Project's proposed marine commercial building would be required to comply with the City of Newport Beach non-residential shoreline height limit, so the building height with a flat roof may be constructed to a maximum 35 feet, or 40 feet with a sloped roof, with approval of a future Site Development Review application by the City of Newport Beach. The building height would not result in airport safety impacts. Accordingly, no impact would occur and no mitigation is required.

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?

Finding: No Impact. The Project is not located within the vicinity of a private airstrip. Accordingly, the Project would not result in an airstrip safety hazard for people residing or working in the Project area. No impact would occur and mitigation is not required.

There are no private airstrips within the Project vicinity. Accordingly, the proposed Project would not result in a safety hazard for people residing or working in the Project area. No impact would occur and no mitigation is required.

g) Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Finding: No Impact. The proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. No impact would occur and mitigation is not required.

The City of Newport Beach Emergency Management Plan (EMP) provides guidance for the City of Newport Beach's response to extraordinary emergency situations associated with natural disasters, technological incidents, and nuclear defense operations in both war and peacetime. (City of Newport Beach, 2006b, pp. 4.6-29) The EMP identifies tsunami evacuation routes, tsunami inundation zones, tsunami evacuation sites, and response plans, and utilizes an outdoor emergency siren system to provide people with advance warnings of potential tsunami emergencies. According to the City of Newport Beach EMP, the Project site is located within a Tsunami Inundation Evacuation Zone

(City of Newport Beach, p. 100) The EMP does not identify the Project site as being part of an emergency evacuation route.

Although adjacent roadway segments are not identified as part of an emergency evacuation route, no full or partial temporary lane closures would occur along East Coast Highway or Bayside Drive during Project construction thereby leaving existing roadway segments fully operational in the occurrence of the enactment of the City of Newport Beach emergency evacuation procedures. The Project's AIC application was reviewed by the City of Newport Beach, which determined that reconfiguration of the Balboa Marina parking lot as proposed accommodates appropriate emergency access. The Project's future SDR application also would be subject to City review for the provision of adequate emergency access. Accordingly, the proposed Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. No impact would occur and mitigation is not required.

h) Would the Project 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?

Finding: No Impact. The Project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. No impact would occur and mitigation is not required.

According to the City of Newport Beach General Plan Figure S4, Wildfire Hazards, the Project site is not located within a fire susceptibility area (City of Newport Beach, 2006, Figure S4). In addition, the Project site is located within and is surrounded by urban built up land. Accordingly, the proposed Project would not 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 would occur and no mitigation is required.

Hazards and Hazardous Materials: Mitigation Measures

Mitigation for hazards associated with the potential presence of hazardous materials that would be removed from the property is as follows:

MM HM-1 During Project grading and construction activities, the construction contractor shall ensure that possible locations where the USTs may have been located, either near the existing building or along the western side of the existing parking lot, as identified by Environmental Engineering & Contracting, Inc. (EEC), are potholed using heavy equipment to confirm the presence or absence of UST's on the land-side portion of the Project site. If USTs are discovered, they shall be disposed of properly per applicable State of California and federal guidelines. The Orange County Environmental Health Department provides oversight and conducts inspections of all underground tanks removals.

MM HM-2 The following Condition of Approval shall be placed on the Project's demolition permits.

COA: All demolition permits shall comply with:

a) SCAQMD Rule 1403 with respect to asbestos containing materials.
b) Title 17, California Code of Regulations (CCR), Division 1, Chapter 8, which addresses the removal of components painted with lead-based paint (LBP).
c) Title 40 of the U.S. Code of Federal Regulations (40 CFR) regarding the removal and disposal of PCBs.

Implementation of Mitigation Measures MM HM-1 and MM HM-2 would reduce the Project's potential hazardous materials impacts to below a level of significance.

5.4.9 Hydrology and Water Quality

a) Would the Project violate any water quality standards or waste discharge requirements?

Finding: Less-Than-Significant Impact. The Project would not violate any water quality standard or waste discharge requirement. Impacts would be less than significant and mitigation is not required.

As stated in Table 3-1, *Matrix of Project Approvals/Permits*, the Project would require several federal, State of California, and regional agency approvals that have associated water quality standard requirements. These include but are not limited to a U. S. Army Corps of Engineers (USACE) Section 404 Permit, Regional Water Quality Control Board (RWQCB) Section 401 Water Quality Certification, and a Section 402 NPDES Construction Stormwater General Permit. In addition, because the water-side portion of the Project would involve construction within public waterways, including dredging activities, the Project would also be required to consult with the U.S. EPA regarding suitability of the dredged material management team (DMMT) approval process. With compliance of the required permits, approvals, and consultation, the Project would not violate any water quality standards or waste discharge requirements. In addition, the Project would implement design features and mitigation measures for other environmental topic areas that would further reduce potential impacts to water quality and violations of standards and potential waste discharge requirements. Less-than-significant impacts would occur and mitigation is not required.

b) Would the Project 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)?

Finding: No Impact. The Project site is not located within the Coastal Plain of the Orange County Groundwater Basin. In addition, the groundwater table beneath the land-side portion of the property is shallow and fluctuates with tide levels. There is no potential for groundwater impacts on the water-side portion of the Project site. On the land-side portion, pervious surface area would increase, resulting in more water infiltration and a nominal positive effect on ground water levels. There is no potential for the Project to 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. No impact would occur and mitigation is not required.

According to General Plan EIR Figure 4.7-1, *Water Resources*, the Project site is not located within the Coastal Plain of the Orange County Groundwater Basin (City of Newport Beach, 2006b, Figure 4.7-1). Therefore, the Project has no potential to interfere substantially with the volume of the regional aquifer. Because the Project site is located adjacent to and within the Lower Newport Bay, the groundwater table is shallow. Groundwater was encountered on the Project site at depths of approximately 6.5 feet below ground surface, corresponding to an elevation of +3.5 feet MLLW. Due to the proximity of the site to open water, groundwater levels are expected to fluctuate with tide levels. During high tide events, the groundwater level could rise to an elevation higher than six feet. (Geotechnical Professionals, Inc, 2014, p. 3) In addition, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres), thereby increasing the amount of percolation of on-site surface flows into the ground. Thus, the Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. No impact would occur and no mitigation is required.

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c) Would the Project 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?

Finding: Less-than-Significant Impact. The Project site's drainage pattern would not be altered from existing conditions. Accordingly, the proposed Project would not 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. Impacts would be less than significant and mitigation is not required.

Hydrology at the Project site is influenced primarily by precipitation, landscape irrigation, and subject to regular tidal inundation (Anchor QEA, L.P., 2013, p. 3). Under existing conditions, storm water runoff from the land-side portion of the Project site generally sheet flows south to an existing trench drain along the water-side perimeter of the site that ultimately outlets through the existing bulkhead into Newport Harbor at two locations. Under proposed conditions, runoff would continue to flow in a southerly

direction, and discharge at the two existing bulkhead outlet locations. New on-site area drains are proposed to be constructed to direct low-flow and first-flush runoff to the proposed BMPs prior to discharging off-site through the existing bulkhead outlets. (Fuscoe Engineering, 2014, p. 8) The Project's drainage pattern would not be altered from existing conditions.

The proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate of volume as compared to the existing condition, thereby reducing the volume of stormwater runoff discharged. Additionally, as discussed below under Threshold f), the Project would implement BMPs and/or treatment control BMPs that would filter sediments from surface runoff and also promote surface runoff percolation. Accordingly, the Project would not 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. Impacts would be less than significant and no mitigation is required.

On the water-side portion of the Project site, tidal currents in the Project vicinity are ebb dominant, meaning the ebb currents are higher than the flood currents. According to analysis conducted by Everest International Consultants, Inc., overall tidal currents in the Project area are small under existing and proposed conditions. The impact of the proposed water-side development to tidal and flood velocities would be localized, limited to within a few hundred feet downstream of the East Coast Highway bridge along the main channel and beneath the bridge (Everest International Consultants, Inc. , 2013, p. 60). No alteration of the tidal currents in Newport Bay would occur from the Project, and there would be no change in the Bay current's erosive or siltation characteristics. Impacts would be less than significant and no mitigation is required.

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d) Would the Project 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?

Finding: Less-than-Significant Impact. The Project site's drainage pattern would not be altered from existing conditions and the Project would not increase the rate or amount of surface runoff. Accordingly, the Project would not 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. Impacts would be less than significant and mitigation is not required.

As described under the above Thresholds b) and c), the Project site's drainage pattern would not be altered from existing conditions. Under proposed conditions, runoff would continue to flow in a southerly direction (as it does under existing conditions) and discharge at the two existing bulkhead outlet locations. As concluded in the Project-specific WQMP included as *Appendix I* to this document, the proposed Project would

reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate of volume as compared to the existing condition, thereby reducing the volume of stormwater runoff discharged. In addition, the Project would implement BMPs and/or treatment control BMPs that would filter sediments from surface runoff and also promote surface runoff percolation. Accordingly, the Project would not 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. Impacts would be less than significant and no mitigation is required.

e) Would the Project 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?

Finding: Less-than-Significant Impact. The proposed Project would not 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. Impacts would be less than significant and mitigation is not required.

As discussed below under Threshold f), the proposed Project is not anticipated to substantially alter the character of storm water runoff discharged from the subject property as compared to existing conditions. The proposed Project's land-side components are designed to ensure that post-development runoff rates and volumes closely resemble those that occur under existing conditions. Under proposed conditions, runoff would continue to flow in a southerly direction (as it does under existing conditions) and discharge at the two existing bulkhead outlet locations. New on-site drains would be constructed to direct low-flow and first-flush runoff to the proposed BMPs prior to discharging off-site through the existing bulkhead outlets. As concluded in the Project-specific WQMP included as *Appendix I* to this document, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate of volume as compared to the existing condition, thereby reducing the volume of stormwater runoff (and pollutants) discharged. With mandatory compliance with the NPDES permit and the requirements included in the Project-specific WQMP, the Project would not provide substantial additional sources of polluted runoff. Impacts would be less than significant and no mitigation is required.

f) Would the Project otherwise substantially degrade water quality?

Finding: Less than Significant with Mitigation Incorporated. The proposed Project has the potential to temporarily impact the water quality of Newport Bay through sedimentation and turbidity during water-side construction and dredging activity (approximately 4 weeks). L ong-term water quality impacts would be less than significant. Mitigation measures would reduce construction-related effects to below a level of significance.

To implement the proposed water-side development, site preparation would include dredging of sediment and grading of upland soils. Unless silt curtains are deployed around the dredge site and barge to confine suspended sediment particles from drifting beyond the job site when bottom sediments are disturbed, the water quality of Newport Bay could be temporarily affected. Impacts are potentially significant and mitigation to ensure the use of silt curtains is required.

In order to construct the land-side portion of the Project, an existing 1,200 SF building and portions of the existing Balboa Marina parking lot would be demolished to prepare the site for redevelopment. These ground-disturbing activities would temporarily result in the generation of potential water quality pollutants with the potential to adversely affect water quality. Fine sediments generated from demolition, dredging, and construction activities that may be transported to Newport Bay in storm water runoff could result in a localized effects to water quality. However, according to the Project-specific WQMP included as *Appendix I* to this document, due to the limited amount of landscaping on the Project site, Low Impact Development (LID) BMPs are required in addition to site design measures and source controls to reduce pollutants in storm water discharges. Accordingly, biotreatment BMPs in the form of Modular Wetland Systems and StormFilter Units are proposed to be utilized on-site for water quality treatment. Modular Wetland Systems are biotreatment systems that utilize multi-stage treatment processes including screening media filtration, settling and biofiltration. According to the Project-specific WQMP, the Modular Wetlands would be located in the southern portion of the Project site near the reconfigured driveway entrance off East Coast Highway.

Runoff from the proposed building and southern portion of the parking lot would drain to a proposed StormFilter media filtration unit to be located within the garage floor below the proposed building. A StormFilter is a pre-cast vault storm drain insert system that uses passive, siphon-activated media-filled cartridges that trap and absorb particulates and pollutants (Fuscoe Engineering, 2014, pp. 21-22). Refer to the Project-specific WQMP included as *Appendix I* to this IS/MND for a further description of Modular Wetlands Systems and StormFilter Units. The Project would be required to prepare and implement the Project-specific WQMP pursuant to the requirements of the City's NPDES permit. The Project's WQMP (*Appendix I*) identifies Structural Source Control BMPs (i.e. storm drain system stenciling and signage, design and construction of outdoor material storage areas to reduce pollution introduction. Refer to *Appendix I* for a complete list of Structural Source Control BMPs and Non-Structural Source Control BMPs (i.e. activity restrictions, common area landscape management, BMP maintenance. Refer to *Appendix I* for a complete list of Non-Structural Source Control BMPs to minimize, prevent, and/or otherwise appropriately treat storm water runoff flows before they are discharged from the Project site. With required implementation of the WQMP, operation of the land-side portion of the Project site would have a less-than-significant impact to water quality.

Additionally, during Project operation, an additional 36 boat slips would be located in Newport Harbor. Boating activities occur under existing conditions and the addition of boat slips would not result in any new water quality impacts associated with boating. Impacts would be less than significant and mitigation is not required. Refer to MM BR-9

in Section 5.4.4, *Biological Resources*, of this document, which requires the preparation and ongoing implementation of a Marina Management Plan for the Balboa Marina. The Management Plan would include reasonable BMPs, safety guidelines, and steps to take in response to accidental spills, leakages, and fires to reduce the potential for water quality degradation. The marina operator will be required to supply a copy of the Management Plan to boat slip renters at the Balboa Marina.

g) Would the Project 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?

Finding: No Impact. The Project would not place housing on the Project site. Thus, the proposed Project would not 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 would occur and mitigation is not required.

The Project does not propose to place housing on the Project site. Thus, the Project would not 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 would occur and no mitigation is required.

h) Would the Project place within a 100-year flood hazard area structures which would impede or redirect flood flows?

Finding: Less-than-Significant Impact. The Project would not place structures on the Project site that would impede or redirect flood flows within a 100-year flood hazard area.

As shown on General Plan Figure 4.7-3, *Flood Zones*, the land-side portion of the proposed Project is not located within an area identified as a Special Flood Hazard Area inundated by 100-year flood. (City of Newport Beach, 2006b, Figure 4.7-3) Accordingly, the land-side portion of the Project site would not place within a 100-year flood hazard area structures which would impede or redirect flood flows. No impact would occur and no mitigation is required.

The Project proposes to establish a new public boat dock and to add boat slips to the private Balboa Marina. The new public dock would include a gangway and approximately 12 public boat slips including eight (8) new boat slips and four (4) transient boat slips that would be relocated to the public dock from the existing private Balboa Marina. In the private Balboa Marina, 24 private boat slips accommodating a range of vessel sizes and a new gangway are proposed to be added. According to Federal Emergency Management Agency (FEMA), the water-side portion of the Project site is located in FEMA Flood Hazard Zone A and is subject to inundation by a 100-year flood.

The largest discharge into Upper Newport Bay is the San Diego Creek, which accounts for approximately 80% of flows entering the upper portion of Newport Bay. (Everest

International Consultants, Inc, 2013, p. 49) During a flood event, stormwater runoff from San Diego Creek and other channels upstream of the water-side portion of the Project will carry debris such as green waste (i.e. small tree branches and sticks) with the freshwater flow. The City of Newport Beach regularly deploys debris bloom upstream from the Project site to prevent the debris from entering the Lower Newport Bay. If there is not deployment of the debris bloom upstream from the Project site, the proposed dock extension would act like a debris bloom collecting debris behind it during a rain event (Everest International Consultants, Inc. , 2013, pp. 15-16). Maximum current at the water-side portion of the Project site would occur if the peak of the flood flow arrives when the tide is ebbing and flowing. (Everest International Consultants, Inc. , 2013, p. 13)The addition and relocation of boat slips would not necessarily impede or redirect flood flows beyond existing conditions. However, as under existing conditions, if deployment of the upstream debris bloom does not occur, there is a potential for flood flows to be redirected and/or impeded by a build-up and gathering of debris in and around the water-side portion of the Project site. With compliance with the required BMPs, as stated in the Project-specific WQMP, including maintenance of the dock area, and Project design features, impacts are less than significant and no mitigation is required.

i) Would the Project 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?

Finding: No Impact. The Project would not 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. Impacts are less than significant and mitigation is not required.

According to the City of Newport Beach Emergency Operation Plans, *Dam Failure Inundation Map*, the Project site is not located within a dam failure inundation area (City of Newport Beach). Additionally, the Project does not propose to construct, remove, or alter any levee or dam. As such, the Project would not 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 would occur and no mitigation is required.

j) Would the Project expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow?

Finding: Less-than-Significant Impact. With compliance with the provisions of the flood damage provisions in the City's Municipal Code, impacts would be less than significant and mitigation is not required.

According to the City of Newport Beach, the Project site is located within a 500-year Tsunami Hazard Zone Mean Higher High Water (MHHW) (inundation elevation of 9.07 feet). In addition, the State of California-County of Orange Newport Beach Quadrangle Tsunami Map for Emergency Planning (County of Orange, 2009) indicates that the

Project site is located within a designated tsunami inundation area. Newport Beach is generally protected from most distantly generated tsunamis by the Channel Islands and Point Arguello, except for those generated in the Aleutian Islands, off the coast of Chili, and possibly off the coast of Central America. Since the 1800's, more than thirty tsunamis have been recorded in Southern California, and at least six (6) caused damage in the area, although not necessarily in Newport Beach. Locally generated tsunamis caused by offshore faulting or landsliding immediately offshore from Newport Beach are possible, and these tsunamis have the potential to be worst-case scenarios for the coastal communities in Orange County. (City of Newport Beach, 2006b, pp. 4.7-16) The City has prepared an Emergency Management Plan, which identifies tsunami evacuation routes, tsunami evacuation sites, response plans, and utilizes an outdoor emergency siren system to provide residents with advance warnings of potential tsunami emergencies. The Project site is located within the coverage area of the outdoor emergency siren within Veterans Memorial Park at 154th Street and Bay Avenue on the Balboa Peninsula. The proposed Project would not change the potential for exposure of people or structures to water inundation in the rare instance of a tsumani. The Balboa Marina would have the same level of tsunami risk with or without the implementation of the improvements proposed by the Project. Therefore, the impact is less than significant and mitigation is not required.

The General Plan EIR identifies Mariner's Mile, Balboa Peninsula, and Balboa Village at risk resulting from seiche in Newport Harbor. The Project site is not located in an area identified by the General Plan as at risk from seiche. Additionally, the Balboa Marina would have the same level of seiche risk with or without the implementation of the improvements proposed by the Project. Therefore, the impact is less than significant and mitigation is not required.

In the case of both tsunami and seiche risk, mandatory Project compliance with the flood damage provisions in the City's Municipal Code would be required.

Hydrology and Water Quality: Mitigation Measures

MM HWQ-1 Prior to the issuance of any grading, building, or other permits a Marina Management Plan shall be prepared by the Project Applicant and approved by the City of Newport Beach. The Marina Management Plan shall identify construction and operational best management practices (BMPs) to reduce potential water quality impacts to Newport Bay. The Management Plan shall include BMPs, safety guidelines, and steps to take in response to accidental spills, leakages, and fires to reduce the potential for water quality degradation.

MM HWQ-2 Prior to issuance of construction permits, the Project Applicant shall prepare, and the City of Newport Beach shall review and approve, a Stormwater Pollution Protection Plan (SWPPP) in compliance with the Regional Water Quality Control Board's (RWQCB) Section 402 National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit and be provided evidence that the RWQCB has issued a Section 401 Water Quality Certification.

MM HWQ 3 The following Conditions of Approval shall be placed on the Project's applicable implementing permits and approvals.

COA: All construction contracts shall disclose and require strict compliance with the requirements and recommendations of the Marina Management Plan related to construction-related activities. The Management Plan shall be implemented as a requirement of the long-term operation of Balboa Marina. The marina operator shall be required to supply a copy of the Management Plan to boat slip renters at the Balboa Marina.

COA: The dredging permit shall state that scow doors used to release dredged material at the approved dredge materials disposal location shall be required to remain closed until the scows are towed to the disposal site.

Implementation of Mitigation Measures MM HWQ-1 through MM HWQ-3 would reduce the Project's potential water quality impacts to below a level of significance.

5.4.10 Land Use and Planning

a) Would the Project physically divide an established community?

Finding: No Impact. The Project site does not immediately abut any existing residential neighborhoods; thus, the Project would not physically divide any established communities. No impact would occur and mitigation is not required.

The Project site is located along the eastern side of Newport Harbor in the northern portion of Lower Newport Bay. As previously shown on Figure 2-4, *Existing and Surrounding Land Uses*, the Project site is bounded on the north by East Coast Highway and commercial development comprised of outside Recreational Vehicle (RV) and boat storage, a floating fish market, pump station, and parking; on the south by water surface and Linda Isle, a man-made island consisting of residential development with private residential docks around its perimeter; on the east by commercial development comprised of restaurants, office buildings, a gas station, and associated parking lots; and on the west by the channel of Lower Newport Bay. Although residential uses occur to the north, south, and west, these neighborhoods already are separated from one another by Lower Newport Bay and/or East Pacific Coast Highway. Accordingly, the proposed Project has no potential to physically divide any existing established communities, and no impact would occur.

b) Would the Project 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?

Finding: Less-Than-Significant Impact with Mitigation Incorporated. The land use plans, policies, and regulations applicable to the proposed Project include the City's General Plan, Coastal Land Use Plan, and Zoning Code/Municipal Code, as well as the AELUP for the JWA, and the Orange County NCCP/HCP. The proposed Project is not anticipated to conflict with any applicable plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental impact. Furthermore, Mitigation Measure LU-1 ensures that City review of applications for a Site Development Review and a Conditional Use Permit require mandatory compliance with all applicable General Plan and Coastal Land Use Plan policies. Accordingly, impacts would be less than significant with mitigation incorporated.

Analysis of Consistency with the City of Newport Beach General Plan

The City of Newport Beach approved a comprehensive update to its General Plan in November 2006. The General Plan has ten elements: Land Use Element, Harbor and Bay Element, Housing Element, Historical Resources Element, Circulation Element, Recreation Element, Arts and Cultural Element, Natural Resources Element, Safety Element, and Noise Element. The General Plan and these elements present a vision for the City's future and goals and policies to implement that vision.

As shown previously on Figure 2-5, the Project site is designated Recreational and Marine Commercial (CM 0.3 FAR) by the City's General Plan. The CM designation is intended to provide for commercial development on or near Newport Bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive business, encourage visitor-serving and recreational uses, and encourage physical and visual access to the Bay on sites located on or near Newport Bay (City of Newport Beach, 2006, p. 3-12).

The Project proposes to add a new public boat dock in Lower Newport Bay and improve and expand the existing Balboa Marina by adding additional private boat slips, and to demolish portions of the existing Balboa Marina parking lot and a 1,200 SF building to construct a reconfigured parking lot and a new 19,400 SF marine commercial building with an outdoor patio and tuck-under parking.

The proposed marine commercial building, which is anticipated to accommodate a restaurant, marina restrooms, office space for a yacht brokerage, as well as the new public dock and additional private boat slips, represent "coastal-dependent and coastal-related" land uses. The new public transient dock, expanded private marina, and land-side improvements also would "maintain the marine theme and character" of the site's surroundings. The marine commercial building anticipated to accommodate a restaurant and the and public and private boat slips would be "mutually supportive," and would serve to "encourage visitor-serving and recreational uses." The new public boat dock and design of the marine commercial building with an outdoor patio also would "encourage physical and visual access to the Bay." The new public boat dock would provide 12 slips and establish a new public transient boat dock in Lower Newport

Bay to provide a new point of vertical public access. In addition, the new public dock would allow the relocation of the four (4) existing transient public boat slips currently located in the private Balboa Marina to an area of Lower Newport Bay that is more easily accessible to transient public boaters. The Project would accommodate enhancements to resident and visitor boater's abilities to access the land from the water and allow transient public boaters to easily navigate from a new public dock in Lower Newport Bay to restaurants and commercial uses in and around the Balboa Marina. The Project also would assist the City of Newport Beach in meeting the need for a variety of boat slip sizes in Newport Harbor by adding a new public dock and additional boats slips at the Balboa Marina that accommodate a range of vessel sizes, including slips for vessels 20-feet in length and under. For these reasons, the proposed Project fully complies with the site's "CM 0.5 FAR" General Plan land use designation.

During the City's review of the Project's AIC application, the Planning Division reviewed the proposed application materials for consistency with all applicable policies of the General Plan, and found that there would be no conflict with any applicable General Plan policies resulting from the Project. Policies applicable to the proposed Project are discussed in the General Plan Consistency Analysis (Refer to ***Appendix M1)***. As indicated in Appendix M1, the proposed Project would be fully consistent or otherwise would not conflict with any policies of the City of Newport Beach General Plan. Accordingly, impacts due to a conflict with applicable General Plan policies would be less than significant.

Analysis of Consistency with the City of Newport Beach Coastal Land Use Plan

The Coastal Zone Management Act (Title 16 U.S.C. 1451-1464) declares it a national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone and prohibits development 1,000 feet inland from California's mean high tide without a permit from the state coastal commission. The California Coastal Act of 1976 established the California Coastal Commission and identified coastal resource planning and management policies to address public access, recreation, marine environment, land resources, and development. Implementation of California Coastal Act policies is accomplished primarily through the preparation of a Local Coastal Program (LCP) by the local government that is reviewed and certified (approved) by the Coastal Commission.

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

The Coastal Land Use Plan sets forth goals, objectives, and policies that govern the use of land and water in the coastal zone within the City of Newport Beach and its sphere

of influence, with the exception of Newport Coast and Banning Ranch. As shown previously on Figure 2-6, the Newport Beach Coastal Land Use Plan designates the Project site as Recreational and Marine Commercial (CM-A, 0.00-0.30 FAR). The CM category is intended to provide for commercial development on or near Newport Bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to Newport Bay on the waterfront commercial and industrial building sites on or near the Bay (City of Newport Beach, 2009, p. 2-2). The Project, which would have a FAR of less than 0.30, would be fully consistent with the site's Coastal Land Use Plan designation.

During the City's review of the Project's AIC application, the Planning Division reviewed the proposed application for consistency with all applicable policies of the Coastal Land Use Plan, and found that there would be no conflict with any applicable policies resulting from the Project. Policies applicable to the proposed Project are discussed in Appendix M2, *Coastal Land Use Plan Consistency Analysis*. As indicated in the proposed Project would be fully consistent or otherwise would not conflict with any policies of the City of Newport Beach Coastal Land Use Plan. Accordingly, impacts due to a conflict with applicable Coastal Land Use Plan policies would be less than significant.

Analysis of Consistency with the City of Newport Beach Zoning Code/Municipal Code

The City of Newport Beach Zoning Code carries out the policies of the City of Newport Beach General Plan. It is the intent of the Zoning Code to promote the orderly development of the City; promote and protect the public health, safety, peace, comfort, and general welfare; protect the character, social and economic vitality of the neighborhoods; and to ensure the beneficial development of the City (City of Newport Beach Municipal Code, 2014). As shown previously on Figure 2-7, *Existing Zoning Designations*, the Project site is zoned Commercial Recreational and Marine (CM 0.3 FAR). The CM Zoning District is intended to provide for areas appropriate for commercial development on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive business, encourage visitor-serving and recreational uses, and encourage physical and visual access to Newport Bay on sites located on or near the Bay (City of Newport Beach Municipal Code, 2014).

The Project, which proposes a new marine commercial building, a new public boat dock, new private boat slips, and the reconfiguration of an existing parking lot, would be consistent with the purpose of the CM Zoning District. There are no components of the AIC application that would conflict with the Zoning Code or Municipal Code. Additionally, future applications for a SDR and/or CUP would be reviewed for compliance with the City's Zoning Code/Municipal Code. Where necessary, conditions of approval will be imposed on the SDR and/or CDP to ensure compliance with all applicable provisions of the Zoning Code and Municipal Code. The City also would review future implementing development applications, such as grading and building permits, for conformance with the Zoning Code/Municipal Code. Accordingly, the

proposed Project would not conflict with the City of Newport Beach Zoning Code or Municipal Code, and impacts would be less than significant.

Analysis of Consistency with the City of AELUP for JWA

According to the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport (JWA), which is the nearest public airport to the proposed Project site, the proposed Project site is not located within the AELUP Notification Area for JWA, nor is the site subject to any impacts (safety or noise) due to airport operations. Accordingly, the proposed Project would not require review by the Airport Land Use Commission (ALUC) for Orange County. The Project site does, however, occur within the JWA Obstruction Imaginary Surfaces zone established pursuant to Federal Aviation Regulations (FAR) Part 77, although review by the ALUC only would apply if a project is proposed that exceeds the height limits established by FAR Part 77, which the proposed Project does not. The Project has no potential to conflict with the AELUP for JWA, and no impact would occur.

Analysis of Consistency with the Orange County NCCP/HCP

The Orange County Central and Coastal Orange County Natural Community Conservation Plan (NCCP) and Habitat Conservation Plan (HCP) were completed in 1996, and the City of Newport Beach became a signatory agency in July of 1996. The purpose of the NCCP/HCP is to create a multi-species multi-habitat reserve system and implementation of a long-term management program that will protect primarily coastal sage scrub and the species that utilize this habitat. The NCCP/HCP focuses on multiple species and habitats and addresses the conservation of these species on a regional context. The three main target species are the coastal California gnatcatcher, cactus wren, and orange-throated whiptail, in addition to 26 other species that are also identified and afforded management protection under the NCCP/HCP. An additional ten species of plants and animals that are either federally listed or treated as if they were listed according to FESA Section 10(a) are addressed within the NCCP/HCP.

According to Figure 11 of the NCCP/HCP, *Preliminary Reserve Concept*, the Project site and surrounding areas are not targeted for conservation as part of the NCCP/HCP (Orange County, 1996, Figure 11). Accordingly, the proposed Project has no potential to conflict with the NCCP/HCP. There are no additional Habitat Conservation Plans, Natural Community Conservation Plans, or other approved local, regional, or state habitat conservation plans applicable to the Project site or vicinity. Accordingly, no impact would occur.

Conclusion

As indicated in the above analysis, and with implementation of Mitigation Measure MM LU-1, the Project would not conflict with the City's General Plan, the Coastal Land Use Plan, the Zoning Code/Municipal Code, the AELUP for the JWA, or the Orange County NCCP/HCP. Accordingly, impacts due to a potential conflict with applicable land use plans, policies, or regulations of an agency with jurisdiction over the Project would be mitigated to a level below significant.

c) Would the Project conflict with any applicable habitat conservation plan or natural community conservation plan?

As noted above under the analysis of Land Use and Planning Threshold b), the proposed Project site is located within the Orange County Central and Coastal Orange County NCCP/HCP, which does not identify the Project site and surrounding areas for conservation (Orange County, 1996, Figure 11). Due to the developed nature of the Project site, the site also does not contain any habitat for any of the plant or animal species addressed by the NCCP/HCP. Accordingly, the proposed Project has no potential to conflict with the NCCP/HCP. There are no additional Habitat Conservation Plans, Natural Community Conservation Plans, or other approved local, regional, or state habitat conservation plans applicable to the Project site or vicinity. Accordingly, no impact would occur.

Land Use and Planning: Mitigation Measures

MM LU-1 The City of Newport Beach Planning Division shall review the Project's applications for a Site Development Review and Conditional Use Permit for compliance with all applicable General Plan and Coastal Land Use Plan policies that relate to environmental resource protection. and ensure compliance.

Implementation of Mitigation Measure MM LU-1 would reduce the Project's potential land use and planning impacts to below a level of significance.

5.4.11 Mineral Resources

a) Would the Project 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?

Finding: No Impact. The Project site is mapped within Mineral Resource Zone 1 (MRZ 1), which is an area defined as containing no significant mineral deposits. Accordingly, the proposed Project would not 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 would occur and mitigation is not required.

According to the City's General Plan EIR, which uses mapping conducted by the California Geological Survey (CGS) that maps areas known as Mineral Resources Zones (MRZs), the Project site is mapped within MRZ 1, which is an area defined as an area containing no significant mineral deposits (City of Newport Beach, 2006b, Figure 4.5-4). No mines, wells, or other resource extraction activity occurs on the property or is known to have ever occurred on the property. Accordingly, implementation of the proposed Project would not 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. Accordingly, no impact would occur and no mitigation is required.

b) Would the Project 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?

Finding: No Impact. The City's General Plan does not identify the Project site as containing a locally important mineral resource recovery site. Accordingly, the proposed Project would not 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. Accordingly, no impact would occur and mitigation is not required.

The City's General Plan does not identify the Project site as containing a l ocally important mineral resource recovery site (City of Newport Beach, 2006, Figure 4.5-3). In addition, there are no specific mineral resource plans applicable to the Project site, and no other plans that identify any locally important mineral resource recovery sites on the Project site or immediate vicinity. Accordingly, no impact would occur and no mitigation is required.

Mineral Resources: Mitigation Measures

Implementation of the proposed Project would result in no impacts to mineral resources. Accordingly, mitigation measures are not required.

5.4.12 Noise

a) Would the Project result in the 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?

Finding: Less-than-Significant Impact with Mitigation. With mandatory adherence to the City's Municipal Code noise ordinance standards, the proposed Project would not expose persons to or generate noise levels in excess of standards established in the City's Municipal Code or General Plan Noise Element, or the California Building Code. However, mitigation is recommended to ensure that operation of an outdoor patio at the future marine commercial building complies with the qualitative provisions of the City of Newport Beach Municipal Code that require noise from such establishments to be inaudible at the property lines (Section 20.48.090E), or that prohibit "loud or raucous" noise (Section 10.28.020). Because noise from operation of the restaurant's outdoor patio could potentially conflict with City noise ordinance standards, the impact is considered potentially significant and mitigation is required.

The primary noise standards applicable to the proposed Project are noise standards contained in the City of Newport Beach Municipal Code and the City of Newport Beach General Plan Noise Element.

Table 5-7 City Municipal Code Section 10.26.025 Noise Standards

Land Use Categories		Allowable Noise Levels, L_{eq} (dBA)			
		Interior		Exterior[a,b]	
Categories	Uses	7 AM to 10 PM	10 PM to 7 AM	7 AM to 10 PM	10 PM to 7
Residential	Single Family, Two Family, Multiple Family (Zone I)	45	40	55	50
	Residential Portions of Mixed Use Developments (Zone III)	45	40	60	50
Commercial Industrial	Commercial (Zone II)	N/A	N/A	65	60
	Industrial or Manufacturing (Zone IV)	N/A	N/A	70	70
Institutional	Schools, Day Care Centers, Churches, Libraries, Museums, Health Care Institutions (Zone I)	45	40	55	50

a. If the ambient noise level exceeds the resulting standard, the ambient shall be the standard.
b. It shall be unlawful for any person at any location within the incorporated area of the City to create any noise or to allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such a person which causes the noise level when measured on any other property, to exceed either of the following:
- The noise standard for the applicable zone for any 15-minute period;
- A maximum instantaneous noise level equal to the value of the noise standard plus 20 dBA for any period of time (measured using A-weighted slow response.
- In the event the ambient noise level exceeds the noise standard, the noise standard applicable to said category shall be increased to reflect the maximum ambient noise level.
- The noise standard for the residential portions of the residential property falling within 100 feet of a commercial property, if the intruding noise originates from that commercial property.
- If the measurement location is on a boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply.

Source: Weiland Acoustics (*Appendix J*), Table 4-2.

Newport Beach Municipal Code

- *Municipal Code Chapter 10.26 (Community Noise Control)* establishes provisions for the control of noise sources within the City. Section 10.26.025 (Exterior Noise Standards) establishes exterior noise standards, as follows:
- *Municipal Code Section 10.26.035* identifies exemptions to the noise standards outlined in Chapter 10.26, and specifically excludes "noise sources associated with construction, repair, remodeling, demolition or grading of any real property." Noise standards for construction activities are instead established by Municipal Code Chapter 10.28 (discussed below).
- *Municipal Code Chapter 10.28 (Loud and Unreasonable Noise)* regulates the "…making, allowing, creation, or maintenance of loud and unreasonable, unnecessary, or unusual noises which are prolonged, unusual, annoying, disturbing and/or unreasonable in their time, place and use are a detriment to public health, comfort, convenience, safety, general welfare and the peace and quiet of the City and its inhabitants.
- *Municipal Code Section 10.28.040 (Construction Activity – Noise Regulations)* provides noise regulations for construction activity, and prohibits noise being produced during specific hours of the day and days of the week or year. Specifically, construction activities are limited by Section 10.28.040 to between

the hours of 8:00 a.m. and 6:00 p.m. Mondays through Saturdays (except holidays), and prohibits construction activities on Sundays and federal holidays.

- *Municipal Code Section 10.26.045* states that new heating, venting and air conditioning (HVAC) equipment cannot exceed a noise level of 50 dBA when measured at a residential property line. A noise level of 55 dBA is permitted if the equipment is installed with a timer that deactivates the equipment between 10:00 p.m. and 7:00 a.m.
- *Municipal Code Section 10.28.020* prohibits the emission or transmission of any "loud or raucous" noise from any sound-making or sound-amplifying device. No quantitative noise standard is provided.
- *Municipal Code Section 10.28.040* prohibits construction work that produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any weekday except between the hours of 7:00 a.m. and 6:30 p.m., or on any Saturday except between the hours of 8:00 a.m. and 6:00 p.m. Construction work is prohibited on Sundays and federal holidays. The City's Municipal Code does not identify any quantitative noise level standards for construction activities.
- *Municipal Code Section 10.28.045* prohibits maintenance work that produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity, on any weekday except between the hours of 7:00 a.m. and 6:30 p.m., or on any Saturday except between the hours of 8:00 a.m. and 6:00 p.m. Maintenance work is prohibited on Sundays and federal holidays. The City's Municipal Code does not identify any quantitative noise level standards for maintenance activities.
- *Municipal Code Section 20.30.080* prohibits deliveries, loading, unloading, opening/closing or other handling of boxes, crates, containers, building materials, trash receptacles, or similar objects within a nonresidential zoning district between 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays, and between 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays.
- *Municipal Code Section 20.48.090(C)* requires that owners/operators of an eating and drinking establishment that sells, serves, or gives away alcohol shall post signs at clearly visible locations within the establishment and at both on-site and off-site parking areas requesting that patrons keep noise to a minimum.
- *Municipal Code Section 20.48.090(E)* requires that the building structure in which bars, nightclubs, and lounges are located be adequately soundproofed so that interior noise is not audible beyond the lot lines with the doors and windows closed.

The predominant noise sources associated with the proposed Project are additional traffic on local streets, activities at the expanded Balboa Marina and proposed public transient boat dock, activities and equipment at the proposed marine commercial building, and parking lot activities. Each of these is discussed below.

- *Traffic.* Using data provided by the Project's traffic study (*Appendix K*), analyses were conducted by Wieland Acoustics to identify the traffic noise exposures that

would occur in the study area with and without the Project. The resulting analysis (refer to Tables 9-7 and 9-8 of *Appendix J*) indicates that the Project's traffic would increase noise on area roadways by up to 0.3 dB CNEL. This estimated increase in noise level is below the Section 10.26.025 (Exterior Noise Standards) allowable noise levels, and the impact is thus less than significant. No other provisions of the City's Municipal Code noise ordinance standards would be violated by a nominal increase in traffic noise on area roadways.

- *Expanded Private Marina and Public Boat Dock.* When the additional private boat slips and new public transient boat dock proposed by the Project are in operation, it is expected that there would be an incremental noise level increase associated with use of the boat slips. The increase would be commensurate with the number of new boats using the slips, the frequency with which the new slips are used, and the mix of engine types (fueled or electric) on the new boats. Because these factors are unknown, the incremental increase in noise can be estimated by assuming that it will be proportional to the increase in the number of slips. There are currently 105 slips at the Balboa Marina. The proposed Project would add 24 private boat slips and 8 new public boat slips, for a total of 32 additional slips and 137 total slips. According to Weiland Acoustics (refer to *Appendix J*), this will produce an estimated increase of 1 dB relative to the noise level produced by the use of the current Balboa Marina. This estimated increase in noise level from the use of the new slips is below the Section 10.26.025 (Exterior Noise Standards) allowable noise levels, and the impact is less than significant. No other provisions of the City's Municipal Code noise ordinance standards would be violated by operation of the expanded private Balboa Marina or public boat dock. No outdoor noise amplification devices are proposed at the private Balboa Marina or at the proposed public boat dock. Persons using the boat docks are required to comply with the City's noise control ordinance standards, which are enforced by the operator of the Balboa Marina and the City of Newport Beach.

- *Marine Commercial Building.* The Project proposes a 19,400 SF building anticipated to accommodate a restaurant with outdoor patio, public restrooms, and a yacht brokerage office. Because the activities associated with office spaces and restrooms would occur exclusively within the interior of the building, they are not expected to produce significant noise levels outside of the structure that would be audible at surrounding properties. The proposed restaurant, however, has the potential to violate the City's Municipal Code noise ordinance standards if loud noise is produced on the outdoor patio or by live entertainment a bar, lounge, or nightclub. Based on measurements obtained as part of other noise studies for restaurants in Newport Beach, and taking into account the distances to the nearest residential properties (270' to 650'), Weiland Acoustics reports that is unlikely that the activities at the proposed restaurant would exceed the quantitative noise standards identified in Chapter 10.26 of the City's Municipal Code *(Wieland Acoustics, 2014, p. 33)*. However, they may violate the qualitative provisions of the Municipal Code that require noise from such establishments to be inaudible at the property lines (Chapter 5.28, Chapter 20.48.090E), or that prohibit "loud or raucous" noise (Chapter 10.28.020).

Therefore, the noise impact is considered to be potentially significant and mitigation is required.

- *Parking Lot.* Using data provided by the Project's traffic study (*Appendix K*), analyses were conducted by Wieland Acoustics to identify the noise exposures from operation of the reconfigured parking lot. A computer noise model was prepared by Weiland Acoustics utilizing SoundPLAN software, which predicts noise levels based on the size of the parking lot, the number of parking spaces, and the number of hourly vehicle movements. This model takes a number of important variables into account, including source sound power levels, the distance from sources to receivers, the heights of sources and receivers, ground conditions, barrier effects provided by walls, buildings and topography, and noise reflected from hard surfaces such as buildings and walls. The results of the noise modeling are shown in Figure 5-12, *Estimated Parking Lot Activity Noise Levels*, as a noise contour map. Referring to Figure 5-12, the noise level due to peak evening parking lot activities is estimated to be 43 dBA at the closest residential property on Linda Isle, and notably less at the residences on Bayshore Drive to the west. These levels are below the City's daytime and nighttime standards of 55 dBA and 50 dBA, respectively, for residential uses; therefore, the impact is less than significant. Also, assuming that standard residential construction provides at least 10 dB of noise reduction with windows open, the interior noise level due to parking lot activities is expected to be 33 dBA at the residences on Linda Isle. At the residences on Bayshore Drive the interior noise levels would be even less. These levels are below the City's daytime and nighttime standards of 45 dBA and 40 dBA, respectively; therefore, the noise impact from the Project site's parking lot activities is less than significant. At the nearest existing restaurant, the noise level from the parking lot activities is expected to be about 48 dBA. This is below the City's daytime and nighttime standards of 65 dBA and 60 dBA, respectively, for commercial uses; therefore, the noise impact is less than significant. No other provisions of the City's Municipal Code noise ordinance standards would be violated by operation of the proposed Project's reconfigured parking lot.

- *Construction Noise.* Noise will be produced from construction activity associated with the Project, over a period of approximately 15 months in total, from demolition of land-side improvements to final Project completion. Temporary and intermittent construction-related noise levels are disclosed for each construction phase in the Noise report attached to this document as Appendix J. As indicated therein and summarized below under Threshold d), estimated average noise levels experienced by surrounding properties would range from a high of 85 dBA during pile installation to a low of 56 dBA during architectural coating activities (painting). Municipal Code Section 10.26.035 exempts construction noise from quantified noise standards and impacts associated with short-term construction noise would be considered significant only if the construction activity violates the standards contained in Municipal Code Section 10.28.040 (Construction Activity – Noise Regulations). The Project would fully comply with Municipal Code Section 10.28.040, which limits construction activities to between the hours of 8:00 a.m. and 6:00 p.m. Mondays through Saturdays (except holidays), and prohibits construction activities on Sundays and

federal holidays. Because construction activities would be compliant with the City's Municipal Code noise ordinance standards, impacts would be less than significant and mitigation is not required.

Newport Beach General Plan Noise Element

Policy N1.1 of the City's General Plan Noise Element requires that all new projects are compatible with the noise environment in which they will be located. Compatibility is determined by using the values identified in Table 5-8.

Table 5-8 City Municipal Code Section 10.26.025 Noise Standards

		CNEL, dB						
Category	**Uses**	**55-**	**60-<55**	**65-60**	**70-65**	**70**	**75-75**	**80**
Residential	Single Family, Two Family, Multiple Family	A	A	B	C	C	D	D
Residential	Mixed Use	A	A	A	C	C	C	D
Residential	Mobile Home	A	A	B	C	C	D	D
Commercial (Regional, District)	Hotel, Motel, Transient Lodging	A	A	B	B	C	C	D
Commercial (Regional, Village District, Special)	Commercial Retail, Bank, Restaurant, Movie Theatre	A	A	A	A	B	B	C
Commercial, Industrial, Institutional	Office Building, Research and Development, Professional Offices, City Office Building	A	A	A	B	B	C	D
Commercial (Recreation), Institutional (Civic Center)	Amphitheatre, Concert Hall Auditorium, Meeting Hall	B	B	C	C	D	D	D
Commercial (Recreation)	Children's Amusement Park, Miniature Golf course, Go-cart Track, Equestrian Center, Sports Club	A	A	A	B	B	D	D
Commercial (General, Special), Industrial, Institutional	Automobile Service Station, Auto Dealership, Manufacturing, Warehousing, Wholesale, Utilities	A	A	A	A	B	B	B
Institutional	Hospital, Church, Library, Schools' Classroom	A	A	B	C	C	D	D
Open Space	Parks	A	A	A	B	C	D	D
Open Space	Golf Course, Cemeteries, Nature Centers, Wildlife Reserves, Wildlife Habitat	A	A	A	A	B	C	C
Agriculture	Agriculture	A	A	A	A	A	A	A

Zone A: Clearly Compatible – specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction without any special noise insulation requirements.
Zone B: Normally Compatible – New construction or development should be undertaken only after detailed analysis of the noise reduction requirements are made and needed noise insulation features in the design are determined. Conventional construction, with closed windows and fresh air supply systems or air conditionally will normally suffice.
Zone C: Normally Incompatible – New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of noise reduction requirements must be made and needed noise insulation features included in the design.
Zone D: Clearly Incompatible – New construction or development should generally not be undertaken.

Source: Weiland Acoustics (*Appendix J*), Table 4-1.

The land use category applicable to the Project site is "Commercial," which is compatible with a noise environment of up to 80 dB. The Project proposes to construct one marine commercial building with its nearest proposed building façade located at a distance of about 230 feet from the centerline of East Coast Highway. Based on the analysis contained in *Appendix J,* the noise level at the proposed marine commercial

building is calculated to be 70 dB. This is less than the significance criterion of 80 dB; therefore, the Project will not result in the exposure of persons to noise levels in excess of standards established in the City's General Plan, and the noise impact is less than significant.

California Building Code

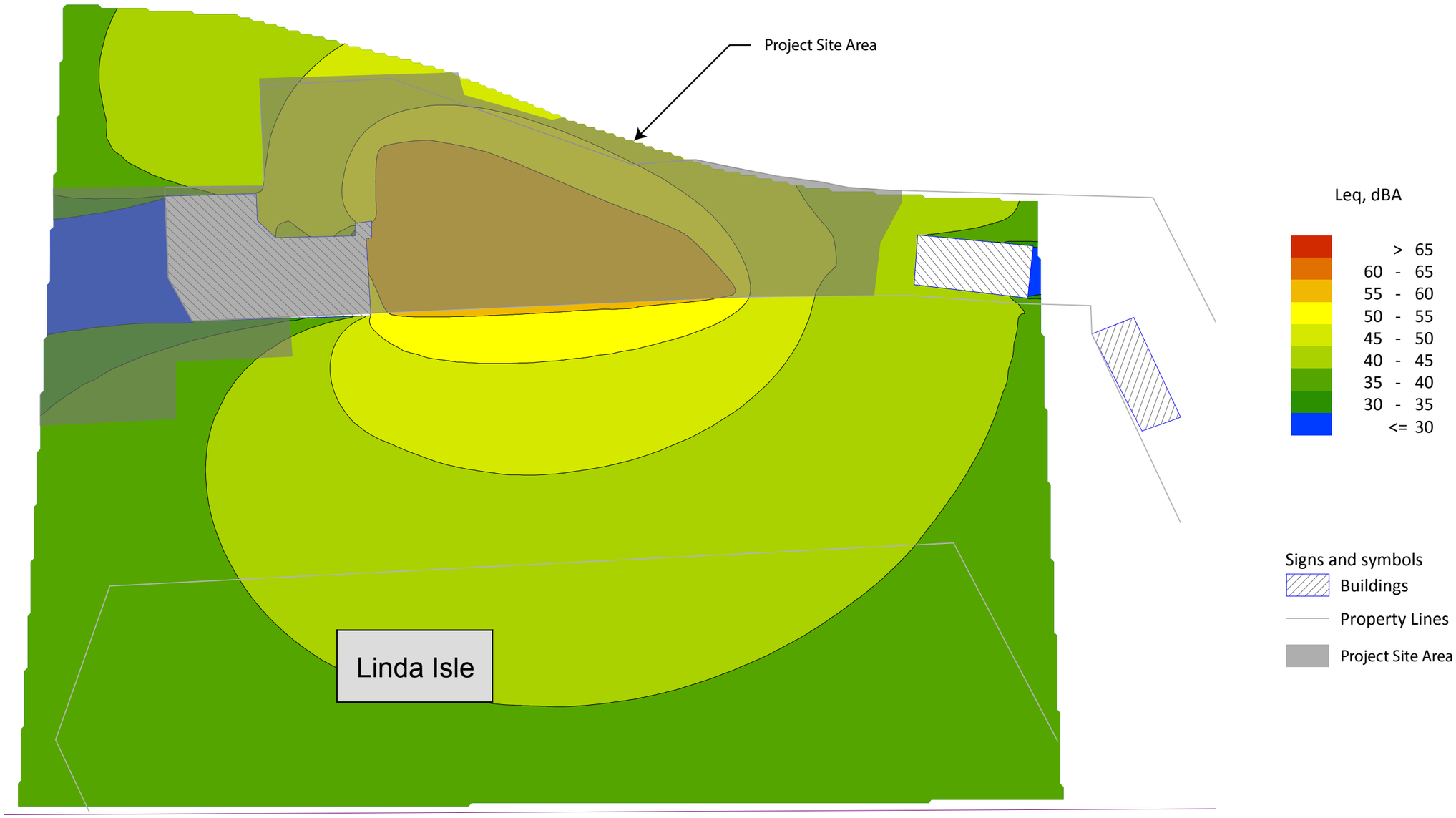
The California Building Code (CALGreen) requires that the interior noise level of a commercial establishment not be exposed to noise levels that exceed 50 dBA. Weiland Acoustics obtained a noise measurement at the Project site during the evening peak hour to identify the existing average noise level at the nearest proposed marine commercial building façade. The results of this measurement, provided in *Appendix J*, indicate an Leq of 60.3 dBA. This value was then used to calibrate a proprietary version of the FHWA's Traffic Noise Model to estimate the future peak hour noise level that will occur at the upper level of the proposed commercial building. The results of the analysis indicate an estimated peak hour Leq of 69.8 dBA. Assuming that standard commercial construction provides a noise reduction of 25 dB with windows and doors closed, the interior Leq within the proposed building is estimated to be 44.8 dBA. This complies with the State's CALGreen standard of 50 dBA; therefore, the impact is less than significant. (Wieland Acoustics, 2014, p. 36)

b) Would the Project result in the exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Finding: Less-than-Significant Impact. People would not be exposed to excessive groundborne vibration or groundborne noise levels during Project construction or operation. Impacts would be less than significant and mitigation is not required.

Groundborne vibration is an oscillatory motion which can be described in terms of displacement, velocity, or acceleration. The dominant source of vibration on the land-side portion of the Project site would be from short-term construction activities associated with pile driving. The dominant source of vibration on the water-side portion of the Project site would be from short-term construction activities associated with pile driving and dredging. A root mean square (rms) particle velocity of 2.0 in/sec (≈ 0.05 m/sec) is commonly used as a safe (threshold) limit for buildings, although minor damage has occasionally occurred at 1.0 in/sec (≈ 0.025 m/sec) (Wieland Acoustics, 2014, p. 15). Therefore, 1.0 in/sec is used as the significance threshold herein.

The primary vibratory sources during construction of the Project's land-side improvements will be the dozers and the bore/drill rig used to place the land-side piles. The primary vibratory sources during construction of the Project's water-side improvements will be pile driving activity. An analysis was conducted by Weiland Acoustics to estimate the groundborne vibration velocities that would be experienced at the nearest adjacent buildings during construction of the Project (refer to *Appendix J*). The results of this analysis are summarized in Table 5-9.



Source(s): Weiland Acoustics (07-17-2014)

NOT TO SCALE

Figure 5-12
ESTIMATED PARKING LOT ACTIVITY NOISE LEVELS

Table 5-9 Estimated Construction Vibration Levels

Location	Estimated PPV, in/sec Water-side	Land-side	Combined
Residences on Linda Isle	0.0758	0.003	0.0788
Residences on Bayshore Dr.	0.0163	0.001	0.0173
Sol Restaurant in Newport Harbor	0.009	0.004	0.013
Residences on N. Bayside Dr.	0.010	0.037	0.047

Source: Weiland Acoustics (*Appendix J*), Table 9-6.

These vibration levels are less than the threshold of 1.0 in/sec; therefore, the construction-related impact is less than significant. There would be no sources of vibration associated with Project operation.

c) Would the Project result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Finding: Less-than-Significant Impact. The Project would not result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project. Impacts would be less than significant and mitigation is not required.

Within the Project's study area (as determined by the traffic study scope (see *Appendix K*)), the noise-sensitive land uses of concern are the residential properties adjacent to roadway arterials carrying Project traffic, the residences on Linda Isle, the residences on Bayshore Drive across Lower Newport Bay from the Project site, the restaurants located to the east of the Project site, and Least Tern Island in Upper Newport Bay. Some of the residences are buffered from the traffic noise by walls and fences of various heights. (Wieland Acoustics, 2014, p. 17)

The City's General Plan Noise Element Policy N1.8 requires the employment of noise mitigation measures for existing sensitive uses when a significant noise impact is identified. A significant noise impact occurs when there is an increase in the ambient CNEL produced by new development impacting existing sensitive uses. The CNEL increase that would be significant is shown in the following table.

Table 5-10 Significant Noise Impact Criteria

CNEL	dB Increase
55 dB	3
60 dB	2
65 dB	1
70 dB	1
Over 75 dB	Any increase is considered significant

Source: Weiland Acoustics (*Appendix J*), Table 4-3.

Traffic on roadway arterials is the predominant source of noise that currently affects the study area. However, the area is also affected occasionally by noise from activities at the existing Balboa Marina, its parking lot, and the adjacent restaurants. In order to document the existing noise environment, measurements were obtained by Weiland Acoustics at two locations in the study area (refer to Table 5-11). Location #1 was

chosen in lieu of a measurement on Linda Isle because measurements could not be taken in Linda Isle due to private property issues. Location #2 was chosen to represent the closest residences to the north of the Project site.

Table 5-11 Summary of Existing Noise Measurements

Location #	Location Description	Measurement Period	Measured Average Noise Level, dB(A)
1	On the seawall at Newport Harbor	3:50 PM to 4:10 PM	60.1
2	At the offset of the mobile homes north of the Project site	2:38 PM to 2:58 PM	59.5

Source: Weiland Acoustics (*Appendix K*), Table 8-1.

Predominant noise sources associated with the land-side portion of the Project are expected to be from additional traffic on the local streets, parking lot activities, and activities and equipment associated with operation of the marine commercial building that is anticipated to house a restaurant with outdoor patio, marina restrooms, and a yacht brokerage office. Predominant noise sources associated with the water-side portion of the Project are expected to be from activities associated with the new public transient boat dock and the private Balboa Marina boat slip expansion area.

- *Traffic.* As documented in *Appendix J*, additional Project-related traffic is expected to increase the ambient CNEL by up to 0.3 dBA at Bayside Drive north of East Coast Highway. Project-related traffic noise increases along other area roadways would be less than 0.3 dBA. None of the land uses along any of the study area road segments experience noise levels over 75 dBA; therefore, any increase of less than 1.0 dBA is considered less than significant (refer to Table 5-10 for significance criteria). Thus, because the Project would increase traffic noise by less than 1.0 dBA, traffic-related noise impacts are less than significant and no mitigation is required.
- *Expanded Private Marina and Public Boat Dock.* The Project proposes to add 24 private boat slips and 8 new public boat slips, for a total of 32 new slips. Weiland Acoustics reports that boat activity associated with the additional slips would produce an estimated increase of 1.0 dB relative to the noise level produced by the use of the current Balboa Marina. Assuming that the noise level measurement for Location #1 indicated in Table 5-13 is representative of the noise level experienced by residential properties on Linda Isle, a 2.0 dB increase would be a significant impact (refer to Table 5-10 for significance criteria). Because additional boat activity would increase noise by only 1.0 dB, impacts are less than significant and no mitigation is required.
- *Marine Commercial Building.* Except for use of the outdoor patio, activities associated with the proposed marine commercial building would occur interior of the building, and are not expected to produce significant noise levels at the nearest residences on Linda Isle or Bay Shore Drive, or at the existing nearby restaurants. Based on measurements obtained as part of other noise studies for restaurants in Newport Beach, and taking into account the distances to the nearest residential properties (270' to 650'), Weiland Acoustics reports that it is unlikely that long-term permanent activities at the proposed building would

exceed the quantitative noise standards identified in Table 5-10. *(Wieland Acoustics, 2014, p. 33)* Operational activities would be required to comply with City of Newport Beach Municipal Code noise ordinance standards. Thus, noise impacts would be less than significant and mitigation is not required. Temporary and periodic noise associated with the marine commercial building is discussed under Threshold d), below.

- *Parking Lot.* Using data provided by the Project's traffic study (*Appendix K*), analyses were conducted by Wieland Acoustics to identify the noise exposures associated with the reconfigured parking lot. The results of the noise modeling are shown in Figure 5-12, *Estimated Parking Lot Activity Noise Levels*, as a noise contour map. Referring to Figure 5-12, the noise level due to peak evening parking lot activities is estimated to be 43 dBA at the closest residential property on Linda Isle, and notably less at the residences on Bayshore Drive to the west. These levels are below the City's 55 dB daytime and 50 db nighttime noise standards for residential use. No noise increase is calculated, because a parking lot exists on the Project site under existing conditions and no component of the proposed parking lot reconfiguration would result in noise level increases audible at off-site properties.

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d) Would the Project result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Finding: Less-than-Significant Impact with Mitigation. With mandatory adherence to the timing provisions of Municipal Code § 10.28 during construction activities, Project impacts due to a temporary or periodic noise increase associated with construction activities would be reduced to below a level of significance. Mitigation is recommended to ensure that operation of an outdoor patio at the future marine commercial building does not result in substantial temporary or periodic noise level increases.

The only potential sources of substantial temporary or periodic increases in noise levels are temporary and intermittent noise associated with the Project's construction process and periodic noise that may be generated from operation of the marine commercial building's outdoor patio.

- *Construction Noise.* Noise will be produced from construction of the Project, over a period of approximately 15 months. Temporary and intermittent construction-related noise levels are disclosed for each construction phase in the Noise report prepared by Weiland Acoustics and attached to this document as *Appendix J.* As summarized in Table 5-12, *Estimated Average Construction Noise Levels*, estimated average noise levels experienced by surrounding properties would range from 85 dBA during pile installation to 56 dBA during architectural coating activities (painting). The City considers construction-related noise impacts to be significant if the construction activity violates the City's noise control ordinances *(Wieland Acoustics, 2014, p. 16)*. Construction activity associated with the Project will be required to conform to all City of Newport

Beach Municipal Code noise ordinance standards; therefore, temporary noise impacts would be less than significant and mitigation is not required.

- *Marine Commercial Building.* The Project proposes a 19,400 SF building anticipated to accommodate a restaurant with outdoor patio, public restrooms, and a yacht brokerage office. Because the activities associated with office spaces and restrooms would occur exclusively within the interior of the building, they are not expected to produce significant noise levels at surrounding properties. The proposed restaurant, however, has the potential to produce substantial periodic noise from operation of the outdoor patio or if operations include live entertainment a bar, lounge, or nightclub. Based on measurements

Table 5-12 Estimated Average Construction Noise Levels

Noise-Sensitive Location	Construction Phase	Estimated Construction Noise at Receptor		
		Waterside	Landside	Combined
Existing residences on Linda Isle	Pile Installation	70-85	66.5	72-85
	Building Construction		67.2	72-85
	Site Work, Drainage		66.3	72-85
	Paving		67.6	72-85
	Tenant Improvements		59.5	70-85
	Architectural Coating		57.7	70-85
Existing residences on Bayshore Dr.	Pile Installation	61-76	59.6	63-76
	Building Construction		60.3	64-76
	Site Work, Drainage		58.5	63-76
	Paving		59.8	64-76
	Tenant Improvements		52.6	62-76
	Architectural Coating		50.8	61-76
Existing Sol Restaurant in Newport Harbor	Pile Installation	58-73	60.0	62-73
	Building Construction		60.7	63-73
	Site Work, Drainage		64.4	65-74
	Paving		65.7	66-74
	Tenant Improvements		53.0	59-73
	Architectural Coating		51.2	59-73
Existing residences on N. Bayside Dr.	Pile Installation	55-70	58.7	60-70
	Building Construction		59.4	61-70
	Site Work, Drainage		62.3	63-71
	Paving		63.6	64-71
	Tenant Improvements		51.7	57-70
	Architectural Coating		49.9	56-70

Source: Weiland Acoustics (*Appendix J*), Table 9-5.

obtained as part of other noise studies for restaurants in Newport Beach,and taking into account the distances to the nearest residential properties (270' to 650'),Weiland Acoustics reports that is unlikely that the activities at the proposed restaurant would exceed the quantitative noise standards identified in Chapter 10.26 of the City's Municipal Code *(Wieland Acoustics, 2014, p. 36)*. However, operations may violate the qualitative provisions of the Municipal Code that require noise from such establishments to be inaudible at the property lines (Chapter 5.28, Chapter 20.48.090E), or that prohibit "loud or raucous" noise (Chapter 10.28.020). Therefore, the periodic noise impact of the Project, associated with operation of the marine commercial building, is considered to be potentially significant and mitigation is required.

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?

Finding: No Impact. The proposed Project is not located within the noise contours of an airport land use plan or where such a plan has been adopted, or within two miles of a public airport or public use airport. No impact would occur and mitigation is not required.

As discussed under Hazards and Hazardous Materials Threshold e) the nearest airport to the Project site is the John Wayne Airport (JWA) which is located approximately 6.1 miles north of the Project site. According to the Airport Environs Land Use Plan (AELUP) for JWA, the Project site is not located within JWA noise impact contours. Thus, no impact would occur and no mitigation is required.

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

Finding: No Impact. The Project is not located within a vicinity of an airstrip. Accordingly, no impact would occur and mitigation is not required.

As discussed under Hazards and Hazardous Materials Threshold f) there are no private airstrips within the Project vicinity. Accordingly, the proposed Project would not expose people residing or working in the Project area to excessive noise levels. No impact would occur and no mitigation is required.

Noise: Mitigation Measures

MM N-1 As a condition of CUP issuance for a restaurant use in the marine commercial building and prior to the issuance of occupancy permits for any restaurant, bar, lounge, or nightclub to be located in the marine commercial building, an acoustical study shall be prepared by a qualified acoustician and reviewed and approved by the City of Newport Beach to verify that the building operations, including operations in the outdoor patio, comply with the requirements identified in Chapters 5.28, 10.26, 10.028.020, and 20.48.090(E) of the City's Municipal Code.

MM N-2 Prior to the issuance of any grading permit or building permit for new construction, the City of Newport Beach Community Development Department shall confirm that the grading plan, building plans, and specifications stipulate that:

a) All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and other State- required noise attenuation devices.

b) During the construction phase, the Project Applicant shall ensure that construction hours, allowable work days, and the telephone number of the job superintendent are clearly posted at all construction entrances to allow residents to contact the job superintendent. If the job superintendent receives a complaint, the superintendent shall investigate, take appropriate corrective action, and report the action to the appropriate party.

c) When feasible, construction haul routes shall be designed to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.).

d) During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers.

e) Construction activities that produce noise shall not take place outside of the allowable hours specified by the City's Municipal Code Section 10.28.040 (7:00 a.m. and 6:30 p.m. on weekdays, 8:00 a.m. and 6:00 p.m. on Saturdays; construction is prohibited on Sundays and/or federal holidays).

Implementation of Mitigation Measures MM N-1 and MM N -2 would reduce the Project's noise impacts to below a level of significance.

5.4.13 Population and Housing

a) Would the Project 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)?

Finding: No Impact. The Project proposes Recreational and Marine Commercial land uses in accordance with the City's General Plan and would not induce substantial population growth, either directly or indirectly. No impact would occur and mitigation is not required.

The Project site is designated Recreational and Marine Commercial (CM 0.3 FAR) by the City's General Plan. The CM designation is intended to provide for commercial development on or near Newport Bay (City of Newport Beach, 2006). The proposed Project would develop the property with Recreational and Marine Commercial land uses in accordance with the City's General Plan.

The Project proposes to reconfigure the arrangement of uses on the Project site to establish a new public boat dock in an area of Newport Harbor that currently lacks a public dock, and to improve the private Balboa Marina including its water-side and land-side areas. The Project is a visitor-serving use and has no potential to induce substantial population growth in the area, either directly or indirectly. No impact would occur and no mitigation is required.

b) Would the Project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Finding: No Impact. Under existing conditions the Project site does not contain any residential structures. Accordingly, the Project would not displace substantial numbers of existing housing, necessitating the construction of housing elsewhere. No impact would occur and mitigation is not required.

Under existing conditions the Project site does not contain any residential structures. Therefore, there is no potential for the Project to displace housing. No impact would occur and no mitigation is required.

c) Would the Project displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Finding: No Impact. Under existing conditions the Project site does not contain any residential structures; therefore, no people reside on the Project site. Accordingly, the Project would not displace substantial numbers of people, necessitating the construction of housing elsewhere. No impact would occur and mitigation is not required.

Under existing conditions the Project site does not contain any residential structures. Therefore, there is no potential for the Project to displace substantial numbers of people. No impact would occur and no mitigation is required.

Population and Housing: Mitigation Measures

Implementation of the proposed Project would not impact Population and Housing. Thus, no impact would occur and no mitigation measures are required.

5.4.14 Public Services

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: a) Fire protection; b) Police protection; c) Schools, or d) Other public facilities?

Finding: No Impact. Public services are currently provided to the site for operation of the Balboa Marina; therefore, the proposed Project would not measurably increase public service demands or result in the need to physically alter or cause the construction of new public service facilities. No impact would occur and mitigation is not required.

Under existing conditions, fire protection, police protection, and other public services are provided to the Balboa Marina. The Project proposes to reconfigure the arrangement of uses on the Project site and establish a new public boat dock in an

area of Newport Harbor that currently lacks a public dock, and to improve and expand the private Balboa Marina including its water-side and land-side areas. The new public boat dock is not anticipated to create a demand for increased police protection. No overnight tie ups would be allowed. In addition, the dock would accommodate four (4) slips to be relocated out of the private Balboa Marina. Since 2009, Irvine Company (owner and operator of the Balboa Marina) has discovered that management of the marina is challenging in terms of providing security for the private slip lessees while still providing open access to the four (4) public slips. Moving the public slips to a better-located public dock has the potential of reducing demand for resolving security issues at the boat slips. The marine commercial building would be provided with police, fire protection, and other public services and would not measurably increase demand on public services. No component of the Project would measurably increase public service demands or result in the need to physically alter or cause the construction of new public service facilities caused by an increased demand for services. Because no physically expanded or new public facilities would be required, no impact would occur and mitigation is not required.

Public Services: Mitigation Measures

Implementation of the proposed Project would not increase Public Services demand such that new or physically altered public service facilities would need to be constructed or expanded to meet the demand. Thus, no impact would occur and no mitigation measures are required.

5.4.15 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?

Finding: No Impact. Except for perhaps very nominal attraction of more visitors that may use public parks, the Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated. Impacts would be less than significant and mitigation is not required.

The Project site is designated Recreational and Marine Commercial (CM 0.3 FAR) by the City's General Plan. The CM designation is intended to provide for commercial development on or near Newport Bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive business, encourage visitor-serving and recreational uses, and encourage physical and visual access to the Bay on sites located on or near Newport Bay (City of Newport Beach, 2006). The proposed Project would develop the property with Recreational and Marine Commercial land uses in accordance with the City's General Plan. Except for perhaps very nominal attraction of more visitors that may use public parks, the Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that

substantial physical deterioration of the facilities would occur or be accelerated. Impacts would be less than significant and mitigation is not required.

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?

Finding: No Impact. The proposed Project would provide a new public transient boat dock in Newport Harbor, increase the number of boat slips in the private Balboa Marina, and reconfigure uses in the land-side portion of the marina. The environmental effects of on-site uses, including the boat docks that are considered a marine recreational use, are evaluated throughout this document. The Project would not result in the construction or expansion of any off-site recreational facilities. No additional impacts would occur and mitigation is not required.

The Project proposes marina uses that are considered recreational, and which are evaluated throughout this document for their physical effects on the environment. Under subject areas to which significant effects would occur, mitigation measures are presented to reduce the impacts to below levels of significance The Project would not result in the expansion of any off-site recreational facilities. The recreational impact would be less than significant and mitigation is not required.

Recreation: Mitigation Measures

Implementation of the proposed Project would have no impact to Recreation. Thus, no mitigation measures are required.

5.4.16 Transportation/Traffic

a) Would the Project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Finding: Less-than-Significant Impact. Project-generated trips would not increase by 1% or more at any study area intersection operating at worse than Level of Service D (LOS D) during the morning/evening peak hours. Accordingly, the Project would not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system. A less-than-significant impact would occur and mitigation is not required.

Applicable plans, policies, and ordinances related to performance of the circulation system and applicable to the proposed Project are the City of Newport Beach General

Plan and Municipal Code. The Orange County Congestion Management Plan is discussed below under Threshold b).

City of Newport Beach Municipal Code

The City of Newport Beach General Plan establishes level of service (LOS) "D" as the standard for most intersections. LOS "E" is the established standard for a limited number of intersections (Newport Beach, 2006a, p. 7-6).

City of Newport Beach Municipal Code

Guidelines and provisions related to transportation are addressed in the following sections of the Municipal Code: Title 12 (Vehicles and Traffic); Chapter 15.38 (Fair Share Traffic Contribution Ordinance); Chapter 15.40 (Traffic Phasing Ordinance); and Chapter 20.64 (Transportation Demand Management Ordinance). Each of these sections of the Municipal Code is briefly discussed below.

- *Title 12, Vehicles and Traffic.* Title 12 addresses traffic and parking enforcement, as well as safety programs, trails programs, bicycle use, skateboarding use, and other temporary traffic and parking protocols.
- *Chapter 15.38, Fair Share Traffic Contribution Ordinance.* Chapter 15.38 was established by the City Council to establish a fee, based upon the unfunded cost to implement the Master Plan of Streets and Highways, to be paid in conjunction with the issuance of a building permit. The ordinance sets forth procedures for calculating the fair-share amounts for residential projects, hotel/motels, and office/retail/commercial uses, which are adopted by City Council resolution.
- *Chapter 15.40, Traffic Phasing Ordinance.* Section 15.40 was established by the City Council to ensure that the effects of new development projects are mitigated by developers as they occur. Specifically, the ordinance was established to provide a uniform method of analyzing and evaluating the traffic impacts of projects that generate a substantial number of average daily trips and/or trips during the morning or evening peak hour period; to identify the specific and near-term impacts of project traffic as well as circulation system improvements that will accommodate project traffic and ensure that development is phased with identified circulation system improvements; to ensure that project proponents, as conditions of approval, make or fund circulation system improvements that mitigate the specific impacts of project traffic on primary intersections at or near the time the project is ready for occupancy; and to provide a mechanism for ensuring that a project proponent's cost of complying with traffic related conditions of project approval is roughly proportional to project impacts. S ection 15.40.030 (Standards for Approval – Findings – Exemptions) specifically exempts the following project types from compliance with the Traffic Phasing Ordinance: a) projects that generate three hundred (300) or fewer average daily trips; b) projects that do not increase trips by one percent or more on any leg of any primary intersection during any evening or morning peak hour; and c) any project that meets certain other criteria as specified in the Ordinance.

- *Chapter 20.64, Transportation Demand Management Requirements.* The Transportation Demand Management requirements apply to all new, nonresidential development projects that are estimated to employ a total of one hundred (100) or more persons, or the current limit set forth by the South Coast Air Quality Management District (SCAQMD) in Rule 2202, whichever is lower at the time of project submittal. Chapter 20.64 is not applicable to the proposed Project because it is not expected that 100 or more people would be employed on-site.

Analysis of the Proposed Project

A Traffic Study was prepared for the Project by Kunzman Associates, which is included as *Appendix K* to this document. Using the Institute of Transportation Engineers (ITE) Trip Generation Handbook, Kunzman Associates calculated that the proposed Project would generate a total of approximately 1,506 daily vehicle trips, 14 of which occur during the morning (AM) peak hour and 74 of which occur during the evening (PM) peak hour as shown in Table 5-13, *Project Trip Generation* A 44% pass-by trip reduction was applied to the restaurant land use based upon the ITE Handbook. (Kunzman Associates, Inc., 2014, p. 20) Trip distribution pattern information is contained in *Appendix K*. Morning and evening peak hour intersection turning movement volume exhibits for the Project's traffic are provided as Figure 5-13, *Project Morning Peak Hour Intersection Turning Movement Volumes*, and Figure 5-14, *Project Evening Peak Hour Intersection Turning Movement*.

The City of Newport Beach methodology used to assess the operation of a signalized intersection is known as Intersection Capacity Utilization (ICU). To calculate an ICU value, the volume of traffic using the intersection is compared with the capacity of the intersection. The intersection significance criteria for the City of Newport Beach requires an increase of 1% or more at a study area intersection operating at worse than a Level of Service (LOS) D during the morning/evening peak hours. (Kunzman Associates, Inc., 2014, p. 26).

The study area intersections for the proposed Project are listed in the Traffic Impact Analysis prepared by Kunzman Associates, and attached to this document as *Appendix K.* For existing year (Year 2014) traffic conditions, the study area intersections currently operate at Level of Service (LOS) D or better during the morning/evening peak hours. As shown on Table 5-14, for existing year (Year 2014) + Project traffic conditions, the study area intersections are projected to operate at LOS D or better during the morning/evening peak hours. Thus, a less-than-significant impact would occur and no mitigation is required.

Table 5-13 Project Trip Generation

Land Use	Quantity	Units[2]	Peak Hour						Daily
			Morning			Evening			
			Inbound	Outbound	Total	Inbound	Outbound	Total	
Trip Generation Rates									
Quality Restaurant[3]		TSF	0.66	0.15	0.81	5.02	2.47	7.49	89.95
Office		TSF	1.37	0.19	1.56	0.25	1.24	1.49	11.03
Marina		Berth	0.03	0.05	0.08	0.11	0.08	0.19	2.96
Existing Trips Generated[4]									
Yacht Brokerage	1.2	TSF	2	0	2	0	1	1	13
Proposed Trips Generated									
Quality Restaurant[5]	16.274	TSF	11	2	13	82	40	122	1,464
	0.200		0	0	0	-36	-18	-54	-54
- Pass-By[6]	36		0	0	0	0	0	0	2
Office		TSF	1	2	3	4	3	7	107
		Berth							
Subtotal			12	4	16	50	25	75	1,519
Net New Trips			10	4	14	50	24	74	1,506

1 Source: Institute of Transportation Engineers, Trip Generation, 9th Edition, 2012, Land Use Categories 931, 710, and 420.

2 TSF = Thousand Square Feet

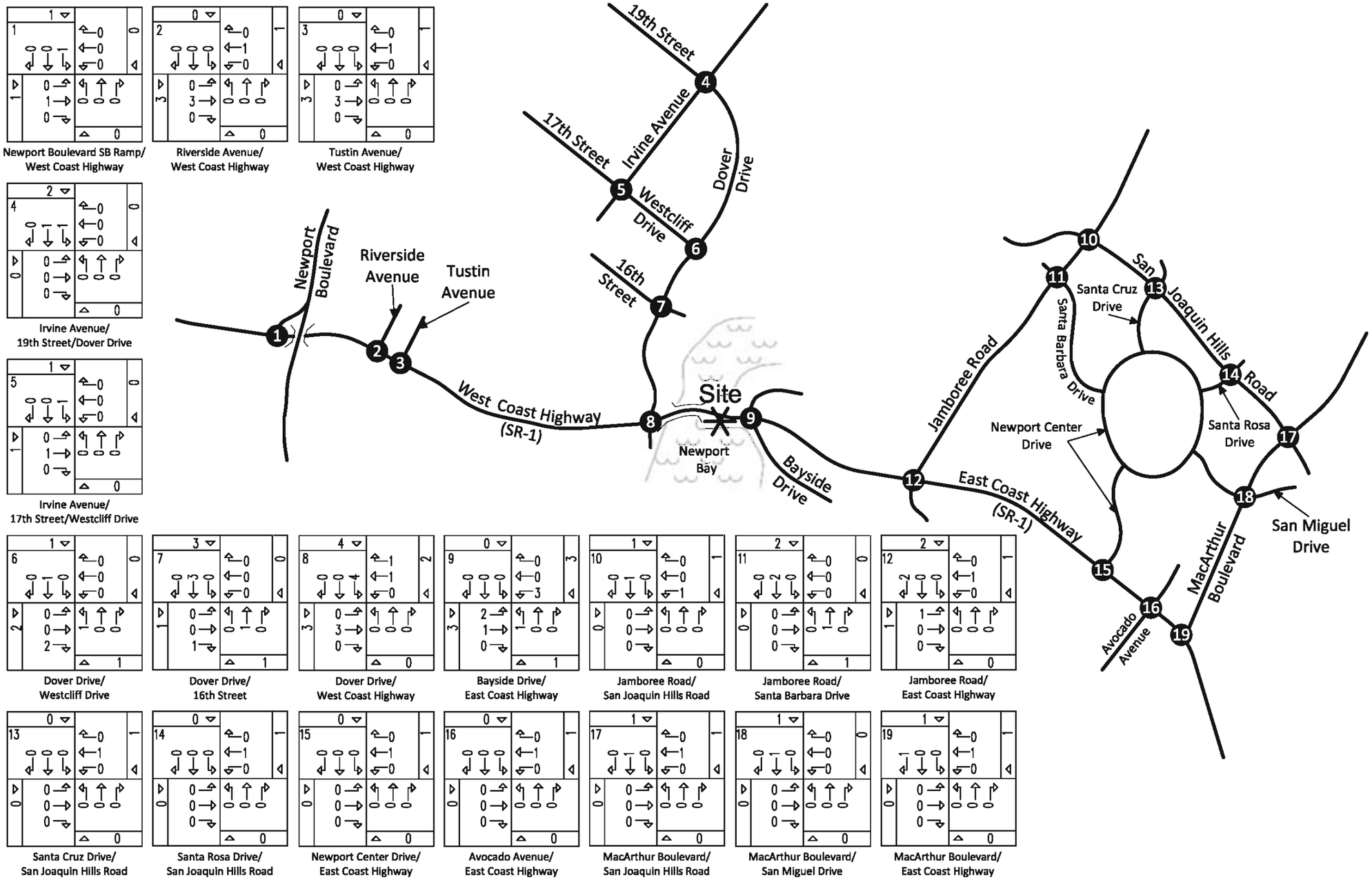
3 Institute of Transportation Engineers, Trip Generation, does not provide inbound/outbound splits for the peak hour of adjacent street traffic (one hour between 7:00 AM - 9:00 AM) for the Quality Restaurant land use. Therefore, the inbound/outbound splits for the AM peak hour of generator were used.

4 The marina restrooms generate nominal trips. The yacht brokerage and marina restrooms will be accommodated within the new development.

5 The quality restaurant will include patio/etc. that is ancillary to the restaurant. The building total is 19,400 square feet.

6 The traffic volumes have been reduced by 44% for the quality restaurant as a result of pass-by trips obtained from the Institute of Transportation Engineers, Trip Generation Handbook, 2nd Edition, 2004.

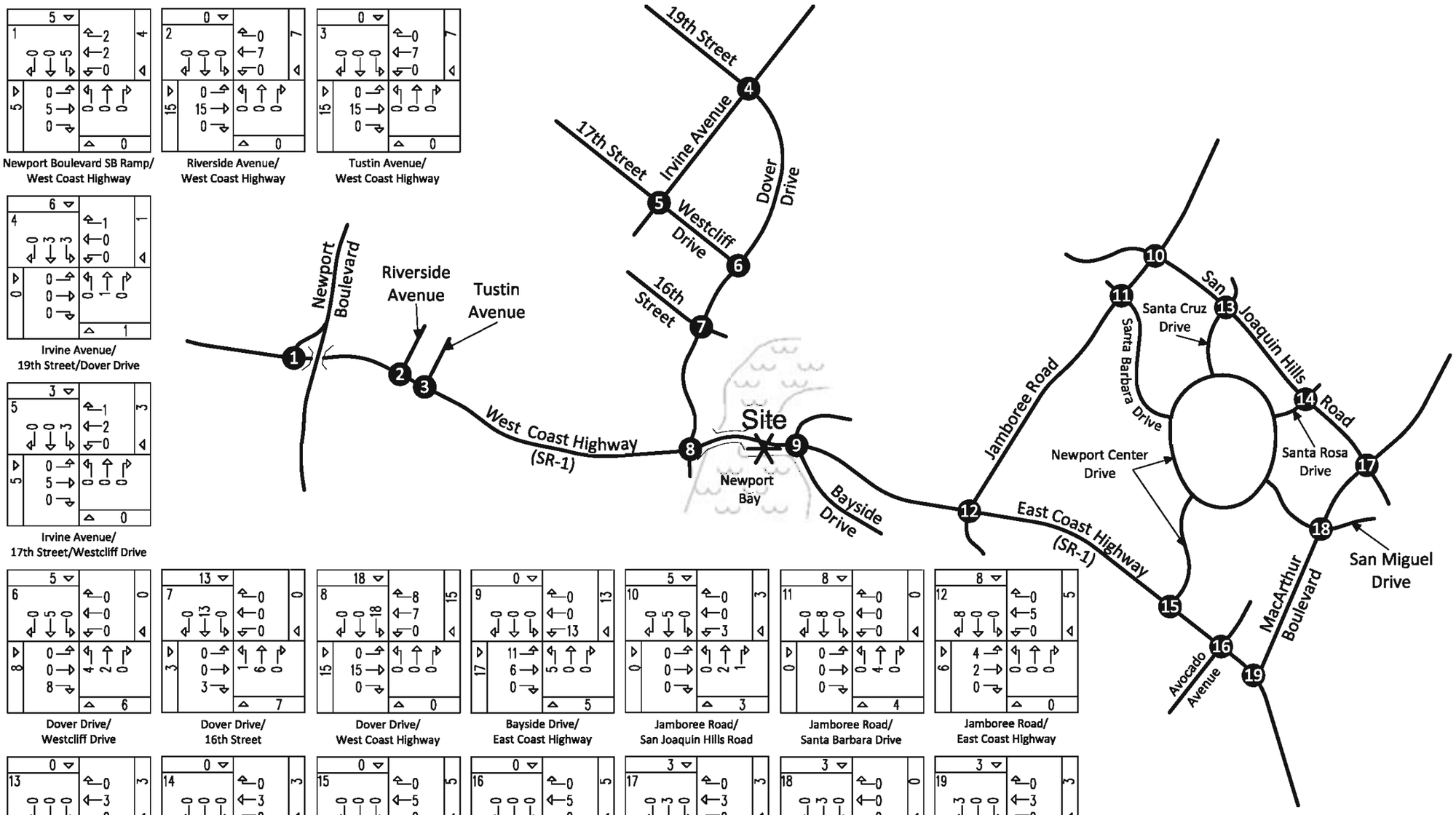
Source: Kunzman Associates (Appendix K), Table 2



Source(s): Kunzman Associates, Inc. (04-17-2014)

NOT TO SCALE

Figure 5-13
PROJECT MORNING PEAK HOUR INTERSECTION TURNING MOVEMENT VOLUMES



Source(s): Kunzman Associates, Inc. (04-17-2014)

NOT TO SCALE

Figure 5-14
PROJECT EVENING PEAK HOUR INTERSECTION TURNING MOVEMENT VOLUMES

Table 5-14 Existing (Year 2014)+ Project Intersection Capacity

Intersection	Traffic Control[2]	Peak Hour ICU-LOS[1]				ICU Increase	
		Existing (Year 2012)		Existing (Year 2014) + Project			
		Morning	Evening	Morning	Evening	Morning	Evening
Newport Boulevard SB Ramp (NS) at:							
West Coast Highway (EW)	TS	0.873-D	0.659-B	0.873-D	0.659-B	0.000	0.000
Riverside Avenue (NS) at:							
West Coast Highway (EW)	TS	0.771-C	0.789-C	0.772-C	0.790-C	+0.001	+0.001
Tustin Avenue (NS) at:							
West Coast Highway (EW)	TS	0.761-C	0.608-B	0.762-C	0.610-B	+0.001	+0.002
Irvine Avenue (NS) at:							
19th Street/Dover Drive (EW)	TS TS	0.523-A	0.616-B	0.523-A	0.617-B	0.000	+0.001
17th Street/Westcliff Drive (EW)		0.457-A	0.711-C	0.457-A	0.712-C	0.000	+0.001
Dover Drive (NS) at:							
Westcliff Drive (EW)	TS TS	0.429-A	0.440-A	0.430-A	0.445-A	+0.001	+0.005
16th Street (EW)	TS	0.496-A	0.495-A	0.498-A	0.499-A	+0.002	+0.004
West Coast Highway (EW)		0.619-B	0.681-B	0.620-B	0.686-B	+0.001	+0.005
Bayside Drive (NS) at:							
East Coast Highway (EW)	TS	0.651-B	0.619-B	0.654-B	0.627-B	+0.003	+0.008
Jamboree Road (NS) at:							
San Joaquin Hills Road (EW)	TS TS	0.605-B	0.521-A	0.605-B	0.523-A	0.000	+0.002
Santa Barbara Drive (EW) East	TS	0.493-A	0.614-B	0.493-A	0.615-B	0.000	+0.001
Coast Highway (EW)		0.570-A	0.659-B	0.571-A	0.660-B	+0.001	+0.001
Santa Cruz Drive (NS) at:							
San Joaquin Hills Road (EW)	TS	0.309-A	0.340-A	0.309-A	0.340-A	0.000	0.000
Santa Rosa Drive (NS) at:							
San Joaquin Hills Road (EW)	TS	0.330-A	0.465-A	0.330-A	0.465-A	0.000	0.000
Newport Center Drive (NS) at:							
East Coast Highway (EW)	TS	0.371-A	0.452-A	0.371-A	0.453-A	0.000	+0.001
Avocado Avenue (NS) at:							
East Coast Highway (EW)	TS	0.451-A	0.502-A	0.451-A	0.502-A	0.000	0.000
MacArthur Boulevard (NS) at:							
San Joaquin Hills Road (EW)	TS TS	0.641-B	0.734-C	0.642-B	0.735-C	+0.001	+0.001
San Miguel Drive (EW)	TS	0.529-A	0.477-A	0.529-A	0.478-A	0.000	+0.001
East Coast Highway (EW)		0.679-B	0.649-B	0.679-B	0.650-B	0.000	+0.001

1 ICU-LOS = Intersection Capacity Utilization - Level of Service (see Appendix C).

2 TS = Traffic Signal

Source: Kunzman Associates (*Appendix K*), Table 3

To account for regional growth on roadways, Year 2017 traffic volumes were calculated based on a 1% annual growth rate over a three-year period. (Kunzman Associates, Inc., 2014, p. 30) For existing + growth (Year 2017) + approved projects traffic conditions, the study area intersections are projected to operate at LOS D or better during the morning/evening peak hours with the exception of the following study intersection:

- Newport Boulevard SB Ramp (NS) at:
  - West Coast Highway (EW) (Morning Peak Hour, LOS E)

As shown in Table 5-15, for existing + growth (Year 2017) + approved projects + Project traffic conditions, the Project-generated trips did not increase by 1% or more at a study area intersection operating at worse than LOS D during the morning/evening peak hours. Thus, a less-than-significant impact would occur and no mitigation is required.

The City of Newport Beach staff provided the list of cumulative projects within the study area to Kunzman Associates, Inc. for analysis. The cumulative projects list is appended to the Traffic Impact Analysis prepared by Kunzman Associates, Inc. and included as *Appendix K* to this document.

For existing + growth (Year 2017) + approved projects + cumulative projects traffic conditions, the study area intersections are projected to operate at LOS D or better during the morning/evening peak hours, with the exception of the following study area intersection:

- Newport Boulevard SB Ramp (NS) at:
  - West Coast Highway (EW) (Morning Peak Hour, LOS E)

For existing + growth (Year 2017) + approved projects + cumulative projects + Project traffic conditions, the study area intersections are projected to operate at LOS D or better during the morning/evening peak hours, with the exception of the following intersection that is projected to operate at LOS E during the morning peak hour:

- Newport Boulevard SB Ramp (NS) at:
  - West Coast Highway (EW) (Morning Peak Hour, LOS E)

As shown in Year 2017+ Project + Growth Intersection Capacity, for existing + growth (Year 2017) + approved project + cumulative projects + Project traffic conditions, the Project-generated trips did not increase by 1% or more at a study area intersection operating at worse than LOS D during the morning/evening hours. Thus, a less-than-significant impact would occur.

Table 5-15 Year 2017+ Project Intersection Capacity

Intersection	Traffic Control[2]	Peak Hour ICU-LOS[1]				ICU Increase	
		Existing + Growth (Year 2017) + Approved Projects		Existing + Growth (Year 2017) + Approved Projects + Project			
		Morning	Evening	Morning	Evening	Morning	Evening
Newport Boulevard SB Ramp (NS) at:							
West Coast Highway (EW)	TS	0.93-E	0.70-B	0.93-E	0.70-B	0.00	0.00
Riverside Avenue (NS) at:							
West Coast Highway (EW)	TS	0.83-D	0.84-D	0.83-D	0.84-D	0.00	0.00
Tustin Avenue (NS) at:							
West Coast Highway (EW)	TS	0.82-D	0.66-B	0.83-D	0.66-B	+0.01	0.00
Irvine Avenue (NS) at:							
19th Street/Dover Drive (EW)	TS	0.54-A	0.63-B	0.54-A	0.63-B	0.00	0.00
17th Street/Westcliff Drive (EW)	TS	0.47-A	0.73-C	0.47-A	0.73-C	0.00	0.00
Dover Drive (NS) at:							
Westcliff Drive (EW)	TS	0.43-A	0.44-A	0.43-A	0.45-A	0.00	+0.01
16th Street (EW)	TS	0.50-A	0.50-A	0.50-A	0.51-A	0.00	+0.01
West Coast Highway (EW)	TS	0.66-B	0.74-C	0.66-B	0.74-C	0.00	0.00
Bayside Drive (NS) at:							
East Coast Highway (EW)	TS	0.71-C	0.70-B	0.71-C	0.70-B	0.00	0.00
Jamboree Road (NS) at:							
San Joaquin Hills Road (EW)	TS	0.65-B	0.60-A	0.65-B	0.60-A	0.00	0.00
Santa Barbara Drive (EW)	TS	0.53-A	0.66-B	0.53-A	0.66-B	0.00	0.00
East Coast Highway (EW)	TS	0.61-B	0.72-C	0.61-B	0.72-C	0.00	0.00
Santa Cruz Drive (NS) at:							
San Joaquin Hills Road (EW)	TS	0.32-A	0.36-A	0.32-A	0.36-A	0.00	0.00
Santa Rosa Drive (NS) at:							
San Joaquin Hills Road (EW)	TS	0.38-A	0.50-A	0.38-A	0.50-A	0.00	0.00
Newport Center Drive (NS) at:							
East Coast Highway (EW)	TS	0.40-A	0.49-A	0.40-A	0.49-A	0.00	0.00
Avocado Avenue (NS) at:							
East Coast Highway (EW)	TS	0.50-A	0.52-A	0.50-A	0.52-A	0.00	0.00
MacArthur Boulevard (NS) at:							
San Joaquin Hills Road (EW)	TS	0.67-B	0.78-C	0.67-B	0.78-C	0.00	0.00
San Miguel Drive (EW)	TS	0.58-A	0.50-A	0.58-A	0.50-A	0.00	0.00
East Coast Highway (EW)	TS	0.71-C	0.67-B	0.71-C	0.68-B	0.00	+0.01

1 ICU-LOS = Intersection Capacity Utilization - Level of Service (see Appendix C).
2 TS = Traffic Signal

Source: Kunzman Associates (*Appendix K*), Table 6

Table 5-16 Year 2017+ Project + Growth Intersection Capacity

Intersection	Traffic Control[2]	Peak Hour ICU-LOS[1]				ICU Increase	
		Existing + Growth (Year 2017) + Approved Projects + Cumulative Projects		Existing + Growth (Year 2017) + Approved Projects + Cumulative Projects + Project			
		Morning	Evening	Morning	Evening	Morning	Evening
Newport Boulevard SB Ramp (NS) at:							
West Coast Highway (EW)	TS	0.962-E	0.744-C	0.962-E	0.746-C	0.000	+0.002
Riverside Avenue (NS) at:							
West Coast Highway (EW)	TS	0.862-D	0.895-D	0.863-D	0.897-D	+0.001	+0.002
Tustin Avenue (NS) at:							
West Coast Highway (EW)	TS	0.853-D	0.690-B	0.854-D	0.691-B	+0.001	+0.001
Irvine Avenue (NS) at:							
19th Street/Dover Drive (EW)	TS	0.539-A	0.635-B	0.540-A	0.637-B	+0.001	+0.002
17th Street/Westcliff Drive (EW)	TS	0.492-A	0.772-C	0.493-A	0.773-C	+0.001	+0.001
Dover Drive (NS) at:							
Westcliff Drive (EW)	TS	0.452-A	0.462-A	0.453-A	0.466-A	+0.001	+0.004
16th Street (EW)	TS	0.512-A	0.521-A	0.513-A	0.525-A	+0.001	+0.004
West Coast Highway (EW)	TS	0.687-B	0.784-C	0.688-B	0.789-C	+0.001	+0.005
Bayside Drive (NS) at:							
East Coast Highway (EW)	TS	0.743-C	0.782-C	0.745-C	0.790-C	+0.002	+0.008
Jamboree Road (NS) at:							
San Joaquin Hills Road (EW)	TS	0.684-B	0.625-B	0.684-B	0.625-B	0.000	0.000
Santa Barbara Drive (EW)	TS	0.564-A	0.681-B	0.564-A	0.682-B	0.000	+0.001
East Coast Highway (EW)	TS	0.667-B	0.836-D	0.668-B	0.838-D	+0.001	+0.002
Santa Cruz Drive (NS) at:							
San Joaquin Hills Road (EW)	TS	0.323-A	0.359-A	0.323-A	0.359-A	0.000	0.000
Santa Rosa Drive (NS) at:							
San Joaquin Hills Road (EW)	TS	0.382-A	0.503-A	0.382-A	0.503-A	0.000	0.000
Newport Center Drive (NS) at:							
East Coast Highway (EW)	TS	0.422-A	0.540-A	0.422-A	0.541-A	0.000	+0.001
Avocado Avenue (NS) at:							
East Coast Highway (EW)	TS	0.568-A	0.599-A	0.568-A	0.599-A	0.000	0.000
MacArthur Boulevard (NS) at:							
San Joaquin Hills Road (EW)	TS	0.691-B	0.800-D	0.691-B	0.801-D	0.000	+0.001
San Miguel Drive (EW)	TS	0.594-A	0.538-A	0.594-A	0.539-A	0.000	+0.001
East Coast Highway (EW)	TS	0.799-C	0.764-C	0.799-C	0.765-C	0.000	+0.001

1 ICU-LOS = Intersection Capacity Utilization - Level of Service (see Appendix C).
2 TS = Traffic Signal

Source: Kunzman Associates (*Appendix K*), Table 8

b) Would the Project conflict with an applicable congestion management program, including, but not limited to level of service standard and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Finding: No impact. The proposed Project would generate approximately 1,506 daily vehicle trips. Based on the Orange County Congestion Management Plan (CMP) thresholds, the proposed Project would not conflict with the Orange County CMP including, but not limited to level of service standard and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways. No impact would occur and mitigation is not required.

The Orange County CMP requires that a traffic impact analysis be conducted for any projects generating 2,400 or more daily trips, or 1,600 or more daily trips for projects that directly access the CMP Highway System. Per the CMP guidelines, this number is based on the desire to analyze any impacts that will be 3% or more of the existing CMP highway system facilities capacity (City of Newport Beach, 2006b, pp. 4.13-22). The proposed Project would generate approximately 1,506 daily vehicle trips. (Kunzman Associates, Inc., 2014, p. 20) Based on the CMP thresholds, the proposed Project would not conflict with the Orange County CMP including, but not limited to level of service standard and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways. No impact would occur and no mitigation is required.

c) Would the Project 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?

Finding: No Impact. The nearest airport to the Project site is John Wayne Airport which is located approximately 6.1 miles north of the Project site. The Project site is not located within an Airport Environs Land Use Plan (AELUP) Planning Area, Airport Impact Zone, AELUP Notification Area or an Airport Safety Zone. The height of the proposed Project's marine commercial building would not result in air traffic safety hazards. No impact would occur and mitigation is not required.

The nearest airport to the Project site is the John Wayne Airport (JWA) which is located approximately 6.1 miles north of the Project site. According to the Airport Environs Land Use Plan (AELUP) for JWA, the Project site is not located within the Airport Planning Area or the Airport Impact Zones, the AELUP Notification Area for JWA, or the Airport Safety Zones (OCALUC, 2008, Figure 1). The Project site does, however, occur within the JWA Obstruction Imaginary Surfaces zone established pursuant to Federal Aviation Regulations (FAR) Part 77, although review by the ALUC only would apply if a project is proposed that exceeds the height limits established by FAR Part 77. (OCALUC, 2008) The Project's proposed marine commercial building would be required to comply with the City of Newport Beach non-residential shoreline height limit, so the building height

with a flat roof may be constructed to a maximum 35 feet, or 40 feet with a sloped roof, with approval of a future Site Development Review application by the City of Newport Beach. The building height would not result in airport safety impacts. Accordingly, no impact would occur and no mitigation is required.

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

Finding: No Impact. The Project does not propose roadway improvements or roadway design features. Thus, the Project would not substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). No impact would occur and mitigation is not required.

The Project does not propose planned improvements to roadways. The Project does not propose modification to the parking entrance from East Coast Highway. Only the internal configuration of the existing parking lot would be modified as discussed below.

To implement proposed land-side improvements, the existing Balboa Marina parking lot would be demolished. The parking lot would be re-established in a modified configuration containing drive aisles, parking spaces, landscaping, and pole-mounted lighting. The existing parking lot would be reconfigured to provide internal circulation and parking to accommodate the proposed land-side development. The parking lot near the Bayside Drive entry would be modified in order to reduce turning movements, and the overall layout of the parking lot would be reconfigured to improve circulatory access through the site. No new design features are proposed for public roadways. Accordingly, the Project would not substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). No impact would occur and mitigation is not required.

e) Would the Project result in inadequate emergency access?

Finding: Less-than-Significant Impact. The Project does not propose improvements or disturbances to public roadways. During short-term construction activities, the driveway to Balboa Marina from East Coast Highway would remain open during a majority of the construction process. When the driveway to East Coast Highway is temporarily closed, emergency vehicles would have access to the Project site via the driveway entrance from Bayside Drive. Thus, a less-than-significant impact would occur and mitigation is not required.

The Project does not propose improvements or disturbances to public roadways. Under existing conditions, emergency roadway access is provided via East Coast Highway and Bayside Drive. No full or partial temporary lane closures would occur along East Coast Highway or Bayside Drive during Project construction. The driveway to Balboa Marina from East Coast Highway would remain functional and accessible during a majority of the construction process. When the driveway connecting to East Coast Highway is temporarily closed, emergency vehicles would have access to the Project

site via the driveway entrance from Bayside Drive. Thus, short-term construction activities would not impede emergency vehicles from accessing the Project site. The Project would not result in inadequate emergency access. A less-than-significant impact would occur and no mitigation is required.

f) Would the Project conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities?

Finding: No Impact. The proposed project would not conflict with adopted policies, plans, or programs regarding transit, bicycle, or pedestrian facilities. No impact would occur and mitigation is not required.

The City of Newport Beach General Plan Circulation Element includes a number of goals and policies related to public transit, bicycle, and pedestrian facilities. These include the policies identified under General Plan Circulation Element Goal CE 4.1 (Public Transportation) and CE 5.1 (Alternative Transportation Modes). An analysis of Circulation Element Policies that are applicable to the proposed Project is provided above under the topic Land Use and Planning Threshold b). As concluded above, the Project would be consistent with or would not otherwise conflict with the City's alternative transportation policies. No impacts would occur and mitigation is not required.

Transportation/Traffic: Mitigation Measures:

Implementation of the proposed Project would have a less-than-significant impact to Transportation/Traffic. Thus, no mitigation measures are required.

5.4.17 Utilities and Service Systems

a) Would the Project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Finding: Less-than-Significant Impact. The proposed Project would not increase the need for wastewater treatment beyond the wastewater treatment requirements under existing conditions. Thus, the proposed Project would not exceed wastewater treatment requirements of the Santa Ana Regional Water Quality Control Board. A less than significant impact would occur and mitigation is not required.

The majority of the City of Newport Beach (approximately 13.5 square miles), including the Project site, receives wastewater service from the City of Newport Beach. The City of Newport Beach has a Sewer System Management Plan and Sewer Master Plan that project future wastewater demands, plan for physical improvements to the wastewater collection system, and detail how wastewater is planned to be collected and treated. Wastewater from the City of Newport Beach's sewer system is treated by the Orange County Sanitation District (OCSD). A majority of the City's sewage flow, including flows from the Project site, is conveyed to OCSD Treatment Plant No. 2, which has a design

capacity of 276 million gallons per day (mgd) and operates under capacity. (Newport Beach, 2006b, pp. 4.14-23) Wastewater treated by the OCSD at Plant No. 2 is required to be treated in accordance with federal, state, and regional requirements for water quality prior to being discharged into the Pacific Ocean.

On the water-side portion of the Project site, vessel pump-out accommodation would be provided for the new private boat slips in the same way that the pump out and holding tank system works at the Balboa Marina. Vessel pump out accommodation is not proposed for the new public boat dock due to the transient nature of its operation.

On the land-side portion of the site, the Project site is fully developed under existing conditions and is served by subsurface sewer lines. The composition of wastewater generated by the proposed Project would be similar to that generated by other marine commercial and restaurant uses in the City, with no hazardous components. The proposed building planned for the land-side portion of the Project site is planned to contain a restaurant, yacht brokerage office, and marina restrooms. Based on typical utility usage rates for restaurants and commercial establishments, the building is expected to generate a d emand for 2,755 gallons per day (gpd) of wastewater treatment capacity (Stantec 2014). The wastewater generated from the marine commercial building would be conveyed by the City's public sewer line network to the OCSD Plant No. 2 for treatment. The 276 mgd capacity of Plant No. 2 is designed to treat flows from buildout of its service area. Th e Project is fully compliant with the property's Marine Commercial (CM 0.3 FAR) General Plan land use designation and thus within the existing capacity of Plant No. 2, which meets applicable Regional Water Quality Control Board (RWQCB) requirements. No aspect of the Project would cause the treatment plant to violate RWQCB requirements. A less-than-significant impact would occur and mitigation is not required.

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b) Would the Project 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?

Finding: No Impact. The proposed Project would not result in the construction or expansion of new water or wastewater treatment facilities. No impact would occur and mitigation is not required.

Under existing conditions, the Project site is provided domestic water and sewer services by the City of Newport Beach. Subsurface sewer lines, domestic water lines, water meters, and fire hydrants are located on the property. Although the infrastructure design on the land-side portion of the Project site would be modified by the Project, no off-site improvements would be needed and no expansions or construction of treatment facilities would be required. Also refer to the discussion under Threshold a,) above, and Threshold d), below. Water and wastewater treatment facilities have sufficient capacity to service the Project and treatment facility expansions would not be triggered by the Project. No impact would occur and mitigation is not required.

c) Would the Project 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?

Finding: No Impact. Implementation of the proposed Project would result in a reduced runoff volume as compared to existing conditions. No off-site storm drain facilities would need to be expanded. Thus, no impact would occur and mitigation is not required.

As discussed under Hydrology and Water Quality Threshold c), under existing conditions, storm water runoff generally sheet flows south to an existing trench drain along the water side perimeter of the site that ultimately outlets through the existing bulkhead into Newport Harbor at two locations. Under proposed conditions, runoff would continue to flow in a southerly direction and discharge through the existing bulkhead outlets. (Fuscoe Engineering, 2014, p. 8) The Project's drainage pattern would not be altered from existing conditions. As described the Project-specific WQMP included as *Appendix I* to this document, the proposed Project would reduce impervious surface areas on the Project site from 85% (2.92 acres) (as occurs under existing conditions) to approximately 75% (2.57 acres). As a result, the Project would reduce the runoff rate and volume as compared to the existing condition, thereby reducing the volume of stormwater runoff discharged. Accordingly, the Project would not require or result in the construction of new storm water drainage facilities or the expansion of existing facilities. No impact would occur and mitigation is not required.

d) Would the Project have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

Finding: Less-than-Significant Impact. Operation of the Project site with marine commercial uses is considered in the City's Urban Water Management Plan, which concludes that the City has entitlements to sufficient water supplies to serve its existing and projected demand. Although the Project would increase water demand as compared to the site's demand under existing conditions, there are sufficient water supplies available to serve the Project from existing entitlements and resources. A less-than-significant impact would occur and mitigation is not required.

A large majority of the City of Newport Beach (approximately 35.77 square miles, including the proposed Project site) receives domestic water service from the City of Newport Beach. The City receives its water from two main sources: 1) local groundwater from the Lower Santa Ana River Groundwater basin, which is managed by the Orange County Water District (OCWD) and pumped from four active wells owned and operated by the City of Newport Beach (60%), and 2) imported water from the Metropolitan Water District of Southern California (MWD) as wholesaled to the City by the Metropolitan Water District of Orange County (MWDOC) (37%). In addition to these two main supply sources, the City also uses a small amount of recycled water for irrigation purposes (3%). De tailed information about these water supply sources are contained in the City of Newport Beach 2010 Urban Water Management Plan (UWMP),

which is herein incorporated by reference and available for public review at the City of Newport Beach Public Works Department, 100 Civic Center Drive, Newport Beach, California 92660. The City's UWMP calculates that water demand in the City will increase by 11% over the 25-year period of 2010 – 2035, to 18,474 acre-feet of water demand City-wide by 2035. The UWMP also documents that the City has entitlements to sufficient water supplies to serve its existing and projected demand. (Newport Beach, 2011a)

A Water Conservation Ordinance was adopted by the Newport Beach City Council in 2009 and is included in the City's Municipal Code as Chapter 14.16, "Water Conservation and Supply Level Regulations." The Ordinance creates a Water Conservation and Supply Shortage Program that establishes four levels of water supply shortage response actions to be implemented during times of declared water shortage. Additionally, Chapter 14.17 (Water-Efficient Landscaping) of the City's Municipal Code requires the use of water efficient landscaping as part of new or rehabilitated projects. To verify compliance with the provisions of Chapter 14.17, landscape documentation packages must be submitted to the City for review and approval. The City reviews the landscape documentation packages for compliance with the provisions of the design standards set forth in Section 14.17.030 (Landscape Water Use Standards).

The marine commercial building proposed for the land-side portion of the Project site is expected to generate a demand for 3,395 gallons per day (gpd) of domestic water (Stantec 2014). The City's UWMP assumes build-out of the City in accordance with its General Plan, which designations the Project site as Marine Commercial (CM 0.3 FAR). The proposed Project is consistent with the CM 0.3 FAR designation, and thus its water demand is planned for by the UWMP. Landscaping on the Project site is required to comply with the water-efficient landscaping requirements of the City's Municipal Code Chapter 14.17. The City has entitlements to sufficient water supplies to serve its existing and projected demand (Newport Beach, 2011a, p. 2). Accordingly, the Project would not result in the need to expand water entitlements. A less-than-significant impact would occur and mitigation is not required.

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e) Would the Project 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?

Finding: Less-than-Significant Impact. The Project would be adequately served by the OCSD. Thus, a less-than-significant impact would occur and mitigation is not required.

Wastewater from the City's sewer system is treated by the OCSD. Under existing conditions, wastewater treatment from the Project site is pumped to the OSCD Plant No. 2. OCSD Plant No. 2 maintains a design capacity of 276 million gallons per day (City of Newport Beach, 2006b, pp. 4.14-23)(mgd) and currently treats an average flow of 153 mgd. Currently, Plant No. 2 is operating at 55% of design capacity. Accordingly, the Project would be adequately served by the OCSD. Also refer to the discussion under

Threshold a), above. A less-than-significant impact would occur and no mitigation is required.

f) Would the Project be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Finding: Less-than-Significant Impact. The Project would be served by the Frank R. Bowerman Landfill which has sufficient capacity to accommodate the Project's solid waste disposal needs. Impacts would be less than significant and mitigation is not required.

Pursuant to Newport Beach Municipal Code § 12.63.030, solid waste is collected in the City by franchise waste haulers that have formal agreements with the City to collect its solid waste. The Frank R. Bowerman Sanitary Landfill, located at 11002 Bee Canyon Access Road in the City of Irvine, serves the City of Newport Beach. This landfill is 725 acres in size with 534 acres permitted for refuse disposal. It is permitted to receive a daily maximum of 11,500 tons per day and has enough capacity to remain in operation until at least 2053.

Public Resources Code § 40000 et seq. requires that local jurisdictions divert at least 50 percent of all solid waste generated. The City of Newport Beach consistently meets the objective of Public Resources Code §40000 et seq. Commercial waste haulers within the City are subject to Municipal Code Section 12.63.120 (Recycling Requirement), which states, "No person providing commercial solid waste handling services or conducting a solid waste enterprise shall deposit fifty (50) percent or more of the solid waste collected by the person in the City at any landfill." All solid waste generated by the Project would be collected by City services in compliance with Municipal Code Section 12.63.120 to ensure that a minimum of fifty percent of the solid waste collected is diverted from landfills, either through source separation by City residents or through separation of recyclable materials following collection.

In order to construct the land-side portion of the Project, the existing 1,200 SF building located at 201 East Coast Highway, which houses a yacht brokerage business and marina restrooms, would be demolished. Additionally, portions of the existing parking lot would be demolished to prepare the site for redevelopment. Demolition activity is anticipated to result in 14,700 CY of demolition material composed of asphalt, landscape material, soil, and deconstructed building material. Demolition material would be deposited into a landfill and asphalt would be recycled offsite at an approved recycling facility. There is sufficient capacity in the Orange County Integrated Waste Management Department (IWMD) landfill system to accommodate the construction waste.

Based on the solid waste generation rates presented in General Plan EIR Table 4.14-14 for commercial uses, the proposed marine commercial building would result in the long-term generation of approximately 97 pounds per day of solid waste and can be accommodated within the permitted capacity of 11,500 tons per day at the Frank R.

Bowerman Landfill. Thus, a less-than-significant impact would occur and no mitigation is required.

g) Would the Project comply with federal, state, and local statutes and regulation related to solid waste?

Finding: Less-than-Significant Impact. The Project would comply with federal, state, and local statutes and regulations related to solid waste. Impacts would be less than significant and mitigation is not required.

Public Resources Code § 40000 et seq. requires that local jurisdictions divert at least 50 percent of all solid waste generated. The proposed Project would be subject to the City's Recycling Service Fee pursuant to Municipal Code Chapter 2.30, which is intended to assist the City in meeting the 50 percent diversion objective. Commercial waste haulers within the City are subject to Municipal Code Section 12.63.120 (Recycling Requirement), which states, "No person providing commercial solid waste handling services or conducting a solid waste enterprise shall deposit fifty (50) percent or more of the solid waste collected by the person in the City at any landfill." Furthermore, the proposed Project would be required to comply with Municipal Code Section 20.30.120 (Solid Waste and Recyclable Materials Storage), which mandates that non-residential projects provide enclosed refuse and recyclable material storage areas in compliance with the minimum storage area requirements provided in Municipal Code Section 20.30, Table 3-5. Additionally, food service uses may require additional enclosed storage areas as determined by the City in association with the Project's future SPD and CUP applications. With compliance of applicable federal, state and local statutes and regulations related to solid waste, a less-than-significant impact would occur and no mitigation is required.

Utilities and Service Systems: Mitigation Measures

Implementation of the proposed Project would result in less-than-significant impacts to utilities and service systems and no mitigation measures are required.

5.4.18 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?

Finding: Less-than-Significant Impact with Mitigation Incorporated. The proposed Project has the potential to degrade the quality of the environment, temporarily reduce the habitat of fish and wildlife species during its water-side construction activities, and eliminate water-bottom eelgrass in an area of Lower Newport Bay proposed to be dredged. The Project also has the beneficial effect of creating 600 SF of intertidal mudflats and increasing waters of the United States by 6,772 SF by moving an existing

embankment 15 feet landward. Mitigation measures have been imposed on the Project to ensure that these impacts are reduced to below a level of significance. No historic resources are located on the property. Although there is a remote and unlikely potential that archaeological resources would be unearthed during the Project's construction process, mitigation measures imposed ensure that resources would be properly identified and treated should they be discovered. Accordingly, impacts would be less than significant, and additional mitigation measures are not required.

As indicated in the analysis presented throughout this document, and assuming the incorporation of mitigation measures, the Project would result in no impact or less-than-significant impacts to the environment. Accordingly, the Project would not substantially degrade the quality of the environment.

As indicated under the discussion and analysis of Biological Resources in Section 5.4.4, Project construction activities would result in short-term temporary impacts to the California brown pelican and California least tern, marine mammals, California halibut, Fishery Management Species (FMS) Essential Fish Habitat (EFP), and Habitats of Particular Concern (HAPC). In the case of these species, impacts would be the result of temporary construction activities in the water, such as dredging and pile driving that may result in increased water turbidity and noise. Species are expected to temporarily leave the Project area due to short-term construction-related disturbance and/or irritation. These species are expected to return to the area upon completion of the construction activities.

In order to accommodate the new public dock and additional private boat slips, 37 piles would be driven into the Lower Newport Bay floor, a riprap embankment would be constructed approximately 15-feet landward of the existing riprap embankment, and approximately 1.0 acre of water bottom surface would be dredged. The relocation of the riprap slope would create approximately 6,772 SF of water surface and 600 SF (3.9 feet wide by 155 feet long) of new mudflats (Coastal Resources Management, Inc., 2013, p. 21). The loss of 54.4 SF of soft bottom surface area for the piles would be compensated for by the 600 SF mudflat creation area, resulting in a net increase of 545.6 SF of soft surface bottom habitat. Accordingly, implementation of the proposed Project would have a beneficial long-term impact on waters of the United States, mudflats, and associated resource groups (Coastal Resources Management, Inc., 2013, p. 37) Dredging would permanently impact eelgrass habitat and temporarily reduce benthic (bottom dwelling) invertebrate habitat. Additionally, although Project construction activities in the water would result in short-term temporary displacement impacts to the California brown pelican, California least tern, marine mammals, California halibut, and Fishery Management Species (FMS), the impacts would be temporary (approximately 4 weeks) and the species are expected to return to the area upon completion of the construction activities. Upon completion of the dredging and pile driving activities, fish and marine mammals would move back into the area and benthic invertebrates would recolonize the shallow subtidal habitat. Therefore, impacts would be a short-term and less than significant with mitigation imposed to reduce the

temporary impacts. The long-term impact to eelgrass would be significant and require mitigation, as discussed under Biological Resources in Section 5.4.4Threshold a).

As indicated in the discussion and analysis of Cultural Resources in Section 5.4.5, there would be no impact to historical resources resulting from Project implementation. Although the Project site is not identified as being sensitive with respect to archaeological resources, mitigation measures have been imposed on the Project to ensure the proper treatment of any resources that may be uncovered during construction of the proposed Project. With implementation of the required mitigation, the Project would have a less-than-significant impact on historic and prehistoric resources.

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b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Finding: Less-than-Significant Impact. The proposed Project would not result in impacts that are individually limited, but cumulatively considerable. Cumulative impacts of the proposed Project would therefore be less than significant, and mitigation measures are not required.

In order to evaluate the Project's potential to result in cumulatively significant impacts, the City of Newport Beach Planning Division compiled a list of other closely related past, present, and reasonably foreseeable probable future projects. The list of cumulative projects is provided below:

Project Name
Fashion Island Expansion
Temple Bat Yahm Expansion
Ciosa - Irvine Project
Newport Dunes
Hoag Hospital Phase III
St. Mark Presbyterian Church
2300 Newport Boulevard
Newport Executive Court
Hoag Health Center
North Newport Center
Santa Barbara Condo (Marriott)
Newport Beach City Hall
328 Old Newport Medical Office
Coastline Community College
Bayview Medical Office
Mariner's Point

4221 Dolphin Striker
San Joaquin Hills Plaza
Uptown Newport (Phase 2)
Uptown Newport (Phase 1)
Marina Park

Based on this list of projects and the evaluation of Project impacts in this document and *Technical Appendices A through M2*, the Project's impacts in every environmental subject area would be less than cumulatively considerable with mitigation applied for the Project's direct impacts. Mitigation measures imposed on the Project for its direct impacts would also mitigate its contribution to cumulative effects.

6.0 Mitigation Monitoring and Reporting Program

	Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
Aesthetics				
MM AE-1	Prior to approval of a Site Development Review, the City Planning Division shall review the proposed architectural design of the marine commercial building to ensure that the design complies with applicable policies of the City's General Plan and Coastal Land Use Plan related to architectural character and aesthetics.	City of Newport Beach / City of Newport Beach	Prior to SDR Approval	
MM AE-2	Prior to approval of a Site Development Review, the City Planning Division shall review the architectural design of the proposed marine commercial building to ensure that non-reflective materials and colors that are complimentary to the surrounding area are used.	City of Newport Beach / City of Newport Beach	Prior to SDR Approval	
Biological Resources				
MM BR-1	Prior to the issuance of construction permits, the Project Applicant shall provide evidence to the City of Newport Beach that all required permits and clearances regarding biological resources have been obtained from the regulatory and resource agencies.	Project Applicant / City of Newport Beach and State and Federal Resource Agencies	Prior to Issuance of Construction Permits	
MM BR-2	The Project Applicant shall conduct a pre-construction Caulerpa taxifolia survey within 30 to 90 days prior to dredging and a post-construction Caulerpa taxifolia survey within 30 to 90 days after project construction is complete. Said surveys shall be consistent with the National Marine Fisheries Service	Project Applicant / City of Newport Beacy	Prior to Commencement of Construction and Following Construction	

	MITIGATION MEASURES	RESPONSIBLE PARTY / MONITORING PARTY	IMPLEMENTATION STAGE	COMPLIANCE STATUS
	Control Protocol. If this species is found, protocols for the eradication of Caulerpa taxifolia shall be implemented to remove this species from the Project site.			
MM BR-3	Prior to the issuance of construction permits, an eelgrass mitigation plan shall be prepared requiring a minimum 1.2:1 mitigation ratio for eelgrass impacts pursuant to the provisions of the Southern California Eelgrass Mitigation Policy (NMFS 1991 as amended). At least 618 SF (57.4 square meters) of eelgrass shall be successfully transplanted at the end of a five-year post-transplant monitoring period. The location of the transplant area shall be the Balboa Eelgrass Mitigation Area which was established during the reconstruction of the Balboa Marina in 2008-2009 or as determined by the resource agencies.	Project Applicant / State and Federal Resource Agencies	Prior to Commencement of Construction	
MM BR-4	Prior to commencement of construction activities, the Project Applicant shall ensure that dredging and excavation operations are surrounded with a silt curtain to reduce the level of turbidity. The curtain shall be maintained in good condition throughout the dredging and excavation process.	Project Applicant / City of Newport Beach	Prior to Commencement of Construction	
MM BR-5	Prior to commencement of construction activities, the Project Applicant shall ensure that a qualified biological monitor is retained to monitor turbidity and effects on marine mammals during pile driving operations. Said monitor shall comply with standards of the Santa Ana Regional Water Quality Control Board for water quality protection and applicable	Project Applicant / City of Newport Beach	Prior to Commencement of Construction	

	Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
	requirements for protection of marine mammals.			
MM BR-6	The following Conditions of Approval shall be placed on the Project's applicable implementing permits and approvals. COA: Construction contracts shall disclose and require strict compliance with applicable requirements of the federal Marine Mammal Protection Act overseen by the National Marine Fisheries Service (NMFS). Contracts shall include a provision that in the unlikely event of a construction vessel collision with a marine mammal, the contractor shall immediately contact the NMFS Southwest Regional Office's Standing Coordinator, submit a report to the NMFS Regional Office and comply with all associated and feasible directives. COA: Pile driving shall be conditioned to require employment of a "soft-start" approach to lessen the potential for short-term construction impacts to marine mammals. This approach requires slowly ramping up pile driving activities at the start of the day and at restarting after breaks or any interruption longer than 15 minutes. An Incidental Harassment Authorization (IHA) under the Marine Mammal Protection Act shall be required if the "soft-start" approach is not employed.	City of Newport Beach / City of Newport Beach	Concurrent with Implementing Permits and Approvals	

	Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
Cultural Resources				
MM CR-1	Prior to the issuance of grading permits, the City shall verify that the following note is included on the grading plan(s). "If suspected archaeological resources are encountered during ground-disturbing construction activities, the construction contractor shall temporarily halt work in a 100-foot radius around the find until a qualified archaeologist can be called to the site to assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with the City of Newport Beach." The grading contractor shall be responsible for complying with the note. If the archaeologist determines that the find does not meet the CEQA Guidelines §15064.5(a) criteria for cultural significance, construction shall be permitted to proceed. However, if the archaeologist determines that further information is needed to evaluate significance, the City of Newport Beach shall be notified and a data recovery plan shall be prepared in consultation with the City, which may include the implementation of a Phase II and/or III archaeological investigation per City guidelines. All significant cultural resources recovered shall be documented on California Department of Parks and Recreation Site Forms to be filed with the California Historical	City of Newport Beach / City of Newport Beach	Prior to Issuance of a Grading Permit	

	Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
	Resources Information System, South Central Coastal Information Center (CHRIS-SCCIC). The archaeologist shall incorporate analysis and interpretation of any significant find(s) into a final Phase IV report that identifies the level of significance pursuant to Public Resources Code § 21083.2(G). The City and Project Applicant, in consultation with the archaeologist, shall designate repositories in the event that resources are recovered.			
Hazards and Hazardous Materials				
MM HM-1	During Project grading and construction activities, the construction contractor shall ensure that possible locations where the USTs may have been located, either near the existing building or along the western side of the existing parking lot, as identified by Environmental Engineering & Contracting, Inc. (EEC), are potholed using heavy equipment to confirm the presence or absence of UST's on the land-side portion of the Project site. If USTs are discovered, they shall be disposed of properly per applicable State of California and federal guidelines. The Orange County Environmental Health Department provides oversight and conducts inspections of all underground tanks removals.	Construction Contractor / Orange County Environmental Health Department	During Grading and Construction Activities	

	Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
MM HM-2	The following Condition of Approval shall be placed on the Project's demolition permits. COA: All demolition permits shall comply with: a) SCAQMD Rule 1403 with respect to asbestos containing materials. b) Title 17, California Code of Regulations (CCR), Division 1, Chapter 8, which addresses the removal of components painted with lead-based paint (LBP). c) Title 40 of the U.S. Code of Federal Regulations (40 CFR) regarding the removal and disposal of PCBs.	City of Newport Beach / City of Newport Beach	Prior to Issuance of Demolition Permits	
Hydrology and Water Quality				
MM HWQ-1	Prior to the issuance of any grading, building, or other permits a M arina Management Plan shall be prepared by the Project Applicant and approved by the City of Newport Beach. The Marina Management Plan shall identify construction and operational best management practices (BMPs) to reduce potential water quality impacts to Newport Bay. The Management Plan shall include BMPs, safety guidelines, and steps to take in response to accidental spills, leakages, and fires to reduce the potential for water quality degradation.	Project Applicant / City of Newport Beach	Prior to Issuance of Grading or Building Permit	
MM HWQ-2	Prior to issuance of construction permits, the Project Applicant shall prepare, and the City of Newport Beach shall review and approve, a Stormwater Pollution Protection Plan (SWPPP) in compliance with			

	MITIGATION MEASURES	RESPONSIBLE PARTY / MONITORING PARTY	IMPLEMENTATION STAGE	COMPLIANCE STATUS
	the Regional Water Quality Control Board's (RWQCB) Section 402 National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit and be provided evidence that the RWQCB has issued a Section 401 Water Quality Certification.			
MM HWQ 3	The following Conditions of Approval shall be placed on the Project's applicable implementing permits and approvals. COA: All construction contracts shall disclose and require strict compliance with the requirements and recommendations of the Marina Management Plan related to construction-related activities. The Management Plan shall be implemented as a requirement of the long-term operation of Balboa Marina. The marina operator shall be required to supply a copy of the Management Plan to boat slip renters at the Balboa Marina. COA: The dredging permit shall state that scow doors used to release dredged material at the approved dredge materials disposal location shall be required to remain closed until the scows are towed to the disposal site			

	Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
Land Use and Planning				
MM LU-1	The City of Newport Beach Planning Division shall review the Project's applications for a Site Development Review and Conditional Use Permit for compliance with all applicable General Plan and Coastal Land Use Plan policies that relate to environmental resource protection. and ensure compliance.	City of Newport Beach / City of Newport Beach	Prior to SDR and CUP Approvals	
Noise				
MM N-1	As a condition of CUP issuance for a restaurant use in the marine commercial building and prior to the issuance of occupancy permits for any restaurant, bar, lounge, or nightclub to be located in the marine commercial building, an acoustical study shall be prepared by a qualified acoustician and reviewed and approved by the City of Newport Beach to verify that the building operations, including operations in the outdoor patio, comply with the requirements identified in Chapters 5.28, 10.26, 10.028.020, and 20.48.090(E) of the City's Municipal Code.	Project Applicant / City of Newport Beach	Prior to Issuance of a CUP and Prior to Issuance of an Occupancy Permit	
MM N-2	Prior to the issuance of any grading permit or building permit for new construction, the City of Newport Beach Community Development Department shall confirm that the grading plan, building plans, and specifications stipulate that:: a) All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and other State- required noise attenuation	City of Newport Beach / City of Newport Beach	Prior to Issuance of a Grading Permit or Building Permit	

Mitigation Measures	Responsible Party / Monitoring Party	Implementation Stage	Compliance Status
devices. b) During the construction phase, the Project Applicant shall ensure that construction hours, allowable work days, and the telephone number of the job superintendent are clearly posted at all construction entrances to allow residents to contact the job superintendent. If the job superintendent receives a complaint, the superintendent shall investigate, take appropriate corrective action, and report the action to the appropriate party. c) When feasible, construction haul routes shall be designed to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.). d) During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receivers. e) Construction activities that produce noise shall not take place outside of the allowable hours specified by the City's Municipal Code Section 10.28.040 (7:00 a.m. and 6:30 p.m. on weekdays, 8:00 a.m. and 6:00 p.m. on Saturdays; construction is prohibited on Sundays and/or federal holidays).			

7.0 References

Cited As	Reference
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