

Submittal Letter

5-23-0753

October 4, 2023

Chloe Seifert
California Coastal Commission
South Coast District Office
301 E. Ocean Blvd, Suite 300
Long Beach, CA 90802

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Subject: Coastal Development Permit Application for Mooring Field C Pilot Project

Dear Ms. Seifert,

On behalf of the City of Newport Beach (City) Harbor Department, Dudek is pleased to submit this application package intended to support California Coastal Commission (CCC) review of the proposed Coastal Development Permit (CDP) required for the Mooring Field C Pilot Project (Project). The application materials are as follows:

- **Attachment 1:** One complete, signed copy of the Application for a CDP, including all appendices to the application and required attachments (as further specified below).
- **Attachment 2:** Proof of applicant's legal interest in the property (Beacon Bay Bill)
- **Attachment 3:** Assessor's parcel map(s) showing the proposed development site and all adjacent properties within 100 feet of the property boundary.
- **Attachment 4:** Vicinity Maps (Regional Location, Project Location)
- **Attachment 5:** Project Plans, including existing and proposed mooring field layout
- **Attachment 6:** CEQA Documentation, including:
 - Notice of Exemption (May 24, 2023)
- **Attachment 7:** Technical Reports, including:
 - 2022 Eelgrass Monitoring in Newport Bay, Newport Beach, California (Marine Taxonomic Services, April 2023)
 - City of Newport Bay's Mooring Field Optimization Initiative – C Field Pilot Project Eelgrass Impact Analysis Memorandum (Dudek, May 2023)
- **Attachment 8:** Verification of other agency coordination/permits (USACE, RWQCB)
- **Attachment 9:** Declaration of Campaign Contributions (Appendix A)
- **Attachment 10:** Local approval of the Project with local staff signature (Appendix B)

Please note that due to the project's location, there are no other identified properties within 100 feet of the project boundaries (see Attachment 3). There are also no known interested third parties

to date. As such, we have not provided stamped envelopes for noticing purposes, nor a list of names and addresses (Appendix C).

Also note that no filing fee has been provided because the applicant (the City) is a public entity and, as such, is exempt from filing fees pursuant to Government Code Section 6103.

The following information further supports Project review of the requested CDP.

Project Description

Since 2017, the City has managed over 1,200 moorings located within Newport Harbor, and approximately 800 of those are offshore moorings distributed through ten mooring fields (A – J, see Harbor Map). Following a significant number of requests from permittees to extend the authorized length of their moorings, the Harbor Commission established a subcommittee in 2018 to review the offshore mooring extension process. In determining the existing mooring configurations, the subcommittee discovered there were no specific criteria or guidelines for establishing maximum lengths and vessel mixes within mooring fields, or the rows of moorings within the fields. In addition, the existing mooring fields were often oddly-shaped and conditions in each mooring field differed greatly. These existing protocols and mooring configurations resulted in poor utilization of open water space and a reduction in the navigable areas within the mooring fields, jeopardizing both safety and access. The subcommittee analyzed potential solutions to optimize mooring field and row layouts, with three main objectives: to ensure the mooring fields are safe and have adequate maneuverability for all mariners, not just the mooring permittees; to optimize the use of space within the mooring fields in the most effective manner possible; and to provide Harbor staff and the general public with guidance for mooring size exchange requests.

Following technical study, outreach with stakeholders, and review by the Harbor Commission, the subcommittee finalized the Mooring Fields Optimization Initiative (Initiative). The Initiative includes: incorporating revisions to the City Municipal Code to clarify mooring requirements and permitting procedures; reconfiguring the existing mooring fields in the Harbor; and clarifying equipment and tackle allowances and requirements. As a first step in reconfiguring the mooring fields, the City is proposing a pilot project in mooring field C, which is the subject of this CDP application.

The proposed Project would reconfigure the 5.5-acre C field from single-row to double-row moorings. Mooring field C currently has 55 moorings, and may have up to 62 moorings upon completion of the proposed Project. The benefits of switching to a double-row configuration are numerous:

- Greatly improved utilization of water space within the field
- Increased open water space in the area surrounding the field (2 acres)
- Increased distance between the field and onshore residential properties
- Wider and more well-defined fairways within the field (60' – 100')
- Increased spacing between moorings in the same row (50' – 55')

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- More overall room to maneuver for mariners when tying to or departing from a mooring
- Safer navigation throughout the field for all mariners (motor, sail, and human-powered craft)
- Option to use a single-buoy mooring system
- Addition of seven long-term moorings to the field

In addition to the reconfiguration of the mooring buoy placement, the Project also includes the use of new conservation moorings that utilize floats to keep the anchor chain off the sea floor, allowing for greater protection of eelgrass and other benthic life. There is no documented eelgrass currently present in the C field, however the use of these conservation moorings would protect any underwater vegetation that might establish in the area in the future (see Eelgrass Memo).

As proposed, the Project includes a phased approach to reconfigure only one or two rows initially, then follow with the rest of the field a couple of weeks later. This would allow for testing of the new layout and for making any necessary adjustments. There will be follow-up on the initial reconfiguration, including regular inspections from harbor patrol boats as well as interviews with affected permittees and other stakeholders. The relocation of moorings and permittees for the first one or two rows is estimated to take two weeks. Completing the reconfiguration for the rest of C field is estimated to take 30 days.

With the success of the pilot project in field C, the next likely fields for reconfiguration would be B, D, J & H.

Key Policy Topics

The standard of review for the subject CDP request is Chapter 3 of the California Coastal Act because the site is an area of submerged lands retained within the Commission's permit jurisdiction. The City's Local Coastal Program (LCP) was effectively certified on January 13, 2017, and may be used as guidance in evaluating the subject CDP request. Policies from the Harbor and Bay Element of the City's General Plan are also included below.

a. Public Access

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30214 of the Coastal Act states, in relevant part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and re-pass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

Policy HB 6.1 of the Harbor and Bay Element states:

Provide adequate public access to the shoreline, beach, coastal parks, trails, and bay, and acquire additional public access points to these areas and provide parking, where possible.

Policy HB 6.3 of the Harbor and Bay Element states:

Encourage the provision of guest slips, moorings, waste pump-out stations, and anchorages in Newport Harbor. Coordinate work with the Orange County Harbor, Beaches, and Parks Department to provide such facilities where appropriate and feasible.

Policy 2.5.2-2. of the CLUP states:

Promote the public's right of access to the ocean, beach, and bay and to the provision of coastal-dependent uses adjacent to the water in the leasing or re-leasing of publicly owned land.

The mooring fields in Newport Harbor are a significant public access amenity, as having safe and abundant mooring opportunities throughout the Harbor is an essential component of giving the public access directly to the water. Local residents and visitors in motor-, sail- and human-powered

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watercraft utilize the moorings as a means of accessing amenities within the Harbor as well as the open ocean and the Channel Islands. As such, keeping the mooring fields operating at peak safety and efficiency is crucial for maintaining and expanding public access throughout the Harbor. Implementation of the proposed Project will allow for more moorings to be made available to the public, will increase the open water area available for public use surrounding the mooring field, and will increase safety for boaters navigating within and around the field. There are no negative impacts to public access anticipated as part of the Project. In sum, the proposed Project maintains and enhances existing public access amenities, and as such conforms to the public access policies of the Coastal Act, and the City's LCP and Harbor and Bay Element.

b. Recreation

Section 30213 of the Coastal Act states, in relevant part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting nonwater-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Policy HB 1.1 of the Harbor and Bay Element states, in relevant part:

Preserve and enhance the following uses that contribute to the diversity and charm of Newport Bay, and the balance among them:

- *Water-dependent and water-related recreational activities such as boating, sailing, wind surfing, fishing, kayaking, rowing, paddle boarding, and swimming.*
- *Water dependent and water-related commercial activities such as passenger/sightseeing boats, passenger-fishing boats, boat rentals and*

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sales, entertainment boats, boat/ship repair and maintenance, and harbor maintenance facilities.

[...]

- *Coastal residential communities.*

Policy HB 1.2 of the Harbor and Bay Element states:

Encourage the creation of waterfront public spaces and beaches, with adjacent water access and docking facilities that serves as the identity and activity “centers” of Newport Harbor for special events of community/regional interest.

Policy HB 2.3 of the Harbor and Bay Element states:

Encourage the preservation and enhancement of existing marine support uses serving the needs of existing waterfront uses and the boating community.

Policy HB 5.2 of the Harbor and Bay Element states:

Provide a variety of berthing and mooring opportunities throughout Newport Harbor, reflecting state and regional demand for slip size and affordability.

Policy HB 5.5 of the Harbor and Bay Element states:

Facilitate access to vacant moorings for temporary rental use.

Policy HB 5.6 of the Harbor and Bay Element states:

Foster public access to moorings by enforcing and refining the derelict boat ordinance and regulating transfers by permit holders.

Boating and water-based recreational activities are important, high-priority uses within the Harbor. As discussed above, having safe and abundant mooring opportunities throughout the Harbor is critical for providing access to the water and encouraging recreational boating and other water-dependent recreational activities. Through implementation of the proposed Project, water-oriented recreational opportunities in the Harbor will be protected and expanded. The Project will allow for the addition of seven new moorings to the C field, while simultaneously increasing maneuverability and boater safety within the field. By using the mooring field space more efficiently, the Project will also open up approximately 2 acres of open water space around the C field for use by boaters. In sum, the proposed Project maintains and enhances existing recreation amenities in the Harbor, and as such conforms to the recreation policies of the Coastal Act, and the City’s Harbor and Bay Element.

c. Marine Environment

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Policy 2.5.2-1. of the CLUP states:

Administer the use of tidelands and submerged lands in a manner consistent with the tidelands trust and all applicable laws, including Chapter 70 of the Statutes of 1927, the Beacon Bay Bill (Chapter 74, Statutes of 1978), SB 573 (Chapter 317, Statutes of 1997), AB 3139 (Chapter 728, Statutes of 1994), and Chapter 715, Statutes of 1984 and the Coastal Act.

The proposed Project is located within the waters of Newport Harbor, and as such take marine resource protection measures into account. The continued existence of the mooring field itself, including the anchors, chains, buoys, and other equipment, does not introduce any significant impacts to water quality or biological productivity. The boats that utilize the mooring field represent a protected use under the Coastal Act, and are also subject to Harbor regulations that prevent

pollution and other degradation of the marine environment. The existing mooring fields within the Harbor are located and managed in such a way as to maximize public access and recreation opportunities while protecting marine resources. As proposed, the Project further enhances these existing boating amenities while maintaining water quality in the Harbor. As such, the Project conforms to the marine environment protection policies of the Coastal Act and the City's LCP.

d. Biological Resources

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat or ESHA as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Policy 4.1.4-1. of the CLUP states:

Continue to protect eelgrass meadows for their important ecological function as a nursery and foraging habitat within the Newport Bay ecosystem.

Policy 4.1.4-2. of the CLUP states:

Implement eelgrass restoration and enhancement programs in Newport Harbor.

Policy 4.1.4-4. of the CLUP states:

Provide for the protection of eelgrass meadows and mitigation of impacts to eelgrass meadows in a comprehensive harbor area management plan for Newport Bay.

Policy 4.2.5-1. of the CLUP states:

*Avoid impacts to eelgrass (*Zostera marina*) to the greatest extent possible. Mitigate losses of eelgrass at a 1.2 to 1 mitigation ratio and in accordance with the Southern*

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California Eelgrass Mitigation Policy. Encourage the restoration of eelgrass throughout Newport Harbor where feasible.

Eelgrass (*Zostera marina* and *Z. pacific*) is a rare, ecologically important seagrass that meets the Coastal Act definition of an environmentally sensitive habitat area (ESHA) and can be found in varying abundance throughout Newport Bay. Eelgrass provides important foraging areas and shelter to young fish and invertebrates, food for migratory waterfowl and sea turtles, and spawning surfaces for invertebrates and fish. According to surveys and monitoring conducted in 2022, there is eelgrass present in the areas surrounding mooring field C, but not within the C field itself. Specifically, there is eelgrass present along the shoreline to the west and south of the C field, but not in the open water areas to the east and north of the field.

Typical moorings cause scarring that destroys eelgrass beds. Although there is no eelgrass currently present within mooring field C, the Project proposes the use of conservation moorings that utilize floats to elevate the underwater chains and keep them off the sea floor, allowing for the growth of eelgrass and other benthic life. Given the right circumstances for incidental recruitment, any eelgrass that migrated toward mooring field C from the shoreline would be able to establish and grow within the field with the use of the proposed conservation moorings.

There is no significant existing vegetation or other marine life that would be disturbed or otherwise negatively impacted by the proposed Project (see Eelgrass Memo). The proposed Project would facilitate any future incidental recruitment of eelgrass in mooring field C. As such, the Project conforms to the biological resource protection policies of the Coastal Act and the City's LCP.

e. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Mooring field C is located within a highly scenic area of Newport Bay, which is a popular destination for residents and visitors to access the shoreline. Field C is directly adjacent to and highly visible from many shoreline residences and public walkways. As it currently exists, the only “structures” that are visible above the water within the mooring field are the buoys that float on the water surface. Following Project completion, the overall water surface within the mooring field will appear exactly the same, with the addition of seven additional buoys. The mooring buoys are sized and

colored to maximize safety and visibility for boaters, however they do not introduce a significant visual impact to the surrounding area. Implementation of the proposed Project will not create any negative impacts to the visual character of the Harbor, and as such the Project conforms to the visual resource protection policies of the Coastal Act.

f. Minimization of Hazards

Section 30253 of the Coastal Act states, in relevant part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
 - (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
 - (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- [...]
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

One of the main objectives of the proposed Project is to increase boating safety within the Harbor. The mooring system proposed as part of the Project will have a smaller footprint than the existing system, and will not introduce any new physical hazard risks. No significant landform or sea floor alteration is proposed as part of the Project. Implementation of the Project will facilitate continued and expanded public use of the space while increasing safety and protecting against any potential hazards. As such, the Project conforms to the hazard minimization policies of the Coastal Act.

g. Sea Level Rise

Section 30270 of the Coastal Act states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

The Project is located within the waters of Newport Bay, and as such may be subject to effects from global climate change and sea level rise. The above-water components of the Project, the mooring

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buoys, are floating and as such wouldn't be negatively impacted by an increase in sea level. The mooring field is located within a protected inner portion of the Bay, and is unlikely to experience extreme wave or storm impacts. The mooring field would continue to be operational and safe for public use even with sea level rise taken into account. As such, the Project conforms to the sea level rise policies of the Coastal Act.

Conclusion

I hope this information satisfies the application requirements and provides you with the details needed to proceed with processing the CDP for the Mooring Field C Pilot Project. Should you have any questions or require any additional information, please do not hesitate to contact me at cgroves@dudek.com or (805) 308-8507.

Sincerely,



Carolyn Groves
Coastal Planner

cc: Paul Blank, Newport Harbor
Jaime Murillo, City of Newport Beach