

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: MATERIAL AMENDMENT

Application No.: 5-07-370-A2

Applicant: Orange County Parks Department

Project Location: 1901 Bayside Drive, Newport Beach, Orange County

Description of Original Project Approved Pursuant to Permit No. 5-07-370:

Demolition of the existing Coast Guard Station building and portion of surface parking lot for the installation of a new 174 foot-long bulkhead seaward of the existing bulkhead, replacement of existing County of Orange Harbor Patrol official use and guest docks, 1,200 cubic yards dredging, eelgrass habitat mitigation, new surface parking lot and storm drain system, on-site placement of temporary Coast Guard facility.

Description of Permit Amendment No. 5-07-370-A1: No Commission action was taken, and the file was closed in 2015.

Description of Pending Permit Amendment No. 5-07-370-A2: Request for after-the-fact approval of change in use of visitor dock to emergency dock; reconfiguration of public surface parking spaces; canoe storage area and canoe storage closets on the sandy beach; change of hours of dinghy dock tie up from 72 hours maximum to day use only from 6am to 10pm; increase the hours of public parking availability from 8am to 5pm to 6am to 10pm; designate 8 Orange County Sheriff's Harbor Patrol parking spaces available for public beach use on the weekends; installation of wayfinding signage, safety gates

and fencing within the facility; installation of approximately 300 linear feet of ADA compliant roll-out mat on the sandy beach, and install kayak and canoe storage racks on Bayside Beach.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The Orange County Parks Department (OC Parks) seeks after-the-fact approval to amend Coastal Development Permit No. 5-07-370 to change the use of the Visitor Dock historically shared between Orange County Sheriff's Harbor Patrol (OCSHP) and the public from a public temporary tie-up for loading and unloading to an Emergency Dock for OCSHP use only, eliminating public access at the dock. OC Parks also seeks after-the-fact approval of reconfiguration of public beach parking spaces approved by Coastal Development Permit 5-94-255, establishment of a canoe storage area and canoe storage lockers on the sandy beach, and change of hours of the dinghy dock tie up from 72 hours maximum to day-use only between 6 am to 10 pm. The applicant also proposes to increase hours of public parking availability from 8 am to 5 pm to 6 am to 10 pm, designate 8 OCSHP parking spaces for public use on the weekends, install wayfinding signage in the parking lot and dock facilities, install two safety gates and fencing within the facility, and install approximately 300 linear feet of ADA compliant roll-out mat, kayak storage rack, and canoe storage rack on Bayside Beach. OC Parks also proposes to provide the public drop-off area for beach patrons as was required by CDP 5-94-255, but never implemented.

The Commission's Enforcement staff sent a Notice of Violation letter to the Orange County Sheriff's Department Harbormaster on May 20, 2019, notifying them that development that is noncompliant with Coastal Development Permit Nos. 5-07-370 and 5-94-255 was occurring at the OCSHP facility as well as in areas within the Commission's original jurisdiction, including (1) change in use of two public guest docks to lifeguard boat storage; (2) placement of "Keep Out" and "Authorized Personnel Only" signage at the entrance area to the public guest docks and on the public guest dock pilings facing toward Newport Harbor; (3) change in public dinghy tie-up access from 72 hours maximum to 20 minutes maximum and placement of accompanying signage; (4) change in use from Visitor dock to Emergency Dock; (5) relocation of 10 public beach parking spaces from the Commission-approved location; (6) failure to provide a Commission-approved beach drop-off point for beach patrons and (7) placement of outrigger canoes on the public beach.¹ Such development activities individually and

¹ The unpermitted placement of outrigger canoes was included in later correspondence once Commission staff became aware that the placement of canoes on the public beach was undertaken without the benefit of the necessary coastal development permit.

5-07-370-A2 (Orange County Parks)

cumulatively result in a change in public access to a protected public resource – the public guest dock area and accompanying public amenities at the OCSHP facility— without the benefit of a necessary CDP or amendment to the two above-mentioned CDPs. Upon receipt of the Notice of the Violation letter, the County removed the unpermitted signage, and in consultation with Commission staff, installed temporary signage in order to inform the public of the amenities at the site including the public beach drop off area, public guest slips, and dinghy dock. The temporary signage that was installed is similar to the signage contained in the applicant’s current signage plan and displayed the Commission’s wave and footprints logo which is used statewide to inform the public of coastal access and recreational opportunities. The County also worked with staff to reopen the dinghy dock tie-up limit from 20 minutes to 6am to 10pm during the time that the subject application and proposal was pending submittal. The Orange County Parks Department subsequently submitted amendment application 5-07-370-A2 to resolve the violations, along with seeking authorization of installation of new security gates and new fencing that would help delineate between public access amenities at the site and restricted access areas.

To resolve the violations, the County has removed the unpermitted signage, installed temporary signage, reopened the dinghy dock and is seeking after-the-fact approval of change in use of visitor dock to emergency dock, reconfiguration of public surface parking spaces, canoe storage area and canoe storage closets on the sandy beach, and change of hours of dinghy dock tie up from 72 hours maximum to day use only from 6 am to 10 pm, change hours of public parking availability from 8 am to 5 pm to 6 am to 10 pm and to designate 8 Orange County Sheriff’s Harbor Patrol parking spaces available for public beach use on the weekends. Additionally, in order to comprehensively mitigate for the public access impacts resulting from these violations, and to improve public access at the site going forward, the applicant is proposing to implement a new wayfinding and signage plan and to provide new public amenities including 1) a public kayak and stand-up paddleboard storage rack at the sandy beach adjacent to the lifeguard headquarters; 2) a marketing and publicity program to advertise the availability of the public guest slips and other public amenities to the general public, including how to rent the slips; and 3) a public access program that provides free monthly participation in the canoe clubs for the public, with a targeted outreach program to environmental justice communities in Orange County. The goal of the new wayfinding and signage plan, public access amenities and recreational opportunities described above is to increase boating access, specifically small watercraft activities such as kayaking, stand-up paddle boarding, and outrigger canoeing at the OCSHP facility and beach to a broader segment of the population that may not own larger boats. To that end, in developing this application, it was the overarching goal of Commission staff and the County to help facilitate and expand both the free and low-cost recreational opportunities at the site such as visiting the sandy pocket beach to swim and sunbathe, participating in free traditional Hawaiian outrigger lessons, and the ability to store a kayak or stand-up paddleboard over a weekend on a storage rack at the beach. As described in more detail below, through the special

conditions contained in this coastal development permit amendment application, the County is required to provide and market these opportunities to environmental justice communities, including low-income communities, communities of color, and other historically underserved communities that experience disproportionate environmental burdens and/or fewer direct benefits of environmental protection. Without targeted outreach, individuals from these communities might not otherwise know about the OCSHP facility and beach and its recreational amenities.

The City of Newport Beach LCP was effectively certified on January 13, 2017. The proposed project amends CDP No. 5-07-370, which was issued by the Coastal Commission prior to LCP certification. The standard of review for development within the City's permit jurisdiction is the City's certified LCP. The subject site is depicted on the Commission's post-certification map as partially within the City's coastal development permit jurisdiction and partially within an area that the LCP refers to as "permit jurisdiction," a label that, while not self-explanatory, refers to areas that remain within the Coastal Commission's permitting jurisdiction because they include tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time (the area included in the Bayside Drive Beach). The portion within the City's permitting jurisdiction is partially within the appeals jurisdiction (the OCSHP and U.S. Coast Guard facilities). However, because in 2007 the Commission issued a CDP for the development over the entire site, which the applicant seeks to amend, the proposed amendment remains fully within the Commission's permitting jurisdiction. The portion of the project within the Commission's retained permitting jurisdiction must be consistent with Chapter 3 of the Coastal Act, with the LCP serving as guidance. The portion of the project within the City's permitting jurisdiction and the Commission's appeal jurisdiction must be consistent with the policies of the LCP and with the public access and recreation policies of Chapter 3 of the Coastal Act. The primary issues raised by this application are its potential adverse impacts to the public access and recreation resources protected by the Coastal Act and the City's Certified LCP.

The applicant is proposing to change the use of a dock historically known as the "Visitor Dock" that members of the boating public historically utilized for unloading/loading of passengers, accessing public restrooms, or conducting Harbor Patrol business, into an Emergency Dock for the sole use of OCSHP. The applicant is not proposing to mitigate for this loss of public access to the Visitor Dock; therefore, staff recommends the Commission impose **Special Condition 13**, requiring the applicant to allocate one of the "official use" dock slips in another area of the marina to "public use"; this would ensure there is no net loss in visitor slips, which would mitigate the impacts of this proposed change to such an extent that it would eliminate the inconsistency with the standard of review. **Special Condition 14** requires the applicant to submit a final plan of the proposed locations of new gates and fences, and gates and fences to be replaced within the facility. **Special Condition 15** requires the applicant to submit a revised beach parking plan demonstrating all of the changes approved with this

application. **Special Condition 16** requires the applicant to submit a final signage and wayfinding plan consistent with the approval of this coastal development permit. **Special Condition 17** requires the applicant to submit a Public Access Program that provides free monthly participation in the canoe clubs for the public with targeted outreach to environmental justice communities, and to ensure that the public guest slips and other public amenities are known to the general public, **Special Condition 18** requires the applicant to submit a marketing and publicity program to advertise the dock space availability, including how to rent the slips. All special conditions applied to the property pursuant to Coastal Development Permit 5-07-370 remain in effect and apply equally to this amendment. Previously imposed special conditions require, among other things: final geotechnical plans, construction responsibilities and debris removal, and water quality management plan.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-07-370-A2, as conditioned. The motion is on page 4.

PROCEDURAL NOTE – Coastal Development Permit Amendments:

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The amendment request involves changes to the previously authorized project. The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change.

Section 13166 of the Commission Regulations also calls for the Executive Director to reject a permit amendment request if it would lessen or avoid the intended effect of the previously approved permit. The proposed amendment would not lessen the intended effect of 5-07-370, because the project would restore and continue to protect public coastal access, consistent with the original permit, and would approve new public amenities to ensure the preservation of public access. Therefore, the Executive Director accepted the amendment request for filing.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal

Commission’s webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission’s Virtual Hearing Procedures, please call 415-904-5202.

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APPENDIX A – Substantive File Documents

APPENDIX B -- List of All Conditions That Will Apply to CDP 5-07-370, As Amended.

EXHIBITS

Exhibit 1—Vicinity Map

Exhibit 2—Site Plan

Exhibit 3 – Signage and Wayfinding

Exhibit 4 -- Proposed Locations for Gates and Fences

Exhibit 5 –Canoe Storage Plan

Exhibit 6 – Enforcement Letters to Orange County Parks

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit Amendment No. 5-07-370-A2, pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Amendment No. 5-07-370-A2 on the grounds that the development, as amended and subject to conditions, will be in conformity with the Chapter 3 policies of the Coastal Act and the Newport Beach LCP, as applicable. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. CHANGE TO CONDITIONS

NOTE: Appendix B, attached, includes all standard and special conditions that will apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment number A2 once this amendment issues. All of the Commission’s previously adopted special conditions continue to apply in the most recently approved form unless explicitly changed in this action, and the approved project includes any changes in the project

description proposed by the applicant and approved by the Commission in this action. This will result in one set of adopted standard and special conditions. New conditions and modifications to existing conditions imposed in this action are shown in the following section.

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-07-370 , remain in effect. This permit amendment is granted subject to the following special conditions:

- 13. Mitigation Plan for One New Public Dock Slip.** PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, to offset the loss of public access to the Visitor Dock, the applicant shall submit a mitigation plan for the review and approval of the Executive Director that re-designates one of the four dock slips that was previously approved as “official use” primarily for Harbor Patrol lifeguard vessels (per underlying permit 5-07-370) as “public use.” The new public use dock shall be made available to the public within 60 days of issuance of the CDP amendment.

- 14. Final Site Plan for Gates and Fences.** PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, the applicant shall submit a final site plan indicating the location of the new gates and fences, and gates and fences to be replaced within the facility, in substantial conformance with the plan dated on February 25, 2020, and amended via email dated February 17, 2021. [Need to add the standard language requiring that they proceed in compliance with that final site plan]

- 15. Beach Parking Plan.** PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, the applicant shall submit a revised parking plan in substantial conformance with the plan dated February 25, 2020, subject to the review and approval of the Executive Director, that shows:
 - a. The revised location of the 10 public beach parking spaces and one additional standard and one additional ADA parking space (for a total of 12 spaces). The parking spaces will be located at on either side near the entrance of the parking lot.
 - b. The location of the 8 Harbor Patrol and U.S. Coast Guard and Lifeguard Business Parking Spaces that are proposed to be available for public beach parking on weekends.The public beach parking spaces shall be made available to the public within 60 days of issuance of the CDP amendment.

- 16. Revised Wayfinding and Signage Plan.** PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, the applicant shall submit a revised Wayfinding and Signage Plan in substantial conformance with the plan dated

February 25, 2020, subject to the review and approval of the Executive Director, that shows:

- a. The designs, dimensions, and location of signs near the parking lot entrance for the public parking spaces. The signs shall state that the 12 spaces (11 regular spaces and one ADA space) are designated for public beach use only for the hours between 6 am and 10 pm, and shall be posted in visible locations at the site of the parking spaces;
- b. The designs, dimensions, and location of signs for the 8 parking spaces proposed for weekend beach use for the hours of between 6 am and 10 pm, which shall be posted in a visible location at the site of the parking spaces.
- c. The Beach Drop-Off Sign shall be written in both English and Spanish.

Signage shall be installed and visible to the public within 60 days of issuance of the CDP amendment.

17. **Public Access Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT 5-07-370-A2, the applicant shall submit, for review and approval of the Executive Director, a Public Access Program in substantial conformance with the Applicant's response to CCC staff's incomplete letter submitted June 25, 2020 except the program/plan shall be developed and expanded as required by this condition. The applicant shall provide:
 - a. **Outrigger Canoe Lessons:** As a condition of the County's permit/license or permit/license renewal of public lands to the various Canoe Clubs, the Canoe Clubs as a collective shall be required to offer a minimum of 24 free days per year to the general public.
The County shall conduct targeted outreach to increase participation of individuals from low-income communities, communities of color, and other environmental justice communities in the free trial days. The program shall describe outreach methods and include a list of organizations, stakeholders and locations where outreach will be prioritized, including but not limited to Title 1 schools, Boys & Girls Clubs, community centers, and existing County contacts at schools, recreational facilities . The County shall encourage the Canoe Clubs to do the same.
 - b. The program shall evaluate barriers to participation for individuals from environmental justice communities and describes steps to eliminate or minimize these barriers to the maximum extent feasible in order to increase participation in the free trial days.
 - c. The program shall include measures for increasing efficacy of outreach by exploring options to enhance or expand the program in the future, such as consideration of providing public transit opportunities to and from

the beach on the free trial days, expanding the number of free days based on demand, utilizing social media campaigns and platforms, etc.

- d. The County shall submit a monitoring report to the Executive Director every two years that contains the following information: 1) the number of individuals that participated in the free outrigger canoe lessons, 2) socioeconomic and demographic information of participants, including gender, age, ethnicity, zip code, and income range to evaluate effectiveness of targeted outreach program, 3) the dates on which the free outrigger canoe days were held, 4) photographs of individuals participating in the lessons, and 5) a list of community groups, stakeholders, and locations where outreach was conducted.

Once the Access Program has been approved by the Executive Director, the applicant shall provide evidence that the Program is being carried out to the Executive Director within 90 days of approval of the plan. Should one of the Outrigger Canoe Clubs vacate the site for any reason, the requirements of this Special Condition 17 shall be inapplicable to the canoe club no longer occupying the beach and the corresponding number of free days offered to the public shall be adjusted accordingly.

18. **Promotional Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT 5-07-370-A2, the applicant shall submit for review and written approval of the Executive Director, a Promotional Plan that includes all of the following elements:
 - a. A plan for making the general public aware of the public recreational amenities available at the OCSHP facility and beach including members of the general public who may not otherwise be aware of the public guest slips available there, and in particular members of environmental justice communities. This plan may include:
 - i. advertising in established mediums for English and non-English speaking populations, such as, but not necessarily limited to, smart phone apps, radio, websites and/or print publications including, but not limited to, those specializing in:
 1. recreational boating, in the Orange County area,
 2. the promotion of recreational opportunities in the Orange County area, and
 - ii. the promotion of family activities in the Orange County area. The promotional platforms may be part of larger outreach that includes similar, no or low-cost recreational sites and opportunities in addition to the small watercraft recreational opportunities available at the OCSHP facility and beach.

- iii. The promotional materials shall include creation of a new page on OC Parks website advertising the availability of all public recreational amenities and opportunities available at the OCSHP facility and beach, including free Canoe Club days.
- iv. The promotional materials shall be made available in both English and Spanish and other non-English languages spoken in Orange County and shall be directed to inform environmental justice communities about the recreational opportunities.
- v. The promotional activity shall be carried out periodically (a minimum of quarterly) for the first year following approval of this coastal development permit amendment 5-07-370-A2, and each year thereafter.
- vi. The plan shall include, at a minimum, specific details of the
 1. methods of promotion,
 2. the means of promotion, and
 3. the timing and frequency of promotion.
- vii. Once the Promotional Plan has been approved by the Executive Director, the applicant shall provide evidence that the Promotional Plan is being carried out to the Executive Director within 90 days of approval of the plan.

The Promotional Plan shall be carried out as approved.

III. FINDINGS AND DECLARATIONS

A. Project Location and Description

Location and Site History

The project site is the Orange County Sheriff's Department Harbor Patrol (OCSHP) dock and landside facilities, as well as the adjacent public beach. The entrance to the site is located at 1901 Bayside Drive, near the Newport Harbor Entrance Channel in the City of Newport Beach, Orange County ([Exhibit 1](#)). The OCSHP provides emergency and law enforcement services within Newport Harbor and the facility has been in continuous use since 1953. OCSHP shares the site with the Coast Guard Station located immediately to the south. The OCSHP facilities are immediately adjacent to a small sandy beach known as Bayside Drive Beach that is managed by the OC Beaches and Parks Department. Access to Bayside Drive Beach is gained through the entrance to the harbor patrol site off of 1901 Bayside Drive. This small beach has relatively calm water enjoyed by kayakers, stand-up paddleboarders, and users of other personal watercraft. Public amenities at the beach include a volleyball court, picnic tables, and public restrooms. The site consists of a Harbor Patrol dock with nine total slips, accommodating four "official use" dock slips (primarily for Harbor Patrol lifeguard vessels) and five guest slips; a Visitor Dock that is shared between the public (for

temporary tie-up and visitor loading and unloading) and the OCSHP; and a sewage pump out float/dinghy dock on the southern end of the facilities for public use. There is a surface parking lot designating 11 public parking spaces for beach use. Another on-site surface parking lot provides parking for the Coast Guard and Harbor Patrol crews. The City of Newport Beach LCP designates the use of the site as Open Space. Single-family residential uses surround the site.

Previous Permits

The Commission has approved two previous permits for development on the site.

- 5-94-255 (County of Orange) – Coastal Development Permit for the installation of a new 550 foot long seawall approximately 3' seaward of original seawall, demolition and re-construction of a 1,000 sq. ft. Coast Guard Building, demolition and reconstruction of an 8,485 sq. ft. Harbor Patrol building, upgrade of site utilities, temporary facilities, replacement of an underground fuel storage tank.
- 5-07-370 (County of Orange) – Coastal Development Permit for the installation of a new 174 foot long bulkhead seaward of the existing bulkhead, replacement of existing County of Orange Harbor Patrol official use and guest docks, 1,200 cubic yards of dredging, eelgrass habitat mitigation, new surface parking lot and storm drain system, and on-site placement of temporary Coast Guard facility.

Project Description

The applicant proposes to amend Coastal Development Permit 5-07-370 to provide after-the-fact approval of a change in the use of the Visitor Dock historically shared between Orange County Sheriff's Harbor Patrol (OCSHP) and the public as a temporary tie-up and loading area, to an Emergency Dock only for OCSHP use that would eliminate the public's access to that portion of the marina. OC Parks also seeks after-the-fact approval to reconfigure public beach parking spaces approved with Coastal Development Permit 5-94-255, establish a canoe storage area and canoe storage lockers on the sandy beach, and change of hours of the dinghy dock tie up from 72 hours maximum to day-use only from 6 am to 10 pm. The applicant also proposes to increase hours of public parking availability from 8 am to 5 pm to 6 am to 10 pm, designate 8 OCSHP parking spaces for public beach use on the weekends, install wayfinding signage, new safety gates and fencing within the facility, and install approximately 300 linear feet of ADA compliant roll-out mat, kayak storage rack and canoe storage rack on Bayside Beach. To mitigate for restriction of public access and recreation during the time the Coastal Act violations have persisted, and to prevent any future impacts to public access, the applicant is proposing new public amenities including 1) a new public kayak and stand-up paddleboard storage rack on the sandy beach on the north end of the lifeguard headquarters; 2) a new marketing and publicity program to advertise the availability of the public guest slips and other public amenities to the general public and how to rent them; and 3) a public access program that

provides free monthly participation in the canoe clubs for environmental justice affected communities in Orange County.

B. Standard of Review

The City of Newport Beach LCP was effectively certified on January 13, 2017. The proposed project amends CDP No. 5-07-370, which was issued by the Coastal Commission prior to LCP certification. The standard of review for development within the City's permit jurisdiction is the City's certified LCP. The subject site is depicted on the Commission's post-certification map as partially within the City's coastal development permit jurisdiction and partially within an area that the LCP refers to as "permit jurisdiction," a label that, while not self-explanatory, refers to areas that remain within the Coastal Commission's permitting jurisdiction because they include tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time (the area included in the Bayside Drive Beach). The portion within the City's permitting jurisdiction is partially within the appeals jurisdiction (the OCSHP and U.S. Coast Guard facilities). However, because in 2007 the Commission issued a CDP for the development over the entire site, which the applicant seeks to amend, the proposed amendment remains fully within the Commission's permitting jurisdiction. The portion of the project within the Commission's retained permitting jurisdiction must be consistent with Chapter 3 of the Coastal Act, with the LCP serving as guidance. The portion of the project within the City's permitting jurisdiction and the Commission's appeal jurisdiction must be consistent with the policies of the LCP and with the public access and recreation policies of Chapter 3 of the Coastal Act.

The primary issues raised by this application are its potential adverse impacts to the public access and recreation resources protected by the Coastal Act and the City's Certified LCP.

C. Coastal Access and Recreation

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 30213 of the Coastal Act states:

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

Section 30214 elaborates on access management considerations, providing, in relevant part, that:

(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:

...

(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 repass depending on such factors as the fragility of the natural resources in the area....

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 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

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 non-water-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.

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.

Section 30013 of the Coastal Act, Environmental Justice, states:

The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the

Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.

Section 30107.3 of the Coastal Act defines Environmental Justice accordingly:

“Environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

The Newport Beach certified Land Use Plan also has the following policies that address public access (Section 3.1.1), recreational opportunities (Section 3.2.1), vessel launching (Section 3.3.1), and vessel berthing and storage (Section 3.3.2). The following policies are relevant to the proposed development:

Policy 3.1.1-1 of the LUP. Protect, and where feasible, expand and enhance public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails.

Policy 3.1.1-27 of the LUP. Implement public access policies 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:

- Topographic and geologic site characteristics;
- Capacity of the site to sustain use and at what level of intensity;
- Fragility of natural resource areas;
- Proximity to residential uses;
- Public safety services, including lifeguards, fire, and police access;
- Support facilities, including parking and restrooms;
- Management and maintenance of the access;
- The need to balance constitutional rights of individual property owners and the public's constitutional rights of access.

Policy 3.2.1-1 of the LUP states:

Protect, and where feasible, expand and enhance recreational opportunities in the coastal zone.

Policy 3.3.1-1 of the LUP states:

Protect, and where feasible, expand and enhance vessel launching facilities in Newport Harbor.

Policy 3.3.1-3 of the LUP states:

Protect, and where feasible, expand and enhance low-cost public launching facilities, such as trailer launch ramps, boat hoists, commercial loading facilities, and organized recreational boating launch facilities.

Policy 3.3.2-7 of the LUP states:

Protect, and where feasible, expand and enhance facilities and services for visiting vessels, including public mooring and docking facilities, dinghy docks, guest docks, club guest docks, pump-out stations and other features, through City, County, and private means.

The provision of public access is one of the main tenets of the Coastal Act. Projects proposing to restrict public access to public docks and tidelands are generally inconsistent with the Coastal Act unless they provide alternate and improved access nearby that is equivalent to or better than that which is being lost. Furthermore, the environmental justice policies of the Coastal Act require fair treatment of people of all races, cultures, and incomes with respect to implementation and enforcement of environmental regulations.

The OCSHP facilities are shared with the public. There is vertical public access to the public docks and beach from the parking lot through the facility's maintenance area, and through the beach entrance in the parking lot. To mitigate for the restriction of public access and recreation that has already occurred, during the time the Coastal Act violations have persisted, and to improve public access to the beach and boating facilities, the applicant is proposing new public components including 1) a new public kayak and stand-up paddleboard storage rack on the sandy beach on the north end of the lifeguard headquarters; 2) a new marketing and publicity program to advertise the availability of the public guest slips and other public amenities to the general public, and to advertise the public access program; and 3) development of a public access program that provides free monthly participation in the rowing activities in coordination with canoe clubs for the general public and identified affected environmental justice community members.

As described more fully and separately from the mitigation, the applicant is proposing several changes to access conditions at the site. These changes include: (1) converting the Visitor Dock to an Emergency Dock for the sole use of the OCSHP; (2) changing the hours of the public Dinghy Dock; (3) installing gates and fences redirecting public

access on a public dock and within the public facility ([Exhibit 4](#)); (4) allocation of a canoe storage area, canoe storage racks and canoe storage closets on the public beach ([Exhibit 5](#)); and (5) reconfiguration and increase of public surface parking spaces ([Exhibit 2](#)). To maintain ADA access along the beach to the beach facilities and public docks, the applicant is proposing to install an approximately 300-foot long ADA compliant roll out mat adjacent to the lifeguard building ([Exhibit 2](#)). The applicant is also seeking to install new signage to clarify the public access and recreational boating features at the OCSHP facility/U.S. Coast Guard station, while maintaining secure official use areas consistent with this coastal development permit ([Exhibit 2](#)). Signage proposed to be changed/installed includes but is not limited to: signage on the four official use slips, five public guest dock slips, change to dinghy dock hours, marking the beach drop-off location, and the relocated public beach parking signage to include the Coastal Commission logo ([Exhibit 2 and 3](#)). The applicant is also proposing to expand the beach parking hours. Each of these components raises issues relative to public access and recreation which are discussed in detail below.

1. Conversion of Visitor Dock to Emergency-Only Dock, Installation of Security Gates, and Supporting Signage

The applicant seeks after-the-fact approval of the unpermitted conversion of the dock on the northwestern end of the Marina historically known as the Visitor Dock to an Emergency Dock for the sole use of OCSHP. According to the applicant, this change of use is based on past emergency action that resulted in the need to keep this dock clear for emergency situations, and the recommendation from a Vulnerability Assessment and Mitigation Report performed by Orange County Intelligence Assessment Center (OCIAAC) conducted in May of 2017. One of the security issues identified was non-Sheriff personnel having access to the dock and the potential exposure of adjacent public safety and law enforcement equipment. Following that assessment, members of the public were no longer allowed to temporarily tie-up at the Visitor Dock while conducting business with the Harbor Patrol. Therefore, the County is seeking after-the-fact Commission authorization for the unpermitted conversion from Visitor Dock to Emergency Dock only and is proposing two “Sheriff’s Vessels Only” signs on the dock facing the harbor, and an “Authorized Personnel” sign on the new gate proposed to be located between the gangway entrance and the parking lot ([Exhibit 2](#)). The applicant is also proposing a 20 ft. x 35 ft. fenced enclosure to securely house impounded or abandoned watercraft, and two security gates with attached fencing panels at the dock entrances to prevent members of the public from entering. To mitigate for the loss of the public’s ability to load/unload at this location, the County contends that visitors are allowed to load and unload at the guest docks near the pump station.

The County contends that this dock has never been permitted as a Visitor Dock in any of the underlying coastal development permits for general public shoreline access or recreational use. Furthermore, according to the applicant, this dock serves official uses of the Harbor Patrol, State and City Lifeguards, the County Coroner, California Department of Fish and Wildlife, the U.S. Coast Guard, and other Military/ Department

of Defense agencies, and as such the Emergency Dock has only been used and managed for emergency, public safety, and governmental services as its primary purpose; and for conducting official harbor patrol business with members of the public as a secondary purpose, only when not in use for emergency and other governmental services. Moreover, according to the applicant, access to or from this dock was always managed and monitored by the Orange County Sheriff's Department, has always been used for its intended emergency and governmental purpose, and has never been designated for general public access or recreational use of the site.

The Visitor Dock has historically served a public access function for boaters, such as allowing visitors to dock to seek information from Harbor Patrol personnel, use the public restrooms, and load or unload from a personal vehicle parked at the end of the gangway. The findings of the underlying Coastal Development Permit No. 5-07-370 state: "public lateral and vertical access is available from the public beach to the Harbor Patrol guest docks. U.S. Coast Guard and Harbor Patrol facilities are open to the public as are the Harbor Patrol guest docks..." and "the proposed project intends to improve access and use of the public guest docks by dredging accumulated sediment from the dock and stabilizing the bulkhead that supports the docks and landward developments." Furthermore, the findings also stated that the new fill to support the new sea wall could be found an allowable use due to the fact that the U.S. Coast Guard Station and the OCSHP facilities provide public services. It is clear from the Commission's findings that maintenance of the public use of the guest docks and facilities was a consideration to find the new bulkhead, dredging, and replacement of the existing OCSHP official use and guest docks and associated development consistent with Sections 30210 and 30212 of the Coastal Act regarding Public Access. Furthermore, the Commission and the County envisioned a shared public safety and public recreational use of the docks.

While the dock in question has not been officially deemed a "Visitor Dock" through previous coastal development permits for the site, this dock has never been officially authorized for OCSHP's exclusive use, unlike the other slips that were contemplated and designated as "official use" slips (per CDP No. 5-94-255). Furthermore, all of the dock floats and vessels in this location occupy State tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time. As such, these submerged lands are presumed to belong to the public unless otherwise determined by the State Lands Commission or other legal conveyance.

Section 30214 of the Coastal Act states that the public access policies 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. The City's LUP Policy 3.1.1-27 extends this consideration to "public safety services, including lifeguards, fire, and police access". Therefore, under the Coastal Act and the City's LCP, public access may be restricted in the interest of public safety services.

The applicant has articulated compelling reasons to substantiate the need to restrict the public's use of this dock for public safety reasons including preventing the public from accessing areas where OCSHP stores its equipment and maintaining a clear area to be

able to effectively deal with harbor-related emergencies. Therefore, the installation of locked gated enclosures to house equipment, the installation of locked gates separating this dock from the other public use slips, and supporting signage is reasonable in light of the specific circumstances. However, in order to mitigate the proposed project's impact to public boating and to maximize and preserve public access, the Commission imposes **Special Condition 13**, which requires the applicant to submit a mitigation plan to change one of the four "official use" slips in a nearby section of the dock where sensitive equipment is not housed to a "visitor guest slip."

Commission staff has worked closely with the applicant on this coastal development permit application for 22 months, and the Coastal Act requirement to mitigate for the proposed conversion of the Visitor Dock to an Emergency-Only Dock was communicated to the applicant. In response, the applicant submitted data gathered between 2018-2020 purporting to demonstrate that there is, at most, only moderate public demand for three public guest slips at this location since the completion of Marina Park² in 2015 with at least one guest slip available for public use 95.9% of the year.³ The applicant does not believe that additional mitigation is warranted because there will still be adequate docking areas for the public within the harbor even if some of the subject slips are restricted. Accordingly, the applicant argues that members of the public who have previously used the guest slips (assuming the designated public tie-up is full) to conduct business with the Harbor Patrol will be able to find alternate docking areas and there will be no impact on public access. However, this data is skewed by the fact that OCSHP had posted "Keep Out" signs at every public guest slip in 2018 and the first half of 2019, discouraging the public from utilizing the slips, and the COVID-19 pandemic undoubtedly impacted the public's ability to access the public slips in 2020.

In addition, the County contends that their proposal to extend the hours of public vehicle parking— currently 8 am to 5 pm – to 6 am to 10 pm, and allowing public use of an additional 8 parking spaces designated for Harbor Patrol, U.S. Coast Guard and Lifeguard Business parking on weekends, serves as a significant enhancement of public access and recreational opportunities at the site to mitigate changes in public access.

The presence of visitor support facilities (such as parking) and signage that informs the public of the location of public access and recreational amenities, including parking, can help overcome the public access barriers created with the proposed changes to access. However, such parking improvements in this case do not sufficiently mitigate the loss of public boating access. Therefore, only as conditioned to maintain the same public boating access to dock space is the proposed project consistent with Sections 30210,

² Marina Park Community and Sailing Center is located approximately two miles across the harbor from OCSHP facilities and maintains 23 guest slips and 177 parking spaces.

³ The applicant submitted data limited to three guest slips because the original project proposed with this CDP application sought after-the-fact approval of the conversion of two public guest slips to official use. The applicant subsequently revised their project description to remove that part of their proposal.

30214, 30220, 30221, 30224 of the Coastal Act, and the public access and recreation policies of the Newport Beach LCP.

2. Change Hours of Dinghy Dock Tie-Up From 72 Hours to 6 am to 10 pm Daily

The applicant is also seeking after-the-fact approval to reduce the public dinghy dock tie-up from the current 72-hour maximum public use to day-use only, 6am to 10pm, to coincide with the enforced public beach hours. The public dinghy tie-up access allows for boat owners and their guests to safely access the adjacent public beach and nearby visitor serving amenities. According to the County, 72-hour access resulted in long-term boat parking and people storing their dinghies there for weekend use, which reduced availability to general members of the public. In several cases, according to the applicant, some of the same boats had been tied up there for a few years.

Opponents of the County's proposed restrictions contend that changing the Dinghy Dock hours from 72-hour access to daily use from only 6 am to 10 pm will deprive "live-a-board" users who need overnight access to dinghy docks at all hours of the day and night. However, restricting the public dinghy tie-up to 6 am to 10 pm to coincide with the beach hours will improve some public boaters' ability to access the public beach and surrounding visitor-serving amenities by encouraging daily turnover of the dinghy dock tie-ups and discouraging only a few members of the public from monopolizing this amenity. Therefore, as conditioned to reduce the maximum tie-up time but requiring clear signage and an additional public tie space, the proposed project is consistent with Sections 30210, 30214, 30220, 30221, 30224 of the Coastal Act and the public access and recreation policies of the City's LCP.

3. Installation of Gates and Fencing Within the Facility and Supporting Signage

The applicant also proposes to install a 30-foot long, 5-foot high galvanized double rolling gate with wheels and posts at each end between the Lifeguard Headquarters Building and the OCSHP building to secure the official use area between the OCSHP building and Lifeguard Headquarters ([Exhibit 4](#)). In addition, the applicant is proposing 24 linear feet of 5-foot high fencing from the end of the gate to the adjacent building near a generator area to prevent members of the public from walking around the gate.

This portion of the facility is a maintenance yard comprised of workshops housing heavy equipment which the applicant contends is not safe for members of the public to utilize as a public accessway to the beach and other public amenities. Therefore, the applicant seeks to secure these workshops by installing a gate between the parking lot and this part of the facility.

Historically, this paved walkway was utilized for ADA access that provided a painted pathway between the public parking lot and the public beach and dock. To offset this change in public access, the applicant is proposing to install approximately 300 linear feet of 6-foot wide ADA compliant accessibility roll-out mat on Bayside Beach from the beach entrance and "Beach Drop-Off" point at the parking lot, which will run parallel alongside the

Lifeguard Headquarters building to the public restrooms and showers to the public dock ([Exhibit 2](#)). This is a much more visually appealing pathway for beach visitors that is also a safer alternative for members of the public and will ensure security of the workshop facilities. The proposed roll out ADA mat is a substitute for closure of the existing paved ADA accessway and as such, it is consistent with 30210, 30213, 30214, 30220, 30221, 30224, and the public access and recreation policies of the Newport Beach LCP.

4. **Canoe Storage Area, Canoe Storage Racks and Canoe Storage Closets**

The applicant also seeks after-the-fact approval of the designation of approximately 3,600 sq. ft. of sandy beach for outrigger canoe storage on the public beach that has existed there since at least 2003 without the benefit of a coastal development permit ([Exhibit 5](#)). There are three canoe clubs currently holding permits with the County, which allow for canoe storage and a storage locker for an annual fee. Currently, the three clubs holding permits with the County include Offshore (7 canoes and 1 storage locker), Hana Hou (2 canoes and 1 storage locker), and Imua Canoe Club (3 canoes and 1 storage locker). Each club has an approximately 24-square-foot storage locker located next to the Lifeguard Headquarters used exclusively to store club equipment ([Exhibit 5](#)). Although the canoe clubs are private entities, they are non-profit organizations comprised of members of the general public with the goal of educating and generating public interest in canoeing. According to the County, some members from each of the three outrigger canoe clubs travel from across Orange County and southern California in order to participate in club activities. They are from diverse socioeconomic backgrounds and some of the clubs include members of the Polynesian community. The County maintains that the canoe clubs provide a welcoming and inclusive atmosphere, and in the case of the Imua canoe club, “scholarship opportunities [are available] for students or keiki when the situation arises”. Furthermore, according to the Imua Canoe Club’s website: “Imua welcomes everyone, regardless of gender, age, race, ethnicity, sexual orientation or financial means, with a range of abilities”. The canoe club’s membership dues are also relatively affordable when compared to other water sports in Newport Bay such as sailing. According to their websites, membership dues range from \$10 a month for all members at the Hana Hou Canoe Club, \$100 a month for kids at Offshore Canoe Club, and \$200 a month for adults at Imua Canoe Club. Moreover, **Special Condition 17** further expands existing access to the canoe clubs by requiring a minimum 2 days a month of free instruction marketed to environmental justice communities through a robust Promotional Plan, as required by **Special Condition 18**.

In response to the County’s request to allocate approximately 3,600 sq. ft. of public beach for outrigger canoe club storage, Commission staff requested that the applicant provide an analysis of alternative locations for the storage of the private canoes that does not displace the public beach area. In response, OC Parks reviewed the project area for possible alternative storage locations; however, given the space and security requirements for the existing Harbor Patrol facility and operations, and the desire to maintain and enhance the existing public access support facilities, there are no alternative locations onsite that would not displace public parking or facility areas used by the Sheriff’s Department to maintain boats and equipment. OC Parks also evaluated the site area leased to the nearby Balboa

Yacht Club but was unable to identify available space to support the use. Although there were no feasible alternative locations for canoe storage, the applicant is proposing to install outrigger canoe racks for those smaller canoes that can be stored in a stacked configuration, which will ultimately reduce the footprint of canoe storage on the beach. It is especially important to conserve open beach sandy area for recreational use to the maximum extent feasible given the upcoming challenges that will result from sea level rise in the near future.⁴ Thus, given the size constraints of the public beach in this location, consolidation of the storage of equipment and supplies essential to support the canoe clubs is necessary to support this coastal-dependent recreational use

Therefore, the Commission finds that as conditioned, the proposed project is consistent with Coastal Act Section 30234 because it provides free access to canoe club activities specifically targeted at environmental justice communities through the conditioned promotional plan, and is furthermore consistent with Section 30213 by improving access to lower cost recreational facilities and opportunities. Furthermore, the Commission finds it is consistent with 30210, 30214, 30220, 30221, 30224, and the public access and recreation policies of the Newport Beach LCP.

5. Reconfiguration of Public Surface Parking Spaces

The applicant also seeks after-the-fact approval to relocate 12 public vehicle parking spaces from the location approved by Coastal Development Permit 5-94-255, which was closest to the OCSHP facility, to an immediately adjacent area closer to the entrance of the parking lot ([Exhibit 2](#)). According to the applicant, the County reconfigured the parking to allow the OCSHP, U.S. Coast Guard, and Lifeguard Business employees easier access to their place of employment and for more convenient loading and unloading of their vehicles.

In addition, the County proposes to designate for public use on weekends 8 additional parking spaces currently designated for OCSHP, U.S. Coast, and Lifeguard Business parking immediately across from the 12 public beach spaces at the entrance ([Exhibit 2](#)). The County is also proposing to increase the hours of public parking availability from the current hours of 8 am to 5 pm to 6 am to 10 pm to coincide with regulated public beach hours.

Since the change in location of public parking has a de minimis impact on public access, and the proposed increase in beach parking hours and increase in available weekend beach parking is a benefit to public access, the Commission finds this aspect

⁴ Coastal Storm Modeling System (CoSMoS) shows that approximately half of this beach will flood in a 100-year storm event even with no sea level rise. https://www.usgs.gov/centers/pcmssc/science/coastal-storm-modeling-system-cosmos?qt-science_center_objects=0#qt-science_center_objects

of the project proposal to be consistent with the public access policies of the Coastal Act and the City's LCP.

6. Implementation of Wayfinding and Signage Plan

The applicant is seeking to install new signage to clarify the public access and recreational boating features at the OCSHP facility/U.S. Coast Guard station, while also maintaining secure official use areas ([Exhibit 2 and 3](#)). Signage proposed to be changed/installed includes but is not limited to: signage on the four official use slips, five public guest dock slips, dinghy dock hours, beach drop-off, and relocated public beach parking signage to include coastal Commission logo. **Special Condition 16** requires the applicant to implement the signage and wayfinding plan.

Commission enforcement staff worked closely with the applicant to ensure that the public access signage included the California Coastal Commission logo and was consistent with previous coastal development permits. The wayfinding and signage plan improves public access at the site and helps delineate between the public amenities from the official use areas that should be maintained separately to ensure public safety. As conditioned, the Commission finds the signage and wayfinding plan clarifies the location of public amenities at the public dock and the beach.

The Environmental Justice policies of the Coastal Act require fair treatment of people of all races, cultures, and incomes with respect to implementation and enforcement of environmental regulations. Language presents a barrier for many individuals from underserved communities who have limited English language proficiency. Many communities face language isolation in the Orange County area. Recognizing that removing language barriers is critical to achieving equitable access to available public services, programs, and resources, the County has proposed to translate the Proposed "Public Beach Drop Off" sign into the Spanish language, which is the second-most commonly spoken language in Orange County. **Special Condition 16** requires the County to implement this proposal.

As conditioned, the Commission finds the signage and wayfinding plan clarifies the location of public amenities at the public dock and the beach. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30214, 30220, 30221, 30224 of the Coastal Act and the public access and recreation policies of the City's LCP.

D. Coastal Act Violations

Violations of the Coastal Act have occurred on the property, including but not limited to 1) change in use of two public guest docks to lifeguard boat storage; 2) placement of "Keep Out" and "Authorized Personnel Only" signage at the entrance area to the public guest docks and on the public guest dock pilings facing toward Newport Harbor; 3) change in public dinghy tie-up access from 72 hours maximum to 20 minutes maximum

and placement of accompanying signage; 4) change in use from Visitor dock to Emergency Dock; 5) relocation of 10 public beach parking spaces from the Commission-approved location; 6) failure to provide a Commission-approved beach drop-off point for beach patrons; 7) placement of outrigger canoes on the public beach⁵.

As mentioned above, Enforcement staff sent a Notice of Violation letter to the Orange County Sheriff's Department on May 20, 2019, notifying them that development noncompliant with Coastal Development Permit Nos. 5-07-370 and 5-94-255 was occurring at the OCSHP facility as well as in areas within the Commission's original jurisdiction ([Exhibit 6](#)). Since then, the County has worked with Commission staff to develop this application to provide improved public recreational opportunities at the OCSHP facility and beach. Upon receipt of the Notice of the Violation letter, the County removed the unpermitted signage, and in consultation with Commission staff, installed temporary signage in order to inform the public of the amenities at the site including the public beach drop off area, public guest slips, and dinghy dock. The temporary signage that was installed is similar to the signage contained in the applicant's current signage plan and displayed the Commission's wave and footprints logo which is used statewide to inform the public of coastal access and recreational opportunities. The County also worked with staff to reopen the dinghy dock tie-up limit from 20 minutes to 6am to 10pm during the time that this CDP application was being worked on. The Orange County Parks Department subsequently submitted amendment application No. 5-07-370-A2 to obtain authorization for all of the proposed changes in operation and the proposed new development (both that which had already occurred and the additional development being proposed), as well as to resolve the violations.

To resolve the violations, the County has removed the unpermitted signage, installed temporary signage, reopened the dinghy dock and is seeking after-the-fact approval of change in use of visitor dock to emergency dock, reconfiguration of public surface parking spaces, canoe storage area and canoe storage closets on the sandy beach, and change of hours of dinghy dock tie up from 72 hours maximum to day use only from 6am to 10pm, change hours of public parking availability from 8am to 5pm to 6am to 10pm, designate 8 Orange County Sheriff's Harbor Patrol parking spaces available for public beach use on the weekends. Additionally, in order to comprehensively mitigate for the public access impacts resulting from these violations, and to improve public access at the site going forward, the applicant is proposing to implement a new wayfinding and signage plan and to provide new public amenities including 1) a public kayak and stand-up paddleboard storage rack at the sandy beach adjacent to the lifeguard headquarters; 2) a marketing and publicity program to advertise the availability of the public guest slips and other public amenities to the general public, including how

⁵ The unpermitted placement of outrigger canoes was included in later correspondence once Commission staff became aware that the placement of canoes on the public beach was undertaken without the benefit of the necessary coastal development permit.

to rent the slips; and 3) a public access program that provides free monthly participation in the canoe clubs for environmental justice affected communities in Orange County.

The goal of the new wayfinding and signage plan and the new public access amenities and recreational opportunities described above is to increase boating access, specifically small watercraft activities such as kayaking and stand-up paddle boarding, at the OCSHP facility and beach to a broader segment of the population that may not own larger boats. To that end, in developing this application it was the goal of Commission staff and the County to help facilitate and expand the low-cost recreational opportunities at the site such as visiting the sandy pocket beach to swim and sunbathe, participation in traditional Polynesian outrigger canoe lessons free of charge on a bi-monthly basis, the ability to store a kayak or stand-up paddleboard over a weekend on a storage rack at the beach for the weekend, and to market these opportunities to disadvantaged communities who might not otherwise know about the OCSHP facility and beach and its recreational amenities.

Approval of this permit amendment does not constitute a waiver of any legal action with regard to any unpermitted development or permit non-compliance that has been undertaken or has occurred on the subject site, except with regard to the alleged Coastal Act violations described herein, nor does it constitute admission as to the legality of any development undertaken on the subject site without a valid coastal development permit, except with regard to the alleged Coastal Act violations described herein. Approval of this application, issuance of the permit amendment, and the applicants' subsequent compliance with all terms and conditions of the permit will result in resolution of the violations described above.

In addition to the Coastal Act violations described above, private encroachments have been built on the public sandy beach, apparently by adjacent property owners, without the necessary coastal development permits. Unpermitted installation of encroachments constitutes a violation of the Coastal Act and Local Coastal Program. Commission enforcement staff is investigating these alleged violations and will consider its options to address the matter.

E. Local Coastal Plan

The City of Newport Beach LCP was effectively certified on January 13, 2017. The proposed project amends CDP No. 5-07-370, which was issued by the Coastal Commission prior to LCP certification. The standard of review for development within the City's permit jurisdiction is the City's certified LCP. The subject site is depicted on the Commission's post-certification map as partially within the City's coastal development permit jurisdiction and partially within an area that the LCP refers to as "permit jurisdiction," a label that, while not self-explanatory, refers to areas that remain within the Coastal Commission's permitting jurisdiction because they include tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time (the area included in the Bayside Drive Beach). The portion

within the City's permitting jurisdiction is partially within the appeals jurisdiction (the OCSHP and U.S. Coast Guard facilities). However, because in 2007 the Commission issued a CDP for the development over the entire site, which the applicant seeks to amend, the proposed amendment remains fully within the Commission's permitting jurisdiction. The portion of the project within the Commission's retained permitting jurisdiction must be consistent with Chapter 3 of the Coastal Act, with the LCP serving as guidance. The portion of the project within the City's permitting jurisdiction and the Commission's appeal jurisdiction must be consistent with the policies of the LCP and with the public access and recreation policies of Chapter 3 of the Coastal Act.

F. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act ("CEQA"). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act and the Newport Beach LCP. Feasible mitigation measures which will minimize all adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A: Substantive File Documents

- Certified Newport Beach Local Coastal Plan
- Coastal Development Permit 5-07-370-A2
- Coastal Development Permit 5-94-255
- Coastal Development Permit Amendment Request No. 5-07-370-A2

APPENDIX B: Standard and Special Conditions pursuant to CDP No. 5-07-370 through CDP Amendment No. 5-07-370-A2

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS

1. FINAL PLANS CONFORMING TO GEOTECHNICAL RECOMMENDATIONS

- A. All final bulkhead replacement design and construction plans shall be consistent with all recommendations contained in *Inspection and Evaluation of Marine Facilities U.S. Coast Guard Station Newport Beach, CA* prepared by Noble Consultants, Inc. dated January 2005. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, two full sets of plans with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all the recommendations specified in the above-referenced geologic engineering report.

- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment unless the Executive Director determines that no amendment is legally required.

2. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL

The permittee shall comply with the following dredging and construction-related requirements:

- a. No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave/wind erosion and dispersion;
- b. Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- c. Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone;
- d. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- e. If turbid conditions are generated during construction; a silt curtain shall be utilized to control turbidity;
- f. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- g. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.

3. LOCATION OF DEBRIS DISPOSAL SITE

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the construction debris resulting from the proposed project and the proposed location of the disposal site of approximately 1,200 cubic yards of dredge material. Disposal of construction debris and dredge material shall occur at the approved disposal site. If the disposal site for the construction debris is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place. If the disposal site for the dredge material is located in the coastal zone, a coastal development permit or amendment to this permit shall be required before disposal can take place. If off-shore disposal of the dredge material is proposed, a federal consistency certification is required before disposal can take place.

4. STAGING AREA DURING CONSTRUCTION

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) will avoid impacts to public access, beach areas or to sensitive habitat areas.

(1) The plan shall demonstrate that:

- a. Construction equipment or activity shall not occur outside the staging area
- b. Public parking areas shall not be used for staging or storage of equipment
- c. Sandy beach or habitat (vegetated) areas shall not be used for staging or storage of equipment
- d. The staging area for construction of the project shall not obstruct vertical or lateral access to the beach, marina or other recreational facilities

(2) The plan shall include, at a minimum, the limits of the staging area(s) and location of construction fencing and temporary job trailers, if any.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. WATER QUALITY MANAGEMENT PLAN (WQMP)

A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. In addition to the specifications above, the plan shall include structural BMPs, non-structural BMPs, treatment control BMPs; an operation and maintenance plan for over-water sewer lines that, at a minimum, addresses the following points: the over-water sewer lines include all pipes from sewage pump-out facilities, the on-dock boating facilities, and any other pipe which leads to a sanitary sewer. The over-water sewer lines shall be visually inspected at least once per week and dye- or pressure-tested at least once every six months. All leaks shall be repaired immediately upon discovery. If the applicant determines that a more stringent procedure is necessary to ensure protection of coastal water quality, then the applicant shall update the operation and maintenance plan.

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- B. All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals;
- C. All BMP traps/separators and/or filters shall be, at a minimum, inspected and cleaned/repaired or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, (2) inspected monthly thereafter for the duration of the rainy season (October 15th -April 30), and cleaned/maintained as necessary based on inspection and, (3) inspected and maintained where needed throughout the dry season;
- D. Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner;
- E. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.
- F. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. MARINA BEST MANAGEMENT PRACTICES PROGRAM

By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved dock and/or boat slip will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs.

(1) Boat Cleaning and Maintenance Measures:

A. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris.

B. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized.

C. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

(2) Solid and Liquid Waste Management Measures:

A. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.

(3) Petroleum Control Management Measures:

A. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited.

B. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.

C. Bilge cleaners containing detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.

7. TURBIDITY CONTROL

The applicant shall ensure that the project does not result in: 1) increases of water turbidity by more than twenty percent (20%) of the natural turbidity during non-storm conditions, nor 2) dissolved oxygen in the receiving waters being depressed below 5.0 mg/l.

8. EELGRASS MITIGATION

A. Compliance with Eelgrass Mitigation Plan. The applicant shall implement and comply with the recommendations and Mitigation Alternative #2 contained

within the *Eelgrass Field Survey Results, Impact Assessment and Eelgrass Mitigation Plan, U.S. Coastguard Base Facilities Refurbishment and County of Orange Harbor Patrol Guest Dock Project* prepared by Coastal Resources Management, Inc., revised on February 12, 2008 as they pertain to the development that is the subject of this coastal development permit. The mitigation plan shall be undertaken in full compliance with the "Southern California Eelgrass Mitigation Policy" (SCEMP) adopted by the National Marine Fisheries Service. All impacts to eelgrass habitat shall be mitigated at a ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Eelgrass from the donor site(s) shall be transplanted at the proposed transplantation location(s) prior to commencement of the dredging or other development that causes impacts to eelgrass authorized under this permit. Any changes to the approved mitigation plan, including but not limited to changes to the monitoring program to ensure success of the eelgrass mitigation site, shall require an amendment to this permit from the Coastal Commission or written concurrence from the Executive Director that the changes do not require a permit amendment.

- B. Pre-construction Eelgrass Survey. A valid pre-construction eelgrass survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the new eelgrass survey for the review and approval of the Executive Director within five (5) working days of completion of the new eelgrass survey and in any event no later than fifteen (15) working days prior to commencement of construction. If the new survey identifies, within the proposed project area, any eelgrass which is not documented in the eelgrass survey described in Special Condition No. 9.A. above, the newly identified eelgrass shall be transplanted prior to commencement of construction at a 1.2:1 ratio at the same transplantation locations identified in the eelgrass mitigation plan described in Special Condition No. 9.A. above. The transplantation shall occur consistent with all provisions of the mitigation plan described in Special Condition 9.A. above.
- C. Post-construction Eelgrass Survey. After completion of project construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. This post-construction survey shall be completed in the same month as the pre-construction survey during the next growing season immediately following the completion of construction within coastal waters. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a 1.2:1 ratio at the transplantation site and in accordance with the mitigation plan described in Special Condition No. 9.A. above.

9. PRE-CONSTRUCTION CAULERPA TAXIFOLIA SURVEY

- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
 - (1) for the review and approval of the Executive Director; and
 - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043), or their successors.
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. STEEL COATING ON SUBMERGED STRUCTURES SUBJECT TO MARINE CORROSION

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final revised plans for the proposed project which shall specify use of a steel coating on submerged structures subject to marine corrosion that is inert/non-toxic in the marine environment (e.g. NSP 120 or Carboguard 890). A coating that is toxic in an uncured state may be used if applied off-site in an appropriate facility and, once cured, is inert and non-toxic upon delivery to the project site. The applicant shall provide information and data, as necessary, to demonstrate that the proposed coating will be non-toxic in the marine environment over the life of the coating. The coating shall be subject to review and approval by the Executive Director.

11. NO FUTURE SEAWARD EXTENSION OF SHORELINE PROTECTIVE DEVICE

- A. By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to Coastal Development Permit No. 5-07-370, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.
- B. **Prior to the issuance by the Executive Director of the NOI FOR THIS PERMIT**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the shoreline protective device approved by this permit, as generally described above and shown on Exhibit 4 attached to this staff report, showing the footprint of the device and the elevation of the device referenced to NGVD (National Geodetic Vertical Datum).

12. FUTURE DEVELOPMENT RESTRICTION

This permit is only for the development described in coastal development permit No. 5-07-370. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the development governed by the coastal development permit No. 5-07-370. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-07-370 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- 13. Mitigation Plan for One New Public Dock Slip.** PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, to offset the loss of public access to the Visitor Dock, the applicant shall submit a mitigation plan for the review and approval of the Executive Director that re-designates one of the four dock slips that was previously approved as “official use” primarily for Harbor Patrol lifeguard vessels (per underlying permit 5-07-370) as “public use.” The new public use dock shall be made available to the public within 60 days of issuance of the CDP amendment.

- 14. Final Site Plan for Gates and Fences.** PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, the applicant shall submit a final site plan indicating the location of the new gates and fences, and gates and fences to be replaced within the facility, in substantial conformance with the plan dated on February 25, 2020, and amended via email dated February 17, 2021. [Need to

add the standard language requiring that they proceed in compliance with that final site plan]

15. Beach Parking Plan. PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, the applicant shall submit a revised parking plan in substantial conformance with the plan dated February 25, 2020, subject to the review and approval of the Executive Director, that shows:

- a. The revised location of the 10 public beach parking spaces and one additional standard and one additional ADA parking space (for a total of 12 spaces). The parking spaces will be located at on either side near the entrance of the parking lot.
- b. The location of the 8 Harbor Patrol and U.S. Coast Guard and Lifeguard Business Parking Spaces that are proposed to be available for public beach parking on weekends.

The public beach parking spaces shall be made available to the public within 60 days of issuance of the CDP amendment.

16. Revised Wayfinding and Signage Plan. PRIOR TO THE ISSUANCE OF THE CDP AMENDMENT 5-07-370-A2, the applicant shall submit a revised Wayfinding and Signage Plan in substantial conformance with the plan dated February 25, 2020, subject to the review and approval of the Executive Director, that shows:

- a. The designs, dimensions, and location of signs near the parking lot entrance for the public parking spaces. The signs shall state that the 12 spaces (11 regular spaces and one ADA space) are designated for public beach use only for the hours between 6 am and 10 pm, and shall be posted in visible locations at the site of the parking spaces;
- b. The designs, dimensions, and location of signs for the 8 parking spaces proposed for weekend beach use for the hours of between 6 am and 10 pm, which shall be posted in a visible location at the site of the parking spaces.
- c. The Beach Drop-Off Sign shall be written in both English and Spanish.

Signage shall be installed and visible to the public within 60 days of issuance of the CDP amendment.

17. Public Access Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT 5-07-370-A2, the applicant shall submit, for review and approval of the Executive Director, a Public Access Program in substantial conformance with the Applicant's response to CCC staff's incomplete letter submitted June 25, 2020 except the program/plan shall be developed and expanded as required by this condition. The applicant shall provide:

- e. **Outrigger Canoe Lessons:** As a condition of the County's permit/license or permit/license renewal of public lands to the various Canoe Clubs, the Canoe Clubs as a collective shall be required to offer a minimum of 24 free days per year to the general public.
The County shall conduct targeted outreach to increase participation of individuals from low-income communities, communities of color, and other environmental justice communities in the free trial days. The program shall describe outreach methods and include a list of organizations, stakeholders and locations where outreach will be prioritized, including but not limited to Title 1 schools, Boys & Girls Clubs, community centers, and existing County contacts at schools, recreational facilities . The County shall encourage the Canoe Clubs to do the same.
- f. The program shall evaluate barriers to participation for individuals from environmental justice communities and describes steps to eliminate or minimize these barriers to the maximum extent feasible in order to increase participation in the free trial days.
- g. The program shall include measures for increasing efficacy of outreach by exploring options to enhance or expand the program in the future, such as consideration of providing public transit opportunities to and from the beach on the free trial days, expanding the number of free days based on demand, utilizing social media campaigns and platforms, etc.
- h. The County shall submit a monitoring report to the Executive Director every two years that contains the following information: 1) the number of individuals that participated in the free outrigger canoe lessons, 2) socioeconomic and demographic information of participants, including gender, age, ethnicity, zip code, and income range to evaluate effectiveness of targeted outreach program, 3) the dates on which the free outrigger canoe days were held, 4) photographs of individuals participating in the lessons, and 5) a list of community groups, stakeholders, and locations where outreach was conducted.

Once the Access Program has been approved by the Executive Director, the applicant shall provide evidence that the Program is being carried out to the Executive Director within 90 days of approval of the plan. Should one of the Outrigger Canoe Clubs vacate the site for any reason, the requirements of this Special Condition 17 shall be inapplicable to the canoe club no longer occupying the beach and the corresponding number of free days offered to the public shall be adjusted accordingly.

18. **Promotional Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT 5-07-370-A2, the applicant shall submit for review and

written approval of the Executive Director, a Promotional Plan that includes all of the following elements:

- a. A plan for making the general public aware of the public recreational amenities available at the OCSHP facility and beach including members of the general public who may not otherwise be aware of the public guest slips available there, and in particular members of environmental justice communities. This plan may include:
 - i. advertising in established mediums for English and non-English speaking populations, such as, but not necessarily limited to, smart phone apps, radio, websites and/or print publications including, but not limited to, those specializing in:
 1. recreational boating, in the Orange County area,
 2. the promotion of recreational opportunities in the Orange County area, and
 - ii. the promotion of family activities in the Orange County area. The promotional platforms may be part of larger outreach that includes similar, no or low-cost recreational sites and opportunities in addition to the small watercraft recreational opportunities available at the OCSHP facility and beach.
 - iii. The promotional materials shall include creation of a new page on OC Parks website advertising the availability of all public recreational amenities and opportunities available at the OCSHP facility and beach, including free Canoe Club days.
 - iv. The promotional materials shall be made available in both English and Spanish and other non-English languages spoken in Orange County and shall be directed to inform environmental justice communities about the recreational opportunities.
 - v. The promotional activity shall be carried out periodically (a minimum of quarterly) for the first year following approval of this coastal development permit amendment 5-07-370-A2, and each year thereafter.
 - vi. The plan shall include, at a minimum, specific details of the
 1. methods of promotion,
 2. the means of promotion, and
 3. the timing and frequency of promotion.
 - vii. Once the Promotional Plan has been approved by the Executive Director, the applicant shall provide evidence that the Promotional Plan is being carried out to the Executive Director within 90 days of approval of the plan.

The Promotional Plan shall be carried out as approved.

