



Submitted to the Enforcement Committee on October 20,
2016, Regarding Proposed Cease and Desist Order
No. 2016.04, Marina Village Associates LLC.

October 18, 2016

Maggie Weber
Bay Conservation and Development Commission
455 Golden Gate Avenue, Suite 10600
San Francisco, CA 94102

Subject: BCDC Order No. CCD 2016.004- Loch Lomond Marina, San Rafael

Dear Ms. Weber:

The City of San Rafael has received notice that on Thursday, October 20, the Bay Conservation and Development Commission (BCDC) Enforcement Committee will be meeting. The Committee is scheduled to review a Stipulated Cease and Desist Order and Civil Penalty that is proposed to be issued to Marina Village Associates, LLC, the owner of the Loch Lomond Marina. The proposed order recommends specific enforcement actions.

As discussed with you, City supports this BCDC action as the recommendations in the order mirror or overlap with the City's recent actions on this project. One of our concerns has been the frequent inundation of the public access path and area connecting the terminus of the marina parking lot with the breakwater. Our City Engineer has also recommended that the property owner assess this condition and present alternatives to reduce this frequency of flooding. We have also suggested that the project biologist be included in this effort as some level of inundation was expected to the support the seasonal wetland that is north of this area.

The City has a similar concern about the central jetty/spit, which is approved and developed with playground equipment. The central jetty/spit was subject to flooding during the construction of the playground. However, Marina Village Associates, LLC's contractor has since completed/installed improvements and believes to have remedied this situation. The City will continue to monitor the central jetty/spit through the upcoming winter season to determine the success of the improvements. As the central jetty/spit is part of the shoreline park is subject to BCDC jurisdiction, we ask that the monitoring be included as a requirement in your order.

It is likely that the follow-up to this order will require Marina Village Associates, LLC to amend the BCDC permit issued for the project. If an amendment is proposed and processed, we request that BCDC staff carefully review the City of San Rafael zoning and use approvals for this project to ensure that there is consistency between the agency and City approvals. At present, the issued BCDC permit is silent on certain project details that were indicated on the project master plan and embedded in the City of San Rafael approvals. For example, the City approvals acknowledge that a new, boat fuel storage and fueling area will be developed. The fuel storage is clearly outside the jurisdiction of BCDC but the existing fueling stations, which are located on the westernmost dock (but are presently inactive), and the fuel line are not referenced in



the BCDC permit. The maintenance of boat fuel service is critical for the Loch Lomond Marina to continue as a full-service boating facility. Further, there are few boat fueling facilities in the Central Marin area so there is a demand for this service.

Thank you for the opportunity to comment on this draft order.

Sincerely,

A handwritten signature in cursive script that reads "Paul A. Jensen".

Paul A. Jensen, AICP
Community Development Director

cc: Bill Guerin, Public Works Director
Al Cornwell, CSW/St2
Josh Minshall, Public Works Engineer
Daryl Cruser, Marina Village Associates, LLC
Carlene McCart, Community Services Director
Marina Oversight Committee

Submitted to the Enforcement Committee on October 20,
2016, Regarding Proposed Cease and Desist Order
No. 2016.04, Marina Village Associates LLC.

**Speaker's Notes for BCDC Hearing October 20, 2016 - For The Record
Alan Schaevitz, 775-771-6789**

Introduce Myself

- Bayside Acres HOA Board - bordering marina to the east
- Pt. San Pedro Road Coalition Board - representing communities along Pt. San Pedro Road
- Coalition's Marina Committee co-chair along with co-chair Sara Jensen

BCDC Involvement: Thank BCDC for staffing up and being able to actively participate in insuring this development follows BCDC regulations and permits. That involvement has been sorely needed and missed. It is very welcome now and we have enjoyed working recently with Ms. Weber.

Flooding on the Connector to the Breakwater

- The Coalition has pointed out the overtopping and standing water issue for quite some time and the City has agreed there is a problem that needs to be addressed by the developer. It is very welcomed that BCDC also now recognizes this problem and is addressing it in items II.N and II.O of the Cease and Desist order.
- Flooding has also been an issue in the Central Spit (BCDC calls it the East Spit) that contains the playground equipment. The developer believes they have solved that problem with the installation of duck-bill flap gates, but this solution has not been proven yet. The City is awaiting the events of this winter to verify.
- We request that BCDC include this spit in items II.N and II.O, as does the City in their recent letter to you dated October 18, 2016.

Light Poles

- The Cease and Desist order addresses the temporary power pole removal but does not address the two light poles on the eastern edge of the boardwalk that were illegally installed in 1998 without BDCD or City approval. These should be removed.

Public Facilities

- The kayak launch ramp that was included in the permits at the eastern edge of the marina basin has not been installed and is not included in your Cease and Desist order.
- This launch ramp was delayed by the developer due to the flooding uncertainty in this area.
- It should be identified and included in your Cease and Desist order.
- The fish cleaning station in that same location has been installed but is not functional. That also should be included in your Cease and Desist order.
- There is also a kayak launch dock in the permits next to the existing boat launch ramps that has not yet been installed and should be included by your Cease and Desist order.

West Spit

- Debris on the western edge of the west spit includes exposed rebar, piping of various sorts, and other debris. The Cease and Desist order should include their removal. The City has also included that removal in their order to the developer.

Loch Lomond Drive

- Along the boardwalk adjacent to gate G-H is a severe and dangerous dip in the road as a result if a badly installed catch basin. This roadway is within the 100' jurisdiction of BCDC and must be repaired. The City has also included this item in their order to the developer and inclusion in BCDC's Cease and Desist order would provide consistency.

Submitted to the Enforcement Committee on October 20,
2016, Regarding Proposed Cease and Desist Order
No. 2016.04, Marina Village Associates LLC.

Speaker's Notes for BCDC Hearing October 20, 2016
FOR THE RECORD

Sara Jensen, 415 454 5478

Speaker's involvement

- Marina Chairperson for Loch Lomond HOA (265 residence neighborhood north of the marina site)
- Board Member for Pt. San Pedro Road Coalition Board (representing communities along Pt. San Pedro Road in San Rafael)
- Co-Chair along with Alan Schaevitz of the Coalition's Marina Committee
- Comments include input from Jeff Ivarson a member of the Coalition Marina Committee and a resident of The Cove neighborhood immediately to the west of the marina site.

BCDC and City Involvement: We are thankful to have BCDC involvement in ensuring that the development at the marina follows all regulations and permits. We also appreciate the City of San Rafael's work to ensure that the development becomes an asset for the public.

Focus: My Co-Chair for the Coalition Marina Committee has focused on some details that possibly might be added to the current BCDC Cease and Desist order. I am not going to repeat them, but instead will focus on three issues of strong concern that perhaps could be included in the current action but may be more suitable for the future.

Visual Connection: Popularity of the site based on close-up visual connection: The site has always attracted a lot of visitors to the public access area. It has strong appeal with its breakwater path out into the bay and its wonderful views of waterbirds plus an occasional seal or shark.

This strong visual connection has been broken on the west spit by a chain link fence that was put up with the best of intentions to protect a sensitive area, the inlet or cove between The Cove residential area to the west and the spit. However, once in place, it became apparent that there are many problems with the fencing

1. Visual barrier especially as one walks into the area or sits within it
2. Forces people on outermost benches to face away from the bay
3. Creates an ugly and unnatural intrusion into the beautiful bay views
4. Does not and can not prevent dogs from entering the water
 - a. Dogs can easily go around the ends and enter the water at the eastern landward end of the spit or at the end by the Cove open space.
 - b. The same cove can easily be reached via the breakwater path or from the Cove open space area neither of which is fenced
 - c. This spit sits highest above the bay of any land at the site and is therefore the least attractive place for dogs to enter the water
 - d. The cove is no more environmentally sensitive than the shore line in the rest of the site which is not fenced.

The developer has indicated willingness to remove the fencing and reuse it by the seasonal wetlands if BCDC will agree. We hope that this can be done since it would remove a jarring and unpleasant element from this generally lovely area.

Please see back side for continuation

Hours: It is important to keep the historical sunrise to sunset hours for the public access areas

1. Adjacent BCDC mandated public access areas at The Cove are limited to sunrise to sunset use
2. In the past the marina site has experienced undesirable activity after dark
3. There are safety and security issues on after dark
 - a. There is no lighting on the breakwater or spits
 - b. There are sharp slippery rocks
4. These areas are very close to housing – long established neighborhoods to the west, east and north as well as live-aboard residences and the new on-site residences
 - a. Noise readily travels across the water to the neighbors to the west and to the east
 - b. Unlike most park areas there is no effective buffer between the public access area and nearby housing.

Fuel Dock (not the upland fuel storage facility)

The City's letter references the issue of the Fuel Dock, which seems to be missing from BCDC permits.

1. This fuel dock was operational prior to the onset of this development and was temporarily shut down when soil remediation was needed after construction commenced.
2. The fuel dock was always intended to be re-opened as part of a full-service marina. That fact has been acknowledged by both the City and the developer.
3. However, there seems to be a question of whether BCDC approval is needed to re-open this fuel dock and replace the fuel lines from the new fuel storage facility. That needs to be resolved in an appropriate and timely manner.