



February 7, 2022

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Re: Comments and Questions on January 27, 2022 Audit Report on Channel Islands Harbor Department's Property Development and Maintenance Practices

We thank the Auditor-Controller Department for the audit report on the Harbor Department's property development and maintenance practices. The audit was an important step in safeguarding a rare and valuable public asset, the Channel Islands Harbor. The report confirms many of the public's concerns that prompted the request for the audit.

We have a few comments and questions regarding the report and would appreciate your help in addressing them.

1. The audit's scope and conclusions were limited to the harbor's property development and management practices only during 2021 and the harbor's maintenance practices from 2018 to 2021.

The report states that the audit focused on commercial development projects completed within the last 20 years but did not address its findings regarding those development projects. It should also be noted it was during these 20 years that most of the harbor issues of concern originated.

It is apparent and understandable that there is a reluctance to review these prior years. But learning from past mistakes requires understanding what they were. The public knows from experience what happened and needs the reassurance that history will not repeat itself going forward. This requires the publishing of agreed upon standard harbor policies and processes for harbor development and maintenance.

The report states under the Findings section: “Development policies and procedures were formally documented and posted for public review.” There is no public record of any published standard harbor development policies and procedures and no Request for Proposals (RFP) were ever issued by the harbor prior to 2021. These were reasons for the audit request.

Attached is the last draft of proposed development policies and processes that was developed by the former Harbor Director, Mark Sandoval, with input from the Harbor Advisory Committee. This document was not finalized and adopted. It needs to be reviewed, modified as appropriate, approved and officially published on the Harbor’s website.

Without standard published Harbor Development Policies and Processes, there is no assurance of transparency nor consistency of policies and processes and no ability to require compliance. Standard policies and processes are also necessary to attract experienced developers who expect clear and consistent development policies and processes.

2. It should be noted that the latest Visioning Plan covered only the six parcels currently available for development and as the report points out “does not include actionable steps to achieve the ideas and concepts”.

It is likely that development, including some of the six Vision Plan parcels, will require Public Works Plan Amendments (PWPA) that in turn may require amendments to Oxnard’s Local Coastal Plan and Harbor Zoning Ordinances.

Each Public Works Plan Amendment (PWPA) requires preparation time, a series of public meetings, working with Coastal Commission staff, and Commission approval that many times requires modifications and sometimes multiple hearings. Should the PWPA also require a Local Coastal Plan Amendment (LCPA), a similar process would also be required of the City. All these processes could take many years and cost both the County and City more time and money and further delay harbor development.

For many years the California Coastal Commission has urged the County to update the harbor’s Public Works Plan (PWP). Former Executive Director Peter Douglas noted “Amending the PWP in a piecemeal fashion is inefficient and would fail to address these important overarching policy and resource protection issues.”

We agree with the report’s finding that the PWP is “outdated and may no longer effectively expedite the planning and permitting processes for property development at Channel Islands Harbor.”

Perhaps the recommended cost-benefit analyses should compare the cost-benefit of a PWP update versus a series of multiple PWPAs and other possible required amendment processes. The comparative analyses should clearly identify specific benefits and factors impacting costs and time.

In addition, the comparative analyses should include “intangible benefits”. For example, it is important to developers to have certainty about the process and what will be expected of them. A PWPA process significantly increases a developer’s risk and uncertainty of their project’s requirements and design. But with an updated PWP, a project consistent with it only requires a Notice of Impending Development (NOID) to move forward.

Everyone wants harbor revitalization.

Is it feasible to conduct a parallel process of moving forward on development of some of the available parcels while updating the PWP?

Could the recommended strategic plan for harbor development be incorporated as part of the PWP update?

3. We agree that better maintenance of harbor facilities needs to be implemented including those that support commercial fishing businesses and boater activities.

It is equally important that the Harbor Department oversees and ensures lessees are also performing basic maintenance of their facilities to ensure they do not negatively impact the harbor and visitor attendance. Lessees should be responsible for maintaining their facilities consistent with the Harbor's standards.

Do harbor lease agreements include the Harbor Department's right to perform periodic inspections as well as provide standard maintenance requirements for lessees to follow? What recourse does the County have if a lessee is found negligent in maintaining their facilities?

4. We agree that an inventory of harbor assets and their condition must be conducted. The inventory should include boat slips and County owned land and facilities that are in and adjacent to the harbor area. In addition, periodic updates should also be scheduled. Without a current and accurate inventory, assets could be overlooked, underutilized and decrease in value.

5. The report recommends the Harbor Department considers an increase in harbor maintenance staff or GSA staff support. Maintenance is an important fiduciary responsibility of the Harbor Department and it is essential that harbor facilities and assets are maintained. But as noted, the Harbor Department also operates as an Enterprise Fund and in the past the decision-making priority has not been maintaining harbor assets as evident by the deterioration of many of the harbor's facilities.

If an increase in maintenance staff is required to appropriately maintain the harbor, it should be considered. This does, however, raise the Enterprise Fund question: Why is the current cost of operating Channel Islands Harbor significantly higher than that of neighboring Ventura Harbor?

A main difference when comparing annual operating costs is personnel costs. Though the staffing level is almost the same (40 vs 41 Full Time Equivalents), there is a cost difference of over \$2 million annually, that is 70+% higher than Ventura Harbor's personnel costs. Other operating costs are also \$1 million+ higher. (per published budgets and estimated actuals for these harbors)

Should a reallocation/rebalancing of staff by function be also considered?

6. The audit did not address the issue of the lack of an operating agreement for the public funded Boating Center with the California State University at Channel Islands. The Boating Center opened in 2013 and public access is limited and its facilities remain underutilized.

7. The report concludes that Harbor Department's management plans to complete identified corrective action by end of this year. There should also be a progress update at the end of June and October to monitor implementation progress.

We recognize and appreciate the Auditor-Controller Department's report in response to our concerns. These periodic assessments help ensure rare valuable coastal resources like Channel Islands Harbor are maintained and protected for generations to enjoy.

We look forward to working with the Harbor Department and will support its efforts to implement and complete the actions identified in the report.

Rene Aiu on behalf of the Harbor & Beach Community Alliance

cc: Board of Supervisors:  
Chair Carmen Ramirez  
Vice Chair Matt LaVere  
Supervisor Linda Parks  
Supervisor Kelly Long  
Supervisor Bob Huber  
Michael Powers, County Executive Officer  
Clerk of the Board

# Channel Islands Harbor Planning and Development Process

## Background

### General

The Harbor Department of the County of Ventura is responsible for planning and executing development in the Channel Islands Harbor. This Planning and Development Process provides the steps required for planning and development in the Channel Islands Harbor, from inception through Board of Supervisor approval, entitlements and permitting.

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As part of the development process, the County of Ventura formally established a Channel Islands Harbor Advisory Committee (Harbor Advisory Committee) that works with the Harbor Director at key specified steps in the Development Process. The Committee will be comprised as recommended by the following representatives.

- [City of Oxnard Representative](#)
- [Channel Islands Harbor Lessees Association Representative](#)
- [Harbor & Beach Community Alliance Representative](#)
- [Channel Islands Neighborhood Council Representative](#)
- [Harbor Department Director of Planning & Redevelopment](#)

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### Regulatory

Land and water use in the Channel Islands Harbor are governed by the County's Public Works Plan (PWP). The PWP was approved by the California Coastal Commission (Coastal Commission) in 1986. Shortly thereafter, the City of Oxnard Local Coastal Plan and Coastal Zoning Ordinance were also approved by the Coastal Commission.

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If a project meets the requirements of the PWP as to land and/or water use, size, height, intensity, and other standards, the project is taken to the Coastal Commission under a Notice of Impending Development (NOID) process. The project review by the Coastal Commission will also require environmental review pursuant to the California Coastal Commission's Certified Regulatory Program.

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A project that is not consistent with the PWP will require a PWP Amendment. PWP Amendments must be approved by the Board of Supervisors and the Coastal Commission.

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For the Coastal Commission to approve a PWP amendment, it must be consistent with the Oxnard LCP and Coastal Zoning Ordinances. If that is not the case, the LCP and Zoning Ordinances must first be amended, requiring approval by the Oxnard Planning

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Commission, Oxnard City Council and the Coastal Commission. [The City of Oxnard has a pre-submittal process whereby the applicant goes through an informal review by the City Council of proposed changes to land use documents such as the General Plan and LCP. It is recommended that the project proponent take advantage of this process.](#) LCP and Coastal Zoning Amendments are subject to the Coastal Commission Certified Environmental Regulatory Program.

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Once the LCP and/or Coastal Zoning Ordinances are amended by the City and approved by the Coastal Commission, the PWP amendment is approved by the Coastal Commission. [The project, which would then meet the land-use allowed in the PWP and LCP, is taken back to the Coastal Commission via the NOID process.](#)

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Depending on the type and location of the project (i.e., land or water) permits from other agencies, both State and Federal, may be required. These may include the US Army Corp of Engineers, Regional Water Quality Control Board, California Department of Fish & Wildlife, and possibly others.

### **Visioning**

The first step in the development process is public visioning [in conjunction with the Harbor Advisory Committee](#). When a parcel becomes available for private development, the Harbor Department will lead a public visioning process. [There were six parcels subject to the visioning process in 2020-21, including parcels Q, RS, N-1, Fisherman's Wharf, F remnant parcel, K-1, and X-3. Visioning for these parcels need not be repeated. For all other parcels, this visioning process will be followed.](#)

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**Deleted:** (For an example of a visioning process, reference the Channel Islands Harbor Vision Report, finalized in June 2021, which included visioning of six individual parcels.)  
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This process will include all parties interested in Harbor development, [through direct consultation of specific stakeholders and a public workshop,](#) including:

- City of Oxnard
- Port of Hueneme
- Harbor Businesses
- Navy Base Ventura County
- Residents in and around the Harbor
- County residents
- Harbor and Beach Community Alliance
- Channel Islands Neighborhood Council
- Channel Islands Beach Community Services District
- Other interested agencies and individuals

The visioning process will also take into consideration the documents which regulate the Harbor, including:

- Channel Islands Harbor Public Works Plan
- City of Oxnard Local Coastal Plan
- City of Oxnard Coastal Zoning Ordinances
- City of Oxnard General Plan

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The visioning process should include communication with the agencies and groups listed above as well as a public outreach effort, which should identify public ideas and preferences for development of the parcel.

### **Request for Qualifications and Proposals Process**

After a parcel to be developed goes through the visioning process, the next step is the Request for Proposals (RFP) process. If it is deemed prudent, a Request for Qualifications will be used before the RFP, in an effort to determine interested developer qualifications and “short-list” the developers to continue through the RFP process.

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- City of Oxnard Representative
- Channel Islands Harbor Lessees Association Representative
- Harbor and Beach Community Alliance Representative
- Channel Islands Neighborhood Council representative
- Harbor Department Director of Planning and Development

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The Harbor Department will prepare an RFP in collaboration with the Harbor Advisory Committee that will invite potential developers to submit conceptual proposals. The RFP will contain sufficient information to enable prospective proposers to:

- Understand project preferences identified in the visioning process,
- Understand physical limitations which will be imposed on the development of the subject parcel,
- Understand the adjacent “public area” which will need to be incorporated in the development for development and on-going maintenance,
- Understand how the parcel is zoned in the applicable zoning documents, and
- Understand the entitlement process required for development of the subject parcel.
- Understand any and all specific required elements, and priority and weighting of factors to be used in rating proposals.

The RFP will then be publicized, distributed and made available to a wide field of potential developers for a sufficient period to allow thorough development of concepts. The Harbor Advisory Committee will assist in identifying all potential RFP recipients. The RFP will be available for response for at least six weeks, and longer for more involved development opportunities. The RFP will require that the proposals include the following:

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- Conceptual site plans and renderings, including building usages, heights, setbacks, public spaces and amenities.
- Financial information regarding the entity making the proposal

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- Information on the major principals in the entity
- Identification of the project lead for the development
- Proof that the company or entity has the resources to carry out the project and the willingness to enter into a long-term lease with the County of Ventura

Once proposals are submitted, the Harbor Director, the Harbor Advisory Committee, and other individuals, as appropriate, will review the proposals. It is possible that one or more proposals will be selected for follow-up, including a formal presentation or request for follow-up information. It is also possible that all proposals are rejected.

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The Harbor Director may determine that more than one proposal is desirable and may choose to convene a public forum to present the alternative proposals. It is also possible that the Harbor Director could work with one potential developer and modify project conditions before moving forward.

If a development proposal is selected to move forward, the Board of Supervisors will be briefed on the proposed development.

### **Public Workshop**

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After selection of a proposal/proposer, the Harbor Department will schedule a public workshop at a harbor location to present the conceptual project to the public, interested agencies, and other stakeholders. Notice of the workshop will be made at least 10 days prior to the event and will be sent to the Harbor Department's email list and project distribution list. It will also be posted on the Harbor Department's website at [www.channelislandsharbor.org](http://www.channelislandsharbor.org). The public workshop will be conducted by the Harbor Department, and the developer will make a presentation to the workshop attendees. The developer will then have an opportunity to make modifications to the project in light of the input received from the public. The Harbor Department and the Harbor Advisory Committee will review any changes made to the project.

### **Exclusive Right to Negotiate**

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Once the public workshop has been completed and the revised proposal has been reviewed, an Exclusive Right to Negotiate (ERN) may be entered into. An ERN is an agreement, drafted by the Harbor Department and approved by the County Board of Supervisors, whereby the proposer is assured it is the only entity with whom the County is negotiating for a particular parcel or parcels. If a proposer is negotiating with the County for more than one parcel, a separate and independent ERN will be required for each parcel unless the parcels are adjoining and the proposed project encompasses all parcels. An ERN for one parcel will not be permitted to be contingent on the outcome of an ERN for another parcel.

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The ERN will require the proposer to provide the following:

- A more detailed project concept; the level of detail required will be determined by the Harbor Department
- A list of principals, officers, major stockholders, and joint ventures which are party to the proposed development
- Proposer financial statements
- Preliminary soils study, engineering study, hazardous study, a geotechnical study and possibly other engineering studies of the site
- Assurance that utilities are sufficient for the proposed project
- Requested modifications to the standard Harbor Department Lease
- A preliminary American Land Title Association Title Report

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Certain documents and information requested of the proposed developer by the County are proprietary in nature and are not available for public review. The Harbor Department will consult with County Counsel to ensure proposer's rights are protected.

The deliverables in the ERN will have a due date, and the ERN will include an initial and periodic payments to the Harbor Department for the right to keep the ERN in effect. These stipulations ensure that the developer with the exclusive right continues to move forward on the proposed development.

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### **Lease Option Agreement**

Once the deliverables for the ERN are completed, received and approved by the Harbor Department, the developer will be given a Lease Option Agreement, which is drafted by the Harbor Department, and approved by the County Board of Supervisors.

The deliverables in the Lease Option Agreement include the following:

- A budget for the total cost of development and construction of the development
- Final construction documents
- Building permits
- Final loan documents; all funds should be available to complete construction of the improvements, based on the budget previously submitted, at closing
- Proof of acceptance of the loan commitment
- Evidence that sufficient capital is available to fund the Lessees requirement, or equity contribution
- A copy of the executed contract between the Developer and the general contractor for construction
- Any other agreements documenting the Developer's ability to complete the project

- Title insurance
- Any insurance certificates required by the draft lease
- A written certification that the Developer is ready, willing and able to complete the project in accordance with the plans
- Any required guarantees from affiliates
- Reimbursements for all developer costs incurred by the County
- All required entitlements, including required changes to the PWP and LCP
- Acceptance of lease document in its final form

The Lease Option Agreement will include an initial Letter of Credit which the County can draw down on in the event that the development is withdrawn by the Developer, as well as Development Fees, charged initially and every year thereafter to ensure that the developer continues to move forward on the proposed development. The Lease Option Agreement has an expiration date, and if the Lease Option Agreement expires, the building plans become the property of the County.

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### Entitlement Process and Environmental Review

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It is during this stage that the entitlement process will commence to completion. The proposer will need to provide assurance to assist the County to obtain the following, if needed, and work with the Harbor Department to obtain these entitlements:

- An amendment to the City of Oxnard LCP and Zoning Ordinance (if required)
- An amendment to the County PWP (if required)
- A Notice of Impending Development (NOID)
- Environmental Impact Report or Equivalent as required by CEQA and the Coastal Commission Certified Regulatory Program
- A permit from the US Army Corps of Engineers (if needed)
- A permit from the State Regional Water Quality Control Board (if needed)
- A permit from the State Department of Fish and Wildlife (if needed)

### Lease

Once the deliverables required in the Lease Option Agreement are received by the Harbor Department and entitlements completed, a Lease is finalized and approved by the County Board of Supervisors.

It is during this stage that construction will proceed.

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### Summary Public Input

The public will have many opportunities to provide input to a proposed development.

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Visioning - The visioning process is a public process, which will seek input from the business community, interested residents and other government and regulatory agencies before searching for a developer.

ERN Approval – The Exclusive Right to Negotiate must be approved by the County Board of Supervisors in open session, allowing for public input.

Lease Option Approval – The Lease Option must be approved by the County Board of Supervisors in open session, allowing for public input.

During this phase, the developer will be required to hold public meetings/workshops to introduce the final project.

LCP Amendment - If an LCP and/or Coastal Zoning Ordinance amendment is needed, it will require approval by the Oxnard Planning Commission and the Oxnard City Council, both requiring a public hearing, and then approval by the Coastal Commission, allowing for public input.

PWP Amendment - If a PWP amendment is needed, it will require a public hearing with the County Board of Supervisors and then approval by the Coastal Commission, both allowing for public input.

NOID Approval – The Notice of Impending Development must be approved by the Coastal Commission, allowing for public input.

Lease Approval – The Lease must be approved by the County Board of Supervisors on open session, allowing for public input.

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**Estimated Timing**

The estimated time necessary for the stages of development are reflected below:

Visioning - 3 months

RFP Process - 4 months

ERN Process – 6 months

Lease Option Process – 9 months

LCP Amendment - 24 months

PWP Amendment - 12 months

NOID Approval – 6 months

Lease Approval – 3 months

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