From: Jacques Benghiat
Sent: Tuesday, November 29, 2022 12:19 PM
To: Goldzband, Larry@BCDC <larry.goldzband@bcdc.ca.gov>; Goldbeck, Steve@BCDC <steve.goldbeck@bcdc.ca.gov>; Lucchesi, Jennifer@SLC <Jennifer.Lucchesi@slc.ca.gov>

Subject: Community letter concerning Piers 30-32

Dear BCDC Commission and State Land Commission Members:

We are an *ad hoc* group of San Francisco residents writing to you to express our concern over the proposed developments on Piers 30-32 and Seawall Lot 330.

We support the efforts for proper development of these areas, but in our view the proposed construction on these sites would constitute a serious violation of the Public Trust doctrine and cause irreparable harm to the beauty of the waterfront.

As a result of the Northern Advisory Committee meeting on Nov 16, The Piers 30-32 development team (Strada) spent over an hour presenting their "revised" plan and responding to questions**.** We are grateful for their outreach efforts but on reviewing the document they submitted, we see that the so-called revised plan is quite similar to their original plan. It addresses none of the short-comings originally raised, and still fails a series of tests necessary for approval and a successful development:

There are two general sets of failings with the so-called revised plan

1. **The project is primarily an office development project, with almost no public trust element.**

- 75% of the development is office space or retail. The developers claim the development is 28% workplace, but this magical number is only achieved because the developers include the surrounding waters. If we limit the evaluation to the proposed construction, some 75% of the build-out is office space or retail. Port of SF staff relates that 43% of the development is office "on the ground level" suggesting a general agreement with the 75% figure if total site development is calculated.
- A pier development that is primarily office space is not just a bad idea in itself, but it also creates an unhelpful precedent as other developers will also seek to develop office space on piers. If contiguous waters are allowed in a calculation, then *any* commercial activity can be situated on *any* area of BCDC responsibility because there will always be surrounding waters. When a developer includes these contiguous waters in their calculation, they open themselves to questions as to their competency or integrity.

2. **The proposed swimming pool fails the public trust test as it could be located anywhere.**

- The pool does not represent a public trust use of the pier any more than a baseball field might. There is no public trust benefit.
- The pool also fails the public use test as there is no demonstrated demand or use models for the pool. No study has been undertaken. No evaluation of current decline in the usage of public pools. No modeling of use of this pool. No projection of neighborhood use. (What percentage of users would be from the immediate vicinity and

what percentage would be destination users?) There has been no discussion of annual days of use for when the ambient temperature on the waterfront is cooler than inland. The developers have yet to explain how they decided on a pool and what alternative facilities they contemplated. When a developer presentation at the NAC holds that community feedback supports synchronized swimming, this is similarly likely to raise questions as to their competency or integrity.

The piers offer a signature development opportunity loaded with potential, one that should be carefully crafted to cultivate the unique assets of its over-the-bay location and complement the historic maritime district in which it resides. Regretfully, the Strada proposal, even with revisions, fails this test.

Please acknowledge receipt of this letter:

Signed by:

Frank Lavin
Ann Lavin
Jacques Benghiat
Liz Raffel
Marvin Hopkins
Collette Hopkins
Michael Blasgen
David Bartel
Cheri Bartel
Kristina Hansen
Abraham Fahim
Linda Moriarty
Leo Quilici
Joseph W. Goodman
Irena Matijas
Peggy Wynne
Bob Wynne
Terry Chiu
John Dowell
Sheila Dowell
Cecilia de Leon
Leo Lam
Robert Domingues
Mike Borden
Tulika Jha
Carol Chuang
Tom Wong
Sonal Pai
Raj Pai
Shalini Pai
Lois Hayman
Kathy Turbott
Walid Shinnawi
Nancy Shinnawi
Erica Dao
Steven Hao
Kristine Karaman
Roshini Prasad
Jack Alotto
Dale Smith
Yasho Rao
Kit Lau
Kenneth Lee
Ryan Kopa
Paulina Ponce de Leon
Greg Taylor
Meredith Taylor
CJ Glynn
Fred Heslet
MaryLou Heslet
Andrea Zurek
Sandy Drew
Susan Sun
Alan Zhang
Rich Hoppe
Bebe Hoppe
Tammy Rahn
Kameran Kashani
Bob Arns
Anne Arns
Leon Zektser
Jessica Zektser
Behzad Sadeghi
Robert Bernie
Honmai Goodman
John Barnhart
Wick Haxton
Jeanne Lyons
John Faircy
Anthony E Ramirez
Jean A. Ramirez

From: Lucia
Sent: Monday, November 28, 2022 6:21 PM
To: BCDC PublicComment <publiccomment@bcdc.ca.gov>
Cc: Matt Klein
Subject: Please consider increasing the liveaboard percentages for the Bay Area

Dear Commissioners and BCDC staff,

Thank you for your attentiveness to the plight of those who have been (in my, as well as legal, opinion) unjustly evicted from our long-term homes on the water at Oyster Cove Marina.

We appreciate the work you and your staff have done to mitigate the carnage that has transpired, but the reality is that we now have residents, including several elderly people, living part time in their cars or couch surfing, as well as some who are opting to anchor out as they cannot find a permanent liveaboard solution and are trying to "save up" for what they see as an inevitable turn to homelessness or anchoring out.

I hope that as you consider the next steps for BCDC in your Strategic Planning Working Group, that you consider increasing the percentage of liveaboards allowed at marinas to 25%. The reasons are particularly compelling. This is a gentrification and equity issue as almost all of us are low to middle to low-income folks and all the remaining people at Oyster Cove Marina, save one, are brown or black folks who are low/middle income. The Bay Area needs housing, especially for those of us who teach your children, repair your automobiles and other mechanical things, drive your taxis, work at your grocery stores, clean your houses, and build & maintain vital city infrastructure. Not to mention the many elders who have found a way to stay close to their families while maintaining their independence. This has been devastating for many of them as they either crowd into small family homes and sleep on the couch or look for housing that will take them away from their families & communities.

Four marinas have closed over the last several years depleting a large amount of liveaboard options as liveaboards scramble to find the few existing marinas that may have that one precious liveaboard slip. There is too much demand for a dwindling supply of what should be a higher percentage of liveaboard allowances overall. And the reality is that liveaboard housing is a low cost, low impact housing option that is slowly being taken away by gentrification by companies who greenwash their contributions to the public good when it's really all about their profit. Make no mistake, people who live on the water love it, respect it, and protect it. And our communities are richer for that diversity. It's been 50 years... As a creator of governmental policy, BCDC has the power to effect change that is good for all of us. Please do consider reviewing the Bay Plan and revisiting the purpose and intent of the McAteer-Petris Act to update your response to it to fit the needs and realities of this century and this time we are living in.

Thank you so much for your time and attention to this.

Warm regards,

~Lucia

p.s. Below is a link to a Change.org petition I started so you can see that there is a strong public ask for this.

https://www.change.org/p/bcdc-increase-the-liveaboard-allowance-in-the-sf-bay-area

[redacted]

Sign the Petition

BCDC--Increase the marina liveaboard percentage/marina in the SF Bay Area

From: Alison Madden
Sent: Monday, November 28, 2022 12:09 PM
To: Gomez, Grace@BCDC <grace.gomez@bcdc.ca.gov>; Atwell, Peggy@BCDC <peggy.atwell@bcdc.ca.gov>
Subject: Re: Public comment-"flat top" vessel, non-houseboat houseboat issue: urgent need to move WW2 Higgins w/cabin

Dear Commissioners,

This is public comment for the Dec. 1, 2022 meeting this Thursday at 1 p.m.

I am following on to some prior comments about the "flat top" vessel form factor that is wrongly identified as a "houseboat" when it is an operating craft and should be called a powerboat or yacht powerboat. I provide some photos below to illustrate. Thanks as always for your time and attention to reviewing this email and information.

There are 4 examples with 3 photos below, the 4th is a beautiful historic tug for which a photo is not currently available:

"Sampan" is a working craft (outboard being fixed at present, but she was motored all over SF Bay by an elderly couple in retirement that visited all the marinas);
"Bohemia" is a WW2 Ship to Shore landing craft (made for D Day) with a cabin on top but operable with captain wheel and outboards,
"Go Getter" is an historic tug in Marin which can be more efficiently located elsewhere to free up a slip for actual current use; and
"Yacht/Powerboat" photos below is another working "flat top" vessel in the mid peninsula that the owner cannot sell or move because (although it is navigable and has working engines and moves under its own propulsion and thus is a yacht or power boat) has a "flat top" and no marina will take it, believing it is a prohibited "houseboat", although not under the CCR Regs.

I am asking the BCDC, entirely separately from the longer term inquiry about the 10% # of slips that can be liveaboard, when and how it was selected, whether it can be liberalized, etc. - that the Commission ask Staff to send the Oyster Cove/Oyster Point Marinas memo of BCDC staff, with the clear "houseboat" definition, to all marina operators and harbormasters, and advise them that the "form factor" has nothing to do with what is a "houseboat".

A modified trawler or power boat without working engines may be MORE of a "houseboat" than a working flat top 'delta cruizer" or "cruz a home" etc. (or Bohemia which absolutely can be taken for a pleasure cruise).

There is a distinction between:
(a) a floating home (pontoons/foundation);

(b) a "houseboat" (vessel, craft or other form w/o propulsion & not navigable);
(c) a non-working boat (just a short-term management/maintenance issue);
(d) a "liveaboard" which can be a person in a sailboat, powerboat, floating home or houseboat; and
(e) a WORKING boat that may have a flat top, but which is right now not accepted ANYWHERE on the SF Bay if it has said "flat top".

This is likely quite simply a misunderstanding but it is universal and comes with fear of enforcement, even the best and most knowledgeable harbormasters will not accept these craft out of fear of enforcement and even just the cost of defending such enforcement action.

The photos below of “Sampan” and the other vessels, each (and both) in two different small marinas mid peninsula, are denied everywhere and belong to me or friends of mine that I am helping advocate for. Nina was accepted into Berkley Marina on all the info until they saw a photo with a flat top, then she was denied; The other friend has $40K value in his boat in a harbor off Redwood Creek and can't sell or move it because it has (allegedly) a “flat top” or otherwise looks like (colloquially) a “houseboat”.

The other 2 are Bohemia and a historic tug in Sausalito. I need to move Bohemia urgently and my slip where I may have been able to take it, fell through. I must vacate Redwood City immediately. I am seeking the same safe harbor grace period LoI that would allow me to advise a marina operator I can bring it in for a few months while I find a long term solution for her. The tug and Bohemia are outfitted with decks and high powered outboards with navigation. The tug location will allow Bohemia if I can find a location for the tug. In addition to the nav system with outboards (electric and gas) I am installing an onboard electric navigation system. Thus, it is not a houseboat, but would look like it, and not be accepted.

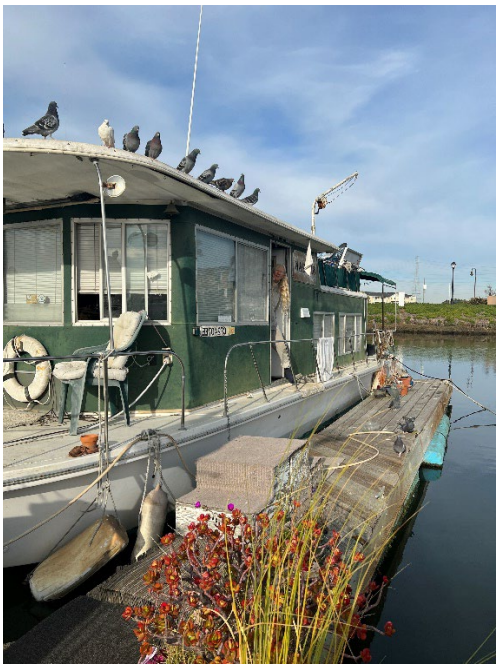
As mentioned above – entirely experienced and professional harbormasters all over the Bay are literally AFRAID to make decisions in their own discretion and even FOLLOWING the 9/15 memo definition of houseboat, as they are afraid of enforcement actions based on a form factor of a WORKING craft. My friend mentioned above with the working and navigable “pointy nose” yacht asked BCDC Staff several years ago to issue a statement or document clarifying this point and he was denied, and we havethe email. I am sourcing that email and hope to provide it for the bureaucratic clarification we are seeking.

Any assistance would be appreciated.

The final point is re: Oyster Cove and Point. Thank you once again for your action on this. We have spoken in follow up with Anniken and really appreciate her time. We have learned that on the South SF city side, their 'action plan' for compliance is where the April 2023 interim date most likely arose. We understand needing an action plan, but ask that it be administered to ensure that people not be displaced sooner than next Sept. 15 which is within the one year allowed by the LoI.

Final final, there may be some perception in South City that there was a "deadline" for people to have applied to come over. I do not believe I saw that in the LoI or heard of it in the Town Hall or any other plan. The persons (a material handful) still at Oyster Cove believe that Kilroy and Tideline must properly notice them under the TPA (Tenant Protection Act of 2019) and they should not be denied any government safe harbor extended to any refugee relocating from the short-noticed closure of OCM. They have a right to stand on their rights and the TPA expressly states it is the fundamental public policy of the State of CA. I provided a legal memo to Kilroy and Tideline including San Mateo County Super. Ct. authority that boat slips are real estate for purpose of tenant protections. If we can clean up this potential misunderstanding that would be great.
Thank you,
Alison

Sampan:



Yacht/Powerboat:

Bohemia:

From: Alison Madden
Sent: Monday, November 28, 2022 1:28 PM
To: BCDC PublicComment <publiccomment@bcdc.ca.gov>; matt klein; Lucia
Subject: Oyster Cove Marina - South City workout / plan to show compliance intent - issues

Dear Commissioners,

I am sending this on behalf of a group of tenants at Oyster Cove Marina (OCM), who have either:
(1) already transitioned over to Oyster Point Marina (OPM) under the recent 9/15 BCDC action addressing staff's intent to do a letter of intent ("LOI") with the OPM operators / harbormaster (which is the San Mateo Co. Harbor District), or
(2) who have not yet transitioned but intend to do so after being properly noticed of lease termination by the marina owner/operator in compliance with the Tenant Protection Act of 2019 (TPA, Cal. Civil Code Sec. 1946.2).

I spoke with Anniken of BCDC in a very productive call that was mostly background information and relaying some concern (from me to her) about the "one year" being shortened on the Harbor District end, to April 2023, and having an end date of 8/31/2023, which is 2 weeks short of the LOI approval by BCDC (approving the approach on 9/15/2022), and six weeks short of when OCM residents had a noticed lease termination date (10/15/2022) (which noticed lease term we think fell short of legal requirements but still was the noticed lease end date that many observed out of fear of UD, credit reporting, their vessel being seized and more concern and fear).

It seems the South City and Harbor District end (the attached policy and form) may have been developed as a result of a need to work with BCDC staff to show a plan to demonstrate intent to comply by 10/15/2023 (the date we feel should be the one year end date). In other words, for South City and the Harbor District to work with BCDC Staff, they (South City/HD) had to develop a plan to demonstrate intent to comply, and that's where we believe these truncations of the one year time frame are coming from. This is entirely reasonable to have a compliance plan, we just have concerns about it.

It is our position that liveaboards in marinas (LAs) are covered by all tenant protections, including the protections of the UD process (Smith v. Muni Ct. (Real Party TMI Growth) (1988) 202 Cal.App.3d 685), and the TPA, the Tenant Protection Act of 2018, eff. in 2020 (Civil Code Sec. 1946.2).

There are some residents at OCM that remain there now, because they (like all the prior residents) were not properly noticed under the TPA. Standing on their rights is legally protected, they should not be denied an offer or benefit extended to others because they are demanding the marina owner or operator follow the law (Civil Code 1946.2). We want to make all involved aware that there should be no denial of the right to move over to OPM because a person expected proper notice under the TPA. Once they are properly noticed, they will make their provisions, and the marina owner/operator has to waive final months rent and have the 'no fault just cause' basis clearly stated and that the lease termination is done under the TPA.

The attached memo to residents from South SF shows the April 2023 and August 2023 dates that fall short of what probably everyone expected to have been at least Sept. 15, 2022 if not Oct. 15, 2022. It was provided at the South SF Town Hall held 9/21/2022 at the OPM yacht club.

People were grateful and remain so, but it should be clear that the 1 year was not really provided for, that Aug. 31 falls short of 10/15/2023 expected by most, and that those who are demanding legally required compliance to the TPA may be at risk fo being frozen out of the safe harbor, which would not be legally proper to do so (shut them out of the extended and offered safe harbor to move over under the LOI). They should be allowed to move over when the owner/operator provide the proper 30 day notice with the legally required waived final month's rent.

Thank you very much in advance for reviewing these materials.
Best Regards,
Alison Madden
(for the cc'd persons love and other OCM displaced persons).

Relocation Interest Form and Acknowledgement

On September 15, 2022, the San Francisco Bay Conservation and Development Commission (BCDC) met to discuss temporarily suspending enforcement of its cap on the number of liveaboards allowed at Oyster Point Marina. Per established BCDC policy, no marina may have more than 10% of occupied slips dedicated to liveaboards. BCDC staff recommended temporarily suspending enforcement of this cap at Oyster Point Marina for a term of one year. The Commission agreed with their staff's proposed direction.

As a result of BCDC's discussion, liveaboards, extended stays, and other habitual tenants currently residing at Oyster Cove Marina may be considered for a slip at Oyster Point Marina. The number of boats, the condition of boats allowed, slip locations, and the terms of their berthing agreements are at the sole discretion of the San Mateo County Harbor District, which operates the Oyster Point Marina. Any boats moved from Oyster Cove Marina to Oyster Point Marina will have an initial berthing agreement term expiring April 1, 2023 with extensions available to those in good standing with the Harbor District, which includes making diligent and good faith efforts to find a permanent slip or housing elsewhere.

Please be aware that BCDC has not yet issued a final letter regarding its suspension of enforcement for one year. The terms set out in this Interest Form and Acknowledgement might change as a result of the details of the final letter from BCDC.

The City, in its capacity as owner of the Oyster Point Marina, is helping to facilitate this temporary relocation and will provide additional relocation assistance to former Oyster Cove Marina boaters that move to Oyster Point Marina to ensure they find permanent housing elsewhere. The City will not be providing financial assistance to boaters, but will connect boaters to housing resources both at other marinas and upland, as well as any available financial and healthcare resources.

To be considered by the San Mateo County Harbor District to move to Oyster Point Marina and receive relocation assistance from the City of South San Francisco you must ***complete the form and acknowledgement on the reverse of this page and return it to Corina Lazo at housing@ssf.net by October 3, 2022.***

Once you have completed the Relocation Interest Form and Acknowledgement, your name and contact information will be provided to the San Mateo County Harbor District to schedule an inspection of your boat and begin the application to be considered for a slip at the Oyster Point

Marina. The Harbor District will not consider your boat for relocation until you have completed this Form and Acknowledgement.

Relocation Interest Form and Acknowledgement

_____
Your Name

_____ _____
Boat Registration Number Oyster Cove Marina Slip Number

_____
Names of any additional person(s) living on your boat

_____
Phone Number(s)

_____
Email Address(es)

_____
Mailing Address

To be considered by the San Mateo County Harbor District to move to Oyster Point Marina and receive non-financial relocation assistance from the City of South San Francisco, I acknowledge the following:

1. I am currently residing at Oyster Cove Marina.

2. The San Mateo County Harbor District, in its sole discretion, will determine if my boat is suitable for temporary relocation to Oyster Point Marina and the terms of such relocation.

3. All temporary berthing agreements at Oyster Point Marina will expire on April 1, 2023 and may be extended by the Harbor District to a date no later than August 31, 2023.

4. Consideration of an extension past the initial term of April 1, 2023 will only be given to those in good standing with the Harbor District, which includes working diligently and in good faith to find a permanent slip or housing elsewhere.

5. The City of South San Francisco is not obligated to find me alternate housing nor provide me with financial assistance.

6. **If BCDC provides the City or Harbor District with notice that it intends to begin enforcement of the liveaboard cap at Oyster Point Marina and I still reside at Oyster Point Marina, I will promptly comply with direction from the City and Harbor District as necessary to avoid the City or Harbor District incurring penalties, fines, or other enforcement consequences imposed by BCDC.**

I agree to the terms set out above and acknowledge that the statements made above are true and correct to the best of my knowledge.

Signature

Date

5196800.1