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Re: Bay Area Waterfront Land Use and the Strategic Management of Berthing; Pete's Harbor Marina  
San Francisco Bay Conservation and Development Commission:

My husband and I are cruisers who are visiting the San Francisco Bay area this year. There are thousands of cruisers world-wide who travel from port to port via the world's oceans as well as coastal and inland navigable waterways. There are hundreds of cruisers that visit the San Francisco Bay area every year. The concerns of cruisers parallel those of the general boating public with only a few distinctions for those of us who do travel port-to-port while living aboard our boats.

Local boating, zoning, or environmental matters can emerge which reduce cruisers' access to good anchorages; marine repair and haul out facilities; access to pump outs and water; as well as reasonably priced berthing accepting of cruisers living aboard while in harbor.

Like many cruisers, I am concerned for both the environment and boater safety and I wish to take action if I see boaters who are not behaving as good neighbors to other boaters or as thoughtful stewards of the environment and the waterways. Enforcement agencies often share my concerns in these arenas but often local governments and harbor authorities refuse to deal with individual problem boaters or behaviors of particular small groups of boaters but instead place broad restrictions that impede the ability of a much broader population of recreational boaters to use navigable waterways, marinas, and sheltered anchorages. I am disappointed in these often simplistic public policy and enforcement actions. I am especially concerned if local area boaters cannot use their vessels due to bad public policy decisions.

### **The Issues**

Visiting cruisers to the San Francisco Bay area, like all Bay area boaters, are impacted by the local land use trends which allow and even favor the development of Bay-front land for uses which are not water dependent nor water-related; do not serve a statewide or national public purpose; and can be located on non-waterfront property. These uses are inconsistent with the California public trust doctrine yet they are favored by many local governments around the Bay. These uses increase costs of boating and reduce boater safety by reducing affordable access to a competitive waterfront population of marine industry vendors.

Visiting cruisers are also impacted by the local marina policies which heavily restrict access to the marinas by those who live aboard their boats while in harbor but do nothing to restrict the use of marina slips as boat storage for vessels that are not regularly used. These local government and marina trends and policies as well as the California state public policy (via BCDC) that supports them are harmful to both Bay area recreational boaters and the Bay area marine industry that supports local boaters.

There are two separate issues—the first, and more pressing, relating to land use adjacent the water and the second issue relates to establishing boat berthing policies that encourage the use of boats. These two issues, in the San Francisco Bay area, work collectively to reduce both boaters access to the water and the safe use of their vessels. We are presently berthed at Pete's Harbor marina in Redwood City. With the recent news that this publicly available marina is under contract and will be developed for residential use and the large liveaboard population will have to be absorbed into surrounding marinas, we are personally impacted by these two public policy issues.

### **Issue 1: Land Use**

The need exists for additional marinas, boatyards, public docks, public access to the waterways, and other marine-related businesses yet these businesses are being driven away from the Bay waterfront by other uses inconsistent with the public trust, including residential, that can easily be sited on non-waterfront property.

It is my understanding that the BCDC has a fairly narrow and defined scope when discussing land use matters but where the BCDC does not have specific authority, the California State Land Commission (CSLC) does have such authority regarding the tidelands. I surmise that it is reasonable for the BCDC, CSLC, and other state bodies to work towards the same goals of the public trust doctrine. The issue of improper land use near the Bay is driven along by seemingly steady and relentless lobbying and political pressures by individuals and special interests to allow inappropriate private development on tidelands or private lands directly abutting the tidelands and the Bay.

It appears that here in the San Francisco Bay area, local governments are really competing for increased tax revenues from development activities on these lands and that the pressures upon local elected officials and appointees may preclude those officials from setting aside immediate local fiscal matters for the long term public good of the people of the state of California. The CSLC and the BCDC both have legislative direction to block inappropriate development and infill along the San Francisco Bay. Projects must have a connection to water-related activities that provide benefits to the public statewide, which is the hallmark of the public trust doctrine. Failure to achieve this goal, simply to make a development financially attractive, sacrifices public benefit for private or purely local advantage.

There are some cases where all that may easily be done is for the Commissions to provide sufficient notice to the public and to alert the public of such projects so that the people of California may weigh in. Even so, this timely public vetting process is an important part of assuring that precious waterfront lands aren't misused for the benefit of a few private interests to the detriment of the public.

I believe that the BCDC should very carefully evaluate, and deliberate on, the unintended consequences and the impact on all California boaters of any BCDC approval of requests that come in for permits which will support the ultimate change of use of current or former Bay area marinas, boatyards, or other marine-related industry for anything other than public use and marine-related activities which are accessible to the public.

This deliberation is most timely because of the recent national attention to the increasing conflicts over access to and uses of waterfronts. Much of this is over private residential development vs appropriate marine-related or public accessible use. An example of this national attention is H.R.3109 “Keep America's Waterfronts Working” Act. This is a bill to amend the Coastal Zone Management Act of 1972 to establish a grant program to acquire working piers and other points of waterfront access and

provide funding for waterfront planning. The program is designed to allow states and local communities to support and protect places along the coast where commercial fishermen, boat builders, excursion and tour boat operators and other small businesses operate.

### **Requested Action:**

*I request that the BCDC pay particular and deliberate attention to permit applications for projects at 1 Uccelli Blvd, Redwood City, CA 94063, also known as Pete's Harbor Marina. In giving this attention, I request that the BCDC hold one or more meetings with the public to gather public input for BCDC deliberations regarding permits for projects at Pete's Harbor that would: Substantially change the use of any structure or area; Construct, remodel or repair a structure; or Subdivide property or grade land.*

### **Issue 2: Bay Use for Marina Berths**

Whenever boat berthing is limited—by marina closures or by increasing numbers of boaters—the appropriate use of existing in-water berthing becomes a critical matter for all boaters in a local area. We enjoy anchoring and find the numerous anchorages around the San Francisco Bay to be an amazing resource for both local and visiting boaters. We are dismayed anytime that we observe boats that are not in a seaworthy condition taking up precious space whether they are in an anchorage, mooring field, or in a marina.

Here in the San Francisco Bay, there is no requirement for the strategic management of local berthing to help assure that recreational boats that are actually maintained and used on a regular basis have priority whenever there is a limit in number of berths available at local marinas. There is not a plan in place for incorporating dry storage for vessels that are not in regular use and to prevent the use of marina slips as long term storage of recreational vessels not in use and not in sea worthy condition.

On the other hand, the Bay area local marina policies heavily restrict access to the marinas by those who live aboard their boats. The BCDC supports and demands such restrictions with an assumption--but without evidence--that simply living aboard the vessel is detrimental to the Bay. There also appears to be an assumption that a lived aboard vessel will not be regularly used in navigable waters. These assumptions do not hold for cruisers who live aboard their cruising sailboats. Further, with years of owning and using boats berthed in marinas, my own observation is that weekend boaters are just as likely or even more likely to discharge waste, trash, or spill petroleum products into the waters as are the live aboard boaters that actively use their boats in navigable waters. The live aboard lifestyle allows one to choose to consume very little energy and to be environmentally friendly. The smaller carbon footprint of environmentally conscious boaters who choose to live aboard can help mitigate the impact of other more wasteful and environmentally unfriendly residents in the Bay area.

Numerous marinas restrict overnight use of a recreational vessel to 3 days per week or simply “weekend use” to assure that boaters are not “liveaboards.” I believe that such restrictions on a boater's use of their vessel is not in the best interest of boater safety or the health of the marine environment in the Bay area marinas. Vessels which are used by their owners are predominately in better working condition than those that simply sit in the slip month after month. Vessels that are regularly used are, for example, not typically the ones which unexpectedly sink in their slips because the owner didn't know that a bilge pump was not working and the packing gland was leaking. Boaters that use their boats do stay familiar with the operation of the vessel and it is easier for their boating skills to stay sharp. Boaters who live aboard their vessels notice when something is not quite right aboard and are

able to fix it before it becomes a safety issue.

The combination of locally driven land use policies and restrictions on boaters' use of their vessels are both harmful to Bay area recreational boaters and the Bay area marine industry that supports local boaters. Reducing the number of waterfront properties available to marine-industry businesses, by allowing inappropriate land use, closes marine-related businesses which support recreational boaters and increases the cost of maintaining recreational vessels for Bay area boaters. This in turn increases the likelihood that recreational boaters will be performing numerous repair projects themselves. If boaters are restricted in the amount of time they may spend aboard their boats by the arbitrary time-use limits imposed by many marinas before being considered a "liveaboard" and are faced with the liveaboard restrictions imposed by the BCDC, the boaters are increasingly less likely to be able to maintain and use their boats. Their boating skills suffer and/or their boats are not kept in always-seaworthy condition. This is a downward spiral fueled by poor local implementation of policy regarding Bay waterfront land use and the lack of a public policy that demands strategic management of marina berths with the goal of both protecting the environment and increasing public access to navigable waters by Bay area boaters.

**Requested Action:**

*I request that the BCDC, in the normal course of BCDC business, open up a dialog with the public about the strategic management of local marina berths. I would like to see BCDC actions encourage the proper maintenance and actual use of boats berthed in slips here in the Bay. The live aboard classification appears, in part, to be a surrogate for whether a vessel is being used in navigable waters or simply stored in a slip so I also request that the BCDC define the conditions under which a vessel that is both regularly used and lived aboard may be excluded by marinas from their live aboard vessel count.*

In conclusion, thank you for taking the time to consider my views. In the matter of land use near the Bay, I believe that the BCDC has the jurisdiction to act in these matters and an obligation to work together with other State agencies and commissions as well as local interests to assure that the greater public good is not set aside for private or purely local advantage. In the matter of Bay use for marina berthing, BCDC has jurisdiction to act in the interest of the strategic management of local marina berths to both reduce the use of slips as on-water long term boat storage and to direct preference towards berthing of boats that are regularly used in navigable waters whether or not they are also lived aboard. As a cruiser and boater who lives aboard, I remain interested in ways to promote waterfront access for marine-related industry and public access marinas, and I am concerned for both the environment and boater safety. I look forward to the BCDC addressing the above requests for action in a proactive and timely manner.

Respectfully,

[original signed]

Brenda Kay Hattery