

**CALIFORNIA COASTAL COMMISSION**

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# TH10a

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE for A-5-MDR-11-272**

**LOCAL GOVERNMENT:** County of Los Angeles

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A-5-MDR-11-272

**APPLICANT:** Holiday-Panay Way Marina, L.P.

**PROJECT LOCATION:** 14025 Panay Way (Parcel 21), Marina Del Rey, County of Los Angeles

**PROJECT DESCRIPTION:** The approved project consists of (1) demolition of all landside improvements; and (2) the construction of a structure with 2,916 square feet of retail uses, 11,432 square feet of marine commercial uses, a 5,000 square foot yacht club, 10,000 square foot health club, a 447 space 6-level parking structure, an adjacent waterfront public pedestrian promenade, public park and other site amenities and facilities.

**APPELLANTS:** David Barish (We ARE Marina del Rey)

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**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed because the project approved by the County is consistent with the County's certified Local Coastal Plan and the public access and recreation policies in Chapter 3 of the Coastal Act.

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**SUBSTANTIVE FILE DOCUMENTS:**

1. Marina Del Rey certified Local Coastal Plan.

**I. APPEAL PROCEDURES**

After certification of a local coastal program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on Coastal Development Permit applications. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, mean high tide line, or the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

Section 30603(a) of the Coastal Act identifies which types of development are appealable. Section 30603(a) states, in part:

- (a) *After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
  - (1) *Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
  - (2) *Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.*

The County approval of the proposed project is appealable because the project is located between the sea and the first public road paralleling the sea and within 300 feet of the inland extent of the mean high tide line of the sea.

Section 13111 of Title 14 of the California Code of Regulations allows an appeal of a local government's decision on a coastal development permit application once the local appeal process has been exhausted. In accordance with Section 13573 An appellant shall be deemed to have exhausted local appeals once the appellant has pursued his or her appeal to the local appellate body, except that exhaustion of all local appeals shall not be required if:

*(1) The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the Local Coastal Program.*

*(2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.*

*(3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.*

*(4) The local government jurisdiction charges an appeal fee for the filing or processing of appeals.*

The grounds for appeal of an approval of a local Coastal Development Permit in the appealable area are stated in Section 30603(b)(1), which states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.*

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Section 30625(b)(2) of the Coastal Act requires a de novo hearing on the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

If the Commission finds that a substantial issue is raised by the appeal, the de novo hearing will be scheduled at a subsequent Commission hearing. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, in order for the Commission to approve such projects, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

At the hearing on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project.

Pursuant to Section 30621 of the Coastal Act, a hearing on a Coastal Development Permit appeal shall be set no later than 49 days after the date on which the appeal is filed with the Commission. An appeal on the above described decision was submitted on October 25, 2011, therefore, the 49<sup>th</sup> day from the date of receiving the appeal is December 13, 2011.

In accordance with Section 13112 of Title 14 of the California Code of Regulations, staff notified the County of Los Angeles of the appeal and requested that the County forward all relevant documents and materials regarding the subject permit to the Commission's South Coast Office. On November 9, 2011, the South Coast Office received the County's materials and scheduled the substantial issue hearing for the December 7-9, 2011 hearing, being the next hearing that was within 49 days.

## **II. APPELLANTS' CONTENTIONS**

The County approval of the proposed development was appealed on October 25, 2011, by David Barish, representing We ARE marina del Rey. The appellant contends that the proposed development is not consistent with the requirements of the Local Coastal Program and the access policies of the Coastal Act (see Exhibit No. 1 for the submitted appeal letter).

The appeal by We ARE Marina del Rey (David Barish), contends:

1. The proposed parking structure height of 56 feet is inconsistent with the allowable height under the LCP.
2. The proposed view corridors provided are inconsistent with the view corridor requirements of the LCP;
3. That Parcel 21 project would be inconsistent with Section 22.46.1570 by reducing land area devoted to existing visitor-serving, boating, or marine commercial uses.
4. That there is a parking shortage on Panay Way with private leaseholds owned and operated by Goldrich & Kest including the Monte Carlo, Capri, St. Tropez and Dolphin Apartments. This parking shortage is the impetus for construction of a 447-space, 6-story parking structure on Parcel 21.
5. The Parcel 21 project is inconsistent with the California Coastal Act of 1975[sic]. There will be a significant impact to public access.

### **III. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that the appeal of the County's approval of the project raises **no substantial issue** with respect to the grounds on which the appeal was filed, pursuant to Public Resources Code Section 30625(b)(2).

**MOTION:** Staff recommends a **Yes** vote on the following motion:

I move that the Commission determine that Appeal No. A-5-MDR-11-272 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

*The Commission finds that Appeal No. **A-5-MDR-11-272** does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION AND AREA HISTORY**

The applicant proposes to demolish all existing landside improvements that include two two-story commercial buildings containing a 16,000 square foot health club, 2,916 square feet of retail space and 3,312 square feet of marine commercial uses, and two boater serving buildings and a paved at grade 192 surface parking area; and construct a new four story, 56 foot high, commercial complex with 2,916 square feet of retail uses, 11,432 square feet of marine commercial uses, a 5,000 square foot yacht club, 10,000 square foot health club, a 447 space six-level, 56 foot high, parking structure attached to the proposed commercial building, a public plaza, and waterfront public pedestrian promenade.

The proposed project is located on Panay Way (Parcel 21) in the northwest portion of Marina del Rey. The parcel is rectangular in shape and is approximately 2.55 acres in size (see Exhibit No. 2 and 3).

The currently certified Marina del Rey Local Coastal Program designates Parcel 21 as Marine Commercial with a Waterfront Overlay Zone (WOZ). Permitted uses in the Marine Commercial designation include coastal-related or coastal-dependent uses associated with operation, sales, storage, and repair of boats and marine support facilities. Overlay zones are intended to encourage more creative and desirable projects by allowing mixed-use projects. The WOZ permitted uses include: Hotels, Visitor-serving Commercial, Open Space, Boat Storage, and Marine Commercial.

The County of Los Angeles' Department of Regional Planning issued a Coastal Development Permit (2010-00003-(4)) for the project (see Exhibit No.8 and 9).

## **B. AREAWIDE DESCRIPTION**

Marina Del Rey covers approximately 807 acres of land and water in the County of Los Angeles. Marina Del Rey is located between the coastal communities of Venice and Playa Del Rey. The Marina is owned by the County and operated by the County Department of Beaches and Harbors.

The existing Marina began its development in 1962 when the dredging of the inland basin was completed. The primary use of the parts of the Marina that are under water is recreational boating. The marina provides approximately 5,923 boating berths. Other boating facilities include transient docks, a public launching ramp, repair yards, charter and rental boats, harbor tours, and sailing instructions.

Other recreational facilities include: Burton W. Chase Park, Admiralty Park, a public beach and picnic area, bicycle trail, and limited pedestrian access along the marina bulkheads and north jetty promenade.

Along with the recreational facilities the Marina is developed with multi-family residential projects, hotels, restaurants, commercial, retail and office development.

Within the Marina, most structural improvements have been made by private entrepreneurs, operating under long-term land leases. These leases were awarded by open competitive bids in the early and mid 1960's. The developers were required to construct improvements on unimproved parcels in conformance with authorized uses designated in their leases and pursuant to a master plan for the Marina.

### **C. LOCAL COASTAL PROGRAM BACKGROUND**

In 1984, the Commission certified the County's Land Use Plan portion of the Marina Del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the LCP for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area "A", and the existing Marina. The Commission certified the County of Los Angeles' revised Marina Del Rey land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified, with suggested modifications, an Implementation Program pertaining to the existing marina. The undeveloped area in the County, Playa Vista Area "A" was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina Del Rey LCP and the County assumed permit issuing authority.

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified.

On November 10, 2011, the Commission approved LCP amendment No. 1-11. The amendment adjusted the location of development authorized by the existing certified LCP; incorporated changes in response to the Periodic Review; and made minor grammatical, typographical and reference corrections. The LCPA addressed four specific projects (the "Pipeline Projects"):

1. Parcel 10/FF—A 526-unit apartment project
2. Parcel OT--- a 114-room senior accommodation facility with 3,500 square feet of commercial.
3. Parcel 49/77—Application of the Waterfront Overlay zone to facilitate an intensification of visitor-serving uses in association with the public launch ramp and the expansion of Chace Park.
4. Parcel 52/GG—a 345 space dry stack storage facility with 30 mast-up storage spaces.

**D. DESCRIPTION OF LOCAL APPROVAL**

On April 28, 2010, the County of Los Angeles Regional Planning Commission approved coastal development permit No. 2006-0003-(4), with conditions (see Exhibit No. 9). The permit authorized the demolition of an existing commercial facility on Marina del Rey Parcel 21 and the subsequent construction of a new 29,348 square foot commercial facility with an attached 6-level parking structure and a 28-foot wide pedestrian promenade. The Planning Commission's action was appealed to the Board of Supervisors. On October 11, 2011 The Board approved the coastal development permit. Notice of the County's final action was received by the Coastal Commission's South Coast District office on October 19, 2011.

**E. SUBSTANTIAL ISSUE ANALYSIS**

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the proposed development, as conditioned, is consistent with the applicable standard of review;
2. The extent and scope of the development as approved by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and



5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to the California Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the County does not raise a substantial issue with regard to the appellant's contentions regarding consistency with the certified Local Coastal Plan or Chapter 3 public access policies of the Coastal Act.

### **Appellant's Contentions**

**1. Appellant contends:** The proposed parking structure height of 56 feet is inconsistent with the allowable height under the LCP.

As stated, the proposed project consists of two structures with a maximum height of 56 feet (see Exhibit No. 4 & 5). In the County's design guidelines in the Implementing Ordinance of the LCP, Section 22.46.1060 E.(5)(c) states that building heights for projects on mole roads, such as Panay Way, shall be restricted according to the following:

*Forty-five (45) foot maximum when a 20% view corridor is provided ranging to a seventy-five (75) foot maximum when a 40% view corridor is provided. Height above 45 feet shall be permitted at the ratio of 1.5 feet in height for every 1% view corridor exceeding the 20%.*

According to the records submitted by the County, the applicant is providing a view corridor of 27.33%, which allows a building height of an additional 11 feet above 45 feet for a maximum roof height of 56 feet. Therefore, the proposed structures are consistent with the height requirements allowed for this parcel on the Mole road.

However, Mr. Barish further contends that under Section 22.46.1550-1570 of the County's Specific Plan, which pertain to the "Parking" land use category, parking structures on parcels designated as "Parking" as a land use category are only allowed a maximum height of 45 feet. Although the subject parcel is not designated "Parking", but rather "Marine Commercial", staff believes Mr. Barish is inferring that the intent of Section 22.46.1550-1570 is to apply to all parking structures, regardless of designated land use category. This is not the case. Mr. Barish fails to include that the Sections he references state that the stated height standard for "Parking" applies only to "uses in the Parking category". Parcel 21 is not designated as a "Parking" land use category, but "Marine Commercial". Therefore, Section 22.46.1550-1570 is not applicable to the "Marine Commercial" designated parcel.

Mr. Barish further states that under Section 22.46.1450, Marine Commercial:

--Building height is limited to a maximum of 45 feet, except that dry stack storage uses may be allowed a maximum of 75 feet when allowed by the Site-Specific Development Guidelines, therefore, the Parcel 21 Project would be inconsistent with Section 22.46.1450 on the height limit of 45 feet.

Section 22.46.1830 includes:

...Parcel 21—height category 3: Building height not to exceed 45 feet, unless an expanded view corridor is provided in accordance with section 22.46.1060 in which case the height shall not exceed a maximum of 75 feet.

Based on these two Sections of the Implementing Ordinance of the LCP, Mr. Barish concludes:

At first read, this provision allows a building height of 56 feet with the provision of sufficient view corridor. However, Section 22.46.1830 also includes a maximum height provision of 45 feet for any parking structure that may be built on Parcel GR, which is adjacent to Parcel 21. Additionally, a parking structure was not envisioned on Parcel 21 when the LCP was recertified in 1996. It is clear from the Parking and Marine Commercial land use categories and from Section 22.46.1830 that parking structures on mole roads were to be a maximum height of 45 feet period.

Section 22.46.1450 limits building height on the landside portion of a parcel to a maximum of 45 feet in the Marine Commercial land use category; however, the LCP allows projects to exceed the maximum allowable heights. Policy No. 8 of the certified Land Use Plan states in part that:

*Any project design for any parcel on the seaward side of a public access road may apply for flexible height standards above the maximum allowable height in exchange for providing increased view corridors...*

*a) Mole Roads Optional Height Areas. Structures proposed on parcels where a 45 foot standard applies and located between a mole road and the bulkhead may be allowed up to a maximum height of 75 feet when a 40 percent view corridor is provided. Height above 45 feet shall be permitted at the ratio of 1.5 feet of additional height for every additional 1 percent of view corridor provided in excess of the 20 percent minimum standard...*

To carry out this policy of allowing development to exceed maximum heights as stated for any land use category, Section 22.46.1060.E.5.c of the Implementing Ordinance of the LCP allows structures on properties with a 45 foot height limit to increase their height to a maximum of 75 feet with appropriate view corridors.

With regards to Parcel GR, Section 22.46.1830, in the reference note to Parcel GR, states:

*Deck parking structures may be provided on Parcel GR, limited to 45 feet maximum, consistent with the view and site design standards and requirements of this specific plan, including the requirement that any development provide shadow studies indicating the proposed development will not shadow the public beach on Parcel H...*

Based on the reference note, Parcel GR was restricted to only 45 feet consistent with view and site design standards and a shadow study because of its proximity to the adjacent public beach (Mother's Beach) and potential shadowing that a taller building may have on the public beach. The height restriction under Section 22.46.1830 was specific to a parking structure on GR and does not apply to any other parcel within the marina. Moreover, Parcel 21 is not adjacent to the public beach, therefore, shadowing of the beach was not an issue.

Mr. Barish also contends that the Water category, Section 22.46.1660/1690, limits uses associated with water uses, such as boater parking, to a height of 15 feet. Under the Water category of the LCP, development is limited to 15 feet, however, the Water category and height limit only applies to the water portion of any particular parcel. Parcel 21, located adjacent to the bulkhead, has an adjacent Water category designation; however, no development is planned over the water, therefore, the 15 foot height limit is not applicable.

The certified LCP allows development on Parcel 21 to exceed the 45 foot height limit with an expanded view corridor as proposed by the project, therefore, the proposed project does not raise a substantial issue with respect to height and inconsistency with the LCP.

**2. Appellant contends:** The appeal by David Barish contends that the County allowing the project to incorporate more than one single view corridor is not consistent with the policies of the LCP. The appellant contends that the wording of the view corridor policy does not allow development to break up the view corridor into separate smaller areas along the parcel, but requires only a single view corridor.

The certified LCP requires that new development on mole roads and along Via Marina provide a view corridor from adjacent public streets. Section 22.46.1060(E)(2) of the LCP states:

*View Corridor Requirements. Parcels located between the water and the first public road shall provide a view corridor allowing uninterrupted views of the harbor from the road to the waterside, at ground level. The design, location and feasibility of view corridors shall be determined by the Director and shall be based on the distance from the first public road to the bulkhead, the parcel's land use category, configuration and the intensity of development allowed by the Specific Plan.*

*a. Where a view corridor is physically feasible, the optimum width of such a view corridor shall be a minimum of 20 percent of the water frontage of the site.*

*b. Where the Director finds an alternate method for providing a view corridor, the Director may apply credit toward the view corridor percentage standards.*

*c. Where the Director finds that a view corridor cannot be physically located anywhere on the parcel to provide a view of the harbor from the road, the Director may waive the requirement.*

*3. View Corridor Standards. View corridors shall be maintained so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and passing motorists. Unobstructed views are defined as views with no inhibition of visual access to the water. Parking lots may be depressed below grade such that views are possible over parked vehicles; the Director shall determine whether a parking lot designed as such warrants credit toward the view corridor requirement. A depression of two feet below grade shall be the minimum considered for view corridor credit through a parking lot. Additionally, landscaping shall be placed and maintained so as not to obstruct water views. Where the Director finds that such combination is appropriate, view corridors shall be combined with vertical accessways.*

In the County's design guidelines in the Implementing Ordinance of the LCP, Section 22.46.1060E(5)(c) states that building heights shall be restricted according to the following:

*Forty-five (45) foot maximum when a 20% view corridor is provided ranging to a seventy-five (75) foot maximum when a 40% view corridor is provided. Height above 45 feet shall be permitted at the ratio of 1.5 feet in height for every 1% view corridor exceeding the 20%.*

The intent of the view corridor requirement is to provide increased public views from the adjacent public road on parcels that are proposed for development or redevelopment. The proposed project consists of one 2.55 acre parcel (Parcel 21. See Exhibit No. 3). The parcel has 533 feet of linear frontage along Panay Way. In this particular case, since the project is exceeding the 45-foot height limit by 11 feet, a view corridor of 146 feet or 27.33% is required for the parcel's 533 feet of linear frontage along Panay Way. The project is providing a total of 155 feet of view corridor, within two separate view corridors of 105 feet and 50 feet (see Exhibit No. 6).

Although the wording in the LCP may refer to the provision of view corridors in the singular form rather than plural, the LCP does not specifically limit view corridors to a single corridor. Furthermore, Section 22.46.1060(E)(2) of the LCP allows the County discretion or flexibility in designing view corridors. The County has used this discretion and design flexibility in other projects. The County has approved a number of other developments in the past with multiple view corridors. One project was located on Panay Way (Parcel 20) adjacent to the proposed project (Los Angeles County permit No. 98-172). A second project was also located on Panay Way (Parcel 18. Los Angeles County permit 91-329), and a third was located on Marquesas Way (Parcel 12 & 14. Los Angeles County permit 98-134-4). The three projects provided the required view corridor's linear footage within 3 to 4 separate view corridors.

The LCP view policy states that views be maintained and enhanced as a priority goal of the plan and allows the County the discretion to determine if view corridors are physically feasible and practical for each parcel and allows for flexibility in designing such view corridors. The proposed project is meeting the view corridor requirements of the LCP and the County has in the past allowed design flexibility in the provision of the view corridors. The Commission

concurs with the County's approval, and finds that the project is consistent with the view policies of the certified LCP in terms of the provision of a view corridor(s). Therefore, the proposed project does not raise a substantial issue with respect to views and consistency with the certified LCP.

It should be noted that the County has approved the view corridor for this project based on a reduced parcel size pursuant to the Marina del Rey LCP amendment 1-11 that the Commission approved in November 2011. In the amendment the County would allow the adjacent public parking lot on Parcel GR to expand into Parcel 21 reducing the buildable area on Parcel 21. The amendment reduced the parcel's linear frontage from approximately 750 feet to 533 feet, therefore, the County based the view corridor and building area requirements on the reduced parcel's linear frontage. However, even without the approved amendment, the project would still be consistent with the view corridor requirements of the LCP, in fact, the view corridor would increase to over 40% since the project includes demolition of all existing structures on Parcel 21 and the proposed building area is limited to the reduced parcel size.

**3. Appellant contends:** That Parcel 21 project would be inconsistent with Section 22.46.1570 by reducing land area devoted to existing visitor-serving, boating, or marine commercial uses.

Section 22.46.1570 is referencing "Parking" land use and category and Development Standards for Parking. Parking and parking structures on "Parking" designated parcels are not to reduce land area devoted to existing visitor-serving, boating, or marine commercial uses. Parcel 21 is not designated as "Parking", therefore, Section 22.46.1570 does not apply to this parcel. Furthermore, the proposed project is increasing visitor-serving, boating, and marine commercial uses by providing boater parking, restrooms, showers, increasing square footage of marine commercial uses and providing visitor-serving uses, such as a health club and retail space. Therefore, the proposed project does not raise a substantial issue with respect to the appellant's contention.

**4. Appellant contends:** That there is a parking shortage on Panay Way with private leaseholds owned and operated by Goldrich & Kest including the Monte Carlo, Capri, St. Tropez and Dolphin Apartments. This parking shortage is the impetus for construction a 447-space, 6-story parking structure on Parcel 21.

Mr. Barish is referring to other developments possibly owned and operated by the applicant of the proposed development on Parcel 21. The proposed development of Parcel 21 is providing support parking for the proposed uses as well as public parking. The County found that the parking provided is adequate for the development on Parcel 21 and is consistent with the certified LCP. The development, although possibly owned or operated by the same entity as other nearby developments, is not associated with any other development and is not required to provide support parking for any existing development outside of Parcel 21. Furthermore, the possible parking shortages from other nearby development is not relevant to

the proposed development's consistency with the standards of the LCP or the public access policies of the Coastal Act. Therefore, the proposed project does not raise a substantial issue with respect to inconsistency with LCP parking requirements or Coastal Act public access policies.

**5. Appellant contends:** The Parcel 21 project is inconsistent with the California Coastal Act of 1975[sic]. There will be a significant impact to public access. Coastal Act sections 30221 and 30222 state that residential and commercial development should not be prioritized above recreation and visitor-serving uses, as this project does. (Coastal Act Sections 30001.5c, 30001.5(d), 30255, 30211, 30213, 30220, 30221, 30224, 30251)

The appellant has not provided any information to support this contention. As stated, the proposed project is located on a parcel designated as Marine Commercial under the certified LCP and the proposed uses are consistent with the land use designation and the access provisions in the certified LCP. The proposed project is not displacing any recreational or visitor-serving uses and is in fact increasing visitor-serving, boating, and marine commercial uses by providing boater parking, restrooms, showers, a health club and retail space. The proposed development is also providing a 28 foot wide pedestrian promenade along the waterfront for walking or jogging, with benches, rest areas, and landscaping, consistent with the certified LCP.

In certifying the LCP in 1995 the Commission found that the Marine Commercial land use designation was appropriate for this parcel, and development of this parcel is consistent with the designated land use, and incorporating the required access improvements, such as a pedestrian promenade, would be consistent with the access policies of the Coastal Act. Furthermore, the proposed project is providing the required amount of on-site parking so that the proposed uses will not impact surrounding public parking. As proposed and approved by the County, the project is consistent with the certified LCP and the public access provisions of the Coastal Act. Therefore, the proposed project does not raise a substantial issue with respect to public access.

### **Conclusion**

The Commission finds that no substantial issues exist with respect to the grounds on which the appeal was filed, as there has been no showing of any manner in which the approved project is not in conformance with the County's certified LCP or the public access or recreation policies of the Coastal Act.

EXHIBIT NO. <u>1</u>
Application Number <u>A5-MDR-11-272</u>
<u>Appellant's Appeal</u> <u>Letter.</u>
California Coastal Commission

**Attachment 1 CDP Inconsistent with the Certified Marina del Rey LCP and the Public Access and Recreation sections of the Coastal Act**

The approved project, CPD # 200600003, is inconsistent with the Marina del Rey Certified LCP and the public access and recreation sections of the California Coastal Act as follows:

**1. Project Inconsistent with Marina del Rey Local Coastal Program**

The Parcel 21 Project is inconsistent with the Certified Marina del Rey LCP because the proposed parking structure height of 56 feet is 41 feet higher than allowed by the LCP. It is also inconsistent because a sufficient view corridor has not been provided to allow a 56 foot high commercial building.

a) View Corridor

The Specific Plan, Section 22.46.1060, Communitywide design guidelines, part E2 states:

"View Corridor Requirements: Parcels located between the water and the first public road shall provide a **view corridor** allowing uninterrupted views of the harbor from the road to the waterside, at ground level. The design, location and feasibility of view corridors shall be determined by the director and shall be based on the distance from the first public road to the bulkhead, the parcel's land use category, configuration and the intensity of development allowed by the Specific Plan.

a. Where a **view corridor** is physically feasible, the optimum width of such a view corridor shall be a minimum of 20 percent of the water frontage of the site.

b. Where the director finds an alternate method for providing a **view corridor**, the director may apply credit toward the view corridor percentage standards.

c. Where the director finds that a **view corridor** cannot be physically located anywhere on the parcel to provide a view of the harbor from the road, the director may waive the requirement." (emphasis added)

It is clear from the above section that the required view corridor must be a singular view corridor.

Section C.9. e8 of the Land Use Plan also uses the singular "a view corridor."

**Thus the Land Use Plan and the Specific Plan concur.**

According to the EIR, the Parcel 21 Project requires a view corridor (singular emphasized here) of 27.33%, which is 56 feet height less 45 feet = 11 feet divided by 1.5 feet per 1% view corridor. Based on a view corridor of 27.33% and a total frontage of parcel 21 of 534 feet, a 146 foot view corridor is provided. The applicant provides a view corridor of 155 feet in two places, one each end of the

parcel, one being 105 feet and one being 50 feet. The applicant also states that a third view corridor of 27.5 feet exists between the buildings. The EIR, page 115 states:

"The plaza would form the primary view corridor for the Holiday Harbor Courts site, at 105 feet in width. Two additional view corridors are provided. One is on the ground floor level between the parking structure and the commercial building, at 27.2 feet in width, and the other is east of the parking structure and is 50 feet in width."

So the EIR talks about a primary view corridor and two secondary view corridors. Again, this is inconsistent with the view corridor provisions of the LCP. Nowhere in the Certified LCP does it state that view corridors can be pieced together. The LCP states that a view corridor must be provided. This would be consistent with the whole point of providing a view corridor in the first place. Therefore, the Parcel 21 Project is inconsistent with the Marina del Rey LCP.

#### b) Parking Structure Height Inconsistent

The Parcel 21 Project proposes a 6-story parking structure and its designated land use categories are Marine Commercial and Water. Parcel 21 is located on Panay Way, a mole road.

We reviewed three land use categories and specific plan sections in the Marina del Rey Specific Plan that cover parking and parking structures: i) Parking ii) Marine Commercial, iii) site-specific guidelines for Parcel 21 and iv) Water.

##### *i) Parking Land Use Category (22.46.1550-1570)*

The Parking land use category allows a maximum height of 45 feet for parking structures on Mole roads.

Section 22.46.1570, Parking--Development standards, reads:

"Heights shall be limited according to parcel specific standards in Section 22.46.1780, in the Site-Specific Development Guidelines of this Specific Plan, but at a maximum, no more than 45 feet in height on moles."

Furthermore, "Parking lots shall not reduce the amount of land area devoted to the existing visitor-serving, boating, or marine commercial uses."

Therefore, the Parcel 21 Project would be inconsistent with Section 22.46.1570 on both the height limit of 45 feet and the reduction of land area devoted to existing visitor-serving, boating, or marine commercial uses.

##### *ii) Marine Commercial Use Category (22.46.1450)*

Section 22.46.1440, Marine Commercial--Uses subject to additional permits, requires a conditional use permit for parking lots and parking buildings, which the applicant has applied for.



Section 22.46.1450, Marine Commercial--Development standards, states:  
"These standards shall apply for all uses in the Marine Commercial category:  
-- Building height is limited to a maximum of 45 feet, except that dry stack storage uses may be allowed a maximum of 75 feet when allowed by the Site-Specific Development Guidelines;

Therefore, the Parcel 21 Project would be inconsistent with Section 22.46.1450 on the height limit of 45 feet.

*iii) Site Specific Guidelines for Parcel 21 Section 22.46.1830*

Specific Plan Section 22.46.1830 includes:  
"...Parcel 21--Height category 3: Building height not to exceed 45 feet, unless an expanded view corridor is provided in accordance with Section 22.46.1060 in which case the height shall not exceed a maximum of 75 feet."

At first read, this provision allows a building height of 56 feet with the provision of sufficient view corridor. However, Section 22.46.1830 also includes a maximum height provision of 45 feet for any parking structure that may be built on Parcel GR, which is adjacent to Parcel 21. Additionally, a parking structure was not envisioned on Parcel 21 when the LCP was recertified in 1996. It is clear from the Parking and Marine Commercial land use categories and from Section 22.46.1830 that parking structures on mole roads were to be a maximum height of 45 feet period.

Specific Plan Section 22.46.1200 states: "If there is a conflict among these development standards, the more restrictive document shall control." Specific Plan 22.46.1780 E also states: "If there is a conflict among these development standards, the more restrictive document shall control."

A 45 foot height limit on a parking structure would be more restrictive than provisions allowing a parking structure to be higher on mole roads.

Therefore, based on the intent of parking structure heights detailed above along with the most restrictive clause provision, the Parcel 21 Project would be inconsistent with Section 22.46.1570 on both the height limit of 45 feet and the reduction of land area devoted to existing visitor-serving, boating, or marine commercial uses.

*iv) Water Land Use Category (22.46.1660/1690)*

The Water land use category intent, Section 22.46.1660 states:  
"Water is intended as a category for recreational use, docking and fueling of boats, flood control, and light marine commercial."

Section 22.46.1670, Water--Permitted uses, includes wet slips, which are located on the water adjacent to Parcel 21 and are subject of a pending Coastal Development Permit.

Section 22.46.1690, Water--Development standards, reads:

"These standards shall apply for all uses in the Water category:

- Building height is limited to a maximum of 15 feet;
- Development of new boat slips must be accompanied by adequate parking and land-side facilities, including boater restrooms."

Parcel 21 is designated Water and is proposed to provide 183 parking spaces to wet slip users. These parking spaces are included in a parking structure with a height of 56 feet, which exceeds the maximum height limit of 15 feet.

Furthermore, Section 22.46.1060, Communitywide design guidelines section E5, Building Height Standards, reads: "Heights shall be limited according to the following standards: the development standards of each land use category and the Site-Specific Development Guidelines. Where the land use category height standards found in Section 22.46.1690 differ from the site-specific standards found in Sections 22.46.1790 through 22.46.1940, such site-specific standards noted in the applicable portion of Sections 22.46.1200 through 22.46.1690 shall control."

Based on this, Section 22.46.1690 controls over Section 22.46.1830, which provides for a maximum height of 15 feet for Water designated buildings, including boater parking structures.

Therefore, the Parcel 21 Project is inconsistent with Section 22.46.1690.

**In conclusion, the Parcel 21 Project parking structure building height is inconsistent with the Marina del Rey Specific Plan.**

Additionally, the Parcel 21 Project is inconsistent with the LCP as amended by the BOS on 2/2/11. This major LCP Amendment added a Public Parking land use designation and removes the Water land use designation. It also removes the height-category 3 site specific designation of Parcel 21. Therefore, even under the recently amended LCP, the parking structure height of 56 feet would be inconsistent and would have a maximum height of 45 feet.

Furthermore, we believe that there exists parking shortage on Panay Way with the private leaseholds owned and operated by Goldrich & Kest including the Monte Carlo, Capri, St. Tropez and Dolphin Apartments. This parking shortage is the impetus for constructing a 447-space, 6-story parking structure on Parcel 21.

## **2. Project Inconsistent with California Coastal Act**

The Parcel 21 Project is inconsistent with the California Coastal Act of 1975. There will be a significant impact to public access.

Coastal Act sections 30221 and 30222 state that residential and commercial development should not be prioritized above recreation and visitor-serving uses, as this project does.

### **30001.5(c)**

"The basic goals of the state for the coastal are to . . .maximize public access to and along the coast and maximize public recreational opportunities."

### **30001.5 (d)**

"Assure priority for coastal-dependent and coastal-related development over other development on the coast."

### **30255**

"Coastal-dependent developments shall have priority over other developments on or near the shoreline."

### **30211**

"Development shall not interfere with the public's right of access to the sea."

### **30213**

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

### **30220**

"Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses."

### **30221**

"Oceanfront land that is suitable for recreational use shall be protected for recreational use and development."

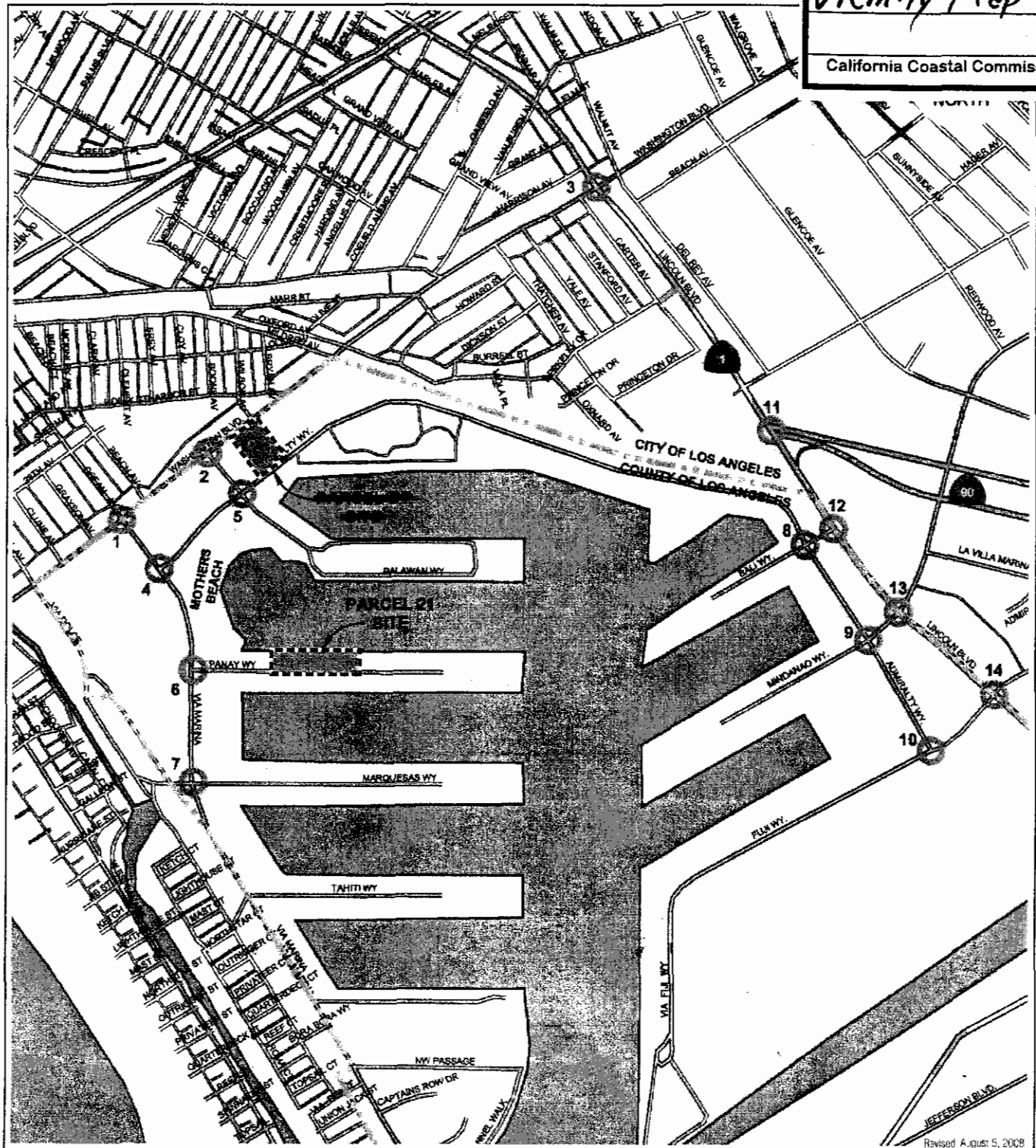
### **30224**

"Increased recreational boating use of coastal waters shall be encouraged... limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities."

### **30251**

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance."

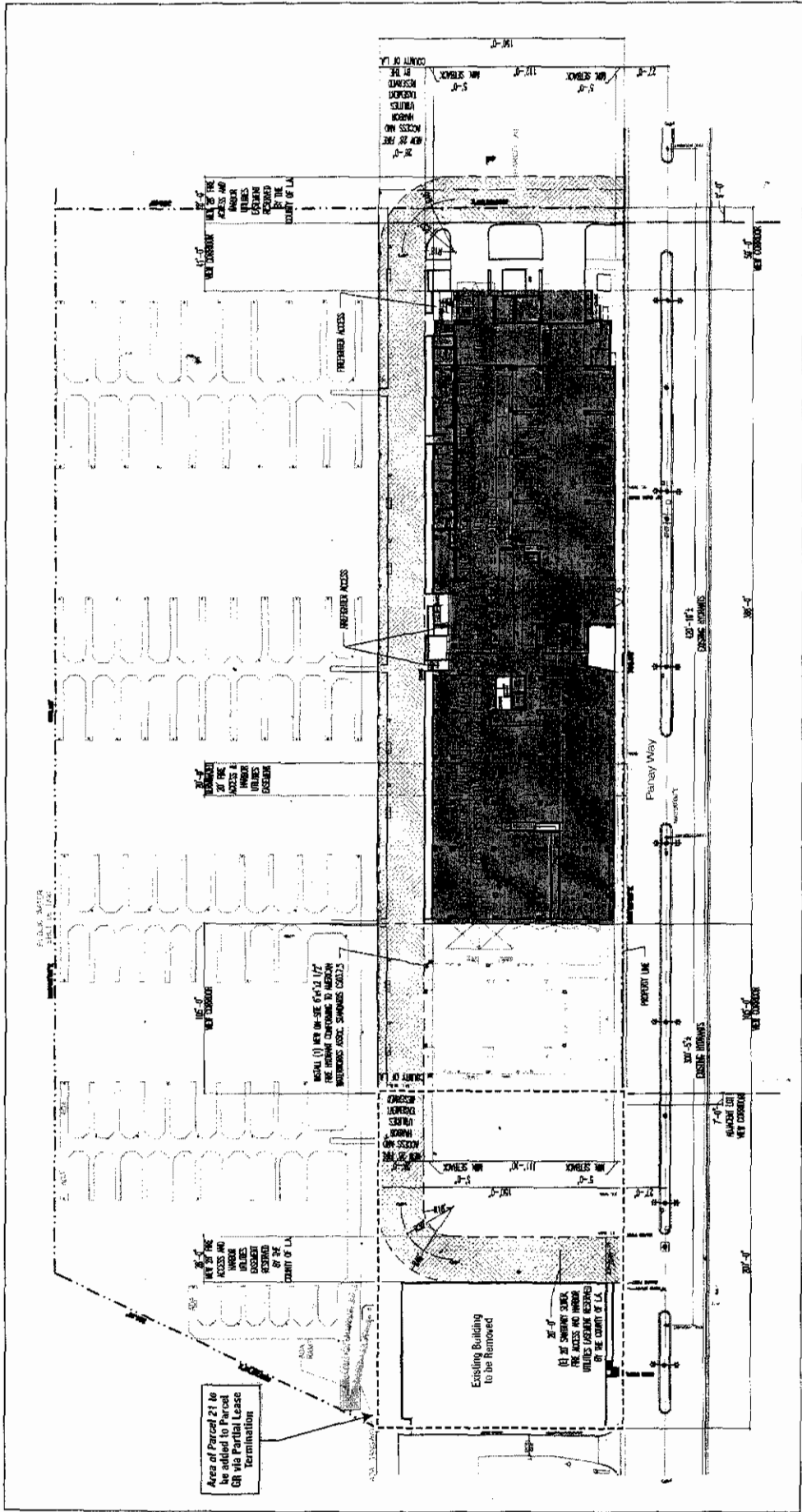
EXHIBIT NO. 2  
 Application Number  
 A5-MDR-11-272  
 Vicinity Map  
 California Coastal Commission



Source: Crain & Associates, 2007

Revised August 5, 2008



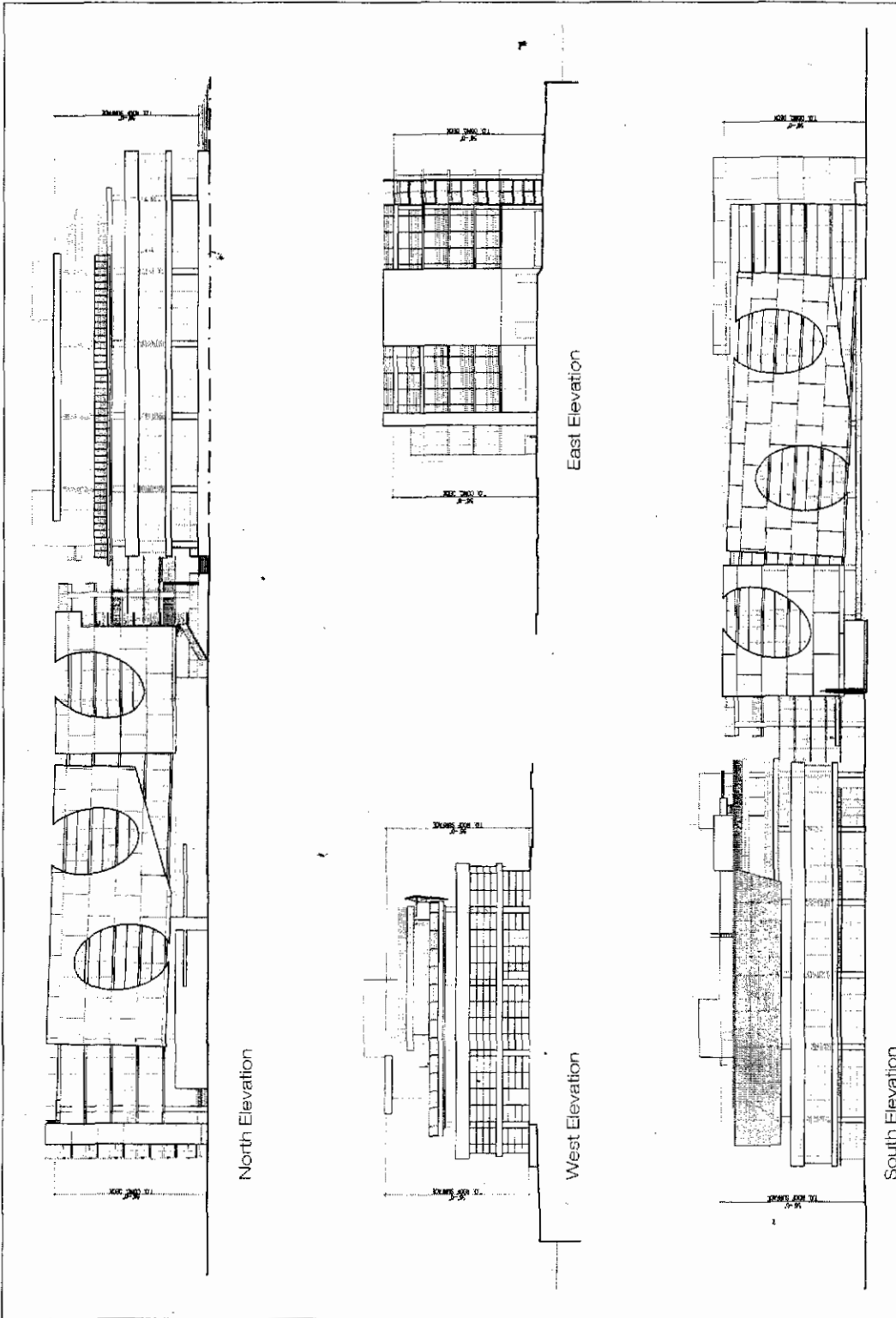


Source: GMPA Architects, Feb. 2010

**EXHIBIT NO. 3**  
 Application Number  
**A5-MDR-11-272**  
**Site Plan**

OCEANA RETIREMENT FACILITY AND HOLIDAY HARBOR COURTS EIR

Holiday Harbor Courts - Site Plan

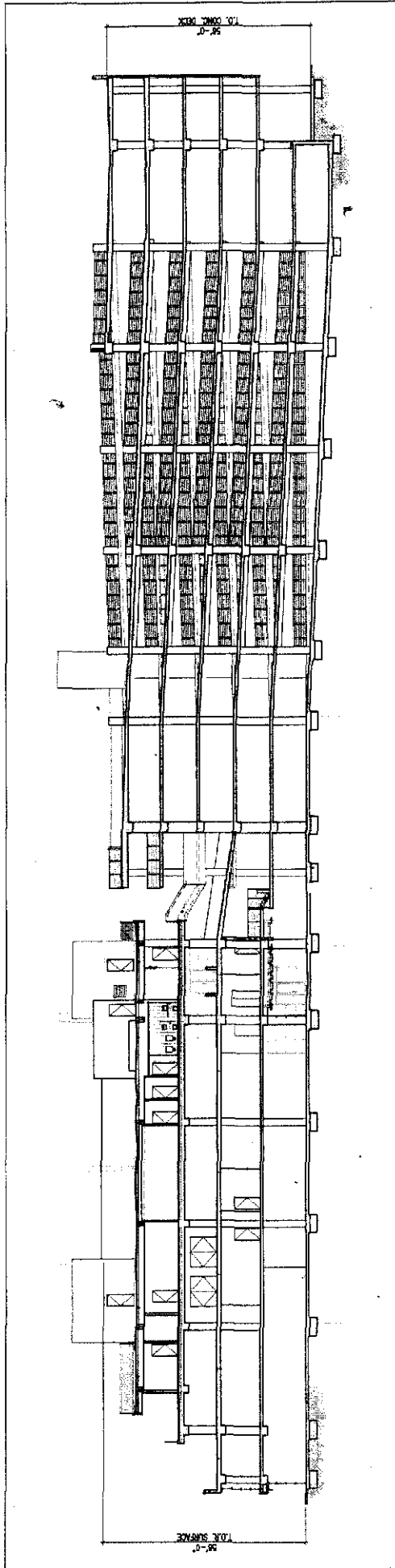


**EXHIBIT NO. 4**  
 Application Number  
*AS-MDR-11-272*  
*Elevation*  
 California Coastal Commission

Source: OMPA Appendix, Feb. 2010.

DEL ANA RETIREMENT FACILITY AND HOLIDAY HARBOR COURTS ER

**Holiday Harbor Courts – Elevations**



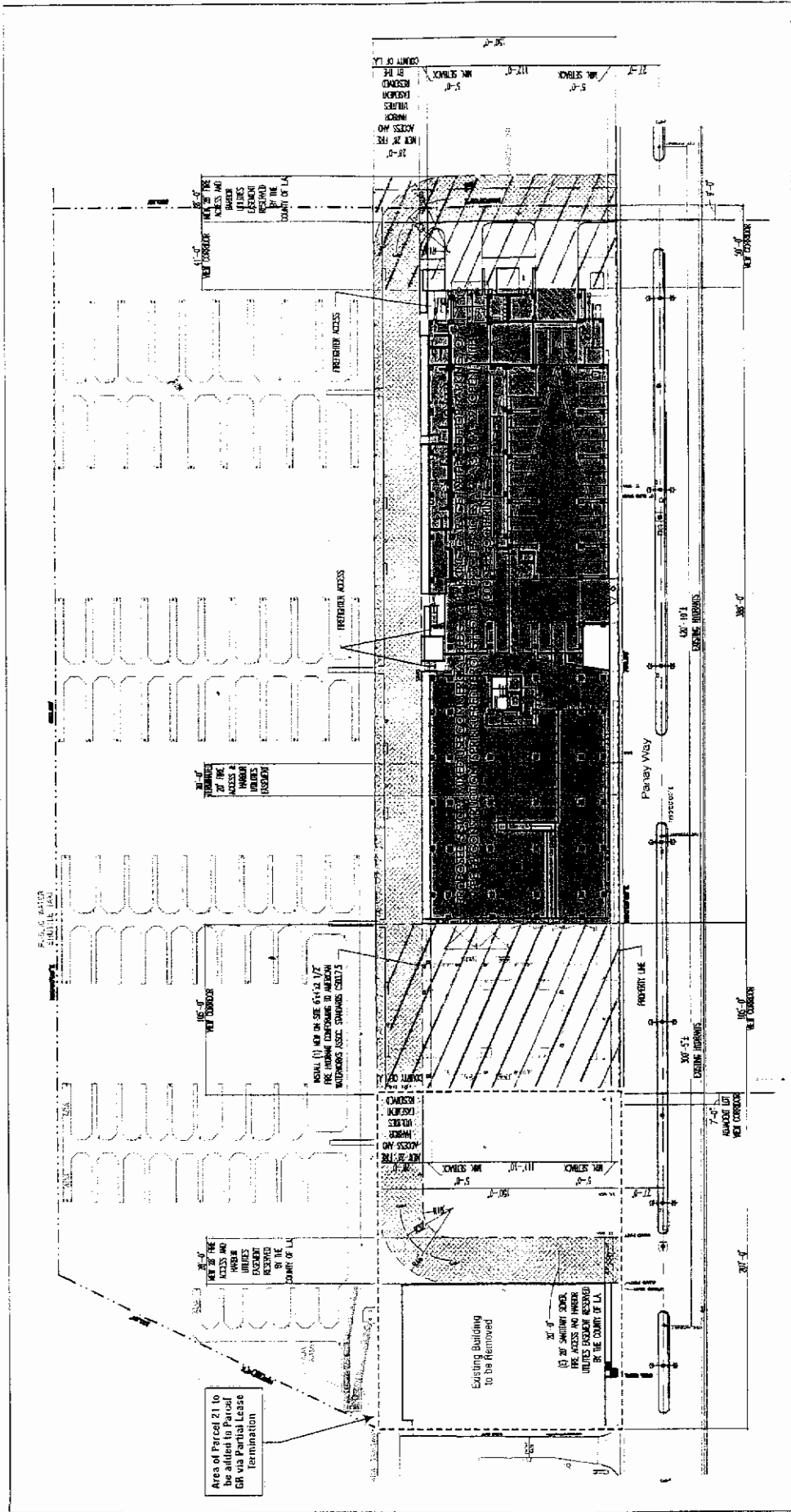
Source: GMP Architects, Feb. 2011

Revised: Feb. 2010

OCEANA RETIREMENT FACILITY AND HOLIDAY HARBOR COURTS RFR

**Holiday Harbor Courts – Building Cross-Section**

EXHIBIT NO. 5
Application Number A5-MPA-11-272
Cross-Section
California Coastal Commission



Source: GMPA ARCHITECTS, FEB. 2010.

OCEANA RETIREMENT FACILITY AND HOLIDAY HARBOR COURTS EIR

Holiday Harbor Courts -- Site Plan



View Corridor

<b>EXHIBIT NO. 6</b>
Application Number <i>A5-MDA-11-272</i>
<i>View Corridor</i>
California Coastal Commission





Prepared August 5, 2008

Source: GMP Architects, March 2006

OCEANIC RETIREMENT FACILITY AND HOLIDAY HARBOR COURTS ER

Holiday Harbor Courts – Rendering

EXHIBIT NO. 7

Application Number

AG-MDA-11-272

Rendering

California Coastal Commission



Los Angeles County  
Department of Regional Planning

*Planning for the Challenges Ahead*

Notice of Final Action

EXHIBIT NO. 8
Application Number MS-MDR-11-272
Notice of Final Action
California Coastal Commission

October 17, 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

California Coastal Commission  
Attention: Al Padilla  
200 Ocean Gate, 10th Floor  
Long Beach, CA 90802-4416

RECEIVED  
South Coast Region

OCT 19 2011

CALIFORNIA  
COASTAL COMMISSION

**SUBJECT:** PROJECT NO. R2006-02726  
COASTAL DEVELOPMENT PERMIT NO. 200600003 – (4)  
CONDITIONAL USE PERMIT NO 200600223 – (4)  
PARKING PERMIT NO. 200600015 – (4)

The approved project consists of: (1) the demolition of all existing landside improvements; and (2) the construction of a structure with 2,916 square feet of retail uses, 11,432 square feet of marine commercial uses, a 5,000 square foot yacht club, 6,000 square foot health club, a 447 space 6-level parking structure, an adjacent waterfront public pedestrian promenade, public park and other site amenities and facilities. This grant further authorizes a Conditional Use Permit for a parking structure; a yacht club; 2,916 square feet of Visitor Serving/Convenience Commercial uses; and a 10,000 square foot health club on a parcel with a Marine Commercial land use category and a Waterfront Overlay Zone; and a Parking Permit authorizing transfer of parking spaces from Parcel OT to the subject parcel.

14025 Panay Way, Parcel 21  
Marina del Rey, CA

The Los Angeles County Board of Supervisors by its action on October 11, 2011, **APPROVED** the above-referenced Coastal Development Permit, Conditional Use Permit and Parking Permit.

Under Section 22.56.2450 of the Los Angeles County code, an appeal of the county's decision on a Coastal Development Permit application may be filed with the California Coastal Commission by an applicant or an aggrieved person who exhausted local appeals or any two members of the Coastal Commission.

Please find enclosed the approved findings and conditions of approval of this action. If you have any questions or need further information regarding this matter, please contact Michael Tripp of the Special Projects Section at (213) 974-4813. Department hours are Monday through Thursday from 7:00 a.m. to 6:00 p.m. The Department is closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING

Samuel Z. Dea  
Supervising Regional Planner  
Special Projects Section

Attachments:

Regional Planning Commission Staff Report and Findings and Conditions  
Board of Supervisors Findings and Conditions

Project No. R2006-02726-(4)  
Coastal Development Permit No. RCDP200600003  
Conditional Use Permit No. RCUP200600223  
Parking Permit No. RPKP200600015

EXHIBIT NO. 9
Application Number A5-MDR-11-272
County Report
California Coastal Commission

**FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION  
COUNTY OF LOS ANGELES**

**REGIONAL PLANNING COMMISSION HEARING DATES: October 21, 2009; November 4, 2009; December 16, 2009; April 7, 2010; April 28, 2010**

**SYNOPSIS:**

The applicant, Holiday-Panay Way Marina L.P., is requesting approval to demolish an existing commercial facility on Marina del Rey Parcel 21, and to subsequently construct a new 29,348 square foot commercial facility with an attached six-level parking structure containing 447 parking spaces and a 28 foot wide pedestrian promenade. The facility consists of two 56 foot tall buildings, the commercial building, and the attached parking structure. The subject Parcel 21 is located on Panay Way east of the intersection of Via Marina and Panay Way, with a frontage on Panay Way. Associated land use entitlements for the project consist of a **Coastal Development Permit** to authorize demolition of all existing landside improvements and subsequent construction of the aforementioned landside improvements on Parcel 21; a **Conditional Use Permit** to authorize a parking structure, a yacht club, 2,916 square feet of Visitor Serving/ Convenience Commercial uses and a 10,000 square foot health club on a parcel with a Marine Commercial Land Use Category and a Waterfront Overlay Zone; and a **Parking Permit** to authorize the transfer of 94 of the required public parking spaces on Parcel OT to Parcel 21.

**PROCEEDINGS BEFORE THE COMMISSION:**

**October 21, 2009 Public Hearing**

The Regional Planning Commission (Commission) held a duly noticed public hearing regarding the subject project on October 21, 2009. At this hearing (and at each of the Commission's public hearing meetings described below), the Commission conducted concurrent public hearings regarding the subject project and the following proposed Marina development project:

- Project No. R2006-01510, a request to develop a 114-unit senior accommodations facility on Parcel OT. The six level building would also contain 3,500 square feet of Visitor-Serving/Convenience Commercial space and 161 parking spaces, 92 of which would be reserved for public use.

At the October 21, 2009 public hearing on the subject project and associated requested land use entitlements (and at each subsequent Commission hearing described below regarding the project), the Commission considered a single, comprehensive Environmental Impact Report evaluating the potential project-specific and cumulative environmental impacts

associated with the subject project and the above-described proposed development project on Marina del Rey Parcel OT.

### **Proponent Testimony**

The project applicants and three (3) members of the public testified in favor of the request. Proponent testified that the proposed project would modernize and improve services to marine businesses and boaters at the site.

### **Opposition Testimony**

Six (6) persons testified in opposition. Opposition testimony raised the following issues:

- The County is piecemealing development projects and needs to create a master plan for the Marina;
- The Marina del Rey Design Control Board was against this project and did not approve it; and
- The County is preparing a Major LCP amendment that contains Cumulative Impact Assessment. No projects should be approved by the Regional Planning Commission until the LCP Amendment and Cumulative Impact Assessment have been heard;

At the conclusion of the October 21, 2009 hearing, the Commission directed staff to prepare a summary of the various concerns that were expressed by the testifiers and instructed the applicant to respond to the concerns raised by the opponents. The Commission continued the hearing to February 10, 2010.

### **November 4, 2009 Public Hearing**

Prior to the February 10, 2010 hearing, a letter was received from the Department of Beaches and Harbors requesting that an earlier hearing date be considered. The Commission considered the letter as a discussion item at the November 4, 2009 hearing and voted unanimously to change the continued hearing date to December 16, 2009. Commissioners Bellamy, Rew, Valadez, and Helsely were present. Commissioner Modugno was absent.

### **December 16, 2009 Public Hearing**

On December 16, 2009, a duly noticed public hearing was held. All Commissioners were present at this hearing. During the hearing, the Commission heard the staff presentation and testimony from the project applicant and interested members of the public. Commissioner Valadez stated that additional public amenities be provided on the proposed pedestrian promenade redesign. At the conclusion of the hearing the applicants were directed to return to the Marina del Rey Design Control Board for further review of the project's pedestrian

**PROJECT NUMBER R2006-02726-(4)  
COASTAL DEVELOPMENT PERMIT NUMBER 200600003  
CONDITIONAL USE PERMIT NUMBER 200600223  
PARKING PERMIT NUMBER 200600015**

**FINDINGS  
Page 3 of 16**

promenade. The Commission then continued the hearing to April 7, 2010. Commissioners Bellamy, Rew, Valadez, Helsley and Modugno were present.

### **Proponent Testimony**

The applicants and one (1) member of the public testified in favor of the project.

### **Opposition Testimony**

Six (6) individuals testified in opposition to the project at the hearing. Opposition testimony raised the following issues:

- The DEIR underestimated the impact of truck trips related to grading and debris removal; and
- The project in its current form was not reviewed by the Marina del Rey Design Control Board.

### **April 7, 2010 Public Hearing**

The Commission held a continued public hearing on April 7, 2010. At the hearing, staff informed the Commission that additional time was needed to prepare the Final Environmental Impact Report and other final documentation for the Commission's consideration. The Regional Planning Commission continued the public hearing to April 28, 2010 and instructed the applicant to present the new promenade designs at the continued hearing.

### **April 28, 2010 Public Hearing**

The Commission held a continued public hearing on April 28, 2010. All of the Commissioner's were present. At the hearing, staff provided a brief summary of the proposed project and the project applicant provided a presentation of project changes that were made following the February 17, 2010 Design Control Board's review of the project. Prior to the public hearing, the applicant submitted a request to withdraw the proposed Plan Amendment associated with the project.

Four (4) persons testified in opposition to the proposed project. Opposition testimony raised the following issues:

- That the project should not be considered without proposed Plan Amendment;
- The project is inconsistent with the Local Coastal Program;
- A pedestrian promenade is not an adequate source of recreation;
- The senior project should be built on Parcel 21, not a Marine Commercial project; and
- The Final Environmental Impact Report misrepresented the parcel's frontage.

Following the opposition testimony, the consultant for the applicant provided a rebuttal to the issues raised regarding the project's Local Coastal Program consistency. Staff then explained how the view corridor was calculated and provided the parcel frontage with and without the proposed Plan Amendment.

At the conclusion of the applicant's rebuttal and the clarifications provided by staff, the Commission discussed the project. The Commissioners Valadez and Helsley stated that they wanted to ensure that the pedestrian amenities were made of high quality materials that would be consistent with what has been proposed elsewhere in the Marina. Commission Valadez directed that the project should be conditioned to require post-entitlement review by the Design Control Board and that the Director of Planning will have a final review of the pedestrian amenities.

On a motion by Commissioner Modugno, seconded by Commissioner Valadez, the Commission voted unanimously to approve the project with the revised conditions and to accept the withdrawal of the plan amendment request.

### Findings

1. The applicant, Holiday-Panay Way Marina L.P., is requesting approval to demolish an existing commercial facility on Marina del Rey Parcel 21, and to subsequently construct a new 29,348 commercial facility with an attached six-level parking structure containing 447 parking spaces and a 28 foot wide pedestrian promenade. The facility consists of two 56 foot tall buildings, the commercial building, and the attached parking structure. The subject Parcel 21 is located on Panay Way east of the intersection of Via Marina and Panay Way, with a frontage on Panay Way. Associated land use entitlements for the project consist of a **Coastal Development Permit** to authorize demolition of all existing landside improvements and subsequent construction of the aforementioned landside improvements on Parcel 21; a **Conditional Use Permit** to authorize a parking structure, a yacht club, 2,916 square feet of Visitor Serving/ Convenience Commercial uses and a 10,000 square foot health club; and a **Parking Permit** to authorize the transfer of 94 of the required public parking spaces on Parcel OT to Parcel 21. Collectively, the requested land use permits for the project are to referred herein as the "Project Permits."
2. The 2.55-acre subject property, known as Marina del Rey "Parcel 21," is located in the Playa del Rey Zoned District near the northeast corner of the intersection of Via Marina and Panay Way in the County of Los Angeles unincorporated community of Marina del Rey. Panay Way fronts the subject property to the south; Marina del Rey Parcel GR adjoins the subject to the west; Marina del Rey Parcel 18 adjoins the subject parcel to the east; and Marina Basin D adjoins the subject property to the north;

4. The subject property is zoned "Specific Plan" within the Marina Del Rey Local Coastal Program (LCP). The subject parcel's existing land use designation per the LCP is Marine Commercial with a Waterfront Overlay Zone.
5. Zoning designations on the surrounding properties consist of the following:
  - North: Water (per MDR Specific Plan)
  - South: Residential IV (WOZ) (per MDR Specific Plan)
  - West: Parking (per MDR Specific Plan)
  - East: Marine Commercial and Residential III (per MDR Specific Plan)
6. The subject property is currently developed with two commercial buildings that are two stories in height, two boater serving buildings that are one story in height and a paved at grade parking area with 192 parking spaces.
7. Land Use on surrounding properties consists of the following:
  - North: Marina del Rey Basin D, Marina Beach, boat storage, and Multi-family residential (rental apartments)
  - South: Multi-family residential (rental apartments)
  - West: Public Parking Multi-family residential (rental apartments)
  - East: Multi-family residential (rental apartments)
8. No zoning enforcement actions or zoning permit cases were found for the subject property. In April of 1967, Plot Plan 16015 was approved for a 4,056 square foot administration building, two boater serving buildings, a 226 space parking lot and 28,848 square feet of dock space.
9. The site plan depicts the two proposed structures which consist of a 29,348 square foot commercial center on the western side of the parcel and a six-level parking structure containing 447 spaces located on the eastern portion of the parcel the 28 foot wide pedestrian promenade. The two structures are connected by a ramp on the third level which is dedicated to parking. The proposed structures have a maximum roof height of 56' above grade. The façade extends to a maximum height of 59 feet. The proposed commercial building is comprised of four levels with the first two levels containing the health club, Visitor-Serving/Convenience Commercial and marine commercial uses, a third floor dedicated to parking, with 49 parking spaces, and the fourth floor containing a yacht club. The first floor of the commercial building also depicts the proposed boater

restrooms and showers. The plan depicts the yacht club comprising a large dining room, commercial kitchen, office, food storage area, public and employee restrooms, and a large deck which extends along the entire fourth floor.

10. The site plan depicts a vehicular entrance/exit into the building garage, via the 26-foot wide driveway provided on the southerly portion of the parcel on Panay Way.
11. The Marina del Rey Local Coastal Program (LCP) provides development guidelines for the unincorporated community of Marina del Rey. The Marina del Rey LCP consists of two sets of inter-related requirements: the Marina del Rey Land Use Plan (land use policies) and the Local Implementation Program or Specific Plan (development-specific requirements).
12. Consistent with Marina del Rey Specific Plan requirements, the project has been reviewed and conceptually approved by the Department of Beaches & Harbors' Design Control Board ("DCB"). In rendering its conceptual approval for the project, the DCB found the proposed project to be in conformity with the various public access, height, circulation, building massing, visual impact and view requirements of the LCP.
13. The Applicant has submitted a preliminary geotechnical report to County Department of Public Works (a copy of this report is included in the EIR appendices) as part of its application filing, the content of which is compliant with LCP requirements; site development will be based on thorough site-specific geologic and soils studies, including specific geotechnical studies related to mitigation of liquefaction and lateral spreading. The project has also been designed to utilize earthquake resistant construction and engineering practices, in compliance with applicable County and state regulations and ordinances.
14. The applicant has been conditioned to conduct site development in conformity with the archeological reporting requirements specified in Section 22.46.1190.2.a-c of the County Code.
15. To ensure project consistency with Section 22.46.1190.A.3 of the County Code, the applicant has been conditioned to implement a functional transportation systems management (TSM)/Transportation Demand Management (TDM) program.
16. The Commission hereby finds the proposed development project conforms to the phasing schedules in the LCP because:
  - With development of the project, there will be no significant, unmitigated peak-hour project-specific adverse traffic impacts created as a result of project development;



- The County-approved traffic study for the project indicates there is sufficient traffic capacity in both the Marina del Rey internal system and the sub-regional highway system serving the Marina to accommodate the traffic generated by the modest planned development; and
  - The project will be in full conformity with the build-out limitations of the LCP specified for Panay Development Zone.
17. Sections 22.46.1090 and 22.46.1100 of the County Code and the LUP require, among other things, that the applicant demonstrate that there is sufficient traffic capacity in both the internal Marina del Rey road system and the subregional highway system serving the Marina to accommodate traffic generated by the development. The certified Environmental Impact Report for the project includes a traffic report that was prepared in accordance with the requirements of the LCP and LUP and which was reviewed and approved by the Traffic & Lighting Division of the County Department of Public Works. The approved traffic report for the project demonstrates there is adequate internal and subregional traffic capacity to support the project, and identifies specific traffic improvements intended to mitigate the project's potentially significant direct and cumulative impacts, which mitigation measures have been incorporated into the Mitigation Monitoring Program approved for the project in conjunction with certification of the Final Environmental Impact Report. In accordance with LCP requirements, the applicant has been conditioned to pay traffic mitigation fees of \$5,690 per p.m. peak hour trip generated by the project, to be allocated as follows:
- a. \$1,600 per p.m. peak hour trip will be paid by the applicant into the County-administered Transportation Improvement Program to offset project impacts to the internal Marina circulation system (Category 1 improvements identified in Appendix G to the LCP); and
  - b. \$4,090 per p.m. peak hour trip will be paid by the applicant into the County-administered Transportation Improvement Program to offset the project's proportional share of the cumulative impacts of Marina development on the subregional transportation system (Category 3 improvements identified in Appendix G of the certified LCP).
18. Pursuant to the LCP, parcels located between the water and the first public road must provide a view corridor allowing uninterrupted views of the harbor from the road to the waterside, at ground level. As depicted on the view corridor exhibit submitted by the applicant, the Commission finds the applicant has provided view corridors consistent with LCP requirements--i.e., a view corridor comprising 28.5% of the parcel's water frontage is being provided, consistent with LCP view corridor requirements for the proposed 56-foot-tall apartment building.

19. The project is consistent with LCP standards calling for the provision of a continuous 28-foot-wide pedestrian promenade along the parcel's bulkhead. Seating, landscaping, lighting, trash receptacles, and bicycle racks have been provided along the parcel's bulkhead, consistent with LCP requirements.
20. Consistent with LCP requirements, the Commission finds more than 10 percent of the net lot area will be landscaped and building coverage is less than 90 percent of the net lot area.
21. On-site parking has been programmed for the project consistent with the parking standards of the County Zoning Ordinance. The applicant has been conditioned to provide at least 447 on-site parking spaces. Consistent with County Code parking requirements, 170 of these spaces are for the uses on Parcel 21, 183 spaces are dedicated to boater parking and 94 are public parking spaces that are a replacement for the spaces that were formerly and Parcel OT.
22. The buildings will be sprinklered, in conformance with County Fire Department requirements. Emergency access to all structures and common areas of the project will be provided to the satisfaction of the County Fire Department. The applicant has been conditioned to secure Fire Department approval of a "Fire Safety Plan" prior to issuance of a building permit.
23. The project landscaping along site perimeters will maintain a minimum width of eight feet and will allow visual access into the lot, as required by the LCP.
24. The project infrastructure has been designed, and will be constructed by the applicant, in an environmentally sensitive manner, and will follow design policies of the LCP, including landscaping standards required by the DCB. The project will be subject to the County's newly-enacted Green Building and Drought-Tolerant Landscape ordinances.
25. Consistent with Shoreline Access Policy #1 of the LUP (Public Access to Shoreline a Priority), the project provides public pedestrian access and ensures passive recreational use to and along all portions of the Parcel 21 bulkhead, in conformance with Sections 30210-30212 of the California Coastal Act and Chapter 1 ("Shoreline Access") of the Marina del Rey Land Use Plan. The project implements this key Public Shoreline Access policy through provision of 28-foot-wide public pedestrian promenade along the parcel bulkhead; through provision of public views to the water from the public street fronting the project (Panay Way), consistent with LCP view corridor requirements; In furtherance of these important shoreline access policies, the applicant has been conditioned to provide signage at the project's entrances and at each bulkhead entrance of each public lateral access way identifying these as public access ways. The applicant has also been conditioned to provide signage at conspicuous locations along the length of the bulkhead public access ways (public promenade) identifying the access ways as public.

26. Consistent with Shoreline Access Policy #2 of the LUP, the project enhances public access to the waterfront by constructing a 28-foot-wide public pedestrian promenade along the entire water frontage of Parcel 21.
27. Consistent with Shoreline Access Policy #3 of the LUP, the project design will provide public access to and along the shoreline through provision of a 28-footwide waterfront pedestrian promenade and public lateral access ways across the site from Panay Way to the public waterfront promenade. Development adjacent to the bulkhead (i.e., public promenade) will provide pedestrian access ways, benches and rest areas along the bulkhead.
28. Consistent with Shoreline Access Policy #4 of the LUP, the project provides for public access from public roads fronting the project to the shoreline along all fire roads and across all dedicated project open space areas; such access ways will be conspicuously signed at entrances from the public street (i.e., from Panay Way).
29. Consistent with Shoreline Access Policy #11 of the LUP, the project has been conditioned to require the applicant to pay a proportional share of the funding of the potential shuttle system through collection of Category 3 traffic mitigation fees. The combined traffic mitigation fees for the projects on Parcels OT and 21 are estimated to be \$122,940.
30. Consistent with Shoreline Access Policy #12 of the LUP, the project applicant has been conditioned to pay all required Category 3 traffic mitigation fees. The County Department of Public Works, which administers the fees, may use a portion of the fees to fund establishment of a public shuttle service in the Marina.
31. Consistent with Shoreline Access Policy #13 of the LUP, the project has been conditioned to incorporate directional signage, outdoor exhibits and brochures to enhance public awareness of shoreline access ways and public areas, to include: i) conspicuous signage regarding public waterside access (public promenade and nearby wetland park on Parcel 9U); ii) outdoor map indicating the location and type of public access ways and parks located in Marina del Rey; and iii) kiosk within the commercial complex containing information on visitor-serving activities in the Marina.
32. Consistent with Shoreline Access Policy #14 of the LUP, the applicant's development of a new 28-foot-wide public pedestrian promenade and amenities along the parcel's entire waterfront will allow the public substantial viewing opportunities of the small craft harbor water areas.
33. Consistent with Recreation & Visitor-Serving Facilities Policy #2 of the LUP, the project provides enhanced recreational opportunities through its development of a new 28-foot-wide public pedestrian promenade along the entire waterfront of the parcel.

34. Consistent with Recreation & Visitor-Serving Facilities Policy #6 of the LUP, the project satisfies County parking requirements for all proposed uses.
35. The applicant will fulfill Recreational Boating Policy #1 of the LUP ("Recreational boating is a top priority of the LCP") through its development of restrooms and showers for boaters utilizing the nearby anchorage and through development of 11,342 square feet of marine commercial uses and a 5,000 square foot yacht club.
36. Consistent with Marine Resources Policy #2 of the LUP ("*Reduce contaminated run-off into Marina waters*"), the applicant has completed a drainage concept, which has been approved by the County Department of Public Works. To avoid adverse impacts on the local Marina and greater ocean waters, the applicant has been conditioned to comply with National Pollution Discharge Elimination System requirements of the California Regional Water Quality Control Board, as well as all pertinent stormwater quality management programs of the Federal, State and County agencies.
37. Consistent with Cultural Heritage Resources Policy #1 of the LUP, the project was reviewed during the environmental review/CEQA review process to determine potential impacts on cultural resources; no such impacts were identified.
38. Consistent with Cultural Heritage Resources Policy #3 of the LUP, the applicant has been conditioned to notify the County Department of Regional Planning and the State Historic Preservation Office in the event a significant cultural resource is discovered during any construction phase. A halt-work condition will be instituted in the event of such a cultural resource discovery during construction.
39. The project implements Land Use Plan Policy #1 of the LUP ("Preservation of the small craft harbor as a recreational facility shall be a priority") through the applicant's development of a 28 foot wide pedestrian promenade, boater showers and bathrooms, boater parking, 94 public parking spaces and a yacht club.
40. The project implements Land Use Plan Policy #2 of the LUP ("Maintenance of the physical and economic viability of the marina is a priority") through redeveloping Parcel 21 with a modern commercial center that will provide a 28 foot wide pedestrian promenade, covered parking spaces, improved boater restrooms and showers. The project development will help to ensure maintenance of the physical and economic viability of the marina.
41. Consistent with Land Use Plan Policy #6 of the LUP, the project has received conceptual design approval from the DCB, as prescribed in the LCP. This DCB's review included review for consistency with the *Manual for Specifications and Minimum Standards of Architectural Treatment and Construction* and applicable policies of the certified LCP.

42. The project implements Coastal Visual Resources Policy #1 of the LUP (Views of the Harbor are a Priority) through its provision of an LCP-compliant view corridor across the parcel from the adjacent public street (Panay Way) to Marina Basin D. The public viewing of the harbor will be further enhanced through the project's development of a 28-foot-wide public pedestrian promenade along the parcel's entire water frontage. 100% of the property's water frontage has been made available for public viewing of the waterfront. The most valuable, visible, desirable area of the site—the waterfront—will be fully enhanced for public use.
43. The project implements the view protection policies outlined in Coastal Visual Resources Policy #6 of the LUP by incorporating harbor views from streets and pedestrian access ways consistent with security and safety considerations. As noted, the project provides view corridors from public streets to the Marina waters consistent with LCP requirements.
44. The approved project is consistent with Coastal Visual Resources Policy #9 of the LUP (Evaluation of wind impacts). An assessment of the proposed Parcel 21 development was conducted by the engineering firm Rowen, Williams, Davies and Irwin. The analysis studied the projects potential impacts on winds coming from the east, west, southwest and west-southwest directions. The analysis concluded that the Parcel 21 project will have an insignificant impact in either Basins C or D on winds coming from the east and west directions. The analysis further concluded that due to the similar height of the approved development directly south of Parcel 21, the project will have only a minimal impact on winds from the southwest and west-southwest in Basins C and D.
45. The Commission has reviewed RWDI's wind reports for the project and deems them to constitute credible evidence substantiating that development of the commercial complex on Parcel 21 will not significantly increase infringements of wind access for boats in their berths, in the fairways, or in the Main Channel, nor adversely impact winds utilized by birds in flight.
46. Consistent with Hazards Policy #1 of the LUP, the applicant has obtained approval of Drainage Concept and SUSMP plans from the Department of Public Works. These plans are intended to mitigate flooding concerns relating to site drainage and to minimize runoff of polluted rainwater sheet-flow into the Marina and public storm drain system.
47. Consistent with Hazards Policy # 2 of the LUP, the applicant the applicant will be required to implement geotechnical engineering recommendations related to secondary geologic hazards (liquefaction, lateral spreading, and ground subsidence) that are recommended by the geotechnical engineer and the Department of Public Works. A

preliminary geotechnical report was reviewed and approved by the Department of Public Works.

48. The traffic report prepared for the project, which has been reviewed and approved by the County Department of Public Works' Traffic & Lighting Division and has been included as an appendix to the EIR concluded that the proposed project will not cause an increase in traffic that will exceed the capacity of the internal Marina del Rey street system.
49. Consistent with Traffic Circulation Policy #3 of the LUP (Sub-regional Transportation Improvements), as outlined in the project traffic study, the applicant has been conditioned to make its fair share contribution, through payment of the prescribed traffic mitigation fee, to help fund construction of "Category 3" ("Sub-regional") transportation improvements, which are prescribed in the LCP. The applicant will be conditioned to pay traffic mitigation fees to fund Category 3 transportation improvements, as is required by the LCP. This requirement has been included in the draft conditions and also as part of the mitigation measures. The combined Parcels OT and 21 projects will be required to pay \$170,700 in traffic mitigation fees.
50. In conformance with Public Works Policy #2 of the LUP (Public Works improvement phasing), the applicant's Coastal Development Permit has been conditioned to require that all necessary public works facilities/infrastructure will be provided for the project prior to the County's issuance of a Certificate of Occupancy for the project.
51. In conformance with Public Works Policy #6 of the LUP, the project has been conditioned to incorporate water-conserving technology consistent with local, state and/or federal regulations affecting same. Consistent with this Policy, the project has also been conditioned to ensure County Public Works will review the project plans to assure that water conservation measures and techniques are incorporated. Moreover, the project will be subject to the County's recently-enacted Green Building and Drought-Tolerant Landscaping ordinances.
52. Consistent with Public Works Policy #10 of the LUP, the project has been conditioned to require fire sprinklers in conformance with Fire Department requirements.
53. The DCB is charged with regulating the design of Marina del Rey signage through its "Revised Permanent Sign Controls and Regulations" (Section 22.46.1060 (D) (1)) of the County Code. Prior to installation of any signage on the subject property, the applicant will be required to submit its proposed signage package to the DCB for review and approval.
54. As directed by the Commission at the December 16, 2009 continued public hearing, the applicant updated its promenade amenity plans for the project to include additional pedestrian-oriented details as conditioned by the Design Control Board.

55. The Commission held a duly notice public hearing on the Project Permits on October 21, 2009. At the conclusion of the hearing, the Commission directed staff to prepare a summary of the various concerns that were expressed by the testifiers and instructed the applicant to respond to the concerns raised by the opponents. The Commission continued the hearing to February 10, 2010.
56. Prior to the February 10, 2010 hearing, a letter was received from the Department of Beaches and Harbors requesting that an earlier hearing date be considered. The Commission considered the letter as a discussion item at the November 4, 2009 hearing and voted unanimously to change the continued hearing date to December 16, 2009.
57. The Commission held a duly noticed public hearing on the Project Permits and associated DEIR on December 16, 2009. At the conclusion of the hearing, the Commission continued the hearing to April 7, 2010, and directed the applicants to return to the Marina del Rey Design Control Board for further review of the project's pedestrian promenade. Staff was directed prepare final findings and conditions for the project and to prepare the Final Environmental Impact Report, for the Commission's consideration at the April 7, 2010 continued public hearing.
58. At the April 7, 2010 continued public hearing, staff informed the Commission that it needed additional time to prepare the Final Environmental Impact Report and other final documentation for the Commission's consideration. On a motion by Commissioner Modugno, seconded by Commissioner Helsley, the Regional Planning Commission continued the public hearing to April 28, 2010.
59. On April 28, 2010, the Commission voted to certify the FEIR for the facility, accepted the request to withdraw the Plan Amendment and approved the final findings and revised conditions for the Project Permits.
60. During the public hearings for the Project Permits and DEIR before the Commission, a number of persons spoke in opposition to the proposed project. The Commission also received a number of letters and emails in opposition to the project, each of which has been incorporated by staff into the administrative record for the subject case and has been responded to in the FEIR.
61. Written and verbal correspondence to the Commission in opposition to the project generally focused on the following issues and/or allegations:
  - a. The County is piecemealing development and needs to create a master plan for the Marina;
  - b. The Marina del Rey Design Control Board was against this project and did not approve it;

- c. The County is preparing a Major LCP amendment that contains Cumulative Impact Assessment. No projects should be approved by the Regional Planning Commission until the LCP Amendment and Cumulative Impact Assessment have been heard;
  - d. The DEIR underestimated the impact of truck trips related to grading and debris removal;
  - e. The project in its current form was not reviewed by the Marina del Rey Design Control Board;
62. The Commission has duly considered all of the issues and information contained in all of the oral testimony and written correspondence made in opposition to the proposed project during the public hearing process on the Project Permits, and DEIR as well as all of the oral testimony and written correspondence provided to the Commission in response thereto by staff and the project applicant. For the reasons set forth in the findings, and explained in the County's detailed responses to all public written comments received by the Commission regarding the proposed project, all of which have been incorporated into the Final Environmental Impact Report (FEIR), the Commission finds in the opposition testimony and correspondence inadequately identify any substantial evidence that the FEIR does not meet the requirements of CEQA. The Commission finds that there is no credible evidence in the record that the supposed environmental impacts set forth in the project opponents' testimony and correspondence will in fact occur, but there is credible evidence in the administrative record for this case rebutting such testimony and correspondence.

**BASED ON THE FOREGOING, REGARDING THE CONDITIONAL USE PERMIT BURDEN OF PROOF, THE REGIONAL PLANNING COMMISSION CONCLUDES:**

**Regarding the Coastal Development Permit:**

- A. That the proposed project is in conformity with the certified local coastal program and, where applicable; and
- B. That any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code."

**Regarding the Conditional Use Permit:**

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The requested use at the proposed location will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment or valuation of property of other persons



located in the vicinity of the site, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare;

- C. The proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as otherwise required in order to integrate said uses with the uses in the surrounding area; and
- D. The proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

**Regarding the Parking Permit:**

That off-site facilities, leases of less than 20 years, rear lot transitional parking lots and uncovered residential parking spaces will provide the required parking for uses because:

- A. That off-site facilities will provide the required parking for the uses because such off-site facilities will be controlled through ownership, leasing or other arrangement by the owner of the use for which the site serves, and are conveniently accessible to the main use, and such leases will be written in such a way as to prevent multiple leasing of the same spaces or cancellation without providing alternate spaces and will contain other guarantees assuring continued availability of the spaces.
- B. That the requested parking permit at the location proposed will not result in traffic congestion, excessive off-site parking, or unauthorized use of parking facilities developed to serve surrounding property.

**AND, THEREFORE**, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Coastal Development Permit as set forth in Section 22.56.2410 of the Los Angeles County Code (Zoning Ordinance), for a Conditional Use Permit as set forth in Section 22.56.090 of the Zoning Ordinance and for a Parking Permit as set forth in Section 22.56.1020 of the Zoning Ordinance.

**REGIONAL PLANNING COMMISSION ACTION:**

1. The Regional Planning Commission certifies that it has independently reviewed and considered the information contained in the Final Environmental Impact Report prepared by Los Angeles County Department of Regional Planning as lead agency prior to approving the project; certifies the EIR; adopts the Mitigation Monitoring Plan (MMP) which is appended to and included in the attached conditions of approval, finding that, pursuant to California Public Resources Code Section 21081.6, the MMP is adequately designed to ensure compliance with the mitigation measures during project implementation; determines that the conditions of approval attached hereto are the only mitigation measures for the project which are feasible and that the

**PROJECT NUMBER R2006-02726-(4)**  
**COASTAL DEVELOPMENT PERMIT NUMBER 200600003**  
**CONDITIONAL USE PERMIT NUMBER 200600223**  
**PARKING PERMIT NUMBER 200600015**

**FINDINGS**  
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unavoidable significant effects of the project after adoption of said mitigation measures are as described in these findings; determines that the remaining, unavoidable environmental effects of the project have been reduced to an acceptable level and are outweighed by specific health and safety, economic, social and/or environmental benefits of the project as stated in the findings and in the Environmental Findings of Fact and Statement of Overriding Considerations adopted for the project, which findings and statement are incorporated herein by reference.

2. In view of the findings of fact and conclusions presented above, Coastal Development Permit No. RCDP200600003, Conditional Use Permit No. RCUP200600223 and Parking Permit No. RPKP200600015 are approved subject to the attached conditions.

**VOTE**

**Concurring: Rew, Modugno, Valadez, Bellamy, and Helsley**

**Dissenting:**

**Abstaining:**

**Absent:**

**Action Date: April 28, 2010**

**PROJECT NO. R2006-02726-(4)  
COASTAL DEVELOPMENT PERMIT NUMBER 200600003  
CONDITIONAL USE PERMIT NUMBER 200600223  
PARKING PERMIT NUMBER 200600015**

**CONDITIONS  
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This grant authorizes a **Coastal Development Permit** for demolition of all existing landside improvements and the construction of a structure with 2,916 square feet of Visitor-Serving/Convenience Commercial uses, 11,432 square feet of marine commercial uses, a 5,000 square foot yacht club, 6,000 square foot health club, a 447 space 6-level parking structure, an adjacent waterfront public pedestrian promenade, and other site amenities and facilities. This grant further authorizes a **Conditional Use Permit** for a parking structure; a yacht club; 2,916 square feet of Visitor Serving/Convenience Commercial uses; and a 10,000 square foot health club on a parcel with a Marine Commercial land use category and a Waterfront Overlay Zone; and a **Parking Permit** authorizing transfer of public parking spaces from Parcel OT to an offsite location, the subject parcel, as all such improvements are depicted on the approved site plans, building elevations, parking plan, building cross-sections, and other approved plans, marked Exhibit "A" on file, subject to all of the following conditions of approval:

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant, and until all required monies have been paid pursuant to Condition Nos. 8, 9 and 31.
3. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitation period. The County shall notify the permittee of any such claim, action, or proceeding and the County shall reasonably cooperate in the defense.
4. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
  - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

PROJECT NO. R2006-02726-(4)  
COASTAL DEVELOPMENT PERMIT NUMBER 200600003  
CONDITIONAL USE PERMIT NUMBER 200600223  
PARKING PERMIT NUMBER 200600015

CONDITIONS  
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- b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Code Section 2.170.010.

5. This grant shall expire unless used on the date that is two (2) years after the Final Approval Date (defined below). The "Final Approval Date" means the later of (a) the last date on which any party may file any legal challenge or appeal the approval action for this grant, provided no such legal challenge or appeal has been filed; or (b) if any legal challenge or appeal of the approval action for this grant is made by any party, then the date on which such legal challenge or appeal is fully and finally resolved, such that no further legal challenge may be made. No less than six (6) months prior to the permit expiration date, the permittee may request in writing a one-year time extension, and pay the applicable extension fee.
6. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
7. Upon any transfer or lease of the property during the term of this grant, the permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee, as applicable, of the subject property.
8. The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of \$6,000.00. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including adherence to development in accordance with the approved site plan on file. The fund provides for 30 annual inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file.

The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently \$200 per inspection).

9. Within five (5) days of the approval date of this grant, the permittee shall cause a Notice of Determination to be posted in the office of the County Registrar/Recorder in compliance with Section 21152 of the Public Resources Code. Permittee shall remit applicable processing fees, payable to the County of Los Angeles, in connection with such filing. The project is not *de minimus* in its effect on fish and wildlife and is not exempt from payment of a fee to the California Department of Fish and Game pursuant to Section 711.4 of the Fish and Game Code. The current total fee amount is \$2,867.25 (\$2,792.25 plus \$75.00 processing fee). No land use project subject to this requirement is final, vested, or operative if said fee is unpaid.
10. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public health or safety or so as to be a nuisance. If this grant is modified, the permittee shall reimburse the County all costs associated with the proceeding.
11. Upon approval of this grant, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided to the satisfaction of and within the time periods established by said Department.
12. At all times the promenade shall maintain a minimum fire lane width of 20' clear to the sky as determined by the Los Angeles County Fire Department.
13. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans.
14. The subject property shall be maintained in substantial conformance with the plans marked Exhibit "A." In the event that subsequent revised plans are submitted, the permittee shall submit four (4) copies of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner.
15. All structures shall comply with the requirements of the Division of Building and Safety of the Department of Public Works.

16. Prior to issuance of a building permit, the Department of Public Works shall approve a flood control, runoff and storm drain plan submitted by the permittee, which plan shall be consistent with the Santa Monica Bay Recovery Plan.
17. Permittee shall comply with the NPDES (National Pollution Discharge Elimination System) requirements of the California Regional Water Quality Control Board and the Los Angeles County Department of Public Works. Prior to issuance of a building permit, the permittee shall obtain any necessary permit or approval from the Department of Public Works.
18. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the use of the property or provide pertinent information about the premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
19. In the event such extraneous markings occur, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.
20. The subject facility shall be developed and maintained in compliance with the requirements of the Los Angeles County Department of Health Services. Adequate water and sewage disposal facilities shall be provided to the satisfaction of said Department.
21. Within sixty (60) days of the Design Control Board's ("DCB") final design approval, permittee shall submit to the Director for review and approval three (3) copies of a revised Exhibit "A", similar to that presented at the public hearing. This Revised Exhibit "A" submittal shall contain a full set of the approved site plan, floor plans, parking plan, roof plan, building elevations, building cross-sections, landscaping plan, and signage plan. The Design Control Board review shall perform further analysis of the proposed promenade furniture. The Director of Planning will have final review of the promenade furniture which must be made of high quality materials.
22. Within sixty (60) days of the DCB's final design approval, the permittee shall submit to the Director for review and approval three (3) copies of signage plans depicting the location, size and height of all proposed signage, which signage shall be installed on the subject property in accordance with the requirements of Part 10 of Chapter 22.52 of the County Code. Review and approval of the DCB shall also be required and the Director shall not approve signage plans until the plans have been first approved by the DCB.

23. A minimum of 447 standard parking spaces shall be provided on-site, of which 94 shall be reserved for public parking. A minimum of 183 of the required parking spaces shall be maintained for boater usage at all times, developed in compliance with Chapter 22.52, Part 11 of the County Code and no inoperable vehicles shall be parked, stored or otherwise allowed to remain in the required parking spaces. On-street parking shall be prohibited, as shall parking in unmarked spaces and in access driveways. Public, boater and commercial center parking spaces shall be clearly marked as such.
24. The permittee shall post signs conspicuously at the subject property's frontage on Panay Way notifying members of the public about the availability of the Project's ninety-four (94) public-access parking spaces, which the permittee shall continually maintain for the public's use within the parking structure. The permittee shall clearly paint "Public Parking Space" on each of the 94 public parking stalls and shall ensure that the parking management and staff are aware that said spaces are to be reserved for exclusive use by the visiting public. These 94 public parking spaces shall be sited within the parking garage in a location that is convenient to the visiting public (i.e., proximate to the parking garage entrance). The permittee shall include the public parking signs required by this condition in the signage plan package that is required to be submitted for approval by the DCB pursuant to condition No. 21 of this grant.
25. Within (60) days of the DCB's final design approval, the permittee shall submit to the Director for review and approval three (3) copies of landscaping plans, which may be incorporated into the Exhibit "A," depicting the size, type and location of all proposed landscaping on the site as well as all proposed irrigation. Said plans shall also include details for the waterfront public pedestrian promenade, including surfacing materials, lighting, benches and other facilities proposed for the public promenade, and a planting plan that prohibits the use of exotic invasive plants [or that requires the use of plants compatible with the restored wetland and upland park]. The Director shall not approve landscaping plans until the plans have been first approved by the DCB.
26. The following conditions shall apply to project construction activities:
  - a. All graded material shall be sufficiently watered to prevent excessive amounts of dust during the construction phase. Watering shall occur at least twice daily with complete coverage, preferably in the late morning and after work is done for the day. All clearing, grading, earth moving or excavation activities shall cease during periods of high winds (i.e. greater than 20 mph averaged over one hour) to prevent excessive amounts of dust. Any materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust.
  - b. Construction activity shall be restricted between the hours of 8:00 a.m. to 5:00 p.m., Monday through Saturday. Written permission from the Department of

- Beaches and Harbors is required prior to any construction on Saturdays. No construction shall occur on Sundays and legal holidays. Grading, hauling and pile driving shall not commence before 8:00 a.m., Monday through Friday and shall not occur on Saturdays, Sundays or legal holidays.
- c. During demolition and construction, the permittee and its contractor shall comply with Sections 12.12.010 – 12.12.100 of the Los Angeles County Code regarding building construction noise.
  - d. All stationary construction noise sources shall be sheltered or enclosed to minimize adverse effect on nearby properties. Generators and pneumatic compressors shall be noise protected in a manner that will minimize noise inconvenience to adjacent properties. Parking of construction worker vehicles shall be on-site or at an adjacent off-site location approved by the Director and agreed to by the lessee of said property and restricted to areas buffered from residences located in the vicinity of the subject property, as approved by the Director. If the permittee chooses to provide parking for construction workers off-site, the permittee shall submit to the Director for review and approval plans for temporary construction worker parking and shall demonstrate that the use of the off-site parking spaces shall not interfere with parking spaces required for operation of any use or uses on the property to be used for temporary parking. All construction equipment, fixed or mobile, that is utilized on the site for more than two working days shall be in proper operating condition and fitted with standard factory silencing features. To ensure that mobile and stationary equipment is properly maintained and meets all federal, state, and local standards, the permittee shall maintain an equipment log. Said log shall document the condition of equipment relative to factory specifications and identify the measures taken to ensure that all construction equipment is in proper tune and fitted with an adequate muffling device. Said log shall be submitted to the Director and the Department of Public Works for review and approval on a quarterly basis. In areas where construction equipment (such as generators and air compressors) is left stationary and operating for more than one day within 100-feet of residential land uses, temporary portable noise structures shall be built. These barriers shall be located between the piece of equipment and sensitive land uses.
  - e. Pile driving shall be restricted to the hours between 8:00 a.m. to 4:30 p.m., Monday through Friday. No pile driving activity shall be conducted on Saturdays or Sundays. The permittee shall provide adjacent property owners and tenants with a pile-driving schedule 10 days in advance of such activities, and a three-day notice of any re-tapping activities that may occur. The permittee shall submit a copy of the schedule and mailing list to the Director and to Public Works prior to the initiation of construction activities. In addition, at least 10 days in advance of any construction activities on the subject parcel, the permittee shall conspicuously post a construction schedule at the subject parcel's Via Marina and Marquesas



Way street frontages. The schedule shall also include information where individuals may register questions, concerns, or complaints regarding noise issues. The permittee shall take appropriate action to minimize any reported noise problems.

- f. All project-related truck hauling shall be restricted to a route approved by the Department of Public Works, a map of which shall be provided to the Director upon approval. The permittee shall post a notice at the construction site and along the proposed truck haul route. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the County of Los Angeles Department of Health Services.
- g. Prior to any project construction activities, the permittee shall submit a site plan to the Director of Planning for approval, that depicts the following:
- The location of the staging area;
  - Location and content of the required notice;
  - The expected duration of construction activities.

The permittee shall post a notice in a conspicuous location at the staging site. The notice shall contain information on the type of project, anticipated duration of construction activity, and provide a phone number where people can register questions and complaints. The permittee shall keep record of all complaints and take appropriate action to minimize noise generated by the offending activity where feasible. A monthly log of noise complaints shall be maintained by the permittee and submitted to the Department of Regional Planning upon request.

- h. The permittee shall develop and implement a construction management plan, as approved by the Director of Planning and the Director of Public Works, which includes all of the following measures as recommended by the South Coast Air Quality Management District (SCAQMD), or other measures of equivalent effectiveness approved by the SCAQMD:
- i. Configure construction parking to minimize traffic interference.
  - ii. Provide temporary traffic controls during all phases of construction activities to maintain traffic flow (e.g., flag person).
  - iii. Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the degree practicable as determined by the Director of Public Works.

- iv. Consolidate truck deliveries when possible.
- v. Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.
- vi. Suspend use of all construction equipment operations during second stage smog alerts. Contact the SCAQMD at (800) 242-4022 for daily forecasts.
- vii. Use electricity from power poles rather than temporary diesel- or gasoline-powered generators, except as approved by the Director.
- viii. Use methanol- or natural gas-powered mobile equipment and pile drivers instead of diesel if readily available at competitive prices.
- ix. Use propane- or butane-powered on-site mobile equipment instead of gasoline if readily available at competitive prices.
- i. The permittee shall develop and implement a dust control plan, as approved by the Director of Planning and the Director of Public Works, which includes the following measures recommended by the SCAQMD, or other measures of equivalent effectiveness approved by the SCAQMD:
  - i. Apply approved non-toxic chemical soil stabilizers according to the manufacturer's specification to all inactive construction areas (previously graded areas inactive for four days or more).
  - ii. Replace ground cover in disturbed areas as quickly as possible.
  - iii. Enclose, cover, water twice daily, or apply approved soil binders to exposed piles (i.e., gravel, sand, dirt) according to manufacturers' specifications.
  - iv. Provide temporary wind fencing consisting of three- to five-foot barriers with 50 percent or less porosity along the perimeter of sites that have been cleared or are being graded.
  - v. Sweep streets at the end of the day if visible soil material is carried over to adjacent roads (recommend water sweepers using reclaimed water if readily available).
  - vi. Install wheel washers where vehicles enter and exit unpaved roads onto paved roads, or wash off trucks and any equipment leaving the site each trip.

- vii. Apply water three times daily or chemical soil stabilizers according to ~~manufacturers' specifications to all unpaved parking or staging areas or unpaved road surfaces.~~
  - viii. Require construction vehicles to observe traffic speed limits of 15 mph or less on all unpaved roads.
  - j. All construction and development on the subject property shall comply with the applicable provisions of the Uniform Building Code and the various related mechanical, electrical, plumbing, fire, grading and excavation codes as currently adopted by the County of Los Angeles.
  - k. The permittee shall demonstrate that all construction and demolition debris, to the maximum extent feasible as determined by the Director, will be salvaged and recycled in a practical, available, and accessible manner during the construction phase. Documentation of this recycling program shall be provided to the Director and the County of Los Angeles Department of Public Works, prior to building permit issuance.
27. The subject building shall not exceed a height of 56 feet.
28. Front and side yards shall be maintained at a minimum of five (5) feet in width.
29. Prior to the issuance of a building permit for the project, the permittee shall return to the DCB for said Board's approval of final project signage, landscaping, and public amenities plans (concerning final design details of the waterfront promenade seating with shade structures, drinking fountains, promenade light standards and decorative paving), and building colors and materials palette.
30. The building shall be designed and constructed utilizing earthquake resistant construction and engineering practices and shall be designed to withstand a seismic event. All earthquake studies shall comply with the latest recommendations of the state Department of Conservation and the Seismic Safety Board for seismic safety.
31. The conditions and/or changes in the project, set forth in the Final Environmental Impact Report as necessary in order to assure the project will not have a significant effect on the environment, are incorporated herein by this reference and made conditions of approval of this grant. The permittee shall comply with all of the mitigation measures included in the attached Mitigation Monitoring Program and Project Changes/Conditions due to Environmental Evaluation including submittal of a Mitigation Monitoring deposit in the amount of **\$3,000** which shall be required prior to use of the grant and shall be utilized to defray costs associated with staff review and verification of the required mitigation monitoring reports. The mitigation monitoring reports shall be submitted to the Director as follows:

- a. At the time of building permit issuance, including verification of payment of applicable fees;
  - b. Annually; and
  - c. Additional reports as deemed necessary by the Department of Regional Planning.
32. In the event of discovery of Native American remains or of grave goods, §7050.5 of the Health and Safety Code, and §5097.94, §5097.98 and §5097.99 of the Public Resources Code (all attached) shall apply and govern the permittee's development activities.
  33. Prior to commencement of grading, the permittee shall provide evidence that it has notified the Office of State Historic Preservation and the Native American Heritage Commission of the location of the proposed grading, the proposed extent of the grading and the dates on which the work is expected to take place.
  34. The permittee shall maintain the subject property in a neat and orderly fashion and free of litter. Yard areas that are visible from the street shall be free of debris, trash, lumber, overgrown or dead vegetation, broken or discarded furniture, and household equipment such as refrigerators, stoves, and freezers.
  35. All ground- and roof-mounted equipment shall be fully screened from public view. All roof-mounted facility screening materials shall be constructed of high quality building materials and shall be fully integrated into the building architecture.
  36. The applicant shall provide signage at the bulkhead entrance and at conspicuous locations along the length of the promenade identifying the access ways as public. Benches shall be provided along the promenade.
  37. Outside lighting shall be so arranged to prevent glare or direct illumination onto any adjacent properties and shall be subject to the requirements of the DCB.
  38. All necessary Public Works facilities and infrastructure shall be provided for the project prior to the County's issuance of a Certificate of Occupancy for the project, to the satisfaction of the Director of the Department of Public Works. All project infrastructure shall be designed and constructed in an environmentally sensitive manner, in full conformance with County Department of Public Works' requirements to the satisfaction of said Department, and shall follow the design and recreation policies of the certified Local Coastal Program, including landscaping standards required by the DCB.

39. The permittee shall obtain all necessary permits from the Los Angeles County Department of Public Works and shall maintain all such permits in full force and effect throughout the life of this grant.
40. The applicant shall prepare a Fire Safety Plan in accordance with Section 22.46.1180.A.15 of the County Code and obtain approval by the Fire Department prior to issuance of any building permits.
41. The permittee shall provide fire sprinklers and smoke detectors in the subject building to the satisfaction of the Los Angeles County Fire Department.
42. The permittee shall establish a functional Transportation Demand Management (TDM) program or shall participate in an existing TDM program. Viable TDM components may include, but shall not be limited to:
  - Carpools;
  - Ridesharing;
  - Vanpools;
  - Increase use of bicycles for transportation;
  - Bicycle racks;
  - Preferential parking for TDM participants;
  - Incentives for TDM participants;
  - Disincentives.

Said TDM program shall follow the guidelines in the Transportation Improvement Program contained in Appendix G of the Marina del Rey Local Coastal Program. An annual report on the effectiveness of the TDM program shall be submitted to the Director.

43. Project development shall conform to the phasing schedules in the certified Local Coastal Program. The phasing schedules include requirements for the existing Marina, circulation and public recreation improvements and infrastructure.
44. The permittee shall incorporate water-conserving devices and technologies into the project, in compliance with local, state and/or federal regulations controlling same, to the satisfaction of the Director of the Department of Public Works.
45. As outlined in the attached MMP, prior to issuance of a building permit for the project, the permittee shall pay applicable LCP-prescribed Category 1 and Category 3 traffic mitigation fees for the project, to the satisfaction of the Director of the Department of Public Works, which Department administers said fees.
46. The permittee shall comply with all recommended conditions listed in the attached letter from the Department of Public Works dated June 25, 2009 except as otherwise required by said department.

**PROJECT NO. R2006-02726-(4)**  
**COASTAL DEVELOPMENT PERMIT NUMBER 200600003**  
**CONDITIONAL USE PERMIT NUMBER 200600223**  
**PARKING PERMIT NUMBER 200600015**

**CONDITIONS**  
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47. The permittee shall comply with all recommended conditions listed in the attached letter from the Los Angeles County Fire Department dated March 25, 2009, except as otherwise required by said department.
48. The aforementioned conditions shall run with the land and shall be binding on all lessees and sublessees of Parcel No. 21.

Attachments:

Department of Public Works letter dated June 25, 2009  
Los Angeles County Fire Department letter dated March 25, 2009

SZD:MRT  
4/28/10