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## RECORD PACKET COPY

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Hearing Date: June 13, 1996  
Commission Action:

### STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE STAFF REPORT

LOCAL GOVERNMENT: Los Angeles County  
DECISION: Approval with Conditions  
APPEAL NO.: A5-MDR-95-017  
APPLICANT: Dolphin Marina, Ltd.  
PROJECT LOCATION: 13900 Panay Way (Parcel 18R), Marina del Rey, Los Angeles County.

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**PROJECT DESCRIPTION:** Appeal by Iylene Weiss, Peter Davidson, Lori Formicole, Mike McCarty, Jayne Weiss, Donald Klein, Jolino Rizzo, Commission Chairman Carl Williams, and Commissioner Madelyn Glickfeld of the decision of Los Angeles County granting permit with conditions for the development of a 7-story, 75 unit senior citizen board and care facility and a 7-story, 68 unit apartment structure, 75 feet high with a total of 246 parking spaces on a surface parking area of 1.9 acre developed waterfront parcel. No demolition is proposed of the existing 204-unit apartment building or restaurant.

**REVISED PROJECT DESCRIPTION FOR DE NOVO HEARING:** The applicant has revised the project de novo by changing the use of the affordable structure from a congregate care facility to a senior citizen apartment, reducing the height of both structures from 75' to 60', reducing the number of senior residential units from 75 to 60 units, increasing the promenade accessway width from 20' to 28', and also providing four view corridors totalling 209.25 feet, 30% of the width of the area of the parcel proposed for development.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends the Commission find Substantial Issue on the appeal (Resolution on page 9) because the project, as approved by the County, is not consistent with Coastal Act policies regarding public access and is not consistent with the policies of the certified LCP in effect at the time of the permit approval (1990 Certified Local Coastal Program) regarding phasing of development with sub-regional traffic improvements, density of residential development, height, view corridors, parking, preservation of boating support facilities and public shoreline access. Staff is recommending approval of the revised project with special conditions to assure conformity with the LCPA, including policies regarding public access, views, height and parking (Resolution on page 27).

**UNRESOLVED ISSUES:** The applicant has submitted a new project description along with a revised set of plans. The redesigned project will reduce the height, density and provide a view corridor of 30%. However, the revised project also poses a substantial issue under the provisions of the recent 1995 certified LCP amendment. The unresolved issues that need to be addressed are traffic mitigation, public shoreline access and protection of boating facilities. The staff is also recommending special conditions to assure compliance with all other requirements of the 1995 certified LCPA.

**STAFF NOTE**

This permit was approved by Los Angeles County in September, 1994, while the County was considering amendments to its certified LCP (Local Coastal Program). At the time of the permit approval, the certified LCP included an LUP certified by the Commission in 1986 and a LIP (Local Implementation Plan) certified in 1990. The County permit was appealed on the grounds that it did not conform with the 1990 certified LCP. Thus, the Commission must determine whether the County permit raises a Substantial Issue as to the approved development's conformance with the 1986-1990 LCP. In May, 1995, the Commission certified an amendment to the LCP (LCPA 1-94) with suggested modifications. This amended LCP became effectively certified in February, 1996. If the Commission finds Substantial Issue with regard to the project's consistency with the 1986-1990 certified LCP, the standard of review for the de Novo hearing on the proposed development will be the amended LCP as certified by the Commission in May, 1995.

The County has submitted another Land Use Plan amendment that affects the subject parcel. This amendment changes the land use from visitor Serving/Convenience Commercial and Residential III, 35 du/acre to Residential IV 45 du/acre. In March, 1996, the Commission granted an extension of time to review this amendment (LCPA 1-95). The 1995 certified LCPA also grants these land use and density changes. Because the 1995 LCPA has been legally challenged, the County has decided to keep this amendment pending. When the litigation regarding the 1995 LCPA is resolved, the site specific amendment will be moot, and the county has indicated that it will withdraw LCPA 1-95.

**SUBSTANTIVE FILE DOCUMENTS:**

1. Marina del Rey certified LUP (1984)
2. Marina del Rey certified Local Implementation Plan (Specific Plan and Implementation Plan and Appendices certified in 1990, hereinafter known as the 1990 Certified Local Coastal Program)
3. Los Angeles County LCPA 1-94, effectively certified February 8, 1996
4. Conditional Use Permit Number 91-329 (4) approved December, 1994
5. Coastal Development Permit Number 91-329(4) approved December, 1994
6. Parking Permit Number 91-329(4) approved December, 1994
7. Mitigated Negative Declaration dated February 24, 1994

**I. Appellant's Contentions**

The appellant's contentions address four major issues (1) mitigation of cumulative traffic impacts of Marina development on public access to the shoreline, (2) public access to and along the bulkheads of this parcel, and (3) consistency with residential development standards, (4) impacts on boating.

- A. Appellants Iylene Weiss, Peter Davidson, Lori Formicole, Mike McCarty, Jayne Weiss, Donald Klein, Jolino Rizzo specifically contend:

- (1) "The development requires an LCP amendment to increase development rights."
- (2) "The development requires a specific plan amendment re density and height."
- (3) "The development requires a parking permit request to allow less than the required parking."
- (4) "The development fails to provide adequate public access."
- (5) "The development fails to protect public views of boats and mountains from public roads."
- (6) "The development is not compatible with the established physical scale of the area"
- (7) "The development's mitigated negative declaration is inadequate. An EIR should be required and the following issues analyzed: sewage capacity, fire safety, wind tunnel impact study of high buildings on wind for sailing on boats, fire protection, water quality, impacts on sun availability and shadow on boat slips, conflict between proposed use and maintaining and public access, impacts on marine life, traffic, light and glare."
- (8) "High-rise development will interfere with wind for sailing."

B. Commissioners Madelyn Glickfeld and Chairman Williams appealed the project on the following grounds:

- (1) "Development does not conform to access policies of the Coastal Act and the certified Local Coastal Program. The permit is not conditioned to provide lateral access along the bulkhead, and the findings do not clearly describe any offer by the applicant to provide such access or indicate the location of such lateral or vertical access."
- (2) "The findings do not adequately describe the number of parking spaces available for the new development and each existing use, compared with the standards of the certified LCP. There is no indication of the needs of the existing boating-related and visitor-serving development, so that there is no indication that there will be adequate parking for those purposes, inconsistent with the certified LCP and the access policies of the Coastal Act."
- (3) "Development does not conform with the height, density and view corridor standards of the certified local coastal program: two buildings are 35 feet higher than allowed in the LCP. The LCP requires a 40% view corridor and there is no indication of the size of the view corridor, but the County finds that a view corridor cannot be provided; the project includes 71 units more than contemplated for the parcel in the certified LCP."

(4) "The development does not conform with the public access circulation improvements required in the certified LCP. The LCP allowed 10% improvement to each parcel before major traffic improvements are constructed. These traffic improvements have not been constructed, nevertheless the County has approved 145 additional units on the parcel which is more than ten percent of the existing density."

(5) "Neither the notice of decision or the findings adequately describe the applicant's conformance with the LCP with regard to those areas, including geologic hazards, which the findings indicate the project is consistent with the certified LCP."

## II. Local Government Action

On January 3, 1995, the Los Angeles County Board of Supervisors approved a revised request for Local Plan Amendment No 91-329 (4), conditional use permit case 91-219 (4), parking permit case 91-329 (4) and coastal development permit 91-329 (4). The application was approved, as revised by the applicant, on June 23, 1994. Attached to the County's final action was a mitigated negative declaration dated February 24, 1994. The mitigation measures were adopted by reference in CDP condition number ten.

The applicant proposes to develop on an existing 2.3 acre parcel that now contains 204 apartment units, a 210 seat restaurant and 820 parking spaces. The applicant proposes to add new development in the existing uncovered parking lot on the parcel and leave the remaining development in place. The applicant proposes a seven story apartment building with enclosed parking facilities to be located northerly of an existing restaurant and a 75-unit, seven story board and care facility with enclosed parking facilities to be located southerly of existing restaurant. The board and care facility will be a market rate senior citizen facility.

The proposed project density of 75 units per acre exceeds the maximum density allowed for that parcel by the Marina del Rey LCP of 35 units per acre, and the proposed structures exceed the height limits of the 1990 certified LCP. Because of density differences, the County required a plan amendment in addition to a conditional use permit, parking permit and a coastal development permit.

In addition to conditions of approval, the County adopted a Negative Declaration with required mitigation measures. In the Negative Declaration, the County found that the project will not have a significant effect on the environment if it included the following mitigation measures:

- 1) The proposed development shall utilize earthquake resistant construction and engineering practices. A detailed geotechnical report prepared by a certified engineering geologist shall be submitted for approval by the Department of Public Works, prior to issuance of development permits, in accordance with Section 22.46.1180 (5) of the Zoning Code.

- 2) Consistent with the Fire Department letter of August 12, 1993, the applicant shall provide a 20 foot wide fire lane along the water's edge, designed to tie into similar fire lanes, planned to eventually encircle the entire mole.
- 3) The applicant shall provide sprinklers in all structures in accordance with Los Angeles County Building Code, Chapter 38, Section 3802(b)5 and 3802(h).
- 4) The applicant shall provide an uninterrupted view corridor from Panay Way to the Harbor consisting of 40% of the project width.
- 5) The applicant shall take measures to provide for uninterrupted public access to the harbor.
- 6) The applicant shall provide parking in accordance with the Los Angeles County Planning and Subdivision Code, unless the burden of proof for a parking permit to allow less parking can be met.
- 7) In order to mitigate traffic impacts, the applicant will pay all required trip fees at the rate of \$5,690 per peak period trip, to finance necessary road improvements, as determined by the Department of Public Works.
- 8) The applicant shall design the project to enhance circulation of wind throughout Marina del Rey, as prescribed in the Marina del Rey Local Implementation Program, unless the burden of proof for a plan amendment allowing a modification can be met.
- 9) The applicant will provide estimates of the quantity and quality of project wastewater discharge to the Wastewater Program Management Division of the City of Los Angeles Department of Public Works prior to the issuance of sewer connection permits.

Measures 4, 5 and 7 address view corridors, public access and traffic mitigation issues that are addressed in the 1990 certified LCP

Based on a Planning Commission action of August 11, 1994 and two earlier hearings, the Los Angeles County Board of Supervisors adopted nineteen conditions to the combined conditional use permit (See Exhibit X) and Coastal Development Permit. The following summarizes the conditions imposed by the County:

- 1) Limited the total number of apartments to 68 units and the board and care facility to 75
- 2) Limit the age of board care residents and the number of occupants per unit
- 3) Required a minimum of 246 new parking spaces
- 4) Prohibited on-street parking

- 5) Prohibited parking in unmarked spaces and in private driveways
- 6) Required fire lanes
- 7) Required valet parking for the restaurant
- 8) Required fire hydrants and sprinklers
- 9) Specifically required that:

The permittee shall consult with the Department of Public Works to provide the required improvements and comply with the conditions specified in the Mitigated Negative Declaration conditions. All improvements shall be provided to the satisfaction of Los Angeles County Department of Public Works.

- 10) Required revised plans to conform to the local fire code
- 11) Specifically required that:

The property shall be developed and maintained in compliance with the standards specified in the Marina del Rey Local Coastal Program and Specific Plan, except the height and visual corridor standards and the phasing provisions of Section 22.46.1090 and 22.46.1190 of the County Code, which are specifically modified hereby as incentives or concessions necessary for the provision of housing for senior citizens.

- 12) Specifically required that:

The permittee shall participate in the Coastal Improvement Fund as recommended by the Regional Planning Commission in its action on the Marina del Rey Local Coastal Program of September 14, 1994, (See Section 22.46.1800 of the Specific Plan). Should the Regional Planning Commission's recommendation or a substantially similar requirement not become part of the final Marina del Rey Local Coastal Program, then the permittee may be relieved from this requirement.

- 13) Specifically required that:

The permittee shall participate in the Transportation Improvement Program as recommended by the Regional Planning Commission in its action on the Marina del Rey Local Coastal Program of September 14, 1994, (See Section III, A and C of Appendix G of the Specific Plan). Should the regional Planning Commission's recommendation or a substantially similar requirement not become part of the

final Marina del Rey Local Coastal Program, then the permittee may be relieved from this requirement.

- 14) Required sign control and graffiti removal
- 15) Specifically required that:

In the event that the use of the 75 unit board and care facility is terminated, any new use of such facility shall comply with current off-street parking standards as set forth in title 22 of the Los Angeles County Code.

The actual County conditions of approval to the Coastal Development Permit are items one through fifteen. Even though the mitigation measures address LCP issues, they can possibly be changed without requiring an amendment to the Coastal Development Permits.

#### Density Incentives

The proposed project contains 75 units for senior housing. According to the requirements of Government Code Section 65915, local governments can allow residential density increases to developers who agree to develop senior housing.

The 1990 certified LCP includes in its appendix Section 22.56.202 (1986 version) that enables the County to approve residential development that exceeds the residential densities of the certified Land Use Plan. In addition, the incentive provisions enable the County to approve residential development that is inconsistent with development standards, such as parking and height standards if such incentives are necessary to make the project feasible.

The County's 1990 certified LUP under Section 22.56.202 (D1 & 2) requires an applicant to substantiate the following information in order to obtain a density bonus:

D. Additional Burden of Proof. The applicant shall substantiate the burden of proof for a conditional use permit and the following:

- 1. That the proposed project at the location proposed has been designed to be as compatible as possible with the surrounding area in terms of land use patterns, design and established community character; and
- 2. That the proposed project has an ability to meet identified low and/or moderate income or senior citizen housing needs, and is viable in terms of continuing availability to meet such housing needs; and

The County's approval included density bonus incentives or concessions in order to accommodate senior housing, a height bonus and permitted the development to proceed prior to traffic mitigation (phasing) as required in the 1990 certified LCP. The County failed to impose all conditions as

required in the LCP. The County LCP does not allow an increase in density of this magnitude without a special finding as to the necessity of the incentives to make the project financially feasible. Finally, the LCP does not allow incentives that make the project inconsistent with the General Plan.

The applicant's submittal does not contain a detailed, specific analysis that the project is "designed to be as compatible as possible with the surrounding area in terms of land use patterns" and community character. In addition, the 1990 certified LUP requires that an applicant submit a covenant and agreement or another mechanism to guarantee the continuing availability of the senior housing units. The applicant has not submitted such evidence. The project as approved by the County does not comply with the above provisions of the density bonus provision of the certified LCP.

### III. Appeal Procedures

After certification of a Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. 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. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP (Coastal Act Section 30603 (a)).

For development approved by the local government between the sea and the first public road paralleling the sea, the grounds for an appeal to the Coastal Commission are provided in Section 30603(b)(1) as follows:

(b)(1) The grounds for an appeal pursuant to subdivisions (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.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised with respect to the grounds on which the appeal has been filed pursuant to Section 30603. If the staff recommends "substantial issue" and no Commissioner objects, the substantial issue question will be considered moot, and the Commission may proceed directly to a de Novo public hearing on the merits of the project at the same or a subsequent meeting.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have the opportunity to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If the staff recommends "substantial issue" and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to a full public hearing on the merits of the project at the same or a subsequent meeting. If the Commission conducts a de Novo hearing on the permit application, the applicable test for the Commission to consider is



whether the proposed development is in conformity with the certified Local Coastal Program pursuant to Section 30604(b) of the Coastal Act. In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. When conducting a de Novo hearing for a project which has been appealed, the Commission is required to consider the project's conformance with Chapter 3 policies protecting public access and recreation as well as the projects conformance with the certified LCP.

The only persons qualified to testify before the Commission at the hearing regarding the determination of Substantial Issue are the applicant, 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 public may testify at the de Novo hearing, in accord with the rules established for the Commission's hearings on new permits.

#### Standard of Review

This permit was approved by Los Angeles County while the County was in the process of considering amendments to its certified LCP (Local Coastal Program). At the time of the permit approval, the certified LCP included an LUP approved by the Commission in 1986 and a LIP (Local Implementation Plan) approved in 1990. The standard of review for purposes of determining substantial issue is the approved development's conformance with the 1986-1990 LCP. In May, 1995, the Commission approved an amendment to the LCP (LCPA 1-94) with suggested modifications. This LCPA was effectively certified in February, 1996. If the Commission finds Substantial Issue with regard to the project's consistency with the 1986-1990 certified LCP, the standard of review for the de Novo hearing on the proposed development will be the LCP approved by the Commission in May, 1995.

The County has submitted another LUPA that affects the subject parcel. This amendment changes the land use from visitor Serving/Convenience Commercial and Residential III, 35 du/acre to Residential IV 45 du/acre. In March, 1995, the Commission granted an extension of time to review this amendment (LCPA 1-95). The 1995 certified LCPA also grants this land use density change. Because the 1995 LCPA has been legally challenged, the County has decided to keep this amendment pending. When the litigation regarding the 1995 LCPA is resolved, the site specific amendment will be moot, and the county has indicated that it will withdraw LCPA 1-95.

#### IV. Staff Recommendation On Substantial Issue/SUGGESTED RESOLUTION:

The staff recommends that the Commission, after public hearing, determine that Substantial Issue exists with respect to the grounds on which the appeal has been filed for pursuant to PRC Section 30603.

**MOTION:** I move that the Commission determine that Appeal No. A5-MDR-95-017 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed.

A majority of Commissioners present is required to pass the motion. Staff recommends a NO vote on the above motion which would result in the finding of Substantial Issue and the adoption of the following findings and declarations:

**V. Findings and Declarations On Substantial Issue:**

The Commission hereby finds and declares as follows:

**A. Local Coastal Program Background**

In January 1984, the Commission certified the Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program with suggested modifications. On October 10, 1984, the Commission effectively certified the LUP, pursuant to the Executive Director's determination that the County had modify the plan to comport with the Commission's action.

Subsequent to the Commission's certification of the Marina del Rey/Ballona LUP, the City of Los Angeles annexed over 525 acres of undeveloped land a portion of the County LCP area located south of Ballona Creek and east of Lincoln Boulevard, known as Playa Vista Areas 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 that LCP for the annexed area with suggested modifications by the Commission on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including 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. All policies applying to Marina del Rey were identical to the policies certified in 1984.

The Commission certified an Implementation Program applying to the existing Marina with suggested modifications by on September 12, 1990. An undeveloped area in the County, Playa Vista Area A, was segmented from the Marina and no ordinances were certified for Area A. The County accepted these modifications and the Commission effectively certified the Marina del Rey LCP on December 13, 1990. The County assumed permit issuing authority for the Marina.

**B. Area wide Description**

The Marina del Rey covers approximately 807 acres of land and water in the County of Los Angeles, located between the coastal communities of Venice and Playa del Rey. The Marina is owned by the County and operated by the 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 Marina 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. Chace 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 (56) 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. Most leases will expire after 2020.

Within the existing Marina development has basically occurred on all leasehold parcels. This development is generally referred to as Phase I development. Recycling, intensification, or conversion of these initial uses on leased parcels is referred to as Phase II development. Under the policies of the 1990 certified LCP, no Phase II development can occur until a binding agreement to fund the Marina bypass, a traffic improvement, has been executed by all lessees. No such agreement has been executed. This proposed project is Phase II development.

### C. Project Description

The applicant proposes to construct a seven story, 75' high, 68-unit market rate senior citizen board and care facility and a 75-unit apartment structure, to include 246 parking spaces. The subject 1.9 acre waterfront parcel is part of a larger leasehold that contains a 204-unit apartment, a 193 seat restaurant and a 460 boat marina. The County staff report acknowledges the project's inconsistency with the LCP in its project description:

The subject property is an irregular shaped parcel totalling approximately 1.9 acres of land area, located at 13900 Panay Way in Marina del Rey. The project site is also a portion of a parcel designated as "Parcel 18R" in the Marina del Rey Local Coastal Program (LCP). The applicant has requested the development of a 68 unit, seven story apartment building, with enclosed parking facilities on the easterly side of the site; and a 75 unit, seven story board and care facility on the westerly side of the site. Both structures are proposed to be 75 feet in height. Since the proposed project density of 75 units per acre exceeds the maximum density allowed for that parcel by the Marina del Rey LCP of 35 units per acre, and the proposed structures exceed the 48 foot height limit of the LCP, a plan amendment is required. In addition, the applicant is required to file a Conditional Use Permit, Parking Permit and a Coastal Development Permit. (Source: County Staff Report Analysis dated June 29, 1994)

**D. Public Access****1. Appellant's Contentions**

In part, the appellants contend that the project was not conditioned by the County to assure public lateral and vertical access on the bulkhead as required in the certified LCP and by the Coastal Act. The appellants further contend that the County's findings do not clearly describe any offer by the applicant to provide public accessways. Thus, the appellants contend that the County's action does not conform to Sections 22.46.1110-1180 of the certified 1990 LCP regarding public access.

**2. Coastal Act Provisions Regarding Public Access**

Since the grounds for appeal under PRC 30603 (b) also include the Chapter 3 access policies of the Coastal Act, the following Sections of the Coastal Act are relevant:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- 1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- 2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and

manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

### **3. Applicable LCP Provisions Regarding Public Access**

**22.46.1130 Access Conditions.** Where development is allowed by the Specific Plan, and access is required by the Site-Specific Development Guidelines for the parcel or is found to be necessary to provide access to and along the water, a condition requiring said access will be imposed with a coastal development permit if appropriate findings regarding access have been made. Other open space or public access improvements required to ensure compliance with this Specific Plan shall also be made conditions of the project.

**22.46.1140 Methods of Securing Access.** The condition requiring lateral or vertical access shall specify that such access be secured by either of the following:

A. The landowner shall execute and record a document, in form and content acceptable to the Executive Director of the California Coastal Commission, irrevocably offering to dedicate to a public

agency or private association approved by the Executive Director an easement for lateral public access and passive recreation along the shoreline or for vertical access to the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such document shall state the precise location and width of the easement. The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the people of the State of California, binding successors and assigns of the landowner, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

B. Changes in Lease Provisions. When a change in lease provisions is required by the Department of Beaches and Harbors as a precondition to an application for development, the changed lease provisions shall explicitly require provisions for access for the general public including promenades, view and open space areas, and access corridors consistent with the requirements of the Specific Plan.

C. When no changed lease provision is required, an alternate method approved by the Planning Director, County Counsel and the California Coastal Commission which would provide a similar guarantee of public access as afforded by the irrevocable offer described in Subsection A above. Such method may be a binding agreement with the underlying leaseholder or property owner and shall be effective for the life of the use for which the access is required. In no event shall any party withhold their approval to feasible alternate methods.

22.46.1150 Shoreline Accessways. The following provisions pertain to shoreline accessways which are dedicated or otherwise guaranteed in conformance with the requirements of this specific plan and for which a public agency or private association, approved by the Executive Director, has accepted the responsibility for construction, maintenance and liability of said accessways:

A. Vertical access easements shall be at least 10 feet in width and shall run from the shoreline to the nearest roadway available for public use. Lateral access easements shall extend as required for the individual parcel in this Specific Plan. No development shall reduce existing access, formal or informal.

B. Leaseholds developed with access easements shall provide, where feasible, for public recreation, public open space and improved public seating and viewing areas.

C. Access easements shall be posted with identification signs located at the junction of the vertical easement with the shoreline

and the connecting roadway and along the inland extent of lateral easements.

22.46.1180 Additional Filing Requirements. A. In addition to the material required in Section 22.56.2310 relating to Coastal Development Permits, an application for a coastal development shall contain the following information:

1. Protection and Enhancement of Shoreline Access and Views. New development located between the first public roadway and both the existing and proposed bulkheads shall protect existing public access and views to the Marina. New development shall provide accessway, promenades, view parks and view corridors. The standard of review for the protection and enhancement of shoreline access and views is the Site Specific Development Guidelines in the Specific Plan. Coastal development permit applications shall include information, including changes in the provisions of the lease, if the underlying project requires any changes in lease provisions, adequate to demonstrate compliance with these access/view requirements.

#### 4. Substantial Issue Analysis Regarding Public Access

While the public now has unimpeded access along the edge of the bulkheads in most of the Marina, in the LCP, the County required formalization of this public access over its property on redevelopment. In this case there is no existing "dedication" of access.

The County's approval did not include a condition requiring a public lateral and vertical access to be secured by one of the above described provisions i.e., an irrevocable offer to dedicate or a binding agreement with the underlying leaseholder or a lease that provides for lateral and vertical access. Additionally, the applicant has submitted no evidence of either an existing lease agreement or a change in lease provisions. The applicants plans do indicate open space along the bulkhead and a walkway through the development.

The County required public access as a mitigation measure in the negative declaration. However, the access was not described precisely in the mitigation measure and the mitigation measure did not include specific methods of providing the public access. Also, the relationship between the coastal development permit and the mitigation measure is unclear as to whether or not an amendment to the mitigated negative declaration, which could change this condition, would also require an amendment to the coastal development permit. Commission staff has asked the County staff to verify if the County code requires an amendment to a CDP/CUP if a mitigated negative declaration is amended. The County is presently researching the matter.

The subject parcel is mapped in the 1990 certified LCP as now providing access and also in the site specific development guidelines as needing to provide access as part of future development. The existing parking lots are open, not gated and provide public access, public parking and visual access. The

proposed project does not include a signage program for posting public access identification signs. The applicant's plans do not clearly delineate public open space, public seating areas and public viewing areas as required in the certified LCP.

The 1990 certified LCP requires shoreline access to be dedicated in all redevelopment projects to assure that access will be provided in the future. Since this parcel did not have a dedicated accessway, dedication of new vertical and lateral is required in the 1990 certified LCP. The 1990 certified LCP also requires this parcel to dedicate a 25 foot wide accessway along the entire bulkhead fronting the parcel. There is no County CDP condition requiring this access. Section 22.46.1140 of the 1990 certified LCP provides means of assuring public access either by a lease restriction or an easement. The County's mitigation measures do not explicitly require this. Section 30210 of the Coastal Act requires that existing vertical and lateral access be preserved. The proposed project, as approved by the County, is not sited and designed to protect/enhance public access to the coast as required by the County's certified LCP and the public access provisions of Chapter 3 of the Coastal Act. Therefore, the Commission finds that the appeal raises a Substantial Issue with respect to the public access provisions of the Coastal Act and the County's certified LCP.

#### **D. LCP Development Standards Regarding Height and Density**

##### **1. Appellant's contentions**

In part, the appellants contend that the project, as approved by the County, is not consistent with the development design standards of the certified LCP with regards to height and density. The appellants further contend that the proposed intensification of use will have adverse environmental impacts on the quality and character of the adjacent marina.

##### **2. Height**

The subject site is identified as Parcel 18R in the certified LCP. On Parcel 18R, the certified Local Implementation Program (LIP) designates that the maximum building height on this parcel is "3-story or 35 feet above curb elevation of the street". The applicant is proposing two seven story buildings at approximately 75 feet above grade. Following is a relevant provision of the certified LIP:

**22.46.1200 Land Use Category Use Restrictions and Development Standards—Purpose.** The following use restrictions and development standards shall apply to land use categories in the Specific Plan Area. All land use categories are subject to the design guidelines and phasing requirements outline in the Community-wide Plan and Design Standards of this Specific Plan. Land use categories extend beyond the parcel boundary line to the centerline of the street(s) bordering the parcel. Development on a parcel must also conform to the Site-Specific Development GUIDelines of this Specific Plan. As used in these use Restrictions and in the Site-Specific Guidelines, the word "shall" means a requirement is mandatory whereas the word



"may

means the standards are encouraged but not imperative. Where site-specific guidelines differ from the regulations of these Use Restrictions and Development Standards, such site-specific standards shall supersede the land use category regulations. All development in the existing Marina must conform with the Specifications and Minimum Standards of Architectural Treatment and Construction, administered by the Department of Beaches and Harbors (Appendix C). If there is a conflict between the LUP and the Specifications manual regarding development standards, the more restrictive document shall apply.

The Local implementation policies are based on and carry out the policies of the certified Land Use Plan. In the development and design chapters, the policies of the LUP state:

5. Control of new development will be realized by conformity to the LCP, as well as adherence to revised "Specifications of Minimum Standards of Architectural Treatment and Construction" (revisions in process by Beaches and Harbors) which will be embodied by reference in new or revised lease agreements. (LUP Page II 74)

13. Maintain and improve the Specifications and Minimum Standards of Architectural Treatment and Construction.

-Continue to enforce the specified height and parking limits.

-Continue enforcement of the Specifications Manual for construction on Marina parcels, as well as the design review and recommendations of the Design Control Board (LUP Page II 95)

### 3. Density

The certified LUP provides for a density limit of 35 dwelling units per net acre on the subject Parcel 18R. This parcel contains 338,282 square feet and under the provisions of the certified LUP would accommodate a total of 272 dwelling units. There are 204 existing units on this parcel. Therefore, under the provisions of the 1990 certified LUP, the subject parcel is limited to a maximum buildout of 68 additional residential units. The applicant is proposing a 68-unit apartment building and a 75-unit board and care facility (total of 143 units) which equates to 75 dwelling units per net acre. The subject site is designated as a Medium Density Residential (Residential III) Land Use which allows a density of up to 35 dwelling units per net acre according to the County's certified LUP. Parcel 18 is designated R III and for restaurant use in the 1990 LCP. The Residential III category density classification allows:

.... Medium Density Residential (Residential III): Densities up to 35 units/net acre.

The project exceeds the LCP density requirements. However, in the

Implementation program, the Commission certified a provision of the County's zoning ordinance, Sections 22.56.202(A, I and F) that allow the county to grant density incentives for affordable housing, including market rate senior citizen housing.

The County's approval included density bonus incentives or concessions in order to accommodate senior housing, a height bonus and permitted the development to proceed prior to traffic mitigation (phasing) as required in the 1990 certified LCP. The County failed to impose all conditions as required in the LCP. The County LCP does not allow an increase in density of this magnitude without a special finding as to the necessity of the incentives to make the project financially feasible. Finally, the LCP does not allow incentives that make the project inconsistent with the General Plan.

The applicant's submittal does not contain a detailed, specific analysis that the project is "designed to be as compatible as possible with the surrounding area in terms of land use patterns" and community character. In addition, the 1990 certified LUP requires that an applicant submit a covenant and agreement or another mechanism to guarantee the continuing availability of the senior housing units. The applicant has not submitted such evidence. The project as approved by the County does not comply with the density bonus provision of the certified LCP. Therefore the Commission finds that the county approval raises a substantial issue with the certified LCP.

#### **4. Substantial Issue Analysis Regarding Certified LCP Height and Density Development Standards**

The County's certified LCP contains site-specific provisions for the determination of the types, locations and intensities of land use within the marina. These policies were formulated on the basis of optimizing the relationship of land use proposals to the capacity of existing and planned circulation facilities.

The proposed project is clearly inconsistent with the development standard provisions of the certified LCP. The applicant is proposing a height increase from a limit of 35' to a height of 75' and to allow a change in intensity of use in order to permit a development that equates to 75 dwelling units per net acre rather than a maximum of 35 dwelling units per net acre as provided in the certified LCP.

The existing development along the mole roads basically consists of restaurants, retail shops, and boat storage facilities. Although there are a few buildings that are between 140 and 225 feet in height along Via Marina and Admiralty, the buildings that are located on the mole roads range from one to three stories, or 35-feet in height. Therefore, the Commission finds that the subject appeal raises a Substantial Issue with respect to the development standards of the certified Local Coastal Program.

**E. Public View and Wind Corridor Provisions of the Certified LCP****1. Appellants' Contentions**

In part, the appellants contend that the "development fails to protect public views from public roads" and is "not compatible with established physical scale of area". The appellants further contend that without an adequate wind study, the proposed 75 foot high structures will create wind patterns that will adversely impact recreational boating.

**2. Applicable LCP Provisions****View Corridor**

22.46.1060(C)(e). 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.

1. Where a view corridor is physically feasible, the optimum width of such a view corridor shall be 40 percent of the water frontage of the site..
2. Where the Director finds a view corridor of less than 40 percent is required because of the physical limitations of the site, the minimum size of the view corridor shall be no less than 20 percent of the water frontage of the site.
3. 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.

View corridors shall be maintained so as to provide an unobstructed view of the bulkhead edge, masts and horizon for pedestrians and passing motorists. Where the Director finds that such combination is appropriate, view corridors shall be combined with vertical accessways.

**Wind Corridors**

22.46.1180 (4) A detailed wind study must be submitted. The report must discuss the effects of the proposed construction and/or building placement on:

- Wind patterns within the marina.
- Loss of surface winds used by birds and sailboats.
- General air circulation.

22.46.1040 Urban Design Concept. The Urban Design Concept for Marina del Rey embodies a three-dimensional organization that will give the study area a strong, definitive physical image and identity. key features of the Urban Design Concept include:

....A "bowl concept" consisting of a skyline of taller buildings around the outer edges of the Marina, with lower buildings on the moles. the concept will enhance the image of the Marina and will ensure adequate sunlight and wind circulation over the water basin.

### 3. Substantial Issue Analysis Regarding View and Wind Corridors

The project, as mitigated in the negative declaration, would have a 40% view corridor. The applicant has not provided revised plans showing a 40% view corridor. The relationship between the negative declaration mitigation measures and coastal permit conditions, as noted above are not clear. For example, there was no mention of the view corridor requirements in the County's in Notice of Final Action for the Coastal Development Permit.

The applicant has not prepared a detailed "wind study" analyzing the cumulative effects of the proposed high rise structure on wind patterns within the marina that potentially could create adverse impacts on recreational sailboat users. The existing development along the mole roads basically consists of restaurants, retail shops, and boat storage facilities. Although there are a few buildings that are between 140 and 225 feet in height along Via Marina and Admiralty, the buildings that are located on the mole roads range from one to three stories, or 35-feet in height. The applicant has not provided sufficient information to determine what would be the cumulative impacts on view and wind corridors and recreational boating after other structures of similar height are built. Therefore, the Commission finds that the subject appeal raises a Substantial Issue with respect to the development standards of the certified Local Coastal Program.

### F. Certified LCP Parking Provisions

#### 1. Appellant Contentions

In part, the appellants contend that the proposed project does not conform to the parking provisions of the certified LCP.

#### 2. Applicable LCP Provisions

22.46.1060 (C) Parking. Parking standards in Marina del Rey shall be as set forth in the Specifications and Minimum Standards of Architectural Treatment and Construction found in Appendix C of this Specific Plan. All references to the Specifications manual in this Specific Plan are to the edition of the Specifications and Minimum Standards of Architectural Treatment and Construction, dated October, 1989. Parking space angles, Dimensions and other requirements not covered by the Specifications manual shall be as set forth in Part 11, Chapter 22.52 and Appendix 3 of the Zoning Ordinance for Los Angeles County. ....

Development on the land side of parcels on which the waterside has been identified for additional slips under the "funnel concept" shall be evaluated with respect to the parking needs of the future slips. Land side development shall not preclude provision of parking for the future slips called out in this Specific Plan. Projects which include the development of parking garages or increased lot coverage shall provide the spaces for the slips as part of the development project.

22.56.1510(c)(3) Additions to a Building or Structure Nonconforming Due to Standards. Additions may be made to a building or structure nonconforming due to standards which is not in violation of an provisions of this Title 22 and is nonconforming only because it does not meet the following standards of development as provided herein:

3. Parking facilities including width of access and paving, improvement, number of spaces and landscaping of parking areas; provided, that parking spaces for such addition, increase in occupant load or expansion shall be developed pursuant to the provisions of Part II of Chapter 22.52. Such addition or expansion shall not occupy the only portion of an area which can be used for the required parking space or access thereto. Where the number of parking spaces provided prior to such addition is sufficient to comply with said Part II of Chapter 22.52 after such expansion, the existing development of such parking facilities shall be deemed to comply with this subsection;

The LCP also provides in its appendix for consideration of projects whose parking does not conform to current code. The County in its CUP granted such a parking permit reflecting current parking deficiencies on the site.

3. Substantial Issue Analysis Regarding Parking Provisions in the Certified LCP

The total number of parking spaces for existing uses on the site is deficient by 40 spaces according to the County's current Planning and Zoning Code standards. The number of new parking spaces is adequate for the proposed uses but is still deficient by 13 spaces for the overall parking requirement for existing and proposed uses. According to the certified LCP, additions to building that are non conforming with respect to parking provided that such an addition does not occupy the only portion of an area that can be used for the required parking. The proposed project does not comply with this provision.

The certified LCP identifies the subject site as an area for additional boat slips under the "funnel concept". The applicant has not provided an evaluation of the site with respect to parking needs for future boat slips. The site is allotted 76 future boat slips. This would equate to a need of 57 additional parking spaces. The proposed project does not provide any parking spaces for additional boat slips as required in the 1990 certified LCP. The

certified LCP further requires that land side development not preclude provision of parking need for future boat slips. The proposed project does not conform to the "funnel concept" of the certified LCP. Therefore, the Commission finds that the subject appeal raises a Substantial Issue with the parking provisions of the certified Local Coastal Program.

#### **G. Traffic Improvements and Phasing**

##### **1. Appellant's Contentions**

The proposed project does not conform to the traffic/circulation improvements as required in the 1990 certified LIP. The certified LCP allows a 10% expansion of a parcel before major traffic improvements are required. The proposed 145 additional residential units is more than ten percent of the existing density and therefore should not be permitted before major traffic improvements have been provided.

##### **2. Relevant Certified LIP Provisions**

22.46.1090 (4) Improvement Phasing a. In recognition of the need for expanded transportation facilities generated by cumulative development is Marina del Rey, approval of Phase II development will, except in the limited cases indicated in Subsection b, below, be based on the condition that the Marina Bypass and the intersection improvements identified in Section I-B of Appendix G must be funded. Coastal Development Permit applications for Phase II development will be accepted by the Department of Regional Planning only after execution of a binding agreement between the County and Marina del Rey lessees for funding of the Marina bypass and the intersection improvements, unless the findings indicated in Subsection b can be made.

b. Certain limited Phase II development as defined in Subsection c, below, may be approved in the existing Marina if the following findings can be made:

That public access to the coast is maintained and enhanced by:

- i. participation in a Transportation Systems Management Program pursuant to Section 22.46.1190;
- ii. providing, where feasible, commercial facilities in or adjacent to residential development;
- iii. providing sufficient on-site parking facilities;
- iv. including recreational facilities within residential development; and
- v. demonstrating that development individually or cumulatively will not degrade the level of service (LOS) below level "D" for any intersection on Via Marina or Admiralty Way.

c. That the limited Phase II development for which these alternative findings may be used include only the following;

- i. expansion of existing structures not exceeding 10 percent of the existing floor area, number of hotel/motel rooms, restaurant seats or dwelling units;
- ii. construction of new structures only for public boating facilities, marine commercial uses and visitor service uses;
- iii provided that in no event shall expansions of existing structures or the construction of new structures exceed 15,000 square feet, 10 hotel/motel parcels within a three year period.
- iv. the cumulative total of all permits approved pursuant to these provisions shall not exceed 10 percent of any of the individual categories depicted in Table 1. Boat slip acreage and restaurant seats are not subject to this restriction.

d. The findings listed in subsection b above must be based on substantial evidence submitted by the applicant or others and verified by the County as part of the coastal development permit application. Such evidence shall consist of traffic studies prepared by licensed traffic engineers or other similar information; mitigation measures contained in such studies and approved by the county shall be made conditions of approval of a coastal development permit. Projects approved by making these findings are not exempt from the requirement of payment into and participation in a fair and appropriate financing program to provide funds to augment the transportation system, such as a Capital Improvements Program stated below. The permit shall also be conditioned to require that the permittee agree to participate in a fair and appropriate mechanism for funding of the Marina Bypass at such time as such mechanism is established by the county.

e. A fair and appropriate financing program, which may include a Capital Improvements Program and its associated developer fees enacted by the county pursuant to the requirements of the Government code, Title 7, Division 1, Chapter 5, commencing with Section 66000, must be established for financing the intersection improvements and the Marina Bypass.

- i. A fair and appropriate financing program, such as the Capital Improvements Program, shall be established prior to the approval of Phase II development as described in Subsection a, and each project shall be required to provide appropriate payment into the program as a condition of approval of the coastal development permit for the project. Such condition shall specify that the required payment shall be made before issuance of the final County approval of the project, such as the building permit or the recording of any land division map

ii. If a project is approved pursuant to Subsection b prior to the establishment of a fair and appropriate financing program, such as the Capital Improvements Program, the applicant for a coastal development permit shall be required to enter into a contract with the County of Los Angeles agreeing to participate in this funding program. This requirement shall be imposed as a condition of approval of the coastal development permit.

iii. The establishment of a fair and appropriate financing program, such as the Capital Improvements Program, constitutes an amendment to the certified Local Coastal Program (LCP) which must be approved by the California Coastal Commission. If such a program is not submitted to the coastal Commission within three years from the date of certification of this Specific Plan, no additional coastal development permits for Phase II projects shall be approved unless this requirement is eliminated pursuant to an amendment to the LCP approved by the Coastal Commission.

### 3. Substantial Issue Analysis Regarding Certified LCP Provisions for Traffic/Circulation Improvements.

This development is Phase II, second generation, under the provisions of the 1990 certified LCP. The 1990 certified LCP does not allow Phase II development to occur until the Marina bypass has been funded. This permit instead imposes internal mitigation fees which is inconsistent with the LCP policies. Instead, the County required a fee for internal traffic impacts and the diversion of fees from external to internal improvements.

The Commission previously certified an integrated north-south traffic system in the LCP which included the "Marina Bypass", a major north-south arterial way. The Marina del Rey LCP as certified allows no major construction to take place until there is a binding agreement between the County and the Marina del Rey lessees for funding of the Marina Bypass and traffic intersection improvements noted in the 1990 certified LCP. Those improvements were to be located on Admiralty Way and on the connections between Lincoln Boulevard and Admiralty Way.

The phasing provisions of the 1990 certified LCP are designed to ensure funding for transportation improvements necessary to accommodate increases in traffic demand associated with intensification of development in the Marina. The implementation ordinance, the Specific Plan, provides that no residential development greater than 10 percent of a leasehold's present level of development, excepting "recycling" can take place until intersections within the Marina del Rey are improved and the Marina Bypass constructed. The proposed project, which is an expansion of more than 10%, was exempted from the LCP required traffic improvements in the County's permit.

The Marina Bypass was expected to relieve over half (1250 trips) of the evening peak hour trips expected to be generated by the development approved in the certified Marina del Rey LUP. The LUP identifies the Marina Bypass as



crucial in creating the traffic capacity to accommodate the proposed development. Reflecting the importance of the Marina Bypass, the certified Marina del Rey LUP requires that no redevelopment or significant expansion of existing residential or commercial leaseholds can go forward until a binding agreement to fund the Marina Bypass is entered into by the lessees and the County.

In 1990, Los Angeles County submitted as LCP Implementation Plan (LIP) to the Commission for total certification of the Marina del Rey LCP. The Commission effectively certified the LCP for Marina del Rey on December 13, 1990, and the County assumed Coastal Development Permit issuing authority in the certified area. Reflecting the importance of the Marina Bypass, the certified LIP also requires that no redevelopment or significant expansion (over 10%) of existing leaseholds can occur before the Marina Bypass is funded.

The Specific Plan (LIP) requires all development proposals to include traffic impact studies and to suggest mitigation measures for traffic impacts. Within the Community wide standards for development section, the Specific plan includes a section to implement the phasing program of the LUP. The LUP identifies all development in the plan area as Phase I or Phase II. The LUP would defer development of Phase II uses until traffic improvements have been funded and transit systems implemented, and require participation in all funds as a condition of development.

The LIP includes a chart from the LUP that identifies development as Phase I and Phase II. However, the LIP includes two methods to allow Phase II development to proceed without establishment of a fund for the intersection improvements and for the Marina Bypass. The first method allows the County to substitute another route for the Marina Bypass with the concurrence of the Commission. The LIP ties Phase II development to "providing for" the Marina bypass "or other equal circulation system improvements approved by the Coastal Commission." This substitution is properly taken up as an amendment to the LUP and does not conform with the present LUP. However, the Marina traffic improvement fund itself was not adopted because there was no specific information on the particular costs of these intersections or of the "other route". The LIP requires only that developers agree to participate in the fund in the future. Moreover, development exempt according to the second method below, would be totally exempt from the traffic improvement fund.

The Specific Plan (LIP) establishes a second method to allow Phase II development before the traffic improvements are funded. According to this method, limited Phase II development can be permitted before traffic improvements are funded on the basis of four findings. Such development is exempt from further participation in a Marina Traffic Improvement Fund, and participation in the shuttle system, required by LUP traffic policy 1.

The first finding requires that expansion of existing structures not exceed 10% of the existing floor area. The proposed project does not comply with that finding because the project represents more than a 10% expansion of number of dwelling units. The second finding requires that construction be only for public boating facilities, marine commercial uses and visitor serving use. That finding cannot be met because the proposed project is a residential use.

The third finding requires that in no event shall expansion on any individual parcel exceed 10 dwelling units. The proposed project, which includes 143 new residential units, and therefore that finding cannot be met. The fourth finding requires that the cumulative total of all permits approved "shall not exceed 10 percent of any of the individual categories depicted in Table 1" which would equate to a total of 74 new residential units. the proposed project includes a total of 143 new residential and therefore that finding cannot be met. Thus, the proposed development cannot meet the LIP required findings that would permit a limited Phase II development. Instead, the County mitigated traffic impacts under a different approach that is not part of the certified LCP.

The proposed project will generate 490 daily traffic trips which equates to 30 peak hour p.m. trips. The County approved a Mitigated Negative Declaration for the proposed development. In order to mitigated traffic impacts, the applicant was conditioned by the County to pay all required trip fees at the rate of \$5,690 per peak hour trip, to finance road improvements entirely within the Marina, as determined by the Department of Public Works.

Therefore, the Commission finds that the subject appeal raises a Substantial Issue with respect to the phasing of development and the traffic/circulation improvements required in the 1990 certified Local Coastal Program

#### H. Summary of Substantial Issue

Based on the issues of non-conformance with the public access policies of the LCP and the Coastal Act, and the lack of full analysis of the proposed changes in the 1990 certified LCP development standards as noted above, the Commission finds that the development, as approved as approved by the County, raises Substantial Issue with respect to its conformance with the provisions of the certified LCP and with the public access policies of the Coastal Act. The appellants have made contentions that are valid grounds for appeal based on Section 30603 of the Coastal Act.

#### VI STAFF RECOMMENDATION ON DE NOVO ACTION ON APPEAL

The staff recommends the Commission adopt the following resolution:

#### VII. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, is consistent with the 1995 Marina del Rey certified Local Coastal Program Amendment, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

VIII. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

IX SPECIAL CONDITIONS:

In order to conform with the certified County of Los Angeles Marina del Rey LCP and the Public Access and Recreation Policies of the California Coastal Act, the applicant shall comply with the following conditions:

1. PUBLIC ACCESS TO AND ALONG SHORELINE FOR PASSIVE RECREATION AND FOR FIRE AND EMERGENCY PURPOSES.

The applicant shall insure public pedestrian, emergency vehicle access and passive recreational use to and along the bulkhead. Pursuant to this requirement, prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction in a form and content acceptable to the Executive Director, that shall run for the life of the permitted facility. The lease restriction shall provide that the

following restrictions on use of the leasehold parcel, parcel 18, shall become part of the applicant's lease of the property from the landowner:

- A. That the applicant shall insure public pedestrian and emergency vehicle access to and passive recreational use along the following continuous paths to and along the bulkhead of the property (parcel 18) for public access, public passive recreation and for emergency vehicle access purposes:
- (1) the existing walkway, loading zone and adjacent 20 foot emergency access alley, shown on Exhibit 5(a), generally described as that area between the bulkhead line and a line approximately 34 feet inland of the bulkhead line along the entire length of the bulkhead on the north and south sides of the mole end portion of parcel 18, and also the existing walkway and adjacent 20 foot wide emergency access alley generally described as that area between the bulkhead line and a line approximately 26 feet inland of the bulkhead line along the eastern terminus of parcel 18 at the main channel end of the mole. This accessway connects directly to the walkway seaward of the market rate apartment building described in (2) below on the south side (Basin C) and to Panay Way on the north side (Basin D) of said parcel 18;
  - (2) the twenty eight foot walkway and twenty-foot wide emergency access alley shown on exhibit 5(b) and generally described as the sidewalk, public amenity area and alley located adjacent to the bulkhead at Basin C directly seaward of the newly approved structure A (market rate apartments);
  - (3) the existing eight foot walk way and ten foot wide emergency access alley shown on on Exhibit 5(c), located directly seaward of the existing restaurant, connecting the walkways between the two proposed structures A and B, generally described as the sidewalk and ten foot wide paved alley along the entire length of the bulkhead at Basin C in the center portion of parcel 18 connecting (2) above to (4) below;
  - (4) the eight foot public amenity area/walkway and twenty foot emergency access alley shown on exhibit 5(d), generally described as the sidewalk, public amenity area and alley located adjacent to the bulkhead at Basin C directly seaward of the newly approved structure B (Senior Citizen Housing).
  - (5) the entirety of the paved emergency access roadways connecting Panay Way to the bulkhead, as shown on Exhibit 5(e), generally described as vertical corridors connecting Panay Way to the bulkhead and also identified as view corridors in Exhibit 6 below. Said four vertical corridors connect the public street at Panay Way to the bulkhead-fronting emergency access and recreation corridor as required in the LCP to be located along the bulkhead.

- B. The applicant shall post one sign at each Panay Way entrance and one sign at each bulkhead entrance of each of the four public vertical accessways identifying them as public, and that the applicant shall also post signs along the length of the bulkhead public accessways identifying them as public.

In addition, prior to the issuance of the coastal development permit, the landowner shall execute and record an agreement to be bound, in a form and content acceptable to the Executive Director, that shall run for the life of the permitted facility, and shall provide that in the event of termination of the lease, as long as the permitted facility continues to exist, the landowner shall require each new lessee or operator, including itself, to sign a lease restriction that incorporates the above public access and recreation requirements.

The lease restriction shall be binding on heirs, assigns and successors in interest, be recorded free of prior liens and run with the land in favor of the people of the State of California.

2. COMPLIANCE OF THE PROJECT WITH CERTIFIED LCP STANDARDS ADDRESSING VIEW CORRIDORS AND HEIGHT.

The Senior citizen apartments and the Market rate apartment building subject to this application shall be constructed consistent with the view corridors shown on the revised preliminary plans submitted to Commission staff on April 10, 1996. Prior to issuance of the permit the applicant shall submit for the review and approval of the Executive Director, final construction drawings consistent with the revised preliminary plans submitted April 10, 1996. The total width of the view corridors shall conform with category 3 of Section 22.56.1060.E.5. 209.25 feet represents 30 % of the area of the parcel subject to this application. The view corridor width may be reduced to less than 209.25 feet, only if the height of both structures as shown in the final working drawings is less than 60 feet and the amount of reduction justifies a reduction in the width of the view corridor according to the provisions of Section 22.56.1060.E.5 of the certified LCP. (Fifty eight feet six inches (58.5') in height would justify a 29% view corridor, etc..) Exhibit 6 shows the area of the leasehold subject to this application as well as the four proposed view corridors proposed by the applicant in revised plans submitted April 10, 1996.

Definition. The term "View Corridor", as used in the condition, is the area located between the water and the first public road open to the sky and allowing uninterrupted views of the harbor from the road to the waterside, at ground level. Fire roads and public accessways are allowed within view corridors.

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. The view corridors shall be maintained according to the view corridor standards below. Unobstructed views are defined as views with no inhibition of visual access to the water. Parking lots depressed no less than two feet below grade such that views are possible over parked vehicles may be considered as view corridors. Additionally, landscaping shall be placed and maintained so as not to obstruct water views. The view corridors shall be combined with vertical accessways.

4. MAXIMUM HEIGHT.

The Senior citizen apartments and the Market rate apartment building subject to this application shall be constructed consistent with the heights on the revised plans submitted to Commission staff on April 10, 1996. The revised plans show that the new structures are not more than 60 feet in height as measured from the curb to the highest point on the roof, not counting mechanical roof structures and parapets.

5. LANDSCAPING.

Prior to issuance of the permit the applicant shall submit landscaping plans for the review and approval of the Executive Director. The plans shall demonstrate that landscaping will be installed consistent with the Community-wide Design Guidelines found in Section 22.46.1060 of the certified LCP and the view corridor standards noted above. The plans shall include the following:

- A. Landscaping and lot coverage. Landscaping shall include trees and shrubbery, with adequate ground cover to protect the soil. Landscaped borders used to shield obtrusive uses shall have a minimum width of eight feet and shall consist of vegetation of sufficient density to hide the use. Landscaping along site perimeters shall have a minimum width of eight feet and shall allow visual access into the lot, except where the landscaping is being used to screen an obtrusive use. Landscaping includes areas planted with trees, shrubs and improved with walkways incidental to these uses and/or set aside specifically for public viewing, passive recreation and public access. Landscaping does not include sidewalks within roadway rights-of-way, or areas paved for vehicular access such as alleys, driveways, parking areas or fire lanes. These standards shall be implemented in a manner consistent with all other provisions of the certified LCP standards, including public access requirements found in Sections 22.46.1100-1150, and to encourage unique site design, the view corridor standards, lot coverage standards, and design standards, as found in Sections 22.46.1060.B and E of the certified LCP.
- B. Landscaping consistent with the approved plans shall be installed concurrent with construction of the approved buildings consistent with the view corridor and public access standards required in Conditions 1, 2 and 3 above.

6. SIGNS

Prior to issuance of the permit the applicant shall submit signage plans for the review and approval of the Executive Director in consultation with the Design Control Board. The plans shall demonstrate that signs will be installed consistent with A and B below.

- A. Public Access Signs. The signage plan shall include at least one sign identifying public accessways leading from Panay Way to the bulkhead both at the Panay Way entrance and at the Bulkhead walkway entrance of each of the vertical access corridors beginning at Panay Way as required in Condition number 1. The bulkhead walkway is the continuous walkway located adjacent to and parallel with the bulkhead along the main channel and the sailing basins B and C. No fewer than five signs shall be placed at reasonable intervals along this walkway identifying the bulkhead walkway and public amenities as public.
- B. Sign standards applicable to business identification signs and other private signs on the property. All signs shall be as detailed as possible without becoming unreadable. The final sign plan shall include wording, size and coloring and illumination proposed for the signs and a written statement from the Director of Regional Planning indicating the compliance of the proposed signs with with the applicable provisions of Part 10 of Chapter 22.52 of Title 22 of the Los Angeles County Code addressing C-3 and R-IV development. The sign plan shall also include approval by the Design Control Board as consistent the Design Control Board's Revised Permanent Sign Controls and Regulations of September, 16, 1971, (Appendix C), regarding sign height, illumination, size and design. In the event of conflict between the Design Control Board's requirements and Title 22, the most restrictive standard shall prevail.

All of the above noted improvements shall be installed along with construction of the development and shall conform to the view corridor and public access standards required in Conditions 1 and 2 above.

7. PUBLIC AMENITIES.

Prior to issuance of the permit the applicant shall submit a public amenity plan for the review and approval of the Executive Director, in consultation with the Design Control Board. Such plans have not been submitted previously. The plan shall demonstrate that public amenities will be installed consistent with the following:

- A. Bulkhead benches. The plan shall provide for the installation of no fewer than six benches as well as additional public amenities including water fountains, shade structures, and trash containers on the seaward-most 8 feet of the bulkhead walkway described in conditions 1.A(2) and 1.A(4) above. [Exhibits 5(b) and 5(d).]

- B. Fire clearance. The plan shall provide that no structures, benches, planters or fixed objects shall be placed in the twenty foot fire and emergency accessway, which shall be clear to the sky.
- C. Public amenities required in Transportation Demand management plan--jitney stop and bike racks. Consistent with Sections 22.46.1100.B(2)(c) and 22.46.1100.C(2) of the certified LCP final plans shall include accommodations for bicycle racks, and for a shuttle/jitney stop and for preferential parking for car pools as required in its TDM/TSM plan and in Condition 14 below.

All of the above noted improvements shall be installed along with construction of the development and shall conform to the view corridor and public access standards required in Conditions 1 and 2 above.

8. FINAL PARKING PLAN AND PARKING MANAGEMENT PLAN.

Prior to issuance of the coastal development permit, the applicant shall submit final revised parking plans for the review and approval of the Executive Director. The plans shall be approved by both the Los Angeles County Fire Department and the Los Angeles County Department of Regional planning for consistency with the parking and Fire Department access requirements of CUP-91-329-(4) and the certified LCP. The final plans shall demonstrate that the leasehold area subject to this permit (Exhibit 6) contains the 797 parking spaces to accommodate the following uses:

A. Parking Provided.

- (1) Existing Boater parking: 320 spaces. The applicant shall retain no fewer than 320 spaces (.69 spaces per existing boat slip) for boater use on the site. No fewer than two legal loading spaces shall be located within 50 feet of each gangway. No boater spaces may be permanently assigned to any individual boater but such spaces may be restricted to boat owners, if necessary to assure availability for that use.
- (2) Existing apartment building: 204 spaces. The applicant shall retain no more than 204 assigned, numbered spaces reserved for exclusive use by the tenants of the existing apartment building.
- (3) Existing Restaurant: 70 spaces. The applicant shall retain no fewer than 70 spaces, including two handicapped spaces, for the existing restaurant. Said spaces shall be designated for exclusive use by the restaurant only when the restaurant is open. At all other times, such spaces shall be available to the general public use, except that the restaurant may restrict overnight use.
- (4) Senior citizen apartments: 30 spaces. The applicant shall provide no more than 30 assigned spaces reserved for exclusive use by the tenants of the proposed 60 unit senior citizen apartment.



- (5) **New Market rate apartment:** 136 spaces . The applicant shall provide 136 spaces reserved for exclusive use by the tenants of the proposed 68 unit market rate building. Any guest spaces constructed in addition to the 136 spaces shall be so identified, signed and designated for visitors and general public except that the building management may restrict overnight use.
- (6) **Dinghy storage:** 2 spaces. The applicant shall provide no fewer than two (2) uncovered parking spaces for purposes of the storage of dinghies and small boats.
- (7) **Multi-use guest/tradesman parking:** 35 spaces. The applicant shall provide no fewer than 35 parking spaces for guests, tradesmen, and visitors to all of the above development as well as for the general public. No fewer than thirteen (13) of these guest spaces shall be located on the area of the leasehold subject to this application, as shown in exhibit 6, since they are required by the certified LCP to serve the proposed residential development. All guest spaces shall be available for overflow parking at all of the above uses, as well as for the general public. All said spaces shall be identified by signs identifying them as parking for visitors and the general public, except that the building management may restrict overnight use.

**Total required parking: 797 spaces**

9. PRESERVATION OF ADEQUATE PARKING FOR SLIP DEVELOPMENT UNDER FUNNEL CONCEPT.

Section 22.46.1830 of the certified LCP allows the construction of up to 76 additional slips in the Main channel in the water area of parcel 18, development identified in the LCP as the "funnel concept". By acceptance of this coastal development permit, the applicant acknowledges that the proposed project does not provide the 57 parking spaces that would enable it to add to the total number of boat slips on this parcel, but states that it has no intention of increasing the number of slips, but instead would increase the average size of the slips on the parcel. If and when the applicant can demonstrate to the satisfaction of the Executive Director that adequate legal interest in sufficient accessible parking to serve these slips is available, the applicant may apply to amend this condition and apply for a coastal development permit to develop the slips.

10. LEASE RESTRICTION REGARDING BOATER AND SENIOR PARKING.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction in a form and content acceptable to the Executive Director, that shall run for the duration of the permitted use. The lease restriction shall provide that the following restrictions on use of the leasehold parcel, Parcel 18, shall become part of the applicant's lease of the property from the landowner:

- A. The applicant shall provide boater parking for its existing slips on site at no less than .69 parking spaces per slip, and
- B. in any future development of the 76 slips allocated to parcel 18 in the certified LCP, the applicant will at the same time reduce the total number of slips on the property such the total number of boat slips will remain the same as it exists on the date of approval of the Coastal Development Permit (460 slips). The reduction in the number of slips shall be accomplished by reduction of the number of smaller slips and substitution of larger slips as generally indicated on exhibit 8 submitted by the applicant. Alternatively, if and when the applicant can demonstrate to the satisfaction of the Executive Director that adequate legal interest in sufficient accessible parking to serve new slips is available, the applicant may apply to amend this condition to allow for the development of new slips without reducing the number of currently existing slips.
- C. if at any time in the future the senior citizen units are used for any other purpose including unrestricted market rentals, the applicant shall provide additional parking on the site, or take measures including the reduction in the number of units such that parking is provided consistent with the requirements of the certified LCP, including the LCP standards regarding boating and boater parking. Said change will require an amendment to this Coastal Development Permit or a new Coastal Development Permit.

In addition, prior to the issuance of the coastal development permit, the landowner shall execute and record an agreement to be bound, in a form and content acceptable to the Executive Director, that shall run for the life of the permitted uses, and shall provide that in the event of termination of the lease, as long as the permitted uses continue to exist, the landowner shall require each new lessee or operator, including itself, to sign a lease restriction that incorporates the above boater parking ratios and density incentive parking requirements.

The lease restriction shall be binding on heirs assigns and successors in interest, be recorded free of prior liens and run with the land in favor of the people of the State of California.

11. PRESERVATION OF BOATING SUPPORT USES ON SITE.

Prior to issuance of the permit the applicant shall submit revised plans identifying the boating support uses that are currently located on the site. The applicant shall preserve these current coastal dependent boating or boating support uses on site. Boating support uses include, but are not limited to boater restrooms, bathrooms, refuse disposal areas, passenger and equipment loading zones, and dinghy racks. In no event shall the current loading area space be allocated to other uses unless replaced by loading spaces of equal size in an equally convenient and efficient location. The final plan shall be consistent with the

reservation of boater loading, dinghy racks and boater amenity areas as shown in Exhibit 7.

12. MITIGATION OF CUMULATIVE AND DIRECT IMPACTS ON PUBLIC ACCESS--TRAFFIC

Prior to issuance of the permit, the applicant shall provide evidence of payment of no less than \$5,690 per peak hour trip into trust fund accounts established by the County of Los Angeles Department of Public Works. The funds shall be allocated as follows: a) \$1,592 per peak hour trip into the Transportation Improvement Program (TIP) as identified in the Appendix G of the certified LCP; and b) \$4,098 per peak hour trip into a fund specifically allocated for mitigation of the applicant's proportional share of the cumulative impacts of Marina development on the sub-regional transportation system (Category 3 improvements in the certified LCP.) Said sub-regional system includes major collector streets which provide transportation to and along the coast and transportation to the Marina.

13. TRANSPORTATION DEMAND MANAGEMENT, TRANSPORTATION SYSTEM MANAGEMENT PROGRAM.

Prior to issuance of the permit, the applicant shall provide for the review and approval the Executive Director, letters of concurrence from the Directors of the Los Angeles County Departments of Public Works and Regional Planning, stating that the applicant's Transportation System Management Plan (TDM/TSM) conforms with current County standards for traffic reduction (TSM/TDM) plans and the certified LCP.

14. COMPLIANCE WITH REQUIREMENTS OF SECTION 22.56.202 OF THE CERTIFIED LCP REGARDING DENSITY INCENTIVES FOR THE PROVISION OF SENIOR CITIZEN HOUSING.

A. Prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction in a form and content acceptable to the Executive Director, that shall run for the duration of the permitted use. The lease restriction shall provide that the following restrictions on use of the leasehold parcel, Parcel 18, shall become part of the applicant's lease of the property from the landowner:

- (1) That the applicant has provided the percentage of "affordable units", as defined in Section 22.56.202.A(3) of the certified LCP, (market rate senior citizen units) that are required in Section 22.56.202.A(3) of the certified LCP (50%), as calculated by the County of Los Angeles, and will maintain such units for no less than 30 years for that approved purpose.
- (2) Time limits. The senior citizen housing shall be restricted to be available for purposes protected under Section 22.56.202 for a period of not less than 30 years after the construction of the structure. In the event that, after 30 years, the project is converted to unrestricted housing, the parking and density of

the development shall be consistent with the requirements of the County Code and the Marina del Rey certified LCP. A coastal development permit shall be required for such a conversion.

In addition, prior to the issuance of the coastal development permit, the landowner shall execute and record an agreement to be bound, in a form and content acceptable to the Executive Director, that shall run for the life of the permitted use, and shall provide that in the event of termination of the lease, as long as the permitted use continues to exist, the landowner shall require each new lessee or operator, including itself, to sign a lease restriction that incorporates the above affordable housing requirements.

The lease restriction shall be binding on heirs, assigns and successors in interest, be recorded free of prior liens and run with the land in favor of the people of the State of California, binding successors and assignees of the leaseholders.

- B. Prior to recording the Directors of Planning and the Department of Beaches and Harbors shall certify the applicant's proposal as consistent with the applicant's updated conditional use permit and lease as required in conditions 22 and 23 below, and shall provide evidence of compliance with its conditional use permit 91-329-(4) regarding the granting of density bonuses under Sections 22.56.202.A(3), 22.56.202.F and 22.56.202.I of the certified LCP. This evidence shall include written concurrence on the part of the Department of Regional Planning that the applicant's revised plans fully comply with the County's grant of additional units under that section.

15. RESIDENTIAL MITIGATION REQUIREMENTS (PUBLIC AND PRIVATE ON-SITE RECREATION) OR PAYMENT OF LIEU FEE.

Prior to issuance of the coastal development permit the applicant shall provide for the review and approval of the Executive Director written evidence of the Department of Regional Planning's concurrence with the applicant's compliance with one of the following residential mitigation requirements applying to the proposed market rate units. The mitigation will mitigate the use of shoreline property for recreational use:

- A. Payment of in lieu fee. The applicant may provide evidence of payment of no less than \$600 per new unit into the Coastal Improvement Fund as further described in Section 22.46.1790 of the certified LCP. Based on this figure the applicant may comply with this condition by payment of a fee of no less than \$76,800 into the Coastal Improvement Fund.

OR

- B. Alternative compliance. As an alternative to the payment of the total fee, the applicant may provide revised plans that show no less than .45 acres of land for recreational use to be constructed concurrent with the development approved in this permit. The plans shall be approved by the Directors of Regional Planning and Beaches and Harbors of the County of Los Angeles showing one or a combination of all of the following:

A total of .45 acres improved recreation area provided:

- (1) on site, or
- (2) on a newly improved public park on public park land on a public parcel within the Marina, approved and accepted by the Department of Beaches and Harbors, or
- (3) or, a combination of improvements listed above combined with a fee as described in (A) assessed according to the fee calculation below. If a partial fee is assessed, it shall be based on the applicant's remaining obligation after the recreational land provided and improved has been considered.

Fee calculation. The total fee of \$76,800, representing \$600 per unit, representing the cost of improvement of four acres of offsite recreation land per 1,000 new residents, as calculated in Section 22.46.1800 the certified LCP. Based on the cost calculations found in Section 22.46.1790 of the certified LCP, after mitigation credits have been calculated, the applicant shall pay at a rate of \$170,666 per acre to the Coastal Improvement Fund based on the amount of acreage in its remaining obligation.

Mitigation Credits. On-site land area credits toward this requirement shall be given for the following facilities: clearly defined and exclusively reserved internal land area devoted to private recreation of the residents, public park land, that portion of the pedestrian promenade or view corridor not designated as a fire access road, and viewing parks at the end of mole roads, or adjacent to the main channel used for dual functions provided that the fire department access to all pedestrian promenades at all times.

16. CULTURAL HERITAGE RESOURCES.

Any Archeological or paleontological resources found in the area planned for development shall be collected and maintained at the nature center planned at the wetland preserve (Area D), or at the Los Angeles County Natural History Museum or as otherwise required by State law.

- A. Prior to issuance of the permit the applicant shall provide evidence for the review and approval of the Executive director that he has notified the Office of State Historic Preservation and the Native American Heritage Commission of the location of the proposed, grading the extent of the grading proposed, and the dates on which the work is expected to take place.

- B. The applicant shall notify the State Historic Preservation Office and the Department of Regional Planning if any resource is discovered during any phase of development, and the applicant shall submit a recovery program as an amendment to the permit.
- C. In the event of discovery of Native American remains or of grave goods, Sections 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 and 5097.99 of the Public Resources Code apply.

17. FIRE SAFETY STANDARDS.

Prior to issuance of the coastal development permit, the applicant shall provide for the review and approval of the Executive Director, letters and/or plan signatures executed by the Los Angeles County Fire Department showing the Department's concurrence that the applicant's plans conform with all fire safety requirements found in the certified LCP, including the provision of sprinklers, the adequacy of emergency access, height, and participation in all safety districts.

18. PUBLIC WORKS/PUBLIC SERVICES.

Prior to issuance of the coastal development permit, the applicant shall provide, for the review and approval of the Executive Director, a letter from the Department of Public Works, stating that the applicant complies with all requirements of water availability, sewer service and utility service of the certified LCP and conditional use permit number 91-329-(4). The applicant shall also provide revised plans, approved by the Department of Public Works, showing low flow storm water collection and filtration as well as other water quality improvements identified in the Santa Monica Bay Action Plan and in the BMP's of the County's non point source discharge permit (NPDES).

19. HAZARDS TO DEVELOPMENT.

Prior to issuance of the permit, the applicant shall provide final engineered foundation and seismic safety plans reviewed and approved by both the project's licensed structural engineer, licensed engineering geologist and geotechnical consultant (Earth Systems consultants), and the County Engineer. The plans shall incorporate detailed calculations and final plans to eliminate hazards to development identified in the applicant's preliminary geotechnical report by Earth Systems consultants, dated March 5, 1996, submitted with the application for development, including information regarding liquefaction, ground failure and other hazards that may occur in the event of earthquake. Development shall occur such that the foundations of the building are located in geologically safe areas. Because liquefaction and ground failure could occur in seismic events, the building design shall be reviewed and approved by the County Engineer before issuance of the permit to ensure that the design shall mitigate all potential geologic hazards to development.

20. ASSUMPTION OF RISK.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction in a form and content acceptable to the Executive Director, that shall run for the life of the permitted facility. The lease restriction shall provide that the following restrictions on use of the leasehold parcel, Parcel 18, shall become part of the applicant's lease of the property from the landowner:

- (1) that the applicant understands that the site may be subject to extraordinary hazards from ground failure and liquefaction during seismic events, and
- (2) that the applicant unconditionally waives any claim of liability on the part of the Commission, and agrees to indemnify and hold harmless the Commission, its officers, agents and employees relative to the Commission's approval of the project for any damage due to such hazards.

In addition, prior to the issuance of the coastal development permit, the landowner shall execute and record an agreement to be bound, in a form and content acceptable to the Executive Director, that shall run for the life of the permitted facility, and shall provide as long as the permitted facility continues to exist, the landowner shall require each new lessee or operator, including itself, to sign a lease restriction that incorporates the above assumption of risk and waiver of liability.

The lease restriction shall be binding on heirs, assigns and successors in interest, be recorded free of prior liens and run with the land in favor of the people of the State of California.

21. FUTURE IMPROVEMENTS.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a lease restriction in a form and content acceptable to the Executive Director, that shall run for the life of the permitted facility. The lease restriction shall provide that the following restrictions on use of the leasehold parcel, Parcel 18, shall become part of the applicant's lease of the property from the landowner:

- (1) that no new development shall occur in the view corridor area identified in Exhibit 6 except as specifically permitted in conditions 2 and 3, and that any such development would require a coastal development permit, and
- (2) that any new construction or change in use or in intensity of use on the property shall require a coastal development permit. A change in intensity of use includes, but is not limited to: any reduction or increase in restaurant occupancy as determined by the Los Angeles County fire Department or increase in seating

area including open air seating area(s), any increase or decrease in number of units, and or a change from senior citizen apartments to an apartment building without restrictions.

In addition, prior to the issuance of the coastal development permit, the landowner shall execute and record an agreement to be bound, in a form and content acceptable to the Executive Director, that shall run for the life of the permitted facility, and shall provide that in the event of termination of the lease, as long as the permitted facility continues to exist, the landowner shall require each new lessee or operator, including itself, to sign a lease restriction that incorporates the above future improvements requirement.

The lease restriction shall be binding on heirs, assigns and successors in interest, be recorded free of prior liens and run with the land in favor of the people of the State of California.

22. CONDITIONAL USE PERMIT AND LEASE.

Prior to issuance of the permit, the applicant shall submit letters, agreements or other evidence from the County of Los Angeles Departments of Regional Planning and Beaches and Harbors that the applicant's conditional use permit and lease agreement are valid and consistent with the project approved in this action. Specifically, the updated Conditional Use Permit and revised lease shall provide for the senior citizen's building instead of the previously proposed Congregate care facility.

23. LEASE AMENDMENT.

Prior to issuance of the permit the applicant shall provide evidence that its lease with the underlying landowner, Los Angeles County Beaches and Harbors, has been amended to include the reference to the coastal development permit, and permits construction of the approved Senior citizen development. The amended lease shall incorporate all provisions of the following special conditions more fully described above:

- A. Condition 1, Public shoreline access (Evidence of provision of public access.)
- B. Condition 2, View corridor requirement (Evidence that view corridors are identified in the lease and protected according to the standards of the LCP and conditions 2 and 3. This must include a requirement and notification that no new development inconsistent with the view corridor standards may occur in the view corridor areas identified in exhibit 6.)
- C. Conditions 9 and 10 restriction of total number of boat slips to maintain boater parking, and restriction regarding parking for the senior citizen building.



- D. Condition 14, Senior citizen housing. (Evidence that the purposes of the development is as stated in condition 15, and evidence that the density incentive uses are protected for not less than 30 years.)
- E. Condition 20, Assumption of risk.
- F. Condition 21, Future improvements. (Notification in the lease that future development, including changes in use and or intensity of use, will require a coastal development permit.)

**X. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

**A. INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS.**

The Commission hereby adopts by reference the findings and exhibits located in the section of the report labeled findings for determination of Substantial Issue.

**B. REVISED PROJECT DESCRIPTION AND BACKGROUND.**

As previously discussed in the Substantial Issue portion of this report, the County's originally approved project is not consistent with policies and development standards contained in the 1990 certified LCP. In May 1995, the Commission certified a major LCP amendment that substantially changed the previous Marina del Rey policies and development standards. However, the applicant's proposal, which was approved by the County prior to the 1995 Local Coastal Program Amendment (LCPA) certification, is also not consistent with the amended policies and development standards.

The applicant is aware that the project, as originally approved by the County, is not consistent with all the policies and development standards of the 1995 LCP Amendment. Therefore, the applicant, Commission staff, L.A. County Planning staff and L.A. Beaches and Harbors staff have had numerous discussions as to how to revise the project to conform to the 1995 certified LCPA. As a result of those discussions, the applicant has revised the project to conform to the LCPA standards regarding public access, height and view corridors. Specifically, the applicant has changed the project to a senior citizen building from a congregate care home. Following is a brief summary of the changes:

- Reduced the height of the apartment building and senior citizen building from 75' to 60'
- Reduced the number of senior citizen units from 75 to 60
- Increased the public view corridor from 25% to 30%
- Increased the promenade width from 20' to 28'
- Lowered an at-grade parking lot to two feet below grade in order to comply with public view corridor requirements
- Reduced the bulk of the apartment building from 88,600 square feet gross area to 80,000 square foot
- Reduced the size of each senior citizen unit from 750' square foot to 700 square feet.

- Changed the apartment size mix from 42 2-bedrooms to 40 2-bedrooms and 26 1-bedrooms to 28 1-bedrooms (Total of 68 units remains same)
- Reduced the number of proposed parking spaces from 246 to 241
- Reduced the footprint size of the apartment building
- Reduced the footprint size of the senior citizen building
- Submitted up-dated reports regarding cumulative wind impacts, subregional traffic impacts and geologic hazards

C. Public Shoreline Access

1. Coastal Act Requirements

Coastal Act Section 30001.5(c) states that one of the basic goals of the basic goals of the State for the coastal zone is to maximize public access to and along the coast and to maximize public recreation opportunities, provided that access is balanced with resource conservation principles and the rights of private property owners. Additionally, Section 30210 of the Coastal Act provides:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Sections 30211 of the Coastal Act protects the public's right of access to the shoreline. Section 30211 states:

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Finally, Section 30212 of the Coastal Act requires that new development provide public access from the nearest public roadway to the shoreline and along the coast except under certain specific circumstances and states the types of development which would not be considered new development for the purpose of requiring access dedications.

2. Summary of LCP Provisions:

The subject parcel is located in a marina that is publicly owned by the County and operated by the Department of Beaches and Harbors. Along with

recreational boating facilities, the Marina is developed with multi-family residential units, hotels, restaurants, and commercial office/retail development. Within the Marina, most structural improvements have been made by private developers, operating under long-term land leases. The lease provisions require that the leaseholds be developed so as to provide "active public use ...for the maximum public benefit". While most parcels within the Marina customarily provide public access along the bulkhead, ambiguities in the lease language have been confusing as to the lessees' obligation to provide access to the general public.

To address this problem, the County, in its 1995 certified LCPA, requires that new development shall preserve and enlarge existing public accessways along all the Marina Bulkheads and also provide new accessways from the roads to the bulkheads, and, on redevelopment provide viewing areas, parks and view corridors on this County-owned property. In addition, the LCPA requires that no development will reduce access and that existing accessways be re-dedicated.

3. Excerpts from the following 1995 certified LCPA public access policies are pertinent:

22.46.1180 Additional Filing Requirements. A. In addition to the material required in Section 22.56.2310 relating to Coastal Development Permits, an application for a coastal development shall contain the following information:

1. Protection and Enhancement of Shoreline Access and Views. New development located between the first public roadway and both the existing and proposed bulkheads shall protect existing public access and views to the Marina. New development shall provide accessway, promenades, view parks and view corridors. The standard of review for the protection and enhancement of shoreline access and views is the Site Specific Development Guidelines in the specific Plan. Coastal development permit applications shall include information, including changes in the provisions of the lease, if the underlying project requires any changes in lease provisions, adequate to demonstrate compliance with these access/view requirements.

22.46.1150 Shoreline Accessways. The following provisions pertain to shoreline accessways ....

A. Vertical access easements shall be at least 10 feet in width and shall run from the shoreline to the nearest roadway available for public use. Lateral access easements shall extend as required for the individual parcel in this Specific Plan. No development shall reduce existing access, formal or informal.

B. Leaseholds developed with access easements shall provide, where feasible, for public recreation, public open space and improved public seating and viewing areas.

C. Access easements shall be posted with identification

signs located at the junction of the vertical easement with the shoreline and the connecting roadway and along the inland extent of lateral easements.

22.46.1110.C. Lease extension. In the County-owned Marina del Rey, when lease extensions and/or changes in lease provisions are granted, the leases shall incorporate and be consistent with all requirements of this Specific plan, including, but not limited to public access, view corridors, parking, impact fees, maintenance of view corridors and parks, protection of existing uses and design review.

22.46.1130 Access Conditions. Where development is allowed by the Specific Plan, and access is required by the Site-Specific Development Guidelines for the parcel or is found to be necessary to provide access to and along the water, a condition requiring said access will be imposed with a coastal development permit ....

22.46.1140 Methods of Securing Access. The condition requiring lateral or vertical access shall specify that such access be secured by either of the following:

A. The landowner shall execute and record a document, in a form and content acceptable to the Executive Director of the California Coastal Commission, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreation along the shoreline or for vertical access to the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such document shall state the precise location and width of the easement. The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the people of the State of California, binding successors and assignees of the landowner, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

B. Lease Provisions. Lease provisions shall explicitly require provisions for access for the general public including promenades, view and open space areas, and access corridors consistent with the requirements of Chapter 3 of the Coastal Act and the certified local coastal program.

C. When no changed lease provision is required, an alternate method approved by the Planning Director, County Counsel and the California Coastal Commission which would provide a similar guarantee of public access as afforded by the irrevocable offer

described in Subsection A above. Such method may be a binding agreement with the underlying leaseholder or property owner and shall be effective for the life of the use for which the access is required. In no event shall any party withhold their approval to feasible alternate methods.

**22.46.1150 Shoreline Accessways.** The following provisions pertain to shoreline accessways which are dedicated or otherwise guaranteed in conformance with the requirements of this specific plan and for which a public agency or private association, approved by the Executive Director, has accepted the responsibility for construction, maintenance and liability of said accessways:

A. Vertical access easements shall be combined with the Fire Department required vertical access and shall be at least 28 (twenty-eight) 10 feet in width and shall run from the shoreline to the nearest roadway available for public use. Lateral access easements shall extend as required for the individual parcel in this Specific Plan. No development shall reduce existing access, formal or informal.

B. Leaseholds developed with access easements shall provide, for public recreation, public open space and improved public seating and viewing areas consistent with the requirements of Chapter 3 of the Coastal Act and the certified local coastal program.

C. Access easements shall be posted with identification signs located at the junction of the vertical easement with the shoreline and the connecting roadway and along the inland extent of lateral easements.

D. Where access standards of a different width or location are necessary to avoid demolition of existing structures, to set accessways back from existing development, or to avoid hoists and staging areas, site-specific limitations of a parcel, the applicant may provide accessways of a different width or location that are modify the access standards to implement a requirement which is sensitive to the development if such access provides continuous connection to other bulkhead accessways, as well as maximum public benefit. In no event shall access provided be less than ten feet in width.

### 3. De Novo Analysis Regarding the 1995 Certified LCPA Public Access Provisions

The certified LCP protects access to and along the bulkhead and requires its dedication in all permits for development. Sections 22.46.1060 (F)(2)(a) & (b) of the 1995 certified LCPA ensures public pedestrian access for recreational purposes to fire lanes and to require that benches and other facilities are provided at reasonable intervals adjacent to the bulkheads along the waterfront promenades. In addition, Section 22.46.1100, 22.46.1120, 22.46.1130 and 22.46.1150 of the certified LCPA specify that such access should be combined with fire roads, as long as additional amenity areas can be

provided. Section 22.46.1140 of the certified LCPA requires that the County reserve access corridors and viewing parks when extending or amending leases on its property.

The subject parcel is mapped in Exhibit 4 of both the 1990 and 1995 certified LCP as now providing access. The 1995 certified LCP also requires that public access be provided as part of future development. While there are no recorded public access easements for the subject parcel, the existing parking lots do provide parking spaces and are not gated and provide both public pedestrian access and visual access. The proposed buildings will be constructed on these lots and therefore area available for pedestrian public access will be reduced. The project, de novo, will provide a 28 foot wide promenade walkway along the bulkhead and a vertical access whereas the previous parking lots provided a wider public access.

The applicant's original proposal included a 20' wide fire lane along the bulkhead. These fire roads are used as walkways by the public. The 1995 certified LCP in Section 22.46.1060 (F)(2)(a) and (b) requires that emergency access roads be 28' in width. The pedestrian promenade and fire emergency road may be used for dual functions to provide a public promenade and emergency access but in no event less than 20' in width. The promenade shall be no less than 28 feet wide in order to provide for benches, trash containers and other pedestrian amenities on the seaward eight feet of the promenade. Thus, accessways in the original proposal were not as wide as required in the LCPA.

The Coastal Act also requires the reservation of land in residentially, commercially and office zoned parcels for public recreation, if such land is suitable for recreation. The Commission found, when certifying the 1995 LCPA, that the proposed 20' waterfront fireroads were not wide enough to allow both public amenities and fire truck access. In order to ensure that these waterfront walkways will operate as public recreation amenities, the Commission modified the public works and public recreation and access sections of the proposed LCPA to require that each walkway include either an additional 8-foot strip for recreational amenities or 10-foot square amenity bays no less frequently than every 150 feet. These bays are required to be designed in consultation with the Fire Department to ensure that the benches, once placed, will not be removed as hazards, but will be protected as public amenities and can be considered recreation facilities for the public. The walkways will be joint emergency access and recreational facilities open to the public.

The applicant has revised the project plans to provide for a 28' wide promenade in lieu of 20 feet as originally proposed which is consistent with the 1995 certified LCPA. These are consistent in width and location with the requirements of Section 22.46.1150 of the 1995 certified LCPA. However, the applicant's plans do not clearly delineate public open space, public seating areas and public viewing areas as required in the certified LCP. In addition, the applicant has not submitted an amended lease agreement that assures compliance with the public access/view requirements of the 1995 certified LCPA.

LCPA Section 22.46.1130 provides that where development is allowed by the Specific Plan, and access is required by the Site-Specific Development

Guidelines for the parcel, such access will be imposed as a condition of a CDP. The Specific Plan allows for the development that the applicant is proposing. The Site Specific Development Guidelines for Parcel 18 require that the development on parcel 18 provide and not block public access along the entire bulkhead and that development not block or in any way impede public access to the bulkhead along the four accessways that lead from the mole road to the bulkhead. The applicant has proposed development that does not block or impede public access along the bulkhead and public access along the accessways that lead to the bulkhead. Accordingly, the proposed development is consistent with LCPA Section 22.46.1130.

Further, the proposed development is consistent with Coastal Act section 30210, which requires that development provide for maximum access to the ocean, and section 30212, which requires that new development between the shoreline and the first public road to the shoreline provide for vertical access to the shoreline. The proposed project is the construction of two buildings between the shoreline and Panay Road, the first public road along the shoreline. Both buildings will be built upon parking lots that currently provide the public with access to the bulkhead. Although the public does not hold an easement for access on these lots, the lots have been available to the public for access to the bulkhead. The proposed project includes the provision of a public access promenade along the entire length of the bulkhead as well as public access along four accessways that lead from the mole road, i.e., Panay Road to the bulkhead. These four walkways will insure that the public can reach the bulkhead. In addition, the bulkhead promenade insures that the public can walk along the shoreline in this area.

LCPA Section 22.46.1140 requires that public access in the new development be reflected in a deed restriction or in lease provisions. The purpose of this requirement is to insure that when public access is proposed or required as part of new development, such public access is maintained for the life of the new development. The requirement accomplishes this goal by making all future property owners and/or lessees to the property aware of the public access requirements. In addition, the requirements become enforceable under the title or lease as well as under the CDP. The applicant leases the property from the County. Therefore, it is appropriate for the public access provisions to be reflected in the applicant's lease rather than in a deed restriction. To insure that public access to and along the bulkhead as proposed, is reflected in the lease, special condition number one requires the applicant to record a lease restriction. The lease restriction is an agreement by the applicant to make the public access provisions part of the lease with the county and to comply with these provisions. Further, the condition requires the applicant to obtain the county's recordation of an agreement to require that any lessee of the property agree to include these public access provisions in the lease to the property. The County agreement is necessary because should the lease between the applicant and the county be terminated, the County could enter into a new lease with a new lessee. Because LCPA Section 22.46.1140 requires public access provisions, the new lease must reflect the public access provisions. Accordingly, the County must agree to require that any new lessee be required to maintain public access to and along the bulkhead. Finally, the applicant has not submitted signage plans as required in 22.46.1150(C). Therefore, the Commission is imposing a special



condition to record documents that ensure that the lease of parcel 18R will contain requirements for public access. In addition, the Commission is recommending a special condition requiring the applicant to submit an amended lease agreement that explicitly describes the public access/view requirements of the 1995 certified LCPA. Only as conditioned, can the Commission find that the proposed project is consistent with the public access provisions of the Coastal Act and the 1995 certified LCPA.

**D. Recreation and Visitor Serving Facilities**

**1. Applicable Coastal Act Policies**

The legislature has required, in the Coastal Act, that lands suitable for public recreation be designated for recreation. Development that is coastal dependent or that supports the public's use of the beaches and waters of the state is preferred over other uses. The Coastal Act recreation policies also require provision and protection of lower-cost facilities, and provision of adequate recreational land by residential uses so that new residents do not overcrowd coastal recreation areas to the exclusion of others. These policies are set forth in the following sections of the Coastal Act.

**Section 30213**

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

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

**Section 30220**

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

**Section 30221**

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**Section 30222**

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for

coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

#### Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

#### Section 30252

The location and amount of new development should maintain and enhance public access to the coast by ... (.5.) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

### 2. Summary of LCP Provisions:

The 1995 certified LCPA requires walkways with benches and access facilities along the bulkhead as noted above. The LCPA also requires protection of existing boater and boater support facilities such as boater restrooms, dinghy racks and public restaurants all of which are presently found on the site.

The County's 1995 certified LCPA also requires that an applicant for new development participate in a Coastal Improvement Fund. This fund was established to finance construction of local park improvements within the Marina del Rey area. Because new residential development will burden existing recreational resources, this fund was created in order to mitigate adverse impacts on regional facilities. The fund was established at the cost of four acres of improvements per one thousand new residents.

The Coastal Improvement Fund provides a mechanism for the County to collect fees and or land to be used for the development of new parks and public access facilities within the existing marina. An applicant proposing residential development would be required to contribute a cost of \$600 per, which for the proposed 128 unit development would equate to \$76,800.

As an alternative, the applicant could provide .45 acre of on-site land for public or public recreational use. The alternative of on-site parks, which is preferred, requires only three acres of parks per one thousand new residents. This provision requires provision of 1) public park land, 2) or payment of fees into park improvement funds or 3) private recreation facilities to mitigate the low priority (residential) development on land suitable for recreation.

### 2. Relevant 1995 Certified LCPA Recreation Mitigation Requirements

22.46.1950 Coastal Improvement Fund states in part:

22.46.1950.A. Coastal Improvement Fund is established to finance construction of local park facilities in the Marina del Rey area. New park facilities will mitigate the impacts of new residential development on the regional recreational resources of the Marina and adjacent beaches. The fund will be generated by charging a fee per unit for new residential units in the existing marina....

Improvement of land for local park space will cost \$100,000 per acre. This cost includes the improvements identified in Subsection C1 of this section. The cost of improvements, therefore, is calculated at the rate of \$100,000 per acre, yielding a total cost of \$1,450,000 for improvement of 14.5 acres in the existing Marina.

The Coastal Improvement Fund fee is determined as follows: \$1,450,000 total funds needed spread over 2,420 residential units results in a cost of \$600 per dwelling unit.

22.46.1060.G Residential Mitigation requirements.

1. New residential development shall provide compensatory recreational facilities to offset local residential uses of existing marina park and recreational facilities. Where feasible, such facilities, as identified in Subsection G3 of this section, shall be provided on-site as a means of meeting this requirement. Alternatively, where an applicant demonstrates that it is not feasible to locate all, or only a portion of recreational facilities on-site, then the applicant shall contribute, on a fair and equitable basis, to a coastal improvement fund. Senior congregate care housing is exempt from this requirement.

2. Residential Mitigation Standard. The public park land area requirement shall be based upon providing three acres of public park land for every 1,000 new residents, or portion thereof. Alternatively, a mitigation fee may satisfy the requirement. The fee shall be based upon the estimated cost of improving an equivalent amount of public park land on a public parcel within the marina. An applicant may choose to meet the requirement by providing a combination of land area and fee.

3. Mitigation Credit. On-site land area credits toward this requirement shall be given for the following facilities: clearly defined and exclusively reserved internal land area devoted to private recreation of the residents, public park land, that portion of the pedestrian promenade or view corridor not designated as a fire access road, and viewing parks at the end of the mole roads, or adjacent to the main channel.

3. De Novo Analysis Regarding the 1995 Certified LCPA Recreation

### Mitigation Provisions

The County's 1995 certified LCPA requires that an applicant for new development participate in a Coastal Improvement Fund or provide park land. This fund was established to finance construction of local park improvements within the Marina del Rey area. Because new residential development will burden existing recreational resources, this fund was created in order to mitigate adverse impacts on regional facilities. The applicant has changed the senior housing from congregate care to apartments and is no longer eligible for the congregate care exemption set forth in Section 22.46.1060(G).

The Coastal Improvement Fund provides a mechanism for the County to collect fees and or land to be used for the development of new parks and public access facilities within the existing marina. An applicant proposing residential development would be required to contribute a cost of \$600 per unit, which for the proposed 128 unit development would equate to \$76,800. As an alternative, the applicant could provide .45 acre of land for public or private recreational use. These requirements are not additive. They are alternatives to each other.

The subject project was approved by the County prior to the County submitting the 1995 LCPA. The project, as originally proposed and as now revised, has not been reviewed by the County as to conformance with the County's Conditions of Approval for a Coastal Development Permit as required in the 1995 certified LCPA.

The applicant may comply with this condition by payment of a fee of no less than \$76,800 into the Coastal Improvement Fund. As an alternative to the payment of the total fee, the applicant may provide revised plans that show no less than .45 acres of land for recreational use to be constructed concurrent with the development approved in this permit. The applicant is proposing some view corridor land and an 8' wide walkway that may be eligible to fulfill the requirements of 22.46.1060(G)(1). However, he has not shown that he has provided the entire 0.45 acres of parkland as required in the LCP. Therefore, the Commission is requiring a special condition that the applicant submit, either a combination of parkland and fee as required in Section 22.46.1060(C) of the certified LCPA, written evidence of payment of no less than \$600 per new unit into the Coastal Improvement Fund as further described in section 22.46.1800 of the certified LCP.

As conditioned, to ensure that all new development will provide adequate recreation so that the recreational needs of new residents will not overload nearby coastal recreation areas, the proposed development will be consistent with the access and recreation policies of both the Coastal Act and the relevant provisions of the 1995 certified LCPA.

### E. Recreational Boating

The certified LCPA requires that all new development mitigate significant adverse wind impacts on marina boating. The LCPA identifies mitigation measures that include massing, height and site design.

The following 1995 certified LCPA policy is relevant:

22.46.1180(C)3. All new development shall fully mitigate significant adverse wind impacts on marina boating. Accordingly, a detailed wind study must be submitted with all applications for development for structures over 45 feet in height. The report must discuss the effects of the proposed construction and/or building placement on wind patterns within the marina, loss of surface winds used by birds and sailboats and general air circulation. The wind study must include the following components:

Analysis of available historical wind speed and direction data to establish a wind speed/direction relationship for the site;

Performance and analysis of wind tunnel testing for the project using a model of proposed building(s) and surrounding structures. Wind tunnel testing shall be done for winds blowing from all predominant wind directions as established in analysis of historical data;

Cumulative wind analysis, including evaluation of wind impacts attributable to existing structures and potential future development projects, including detailed data on the cumulative impacts of existing, proposed and expected development on winds in marina basin closest to the proposed development;

Summary of findings identifying the project's wind impacts, if any;

Summary of mitigation measures available to mitigate the project's adverse impacts on wind, including alternative massing, height and site design.

According to Section 22.46.1180(A)(3) of the certified LCPA, an applicant is required to submit a "wind study" analysing the effects of new development on wind patterns that may adversely impact boating. The applicant is proposing development for structures over 45' in height and is therefore required to submit a study. The applicant has submitted an updated "wind study" prepared by Englekirk & Sabol Consulting Engineers, Inc., dated October 27, 1994. That study concludes that the proposed development will create no significant adverse wind impacts. Following is an excerpt from that report:

The primary focus of our study was to assess the impact of daily winds on sailboats in the slips adjoining the proposed development. Our assessment was based on (i) a comprehensive statistical analysis of daily wind speed and direction data recorded at the Los Angeles International Airport, (ii) our knowledge of typical wind flow pattern under similar conditions, and (iii) our extensive site specific wind tunnel testing experience with similar projects. ESI established the wind speed and directional characteristics at the project site and evaluated that against the given orientation and size of the proposed project.

From this information, it was clear that the proposed development will not have any significant adverse effect on the wind flow pattern within Basins C and D. Additionally, other basins in the area, which are located even further away from the development, will not be impacted at all by the proposed project.

The 1995 certified LCPA increased height limits for residential structures located within the marina. Because new buildings will be larger and higher in size, the LCPA requires that an applicant submit a wind study analysis. The applicants "wind study" concludes that neither the basins adjacent to the subject site or nearby basins will be significantly impacted by the proposed development. Therefore, the Commission finds that no significant adverse wind impacts on boating will occur, consistent with the wind study analysis requirements of Section 22.46.1180(A)(3) contained in the 1995 certified LCPA.

#### **F. Visual Resources**

The 1995 Certified LCPA limits most waterfront development to maximum heights between 45 and 75 feet to protect views, requires implementation of a view corridor concept, and to reduce the impact of waterside fire lanes by requiring the addition of benches and other public amenities. The LCPA provides for Community-Wide Design Guidelines regarding lot coverage, landscaping, signs, height, view corridors, architectural treatment and residential recreational mitigation requirements.

The following 1995 certified LCPA policies are relevant:

**22.46.1060 Community-wide Design Guidelines.** Community-wide Design Guidelines concern ....landscaping; signs, site design and architectural treatment. These guidelines are considered to be mandatory when the word "shall" is used and are permissive when the word "may" is used.

A. Landscaping. Landscaping shall include trees and shrubbery, with adequate ground cover to protect the soil. Landscaped borders used to shield obtrusive uses shall have a minimum width of eight feet and shall consist of vegetation of sufficient density to hide the use. ...

B. Lot Coverage. Lot coverage by buildings, shall be limited as otherwise restricted in the Specific Plan, and shall not exceed 90 percent of the net lot area; a minimum of 10 percent of the net lot area shall be landscaped. Layout, components and quantity of landscaping for development in the existing Marina shall be subject to approval by the Design Control Board.

D. Signs. Signs shall be as detailed as possible without becoming unreadable. The Design Control Board specifically regulates signs in the existing Marina through the application of standards set forth in the Board's Revised Permanent Sign Controls and Regulations....

... Each land use category set out in this Specific Plan shall be subject to the sign standards for a comparable zone designated in Section 22.12.010 of this Title 22. Comparable zones shall be assigned to it according to the following chart, except that off-premise or outdoor advertising signs shall be prohibited.

E. Site Design and Architectural Treatment. Site design and architectural treatment include such elements as structural height, bulk, spacing, facade design, materials and colors.

1. Site Design. Planes of the exterior building walls should vary in depth and/or direction to avoid bulk and monotony, and should relate closely to the pedestrian promenade. Building placement and design shall avoid long, continuous blocking of water views.

2. 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.

4. Architectural Treatment. Among other important objectives, good site design is essential in maintaining compatibility among adjacent land uses and preserving important public amenities such as view corridors and scenic vistas....Specific design review within the existing Marina is the responsibility of the Design Control Board of the Department of Beaches and Harbors. Its objectives are set forth in the Design Control Board's Statement of Aims and Policies, dated February 17, 1987 found in Appendix C of the certified LIP.

5. Building Height Standards. Unique site design with respect to height and setbacks is encouraged on all parcels in Marina del Rey. Heights shall be limited according to ... the development standards of each land use category and the site-specific development guidelines. Where the land use category height standards found in sections 22.46.1200 through 1690 differ from the site-specific standards found in sections 22.46.1790, such site-specific standards noted in the applicable portion of sections 22.46.1200 through 1690 shall control. ... In certain categories, the maximum height permitted is dependent on the size of the view corridor provided. Building heights in the Marina shall be restricted according to the following six categories:

a) Category 1: one story, Twenty-five (25) foot maximum.

b) Category 2: Forty-five (45) foot maximum.

c) Category 3: 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 subject site is located on a mole road. A mole is an artificial peninsula of fill that extends into sailing basins and provides access to docks and slips. This parcel lies between a road that extends down the middle of the mole and the water. The 1995 certified LCPA limits the height of structures at this site on a mole road to 45 feet in height when a 20% view corridor is provided. Structures may be permitted up to a maximum of 75' when a 40% view corridor is provided. The additional height is permitted according to a "ratio of 1.5 feet in height for every 1% view corridor exceeding the 20%".



The County's original approval permitted two 7-story, 75' high buildings with a 40% view corridor. The project, as now proposed, will consist of two 5-story 60' high buildings. The applicant has also revised the project plans to provide a 209.25 foot wide view corridor which is 30% of the parcel frontage, consistent with the LCPA. The applicant also increased the promenade from 20' to 28', consistent with the applicable policies of the 1995 certified LCPA.

LCPA Section 22.46.1140(B) requires that view and open space requirements be included in as provisions of the lease to the property. Accordingly, the applicant's proposal to provide a 209.25 foot wide view corridor, which satisfies the LCPA view requirements, must be included in the lease between the applicant and the County. To insure that the view requirement is included in the lease for as long as the permitted development exists, condition number (2) requires the applicant to record a lease restriction. The lease restriction will insure that the applicant and his heirs, successors, and assigns, will include the view provisions in the lease from the County. Further, the condition requires the applicant to obtain the County's recordation of an agreement to require that any lessee of the property agree to comply with the view provisions. As discussed earlier, the County agreement is necessary because should the lease between the applicant and the county be terminated, the County could enter into a new lease with a new lessee. To comply with LCPA Section 22.46.1140, the new lease must reflect the view provisions.

The applicant's plans do not clearly identify the required public amenities, i.e. benches and view areas, landscaping, scenic vistas and signage identifying public access. Therefore, the Commission is requiring special site plan conditions addressing view corridor standards, landscaping, lot coverage, signs and public amenity provisions, as required in the Community-Wide Design Guidelines under Section 22.46.1060 of the 1995 certified LCPA.

The proposed project height and public view corridor, as now designed, is consistent with Section 22.46.1060 (E)(5)(c) of the 1995 certified LCPA. Section 22.46.1060(B) also provides that lot coverage shall be limited to 90% lot coverage and a minimum of 10% of the parcel shall be landscaped. The applicant's revised plans will have a lot coverage of 46,451 square foot whereas 86,850 would be permitted. A minimum of 10% of landscaping would require 9,650 square feet whereas the applicant is proposing 10,125 square foot.

The applicant is in the process of extending and amending a lease agreement with the County. Section 22.46.1140 (B) of the 1995 certified LCP states that lease provisions shall explicitly require provisions for view and open space areas. Therefore, in order for future lessees to know about this restriction, the Commission is recommending a special condition that the applicant will submit a final lease amendment that will require a public view corridor consistent with Section 22.46.1060(E)(c) of the certified LCPA to be maintained on the site. Only as conditioned, can the Commission find that the subject appeal is consistent with the relevant coastal public view provisions of Chapter 3 of the Coastal Act and the relevant provisions of the County's

1995 certified LCPA.

**G. Traffic/Circulation**

The 1995 certified LCPA addresses traffic impacts on internal (marina) and on external (subregional) roads. The LCPA provides that the cumulative impacts of all development allowed in the Marina not reduce automobile access on roads leading to the coast. The method chosen to do this is to require that all development pay its fair and reasonable share into a two traffic mitigation funds, one for traffic improvements within the Marina and one for traffic improvements to regional collector streets outside of the marina (the sub-regional system).

The 1995 certified LCPA addresses mitigation of external (subregional) traffic impacts in the following manner. The 1995 certified LCP requires that 1) development in the Marina must pay its fair share of regional traffic improvements to mitigate offsite and cumulative impacts, 2) traffic mitigation measures must be integrated with the coastal development permit process, and 3) no more than half the development in the Marina will be permitted to proceed without mitigating subregional traffic impacts while the County negotiates with Caltrans and the City of Los Angeles concerning routes and funding for highway improvements. Before development generating over half of the approved external trips may go forward, agreement on routes for actual subregional improvements must have occurred and funding for those improvements must be in place.

The Marina's internal circulation system consists of two main components. First, two secondary highways - Admiralty Way on the east and north, and Via Marina on the West - serve as the main collector roads within the Marina. Second, a number of local streets provide access to the waterfront along mole roads, including Fiji Way, Mindanao Way and Bali Way on the east side, and Tahiti Way, Marquesas Way, Panay Way on the west side. Development caps in the development zone policies of the certified LCPA limit potential development to the capacity of these streets. The capacity is based on the street capacity after completion of the improvements listed as Category 1 in the certified LCP.

The following 1995 certified LCPA policies are relevant:

22.46.1190 90 Conditions of Approval. A. The following conditions shall be imposed, where applicable, for development in Marina del Rey.

5. Mitigation of all Direct Traffic Impacts. Development in existing Marina del Rey shall participate in, and contribute his or her fair share to, funding of the mitigation measures described in the Transportation Improvement Program (TIP). The fees shall be calculated for every development project based on the Trip Assessment Fee set in the TIP and the number of additional P.M. peak hour trips generated by the project.

Additional trips are defined as the P.M. peak hour trips attributable to buildout of the new development allocated in the Specific Plan. Limitation. All development shall mitigate all direct impacts on the internal circulation system before occupancy of the development. No development may commence without payment of a fair and proportionate share of the costs of traffic improvements listed in the traffic improvement program. Prior to issuance of a coastal development permit, the applicant shall demonstrate that adequate funding is available so that all traffic improvements necessary to mitigate the impacts of the development on internal circulation will be completed before occupancy of the structure. Development shall not begin until adequate funding of the necessary internal circulation traffic improvement has been guaranteed.

6. All proposed mitigation measures including, but not limited to, providing public access, establishing view, or wind corridors, preserving of sunlight on the beaches parks and boat slip areas and participating in the funding of park improvements or of traffic mitigation measures shall be made conditions of approval. The applicant shall modify the design of the development to the extent necessary to comply with such conditions.

15. All development shall contribute its fair and proportionate share of necessary mitigation of the development's impacts on the subregional transportation program as determined in item 22.46.1180..A.10 above.

a. Threshold. Mitigation measures are required if a) An intersection is projected to operate at a mid-range level of service D (or volume to capacity (V/C) ratio of 0.85) as a result of the project's impacts, or b) intersections within the project's area of influence are already operating at a level of service above 0.85, and the project will result in a projected increase of 0.01 above anticipated ambient conditions.

b. Recommendations on mitigation requirements. If the Department of Public Works determines that mitigation is required, the department with input from the Department of Transportation and Caltrans shall determine the type of mitigation measures most appropriate to the specific project. The Department shall specifically determine how much an appropriate or projected mitigation measure would reduce the impacts of the project's daily and peak hour trips on the subregional transportation system, and shall submit a recommendation on a preferred mitigation measure or mitigation requirement. If a "fair share amount mitigation," is determined to be the appropriate mitigation measure, the Department shall determine the applicant's proportionate fair share of the project to which the

mitigation will apply, and the construction schedule of the suggested improvement, and shall submit a recommendation on a preferred mitigation requirement. The types of mitigation measures available to satisfy this requirements are listed in subsection g.

c. Available Traffic mitigation measures:

- Category 3 improvements listed in the Transportation Improvement Program, found in Appendix G to this Specific Plan.
- Reduction of traffic trips as may be accomplished through participation in transportation system management and transportation demand management programs cited in Appendix G to this Specific Plan.
- Reduction of traffic trips as may be accomplished through reduction in project size.
- Payment of an in lieu fee or "fair share" amount of a mitigation project where a fair share amount of the mitigation requirement has been determined, the project has been scheduled for construction and the cost and benefits of the project have been determined.
- Other mitigation measure(s) mutually acceptable to the Department of Public Works, the Department of Transportation and Caltrans.

d. Timely submittal of Required studies and Evaluations. The studies, analysis and evaluations require by this subsection 10 shall be required to be completed before filing a coastal development permit application with the Department of Regional Planning. If the applicant requests that the traffic study be evaluated during the environmental review process, the applicant's coastal development permit shall not be filed or accepted until such time as the traffic study has been completed to the satisfaction of the Department of Transportation. If the applicant requests a direct contribution to an existing subregional mitigation fund, information regarding that fund and the applicant's agreement to contribute a fair share mitigation fee to that fund shall be provided at the time a traffic study would have otherwise been required.

e. Mitigation.

All development must fully mitigate all significant daily and peak- hour adverse traffic impacts.

3. To fully mitigate traffic impacts, new developments are required to establish a functional Transportation Systems

Management (TSM)/Transportation Demand Management (TDM) program, or to participate in an existing TSM/TDM program. ...Viable TSM/TDM possibilities include, but shall not be limited to:

- Carpools ...
- Increase use of bicycles for transportation
- Bicycle racks, lockers at places of employment

4. All development must 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. No development shall occur if traffic capacity within the system will not be adequate to serve the development.

With regard to internal traffic impacts, 22.46.1190(A) requires payment into a fund known as the Transportation Improvement Program (TIP) for purposes of internal marina road improvements. The TIP fee is established at \$1,592 per peak hour trip based on calculations found in Appendix G of the certified LCPA. Appendix G estimates the expected internal road improvements and divides that total by the total number of peak hour trips authorized in the certified LCPA. This project will generate 27 peak hour trips.

The Commission notes that Section 22.46.1190(A) requires both payment into TIP and construction of traffic improvements to mitigate direct impacts of project. Also, 22.40.1190(5) allows payment into TIP as means of mitigating direct impacts. Finally, 22.46.1190 A.7. requires the applicant to pay into the Coastal Improvement Fund. Because the applicant has not provided evidence of payment into the TIP, the Commission is conditioning evidence of such payment prior to issuance of the permit. Because traffic impacts of the proposed project are so minor, the applicant's impacts can be accommodated in a number of small traffic improvement projects consistent with Section 22.46.1190(A)(5).

The certified LCPA also prohibits construction of more than half of allowed development until Caltrans and County have reached agreement on routes of subregional improvements. Since 2812 peak hour trips are authorized in the LCP and represents a far greater number of trips than the 27 peak hour trips generated by this project, this project does not raise an issue with this policy.

Pursuant to the requirements of Section 22.46.1190(A)(3)(15), the applicant has submitted a study showing that it will have no more than 27 peak hour trips. The County has therefore determined, in its mitigated negative declaration, that the applicant's roughly proportionate fair share of both internal and external mitigation should be established at \$5,690 per peak hour trip.

That fee was derived by investigating a comparable amount established by the City of Los Angeles in its Coastal Corridor Fund. This fund includes both

traffic improvements adjacent to a proposed development and projected improvements to streets and intersections in the subregion. The County's mitigated Negative Declaration required the applicant to pay \$5,690 for peak period trips in order to finance road improvements. Accordingly, for internal (Marina) road improvements, an applicant's roughly fair and proportionate share fee would be \$1,592 per peak p.m. trip. In addition, an applicant would be required to pay \$4,098 per peak p.m. trip for external (subregional) road improvements.

The 1995 certified LCP in Section 22.46.1190(A)(3)(5)(7) and (15), requires that traffic impacts be mitigated as determined by the Department of Public Works. The applicant has not submitted any evidence of participation in a Transportation Improvement Program or subregional traffic improvement fund. Therefore, the Commission has imposed a condition requiring that the applicant shall provide evidence of payment of no less than \$5,690 per peak hour trip into accounts established by the County of Los Angeles Department of Public Works. The funds shall be allocated as follows: a) \$1,592 per peak hour trip into the Transportation Improvement Program (TIP) as identified in the Appendix G of the certified LCP; b) \$4,098 per peak hour trip into a fund specifically allocated for mitigation of the applicant's proportional share of the cumulative impacts of marina development on the sub-regional transportation system.

In order to reduce traffic generated by the project, the LCPA requires in Section 22.46.1190(A)(3), that the applicant develop a Transportation System Management Plan. Such a plan would include bike racks, shuttle stops and car pool spaces. The CUP and condition 7 require such a plan. Therefore, the Commission is requiring special conditions that the applicant submit written evidence of participation in a Transportation System Management Plan (TDM/TSM) as required in section 22.46.1190 and appendix G of the certified LCP.

Therefore, as conditioned to mitigate cumulative traffic impacts, the Commission finds that the proposed project is consistent with the traffic and circulation provisions of the 1995 certified LCPA.

#### H. Parking

The LCPA has three basic parking programs. It requires 1) parking for new development according to zoning, 2) It allows a parking permit to take into account multiple (shared) use parking and also to grant parking standard exceptions to development that was developed in years past on the basis of lower parking standards than are presently required; and 3) and most important to the Coastal Act, it protects both a) existing boater parking and loading areas and b) does not allow expansion of non-coastal dependent uses to preclude the development of future boat slips. It protects the ability to develop future slips by forbidding development that would make it impossible to develop parking for the boat slips.

The following 1995 certified LCPA policies are relevant:

22.46.1060C. Parking. 1. Parking standards in Marina del Rey shall

be as set forth in [the zoning code] Part 11, Chapter 22.52 and Appendix 3 of this Title 22. ....

3. Development on the land side of parcels on which the waterside has been identified for additional slips under the "funnel concept" shall be evaluated with respect to the parking needs of the future slips. Land side development shall not preclude provision of parking for the future slips called out in this Specific Plan. Projects which include the development of parking garages or increased lot coverage shall provide the spaces for the slips as part of the development project.

The LCP also allows parking permits to be issued at the county's discretion. Such permits are available for projects that were approved under different standards in the past or projects which provide senior or affordable housing. There are presently 602 parking spaces on the easterly portion of the leasehold which is developed with an apartment building. There are 218 parking spaces on the westerly portion of the leasehold, which is developed with a restaurant surrounded by two open lots. There is then a total of 840 spaces on the property, 46 of which are loading spaces adjacent other bulkhead and likely to be removed as a result of a fire department upgrade. If the Fire department requires removal of 46 loading spaces adjacent to the bulkhead. This will leave a total of 556 permanent spaces on the eastern portion of the parcel to serve an existing 204 unit apartment building and 460 boat slips. On the portion of the parcel proposed for development, there are now 218 parking spaces, some landscaping and a restaurant.

In granting its parking permit, the County considered the standards it imposed in its past approvals of the existing development. When the County approved the existing development, it required 163 spaces for the 204 unit apartment, and 70 spaces for the restaurant. The County also approved 468 boat slips and required 287 parking spaces for a total of 520 parking spaces.. The lessees actually constructed 820 parking spaces, 204 apartment units, 460 boat slips and the restaurant.

The applicant proposes to construct the new apartment buildings on the open parking lots located on the east and west side of the restaurant. The applicant is creating new parking spaces in an existing landscaped area and on the lower levels of the buildings. The total project when completed will provide a total of 797 spaces on the entire leasehold.

In approving the project, the County approved a Parking Permit that took into account two factors. The first factor is the County's previous approval of apartments and boatslips with non-conforming parking. As noted, the certified LCPA allows parking permits to consider non-conforming development. The second factor was the need for an exception in order to encourage affordable housing.

The LCPA requires parking for future and present boat slips to be protected in any landside development. The Commission finds that even with allowing one parking space per each existing unit, 0.69 parking space per boat slip and present code requirements for the restaurant and two new structures, there

will be 22 spaces available for guest, overflow and public parking. If the applicant manages the parking lots, as conditioned, so that surplus spaces will be available, the development will not impact existing boater and recreational parking.

Section 22.46.1830 of the certified LCP allows the construction of up to 76 additional slips in the Main channel in the water area of parcel 18, development identified in the LCP as the "funnel concept". Pursuant to Section 22.46.1060.C(3), development on the land side portion of waterfront parcels (the approved land side development) shall not preclude provision of parking for the future slips permitted in the certified LCP. Projects which include the development of parking garages or increased lot coverage shall provide the spaces for the slips as part of the development project.

This parcel is allowed in the LCPA to develop 76 new slips requiring 57 parking spaces. The proposed development does not have 57 surplus parking spaces. Even though no additional parking spaces for future development is provided, the applicant has shown two ways that this problem can be addressed. First, the applicant has discovered that there is an unmet demand for larger boats. The applicant has offered to reconfigure 177 boat slips that are less than 25' in length and create 101 larger slips. The applicant has offered to reconfigure the small slips when he builds the 76 new boat slips under the "funnel concept". This will result in no increase in the number of slips and no increase in parking demand. As an alternative, the applicant is proposing to lease surplus parking spaces located on an adjacent leasehold.

By acceptance of this coastal development permit, the applicant acknowledges that the proposed project does not provide the 57 parking spaces that would enable it to add to the total number of boat slips on this parcel, but states that it has no intention of increasing the number of slips, but instead would increase the average size of the slips on the parcel. If and when the applicant can demonstrate to the satisfaction of the Executive Director that adequate legal interest in sufficient accessible parking to serve these slips is available, the applicant may apply to amend this condition and apply for a coastal development permit to develop the slips.

The future reconfiguration is not part of the proposed project and the applicant has no other lease for parking spaces. Therefore, the Commission is recommending a special condition that requires the applicant to provide a written agreement, recorded with its lease, signed by the Department of Beaches and Harbors and by itself, agreeing that in any future development of the 76 slips allocated to it in the specific plan, it will at the same time reduce the total number of slips on the property such that the parking ratio for the existing and proposed boat slips will be consistent with the requirements of this specific plan. The new development of boat slips shall require a separate coastal development permit, and shall show reduction of smaller slips and substitution of larger slips as generally indicated on exhibit 8 submitted by the applicant. In addition, staff is recommending a special condition that the applicant allocate parking for the development in the following manner:

1. Retain no fewer than 320 parking spaces for boater use. No boater



spaces may be permanently by name to an individual boater but such spaces may be restricted to boat owners.

2. Retain 204 assigned spaces for the existing apartment building.
3. Retain 70 spaces including two handicapped spaces, for the existing restaurant.
4. Retain 30 Spaces for the proposed 60-unit senior citizen housing.
5. Provide no fewer than 136 spaces for the 68-unit market rate apartment building.
6. Provide no fewer than two uncovered spaces for dinghy storage.
7. Provide no fewer than 35 spaces for the public and guests and visitors to all of the above development. These spaces shall be identified by appropriate signs.

Therefore, as conditioned to provide additional parking spaces for 76 future boat-slips and to submit a Parking Allocation Plan, the Commission finds that the proposed development is consistent with the relevant parking provisions of the 1995 certified LCPA.

#### I. Natural Hazards

The Marina is built on dredge materials on saturated solids in a former wetland. The applicant's lease acknowledges as much as 15 feet of hydraulic fill on top of wetland that was used for oil and dumping refuse in past years. Accordingly, the LCP requires development to investigate soils and to mitigate all impacts, or if feasible relocate. Section 22.46.1190 of the certified LCPA. requires mitigation of any and all impacts identified on the site.

The following 1995 certified LCPA policies are relevant:

#### **22.46.1180 (4) Avoidance and mitigation of Geologic/Geotechnical Hazards.**

A Applicants and their engineers are responsible for determining and following all current requirements and recommendations of the Los Angeles County Department of Public Works, the California Division of Mines and Geology and the California Seismic Safety Board. New development shall utilize earthquake resistant construction and engineering practices. All new development over three stories in height shall be designed to withstand a seismic event with a ground acceleration of no less than 0.5g. Accordingly, all development applications shall include a detailed geotechnical report completed by a certified engineering geologist and a registered civil engineer experienced in the field of soil mechanics, and approved by the department of public works. A copy of the report, and its

approval, shall be submitted. The report must include, but not be limited to:

A comprehensive geologic/soils analysis showing underlying geology, soil type and structure;  
Delineation and evaluation of areas prone to fault rupture, secondary effects of seismic shaking, such as lateral spreading, settlement, liquefaction, etc. and excessive ground motion, due to seismic wave amplification;  
Delineation of low-lying areas which may be inundated by tsunamis, floods or unusually high tides, or damaged by excessive wave action;  
Recommendations for development in geologically stable areas, and restriction of development in unstable or unmitigated areas.

**22.46.1190 Conditions of approval.** A The following conditions shall be imposed, where applicable, for development in Marina del Rey.

1. In accordance with the geologic information submitted with the application for development, development shall occur in geologically safe areas. Any structure affecting personal safety (e.g., gas lines) shall not transect geologically unstable areas.

The proposed project is located on one of the mole roads that lead into the marina. The mole roadways, which are "man made", contain fill material that was placed when the marina was constructed between 1960 and 1961. The upper ten feet of hydraulic fill material consists "predominantly of sands and silty sands and is relatively loose". The applicant has recently submitted a Preliminary Geotechnical Report dated March 5, 1996, prepared by Earth systems Consultants. Following is a brief description of subsurface Conditions of the site as excepted from that report:

The ground surface of the proposed building locations is covered with an approximate three inch thick layer of asphalt concrete. Fill was encountered in the boring in the upper approximate ten feet of site soils. Historical records indicated that this material is hydraulic fill and mechanically placed fill that was placed during construction of the Marina between 1960 and 1961. The hydraulic fill consists predominantly of sands and silty sands and is relatively loose.

The natural soils encountered below the artificial fill soils in the exploratory boring were found to be alluvial deposits, consisting predominantly of silty sands and sands with isolated lenses of sandy clay. Refer to the attached Boring Log-Subject Site in Appendix 3 for a more detailed description of the subsurface soils encountered at the boring location.

The natural soils below the fill that were encountered to approximately a depth of 30 feet within the boring, were found to vary in consistency but

are generally considered to be loose to medium dense. The soils encountered below a depth of approximate 30 feet from the existing ground surface were found to be in a dense condition.

Based upon field classification tests, the upper fill soils encountered in the boring were found to have a low to moderate expansion potential.

Results of soil chemistry tests from previous studies in the immediate area indicate that the subsurface soils have a high corrosion potential.

The report further on describes the subsurface conditions of the upper ten feet of fill material as follows:

As indicated in the "Subsurface Conditions" section, it appears that up to ten feet of the current site soils consist of fill. This fill material was found to be contaminated with wood, construction debris, and shells, and is anticipated to have a high settlement potential. The soils encountered below the surface fill, to a depth of approximately 30 feet below existing grade, are considered to be compressible and could demonstrate a moderate to high consolidation potential. In addition, this soil is subject to a high total and differential settlement potential due to liquefaction.

According to the applicants preliminary geotechnical report, the soils between 10 to 30 feet in depth are considered to be potentially liquefiable. Following is a more detailed discussion regarding liquefaction as excerpted from the from the applicant's geotechnical report:

During earthquakes the shaking of ground may cause a loss of strength in certain saturated soils. The loss of strength is due to an increase in pore water pressure that is generated during the shaking. As the excess pore pressure dissipates, deformation and settlement of ground structure can occur. These phenomena, herein defined as "liquefaction", can result in bearing capacity failure below buildings, settlement of buildings, failure of retaining structure, slope deformation, landslides, ground rupture, pavement distress, lateral spreading and pipeline rupture.

Liquefaction is a function of soil grain size, relative density of soil as determined from Standard Penetrometer Tests (SPT), depth of subsurface water, overburden pressure, earthquake magnitude, and site horizontal ground acceleration associated with the earthquake.

We have not yet conducted a detailed liquefaction study. However, based on our preliminary findings, the soils between depths of 10 to 30 feet are considered to be potentially liquefiable. The adverse effects of such liquefaction can be mitigated by implementing the recommendations of this report.

The applicant's geotechnical report concludes that the site is suitable for construction provided that in "the event of any change in the assumed nature or design of the proposed project as planned, the conclusions and recommendations contained in this report shall not be considered valid unless

the changes are reviewed and the conclusions of this report modified or verified in writing".

The County's 1995 certified LCPA requires geology/Soils recommendations for development in geologically stable areas, and restriction of development in unstable or unmitigated areas. Therefore, the Commission finds that in order to be consistent with the applicable certified LCPA provisions, the applicant must conform to the recommendations contained in the aforementioned soils and geology reports. In addition, the Commission is requiring the applicant to submit final plans to be reviewed by the County Engineer. The Commission further finds that the proposed residence, as conditioned to conform to the consultant's geology and soils recommendations, will minimize risks of developing in this area that may occur as a result of natural hazards. Finally, the Commission finds that the applicant must also record a deed restriction assuming the risk of developing in this hazardous area, and waiving the Commission's liability for damage that may occur as result of such natural hazards.

The Commission further finds that it is also necessary to impose a special condition requiring an indemnity/assumption-of-risk deed restriction. This is necessary because the design is a result of a study for which the applicant and its engineer are responsible. Seismic hazards, including geologic/liquefaction hazards cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from geologic conditions.

Only as conditioned, can the Commission find that the proposed project is consistent with the geologic provisions of the certified LCPA.

#### **J. Density Bonus**

The 1995 certified LCPA changed the land use for the subject parcel from Residential III (35 units per acre) to residential IV (45 units per acre). Even with the increase in density it was necessary for the applicant to receive a density bonus in order to provide additional units for a board and care (congregate) facility for senior citizens. Section 22.56.202(A) of the 1995 certified LCPA states that affordable housing means dwelling units provided for..."senior citizens". A development qualifies if at least 50% of the units are for senior citizens.

The following 1995 certified LCPA policy is relevant:

**Section 22.56.202(F) Authorized Bonuses and Incentives.** The density bonuses, incentives, or concessions listed below may be considered pursuant to the provisions of this section. In no case shall the total density bonus exceed a 50 percent increase over what the general plan would otherwise allow.

2. If a project exceeds the minimum requirements contained in subsection A and provides additional affordable housing units, then the following additional bonuses are authorized:

c. A bonus of one dwelling unit for each additional senior citizen or qualified resident dwelling unit beyond the minimum required.

Under the provisions of the certified LCPA, the maximum number of residential units that would be permitted on this parcel would be 100, which would equal to 45 units per acre. The project, as now revised, will include a total of 128 units, which equates to 58 units per acre (28% increase in density). The applicant has received a 28% density bonus as well as consideration of the purposes of the development in granting the parking permit. In a recent letter from Regional Planning, the County representative states that the proposed project is within the allowable density bonus provisions of Section 22.56.202 of the 1995 certified LCPA.

The County's Conditional Use Permit was for a board and care (congregate) facility for senior citizen housing. The applicant is now proposing that the senior housing be a market-rate senior facility rather than a senior board and care facility. According to the parking provisions of the 1995 certified LCPA, a 60-unit senior board and care facility would require 12 parking spaces, whereas a market rate 60-unit senior citizen facility would require 38 spaces.

The County's Conditional Use Permit and Parking Permit granted an incentive for parking for a board and care senior citizen facility. In a letter from the County, the County indicated that the change to senior citizen use would still be covered by the Conditional Use Permit and Parking Permit.

Section 22.56.202(I)(3) of the 1995 certified LCPA requires that senior housing shall be reserved for a minimum period of 30 years if a density bonus of at least one incentive or concession is granted. Therefore, the Commission is imposing a special condition that requires the applicant to obtain evidence that the Conditional Use Permit from the County of Los Angeles is still valid. The Commission is also requiring that any change in use on the property shall require a new Coastal Development Permit. Finally, the Commission, is requiring the submit an amended lease agreement that assures the continued availability of senior citizen housing for a 30-year period, consistent with the provisions Section 22.56.202 of the 1995 certified LCPA.

Only as conditioned, can the Commission find that the proposed, revised project is consistent with the provisions of the 1995 certified LCPA.

#### K. Cultural Resources

The 1995 certified LCPA requires that the Office of State Historic Preservation and the Native American Heritage Commission be notified. The certified LCPA also requires the County to approve archaeological resources are discovered, and to require that development be carried out consistent with the coastal program and with the provisions of State law that protect archeological resources. This will ensure that the preservation of cultural resources is coordinated with the coastal permit process and that recovery plans are duly noticed as required by the Coastal Act. The certified LCPA provides that potential cultural resource impacts must be reviewed through the

County's environmental review process and that appropriate environmental documentation and mitigation measures shall be incorporated as conditions of any approved coastal development permit.

**22.46.1190.5. Protection of Cultural Heritage Resources.** Cultural resources located shall be identified and protected. All applications that include disturbance of native soils or vegetation, including but not limited to excavation, pile driving and grading shall include:

a. Report by a qualified archaeologist. The archaeology report shall comply with the guidelines of the State Office of Historical Preservation. Mitigation measures suggested in the report, and approved by the department of regional planning, shall be undertaken. For the purpose of this report, a "qualified archaeologist" is a person who has been certified by the Society of Professional Archaeologists and who has a minimum of three years experience investigating and interpreting sites in Southern California. A copy of the report, signed by said qualified archaeologist, shall be submitted with the application. In accordance with the findings set forth in the archaeology report submitted with the development application, cultural resources shall be collected and maintained at the Los Angeles County Natural History Museum or other site acceptable to the State Historic Preservation Officer. The department of regional planning shall be notified if any resource is discovered during any phase of development.

b. Notification of the Office of State Historic Preservation and the Native American Heritage Commission of the location of any proposed disturbance of native soils or vegetation. The notification shall include the proposed extent of the grading and dates on which the work is expected to take place.

c. Acknowledgment of receipt of Sections 7050.5 of the Health and Safety code, section 5097.94 of the Public Resources code and Section 5097.88 and 5097399 of the Public Resources code. The applicant shall place a note on the project plans summarizing the procedures that apply in the event of discovery of Native American remains or grave goods.

The county shall approve archaeological recovery programs as permit amendments. The standard of review is the archaeological recovery program's consistency with this Specific Plan and with other provisions of state law.

Because the site is fully developed and located on fifteen feet of fill, no surface traces of archeological or paleontological resources were likely to be present. Therefore the initial archeological survey was waived. However, the building pilings will by definition penetrate the natural soils. It is possible that such natural soils might contain previously unknown archeological resources. Therefore, the Commission is requiring a special

condition that the applicant submit evidence of notification to the Office of State Historic Preservation and the Native American Heritage Commission of the location of the proposed grading, the extent of the grading proposed, and the dates on which the work is expected to take place and also is requiring the applicant to acknowledge receipt of copies of laws that protect cultural resources.

As conditioned, the Commission finds that the proposed development is consistent with cultural resources policies of the 1995 certified LCPA.

#### L. Infrastructure

The provisions of the 1995 certified LCPA ensures that public infrastructure improvements are adequate to serve development. The certified LCPA also requires that all new development to conserve water and to prevent adverse impacts from runoff into the marina. The certified LCPA provisions ensure that roadways required for fire access are also available for pedestrian use and enjoyment. The policies ensure that the repair, maintenance and/or replacement of public works facilities will not adversely impact public access to the Marina or coastal resources in the area.

22.46.1170 Infrastructure. Beyond the circulation system, other major infrastructure systems serving the Specific Plan Area include sewer, water, storm drains and utilities.

A. Sewer. The county of Los Angeles maintains a contractual agreement with the city of Los Angeles to provide sewer services for the Marina area. The purchase of flow rights includes the use of the sewers and pumping system as well as treatment at the Hyperion Plant near Imperial Highway. Maintenance of the sanitary sewers within the Marina is the responsibility of the department of public works, waterworks and sewer maintenance division. There is currently sufficient sewage capacity to handle only a portion of the development permitted by this Specific Plan.

Appropriate phasing of new development may be necessary because of capacity limitations at the Hyperion Plant. Proof of adequate sewer and waste treatment capacity for new development will be required per the provisions of subsection A12 of Section 22.46.1180.

B. Water. The Marina purchases its water from the Los Angeles County Waterworks District No. 29. Current water supplies may be adequate for existing and proposed developments in the existing Marina. As part of the application for development, the applicant shall provide evidence of compliance with all requirements of the Department of Public Works, including payment of required fees and participation in all districts required at the time the application is filed. The required improvements will be determined when applications for development or subdivision are submitted to the Department of

Regional Planning and reviewed by the Department of Public Works and the Fire Department. The application for the coastal development permit shall include a method of funding and schedule of construction of any facilities required by the Department and/or the Fire Department to serve the proposed development.

Water service may alternatively be provided by connection to facilities operated and maintained by the City of Los Angeles, Department of Water and Power. Proof of adequate water capacity for new development will be required in Subsection A12 of Section 22.46.1180.

C. Storm Drains.1. The existing Marina is served by storm drains which deposit flows into the Marina basin. The drains are expected to be adequate to accommodate future development. To reduce the amount of pollutants entering the Marina from Ballona Creek, the department of public works will implement appropriate best management practices within the Ballona Creek watershed, as required by county NPDES municipal storm water permit.

2. Unless otherwise required by the Regional Water Quality Control Board and the County Flood Control District, the storm drain emptying into Basin H will be capped and diverted into Ballona Creek or another area of the Marina.

D. Solid Waste. Lessees in the existing Marina contract with five private companies for solid waste disposal. These companies use existing commercial landfills as available.

E. Utilities.

1. Electricity in the Marina area is provided by Southern California Edison. The present substation, located on Fiji Way, can accommodate moderate additional load. If development generates demand beyond capacity, a new substation will be required.

2. Natural gas for the Marina is supplied by the Gas Company. Supplies for existing and future development are expected to be adequate.

3. General Telephone and Electronics provides telephone service to the Marina. Central office lines are currently in place to serve the area, and they have sufficient capacity to serve future needs.

F. Fire Safety Services. A new fire station and support facilities may be required in conjunction with development anticipated in this LCP. The size and location of new fire facilities shall be determined after Fire Department study and



evaluation for optimal response and service. As part of the application for development, the applicant shall provide evidence of compliance with all design requirements of the Fire Department and evidence of participation in any special district established for fire protection.

**22.46.1060 F. Fire Safety Standards.** The following standards shall apply to all new development and renovation or expansion of existing development, where applicable.

1. **Sprinklers.** All new development shall be required to provide fire sprinklers consistent with the specifications of the Fire Department. Further, remodeling or expansion projects involving 50 percent or more of the existing floor area of said project shall be subject to review by the Fire Department for sprinkler requirements.

2. **Multi-story Buildings.** Where a new building exceeds three stories or 35 feet in height, the following site design standards shall apply:

- a. Emergency access (or clear zones) on the lateral sides of all multi-story buildings shall be required to be a width of 28 feet, subject to Fire Department determination. A lesser width may be approved where the Fire Department finds such width provides sufficient emergency access; a greater width may be approved where the Fire Department finds such width to be necessary for the provision of adequate emergency access. This emergency access requirement may concurrently apply to twenty foot wide pedestrian promenades consistent with subsection (b), below. Where a building is not more than ten (10) feet from the edge of a road, the roadway may serve as the required access area for that side of the building. Clear zones provided on the sides of buildings may count toward any linear view corridor requirements for buildings located between the first public road and the sea; and

- b. The pedestrian promenade and fire department access road may be used for dual functions provided that the fire department maintains unimpeded access on no less than twenty feet of all pedestrian promenades at all times. On mole roads shall these promenades shall be no less than 28 feet wide to allow benches, trash containers, shade structures and other pedestrian amenities on the seaward most 8 (eight) feet of the promenade. The remainder of the promenade shall conform to fire access road requirements and shall be a minimum of 20 feet wide clear to the sky, with no benches, planters or fixed objects. As an alternate configuration, the Director, in conjunction with the Fire Dept., may approve a twenty foot wide clear pedestrian/fire

access road with a series of ten foot-wide improved view points no less than 150 feet apart. These view points shall be located adjacent to the bulkhead line. In either configuration, turn radii shall be approved by the Fire Department.

The applicant has not yet provided evidence of public service capacity to serve the new development. The applicant has also not provided evidence of approval by the Fire Department and Public Works of its proposed fire accesses and storm water drains. The CUP included similar requirements. The certified LCPA requires evidence of compliance with all infrastructure requirements of the Departments of Public Works and the Fire Department including payment of all required fees and participation in all district programs. The required improvements are determined by the Department of Regional Planning, Department of Public Works and the Fire Department. Therefore, the Commission is imposing special conditions requiring the applicant to submit final plans, regarding infrastructure, to the appropriate County Departments, for their review and approval, as required in Section 22.46.1170 of the 1995 certified LCPA. Only as conditioned, can the Commission find that the proposed development is consistent with the applicable infrastructure provisions of the certified LCPA.

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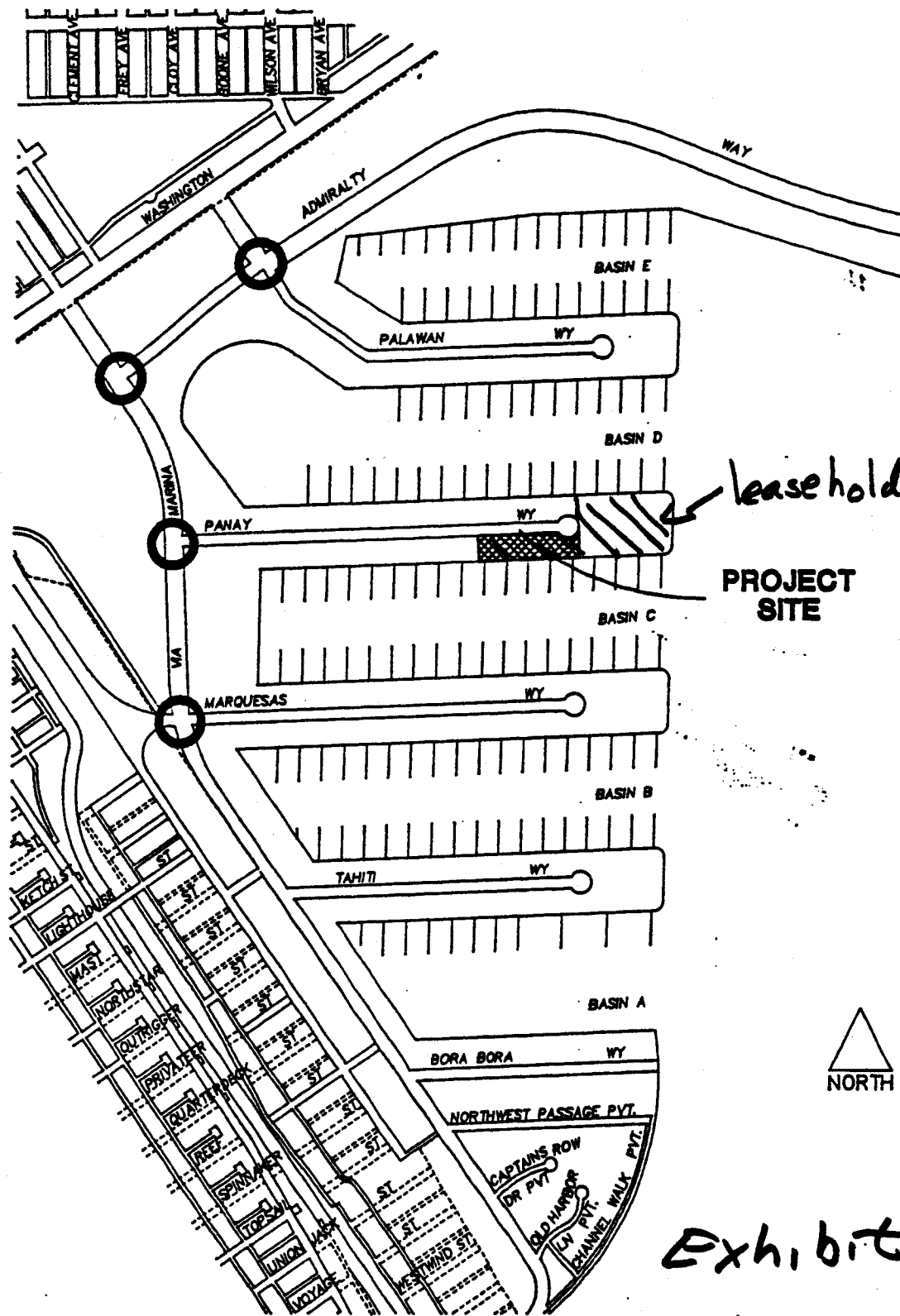


Exhibit 2

A5-MDR-95-017

FIGURE 1

○ - STUDY INTERSECTION

:FN DOLPHIN\VICINMAP

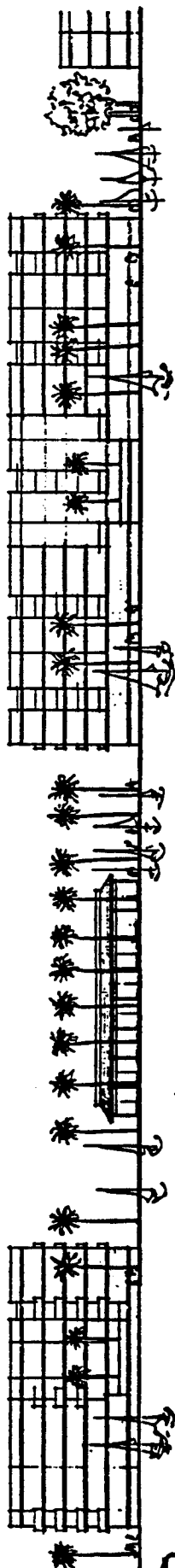
SITE VICINITY MAP



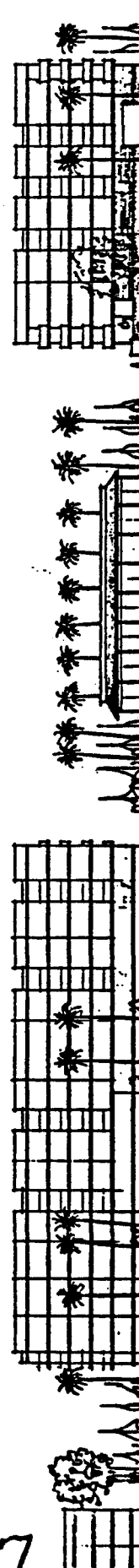
CRAIN & ASSOCIATES

2007 Sawtelle Boulevard  
Los Angeles, California 90025  
(310) 473-6608

Transportation Planning - Traffic Engineering



BUILDING MASSING ELEVATION ALONG WATER



BUILDING MASSING ELEVATION ALONG PANAY WAY

Exhibit  
3

A5-MDR-95-017

# PARKING LOCATION ON SITE

Parcel no. 18R  
Panay Way, Marina Del Rey, California  
Goldrich & Kest Industries  
GMP Architects, Inc.  
March 11, 1996

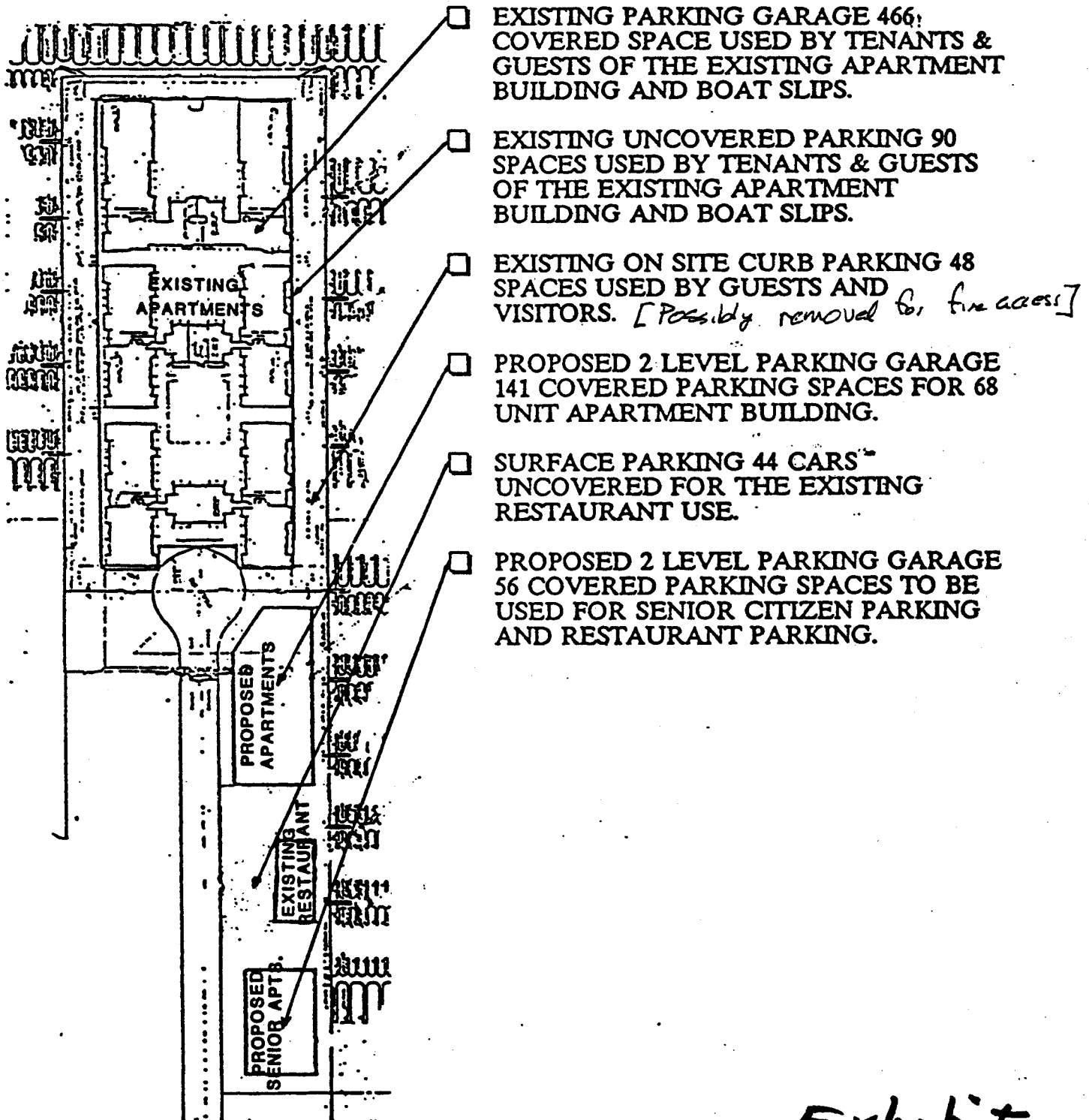















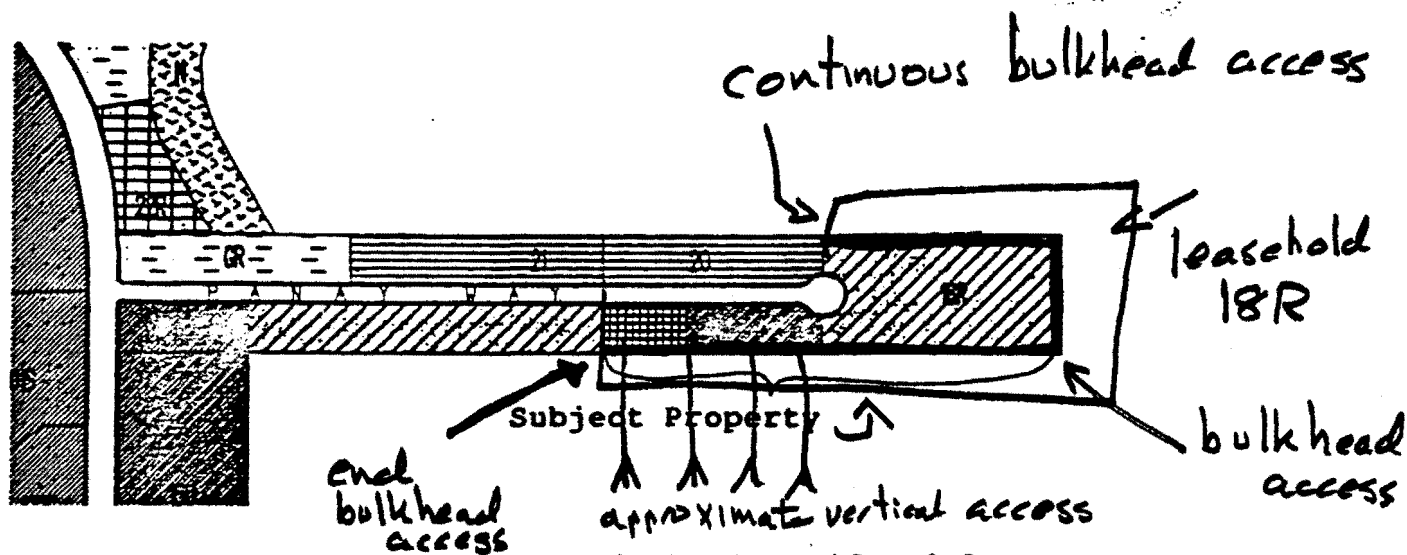
Exhibit  
4

A5-MDR-95-017

# PANAY DZ LAND USE

Exhibit 5  
Total Access

	RESIDENTIAL III		MARINE COMMERCIAL		WATER
	RESIDENTIAL IV		PARKING		WATERFRONT OVERLAY
	RESIDENTIAL V		OPEN SPACE		MIXED USE OVERLAY
	HOTEL		PUBLIC FACILITIES		
	OFFICE		VISITOR-SERVING/CONVENIENCE COMMERCIAL		
















FROM: Visitor Serving Commercial and Residential III  
TO: Residential IV

MARINA DEL REY

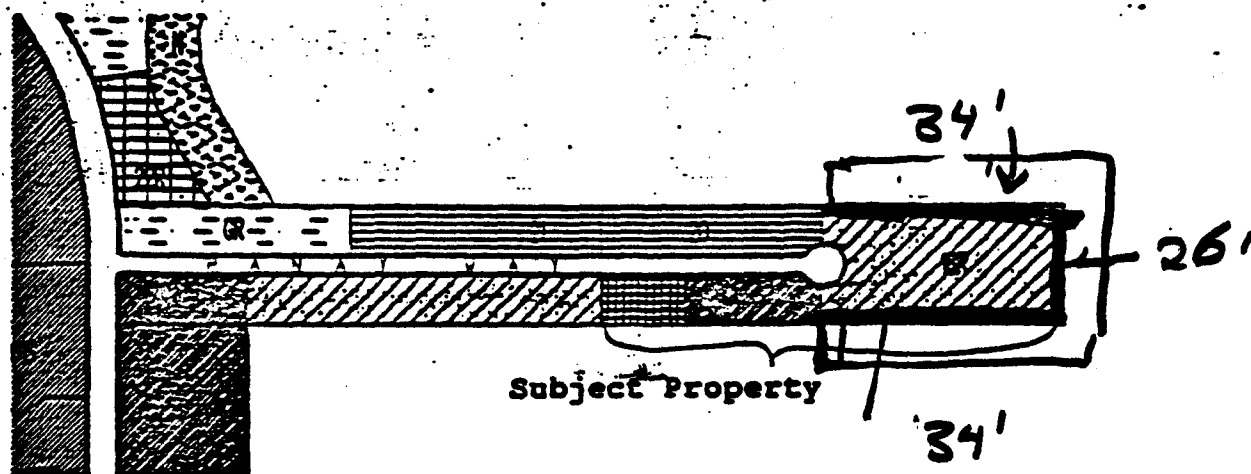
A5-MDR-95-017   
LOCAL COASTAL PROGRAM

# PANAY DZ LAND USE

Exhibit 5(a)

	RESIDENTIAL III		MARINE COMMERCIAL		WATER
	RESIDENTIAL IV		PARKING		WATERFRONT OVERLAY
	RESIDENTIAL V		OPEN SPACE		MIXED USE OVERLAY
	HOTEL		PUBLIC FACILITIES		
	OFFICE		VISITOR-SERVING/CONVENIENCE COMMERCIAL		

Mole End  
Bulkhead Access



FROM: Visitor Serving Commercial and Residential III  
TO: Residential IV

MARINA DEL REY


LOCAL COASTAL PROGRAM

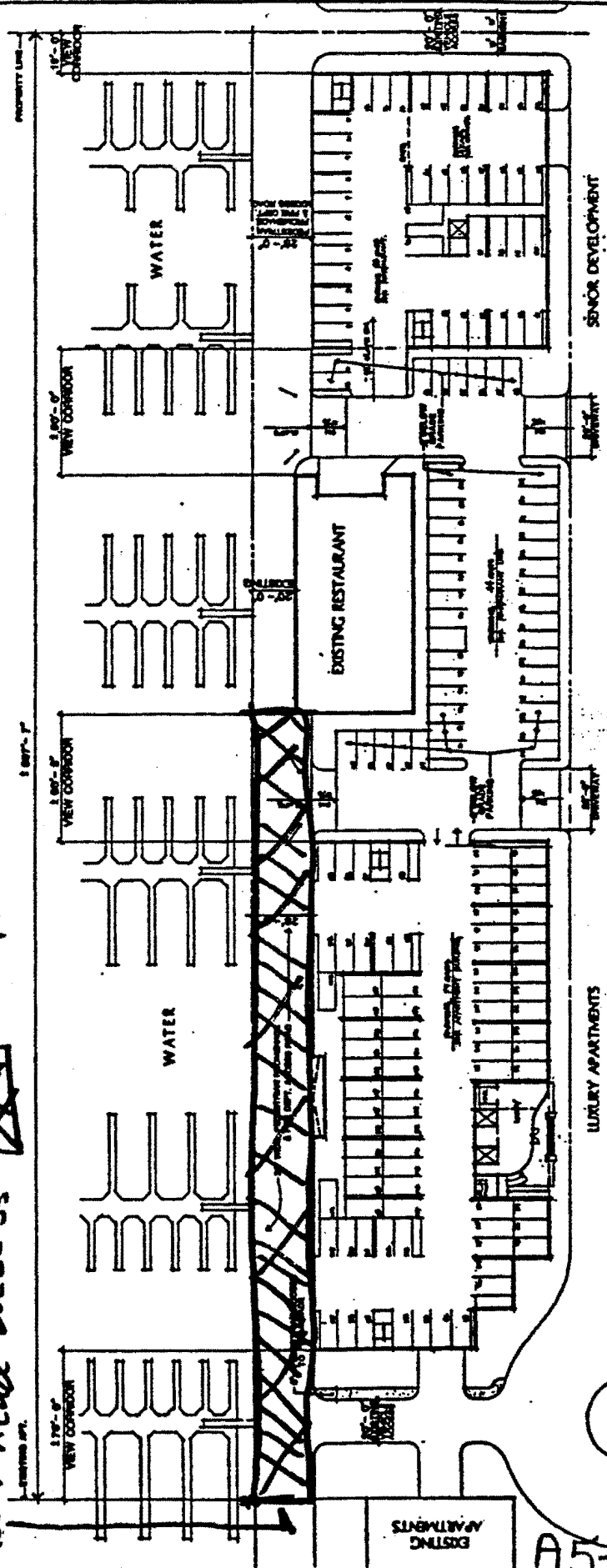
AS-MDR-95-017



**GOOD CONTROL NOTES:**

- 1. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.
- 2. ALL EXISTING STRUCTURES SHALL BE MAINTAINED AND REPAIRS MADE AS NECESSARY.
- 3. THE PROPOSED DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.
- 4. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.
- 5. ALL EXISTING STRUCTURES SHALL BE MAINTAINED AND REPAIRS MADE AS NECESSARY.
- 6. THE PROPOSED DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.
- 7. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.
- 8. ALL EXISTING STRUCTURES SHALL BE MAINTAINED AND REPAIRS MADE AS NECESSARY.
- 9. THE PROPOSED DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.
- 10. ALL NEW CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE IBC, IRC, AND UPC.

Exhibit 5(b)  
Bulkhead Access  
Seaward of Market  
Rate Apartments  
Bulkhead access  applicant's submittal



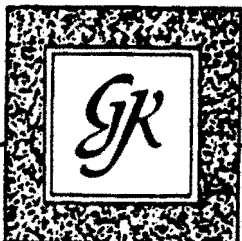
**APPROXIMATE SQUARE FOOTAGE**

Category	Area (sq. ft.)
Existing Building	10,000
New Building	15,000
Water	5,000
Corridor	2,000
Other	1,000
<b>Total</b>	<b>33,000</b>

**APPROXIMATE SQUARE FOOTAGE**

Category	Area (sq. ft.)
Existing Building	10,000
New Building	15,000
Water	5,000
Corridor	2,000
Other	1,000
<b>Total</b>	<b>33,000</b>

A5-MDR-95-017



# Goldrich & Kest

5150 Overland Avenue • Post Office Box 3623 • Culver City, California 90231-3623  
(310) 204-2050 • Fax (310) 204-1900

RECEIVED

APR 3 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

April 3, 1996

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
245 West Broadway, Suite #380  
Long Beach, California 90802

RE: PROGRAM MAJOR AMENDMENT NO. 1-95  
"DOLPHIN MARINA" PARCEL NO. 18R  
CASE NO. 91-329-(4)

Dear Ms. Emerson:

This will acknowledge receipt of your letter dated April 1, 1996 and your subsequent letter dated April 2, 1996. I will address your comments in the same order as presented in your letter of April 1, 1996 as follows:

1. Letter revising project de Novo. Enclosed is a letter which addresses your comments in paragraph 1.
2. Please be advised that we have sent a copy of your letter to Monika Moses of GMP. Per your request, enclosed please find drawings labeling the parking spaces for both the existing and the proposed development. Kindly note that the design of the proposed development, submitted on March 12, 1996, has not been revised - only the parking allocation has been additionally defined.
3. As you pointed out in your April 2, 1996 letter to Mr. Gardner, you have received, but not evaluated, the updated Traffic Report regarding the sub-regional routes, including Lincoln Boulevard and/or Washington Boulevard. As you have discussed with Mr. Barry Kurtz, we have already agreed to pay our proportionate share into a regional transportation fund and would, obviously, agree to pay our fair share of any sub-regional transportation fee depending on the traffic impact our project creates in the Marina approach routes.

EXHIBIT 7  
10f5

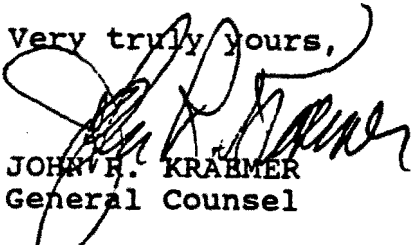
A5-MDR-95-017



Ms. Pam Emerson  
California Coastal Commission  
April 3, 1996  
Page 2.

If you require any additional information, please feel free to contact us.

Very truly yours,



JOHN H. KRAEMER  
General Counsel

Enclosures

Exhibit 7  
2 of 5

A5-MDR-95-017



# Goldrich & Kest

5150 Overland Avenue • Post Office Box 3623 • Culver City, California 90231-3623  
(310) 204-2050 • Fax (310) 204-1900

VIA FAX: (310) 590-5084

April 1, 1996

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
245 West Broadway, Suite #380  
Long Beach, California 90802

RE: PROGRAM MAJOR AMENDMENT NO. 1-95  
"DOLPHIN MARINA" PARCEL NO. 18R  
CASE NO. 91-329-(4)

Dear Ms. Emerson:

On March 12, 1996, Monika Moses of GMP Architects forwarded, via messenger, plans for the 68-unit apartment building and the 60-unit senior building for the above-referenced project. The "Parking Summary" was incorporated into the Site Plan (Site Access Plan - dated 3/12/96).

Please consider these plans as the official plans that we would like to have the Coastal Commission approve as part of our application.

If you or any of your staff members have any questions, please feel free to contact me at (310) 204-2050 or Monika Moses of GMP Architects at (310) 998-0063.

Sincerely,

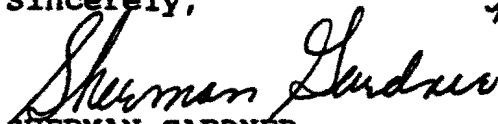
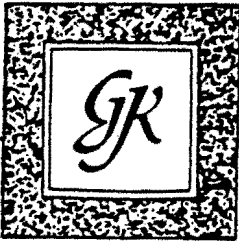
  
SHERMAN GARDNER  
Vice President

Exhibit 7  
3095

A5-MDR-95-017





# Goldrich & Kest

5150 Overland Avenue • Post Office Box 3623 • Culver City, California 90231-3623  
(310) 204-2050 • Fax (310) 204-1900

VIA FAX: (310) 590-5084

April 1, 1996

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
245 West Broadway, Suite #380  
Long Beach, California 90802

RE: PROGRAM MAJOR AMENDMENT NO. 1-95  
"DOLPHIN MARINA" PARCEL NO. 18R  
CASE NO. 91-329-(4)

Dear Ms. Emerson:

On March 12, 1996, Monika Moses of GMP Architects forwarded, via messenger, plans for the 68-unit apartment building and the 60-unit senior building for the above-referenced project. The "Parking Summary" was incorporated into the Site Plan (Site Access Plan - dated 3/12/96).

Please consider these plans as the official plans that we would like to have the Coastal Commission approve as part of our application.

If you or any of your staff members have any questions, please feel free to contact me at (310) 204-2050 or Monika Moses of GMP Architects at (310) 998-0063.

Sincerely,


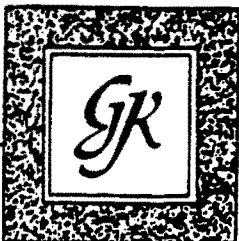
  
SHERMAN GARDNER  
Vice President

Exhibit 7  
4 of 5  
A5-MDR-95-017





# Goldrich & Kest

5150 Overland Avenue • Post Office Box 3623 • Culver City, California 90231-3623  
(310) 204-2050 • Fax (310) 204-1900

April 9, 1996

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
245 West Broadway, Suite #380  
Long Beach, California 90802

RE: PROGRAM MAJOR AMENDMENT NO. 1-95  
"DOLPHIN MARINA" PARCEL NO. 18R  
CASE NO. 91-329-(4)

Dear Ms. Emerson:

Per our conversation today and at your request, we are hereby requesting a density bonus under Provision 22.56.202 as a significant number of our units are for senior citizens.

Sincerely,

  
SHERMAN GARDNER  
Vice President

A5-MDR-95-017

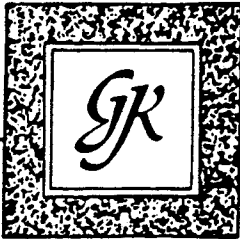
Exhibit 7  
50f5

RECEIVED

APR 10 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT





Goldrich & Kest

Exhibit 8  
p1

5150 Overland Avenue • Post Office Box 3623 • Culver City, California 90231-3623  
(310) 204-2050 • Fax (310) 204-1900

March 11, 1996

RECEIVED

MAR 12 1996

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
245 West Broadway, Suite #380  
Long Beach, California 90802

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

RE: DOLPHIN MARINA  
PARCEL #18  
RECONFIGURATION OF BOAT SLIPS

Dear Ms. Emerson:

Enclosed please find a map, which shows the slip layout for Parcel #18, including the proposed addition of 76 new slips which will be constructed in the main channel under the funnel concept.

Please note that highlighted Areas I, II, and III, show 177 existing short slips - ranging in length from 21 feet to 25 feet.

Our proposal is, within these three areas, to reconfigure 101 slips - ranging in length from 36 feet to 42 feet. By doing so, we will eliminate 76 short slips from the existing marina and, thusly, comply with applicable parking requirements.

In summary, we propose to add 76 slips in the main channel and eliminate 76 existing slips in Areas I, II and III.

If you have any questions, please do not hesitate to contact us.

Sincerely,

  
SHERMAN GARDNER  
Vice President

Enc.

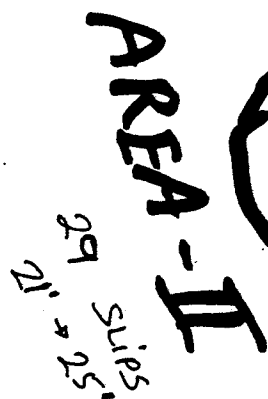
cc: Stan Wisniewski, Director  
County of Los Angeles, Beaches & Harbors

Exhibit 8  
1 of 4

A5-MDR-95-017



A5-MDR-95-01

[illegible]



STATUS	CONCEPT	X	X	100%	FINAL
--------	---------	---	---	------	-------

Exhibit 8  
p 3

DOLPHIN MARINA

29  
50  
88  
172-76 = 107  
Remain  
Bie  
new

AREA-II

29  
21' x 25'  
slips

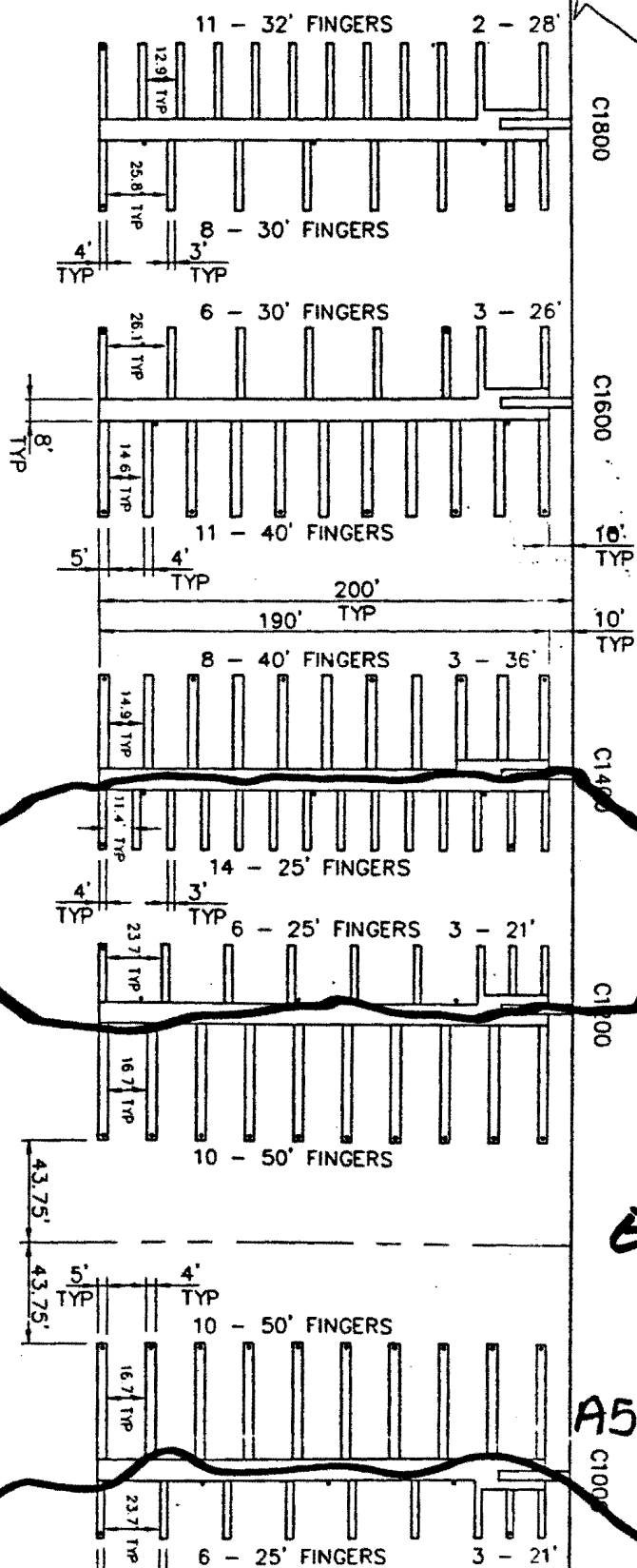
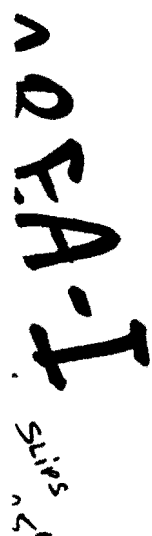


Exhibit 8

304  
A5-MDR-95-01

8					
REVISION					

p 4



## AREA-III

88 slips  
23' → 25'

Exhibit 8

4 of 4

A5-MDR-95-01

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

DEC 12 1994

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Iylene Weiss, 128 Topsail Mall, Venice, 90292 (310) 306-5078  
Peter Davidson 1924 Euclid, Santa Monica 90404 (310) 450-1583  
Lori Formicale 5100 Via Dolce #301 ( ) M.D.R. 90292 (310) 827-2694  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: Los Angeles County

2. Brief description of development being appealed: 1- 68 unit, seven story apartment bldg  
1- 78 unit, double residential; luxury senior residence } complex  
seven story

3. Development's location (street address, assessor's parcel no., cross street, etc.): Parcel 18 R ... Ponay Way ... Marina del Rey.

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: ☒ \_\_\_\_\_
- c. Denial: \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

DISTRICT: \_\_\_\_\_

HS: 4/88

Exhibit  
9

1043

A5-MDR-95-017

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator      c. Planning Commission  
b. ☒ City Council/Board of Supervisors      d. Other

6. Date of local government's decision: Dec. 1, 1994

7. Local government's file number (if any): 91-329-(4)

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Goldrich and Kest  
5150 Overland Ave.  
Culver City, CA 90230

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(See above)

MDR = Marina del Rey

- (1) Jim Maslen  
5517 Ocean Front Walk  
MDR 90292
- (2) Arthur Duncan  
14055 Tahiti Way #110  
MDR 90292
- (3) Lourette Robbins  
13900 Pandey Way Apt. 5R223  
MDR 90292
- (4) Don Klein  
P.O. Box 10851  
MDR 90295

**SECTION IV. Reasons Supporting This Appeal**

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

Exhibit 9

2 of 3

A5-MDR-95-017

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Development requires LCP amendment - to increase development rights  
 " " Specific plan amendment re density and height  
 " " Parking permit request to allow less than required parking  
 Development fails to provide adequate public access  
 " " protect public access from public roads  
 " is not compatible with established physical scale area.

Development mitigated negative Ded. is inadequate. EIR should be required.  
 Attached is statement in opposition made at Dec. 1, 1994 hearing.

Issues: Sewage capacity, fire safety, wind tunnel impacts on boats.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

#### SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Sydney Weiss

Signature of Appellant(s) or  
Authorized Agent

Date 12/7/94

NOTE: If signed by agent, appellant(s) must also sign below.

#### Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Exhibit 9

Signature of Appellant(s) 3 of 3

Date \_\_\_\_\_

A5-MDR-95-017



Los Angeles County  
Department of Regional Planning

Director of Planning: James E. Hill ACP



September 22, 1994

Honorable Board of Supervisors  
County of Los Angeles  
Room 383, Hall of Administration  
Los Angeles, California 90012

RECEIVED

SUBJECT: Local Plan Amendment 91-329-(4)

MAR 8 1995

Fourth Supervisorial District

Playa del Rey Zoned District No. 39

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Petitioner: Dolphin Marina, Ltd.  
13900 Panay Way  
Marina del Rey, CA 90292

Dear Supervisors:

Attached is a copy of the resolution adopted by the Regional Planning Commission at its regular meeting of September 21, 1994. Included in the resolution is the

RECOMMENDATION

That your Honorable Board hold a public hearing on an Amendment to the Land Use Policy Map of the Marina del Rey Local Coastal Program and Marina del Rey Specific Plan

From: Visitor Serving/Convenience Commercial and Residential III (maximum of 35 units per acre)

To: Residential IV (maximum of 45 units per acre).

General Location: The subject property consists of an irregular shaped parcel totalling approximately 2.3 acres of land area, located at 13900 Panay Way in the unincorporated community of Marina del Rey. The subject property is also located in the Playa del Rey Zoned District.

Exhibit 10  
1 of 2

A5-MDR-95-017

The Commission hearing summary:

The Regional Planning Commission conducted concurrent public hearings regarding the Local Plan Amendment, Coastal Development Permit, Conditional Use Permit and Parking Permit on March 30, 1994, June 8, 1994 and August 11, 1994.

Testimony was given in favor of the project. The applicant's representative testified that the requested zone change is necessary to allow the development of a 68 unit apartment building and 75 unit Board and Care facility.

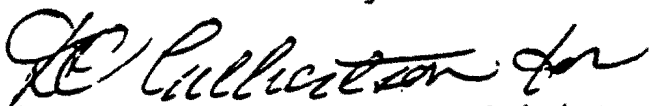
Testimony was given in opposition to the project. Testifiers have expressed concern about impacts including, traffic, congestion, aesthetics, shadow effects, parking, height, pollution, sewage disposal and depletion in recreational facilities.

The Regional Planning Commission closed the public hearing and voted 5-0 to instruct staff to prepare findings and conditions for approval of the project.

At the time of the hearing, in the event your Honorable Board approves the recommended changes as outlined in the resolution, it would be appropriate to approve the preparation of an ordinance adopting the Local Plan Amendment and a resolution effecting the amendment to the Marina del Rey Specific Plan.

Respectfully submitted,

DEPARTMENT OF REGIONAL PLANNING  
James E. Hartl, AICP  
Director of Planning

  
John R. Schwarze, AICP, Administrator  
Current Planning Branch

JRS:DCC:rm

Attachments: Suggested Board Resolution  
Commission Resolution  
Legal Description

c: Executive Officer-Clerk of the Board of  
Supervisors for distribution  
Petitioner-Certified Mail-Return Receipt Requested  
Testifiers

Exhibit 10  
2 of 2

2  
A5-MDR-95-017

# FILE COPY

COUNTY OF LOS ANGELES  
DEPARTMENT OF REGIONAL PLANNING  
320 WEST TEMPLE  
LOS ANGELES, CALIFORNIA 900122

## MITIGATED NEGATIVE DECLARATION

PROJECT NUMBER 91329, I.S., L.P., C.D.

1. DESCRIPTION:

Local Plan Amendment and Coastal Development Permit for 68 apartments and 75 board and care units on 1.1 acres.

2. LOCATION:

13900 Panay Way, Marina del Rey

3. PROPONENT:

Sherman Gardner  
5150 Overland Avenue  
Culver City, California 90230

4. FINDINGS OF NO SIGNIFICANT EFFECT:

BASED ON THE ATTACHED INITIAL STUDY AND CONDITIONS, IT HAS BEEN DETERMINED THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

PREPARED BY: Russell J. Fricano, AICP  
Impact Analysis Staff, LA County Department of Regional Planning

DATE: February 24, 1994

Exhibit 11  
1 of 3

A5-MDR-95-017





*Los Angeles County*  
*Department of Regional Planning*  
*Director of Planning, James E. Harll, AICP*



**PROJECT CHANGES/CONDITIONS  
DUE TO ENVIRONMENTAL EVALUATION**

**PROJECT** 91329, I.S., L.P., C.D.

The Department of Regional Planning staff has determined that the following conditions or changes in the project are necessary, in order to assure that there will be no substantial evidence that the proposed project may have a significant effect on the environment:

The proposed development shall utilize earthquake resistant construction and engineering practices. A detailed geotechnical report prepared by a certified engineering geologist shall be submitted for approval by the Department of Public Works, prior to issuance of development permits, in accordance with Section 22.46.1180(5) of the Zoning Code.

Consistent with the Fire Department letter of August 12, 1993, the applicant shall provide a 20 foot wide fire lane along the water's edge, designed to tie into similar fire lanes, planned to eventually encircle the entire mole.

The applicant shall provide sprinklers in all structures in accordance with Los Angeles County Building Code, Chapter 38, Section 3802(b)5 and 3802(h).

The applicant shall provide an uninterrupted view corridor from Panay Way to the harbor consisting of 40% of the project width.

The applicant shall take measures to provide for uninterrupted public access of the harbor.

The applicant shall provide parking in accordance with the Los Angeles County Planning and Subdivision Code, unless the burden of proof for a parking permit to allow less parking can be met.

In order to mitigate traffic impacts, the applicant will pay all required trip fees at the rate of \$5,690 per peak period trip, to finance necessary road improvements, as determined by the Department of Public Works.

The applicant shall design the project to enhance circulation of wind throughout Marina del Rey, as prescribed in the Marina del Rey Local Implementation Program, unless the burden of proof for a plan amendment allowing a modification can be met.

EXHIBIT 11  
20F3

A5-MDR-95-017

Project Changes/Conditions

Project No. 91329

Page 2

The applicant will provide estimates of the quantity and quality of project wastewater discharge to the Wastewater Program Management Division of the City of Los Angeles Department of Public Works prior to the issuance of sewer connection permits.

The applicant will contact the City of Los Angeles Wastewater Program Management Division at (213) 847-9503 for adherence to water conservation requirements.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Name: Type or Print

☐ No response received within 15 days. Environmental Determination requires that these changes/conditions be included in project.

\_\_\_\_\_  
Staff

\_\_\_\_\_  
Date

Exhibit 11  
3 of 3

A5-MDR-95-017

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 property involved (if other than the permittee) have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant, and the Board of Supervisors has adopted and the Coastal Commission has certified an amendment to the Marina del Rey Local Coastal Plan consistent with this grant and an amendment to the Marina del Rey Specific Plan has been adopted and has become effective.
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 65907. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. This grant will expire unless used within 2 years from the date of approval. A one year time extension may be requested before the expiration date.
5. The subject property shall be 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.

If an 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 the Department of Regional Planning for all enforcement efforts necessary to bring the subject property into compliance.

Exhibit 12  
10f4

A5-MDR-95-017

6. The subject property shall be 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.

If any future 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 the Department of Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance.

7. 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 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 of safety or so as to be a nuisance.
8. This grant allows the construction and operation of an apartment building and board and care facility in conjunction with the continued operation and maintenance of an existing apartment complex and an existing restaurant on the subject property, and other uses, subject to the following conditions:
- a. The units of said apartment building shall be limited to 68 dwelling units.
  - b. The units of said board and care facility shall be limited to 75 dwelling units.
  - c. The occupancy of said board and care facility shall be limited to two (2) full-time occupants per each unit.
  - d. One occupant of every unit of said board and care facility shall be not less than sixty-two years of age; a covenant to that effect shall be filed in the office of the County Recorder of the County of Los Angeles
  - e. Permittee shall be in compliance with all requirements for a density bonus as specified in Section 22.56.202, Title 22 of Los Angeles County Code.
  - f. A minimum of 246 additional parking spaces shall be provided for the proposed development;

Exhibit 12  
2 of 4

A5-MDR-95-017

- g. On-street parking shall be prohibited;
  - h. Parking in unmarked spaces and in private driveways shall be prohibited; unauthorized parking within the existing driveways shall be eliminated and appropriate signs posted to the satisfaction of the County Fire Department.
  - i. Fire lanes within the proposed development shall be provided to the satisfaction of the County Fire Department and posted with no parking signs to the satisfaction of the County Fire Department.
  - j. Permittee shall provide valet parking for the restaurant facility, and any other area designated for visitor parking, which uses tandem parking spaces.
9. The permittee shall consult with the Department of Forester and Fire Warden to determine facilities necessary to protect the property from fire hazard. Such facilities may include water mains, fire hydrants, sprinklers and fire flow which, prior to exercise of the permitted use, shall be provided as required by said department.
10. The permittee shall consult with the Department of Public Works to provide the required improvements and comply with the conditions specified in the Mitigated Negative Declaration conditions. All improvements shall be provided to the satisfaction of Los Angeles County Department of Public Works.
11. The permittee shall consult with the Department of Forester and Fire Warden to provide the improvements and comply with the conditions specified in the Mitigated Negative Declaration conditions. All improvements shall be provided to the satisfaction of Los Angeles County Department of Forester and Fire Warden.
12. All structures shall conform with the requirements of the Division of Building and Safety of the Department of Public Works.
13. Three copies of revised plans, similar to Exhibit "A" as presented at the public hearing and conforming to such of the following conditions as can be shown on a plan.

The property shall be developed and maintained in substantial conformance with the approved plan. All revised plans must be accompanied by the written authorization of the property owner.

Exhibit 12  
3 of 4

A5-MDR-95-017

CONDITIONAL USE PERMIT NO. 91329-(4)  
COASTAL DEVELOPMENT PERMIT NO. 91329-(4)  
PARKING PERMIT NO. 91329-(4)

CONDITIONS  
PAGE 4

14. The property shall be developed and maintained in compliance with the standards specified in the Marina del Rey Local Coastal Program and Specific Plan, except the height and visual corridor standards and the phasing provisions of Section 22.46.1090 and 22.46.1190 of the County Code, which are specifically modified hereby as incentives or concessions necessary for the provision of housing for senior citizens.
15. The permittee shall participate in the Coastal Improvement Fund as recommended by the Regional Planning Commission in its action on the Marina del Rey Local Coastal Program of September 14, 1994, (See Section 22.46.1800 of the Specific Plan). Should the Regional Planning Commission's recommendation or a substantially similar requirement not become part of the final Marina del Rey Local Coastal Program, then the permittee may be relieved from this requirement.
16. The permittee shall participate in the Transportation Improvement Program as recommended by the Regional Planning Commission in its action on the Marina del Rey Local Coastal Program of September 14, 1994, (See Section III, A and C of Appendix G of the Specific Plan). Should the Regional Planning Commission's recommendation or a substantially similar requirement not become part of the final Marina del Rey Local Coastal Program, then the permittee may be relieved from this requirement.
17. 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 business being operated on the premises or that do not provide pertinent information about said premises.
18. In the event of such extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 48 hours, 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
19. In the event that the use of the 75 unit board and care facility is terminated, any new use of such facility shall comply with current off-street parking standards as set forth in Title 22 of the Los Angeles County code.

Exhibit 12  
4 of 4

A5-MDK-95-01'



COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC WORKS

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91802-1460  
Telephone (818) 482-1100

HARRY W. STONE, Director

May 16, 1996

RECEIVED

MAY 22 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE  
REFER TO FILE:

T-0

Ms. Pam Emerson  
California Coastal Commission  
245 West Broadway, Suite 380  
Long Beach, CA 90802-1450

Dear Ms. Emerson:

DOLPHIN MARINA PROJECT  
PROJECT NO. 91-329 AND PARCEL NO. 18-U  
MARINA DEL REY  
TRAFFIC IMPACT REQUIREMENTS AND FEE JUSTIFICATION

This letter supersedes our letter dated April 11, 1996. Following a thorough review of the evolution of the Marina del Rey Transportation Improvement Program (Appendix G) from the draft version proposed by staff in June 1994 to the certified version approved by the Coastal Commission in February 1996, we believe that the requirements of Condition 17 of the Dolphin Marina Coastal Development permit (as approved by the Board of Supervisors in January 1995) are still substantially valid and need only slight revision to comply with the certified Local Coastal Plans (LCP). Our review involved staff from County Counsel, Department of Regional Planning, and this Department.

In a letter dated October 26, 1993, this Department recommended that the applicant for Dolphin Marina be assessed a traffic mitigation fee of \$5,690 for each p.m. peak-hour trip generated by the Project. As proposed in the draft Local Implementation Program (LIP), this fee was intended to fund Category 1 improvements (internal road improvements within Marina del Rey), a Category 2 improvement (widening of Admiralty Way to six lanes), and with an unspecific amount allocated toward Category 4 improvements (shuttle, periphery parking, people mover, etc.). The Category 2 improvement was intended as an alternative improvement replacing the Marina Bypass as the principal regional traffic mitigation requirement of the LCP.

Exhibit 13  
1 of 3

A5-MDR-95-017

Ms. Pam Emerson  
May 16, 1996  
Page 2

Through successive changes made by the Planning and Coastal Commissions, Appendix G was modified so that Category 1 deals solely with internal Marina street improvements, and a revised Category 3 deals with a consolidated list of potential regional transportation improvements. Category 2 (the widening of Admiralty Way to six lanes) was entirely deleted.

The County recommended fee of \$5,690 was based upon a fee structure created by the City of Los Angeles to fund improvements along its Coastal Transportation Corridor, primarily dealing with improvements to Lincoln Boulevard and adjacent streets. Although this Department recently proposed a higher fee structure (refer to our letter dated April 11, 1996), we have reconsidered our position. We now recommend the original fee of \$5,690 as most supportable and justifiable at this time since it is based upon an existing City fee structure. Based upon the revised cost estimates for Category 1 improvements as finally certified, we suggest that the fee be allocated as follows: \$1,592 of the fee should be set aside for Category 1 improvements since a detailed cost analysis is provided on Table 1 of the certified Appendix G; and the remaining \$4,098 of the fee should be set aside for regional transportation improvements. Given the very small projected impact of the Dolphin Marina Project upon the intersection of Lincoln Boulevard and Washington Boulevard (estimated at no more than ten peak-hour trips), and considering there is no practical mitigation measure for this development, we believe this fee more than adequately meets the developers "fair share" requirement. County Counsel concurs with this position.

The information provided in Footnote 11 to Figure 13 of the Marina del Rey Land Use Plan clearly anticipates that planning for road improvements along Lincoln Boulevard is an on-going and long-term process involving several jurisdictions and initial projects within Marina del Rey are not to be delayed with activity for long-term planning to be completed.

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2 of 3

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Ms. Pam Emerson  
May 16, 1996  
Page 3

In conclusion, we recommend that the following conditions be made for the Dolphin Marina Project.

- That a traffic mitigation fee of \$5,690 per p.m. peak-hour trip generated by the Project be collected and set aside in trust funds (administered by the Department of Public Works) to be divided between internal Marina road improvements (\$1,592) and regional transportation improvements (\$4,098).
- That the applicant be required to participate in any subsequently created benefit assessment district or similarly intended improvement district should the County create one for road improvements in the Marina del Rey area.

If you have any questions, please contact Mr. Barry Kurtz of our Traffic and Lighting Division at (818) 458-5902.

Very truly yours,

HARRY W. STONE  
Director of Public Works

  
RONALD J. ORNEE  
Deputy Director

BK:df  
DOLPHIN.BK

cc: Mr. George Malone  
Department of Regional Planning  
Ms. Julie Cook  
Department of Beaches and Harbors  
Mr. Charles Moore  
County Counsel

Exhibit 13  
3 of 3

A5-MDR-95-017



*Los Angeles County  
Department of Regional Planning  
Director of Planning. James E. Harll. AICP*



April 23, 1996

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APR 25 1996

Pam Emerson  
California Coastal Commission  
245 West Broadway, Suite 380  
Long Beach, CA 90802-1450

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Dear Ms. Emerson:

**SUBJECT: DOLPHIN MARINA PROJECT, NO. 91-329  
PARCEL 18-U, MARINA DEL REY**

I am in receipt of information from you stating that the applicant desires to modify his project from the one that was approved by the Board of Supervisors in January 1995. These requested modifications primarily involve reducing the number of senior citizen congregate care units from 75 to 60 units, and converting the congregate care units into straight senior citizen apartments. This request on the part of the applicant has broad implications with respect to the conditional use permit and parking permit that were approved by the Board of Supervisors. This change in project design may nullify both the conditional use permit and the concession allowing less than required parking spaces as granted by a parking permit. The implications of these modifications are outlined below.

**Density Calculations**

The net buildable area of the subject site for this project is 2.22 acres. The site contains an existing restaurant with the remainder of the site being devoted to parking, driveways, and pedestrian promenades. Under the provisions of sub-section 22.46.1090(C)(2) of the revised Marina del Rey Specific Plan, in cases where a visitor-serving use occupies less than 10 percent of the total area of the site, the area devoted to the visitor-serving use may be used in determining the total net buildable area of the site when calculating residential density. In this case, the existing restaurant occupies 6,500 square feet on a site of about 96,700 square feet (or 2.22 acres), or less than 10 percent of the site.

The county-approved project proposed amending the land use category for this sub-parcel from Residential III (35 units per acre) to Residential IV (45 units per acre). This change in land use classification for this sub-parcel became affective when the comprehensive amendment to the Marina del Rey LCP was certified by the Coastal Commission in February 1996. In determining the amount of additional units that might be granted under a density bonus for senior citizen housing, the calculations were predicated upon use of the Residential IV density classification. The density bonus was calculated using the method provided for in Section 22.56.202 of the Los Angeles County Code Title 22. To qualify for an initial bonus as a senior citizen project, at least 50 percent of the project

EXHIBIT 14

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Pam Emerson  
April 23, 1996

must be for seniors. The initial bonus is 25 percent of the units allowed by the land use category. An additional bonus, including other types of concessions, may be granted for projects that exceed the initial bonus threshold: this bonus is one dwelling unit for each additional senior citizen dwelling unit reserved beyond the minimum required, with the limitation that no density bonus may exceed 50 percent increase over what the general plan would otherwise allow. The calculations are as follows:

**County-approved project:**

Land use category (Residential IV):	45 units per acre
Area size:	2.22 acres
Maximum allowed project:	100 dwelling units
Initial project proposal:	75 senior citizen congregate care units 25 standard apartment units
Total units:	100 units
Initial density bonus (25%):	25 units
Added bonus for going over threshold:	50 units
Total bonus units:	75 units (however, the total bonus units are limited to no more than 50% of the amount of units allowed by the land use category, which in this case would limit the bonus to 50 units)
Maximum allowed project with bonuses:	150 units
Proposed project with bonuses:	75 senior citizen units 68 standard apartment units
Total units requested by applicant:	143 units
<b>Conclusion: Project is within allowable density range with bonuses.</b>	

**Proposed Modified Project:**

Land use category (Residential IV):	45 units per acre
Area size:	2.22 acres
Maximum allowed project:	100 dwelling units
Modified project proposal:	60 senior citizen apartment units 40 standard apartment units
Total units:	100 units
Initial density bonus (25%):	25 units
Added bonus for going over threshold:	20 units
Total bonus units:	45 units
Maximum allowed project with bonuses:	145 units
Modified project with bonuses:	60 senior citizen units 68 standard apartment units
Total units requested by applicant:	128 units
<b>Conclusion: Project is within allowable density range with bonuses.</b>	

*Exhibit 14*  
*2044*

Pam Emerson  
April 23, 1996

## Parking Requirements

### a) Parking Standards in 1960s:

The parking standards applicable to duplex and apartment structures in effect during the 1960s required one and one-half (1.5) passenger automobile spaces per dwelling unit (see attached copy of Section 743 of Ordinance 1494 - the Zoning Ordinance). Then as now, the Zoning Ordinance is silent about parking requirements for boat slips. The current standards, which are set out in the *Specifications and Minimum Standards of Architectural Treatment and Construction*, require 0.75 parking spaces per boat slip.

### b) Current Parking Standards:

	Per Unit:	Guest:	Total:	Citation:
Apartments (one bedroom):	1.5 spaces	0.25 spaces	1.75 spaces	22.52.1180
Apartments (2 or more bedrooms):	2.0 spaces	0.25 spaces	2.25 spaces	22.52.1180
Restaurant	1 space for each 3 persons based on occupant load as determined by Public Works			22.52.1110
Congregate Care (senior residential):	1 space for each staff member on largest shift and one space for each vehicle used in conducting use			22.52.1120
Boat slips	0.75 per slip			Arch. Guidelines

The above parking standards were used in assessing the parking requirements for the original project of 68 apartments and 75 board and care units. The parking permit was granted largely on the basis of characteristics of the board and care facility not needing any significant amount of parking.

### c) Senior Citizen Apartments:

The proposal to modify the project to allow for standard citizen apartments in place of the board and care units represents a significant alteration of the project that goes beyond the scope of the types of changes to a project that may be accomplished through an administrative "Revision to Exhibit A" procedure. It is the opinion of planning staff (not confirmed by County Counsel opinion) that the proposed modification of the project to straight senior citizen apartments would necessitate a revised conditional use permit and parking permit through the County planning process, including new public hearings. The CUP clearly specified board and care units and not senior citizen apartments, and based the Parking Permit on this type of facility being built.

Senior citizen apartments have the following parking requirements:

Pam Emerson  
April 23, 1996

	Per Unit:	Guest:	Total:	Citation:
Senior Citizen Units	0.5 spaces	0.125 spaces	0.625 spaces	22.52.1210

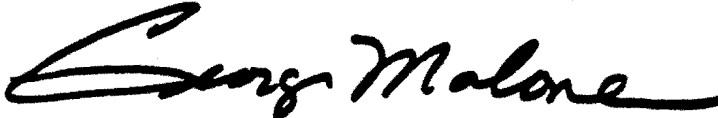
The parking information sheet from GMP Architects dated March 12, 1996 is correct for all parking requirements with the exception of required guest parking for the senior citizen units, which requires one guest space for every 8 units (or 0.125 spaces per unit). Per the provisions of Section 22.52.1210, the parking requirements for senior housing may be reduced if a parking permit is first approved.

#### Recommendation

It is my recommendation that if the applicant wishes to avoid returning to the County to initiate revisions to the Coastal Development Permit, CUP and Parking permits already approved by the county that he be advised to abandon the proposal to modify the project to senior citizen apartments, and retain the board and care facility as originally approved by the Board of Supervisors.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING  
James E. Hartl, AICP, Director of Planning



George Malone, Head  
Coastal Planning

GTM:mg  
attachments

c: James Hartl  
Don Culbertson  
John Schwarze  
James Fawcett, Beaches & Harbors  
C J Moore, County Counsel  
Rick Weiss, County Counsel

Exhibit 14  
4 of 4



COUNTY OF LOS ANGELES  
DEPARTMENT OF BEACHES AND HARBORS



STAN WISNIEWSKI  
DIRECTOR

March 12, 1996

KERRY GOTTLIEB  
DEPUTY DIRECTOR

JUDITH KENDALL  
DEPUTY DIRECTOR

RECEIVED

MAR 13 1996

CALIFORNIA  
COASTAL COMMISSION  
SOUTH COAST DISTRICT

Ms. Pam Emerson  
California Coastal Commission  
South Coast Area  
245 West Broadway, Suite 380  
Long Beach, CA 90802

**DOLPHIN MARINA - PARCEL 18R - RECONFIGURATION OF SLIPS**

Dear Pam:

We have received a copy of Sherman Gardner's letter and attached plan of Dolphin Marina slips sent to you on March 11, 1996. The letter and plan describe how the lessee of Parcel 18R will accommodate parking requirements for funnel concept slips if such slips are ever constructed.

We find that this approach, although very rough, may be a feasible method of parcel-wide slip configuration if the funnel concept is implemented. It maintains the current parking load as well as increases the average length of slips. The proposed reconfiguration results in no net change in the number of slips and satisfies the County's desire to increase average slip length throughout Marina del Rey.

Please feel free to call if you have any questions.

Very truly yours,

STAN WISNIEWSKI  
DIRECTOR

SW:dh

c: Sherman Gardner  
Rick Weiss

A5-MDR-95-017