

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

TU 250

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Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 5-98-085-A1

APPLICANT: Pegasus Group (PG Marina Investors II)

AGENT: Ingram—Seitz & Associates

PROJECT LOCATION: 16400 Pacific Coast Highway, City of Huntington Beach,
County of Orange

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: This project was approved by the South Coast Regional Commission on October 18, 1976 as coastal development permit P-8-27-76-8742. The approved project was for construction of a bulkhead, 244 condominium units, clubhouse, pool, three tennis court, commercial development, marina, 75 room hotel, three public parks including plaza, natural area, and swimming beach, public pedestrian and bike ways, public facilities such as restrooms, showers, fishing dock, harbor tour ferry and ten public boat slips. Six Special conditions were imposed by the Commission.

DESCRIPTION OF AMENDMENT: Reconstruct Dock B and one slip of Dock A at the Peter's Landing Marina. Dock B currently contains 35 boat slips. To accommodate larger boats, the proposed development would result in a reduction of 9 berthing slips and relocation of Dock B. Dock relocation will affect approximately 2090 sq. ft. of an existing 5680 sq. ft. eelgrass bed. The implementation of an eelgrass monitoring and mitigation plan consistent with the "Southern California Eelgrass Mitigation Policy". The removal of 22 pilings and the insertion of 34 one foot wide concrete pilings.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the project with three special conditions. The special conditions relate to maintaining all previously imposed special conditions, conformance with the Southern California Eelgrass Mitigation Policy, and State Lands Commission Review. The major issue of this staff report is the effect of the proposed development on marine resources such as eelgrass and coastal access for the public.

PROCEDURAL NOTE

Section 13166 of Title 14 of the California Code of Regulations provides for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material.

Pursuant to Title 14, Section 13166(a)(1) of the California Code of Regulations, the Executive Director has determined that the proposed development constitutes an material amendment as it would affect conditions required for the purpose of protecting coastal resources. Therefore, pursuant to Section 13166(a)(3) of the Commission's regulations, the Executive Director is referring this application to the Commission for action.

LOCAL APPROVALS RECEIVED: Approval in Concept 925 from the City of Huntington Beach.

SUBSTANTIVE FILE DOCUMENTS: Huntington Beach Local Coastal Program, "Eelgrass Survey and Mitigation Alternatives for Peter's Landing marina, Docks A and B, Huntington Harbor California" by Wetland Consultants, Department of Fish and Game letter of March 31, 1999, Regional Water Quality Control Board letter of March 31, 1999, "Southern California Eel Grass Mitigation Policy" adopted July 31, 1991, and U.S. Army Corps of Engineers Letter of Permission dated December 10, 1998. Coastal development permits: P-5-14-76-7871, P-8-27-76-8742, P-12-17-76-9689, P-12-17, P-76-9690, P-77-2393, P-12-8-77-2393, P-77-2392, P-79-6083, A-80-7393, A-372-80, 5-98-317, and 5-98-317.

LIST OF EXHIBITS:

1. Vicinity Map
2. Assessor's Map
3. Ownership Map
4. Existing Site Plan
5. State Lands Boundary
6. New Dock B Location
7. Eelgrass Habitat
8. Coastal Development Permit 76-8742
9. Coastal Development Permit 76-9689
10. Coastal Development Permit 79-6083
11. Coastal Development Permit 372-80
12. Department of Fish and Game letter dated March 31, 1999
13. California Regional Water Quality Control Board letter dated March 31, 1999
14. Army Corps of Engineers Letter of Permission (LOP) dated December 10, 1998
15. Ingram-Seitz & Associates letter dated April 12, 1999
16. Ingram-Seitz & Associates letter dated June 10, 1998
17. Wetland Consultants letter dated May 19, 1998
18. Ingram-Seitz & Associates letter dated June 8, 1999
19. Southern Eelgrass Mitigation Policy (last revised 2/2/99)

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby **GRANTS** an amendment to permit P-8-27-76-8742, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction 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 construction 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 of the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, 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.

III. Special Conditions.

1. Prior Conditions

- A. Unless specifically altered by this amendment, all regular and special conditions 1,2,3, and 5 which were attached to coastal development permit P-8-27-76-8742 remain in effect.
- B. Unless specifically altered by this amendment, all regular and special conditions which were attached to coastal development permit P-12-17-76-9689 remain in effect.
- C. Unless specifically altered by this amendment, all regular and special conditions which were attached to coastal development permit P-12-17-76-9690 remain in effect.
- D. Unless specifically altered by this amendment, all regular and special conditions which were attached to coastal development permit P-77-2392 remain in effect.
- E. Unless specifically altered by this amendment, all regular and special conditions which were attached to coastal development permit P-77-2393 and the amendment to P-77-2393 remain in effect.
- F. Unless specifically altered by this amendment, all regular and special conditions which were attached to coastal development permit P-79-6083 remain in effect.
- G. Unless specifically altered by this amendment, all regular and special conditions which were attached to coastal development permit A-372-80 remain in effect.

2. Eelgrass Mitigation Plan Conformance

- A. The applicant shall conform to the requirements of the Southern California Eelgrass Mitigation Policy (last revised 2/2/99).
- B. Mitigation shall occur within the area specified in Exhibit 6 of the staff report (5-98-085-A1) for this project.
- C. The permittee shall undertake monitoring and mitigation in accordance with the requirements of the Southern California Eelgrass Mitigation Policy (last revised 2/2/99) and within the area specified in Exhibit 6 of the staff report for this project. Any proposed operational changes deviating from the Southern California Eelgrass Mitigation Policy (last revised 2/2/99) shall be reported to the Executive Director. No changes to the operational requirements of the Southern California Eelgrass Mitigation Policy (last revised 2/2/99) shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. State Lands Commission Review

Prior to issuance of this permit, the applicant shall obtain a written determination from the State Lands Commission that:

- a. No State lands are involved in the development; or
- b. State lands may be involved in the development and all permits required by the State lands Commission have been obtained; or
- c. State lands may be involved in the development, but pending a final determination of State lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to that determination.

V. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Location

The proposed project is located at 16400 Pacific Coast Highway in the City of Huntington Beach, County of Orange (Exhibits 1,2 and 4). The project site is commonly referred to as Peter's Landing. Peter's Landing currently consists of a 325 slip public marina, commercial development, and residential development.

The project was approved by the South Coast Regional Commission in October 1976 and has been subject to numerous permit actions (see page 8). When originally approved the project was for a construction of a bulkhead, condominiums, recreational amenities, hotel, and a marina. Through the various amendments the commercial marina was increased in size to the current 325 slips and the hotel was eliminated from the proposed development.

The applicant, Pegasus Group, proposes to reconstruct Dock B plus one slip of Dock A at the Peter's Landing Marina. Dock B currently contains thirty-two 31' slips and three 48' slips for a total of 35 boat slips. Dock B is being reconstructed since it is nearing the end of its economic life and is being redesigned to accommodate larger boats.

To accommodate larger boats, the proposed development would result in a reduction of 9 berthing slips and relocation of Dock B (Exhibit 6). Dock B when reconstructed would have four 40' berthing slips, eighteen 42' berthing slips, and four 44' berthing slips. When re-constructed Dock B will conform to the U.S. Pierhead line.

Repairs to Dock A consist of the replacement of a 4' wide by 43' long finger in slip #39 which was destroyed due to a storm event. This will restore Dock A to its original configuration. Dock A would not be modified in any other way.

The relocation of Dock B will result in the removal of 22 pilings and insertion of 34 one foot wide concrete pilings which will temporarily impact .8 acres of harbor bottom as a result of construction disturbances. The insertion of the 34 one foot wide concrete pilings will result in fill of 0.01 acres of harbor bottom.

The relocation of the dock will shade approximately 2090 sq. ft. of an existing 5680 sq. ft. Eel bed. The applicant submitted a biological evaluation documenting that the shading from the dock relocation would not have an adverse impact on the existing eelgrass bed. Nevertheless, in the event that there are unforeseen adverse impacts to the eelgrass bed, the applicant is proposing the implementation of an eelgrass monitoring and mitigation plan consistent with the "Southern California Eelgrass Mitigation Policy" to assure that any adverse impacts that may result from the relocation of Dock B are mitigated. No eelgrass is located under the one slip of Dock A that is being reconstructed.

B. Prior Commission Actions Affecting the Proposed Development

P-5-14-76-7871: Denied by the South Coast Regional Commission on July 23, 1976. Project was for the construction of 294 condominiums and 23 single family dwellings with boat slips and a commercial marina. Denial, in part, was based on the lack of public access and that it was not a water dependent use and would have an adverse impact on the marine environment.

P-8-27-76-8742: Approved by the South Coast Regional Commission on October 18, 1976. Project for the construction of a bulkhead, 244 condominium units, clubhouse, pool, three tennis courts, commercial development, marina, 75 room hotel, three public parks including plaza, natural area, and swimming beach, public pedestrian and bike ways, public facilities such as restrooms, showers, fishing dock, harbor tour ferry and ten public boat slips. Six Special conditions were imposed by the Commission. (See Exhibit 8)

- 1) Required the protection, maintenance and monitoring of two created natural intertidal environments.
- 2) Required that the applicant agree to the conditions and specifications of the U.S. Fish and Wildlife Service and the Regional Water Quality Control Board.
- 3) Required that a transportation system and signage program (designed to encourage, promote, and protect public use of the facilities) be implemented.
- 4) Required that the applicant submit a signed notarized statement agreeing to either heat the pool system through a solar heating system or to have unheated swimming pools.
- 5) Required that the applicant dedicate to the City of Huntington Beach a 12,150 sq. ft. beach and for unrestricted public access and use of the proposed trails and boardwalks around and through the project.
- 6) Required that the 75 room hotel be constructed prior to the issuance of occupancy permits for the 12 multi-family residences.

P-12-17-76-9689: Approved by the South Coast Regional Commission on December 17, 1976. Application by Broadmoor Homes to assign a portion of permit P-8-27-76-8742 to Broadmoor Grimaud. Permit was for 244 condominiums, bulkhead, and other facilities. Special Conditions 2 through 5 of P-8-27-76-8742 remained in effect (Exhibit 9)

P-12-17-76-9690: Approved by the South Coast Regional Commission on December 17, 1976. Application to assign a portion of the site covered by permit P-8-27-76-8742 from Broadmoor Homes to Arthur Shapiro for further subdivision. Was for 22 single family residences and boat slips. Special Conditions 2 through 5 of P-8-27-76-8742 remained in effect.

P-77-2393 and Amendment P-12-8-77-2393: Approved by the South Coast Regional Commission on December 29, 1977. Amended Tract Map No. 9738 (which is a re-subdivision of a portion of Tract Map No. 6675) through a minor realignment of internal lot lines. This amendment reiterated special conditions 2,3,4 and 5 of P-8-27-76-8742.

P-77-2392: Approved by the South Coast Regional Commission on March 13, 1978. Deleted the special condition number 4 of P-8-27-76-8742 which required a solar heating pool. Also approved re-subdivision of Tract No. 6675 into Tract Maps No. 9738 and 10004. This amendment reiterated special conditions 2,3, and 5 of P-8-27-76-8742.

P-79-6083: Approved by the South Coast Regional Commission on November 19, 1979. Expansion of the public commercial marina and retail-office specialty center. Included 81 boat slips and 20,000 gross square feet of retail, office, and restaurant use. Total commercial allowed would be 127,132 square feet of retail, office, and restaurant; and 281 boat slips. Seventy-nine (79) additional parking spaces for a total of 630 on-site parking spaces. The Commission imposed one special condition for the submission of revised plans showing: a) either 16 additional on-site spaces or a reduction in square footage, b) two public fishing piers, c) gangplank access to the fishing piers, d) signage advising the public of the availability of the fishing piers, and e) that future improvements require a coastal development permit. (Exhibit 10)

- A-80-7393** Approved by the South Coast Regional Commission on December 8, 1980 and appealed to the Commission. See A-372-80.
- A-372-80** Approved by the Commission on February 18, 1981. Deleted the 75 unit hotel. Required that 72 on-site parking spaces be provided during daylight hours. Special condition number one required that the area designated for the hotel or an equivalent area on the commercial site be designated for public beach parking for cars and bicycles during daylight hours. The special condition also required bicycle racks for fifty bicycles and adequate signage along Pacific Coast Highway indicating the availability of the public parking. This special condition also eliminated special condition number 6 (Hotel) of P-8-27-76-8742. Special condition 2 of this amendment required that a deed restriction be recorded to preserve the hotel site for visitor serving facilities. (Exhibit 11)

C. Standard of Review

The City of Huntington Beach has a certified local coastal program. Consequently development occurring landward of the mean high tide line requires a coastal development permit issued by the City of Huntington Beach in which the Huntington Beach LCP is used as the standard of review. Projects occurring seaward of the mean high tide line remain under the purview of the Coastal Commission pursuant to Section 30600 of the Coastal Act. Therefore, projects occurring within the Commission's area of retained jurisdiction are evaluated under the policies of the Coastal Act. The Huntington Beach LCP is used as guidance.

The proposed marina redevelopment, the subject of this amendment, is occurring seaward of the mean high tide land. Therefore the project is within the Commission's retained jurisdiction and will be reviewed based on the Coastal Act. Furthermore, the project site (including the area landward of the mean high tide line) has been subject to numerous coastal development permits issued by the Commission in the past. For purposes of condition compliance, the permits remain under the jurisdiction of the Commission so that the proposed development can be evaluated for conformance with any special conditions that may have been previously imposed by the Commission. Therefore additional development occurring on-site may be considered an amendment to the original permit (P-8-27-76-8742) and remains under the jurisdiction of the Commission.

D. Ownership

The project site at the time of its original approval in October 1976 was under the control of one developer (Exhibit 4) Robert F. Maguire, III. The project site over time has been divided between several land owners (Exhibit 3). Pegasus Group owns the marina. The Commercial center is owned by Taki Sun, Inc., the remaining areas have been divided into two condominium complexes (Broadmoor Huntington Harbour Community and Bayport), and single family residences.

The proposed amendment would only affect the marina portion of the original project site. Therefore the amendment is proposed only by the Pegasus Group, the owner of the marina.

E. Fill of Coastal Waters

Relocation of Dock B will result in the removal of 22 pilings and insertion of 34 one foot wide piles into the harbor bottom. Under Section 30108.2 of the Coastal Act the placement of pilings into the harbor bottom constitutes "fill". The 35 pilings will permanently occupy less than 0.01 acres of harbor bottom. Temporary impacts from installing the pilings would affect 0.8 acres of harbor bottom. Under Section 30233 of the Coastal Act, the fill of coastal waters is only allowed when several criteria are met: (a) the project must fall within one of the use categories specified, (b) the proposed project must be the least environmentally damaging alternative, and (c) feasible mitigation measures to minimize adverse environmental effects must be provided. Section 30233 of the Coastal Act states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

The proposed project meets the first criteria because it is the replacement of an existing boating facility and structural pilings are a necessary component. A boating facility is an allowable use under Section 30233 of the Coastal Act.

Next, in terms of the second criteria the project must demonstrate that it is the least environmentally damaging alternative. The proposed project consists of the replacement of a boating facility which has been redesigned to reduce the number

of boating slips from 35 to 26 to accommodate larger boats. Alternatives to the replacement of the dock include a "No Action" alternative or an alternate configuration.

The applicant believes that the "No Action" alternative is not feasible since the existing dock has reached the end of its project life and has deteriorated to the point that it has to be replaced anyway. Though the dock could be rebuilt in its current configuration which would avoid the dock covering portions of the eelgrass bed, the applicant contends that this is not a feasible alternative. According to the applicant the market for slip rentals favors larger boats and the dock needs to be redesigned to accommodate the larger boats. To justify the alternative to reconfigure Dock B to accommodate larger boats and to document that Dock B when relocated will not have a significant adverse impact on the eelgrass bed, the applicants submitted an analysis of the waiting list and a biological evaluation. According to the applicant's consultant there is a waiting list for berths to accommodate boats that are over forty feet in length. In January 1999 the waiting list for boats over forty feet long was at 22 boats. There was no waiting list for boats that are less than 40 feet in length. The applicant is consequently proposing the redesign of the dock to match the supply of boat slips with demand.

As noted previously, the alternative which proposes the redesign of Dock B to accommodate the larger boats would result in the relocation of the dock so that it covers a portion an existing eelgrass bed. This raises an additional alternative of redesigning other docks to accept the larger boats so that Dock B would not have to be relocated thereby avoiding the possibility of adversely impacting the eelgrass bed. According to the applicant's consultant redesigning other docks is not a feasible solution since Dock B would still have to be relocated to accommodate the turning radius of the larger boats (Exhibit 18).

Since Dock B must be relocated if larger boats are to be accommodated, the applicant to address the potential impact of the relocation of Dock B submitted a biological assessment which concluded that the relocation of the dock would not have a significant adverse impact on the eelgrass bed (see the discussion in the next section). In the event that there is an unforeseen adverse impact to the eelgrass bed the applicant proposes to comply with the Southern California Eelgrass Mitigation Policy. Both the U.S. Army Corps of Engineers and the California Department of Fish and Game have reviewed the proposed project and mitigation plan and found it to be acceptable (Exhibits 12 and 14).

The replacement and relocation of Dock B is considered the least environmentally damaging feasible alternative for the following reasons. The installation of the 34 pilings is considered self mitigating; the relocation of Dock B is necessary to serve

recreational boating and a biological evaluation confirmed that the relocation of Dock B would not have an adverse impact on the existing eelgrass bed.

The final test under Section 30233 is that adequate mitigation be provided. The proposed relocation of Dock B complies as pilings for boat docks are considered self mitigating. Though pilings displace some bottom habitat, pilings provide an equal amount, if not more, vertical habitat for marine organisms thus adding to the diversity of the marine environment. Further, the biological evaluation conducted by Wetland Consultants concluded that the relocation of Dock B would not have an adverse impact on the eelgrass bed.

However, it is possible that the relocation of Dock B could have an unanticipated adverse impact on the eelgrass bed. The applicant has proposed to monitor the effects of the dock relocation on the eelgrass. If an adverse impact is detected the applicant will mitigate the impact in conformance with the Southern California Eelgrass Mitigation Policy. Through compliance with the Southern California Eelgrass Mitigation Policy the applicant will guarantee that any adverse impacts to the eelgrass are mitigated at the rate of 1.2 acres for every acre lost. Compliance with this policy guarantees that adequate mitigation would be provided as there will be no net loss in habitat and any habitat destroyed will be replaced value (100%) and will be replaced in quantity (120%).

Though the biological evaluation concluded that the relocation of Dock B would not have an adverse impact on the eelgrass bed, the Commission nevertheless finds it necessary to impose a special condition to assure that unanticipated adverse impacts to the eelgrass bed are mitigated as proposed and consistent with the Southern California Eelgrass Mitigation Policy. The special condition requires that the applicant, consistent with the Southern California Eelgrass Mitigation Policy, conduct an eelgrass survey prior to construction and to monitor the eelgrass bed for five years following construction to determine if an adverse impact has occurred and to mitigate any adverse impacts on-site as shown in Exhibit 6. Only as conditioned does the Commission find that the proposed relocation of Dock B consistent with Section 30233 of the Coastal Act.

F. Marine Resources

The proposed marina reconstruction is located in an urban harbor (Huntington Harbour) and because of its location, on the water, it could have an adverse impact on marine resources. The Coastal Act contains several policies that are applicable in this situation. Section 30230 states that marine resource shall be maintained, enhanced, and where feasible restored. Section 30231 of the Coastal Act states that the biological productivity of and quality of coastal waters and streams shall be

maintained and where feasible restored. The full text of these policies is listed below.

Section 30230.

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

To evaluate the impacts that may result from the proposed dock reconstruction on the marine environment, the applicant commissioned a biological study by Wetlands Consultants. The project was also submitted to the Regional Water Quality Control Board, the California Department of Fish and Game, and the U.S. Army Corps of Engineers for evaluation. The Department of Fish and Game (Exhibit 12), and the U.S. Army Corps of Engineers (Exhibit 14) have reviewed the project and the mitigation plan and found them to be acceptable.

The eelgrass survey conducted by Wetland Consultants found that within the vicinity of the existing docks (Dock B) that there is a 5,680 square foot bed of eelgrass. The existing eelgrass bed is shown in Exhibit 7. The beds were generally located at a depth ranging from four feet to eight feet. The northeast edge of the eelgrass bed is currently in an area that is shaded by boats tied up along the southeast end of the dock. Relocation of Dock B has the potential of adversely affecting approximately 2,090 square feet of the eelgrass bed. Exhibit 6 shows the relocation of Dock B and also the proposed mitigation site, should mitigation be necessary. No eel grass is located under the slip to be repaired in Dock A.

According to Wetland Consultants, eelgrass (*Zostera marina*)(Smith and Carlton 1989) is a submerged aquatic plant that grows throughout lower intertidal and

shallow subtidal area with a flat, soft sediment bottom. Eelgrass usually grows best in areas with clear water and sunlight. The plants leaves create a thick canopy that provides cover for aquatic animals while its roots stabilize the sediment (Ricketts, Calvin, and Hedgeth 1985). This significantly enhances the near shore marine environment by creating an area with a diversity of animal life. Eelgrass beds are classified as subtidal estuarine, aquatic bed, rooted vascular habitat by the U.S. Fish and Wildlife Service (U.S. Fish and Wildlife Service, 1979).

The relocation of the dock can have adverse impacts on the eelgrass beds through increased shading, construction related impacts such as the removal and insertion of pilings, and disturbances caused by boating activity (Exhibits 6 and 7). Wetland Consultants found that the relocation of Dock B would overlap the eelgrass by approximately six to ten feet for a total impact area of approximately 2,090 square feet. Though the relocated dock would partially cover the existing eelgrass bed, Wetland Consultants concluded that impacts to the eelgrass would be insignificant. Wetland Consultants believes impacts would be insignificant since the northeast edge of the eelgrass bed is currently in an area that is shaded by boats tied up along the southeast edge of the dock which demonstrated that adequate light is reflected under the boats. Therefore, it is their opinion that adequate light would be reflected under the realigned dock to persist the eelgrass beds and that they would continue to persist in their current distribution, percent cover, and density. In an independent report which documents the adaptability of eelgrass (*Eelgrass (Zostera marina) In Southern California Bays and Wetlands with Emphasis on Orange County, California*) Rick Ware of Coastal Resources Management wrote that eelgrass beds are sensitive to environmental perturbations but *"Where shading is not a limiting factor, it adapts well and grows between dock and adjacent docks and between the base of the bulkhead to docks and floats."*

Wetland Consultants also notes that the placement of piles from the realigned dock may temporarily disrupt the eelgrass plants. Further, that the reduction in the number of boating slip would reduce boat traffic in the area which would be a benefit since it would reduce disturbances caused by the boat propellers and the resulting turbidity.

Though Wetland Consultants concluded that the relocation of Dock B will not have a significant adverse impact on marine resources, the actual extent of impacts will not be known until the dock is relocated. To address the potential of an unforeseen significant adverse impact to the eelgrass beds the applicant has proposed to comply with the Southern California Eelgrass Mitigation Policy (Exhibit 19). The Southern California Eelgrass Mitigation Policy was developed by the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Department of Fish and Game to assure that adverse impacts resulting from a project to eelgrass are mitigated.

The eelgrass mitigation policy was adopted on July 31, 1991 by the National Marine Fisheries Service, U.S. Fish and Wildlife Service and the California Department of Fish and Game. It has been subsequently amended (See page 2 of Exhibit 14). The current version is dated February 2, 1999 and has been attached as Exhibit 19. The policy contains several guidelines which include specific requirements for: 1) mapping the area, distribution and density of eelgrass beds; 2) time periods when mapping takes place; 3) requirements for mitigation sites; 4) mitigation ratios of 1.2:1 for impacted habitat replacement; 5) requirements for success and monitoring; and 6) requirements for planting and transplanting eelgrass.

Though the biological evaluation concluded that the relocation of Dock B would not have an adverse impact on the eelgrass bed, the Commission finds it necessary to impose a special condition to assure that unanticipated adverse impacts to the eelgrass bed are mitigated as proposed and consistent with the Southern California Eelgrass Mitigation Policy. The special condition requires that the applicant survey the eelgrass bed prior to construction and to monitor the eelgrass bed for five years after construction, and mitigate any adverse impacts on-site as shown in Exhibit 6 and consistent with the Southern California Eelgrass Mitigation Policy. Only as conditioned does the Commission find that the proposed relocation of Dock B is consistent with Sections 30230, and 30231 of the Coastal Act regarding protection of the marine environment.

G. Public Access

The City of Huntington Beach attracts visitors year round due to its unique recreational opportunities, large harbor and marina facilities. Coastal amenities include a strong commercial base of visitor serving retail stores, restaurants, and specialty shops. The project site is located near Pacific Coast Highway which is a major coastal access route used by the public. The immediate project vicinity consequently experiences high vehicular and pedestrian traffic volumes. When the Commission approved the original development in 1976 the project included significant visitor serving amenities such as a hotel, fishing dock, public access, and a marina. The hotel has subsequently been eliminated (Exhibit 11). Additionally the developer was required to provide signage to inform the public of the availability of the site and to encourage the public to use it. Over time the availability of the site for casual public use has diminished (Exhibit 15). Signs informing the public of the availability of the fishing pier, the parking lot, and the public walkways have disappeared and the parking lot owned by Taki Sun, Inc. was posted with "No Beach Parking" signs. To improve the availability of public access, the "No Beach Parking" signs have been removed by Taki Sun, Inc. at the request of the applicant.

However, the parking lot still contains signs saying "Customer Parking Only". The applicant (Pegasus Group) has been maintaining the required ten public boating slips for transient boaters (Exhibit 15, page 3).

Sections 30211, 30212, 30212.5 and 30213 of the Coastal Act establish that the public access shall be provided from the nearest public roadway to the shoreline with new development, that development shall not interfere with the public's right of access to the sea, that public facilities such as parking be distributed, and that lower cost visitor serving facilities be provided. To assure that public access was provided in 1976, the Commission imposed a series of special conditions on the original permit and subsequent permits which are described beginning on page 8 of this staff report.

When Peter's Landing was originally developed, it was under the control of one developer as explained on page 11 of this staff report. Peter's Landing is now under a variety of ownership's. The project before the Commission at this time is the relocation of Dock B. (The Marina of which Dock B is a part contains 235 public boat slips.) The reconstruction of Dock B does not change the public access situation and none of the public access special conditions specifically apply to Dock B.

The applicant before the Commission, at this time, is the Pegasus Group which owns the marina and operates it as a public marina. Special conditions related to the water portion of the site (harbor) include signage indicating the availability of public access along the bulkhead and signage advising the public of the availability of the two fishing piers (Dock F). Furthermore, as originally proposed the marina was to make available ten boat slips for transient boaters. The applicant (Pegasus Group) is still maintaining the required ten public boating slips for transient boaters (Exhibit 15, page 3)

To assure that the prior conditions (not previously deleted or as modified) remain in effect, the Commission is imposing a special condition which reiterates that prior conditions remain in effect. Therefore only as conditioned, does the Commission find that the proposed development would be consistent with the public access policies of the Coastal Act.

H. State Lands Review

The proposed project, the reconstruction and relocation of Dock B will be occurring in the water. Consequently there is a potential that some of the work will be occurring on State Lands. Section 30601.5 of the Coastal Act requires that the applicant on which proposed development is to be located must demonstrate a legal

right to undertake the development. The applicant has submitted Exhibit 5 which depicts the boundary between land under the jurisdiction of State Lands and property which is under private ownership. According to Exhibit 5, Dock A and the northerly portion of Dock B are in water which is under the jurisdiction of State Lands. The applicant has not submitted written documentation that State Lands has reviewed and approved the portions of the development occurring on State Lands. Consequently, the Commission finds that prior to issuance of the permit, the applicant shall submit to the Executive Director, evidence of State Lands approval for the proposed development in compliance with Section 30601.5 of the Coastal Act.

I. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an existing urbanized area, in this case a marina. The proposed development has been conditioned to assure that the project will not have a significant adverse impact on coastal resources and has been conditioned to: conform to all previously imposed conditions, conform to the Southern California Eelgrass mitigation policy, and State Lands review. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

N. LINE SEC. 19, S. 11

5-98-085 79

70

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MAR 18 1998

CALIFORNIA
COASTAL COMMISSION

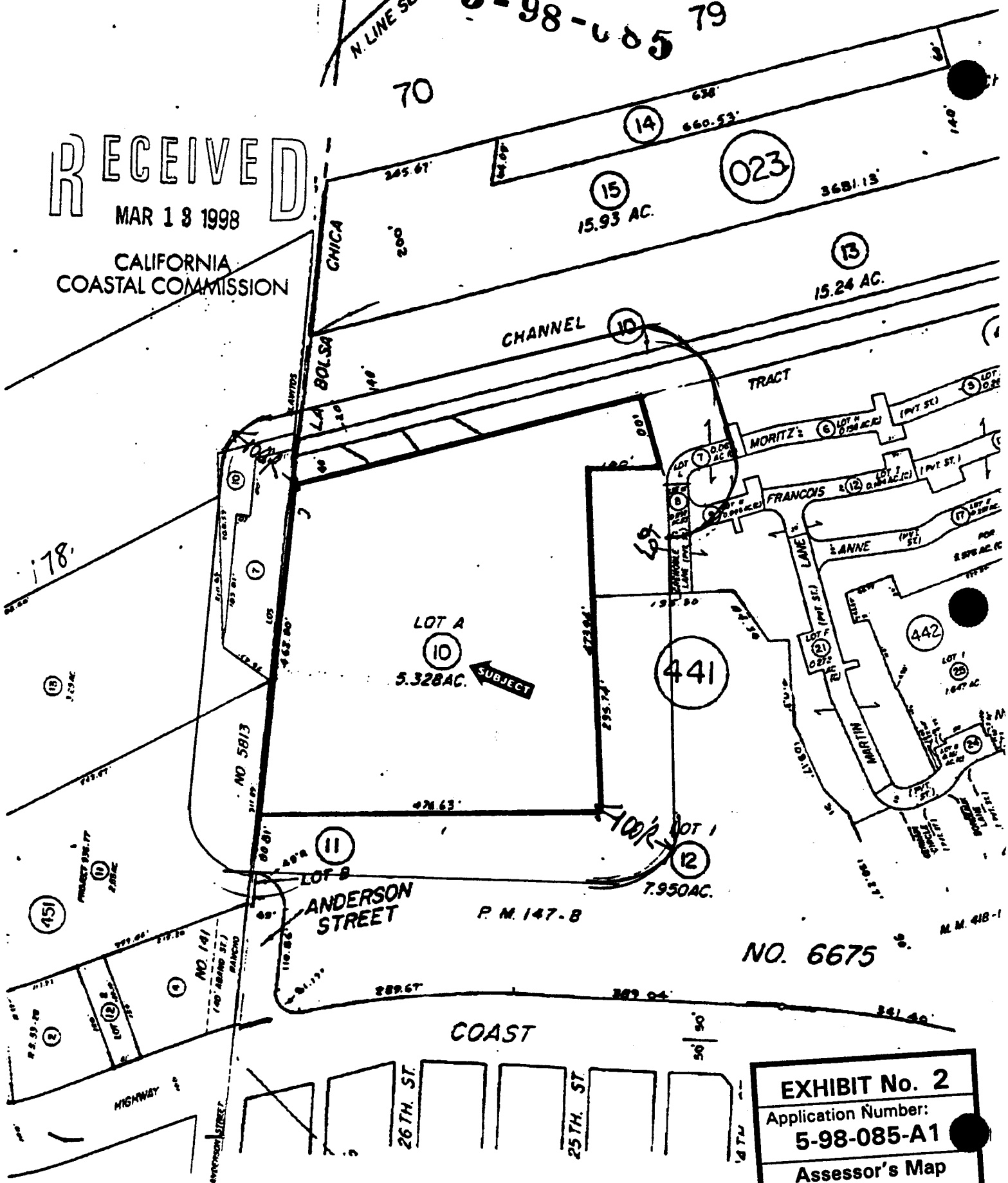
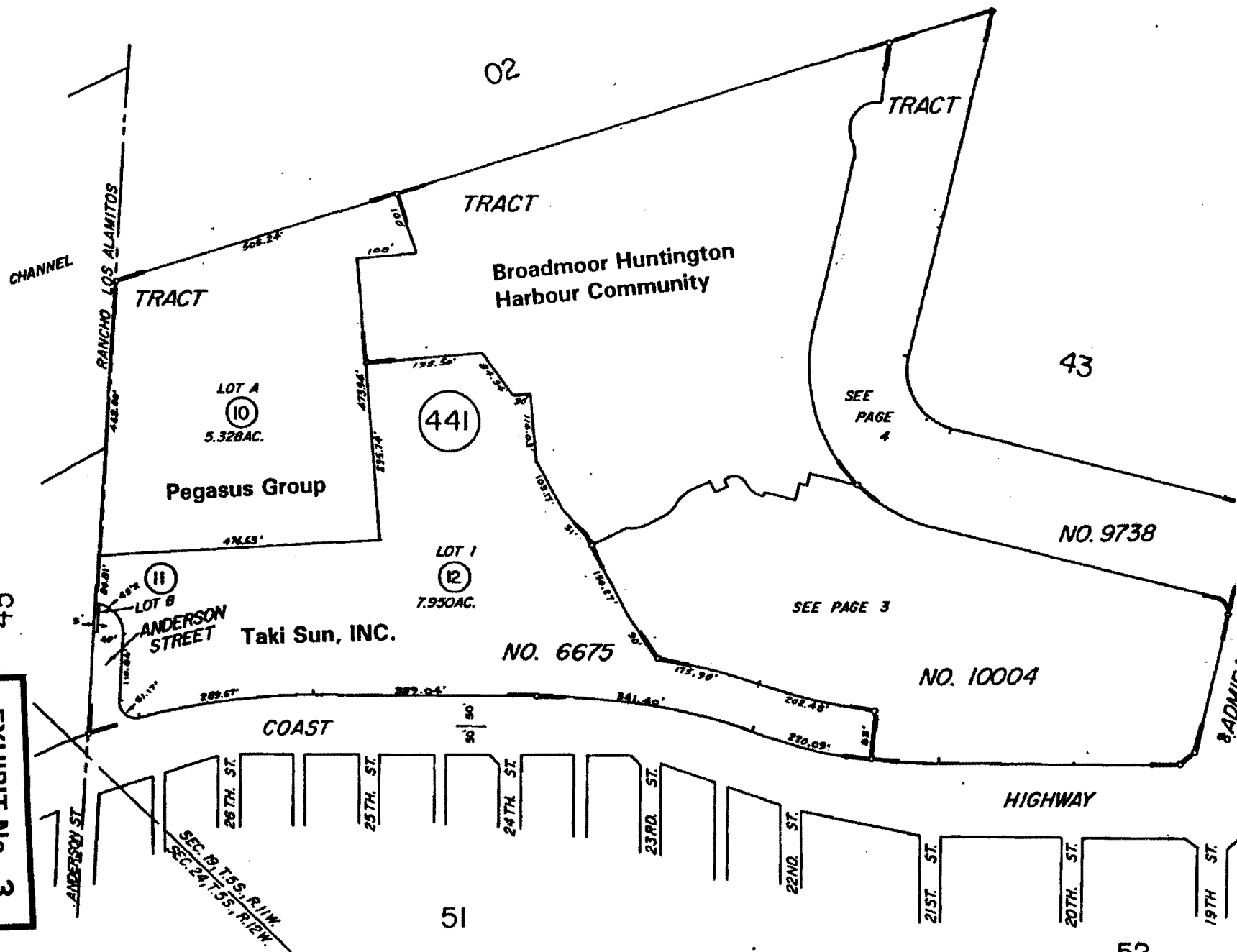


EXHIBIT No. 2
Application Number:
5-98-085-A1
Assessor's Map
California Coastal
Commission



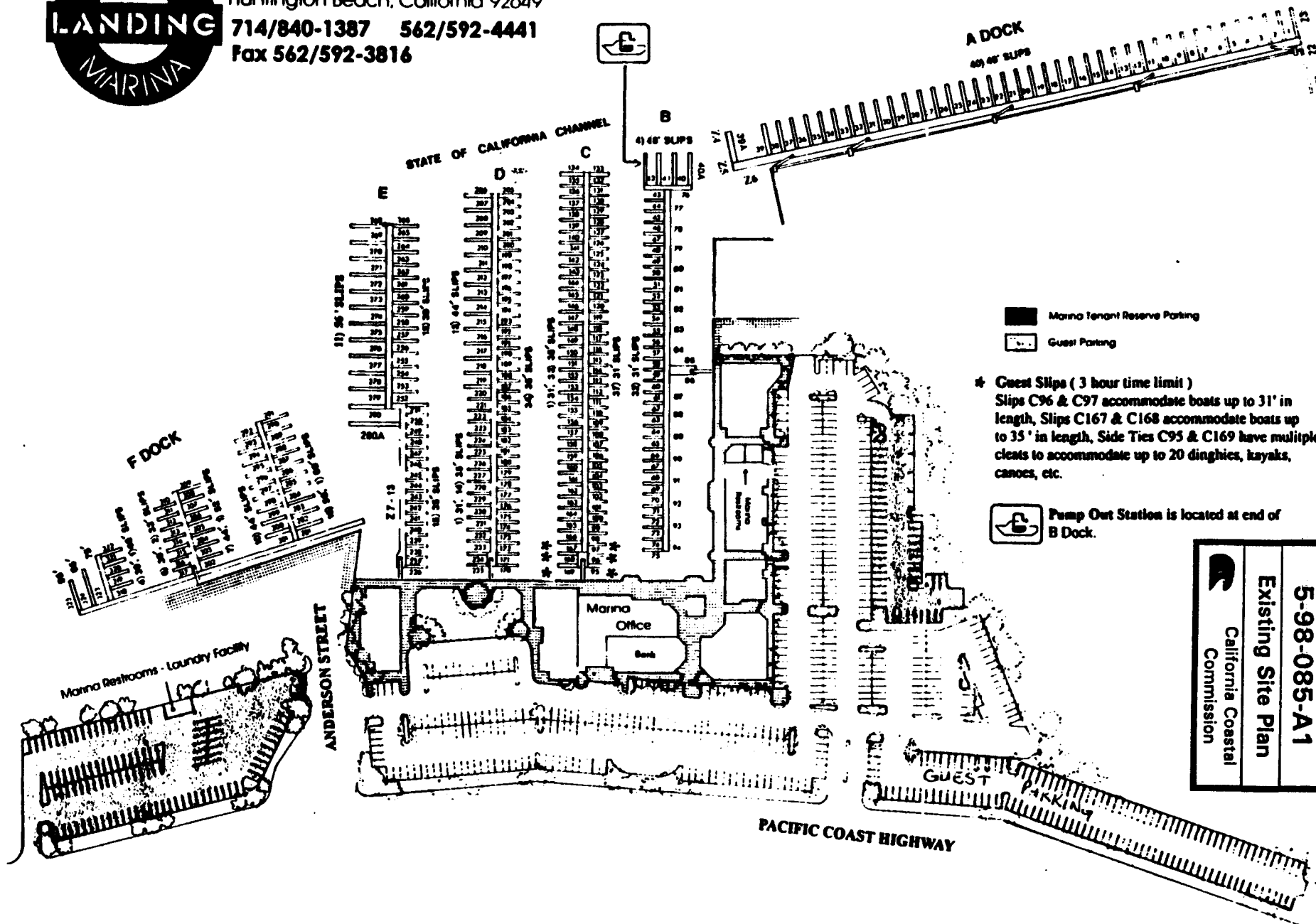
NOTE - ASSESSOR'S BLOCK 8



16400 Pacific Coast Highway, Suite 108
Huntington Beach, California 92649

714/840-1387 562/592-4441

Fax 562/592-3816



Marina Tenant Reserve Parking

Guest Parking

*** Guest Slips (3 hour time limit)**

Slips C96 & C97 accommodate boats up to 31' in length, Slips C167 & C168 accommodate boats up to 35' in length, Side Ties C95 & C169 have multiple cleats to accommodate up to 20 dinghies, kayaks, canoes, etc.



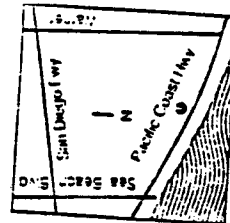
Pump Out Station is located at end of B Dock.

EXHIBIT No. 4
Application Number: 5-98-085-A1
Existing Site Plan
California Coastal Commission

Rock B

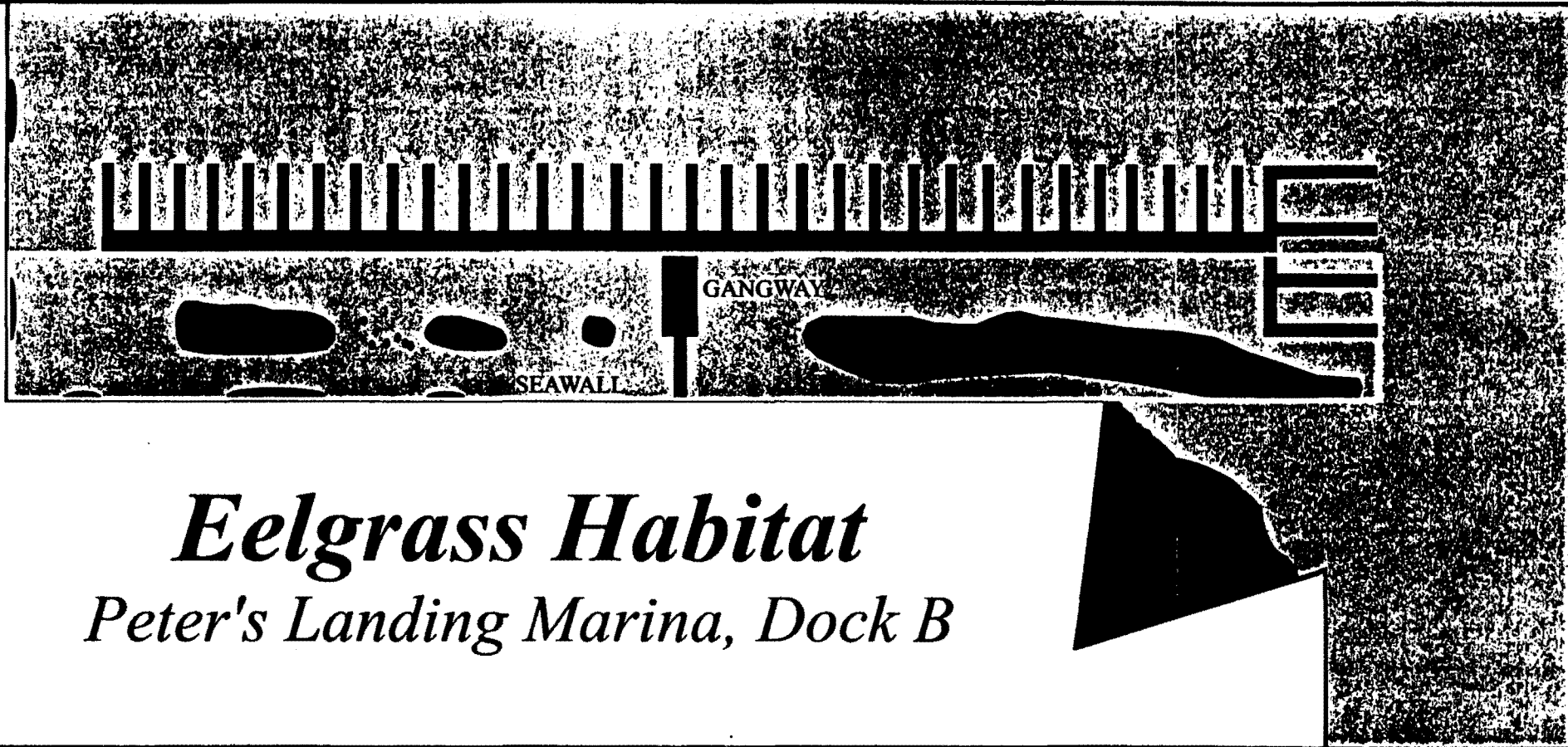


NOTE: SEE A.L.I.A. SURVEY FOR PARTICULARS REGARDING REFERENCED PARCEL.



Vent CONSOLIDATED, INC.
401 CONCORD DRIVE, THE INC., CH. 0271
714-515-000

**California Coastal
Commission**



Eelgrass Habitat

Peter's Landing Marina, Dock B

- Survey boundary
- Beach
- Eel grass


	EXHIBIT No. 7
	Application Number: 5-98-085-A1
	Eel Grass Habitat
California Coastal Commission	

Figure 5: Eelgrass Survey

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
SOUTH COAST REGIONAL COMMISSION
55 E. OCEAN BOULEVARD, SUITE 3107
P.O. BOX 1450
HUNTINGTON BEACH, CALIFORNIA 90801
713/444-1204 (714) 846-0648

390-5071

RESOLUTION OF APPROVAL AND PERMIT

EXHIBIT No. 8

Application Number:

5-98-085-A1

Permit 76-8742

California Coastal
Commission

Application Number: P-8-27-76-8742

Name of Applicant: Robert F. Maguire, III

18000 Century Park East, #1100, Los Angeles, CA 9006

Permit Type: ☒ Standard

☐ Emergency

Development Location: North side of Pacific Coast Highway, between
Admiralty and Anderson Streets in the Huntington Harbour area,
Huntington Beach, CA

Development Description: Construct bulkhead, 244 condo units,
clubhouse, pool and three tennis courts and 53 boat slips,
22 single-family dwellings and boat slips; commercial develop-
ment, 250 boat marina, 75 room hotel, three public parks including
plaza, natural area and swimming beach, public pedestrian and bike
ways, public facilities: restrooms, showers, fishing dock, harbor
tour ferry and 10 public slips, with conditions.

Commission Resolution:

I. The South Coast Conservation Commission finds that the proposed development:

- A. Will not have a substantial adverse environmental or ecological effect.
- B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302.
- C. Is subject to the following other resultant statutory provisions and policies:
City of Huntington Beach ordinances.
- D. Is consistent with the aforesaid other statutory provisions and policies in that:
approval in concept has been issued.
- E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:
application, site map, plot plan and approval in concept.


parcel 2 P-9689 - per Mr. Carpenter
parcel 1 P-9690 - plus bulkhead per Mr. Carpenter

Conditions for P-8742

Prior to issuance of permit, applicant shall agree/submit revised plans for the following conditions:

1. develop a protection and maintenance program monitoring the two created natural environments (the mudflat at the corner of the marina and main channel and the intertidal zone within the marina) and that this program be approved by the U. S. Fish and Wildlife Service and South Coast Regional Commission staff;
2. that the applicant agree to the conditions and specifications outlined by the U. S. Fish and Wildlife Service and Santa Ana Regional Water Quality Control Board;
3. that a transportation system (trails, boating, ferry tour, etc.) and signing program be designed to encourage, promote and protect the public's use of these facilities, these programs shall delineate the entries/exits, routes, location of facilities, special interest areas, hours of operation, etc.;
4. that the applicant shall submit a signed and notarized statement agreeing to either use a solar heating system only, for the swimming pool or to have unheated swimming pools;
5. that the applicant shall dedicate to the City of Huntington Beach the 12,150 sq. ft. beach at the main channel, file a deed restriction and write into the CC & R's provisions allowing unrestricted public access and use to the proposed trails and boardwalks around and through the project; and pursuant to the Public Utilities Code, Sections 238, 211, 216, 726, 1007, applicant shall be committed to three years of operation that is scheduled for hours and fees per PUC certificate of conveyance guaranteeing the public access and use to the inland waterways, thus demonstrating compliance to promoting and increasing public access and use; and the foregoing shall be accomplished prior to occupancy; and
6. that the 75 room hotel shall be constructed and ready for occupancy prior to the issuance of occupancy permits for the 12 multi-family dwellings of Buildings #32 and 33.

* * *

EXHIBIT No. 8
Application Number: 5-98-085-A1
Permit 76-8742
 California Coastal Commission

.. at a public hearing held on October 18, 1976 at
(date)
Antington Beach by a 8 to 0 vote hereby approves
(location)

the application for Permit Number P-8-27-76-8742 pursuant to
the California Coastal Zone Conservation Act of 1972, subject to
the following conditions imposed pursuant to the Public Resources
Code Section 27403:

See attached for conditions.

EXHIBIT No. 8

Application Number:
5-98-085-A1

Permit 76-8742

California Coastal
Commission

Condition/s Met On November 2, 1976 By bj

- III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.
- IV. The grant of this permit is further made subject to the following:
- A. That this permit shall not become effective until the attached verification of permit has been returned to the South Coast Regional Conservation Commission upon which copy all permittees have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgement should be returned within ten working days following issuance of this permit.
- B. Work authorized by this permit must commence within 360 days of the date accompanying the Executive Director's signature on the permit, or within 480 days of the date of the Regional Commission vote approving the project, whichever occurs first. If work authorized by this permit does not commence within said time, this permit will automatically expire. Requests for permit extensions must be submitted 30 days prior to expiration, otherwise, a new application will be required.
- V. Therefore, said Permit (Standard, ~~Interim~~) No. P-8-27-76-8742 is hereby granted for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.
- VI. Issued at Long Beach, California on behalf of the South Coast Regional Conservation Commission on November 2, 1976.

M. J. Carpenter

M. J. Carpenter
Executive Director

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
SOUTH COAST REGIONAL COMMISSION

666 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1450

LONG BEACH, CALIFORNIA 90801

(213) 425-2221 (714) 846-0648

590-5071

EXHIBIT No. 9

Application Number:

5-98-085-A1

Permit 76-9689

California Coastal
Commission

RESOLUTION OF APPROVAL AND PERMIT

Application Number: P-12-17-76-9689Name of Applicant: Broadmoor Grimaud, c/o Broadmoor Homes, Inc.17802 Irvine Boulevard, Tustin, CA 92680Permit Type: ☒ Standard ☐ Transfer☐ EmergencyDevelopment Location: Pacific Coast Highway, between Admiralty Dr.,
& Anderson Street, Huntington Beach, CADevelopment Description: Parcel No. 2, construction of bulkhead,
244 condo units, clubhouse, pool and 3 tennis courts & 53 boat slips,
public pedestrian and bike way, and a public swimming beach.

Commission Resolution:

- I. The South Coast Conservation Commission finds that the proposed development:
- A. Will not have a substantial adverse environmental or ecological effect.
 - B. Is consistent with the findings and declarations set forth in Public Resources Code Sections 27001 and 27302.
 - C. Is subject to the following other resultant statutory provisions and policies:
Huntington Beach ordinances.
 - D. Is consistent with the aforesaid other statutory provisions and policies in that:
approval in concept has been issued.
 - E. The following language and/or drawings clarify and/or facilitate carrying out the intent of the South Coast Regional Zone Conservation Commission:
application, site map, plot plan and approval in concept.

II. Whereas, at a public hearing held on October 18, 1976 at Huntington Beach by a 8 to 0 vote hereby approves (date) (location)

the application for Permit Number P-8-27-76-8742/9689 pursuant to the California Coastal Zone Conservation Act of 1972, subject to the following conditions imposed pursuant to the Public Resources Code Section 27403:

_____ see attached for conditions

EXHIBIT No. 9
Application Number: 5-98-085-A1
Permit 76-9689
 California Coastal Commission

Condition/s Met On November 2, 1976 By bj [signature]

III. Said terms and conditions shall be perpetual and bind all future owners and possessors of the property or any part thereof unless otherwise specified herein.

IV. The grant of this permit is further made subject to the following:

- A. That this permit shall not become effective until the attached verification of permit has been returned to the South Coast Regional Conservation Commission upon which copy all permitted have acknowledged that they have received a copy of the permit and understood its contents. Said acknowledgement should be returned within ten working days following issuance of this permit.
- B. Work authorized by this permit must commence within 360 days of the date accompanying the Executive Director's signature on the permit, or within 480 days of the date of the Regional Commission vote approving the project, whichever occurs first. If work authorized by this permit does not commence within said time, this permit will automatically expire. Requests for permit extensions must be submitted 30 days prior to expiration, otherwise, a new application will be required.

V. Therefore, said Permit (Standard, ~~Emergency~~) No. P-12-17-76-9689 is hereby granted for the above described development only, subject to the above conditions and subject to all terms and provisions of the Resolution of Approval by the South Coast Regional Conservation Commission.

VI. Issued at Long Beach, California on behalf of the South Coast Regional Conservation Commission on December 17, 1976.

[signature]
M. J. Carpenter
Executive Director

9689

Prior to issuance of permit, applicant shall agree/submit revised plans for the following conditions:

Omitted → 1. develop a protection and maintenance program monitoring the two created natural environments (the mudflat at the corner of the marina and main channel, and the intertidal zone within the marina) and that this program be approved by the U. S. Fish and Wildlife Service and South Coast Regional Commission staff;

* 2. that the applicant agree to the conditions and specifications outlined by the U. S. Fish and Wildlife Service and Santa Ana Regional Water Quality Control Board;

3. that a transportation system (trails, boating, ferry tour, etc.) and signing program be designed to encourage, promote and protect the public's use of these facilities, these programs shall delineate the entries/exits, routes, location of facilities, special interest areas, hours of operation, etc.;

4. that the applicant shall submit a signed and notarized statement agreeing to either use a solar heating system only, for the swimming pool or to have unheated swimming pools;

5. that the applicant shall dedicate to the City of Huntington Beach the 12,150 sq. ft. beach at the main channel, file a deed restriction and write into the CC & R's provisions allowing unrestricted public access and use to the proposed trails and boardwalks around and through the project; and pursuant to the Public Utilities Code, Sections 238, 211, 216, 726, 1007, applicant shall be committed to three years of operation that is scheduled for hours and fees per PUC certificate of conveyance guaranteeing the public access and use to the inland waterways, thus demonstrating compliance to promoting and increasing public access and use; and the foregoing shall be accomplished prior to occupancy; and

6. that the 75 room hotel shall be constructed and ready for occupancy prior to the issuance of occupancy permits for the 12 multi-family dwellings of Buildings #32 and 33.

* * *

* Only Conditions 2, 3, 4, 5 & 6 apply to this permit.

EXHIBIT No. 9

Application Number:

5-98-085-A1

Permit 76-9689



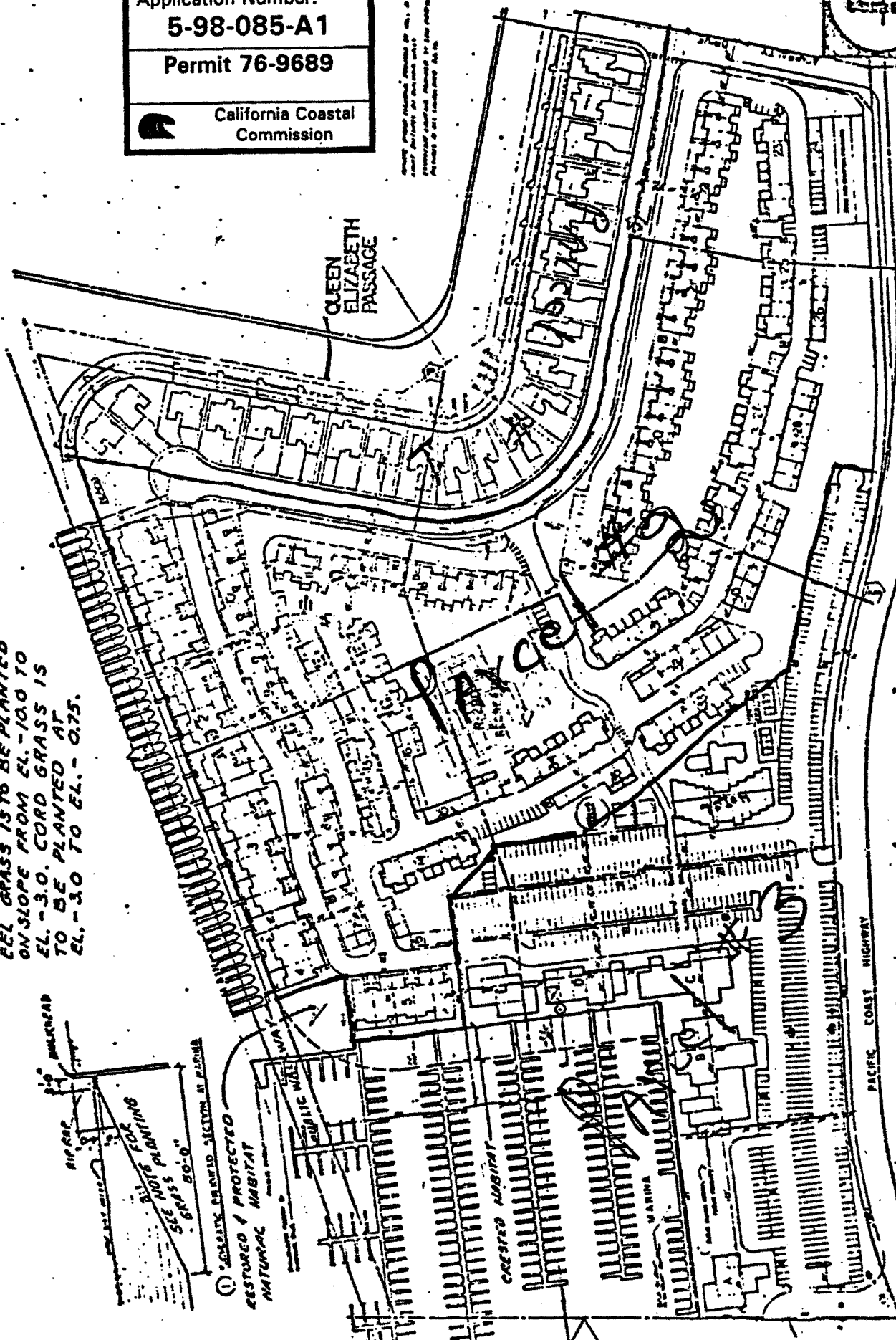
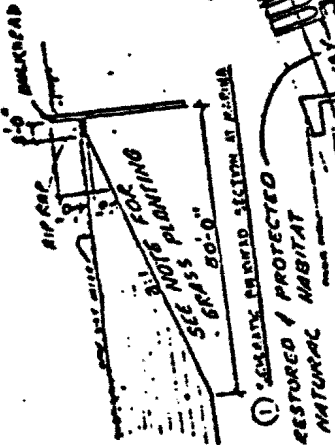
California Coastal
Commission

EXHIBIT No. 9
Application Number: 5-98-085-A1
Permit 76-9689
California Coastal Commission



NOTE:
EEL GRASS IS TO BE PLANTED
ON SLOPE FROM EL. -100 TO
EL. -30. CORD GRASS IS
TO BE PLANTED AT
EL. -30 TO EL. -0.75.

QUEEN
ELIZABETH
PASSAGE



TRACT NUMBER 475
ROBERT F. MAGUIRE
Latter Road
Sewer, Water, Electric
COUNT 5

PACIFIC COAST HIGHWAY



CALIFORNIA COASTAL COMMISSION
SOUTH COAST REGIONAL COMMISSION

846 E. OCEAN BOULEVARD, SUITE 3107

P.O. BOX 1430

LONG BEACH, CALIFORNIA 90801


(714) 370-3071 (714) 846-0648

**COASTAL DEVELOPMENT PERMIT**Application Number: P-79-6083Name of Applicant: The Huntington Partnership16400 Pacific Coast Highway, Huntington Beach, Ca. 92649Permit Type: ☐ Emergency
☒ Standard
☐ AdministrativeDevelopment Location: Pacific Coast Highway at Anderson Street
Huntington Beach, Ca.Development Description: Expansion of a public commercial marina and re-
tail-office specialty center (Peter's Landing) presently under construction.Expansion includes 81 boat slips and 20,000 gross square feet of retail/
office/restaurant use. Expansion will bring the project to 127,132 square
feet of retail/office/restaurant use and 281 boat slips. 79 additional
parking spaces are provided bringing the total on-site parking compliment
to 630 spaces.I. The proposed development is subject to the following conditions imposed
pursuant to the California Coastal Act of 1976:SEE PAGE 3 of 3**EXHIBIT No. 10**

Application Number:

5-98-085-A1

Permit 79-6083

 California Coastal
CommissionCondition/s Met On 6/16/8 By dp

The South Coast Commission finds that:

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that, as conditioned, the development is in conformity with the provisions of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act 1976, is located between the sea and the public road nearest the sea and is in conformity 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.

EXHIBIT No. 10

Application Number:

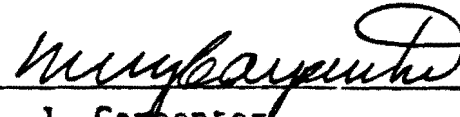
5-98-085-A1

Permit 79-6083



California Coastal
Commission

- II. Whereas, at a public hearing, held on November 19, 1979 at Huntington Beach by a 9 to 0 vote permit application number P-79-6083 is approved.
- IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.
- V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.
- VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.
- VII. Issued on behalf of the South Coast Regional Commission on June 17, 1980, ~~XXXX~~.


M. J. Carpenter
Executive Director

I, _____, permittee/agent, hereby acknowledge receipt of Permit Number P-79-6083 and have accepted its contents.

(date)


(signature)

Conditions for P-79-6083

Conditions: Prior to issuance of permit, applicant shall submit the following:

1. Revised plans which show the following:
 - a) sixteen additional on-site parking spaces, or appropriate reduction of space: e.g., footage;
 - b) two public fishing piers located at the westerly and easterly ends of the boat slips;
 - c) gangplank access to the fishing piers from the dedicated public accessway located immediately adjacent to the bulkhead on the adjoining development to the south;
 - d) sign at each access gangplank for notifying public of access to public fishing piers; and
 - e) and change of use, alterations, or modifications in the future will require a Coastal permit from the Commission or its successor in kind.

* * * * *

EXHIBIT No. 10
Application Number: 5-98-085-A1
Permit 79-6083
 California Coastal Commission

CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 - (415) 543-8555

COASTAL DEVELOPMENT PERMIT


On February 18, 1981, by a vote of 9 to 0 with one abstention, the California Coastal Commission granted to Robert F. MacGuire/Huntington Partnership Permit A- 372-80, subject to the conditions set forth below, for development consisting of deletion of a 75-unit hotel and replacement with 72 on-site parking spaces

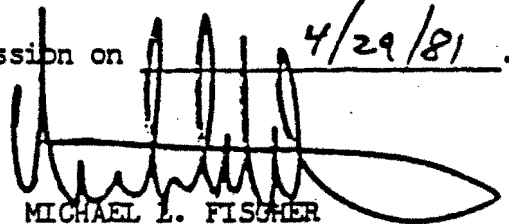
more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at 16400 Pacific Coast Highway, Huntington Beach

After public hearing held on January 21, 1981, the Commission found that, as conditioned, the proposed development is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976; will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976; if between the sea and the public road nearest the sea, is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976; and either (1) will not have any significant adverse impact on the environment, or (2) there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that the development as approved may have on the environment.

Issued on behalf of the California Coastal Commission on 4/29/81

EXHIBIT No. 11
Application Number: 5-98-085-A1
Permit 372-80
 California Coastal Commission


MICHAEL L. FISHER
Executive Director

By Mark Price Delgado

The undersigned permittee acknowledges receipt of the California Coastal Commission, Permit A- 372-80, and fully understands its contents, including all conditions imposed.

April 11, 1981
Date

Robert F. MacGuire
Permittee

Permit A- 372-80 , is subject to the following conditions:

A. Standard Conditions.

1. Assignment of Permit. This permit may not be assigned to another person except as provided in the California Administrative Code, Title 14, Section 13170.
2. Notice of Receipt and Acknowledgment. Construction authorized by this permit shall not commence until a copy of this permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of its contents is returned to the Commission.
3. Expiration. If construction has not commenced, this permit will expire two (2) years from the date on which the Commission voted on the application. Application for extension of this permit must be made prior to the expiration date.
4. Construction. All construction must occur in accord with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviations from the approved plans must be reviewed by the Commission pursuant to California Administrative Code, Title 14, Sections 13164-13168.
5. Interpretation. Interpretation or revisions of the terms or conditions of this permit must be reviewed by the State Coastal Commission or its Executive Director. All questions regarding this permit should be addressed to the State Commission office in San Francisco unless a condition expressly authorizes review by the Regional Commission or its staff.

B. Special Conditions.

1. Public Beach Parking. Prior to issuance of permit the applicant shall submit, subject to review and approval by the Executive Director, a parking plan designating the hotel site or an equivalent area on the commercial site for public beach parking for cars and bicycles during daylight hours. The plan shall include 50 bike racks and adequate signing along Pacific Coast Highway indicating the availability of the parking to the public. After this plan has been fully implemented and the applicant has received certification by the Executive Director that these improvements have been constructed in accordance with the approved plans, Condition 6 of the Regional Commission's original permit issued on Nov. 2, 1976, which prohibited occupancy of the 12 units in Buildings #32 and 33 prior to completion of the hotel, shall be rescinded.
2. Deed Restriction. Prior to issuance of permit the applicant shall submit evidence of recordation of a deed restriction, the form and content of which have been reviewed and approved by the Executive Director, limiting use of the hotel site to visitor-serving facilities. The deed restriction shall be recorded free of prior liens and encumbrances, except for tax liens and those encumbrances determined by the Executive Director not to adversely affect compliance with this restriction, as a covenant running with the land in favor of the People of the State of California, binding the applicant and all successors in interest.

EXHIBIT No. 11

Application Number:

5-98-085-A1

DEPARTMENT OF FISH AND GAME

411 BURGESS DRIVE
MENLO PARK, CA 94025
(650) 686-6340 Fax: (650) 686-6306

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South Coast Region

APR 5 1999

CALIFORNIA
COASTAL COMMISSION

EXHIBIT No. 12

Application Number:

5-98-085-A1

Department of Fish
and Game Letter

California Coastal
Commission

IS, Governor



Memorandum

Date: March 31, 1999

To: Mr. Stephen Rynas
California Coastal Commission
200 Oceangate Ave., Suite 1000
Long Beach, California 90802

From: Department of Fish and Game

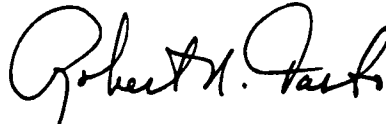
Subject: Coastal Development Permit Application 5-98-085, Dock Work at Peter's Landing, 16400 Pacific Coast Highway, Huntington Harbor, Huntington Beach, Orange County, California

The Department of Fish and Game (Department) has been requested to comment on dock work at Peter's Landing. The proposed project will replace the entire Dock B, which currently provides 32 slips (31-foot long), with a larger dock which will provide four 40-foot, eighteen 42-foot, and four 44-foot slips. The dock replacement will involve driving thirty-four 1-foot diameter concrete piles. The applicant also proposes to replace a finger in Slip No. 39 and drive one concrete pile in Dock A. The Department did not object to the provisions of this proposal during the U.S. Army Corps of Engineers Permit (No. 99-00074-YJC) process for this project in December 1998.

There is currently 5,680-square feet of eelgrass (*Zostera marina*) habitat in the project vicinity. The greater increase in dock and boat coverage will impact approximately 2,090 square feet of eelgrass habitat. The applicant believes that because eelgrass exists under the current dock configuration, it will persist under the new design. Thus, the applicant has proposed to survey eelgrass at 0-, 3-, 6-, 12-, and 24- month intervals. Within 45 days after the completion of the final monitoring report, the applicant will mitigate for any loss of eelgrass from the pre-project percentage cover, consistent with the Southern California Eelgrass Mitigation Policy (SCEMP) adopted July 31, 1991, as amended.

Additionally, the applicant will inform the Department when construction activities commence and furnish the Department with copies of reports documenting the aforementioned surveys within 30 days after the completion of monitoring work. Any delays in transplanting eelgrass (beyond the 45-day period) are subject to the SCEMP penalty of a seven percent increase per month of delay. The Department finds the applicant's mitigation proposal acceptable.

As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion, please contact Ms. Marilyn Fluharty, Environmental Specialist, California Department of Fish and Game, 4949 Viewridge Avenue, San Diego, CA 92123, telephone (619) 467-4231.



Robert N. Tasto, Supervisor
Project Review and Water Quality Program
Marine Region

cc: Ms. Marilyn Fluharty
Department of Fish and Game
San Diego, California 92123

Ms. Marie C. K. Lindsey
Wetland Consultants
P.O. Box 1353
Ventura, California 93002

EXHIBIT No. 12

Application Number:

5-98-085-A1

**Department of Fish
and Game Letter**



California Coastal
Commission



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board

Santa Ana Region

Internet Address: <http://www.swrcb.ca.gov>
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 • FAX (909) 781-6288



Gray Davis
Governor

March 31, 1999

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Coast Region

APR 2 1999

COASTAL COMMISSION

Peter's Landing Marina
c/o Wetland Consultants
P.O. Box 1353
Ventura, California 93002

Dear Ms. Marie C.K. Lindsey:

PETER'S LANDING MARINA, CITY OF HUNTINGTON BEACH, ORANGE COUNTY (ACOE
REFERENCE NO. 990007400-YJC)

On March 29, 1999, we received, via facsimile, a copy of the U.S. Army Corps of Engineers' (ACOE) Letter of Permission (LOP) for your proposed project. You need to schedule a hearing with the California Coastal Commission, but they will not grant a hearing until they receive a letter from us regarding the need for Clean Water Act Section 401 water quality certification.

The Pegasus Group proposes to modify Dock A and reconfigure Dock B at Peter's Landing Marina in Huntington Harbour. Modification of Dock A is necessary to replace a finger in slip #39 that was lost in a storm. The finger originally separated the slip into two slips. Dock B will be reconfigured to create larger boat slips. The gangway will be left in place and the existing concrete floats and pilings will be removed and replaced with new concrete floats and pilings in the new alignment. The piles will be hammered into place with a pile driver.


There is eelgrass in the area. Eelgrass is an important habitat for the young of game fish. The LOP contains special conditions for eelgrass monitoring and for mitigation if any impacts occur.

Based on the project description, and the fact that the ACOE issued a LOP, rather than a permit, you will not need water quality certification from our office. If the project description changes or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

Sincerely,

Linda C. Garcia

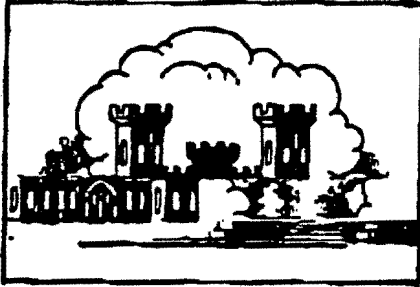
for Linda C. Garcia
Associate WRC Engineer - Planning

EXHIBIT No. 13
Application Number: 5-98-085-A1
RWQCB Letter
 California Coastal Commission

California Environmental Protection Agency

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South Coast Region

RECEIVED



DEC 14 1998

DEC 10 1998

CALIFORNIA CALIFORNIA
LOS ANGELES DISTRICT COASTAL COMMISSION
U.S. ARMY CORPS OF ENGINEERS

AL	2 of pages - 6
Name: Jae Chung	
Phone:	
Fax:	
GENERAL SERVICES ADMINISTRATION	

LOP-FACSIMILE TRANSMITTAL

US ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT--SPLCO-R
P.O. BOX 532711
LOS ANGELES, CA 90053-2325

DISTRICT CONTACT:
Name: Jae Chung
Phone: (213) 452-3292
FAX: (213) 452-4196

DATE INITIATED: December 10, 1998 Please review the LOP materials and provide substantive, site-specific comments to the District on or before December 25, 1998. If no comments are received by this date, the District assumes compliance with 33 CFR Part 325.2(e)(1).

AGENCY:	FAX number	Attn:
[X] California Department of Fish and Game	619-467-4299	M. Fluharty
[X] U.S. Environmental Protection Agency	415-744-1078	R. Tuden
[X] U.S. Fish and Wildlife Service	760-431-9624	J. Bartel
[X] National Marine Fisheries Service	562-980-4092	B. Hoffman
[X] U.S. Coast Guard	562-980-4427	Lt. R. Collier
[X] California Coastal Commission	415-904-5400	J. Raives

LOP NUMBER 99-00074-YJC

APPLICANT NAME: Peter's Landing Marinae

AGENT NAME: Wetland Consultants
Ingram-Seitz & Associates

WATERWAY NAME: Huntington Harbor

EXHIBIT No. 14

Application Number:
5-98-085-A1

ACOE
Letter of Permission
California Coastal
Commission

LOCATION: The proposed work would be done just seaward of 16400 Pacific Coast Highway, Suite 108 within Huntington Harbor, in the City of Huntington Beach, Orange County, California (see attached).

BRIEF DESCRIPTION OF PROPOSED WORK: The applicant propose to work on docks A and B within the area. For dock A, the applicant proposes to replace a 4 ft. by 43 ft. finger in slip #39 which was lost in a storm. The work for dock A also involves driving in a one foot diameter concrete pile. For dock B, the applicant proposes replacing the existing dock, which currently provides thirty-two 31 foot slips, with a larger dock, which provides four 40 foot slips, eighteen 42 foot slips, and four 44 foot slips. The work for dock B also involves driving in thirty-four one foot diameter concrete piles. Because of the greater increase in coverage of the dock and boat, the work will potentially impact 2,090 square feet of the 5,680 square feet of eelgrass in the area through shading. Since eelgrass occurs in the shaded area under the current configuration of dock B, the applicant believes eelgrass can persist under the shaded area under the new configuration. The applicant will survey the eelgrass at 0, 3, 6, 12, and 24 months, submitting reports for each survey to the Army Corps of

Engineers. After the monitoring period, the applicant will mitigate for any loss of eelgrass from pre-project percent cover, density, or distribution by planting eelgrass in the area between dock B and the southeast bulkhead at a 1.2:1 mitigation ratio and consistent with the "Southern California Eelgrass Mitigation Policy" dated June 16, 1997.

AREA OF WATERS SUBJECT TO LOSS AS A RESULT OF PROPOSED WORK: The proposed work would temporarily impact 0.8 acres of waters of the U.S. The 35 piles will permanently occupy less than 0.01 acres of waters of the U.S.

EXHIBIT No. 14
Application Number: 5-98-085-A1
ACOE
Letter of Permission
California Coastal Commission

Eelgrass Survey and Mitigation Alternatives for Peter's Landing Marina Docks A and B



Figure 1: Vicinity Map

Eelgrass Survey and Mitigation Alternatives for Peter's Landing Marina Docks A and B

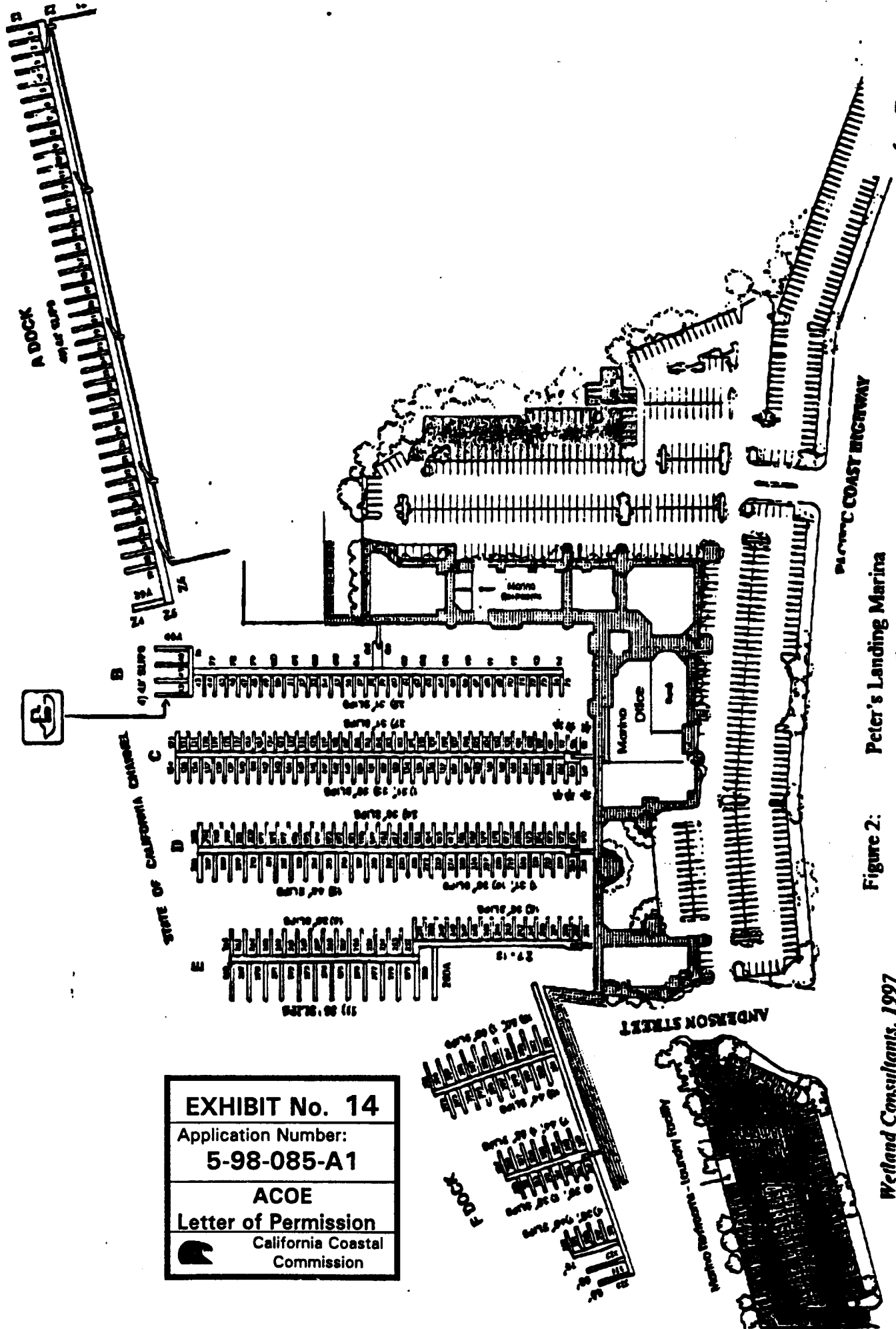



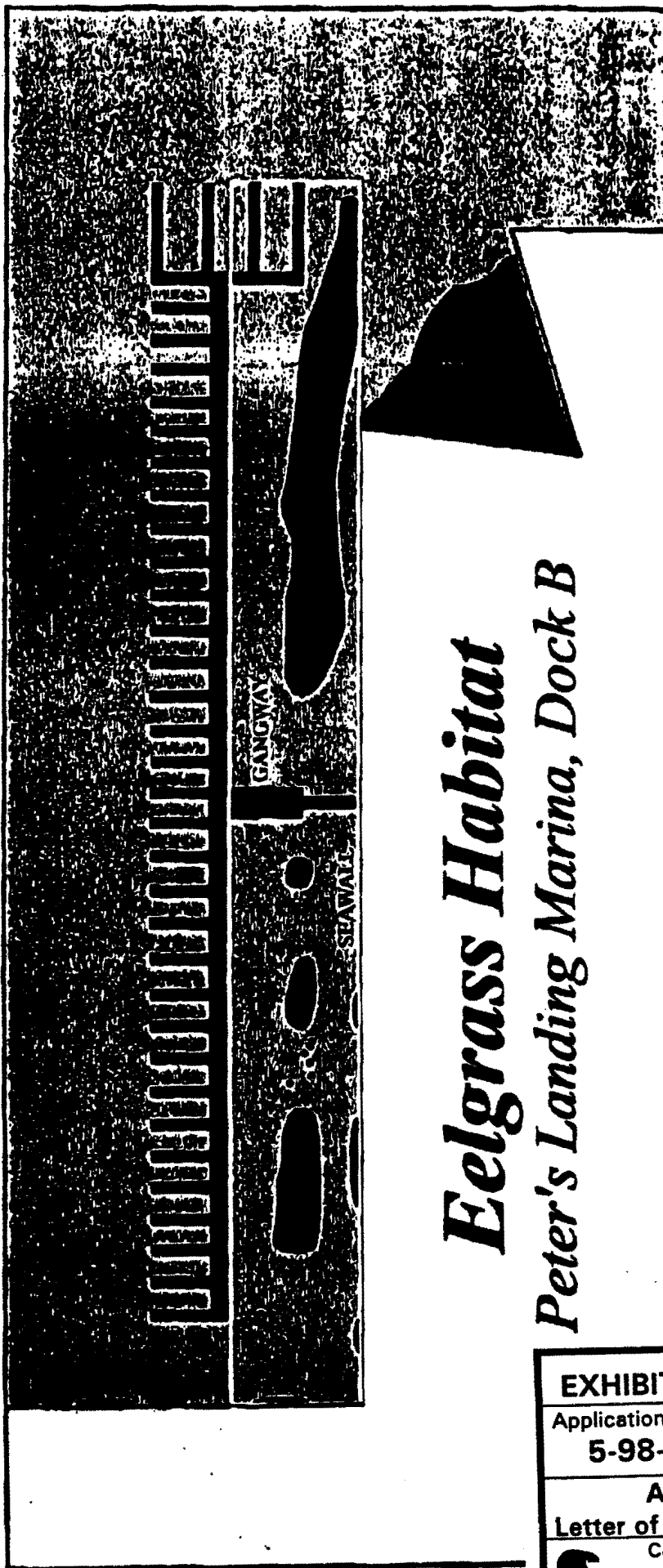
EXHIBIT No. 14	
Application Number: 5-98-085-A1	
ACOE	
Letter of Permission	
	California Coastal Commission

Figure 2: Peter's Landing Marina

Welland Consultants, 1997

Elgrass Survey and Mitigation Alternatives for Peter's Landing Marina Docks A and B



Elgrass Habitat

Peter's Landing Marina, Dock B

Survey boundary
Beach
Eel grass

EXHIBIT No. 14

Application Number:

5-98-085-A1

ACOE

Letter of Permission

California Coastal
Commission

Figure 5: Elgrass Survey



Ingram-Seitz & Associates

April 12, 1999

Stephen Rynas, AICP
Orange County Area Supervisor
CALIFORNIA COASTAL COMMISSION
South Coast District
Suite 1000
200 Oceangate
Long Beach, California 90802-4302

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South Coast Region

APR 14 1999

CALIFORNIA
COASTAL COMMISSION

RE: PETER'S LANDING MARINA - HUNTINGTON BEACH
Coastal Development Permit Application 5-98-085

Dear Mr. Rynas:

In case you did not receive a copy, enclosed are the following letters you requested:

1. Copy of letter from State of California Department of Fish & Game indicating that they do not have a problem with this project, or with the proposed eel grass mitigation plan; and
2. Copy of letter from State of California Regional Water Quality Control Board which also indicates that they do not have a problem with this project.

You previously received a copy of the documents from the Army Corps of Engineers indicating their support of the project and intention to issue a permit for the reconstruction of the docks as requested by applicant.

As far as I am aware, the applicant, Peter's Landing Marina and its owner, Pegasus Group successfully persuaded the management company for the remainder commercial properties adjacent to this marina to remove the "no beach parking" signs and they were in the process of having new signs made to designate a portion of the existing parking lot that serves the commercial uses on the adjacent property "for beach parking" as was required by the original grant.

As you are aware, Pegasus Group, the owner and operator of Peter's Landing Marina is a relatively new player in the game, as is the management company responsible for the management of the commercial properties adjacent to the marina. Both of these groups - totally independent companies, not related to each other, want to "do the right thing".

Learning about the history of these properties and prior requirements imposed through their various entitlement processes has not been easy for either group. Each came to their jobs without the benefit of any background or historic files on which to rely, yet each has been quick to respond to the need to make changes in operations to be consist with existing permits. In my opinion, they continue to demonstrate their good faith and want to be cooperative.

EXHIBIT No. 15

Application Number:

5-98-085-A1

Ingram-Seitz Letter

April 12, 1999



California Coastal
Commission

Governmental Consulting Services / Planning &

P.O. Box 784 / Westminster, CA 92684-0784

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3-7324

Stephen Rynas, AICP
April 12, 1999
Page Two

You also asked us for additional information on the availability of guest slips in this Marina. I am including copies of the printed information Peter's Landing Marina makes available to the general public. There are always 10 guest slips available for visiting boats. I provided you with a copy of this printed about its guest slip policies. Because there is no way to guess ahead of time whether a guest will be in a 20' boat or a 55' boat, it isn't practical to set aside designated spaces for guests. If you have 10 guest slips and all will accommodate boats up to 35', then what happens with a guest who needs a 45' space? Is that guest to be turned away because the Coastal Commission said the Marina *must* provide 10 slips for 35' boats? That wouldn't be reasonable. It has never been a problem to provide slips for 10 guests. These guests pay the same rental rate as do the regular lessees, and must provide documentation to prove that they have up to date registration and insurance. If anyone on your staff is interested in seeing the binders of information that Peter's Landing Marina maintains on the guests who have used this marina on a transient basis since Pegasus Group took over ownership of this marina, they are welcome to stop in the Marina office.

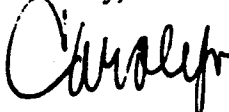
As a reminder, FREE dockage is also available to anyone for a period of time not to exceed 3 hours so that boats can dock here and the humans can make use of the beach located on the opposite side of Pacific Coast Highway in Sunset Beach, restaurants or other commercial businesses located adjacent to the Marina. Even though it was not a requirement, this Marina also provides space in the Marina proper for up to 14 dinghies, inflatables, kayaks or canoes. The space for these watercraft are available on a first come, first served basis and no overnight docking is permitted.

The last issue you asked that we resolve had to do with a gate that allows access to Dock A and a "nature beach". You were not aware that the general public had access through that gate during normal business hours by stopping in the Marina office and asking for a key. Over the years, signs have been posted on the gate indicating this practice and the signs have always disappeared shortly after being posted. As you know, this gate also allows access to Broadmoor Condominiums. No one really knows who keeps removing the signs, but they consistently are removed. Peter's Landing Marina has control over the electronic gate and has set a timer to coordinate as best as it can the opening and closing of that gate with daylight hours. That gate is open now, with no key required from approximately sunrise to sunset daily. As we discussed, sunrise and sunset times change daily, but the management at Peter's Landing Marina is making it a practice to reset the instruction at least monthly to adjust for daily changes in sunrise and sunset times. There is also a temporary sign posted on the gate indicating that the gate is open during daylight hours. They will not place a more permanent sign on the gate until after the public hearing just in case there is any modification made to that condition.

As a final note, Marie Lindsey of Wetland Consultants will provide you with a new graphic showing the location of the proposed relocated Dock B in relationship to the existing dock and the eel grass beds as you requested.


That should complete all of the details you requested and allow us to be set for hearing. If there is still a problem, please let me know before the dock falls into the water and heads out to sea on the next change in tides. We are quickly approaching the time of year that would be best for the work to be done and have as little impact on the eel grass as possible. Please help us not lose that window of time.

Sincerely,



CAROLYN INGRAM SEITZ

CIS/dbm
Enclosures

EXHIBIT No. 15
Application Number: 5-98-085-A1
Ingram-Seitz Letter April 12, 1999
 California Coastal Commission



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South Coast Region

APR 14 1999

CALIFORNIA
COASTAL COMMISSION

16400 Pacific Coast Highway, Suite 108, Huntington Beach, California 92649

(714) 840-1387 (562) 592-4441 FAX (562) 592-3816

AHOY!

Thank you for your interest in Peter's Landing marina and inquiring about the use of a short-term guest slip.

Our temporary rental fees are normally charged at the rate of 50 cents per foot (of *overall* boat length) per day, however, if you are local and intend to use our temporary slips on a regular basis, we would be happy to discuss with you a special 'frequent boater' price.

We have included, for your convenience, an application for transient mooring which must be completed and returned to the office along with proof of current registration, proof of current insurance, and a signed copy of the Marina's Rules and Regulations. A permanent file will be created requiring only a phone call to the Marina Office for slip assignment prior to any future visit. Arrangements can be made at that time for use of temporary dock key(s) and parking permit.

We are pleased to announce that **FREE** dockage is available for your use (3 hour maximum) courtesy of *Peter's Landing Marina*. Two slips which will accommodate 31' (LOA) vessels are available on the east side of C-Dock and two slips for 35' (LOA) on the west side in addition to the two respective inside endties which can accommodate up to 14 dinghies, inflatables, kayaks, or canoes. Please note: These guest slips are available on a "first-come-first-served" basis and no overnight docking is permitted. Please show your cooperation by abiding by the 3 hour maximum time limit. Should you require mooring for a longer time period or for a larger vessel, you will need to contact the Marina Office to make prior arrangements.

Welcome Aboard!



Marina Management

EXHIBIT No. 15

Application Number:

5-98-085-A1

Ingram-Seitz Letter

April 12, 1999

 California Coastal
Commission



Slip Into Prime Waters at Peter's Landing

You provide the boat and Peter's Landing will provide everything else for a thoroughly enjoyable boating experience. Whether boating on the open sea or in the numerous channels, inlets and islands of the tranquil blue Huntington Harbour waters, Peter's Landing is a prime marina location.

Slip Sizes:

26' - 35' \$10.50 per foot

39' - 70' \$12.50 per foot

Amenities:

Restroom, shower and laundry facilities, designated tenant parking, dock-side trash removal service, and pump out facility.

Utilities:

30 and/or 50 amp service, water and phone integrated into dock boxes

On-Site Conveniences:

Restaurants & Shops on Boardwalk.

Guest Facilities:

Temporary transient guest mooring available by reservation.

Location:

15 minutes to open water and 24 nautical miles to Catalina (1 hr. @ 30 knots).



Just bring your boat to our prime waters and leave the rest to us.

For more information on the marina and our current leasing special, please contact:

Peter's Landing Marina

16400 Pacific Coast Highway, Suite 108
Huntington Beach, California 92649

714/840-1387 562/592-4441

Fax 562/592-3816

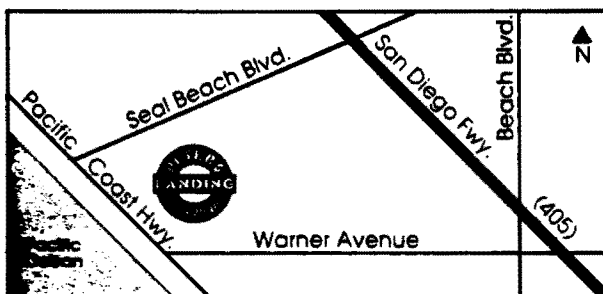


EXHIBIT No. 15

Application Number:

5-98-085-A1

Ingram-Seitz Letter

April 12, 1999



California Coastal
Commission



Ingram-Seitz & Associates

June 10, 1998

Stephen Rynas, AICP
Orange County Area Supervisor
CALIFORNIA COASTAL COMMISSION
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

**RE: PETER'S LANDING MARINA - HUNTINGTON BEACH
COASTAL DEVELOPMENT PERMIT APPLICATION 5-98-085**

Dear Steve:

I am sorry it has taken so long to get information to you in response to your letter of April 10, 1998. It has taken some time to ask the Army Corps of Engineers and Fish & Game to respond, only to have our efforts in that regard ignored. The following responses are layed out as you iterated them in your letter:

1. You asked for an expanded project description. That is attached to this letter, and can be considered an addendum to the application. You are correct in your comment that the project description should include information about the dock structure being relocated a few feet to accommodate larger boats. I am also including information which justifies the reduction in the number of boat slips, and attached as an additional addendum to the Eelgrass Survey is information you were requesting on mitigation measures for any potential degradation of the existing eelgrass colony on this property.
2. At the time we filed the application, we were advised that it was acceptable to leave the information in Question 3 blank as your staff had not been able to provide information on the numbers for prior cases on this property. You are correct, there have been several previous applications processed on this property, or on a great area which included the subject property. That information just wasn't available to us and we were informed that you would help us locate that information. As you know, PG Investors, the owners and operators of Peter's Landing Marina are not the original property owners, nor were they applicants at any time in the prior applications and they did not have the information about prior cases. That question has been resolved, and I have amended that page of the application to now include the cases as you were kind enough to order those files from your archives.
3. With regard to the Eelgrass Survey, we are including two letters from Wetland Consultants which specifically address the mitigation alternatives. In amending the application itself, I have included a discussion of the mitigation measures of choice in the project description.

Governmental Consulting Services / Planning & Zon

P.O. Box 784 / Westminster, CA 92684-0784 / (71

EXHIBIT No. 16

Application Number:

5-98-085-A1

Ingram-Seitz Letter

June 10, 1999

California Coastal
Commission

Stephen Rynas, AICP
June 10, 1998
Page Two

4. You asked for a letter from the Regional Water Quality Control Board. There is a letter from Wetland Consultants stating that no such letter is required in this particular instance since this project does not fall under the jurisdiction of the Board based on Section 401 regulations. If you disagree, please let us know why.


I hope this information will help move this project along so that it can be set for hearing by the Commission. If you need additional information or clarification of any of the information provided, please feel free to call.

Thank you.

Sincerely,


CAROLYN INGRAM SEITZ

CIS/dbm
Enclosures

EXHIBIT No. 16
Application Number: 5-98-085-A1
Ingram-Seitz Letter June 10, 1999
 California Coastal Commission

SECTION II - PROPOSED DEVELOPMENT

2. PROJECT DESCRIPTION

The entire scope of the proposed project includes the removal, relocation and reconstruction of Dock B to replace a well-deteriorated dock structure and to accommodate a bigger backup and turning radius for larger boats, and replacement of a dock finger on Dock A which was washed out in a storm. This marina is home to an eelgrass colony and the project description includes a discussion of potential impacts on the existing eelgrass colony. An eelgrass survey has been prepared and submitted as a part of this application and additional information on mitigation measures is attached to this document to address measures intended to protect or preserve the eelgrass bed.

• JUSTIFICATION FOR REDUCTION IN NUMBER OF BOAT SLIPS

Since the time this marina was developed, technology has changed. Boats are now being built of lighter weight materials, and as a result, more often the general public is trailering smaller boats instead of keeping them in marinas. As a result, the demand for smaller boat slips all over Southern California has diminished and the waiting lists for larger boat slips have increased. In this marina, for instance, the following waiting list information, showing numbers for 6/98, had remained consistent for more than two years. In the last few months, however, these numbers have changed as a further demonstration of changes in the needs of the boating community. We are including the information which is current up to January 25, 1999:

<u>SLIP LENGTH</u>	<u># WAIT LIST 6/98</u>	<u># 1/99</u>
56' and over slips	10	12
40' to 50' slips	4	10
39' slips	3	0
35' and smaller slips	no waiting list	

As additional justification, the following information is being provided on slip vacancy factors:

SLIP SIZE	# OF SLIPS	RENTED		VACANT	
		6/98	1/99	6/98	1/99
26' slips	3	1	2	2	1
31' slips	63	30	38	33	25
33' slips	3	3	2	0	1
35' slips	82*	50		32	
	93**		57		36
TOTAL 35' & under	151*	84		67	
	162**		99		63

Notes: * indicates number of slips available as of 6/98, prior to completion of needed repairs. Some slips had been out of service.
 ** indicates number of slips available 1/99, after repairs to dock and restoration of service of 11 slips.

SLIP SIZE	# OF SLIPS	RENTED		VACANT	
		6/98	1/99	6/98	1/99
39' slips	23	23	21	0	2
44' slips	29	27	28	2	1
48' slips	43	33	43	10	0
50' slips	10	9	10	1	0
56' slips	13	12	13	1	0
65' slips	3	3	3	0	0
Misc end & side ties	16	15	16	1	0
TOTAL 39' & Up slips	137	122	134	15	3

This means that as a general rule up to June, 1998, occupancy in the 35 foot and under category was averaging 55% and occupancy in the 39 foot and over category was averaging 89%. Occupancy in the 35 foot and under category is now up to 61%. Some of the increase in occupancy of the 35 foot and under slips is explained by the reintroduction of 11 slips back into inventory after completion of repairs to those slips. The more important point to be made is that the occupancy in the 39 foot and over category has increased from 89% to 98%.

While those occupancy/vacancy factors had been changing over the prior two year period, with vacancy of small slips increasing and availability of larger slips decreasing, the trend continued for the remainder of 1998 so that by January 25, 1999, the number of vacancies in the small slips increased and the availability of larger slips further declined. The same is true of the waiting lists. There is no waiting list for smaller slips and the waiting list for larger slips continues to grow.

This marina does not have a sufficient number of slips to accommodate larger boats and because of changes in the economy and changes in technology, it is faced with a need to turn away larger boats looking for berthing space. Like many other Southern California marinas, the demand for smaller slips has dropped off and this marina must keep up with the times and reconfigure its docks to accommodate the demand for slips for larger boats. Reconfiguration as proposed will result in a net loss of 9 slips. There will be no impact on slips available to the general public, meaning those which were required under prior applications to be available for transient or temporary rentals. No change is proposed in the number of transient slips.

In order to accommodate larger boats, it is necessary to relocate the existing Dock B structure closer to the easterly bulkhead to allow for a greater back and turn area for these larger boats. The new location meets the guidelines of the California Department of Boating and Waterways regarding proximity to the existing Dock C and the safe distances which must be maintained for the anticipated slip lengths and these larger boats. There is no need for construction of a new gangway, and no change to the bulkhead is proposed.

There is an existing eelgrass colony onsite and potential impacts to the eelgrass are discussed further in this document and in the Eelgrass Survey and an attached Alternatives Analysis prepared by Wetland Consultants.

• EXISTING EELGRASS COLONY AND MITIGATION MEASURES

A detailed Eelgrass Survey has been prepared and submitted with this application. It fully describes the existing eelgrass colony which was planted as a mitigation measure in a prior Coastal Development Permit. This eelgrass bed seems to have thrived in a very active marina. The proposed location of the relocated dock structure is an area of the marina, parallel to the southeasterly bulkhead and existing Dock B structure that has been historically used as side ties


for larger boats which cannot otherwise be accommodated in the marina. The shallow water over this eelgrass colony is subject to regular disturbance from the propellers and movements of these larger boats passing over the colony, and docking over, causing the area to be shaded.

Because the eelgrass colony in this area has been subject to great disturbance and has been well-shaded by the boats which dock immediately overhead, this applicant and its experts believe the eelgrass colony will not suffer any degradation from the relocation of the dock structure itself. It is true the dock structure itself will provide shade to this area, but the fact that boats have been providing the same kind of shade without any demonstrable destruction to the eelgrass colony is or should be satisfactory evidence that the relocation of this dock structure will not unduly harm the eelgrass colony.

Applicant has proposed two mitigation measures to assure replacement or relocation of the eelgrass colony should the relocation of the dock structure impact the eelgrass. The first mitigation measure calls for the eelgrass colony to be monitored for two years, the thinking being that if there is to be a demonstrable impact to the colony, it will be evidenced within two years from commencement of construction of the relocated dock. At the end of the two year monitoring process, a report will be prepared documenting the status of the eelgrass. That report will be submitted to the regulatory agencies for review. If there has been no measurable impact on the eelgrass beds, the requirement for monitoring will cease. If the eelgrass beds have been impacted, then mitigation measure two would be implemented calling for transplant of the remaining eelgrass to a location identified on-site between Dock B and the southeast bulkhead. This transplanted colony would then be monitored for an additional five year period to assure its effectiveness. This monitoring is required by the Southern California Eelgrass Mitigation Policy (Adopted July 31, 1991) by the National Marine Fisheries Service, the U. S. Fish and Wildlife Service, and the California Department of Fish and Game, and revised 8/25/92, 4/29/96 and 6/16/97. Applicant is no longer proposing an off-site mitigation site, but has instead identified an on-site mitigation site should it be necessary.

Additional information on project alternatives is discussed in a letter from Wetland Consultants dated May 19, 1998, attached to this document.

In addition, the Army Corps of Engineers has formally declared its intent to issue a permit for this requested reconfiguration and has indicated acceptance of the eel grass mitigation plan and mitigation measures.

EXHIBIT No. 16
Application Number: 5-98-085-A1
Ingram-Seitz Letter June 10, 1999
 California Coastal Commission

WETLAND CONSULTANTS

Planning & Permit Processing
Services For Wetlands

May 19, 1998

Carolyn Ingram Seitz
Ingram-Seitz & Associates
P.O. Box 784
Westminster, California 92684-0784

Subject: Peter's Landing Coastal Development Permit Application 5-98-085

Dear Ms. Ingram Seitz:

We have reviewed the letter from the California Coastal Commission dated April 10, 1998 regarding the Coastal Development Permit Application 5-98-085. Following are responses to two of the information requests in the letter:

1. Submission of the mitigation plan to the California Department of Fish and Game and the U.S. Army Corps of Engineers (Corps).

An application for a section 10 Letter of Permission from the Corps is being submitted to the Corps. The mitigation plan is included in the application package and will be reviewed by the Corps, California Department of Fish and Game, and National Marine Fisheries Service as part of the application review process.

2. Letter from the California Regional Water Quality Control Board (Regional Board) documenting their review of the proposed project.

It is our understanding based on the regulations of section 401 of the Clean Water Act that the project does not fall under the jurisdiction of the California Regional Water Quality Control Board. Therefore, a letter from the Regional Board is unnecessary.

Please call me at 805/653-5151 if you have any questions about this letter.

Sincerely,



Marie C.K. Lindsey
Principal

*Wetland
Consultants is a
Native
American,
Women Owned
Business*

P.O.

EXHIBIT No. 17
Application Number: 5-98-085-A1
Wetland Consultants May 19, 1998
 California Coastal Commission

WETLAND CONSULTANTS

Planning & Permit Processing
Services For Wetlands

May 19, 1998

Carolyn Ingram Seitz
Ingram-Seitz & Associates
P.O. Box 784
Westminster, California 92684-0784

EXHIBIT No. 17
Application Number: 5-98-085-A1
Wetland Consultants May 19, 1998
 California Coastal Commission

Subject: Alternatives Analysis for Peter's Landing Marina Dock B Replacement Project,
Huntington Harbor, California

Dear Ms. Ingram Seitz:

We have reviewed the letter from the California Coastal Commission dated April 10, 1998, regarding the Coastal Development Permit Application (No. 5-98-085) for the referenced project. The letter requests that the project proponent provide alternatives to the proposed project that would avoid impacts to the eelgrass beds that occur in the project area. Therefore, in consultation with the project engineers at Moffatt and Nichol's, we have developed and reviewed the alternative dock designs described below.

PROJECT DESCRIPTION

Peter's Landing Marina is located in Huntington Harbor, Orange County, California. Currently dock B in this marina is in immediate need of repair. The dock is located approximately 40 feet from the southwest bulkhead and approximately 60 feet from the southeast bulkhead. The dock currently provides thirty-two 31 foot slips and four 48 foot slips and measures 553 feet long with a gangway in the middle.

The proponent proposes to remove the dock and replace it in a different reconfiguration to create larger boat slips: four 40 foot slips, eighteen 42 foot slips, and four 44 foot slips. Please note that the California Department of Boating and Waterways has specific layout and design guidelines for the design of docks and fairway widths. Therefore there are constraints on the physical placement of dock B in relationship to dock C and the bulkheads.

Approximately 5,680 square feet (1,731 square meters) of eelgrass beds were observed in the channel between dock B and the southwest seawall. The beds were generally located at a depth

*Wetland
Consultants is a
Native
American,
Women Owned
Business*

wetlands1@aol.com
805/653-5151 FAX 805/653-5252
P.O. Box 1353, VENTURA, CALIFORNIA 93002

ranging from approximately four to eight feet. The northeast edge of the eelgrass bed is currently in an area that is shaded by boats tied up along the southeast edge of the dock.

ALTERNATIVES

Alternative 1: Reconfigure Dock B with Larger Slips in a New Alignment

This alternative would replace the existing slips in dock B with four 40 foot slips, eighteen 42 foot slips, and four 44 foot slips in a new alignment. The new alignment would be approximately 40 feet from the southwest and 21 feet from the southeast bulkhead. This new alignment is necessary to meet the minimum fairway width requirements between docks B and C.

Implementation of this alternative would reduce the amount of boat traffic in the area between the dock and the bulkheads thereby reducing existing turbidity around the eelgrass beds. Reduction in the turbidity level should benefit the eelgrass plants in the area.

The southwest edge of the realigned dock will overlap approximately six to ten feet of the eelgrass bed along its northeast edge (approximately 2090 square feet (637 square meters)). Eelgrass plants in this area of potential impact are currently shaded by boats that are tied up along the southeast edge of the dock. Because eelgrass beds occur in this shaded area it is reasonable to assume that adequate light is reflected under the boats to support the growth of eelgrass plants. The current shading effects of the boats could be considered similar to that of a permanent structure such as a dock. It is likely that adequate light would be reflected under the realigned dock for the eelgrass beds to persist in their current distribution, percent cover, and density. Therefore, this project alternative should have minimal effects on the eelgrass beds.

However, to assure that the eelgrass beds are not affected by realignment of the dock the project proponent has proposed two mitigation measure. The first mitigation measure provides for monitoring the eelgrass beds for a period of two years. After the second year, the collected data would be reviewed by the resource agencies to assess if the realignment of dock B has adversely affected the eelgrass beds by reducing their distribution, percent cover or density.

If it is decided that the realignment of dock B has adversely affected the eelgrass beds mitigation measure 2 would be implemented. This measure provides for the transplanting of remaining eelgrass plants in the project area to the mitigation site. The site is located in the area between dock B and the southeast bulkhead. These mitigation measures are further described in the Eelgrass Survey and Mitigation Alternatives for Peter's Landing Marina, Docks A and B, Huntington Harbour, California, June 25, 1997, and Addendum dated May 15, 1998.

EXHIBIT No. 17
Application Number: 5-98-085-A1
Wetland Consultants May 19, 1998
 California Coastal Commission

Alternative 2: Replace Dock B with its Current Slip Design in its Existing Alignment

This alternative would replace the dock with its current slip design of thirty-two 31 foot slips and four 48 foot slips in its current location approximately 40 feet from the southwest bulkhead and approximately 60 feet from the southeast bulkhead.

This alternative should not result in any new effects to the eelgrass plants in the project area. Shading of the eelgrass beds by the dock and boats tied up along its southwest edge would remain the same. In addition, turbidity in the area between the dock and the southeast bulkhead is expected to remain the same. Therefore, this alternative is expected to have minimal impacts on the eelgrass beds.

Alternative 3: Reconfigure Dock B with Larger Slips in its Existing Alignment

This alternative could not be implemented because it would reduce the fairway width between docks B and C below the distance required in the California Department of Boating and Waterways layout and design guidelines.

Alternative 4: Reconfigure Dock B with Larger Slips in its Existing Alignment with Slips Opening Towards the Bulkhead

This alternative could not be implemented because it would reduce the fairway width between dock B and the bulkhead below the distance required in the California Department of Boating and Waterways layout and design guidelines.

CONCLUSION

We believe that alternative 1 with the proposed mitigation measures would have minimal effects to the eelgrass beds in the project area. Alternative 2 would not meet the needs of the project proponent to construct larger slips. Alternatives 3 and 4 conflict with the fairway width required in the California Department of Boating and Waterways layout and design guidelines. Therefore, alternative 1 is the preferred alternative.

Please call me at 805/653-5151 if you have any questions about this letter.

Sincerely,



Marie C.K. Lindsey
Principal

EXHIBIT No. 17
Application Number: 5-98-085-A1
Wetland Consultants May 19, 1998
 California Coastal Commission



Ingram-Seitz & Associates

June 8, 1999

Stephen Rynas, AICP
Orange County Area Supervisor
CALIFORNIA COASTAL COMMISSION
South Coast District
Suite 1000
200 Oceangate
Long Beach, California 90802-4302

RECEIVED
South Coast Region
JUN 9 1999
CALIFORNIA
COASTAL COMMISSION

RE: PETER'S LANDING MARINA - HUNTINGTON BEACH
Coastal Development Permit Application 5-98-085

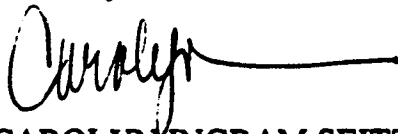
Dear Mr. Rynas:

In response to your request for information about additional alternatives to the relocation of Dock B, you asked why the Pegasus Group hadn't considered modifying either Dock C or Dock D to accommodate larger boats. Since it is likely there is no eel grass under these two docks, it would seem on the surface of the question to be a reasonable suggestion to just put the larger boats into these two middle docks.

The reason larger boats cannot be accommodated on Dock C or Dock D is because of the amount of maneuvering room required for larger boats. To accommodate larger slips and therefore larger boats on Dock C or D we would still be required to relocate Dock B. The distances required by the California Department of Boating and Waterways for safe maneuvering can only be met by the relocation of Dock B.

Placement of larger slips on Docks C or D would have meant relocation of Dock B and would have meant much greater disturbance to the marine life in this marina.

Sincerely,



CAROLYN INGRAM SEITZ

CIS/dbm
Enclosures

cc: Pegasus Group
Peter's Landing Marina

EXHIBIT No. 18
Application Number: 5-98-085-A1
Ingram-Seitz Letter June 8, 1999
 California Coastal Commission

SOUTHERN CALIFORNIA EELGRASS MITIGATION POLICY

(Adopted July 31, 1991)

Eelgrass (*Zostera marina*) vegetated areas function as important habitat for a variety of fish and other wildlife. In order to standardize and maintain a consistent policy regarding mitigating adverse impacts to eelgrass resources, the following policy has been developed by the Federal and State resource agencies (National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Department of Fish and Game). This policy should be cited as the Southern California Eelgrass Mitigation Policy (revision 8).

For clarity, the following definitions apply. "Project" refers to work performed on-site to accomplish the applicant's purpose. "Mitigation" refers to work performed to compensate for any adverse impacts caused by the "project". "Resource agencies" refers to National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Department of Fish and Game.

1. **Mitigation Need.** Eelgrass transplants shall be considered only after the normal provisions and policies regarding avoidance and minimization, as addressed in the Section 404 Mitigation Memorandum of Agreement between the Corps of Engineers and Environmental Protection Agency, have been pursued to the fullest extent possible prior to the development of any mitigation program.

2. **Mitigation Map.** The project applicant shall map thoroughly the area, distribution, density and relationship to depth contours of any eelgrass beds likely to be impacted by project construction. This includes areas immediately adjacent to the project site which have the potential to be indirectly or inadvertently impacted as well as areas having the proper depth and substrate requirements for eelgrass but which currently lack vegetation.

Protocol for mapping shall consist of the following format:

1) **Coordinates**

Horizontal datum - Universal Transverse Mercator (UTM), NAD 83, Zone 11

Vertical datum - Mean Lower Low Water (MLLW), depth in feet.

2) **Units**

Transects and grids in meters.

Area measurements in square meters/hectares.

EXHIBIT No. 19

Application Number:

5-84-188-A5

All mapping efforts must be completed during the active growth phase for the vegetation (typically March through October) and shall be valid for a period of 120 days with the exception of surveys completed in August - October.

**Eelgrass Mitigation
Policy**

 California Coastal
Commission

A survey completed in August - October shall be valid until the resumption of active growth (i.e., March 1). After project construction, a post-project survey shall be completed within 30 days. The actual area of impact shall be determined from this survey.

3. Mitigation Site. The location of eelgrass transplant mitigation shall be in areas similar to those where the initial impact occurs. Factors such as, distance from project, depth, sediment type, distance from ocean connection, water quality, and currents are among those that should be considered in evaluating potential sites.

4. Mitigation Size. In the case of transplant mitigation activities that occur concurrent to the project that results in damage to the existing eelgrass resource, a ratio of 1.2 to 1 shall apply. That is, for each square meter adversely impacted, 1.2 square meters of new suitable habitat, vegetated with eelgrass, must be created. The rationale for this ratio is based on, 1) the time (i.e., generally three years) necessary for a mitigation site to reach full fishery utilization and 2) the need to offset any productivity losses during this recovery period within five years. An exception to the 1.2 to 1 requirement shall be allowed when the impact is temporary and the total area of impact is less than 100 square meters. Mitigation on a one-for-one basis shall be acceptable for projects that meet these requirements (see section 11 for projects impacting less than 10 square meters).

Transplant mitigation completed three years in advance of the impact (i.e., mitigation banks) will not incur the additional 20% requirement and, therefore, can be constructed on a one-for-one basis. However, all other annual monitoring requirements (see sections 8-9) remain the same irrespective of when the transplant is completed.

Project applicants should consider increasing the size of the required mitigation area by 20-30% to provide greater assurance that the success criteria, as specified in Section 9, will be met. In addition, alternative contingent mitigation must be specified, and included in any required permits, to address situation where performance standards (see section 9) are not met.

5. Mitigation Technique. Techniques for the construction and planting of the eelgrass mitigation site shall be consistent with the best available technology at the time of the project. Donor material shall be taken from the area of direct impact whenever possible, but also should include a minimum of two additional distinct sites to better ensure genetic diversity of the donor plants. No more than 10% of an existing bed shall be harvested for transplanting purposes. Plants harvested shall be taken in a manner to thin an existing bed without leaving any noticeable bare areas. Written permission to harvest donor plants must be obtained from the California Department of Fish and Game.

Plantings should consist of bare-root bundles consisting of 8-12 individual turions. Specific spacing of transplant units shall be at the discretion of the project applicant. However, it is understood that whatever techniques are employed, they must comply with the stated requirements and criteria.

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Plantings should consist of bare-root bundles consisting of 8-12 individual turions. Specific spacing of transplant units shall be at the discretion of the project applicant. However, it is understood that whatever techniques are employed, they must comply with the stated requirements and criteria.

6. Mitigation Timing. For off-site mitigation, transplanting should be started prior to or concurrent with the initiation of in-water construction resulting in the impact to the eelgrass bed. Any off-site mitigation project which fails to initiate transplanting work within 135 days following the initiation of the in-water construction resulting in impact to the eelgrass bed will be subject to additional mitigation requirements as specified in section 7. For on-site mitigation, transplanting should be postponed when construction work is likely to impact the mitigation. However, transplanting of on-site mitigation should be started no later than 135 days after initiation of in-water construction activities. A construction schedule which includes specific starting and ending dates for all work including mitigation activities shall be provided to the resource agencies for approval at least 30 days prior to initiating in-water construction.

7. Mitigation Delay. If, according to the construction schedule or because of any delays, mitigation cannot be started within 135 days of initiating in-water construction, the eelgrass replacement mitigation obligation shall increase at a rate of seven percent for each month of delay. This increase is necessary to ensure that all productivity losses incurred during this period are sufficiently offset within five years.

8. Mitigation Monitoring. Monitoring the success of eelgrass mitigation shall be required for a period of five years for most projects. Monitoring activities shall determine the area of eelgrass and density of plants at the transplant site and shall be conducted at 3, 6, 12, 24, 36, 48, and 60 months after completion of the transplant. All monitoring work must be conducted during the active vegetative growth period and shall avoid the winter months of November through February. Sufficient flexibility in the scheduling of the 3 and 6 month surveys shall be allowed in order to ensure the work is completed during this active growth period. Additional monitoring beyond the 60 month period may be required in those instances where stability of the proposed transplant site is questionable or where other factors may influence the long-term success of transplant.

The monitoring of an adjacent or other acceptable control area (subject to the approval of the resource agencies) to account for any natural changes or fluctuations in bed width or density must be included as an element of the overall program.

A monitoring schedule that indicates when each of the required monitoring events will be completed shall be provided to the resource agencies prior to or concurrent with the initiation of the mitigation.

Monitoring reports shall be provided to the resource agencies within 30 days after the completion of each required monitoring period.

9. Mitigation Success. Criteria for determination of transplant success shall be based upon a comparison of vegetation coverage (area) and density (turions per square meter) between the project and mitigation sites. Extent of vegetated cover is defined as that area where eelgrass is present and where gaps in coverage are less than one meter between individual turion clusters. Density of shoots is defined by the number of turions per area present in representative samples

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within the control or transplant bed. Specific criteria are as follows:

- a. a minimum of 70 percent area of eelgrass bed and 30 percent density after the first year.
- b. a minimum of 85 percent area of eelgrass bed and 70 percent density after the second year.
- c. a sustained 100 percent area of eelgrass bed and at least 85 percent density for the third, fourth and fifth years.

Should the required eelgrass transplant fail to meet the established criteria, then a Supplementary Transplant Area (STA) shall be constructed, if necessary, and planted. The size of this STA shall be determined by the following formula:

$$STA = MTA \times (|A_t + D_t| - |A_c + D_c|)$$

MTA = mitigation transplant area.

A_t = transplant deficiency or excess in area of coverage criterion (%).

D_t = transplant deficiency in density criterion (%).

A_c = natural decline in area of control (%).

D_c = natural decline in density of control (%).

Four conditions apply:

- 1) For years 2-5, an excess of only up to 30% in area of coverage over the stated criterion with a density of at least 60% as compared to the project area may be used to offset any deficiencies in the density criterion.
- 2) Only excesses in area criterion equal to or less than the deficiencies in density shall be entered into the STA formula.
- 3) Densities which exceed any of the stated criteria shall not be used to offset any deficiencies in area of coverage.
- 4) Any required STA must be initiated within 120 days following the monitoring event that identifies a deficiency in meeting the success criteria. Any delays beyond 120 days in the implementation of the STA shall be subject to the penalties as described in Section 7.

10. Mitigation Bank. Any mitigation transplant success that, after five years, exceeds the mitigation requirements, as defined in section 9, may be considered as credit in a "mitigation bank". Establishment of any "mitigation bank" and use of any credits accrued from such a bank must be with the approval of the resource agencies and be consistent with the provisions stated in this policy. Monitoring of any approved mitigation bank shall be conducted on an annual basis until all credits are exhausted.

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11. Exclusions.

1) Placement of a single pipeline, cable, or other similar utility line across an existing eelgrass bed with an impact corridor of no more than $\frac{1}{2}$ meter wide may be excluded from the provisions of this policy with concurrence of the resource agencies. After project construction, a post-project survey shall be completed within 30 days and the results shall be sent to the resource agencies. The actual area of impact shall be determined from this survey. An additional survey shall be completed after 12 months to insure that the project or impacts attributable to the project have not exceeded the allowed $\frac{1}{2}$ meter corridor width. Should the post-project or 12 month survey demonstrate a loss of eelgrass greater than the $\frac{1}{2}$ meter wide corridor, then mitigation pursuant to sections 1-11 of this policy shall be required.

2) Projects impacting less than 10 square meters. For these projects, an exemption may be requested by a project applicant from the mitigation requirements as stated in this policy, provided suitable out-of-kind mitigation is proposed. A case-by-case evaluation and determination regarding the applicability of the requested exemption shall be made by the resource agencies.

(last revised 2/2/99)

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