

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Filed: 5/18/01
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 Staff: AJP-LB *97*
 Staff Report: 9/24/01
 Hearing Date: 10/8-12/01
 Commission Action:

TU 158

RECORD PACKET COPY**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-01-037

APPLICANT: Fantasea Charters & Los Angeles County Beaches and Harbors

AGENT: Carolyn Seitz

PROJECT LOCATION: 13570 Mindanao Way (Parcel 77), Marina del Rey

PROJECT DESCRIPTION: Remove six dilapidated fingers from a boat dock and add three pile hanger/stiffeners to attach dock to existing piles and temporarily moor a 119 foot charter yacht.

LOCAL APPROVALS RECEIVED: Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Marina Del Rey certified Local Coastal Plan, 1995.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission grant a permit for the proposed development with conditions limiting the use of the dock to a one year period and construction and debris removal responsibility. As conditioned, the proposed development conforms with the public access and recreation, as well as marine resource protection, policies of the Coastal Act.

STAFF RECOMMENDATION:**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-01-037**

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #5-01-037 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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. Termination of Authorized Use

The proposed use of the berth authorized by this permit shall terminate in one year from the date of Commission approval of the permit.

2. Construction Responsibilities and Debris Removal

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (c) No machinery or construction materials not essential for project improvements shall be allowed at any time in the intertidal zone;
- (d) Floating booms shall be used to contain debris and spills discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day; and
- (e) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.

3. Water Quality Management Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Water Quality/Best Management Practices (BMPs) Program for controlling adverse impacts to water quality related to long term water-borne berthing of vessels in the marina. The plan shall be prepared by a qualified professional with expertise in the control of water quality impacts related to marinas.

1. The plan shall demonstrate that long-term water-borne berthing of vessels in the marina shall be managed in a manner which protects water quality and that persons using the marina are made aware of the rules related to boat maintenance and use. To the extent to which physical features or objects (trash containers, recycling bins) are required in the plan, an attached site plan shall show the location where these features or objects will be installed.
2. The plan shall include, at a minimum, the following components or measures:
 - (a) Boat Cleaning Management Measures:
 1. The marina shall prohibit in-water boat hull washing which does not occur by hand;
 2. The marina shall prohibit in-the-water hull scraping or any process that occurs under water which results in the removal of paint from boat hulls;
 3. The marina shall ensure that marina tenants when washing boats, utilize detergents and cleaning components, that are phosphate-free and bio-degradable. Amounts used shall be minimized;
 4. The marina shall prohibit the use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye;
 - (b) Implementation of a solid waste reduction and recycling program including the following Solid Waste Management Measures:
 1. Trash receptacles shall be provided at the entrances to all docks;
 2. Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock);
 3. All trash and separate containers for recyclables, oil wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock);
 - (c) Implementation of a liquid material control program which provides and maintains appropriate storage, transfer, containment and disposal facilities for liquid materials commonly used in boat maintenance including the following Liquid Waste Management Measures:
 1. The marina shall provide a secure location to store hazardous wastes, including old gasoline or gasoline with water, absorbent materials, and oily rags;

2. Containers for anti-freeze, lead acid batteries, used oil and used oil filters which will be collected separately for recycling shall be provided by the marina;
3. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes;
5. The marina shall maintain an adequate supply of absorbent pads for use by marina tenants and lessees for the cleaning of minor spills.

(d) Public Education Measures:

In addition to these specific components outlined in special condition 3.2.(a) through (c) above, the BMP program shall also include enforcement provisions, including eviction from the marina and notice of possible civil or criminal fines and/or penalties, to assure compliance with this program by all marina tenants. The marina shall provide information about all of the measures in the BMP program through a combination of signage, tenant bill inserts and distribution of the BMP program to new tenants and each year to repeat tenants. The program shall be posted at the dockmaster's office and at all dock entrances, and be included and attached to all slip lease agreements.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant is proposing to remove six fingers (floating structures usually attached perpendicular to a main walkway, which forms a boat slip) from a dilapidated boat dock and add three pile hanger/stiffeners to attach dock to existing piles; and temporarily moor a 119 foot charter yacht. Existing floats on this portion of the dock will be replaced or repaired as necessary and since the dock is currently not completely fastened to any physical structure, due to disrepair, three pile hanger/stiffeners will be added. These consist primarily of a box constructed around the piles, made from wood, with brackets and rollers. These boxes are then fastened to the dock to stabilize the dock. The rollers in the pile hangers allow the dock to move up and down with the tides. Construction activity will take approximately two weeks.

The project site is a dilapidated boat dock that cannot be used in its current state of disrepair. Of the six fingers extending from the docks, two are missing. Records indicate that there were six fingers, therefore, the application is for all fingers on record and not what physically remains. The six fingers created seven 28-foot slips.

The proposed project is located on Parcel 77, in Basin H, in the western portion of the marina of Marina del Rey. The parcel is designated as "Public Facilities" and a Water Overlay Zone in the certified LCP. The Water Overlay Zone permitted uses include hotels, visitor serving commercial, open space, boat storage and marine commercial uses.

The waterside portion of the parcel contains approximately 25 transient boat slips, i.e., slips for use by boaters visiting the marina for the day or for a short period of time. All slips are approximately 28 foot in length and vary in width from 10 to 20 feet, with the majority at 10 feet. The slips have not been in operation since 1991. A boat hoist, currently in operation, is also located adjacent to these transient boat slips. The boat hoist operation is not part of the transient boat operation. On the landside portion of the parcel there is a dry boat storage and boater parking area.

The charter yacht currently provides public dinner cruises in Marina del Rey. The charter cruises operate from the visitor-serving area of Fisherman Village, where it picks up and drops off passengers at the existing dock (dock no. 52). The yacht operates on average one cruise during the week and 2 to 3 cruises on the weekend. The yacht measures 119 feet in length and 30 feet across, and extends approximately 15 from the waterline to the deck area. The yacht carries approximately 175 to 250 passengers. The proposed project is only for the mooring of the boat and will not include pick up or drop off passengers from this mooring.

The leaseholder of the parcel is Pacific Marine Ventures. The leaseholder has given permission to the applicant, Fantasea Charters, to use the dock on a temporary basis.

B. Areawide Description

Marina del Rey covers approximately 807 acres of land and water in the County of Los Angeles (see Exhibit No. 1-3). Marina del Rey is located between the coastal communities of Venice and Playa Del Rey. The Marina is owned by the County and operated by the Department of Beaches and Harbors.

Marina del Rey began its development in 1962 when the dredging of the inland basin was completed. The primary use of the Marina is recreational boating. The Marina provides approximately 4,626 boat slips, within approximately 26 separately-operated marinas or anchorages. Other boating facilities include transient docks, a public launching ramp, repair yards, charter and rental boats, harbor tours, and sailing instruction schools.

Other recreational facilities include: Burton W. Chase Park, Admiralty Park, a public beach and picnic area, bicycle trail, and limited pedestrian access along the marina bulkheads and north jetty promenade. Along with the recreational facilities, the Marina is developed with multi-family residential projects, hotels, restaurants, commercial, retail and office development.

Within the Marina, most structural improvements have been made by private entrepreneurs, operating under long-term land leases. These leases were awarded by open competitive bids in the early and mid-1960's. The developers were required to construct improvements on unimproved parcels in conformance with authorized uses designated in their leases and pursuant to a master plan for the Marina. Most leases will expire after 2020.

Within the existing Marina, development has occurred on all but one leasehold parcel. This development is generally referred to as Phase I development. Recycling, intensification, or conversion of these initial uses on leased parcels is referred to as Phase II development.

C. Public Access and Recreation

Section 30210 of the Coastal Act states:

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

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and

located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Currently, of the approximate total 4,626 boat slips provided within Marina del Rey, there are approximately 23 slips and 360 linear feet of dock provided for transient moorings. In addition, some of the individual anchorages throughout the Marina, provide transient moorings. Other boating facilities include public launching ramp, repair yards, charter and rental boats, harbor tours, and sailing instruction school.

Eliminating existing transient boat slips in the Marina could adversely impact recreational boaters by reducing the number of transient slips within the harbor. With the loss of transient slips, the demand for transient slips could exceed the supply. However, although the proposed project will occur at a dock that was at one time used as transient docks, the docks have not been in operation since 1991. Furthermore, the proposed use is being proposed as temporary (one year). The current leaseholder is negotiating with the County to redevelop the docks, along with the landside portion of the parcel. There is no indication that the leaseholder would repair or redevelop the docks within the next year.

Reconfiguration of the docks at Parcel 77 has been contemplated since 1988. A coastal development permit application (5-90-468) for reconfiguring the existing slips was submitted to the Commission. The permit application was eventually withdrawn. In 1991, the County investigated unpermitted work on the docks at Parcel 77. After determining the lessee did not have proper permits, the County "red-tagged" the docks, indicating they were not safe for public use. After repeated contact between the Department and the lessee to resolve the matter, there was no resolution. Since 1991, there has been no authorized use for the docks. Over the last few years, the docks have been used by abandoned (derelict) vessels. These vessels are seized and removed by the Sheriff's Department.

Because of years of lack of use of the docks and their deteriorated condition, the slips do not contribute to the supply of recreational boater slips. The County is currently in negotiations with the current leaseholder to redevelop the parcel, including the docks.

The leaseholder has given permission to the applicants for the proposed project. The applicant is planning to sublease from the current leaseholder, make the minimum necessary improvements to meet the County's safety requirements, and use the dock on a temporary basis. The docks will be available only to the crew of the yacht. Additional improvements, such as ADA improvements, which would require longer ramps and wider docks, would be required if the docks would be open to the public. Since the use of the dock is intended to be temporary and not open to the public, the County is not requiring the additional improvements.

The County has determined that until negotiations can be completed and a viable plan for the docks developed, the proposed temporary use, during this interim period, will facilitate public recreation (the dinner cruises) and can be allowed. The Commission concurs with

this conclusion. The use will also improve the appearance of the dilapidated docks and generate revenue for the County. Since the docks are dilapidated and have not been in use since 1991, the proposed project will not have an adverse impact on boater recreation.

Commission staff has received a few calls from individuals identifying themselves as boaters with the concern that the yacht will be a navigational hazard to small boats. The reason given is that it is a large high profile boat and difficult to steer into a wind "because it acts like a "sail". Opponents allege that the boat will be blown off course as it travels down the channel and bump into boats that are leaving the public launching ramp, or block the wind when the yacht passes a sailing boat.

As with all boats operating in the Marina, the yacht is required to follow safe boating procedures and protocol. The yacht has been operating in the Marina for two years, using the dock across from this location where passengers board and disembark. There has been no reported boating-related problems with the yacht. Furthermore, large boats/yachts use Basin H for launching and boat repair, since the marine repair facility is located in this basin.

Wind blockage from the yacht could possibly impact sailing boats. A wind study has not been done because of the proposed short-term use of the dock. The proposed anchorage is located near the public launch ramp, which is located west of the project site, along the western end of Basin H. Small sailing boats that do not have motors could be impacted if the yacht significantly blocks the wind. However, the yacht, which measures 119 feet in length, will occupy only a small portion of the approximately 1,400 foot long northern bulkhead of Basin H. Furthermore, the yacht rises approximately 15 feet above the waterline. Since the marina bulkhead varies from three to eight feet above the waterline, the boat will extend between 7 and 12 feet above the bulkhead. Based on the size of the yacht, the temporary mooring of the boat will not have a significant impact to the wind patterns in this basin.

Therefore, the improvement of the docks and use of the dock for temporary mooring will not adversely impact public recreation. However, to ensure that the mooring of the yacht is temporary and will not adversely impact the future redevelopment and use of the dock, a condition limiting the use to one year from the date of Commission action is necessary. As conditioned, the proposed project will be consistent with Sections 30210, 30224, 30234 of the Coastal Act.

D. Water Quality

Section 30230 states:

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 states:

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.

The project will involve repairs to the existing floats on this portion of the dock. The floats will be replaced or repaired as necessary and since the dock is currently not fastened to any physical structure, three pile hanger/stiffeners will be added. These consist primarily of a box constructed around the piles, made from wood, with brackets and rollers. These boxes are then fastened to the dock to stabilize the dock. The rollers in the pile hangers allow the dock to move up and down with the tides. The docks will not be expanded nor will any pilings be added.

The proposed project will maintain the prior use as a dock for boats and is not expected to create additional adverse impacts on marine resources. However boat operations can adversely impact water quality through boat cleaning procedures, trash disposal, and the storage of liquid materials. Therefore, the Commission finds it necessary to identify the permittee's responsibilities regarding the utilization of best management practices and has conditioned the project accordingly.

As conditioned, the project will not adversely impact the marine environment. The applicant has indicated that the dock fingers that will be removed will be removed from the site and disposed of at a disposal site outside of the Coastal Zone. To ensure that the removed fingers and other debris is adequately removed, the permit is conditioned to remove all construction material and debris. As conditioned, the proposed project will be consistent with Sections 30230 and 30231 of the Coastal Act.

E. Local Coastal Program

In 1984, the Commission certified the County's Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of

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

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

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified. The revised 1995 LCP represented a major change in the county's approach to Marina del Rey development. Abandoning the bowl concept, which limited height on moles and next to the water, the County presented the Commission with a redevelopment plan that allowed greatly increased heights if and when developers provided view corridors over no less than 20% of the parcel. Increased height would be contingent on the provision of increased views. Secondly, the County agreed that at the time of renegotiations on of the leases, the lessees would be required to reserve a 18 foot wide promenade /fire road along the water that would be open to the public.

The certified LCP designates the proposed site as "Water". Under the "Water" category of the LCP the permitted uses are recreational uses, wet boat slips, docking and fueling of boats, flood control and light marine commercial. The proposed use is a permitted use. However, the proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is the chapter three policies of the Coastal Act. The County's certified LCP is advisory in nature and may provide guidance for development. As stated in the preceding sections, as conditioned, the project will not adversely impact coastal and marine resources or coastal access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act.

F. 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.

As proposed, 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 proposed project is found consistent with CEQA and the policies of the Coastal Act.

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SEE MAP

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LOS ANGELES CO.

A B C D E F



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SEE MAP

Site Location

DETAIL
DETAIL

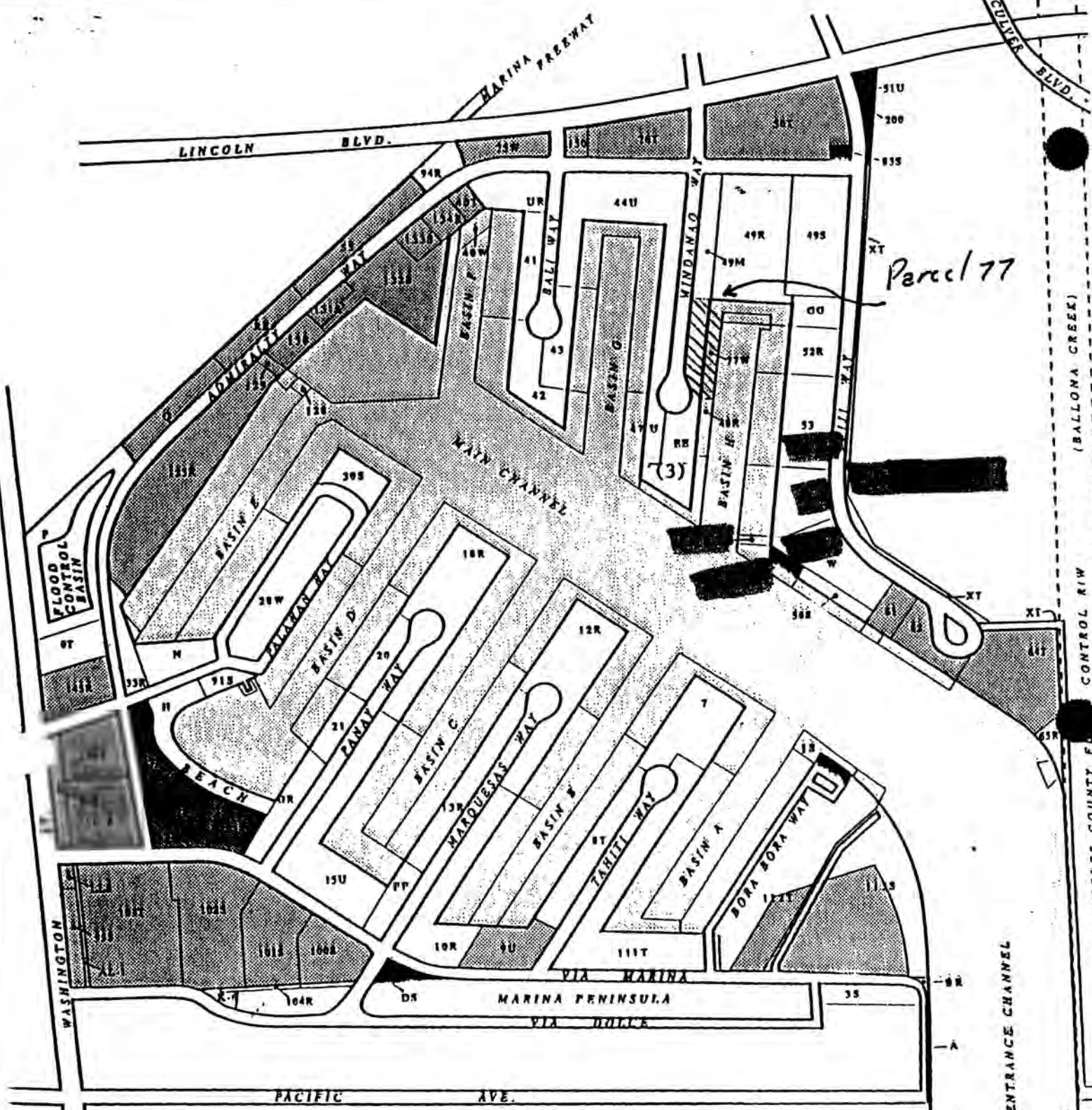
EXHIBIT NO.	1
Application Number	5-01-037
	Vicinity Map
California Coastal Commission	

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SEE MAP

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B C D E F



LOS ANGELES COUNTY
DEPT. OF BEACHES AND HARBORS

MARINA DEL REY
PARCEL MAP



EXHIBIT NO.

2

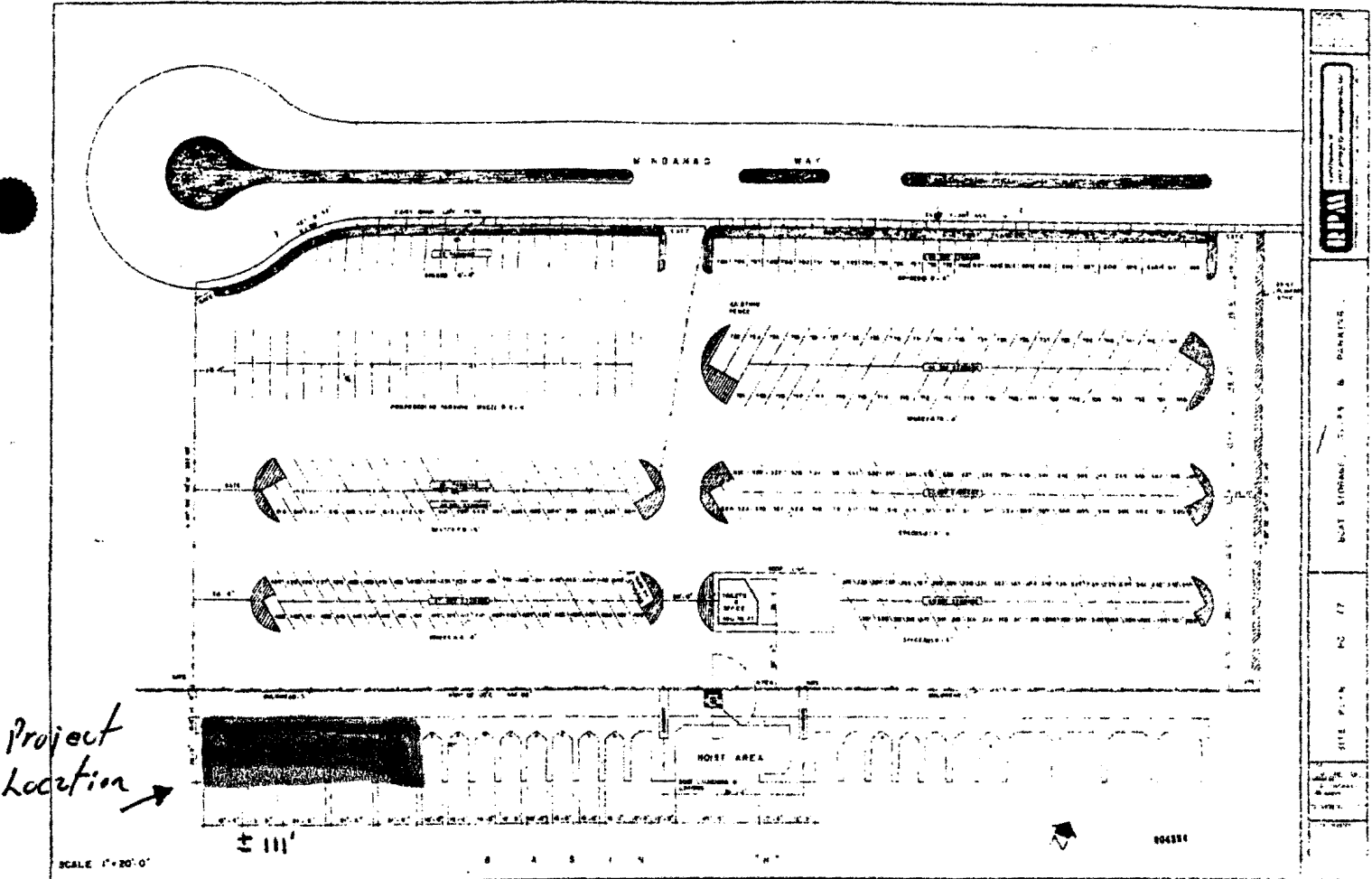
Application Number

5-01-037

Parcel Map

California Coastal Commission

FLOOD
5
EBB



NOTE: THIS PLAN DEPICTS THE ENTIRE PARCEL AND IS INTENDED TO SHOW THE AREA IN QUESTION. AT SOME POINT IN PAST, SLIPS WERE RECONFIGURED FROM THIS DRAWING ON FILE IN COUNTY RECORDS TO THE CONFIGURATION SHOWN ON FULL SIZED PLAN IN THIS PACKAGE

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EXHIBIT NO. 3
APPLICATION NO. 5-01-037
Site Plan
California Coastal Commission

