CALIFORNIA COASTAL COMMISSION

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Staff: Staff Report: AJP-LB 9/17/02

Hearing Date:

10/8-11/02

Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-02-303

APPLICANT:

Panay Way Marina, L.P. and the Los Angeles Department of

Beaches and Harbors

AGENT:

Moffatt & Nichol Engineers

PROJECT LOCATION:

13953 Panay Way (Parcel 20), Marina del Rey

PROJECT DESCRIPTION: Demolition of an existing 157 boat slip marina and construction of a 151 slip marina including relocation of 19 pilings, 3 new pilings, and replacement of ramps and dock floats. Dock and slip configuration will remain similar to the exiting, with the exception of the loss of 6 slips to accommodate American Disability Act access requirements.

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

SUMMARY OF STAFF RECOMMENDATION:

The major issues of this staff report include possible impacts upon the California least tern as well as a change to the quantity of berthing slips available in a public recreational marina. Staff recommends APPROVAL of the proposed development with eight special conditions including: 1) construction responsibilities and best management practices; 2) identification of a construction debris disposal site; 3) U.S. Army Corps of Engineers approval; 4) restrictions on the timing of construction; 5) notification of the need to obtain a coastal development permit amendment for any change to the proposed project; 6) water quality requirements for the operation and construction of the marina; and 7) execution of an assumption of risk.

STAFF RECOMMENDATION:

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-02-303:

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

MOTION: I move that the Commission approve Coastal Development

Permit #5-02-303 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. <u>Notice of Receipt and Acknowledgment.</u> 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. <u>Expiration.</u> 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. <u>Interpretation.</u> Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

- 4. <u>Assignment.</u> 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. <u>Terms and Conditions Run with the Land.</u> 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. 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 inundation or dispersion in the waters of the marina;
- (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) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss; and
- (g) Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from heavy machinery, pile drivers or construction equipment or power tools into the waters of the Marina del Rey. The applicant and the applicant's contractors shall have adequate equipment available to contain any such spill immediately.

2. LOCATION OF DEBRIS DISPOSAL SITE

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

3. <u>U.S. ARMY ĜORPS OF ENGINEERS APPROVAL</u>

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a permit issued by U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

4. TIMING OF PROJECT

In order to reduce impacts on the California least tern during nesting and foraging season, no construction activity that may generate noise or turbidity in the water column shall occur during the period commencing April 1 and ending September 15 of any year.

5. FUTURE DEVELOPMENT

This Coastal Development Permit 5-02-303 is only for the development expressly described and conditioned herein. The permittee shall undertake development in accordance with the approved coastal development permit. Any proposed changes to the development, including any change to the sequence of construction, shall be reported to the Executive Director. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

6. 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;
 - 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; and
 - 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); and
 - 3. All trash and separate containers for recyclables, oil wastes, fish 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:
 - The marina shall provide a secure location to store hazardous wastes, including petroleum products, 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;
 - 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; and

- The marina shall maintain an adequate supply of absorbent pads for use by marina tenants and lessees for the cleaning of minor spills.
- (d) Petroleum Control Management Measures:
 - 1. The marina shall provide a service that reduces oily discharges from in-board engines, either a bilge pump-out facility (with an oilwater separation device) or the marina shall promote the use of oil-absorbing materials in the bilge areas or engine compartments of all boats with inboard engines. When distributing oil absorbents to boaters, the marina shall provide adequate safety warnings as to the safe use and handling of flammable materials and methods to prevent fouling the bilge pump. Oil absorbent materials should be examined at least once a year and replaced as necessary. The marina shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The marina environmental policies shall encourage boaters to regularly inspect and maintain engines, lines and hoses in order to prevent oil and fuel spills. These policies shall encourage boaters to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. The use of soaps that can be discharged by bilge pumps shall be discouraged.
- (e) Public Education Measures:

In addition to these specific components outlined in Special Condition 6.2.(a) through (e) 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.

7. ASSUMPTION OF RISK LEASE RESTRICTION

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold

harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant, Panay Way Marina, LP, shall execute and record a lease restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The lease restriction shall include a legal description of the applicant's entire parcel. The lease restriction shall run with the land, binding all successors and assigns. This lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. <u>ASSUMPTION-OF-RISK, WAIVER OF LIABILITY, AND INDEMNITY APPLICABLE TO COUNTY OF LOS ANGELES.</u>

- By acceptance of this permit, the applicant, on behalf of (1) itself; (2) its successors A. and assigns and (3) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).
- B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the landowner's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and

conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property. .

C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the landowner shall enter into a written agreement, in a form and content acceptable to the Executive Director, providing that upon termination of the applicant's lease of the property that is the subject of this coastal development permit, the landowner agrees (i) to be bound to terms of subsection A of this condition if it becomes the owner of the possessory interest in such property, (ii) to include a provision in any subsequent lease of such property requiring the lessee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the terms of subsection A of this condition, and (iii) to comply with the requirements of subsection B of this condition.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. <u>Project Description and Location</u>

The applicant proposes to demolish an existing anchorage providing 157 slips and construct a new 151 slip marina (Exhibit No. 3 & 4). All existing dock floats, ramps, and pilings within the anchorage will be removed and new floats, ramps, and pilings will be constructed in the same configuration. There will be a loss of 6 slips due to American Disability Act (ADA) access requirements and current California Department of Boating and Waterways slip width criteria. The new anchorage will be a structural wood system with a concrete deck and polyethylene floats. The existing and proposed boat slip lengths are as follows:

Slip Length(ft.)	18 to 25	26 to 35	36 to 50	Total
Existing	58	79	20	157
Proposed	58	74	19	151
Change	0	-5	-1	-6

The new anchorage will provide six gangways, including one ADA accessible, leading to six docks. The existing parcel coverage by the docks and walkways will decrease from 30,613 square feet to 30,581 square feet. In addition, a total of nineteen of the seventy-two 14-inch diameter existing concrete pilings will be relocated and one 14-inch and two 18-inch diameter piles will be added for the ADA gangway dock and platform.

Parcel 20 is located along Panay Way in the northwest section of Marina del Rey harbor. The parcel contains approximately 3.4 acres of water area (see Exhibit No. 1).

The proposed construction is anticipated to commence September 2004 and continue through March 2006. Construction will be done in six phases over the two-year period. According to the applicant in-water construction will not occur during the Least tern nesting Season (April 1 and ending September 15), and that only portions of the slip anchorages will be out of service at any one time. Boats using the existing facility will have the opportunity to move to the other available slips. Other available relocation options within Marina del Rey include dry dock facilities and other slips within other anchorages.

B. <u>Public Access and Recreation</u>

The proposed development, as submitted, does not interfere with public recreational use of coastal resources and conforms with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

C. Marine Resources

The proposed dock work will be occurring on or within coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

D. <u>Fill of Coastal Waters and Loss of Marine Habitat</u>

The proposed development is the improvement of a small boat marina which promotes recreational boating and is an encouraged marine related use. The proposed development has been designed to minimize the fill of coastal waters and adequate mitigation has been provided. The proposed development has been conditioned to minimize adverse effects on the marine environment by avoiding or mitigating impacts upon sensitive marine resources, such as eelgrass and to avoid contributing to the dispersal of the invasive aquatic algae, Caulerpa taxifolia. As conditioned, there are no feasible less environmentally damaging alternatives available. Therefore, the Commission finds that the proposed development conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

E. Visual Impacts

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. Therefore, the

Commission finds that the development conforms with Sections 30250 and 30251 of the Coastal Act.

F. <u>Hazards</u>

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Standard and Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

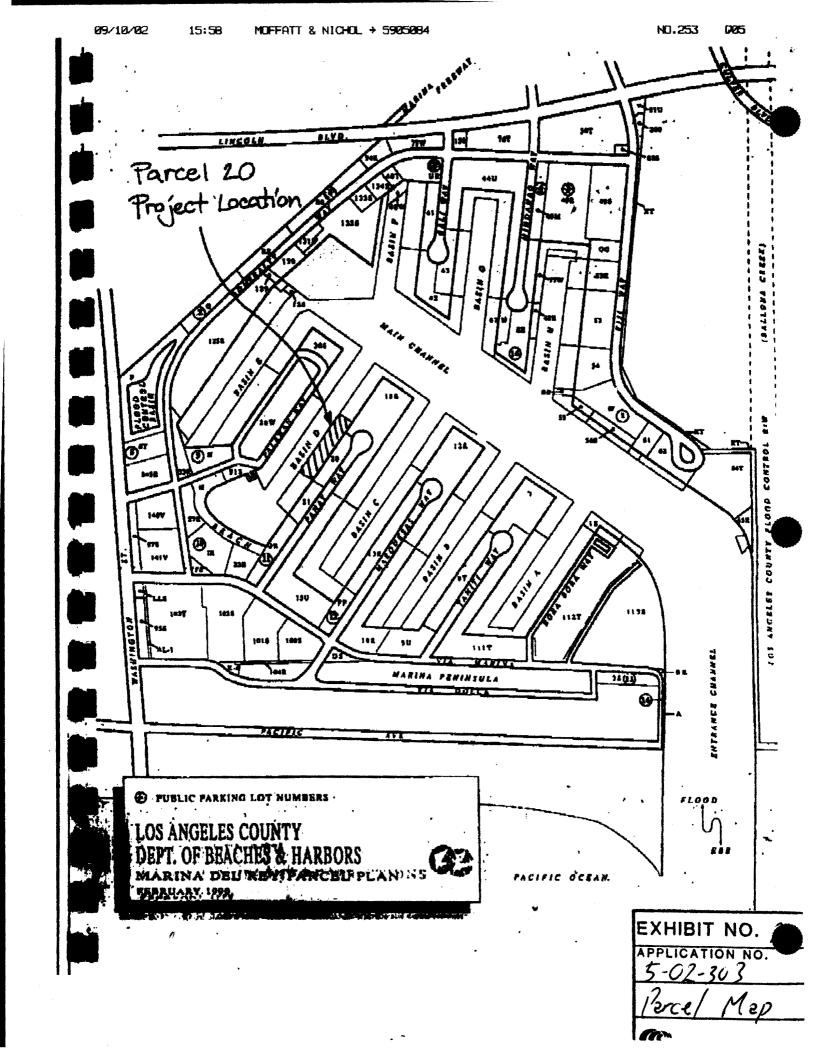
G. Local Coastal Program

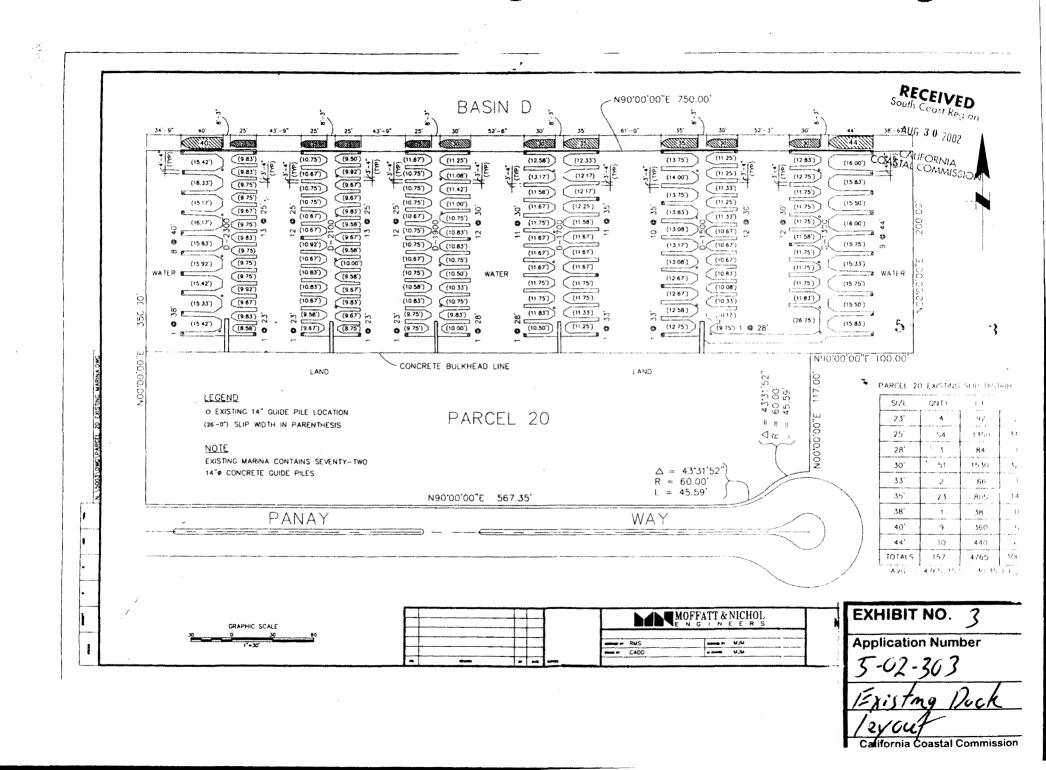
The proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is Chapter 3 of the Coastal Act. The County's certified LCP is advisory in nature 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.

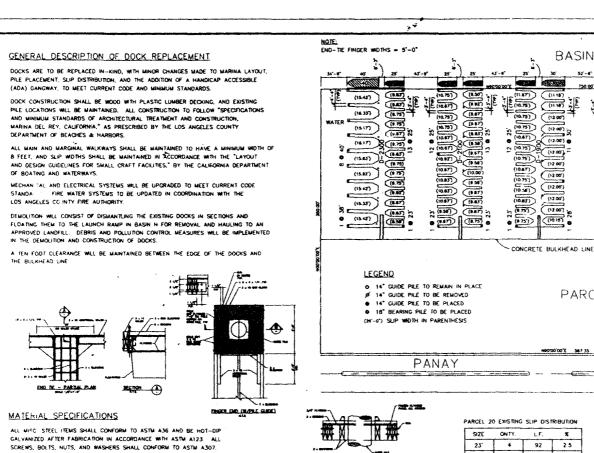
H. California Environmental Quality Act

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.









PARCEL 20 EXISTING SLIP DISTRIBUTION

SIZE	ONTY.	L.F.	x
23	4	92	2 5
25'	54	1350	34.4
28'	3	84	1.9
30'	51	1530	32 5
33'	2	66	1.3
35'	23	805	14.6
38,	1	38	0.7
40'	9	360	5.7
44"	10	440	6.4
TOTALS	157	4765	100.00
4100 -	4766 /157) F /ELIF

SIZE	QNTY.	L.F	*
23'	4	92	2.5
25	54	1350	35.7
28'	3	84	20
30'	48	1440	31.8
33	2	66	1.3
35"	21	735	139
38	1	38	0.7
40"	9	360	6.0
44"	9	396	6.0
TOTALS	151	4561	100 00

PARCEL 20 PROPOSED SLIP DISTRIBUTION

19 PILES RELOCATED AND 1 ADDED FOR ADA GANGWAY

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(TYPICAL)

WAY

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EXHIBIT NO.

Application Number

stal Commission

ALL TIMBER SHALL BE DEL 545, NO. 1 OR BETTER AND BE TREATED WITH ACZA PER AWPA PS AND P18 TO A MINIMUM RETENTION OF 0.6 PCF. ALL PLYWOOD SHALL BE MARINE GRADE 8-8 OR BETTER

DECKING SHALL BE 2X6 STRUCTURAL PLASTIC LUMBER (TriMox) AS MANUFACTURED BY U.S. PLASTIC LUMBER AT 1 (868) 272-USPL. DECKING SHALL BE INSTALLED WITH A 1/4" SPACE BETWEEN PLANKS, AND PROVIDE A WALKING SURFACE FREE OF TRIPPING HAZARDS PER CODE REQUIREMENTS.

DOCK FLOATS SHALL HAVE A BLACK POLYETHYLENE SHELL CONFORMING TO ASTM D1248, WITH A MIN. THICKNESS OF 0.150 INCHES. EACH FLOAT SHALL BE FILLE ANTH EPS FORM WITH A MINIMUM DENSITY OF 0.9 PCF.

ALL STRUCTURAL CONCRETE SHALL BE CLASS 650-C-4000 AND REINFORCING SHALL BE GRADE 60 PER ASTN A615.

PRELIMINARY - NOT FOR CONSTRUCTION



SECTION (1)