

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER:** 5-02-303**APPLICANT:** Panay Way Marina, L.P. and the Los Angeles County
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 149 slip marina including relocation of 19 pilings, placement of 3 new pilings, replacement of ramps and dock floats, and installation of a pump-out station. Dock and slip configuration will remain similar to the existing, with the exception of the loss of 8 slips.**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, and water quality. Staff recommends **APPROVAL** of the proposed development with the following 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, including the pump-out station; 7) pre-construction survey for *Caulerpa taxifolia*; and 8) 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. 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 term or 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. 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.S. ARMY CORPS OF ENGINEERS APPROVAL

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 1 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;
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; 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).
4. All solid waste, including sewage, shall be properly disposed of only at appropriately designated facilities.

(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 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;
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; and

4. 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 oil-water 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 (d) 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. **OPERATION, MAINTENANCE, AND REPAIR OF OVER-WATER SEWER LINES**

The applicant shall submit, for the review and approval of the Executive Director, an operation and maintenance plan for over-water sewer lines. The over-water sewer lines include all pipes from sewage pump-out facilities, the on-dock boating facilities, and any other pipe which leads to a sanitary sewer. The over-water sewer lines shall be visually inspected at least once per month and dye- or pressure-tested at least once every six months. All leaks shall be repaired immediately upon

discovery. If the applicant determines that a more stringent procedure is necessary to ensure protection of coastal water quality, then the applicant shall update the operation and maintenance plan.

The permittee shall undertake development and ongoing maintenance and operation in accordance with the approved final plan and other requirements. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. **CAULERPA TAXIFOLIA PRE-CONSTRUCTION SURVEY**

A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.

B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.

C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:

1. for the review and approval of the Executive Director; and

2. to the Surveillance Subcommittee to the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).

D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. **ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY AGREEMENT AND LEASE RESTRICTION**

A. By acceptance of this permit, the applicant, Panay Way Marina, LP, on behalf of (1) itself; (2) its successors 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 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 restrictions identified in (i) through (v).

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.

10. **ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY AGREEMENT APPLICABLE TO APPLICANT-LESSOR**

A. By acceptance of this permit, the applicant-lessor Los Angeles County Department of Beaches and Harbors 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-lessor 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 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 the prior condition.

B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the landowner shall execute and record against the parcel(s) governed by this permit 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; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction 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 applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant proposes to demolish an existing anchorage providing 157 slips and construct a new 149 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 8 slips due to American Disability Act (ADA) access requirements, current California Department of Boating and Waterways slip width criteria, and the installation of a new pump-out station. 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:

<i>Slip Length(ft.)</i>	<i>18 to 25</i>	<i>26 to 35</i>	<i>36 to 50</i>	<i>Total</i>
Existing	58	79	20	157
Proposed	56	74	19	149
Change	-2	-5	-1	-8

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 1), and 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.

The proposed project was previously scheduled for the October 2002 hearing. Due to Commission concerns regarding the need for a pump-out station, the permit application was removed from the Consent Calendar and rescheduled. To address the Commission's concern the applicant has redesigned the dock configuration and included a pump-out station at one of the end-ties. The installation has required the elimination of two additional boat slips, reducing the reconfiguration from 151 slips, as previously proposed, to 149 slips. The pump-out station will service the 149 boat slip tenants of Panay Way Marina.

Five letters in opposition to the project have been submitted to the South Coast District office. The letters address water quality and boater impacts. Both issues are addressed within the report.

B. Areawide Description

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

The existing marina began its development in 1962 when the dredging of the inland basin was completed. The primary use of the marina is recreational boating. The marina provides approximately 4,626 boat slips, within approximately 26 separate anchorages. Other boating facilities include transient docks, a public launching ramp, three public pump-out stations, 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 30213 of the Coastal Act states:

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

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.

Section 30252 of the Coastal Act states in part:

The location and amount of new development should maintain and enhance public access to the coast by. . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation. . .

The proposed project is located between the nearest public road and the sea as well as within coastal waters. The project is the demolition of a public boating marina and reconstruction of a new marina in a similar configuration. The existing and proposed marina is a privately operated facility with berthing slips available to the general public on a month-to-month basis for a fee. The proposed project does not include any proposed change to the method of leasing. Upon completion of the proposed development, the marina slip leases will remain available to the general public.

The boat slip distribution will change as follows:

Slip Length(ft.)	18 to 25	26 to 35	36 to 50	Total
Existing	58	79	20	157
Proposed	56	74	19	149
Change	-2	-5	-1	-8

As proposed, reconfiguration will continue to provide a mix of slip sizes ranging from under 25 feet to 50 feet.

The modification of slip size distribution is due to several factors. The existing marina was constructed over 30 years ago and new or reconstruction of new marinas are required to comply with the current Layout and Design Guidelines of the California Department of Boating and Waterways. Incorporation of the current design requirements will result in fewer slips being redeveloped in any given water space. Slip size distribution will require more water space within marina basins to be used for floating walkways, finger floats, increased berth sizes and greater fairway widths (area between interior channels and berths). Marinas have been increasing berth sizes to accommodate the wider power boat widths in order to provide the greatest flexibility for berthing of recreational boats (sailboats and power boats). Another factor is the design requirements imposed under the Americans with Disabilities Act (ADA), which requires wider docks and longer access ramps. Furthermore, the installation of the pump-out facility requires space for the temporary mooring of boats for use of the pump-out facility. Therefore, under the redesigned marina, a total of 8 slips will be eliminated.

The proposed marina replacement will be phased so that only portions of the total slips 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. The applicant has provided notice to the boating tenants and will assist tenants in finding available slips for relocation.

The upgrading of the marina will enhance the anchorage and improve recreational boating in the Marina del Rey harbor as a whole. The proposed project will continue to include a mix of recreational boat slip lengths from 25 to 50 feet in length. The distribution of boat slip lengths will continue to provide the full range of vessel sizes in the marina. Furthermore, the upgrading of the docks will encourage recreational boating use of the marina. Moreover, a future improvements condition is required to ensure that the owner is made aware that any future change to the project shall require review by the Executive Director to determine if a permit will be required. As proposed, the project will be consistent with Sections 30213, 30224, and 30234 of the Coastal Act.

D. Marine Resources

Section 30230 of the Coastal Act 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 of the Coastal Act 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.

Section 30240(b) of the Coastal Act states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Commission has reviewed numerous reports concerning the impacts of chemical pollution and siltation on marine organisms and on coastal recreation. In addition, given the location of the proposed work within a marina supporting both sensitive species and recreational activities there are concerns about how the work may be performed. In response to these concerns the Commission has begun to impose conditions on development to prevent siltation, spills and pollution as a result of development.

1. Water Quality and Construction Impacts

The proposed project is the demolition of an existing marina and construction of a new marina located in coastal waters. Due to the proposed project's location on the water, the proposed work may have adverse impacts upon water quality and the marine environment.

The proposed project was submitted to the U.S. Army Corps of Engineers for their review and approval. In the Corps review, the Corps determined that water quality would not be affected by the proposed project if the applicant implements proposed best management practices to minimize the dispersal of silt, debris, and chemicals. The best management practices include the use of turbidity screens/siltation curtains to isolate work area during pile removal and installation, floating booms to contain debris or spills, recovery of any non-buoyant debris by divers as soon as possible after loss. The Commission finds that since construction of the proposed project requires the use of best management practices to minimize impacts upon water quality, the Commission imposes Special Condition No.'s 1 and 6 requiring the applicant to utilize best management practices including those described above. In addition, the improper storage of construction equipment and materials during construction can contribute to water quality impacts; therefore, the Commission finds it necessary to identify the following other construction related restrictions: all construction materials and equipment shall be stored landward of the bulkhead, on impervious surfaces only; all construction materials or waste shall be stored in a manner which prevents their movement via runoff, or any other means, into coastal waters; and that any and all construction equipment, materials and debris are removed from upland areas at the conclusion of construction. In addition, demolition of existing structures will generate debris that will need to be disposed of off-site. Since the applicant has not identified a disposal site and in order to prevent impacts to coastal waters that could occur if such debris were not properly disposed, the Commission imposes a special condition which requires that all demolition debris be disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone shall require an amendment to this permit or a new coastal development permit.

The proposed project will maintain the present use and is not expected to create additional adverse impacts on marine resources. However, the Commission finds it necessary to identify the permittee's responsibilities regarding construction and the utilization of best management practices and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms with Sections 30230 and 30231 of the Coastal Act.

2. Sensitive Species Impacts

According to EIR's that have been done for various projects in the Marina area, there are no special status benthic invertebrate, fish, insects, reptiles or mammals occurring in the marine portions of the project site. However, special status birds were observed or are expected to utilize open water habitat present in the marina and on the project site. Such birds include the California Brown Pelican, Peregrine falcon, Great blue heron, and the California Least Tern.

While there has been some nesting habitat identified in trees in the Bird Sanctuary and along one mole that is located adjacent to identified wetlands, with these two exceptions, there is little suitable breeding or nesting habitat for birds or mammals available within the Marina del Rey. However, the California least tern (*Sterna antillarum brownii*) nests at nearby Venice Beach. Least terns feed on small fish directly under the water surface. They have been observed to use all portions of the Marina del Rey harbor for foraging. Construction activity, such as pile driving, may cause turbidity in the water column which would affect foraging species ability to see food normally visible in the water. In addition, pile driving would generate noise in the water column that would disturb fish and other species normally present upon which foraging least terns would normally feed.

The Department of Fish and Game has reviewed the proposed project and determined that the proposed activity would not have a significant adverse effect on existing marine resources and habitats, provided no open water activities that have the potential to create water turbidity or excessive noise and vibration (e.g. pile driving) occur during the tern season and the use of silt curtains are implemented (see Exhibit No. 5). The Department of Fish and Game and U.S. Army Corps of Engineers, in their preliminary review, concurs with the applicant's construction activity restriction between April 1 through September 1, in order to avoid adverse impacts to the tern's foraging.

Section 30230 and 30231 of the Coastal Act state that the biological productivity and the quality of coastal waters shall be maintained. Therefore, in order to ensure that adverse impacts to the biological productivity and marine resources are avoided, the Commission finds that it is necessary to impose a condition which prohibits pile driving activity, between April 1 and September 1 of any year during which construction occurs, that would impact foraging species in the area. Construction activity that does not create turbidity or excessive noise, such as float assembly, is permitted during this time. Evidence of final approval from the U.S. Army Corps of Engineers will pinpoint for the Commission whether such approvals have any effect upon this coastal development permit approval. Therefore, the Commission imposes a special condition which requires that the applicant submit evidence of final approval from the U.S. Army Corps of Engineers prior to commencement of construction.

Other marine resources that could be impacted by the development is Eelgrass (*Rupia maritima*). Eelgrass is considered worthy of protection because it functions as important habitat for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the

U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (CDFG).

The applicant's biologist conducted a reconnaissance survey of the marina on February 9, 2001. The results of the survey indicate that eelgrass is not present in the area of the proposed project site. In addition, *Caulerpa taxifolia*, which is an invasive non-native algae, was not found. The Department of Fish and Game has indicated that it is necessary to conduct a survey just prior to construction, consistent with the *Caulerpa* Control Protocol. Therefore, to ensure that *Caulerpa taxifolia* is not present at the time of construction it is necessary to require that the applicant conduct a survey no earlier than 90 days and no later than 30 days prior to commencement of any development authorized under this coastal development permit.

The proposed project includes the installation of a pump-out station for all recreational boats within this marina. The station will be located at one of the end-ties at the end of the dock and will have a sewer line that will run under the dock and connected to the County's main sewer line. The installation of a pump-out station within this marina will provide boats a more convenient pump-out station and encourage boaters to use the facility which will help reduce illegal discharges into coastal waters. Sewer lines exposed to the marine environment, however, have the potential to break or corrode more quickly than those more sheltered from the salty air and sunlight. Because the sewer line will be directly above the water, it could leak raw sewage directly into the water, if there are any ruptures in the pipes. Coastal Commission staff reviewed the existing operation and maintenance procedures of the submitted by the Los Angeles County Department of Beaches and Harbors and determined that a more stringent procedure is necessary. Visually inspecting the entire length of the lines on a monthly basis will provide the basic inspection necessary to ensure there is no leakage into coastal waters. The more strict dye or pressure tests will allow inspectors to see less visible leaks in the sewer lines; and because these tests are more expensive and labor-intensive, conducting these tests biannually is sufficient.

As conditioned, the Commission finds that the proposed project would eliminate significant adverse impacts to marine resources and sensitive species such as the least tern. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Sections 30231 and 30240(b) of the Coastal Act.

3. Fill of Coastal Waters and Loss of Marine Habitat

The proposed project will involve the removal of 220 dock float guide pilings and the placement of 249 concrete guide pilings in open coastal waters. These dock float guide piles constitute fill of open coastal waters. More specifically, the existing 220 pilings to be removed constitute approximately 230 square feet of fill, while the proposed pilings have a total fill of 370 square feet, for a total increase of 137 square feet of fill of open coastal waters with pilings. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met, including (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 public boating facility. Fill of open coastal waters for the construction of a public boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act.

Next, the proposed project is the replacement of a boating marina in a different configuration. Alternatives to the proposed project include no project, no change to the existing configuration, or a change to the proposed configuration.

Under the no project alternative, the applicant could only pursue simple maintenance repair activity. However, simple maintenance repair could not feasibly repair the docks, nor bring them up to present engineering and safety standards. Simple maintenance would only prevent further deterioration of the docks. In addition, marine habitat would not significantly benefit from the no project alternative since this alternative would necessitate that the structure remain in place. Continued, safe use of the facility for marine recreational purposes would be precluded without replacement of the dock system.

The second alternative, replacement of the project in the same configuration would not reduce the number of piling required. The proposed project is within the same footprint as the existing marina. However, modern engineering standards require a larger number of pilings. Therefore, even if the marina were demolished and reconstructed in the same configuration, the number of proposed pilings would increase over what is currently existing.

Under the proposed alternative, the dock and guide piling layout is changing from the existing layout. However, the number of proposed pilings is the minimum necessary to adhere to present engineering standards. Furthermore, it should be noted that the installation of the new pilings will result in temporary disturbance to the existing vertical substrate. The guide pilings provide a vertical substrate for mollusks and other marine organisms. However, the proposed project will replace and increase the quantity of vertical substrate upon which mollusks and other marine organisms may settle. Therefore, no long-term impact will occur to this habitat. Therefore, the proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures, such as limiting pile driving to avoid critical periods and construction measures to limit turbidity, to minimize adverse environmental effects.

The proposed project will result in the fill of open coastal waters for a boating facility, which is an allowable use under Section 30233 of the Coastal Act. In addition, the proposed project is the least environmentally damaging alternative, and does provide feasible mitigation measures. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

E. Visual Impacts

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 states that new development shall:

(5) where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed project is located on the water in the western portion of the marina. The Land Use category for the project site is designated Water in the LCP. The LCP provides that the height of development located on parcels designated as Water parcels is limited to 15 feet above the water surface.

The proposed project will replace an existing deteriorating dock system with a new system. As with the existing, the proposed docks will rise approximately 1.5 feet above the waterline. The docks will contain dock boxes, trash bins and other ancillary type structures. No restrooms, offices, or other commercial structures are proposed. Boater restrooms are provided on the landside portion of the parcels.

As proposed, the new docks will improve the visual aesthetics of the marina and will not adversely impact views of the marina. The Commission, therefore, finds that the proposed project is consistent with the visual resource protection policies of the Coastal Act and with the County's Local Coastal Program.

F. Hazards

Section 30253 of the Coastal Act provides in part:

New Development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazards...*

The proposed dock system will be designed in accordance with the County's building code for docks to ensure structural integrity. However, because of its location, the docks are potentially subject to the effects of tsunamis and seiches. The LCP indicates that marina del Rey has sustained only minor damage in the past due to tsunami and seiches because of special design standards embodied in the moles, docks and breakwater. However, there remains the potential for damage from wave and tidal action. Therefore, the Commission finds that both applicants must assume the risks associated with the proposed development. The applicant lessee must also record a lease restriction reflecting, among other things, the assumption of the risk of developing in an area where an extraordinary potential for damage from wave and tidal action exists as an inherent risk to life and property, and the waiver of the Commission's liability for damage that may occur as result of such hazards. This is necessary because the design is a result of a study for which the applicant and its engineer are responsible. Wave hazards cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from wave and tidal action. The Commission, therefore, finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

G. 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 of the leases, the lessees would be required to reserve an 18 foot wide promenade/fire road along the water that would be open to the public [an access promenade was reserved and approved by the County as part of the proposed landside redevelopment of Parcel 20 (CDP No. 98-172(4))].

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 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.

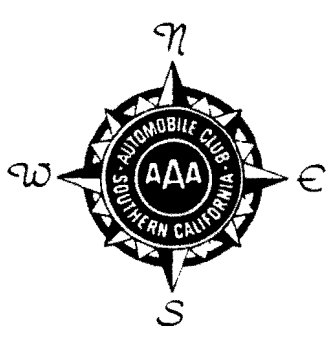
H. California Environmental Quality Act

Section 13096(a) 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.

Potential impacts are to boater access, marine resources, water quality and the visual resources of the area. As conditioned, all potential adverse impacts have been adequately mitigated. As conditioned, 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.



Project Location



LOS ANGELES AREA

SCALE
0 1 2 3 4 5 6 7 8 9 MILES

EXHIBIT NO.

L

Application Number

5-02-303

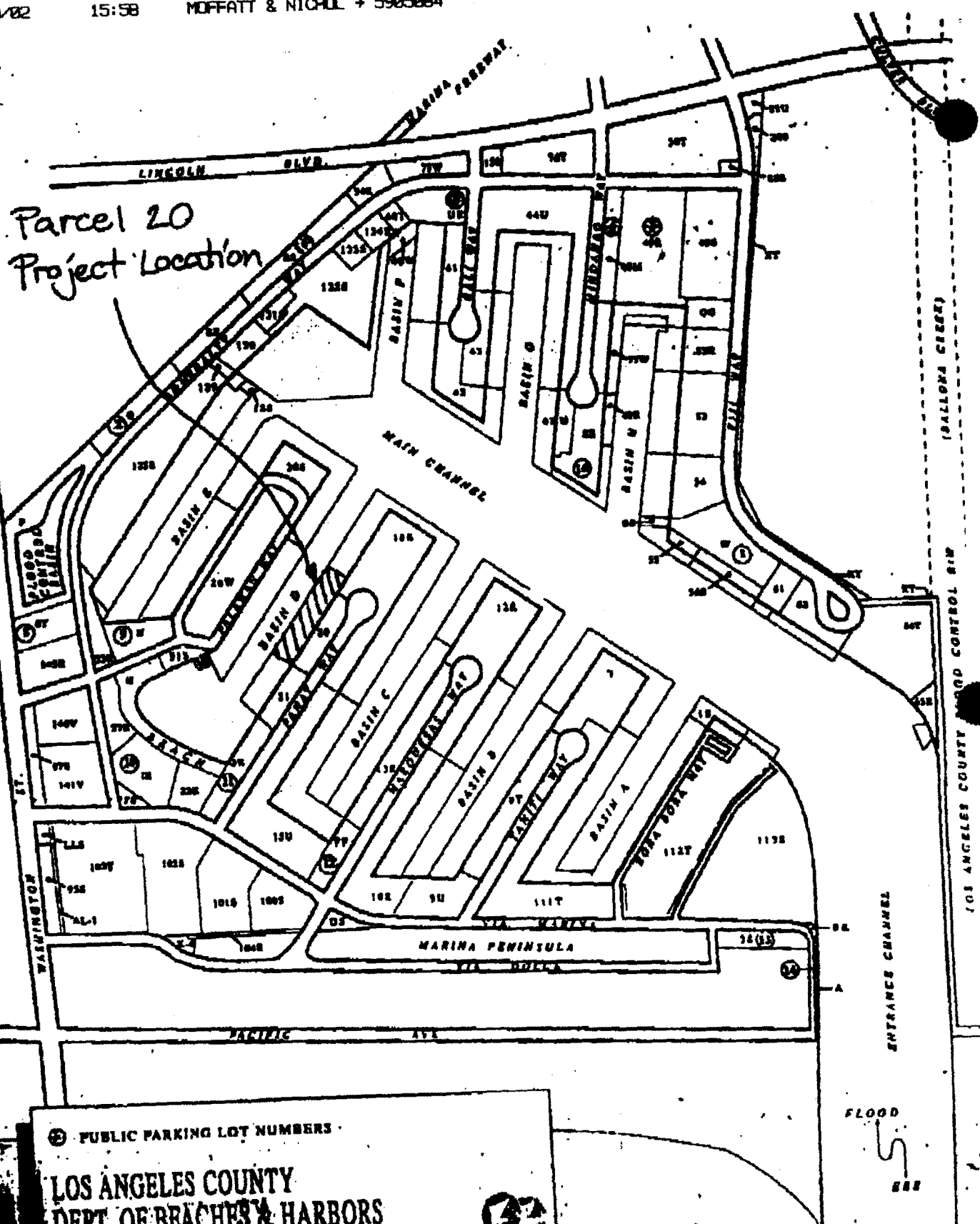
Vicinity Map

California Coastal Commission

HUNTINGTON BI

Channel
O C E A

Parcel 20
Project Location



② PUBLIC PARKING LOT NUMBERS

LOS ANGELES COUNTY
DEPT. OF BRACHES & HARBORS
MARINA DEL REY PARCEL PLANS
FEBRUARY 1999

62

PACIFIC OCEAN

EXHIBIT NO. 1

APPLICATION NO.

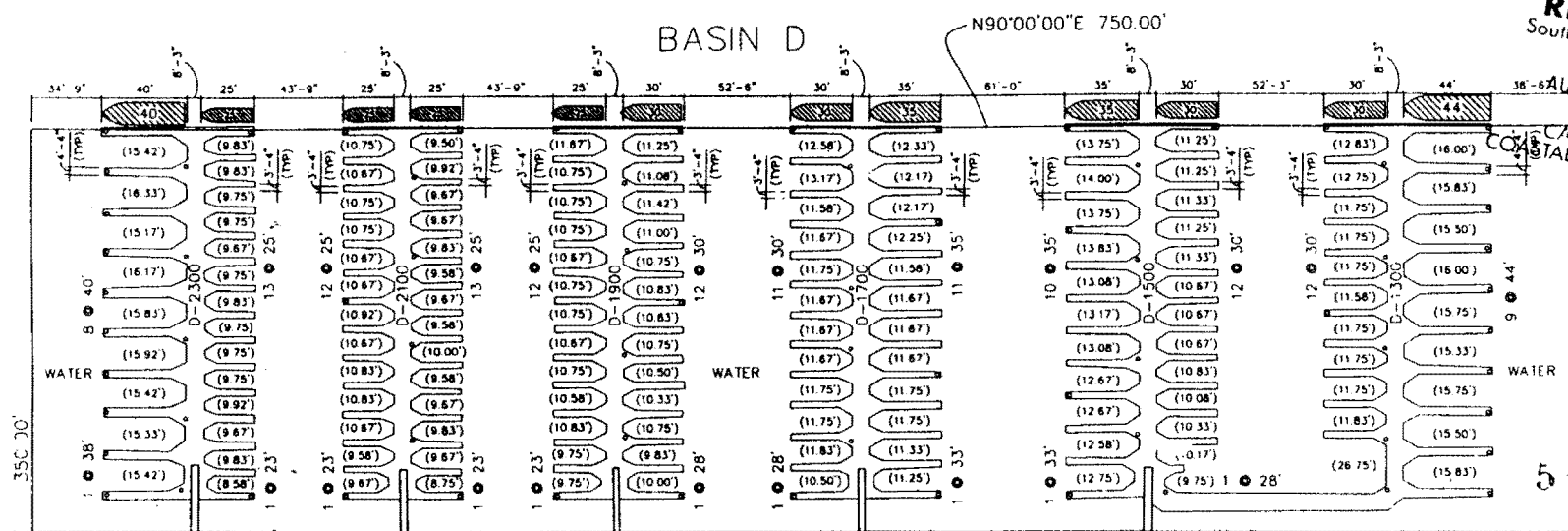
5-02-303

Parcel Map

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AUG 30 2002

CALIFORNIA
COASTAL COMMISSION



LEGEND

○ EXISTING 14" GUIDE PILE LOCATION
(26'-0") SLIP WIDTH IN PARENTHESIS

NOTE

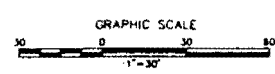
EXISTING MARINA CONTAINS SEVENTY-TWO
14" CONCRETE GUIDE PILES

PARCEL 20

PARCEL 20 EXISTING SLIP DISTRIBUTION

SIZE	QNTY	L F	
23'	4	92	2
25'	54	1350	34
28'	3	84	1
30'	51	1530	32
33'	2	66	1
35'	23	805	14
38'	1	38	0
40'	9	360	5
44'	10	440	6
TOTALS	157	4765	100

AVG = 4765/157 = 30.35 L.F.



MOFFATT & NICHOL ENGINEERS	
DESIGNED BY: RMS	CHECKED BY: M.J.M.
DRAWN BY: CADD	IN CHARGE: M.J.M.

EXHIBIT NO. 3

Application Number
5-02-303

*Existing Dock
Layout*

California Coastal Commission

DOCKS ARE TO BE REPLACED IN-Kind, WITH MINOR CHANGES MADE TO MARINA LAYOUT, PILE PLACEMENT, SLIP DISTRIBUTION, AND THE ADDITION OF A HANDICAP ACCESSIBLE (ADA) GANGWAY, TO MEET CURRENT CODE AND MINIMUM STANDARDS.

DOCK CONSTRUCTION SHALL BE WOOD WITH PLASTIC LAMBER DECKING, AND EXISTING PILE LOCATIONS WILL BE MAINTAINED. ALL CONSTRUCTION TO FOLLOW "SPECIFICATIONS AND MINIMUM STANDARDS OF ARCHITECTURAL TREATMENT AND CONSTRUCTION, MARINA DEL REY, CALIFORNIA," AS PRESCRIBED BY THE LOS ANGELES COUNTY DEPARTMENT OF BEACHES & HARBORS.

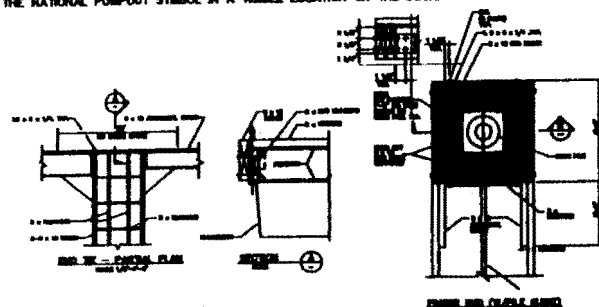
ALL MAIN AND MARGINAL WALKWAYS SHALL BE MAINTAINED TO HAVE A MINIMUM WIDTH OF 8 FEET, AND SLIP WIDTHS SHALL BE MAINTAINED IN ACCORDANCE WITH THE LAYOUT AND DESIGN GUIDELINES FOR SMALL CRAFT FACILITIES," BY THE CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS.

MECHANICAL AND ELECTRICAL SYSTEMS WILL BE UPGRADED TO MEET CURRENT CODE STANDARDS. FIRE WATER SYSTEMS TO BE UPDATED IN COORDINATION WITH THE LOS ANGELES COUNTY FIRE AUTHORITY.

DEMOLITION WILL CONSIST OF DISMANTLING THE EXISTING DOCKS IN SECTIONS AND FLOATING THEM TO THE LAUNCH RAMP IN BASIN H FOR REMOVAL AND HAULING TO AN APPROVED LANDFILL. DEBRIS AND POLLUTION CONTROL MEASURES WILL BE IMPLEMENTED IN THE DEMOLITION AND CONSTRUCTION OF DOCKS.

A TEN FOOT CLEARANCE WILL BE MAINTAINED BETWEEN THE EDGE OF THE DOCKS AND THE BULWHEAD LINE.

PUMPOUT STATION WILL BE ACCESSIBLE TO ALL RECREATIONAL VESSELS AND DISPLAY THE NATIONAL PUMPOUT SYMBOL IN A VISIBLE LOCATION ON THE DOCK.



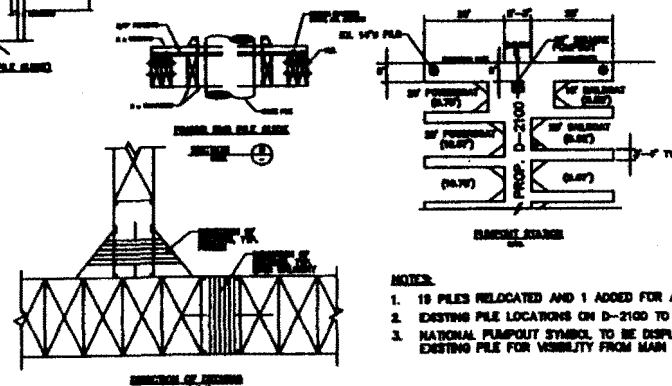
ALL MISC. STEEL ITEMS SHALL CONFORM TO ASTM A36 AND BE HOT-DIP GALVANIZED AFTER FABRICATION IN ACCORDANCE WITH ASTM A123. ALL SCREW BOLTS, NUTS, AND WASHERS SHALL CONFORM TO ASTM A307.

ALL TIMBER SHALL BE DFL 348, NO. 1 OR BETTER AND BE TREATED PER ANPA P6 AND P18 TO A MINIMUM RETENTION OF 0.6 PCF. ALL PLYWOOD SHALL BE MARINE GRADE B-B OR BETTER.

DECKING SHALL BE 2X8 STRUCTURAL PLASTIC LUMBER. DECKING SHALL
BE FASTENED TO JOISTS WITH 1 1/2" DIA. GALV. STEEL BOLTS AND PROVIDE A
MINIMUM OF 12" OVERLAP BETWEEN PLANKS. PROVIDE A MINIMUM OF 12" OVERLAP
BETWEEN PLANKS AND PROVIDE A MINIMUM OF 12" OVERLAP BETWEEN PLANKS.

POLYETHYLENE SHELL CONFORMING TO
OF 0.180 INCHES. EACH FLOAT SHALL
BEIN DENSITY OF 0.9 PCF.

CLASS 850-C-4000 AND REINFORCING



NOTES

1. 18 PILES RELOCATED AND 1 ADDED FOR ADA GANGWAY
2. EXISTING PILE LOCATIONS ON D-2100 TO BE MAINTAINED
3. NATIONAL PUMPOUT SYMBOL TO BE DISPLAYED FROM EXISTING PILE FOR VISIBILITY FROM MAIN CHANNEL

AGE	QTY.	L.F.	S
27	6	08	8.8
27	04	1200	24.4
27	3	04	1.0
27	01	1000	28.5
27	2	00	1.3
27	25	000	14.8
27	1	30	0.7
47	0	200	8.7
47	10	400	8.4
TOTAL	107	2700	100.0

100 - 100/100 = 100%

SIZE	QTY.	L.F.	#
10"	1	50	0.7
20"	1	20	0.7
30"	4	60	2.7
30"	60	3000	26.8
30"	2	60	2.6
30"	60	1400	26.3
30"	2	60	1.2
30"	10	700	14.1
30"	1	20	0.7
40"	5	200	6.6

2	3	4	5
2	3	4	5



Application Number

5-02-303
Proposed Dock
Layout

California Coastal Commission

NOT FOR CONSTRUCTION

BASIN D

PARCEL 20

PANAY

WAY


MOFFATT & NICHOL
ENGINEERS

MARINA DEL REY, CA
PARCEL 20
DOCK REPLACEMENT

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South Coast Region

SEP 30 2002

CALIFORNIA
COASTAL COMMISSION

September 24, 2002

ITEM TU 5-D

Application numbers: 8940-759-827, 8940-370-051

Permit number 5-02-303

Dr. Marshall Turner **OPPOSING THE PERMIT**

TO THE CALIFORNIA COASTAL COMMISSION:

This letter is to protest the granting of a permit to Panay Marina for the changes in docks and slips. Last year, I was a tenant at the Deauville Marina and over 500 of those of us who had boats there were evicted because of *their* proposed reconstruction. To date, there has be **NO** visible signs of progress and so the slips lay empty and a shortage of slips was created, especially for the smaller boat owner.

How can you grant a permit to further displace boats when there are so many restrictions on where these boats can go? If the permit is considered, it must contain a real plan for relocating their tenants so as to not cause a hardship such as occurred after the Deauville evictions. Please consider this question as you ponder the permit application. Thank you.

Sincerely,



Marshall H. Turner

EXHIBIT NO. 5
Application Number 5-02-303
Letters Received from Public
California Coastal Commission

AGENDA ITEM: 5.D
NAME: CHATTEN-BROWN & ASSOCIATES
POSITION: IN OPPOSITION TO APPROVAL, TO
PLACEMENT ON CONSENT CALENDAR, TO
ABSENCE OF ENVIRONMENTAL REVIEW
AND TO LOCATION OF HEARING

CHATTEN-BROWN & ASSOCIATES

3250 OCEAN PARK BOULEVARD

SUITE 300

SANTA MONICA, CALIFORNIA 90405-3219

TELEPHONE: (310) 314-8040

FACSIMILE: (310) 314-8050

E-MAIL:

rda@cbacarthlaw.com

October 3, 2002

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South Coast Region

OCT 7 2002

By Facsimile: (562) 590-5084

California Coastal Commission
200 Ocean Gate, Suite 1000
Long Beach, CA 90602-4302

CALIFORNIA
COASTAL COMMISSION

Re: October 8, 2002 Hearing on Application 5-02-303 (Panay Way Marina, Los Angeles County)

Dear Commissioners:

On behalf of Save the Marina we oppose the captioned item both substantively and procedurally on the following grounds:

1. The proposed reduction of boat slips is premised on a non-existent "requirement" under the American Disability Act. Although the Coalition is supportive of having boating facilities accessible for the disabled, an examination of the website (www.ada.gov) maintained by the federal government that shows the status of regulations or standards under the American Disabilities Act ("ADA"), reveals there are no regulations on any ramp or dock size requirement under that Act. Absent any such standards, the premise for the reduction fails and so should the request.

2. We abhor attributing motives, but absent any known legal "requirement," Save the Mariana assumes that this request is prompted by the desire to reduce required parking that is associated with the number of boat slips. To assuage that fear, at a minimum a condition should be imposed that the parking be no less than it would have been with 157 slips and so calculated.

3. The construction of pilings for piers on the waterside portion of "Construction project" proposed on parcel 20 may be detrimental to the environment for the following reasons:

3.1. Pilings being impact driven well into the harbor basin floor may cause the release of toxic substances and gases already known to be present in the area, specifically hydrogen sulphide, methane gas, poly chlorinated biphenels (PCB's) and heavy metals already known to exist in the harbor, a known "impaired water way". Assessment and sampling of the ground water quality and soil in the area of construction should be undertaken before any construction is even contemplated, inasmuch as two abandoned oil refineries lie within several hundred feet of the proposed construction site area. We are advised that petroleum by-products produced in the vicinity include but are

not limited to benzine, a known carcinogen, tollouene, xyelene, and acetone.

3.2. Driving of pilings may cause turbidity in the impact area and may drift to other areas causing irreparable harm to marine life, micro biologic animals, mollusks, and bi-valves.

3.3. It appears that the Ballona aquifer is beneath the site. The contamination within that aquifer is apparently undisputed. We understand, the new pilings will go into that aquifer or into sand which is already contaminated from the aquifer. Yet there has been no study of the impacts from these new pilings or any known mitigation from such pilings. This significant environmental issue must be studied before the project is approved.

4. Save the Marina's interest in this project cannot be news to the Commission. Coastal Act §30006 "declares that the public has a right to fully participate in decisions affecting coastal planning . . . and . . . the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for for public participation." But look at what is going on here:

4.1. The hearing is held not in Southern California, or even Central California, but rather as far as possible from the location of those having an interest in the site.

4.2. The matter is placed on a consent calendar. We are told by staff that that means there is no right to speak to the matter at the time of the hearing, and therefore even if the hearing were local, and even if there were serious environmental issues still there would be no right to participate orally. (As a result, Save the Marina will not be present at the hearing on October 8th).

4.3. The notice is woefully inadequate to gather facts and respond. The notice to Save the Marina is postage meter stamped September 27th from San Francisco. Save the Marina did not receive notice until yesterday. All this is made even more glaring by the fact that as late as today the staff report is not even on the internet web, and when it is placed on the web, the attachments to it will not be viewable.

4.4. Compounding all that, the staff today advised that it could not guarantee that this fax would be received by you because it had to be sent before the notice was received by Save the Marina. Thus, the Commission has created a real Catch 22.

4.5. Taken together, these facts cannot possibly be construed as following the Legislative declaration that there be "the widest opportunity for public participation."

5. Save The Marina was "known to the applicant to be interested" in this project. It testified at the January and August, 200-2 hearings and we wrote on its behalf regarding the August hearing. Litigation was commenced this year by Save the Marina regarding this project. That qualifies Save the Marina under Regulation §13054(a). Regulation § 13059 requires that the executive director either distribute a copy of the staff report to Save The Marina, or at a minimum advise it that the report would be distributed only to those who request it. The executive director did neither. As a result Save The Marina has been deprived of the opportunity to review it.

California Coastal Commission
October 3, 2002
Page 3

Thus, for all of these reasons, we urge the Commission to decline to allow this matter to proceed at its October meeting in Eureka and that the matter not be considered until there is an adequate environmental review (unless the Commission decides to reject the application, in which case such a request is not required). If and when the matter is considered, we request the matter be heard in Southern California, with adequate advance notice to the public, including Save the Marina who requests copies of all staff reports on this site.

Thank you for consideration of these views.

Respectively submitted,



Richard D. Agay
CHATTEN-BROWN & ASSOCIATES

RDA/hs

cc: California Coastal Commission c/o Eureka Inn (By Fax: 707-442-0637)
Mr. Donald Klein (By Fax: 310-836-7689)

19A

OCT 1-02

Honorable Commissioners

RECEIVED

South Coast Region

OCT 3 2002

Re: Permit No. 5-02-303

Applicant Panay Way Marina

CALIFORNIA

COASTAL COMMISSION

The facilities for boats and recreational use have not been included or addressed in regard to this permit 5-02-303. Thus making this project incomplete in its responsibility to the public. Showers, lockers, parking areas, picnic facilities, trailer accommodations and camp sites are left out of these construction plans, contrary to the purpose and intent of this light craft, small craft harbor recreational and park area.

At minimal, the bath houses, shower rooms are in desperate need of renewal along with the slips. A simple review of this site would more than make that clear. The sinks and toilets leak, and the smell of sewage comes up from the drain in the shower room.

I'm assuming there won't be another rent increase.

Thank you,

Orlando Andrus

(310) 306-3181

