

**CALIFORNIA COASTAL COMMISSION**

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 Staff Report: March 21, 2002  
 Hearing Date: April 9-12, 2002  
 Commission Action:

**W16c****STAFF REPORT: PERMIT AMENDMENT****APPLICATION NUMBER:** 5-99-244-A1**APPLICANT:** County of Orange

RECORD PACKET COPY

**AGENT:** Goldrich & Kest Industries, LLC  
Attn: Frank Hickman**PROJECT LOCATION:** Sunset Harbor Marina  
2901-A Edinger Avenue  
Seal Beach, Orange County**PREVIOUSLY****APPROVED PROJECT:** Demolition of an existing 255-slip marina and construct a 240-slip marina including removal and replacement of piers, ramps, pilings, and dock floats. Also resurface existing parking areas and provide aesthetic improvements to existing restroom.**PROJECT DESCRIPTION:** Change in the distribution of the previously approved marina to include 100 slips that are 18 to 30 feet in length; 114 slips that are between 31 to 40 feet in length and 26 slips that are 41 to 50 feet in length.**SUMMARY OF STAFF RECOMMENDATION:**

The major issue before the Commission relates to the impact of the proposed dock reconstruction on the marine environment as well as a decrease in the quantity of the smaller berthing slips available in a public recreational marina that would adversely affect the small boat owner.

The proposed amendment, as submitted by the applicant, would reduce the number of slips designed for the small boat owner (boats of 25' or less in length) from a total of 41 slips to 31 slips. In terms of preserving the availability of boat slips designed for the small boater, Commission staff recommends a new special condition to require that at least 41 slips be retained and designed to serve the 25' and under category.

Though the Commission approved the dock reconstruction in October 1999 with conditions to protect the marine environment, changes in the location of the eelgrass beds and changes in the marine environment special conditions have consequently occurred which require that the marine environment special conditions be updated to today's standard language. The first updated special condition addresses the issue of *Caulerpa taxifolia*. Since this project was approved, a non-native and invasive aquatic plant species, *Caulerpa taxifolia* has been discovered in parts of Huntington Harbour. *Caulerpa taxifolia* (which has no habitat value) competes with eelgrass (which has significant habitat value) for habitat. Consequently the Commission has been imposing a special condition to require that *Caulerpa taxifolia* surveys be conducted in marina and dredging projects to locate and eradicate *Caulerpa taxifolia*. A special condition has been proposed to require that a *Caulerpa taxifolia* survey be undertaken.

The next proposed revisions to the marine environment special conditions would result in the deletion of Special Condition #2 of the underlying permit related to construction responsibilities and debris removal; and the proposed deletion of Special Condition #8 of the underlying permit related to a water quality management plan. Revised special conditions contained in this amendment have been proposed to replace the proposed deleted special conditions. To conclude, staff recommends the retention of Special Condition #1, which requires conformance with the "*Southern California Eelgrass Mitigation Policy*" as new biological data indicates that the eelgrass has migrated and that the proposed amended dock reconstruction could have a potential adverse effect on eelgrass.

Staff recommends **APPROVAL** of the proposed amendment as conditioned. Special Conditions #2 and #8 of the underlying permit are proposed for deletion and are to be replaced with Special Conditions #3 and #4 of this amendment. Special Condition #2 of this amendment requires that a pre-construction survey for *Caulerpa taxifolia* be undertaken and if its presence is discovered, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *Caulerpa taxifolia* within the project and/or buffer area has been eliminated or 2) the applicant has revised the project to avoid any contact with *Caulerpa taxifolia*. Special Condition #5 requires the submission of revised plans documenting that at least 41 slips will be designed for the 25' or less category to assure that small boat owners have a place to berth their boats. All regular and special conditions of the underlying permit, unless expressly revised or otherwise deleted, remain in effect and apply to the project as amended. Consequently, the requirements of the existing special conditions will not be repeated, as they will continue to apply to the marina development as amended. The prior conditions are attached as Exhibit 7 to this staff report.

**LOCAL APPROVALS RECEIVED:** City of Seal Beach Approval in Concept dated September 14, 2001. Initial City of City approval in concept dated September 14, 1999.

**OTHER AGENCY APPROVALS RECEIVED:** California Department of Fish and Game letter dated January 4, 2002 and U.S. Fish and Wildlife Service letter dated January 16, 2002. California Regional Water Quality Control Board, Santa Ana Region, "*Waiver of Waster Discharge Requirements and Water Quality Certification*" for the Sunset Harbor marina, City of Seal Beach, Orange County dated August 25, 1999. U.S. Army Corps of Engineers Letter of Permission dated June 21, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal development permits; 5-01-143 (Marina Two Holding Partnership and County of Los Angeles Department of Beaches and Harbors), 5-98-085 (Pegasus Group), 5-97-231 (County of Orange); P-80-7042 (Stern-Goldrich & Kest); 5-82-430 (County of Orange EMA); 5-87-074 (County of Orange EMA); 5-96-107 (County of Orange EMA); 5-93-110 (County of Orange); 5-92-067-G (County of Orange); 5-87-444-A (County of Orange); 5-98-317 (Newport Beach Townhome Owners Association); 5-95-011 (Newport Beach Townhome Owner's Association, 5-94-166 (Haseko Marina Development Inc.), 5-95-160 (The Irvine Company), 5-98-254 (California Recreation Company); *Eelgrass Survey (Zostera marina), Impact Assessment, and Mitigation Plan* prepared for the County of Orange Sunset Harbor Maintenance Dredging Project, Phase II, Sunset Harbor, Orange County, California prepared by Coastal Resources Management of Corona Del Mar, California dated February 28, 1997; Negative Declaration for the Sunset Harbor Marina Improvement Plan (File IP 99-053) prepared by the County of Orange Planning and Development Services Department; Letter from Moffatt & Nichol Engineers to the California Coastal Commission regarding the Sunset Harbor Marina Improvement Plan dated August 17, 1999.

**PROCEDURAL NOTE:**

**Coastal Development Permit Amendments**

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

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

The Executive Director has determined that the proposed amendment is a material change to the project that affects marine resources and lower cost visitor serving recreational opportunities. Therefore, pursuant to Section 13166 of Title 14 of the California Code of Regulations, the Executive Director is referring this application to the Commission. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material.

**EXHIBITS:**

1. Vicinity Map
2. Site Plan
3. Pile Replacement Plan
4. Eelgrass Exhibit
5. Department of Fish and Game Letter of January 4, 2002
6. U.S. Fish and Wildlife Service Letter of January 16, 2002
7. Coastal Development Permit 5-99-244
8. Goldrich & Kest Industries, LLC letter of January 10, 2002

## **STAFF RECOMMENDATION:**

### **I. STAFF RECOMMENDATION OF APPROVAL**

Staff recommends that the Commission make the following motion and adopt the following resolution to **APPROVE** the permit amendment application. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **MOTION**

*I move that the Commission approve the proposed amendment to Coastal Development permit 5-99-244 pursuant to the staff recommendation.*

#### **RESOLUTION OF APPROVAL WITH CONDITIONS**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## II. SPECIAL CONDITIONS

### 1. PRIOR CONDITIONS

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-99-244 remain in effect. All regular conditions and Special Conditions previously imposed under CDP 5-99-244 apply equally to the amendment.

### 2. PRE-CONSTRUCTION CAULERPA TAXIFOLIA 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 5-99-244-A1, 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:
  - i. for the review and approval of the Executive Director; and
  - ii. to the Surveillance Subcommittee of 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.

**3. 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 tidal and wave erosion and dispersion.
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction.
- (c) Machinery or construction materials not essential for project improvements shall not be allowed at any time in the intertidal zone.
- (d) Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- (e) If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity.
- (f) Measures shall be taken to ensure that barges do not ground and impact eelgrass sites.
- (g) 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.
- (h) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss.
- (i) 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 coastal waters. The applicant and applicant's contractors shall have adequate equipment available to contain any such spill immediately.
- (j) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (k) All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day.
- (l) The applicant shall use the least damaging alternative for the construction of pilings and any other activity that will disturb benthic sediments. The applicant shall limit, to the greatest extent practicable, the suspension of benthic sediments into the water column.

**4. WATER QUALITY MANAGEMENT PLAN**

**A. 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 minimizing to the maximum extent practicable the 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.

- i. 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 that physical features or objects (trash containers, recycling bins, for example) are required in the plan, an attached site plan shall show the location where features or objects will be installed.
- ii. The plan shall include, at a minimum, the following components or measures:
  - (a) **Boat Cleaning Management Measures:**
    - (i) The marina shall provide a location where boats may be removed from the water and cleaned such that debris is captured and properly disposed. The marina shall prohibit in-water boat hull washing which does not occur by hand.
    - (ii) 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.
    - (iii) The marina shall ensure that marina tenants utilize detergents and cleaning components, used for washing boats, are phosphate-free and biodegradable, and that amounts used shall be minimized.
    - (iv) 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:
- (i) A periodic sweeping program of all paved parking lot areas to remove surface debris and vehicular residues shall be implemented.
  - (ii) Trash receptacles shall be provided at the entrances to all buildings.
  - (iii) Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock).
  - (iv) All trash and separate containers for recyclables, oil wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock).
- (c) Implementation of a liquid material control program, which provides and maintains appropriate storage, transfer, containment and disposal facilities for liquid materials commonly used in boat maintenance including the following Liquid Waste Management Measures:
- (i) The marina shall provide a waste pump-out facility to ensure that contamination of harbor waters from untreated sewage discharges related to vessels using the marina does not occur. The location of waste pump-out facilities shall be identified for boaters. The marina shall prohibit the discharge of untreated sewage from vessels in the marina.
  - (ii) The marina shall provide a secure location to store hazardous wastes, including old gasoline or gasoline with water, absorbent materials, and oily rags.
  - (iii) 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.
  - (iv) 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.

- (v) The marina shall maintain an adequate supply of absorbent pads for use by marina tenants and lessees for the cleaning of minor spills.

(d) **Maintenance of Sewage Facilities Measures:**

- (i). Dye tablets shall be available at the dockmaster's office;
- (ii) Dye tablets shall be placed in the holding tanks, toilets and portable toilets of all boats with overnight capabilities berthed at the marina.

(e) **Petroleum Control Management Measures:**

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.

(f) **Public Education Measures:**

In addition to these specific components outlined in special condition 8.A.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.

- B. The permittee shall undertake development in accordance with the approved final plan. 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.

5. REVISED PLANS

Prior to issuance of the coastal development permit, the applicant shall submit, in a form and content acceptable to the Executive Director, revised plans which shall contain a minimum of forty-one (41) slips which are twenty-five (25) feet in length or shorter. The approved development shall be constructed in compliance with the final plans as approved by the Executive Director. Any deviations from the plans shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

III. Findings and Declarations:

The Commission hereby finds and declares:

A. **PROJECT DESCRIPTION AND LOCATION**

The existing marina and the proposed reconstruction is a public visitor serving marine recreational facility located at 2901-A Edinger Avenue in the City of Seal Beach, Orange County (Exhibits 1 and 2). The marina is owned by the County of Orange and operated by Goldrich & Kest Industries, LLC. This facility is adjacent to the Anaheim Bay National Wildlife Refuge and this facility is also between the first public road and the sea (Huntington Harbour).

Sunset Aquatic Marina was opened as a waterfront recreational facility in 1969 as a 255 boat slip marina, dry boat storage area, boat launch ramp, boat trailer paring area, boat repair yard, marine supply store, Harbor Patrol Command Post, and public greenbelt and picnic area. All existing facilities are maintained and operated through a County (Orange County) lease agreement with Jona Goldrich, Sol Kest, and Mel Grau. The lessee provide an on-site Marina Manager to oversee the boat ramp, boat storage, and boat slip operations. The County maintains the Harbor Patrol Office.

The Commission approved on October 15, 1999 the demolition of the existing 255-slip marina and construction of a 240-slip marina in a different configuration (Exhibit 2). Associated development included the removal and replacement of piers, ramps, piling, and dock floats. No dredging was approved. Other approved improvements included resurfacing of the existing parking lots, non-structural aesthetic improvements to existing restroom buildings and the administrative building.

The coastal development permit (CDP) for this project was issued on March 22, 2000. As issued, the CDP identifies the reconstruction of 237 boat slips (Exhibit 7). According to the applicant the original application accounted for three Harbor Patrol slips allowing for an overall slip count of 240 slips (Exhibit 8, Page, Page 4). In a project addendum dated October 13, 1999 the Harbor Patrol slips were taken out of the slip distribution count. Subsequently, the County of Orange Sheriff's Department decided not to relocate their docks to a new location and the final number of reconstructed slips has returned to 240 slips.

Development has not yet been initiated. The Commission on October 9, 2001 received an extension request for this CDP. The extension request will be presented to the Commission at the same hearing as this staff report.

The applicant through this amendment now seeks to modify the distribution of the various slip lengths (Exhibit 8, Page 2). The applicant asserts that the distribution profile must be modified to respond to changes in the market demand for larger boat slips. The revisions in the distribution of the various slip length are shown on the two tables below. The first table shows the slip distribution as approved by the Commission in October 1999. The next table shows the applicant's proposed slip distribution pursuant to the amendment request.

SLIP DISTRIBUTION APPROVED 1999		
LENGTH (FT)	QUANTITY	LINEAR FEET
20	2	40
23	1	23
25	38	950
30	68	2040
35	105	3675
35 (Harbor Patrol)	3	105
42	8	336
45	5	225
48	9	432
50	1	50
<b>TOTAL</b>	<b>240</b>	<b>7876</b>
Average Slip Length		32.8 FT.

PROPOSED AMENDED SLIP DISTRIBUTION		
LENGTH (FT)	QUANTITY	LINEAR FEET
18	3	54
19	2	38
21	2	42
25	24	600
26	2	52
28	8	224
30	59	1770
31	2	62
35	106	3710
40	6	240
42	8	336
45	4	180
48	9	432
50	5	250
<b>TOTAL</b>	<b>221</b>	<b>7916</b>
Average Slip Length		33.3 FT.

## B. RECREATION AND PUBLIC ACCESS

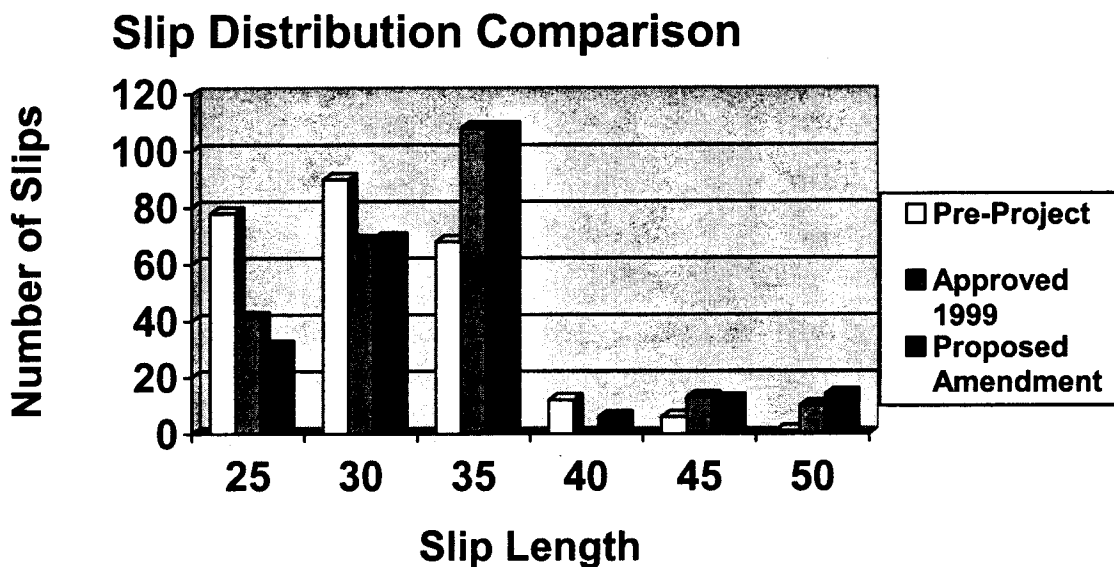
The proposed development is the reconstruction of an existing public marina. Facilities that provide the public with opportunities to enjoy coastal recreational opportunities are a preferred type of development under the Coastal Act. Sections 30210, 30224 and 30234 of the Coastal Act promote the availability of public marinas such as Sunset Aquatic Park.

Though the project is consistent with these sections of the Coastal Act, Section 30213 promotes the retention of lower cost visitor serving and recreation facilities. Section 30213, in relevant part, states:

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

The proposed reconstruction of Sunset Aquatic Park raises a concern with Section 30213, as it will result in a reduction in the number of small boat slips and an increase in the number of larger boat slips. The Commission considers small boat slips to fall under the auspices of Section 30213. The project proponents for marina reconstruction projects, including Sunset Aquatic Park, have been asserting that the reduction of small boat slips and an increase in large boat slips is a result of changing market demand (Exhibit 8, Page 7). Though the boating market may be changing to larger boats, Section 30213 mandates that lower cost facilities be protected.

Prior to the Commission's October 1999 decision, the marina had 78 slips designed to serve the 25' and under boats. In 1999 the Commission approved a reduction of 37 slips designed to serve the small boater in the 25' and under category. Now the applicant proposes to further reduce the number by an additional 10 slips, which would only leave 31 slips designed for boats in the 25' and under category. The trend in slip distributions is graphically displayed in the chart below.



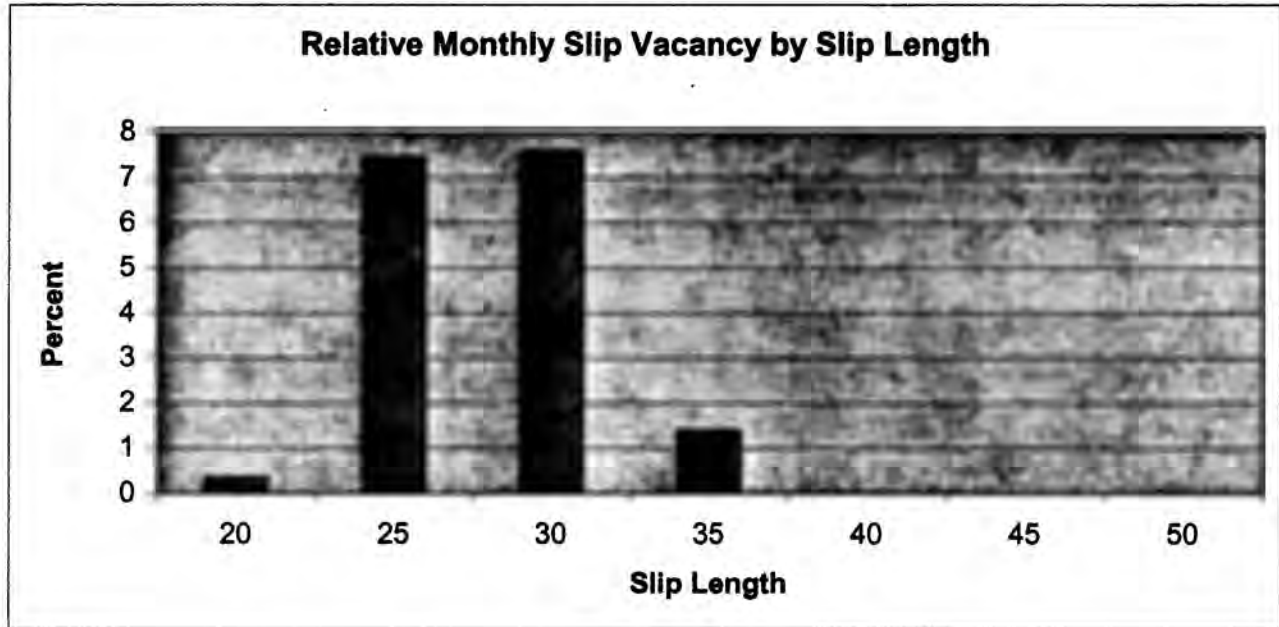
The chart above graphically depicts that when compared to pre-project levels the number of slips in the 30' or less category are in decline and that there is an increase in slips designed to serve boats that are above 30' in size.

To evaluate conformance of marina reconstruction on Section 30213 of the Coastal Act to assure that lower cost recreational facilities are not significantly impacted by a proposed development, the Commission typically evaluates the number of slips that have been designed to be used by small boats, marinas slip vacancy rates, the availability of dry storage, and the availability of boat launching facilities.

To evaluate the proposed amendments conformance with Section 30213 of the Coastal Act, Goldrich & Kest Industries, LLC provided to Commission staff figures on slip usage and dry storage usage. Though the data provided covers nearly three years, Commission staff orally confirmed with Goldrich & Kest Industries, LLC that these figures are representative of the historical pattern of slip usage. Additionally Goldrich & Kest Industries, LLC asserts, "*The number of slips for vessels less than thirty feet in length did not change as a result of the design process. Subsequently,*

*the availability of berthing space at low cost to the boating public increased from the previously approved CDP 5-99-244.*" (Exhibit 8, Page 8)

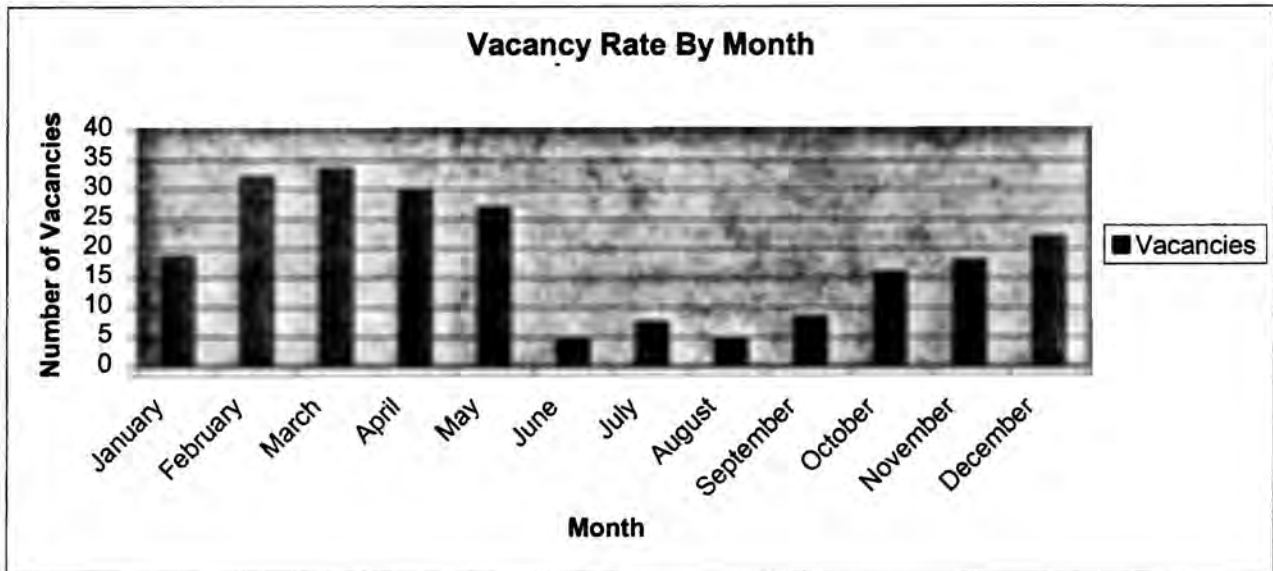
According to the data provided by Goldrich & Kest Industries, LLC, slip vacancies exist on a consistent basis for boats which are 35 feet in length and shorter. This data is graphically depicted on the chart below.



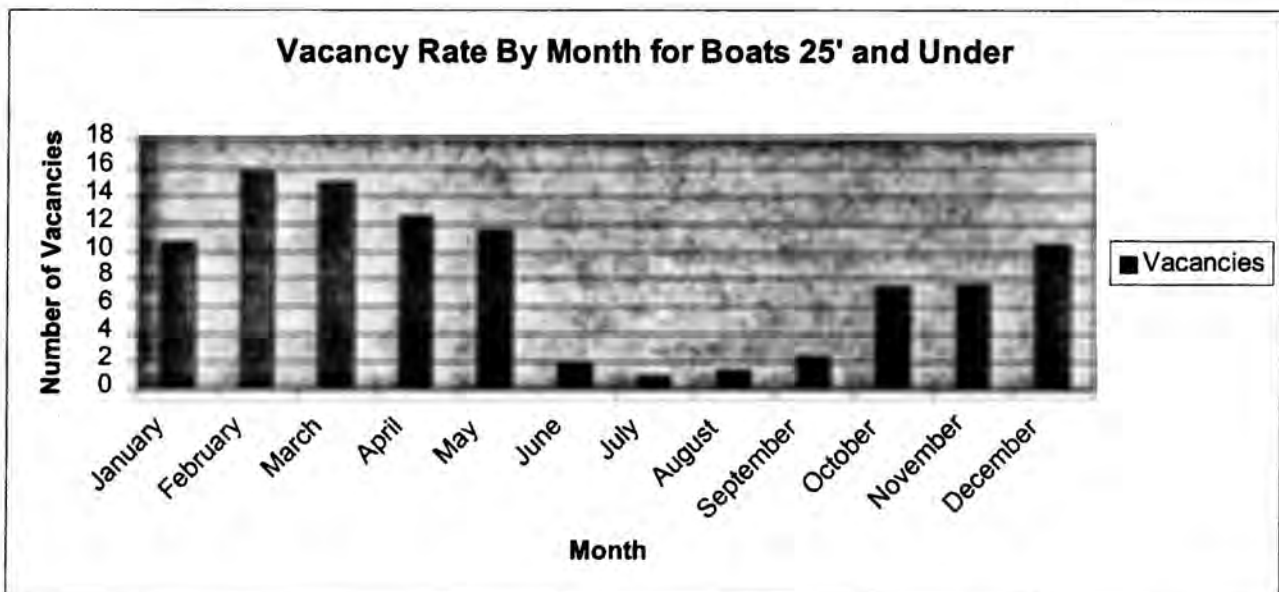
The slip vacancy graphic above appears to be typical. The Commission on July 13, 1999 approved coastal development permit 5-98-085-A1 (Pegasus Group) for a dock reconstruction project at Peters Landing, which is near Sunset Harbor. In response to a question from Commission staff on slip length vacancies, the applicant's consultant<sup>1</sup> responded that there was no waiting list for boats which were 35' and smaller. This appears to be supported by data submitted to the Commission's for CDP 5-01-143 (Marina Two Holding Partnership and Los Angeles County Department of Beaches and Harbors). According to a study prepared for this CDP by Los Angeles County Department of Beaches and Harbors vacancies are generally higher for boat slips under 36' in length than for boat slips for boats greater than 36 feet in length. In 2000, Marina del Rey slip vacancy study showed that the vacancy rate for boats under 36' in length was approximately 7% while for boats greater than 36' in length the vacancy rate was approximately 2%

<sup>1</sup> Ingram-Seitz & Associates letter of June 10, 1998





The chart above illustrates the number of marina slip vacancies by month for all boats. The chart below shows the vacancy rate for boats in the 25' category and below. These charts are only illustrative as they are based on a limited two-year average and the data is highly variable. The data suggests that the main source of vacancies is derived from the boats in the 24' to 35' foot range. The charts suggest that during the summer months, when the marina is most in demand, vacancies decline and that during the off season boats are removed from the marina and stored off-site (as the onsite dry storage facility is usually at capacity) until returned to the water for the next summer season.



According to the dry storage usage data, dry storage is consistently at capacity. Currently there are 164 dry storage spaces. According to Goldrich & Kest Industries, LLC there is a waiting list of over 100 boats waiting for a dry storage opportunity. The typical wait is over six months. According to Goldrich & Kest Industries, LLC the typical boat both in dry storage and waiting for a dry storage slot is over 35' in length. Boats under 35' in length are considered trailerable and these boat owners appear to store their boats off-site. Sunset Harbor provides boat-launching facilities for boats that are on trailers.

The Commission typically considers boats 25' and under as providing lower cost recreational opportunities. Consequently, marinas must provide an adequate number of slips designed to berth a boat that is 25' or under. As can be seen by the Vacancy Rate by Month charts above, vacancies decline in the summer months, consequently the availability of slips diminishes. The number of vacancies is very low for boats in the 25' and under category. The loss of additional slips in this size category would be a significant cumulative incremental impact. Furthermore, the loss of the smaller slips would result in the small boat owner having to pay a higher rental fee for a slip if only larger slips were available (Exhibit 8, Page 9). In terms of Section 30213 the Commission finds that the proposed amended development, as submitted, does not conform to the Coastal Act for the reasons discussed below.

To address the concern with Section 30213 of the Coastal Act, Goldrich & Kest Industries, LLC assert that, "*The number of slips for vessels less than thirty feet in length did not change as a result of the design process. Subsequently, the availability of berthing space at low cost to the boating public increased from the previously approved CDP 5-99-244.*" (Exhibit 8, Page 8) Though this may be the case, the number of slips serving the 25' or less boat actually declines by ten slips. The Commission considers boats that are 25' or under as providing lower cost recreational opportunities consistent with Section 30213 of the Coastal Act. Consequently the Commission finds that even though the number of slips for vessels less than thirty feet would not change under the applicant's proposed amendment, the number of slips designed to serve the 25' or under boat should not be reduced.

The Commission notes that the applicant has partially addressed the need for small boats by increasing the number of slips below 21' in length from 3 slips to 7. Though the overall number of slips in the 25' and under category will decrease by 10 slips, the extra availability of slips in the 21' length and below will provide some cost savings as boat slips are rented based on length. Thus a boater who had a 19' boat under the existing dock distribution would have had to rent a 25' slip for \$175 per month. Under the amended distribution configuration, two 19' docks would be provided that would rent for \$133 per month. This would result in a cost savings of \$42 per month.

Though the Commission approved a reduction in the number of boat slips in the 25' and under category in 1999, the Commission is concerned, as the proposed amendment would continue the erosion in the number of boat slips in the 25' and under category. Under the pre-project slip distribution a total of 78 slips in the 25' category existed. This equaled 31% of the total number of slips. In approving CDP 5-99-244, the Commission allowed the number of slips to decline to 41 slips in the 25' category. Under the Commission's 1999 approval 17% of the slips would be within the 25' category. The proposed amendment, as submitted, would result in a further decline in the number of slips in this category down to a total of 31 slips or 13% of the total marina. This incremental loss of slips in the 25' category, if unchecked, could eventually result in the elimination of small boats slips. The continued incremental loss of small boat slips would thus be inconsistent with Section 30213 of the Coastal Act, which mandates that lower cost recreational opportunities be preserved.

In rendering its decision on CDP 5-01-143 (Marina Two Holding Partnership and County of Los Angeles Department of Beaches and Harbors) the Commission found that as marinas convert to larger boat slips, that opportunities for the small boat owner would be reduced. Consequently the Commission conditioned this marina renovation project to maintain 25% of the boat slips in the 25' and under category as a means of conforming to Section 30213 of the Coastal Act.

The Commission approved in 1999 a dock configuration supplying 41 slips in the 25' and under category. This represents 17% of the total number of slips in the marina. This is 8% less than the Commission's decision under CDP 5-01-143 (Marina Two Holding Partnership and County of Los Angeles Department of Beaches and Harbors). Consistent with the requirements of Section 30213 of the Coastal Act, the Commission finds that no further reductions should occur in the 25' and under slip category. Section 30213 requires that lower cost recreational opportunities be preserved; small boat slips (25' and less) are lower cost recreational opportunities. To assure that the number of 25' or less boat slips are preserved, the Commission imposes Special Condition #5 to require the submission of revised plans that require a minimum of 41 boat slips be dedicated to boats that are 25' or less in size. This is consistent with the Commission's prior decisions for Sunset Harbor. Only as conditioned does the Commission find that the proposed amendment is consistent with Sections 30210, 30213, 30224, and 30234 of the Coastal Act.

### C. MARINE RESOURCES

The proposed project is located over the coastal waters of Anaheim Bay and Huntington Harbour (Exhibits #1-2). Both Anaheim Bay and Huntington Harbour have been designated as critical coastal water bodies on the federal Clean Water Act 303(d) list of "impaired" water bodies. The designation as "*impaired*" means that water quality within the water body does not meet State and Federal water quality standards designed to meet the 1972 Federal Clean Water Act goal of "*fishable, swimmable*" waters. The Anaheim Bay listing cites nonpoint sources for pesticides and nonpoint urban runoff resulting in elevated concentrations of metals. The Huntington Harbour listing sites nonpoint sources for pesticides and nonpoint urban runoff resulting in elevated concentrations of metals, pathogens, nutrients, pesticides, and toxic organic compounds from a variety of sources including urban runoff, boatyards, contaminated sediments, and other unknown non-point sources as the reason for listing the harbor as an "impaired" water body. The listing is made by the California Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the State Water Resources Control Board (SWRCB) as required by the Ducey Bill (AB1740), and confirmed by the U.S. Environmental Protection Agency. The RWQCB has targeted both Anaheim Bay and Huntington Harbour watersheds for increased scrutiny as medium priority watersheds under its Watershed Initiative. The standard of review for development proposed in coastal waters is the Chapter 3 policies of the Coastal Act, including the following water quality policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity and water quality.

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.*

The construction will occur over the water. Construction of any kind adjacent to or in coastal waters has the potential to impact marine environment. Both Anaheim Bay and Huntington Harbour provide opportunities for water oriented recreational activities and also serve as a home for marine habitat. Anaheim Bay and the surrounding upland is relatively undeveloped as much of the area is under Federal jurisdiction due to the presence of the Naval Weapons Facility and the designation of Anaheim Bay as a National Wildlife Refuge. Consequently, the proposed development will be occurring next to an area considered to be environmentally sensitive habitat. Because of the coastal recreational activities and the sensitivity of the Bay habitat, water quality issues are essential in review of this project

1. Construction Impacts to Water Quality

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species ability to see food in the water column.

In order to minimize adverse construction-related impacts upon marine resources, Special Condition #2 was imposed by the Commission (Exhibit 7) for the underlying permit<sup>2</sup>. This special condition outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. Special Condition #2 requires that the applicant dispose of all demolition and construction debris at an appropriate location. This condition requires the applicant to incorporate silt curtains and/or floating booms when necessary to control turbidity and debris discharge. Divers shall remove any non-floatable debris not contained in such structures that sink to the ocean bottom as soon as possible.

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<sup>2</sup> Since this proposed development is an amendment, the reference to "underlying permit" refers to the project as approved and conditioned by the Commission on October 15, 1999.

Though, the proposed amended project would not result in any significant changes in construction related impacts the Commission has developed an enhanced special condition related to construction responsibilities and debris removal since the project was approved in 1999. The updated special condition adds language to require that reasonable and prudent measures be taken to prevent the discharge of fuel or oily waste in coastal waters. Additionally that the installation and removal of pilings be undertaken in the least environmentally damaging feasible manner. These new requirements are significant to the successful operation of a marina consistent with the requirements of Sections 30230 and 30231 of the Coastal Act. Therefore, the Commission finds that Special Condition #3 of this amendment replaces Special Condition #2 of the underlying permit.

2. Best Management Practices

The proposed dock project will allow for the long term berthing of boats by the public. Some maintenance activities if not properly regulated could cause adverse impacts to the marine environment. Certain maintenance activities like cleaning and scraping of boats, improper discharges of contaminated bilge water and sewage waste, and the use of caustic detergents and solvents, among other things, are major contributors to the degradation of water quality within boating facilities. As mentioned above, Anaheim Bay and Huntington Harbour provide a home for marine habitat and also provide opportunities for recreational activities. Anaheim Bay and Huntington Harbour eventually exchanged water with the Pacific Ocean through tidal flushing.

To minimize the potential that maintenance activities would adversely affect water quality, the Commission imposed Special Condition #8 as part of the underlying permit. Special Condition #8 requires that the applicant follow Best Management Practices to ensure the continued protection of water quality and marine resources. Such practices that the applicant shall follow include proper boat cleaning and maintenance, management of solid and liquid waste, and management of petroleum products, all of which associated with the long term berthing of the boats.

Though, the proposed revisions to the project are not significant, this special condition has been updated since the Commission original approval in 1999. The updated special condition adds language for trash management and petroleum control management plans. The addition of this new language further assures that the marina will be operated in conformance with the requirements of Sections 30230 and 32031 of the Coastal Act to assure that

the marina will have minimal adverse impacts on the marine environment. Therefore, the Commission finds that Special Condition #4 of this amendment replaces Special Condition #8 of the underlying permit.

3. Eelgrass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves that grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area 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). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds. As previously noted, the project site is adjacent to the Anaheim Bay National Wildlife Refuge.

An eelgrass survey was conducted in 1997 and no eelgrass was found in the project area. Nevertheless the Commission imposed Special Condition #1 in the underlying permit to assure that if eelgrass was later found in the project area, that project impacts to eelgrass be minimized. Coastal Resources Management (CRM) conducted an eelgrass survey on September 24, 2001, which noted the presence of 990 sq. ft. of eelgrass in the project area. The location of the eelgrass is identified in Exhibit 4.

The proposed project potentially affects eelgrass through the removal of pilings, the placement of new pilings in different locations, and through changes in the configuration of boat slips. The removal and placement of pilings could damage eelgrass beds. The dock reconfigurations could change the shading pattern cast by the floats upon eelgrass. Changes in shading can affect the ability of eelgrass to grow. Finally, construction activity, such a barge anchoring and vessel propeller wash and propeller contact with the harbor bottom contact with the harbor bottom could cause scarring to the eelgrass beds.

The U.S. Fish and Wildlife Service (Exhibit 6) anticipates that the direct construction related impacts of the project would result in the potential loss of approximately 161 square feet of eelgrass. To mitigate this adverse impact, the U.S. Fish and Wildlife Service recommends conformance with the National Marine Fisheries Service's Southern California Eelgrass Mitigation Policy. The

Commission typically requires conformance with this policy for projects affecting eelgrass. The implementation of this policy was carried forward through the imposition of Special Condition #1 in the underlying permit.

Based on the existence of eelgrass and the potential adverse effects of construction activities on the eelgrass, the Commission reiterates that the applicant shall comply with Special Condition #1 of the underlying permit. Additionally, the applicant shall comply with Special Condition #6 of the underlying permit, which restricts construction activities between March 1<sup>st</sup> and September 15<sup>th</sup> of any year. The findings for continued implementation of Special Condition #6 are found on page 27 of this staff report.

Special Condition #1 of the underlying permit (Exhibit 7) requires conformance with the "*Southern California Eelgrass Mitigation Policy*" adopted by the National Marine Fisheries Service. This policy requires that no more than one hundred twenty (120) days prior to commencement of construction; the applicant shall undertake a survey of the project site to determine the existence of eelgrass. Following the completion of construction, the applicant within one month of project completion shall survey to site to determine if any eelgrass was adversely impacted. If any eelgrass was adversely impacted, the applicant would be required to mitigate at a 1.2:1 ratio according to the "*Southern California Eelgrass Mitigation Policy*".

Moreover, the Commission notes that eelgrass has grown in the project vicinity despite the presence of the existing docks and boat activity. Therefore evidence exists that the existing docks and boat activity have not had a significant adverse impact on the eelgrass growth. The California Department of Fish and Game has also reviewed the project's potential impacts on eelgrass and determined that it would not be significant (Exhibit 5). Nevertheless, the work associated with the removal and replacement of the docks in the project area would have a temporary adverse impact on the eelgrass that must be mitigated. Therefore, as conditioned for conformance with the "*Southern California Eelgrass Mitigation Policy*" the Commission finds the project consistent with Sections 30230 and 30231 of the Coastal Act for the protection of marine resources.

4. Caulerpa taxifolia

As noted above, eelgrass is a sensitive aquatic plant species, which provides important habitat for marine life. Eelgrass grows in shallow sandy aquatic environments, which provide plenty of sunlight. Recently, a non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been



discovered in parts of Huntington Harbor (Emergency Coastal Development Permits 5-00-403-G and 5-00-463-G) which occupies similar habitat. *C. taxifolia* is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean. From an initial infestation of about 1 square yard it grew to cover about 2 acres by 1989, and by 1997 blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing<sup>3</sup>.

Because of the grave risk to native habitats, in 1999 *C. taxifolia* was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001 the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

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<sup>3</sup> References

Meinesz, A. (Translated by D. Simberloff) 1999. *Killer Algae*. University of Chicago Press

Chisholm, J.R.M., M. Marchioretta, and J.M. Jaubert. Effect of low water temperature on metabolism and growth of a subtropical strain of *Caulerpa taxifolia* (Chlorophyta). *Marine Ecology Progress Series* 201:189-198

Ceccherelli, G. and F. Cinelli. 1999. The role of vegetative fragmentation in dispersal of the invasive alga *Caulerpa taxifolia* in the Mediterranean. *Marine Ecology Progress Series* 182:299-303

Smith C.M. and L.J. Walters. 1999. Fragmentation as a strategy for *Caulerpa* species: Fates of fragments and implications for management of an invasive weed. *Marine Ecology* 20:307-319.

Jousson, O., J. Pawlowski, L. Zaninetti, A. Meinesz, and C.F. Boudouresque. 1998. Molecular evidence for the aquarium origin of the green alga *Caulerpa taxifolia* introduced to the Mediterranean Sea. *Marine Ecology Progress Series* 172:275-280.

Komatsu, T. A. Meinesz, and D. Buckles. 1997. Temperature and light responses of the alga *Caulerpa taxifolia* introduced into the Mediterranean Sea. *Marine Ecology Progress Series* 146:145-153.

Gacia, E. C. Rodriguez-Prieto, O. Delgado, and E. Ballesteros. 1996. Seasonal light and temperature responses of *Caulerpa taxifolia* from the northwestern Mediterranean. *Aquatic Botany* 53:215-225.

Belsher, T. and A. Meinesz. 1995. Deep-water dispersal of the tropical alga *Caulerpa taxifolia* introduced into the Mediterranean. *Aquatic Botany* 51:163-169.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California Caulerpa Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several State, Federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

If *C. taxifolia* is present, any project that disturbs the bottom could cause its spread by dispersing viable tissue fragments. In order to assure that the proposed project does not cause the dispersal of *C. taxifolia*, the Commission imposes Special Condition #2 to this amendment. Special Condition #2 requires the applicant, prior to commencement of development, to survey the project area for the presence of *C. taxifolia*. If *C. taxifolia* is present in the project area, no work may commence and the applicant shall seek an amendment or a new permit to address impacts related to the presence of the *C. taxifolia*, unless the Executive Director determines that no amendment or new permit is required.

## 5. Conclusion

To minimize the adverse impacts upon the marine environment, one new special condition has been imposed and two special conditions from the underlying permit have been updated. Special Condition #2 requires that a pre-construction survey for *Caulerpa taxifolia* be done and if its presence is discovered, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *Caulerpa taxifolia* within the project and/or buffer area has been eliminated or 2) the applicant has revised the project to avoid any contact with *Caulerpa taxifolia*. Special Conditions #3 and #4 of the amendment are updates and replace Special Conditions #2 and #8 of the underlying permit. As conditioned, the Commission finds that the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act.

#### **D. ENVIRONMENTALLY SENSITIVE HABITAT AREAS**

The project site is immediately adjacent to the Anaheim Bay National Wildlife Refuge. The Coastal Act requires that development adjacent to environmentally sensitive habitat areas be sited and designed to minimize adverse impacts to the sensitive habitat. Section 30240(b) 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.*

To assure that impacts to sensitive species such as the California least tern be minimized the Commission imposed special condition #7 of the underlying permit. This special condition limits construction activity that could generate noise or turbidity in the water column between March 1<sup>st</sup> and September 15<sup>th</sup> of any year.

The U.S. Fish and Wildlife Service (Exhibit 6) in a letter dated January 16, 2002 identified the Anaheim Bay National Marine Refuge as home to several Federally endangered species such as the light footed clapper rail, California least tern, and the State-endangered Belding's Savannah sparrow. This letter goes on to recommend that any activities, which could adversely impact the identified species foraging and nesting activities be restricted between April 1<sup>st</sup> and September 1<sup>st</sup>. The U.S. Fish and Wildlife Service also recommended that activities that could adversely impact eelgrass be restricted between March 1<sup>st</sup> and September 1<sup>st</sup> of any year.

The Commission, in special condition #7 of the underlying permit, combined these time periods into one inclusive condition covering the period of March 1<sup>st</sup> to September 15<sup>th</sup> of any year. Based on the continued potential for the project as amended to adversely affect environmentally sensitive habitat, the Commission reiterates that special condition #7 remains in effect and that construction activities that could adversely affect environmentally sensitive habitat and the species dependent on the habitat shall not occur between March 1<sup>st</sup> and September 15<sup>th</sup> of any year.

#### **E. LAND USE PLAN**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having

jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program that conforms with the Chapter 3 policies of the Coastal Act.

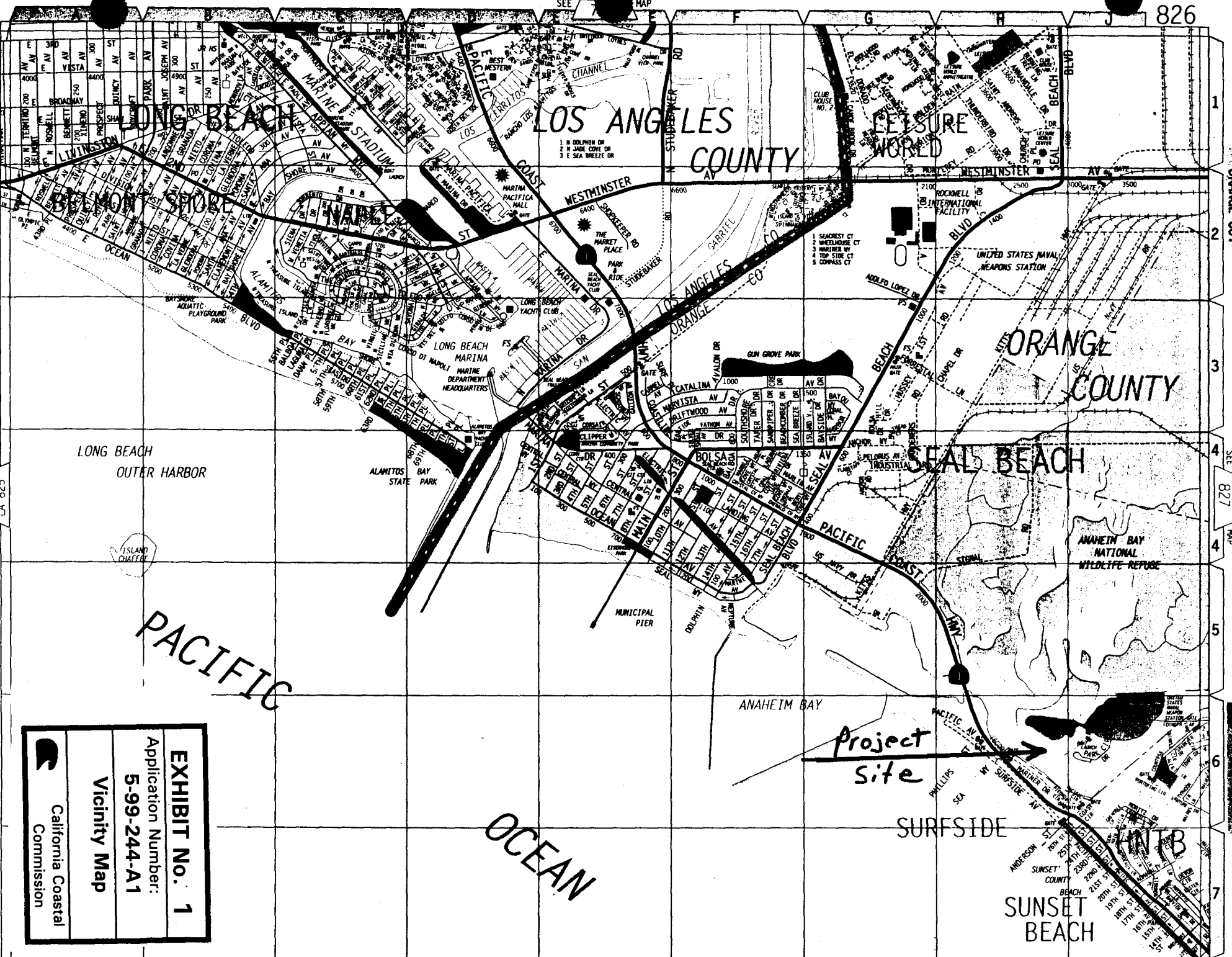
On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.


The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter Three policies of the Coastal Act.

#### **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures include conformance with the prior conditions of approval, to conduct a *Caulerpa taxifolia* survey, updating the special conditions related to water quality management and construction impacts and to require the submission of revised plans documenting that 41 slips be retained in the 25' slip category. 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



 California Coastal Commission	<b>EXHIBIT No. 1</b>
	Application Number: <b>5-99-244-A1</b>
	Vicinity Map

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SEE LA 825 MAP

SEE LA 827 MAP

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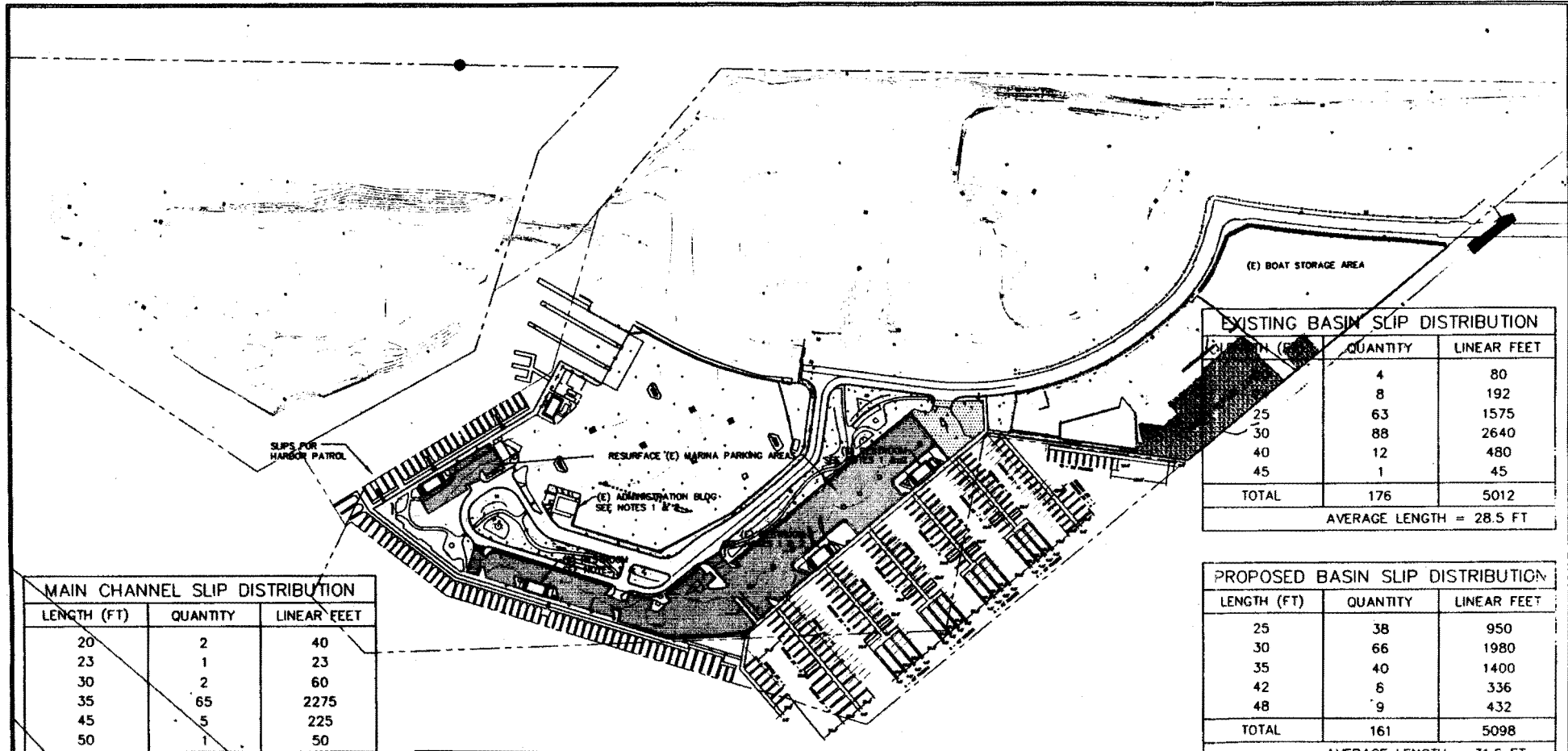
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ORANGE CO.

SEE 827 MAP

ORANGE CO.

SEE 827 MAP



LENGTH (FT)	QUANTITY	LINEAR FEET
20	4	80
25	8	192
30	63	1575
35	88	2640
40	12	480
45	1	45
<b>TOTAL</b>	<b>176</b>	<b>5012</b>
AVERAGE LENGTH = 28.5 FT		

LENGTH (FT)	QUANTITY	LINEAR FEET
25	38	950
30	66	1980
35	40	1400
42	6	336
48	9	432
<b>TOTAL</b>	<b>161</b>	<b>5098</b>
AVERAGE LENGTH = 31.6 FT		

LENGTH (FT)	QUANTITY	LINEAR FEET
20	2	40
23	1	23
30	2	60
35	65	2275
45	5	225
50	1	50
<b>TOTAL</b>	<b>76</b>	<b>2673</b>
AVERAGE LENGTH = 35.2 FT		
HARBOR PATROL	3	105

**EXHIBIT No. 2**

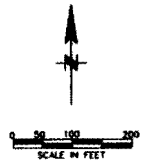
Application Number:  
**5-99-244-A1**

**Site Plan**

California Coastal  
Commission

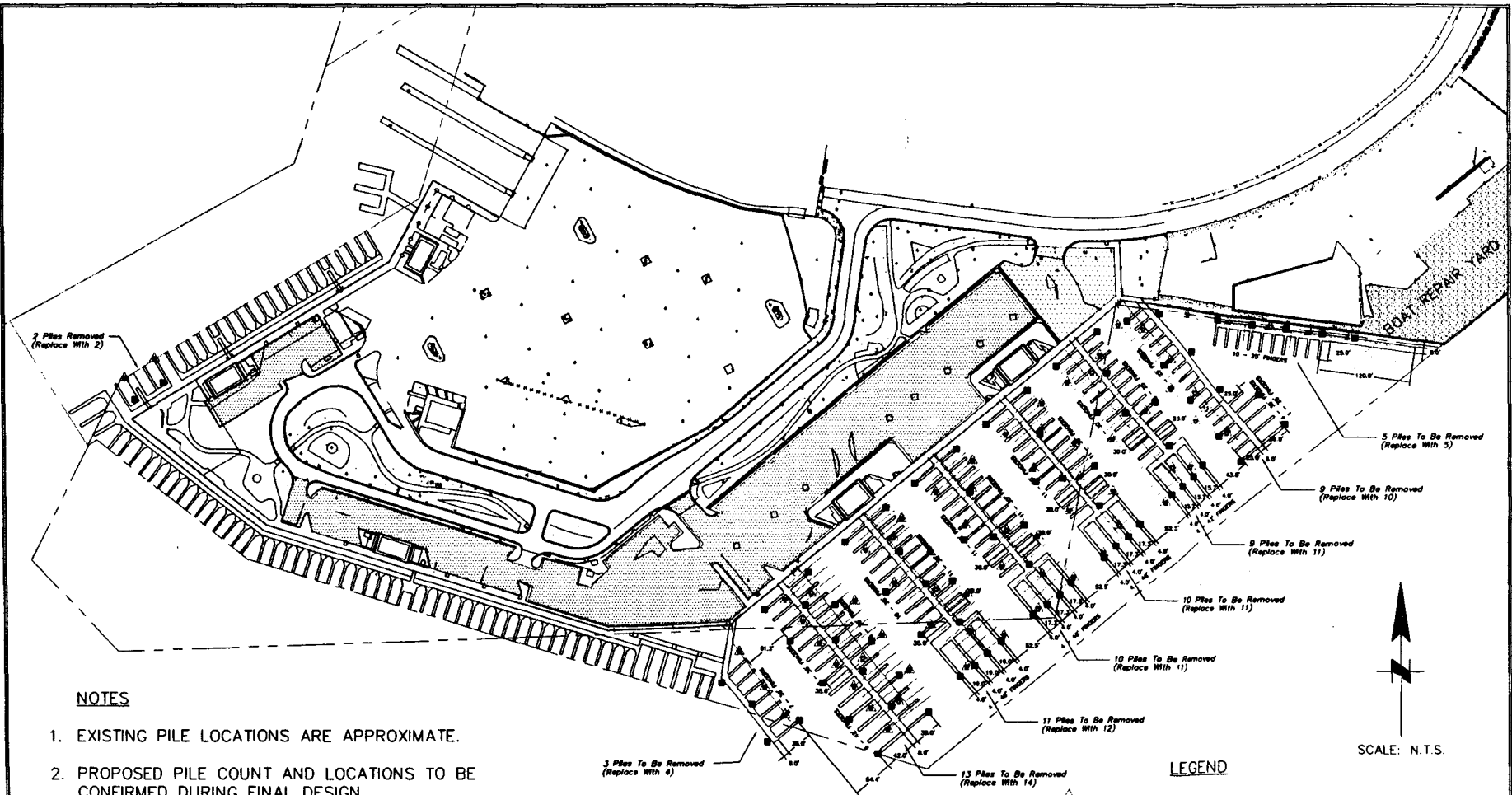
**MOFFATT & NICHOL**  
ENGINEERS

**S MARINA IMPROVEMENT PLAN**  
**A HARBORS, BEACHES AND PARKS**  
**M SUNSET HARBOUR MARINA**



DATE  
8-10-99  
**Figure 1**



Map Scale: 1" = 100' (See Notes 1 & 2)



**NOTES**

1. EXISTING PILE LOCATIONS ARE APPROXIMATE.
2. PROPOSED PILE COUNT AND LOCATIONS TO BE CONFIRMED DURING FINAL DESIGN.
3. FINGER PIERS AND PILES TO BE A MINIMUM OF 10' FROM BULKHEAD FOR BOLSA CHICA CHANNEL.

**LEGEND**

-  EXISTING PILES TO BE REMOVED (72)
-  PROPOSED PILE LOCATIONS (80)

**EXHIBIT No. 2**  
 Application Number:  
**5-99-244-A1**  
**Site Plan**  
 California Coastal  
 Commission

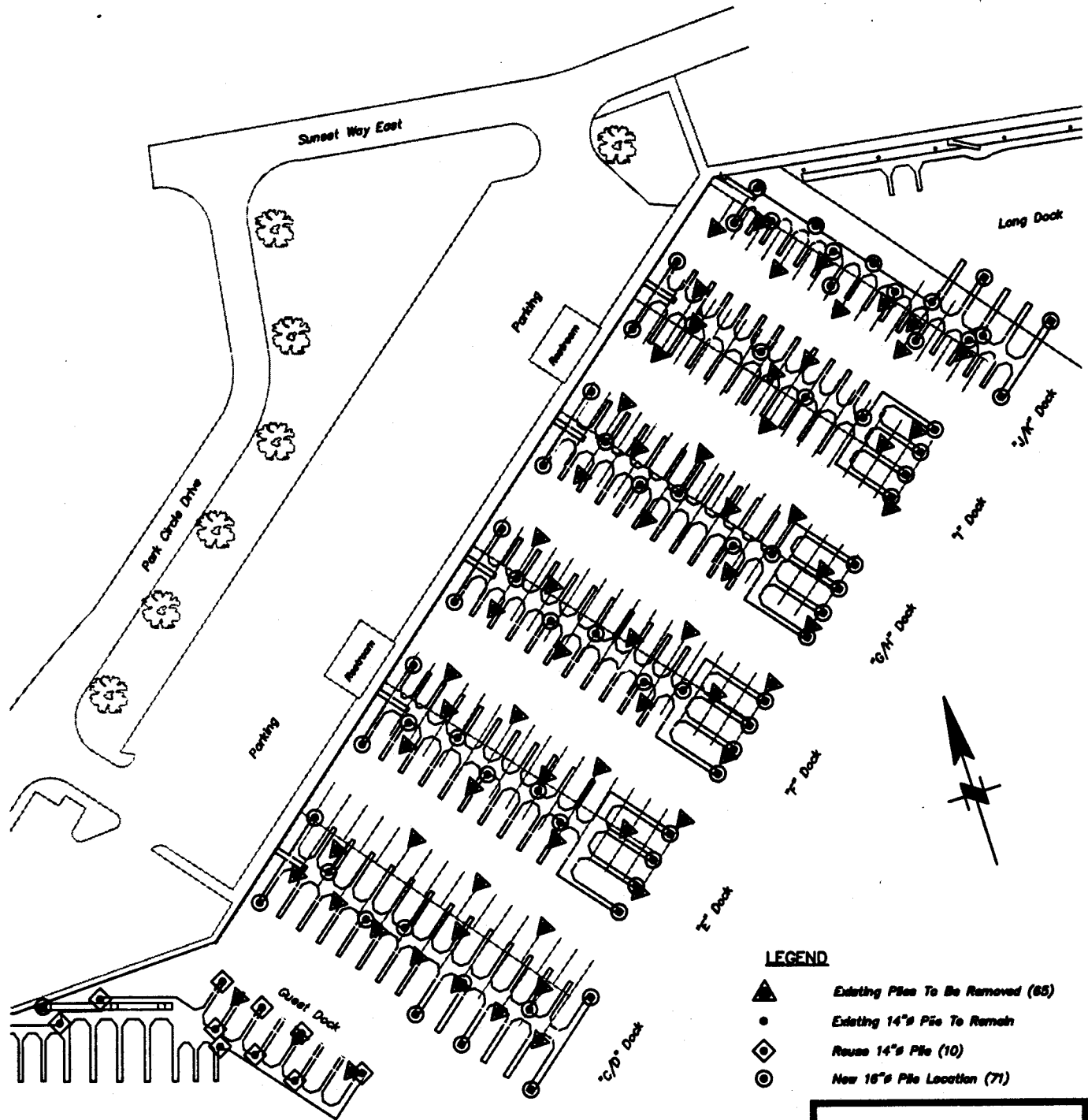
**MOFFATT & NICHOL**  
 ENGINEERS

**S MARINA IMPROVEMENT PLAN**  
**A HARBORS, BEACHES AND PARKS**  
**M SUNSET HARBOUR MARINA**



DATE	8/10/99
DESIGNER	R.M.S.
CHECKER	T.B.

Figure 2


EXHIBITS \ EXH - COC - FIG1.dwgN: 3561 \ CIVIL \ DWG \ EXH - GUEST.DWG



**LEGEND**



-  Existing Pile To Be Removed (65)
-  Existing 14\"/>

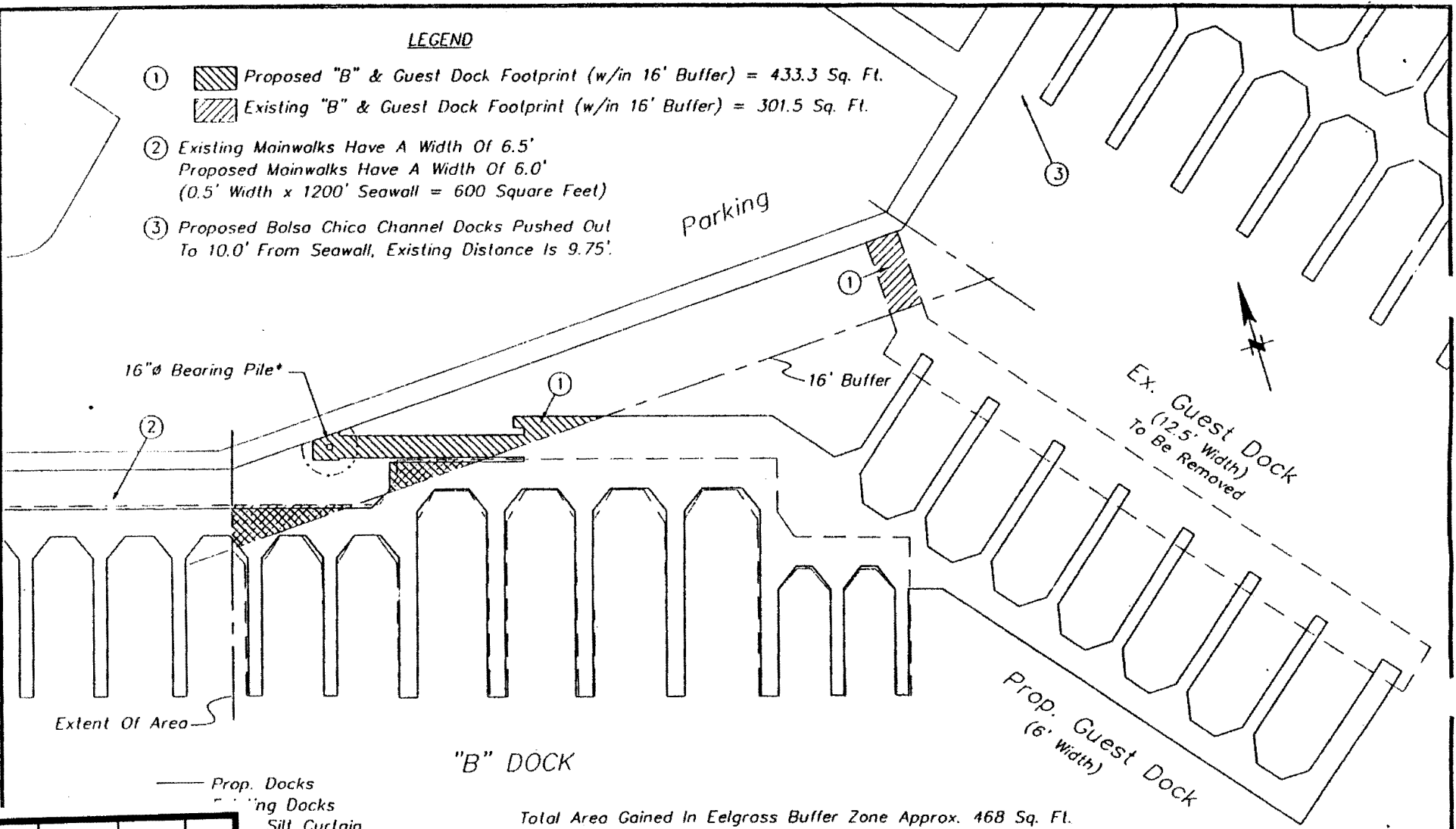
**SITE PLAN**  
N.T.S.

<b>EXHIBIT No. 3</b>
Application Number: <b>5-99-244-A1</b>
<b>Pile Replacement Plan</b>
 California Coastal Commission

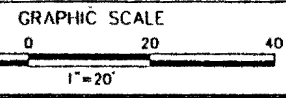


**LEGEND**

- ①  Proposed "B" & Guest Dock Footprint (w/in 16' Buffer) = 433.3 Sq. Ft.
-  Existing "B" & Guest Dock Footprint (w/in 16' Buffer) = 301.5 Sq. Ft.
- ② Existing Mainwalks Have A Width Of 6.5'  
Proposed Mainwalks Have A Width Of 6.0'  
(0.5' Width x 1200' Seawall = 600 Square Feet)
- ③ Proposed Bolsa Chica Channel Docks Pushed Out To 10.0' From Seawall, Existing Distance Is 9.75'



Total Area Gained In Eelgrass Buffer Zone Approx. 468 Sq. Ft.  
\* Bearing Pile In-Water Impact Area Approx. 1.4 Sq. Ft.

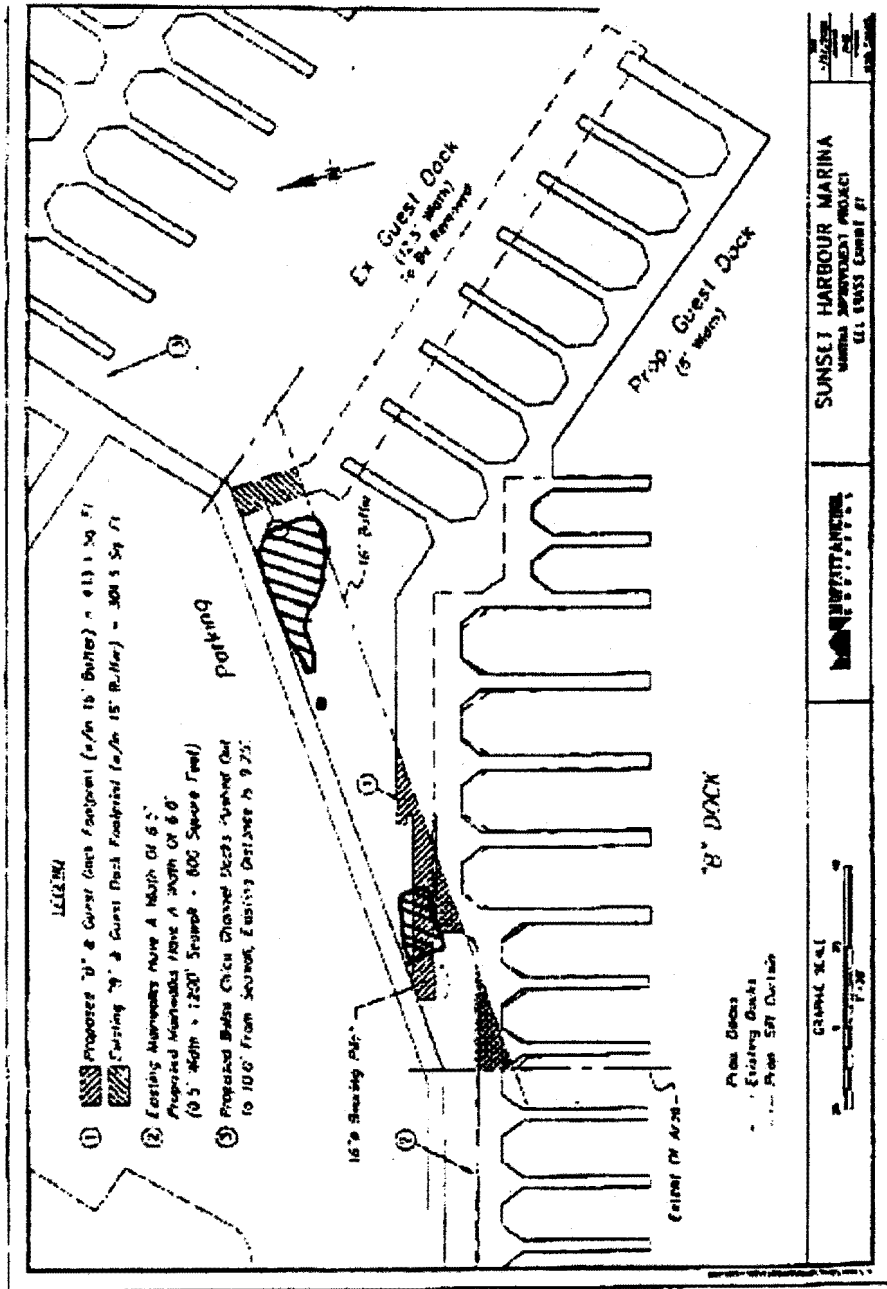


**MOFFATT & NICHOL**  
ENGINEERS

**SUNSET HARBOUR MARINA**  
MARINA IMPROVEMENT PROJECT  
EEL GRASS EXHIBIT #1

DATE: 1/27/2000  
DESIGNER: RMS  
CHECKER: M&N ENGRS

**EXHIBIT No. 4**  
Application Number: 5-99-244-A1  
Eelgrass Exhibit Page 1 of 2  
California Coastal Commission



Number 24, 2001 "B" Dock Pre-Construction Eelgrass Habitat Map (52 square meters; 15 square meters potentially affected by project)

<b>EXHIBIT No. 4</b>
Application Number: <b>5-99-244-A1</b>
<b>Eelgrass Exhibit</b> <i>page 2 of 2</i>
California Coastal Commission

**DEPARTMENT OF FISH AND GAME**

Marine Region  
4949 Viewridge Avenue  
San Diego, CA 92123



January 4, 2002

RECEIVED  
South Coast Region

JAN 8 2002

CALIFORNIA  
COASTAL COMMISSION

Mr. Karl Schwing  
California Coastal Commission  
South Coast Area  
200 Oceangate Ave., 10<sup>th</sup> Floor  
Long Beach, California 90802-4325

Dear Mr. Schwing:

This letter is in response to a request from Mr. Robert Sherwood, Moffatt & Nichol Engineers, concerning Coastal Development Permit Amendment Application 5-99-244-A1. It is our understanding that the amendment involves a change in the marina slip distribution as a result of design changes in the Sunset Aquatic Marina (Marina). The Department of Fish and Game (Department) reviewed the Mitigated Negative Declaration (SCH 99061024) and U.S. Army Corps Letter of Permission (199916013-VAW) for the original project description in 1999. The project was to be phased with the County of Orange's (County) maintenance dredging project. Concerns at that time included appropriate eelgrass surveys, subsequent mitigation, coordination issues with the County's maintenance dredging project, and construction timing to eliminate environmental impacts. The County would be the responsible party for eelgrass surveys and subsequent mitigation.


We understand that the County has finished its maintenance dredging and no additional dredging will be required for the completion of the Marina. We have been provided with the up-dated dock replacement schedule and have also received the post-dredge/pre-construction surveys conducted by Mr. Rick Ware of Coastal Resources Management. A post-project survey will document the actual loss of eelgrass attributable to the marina project. Any loss of eelgrass will be mitigated as a component of the County's maintenance dredging project. [Due to a natural decrease of eelgrass in Sunset Harbor, eelgrass transplants for the County's dredge project will not be conducted until growing conditions are conducive to eelgrass growth. It is our understanding that a survey will be conducted in the Spring of 2002 to document eelgrass conditions].

The Department believes the activities associated with the Marina project would not have a significant adverse effect on existing marine resources and habitats within the area, and we would concur with the issuance of a CDP amendment. If you have any further questions please call me at (858) 467-4231 or e-mail at [mfluharty@dfg.ca.gov](mailto:mfluharty@dfg.ca.gov).

Sincerely,

Marilyn J. Fluharty  
Environmental Scientist  
Marine Region

cc: Mr. Robert Sherwood  
Moffatt & Nichol Engineers  
P.O. Box 7707  
Long Beach, CA 90807

**EXHIBIT No. 5**Application Number:  
**5-99-244-A1****DF&G Letter of  
January 4, 2002** California Coastal  
Commission



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Carlsbad Fish and Wildlife Office  
2730 Loker Avenue West  
Carlsbad, California 92008



In Reply Refer To:  
FWS-OR-1864.2

JAN 16 2002

Karl Schwing  
California Coastal Commission  
200 Occangate Avenue, 10<sup>th</sup> Floor  
Long Beach, California 90802-4325


Re: Technical Assistance for the Updated Project Description for Sunset Marina  
Improvement Project (5-99-244-A1), City of Seal Beach, Orange County, California

Dear Mr. Schwing:

This is in response to a letter from Robert Sherwood of Moffatt and Nichol Engineers, received on December 18, 2001, requesting our comments on the proposed removal and replacement of docks adjacent to the Huntington Harbour Main Channel and reconfiguration of docks in the Bolsa Chica Channel to accommodate larger boats in the City of Seal Beach, Orange County, California.

We offer the following comments and recommendations regarding the proposed project based on our review of your letter and our knowledge of declining habitat types and species within Orange County. We provide these comments in keeping with our agency's mission to work "with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people." Specifically, we administer the Endangered Species Act (Act) of 1973, as amended.

Direct biological impacts that would result from the proposed dock replacement include the loss of approximately 161 square feet of eelgrass (*Zostera marina*), a marine aquatic plant that enhances biological diversity and productivity. The Sunset Marina is adjacent to the Seal Beach National Wildlife Refuge. There are a variety of sensitive biological resources in the area that could be indirectly affected by the proposed project, including the federally endangered light footed clapper rail (*Rallus longirostris levipes*) and a nesting colony of the federally endangered California least tern (*Sterna antillarum brownii*). The state-endangered Belding's savannah sparrow (*Passerculus sandwichensis beldingi*) is also present in the area. Sensitive habitat types in the area include intertidal wetland and native upland vegetation.

<b>EXHIBIT No. 6</b>
Application Number: 5-99-244-A1
USF&WS Letter of January 4, 2002 <i>page 1 of 2</i>
 California Coastal Commission

Karl Schwing (FWS-OR-1864.2)

2

To minimize and mitigate impacts to sensitive biological resources, the project proponent has agreed to the following measures:

- 1) Consistent with the National Marine Fisheries Service Southern California Eelgrass Mitigation Policy of 1991, as amended, impacts to eelgrass will be mitigated at a ratio of 1.2 acres planted for each acre removed. The planting will be conducted by the County of Orange in March of 2002, and monitored and maintained to ensure success.
- 2) To reduce impacts upon eelgrass growth during the primary growth season, no construction activity, which may generate turbidity in the water column, shall occur between March 1 and September 1.
- 3) To reduce impacts on the California least tern during its nesting and foraging season, no construction activity, which may generate noise or turbidity in the water column, shall occur between April 1 and September 15.
- 4) Sensitive habitat types in the area, including intertidal wetlands and native upland vegetation, will be identified and marked by a qualified biologist prior to initiation of construction. Construction personnel shall be briefed regarding the avoidance of these sensitive habitat types, and all equipment operation and staging areas shall be located so as to avoid all impacts to these habitat types.

With the implementation of the above measures, we believe that the proposed project is not likely to adversely affect federally listed species or sensitive biological resources. Therefore, additional consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended, is not required. Thank you for coordinating to minimize impacts to sensitive and listed species. Please contact Jonathan Snyder of my staff at (760) 431-9440 with any questions.

Sincerely,



Karen A. Evans  
Assistant Field Supervisor

cc: Robert Sherwood, Moffatt and Nichol Engineers  
Bob Hoffman, NMFS

**EXHIBIT No. 6**

Application Number:  
5-99-244-A1

USF&WS Letter of  
January 4, 2002

page 2 of 2  
California Coastal  
Commission

**CALIFORNIA COASTAL COMMISSION**

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

Page 1 of 8  
Date: March 22, 2000  
Permit No: 5-99-244

**COASTAL DEVELOPMENT PERMIT**

On 15 October 1999, the California Coastal Commission granted to County of Orange, Jona Goldrich, Sol Kest, and Mel Grau Coastal Development Permit 5-99-244, subject to the attached Standard and Special Conditions, for development consisting of: The applicant proposes to demolish an existing 252 slip marina and construct a 237 slip marina in a different configuration. This development includes the removal and replacement of piers, ramps, pilings, and dock floats. No dredging is proposed. In addition, re-surface existing parking areas and implement non-structural, aesthetic improvements to existing restroom buildings and the administrative building. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Orange County at 2901-A Edinger Avenue, Seal Beach.

Issued on behalf of the California Coastal Commission on March 22, 2000.

**PETER DOUGLAS**  
Executive Director

By:   
Title: Coastal Program Analyst

**ACKNOWLEDGMENT**

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.


The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Permittee

Please sign and return one copy of this form to the Commission office address.

<b>EXHIBIT No. 7</b>
Application Number: <b>5-99-244-A1</b>
<b>Coastal Development Permit 5-99-244</b>
 California Coastal Commission

# COASTAL DEVELOPMENT PERMIT

No. 5-99-244

Page 2 of 8

## 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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## SPECIAL CONDITIONS:

1. **EEL GRASS MITIGATION**
  - A. **Compliance with Eelgrass Mitigation Plan.** The applicant shall implement and comply with the "*Eelgrass Survey (Zostera marina), Impact Assessment, and Mitigation Plan* prepared for the County of Orange Sunset Harbor Maintenance Dredging Project, Phase II, Sunset Harbor, Orange County, California prepared by Coastal Resources Management of Corona Del Mar, California dated February 28, 1997. The mitigation plan shall be undertaken

**EXHIBIT No. 7**

# **COASTAL DEVELOPMENT PERMIT**

**No. 5-99-244**

**Page 3 of 8**

in full compliance with the most recent version of the "Southern California Eelgrass Mitigation Policy" adopted by the National Marine Fisheries Service. Any changes to the approved mitigation plan, including but not limited to changes to the monitoring program to ensure success of the eelgrass mitigation site, shall require an amendment to this permit from the Coastal Commission or written concurrence from the Executive Director that the changes do not require a permit amendment.

- B. Pre-construction Eelgrass Survey. Not more than one hundred twenty (120) days prior to commencement of construction, the applicant shall undertake a survey of the project site to determine the existence of eelgrass. The survey shall be prepared in full compliance with the most recent version of the "Southern California Eelgrass Mitigation Policy" adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the new eelgrass survey for the review and written approval of the Executive Director within five (5) working days of completion of the new eelgrass survey and in any event no later than ten (10) working days prior to commencement of construction. If the new survey identifies, within the proposed project area, any eelgrass which is not documented in the eelgrass survey described in Special Condition No. 1.A. above, the newly identified eelgrass shall be transplanted prior to commencement of construction at a 1.2:1 ratio at the same transplantation locations identified in the eelgrass mitigation plan described in Special Condition No. 1.A. above. The transplantation shall occur consistent with all provisions of the mitigation plan described in Special Condition 1.A.
- C. Post-construction Eelgrass Survey. Within one month after the conclusion of construction in coastal waters, the applicant shall survey the project site to determine if any eelgrass was adversely impacted, as proposed. The survey shall be prepared in full compliance with the most recent version of the "Southern California Eelgrass Mitigation Policy" adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a 1.2:1 ratio at the transplantation site and in accordance with the mitigation plan described in Special Condition No. 1.A. above.

## **2. CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL**

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

**EXHIBIT No. 7**



# **COASTAL DEVELOPMENT PERMIT**

**No. 5-99-244**

**Page 4 of 8**

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (c) No machinery or construction materials not essential for project improvements shall be allowed at any time in the intertidal zone;
- (d) Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- (e) If turbid conditions are generated during construction a silt curtain shall be utilized to control turbidity;
- (f) Measures shall be taken to ensure that barges do not ground and impact eelgrass sites;
- (g) 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;
- (h) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss;

### **3. 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.

### **4. U.S. ARMY CORPS OF ENGINEERS APPROVAL**

PRIOR TO COMMENCEMENT OF CONSTRUCTION, 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.

### **5. LEGAL INTEREST**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director,

# **COASTAL DEVELOPMENT PERMIT**

**No. 5-99-244**

**Page 5 of 8**

written documentation demonstrating that it has the legal ability to undertake the proposed development as conditioned herein.

## **6. TIMING OF PROJECT**

In order to reduce impacts upon eelgrass growth during the primary growth season no construction activity which may generate turbidity in the water column shall occur during the period commencing March 1 and ending September 1 of any year. In order to reduce impacts on the California least tern during nesting and foraging season, no construction activity which may generate noise or turbidity in the water column shall occur during the period commencing April 1 and ending September 15 of any year. Construction activity which may generate turbidity in the water column may occur between March 1 and September 1 only if the California Department of Fish and Game makes a written determination that work during this period will not result in adverse impacts to eelgrass. Construction activity which may generate noise or turbidity in the water column may occur between April 1 and September 15 only if the California Department of Fish and Game makes a written determination that work during this period will not result in adverse impacts to least terns.

## **7. FUTURE DEVELOPMENT**

This coastal development permit 5-99-244 is only for the development, located at 2901-A Edinger Avenue, in the City of Seal Beach, County of Orange, as 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.

## **8. Water Quality Management Plan**

- A. 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.

**EXHIBIT No. 7**

# **COASTAL DEVELOPMENT PERMIT**

**No. 5-99-244**

**Page 6 of 8**

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.
2. The plan shall include, at a minimum, the following components or measures:
  - (a) Boat Cleaning Management Measures:
    1. The marina shall provide a location where boats may be removed from the water and cleaned such that debris is captured and properly disposed. 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 utilize detergents and cleaning components, used for washing boats, are phosphate-free and bio-degradable, and that amounts used shall be minimized;
    4. The marina shall prohibit the use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye;
  - (b) Implementation of a solid waste reduction and recycling program including the following Solid Waste Management Measures:
    1. A periodic sweeping program of all paved parking lot areas to remove surface debris and vehicular residues shall be implemented;
    2. Trash receptacles shall be provided at the entrances to all buildings;
    3. Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock);
    4. All trash and separate containers for recyclables, oil wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock);
  - (c) Implementation of a liquid material control program which provides and maintains appropriate storage, transfer,

# **COASTAL DEVELOPMENT PERMIT**

**No. 5-99-244**

**Page 7 of 8**

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 waste pump-out facility to ensure that contamination of harbor waters from untreated sewage discharges related to vessels using the marina does not occur. The location of waste pump-out facilities shall be identified for boaters. The marina shall prohibit the discharge of untreated sewage from vessels in the marina.
2. The marina shall provide a secure location to store hazardous wastes, including old gasoline or gasoline with water, absorbent materials, and oily rags;
3. 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;
4. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes;
5. The marina shall maintain an adequate supply of absorbent pads for use by marina tenants and lessees for the cleaning of minor spills.

(d) **Maintenance of Sewage Facilities Measures:**

1. Dye tablets shall be available at the dockmaster's office;
2. Dye tablets shall be placed in the holding tanks, toilets and portable toilets of all boats with overnight capabilities berthed at the marina.

(e) **Public Education Measures:**

In addition to these specific components outlined in special condition 8.A.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

# COASTAL DEVELOPMENT PERMIT

No. 5-99-244

Page 8 of 8

entrances, and be included and attached to all slip lease agreements.

- B. The permittee shall undertake development in accordance with the approved final plan. 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.

KFS:

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<b>EXHIBIT No. 7</b>
Application Number: <b>5-99-244-A1</b>
<b>Coastal Development Permit 5-99-244</b>
 California Coastal Commission



# Goldrich & Kest Industries, LLC

LEADERS IN REAL ESTATE SERVICES

**RECEIVED**

January 10, 2002

<b>EXHIBIT No. 8</b>
Application Number: <b>5-99-244-A1</b>
<b>Goldrich &amp; Kest</b> Page 1 of 12

Mr. Karl Schwing  
 California Coastal Commission  
 200 Oceangate, Suite 1000  
 Long Beach, CA 90802-4302

**SUBJECT: ITEMS FOR COMPLETION OF AMENDMENT APPLICATION**  
 Coastal Development Permit Amendment Application 5-99-244-A1  
 Sunset Aquatic Marina, City of Seal Beach, Orange County, CA

Dear Mr. Schwing:

On November 26, 2001, we received your notice of incomplete application, and request for additional information necessary to analyze the project for consistency with the California Coastal Act (CCA). The extent of the information requested, most notably other agency acknowledgements and approvals has created a delay in responding fully to your request. We are hopeful that the information contained herein will allow your office to expedite a quick approval to these minor modifications from the original development permit.

The responses submitted are intended to further clarify the intent of this project and to provide the requested information to complete the amendment application process. Your comments are included in italics.

**1. Project Description**

*The subject application did not include a written narrative of the proposed project. Through written narrative, please describe in detail all elements of the proposed amendment including changes, deletions, and additions to the proposed project as compared with the previously approved project.*

**Background**

Sunset Aquatic Marina was opened for waterfront recreational facilities in 1969 as the first phase of park development. Phase I facilities included a 255-boat slip marina, dry boat storage area, boat launch ramp, boat trailer parking area, boat repair yard, marine supply store, Harbor Patrol command post, and public greenbelt and picnic areas. All existing facilities are maintained and operated through a County lease agreement with Jona Goldrich, Sol Kest, and Mel Grau. The lessee provides an on-site Marina Manager to oversee the boat ramp, boat storage, and boat slip operations. The County maintains the Harbor Patrol office.

**Amendment to Project Description**

The previously approved project, CDP 5-99-244, was based on a conceptual plan for the marina, with tables describing the proposed slip distribution for the marina (please see Figure

1). The proposed project includes removal and replacement of all existing docks adjacent to the Huntington Harbour Main Channel and launch ramp access channel and a reconfiguration of the docks in the Bolsa Chica Channel to accommodate larger boats. This will result in an overall decrease in the number of slips in the marina from an existing 255 slips to a proposed 240 slips, a decrease in overall slip count of 15 slips. The overall slip distribution previously approved for the marina is shown below (please see Table 1), as well as the proposed amended slip distribution (please see Table 2).

LENGTH (FT)	QUANTITY	LINEAR FEET
20	2	40
23	1	23
25	38	950
30	68	2,040
35	105	3,675
35' Harbor Patrol	3	105
42	8	336
45	5	225
48	9	432
50	1	50
<b>TOTAL</b>	<b>240</b>	<b>7,876</b>

**AVERAGE LENGTH = 32.8 FT**

**Table 1 – Approved Overall Marina Slip Distribution (CDP 5-99-244)**

LENGTH (FT)	QUANTITY	LINEAR FEET
18	3	54
19	2	38
21	2	42
25	24	600
26	2	52
28	8	224
30	59	1,770
31	2	62
35	106	3,710
40	6	240
42	8	336
45	4	180
48	9	432
50	5	250
<b>TOTAL</b>	<b>240</b>	<b>7,990</b>

**AVERAGE LENGTH = 33.3 FT**

**Table 2 – Amended Overall Marina Slip Distribution (CDP 5-99-244-A1)**

**EXHIBIT No. 8**

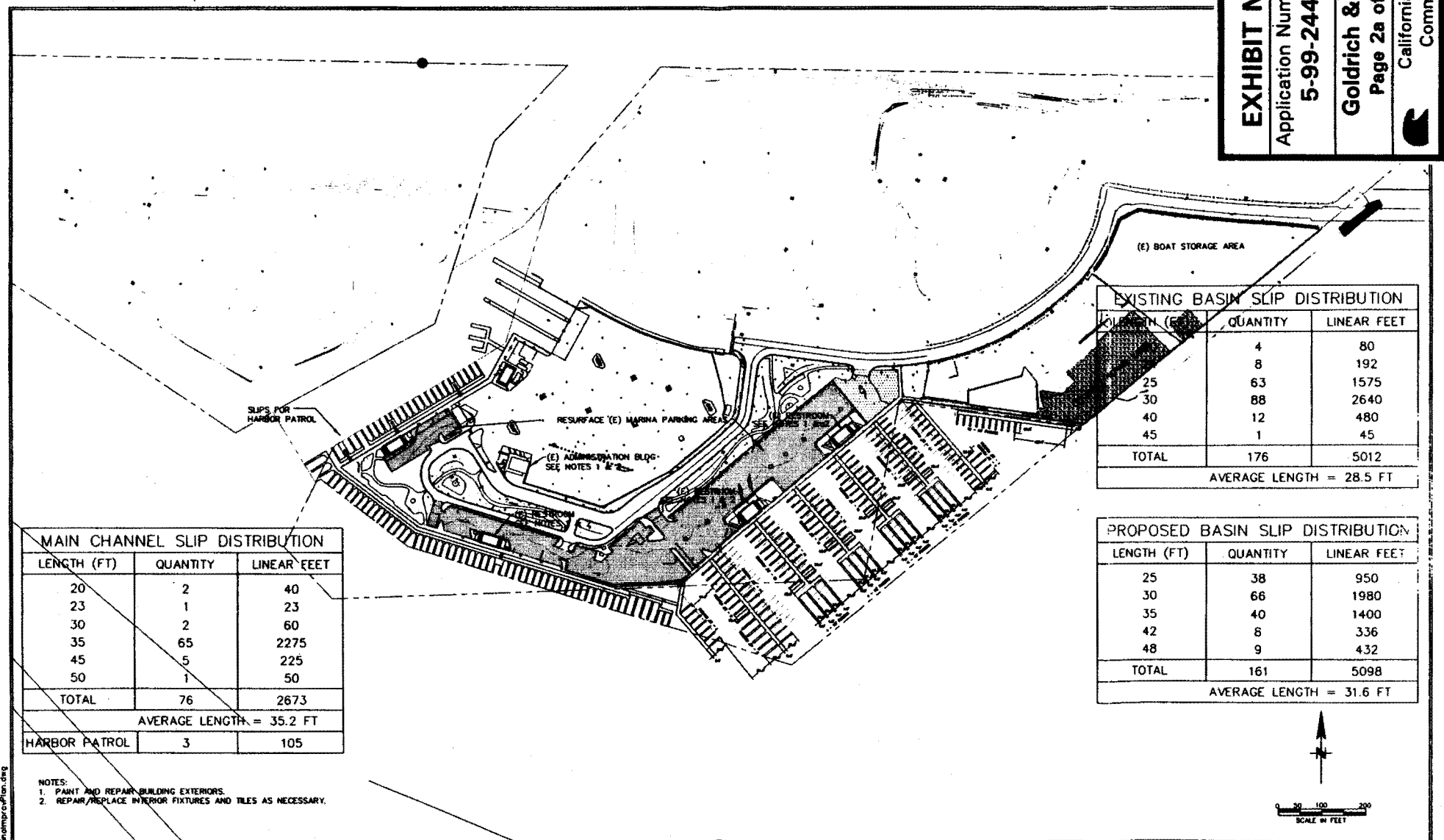
Application Number:  
**5-99-244-A1**

**EXHIBIT No. 8**

Application Number:  
**5-99-244-A1**

**Goldrich & Kest**  
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California Coastal  
Commission



MAIN CHANNEL SLIP DISTRIBUTION		
LENGTH (FT)	QUANTITY	LINEAR FEET
20	2	40
23	1	23
30	2	60
35	65	2275
45	5	225
50	1	50
<b>TOTAL</b>	<b>76</b>	<b>2673</b>
AVERAGE LENGTH = 35.2 FT		
HARBOR PATROL	3	105

EXISTING BASIN SLIP DISTRIBUTION		
LENGTH (FT)	QUANTITY	LINEAR FEET
4	8	32
8	8	64
25	63	1575
30	88	2640
40	12	480
45	1	45
<b>TOTAL</b>	<b>176</b>	<b>5012</b>
AVERAGE LENGTH = 28.5 FT		

PROPOSED BASIN SLIP DISTRIBUTION		
LENGTH (FT)	QUANTITY	LINEAR FEET
25	38	950
30	66	1980
35	40	1400
42	6	252
48	9	432
<b>TOTAL</b>	<b>161</b>	<b>5098</b>
AVERAGE LENGTH = 31.6 FT		

NOTES:  
1. PAINT AND REPAIR BUILDING EXTERIORS.  
2. REPAIR/REPLACE INTERIOR FIXTURES AND TILES AS NECESSARY.

J:\3581\veg\MarImpr\plan.dwg

**MOFFATT & NICHOL**  
ENGINEERS

**S MARINA IMPROVEMENT PLAN**  
**A HARBORS, BEACHES AND PARKS**  
**M SUNSET HARBOUR MARINA**

DATE  
8-11-99  
**Figure 1**



Under both slip distributions, an increase in usable slip length will result, providing additional berthing space within the existing marina footprint more efficiently while accommodating trends in market demand for larger boat slips. Also, as described in CDP 5-99-244, the parking areas will be resurfaced and existing restroom buildings will have aesthetic, non-structural, improvements made to them.

*The previously approved project was carefully phased to coordinate with the County's dredging project so as to minimize impacts related to eelgrass. As part of the written narrative, please clarify whether circumstances related to that phasing plan have changed. Has dredging been completed or will additional dredging occur either during or after completion of the proposed marina?*

**Construction Phasing**

The County's dredging project has been completed, and no additional dredging will occur either during or after completion of the proposed marina. The phasing of the project subsequently would have followed the Dock Replacement Construction Schedule shown in Table 3. This schedule was established after the dredging was completed and prior to the project being delayed pending approval of the Amendment to CDP 5-99-244.

Oct. 15, 2001 through Feb. 28, 2002	Remove & replace Docks J/K, C/D, & E
Mar. 1, 2002 through Sep. 15, 2002	Remove & replace Docks A and B
Sep. 16, 2002 through Feb. 28, 2003	Remove & replace Docks F, G/H, I

**Table 3 – Dock Replacement Construction Schedule**

The Dock Replacement Construction Schedule above in table 3 follows the restrictions of Special Condition, Item 6, **Timing of Project**, of the previously approved CDP 5-99-244. These restrictions limited construction as follows: **“In order to reduce impacts upon eelgrass growth during the primary growth season no construction activity which may generate turbidity in the water column shall occur during the period commencing March 1 and ending September 1 of any year. In order to reduce impacts on the California least tern during nesting and foraging season, no construction activity which may generate noise or turbidity in the water column shall occur during the period commencing April 1 and ending September 15 of any year.”**

Removal of Docks A and B will not adversely affect the water column since the existing dock will be removed in modules which will be floated over to the launch ramp and removed off-site. Subsequently, the replacement of Docks A and B will not adversely affect the water column since the new docks will be trucked in from off-site, floated from the launch ramp, and assembled as modules in the locations of the existing docks. A revised Dock Replacement Construction Schedule will be provided to the Commission, following the same restrictions as in CDP 5-99-244, once a start date for construction is better established, pending approval of CDP 5-99-244-A1.

<b>EXHIBIT No. 8</b>
Application Number: <b>5-99-244-A1</b>
<b>Goldrich &amp; Kest</b>

*Also, the application materials submitted indicate that the previously approved and presently proposed project would result in a 240-slip marina. However, the Commission's records indicate that the previously approved project was a 237-slip marina (please see attached addendum to the staff report for CDP 5-99-244). Please clarify this discrepancy.*

### **Overall Slip Count Discrepancy**

The original application accounted for three Harbor Patrol slips within the footprint of the marina, in the vicinity of "A" dock, allowing an overall slip count of 240 slips. Per the Addendum dated October 13, 1999, these same slips were requested to be taken out of the slip distribution count since they were neither rentable nor to be maintained by the lessee, hence the slip count was reduced to 237 slips. Subsequent to approval of the Addendum, the County of Orange and Sheriff's department decided not to relocate their docks to the new location, hence the overall slip count returned to the previous number of 240 slips.

*In addition, plans submitted with the application for the previously approved project indicated that approximately ten 25-foot length boat slips would be constructed along the bulkhead adjacent to the existing boat maintenance yard. The plans submitted with the current application do not show these slips. However, their deletion is not identified in the proposed amendment request. In prior discussions, you have indicated that even though these slips were shown on the plans, these slips were never part of the originally proposed project and were not included in the slip count reviewed by the Commission. Through written narrative, please clarify the circumstances related to these slips including whether their removal affects the slip count and whether or not their removal is part of the proposed amendment.*

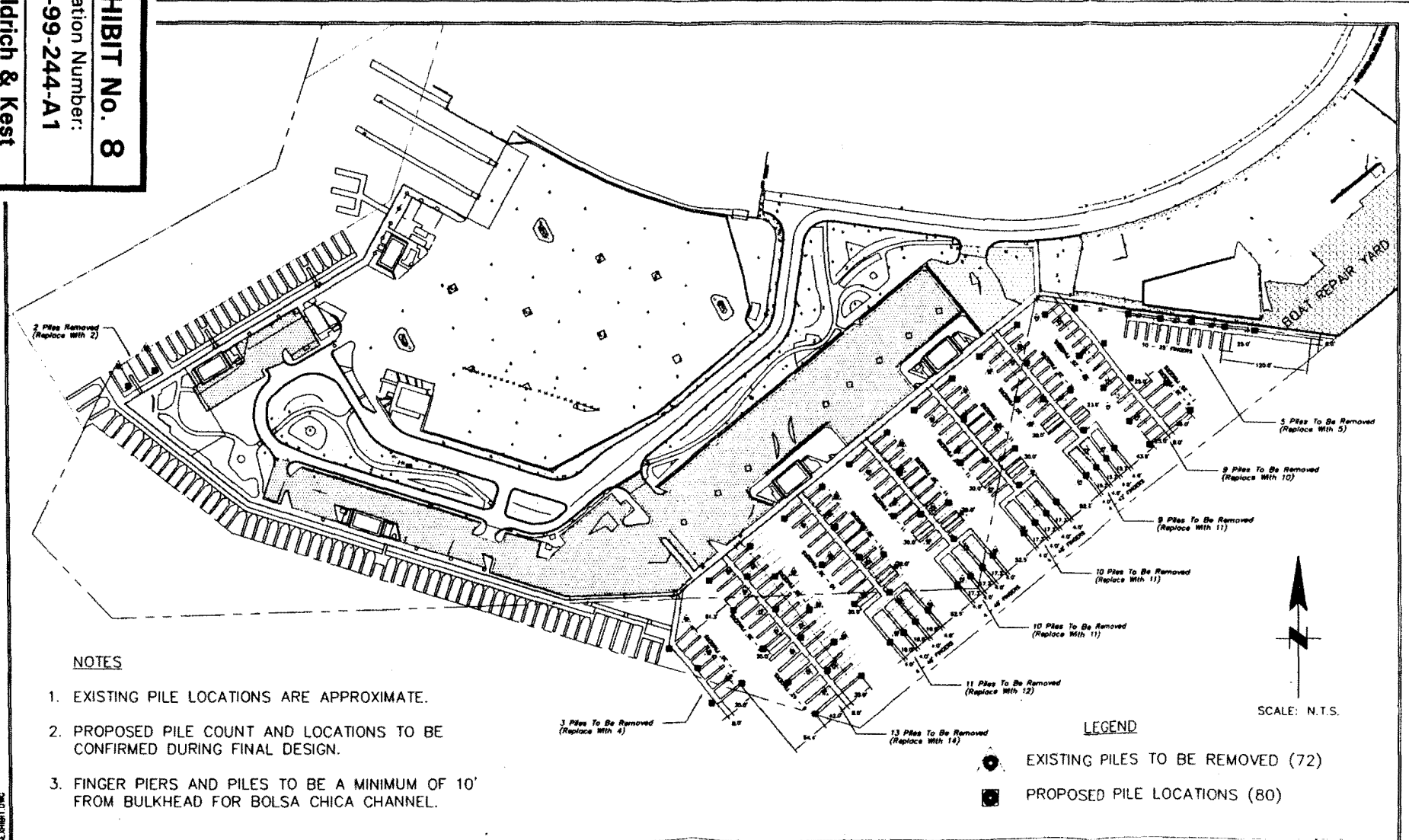
### **Maintenance Yard Dock**

The Maintenance Yard Dock was not a part of the originally approved slip count, which relied on tables to describe the slip distribution of the proposed marina. Considering rentable slip space and access by typical day-use boaters, the footprint of the marina does not include the maintenance yard dock. However, the dock is maintained by the lessee, and needs to be upgraded in the future, hence the piles shown as being replaced in the original exhibit presented for CDP 5-99-244 (please see Figure 2). Replacement of these piles and repair of the maintenance dock should not have been shown as a part of the proposed improvements to the marina.

*The proposed project modifies the configuration of the marina, however, it is unclear whether there is any change in the quantity of pilings and/or any change in the quantity of fill resulting from placement of the pilings. Please provide a drawing showing existing piles to be retained, existing piles to be removed, existing pilings to be replaced in-kind, and any new pilings. In addition, please identify the proposed sizes of the pilings and the construction materials. Finally, please quantify the change in the amount of fill, in terms of square feet of bay bottom displaced, caused by the proposed amended project.*

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**NOTES**

1. EXISTING PILE LOCATIONS ARE APPROXIMATE.
2. PROPOSED PILE COUNT AND LOCATIONS TO BE CONFIRMED DURING FINAL DESIGN.
3. FINGER PIERS AND PILES TO BE A MINIMUM OF 10' FROM BULKHEAD FOR BOLSA CHICA CHANNEL.

**LEGEND**

- EXISTING PILES TO BE REMOVED (72)
- PROPOSED PILE LOCATIONS (80)

**S MARINA IMPROVEMENT PLAN**  
**A HARBORS, BEACHES AND PARKS**  
**M SUNSET HARBOUR MARINA**

**MOFFATT & NICHOL**  
 ENGINEERS

DATE  
 8/10/99  
 DESIGNER  
 R.M.S.  
 CHECKER  
 T.H.

Figure 2

**Dock Pilings**

Under the approved CDP 5-99-244, 72 existing 12-inch pilings in the marina were to be removed, constituting 56.5 square feet of fill, and 80 proposed 14-inch pilings were to be installed, constituting 85.5 square feet of fill. This would have allowed a total increase of 29.0 square feet of fill of coastal waters with pilings. Of these pilings, two 12-inch diameter pilings were to be removed from "A" dock and replaced with two 14-inch diameter pilings to provide for the relocation of the Harbor Patrol docks. Subsequent to the decision by the County that the Harbor Patrol docks remain in their existing location, no piles are to be removed in the vicinity of "A" Dock.

The amended pile schedule proposes removing 65 existing 14-inch piles and installing 10 proposed 14-inch and 71 proposed 16-inch piles. The 65 pilings to be removed constitute 69.6 square feet of fill, while the proposed 81 pilings will have a total fill of 110.1 square feet, for a total increase of 40.6 square feet of fill of coastal waters with pilings (please see Table 4).

	<b>EXISTING PILES TO BE REMOVED</b>	<b>PROPOSED PILES TO BE INSTALLED</b>	<b>FILL AREA (SQ. FT.)</b>
<b>APPROVED CDP 5-99-244</b>	<b>72 @ 12-INCH</b>	<b>80 @ 14-INCH</b>	<b>29.0</b>
<b>AMENDED CDP 5-99-244-A1</b>	<b>65 @ 14-INCH</b>	<b>10 @ 14-INCH 71 @ 16-INCH</b>	<b>69.6</b>

**INCREASE IN FILL AREA = 40.6 SQ. FT.**

**Table 4 – Pile Replacement Schedule**

The description of the size of existing pilings had increased from 12-inch diameter to 14-inch diameter upon receipt of survey information, acquired during the design process, from Dulin & Boynton Licensed Surveyors, Inc. The previously proposed and approved 14-inch piles to be installed in the marina were also increased in size during the final design process. To provide adequate holding strength for the dock system during a heavy storm event, such as the one that washed away the adjacent Portofino Cove Marina, 16-inch piles were incorporated into the design. Please review the attached drawing, Figure 3, for an overview of the piles to be removed and replaced within the marina.

**2. Eelgrass, Biological Resources and Caulerpa taxifolia**

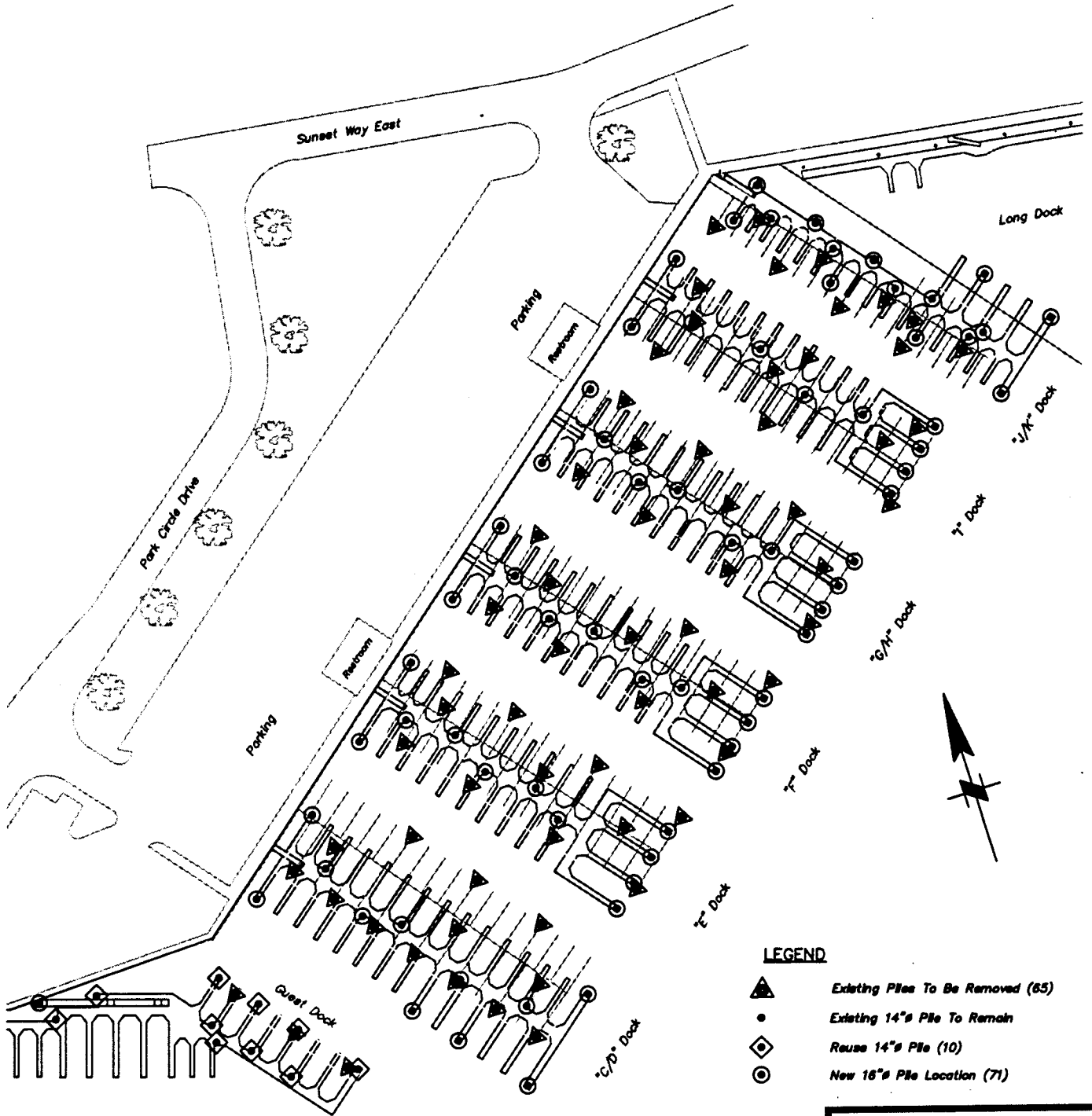
*Please submit an updated biological resource and eelgrass survey of the project area and explain whether the proposed project would result in any impact to eelgrass or other biological resources. In addition, please explain whether any proposed eelgrass impact or other biological resource impact would have occurred as a result of the construction of the project as previously approved under CDP 5-99-244 or whether the proposed impact would be caused because of the change in the configuration of the project. If the*

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**LEGEND**

-  Existing Piles To Be Removed (85)
-  Existing 14" Pile To Remain
-  Reuse 14" Pile (10)
-  New 18" Pile Location (71)

**SITE PLAN**  
N.T.S.

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*impact is caused due to the revised project configuration, an analysis of alternatives must be prepared along with an analysis of whether the proposed project is the least environmentally damaging feasible alternative.*

### **Biological Resource and Eelgrass Survey**

The notice of incomplete application requests that an updated biological resource and eelgrass survey of the project area be submitted. According to the approved CDP 5-99-244, Special Conditions, Item 1B, **Pre-construction Eelgrass Survey**, “**Not more than one hundred twenty (120) days prior to commencement of construction, the applicant shall undertake a survey of the project site to determine the existence of eelgrass.**” Provided that the amendment approval process occurs in a timely manner, the post-dredging / pre-construction eelgrass survey undertaken on September 25, 2001, by Rick Ware of Coastal Resources Management, should be adequate. Additionally, the County of Orange is presently mitigating for future eelgrass disturbance during marina construction, in coordination with Bob Hoffman of the National Marine Fisheries Service, and will conduct a long-term monitoring program for said mitigation.

Approved CDP 5-99-244 shows two separate gangways to the Guest Dock and “B” Dock. One ramp was proposed to provide handicap access under current ADA recommended guidelines for marinas, and the other traditional gangway was to replace the existing ramp servicing the Guest Dock. By merging “B” Dock and the Guest Dock together in final design, only the single ADA ramp was necessary to provide access. Subsequently, this allowed only 161 square feet of eelgrass area to be shaded, where 257 square feet would have been shaded by the configuration approved under CDP 5-99-244. Additionally, as described by Rick Ware in the Eelgrass (*Zostera marina*) Pre-construction Habitat Assessment and Mitigation Plan, page 4, Section 3.3, Impact Analysis – Project Effects on Eelgrass Bed Resources, “**The removal of the existing Guest Dock and ramp leading to the Dock may result in additional unshaded habitat for eelgrass to grow that may eventually result in the joining of the two distinct eelgrass patches in front of “B” Dock and in the Bolsa Chica Channel [...].**” Please see figure 4 on following page (figure 2 of the report) for further clarification.

*In addition, an extremely invasive aquatic algae, *Caulerpa taxifolia*, has been identified in Huntington Harbor. If this algae is present in the project area, construction activity can disturb the algae and contribute to its distribution. Efforts are underway to eradicate this algae. In order to document whether the project would have such an impact, please submit a survey of the project area to determine whether the algae is present.*

### **Caulerpa taxifolia**

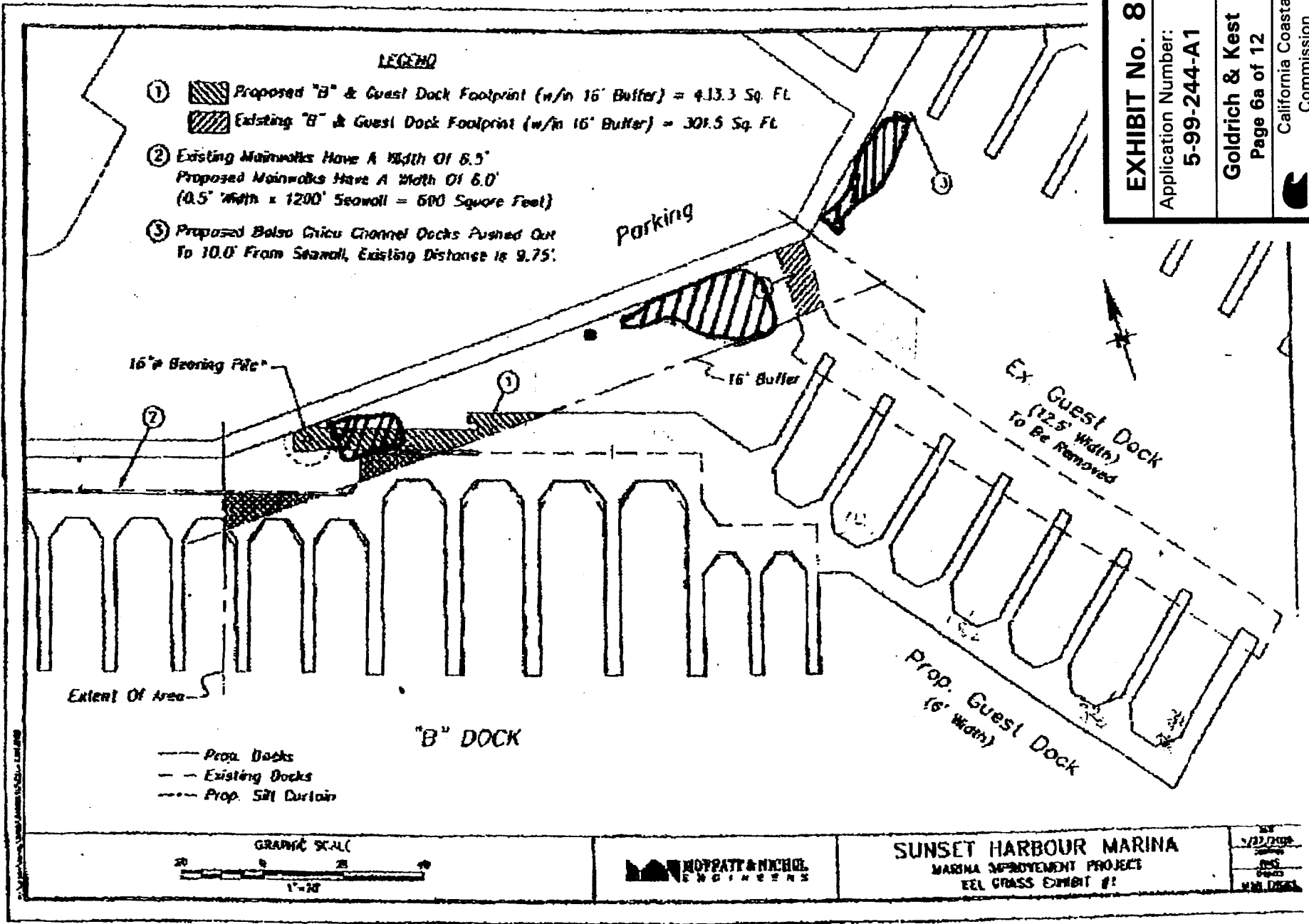
As described by Rick Ware in the Eelgrass (*Zostera marina*) Pre-construction Habitat Assessment and Mitigation Plan, page 3, Section 2.2, Distribution of Eelgrass in the Project Area – Survey Results, “**No killer algae (*Caulerpa taxifolia*) was observed during the survey.**”

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4  
Figure 4 Guest Dock Existing and Proposed Configuration (and) Location of Eelgrass (*Zostera marina*) in the Project Area

### 3. Slip Distribution

*Coastal Development Permit 5-99-244 approved the demolition of an existing 255-slip marina and construction of a 240-slip marina. The proposed amendment would change the distribution of boat slip sizes within the 240-slip marina as compared with the distribution previously approved by the Commission. Section 30224 of the Coastal Act encourages increasing the quantity of boat slips within existing harbors. In addition, Section 30213 of the Coastal Act encourages the provision of lower cost visitor serving recreational facilities within the coastal zone. The proposed project would replace smaller boat slips with larger boat slips. The Commission has interpreted such changes in boat slip distribution as having a potential adverse impact upon lower cost public access opportunities. In order to analyze whether the proposed project is consistent with Sections 30244 and 30213 of the Coastal Act, it is necessary to understand whether the proposed change in slip distribution would individually or cumulatively have any adverse impact upon the availability of lower costing, smaller boat slips in the region. Therefore, please provide an analysis which describes for the project site and for the other marinas in the region including Huntington Harbor, Orange County and the greater southern California area which are open to the general public, the quantity of publicly available boat slips, the distribution of slip sizes in the region, the rates of vacancy and demand for the various boat slip sizes, and slip pricing. Please be sure the analysis describes trends in the availability of demand upon boat slips in the region.*

#### Slip Distribution

The previously approved project, CDP 5-99-244, was based on a conceptual plan for the marina, with tables describing the proposed slip distribution for the marina (please see Figure 1). The proposed project includes removal and replacement of all existing docks adjacent to the Huntington Harbour Main Channel and launch ramp access channel and a reconfiguration of the docks in the Bolsa Chica Channel to accommodate larger boats. This will result in an overall decrease in the number of slips in the marina from an existing 255 slips to a proposed 240 slips, a decrease in overall slip count of 15 slips. The overall slip distribution previously approved for the marina is shown in Table 1, and the proposed amended slip distribution is shown in Table 2.

The slip configuration for the slips along the main and launch ramp access channels will not change from the configuration as it presently exists in the water. The three Harbor Patrol slips will not be incorporated in the main channel slip configuration, as previously approved under CDP 5-99-244. This will allow five of the existing slips on "A" Dock to be replaced in-kind, since the three Harbor Patrol slips would have required a slip width on either side of their docks for security reasons. As a result, two additional 35-foot slips are realized in the Main Channel Slip Distribution, resulting in a subtotal of 81 slips.

In the Bolsa Chica Channel Basin, currently the only area of the marina where docks are proposed to be reconfigured, slips will range from 19 to 50 feet. The average slip length for this basin will be increased from 28.5 feet (existing) to 32.3 feet (proposed). The existing basin slip count of 176 slips will change to the proposed basin count of 159 slips, a loss of 17

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slips. The total linear feet of usable dock in the basin will increase from the existing 5,012 linear feet to 5,141 linear feet, a net increase of 86 feet (please see tables 5 and 6). These changes were also as a result of the Guest Dock and "B" Dock merging together during final design to optimize access to the Guest Dock, especially from an Americans with Disabilities Act (ADA) standpoint, and meet DB&W minimum guidelines for fairway widths within the Bolsa Chica Channel Basin. As a result, the eelgrass impacts from the two gangways in this area have been minimized to that of a single gangway, as discussed in the eelgrass survey response.

LENGTH (FT)	QUANTITY	LINEAR FEET
25	38	950
30	66	1,980
35	40	1,400
42	8	336
48	9	432
<b>TOTAL</b>	161	5,098

**AVERAGE LENGTH = 31.6 FT**

**Table 5 – Proposed Bolsa Chica Basin Slip Distribution**

LENGTH (FT)	QUANTITY	LINEAR FEET
19	2	38
21	2	42
25	24	600
26	2	52
28	8	224
30	57	1,710
31	2	62
35	37	1,295
40	5	200
42	8	336
48	9	432
50	3	150
<b>TOTAL</b>	159	5,141

**AVERAGE LENGTH = 32.3 FT**

**Table 6 – Amended Proposed Bolsa Chica Basin Slip Distribution**

The number of slips for vessels less than thirty feet in length did not change as a result of the design process. Subsequently, the availability of berthing space at low cost to the boating public increased from the previously approved CDP 5-99-244. This holds true since the cost per foot of a 28-foot slip is the same as for a 25-foot slip, due to cost bracketing.

The slip fee rate schedule for Sunset Marina as of December 6, 2001 is as follows:

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<b>23' and smaller</b>	<b>\$7.00 per foot</b>
<b>24' to 28'</b>	<b>\$8.40 per foot</b>
<b>29' to 33'</b>	<b>\$10.07 per foot</b>
<b>34' and larger</b>	<b>\$10.72 per foot</b>
<b>Dry Storage</b>	<b>\$4.35 per foot</b>

Also, the number of slips 23 feet long and smaller, which rent out at the least cost per foot, increased from zero to four under the proposed amendment. It is anticipated that both of these examples follow the tenets of Section 30213 and Section 30224, of the CCA. Please see the attached rate schedule in Appendix A for other marinas in the region.

#### **4. Construction Staging**

*Please identify all construction storage, staging, and work areas (herein 'construction staging area') and their relationship to public access and recreation facilities and sensitive habitat areas including wetlands and uplands. Please identify all work necessary to prepare construction staging areas and any impacts associated with such work. Please identify any proposed mitigation for proposed impacts. For instance, if existing parking lots will be used for construction staging, how will impacts upon parking be minimized or avoided? If undeveloped areas will be used for construction staging, please identify all biological resources present and identify associated impacts and mitigation.*

The primary storage and staging area for the construction of the new docks is located off-site at the subcontractor's yard. The partially assembled docks will then be trucked to the marina and be staged immediately adjacent to the dock master's quarters. This area consists of approximately 1,200 square feet of asphalt paving which is currently being used for dry boat storage. The displaced stored boats will be temporary re-arranged in the same area to permit staging for construction. The dock master will have staff available to assist boat owner's movement of boats during the staging periods.

There will be no staging of any equipment, materials, and etc. on any unimproved area in the marina. There will be no taking of public parking spaces, and there are no biological resources present in this area. The primary purpose of any staging at the marina is to allow for inspections of the partially constructed docks. Once inspections are received from the appropriate authorities the docks will be trucked to the launch ramp, which is within 500' of the staging area, and then towed to the dock being re-constructed.

#### **5. Public Access**

*Please identify and construction or operational phase impacts upon public access which may be caused by the proposed project. For instance, will access to any public facilities be restricted or closed during project implementation? What is the proposed construction schedule and will the project occur in phases? Will any public parking or public access points be blocked or closed either temporarily or permanently? Will any existing recreational fishing sites be closed during the project? Please identify the length of period of impact (e.g. hours of the day, days of the week, weeks of the year, etc.).*

The project has been planned so as to not disturb any public access to the marina. There will be no public restrictions to the marina during construction. The project will be phased to coincide with the restrictions

of public authorities prohibiting work in the water during designated periods. The construction will be planned so as to not leave any partially completed docks during prohibited working dates. No public access points will be closed to the public, no recreational access points will be closed or blocked, and the construction will not close any recreational sites.

## 6. **Parking**

*The plans submitted for the proposed amendment include the construction of new fire hydrants which are located adjacent to or within existing parking areas. Some of these new hydrants will require construction of an island surrounding the hydrant which could displace parking spaces. Please clarify whether the proposed project would result in any change to existing parking conditions (e.g. loss or gain of public and/or boater parking). If changes to parking would occur a parking analysis must be submitted along with a mitigation plan for impacts to parking.*

There are 303 parking spaces in the marina and there will be 240 boat slips if the amendment is approved. The required ratio of parking to boat slips is .6:1 resulting in a requirement of 144 parking spaces. The construction of new fire hydrants will result in a net loss of 3 parking spaces leaving a total of 300 public parking spaces. The loss of these spaces will have no impact

## 7. **Local Government and Other Agency Approvals**

*Please submit written evidence of local government approval of the project by having the local government (City of Seal Beach) fill out the attached 'Local Government Approval' form. In addition, please submit copies of any permits, resolutions of approval, staff reports, etc. Which may have occurred in the local approvals process.*

### **Local Government Approval**

The City of Seal Beach completed the 'Local Agency Approval Form' on September 14, 1999, attached in Appendix B. Since that time, the City has reviewed the plans during design and approved the plans in their current state pending final approval by the Coastal Commission.

*In addition, the proposed development may require approvals from other agencies such as the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), California Department of Fish and Game (CDFG), and the Regional Water Quality Control Board (RWQCB). Please submit written evidence of review and approval of the proposed project (or endorsement if no approval is required) by the CDFG, USFWS and NMFS (including and mitigation plans) and the RWQCB.*

### **Other Agency Approval**

The Regional Water Quality Control Board issued a waiver of water quality certification on August 25, 1999, attached in Appendix C. The post-dredging / pre-construction eelgrass survey undertaken on September 25, 2001, by Rick Ware of Coastal Resources Management,

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was submitted to Bob Hoffman of the National Marine Fisheries Service. Mr. Hoffman has been working on a continual basis with us and the County of Orange on issues relating to eelgrass disturbance and mitigation, and will be closely involved in the long-term monitoring program for said mitigation. Upon contacting him, he stated that he would contact your office directly to provide an updated status of the mitigation coordination established for the project. The California Department of Fish & Game responded to the proposed amendment to permit with a letter of concurrence, dated January 4, 2002, attached in Appendix D. The U.S. Fish & Wildlife Service was also notified of modifications to the original CDP, and has indicated that they will most likely respond by Monday, January 14, 2002, also concurring with the proposed modifications. The contact person at the U.S.F&W.S. is Jonathan Snyder (760) 431-9440, extension 307.

*In addition, since the project does involve a navigable waterway, please submit evidence of any necessary reviews or approvals of the project from the U.S. Coast Guard, Department of Boating and Waterways, and/or other public agency responsible for the review of projects which may affect the use of navigable waterways. If an approval was previously granted by these agencies but has since lapsed, please be sure to submit evidence of a current, valid approval.*


#### **Waterway Approval**

The United States Coast Guard, Eleventh District was notified of the impact to navigable waterways from this project. Quartermaster Mike Carlson was contacted, and sent a confirmation of notice on December 18, 2000, attached in Appendix E.

*Finally, the U.S. Army Corps of Engineers is involved in the review and approval of marina replacement projects. Evidence of this agency's final approval is not a filing requirement because this agency's final approval is often contingent upon an approval from the California Coastal Commission. However, the Corps provides important technical review of the impacts associated with the project. Therefore, please submit written evidence of any reviews, comments, or approvals which may have been produced by the Corps.*

#### **U.S. Army Corps of Engineers Approval**

The U.S. Army Corps of Engineers authorized a Letter of Permission for Sunset Marina on March 9, 2000, attached in Appendix F.

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**8. Legal Ability, Co-Applicant Signatures, and Agent Authorization**

*You must demonstrate that you have the legal authority to undertake the proposed development. Therefore, please submit copies of deeds and leases which substantiate that the County and Goldrich, Kest & Grau have the legal ability to undertake the development. In addition, please identify the nature of ownership of the various parcels of land involved. For instance, please identify the names and addresses of all fee title owner (s) of the property upon which the development would occur and any lessee's/sub-lessee and lessors/sub-lessors involved. Commission staff must contact all entities which have a legal interest in the property to notify them that a coastal permit has been requested and extend an invitation to those entities to join as co-applicant. For more information, please see Section 30601.5 of the Coastal Act.*


We are enclosing as Attachment Two, a copy of the Amended and Restated Lease and Option dated December 20, 1994 between the County of Orange and Jona Goldrich, Sol Kest, and Mel Grau. We are also providing under Attachment Two, a copy of a letter dated June 15, 2001 from the County of Orange that extends the term of the Amended and Restated Lease and Option until September 15, 2003.

The County of Orange is the lessor and the owner of the property.

*Also, the signatory on the application is Jona Goldrich. However, the applicants are the County of Orange and Jona Goldrich, Sol Kest and Mel Grau. Each person/entity must sign the application. In addition, if an agent will be representing the County and/or Jona Goldrich, Sol Kest and Mel Grau, each person must authorize the agent (s) to act on their behalf. Please submit a revised amendment request form with all the required signatures and submit written authorization of any agents whom may act on behalf of the various applicants.*

We are providing under Attachment Two, copies of two separate Assignments dated September 1, 1995 that assign and transfers the interest in the lease from Mel Grau to Jona Goldrich and Sol Kest.

Please let us know if there is any other information required to process this amendment.

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Sincerely,

  
Frank D. Hickman

Director of Real Estate Development & Construction

