

CALIFORNIA COASTAL COMMISSION

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Filed: November 7, 2005
49th Day: January 5, 2006
180th Day: May 6, 2006
Staff: FSY-LB
Staff Report: March 23, 2006
Hearing Date: April 11-14, 2006
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-05-173

APPLICANT: Jona Goldrich and Sol Kest

AGENT: Blue Water Design Group, Attn: Tim Bazley

PROJECT LOCATION: 2901 W. Edinger Avenue (Sunset Harbour Marina), City of Seal Beach, County of Orange

PROJECT DESCRIPTION: The project involves expansion of the 4.50-acre boat launch parking area, which currently provides 201 boat trailer and vehicle parking spaces, located adjacent to Sunset Harbour Marina's public boat launch ramp. The expansion takes place on an adjacent undeveloped portion of the property where 2.32 acres would be added to the existing parking area to provide an additional 61-boat trailer and vehicle parking area for a total of 262 spaces. A separate, adjacent 6.13 acre area would also be constructed and operated as a boat storage facility accommodating 257 dry boat storage area. Grading will consist of 15,290 cubic yards for recompaction purposes, which will balance on site.

SUMMARY OF STAFF RECOMMENDATION:

The primary issues addressed in the staff report involve wetland protection, environmental sensitive habitat areas, water quality, and public access. The applicant proposes to expand the parking area for the Sunset Aquatic Marina located in Seal Beach adjacent to the Anaheim Bay National Wildlife Refuge. Staff is recommending **APPROVAL** of the proposed project subject to **Six (6) Special Conditions** requiring: **1)** submission of a Revised Habitat Buffering Plan; **2)** submission of a Revised Lighting Plan; **3)** adherence to Construction Best Management Practices; **4)** submission of a Final Water Quality Management Plan; **5)** submission of a Signage Program; **6)** submittal of a Final Landscaping Plan; **7)** timing of construction and public access; and **8)** submission of Revised Final Project Plans.

LOCAL APPROVALS: Environmental Impact Report (SCH No. 2003081008) and Approval in Concept from the City of Seal Beach Planning Department dated April 29, 2005

SUBSTANTIVE FILE DOCUMENTS: *Preliminary Soil Investigation Report (PL-05562-01)* prepared by Earth Systems Southern California dated April 5, 2001; Letter to Jona Goldrich and Sol Kest from Commission staff dated June 3, 2005; Letter to Commission staff from Jona

Goldrich and Sol Kest dated July 6, 2005; Letter to Jona Goldrich and Sol Kest from LSA Associates, Inc. dated July 6, 2006; Letter to Jona Goldrich and Sol Kest from Commission staff dated August 11, 2005; Letter to Commission staff from Jona Goldrich and Sol Kest dated August 22, 2005; Letter to Jona Goldrich and Sol Kest from Commission staff dated September 23, 2005; Letter to Commission staff from Blue Water Design Group dated October 7, 2005; Letter to Commission staff from Jona Goldrich and Sol Kest dated November 4, 2005; and *Sunset Aquatic Marina: Parking/Demand Study For Launch Ramp Parking And Dry Storage* prepared by Dornbusch Associates dated November 4, 2005.

LIST OF EXHIBITS:

1. Vicinity Map/Aerial Map
2. Site Plan
3. Area Boundaries
4. Berm Placement Plan
5. Grading Plan
6. Storm Water Pollution Prevention Plan
7. Drainage Plan/Water Quality Management Plan (WQMP)
8. Landscape Plan

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

STAFF RECOMMENDATION:

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

MOTION:

“I move that the Commission approve Coastal Development Permit No. 5-05-173 pursuant to the staff recommendation.”

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

The Commission hereby **GRANTS** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned 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 complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. HABITAT BUFFERING PLAN

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall prepare and submit two (2) full size copies of a Revised Habitat Buffering Plan to the Executive Director for review and approval. The Revised Habitat Buffering Plan shall establish a minimum 100-foot buffer (measured horizontally) between wetlands and any proposed development. Except for planting and removal of vegetation for habitat restoration purposes, there shall be no development, including, but not limited to, any grading for berms, landscaping, fences, or construction of water quality BMPs in the wetland buffers. Outside of the 100-foot wetland buffer, berms designed to minimize the intrusion of light, glare and noise upon the wetland habitat from vehicles and other activity shall be constructed between the wetlands and the proposed parking and dry boat storage areas. Vegetation planted (solely for habitat restoration purposes) on these berms shall consist of solely native plant species appropriate to habitat type.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. **LIGHTING PLAN**

- A. All lighting within the proposed development shall be directed and shielded so that light is directed away from wetlands and other habitat areas. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate to the intended use of the lighting. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and approval of the Executive Director, a Revised Lighting Plan to protect the wetlands and other habitat areas from light generated by the project. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist, which documents that the lighting plan is effective at preventing lighting impacts upon adjacent wetlands and other sensitive habitat.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. **CONSTRUCTION BEST MANAGEMENT PRACTICES**

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

- A. No materials, equipment, debris, or waste shall be placed or stored where it may be subject to tidal and wave erosion and dispersion.
- B. Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from vehicles and trailers into coastal waters. The applicant and applicant's contractors shall have adequate equipment available to contain any such spill immediately.
- C. The applicant shall provide trash and recycling receptacles within and around the parking lot. The trash and recycling receptacles shall be designed so that the contents remain within the receptacles and do not leak any fluids. The trash and recycling receptacles shall be emptied on a periodic basis or as necessary to ensure that they do not overflow.
- D. The applicant shall collect all debris and trash in and around the parking lot, at a minimum, at the end of each day and this debris and trash shall be disposed of in the proper trash and recycling receptacles.
- E. The applicant shall maintain the functionality of the sandbags and oil absorbent material for minimizing polluted runoff.

4. WATER QUALITY MANAGEMENT PLAN (WQMP)

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The final plan shall demonstrate substantial conformance with the Drainage Plan/Water Quality Plan prepared by Blue Water Design Group dated July 7, 2005, and amendments thereto, except where modified by any conditions included within this Coastal Development Permit. In addition to the specifications above, the plan shall conform with the following requirements:

1. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site;
2. To the extent practicable, maintain post-development peak runoff rate and average volume that are similar to pre-development levels.
3. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible;
4. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized;
5. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;
6. A stormwater runoff and marina water quality education program should be implemented as part of the Marina operations, which shall include posting educational signage in accordance with Special Condition No. 5 of this Coastal Development Permit, and providing outreach services to marina tenants and visitors via brochures and informative training and outreach communication;
7. The boat wash down area shall be utilized for rinsing purposes only. No detergents or cleaning components containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used. All drainage/wastewater from boat washing activity within the boat wash area shall be collected and directed to the sanitary sewer system. The boat wash facility shall be fitted with a berm and bypass to prevent stormwater from entering the boat wash drainage system;
8. Proper disposal containers for oil absorbent materials for bilge water should be provided;

9. The applicant shall not spray or wash down the parking lot areas;
 10. The applicant shall regularly vacuum sweep all paved parking lot areas at a minimum on a weekly basis, in order to prevent dispersal of pollutants that might collect on those surfaces;
 11. Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. The system of BMPs shall be designed to 1) trap sediment, particulates and other solids including trash, debris and floatables, and 2) remove or mitigate vehicular contaminants (oil, grease, automotive fluids, heavy metals, hydrocarbons) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner. Vegetated landscaped areas or features outside of areas specified in Special Condition No. 1 shall only consist of native non-invasive drought tolerant plant species;
 12. Selected BMPs shall be designed, manufactured and installed/implemented and maintained in accordance with the specifications and guidelines contained in the California Stormwater Quality Association Best Management Practice Manuals, except as modified by any condition herein;
 13. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
 14. All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season;
 15. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner; and
 16. It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.
- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a

Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. INFORMATIONAL SIGNAGE PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, an Informational Signage Plan for the Marina, which includes the dimensions, wording, and layout of each sign in accordance with the following specifications:

1. Locate signs in the dry storage and parking areas which inform the public:
a) that it is important to properly dispose of trash in the provided containers for the purpose of protecting adjacent habitat, b) that any maintenance of vehicles and boats is prohibited in the parking lot. Boat rinsing is permitted at the designated boat wash area only, and c) that overnight parking is prohibited in the parking lot;
2. Curb inlets should be stenciled to indicate that they drain to Huntington Harbor; and
3. The boat wash area should have specific instructions prohibiting the use of detergents, degreasers or other solvents or chemicals, and indicate the area is for rinsing only.

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 plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. LANDSCAPE PLANS

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of Final Landscaping Plans for those areas not covered by Special Condition No. 1 (e.g. berms and vegetated swales), prepared by an appropriately licensed professional which demonstrates the following:

1. The plan shall demonstrate that:
 - (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
 - (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan;
 - (c) All landscaping shall consist of native drought tolerant non-invasive plant species. No plant species listed as problematic

and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any existing landscaping that doesn't meet the above requirements shall be removed.

2. The plan shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
- (b) a schedule for installation of plants.

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

7. TIMING OF CONSTRUCTION AND PUBLIC ACCESS

By acceptance of this permit, the applicant agrees to minimize adverse impacts to public use of the Sunset Aquatic Park resulting from construction activities as required below:

- A.** No construction shall occur during the "peak" coastal recreation season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. The applicant shall schedule the project and make allowances for project suspension such that complete restoration of public access to the facilities at Sunset Aquatic Park occurs during the "peak" coastal recreation season;
- B.** Public access to the boat launch ramp will remain available at all times when the Sunset Aquatic Park is open;
- C.** Construction shall be limited to the hours of 7:00 am to 5:00 pm Monday through Friday, excluding holidays. No work shall occur on weekends or holidays. The bridge shall be opened for public use before 7:00 am and after 5:00 pm each weekday, and remain open on weekends and holidays;
- D.** Signage shall be displayed informing the public of the closure hours and alternative waterway access and provide contact information for urgent/emergency access to Sunset Aquatic Park during closure periods.

8. **REVISED FINAL PROJECT PLANS**

For any plan not specifically mentioned in the special conditions above but which would need to be modified to be consistent with the conditions of this permit, **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and approval of the Executive Director, Revised Final Plans, which conform with the requirements of the special conditions of this permit and indicate the final layout of all development including but not limited to grading, the boat launch parking and dry boat storage areas, utilities, water quality management system, signs, and landscaping. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. **FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

A. **PROJECT LOCATION, DESCRIPTION AND PREVIOUS COMMISSION ACTION**

1. **Project Location**

The project site is located within the Sunset Aquatic Park Marina which is a public visitor serving marine recreational facility located at 2901 Edinger Avenue in the City of Seal Beach, Orange County (Exhibit #1). 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. Due to its bay fronting location, this facility is also between the first public road and the sea (Huntington Harbour).

Sunset Aquatic Park 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 parking 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 Goldrich and Kest Industries (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.

2. **Project Description**

The proposed project involves expansion of the 4.50-acre boat launch parking area, which currently provides 201 boat trailer and vehicle parking spaces (170 boat trailer spaces + 31 parking spaces = 201), located adjacent to Sunset Harbour Marina's public boat launch ramp. The expansion takes place on an adjacent undeveloped portion of the property where 2.32 acres would be added to the existing parking area to provide an additional 61-boat trailer and vehicle parking area for a total of 262 spaces (201 + 61 = 262). The applicant states that the new parking space area will be paved and the applicant also proposes to repave the existing parking area. In addition, a separate,

adjacent 6.13 acre area would also be constructed and operated as a boat storage facility accommodating 257 dry boat storage spaces. On May 6, 2003, the Commission approved Coastal Development Permit No. 5-03-089 for the after-the-fact approval to place 4,500 cubic yards of gravel over an approximately three (3) acre area of filled tidelands to be used as an interim overflow parking area to serve the existing adjacent public boat launch ramp. This three (3) acre area comprises a portion of the 6.13 acre area that is being proposed to become a permanent boat storage area. Also, the applicant states that the boat storage area will be comprised of gravel-covered parking spaces with asphalt paved drive aisles. In addition, a new boat wash consisting of two (2) 15' asphalt lanes will be constructed. Furthermore, grading will consist of 15,290 cubic yards for recompaction purposes, which will balance on site (Exhibits #2-8).

Several small, isolated wetland areas that formed upon tidelands fill are present along the northern, eastern and western perimeter of the proposed parking areas. Further beyond these isolated wetlands are the tidal wetlands complex within the Anaheim Bay National Wildlife Refuge. The applicant purports to propose a 100-foot buffer between the developed areas and the adjacent wetlands. However, those same plans depict graded berms and water quality management features within the proposed buffer area. Except for habitat restoration, wetland buffers generally don't contain development within them. Thus, the proposed buffer is not genuinely 100-feet wide.

Due to its' location near habitat areas, the applicant has proposed elements to protect water quality. In order to prevent any adverse impacts to water quality, the applicant is proposing the following measures:

- 1) The boat storage area will be comprised of gravel-covered parking spaces with asphalt paved drive aisles. The gravel-covered area will aid to filtrate the stormwater and reduce flows discharging from the area.
- 2) A vegetated swale is proposed in Watershed 1 to treat runoff from the gravel boat storage area as well as a portion of the expanded parking area, targeting sediments, nutrients, metals, and pathogens. The bioswale will also act as a buffer between the project site and the adjacent wetlands areas. This BMP will be sized in accordance with the DAMP requirements.
- 3) Three (3) fossil filters are proposed in the storm drain system to treat runoff from the boat storage area and parking lot and remove hydrocarbons.
- 4) An Aqua Guard filter is proposed in the storm drain system to treat runoff from the new boat wash area (consisting of two (2) 15' asphalt lanes), which is designed to remove metals, bacteria, and hydrocarbons. In addition, the boat wash water will be directed to the sanitary sewer system. This BMP will be sized in accordance with the DAMP requirements.
- 5) A trench drain filter with a fossil filter Insert will be installed along the entrance to the boat launch area to capture runoff from the existing and expanded parking area.

- 6) A Continuous Deflective Separation (CDS) unit is proposed downstream of the Fossil Filters and Aqua Guard filter to treat runoff from the parking area and expanded parking area before discharge into the harbor. The BMP will be sized in accordance with the DAMP requirements and is designed to remove trash, debris, and suspended solids.

3. Prior Commission Action at Subject Site

- (a) Coastal Development Permit No. P-80-7042

On September 22, 1980, the California Coastal Commission, South Coast Regional Commission approved coastal development permit P-80-7042 for the addition of 49 boat slips to Sunset Aquatic Park. No Special Conditions were imposed.

- (b) Coastal Development Permit No. 5-82-430

On March 23, 1983, the California Coastal Commission approved the deposition of 50,000 cubic yards of material dredged from Huntington Harbor on an existing disposal site at Sunset Aquatic Park. The Commission imposed four (4) Special Conditions which restricted the location of dredged spoil disposal, required the applicant to utilize all suitable dredged material for beach replenishment, informed the applicant regarding any assertions of public trust rights, and required the applicant to obtain approval from the State Lands Commission.

- (c) Coastal Development Permit No. 5-87-074

On April 7, 1987, the Executive Director issued Coastal Development Permit Waiver No. 5-87-074 for the demolition of one dock and the construction of three docks – one for Harbor Patrol boats and two public docks. The waiver was reported to the Commission at the April 21-24, 1987 meeting.

- (d) Coastal Development Permit No. 5-87-444 and No. 5-87-444-A1

On July 9, 1987, the Commission approved Coastal Development Permit No. 5-87-444 for maintenance dredging in the main channel, Sunset Aquatic Park Access Channel, Sunset Channel of Sunset Harbor and Huntington Harbor. The Commission imposed a Special Condition requiring the applicant to submit a final eelgrass mitigation plan including details of transplanting, timing, and performance standards. The permit was issued on October 2, 1987. In addition, permit amendment No. 5-87-444-A1 was issued on October 16, 1989, to authorize 10,000 additional square feet of dredging between the pierhead line of Sunset Aquatic Park and the bulkhead line of Portofino Coves.

- (e) Coastal Development Permit No. 5-92-067-G

On April 3, 1992, the Executive Director issued Emergency Coastal Development Permit No. 5-92-067-G to repair the footings of the Sunset Aquatic Park bridge

damaged by heavy winter rains and flooding. The emergency permit was reported to the Commission on June 10, 1992.

(f) Coastal Development Permit No. 5-92-067

On June 10, 1992, application No. 5-92-067 was submitted as the follow-up regular Coastal Development Permit for Emergency Coastal Development Permit No. 5-92-067-G. This application was withdrawn on March 1, 1993 in order for the applicant to refine and reconsider mitigation options.

(g) Coastal Development Permit No. 5-93-110

On March 22, 1993, application No. 5-93-110 was submitted as the follow-up regular Coastal Development Permit for Emergency Coastal Development Permit 5-92-067-G. On July 15, 1993, the California Coastal Commission approved Coastal Development Permit 5-93-110 to repair the west end of the Sunset Aquatic Park Bridge including removing and replacing concrete deadman, timber abutment, two pier trusses and the road surface. In addition 90 tons of riprap covering 108 square feet of the channel bank was authorized. The Commission imposed a Special Condition requiring the applicant to verify mitigation credits required to mitigate the loss of eelgrass. Based upon the Commissions records the Notice of Intent to Issue Permit was sent July 21, 1993, however, the permit was not issued and has therefore lapsed.

(h) Coastal Development Permit No. 5-97-231

On December 10, 1997, the Commission approved Coastal Development Permit No. 5-97-231 and issued consistency determination CC-137-97 for maintenance dredging of up to 106,400 cubic yards of material and offshore disposal at disposal site LA-2. In addition, the proposed project included removal of 0.181 acres of eelgrass and transplanting of 0.217 acres of eelgrass. Several Special Conditions were imposed regarding eelgrass mitigation, water quality, navigation, and the timing of construction.

(i) Coastal Development Permit No. 5-99-244

On October 15, 1999, the Commission approved Coastal Development Permit No. 5-99-244 for demolition of an existing 255-slip marina and construction of a 237-slip marina in a different configuration. This development included the removal and replacement of piers, ramps, pilings, and dock floats. No dredging was proposed. In addition, re-surfacing of the existing parking areas and implementation of non-structural, aesthetic improvements to existing restroom buildings and the administrative building were proposed. Several Special Conditions were imposed regarding eelgrass mitigation, construction responsibilities and debris removal and disposal, U.S. Army Corp of Engineers Approval, legal interest, timing of project, future development, and water quality.

(j) Coastal Development Permit No. 5-99-244-A1

On April 10, 2002, the Commission approved an Amendment to Coastal Development Permit No. 5-99-244 to change the distribution of the previously approved marina to include 100s slip that are 18 to 30 feet in length; 114 that are between 31 to 40 feet in length and 26 slips that are 41 to 50 feet in length. Several Special Conditions were imposed regarding prior conditions, Caulerpa surveys, construction responsibilities and debris removal and disposal, water quality and revised plans.

(k) Coastal Development Permit No. 5-03-089

On May 6, 2003, the Commission approved Coastal Development Permit No. 5-03-0894 for the after the fact approval for removal of approximately 1.5 acres of ruderal goldenbush scrub vegetation and placing 4,500 cubic yards of gravel over approximately three (3) acres of filled tidelands. The applicant requested use of the 3-acre gravel area for 146 overflow parking spaces to serve the existing adjacent public boat launch ramp. The applicant also requested this parking use as an interim use for up to eighteen months pending the submission and approval of a final plan for the area by the Commission. The proposed project also included installation of structural best management practices (BMPs) to minimize adverse water quality impacts to coastal waters due to use of the area for parking. These structural BMPs included partially encircling the 3-acre gravel area with sand bags as well as placing oil absorbent material around the perimeter to intercept and filter any water that may runoff the parking area. The applicant also proposed to place trash receptacles throughout the project area, and to regularly patrol the area to ensure that debris is picked up and properly disposed. Several Special Conditions were imposed regarding interim use, a signage plan, structural BMP monitoring and reporting, post-construction responsibilities and debris removal and condition compliance.

(l) Coastal Development Permit No. 5-05-397

On February 8, 2006, the Commission approved De-Minimus Waiver No. 5-05-397 for removal of an existing 800 square foot, one-story, Orange County Sheriff Department, Sunset Harbor Patrol trailer with a 400 square foot covered patio and replacement with a new, 15'-6" above finished grade, 1,440 square foot trailer with a 600 square foot covered patio. Grading consisted of 5 cubic yards of cut and 15 cubic yards of import for recompaction purposes. Drainage from the roof and surface water was directed to permeable areas before entering the main storm drain system.

(m) Coastal Development Permit No. 5-05-428

On March 7, 2006, the Commission approved Coastal Development Permit No. 5-05-428 for bridge repairs consisting of removal and replacement of 30 ft. wide x 300 ft. long area of existing asphalt-topped corrugated metal decking and pile cap reinforcement with intermittent bridge closure. Several Special Conditions were imposed regarding construction responsibilities and debris removal and

disposal, staging area for construction, and timing of construction and public access.

B. ENVIRONMENTALLY SENSITIVE HABITAT AREA (ESHA)

The project site is immediately adjacent to the Anaheim Bay National Wildlife Refuge (Exhibit #1). Additionally, the project site and the immediate vicinity are located on dredge spoils, which have, in certain locations, retained wetland values. 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 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *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.*

Section 30240 requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. Section 30240 also requires that 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 the proposed parking areas would be sited and designed to prevent impacts that would significantly degrade adjacent areas, the Environmental Impact Report (State Clearing House No. 2003081008) analyzed the project site based on the *Delineation of Wetlands and Jurisdictional Waters Subject to U.S. Army Corps of Engineers and California Coastal Commission Regulatory Authority* prepared by LSA Associates, Inc. dated January 31, 2003 (2nd Revision). This study concluded that the project as proposed will not result in the loss of any areas identified as potential jurisdictional wetlands, as development of the project site will avoid those areas. All of the potential jurisdictional wetlands will be preserved in place. The Commission's staff biologist has reviewed the project and agrees with the study's conclusions relative to biological impacts.

Buffers

In addition to protecting the ESHA itself, Section 30240 of the Coastal Act requires that development adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas. Buffers and development setbacks protect biological productivity by providing the horizontal spatial separation necessary to preserve habitat values and transitional terrestrial habitat area. Furthermore, buffers may sometimes allow limited human use such as low-impact recreation, and minor development such as trails, fences and similar recreational appurtenances when it will not significantly affect resource values. Buffer areas are not in

themselves a part of the environmentally sensitive habitat area to be protected. Spatial separation minimizes the adverse effects of human use and urban development on wildlife habitat value through physical partitioning. The greater the spatial separation, the greater the protection afforded the biological values that are at risk. Buffers may also provide ecological functions essential for species in the ESHA. Typically, the Commission has required a minimum of 100-foot buffer from wetlands.

In order to assist in minimizing potential long term, direct and indirect disturbances to wetland vegetation and wildlife, buffers will be used (Exhibit #2). With a few exceptions, the applicant has proposed the establishment of 100-foot wide buffers between the pocket wetlands and proposed development. However, in certain areas the applicant is proposing to construct berms within the outer perimeter of the buffer. The berms are designed to create barriers to light cast from vehicle headlights upon the adjacent wetlands. The berms would be 5-feet high and be located, within the buffer, at the end of the drive aisles where vehicle headlights point into the marsh areas. The applicant has stated that because the drive aisles are primarily parallel to the marsh boundary line, there are only these few locations where the vehicle headlights will be headed toward the marsh area. The berms have a crest elevation of 5-feet above the adjacent grade with 1(H):2(V) side slopes and will be planted with native plant materials. Bushes and shrubs are not proposed for the tops of the berms due to uses relating to irrigation and erosion potential. Furthermore, the applicant has stated that the entire area will be enclosed at the foot of the berm with a security fence to prevent any vehicular access to these potential jurisdictional wetland areas.

While the Commission recognizes that the berms and fence are intended to protect the adjacent wetlands, these berms and fence will be located within the typically required 100-foot buffer. Grading and other activity would be necessary to construct these elements within the buffer. One purpose of the buffer is to shield the wetlands from the effects of these activities. Thus, the 100-foot buffer should be clear of berms, fences and the grading and other development necessary to construct them.. Thus, the Commission imposes **Special Condition No. 1**, which requires the applicant to submit a Revised Habitat Buffering Plan which requires that the berms, fencing and any other development be moved such that they are located 100-feet or more from the wetlands. The Commission finds that the berms are necessary to protect the wetlands from light and noise. Thus, the special condition requires the applicant to continue to incorporate the buffers, but to also move them out of the 100-foot buffer. In addition, the condition requires that any proposed landscaping on these berms shall only consist of solely native plant species appropriate to habitat type. Also, the applicant is proposing a water quality feature, a vegetated swale, located within the buffer area as well. This swale would also have to be moved out of the 100-foot buffer area. This vegetated swale will be discussed further in the staff report.

Lighting

An additional way to minimize adverse impacts to sensitive habitat areas is by controlling light on the project site. The proposed project would create a new source of light and disturb wildlife if not properly controlled. There should be additional buffering elements to address light cast from vehicles parking in the parking area and lighting for the parking areas. This can be addressed by controlling the direction of light and minimizing the amount and intensity of lighting. Controlling the direction of light on site from light sources stationary on site will aid in avoiding impacts to the habitat. The applicant has submitted a Lighting Plan (Exhibit #4). The plan shows that the applicant intends to use pedestal lights approximately 3-feet high within the new parking areas, as well as, approximately 20-foot high low pole lights within the parking area

and along the edges of the parking areas. In addition, the plan states that the pole lights will be operated by motion detection. Therefore, only when motion has been detected will the pole lights turn on, otherwise the lights will remain off to minimize any impacts a constant lighting source can present. The applicant's submitted lighting attempts to minimize adverse impacts due to lighting, but additional elements should be required. Such as use of low intensity lighting, directing light toward the ground and away from sensitive biological habitat (e.g. using light shields and directional lenses, as appropriate), minimizing the amount of lighting required and a biological analysis of the lighting impacts upon the adjacent habitat area should be done. Therefore, in order to minimize the potential for light spillage and glare, **Special Condition No. 2**, has been imposed, which requires submittal of a Revised Lighting Plan. The lighting plan should show that low intensity lighting is being used, that light is being directed toward the ground and away from sensitive biological habitat, and that the minimal amount of light is being used on site. Also, a biological analysis of the lighting impacts upon the adjacent habitat area should be completed.

Construction Staging Area

Another additional way to minimize adverse impacts to these adjacent sensitive habitat areas is by locating construction staging areas away from the habitat areas. The applicant has proposed that the construction staging area be located off the project site at an inland location that serves as a portion of an existing parking lot (Exhibit #3). Thus, protecting the wetlands from additional potential adverse impacts.

Therefore, as conditioned, the Commission finds the project consistent with the resource protection policies of Section 30240 of the Coastal Act.

C. WATER QUALITY

Though the project promotes coastal access and recreation, the proposed project is located adjacent to the coastal waters of Anaheim Bay and Huntington Harbour (Exhibit #1). If the parking lot and boat storage area is not properly designed and operated to minimize the adverse effects of use of the area as a parking lot and boat storage area, pollutants could be transported into coastal waters thereby contributing to a decline in coastal water quality.

Both Anaheim Bay and Huntington Harbour have been designated as "impaired" water bodies pursuant to the requirements of the Federal Clean Water Act 303(d) list. The designation as "*impaired*" means that water quality within the water body does not meet, at least one of the established, State water quality standards and/or that it does not meet the Federal minimum 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 cites 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 uncertified areas, such as Seal Beach are 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 parking lot and boat storage area will be located adjacent to the water. The operation of the parking lot and boat storage area has the potential to adversely impact the 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 are 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 located 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 deal with possible adverse impacts to water quality during construction, the applicant has submitted a *Storm Water Pollution Prevention Plan* received July 12, 2005 (Exhibit #6). The plan shows that sandbags as tall as 3 bags high will be placed at locations adjacent to the wetlands to prevent any construction related impacts to biological resources. In

addition, oil absorbent pads will be placed along with the sand bags to absorb any potential oil before it goes off site. While these actions will assist in preventing any construction based impacts, the Commission is imposing **Special Condition No. 3**, which outlines additional construction-related requirements to prevent adverse impacts to marine resources from construction such as: requiring the applicant to provide trash and recycling receptacles within and around the parking lot, which are designed so the contents remain within the receptacles and do not leak any fluids and requiring the applicant to collect all debris and trash in and around the parking lot, at a minimum, at the end of each day and this debris and trash shall be disposed of in the proper trash and recycling receptacles.

2. Post Construction Impacts to Water Quality

The proposed development will result in urban runoff entering Anaheim Bay. Pollutants such as sediments or toxic substances such as grease, motor oil, heavy metals, hydrocarbons, pesticides and fertilizers are often contained within urban runoff entering the Bay. In this case, the site drains new parking areas and landscaped areas. Therefore, the primary post-construction water quality concerns associated with the proposed project include sediments, trash and debris, grease, motor oil, heavy metals, hydrocarbons, pesticides and fertilizer.

The proposed development would result in the discharge of storm water into the Bay. As such, the amount of pollutants carried through the system would increase proportionally. The existing asphalt paved parking area consists of 4.31 acres, while the expanded parking area consists of 1.77 acres and the paved drive aisles of the dry storage area consists of 1.53 acres of asphalt-paved surfaces. Thus, resulting in an increase of 3.30 acres of paved areas that has the potential to affect the water quality of the coastal waters in Seal Beach and Huntington Beach.

In order to deal with these post construction water quality impacts, the applicant has submitted a *Drainage Plan/Water Quality Management Plan* prepared by Blue Water Design Group dated July 7, 2005 (Exhibit #7). The applicant has proposed the following site design and treatment BMP's to reduce potential water quality impacts:

- 1) The boat storage area will be comprised of gravel-covered parking spaces with asphalt paved drive aisles. The gravel-covered area will aid to filtrate the stormwater and reduce flows discharging from the area.
- 2) A vegetated swale is proposed in Watershed 1 to treat runoff from the gravel boat storage area as well as a portion of the expanded parking area, targeting sediments, nutrients, metals, and pathogens. The bioswale will also act as a buffer between the project site and the adjacent wetlands areas. This BMP will be sized in accordance with the DAMP requirements.
- 3) Three (3) fossil filters are proposed in the storm drain system to treat runoff from the boat storage area and parking lot and remove hydrocarbons.
- 4) An Aqua Guard filter is proposed in the storm drain system to treat runoff from the new boat wash area (consisting of two (2) 15' asphalt lanes), which is designed to remove metals, bacteria, and hydrocarbons. In addition, the boat

wash water will be directed to the sanitary sewer system. This BMP will be sized in accordance with the DAMP requirements.

- 5) A trench drain filter with a fossil filter Insert will be installed along the entrance to the boat launch area to capture runoff from the existing and expanded parking area.
- 6) A Continuous Deflective Separation (CDS) unit is proposed downstream of the Fossil Filters and Aqua Guard filter to treat runoff from the parking area and expanded parking area before discharge into the harbor. The BMP will be sized in accordance with the DAMP requirements and is designed to remove trash, debris, and suspended solids.

The applicant has proposed a vegetated swale to assist in preventing adverse impacts to water quality. However, the location of this vegetated swale raises an issue as it is located within 100-foot buffer area from the wetlands. So just as the proposed berm has been conditioned to be located outside of the 100-foot buffer area, the vegetated berm needs to be located outside of the buffer area. Thus, the Commission imposes **Special Condition No. 1**, which requires the applicant to submit a Revised Habitat Buffering Plan showing that no vegetated swales are located within 100-feet of the wetlands.

While these measures are being proposed to deal with post construction water quality, additional measures are necessary. The applicant's proposed measures did not cover things such as sweeping of the expanded paved parking area or maintenance of the structural BMP's. Therefore, it is necessary to impose **Special Condition No. 4**, which requires that the applicant submit a Final Water Quality Management Plan (WQMP). The Water Quality Management Plan shall meet water quality goals such as use of appropriate structural and non-structural BMP's designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site and that runoff from all roofs, parking areas, maintenance areas and driveways shall be collected and directed through a system of structural BMP's and/or gravel filter strips or other vegetated or media filter devices. In addition, this Water Quality Management Plan shall incorporate measures that reduce water quality impacts resulting from the storage and parking areas, vehicle and equipment service and maintenance areas.

To further protect post construction water quality, **Special Condition No. 5**, is being imposed, which requires submission of a Signage Plan. To improve the awareness of the public on the necessity to properly dispose of trash, the Commission imposes a special condition to require that the applicant install signs to encourage the public to use the provided trash bins so that litter will not be carried by wind, rain, or improper disposal into coastal waters or adjacent wetland. The wetlands are located near the project sites. The signage plan will also indicate the location and wording of signs informing the public that maintenance of vehicles and boats is prohibited in the parking lot except for boat cleansing at the boat wash area.

The applicant has submitted a Landscape Plan (Exhibit #8). In order to verify that all landscaping for those areas not covered by Special Condition No. 1 (e.g. berms and vegetated swales), the Commission has imposed **Special Condition No. 6**, which requires the applicant to submit a Final Landscape Plan with only landscaping consisting of native drought tolerant non-invasive plant species.

In addition, **Special Condition No. 8** has been imposed, which requires submittal of Revised Final Project Plans.

Therefore, the Commission finds that, only as conditioned, is the proposed project is consistent with Sections 30230 and 30231 of the Coastal Act regarding the protection of the marine environment.

D. PUBLIC ACCESS

Section 30213 of the Coastal Act states, in pertinent part:

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

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30224 of the Coastal Act states:

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

Section 30252 of the Coastal Act states, in pertinent part:

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

Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and where feasible provided. The existing marina is a public facility and upon completion of the proposed development, the marina will remain open to the general public. The proposed development is the construction of additional dry storage and vehicle/trailer parking, an obligatory amenity for the existing public marina. Facilities that provide the public with improved opportunities to enjoy coastal recreational opportunities, such as boating, are a preferred type of development under the Coastal Act. In order to justify the need for additional boat storage and vehicle/trailer parking on site, the applicant has submitted the following: Letter to Commission staff from Blue Water Design Group dated October 7, 2005; *Sunset Aquatic Marina: Parking/Demand Study For Launch Ramp Parking And Dry Storage* prepared by Dornbusch Associates dated November 4, 2005.

The submitted information states that there is currently a paved parking lot next to the administration building that consists of 201 boat and trailer parking spaces (170 boat trailer spaces + 31 parking spaces = 201). Thus, only a minimal amount of parking spaces are currently available on site. Immediately to the north and east of the paved lot, is a large gravel

area (the location of the proposed project site), which could provide additional space for visitors to park their vehicles and trailers after using the launch ramp. This gravel area has no well-defined parking spaces, so boaters park haphazardly, often using the space inefficiently.

As of October 2005, the waiting list for dry storage at Sunset Aquatic Park stood at 61 boats and the average waiting time for a space ranged from several months to over a year. The information attributes this to the low cost storage rates (\$5 flat fee) on site and the low turnover rate on site. In addition, the waiting list for dry storage during the summer months tends to be longer, since boaters prefer to have easy access to the launch ramp during the peak season.

During the summer months, according to the information, public use of the Sunset Harbor launching facility results in the launching of approximately 700 to 800 boats a week. During special events and holidays, the marina has experienced launches of over 700 boats in a single day. On busy weekends and during special events, when the parking lot is full, some visitors park outside of the designated parking lot, in adjacent neighborhoods, on the shoulder of Edinger Road or in spaces for wet slip holders. This situation has, according to the information, caused tension between wet slip occupants and boat launch ramp users and can create safety hazards on the road leading into the marina.

Additionally, the information states that statistics suggest that boaters have a strong preference to be in very close proximity to their boats, and the majority of demand for slips, dry storage, and boat launches come from within a radius of only a few miles from the harbor. Huntington Harbor has the only launch ramp along a 20-mile stretch of coastline between Newport Harbor and Alamitos Bay, making it an important and highly desirable access point of boaters in the area.

Previously, the Commission approved and amended CDP No. 5-99-244, which approved demolition of the existing marina on site and construction of a new marina in a different configuration. The project resulted in the reduction of berthing slips available, but increased the quantity of larger boat slips. The proposed project would result in providing an area to store these smaller boats that were displaced.

In order to deal with the insufficient boat storage and vehicle/trailer parking on site, the applicant proposes to move the boats in the area that is presently being used for dry storage to the separate proposed dedicated storage lot consisting of 257 spaces. This new dry storage will be comprised of gravel-covered parking spaces with asphalt paved drive aisles and would be enclosed and landscaped. The existing paved area presently used for both parking and dry storage would be expanded to provide additional room for 61 vehicle/trailer parking spaces. Thus, there would be a total of 262 paved vehicle/trailer parking spaces for the launch ramp and, separately, 257 dry storage spaces.

Construction of the proposed may result in adverse impacts to public access of the site, such as access to the boat launch facility. In order to mitigate possible impacts to public access, the Commission has imposed **Special Condition No. 7**, which requires the construction take place during the winter months and not during the “peak” coastal recreation season and that access to the Sunset Aquatic Park be made available in the morning and evening on a daily basis, and on weekends and holidays.

Therefore, as conditioned, the Commission finds the project consistent with the public access and public recreation provisions of the Coastal Act since it promotes coastal access and recreational use.

E. LOCAL COASTAL PROGRAM

Section 30600(c) 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, which conforms with Section 30604 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.

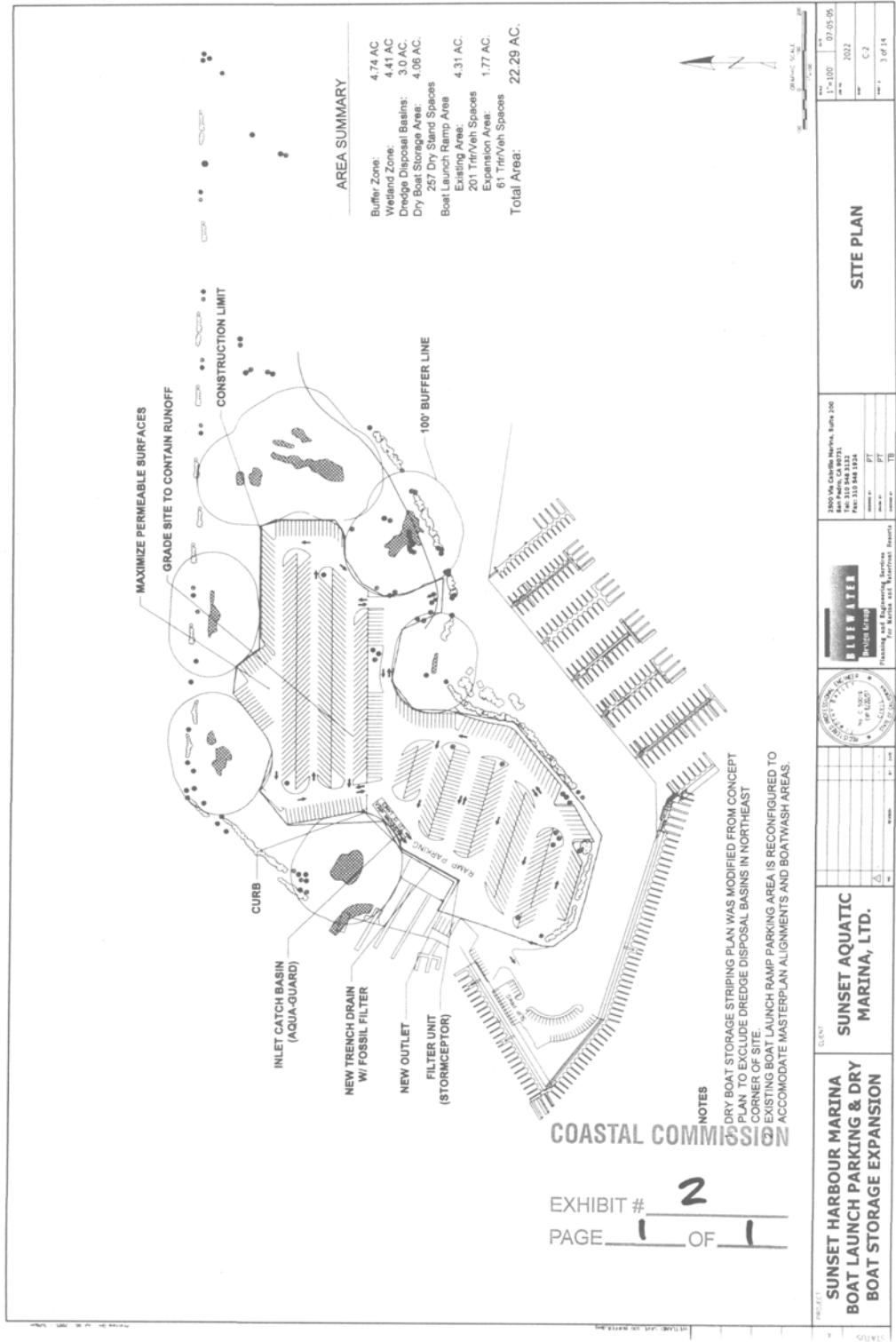
The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Executive Director finds that approval of the proposed development, as conditioned, would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

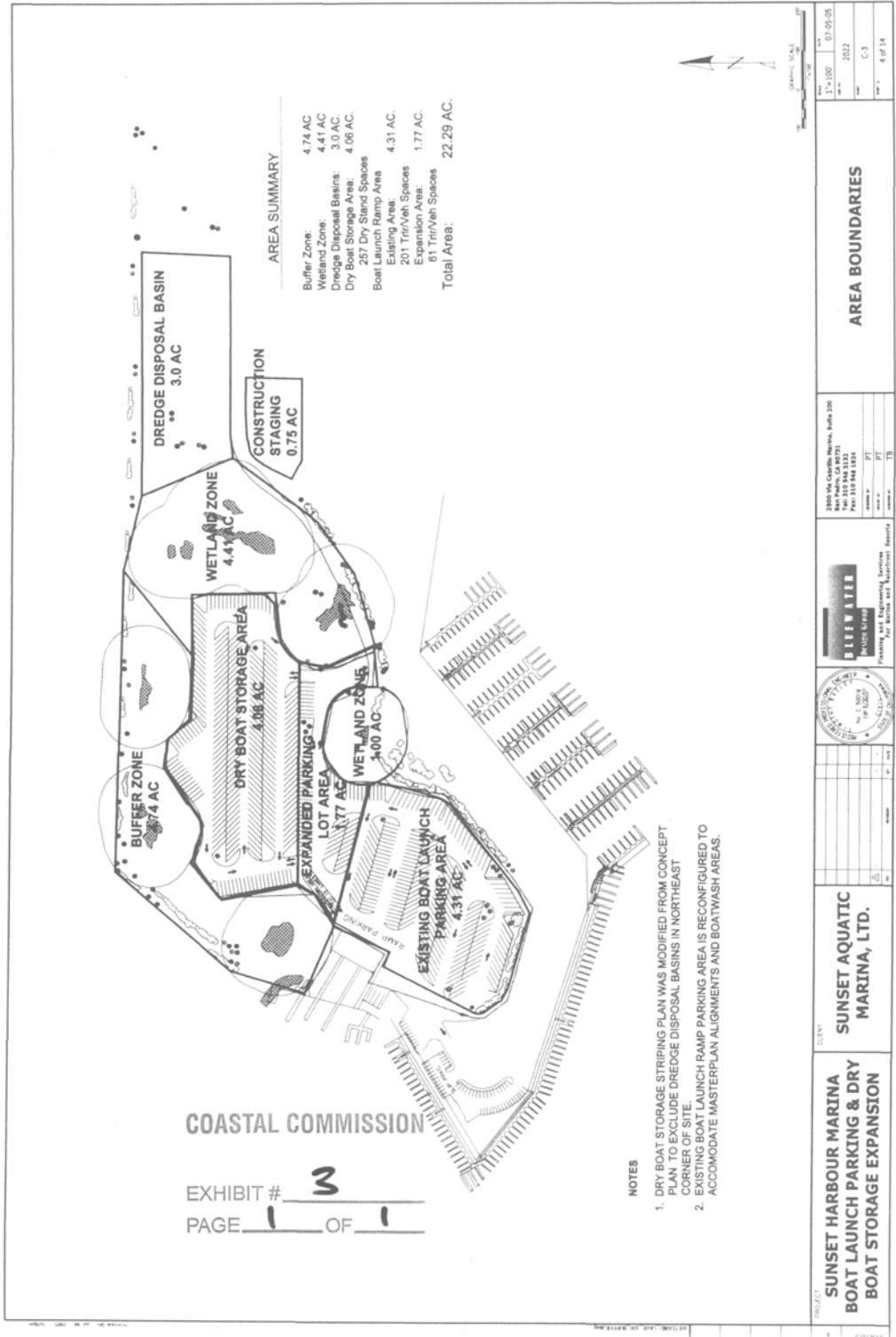
F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

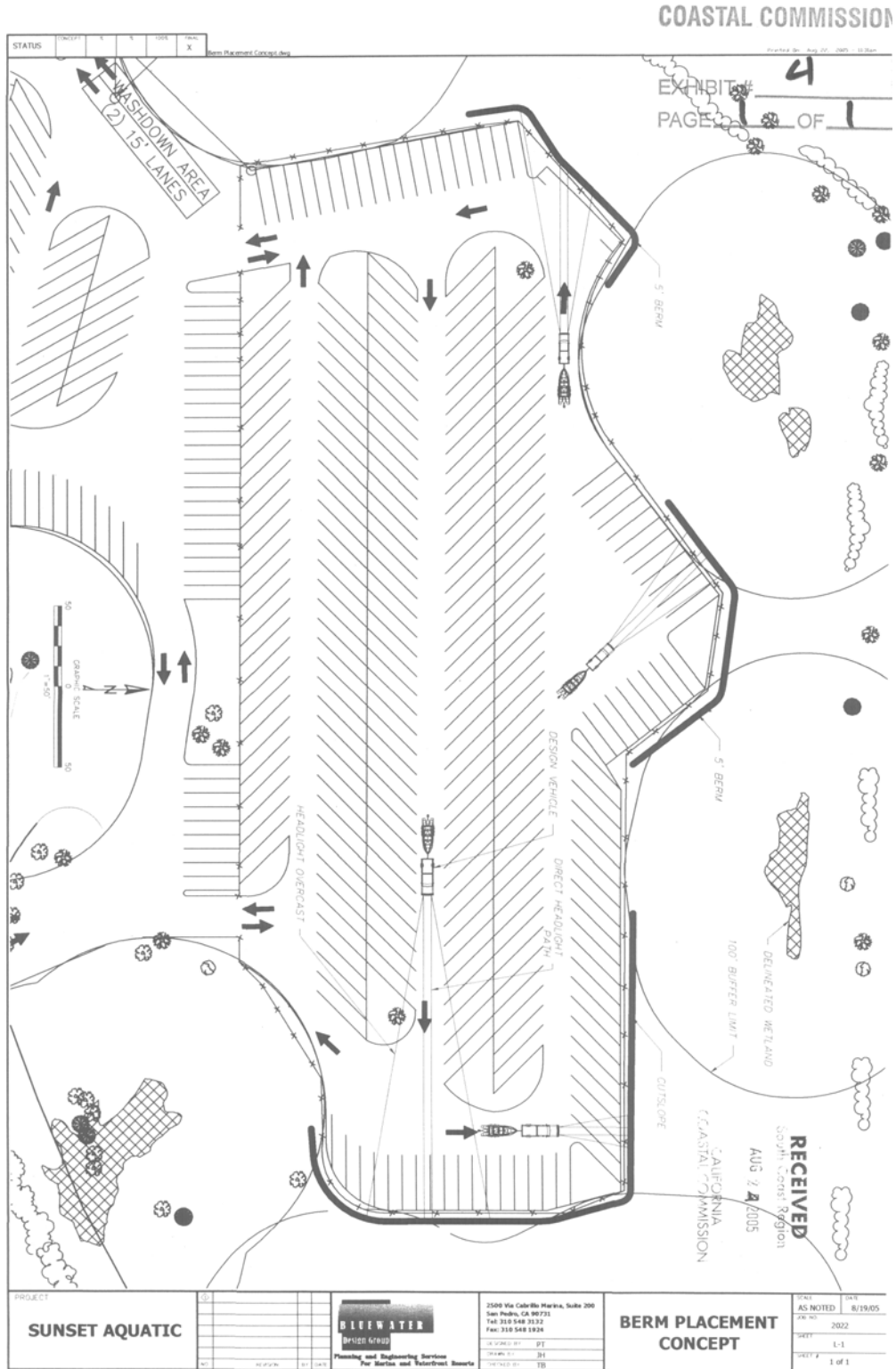
Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California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

As conditioned, the proposed project has been found consistent with the wetland protection, environmental sensitive habitat areas, water quality, and public access policies of the Coastal Act. Mitigation measures include: **1)** submission of a Revised Habitat Buffering Plan; **2)** submission of a Revised Lighting Plan; **3)** adherence to Construction Best Management Practices; **4)** submission of a Final Water Quality Management Plan; **5)** submission of a Signage Program; **6)** submittal of a Final Landscaping Plan; **7)** timing of construction and public access; and **8)** submission of Revised Final Project Plans.









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