

**CALIFORNIA COASTAL COMMISSION**

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

**TH 11b****MEMORANDUM:**

**TO:** Commissioners and Interested Parties

[Click here to go to the staff report addendum.](#)

**FROM:** John Ainsworth, Deputy Director  
Gary Timm, District Manager, South Coast District  
Al Padilla, Coastal Program Analyst

**SUBJECT:** Major Amendment Request No. 01-11 to the Los Angeles County Marina del Rey certified Local Coastal Program (for public hearing and Commission action at the October 5-7, 2011 meeting in Los Angeles).

**SUMMARY OF LUP AMENDMENT REQUEST**

On March 30, 2011, the County of Los Angeles submitted a request to amend the Marina del Rey certified Local Coastal Program (LCP). Proposed LCP Amendment No. 1-11, would adjust location of development authorized by the existing certified LCP; incorporate changes in response to the Periodic Review; and make minor grammatical, typographical and reference corrections. The proposed amendment affects both the Marina del Rey Land Use Plan and Specific Plan. Four specific projects (the "Pipeline Projects") addressed by the LCPA are as follows:

1. Parcel 10/FF—A 526-unit apartment project
2. Parcel OT--- a 114-room senior accommodation facility with 3,500 square feet of commercial.
3. Parcel 49/77—Application of the Waterfront Overlay zone to facilitate an intensification of visitor-serving uses in association with the public launch ramp and the expansion of Chace Park.
4. Parcel 52/GG—a 345 space dry stack storage facility with 30 mast-up storage spaces.

The submittal was determined to be incomplete and the County of Los Angeles was notified by letter dated April 13, 2011 that additional material was necessary. On April 21, 2011, the County submitted the requested materials. Commission staff determined that LCP Amendment Request No. 1-11 was consistent with the requirements of the Coastal Act and the California Code of Regulations as submitted on April 21, 2011. Therefore, LCP Amendment Request No. 1-11 was deemed complete pursuant to the requirements of Section 30510(b) of the Coastal Act. On July 14, 2011, the County and the Commission agreed to extend the 90-day time limit for consideration of the amendment to the total LCP for one additional year pursuant to PRC section 30517.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission, after public hearing:

1. **Deny** the Land Use Plan Amendment, as submitted, and **approve it if modified** as provided below.
2. **Deny** the Implementation Plan Amendment, as submitted, and **approve it if modified** as provided below.

**The motions to accomplish this recommendation are found on pages 9 and 10.** As proposed, the LUP portion of the LCP amendment does not meet the requirements of and is not in conformity with the Chapter 3 policies of the Coastal Act. As submitted, the IP portion of the amendment is inconsistent with and inadequate to carry out the City's certified Land Use Plan. Only if modified as recommended will the LUP amendment meet the requirements of and be in conformity with the Chapter 3 policies of the Coastal Act. Only if modified as recommended will the IP amendment be consistent with and adequate to carry out the City's certified Land Use Plan, as amended.

### **ADDITIONAL INFORMATION**

The matter is scheduled for Public Hearing and Commission Action at the meeting of November 2-4, 2011 at Oceanside, California. For further information, please contact Al Padilla or Gary Timm at the South Coast District Office of the Coastal Commission, at (562) 590-5071. Copies of the proposed amended Land Use Plan and Implementation Ordinances are available at the Commission offices.

### **STANDARD OF REVIEW:**

The standard of review for the proposed Land Use Plan amendment is its consistency with the policies of Chapter 3 of the Coastal Act. Sections 30513 and 30514(b) of the Coastal Act establish the standard of review for an amendment to an Implementation Plan. The standard of review for the proposed amendment to the Marina del Rey Specific Plan (LIP) is its conformance with and adequacy to carry out the provisions of the certified Land Use Plan for the Marina del Rey segment of the Los Angeles County Local Coastal Program.

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## **I. DESCRIPTION OF THE SUBMITTAL**

The County of Los Angeles proposes an amendment to the adopted Local Coastal Program, Marina del Rey segment (see Exhibit No. 1, Map of Marina del Rey). The amendment involves both the Land Use Plan and Implementing Program (Specific Plan) for Marina del Rey.

The amendment makes no change in the amount of development potential authorized in the existing Local Coastal Program (LCP). The amendment focuses on the following three areas:

1. Specific changes to the Land Use Plan (LUP) and the Specific Plan (SP) and required to facilitate the Pipeline Projects;
2. Changes made to the LCP to improve administration of the document; and
3. Changes made to the LCP in response to the Coastal Commission's (CCC) Periodic Review of the document.

A full matrix of these amendments can be found in Exhibit No. 3 together with a summary of the four Pipeline Projects.

A detailed summary of the major portions of the amendment is shown below:

### **Pipeline Project Changes**

- A. Parcels 10 - A proposal to demolish an existing 136 unit apartment complex, located on Marina del Rey lease parcel 10R, and to build in its place a new apartment complex with 400 units. This project, and its related entitlements, was approved by the Regional Planning Commission on March 10, 2010. The Board of Supervisors indicated its intent to approve this project on April 26, 2011.

Parcel FF – A proposal to demolish an existing 201 space public parking lot, located on Marina del Rey lease parcel FF, and to build in its place a new apartment complex with 126 units. An in lieu fee for this project is required to replace half of the public parking spots on the existing lot to a location near Chace Park. In addition, the project is also conditioned to provide funds to build a wetland park on the southern portion of Marina del Rey lease parcel 9U and to build a transient boat dock in the basin adjacent to Parcel 9U. This project, and its related entitlements, was approved by the Regional Planning Commission on March 10, 2010. The Board of Supervisors indicated its intent to approve this project on April 26, 2011.

- B. Parcel OT – A proposal to demolish an existing 186 space public parking lot, and to build in its place a 114-unit Senior Accommodations Facility on Marina del Rey lease parcel OT. This facility would also include 3,500 square feet of Visitor-Serving/Convenience Commercial space and 92 public parking spaces. The remaining 94 public parking spaces currently located onsite will be transferred

across the basin to Marina del Rey Parcel OT, where they will be closer to Marina Beach. This project was approved by the Regional Planning Commission on April 28, 2010. The Board of Supervisors indicated its intent to approve this project on April 26, 2011.

- C. Parcels 49/77 - A Request for Proposals (RFP) was released, in October of 2009, by the County of Los Angeles for a mixed use project to be built on Marina del Rey lease parcels 49 and 77. The RFP asked for proposals to convert an existing public parking lot and boat storage area into one of the three following options:
- i. Option 1 = A 135,000 square foot Visitor-Serving/Convenience Commercial center.
  - ii. Option 2 = A 116,495 square foot Visitor-Serving/Convenience Commercial center with 255 dwelling units.
  - iii. Option 3 = Either of the first two options with the addition of a 26,000 square foot Beaches and Harbors administration building.

The proposed project is conditioned to require that all of the boating amenities currently onsite will be replaced prior to construction of the project. A lessee for this project has not yet been selected.

- D. Parcel 52/GG – A proposal to demolish an existing 238 space temporary public parking lot, the Department of Beaches and Harbor's trailer complex and the Sheriff's Boatwright/Life Guard facility and replace them with a 345 space dry stack boat storage facility with an additional area for 30 mast up storage spaces. This facility would be unique in Marina del Rey in that it would project 97 feet over the water. A Draft Environmental Impact Report has been submitted for this project and is currently being reviewed by the County Department of Regional Planning.

### **Changes Made to the LCP to Improve Administration of the Document**

1. The County is proposing to collapse the Marina del Rey LCP's current 14 Development Zones (DZs) into a more manageable three Development Zones. When the DZ concept was first formulated, it was envisioned that by tying development potential to small groupings of parcels developers would be encouraged develop their parcels quickly and potential development was available on a first come first served basis. This has not been what has resulted. Development potential is now locked into areas where it cannot be used, and a Plan Amendment is required to move development from one side of the street to the other in some cases (Land Use Chapter of the LUP Pages 8-9 through 8-12 and Map 10 on Page 8-29/Specific Plan Pages 74-76).

The County commissioned a traffic study to analyze the possible impacts that the Pipeline Projects could have on Marina traffic and also to determine the optimal number of DZs that would maximize flexibility while not putting an undue strain on Marina traffic. After evaluating the traffic study, it was determined that the best optimal number of Development Zones in the Marina was three.

2. The Waterfront Overlay Zone (WOZ) is a land use category within the Marina del Rey LCP that is intended to provide additional flexibility for development of coastal-related and marine dependent land uses primarily on waterfront parcels. The Waterfront Overlay Zone has been added to the following parcels: 1, 14 (formerly FF), 49M, 49R, 49S, 52, 77, and GG (Land Use Chapter of the LUP Pages 8-20, 8-21 and 8-25/Specific Plan Pages 76, 80, 93 and 94).
3. As mentioned previously, the traffic study was also used to extensively update the Marina del Rey Circulation chapter. The County's traffic consultant, along with the Department of Public Works, devised new intersection improvements and a new fee structure that can keep the Marina intersections operating at acceptable levels on into the next decade (Circulation Chapter of the LUP Pages 11-1 through 11-39/Specific Plan Pages 32, 39, 40 and 41).

### **Changes made to the LCP in response to the Coastal Commission's Periodic Review**

The following changes were made in Response to the Coastal Commission's Periodic Review of the Marina del Rey Local Coastal Program, especially with respect to Sensitive Biological Resources, Recreational Boating and Low Cost Boating Opportunities, traffic and circulation; open space expansion, and right sizing public parking

1. A new policy was added to ensure that 50% of slips in Marina del Rey remain 38' in length or under (Recreational Boating Chapter of the LUP Page 3-2).
2. A new policy was added which requires a fee to be paid which would go toward low cost boating whenever a Marina is redeveloped with more than 100 slips that are 32' in length or longer (Recreational Boating Chapter of the LUP Page 3-8).
3. The Funnel concept removed (Recreational Boating Chapter of the LUP Page 3-9).
4. A new policy added to encourage dry storage (Recreational Boating Chapter of the LUP Page 3-10).
5. Sensitive Biological Resources (SBRs) are now identified in the Marina. The Environmentally Sensitive Habitat Areas (ESHA) chapter was removed from the LCP with the 1995 amendment. The new Sensitive Biological Resources chapter recognizes that there are resources in the Marina that warrant protection even if they

do not rise to the level of ESHA (Sensitive Biological Resources Chapter of the LUP Page 5-2).

6. New general policies have been added to protect SBRs in the Marina (Sensitive Biological Resources Chapter of the LUP Page 5-5).
7. New policies have been added regarding the Oxford Basin (Sensitive Biological Resources Chapter of the LUP Page 5-5).
8. New policies have been added to specifically protect the wetland located on the southern portion of Parcel 9U (Sensitive Biological Resources Chapter of the LUP Page 5-8).
9. A new definition has been added to define Senior Accommodations Facilities (Land Use Chapter of the LUP Page 8-15).
10. A new policy has been added which would make public parking lots a permitted use in any land use category (Land Use Chapter of the LUP Page 8-16).
11. A new policy has been added which would allow boat storage facilities to extend over the water (Land Use Chapter of the LUP Page 8-16).
12. The land use category for the lower portion of Parcel 9U has been changed from Hotel to Open Space (Land Use Chapter of the LUP Page 8-21).
13. An additional open space area has been added to Parcel IR (Land Use Chapter of the LUP Page 8-23).
14. The land use category of Parcel 75 has been changed from Hotel to Visitor-Serving/Convenience Commercial (Land Use Chapter of the LUP Page 8-25).
15. The land use category of Parcel 47 has been changed from Marine Commercial to Open Space (Land Use Chapter of the LUP Page 8-25).

### **SUMMARY OF PUBLIC PARTICIPATION:**

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

*During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a*

*public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.*

In this case, the County of Los Angeles amply conformed to Coastal Act requirements. The County held 79 public meetings on the amendment, of which 4 were public hearings (Regional Planning Commission Hearings on November 3 and December 15, 2010, and Board of Supervisors Hearings on February 1 and March 15, 2011). In addition, the County made copies of the draft documents available to the public at no cost, and public notice of availability of the documents was sent to over 11,000 persons and organizations well over 6 weeks before the Board hearing of February 1, 2011. The County received written comments regarding the projects from concerned parties and members of the public, and provided written responses thereto. The hearings were noticed to the public by publishing the notice in the local newspaper and by mailing notice to interested parties, consistent with Section 13515 of Title 14 of the California Code of Regulations. Notice of the Coastal Commission hearing for LCP Amendment 1-11 has been distributed to all known interested parties. A full description of the County's efforts is described in the County's April 21, 2011 letter (Attached as Exhibit No. 2)

## **PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the County resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (California Code of Regulations, Title 14, Section 13544; Section 13537 by reference). Pursuant to Section 13544, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the County.

## **II. MOTIONS AND RESOLUTIONS**

### **A. DENY THE AMENDMENT TO THE CERTIFIED MARINA DEL REY LAND USE PLAN AS SUBMITTED**



**MOTION:**     *I move that the Commission certify Land Use Plan Amendment MDR 01-11 as submitted by Los Angeles County.*

**STAFF RECOMMENDATION TO DENY:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**RESOLUTION TO DENY:**

The Commission hereby denies certification of **Land Use Plan Amendment MDR-01-11** as submitted by Los Angeles County and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

**B. APPROVAL OF THE LUP AMENDMENT WITH SUGGESTED MODIFICATIONS**

**MOTION:**     *I move that the Commission certify Land Use Plan Amendment No. 1-11 for Los Angeles County if it is modified as suggested by staff.*

**STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

**RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the **Land Use Plan Amendment MDR-01-11** for the County of Los Angeles if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any

significant adverse impacts which the Land Use Plan Amendment may have on the environment.

**C. DENY THE AMENDMENT TO THE MARINA DEL REY IMPLEMENTATION PROGRAM AS SUBMITTED.**

**MOTION:** *I move that the Commission reject the Implementation Plan Amendment MDR 01-11 to the certified Los Angeles County LCP for the Marina del Rey segment as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby rejects Amendment Request No. **MDR 01-11** to the Implementation Plan of the Marina del Rey segment of the Los Angeles County certified Local Coastal Program and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with or is inadequate to carry out the provisions of the certified Land Use Plan as certified. Certification of the Implementation Program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program amendment as submitted

**D. APPROVAL OF THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS**

**MOTION:** *I move that the Commission certify the Implementation Plan Amendment MDR 01-11 for the certified Los Angeles County LCP for the Marina del Rey segment as suggested by staff.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Plan with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Plan Amendment 1-11 for the **Marina del Rey segment of the Los Angeles County certified Local Coastal Program** if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan amendment if modified as suggested 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 Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

**III. SUGGESTED MODIFICATIONS**

Certification of the LUP/LIP amendment is subject to the following modifications. Text proposed to be added by the County is identified by single underlined text. Text proposed to be deleted by the County is identified by single ~~strike through text~~. Text added by the suggested modification is identified by double **underlined bold text**, and text suggested to be deleted by the Commission is double ~~strike through text~~. Only those specific subsections of the LCP for which modifications are being suggested are shown below.

**Organizational Notes:** the addition of new policies or the deletion of policies (as submitted) will affect the numbering of subsequent LCP (Land Use Plan and Implementation Plan) policies when the County publishes the final LCP incorporating the Commission's suggested modifications. This staff report will not make revisions to the existing policy numbers but new policies will be lettered. The County will make modifications to the numbering system when it prepares the final LCP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

**A. LUP Map Changes**

**Suggested Modification 1**

Modify Map 8, Land Use Plan, as follows:

- a. Designate Parcel 9 as H (Hotel) and OS (Open Space)
- b. Delineate boundaries of Parcel 45 and designate as OS (Open Space)
- c. Delete on Parcel 49R designation VS/CC (Visitor-Serving/Convenience Commercial), leaving the entire Parcel as B (Boat Storage)

- d. Change Parcel 77 designation from PF (Public Facilities) to OS (Open Space)

Modify Map 11, Proposed Development Zone 1, as follows:

- a. Designate Parcel 9 as H (Hotel) and OS (Open Space)

Modify Map 13, Proposed Development Zone 3, as follows:

- a. Delineate boundaries of Parcel 45 and designate as OS (Open Space)
- b. Change Parcel 77 designation from PF (Public Facilities) to OS (Open Space)
- c. Delete on Parcel 49R designation VS/CC (Visitor-Serving/Convenience Commercial), leaving the entire Parcel as B (Boat Storage)

## **Suggested Modification 2**

LUP – County shall reconcile all maps consistent with the Suggested Modifications.

## **B. LUP Text Changes**

### **Definitions**

#### **Suggested Modification 3**

On Page vii, add the following:

**Open Space: means recreational uses including open viewing areas, promenades, plazas, commons, natural resources parks, bikeways, beaches, active parks, picnic facilities, nature/interpretive centers, associated surface parking and landscaping. Map 9 depicts the open space plan. The open space plan is intended to provide for three types of open spaces, defined as follows:**

**a. Active—parks, playgrounds, view parks and beaches**

**b. Passive—** Areas that require minimal or no development that is subordinate to the natural environment and are designed for the enjoyment of the marine and natural resources of Marina del Rey.

**c. Urban—plazas, commons, amphitheatres, and gathering areas not associated with commercial or other uses and available for the enjoyment of the general public but which may be associated with a commercial or other development or a parking structure.**

#### **Suggested Modification 4**

##### **Wetland**

**Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.**

#### **Shoreline Access**

#### **Suggested Modification 5**

On page 1-4

3. Public (County) property, which is open to the public –

The nearly 3 miles adjoining the north jetty, south jetty, ~~Marina the b~~Beach, portions of basins D, E, H, Palawan Way (a perimeter mole road), library, Burton Chace Park, launching ramp, Harbor Administration facilities (partial), and the bike path. In addition, the County is developing a 1.46 acre wetland park on Parcel 9, and the County intends to locate a small park waterside at Parcel 52 connected to Fiji Way by a 32-foot wide, landscaped public promenade. Finally, the County ~~has~~ shall incorporated a pedestrian path on Parcel 147 (Formerly Parcel OT) connecting Washington Boulevard to Admiralty Way when development on that parcel occurs. **The path on Parcel 147 shall be constructed and open to the public prior to the issuance of the Certificate of Occupancy for Parcel 147.**

#### **Recreation & Visitor-Serving Facilities**

#### **Suggested Modification 6**

Under Visitor-Serving Facilities, page 2-5, delete the following:

~~Consistent with the County's objective of encouraging a larger segment of the public to enjoy Marina del Rey and its environs, the County has committed to a urban open space program in Parcel 49. The policies address two scenarios: if the launch ramp remains and if the launch ramp is moved to another location. Should the launch ramp remain, at minimum one acre of urban open space shall be provided. If the launch ramp is moved, a minimum of 2 acres of urban open space must be provided. The urban open space may consist of hardscape and landscape, and may be above ground level to maximize views. This provision of an open "commons" is best suited for the intensive visitor serving uses to occur at this site, and inasmuch as Chace Park is a short walking distance away, visitors can enjoy both venues in a single day.~~

### Suggested Modification 7

On page 2-7, starting from second to last sentence of second paragraph:

While the County has concurred with this recommendation, and the figures herein reflect the recommended space allocations, the County has not reduced the parking to that degree. Therefore, more public parking opportunities exist than are projected as necessary.

For the highest peak periods, such as the Boat Parade and the Fourth of July, a parking management plan will be implemented by the County. Notwithstanding the parking study, in the long term the County proposes to retain a minimum of 1,200 2,895 parking spaces. In the near term, the known projects of the County will result in a reduction of parking spaces to 2,351 spaces. Since this is more than twice the number projected as needed between 2009 and 2030, this is an adequate parking provision.

### Suggested Modification 8

On page 2-8, second paragraph:

It is important to note that the County has existing agreements, predating in most cases the LCP, which allow the use of underutilized public parking lots. This practice is expected to continue for the foreseeable future; **however, once parcels with parking agreements are and after redevelopment, pursuant to a coastal development permit, the agreements will be terminated.**

### Suggested Modification 9

On page 2-12, Figure 23: Public Parking Lots-Near Term Configuration

Lot	Parcel	Address	Capacity	Remarks
1	W/55	13737 Fiji Way	<del>502</del> 483	Fisherman's Village
2	49R	13477 Fiji Way	466	Public Parking/Launch ramp
4	49M	13500 Mindanao Way	<del>243</del> 124	Overflow – Chace Park Marina Shopping Center
5	UR	4545 Admiralty Way	240	Overflow MdR Hotel, Other
6	SS	4500 Admiralty Way	115	Admiralty Park – Turf
7	Q	4350 Admiralty Way	<del>120</del> 118	Admiralty Park – Paved
8	<u>147</u> OT	4220 Admiralty Way	18692	<del>Overflow Beach, Int'l Hotel, other Oxford Basin</del>
9	N	14101 Palawan Way	191	Beach, Overflow
10	IR	4101 <del>Admiralty</del> Panay Way	<del>212</del> 216	Beach
11	GR	14101 Panay Way	<del>362</del> 264	Beach, Overflow
12	FF	14151 Marquesas Way	292	<del>Overflow Pier view Café</del>
13	3	4601 Via Marina	140	Channel Vista, Overflow

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14	A	4601 Via Marina	60	Channel Vista
15	LLS	4001 Via Marina	40	
16	EE	4001 Via Marina 13650	5860	Chace Park
17	83	Mindanao	13	
N/A	21	13399 Fiji Way	94	None
	52	14004 Panay Way	245	Temporary Parking
		13051 Fiji Way	2,895	
		TOTAL	3,138	

Notes: 1) ~~A minimum of 1200 public parking spaces will be maintained.~~ 12) The County plans to incrementally increase public parking in several areas as follows: a) Parcel GR-Increase by approximately 100 spaces, and b) Parcel 49M-Increase in association with the expansion of Chace Park and replacement of 101 spaces for Parcel FF, now Parcel 14, and c) 94 spaces from ~~Lot Parcel~~ 8 to Parcel 21.

### Suggested Modification 10

On page 2-11, Findings, add:

**To mitigate the loss of recreational park space due to the conversion of Parcel FF and OT from Open-Space to a lower priority use, the developer of Parcel FF and OT shall contribute at double (\$1,200) the rate to the Coastal Improvement Fund pursuant to Section 22.46.1950.**

### Suggested Modification 11

On page 2-15, *Public Lots*, No. 9:

~~Except as stated above, p~~Public parking lots shall not be assigned to, nor allocated for use by private leasehold uses for the purposes of satisfying parking requirements for such private uses. All private uses shall satisfy their parking requirements on site. Parking agreements that predate the California Coastal Act or the LCP, or which have been incorporated into a coastal development permit vested prior to LCP certification shall be exempt from this requirement.

### Suggested Modification 12

Under *Public Lots*, Page 2-16 add:

**13. In order to maximize public access, establish and implement short-term parking options (i.e. 2 and 4 hour limits) at all long-term only public parking lots to allow price flexibility to visitors for shorter term use.**

## Recreational Boating

### Suggested Modification 13

On page 3-2, C. *Research Analysis*, first paragraph:

Planned and developed as a recreational small craft harbor, Marina del Rey will ultimately provides 5,923 up to 4,255 4,338 wet-slips berths on its 406 acres of water, together with up to 1,088 dry storage spaces for a minimum of 5,343 berths as defined herein. Figure 4 identifies the distribution of smaller berths in Marina del Rey. The parcel location and operator of the individual anchorages.

### Suggested Modification 14

Figure 4 on page 3-2, modify table as follows:

#### **FIGURE 4: MINIMUM SLIP PERCENTAGES FOR SMALLER BOATS**

##### **A. Waterfront Slip Length Distributions**

<b>Berth Length</b>	<b>Percentage</b>
<del>32</del> <u>30</u> FEET AND UNDER	<del>25</del> <u>39</u> %
<del>30</del> <u>31 to 35</u> FEET AND UNDER	<del>50</del> <u>20</u> %

### Suggested Modification 15

On page 3-4 add:

Over 509% of the wet slips will be in lengths 385 feet and under.

### Suggested Modification 16

On page 3-6, Delete:

~~With respect to Parcel 49 and the public launch ramp, the County is exploring an integration of the launch ramp with a more intensive visitor serving opportunities. The County has provided that the launching facilities remain in operation if this is to occur, and has also provided that if the launch ramp moves, it must be opened before the existing launch ramp is removed.~~



### **Suggested Modification 17**

On page 3-8, *e. Policies and Actions*, modify as follows:

2. Slip reductions resulting from marina reconstruction shall be offset in support of low-cost boating. For marina reconstruction projects, every 100 slips in excess of 320 feet shall comply with the following conditions:

~~Prior to the issuance of a coastal development permit, the applicant or its successor in interest shall agree to provide:~~

~~a. An in-lieu fee to the County, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Marina, and for other similar programs to enhance lower cost boating opportunities. Such programs may include, but are not limited to the County's Water Awareness, Training, Education and Recreation (W.A.T.E.R.) Youth Program.~~

~~b. The in-lieu fee shall be the equivalent annual rental value of one 30-foot boat slip (based upon the listed per foot rental rate posted at the marina on July 1 of each year for 30-foot slips) for each 100 slips measuring over 32 feet in length. The payment of the in-lieu fee to the County, or the approved non-profit organization, will commence upon completion of the Marina redevelopment construction and continue annually, throughout the life of the project.~~

~~c. The DBH shall provide (or shall cause the appropriate non-profit organization to provide) an annual report, for the review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15th of each year for the preceding calendar year.~~

**PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY of a privately-leased marina, approved pursuant to a Coastal Development permit, the applicant shall provide an in-lieu fee to Los Angeles County Department of Beaches and Harbors, or a non-profit organization acceptable to the Executive Director of the Coastal Commission, to be used for scholarships for youths to participate in boating programs, for purchase of sail training vessels, funding for transportation to bring youths to the Marina, and for other similar programs to enhance lower cost boating opportunities. Such programs may include, but are not limited to, the County's W.A.T.E.R. Youth Program.**

The annual in-lieu fee shall be the amount equivalent to the annual rental of one 30-foot boat slip for each 100 new slips measuring over 30 feet in length in the subject anchorage. For new marinas containing fewer than 100 slips or fractions over 100 slips the in-lieu fee shall be prorated based on the number of slips; such as 30/100 [0.3 for 30 slips], or 150/100 [1.5 for 150 slips]. The annual rental of one 30-foot boat slip for the purposes herein shall mean the average annual rental of the published slip rates of all 30-foot boat slips in the subject marina. If there are no 30-foot boat slips then the average annual rental of the next larger size of slip in the subject marina as of July 1<sup>st</sup> of each year will be the basis for calculating the in-lieu fee.

The payment of the in-lieu fee to the County, or the approved non-profit organization, will commence upon completion of the marina redevelopment construction and continue annually, throughout the life of the project. The first annual payment of the fee will be due the earlier of the Outside Completion Date (as defined in the subject lease agreement) or the date on which a temporary certificate of occupancy was issued to the subject marina. If construction is phased, the minimum in-lieu fee will be due within 10 days of the issuance of the temporary certificate of occupancy, prorated to June 30<sup>th</sup>. Subsequent annual payments will be calculated from July 1<sup>st</sup> of each year, and be due no later than July 10<sup>th</sup>. The following provisions will also apply:

- End-ties will not be counted as a slip for in-lieu fee computational purposes.
- The Department shall provide (or shall cause the appropriate non-profit organization to provide) an annual report for the review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15<sup>th</sup>, for the preceding calendar year.

### Suggested Modification 18

On page 3-9, under e. *Policies and Actions*, add:

3. The County shall maintain the slip distribution for slips 35 feet in length and under, as shown in Figure 4, as the minimum slip distribution for those categories. At no time during reconstruction of any marina shall the slip distribution be less than 16% for slips 25 feet and under; and 39% for slips between 26 and 35 feet.

### Suggested Modification 19

On page 3-10, under e. *Policies and Actions, Boating-Related Support Facilities*, add:

- 5. During reconstruction of the marinas if there are fewer than 5% of the total dry boat storage spaces available for rent, the County shall establish sufficient boat dry storage space so as not to fall below a 5% dry storage availability threshold until all 1,088 dry spaces are available.**

#### **Suggested Modification 20**

On page 3-10, under e. *Policies and Actions, Boating-Related Support Facilities*, add:

- 7. A parking provision of 0.6 spaces for each wet-slip ~~shall~~ ~~should~~ be provided.**

### **Marine Resources/Water Quality**

#### **Suggested Modification 21**

#### **Policies Specific to All New Development or Redevelopment**

- 4.1. All new development and redevelopment shall be designed to prevent and minimize the discharge of pollutants that would cause or contribute to receiving water impairment or exceedances of state water quality standards.**
- A. Promote pollution prevention and elimination methods that minimize the introduction of pollutants into coastal waters, as well as the generation and impacts of dry weather and polluted runoff.**
  - B. Require that development not result in the degradation of coastal waters (including the ocean, estuaries and lakes) caused by changes to the hydrologic landscape.**
  - C. Support and participate in watershed-based runoff reduction and other planning efforts with the Regional Board, the County of Los Angeles, upstream cities, and Los Angeles County Flood Control District (LACFCD).**
  - D. Continue to update and enforce the County of Los Angeles Water Quality Ordinance(s) consistent with all applicable existing or new MS4 Permits.**
  - E. Develop and maintain a water quality checklist to be used in the permit review process to assess potential water quality impacts.**
  - F. Require beachfront and waterfront development to incorporate BMPs designed to prevent or minimize polluted runoff to beach and coastal waters.**

- G. Encourage and support public outreach and education regarding the water quality impacts of development.
- H. Incorporate BMPs into the project design in the following progression:
- a. Site Design BMPs.
  - b. Source Control BMPs.
  - c. Treatment Control BMPs.

Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the LCP or Coastal Act structural treatment BMPs shall be implemented along with site design and source control measures and a Water Quality Management Plan shall be prepared.

Appropriate Structural Treatment Control BMPs and a Water Quality Management Plans shall be implemented whenever the development is identified as a priority project in the applicable municipal stormwater permit for this LUP.

#### 4.2 Water Quality Management Plan

Any new development or redevelopment identified under 4.1.H shall require a Water Quality Management Plan (WQMP) to be prepared by a licensed water quality professional, which shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate where necessary, structural and non-structural Best Management Practices (BMPs) designed to reduce the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site.

The WQMP's purpose is to minimize to the maximum extent practicable dry weather runoff, runoff from small storms (less than 3/4" of rain falling over a 24-hour period) and the concentration of pollutants in such runoff during construction and post-construction from leaving the property.

In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- A. Mimic undeveloped stormwater and urban runoff rates and volumes in any storm event up to and including the "50-year capital design storm event," as defined by Public Works (Relevant County Code (LID): 12.84.440)
- B. Implement and improve upon best management practices (BMPs) for residences, businesses, new development and significant redevelopment, and County operations to prevent the transport of

bacteria, pesticides, fertilizers, pet waste, oil, engine coolant, gasoline, hydrocarbons, brake dust, tire residue, and other pollutants into recreational waters.

- C. Where feasible, avoid conveying runoff directly to the County's streets or stormwater drainage system without the benefit of absorption by permeable surfaces, such as landscaped areas, or treatment control BMPs.
- D. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and pervious pavement shall be evaluated and used where practicable.
- E. Appropriate structural and non-structural BMPs (site design, source control and treatment control) shall be designed and implemented to minimize water quality impacts to surrounding coastal waters.
- F. Where infiltration of runoff would exacerbate geologic hazards, include equivalent BMPs that do not require infiltration.
- G. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized.
- H. To further reduce runoff; direct and encourage water conservation via the use of weather- and moisture-based irrigation controls, tiered water consumption rates, and native or drought-tolerant plantings in residential, commercial, and municipal properties where feasible.
- I. Provide storm drain stenciling and signage for new storm drain construction in order to discourage dumping into drains and increase public awareness.
- J. Trash, recycling and other waste containers shall be provided as necessary to meet prevent overflow. All waste containers, anywhere within the development, shall be covered, watertight, and designed to resist scavenging animals.
- K. Require new and redevelopment projects to protect the absorption, purification, and retention functions of open spaces that will be retained or are created by approved projects, and ensure that runoff from the development will not adversely impact these open spaces.
- L. Require commercial development to incorporate BMPs designed to prevent or minimize the runoff of pollutants from structures, landscaping, parking areas, loading and unloading dock areas, repair and maintenance bays, and vehicle/equipment wash areas.
- M. Where feasible, 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 and 2) remove or mitigate contaminants (including trash, debris and vehicular fluids such as oil, grease, heavy metals and hydrocarbons) through infiltration, filtration and/or biological uptake. These drainage systems shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner.
- N. Require parking lots and vehicle traffic areas to incorporate BMPs designed to prevent or minimize runoff of oils and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants to receiving waters.
- O. Parking lots, driveways and streets shall be dry swept on a regular basis, in order to prevent dispersal of pollutants that might collect on those surfaces. All uncovered parking lots shall be swept at least once a year prior to the onset of the wet season. Parking lots shall not be washed down unless the water used is directed through the sanitary sewer system or a filtered drain.
- P. Require all service stations, car washes and vehicle repair facilities to incorporate BMPs designed to prevent or minimize runoff of oil and grease, solvents, car battery acid, coolant, gasoline, and other pollutants to stormwater system from areas including auto and boat fueling areas, repair and maintenance bays, vehicle/equipment wash areas, and loading/unloading dock areas.
- Q. Any detergents and cleaning components used on site shall at a minimum comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized where feasible; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used.
- R. 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.
- S. Require structural BMPs to be inspected, cleaned, and repaired as necessary to ensure proper functioning for the life of the development. Condition coastal development permits to require ongoing application and maintenance as necessary for effective operation of all BMPs (including site design, source control, and treatment control).
- T. 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, for the life of the development, 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 (between April and October).

- U. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- V. It is the Los Angeles County's responsibility to maintain or ensure that its lessee maintains the drainage systems and the associated structures and BMPs according to manufacturer's specifications, for the life of the development.

#### 4.3 Low Impact Development

In order to prevent significant adverse impacts on coastal water resources from existing and new development, either individually or cumulatively, the County of Los Angeles shall incorporate and implement Low Impact Development standards within the Harbor-MDR which includes incentives for the public and private users to reduce impacts to water quality. The program shall include a list of implementation measures to reduce impacts to water quality in line with the Low Impact Development Manual for Southern California (2010):

<http://www.casqa.org/LID/SoCalLID/tabid/218/Default.aspx>

At a minimum this shall include:

- A. Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion;
- B. Design and manage new development to prevent non-storm discharges (e.g., dry weather flow);
- C. All projects that construct new storm drain inlets or maintain existing inlets shall add a sign or stencil to the inlet with the following statement or equivalent language: "No dumping, drains into ocean";
- D. Promote the use of Low Impact Development practices to preserve the natural hydrologic cycle and minimize the impacts of new impervious surfaces or other development that increases stormwater or dry weather runoff.
- E. Whenever feasible, runoff will be diverted through planted areas or sumps that recharge the groundwater and use the natural filtration properties of the earth to prevent the transport of harmful materials into receiving waters.

- 4.4. Material used for construction of piers, pilings, docks, dolphins, or slips shall not include timber preserved with creosote, (or similar petroleum-derived products). Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. To prevent the introduction of toxins and debris into the marine environment, the use of plastic wrapped pilings (e.g., PVC Pilewrap) and reinforced plastic for pilings (e.g., high density polyethylene (HDPE) pile armor), shall conform to the following requirements:
- A. The material used shall be durable and a minimum of one-tenth of an inch thick.
  - B. All joints shall be sealed to prevent leakage.
  - C. Measures shall be taken to prevent ACA, CCA and/or ACZA from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
  - D. The plastic sleeves shall extend a minimum of 18 inches below the mudline.
  - E. Plastics used to protect concrete or timber piers and docks or for flotation shall be subject to regular inspection to prevent sloughing of plastics into the waterway. A comprehensive inspection and maintenance plan shall be a requirement of any approval for projects involving plastic/or similar material wrapped piles, for the life of the piles.
  - F. The lessee shall be made responsible for removal of failed docks or materials.
  - G. If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for new piles or piling replacement, the least environmentally damaging materials and/or methods should be required for such projects, where feasible.

#### Policies Specific to Construction Related Activities

- 4.5. All new development or redevelopment shall be designed to minimize erosion, sedimentation and other pollutants in runoff from construction-



related activities to the maximum extent practicable. Development or redevelopment shall minimize land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

**4.6. Construction and Maintenance Responsibilities and Debris Removal**

All new development or redevelopment in the Marina shall include the following construction-related requirements:

- A. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- B. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to ESHA, wetlands or their buffers.
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located within the coastal zone, a separate Notice of Impending Development shall be required before disposal can take place.
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets (or the inlets will be temporarily covered) and any waterway, and shall not be stored in contact with the soil.
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

- J. The discharge of any hazardous materials into any receiving waters shall be prohibited. Appropriate storage and containment shall be provided for all hazardous materials used during the construction period, and must be removed and properly disposed of upon completion of the project.
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- L. The least damaging method shall be used for the construction of pilings and any other activity that will disturb benthic sediments. The suspension of benthic sediments into the water column shall be minimized (i.e., less than 1 hour in duration and less than 200 feet in greatest dimension) using appropriate BMPs (e.g., silt curtains).
- M. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- N. All construction BMPs shall be maintained in a functional condition throughout the construction of the project.

#### Policies Specific to Harbors, Marinas and Boating

- 4.7. Activities which produce, handle, or transport petroleum products or hazardous substances within Marina del Rey water areas shall be discouraged. This policy does not apply to retail fuel sales/operations for boaters and commercial fishermen in the Marina.
- 4.8. Adequate cleanup procedures and containment equipment shall be provided by the County of Los Angeles Department of Beaches and Harbors or by individual marina operators for all hazardous materials stored in the Marina.
- 4.9. Pump-out facilities adequate for all marine needs (e.g., bilges, wastewater) shall be provided by the County of Los Angeles Department of Beaches and Harbors or by individual marina operators.
- 4.10. All new development or redevelopment shall incorporate appropriate design elements and management practices to minimize adverse impacts to water

quality related to boating facilities and boater waste in the Harbor to the maximum extent practicable. Boating in the Harbor shall be managed in a manner that protects water quality, and any persons or employees maintaining boats in slips or using slips on a transient basis shall be made aware of water quality provisions.

- a. Implement a daily inspection routine to monitor over-the-water maintenance and cleaning activities in the marina. Immediately investigate the source of any pollution or debris in the water, stop the discharge and initiate clean up or containment of the pollutant.
- b. Provide and maintain proper trash disposal facilities that are wind and rain proof.
- c. Maintain collection locations for discarding hazardous materials (e.g., contaminated fuel, oil absorbent materials, used oil, oil filters, antifreeze, batteries, paints, solvents, old cleaning products) or at least provide information to boaters on their individual responsibilities for discarding or recycling these materials.

#### 4.11. Best Management Practices

The County of Los Angeles shall take the steps necessary to ensure that the long-term water-borne berthing of boats in the Marina will be managed in a manner that protects water quality through the implementation of the following BMPs, at a minimum:

##### A. Boat Maintenance and Cleaning Best Management Practices

- Boat maintenance shall be performed above the waterline in such a way that no debris falls into the water. If particulates (e.g. paint or plastic flakes) could be dislodged during work, a containment system should be installed between the work and the water, or the boat should be removed from the water. Containment systems include physical barriers such as tarps, drip pans, nets, floating work structures.
- In-water top-side boat cleaning shall be by hand and shall minimize the discharge of soaps and prevent the discharge of paints, trash or other debris. Where feasible, remove the boats from the water and perform cleaning at a location where debris can be captured and disposed of properly.
- Detergents and cleaning products used for washing boats shall be phosphate-free and biodegradable, and amounts used shall be kept to a minimum.

- Detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye shall not be used.
- Establish policies for underwater hull cleaning methods that do not result in a visible plume of bottom paint during in-water hull cleaning. Clean boat hulls only by hand and using the least abrasive method available, to remove fouling organisms. No metal scrapers may be used. If growth cannot be removed by minimally abrasive materials (cloth, sponges or soft plastic scrubbing pads) the boat should be hauled out for cleaning or other methods used to capture paint and fouling organisms.
- Establish policies in tenant, contractor and maintenance worker contracts for the amount and type of maintenance work allowed over the water, and enforce consequences for non-compliance.
- All boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. Boaters shall also use preventive engine maintenance, oil absorbents, bilge pump-out services, steam cleaning services or other methods to clean bilge areas that will not release contaminants to the coastal waters.
- Use of non-toxic hull coating materials shall be encouraged.

**B. Solid and Liquid Waste Best Management Practices**

- All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene, and mineral spirits shall be disposed of in a proper manner and shall not at any time be disposed of in the water or a gutter, or be allowed to discharge to any storm drain system.

**C. Sewage Pumpout System Best Management Practices**

- Vessels shall dispose of any sewage at designated pumpout facilities or dump stations provided by the County of Los Angeles or individual marina operators.

**D. Petroleum Control Management Measures:**

- Boaters shall practice preventive engine maintenance and shall use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year, replaced as necessary, and disposed of properly.
- Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous

waste disposal regulations. The boaters shall regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps or dispersants that can be discharged by bilge pumps is prohibited.

- If the bilge needs more extensive cleaning (e.g. due to spill of engine fuels, lubricants, or other liquid materials), the boaters shall use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids.
- Bilge cleaners which contain detergents or emulsifiers shall not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.<sup>1</sup>

**E. Public Information**

Best management practices will be provided in writing to all marina operators, or lessees, for dissemination to the boating public. Appropriate outreach and education to slip owners and lessees, residential and transient boaters, utilizing the Harbor and Marina facilities.

**Sensitive Biological Resources—(“SBR”)**

**Suggested Modification 22**

On page 5-1, under *a. Coastal Act Policies*, add the following Coastal Act references and discussion pertaining to “environmentally sensitive area”:

**a. Coastal Act Policies**

Coastal Act Section 30230 requires the maintenance, enhancement and where feasible, restoration of marine resources:

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.

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<sup>1</sup> Federal law prohibits the use of soaps or other dispersing agents to dissipate and/or mask oil on the water or in the bilge. Soaps emulsify oil, therefore, dispersing hydrocarbons through the water column and can be harmful to marine animals and bottom sediments. Violators are subject to criminal and civil penalties of up to \$32,500 per incident (33 CFR 153.305).

**Coastal Act Section 30231 requires protection of biological productivity and water quality as follows:**

**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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.**

**Coastal Act Section 30233 regulates the diking, filling or dredging and continued movement of sediment and nutrients in coastal waters, wetlands, estuaries, and lakes as follows:**

**(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:**

**(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.**

**(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.**

**(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.**

**(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.**

**(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.**

**(6) Restoration purposes.**

**(7) Nature study, aquaculture, or similar resource dependent activities.**

**(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.**

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where the improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

(Amended by: Ch. 673, Stats. 1978; Ch. 43, Stats. 1982; Ch. 1167, Stats. 1982; Ch. 454, Stats. 1983; Ch. 294, Stats. 2006.)

Coastal Act Section 30236, Water supply and flood control:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Coastal Act Section 30250 provides guidance for protecting coastal resources as follows:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

(Amended by Ch. 1090, Stats. 1979.)

As defined in the Coastal Act, “environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Coastal Act, Section 30107.5). If an area is found to be an “environmentally sensitive area”, the area is governed by Section 30240 of the Coastal Act and cannot be developed except in ways that are resource dependent. Marina del Rey is an entirely artificial environment. Everything within the bounds of Marina del Rey is created/urbanized; there are no completely natural areas in Marina del Rey. Nonetheless, starting in the mid-1990’s, colonial waterbirds began roosting and nesting in mature ornamental, non-native landscape trees in Marina del Rey; prior to this time colonial waterbirds occurred in small numbers as uncommon transients and winter visitors in the marina and surrounding area. Since the mid-1990’s the numbers of individual birds and the numbers of species has steadily increased so that Marina del Rey now supports, according to the County’s Conservation and Management plan (CMP), a combined total of more than 100 breeding pairs of Double-crested Cormorants, Black-crowned Night-Herons, Great Blue Herons, Great Egrets, and Snowy Egrets. The large number of colonial waterbird breeding pairs in Marina del Rey indicates that these birds are successfully adapting to the urban environment and are not easily disturbed or degraded by human activities and developments. Their tolerance of human activities and developments fails to meet one critical element of the ESHA test – that they could be disturbed or degraded by human activities and developments. Furthermore, neither the colonial waterbirds nor their habitat (non-native tree stands serving as heronries) are rare or especially valuable because of their special nature or role in the ecosystem. Therefore, no Environmentally Sensitive Habitat Areas (ESHA) exist in Marina del Rey and therefore no Coastal Act policies relating to environmentally sensitive habitat areas currently apply. However, while no ESHA exist in Marina del Rey, and therefore no Coastal Act policies relating to environmentally sensitive habitat areas currently apply, Sensitive Biological Resources (SBR), including colonial waterbirds and their heronries, do exist within the bounds of MDR and require policy protection as coastal resources per Coastal Act sections 30230, 30231, 30233, and 30250. This protection is consistent with the California Environmental Quality Act. These policies in parallel with the CMP, provide the necessary protection and an adaptive management approach intended to ensure the persistence and health of all sensitive biological resources in Marina del Rey.



**MDR is bordered by several ESHA areas including the Ballona Wetlands, Ballona Lagoon, and the least tern roosting area on Venice Beach. Some of the sensitive coastal species utilizing these areas also utilize MDR for foraging, roosting, nesting, and other activities and this is another reason for sensitive biological resource protection within MDR.**

### **Suggested Modification 23**

On page 5-1, delete the following:

~~While no Environmentally Sensitive Habitat Areas exist in Marina del Rey, and therefore no Coastal Act policies relating to environmentally sensitive habitat areas apply, Sensitive Biological Resources (SBR) do exist and require policy protection as coastal resources. This protection is consistent with central principles of the Coastal Act and the California Environmental Quality Act, which taken together call for attention to sensitive coastal resources even if they do not rise to the level of ESHA.~~

### **Suggested Modification 24**

On Page 5-1, under *b. Issues Identified*, modify as follows:

~~The Oxford Retention Basin - **located** at the northern end of the Small Craft Harbor is an important flood control facility, and was designated as a bird conservation area in 1963. **It is currently an important roosting and nesting area for colonial waterbirds.** BASED UPON A SCIENTIFIC EVALUATION OF THIS SITE, SHOULD IT CONTINUE TO BE USED AS A BIRD CONSERVATION AREA (AND POSSIBLY IMPROVED OR EXPANDED) OR SHOULD IT BE CONVERTED TO ANOTHER USE?~~

Wetlands may occur as a result of abandonment of construction sites. HOW SHOULD THE LCP ACCOMMODATE THESE MANMADE OR INCIDENTAL WETLANDS IN THE REDEVELOPMENT OF MARINA DEL REY?

**Conflicts with** landscape installation, **tree trimming or removal**, and maintenance polices ~~can inadvertently but adversely affect~~ **and** wildlife. WHAT PRECAUTIONS SHOULD BE INCORPORATED INTO THE PLAN TO ENSURE LONG-TERM PROTECTION OF SENSITIVE BIOLOGICAL RESOURCES WITHIN AND ADJACENT TO MARINA DEL REY?

**Colonial** waterbird **roosting and** nesting – **This** has occurred at Marina del Rey for many years, and was recognized in the supporting work of the 1996 LCP amendment. Over the years, some water birds – mainly herons and egrets – have expanded their use of the Marina, adapting to non-native mature trees, ~~but also~~ causing decline and death in

some trees, and in some cases conflicting with the operation and redevelopment of Marina del Rey. BASED ON SCIENTIFIC EVALUATION OF MARINA DEL REY AND ITS ENVIRONS, WHAT IS THE APPROPRIATE LEVEL OF ATTENTION WHICH SHOULD BE DEVOTED TO THESE SPECIES, AND HOW SHOULD THEY BE ACCOMMODATED IN THE MARINA?

### **Suggested Modification 25**

On page 5-3, under Oxford Retention Basin, modify as follows:

The Oxford Retention Basin (also designated as a bird conservation area by the L.A. County Board of Supervisors in 1963) occupies 10.27 acres in the northwest corner of Marina del Rey. Its primary and dominant purpose is a storm water retention facility (flood control). The basin must be periodically maintained by excavating materials, and must be managed in terms of tides and water levels prior to storms to fulfill its flood control function. Over the years, the non-native landscape vegetation has reached the end of its useful life, and has deteriorated.

Although various proposals have been advanced over the years to improve the area as a wild bird habitat, the L.A. County Natural History Museum conducted a 17 month-long study of the area (The Birds of Bird the Conservation Area by Ralph W. Schreiber and Charles F. Dock, 1980) that described the area as “not an important component of the overall pattern of avian distribution in the L.A. area.” That study first reported on herons foraging in Oxford Basin, and heron use of the basin has increased over the years. **Since the study herons and egrets have continued to increase in number Marina del Rey, Oxford Basin is the location of the largest roosting congregations of snowy egrets, black crowned night herons, and great egrets. Oxford Basin is an ideal place to encourage colonial water bird foraging because there are little if any human/bird conflicts at this location. Oxford Basin was created as a flood control facility and flood control remains its primary purpose. As such, ongoing maintenance activities such as sediment removal, pipeline clearance, and culvert repair are expected. However, in its role as a flood control facility Oxford Basin currently provides habitat with biological values that can be enhanced and restored. Removal of non-native species and restoration of salt-marsh, coastal sage scrub, and willow scrub habitat will greatly improve the area.**

The CMP published by the County in 2010 recommends the restoration and expansion of Oxford Basin, which contains a portion of the historical Lagoon, and also recommends incorporating professional management approaches into SBR policies for the basin while acknowledging that the basin’s primary function is to provide flood protection for surrounding neighborhoods. **Treating Oxford Basin as a SBR through enhancement and restoration as described above combined with improved maintenance and landscaping provides an opportunity to open up the area as a passive park where sensitive biological resources can thrive and MDR residents and visitors can enjoy.**

~~Therefore, the opportunity exists to use the area as a passive public park with improved maintenance and landscaping, and to enhance the area as a SBR together with other improvements in the Marina. Adequate parking for visitors exists on Parcel Q adjacent to Yvonne B. Burke Park.~~

## **Suggested Modification 26**

On page 5-3 under, *Other Areas Identified for Restoration and Management*, modify as follows:

~~Areas further available for enhancement of their biological value include (a) the proposed wetland park on Parcel 9, which is currently a vacant lot with the remnants of an abandoned hotel development project, **Admiralty Park** **Yvonne B. Burke Park**, **Burton W. Chace Park**, and (b) the margin of Ballona Wetlands (Area A). The Conservation and Management Plan identifies the removal of non-native trees and shrubs from along the eastern shoulder of Fiji Way, adjacent to Area A, as a measure that would enhance ecological values of Area A. The CMP's Marina-wide management recommendations provide for the retention of mature non-native trees, where appropriate, and identify policies designed to maintain viable breeding populations of waterbirds, as well as other native species, in Marina del Rey.~~

## **Suggested Modification 27**

On page 5-4, delete the following:

### **~~b. Findings~~**

~~As defined in the Coastal Act, "environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments (Coastal Act, Section 30107.5). If an area is found to be an "environmentally sensitive area", the area is governed by Section 30240 of the Coastal Act and cannot be developed except in ways that are resource dependent. The SBRs are not ESHA merely because they contain sensitive resources.~~

~~While no ESHA currently exists in Marina del Rey, and therefore no Coastal Act policies relating to environmentally sensitive habitat areas apply, Sensitive Biological Resources (SBR) do exist within the bounds of MDR and require policy protection as coastal resources per Coastal Act sections 30230, 30231, 30233, and 30250.~~

~~The County recognizes that the fact that a resource does not rise to the level of ESHA does not mean it is without value, or not deserving of protection. For this reason, the~~

~~County contracted development of a Conservation and Management Plan and has developed specific policies to address the needs of sensitive biological resources. The County approach involves both a set of management actions for resources in Marina del Rey, as well as approaches policies for enhancing resources that already exist or are planned. In this way, the resources in Marina del Rey will be given the appropriate level of attention.~~

~~Marina del Rey is a highly urbanized area that is dominated by human activities. Rather than resources being “disturbed or degraded” by human activities, wildlife species have colonized an already developed area and adjusted to pre-existing human activities. Therefore, the extraordinarily high degree of protection afforded by Coastal Act Section 30240 is inappropriate in Marina del Rey. A key element of the definition of “environmentally sensitive resource area” is missing—namely, that the resource is “easily disturbed or degraded by human activities.” Birds that are “easily disturbed” by human activities would not choose to colonize a busy area like Marina del Rey.~~

~~However, the fact that a resource does not rise to the level of ESHA does not mean it is without value, or not deserving of protection. For this reason, the County has developed specific policies to address the needs of sensitive biological resources. The County approach involves both a set of management actions for resources in Marina del Rey, as well as approaches for enhancing resources that already exist or are planned. In this way, the resources in Marina del Rey will be given the appropriate level of attention.~~

#### **dc. Policies and Actions**

##### **Suggested Modification 28**

On page 5-5 under Oxford Basin, modify as follows:

It is understood that Oxford Basin’s primary role involves receiving runoff from streets and providing flood control for the surrounding area. There is no other flood control facility in this area, nor is there land available for such a facility. As such, the Basin must be regularly maintained, including periodic removal of sediments, regular inspection of the facility, and operation of tide gates. Nevertheless, opportunities exist to substantially increase habitat values of Oxford Basin for various native plant and wildlife species without compromising its flood control mission.

##### **Restore functional saltmarsh habitat**

The vegetated intertidal zone at Oxford Basin currently supports such native saltmarsh plants as Common woody pickleweed (*Salicornia virginica*), sandmarsh sand-spurry (*Spergularia marina*), and spearscale (*Atriplex prostrata*). This native vegetation should be preserved in place or stockpiled during any reworking of the basin’s contours.

The term “functional saltmarsh habitat” implies regular and, if possible, natural tidal flushing (corresponding to timing and magnitude of natural tidal cycles). A functional saltmarsh at Oxford Basin would, ideally, support a healthy sedimentary invertebrate fauna, to provide habitat for ducks and shorebirds, and a predictable population of small fish during the May–July nesting season for the California least tern, a listed species that maintains a large nesting colony on Venice Beach and that has been documented foraging at Oxford Basin in past years. Many other migratory and resident waterbirds would also benefit from the enhancement of this habitat.

To the extent possible and consistent with the primary flood control purpose, any reworked design of Oxford Basin should work with the natural characteristics of the site (e.g., historical land contours, soil characteristics). Once the final contours are established, habitat should be established to include areas of emergent native marsh vegetation exposed during high tide, to serve as refugia for animals, and areas of exposed mud (“mudflats”) at low tide, to serve as foraging areas for migratory and resident birds. Although the extent of mudflats may be limited by engineering constraints, including at least a band of this habitat at low tide would be valuable, considering how much mudflat habitat was lost during construction of Marina del Rey, and how vital such areas are for a wide variety of native wildlife, including birds, mollusks, and other intertidal invertebrates.

Subsurface debris, including chunks of concrete and asphalt, and sections of pipe, should be removed from the basin where possible, as these would interfere with ecological functions of the mudflat.

*The County will establish the primacy of wildlife habitat values over recreational uses*

The County intends to remove non-native landscaping and increase public access to the margins of Oxford Basin. Existing dense vegetation and fencing provides considerable security for wildlife, including the herons and egrets that use the basin’s existing habitats in large numbers. Improving public access to the basin and replacing the tall myoporum with low-growing scrub will be of little or no practical value (for wildlife or the public) if increased human activity causes the herons, egrets, and other wildlife species to stay away from Oxford Basin. Therefore, **a phased plan to remove the invasive non-native trees and to replace them with appropriate roosting and nesting native and non-invasive. Non-native trees must be developed in conjunction with developing enhanced Oxford Basin public access opportunities. It is imperative to maintain and enhance Oxford Basin for wading bird roosting and nesting because this is an area currently favored by many species that does not have significant human/bird conflicts.** The basin must be managed carefully for its wildlife habitat values, along with providing for flood protection and water quality improvement. Levels of passive recreation and other non-essential human uses should not conflict with these main purposes.

From the 1970s through the 1990s, Oxford Basin served as a “dumping ground” for unwanted pets, mainly ducks, chickens, and domestic rabbits (often exchanged at Easter). These animals were thrown over the fence, creating a public nuisance and

degrading the area's ecology. With plans for new fencing and increased public access to the basin, care must be given to ensure that the old pattern does not recur, perhaps by the creation and support of a local stewardship organization (including a volunteer ranger/docent program) and clear, vandal-resistant (and easily-replaced/repared) signage.

Any new development at Oxford Basin shall be evaluated for its role in promoting natural wildlife habitat, vs. degrading or hindering this habitat. As the site is restored and public access improves, the County may receive proposals from groups to make various uses of the area (e.g., filming, special events, trash clean-up). The County will establish a mechanism for handling such requests, will include appropriate provisions in a contract with an outside resource management group or a local Audubon chapter.

Care will be taken to communicate effectively with all relevant users and managers that Oxford Basin, although first and foremost a flood-control facility, can be managed simultaneously as a habitat for native plants and wildlife without affecting flood-control capabilities. Therefore, activities like dumping compost or construction material, planting inappropriate vegetation, and feeding wildlife or domesticated birds, will not be tolerated. Maintenance and management activities will be carefully crafted to insure that flood control and water quality goals are met, that wildlife habitat is enhanced, and that public activities are regulated in a way that fulfills the public works and wildlife enhancement objectives. If periodic restrictions to public access are necessary to fulfill one or both of the primary goals, such restriction is permitted.

#### *Restoration and landscape management considerations for upper slopes*

Non-native vegetation should be removed from all parts of Oxford Basin on a regular, continuing basis under the supervision of a qualified professional, except where demonstrated to be critical to fulfilling an important natural process (e.g., retention of a small number of eucalyptus, ficus, or other non-native trees with regularly-nesting herons/egrets), consistent with the operation and maintenance requirements of the Los Angeles County Flood Control District (LACFCD). However, no new non-native vegetation, or even "California native" (but not locally-native) vegetation inappropriate for the Ballona Wetlands, should be introduced.

The establishment of appropriate native landscaping will probably require a complete removal of all existing ground cover and weeds, and could also require eradication of the weed seedbank (e.g., through "solarization" or appropriate means).<sup>2</sup>

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<sup>2</sup> The term *solarization* refers to sterilization of soil by covering it with plastic sheeting for roughly six weeks during warm weather. The sun's radiation is converted to heat by absorption, heating the material above 60°C, hot enough to kill seeds and pathogens in the soil.

All vegetation above the high-tide line to be preserved, promoted, and restored/re-created should consist only of the ~~two~~ three habitat types native to the historical Ballona Wetlands area: 1) coastal scrub (a low-profile, summer-deciduous community dominated by such species as California sagebrush *Artemisia californica*, California sunflower *Encelia californica*, and coast goldenbush *Isocoma menziesii*), and 2) willow scrub (a low thicket-like community dominated by narrow-leaved willow *Salix exigua*), and riparian canopy (Native and non-invasive, non-native trees appropriate for supporting roosting and nesting colonial waterbirds). A professional firm, or firms, specializing in southern California native plant restoration, installation, and maintenance is recommended to prepare the site for planting, and to achieve successful establishment of these native communities.

Unnecessary and derelict concrete structures currently on the site (such as old wildlife watering troughs) and redundant fencing should be removed from the upper slopes where feasible.

The County will support relocation of telephone lines that currently cut across the northern part of Oxford Basin if such re-routing along Washington Boulevard or Admiralty Way is proposed by the entity operating these lines, as they could conflict with future wildlife use of the site (and lead to collisions with flying birds, especially on foggy days).

#### **Suggested Modification 29**

On page 5-8, move the section on *Conservation Policies for Wetland Park at Parcel 9*, to 5-4 under *b. Issues Identified*.

#### **Suggested Modification 30**

On page 5-8, section on *Conservation Policy for Margin of Ballona Wetlands (Area A)*, move to page 5-4 under *b. Issues Identified*.

#### **Suggested Modification 31**

On page 5-9, *Summary of Management Assumptions and Concepts*, delete:

#### **Summary of Management Assumptions and Concepts**

The following numbered points provide a concise summary of information discussed at length in the CMP and outline the basic rationale behind that plan's management recommendations.

1. In 2009, after at least five years with generally increasing numbers and diversity of nesting colonial waterbirds at Marina del Rey, the first marina-wide census of nesting areas and population sizes for Double-crested Cormorants, Black-crowned

~~Night herons, Great Blue Herons, Great Egrets, and Snowy Egrets showed that these species appear to be thriving at the marina, and each of their local populations exists at relatively high levels for Los Angeles County and elsewhere along the coast of southern California.~~

- ~~2. Nesting herons, egrets, and cormorants, while historically not recorded along the coast in the Ballona Wetlands and at the Los Angeles River mouth in notable numbers, started appearing in MDR in the early '90's and not present historically at the marina, are thriving in the marina now. These colonial waterbirds and should be given the opportunity to continue to forage, roost, and nest in MDR. Annual surveys should be conducted to monitor the status of colonial waterbirds in MDR. If and when conflicts arise and where their presence is shown to so long as their presence is compatible with (a) other species of conservation concern in the local area and (b) with human usage of the marina appropriate measures, as laid out in the CMP and tree pruning and removal policies 23 and 34, will be undertaken.~~
- ~~3. Waterbird nesting colonies are scattered throughout the marina, subject to change from year to year, and do not always occur where they might be expected. This dynamism and lack of predictability prevent managers from identifying the area's "sensitive" resources; only through periodic review can this question be answered at any given time. An effective management strategy should consider all trees in Marina del Rey as having potential to support nesting in the future.~~
- ~~4. Some species of colonial waterbirds, including the Great Blue Heron and Black-crowned Night Heron, have been shown to negatively impact nesting of other species by preying on nestlings. This may be related to the size and proximity of the nesting colony of the depredating waterbirds. Each situation is different, which necessitates a case by case, adaptive management approach.~~
- ~~5. At the Venice California Least Tern colony, predation by American Crows has presented serious management problems in recent years. Therefore, appropriate measures should be taken to discourage the proliferation of crows and other omnivorous species in Marina del Rey (and elsewhere in the local area).~~
- ~~6. The CMP recommends against installing more non native trees that could provide additional waterbird nesting substrates, and against providing man-made structures for nesting waterbirds at Marina del Rey due to (a) lack of evidence that these species nested in the local area historically; (b) potential conflicts between colonial waterbirds and species of conservation concern in the local area, especially the California Least Tern; and (c) potential conflicts between colonial waterbirds and established human uses of the marina. The CMP also recommends against replacing nesting trees with new nesting trees if they should be rendered unusable through natural/normal use by the birds (e.g., "guanotrophy" of the nesting trees at the end of Fiji Way) or acts of nature. Rather, To the extent possible, natural processes should guide habitat management decisions marina wide.~~
- ~~7. For public safety, tree health, and to allow intended human uses of the marina, trees must occasionally be pruned or removed. This must be done in accordance with state and federal law and tree pruning and removal policies 23 and 34. With regard to these activities, the colonial waterbirds that nest in Marina del Rey enjoy the same legal protections afforded to nearly all other native bird species (i.e., active nests may not be disturbed).~~



- ~~8. The general expansion and diversification of Marina del Rey's waterbird colonies achieved under the County's existing (2006) tree pruning policy leads the CMP authors to conclude that this bird friendly policy effectively supports the continued existence of colonial waterbirds in the marina.~~
- ~~9. Nevertheless, because colonial waterbirds are extremely visible, popular, and charismatic components of Marina del Rey and nearby areas, and in light of ongoing potential for serious conflicts between nesting colonies and legitimate human uses of the marina (such as the current situation involving dying cypress trees at the end of Fiji Way), a more formalized management approach for the area's waterbird colonies is warranted.~~
- ~~10. First, the County has extended its existing (2006) tree pruning policy (No. 23) to cover all leaseholders (No. 34) in Marina del Rey (the 2006 policy applied only to the County itself and new or renewing leases, but not to leaseholders in good standing with the County).~~
- ~~11. Second, in cases where a waterbird nest might be removed or rendered unusable as a result of pruning that an arborist deems necessary to promote the health of the tree (as permitted under the County's existing tree pruning policy), the policy should be amended to specify that a County biologist, or County contracted biologist, review and approve the proposed pruning. The purpose would not be to second-guess the arborist, but to provide an appropriate level of administrative biological review before actions are taken that could potentially disrupt waterbird nesting in future years. Pruning deemed necessary to alleviate an immediate threat to public safety would not be subject to this additional review.~~
- ~~12. The CMP recommends that the County conduct waterbird population surveys, preferably on an annual basis, that would be needed in order to track the status of colonies and to provide current information on the locations of active nests to the public, the County, resource agencies, and other regulators. The County concurs with this recommendation.~~
- ~~13. The CMP also recommends that the County conduct periodic nesting colonial waterbird surveys (e.g., every 3-5 years) throughout the coastal slope of Los Angeles County to establish a regional context for the Marina del Rey colonies. For example, the Snowy Egret is known to breed in fewer than five locations on the coastal slope of Los Angeles County, with Marina del Rey supporting one of the larger colonies. Should this continue to be the case, special care should be taken around the marina's Snowy Egret colonies, to help preclude a regional population decline. The County concurs with this recommendation as funding permits.~~

### **Suggested Modification 32**

On page 5-11, *Tree management Policies*, modify as follows:

#### **Tree Management Policies (No. 23 and 34)**

The following ~~numbered paragraphs~~ policies provide ~~guidance~~ **standards** for County personnel, contractors, lessees, and anyone else potentially involved in pruning or

removing trees in Marina del Rey. Note that, for most species, the “breeding season” generally extends from January through August. For species like the Great Blue Heron, however, breeding activities may start as early as December, and both Mourning Doves (*Zenaida macroura*) and hummingbirds may nest essentially year-round. Since removal of the active nest of virtually any native species represents a violation of State and federal law, all tree pruning or removal should be done in consultation with a trained biologist familiar with the relevant statutes and with ~~this plan~~ these policies ~~and its goals~~. Furthermore, the “breeding season” for bats is considered to extend from March 1 to September 15. **A coastal development permit is required for any nesting tree removal associated with new development, re-development, or renovation. The only exception would be if the nesting tree removal associated with new development, re-development, or renovation is necessary for a health and safety emergency.**

- ~~1) Trees posing an immediate safety threat that cannot be avoided (e.g., falling over into traffic or fire lane) should be pruned/removed immediately regardless of presence of nesting herons/egrets or other species. Notification should be provided to the California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS) before any action is undertaken that might disturb any actively nesting birds.~~
- ~~2) Trees not posing an immediate safety threat or not otherwise impacting normal human use of the marina shall be maintained in accordance with the policy 23 and 34 tree trimming guidelines. If a waterbird nest might be removed or rendered unusable as a result of pruning that an arborist deems necessary to promote the health of the tree (as permitted under the County’s existing tree pruning policy), a County biologist or County contracted biologist will review and approve the proposed pruning. The purpose would be to provide an appropriate level of administrative biological review before actions are taken that could potentially disrupt waterbird nesting in future years.~~
- ~~3) In cases where a waterbird colony is fouling cars, landscaping, etc., but not apparently endangering public health, a temporary structure, such as a tarp or a tent supported by metal poles, may be erected below the colony, but the tree itself must not be disturbed during the breeding season as long as birds are involved in nest building, nesting, or raising young there.~~

### **Suggested Modification 33**

On page 5-11, under *Tree management Policies*, add the following Tree pruning policy:

#### **POLICY NO. 23-- MARINA DEL REY TREE PRUNING AND TREE REMOVAL POLICY**

##### **1.0 INTRODUCTION/PURPOSE**

**The purpose of this Policy and Policy No. 34 is:**

- 1.1 To establish guidelines within Marina del Rey for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.
- 1.2 To provide County staff with guidelines and procedures for tree pruning and/or tree removal within Marina del Rey in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this policy, and the desire to reduce or eliminate impacts to their nesting habitats.

2.0 POLICY

This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey properties so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species. For clarification purposes, palms are included when any section in this policy refers to trees. Section 5.3 of this Policy contains procedures for addressing immediate and imminent health and safety and emergency issues.

The County will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal.

An earlier version of this policy has been carried out by the Department of Beaches & Harbors (Department) since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. This revised policy, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial waterbirds, as outlined in the 2010 *Marina del Rey Conservation & Management Plan*, will continue to provide the basis for management and oversight to County-operated properties. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the County's nesting colonial waterbird surveys each year, the Department will identify all County-operated properties on which no nests of colonial waterbird or raptor species were found. Tree pruning activities may commence on the identified properties within a reasonable period of time (i.e., outside of the breeding/nesting season).

The Department's qualified biologist (as the term is defined in Section 4.11 of this Policy) may use the annual nesting colonial waterbird surveys as the basis for part or all of the initial survey, where required, prior to the commencement of annual tree pruning on County-operated properties.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding season, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the County or County contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.

Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this policy and in policy no. 34. Tree pruning or removal of nesting trees is prohibited during the breeding/nesting season except in the case of a health and/or safety emergency as defined below. In circumstances where tree pruning and removal is not completed during the non-breeding/non-nesting season, tree pruning or removal may proceed as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years.

All tree pruning and removal shall be conducted in strict compliance with this policy and Policy No. 34. However, if the County determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.

### 3.0 APPLICABLE STATUTES

#### 3.1 California Fish and Game Code § 3503

"It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto."

**3.2 California Fish and Game Code § 3513**

"It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act."

**3.3 Migratory Bird Treaty Act - U.S. Code, Title 16, § 703**

"Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976."

**3.4 Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27**

"Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part." Permit applications are submitted to the U.S. Fish and Wildlife Service's Regional Office.

**4.0 DEFINITIONS**

**4.1 Active Nest -- A nest that is under construction or that contains eggs or young.**

**4.2 Breeding/Nesting Season -- January 1 through September 30.**

**4.3 Colonial Waterbirds -- Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).**

**4.4 Department -- Los Angeles County Department of Beaches & Harbors.**

- 4.5 Health Issue/Safety Issue – A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or branch is dead, diseased, dying, or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.
- 4.6 Nesting Tree – A Tree as defined in 4.13 below containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.
- 4.7 Non-breeding/Non-nesting Season -- October 1 through December 31.
- 4.8 Non-nesting Tree – A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.
- 4.9 Occupied Nest -- A nest that contains eggs or young.
- 4.10 Pruning -- The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree
- 4.11 Qualified Biologist -- Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.
- 4.12 Raptor -- Order Falconiformes, which includes eagles, hawks, falcons, and ospreys.
- 4.13 Tree -- A palm or a plant having a permanently woody main stem or trunk, ordinarily growing to a height over eight (8) feet and usually developing branches at some distance from the ground.

## 5.0 PROCEDURE

Non-nesting trees on County-operated properties that are identified in the annual nesting colonial waterbird survey as having no active nests and no history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this Policy.

County-operated properties identified in the County's annual nesting colonial waterbird survey as having active nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this policy.

Regardless of the results of the annual nesting colonial waterbird survey, the Department's plans to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy.

5.1 Tree Pruning and Removal Restrictions During the Non-Breeding/Non-Nesting Season

5.1.1 Tree pruning on County-operated properties shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees.

5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, a qualified biologist shall coordinate with the County's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map with the respective status of all the trees scheduled for pruning or removal and a plot plan showing any trees suspected to have active or unoccupied nests. Copies of the survey and plot plan shall be filed by the Department for public agency review.

5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the qualified biologist shall walk the entire area proposed for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether any adults appear to be starting a new clutch (preparing to mate and lay eggs).

5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG) and the Executive Director of the California Coastal Commission (CCC) by submitting by e-mail within two (2) business days the qualified biologist's survey report and a copy of the tree pruning or removal plan prepared by the arborist or landscape contractor which shall incorporate the following:

a. A description of how work will occur.

b. Use of non-mechanized hand tools to the maximum extent feasible.

c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.

d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.

- 5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in a way that compromises the support structure of existing occupied or unoccupied nests. The amount of pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a nesting tree(s) is determined to be an unmitigatable health or safety issue, the Department, in consultation with a Qualified Biologist and with notice to the appropriate agencies, may determine that pruning, so as to remove the empty nest and/or to discourage future nesting, or tree removal is appropriate.
- 5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding season. Tree pruning or removal shall not occur any closer than 300 feet from these trees (500 feet in the case of an active Raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following the compliance with procedures described in subsections 5.1.1 through 5.1.5, the Department will notify the USFWS, the CDFG and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.
- 5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the qualified biologist documents and photographs the occurrence. Copies of photographs and reports shall be filed by the Department for public agency review.
- 5.1.8 In the event that colonial waterbirds are observed to return during the non-breeding season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The Biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.
- 5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways, or the promenade.
- 5.1.10 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.1.11 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The



Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

**5.2 Tree Trimming and Removal Restrictions During the Breeding/Nesting Season or Near Active or Occupied Nests**

**5.2.1 This section addresses non-nesting tree pruning or removal during the breeding/ nesting season. Nesting trees must be trimmed during the non-breeding and non-nesting season per section 5.1 above. This section specifically applies to those circumstances where the completion of tree pruning activities started during the non –breeding/non-nesting season extends into the breeding/nesting season. If tree pruning must occur during the breeding/nesting season, the Department will conduct a monitoring program to begin 14 days prior to commencing activities that have a potential to disturb any nesting tree. During the 14-day monitoring period, the Department shall arrange to have its qualified biologist conduct weekly surveys to detect and record any protected birds in the area of operation and to identify any active nests within 300 feet (500 feet for raptors) of the trees proposed to be pruned.**

**5.2.2 If during the breeding/nesting season it cannot be determined from the ground whether a nest is active, the qualified biologist will make a close-range observation of each nest to determine whether the nest is an active nest; that is, whether there are eggs in the nest and/or whether nest maintenance has taken place. Photographs of nests will be taken from above, as near to vertical as possible. Nests should be accessed by using a cherry picker or a boom truck.**

**5.2.3 After inspecting all trees for active nests in the specific area scheduled for pruning activities under Section 5.2.1, the qualified biologist shall identify those trees containing active nests with caution tape, flags, ribbons or stakes. The Department shall instruct the tree pruning contractor to avoid disturbing all marked trees during scheduled pruning activities.**

**5.2.4 The tree pruning contractor should begin pruning operations within three to four (3-4) days of the qualified biologist's survey.**

**5.2.5 Pruning or removal activities within 300 feet of a tree with an active nest (500 feet in the case of an active raptor nest) must be performed with hand tools. If pruning activities cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting.**

5.2.6 In the event the tree pruning contractor discovers an active nest (eggs, nest construction, other evidence of breeding) not previously identified by the qualified biologist, the contractor shall immediately cease all pruning activities in that area of operation, and shall immediately notify the Department. Thereafter, the qualified biologist must perform a re-inspection of the tree containing an active nest following the procedures described in this policy to continue the tree pruning activities.

5.2.7 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.

5.2.8 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

### 5.3 Health and Safety Issues & Emergencies

5.3.1 The Department, in consultation with a certified arborist and qualified biologist or public health official, as necessary, shall determine if an immediate or imminent health and safety issue exists as described in the definitions above. The Department shall be proactive in identifying any tree related health and safety issue as early as possible during the non-breeding/non-nesting season in order to avoid habitat disturbances during the breeding/nesting season.

5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).

5.3.3 If the location or change in the condition of a nesting tree located on property operated and maintained by the County presents an immediate or imminent health and safety issue as described in the definitions above, the Department shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27) and notify CDFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with nesting tree removal or other remedies. When possible the Department shall submit a special permit application and notify above agencies prior to tree removal or other remedies

5.3.4 The Department shall photograph the health and/or safety issue site conditions before and after the remedy(s) and document the impacts to the

nesting tree (i.e. number of nests, eggs, and/or chicks lost) and adjacent biological resources. The photographs and report shall be available for public agency inspection.

5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of non-mechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.

5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.

5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

#### **Suggested Modification 34**

On page 5-11, under *Tree management Policies*, add the following Tree pruning policy for lessees:

#### **POLICY NO. 34-- MARINA DEL REY LEASEHOLD TREE PRUNING AND TREE REMOVAL POLICY**

##### **1.0 INTRODUCTION/PURPOSE**

**The purpose of this Policy is:**

**1.1 To establish guidelines within Marina del Rey for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.**

**1.2 To provide Lessees with guidelines and procedures for tree pruning and/or tree removal on leaseholds located in Marina del Rey in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this**

policy, and the desire to reduce or eliminate impacts to their nesting habitats.

## **2.0 POLICY**

This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors (Department) for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey Lessees so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species on leasehold property.

The Department will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal. For clarification purposes, palms are included in any reference herein to trees.

Lessees, in following the procedures set forth below, will carry out their tree pruning and/or removal activities in cooperation with the Department and only with the explicit authorization of the Department prior to starting such work. Section 5.3 of this policy contains procedures for Lessees or their authorized representatives to follow when addressing immediate or imminent health and safety and emergency situations.

This policy is an outgrowth of Internal Policy No. 23 that has been carried out by the Department since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. The Department's Internal Policy No. 23, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial waterbirds, as outlined in the 2010 Marina del Rey Conservation & Management Plan, will provide the basis for extending management and oversight to Lessee-operated parcels. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the Department's nesting colonial waterbird surveys each year, the Department will identify all leaseholds on which no nests of colonial waterbird or raptor species were found, and Lessees will be notified in writing that tree pruning activities may commence on the identified leaseholds during the non-breeding/non-nesting season.

Lessees are encouraged to utilize the Department's annual nesting colonial waterbird surveys as the basis for part or all of the surveys prepared by Lessee's qualified biologist (as the term is defined in Section 4.11 of this

policy), where required by this policy, prior to the commencement of annual tree pruning on Marina del Rey leaseholds.

Lessee is required, under the “Rules and Regulations” provision of Marina del Rey leases, to ensure that all tree pruning and/or tree removal conducted on leaseholds located in Marina del Rey adheres to the guidelines and procedures outlined in this policy statement. Similarly, the policies and procedures contained herein apply to the ongoing maintenance of existing developments and may not be used to substitute for the project and landscaping approvals required by the County of Los Angeles for new development, re-development, or renovations.

Considering Marina del Rey’s urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding/non-nesting season to make them unsuitable as nesting substrates. Any such “directed pruning” should be done during the non-breeding/non-nesting season which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the Department or Department contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.

Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this document (Policy 34). Tree pruning or removal is prohibited during the breeding/nesting season except to complete tree pruning activities started during the non-breeding/non-nesting season as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years or in the case of a health and safety emergency.

All tree pruning and removal shall be conducted in strict compliance with this policy. If a Lessee determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.

### **3.0 APPLICABLE STATUTES**

#### **3.1 California Fish and Game Code § 3503**

“It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto.”

#### **3.2 California Fish and Game Code § 3513**

“It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.”

#### **3.3 Migratory Bird Treaty Act- U.S. Code, Title 16, § 703**

“Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.”

#### **3.4 Special Purpose Permits- U.S Code of Federal Regulations, Title 50, § 21.27**

“Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part.” Permit applications are submitted to the U.S. Fish and Wildlife Service’s Regional Office.

### **4.0 DEFINITIONS**

**4.1 Active Nest -- A nest that is under construction or that contains eggs or young.**

**4.2 Breeding/Nesting Season -- January 1 through September 30.**

- 4.3 Colonial Waterbirds -- Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).
- 4.4 Department -- Los Angeles County Department of Beaches & Harbors.
- 4.5 Health Issue/Safety Issue -- A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or branch is dead, diseased, dying or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.
- 4.6 Nesting tree -- A tree as defined in 4.13 below, containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.
- 4.7 Non-breeding/Non-nesting Season -- October 1 through December 31.
- 4.8 Non-nesting Tree -- A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.
- 4.9 Occupied Nest -- A nest that contains eggs or young.
- 4.10 Pruning -- The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree
- 4.11 Qualified Biologist -- Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.
- 4.12 Raptor -- Order Falconiformes, which includes eagles, hawks, falcons, and ospreys.
- 4.13 Tree -- A palm or a plant having a permanently woody main stem or trunk, ordinarily growing to a height over eight (8) feet and usually developing branches at some distance from the ground.

5.0 PROCEDURE

*Non-nesting trees on Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having no active Nests nor a history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this policy. Lessees will be notified in writing that tree pruning activities shall be carried out during the non-breeding/non-nesting season.*

*Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having active Nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this Policy*

*Regardless of the results of the Department's annual nesting colonial waterbird survey, all leasehold parcels proposing to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy. Written authorization from the Department must be obtained before any action is undertaken that might disturb an active nest.*

**5.1 Tree Pruning and Removal Restrictions During Non-Breeding/Non-Nesting Season**

**5.1.1 Tree pruning and removal on all leaseholds in Marina del Rey shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees..**

**5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, the Lessee's qualified biologist shall coordinate with the Lessee's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map showing all the trees scheduled for pruning or removal and trees suspected to have active or unoccupied nests. Copies of the survey and map shall be submitted to and filed by the Department for public agency review.**

**5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the Lessee's qualified biologist shall walk the entire area proposed for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether the adults appear to be starting a new clutch (preparing to mate and lay eggs).**

**5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, no less than seven (7) days prior to the planned commencement of tree pruning or removal activities, the Lessee will notify the Department in writing with a copy of the survey report, plot plan and a tree pruning or removal plan prepared by the arborist or landscape contractor which addresses the following:**



- a. A description of how work will occur (e.g. mechanized equipment, hand tools, phasing, etc.).
- b. Use of non-mechanized hand tools to the maximum extent feasible.
- c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.
- d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.

Notification must include the name and credentials of Lessee's qualified biologist. Once the Department receives the tree survey report, plot plan and tree pruning or removal plan, the Department will notify the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the California Coastal Commission (CCC) by submitting by e-mail, within (2) two business days of receipt of Lessee's notice.

- 5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in such a way that compromises the support structure of existing occupied or unoccupied nests. The amount of pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a tree(s) is determined to be an health or safety issue, the Lessee, in consultation with a qualified biologist and with the prior approval of the Department, may conduct pruning so as to remove the empty nest and to discourage future nesting, or tree removal as appropriate.
- 5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding/non-nesting season. Tree pruning or removal shall not occur any closer than 300 feet from these trees (500 feet in the case of an active raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, Lessee shall immediately notify the Department and pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following compliance with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the USFWS, CDFG, and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.
- 5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the Lessee's qualified biologist documents and photographs the occurrence. Copies of the qualified biologist's report and photographs shall be forwarded to the Department within three (3) business days of the removal.

5.1.8 In the event that colonial waterbirds are observed to return during the non-breeding/non-nesting season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The qualified biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.

5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways or the promenade. Lessee must obtain advance written approval from the Department for the closure of any public promenade or sidewalk necessitated by the tree pruning work.

5.1.10 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.

5.1.11 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Lessee shall develop and submit to the Department for approval a tree replacement planting plan for all trees to be removed, which should include the location, tree type, tree size, planting specifications, and a monitoring program with specific performance standards shall be prepared and then updated annually for five years.

5.2 Tree Trimming and Removal Restrictions During Breeding /Nesting Season or Near Active or Occupied Nests

5.2.1 This section addresses non-nesting tree pruning or removal during the breeding/nesting season. Nesting trees must be trimmed during the non-breeding/non-nesting season per section 5.1 above. This section specifically applies to those circumstances where the completion of tree pruning activities started during the non-breeding/non-nesting season extends into the breeding/nesting season. If tree pruning or removal must occur during the breeding/nesting season, the Lessee's qualified biologist will conduct a monitoring program to begin fourteen (14) days prior to commencing activities that have a potential to disturb any nesting tree. During the 14-day monitoring period, the Lessee shall arrange to have its qualified biologist conduct weekly surveys to detect and record any protected birds in the area of operation and to identify any Active Nests within 300 feet (500 feet for raptors) of the trees proposed to be pruned or removed. Monitoring within the thirty (30) day advance monitoring period may include surveys conducted toward the end of the Non-breeding Season.

- 5.2.2 If during the breeding/nesting season it cannot be determined from the ground whether breeding activities have commenced, Lessee's qualified biologist will make a close-range observation of each nest to determine whether the nest is an active nest; that is, whether there are eggs in the nest and/or whether nest maintenance has taken place. Photographs of nests will be taken from above, as near to vertical as possible. Nests should be accessed by a cherry picker or a boom truck.
- 5.2.3 After inspecting all trees for active nests in the specific area scheduled for pruning or removal activities under Section 5.2.1, Lessee's qualified biologist shall identify those trees containing active nests with caution tape, flags, ribbons or stakes. The Lessee shall instruct the contractor to avoid disturbing all marked trees during scheduled pruning activities.
- 5.2.4 Lessee's contractor should begin pruning or removal operations within three to four (3-4) days of receiving authorization from Department.
- 5.2.5 Pruning or removal activities within 300 feet of a tree with an active nest (500 feet in the case of an active raptor nest) must be performed with hand tools. If pruning activities cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting
- 5.2.6 In the event the Lessee's contractor discovers an active nest (eggs, nest construction or other evidence of breeding), not previously identified by Lessee's qualified biologist, the contractor shall immediately cease all pruning activities, and the Lessee shall immediately notify the Department. Thereafter, Lessee must consult with Lessee's qualified biologist to perform a re-inspection of the tree containing an active nest, determine that breeding and nesting has ceased and obtain said biologist's approval to proceed if Lessee desires to continue tree pruning or removal activities.
- 5.2.7 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.2.8 Special emphasis shall be placed on public safety during tree pruning or removal operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways, or the promenade.
- 5.2.9 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which should include the location, tree type, tree size, planting specifications, and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

**5.3 Health and Safety Issues & Emergencies**

- 5.3.1 The Department shall determine if an immediate or imminent health and safety issue exists as described above. Lessees, with supporting documentation from a certified arborist, qualified biologist or public health official, shall notify the Department as soon as a health and safety issue is known. The Lessee shall be proactive in identifying and addressing injured, dying, or diseased trees and alerting the Department as early as possible during the Non-Breeding Season in order to avoid habitat disturbances during the nesting season.**
- 5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).**
- 5.3.3 If the location or change in the condition of a tree located on any leasehold presents an immediate or imminent health and safety issue as described in the definitions above, Lessee shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits – U.S. Code of Federal Regulations, Title 50, § 21.27) and notify DCFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with tree removal or other remedies. When possible, the Lessee shall submit a special permit application and notify the Department and above agencies prior to tree removal or other remedies.**
- 5.3.4 Lessee shall photograph and document the emergency occurrence, site conditions before and after the occurrence, and any observation of biological resources, and submit to Department a brief written report within fourteen (14) business days. The Department shall create an incident file that shall be available for public agency inspection.**
- 5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or Lessee's qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of non-mechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.**
- 5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.**
- 5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. Lessee is required to develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance**

**standards. A tree replacement monitoring report shall be prepared and then updated annually for five years. The Lessee's annual monitoring report must be submitted to the Department prior to the start of each successive breeding/nesting season.**

### **Suggested Modification 35**

On page 5-12, under *Management Policies for Crows and Other Omnivores*, modify as follows:

The ~~CMP provides the~~ following standards guidance shall apply to the County and other land managers/leaseholders in Marina del Rey to help reduce predation pressure upon native wildlife populations from American Crows and other omnivores currently thriving in the local area:

1. Crows prefer to nest in trees, so discouraging tree-planting **beyond requirements for tree replacement mitigation pursuant to policies 23 and 34** would help reduce numbers over time.
2. Crows are scavengers, especially of garbage cans, so restricting trash cans to the covered type and ensuring prompt servicing during periods of heaviest use (such as over weekends, especially during summer) would help to reduce numbers of crows, rats, and other scavengers.
3. Restaurants should be required to maintain covered, well-functioning dumpsters that discourage crows, rats, and other scavengers.
4. The County should consider similar measures on beaches adjacent to Marina del Rey (e.g., Venice and Dockweiler) as well as trash-reduction policies for Ballona Creek, where large numbers of crows congregate.
5. Crows, like Raccoons, frequently “wash” their food, and they often use irrigation runoff in gutters to do so. This attractant could be mitigated by reducing irrigation, where possible, by replacing tropical plants with drought-tolerant landscaping.

### **Suggested Modification 36**

On page 5-13, under *Waterbird Management Policies*,

The County ~~will intends to~~ conduct waterbird population surveys on an annual basis, in order to track the status of colonies and to provide current information on the locations of active nests to the public, the County, resource agencies, and other regulators.

The County will also conduct periodic nesting colonial waterbird surveys (e.g., every 3–5 years) throughout the coastal slope of Los Angeles County to establish a regional context for the Marina del Rey colonies as funding permits. For example, the Snowy Egret is known to breed in fewer than five locations on the coastal slope of Los Angeles County,

with Marina del Rey supporting one of the larger colonies. Should this continue to be the case, special care should be taken around the marina's Snowy Egret colonies, to help preclude a regional population decline.

### **Suggested Modification 37**

On page xx, modify as follows:

#### **Recommendations for Biological Reports & Construction Monitoring Requirements**

The following measures shall be implemented when construction (**new development, re-development, or renovation**) is proposed anywhere in Marina del Rey. ~~The requirements for biological reporting are patterned upon Section 4.4.2 of the City of Malibu Local Coastal Program/Local Implementation Plan. The construction monitoring recommendations are patterned upon the conditions of Coastal Development Permit No. 5-08-242, issued by the California Coastal Commission in 2008 for the Oxford Basin low-flow diversion project.~~

#### **Qualified Biologist**

Since trees capable of supporting nesting birds of many species are now established throughout Marina del Rey, many types of construction projects and maintenance in the marina area will have at least some potential to impact nesting birds. Construction within the aquatic habitats of the marina itself (e.g., in tidal basins) also entails potential impacts to biological resources, mainly in the form of potential water-quality impairment and potential impacts to foraging waterbirds. Thus, in most cases, the project proponent shall be required to retain a biological consultant with appropriate credentials to participate in the planning and monitoring of construction projects in Marina del Rey. Qualified biologists retained for this purpose must be familiar with the CMP and LUP, and possess a working knowledge of the County's other important resource protection policies.

#### **Biological Reports**

Applications for new development, **re-development, and renovations** on property where the initial site inventory indicates the potential presence of colonial waterbirds, sensitive species, or sensitive habitat shall include a detailed biological study of the site, prepared by a qualified biologist or other resource expert. At minimum, the biological report shall include the following elements:

1. A study identifying biological resources, both existing on the site and with potential to occur. The biological study should focus on species identified in Table 3-5 of the CMP (Bird Species of Conservation Concern in Marina del Rey & Surroundings), on colonial waterbirds, and bats. In the absence of standard protocols, at a minimum, the area should be surveyed for two hours between dawn and 10:00 a.m. on five

- occasions with at least one week between surveys. If there is appropriate habitat for owls on site, at least one nocturnal survey should be conducted.
2. It is unknown at this time whether any bats roost or reproduce in Marina del Rey. Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish and Game Code Section 4150, California Code of Regulations, Section 251.1). It is recommended by CDFG that disturbances to bridge structures, tree cavities, and other potential bat nursery and roosting habitats be avoided between March 1 and September 15 to avoid the breeding season for bats. If disturbance of any bridges, or trees large enough to have cavities or exfoliating bark, is proposed during the bat breeding season, a recognized bat specialist shall conduct a preconstruction survey.
  3. Photographs of the site.
  4. A discussion of the physical characteristics of the site, including, but not limited to, topography, soil types, microclimate, and wildlife use.
  5. Consideration of whether project implementation could affect any areas under the jurisdiction of the U.S. Army Corps of Engineers (ACOE), California Coastal Commission (CCC), CDFG, and/or Regional Water Quality Control Board. If this is possible, a qualified wetlands specialist should be consulted to evaluate the site, conduct a wetland delineation per ACOE and CCC guidelines if necessary, and to coordinate with the relevant agencies to ensure compliance with all applicable federal and state permitting requirements.
  6. A map depicting the location of plant communities and other biological resources.
  7. An identification of rare, threatened, or endangered species, that are designated or are candidates for listing under State or federal law, an identification of “fully protected” species and/or “species of special concern,” and identification of any other species for which there is compelling evidence of rarity, for example, plants designated “List 1B” or “List 2” by the California Native Plant Society, that are present or expected on the project site.
  8. An analysis of the potential impacts of the proposed development on the identified habitat or species.
  9. An analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.
  10. Project alternatives designed to avoid and minimize impacts to sensitive resources.
  11. Mitigation measures that would minimize or mitigate residual impacts that cannot be avoided through project alternatives.

### Construction Timing

Since many types of projects will have potential to impact nesting birds, it is generally recommended that aspects of the project that have the greatest potential for such impacts be implemented during the “non-breeding season,” which in the local area is between **October 1** ~~September 4~~ and **December 31** ~~November 30~~. This term cannot be taken literally in all cases since, for example, hummingbirds nest year-round and Great Blue Herons may exhibit breeding behaviors at virtually any time of the year. The bat

breeding season is considered by CDFG to extend through September 15, although it is not known whether any bats actually breed in Marina del Rey. Nevertheless, the potential for substantial impacts is reduced during the specified period. If construction activities must take place near waterbird nesting sites during the nesting period, it is preferable that such impacts take place toward the end of nesting rather than toward the beginning, since waterbirds are more likely to abandon nests early in the nesting cycle.

#### Construction Near Waterbird or Raptor Nesting Sites

Typically Where applicable, the project biologist should conduct an initial reconnaissance survey to determine whether any active waterbird or raptor nesting sites exist within 300 to 500 feet, respectively, of proposed construction activities. The survey should include inspection of the ground for the guano stains typically present below waterbird nesting sites, but also careful inspections of all trees where nests might be placed.

If an active waterbird or raptor nest is found within 300 or 500 feet, respectively, of construction, the following measures are recommended:

1. The project biologist ~~should~~ **shall** either possess noise-monitoring equipment or work in conjunction with a noise-monitoring consultant to measure noise levels at active nesting sites.
2. The project biologist/noise monitor ~~should~~ **shall** be present at all weekly construction meetings and during all activities with potential to generate noise over a threshold of 85 dB at any nest site. This includes such activities as hardscape demolition, pile-driving, and the use of chainsaws. The purpose of monitoring should be to ensure that nesting birds are not disturbed by construction related noise. Thus, the monitor ~~should~~ **shall** watch for any behaviors associated with noise disturbance, including flushing or other startle movements, changes in foraging or reproductive rituals, interrupted feeding of young, or nest abandonment. If any such behaviors are observed, the monitor shall have the authority to stop work immediately so that measures may be taken to avoid any further disturbance.
3. ~~As a guideline,~~ Noise levels from construction, measured at the nest, ~~should~~ **shall** not exceed 85 dB. Monitoring should be especially careful and intensive, and observations should be recorded in detail, when noise levels approach this level. Nevertheless, given that levels in excess of 100 dB have been recorded at heron and egret nests near Oxford Basin with no apparent adverse effects (Chambers Group 2008), there is no empirical evidence proving that 85 dB is a valid threshold above which birds nesting in an urban environment experience substantial disturbance. Still, the burden of proof ~~should~~ **shall** be placed upon the project proponent to demonstrate that a higher noise level can be safely tolerated. If constant, detailed monitoring of noise levels above 85 dB demonstrates that the birds show no evidence of being disturbed, construction ~~shall~~ **should** be allowed to continue. In such cases, the final monitoring report ~~shall~~ **should** contain relevant details about (a) the types, intensities, and duration of noises the birds were subjected to, (b) any observations of stress behaviors in response to noises or other disturbances, and (c) the nesting success of those birds relative to other birds in the nearby area that were not subjected to the



same elevated levels of construction noise. If it turns out that birds subjected to elevated noise levels appear to possibly experience reduced nesting success despite a general lack of evident stress behaviors, the project proponent shall not be subject to any penalties, but the monitoring results ~~shall~~ ~~should~~ be incorporated into a revised construction monitoring policy that takes these important results into account. Without detailed monitoring of this nature, the actual thresholds that substantially disturb different nesting bird species at urban locations such as Marina del Rey may never be known.

4. If stress behaviors are observed from nesting birds in response to any construction activity, the project biologist shall be authorized to call for the implementation of such mitigation measures as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing or eliminating the use of back-up alarms. If these sound mitigation measures do not reduce noise levels enough to eliminate the observed stress behaviors, construction within 300 feet (500 feet for raptors) of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or until nesting is complete. To the extent possible, the biologist's monitoring report shall specify the sound levels at the nest at which the birds demonstrated stress behaviors.
5. Construction staging areas or equipment shall not be located under any nesting trees.
6. Construction employees shall be prohibited from bringing pets (e.g., dogs and cats) to the construction site.
7. Any lights used during construction shall be shielded downward.
8. Although these policies refer specifically to waterbirds and raptors (because they tend to be most sensitive to disturbance), virtually all native birds are legally protected from disturbance while actively nesting. Therefore, the biological monitor ~~shall~~ ~~should~~ take all necessary steps to ensure that no native bird species are disturbed by construction activities.

#### Additional Controls on Construction Impacts

The project proponent shall not be allowed to discharge silt or debris into coastal waters. Pursuant to this requirement, project plans ~~shall~~ ~~should~~ specify measures to minimize construction impacts. Plans shall include the following specifications, as applicable:

1. Delineation of the areas to be disturbed by grading or construction activities, including any temporary trenches, staging, and stockpile areas.
2. Best Management Practices as part of a written plan designed to control dust, concrete, demolition pavement, or pipe removed during construction, and/ or construction materials, and standards for interim control and for clean up. All sediment waste and debris ~~shall~~ ~~should~~ be retained on-site unless removed to an appropriate dumping location approved to receive fill.
3. Plans to monitor, contain, and clean/remediate oil or fuel leaks from vehicles or equipment.
4. Temporary erosion control measures to be employed ~~if~~ ~~should~~ grading or site preparation cease for a period of more than 30 days, including but are not limited to (a) filling or covering all holes in roadways such that traffic can continue to pass over

disturbed areas; (b) stabilization of all stockpiled fill, disturbed soils, and trenches with shoring, sand bag barriers, silt fencing; (c) temporary drains and swales and sediment basins. These temporary measures ~~shall~~ ~~should~~ be monitored and maintained at least on a weekly basis until grading or construction operations resume.

Prior to commencement of construction, the project proponent ~~shall~~ ~~should~~ provide for the County's review and approval final plans and plan notes that conform to the County's requirements. Work ~~shall~~ ~~should~~ not be permitted to commence until the County approves the plans in writing.

### *Proposed Approach to Evaluating Land use Conflicts*

Currently, conflicts between nesting colonial waterbirds and designated land uses are relatively benign at all but one of the primary waterbird nesting colonies in Marina del Rey (the colony near Villa Venetia).

In parks and park-like settings, such as **Yvonne B. Burke, and** Burton W. Chace Park or around the parking lot near Oxford Basin, nesting waterbirds will ~~generally not be disturbed~~ ~~allowed to continue their activities unmolested~~, except as future **permitted** native habitat restoration **and tree pruning and removal, as directed by policies 23 and 34, normal maintenance require that allow the pruning and removal** ~~reduction of~~ non-native trees (to be done outside the breeding season).

In many cases, birds are causing only minor conflicts with a designated land use. For example, at the lightly-used parking lot along Admiralty Way near Oxford Basin, an appropriate response to the occupation of two large trees may be to temporarily designate limited "no-parking" zones beneath those trees and to identify alternate parking spaces elsewhere in the Marina, as needed (rather than to remove the trees outright, unless this is being done as part of native habitat restoration, for example). In the future, it could make sense to reconfigure the parking lots adjacent to Oxford Basin and Yvonne B. Burke Park, relocating the parking lots away from Oxford Basin and establishing passive parkland in the area closer to the Basin that is compatible for waterbird nesting and wildlife values of a restored Basin.

The only current land use conflict that appears to be highly problematic is at the Villa Venetia colony, where guanotrophy has killed one nesting tree and nearly killed the other two (creating a potential public safety hazard), and where constant deposition of guano has caused a small parking lot to be almost completely unusable by residents and Coast Guard employees while also creating a potential health risk from psittacosis. The remaining cypress trees at this location are in very poor health. The County has not made a final determination as to their disposition at this time.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, it can be expected that the potential will always exist for problematic land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with

restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such “directed pruning” should be done during the non-breeding season and in compliance with the existing (2006) tree-pruning and removal policies 23 and 34, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area, as has already been documented with respect to guanotrophy and subsequent dereliction of cypress trees at Parcel 64. ~~We expect that~~ **We expect that a**Annual monitoring of the marina’s nesting colonies recommended in this plan would include documentation of any apparent bird-human conflicts and recommendations for how they might be resolved in ways that best respond to both the goals of the LCP as well as normal public health, safety, and public-access considerations.

### **Suggested Modification 38**

On Page 5-5, under *Policies and Actions*, add the following:

#### **Bird-Safe Buildings Policies:**

- **All new buildings, and major renovations of existing buildings, shall be required to provide bird-safe building facade treatments in order to reduce potential for bird strikes.**
- **Landscaped areas next to buildings, including patios and interior courtyards, shall be designed and sited to avoid or minimize bird-strike hazards caused by reflective building surfaces.**
- **Buildings shall be designed to use minimal external lighting (limited to pedestrian safety needs) and to minimize direct upward light, spill light, glare and artificial night sky glow. Buildings shall also be designed to minimize light pollution from interior lighting to the maximum feasible extent.**

### **Land Use Plan**

#### **Suggested Modification 39**

On page 8-15, the new *Seniors Facilities* land use category should be modified as follows:

o Seniors Accommodations: A specialized use for the housing of persons over age 62 who may or may not be retired. Units shall contain no more than two bedrooms and shall not provide a

kitchen. However, communal dining facilities shall be available on-site. Mixed use services provided on-site for residents may include, but are not limited to, one or more of the following: concierge, dry cleaners, laundry, hair and beauty salon, spa (excluding massage), recreation room, lounge, shuttle/limousine, travel, maid, linen, and other similar personal services. The accommodations may be rented or leased on a monthly or yearly basis. Units within a Seniors Accommodations facility are not considered residential uses for purposes of allocating dwelling units, assessing affordable housing requirements, or assessing transient occupancy taxes or fees. A height limit of 75 feet from finished floor, not including rooftop appurtenances, is permitted. This use is limited to Parcel 147 (Formerly Parcel OT).

#### **Suggested Modification 40**

On page 8-16, *Open Space* land use category should be modified as follows:

**Open Space:** Permitting recreational uses including open viewing areas, promenades, bikeways, beaches, parks, picnic facilities, nature/interpretive centers, associated surface parking and landscaping. Height limit of 25 feet, except for **public facility buildings supportive of Chace Park where a maximum height limit of 45 feet would apply.**

#### **Suggested Modification 41**

On page 8-20, Figure 3: DEVELOPMENT POTENTIAL SUMMARY BY DEVELOPMENT ZONE, should be modified as follows:

Dev Zone	D.U.	Gov't Office (sq ft)	Hotel Rooms	Vis-Serv Comm (sq ft)	Active Senior Units	Congregate Care Units	Library (sq ft)	Rest. Seats	Dry Stack Spaces	Office (sq ft)
D Z 1	<del>1498</del> <b>1384</b>	0	288	53 000	0	15	0	340	0	0
D Z 2	<del>72</del>	0	<del>217</del> <b>331</b>	42 000	114	0	0	410	0	0
D Z 3	<u>255</u>	<u>26,000</u>	<u>0</u>	<u>178,741</u>	<u>0</u>	<u>0</u>	<u>3,000</u>	<u>573</u>	<u>345</u>	<u>32,000</u>
<b>TOTAL</b>	<del>1825</del> <b>1711</b>	<b>26,000</b>	<del>505</del> <b>619</b>	<b>273,741</b>	<b>114</b>	<b>15</b>	<b>3,000</b>	<b>1,323</b>	<b>345</b>	<b>32,000</b>

### **Suggested Modification 42**

On page 8-21, C 3. Marquesas Area DZ ~ ~ See Map 11 add the following note:

Development on Parcel 10 and 14 shall be limited to a maximum height of 75 feet.

### **Suggested Modification 43**

On page 8-25, C8. Mindanao Area

Add to list of Parcels: 45

Under Principal Permitted Use by Parcel—

Add: WOZ Parcel 45 - Open Space  
- Water

Modify: WOZ Parcel 49R -Boat Storage ~~Visitor-serving Commercial~~

WOZ Parcel 49S -Boat Storage ~~Visitor-serving Commercial~~  
-Water

Modify: WOZ Parcel 77 -~~Boat Storage~~ Open Space/~~Public Facility~~  
-Water

## **Coastal Visual Resources**

### **Suggested Modification 44**

On page 9-7, modify as follows:

- 8. Height Design Flexibility for Waterfront Parcels.** Any project design for any parcel on the seaward side of a public access road may apply for flexible height standards above the maximum allowable height in exchange for providing increased view corridors in excess of the minimum requirement of 20 percent, as provided for below:

- a) Mole Roads Optional Height Areas. Structures proposed on parcels where a 45-foot standard applies and located between a mole road and the bulkhead may be allowed up to a maximum height of 75 feet when a 40 percent view corridor is provided. ~~Mole roads are only Tahiti Way, Marquesas Way, Panay Way, Bali Way and Mindanao Way.~~ Height above 45 feet shall be permitted at the ratio of 1.5 feet of additional height for every additional 1 percent of view corridor provided in excess of the 20 percent minimum standard. This policy is applicable on the following mole roads; Panay Way, Marquesas Way, Tahiti Way, Bali Way and, Mindanao

Way, Fiji Way, and the mole portion of Parcel 132. This policy shall not apply to that portion of the Parcel 132 mole seaward of the cul-de-sac, where a 45-foot maximum height standard applies.

## Hazard Areas

### Suggested Modification 45

Add the following to e. *Policies and Actions*, page 10-15:

On page 10-14 add the following Sea Level Rise discussion to 10.c. – *Assessment of Geologic Hazards*:

#### Sea Level Rise

Sea level rise as a result of global climate change is anticipated to increase significantly over the next over 100 years.

Recent calculations and observations suggest that future ice-sheet contributions to sea level rise could be about 32 inches (80 cm) by 2100 and no more than 6.5 feet (2 meters) (Pfeffer 2008). Other estimates based on the semi-empirical method of quantifying the relationship between temperature and sea level rate project an increase of 12 inches to 71 inches (30-180 cm) by 2100, using 1990 as a baseline (Rahmstorf 2007; Vermeer and Rahmstorf 2009; Grinsted et al. 2009). These all exceed the upper estimate of 23 inches (60 cm) sea level rise suggested by the IPCC for the business-as-usual scenario (Nicholls and Cazanave 2010).

The long-term (1923 to 2006) tide records for Los Angeles show a trend in sea level rise of 0.83 +/-0.27 mm/yr (0.27 +/-0.09 ft/century). Tide records for the past decade have shown a seasonal signal for water level changes, but little if any interannual sea level rise. Researchers speculate that the Pacific Decadal Oscillation (PDO) has dropped water levels along the eastern Pacific, and this regional effect has temporarily countered or dampened the global signal of sea level rise. If this hypothesis is correct, as the PDO again shifts basin-wide water toward the eastern Pacific, the dampening of sea level rise will reduce, and soon the shift will augment the sea level along the California coast. (Bromirski et al. 2011)

Executive Order S-08-13 directed the Ocean Protection Council to initiate a study by the National Academy of Science (NAS) to provide regional guidance for projections of sea level rise. This study is expected to be completed in the spring of 2012. Until the NAS is completed, the Ocean Protection Council (OPC) has provided Interim Guidance for Sea level Rise. The sea level rise estimates provided in the OPC report are shown in the table below.

Sea Level Rise Projections using 2000 as the Baseline

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<u>Year</u>		<u>Average of models</u>	<u>Range of models</u>
<u>2030</u>		<u>7 in (18 cm)</u>	<u>5-8 in (13-21 cm)</u>
<u>2050</u>		<u>14 in (36 cm)</u>	<u>10-17 in (26-43 cm)</u>
<u>2070</u>	<u>Low</u>	<u>23 in (59 cm)</u>	<u>17-27 in (43-70 in)</u>
	<u>Medium</u>	<u>24 in (62 cm)</u>	<u>18-29 in (46-74 cm)</u>
	<u>High</u>	<u>27 in (69 cm)</u>	<u>20-32 in (51-81 cm)</u>
<u>2100</u>	<u>Low</u>	<u>40 in (101 cm)</u>	<u>31-50 in (78-128 cm)</u>
	<u>Medium</u>	<u>47 cm (121 cm)</u>	<u>37-60 in (95-152 cm)</u>
	<u>High</u>	<u>55 in (140 cm)</u>	<u>43-69 in (110-176 cm)</u>

There are uncertainties surrounding future greenhouse gas emissions, vertical land movement measurements, past rates of sea level change, and future contributions to SLR from the Greenland and Antarctica. Given the uncertainties associated with future sea level rise, there are no probabilities assigned to these estimates.

Data on recent ice-sheet melt and the current trajectory of global greenhouse gas emissions suggests that sea level rise will be greater than projections (Rahmstorff 2010). The very low scenarios likely under represent future sea level rise and climate scientists recommend using the medium and high scenarios for planning.

In addition, the combined effects of chronic sea level rise resulting from climate change and episodic storm surge, unusually high tides, and tsunamis should be considered. Sea level rise is expected to lead to the following impacts that could have serious negative consequences for marine environments and intensify existing shoreline management challenges:

- Permanent or periodic inundation of low-lying areas;
- Increase in coastal flooding during extreme storms and high tides;
- Increase in erosion rates and shoreline recession in erosion-prone areas;
- Inward migration and loss of coastal wetlands;
- Erosion of some barrier dunes, exposing previously protected areas to flooding;
- Saltwater intrusion into storm water systems and aquifers (Heberger et al. 2009).

The specific impacts of sea level rise along the California coast and at Marina Del Rey will depend on the characteristics of the shoreline, geomorphology and land use patterns. In many cases, the main threat from sea level rise results from the impacts of increased potential for inundation and erosion. Local sea level rise trends should continue to be monitored closely in the future.

#### **Suggested Modification 46**

On Page 10-15 add the following discussion to *10d. - Findings:*

Marina Del Rey plans, designs, and builds infrastructure with a lifespan that will be impacted by future sea level conditions. The main areas of Marina Del Rey that will be at risk from sea level rise are the harbor and the ocean shoreline. It is important that land-use decisions and project designs consider projected sea level rise and incorporate design features that build capacity to withstand or respond to these conditions whenever practicable.

#### **Suggested Modification 47**

On Page 10-15 add following policies to 10e. *Policies and Actions*:

4. New Development shall be sited and designed to ensure that it is not adversely affected by impacts from climate change, including the potential impacts from continued and accelerated sea level rise over the expected design life of the new development.
5. Applications for coastal development permits for major development shall include a report prepared by a certified civil engineer describing the hazards to the area from continued and accelerated sea level rise. Siting and design of new major shoreline development anywhere in Marina del Rey Harbor and the siting and design of new or replacement shoreline protective devices shall take into account anticipated future changes in sea level, based on the best available scientific information and projections or range of projections of future sea level. Replacement of a structure refers to more than 50% of the cumulative repair and maintenance. Due to the uncertainties about future sea level rise, a range of likely and extreme rises in sea level shall be used in the planning and permitting of development to assess project sensitivity to future water levels, identify possible adverse consequences to the development and the surrounding area if the anticipated sea level is exceeded, and determine the minimum acceptable amount of future sea level rise that can be used for design purposes.
6. If the major development site is at risk, then the lease should disclose that the land is subject to extraordinary hazards posed by future sea level rise, which may also increase the risks posed by coastal erosion, storm surge and inundation.
7. Los Angeles County should study the potential impacts of continued and accelerated sea level rise and flooding of water ways on the existing or proposed structures within all development zones, including impacts to development zones, traffic flow, public access, natural areas and water quality. The County should delineate low lying areas which may be inundated by tsunamis, floods or unusually high tides and/or may be damaged by excessive wave action, and changes to inundation and high damage areas due to continued and accelerated sea level rise
8. Periodically review tsunami preparation and response policies/practices to reflect current and predicted future sea level trends, development conditions, and available tools and information for preparedness and response.



## **11. Circulation**

### **Suggested Modification 48**

On page 11-25, under Funding of Transportation Improvements, add:

- 6. An annual report on the amount and expenditures of the Transportation Improvement Fund shall be submitted to the Department of Regional Planning and a copy submitted to the Executive Director.**

## **IV. IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS**

### **A. Map Changes**

#### **Suggested Modification 49**

Map 14, *Parcel Development Height Limits*, change Parcel 10 height limit to 75 feet

#### **Suggested Modification 50**

County shall reconcile all maps consistent with the Suggested Modifications.

### **B. Ordinance Changes**

#### **Suggested Modification 51**

Section 22.46.1550 B., *primary uses*, page 65, add:

**Boathouses, boat racks and oarboxes for Parcel NR and IR**

#### **Suggested Modification 52**

Section 22.46.1650 Open Space-- Development Standards, add:

**Public facilities and buildings supportive of Chace Park and Marina Beach are allowed with a maximum height limit of 45 feet.**

### **Suggested Modification 53**

Section 22.46.1789, page 75, add footnote pertaining to 255 residential units in Development Zone 3:

**Notwithstanding any other provision to the contrary, these dwelling units may only be used on Parcel 64 in Development Zone 3, converted to a higher priority use in Development Zone 3, or transferred to another Development Zone via LCP amendment.**

### **Suggested Modification 54**

Section 22.46.1810 (notes following table), page 79:

**Parcel 9 wetland park - In order to maximize wildlife values no trails or gathering areas (such as picnic tables, pavilions, etc.) shall be allowed in the wetland park between the Parcel 8 parking lot and the wetland, or on the marina side of the wetland.**

### **Suggested Modification 55**

Section 22.46.1810 (notes following table), page 79:

**The developer (or responsible lessee) of Parcel 9 shall pay ½ of the cost for the restoration of the wetland and creation of an approximately 1.5 acre wetland park on Parcel 9, as well as transient slip accommodations on Parcel 9 for 9-11 boats.**

### **Suggested Modification 56**

Section 22.46.1820, page 79, add:

**Prior to issuance of a building permit for the project, the permittee shall, to the satisfaction of the Directors of Regional Planning and Beaches & Harbors, pay monies into the Coastal Improvement Fund (specified in section 22.46.1950 of the County Code) in the amount necessary to fund 50 percent of the design, permitting and construction of a public wetland and upland park on the southerly approximately 1.46-acres of Marina Parcel 9U. The first to obtain a building permit of the permittees of the subject project and the hotel resort project on Parcel 9U shall construct such public wetland and upland park and shall be entitled to reimbursement of 50 percent of the design, permitting and construction cost by the County. If such park is not developed by the permittee of the hotel resort, the subject permittee may enter onto Parcel 9U to perform such construction work. Development of said public wetland and upland park on the southerly portion of Parcel 9U shall be completed and the park shall be open to the public in advance**

**of issuance of a Final Certificate of Occupancy for the subject approved apartment building on Parcel 10.**

**Suggested Modification 57**

Section 22.46.1820, page 79, add to notes following table:

-- Parcel 10 (nonmole portion) — ~~Height category 5: — Building height not to exceed 140 a~~  
**maximum of 75 feet, unless an expanded view corridor is provided in accordance with**  
~~Section 22.46.1060 in which case the height shall not exceed a maximum of 225 feet.~~

**Suggested Modification 58**

Section 22.46.1820, page 79, add to notes following table:

**Parcel 14 –Developer shall deposit into an account designated by the County an amount equal to the cost of replacing 101 parking spaces at Chace Park, amount to be determined by the County. The replacement parking spaces shall be available for public use within five (5) years of the issuance of the Certificate of Occupancy for redevelopment of Parcel 14.**

**Suggested Modification 59**

Section 22.46.1820 (notes following table), page 80

**The developer (or responsible lessee) of Parcel 10/14 shall pay 1/2 of the cost of the restoration of the wetland and creation of an approximately 1.5 acre wetland park on Parcel 9, and shall also construct at no cost to the County transient docks at Parcel 9 accommodating 9-11 vessels. If Parcel 10/14 development commences prior to Parcel 9 development, Parcel 10/14 shall absorb 100% of the costs of the wetland park construction, subject to 50% reimbursement if Parcel 9 develops. The wetland park shall be constructed and open prior to the issuance of the Certificate of Occupancy for Parcel 14.**

**Suggested Modification 60**

Section 22.46.1850 page 88, add to notes following table for Parcel 147:

**A public walkway with a minimum width of 20 feet, shall be constructed, consistent with County design requirements, on Parcel 147 to connect Washington Boulevard and Admiralty Way at the sole expense of the developer of Parcel 147.**

### **Suggested Modification 61**

Section 22.46.1850, page 88, add to notes at the end of the table regarding Parcel 147 and 21:

**In order to ensure the relocation of the existing public parking spaces from Parcel 147 to Parcel 21, prior to the commencement of development of Parcel 147, the lessee of Parcel 21 shall execute necessary documentation acceptable to the County of Los Angeles surrendering approximately 206 linear feet of leasehold, as measured along the water frontage, starting from the northwest corner of Parcel 21, and including the entire depth of the parcel, for a total of approximately 30,900 square feet, to be joined with Parcel GR.**

### **Suggested Modification 62**

Section 22.46.1880, page 93 (notes following table), amend language as follows:

~~Parcel 49M, 49R and 49S and 77, may be developed as a unit, with a blending of uses within and between the parcels. The launch ramp must be incorporated into any proposed project for these parcels or must be relocated prior to development of the parcels.~~ **The current capacity of the launch ramp shall be protected, and ramp and support facilities shall not be combined with other uses that would reduce the capacity or usability of the ramp by the boating public.** Any proposal which adds Visitor-Serving/Convenience Commercial uses to these parcels must also add urban open space as required by Section 22.46.1410.E.

### **Suggested Modification 63**

Section 22.46.1880, page 95, add to notes:

**Parcel 52-- Development of a dry stack storage facility shall not extend more than 100 feet seaward of the bulkhead and all associated docks shall not exceed the water lease line.**

### **Suggested Modification 64**

Section 22.46.1950, page 101:

A. A coastal improvement fund is established to finance construction of local park facilities **and non-motorized public boating facilities** in the Marina del Rey area. New park **and non-motorized public boating** facilities will mitigate the impacts of new residential development on the regional recreational resources of the Marina and adjacent beaches. The fund will be generated by charging a fee per unit for new residential units in the existing Marina.

Each subsequent development application to construct new residential units in Marina del Rey shall contribute its calculated share to the coastal improvement fund to provide funds for construction of local park and non-motorized public boating facilities in Marina del Rey. The coastal improvement fund may be used for projects identified in subsection C of this sSection.

B. Discussion. Additional residential development will place a burden on the regional recreational resources of the Marina and adjacent areas as new residents utilize these resources to fulfill local recreation needs. Creation and improvement of new park lands ~~and~~ public access areas and non-motorized public boating facilities to serve the new residential population will mitigate the adverse impacts of additional residential development on regional facilities. The coastal improvement fund will provide a mechanism to collect fees to be used for the development of new park ~~and~~ public access, and non-motorized public boating facilities in the existing Marina.

The Specific Plan allocates a total of 2,420 additional dwelling units for the existing Marina. The average occupancy for apartment dwelling units in the Marina del Rey area is 1.5 residents per unit, according to the 1990 Census. Based on these figures, residential development is expected to add 3,630 residents to the existing Marina.

The Los Angeles County General Plan establishes a local park standard of four acres per 1,000 population. Application of this standard against the increased population results in a local park need of 14.5 acres in the existing Marina. These acreages are attributed to the new development only and do not include acreages which are part of the local park space deficit for existing development.

~~Improvement of Parcel FF as a 2-acre park and improvement of Parcel P as a 10.27-acre open space area with public access will create 120.7 acres of new local park open space and public amenities in the existing Marina, resulting in a 1.8-acre deficit. Improvement of another 1.8-acre site would fulfill the local park need of new development. However, a more feasible alternative is the improvement of the 12.7 acres (Parcels FF and P) with amenities equal in value to the cost of improving the entire 14.5 acres. This will mitigate local park needs attributable to new development and is preferable to development of another 1.8-acre site. Additionally, the County intends to add 7.1 acres to Chace Park, bringing the total added open space acreage to 17.8 acres.~~

Improvement of land for local park space will cost \$100,000.00 per acre (adjust per CPI). This cost includes the improvements identified in subsection (C)(1) C.1 of this sSection. The cost of improvements, therefore, is calculated at the rate of \$100,000.00 (adjust per CPI) per acre, yielding a total cost of \$1,450,000.00 for improvement of 14.5 acres in the existing Marina.

The coastal improvement fund fee is determined as follows: \$1,450,000.00 total funds needed spread over 2,420 residential units results in a cost of \$600.00 per dwelling unit.

C. Use of the Fund. The following uses of the coastal improvement fund will be allowed:

...

ADD: **non-motorized public boating facilities**

2. Acreage. Funds accumulated by payment of the coastal improvement fund fee from development in the existing Marina shall be used to construct any of the facilities identified in subsection (C)(1) C.1 of this sSection on 12.7 acres of local park land and public access area in the existing Marina identified in this Specific Plan respectively as Parcel FF and Parcel P.

D. Project Credit. Development projects may be credited from payment of the calculated coastal improvement fund fee at the rate of \$2.30 credit for every square foot of improved public open space provided on-site. Improvements qualifying for credit shall be only those identified in section (C)(1) C.1 of this sSection. A contiguous 500 square feet shall be the minimum size open space area to receive credit under this project credit option.

E. Reimbursement. Fee payments made at the rate established herein shall be subject to partial reimbursement, on a pro rata basis, in the event that ultimate park improvement costs fall below those presently calculated.

...

(C) Use of the Fund. The following uses of the coastal improvement fund will be allowed:

...

ADD: **non-motorized public boating facilities**

### **Suggested Modification 65**

Section 22.46.1950 A., page 101, add to the end of the first paragraph:

**Notwithstanding the application of this fee to residential units only, Senior Accommodations projects shall be required to pay this fee.**

### **Suggested Modification 66**

Sec. 22.46.1950, Coastal Improvement Fund add:

**The Coastal Improvement Fund shall require the applicant to pay \$1,200 per residential unit in such cases where a public parking lot is being replaced by a non priority use such as an apartment complex or senior accommodations facility.**

### **Suggested Modification 67**

Sec. 22.46.1950, Coastal Improvement Fund, C. Use of the Fund add:

**Non- motorized low cost boating.**

### **Suggested Modification 68**

Sec. 22.36.1950 Coastal Improvement Fund — Amend the Coastal Improvement Fund fee structure to adjust annually for inflation based on the US Bureau of Labor Statistics Consumer Price Index.

### **Suggested Modification 69**

Section 22.46.1950 D, page 103, add to end of paragraph:

**No credit shall be given for the walkway required pursuant to Section 22.46.1850 on Parcel 147.**

### **Suggested Modification 70**

Section 22.46.1950 *Coastal Improvement Fund*, add the following monitoring provision, page 104:

**(F) An annual report on the amount and expenditures of the funds in the Coastal Improvement Fund shall be submitted to the Department of Regional Planning and a copy submitted to the Executive Director.**

### **Suggested Modification 71**

Section 22.46.1970 B., page 105, add the following to list of facilities that can be financed by fund:

**Boathouses**

**Boat racks and oarboxes**

**Docks for low cost, non-motorized boating**

### **Suggested Modification 72**

Section 22.46.1190 *Conditions of approval*, page 37, add:

**Bird-Safe Buildings Standards. All new buildings, and major renovations of existing buildings, shall be required to provide bird-safe building treatments for**

the facade, landscaping, and lighting consistent with the guidelines provided below:

Glazing treatments:

- Fritting, permanent stencils, frosted, non-reflective or angled glass, exterior screens, decorative latticework or grills, physical grids placed on the exterior of glazing, or UV patterns visible to birds shall be used to reduce the amount of untreated glass or glazing to less than thirty-five percent (35%) of the building facade.
- Where applicable vertical elements within the treatment pattern should be at least one-quarter inch (1/4") wide at a maximum of spacing of four inches (4") and horizontal elements should be at least one-eighth inch (1/8") wide at a maximum spacing of two inches (2").
- No glazing shall have a "Reflectivity Out" coefficient exceeding thirty percent (30%). That is, the fraction of radiant energy that is reflected from glass or glazed surfaces shall not exceed thirty percent (30%).
- Equivalent treatments recommended by a qualified biologist may be used if approved by the City and/or the Coastal Commission.

Lighting Design:

- Nighttime lighting shall be minimized to levels necessary to provide pedestrian security.
- Buildings shall be designed to minimize light spillage and maximize light shielding to the maximum feasible extent.
- Building lighting shall be shielded and directed downward. Up-lighting is prohibited. Use of "event" searchlights or spotlights shall be prohibited.
- Landscape lighting shall be limited to low-intensity and low-wattage lights.
- Red lights shall be limited to only that necessary for security and safety warning purposes.

Landscaping:

- Trees and other vegetation shall be sited so that the plants are not reflected on building surfaces.
- In order to obscure reflections, trees and other vegetation planted adjacent to a reflective wall or window shall be planted close to (no further than three feet from) the reflective surface.
- For exterior courtyards and recessed areas, building edges shall be clearly defined by using opaque materials or non-reflective glass.
- Walkways constructed of clear glass shall be avoided.

Building Interiors

- Light pollution from interior lighting shall be minimized through the utilization of automated on/off systems and motion detectors.

Lights Out for Birds



- *The County shall encourage building owners and operators to participate in “Lights Out for Birds” programs or similar initiatives by turning off lighting at night, particularly during bird migration periods.*

### ***Suggested Modification 73***

Section 22.46.1180 A2, page 26 add the following filing requirement:

*Wetland Delineation. Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. (14 CCR Section 13577.)*

### ***Suggested Modification 74***

Add the following to Appendix G. TRANSPORTATION IMPROVEMENT PROGRAM of the Specific Plan, C. TDM Alternatives:

- *Shared use programs shall be implemented for bicycles and vehicles (e.g., on-site provision of bicycles and zipcars for tenant and employee use).*
- *Commercial property owners shall be encouraged to participate in the South Coast Air Quality Management District’s Commute Reduction Program.*

## **V. FINDINGS**

The following findings support the Commission's denial of the proposed LCP amendment as submitted and approval if modified as suggested by staff. The Commission hereby finds and declares as follows:

### **A. PROPOSED AMENDMENT AND LCP HISTORY**

The County’s proposed amendment to the Land Use Plan portion of the adopted Marina del Rey Local Coastal Program (Amendment No. 1-11) consists of changing the land use

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designation on several parcels along with changes made to accommodate the Pipeline Projects, as noted below (See Exhibit No 2):

Parcel	Change
10	To build the proposed 400 unit apartment complex on Parcel 10, it is necessary to amend the LCP to transfer 261 development units from the adjoining Development Zone #2 (Tahiti Development Zone) into the subject Development Zone #3 (Marquesas Development Zone) (A chart showing the new distribution of development units can be seen in Figure 3 in the Land Use Chapter of the LUP Page 8-20 and in the Specific Plan on Page 75) and average the permitted densities over Parcel 10R without regard to the respective 35 dwelling units per acre and 75 dwelling units per acre density limitations prescribed in the Marina del Rey Specific Plan for the project site's R-III and R-V land use categories (Land Use Plan Page 8-21/Specific Plan Pages 79 and 80).
FF	<p>To build the proposed 126 unit apartment complex on Parcel FF, it is necessary to amend the LCP to do the following:</p> <ul style="list-style-type: none"> <li>a. Transfer 14 development units from the abutting Development Zone #2 (Tahiti Development Zone) and 112 development units from the proximate Develop Zone #1 (Bora Bora Development Zone) into the subject Development Zone #3 (Marquesas Development Zone) (A chart showing the new distribution of development units can be seen in Figure 3 in the Land Use Chapter of the LUP Page 8-20 and in the Specific Plan on Page 75);</li> <li>b. Change Parcel FF's land use designation from Open Space to the Residential III and Residential V (Land Use Chapter of the LUP Page 8-21/Specific Plan Page 80);</li> <li>c. Provide Open Space replacement on the lower portion of Parcel 9U (Land use Chapter of the LUP Page 8-21/Specific Plan Page 79);</li> <li>d. Change Parcel FF's height category from Category 1 to Category 3 to allow buildings</li> </ul>

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	<p>ranging from 45 feet in height when a 20% view corridor is provided to 75 feet in height when a 40% view corridor is provided (Land Use Chapter of the LUP Map 14 Page 9-9/Specific Plan Page 81);</p> <p>e. Allow the development of Parcel FF to commence prior to the replacement of the existing public parking spaces that will be displaced (Recreation and Visitor-Serving Facilities Chapter of the LUP Page 2-15); and</p> <p>f. Average the maximum densities of Parcel FF's proposed Marina del Rey LCP Residential III and Residential V Land Use Categories evenly over the entire parcel rather than maintain the Residential III's required maximum density of 35 dwelling units per acre and the Residential V's maximum density of 75 dwelling units per acre (Land Use Chapter of the LUP Page 8-21/Specific Plan Page 80).</p>
OT (redesignated as Parcel 147)	<p>To build the proposed 114-unit Senior Accommodations Facility, the following LCP amendments are necessary:</p> <p>a. Transfer development potential between Development Zones (114 hotel units from the Admiralty DZ #7 and 3,500 square feet of Visitor-Serving/Convenience space from the Palawan/Beach DZ #5 to the Oxford DZ #6) (A chart showing the new distribution of development units can be seen in Figure 3 in the Land Use Chapter of the LUP Page 8-20 and in the Specific Plan on Page 75);</p> <p>b. The creation of a Seniors Accommodations Land Use Category in the LCP (Land Use Chapter of the LUP Page 8-15/Specific Plan Page 54);</p> <p>c. The redesignation of Parcel 147 (Formerly Parcel OT) land use designation from "Parking" to the "Senior Accommodations Facility" designation with a Mixed Use Overlay Zone (Land Use Chapter of the LUP Page 8-27 and Map 8 on Page 8-29/Specific Plan Page 88);</p> <p>d. The transfer 94 of the LCP required 186</p>

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	<p>public parking spaces on Parcel OT to Parcel 21 (Recreation &amp; Visitor-Serving Facilities Chapter of the LUP Pages 2-9 and 2-12, Circulation Chapter Page 11-17); and</p> <p>e. The adjustment of the parcel boundary between Parcel OT (Currently designated as Parking in the LCP) and Parcel P (Currently designated as Open Space in the LCP), which would also necessitate adjustment to the land use categories of both parcels to the corresponding LCP maps. Parcel P currently has an area 10.72 acres and Parcel OT has an area 1.6 acres. If the proposed amendment to give 19,755 square feet of Parcel P to Parcel OT is approved, Parcel P will be reduced to 10.27 acres and Parcel OT will be increased to 2.10 acres (Land Use Plan Map 8 Page 8-29/Specific Plan Page 102).</p>
Parcels 49 and 77	<p>To build the proposed mixed use facility on Parcels 49 and 77, the following LCP amendments are necessary:</p> <p>a. Change Parcel 49R's land use category from, "Boat Storage," to, "Boat Storage and Visitor-Serving/Convenience Commercial with a Waterfront Overlay Zone (Land Use Chapter of the LUP Page 8-25 and Map 8 on Page 8-29/Specific Plan Page 93);</p> <p>b. Change Parcel 49M's land use category from, "Parking," to, "Parking/Public Facilities," with a Waterfront Overlay Zone (Land Use Chapter of the LUP Page 8-25 and Map 8 on Page 8-29/Specific Plan Page 93);</p> <p>c. Change Parcel 77's land use category from, "Boat Storage," to, "Open Space/Public Facilities," with a Waterfront Overlay Zone (Land Use Chapter of the LUP Page 8-25 and Map 8 on Page 8-29/Specific Plan Page 94);</p> <p>e. Transfer 255 Dwelling Units from Development Zone 11 to Development Zone 9 (A chart showing the new distribution of development units can be seen in Figure 3 in the Land Use Chapter of the LUP Page 8-20 and in the Specific Plan on Page 75); and</p>

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	<p>f. Transfer 382 Hotel Rooms, 40,000 square feet of Conference space, 3,000 square feet of a Marine Science and 500 Restaurant Seats from Development Zone 8 to Development Zone 9 and convert all of said development potential to the 116,490 square feet of Visitor-Serving/Convenience Commercial space (A chart showing the new distribution of development units can be seen in Figure 3 in the Land Use Chapter of the LUP Page 8-20 and in the Specific Plan on Page 75).</p>
Parcels 52 and GG	<p>To build the proposed 345-space dry stack storage facility, the following amendments to the Marina del Rey LCP are necessary:</p> <p>a. Add, "Dry stack storage connected to a landside structure," to the list of uses permitted in the, "Water," land use category (Land Use Chapter of the LUP Page 8-16/Specific Plan Page 69);</p> <p>b. Change the maximum height of any structure in the, "Water," land use category from, "15 feet," to allow dry stack storage facilities to be permitted at the same height as would be permitted by land use category on the landside of the parcel (Specific Plan Page 69);</p> <p>c. Permit the required public promenade to be constructed along the southern portion of parcels 52 and GG (near Fiji Way) rather than along the waterfront (Shoreline Access Chapter of the LUP Page 1-10/Specific Plan Pages 24-25);</p> <p>e. Change Parcel 52 and GG's land use categories from, "Public Facilities," to, "Boat Storage" with a Waterfront Overlay Zone (Land Use Chapter of the LUP Page 8-25 and Map 8 on Page 8-29/Specific Plan Page 94); and</p> <p>f. Clarify the public parking spaces in lots listed as, "Temporary Parking," in the LCP (such as Parcel 52), do not need to be replaced if the lot is converted to another use</p>

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	(Recreation & Visitor-Serving Facilities Page 2-15 and Figure 2 Page 2-12).
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Changes were also made to the document to ease administration burdens for both the Coastal Commission and the County. These are represented below:

Objective	Change
	<p>The County is proposing to collapse the Marina del Rey LCP's current 14 Development Zones (DZs) into a more manageable three Development Zones. When the DZ concept was first formulated, it was envisioned that by tying development potential to small groupings of parcels developers would be encouraged to develop their parcels quickly and potential development was available on a first come first served basis. This has not been what has resulted. Development potential is now locked into areas where it cannot be used, and a Plan Amendment is required to move development from one side of the street to the other in some cases (Land Use Chapter of the LUP Pages 8-9 through 8-12 and Map 10 on Page 8-31/Specific Plan Pages 74-76).</p> <p>The County commissioned a traffic study to analyze the possible impacts that the Pipeline Projects could have on Marina traffic and also to determine the optimal number of DZs that would maximize flexibility while not putting an undue strain on Marina traffic. After evaluating the traffic study, it was determined that the best optimal number of Development Zones in the Marina was three.</p>
Enhancement of Waterfront Overlay Zone opportunities to encourage water-dependent and visitor serving uses.	<p>The Waterfront Overlay Zone (WOZ) is a land use category within the certified Marina del Rey LCP that is intended to provide additional flexibility for development of coastal-related and marine dependent land uses primarily on waterfront parcels. The 1995 LCP amendment encouraged this application, but it was not placed on all appropriate parcels. The Waterfront Overlay Zone has been added to the following parcels: 1, 14 (formerly FF), 49M, 49R, 49S, 52, 77, and GG (Land Use Chapter of the LUP Pages 8-20, 8-21 and 8-25/Specific Plan Pages 76, 80, 93 and 94).</p>

Update of traffic requirements	A traffic study was also used to extensively update the Marina del Rey Circulation chapter. The County's traffic consultant, along with the Department of Public Works, devised new intersection improvements and a new fee structure that can keep the Marina intersections operating at acceptable levels on into the next decade (Circulation Chapter of the LUP Pages 11-1 through 11-39/Specific Plan Pages 32, 39, 40 and 41).
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### **LCP History**

In 1984, the Commission approved the Marina del Rey/Ballona LUP, which established land use designations and development standards for the Summa Corporation property (which included the Ballona wetland) and for the Marina del Rey. The land uses adopted for the Marina del Rey reflected the zoning present at the time, which provided for a “bowl concept”—low rise residential and commercial development adjacent to the water, several hotel sites, and some higher intensity residential and commercial uses away from the water. In 1984, all but three parcels in the Marina had already been developed with the uses allowed in the plan. In 1987, after the City of Los Angeles annexed the Summa (Playa Vista) holdings outside the Coastal Zone (and much of the Ballona Wetlands), the Commission certified an amended version of the 1984 LUP. This amended LUP removed all references to areas that were no longer in the County's jurisdiction, specifically Ballona (Playa Vista) Areas B and C. The 1987 LUP included no changes in land use designations applying to areas still located within the County's jurisdiction. (The amended LUP still included a requirement that no further residential or commercial development could occur until a new road, the Marina Bypass<sup>3</sup>, was extended from the end of Route 90 to Washington Blvd.)

In 1991, at the County's request, the Commission approved segmentation of the Marina del Rey proper from the 112-acre portion of the Ballona wetlands that remained within the County's jurisdiction (Area A). Most parcels in the Marina del Rey were already developed and the Playa Vista property was undeveloped. A settlement of a lawsuit required the landowner of Area A to petition the County and the Coastal Commission for amendments to the LUP. The new owner had not yet requested the amendments and therefore the County had not been able to consider them. In approving segmentation, the Commission found that it could analyze development in the Marina del Rey separately from other areas within the jurisdiction of the County without direct or cumulative impacts on public access or coastal resources.

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<sup>3</sup> The Marina Bypass was a road segment routed along the Pacific Electric Right-of-way between Lincoln Boulevard and Washington Boulevard. Its purpose was to reduce traffic levels at the intersection of Lincoln Boulevard and Washington Boulevard.

In 1991, the Commission certified a Local Implementation Plan—a zoning ordinance and a permit-issuing ordinance, consistent with the 1984-87 Land Use Plan for the Marina del Rey. The Local Implementation Plan allowed development in the Marina to proceed according to the land use designations adopted in 1984 and again in 1987, and still required the completion of the Marina Bypass before any significant development could go forward.

In December 1994, the County of Los Angeles requested an amendment to the certified Local Coastal Program for the Marina del Rey segment of its Coastal Zone. On March 9, 1995, the Commission again approved segmentation of Playa Vista Area A from the Marina del Rey and agreed to consider the amendment separately from any proposed changes in the certified Land Use Plan, which again were not yet before the Commission. The proposed amendment to the LCP would apply only to the publicly owned Marina del Rey, an existing, developed 804-acre Marina.

The County's purpose in seeking the 1994 amendment was to allow recycling of the Marina del Rey at higher intensities. Marina del Rey had been developed in the mid-sixties and early seventies with low-rise "stick-built" apartments. These apartments blocked views of and access to the water, but were intense enough, the County contended, that there was no economic incentive for lessees to redevelop and provide increased income to the County or improved public access or public views. The Local Coastal Program amendment, as eventually approved, substantially modified development standards affecting Marina del Rey. The 1994 amendment to the Marina del Rey LUP allows redevelopment at a higher intensity with a significant increase in height and density. These increased heights were granted in exchange for the establishment of 20% "view corridors" across all parcels that are located adjacent to the water. As an incentive to widen view corridors the LCP allows greater heights to developers who proposed wider view corridors.

The second major change requested in 1994, was the adoption of an alternative traffic mitigation system that did not require the development of the Marina Bypass. The previously certified LCP allowed no redevelopment with the exception of some hotels, until the Marina Bypass was completed. In effect, this was a moratorium. The City of Los Angeles had opposed the Marina Bypass and, in the intervening years, had approved residential condominiums on the proposed right-of-way. The alternative traffic mitigation was a program to limit traffic generated by Phase II development in Marina del Rey and to mitigate its impacts. The mitigation plan established internal development limits (based on evening peak-hour trip caps) allocated to the entire Marina, and then to each of the mole roads (Development Zones). Secondly, it established a total cap of 2,812 evening peak-hour trips for the Marina. Finally it required contributions by developers to mitigate the impacts of their development to traffic improvements inside the Marina and to the subregional transportation system outside the Marina proper. The LCP defined the subregional transportation system as Lincoln Boulevard and the major highways that intersected it. The total number of units authorized under the base zoning of the LCP exceeded the number of units that the traffic system could accommodate or that the traffic limits would allow, even with mitigation. The LCP explicitly included this



first-come first-serve strategy to encourage re-development of the marina. Therefore, there is no guarantee that zoning of a certain density, on any given parcel, would allow development at that density. The County anticipated no “taking” issues, arguing that all lessees already had reasonable use of the leaseholds, the leases were on public property and that it would not extend leases that would result in the exceeding of the traffic limits of the plan.

On May 10, 1995, the California Coastal Commission denied the proposed amendment to the Marina del Rey LCP as submitted and adopted suggested modifications to policies and implementation ordinances regarding height, view corridors, open space, traffic limits, hotel development and other public access and natural resource issues. The Commission approved greater heights as long as view corridors were provided, and required wide, publicly accessible walkways along the bulkhead of the entire marina. On September 14, 1995, following the County’s acceptance of the suggested modifications, the revised Marina del Rey LCP was effectively certified.

In addition to the LCP amendments, In January 9, 2008 the Commission conducted a Periodic Review of the County’s LCP, pursuant to Section 30519.5 of the Coastal Act. Section 30519.5 states:

*(a) The commission shall, from time to time, but at least once every five years after certification, review every certified local coastal program to determine whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that a certified local coastal program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the affected local government's local coastal program.*

*(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.*

A Periodic Review evaluation identifies policy areas where County actions have implemented the certified LCP in a manner that is not in conformity with the Coastal Act, and where the specific provisions of a certified LCP do not reflect new information or changed conditions such that the LCP is not being implemented in conformity with the Coastal Act. Section 30519.5 of the Coastal Act provides that if the Commission determines that a certified LCP is not being carried out in conformity with any policy of the Coastal Act, the Commission shall submit to the local government recommendations of corrective actions that should be taken. Within a year following submission of any recommendations, the local government is required, if the recommended action is not taken, to forward to the Commission a report setting forth its reasons for not taking the recommended action. Recommendations were forwarded to the County in 2009, and the

County responded within a year. Commission's staff review of the County's response to the Commission's recommendations is currently being reviewed by Commission Staff and a report for the Commission is being prepared.

Following the Periodic Review hearing of January, 2008, the County engaged in discussions with Coastal Commission staff regarding the approach to the LCP Amendments then contemplated. The Commission staff urged the County to aggregate the amendments pursuant to Recommendations 18a and 19. Recommendations 18a and 19 read as follows:

*18a. In preparation for amending its LCP the County should undertake a comprehensive LCP update of anticipated future development that includes all pending project driven amendments, fulfillment of Asset Management strategies and other facilities identified through a community planning process.*

*19. Revise the LCP to require that the County consider all pending project-driven amendments of the LCP that would change the designation of parcels from a public park or parking use to a private use at the same time. A project shall be considered pending if there is an approved term sheet allowing the applicant to apply for approval of the project. In considering such amendments, the County should analyze the total pattern of public serving and park uses in the Marina.*

The Commission staff proposed a "Roadmap" approach to the Commission in June, 2009. The Commission concurred in this approach and in September, 2009 the Board of Supervisors adopted the approach. The approach provided that the County would:

1. Respond to the Periodic Review recommendations in the statutory timeframe
2. Be able to process in the aggregate 6 "Pipeline Projects", and include in that aggregate amendment several Periodic Review issues, even though they are not necessarily raised by the Pipeline Projects:
  - a. Sensitive Biological resources
  - b. Recreational Boating
  - c. Public Parking
3. Prepare and process a comprehensive review of the Marina del Rey LCP, known as the Visioning process, within the next five years.

The County fulfilled #1 of the Roadmap by submitting its response to the Periodic Review recommendations in April, 2010.

The County submitting this LCPA to comply with number 2 of the Roadmap. In the course of public review and decision-making, two projects originally contemplated in the Pipeline – A hotel on Parcel IR and a mixed use project on Parcels 33 and NR, were withdrawn and delayed, respectively. Therefore, only four Pipeline Projects remain. Because these projects raise different issues with respect to Chapter 3 policies of the Coastal Act, they are addressed separately. To the extent any issues are raised in the Pipeline Projects with respect to Sensitive Biological Resources, Recreational Boating or

Public Parking, these issues are addressed in the appropriate topical section in this report.

## **B. LAND USE PLAN AMENDMENT**

### **V. DENIAL of the LUP amendment as Submitted**

The standard of review for amendments to a certified Land Use Plan is consistency with the policies of Chapter 3 of the Coastal Act.

#### **a. DEVELOPMENT**

Section 30213 of the Coastal Act states:

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

*The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

Section 30221 of Coastal Act states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222 of the Coastal Act states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30250 of the Coastal Act states, in relevant part:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal*

*resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels...*

In 1994, Los Angeles County submitted a revised LCP to the Commission that updated the land use designations and standards of the previous plan. In the 1994 submittal, the County made major changes to the development strategy. Changes in density and development patterns reflected proposals that the County had received from lessees interested in rebuilding their leaseholds. The update also reflected the County's experience with the previous plan. One result of the previous plan was that it created a wall of unrelieved development between the waterside and the public streets. The result was a paucity of public views and an uninteresting cityscape. While developers of commercial properties left public walk ways along the waterside, residential development in most cases did not allow shoreline access. The certified LCP allowed increased height limits in exchange for the provision of view corridors. The intention of this change was to open up views to the water and to provide an incentive to leaseholders to redevelop their sites. The certified LCP included view corridors, 28 foot wide fire/public access corridors along the bulkheads, and allowed heights up to 75 feet on the mole roads and 225 feet on the loop roads (Admiralty Way and Via Marina) if the developer left 40 percent of the frontage open to public views.

In addition to view corridors and increased heights, the certified LCP provides for 28-foot wide walkways along the seawalls to provide both fire and pedestrian access and allows the conversion of underused parking lots that were located far from attractions by protecting one parking lot, Parcel OT that is inland of Admiralty Way ,and encouraging the conversion of a second parcel (Parcel FF) to park use (see Exhibit No. 12).

The certified LCP provides that development in the Marina is limited to 2,811 peak hour trips, which are distributed among 12 Development Zones (DZ). The LCPA will reduce the number of DZs from 12 to 3. The purpose of the DZs is to assure that traffic generated by the development does not exceed the capacity of either the internal Marina street system or the subregional street system, Lincoln and Washington Boulevards, which are the major arterial streets located directly outside of Marina del Rey. The proposed five Pipeline Projects would result in a total of approximately 1,163 trips or approximately 46% of the overall remaining trip generation within the Marina, based on traffic studies that were prepared for the proposed Pipeline Projects.

To develop the Pipeline Projects on Parcels 10, FF, OT, and 49/77 it would require the transfer of development units from one Development Zone (DZ) to another, which is being proposed in the LCP amendment (see above chart and Exhibit Nos 8-10). The four Pipeline Projects are discussed below:

### Parcel 10

In the 1995 LCPA, the County requested and was approved for an increase in residential units in the amount of 1,500 dwelling units. The objective of this increase was to stimulate redevelopment of the residential uses (some of which are pre-Coastal Act facilities) to enhance the opportunity for more view corridors. On Parcel 10, a portion (non-mole road) of the parcel is allowed a maximum height of 225 feet and another portion (mole road) is allowed a height of 45 feet with a 20% view corridor, or up to 75 feet if a 40% view corridor is provided.

In terms of density and development potential, Parcel 10 along Via Marina is designated Residential V (RV) and the portion along the mole is Residential III (RIII). RIII designation allows a density of 35 units per net acre and RV designation is 75 dwelling units per net acre. Since the LCP was certified in 1995, several projects along Via Marina have redeveloped or been approved for redevelopment or remodeling and have used less of the allocated development potential than originally expected. Therefore, the transfer of development potential to this parcel does not raise a significant issue, as all of the units come from nearby development zones and no additional impacts are expected.

The height limits for Parcel 10 are 225 feet along Via Marina (depending on view corridor) and 75 feet along Marquesas Way (mole road). These heights are maximum heights and are dependent on the size of the view corridor provided. The building heights on the plans for Parcel 10 feature a 60 foot height on the Via Marina portion and a 55 foot height on the mole road portion. Therefore, heights are much lower than allowed under the certified LCP and provide the required view corridors. However, although the planned heights do not exceed 75 feet, where there is a potential for a maximum height of 225 feet, the LCPA as submitted would continue to allow development to exceed 75 feet.

### Parcel FF (redesignated Parcel 14)

Parcel FF is proposed for a 126-unit apartment project and is to be redesignated Parcel 14. Parcel FF is currently used as a public parking lot of 201 spaces on 2.05 acres. The underlying designation of Parcel FF is Open Space (Exhibit No. 1, 9).

The transfer of units from two development zones to enable Parcel FF's development is acceptable for the same reasons stated above with respect to Parcel 10. Similarly, the height of Parcel FF's building is 55 feet. This is a complement to the Parcel 10 heights and conforms to the requirements of the LCP for view corridors. The County is proposing a 75 foot height limit restriction.

The County proposes to relocate the Open Space designation to a portion of Parcel 9, a hotel designated parcel with a 225-foot height limit. The size of the open space portion of Parcel 9 is 1.46 acres, while the size of Parcel FF is 2.05 acres. As a result of a construction project abandoned in the mid-1980s, a wetland has formed on Parcel 9. The proposed LCPA includes policies for the enhancement and restoration of the wetland and for incorporation into a wetland park.

The County's proposal included compensatory steps to make up for the shortage in Open Space acreage. First, the County required the developer of Parcel FF to pay for ½ of the park's improvement costs, and 100% of those costs (subject to 50% reimbursement) if Parcel 10 was developed before a hotel was developed on Parcel 9 (which pays the other ½ of the costs). The County also required the construction of a transient boater dock of 9-11 slips adjacent to Parcel 9, to enhance non-vehicular access to the park. Together, according to the County these improvements exceed \$1 million, greatly exceeding the comparable acreage (.59) by which the park is short. Additionally, and as described later in this report, the County is adding a substantial amount of open space acreage (20.65 acres) to the LCP area, far beyond what was contemplated for the certification involving an increase in residential units. However, as submitted, the LCPA would allow development of Parcel FF and 9, on the non-wetland portion of the parcel, to proceed prior to improving the displaced Open Space and replacing parking and mitigating the adverse impacts caused by the potential loss of the development potential of these lots to a lower priority use.

Any time that land between the first public road and the water is used for a purpose other than recreation or a high priority use, such as visitor-serving, an issue is raised with respect to consistency with Section 30221. Furthermore, since the Parcel 9 park improvements are integral to the Commission's findings on Parcels 10 and 14, the Commission finds that these improvements should be included in the LUP and the LIP. The Commission finds that as proposed by the LCPA, the loss of waterfront acreage to a low priority use is inconsistent with Section 30221.

With respect to parking, the Right-Sized Parking Study provides evidence that the Parcel FF parking lot is rarely used by the public except at holiday peak periods (such as Fourth of July). The current LCP provides that if Parcel FF is changed to another use that ½ of the spaces must be relocated. In this case, the County has provided that ½ or 101 spaces are to be financed at Chace Park from this lot. Since Chace Park is shown as an area which does not have sufficient convenient parking, this is a marked improvement in public access to this popular facility. However, the proposed LCPA does not fully commit to replacing these parking spaces and would allow development to displace the parking without ensuring that the parking is replaced. Therefore, the change in land use and development of Parcel FF, as proposed by the LCPA cannot be found consistent with Sections 30252 of the Coastal Act.

#### Parcel OT (new Parcel 147)

Parcel OT is a public parking lot of 1.6 acres and 186 spaces (Exhibit No. 1, 10). The County proposes to establish a senior accommodation facility of 114 units together with 3,500 square feet of retail fronting on Washington Boulevard. In terms of development transfers, the County proposes that 114 hotel room units be transferred to create the 114 senior units, and that 3500 square feet of retail be transferred from the adjacent development zone to this site – both development zone locations being along Washington Boulevard. The height of the building measures 75 feet along Washington Boulevard and 67 feet along Admiralty Way. By comparison, the certified LCP allows a height of 90 feet.

It should be noted that the certified LCP currently allows congregate care uses, and the County has previously permitted a senior apartment project on Panay Way, which is built and occupied. The County proposes to create a new category for this use, "Active Senior Units". While the Commission agrees that a new category is necessary, the Commission does not agree with the manner in which the County has distributed the development potential. To recognize this use, the County has drawn from the Hotel Room allocation. While the Commission recognizes that this is not a residential use, the Commission also finds that drawing from Hotel Rooms as opposed to Residential Units reduces the development potential of a preferred visitor-serving use in the Coastal Zone – hotels. Therefore, development of OT, as proposed by the LCPA would have an adverse impact on visitor-serving uses.

Furthermore, the proposed LCPA does not fully commit to replacing displaced public parking spaces from these parcels that are currently used for public parking.

The development of Parcel OT will impact public access between Washington Boulevard and Admiralty Way. Although the proposed LCPA includes a policy that indicates the pathway will be incorporated into the development of the parcel, it does not adequately ensure that the walkway will be built and open to the public once the parcel is developed.

Therefore, the change in land use and development of Parcel OT, as proposed by the LCPA cannot be found consistent with Sections 30250 of the Coastal Act.

#### Parcel 49 and 77

Parcel 49R is currently occupied by the boat launch ramp (Exhibit No. 1, 11). Parcel 49S is a mast-up storage facility, and Parcel 49 M is occupied by the visitor's center and a public parking lot of 124 spaces. Parcel 77 is a surface storage facility for boats. The County is proposing to expand public recreational use by increasing visitor-serving uses on these parcels by relocating development potential. However, the County has also provided that no boating uses can be displaced, meaning that the launch ramp is protected from a reduction in use.

The land use designations proposed by the County arrange the visitor-serving on Parcel 49R along the water's edge. Even with the proposed Waterfront overlay (WOZ) designation, the mapping leaves the impression that the water's edge is to be occupied by commercial uses, even though the County states that this is not the intention (Exhibit No. 11).

In addition, Parcel 49M is shown split between Parking and Public Facility designations. Parcel 77 is shown for Public Facility as well, even though the County has included its acreage in its assessment of open space added to Marina del Rey (Exhibit No. 11).

The Commission finds that the idea of relocating development potential to this area may be an acceptable outcome subject to certain plan modifications. Although the County's

policies in the LCP commit to retaining or replacing all boating related facilities, the Commission finds that insufficient detail exists at this time to approve the LCP arrangement as submitted by the County. With the importance of the launch ramp and the adjacent Chace Park as public facilities, and in view of the County's commitment to public kayak and other non-motorized boating facilities along the Basin H side of Chace Park, the Commission finds that greater scrutiny is necessary to insure that all of the desired uses operate in harmony and in keeping with central principles of the Coastal Act.

The Commission also finds that Parcels 45, 47 and 77 should be designated for Open Space (OS) rather than Public Facility (PF), or any other designation, if it is to be counted as an addition to Chace Park. Since the County's statistics on open space include this area as open space, it must be designated as such to ensure that it is developed and remains as open space.

The Commission notes that the LCPA, as proposed allows the launch ramp on Parcel 49R to be moved and the parcel developed with visitor-serving uses. The Commission finds that although the proposed alternative of moving the launch ramp would increase the amount of open space as presented by the County, the relocation of this important public facility, if considered at all, must be thoroughly reviewed with detailed plans and analysis, and should be processed through a separate LCPA and CDP.

Therefore, the change in land use and development of Parcel 49 and 77, as proposed by the LCPA cannot be found consistent with Sections 30250 of the Coastal Act.

#### Parcel 52/GG (new Parcel 52)

Parcel 52 is used as a 238-space temporary public parking lot at the present time, as well as a location for charter boats to park (Exhibit No. 1, 11). The County DBH office annex is also situated there, as is the Sheriff's Boatwright facility on Parcel GG (which is accommodated in the new plan). Parcel 52 is the only free parking lot in Marina del Rey, primarily because so many uses are situated there that the County has not established parking meters. However, the loss of this lot must be evaluated to insure that adequate parking will exist on Fiji Way for public parking, as well as a relocation for the charter uses, although such uses need not necessarily be parked on Fiji Way.

In approving the certified LCP the Commission determined that there was sufficient parking in the area to allow this lot to transition to Public Facility to accommodate the new offices of the County Department of Beaches and Harbors. The Right-Sized Parking Study shows that this parking conclusion is still legitimate.

The County solicited proposals for a dry stack storage facility, which would accommodate the lost dry storage spaces on Parcel 77 as well as provide more vertical storage space for the boater. The proposal, identified in the proposed LCPA, is for Boat Storage with the Waterfront Overlay. The proposal features 345 dry stack spaces as well as 30 mast-up spaces. A small, .15 acre view park with a pedestrian trail is situated along the



southerly side of the site. Public safety concerns prevent a walkway directly in front of the facility on the water side because of the danger of boats being lifted into the water and other operating equipment. The building planned for 70 feet tall, while the certified LCP allows 75 feet. Although cranes are not included in the height restriction in the LCP, the crane is 82 feet tall and enclosed for aesthetic and operational reasons in a structure.

**b. PUBLIC ACCESS AND RECREATION**

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212 of the Coastal Act states, in part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30212.5 of the Coastal Act states:

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30214 of the Coastal Act states:

*In carrying out the public access policies of this article, the commission, regional commissions and other responsible public agencies shall consider and encourage the utilization of innovative access management techniques, including but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Section 30252 of the Coastal Act states, in part:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation ...*

The protection, enhancement and provision of public access and recreation is an important aspect of the Coastal Act. Section 30210 of the Coastal Act states, in part, that recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 of the Coastal Act states, in part, that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212(a) of the Coastal Act states, in part, that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects. Section 30212.5 of the Coastal Act states, in part, wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area. Section 30214 of the Coastal Act states, in part, that in carrying out the public access policies of this article, the commission and other responsible public agencies shall consider and encourage the utilization of innovative access management techniques, including but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs. Section 30252 of the Coastal Act states, in part, that the location and amount of new development should maintain and enhance public access to the coast.

Public access and recreation are essential to the Coastal Act since they provide opportunities for the general public to enjoy the California coastline. Marina del Rey is a favorable location to provide amenities that will enhance the general public's access to the coast. Protection of public access and recreation should be a primary goal associated with any LUP.

Public open space and public recreation issues were addressed in 1995 in the last major LCP amendment in Marina del Rey. At that time, and in consideration of adding 1,500 dwelling units to Marina del Rey, the Commission required that 12.7 acres of open space be retained and enhanced in Marina del Rey (Oxford Basin and Parcel FF), that the County collect a Coastal Improvement Fund fee for the improvement of public recreational facilities, and that new residential units provide their own private recreational facilities to avoid surcharging facilities otherwise open to the general public (see Exhibit No. 13 for existing and proposed open space).

Following the Periodic Review hearing in January, 2008, and the Commission's expressed interest in more open space in Marina del Rey for public use, the County bought out the leases in two areas along Mindanao, Parcels 45, 47 and 77. These are to be added to Chace Park for a total expansion of this park by over 6.7 acres which would bring the total open space proposed by the LCPA to 21.89 acres. However, the LUPA does not provide policies sufficient to protect, enhance and provide public access and recreation in the harbor. For instance, although the proposed LCPA is increasing the amount of open space in the Marina, the amendment does not ensure that open space will be available once development is completed on those parcels that are displacing existing designated Open Space lots. Furthermore, the amendment would allow, through extension of existing parking agreements, continued private use of public parking spaces within public parking lots and would allow the removal of public parking lots prior to the replacement of displaced parking. Section 30252 of the Coastal Act requires that new development maintain and enhance public access to the coast by providing adequate parking or alternative means of transportation. When new development does not provide adequate on-site parking and there are inadequate alternative means of reaching the area (such as public transportation), users of that development are forced to occupy public parking that could otherwise be used by visitors to the coast. A lack of public parking and public transportation will discourage visitors from coming to the beach and other visitor-serving activities in the coastal zone.

Therefore, the submitted amendment is inconsistent with Sections 30210, 30211, 30212, 30212.5, 30214, and 30252 of the Coastal Act because it fails to provide policies that would protect water quality and the marine environment. Therefore, the LUP amendment must be denied as submitted.

**c. RECREATIONAL BOATING**

The Coastal Act encourages increased recreational boating use of coastal waters and the provision of lower cost visitor serving and recreational facilities.

Section 30213 (in part)

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

Section 30220

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30224

*Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities,*

*providing additional berthing space in existing Harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing Harbors of refuge, and by providing for new boating facilities in natural Harbors, new protected water areas, and in areas dredged from dry land.*

#### Section 30234

*Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating Harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

Pursuant to Section 30519 of the Coastal Act, development located within the Commission's area of original jurisdiction requires a coastal development permit from the Commission. The Commission's area of original jurisdiction includes tidelands, submerged lands, and public trust lands, whether filled or unfilled. The recreational boating marinas in Marina del Rey are located in open coastal waters and are within the Commission's area of original jurisdiction. The Commission's standard of review for development in its area of original jurisdiction is the Chapter 3 policies of the Coastal Act. The certified Marina del Rey Local Coastal Program is advisory in nature and may provide guidance for development within the Commission area of original jurisdiction. Landside boating parking areas, launch facilities, dry boat storage, fuel dock, boat yards, pump-out facilities and other boater related support facilities are located on landside areas that are within the jurisdiction of the certified Marina del Rey LCP (Exhibit No. 6, 7, 14, and 17). Because of the proximity to the water most of the landside development in Marina del Rey is within the Commission appeal jurisdiction. Given the waterside marinas and landside boating support facilities are under separate regulatory permit authority it is important that the LCP provide overarching recreational boating policies for both the water and landside development to address the interrelated water and landside recreational boating issues in a comprehensive manner.

The existing Certified Marina del Rey LCP, includes recreational boating policies that not only mirror the recreational boating policies of the Coastal Act but also include additional protective policies to ensure that recreational boating is encouraged and preserved in the Marina. The proposed LCP amendment includes Land Use Plan modifications, updated data and information, elimination of outdated policies, and new policies to protect and provide additional recreational boating opportunities and mitigation measures for the loss of boat slips in the smaller, more affordable boat slip categories as generally described below:

- New policy establishing minimum slip percentages for smaller boat slip categories of 32 feet and under and 38 feet and under.
- New policy establishing the total number of dry boat storage capacity in the marina up to 1088 boats, including a Land Use Plan change and development standards authorizing a new 75 foot high, 345 (approximate) dry stack boat storage facility

on Parcel 56 and a new dry 234 space (approximate) dry stack facility of Parcel 44.

- New policy for a low cost boating in-lieu fee program that will apply to the construction of new marinas to mitigate for the loss of smaller more affordable boat slips 35 feet and under. The in-lieu fee will be used to support youth boating programs in Marina del Rey.
- Delete LUP policy related to the “Funnel” expansion of boating facilities into the main channel area of Marina del Rey
- New policy to expand boater related support facilities in the marina and non-motorized boating launch/dock and boat storage facilities at Marina Beach and Parcel 77 at Chace Park.
- Modifying the required boater parking standard from a parking ratio of .75 to .6. parking spaces per boat slip.

Many of the harbors and marinas along the California coast, originally built over 60 years ago, now need frequent repairs to keep docks, pilings, ramps and other facilities operational, given the continual weathering from winds and water that these facilities experience. As a result, the Coastal Commission has been facing an increasing number of applications for marina repair, replacement and redevelopment. However, as a result of changes in boat manufacturing and the boating market, harbor design criteria, and boater preference, many of the marina redevelopment projects include reconfiguration of the wet berthing space to accommodate larger (i.e., longer & wider) boats. Such reconfiguration has, in some cases, led to a reduction in the total number of slips available to boaters, and, of more concern to the small boat user, to a reduction in the number of slips under 30-35 feet. These changes raise concerns that with the loss of smaller slips, lower-cost recreational boating opportunities may be diminished.

In the January 9<sup>th</sup> 2008 Commission action on the Marina del Rey Periodic Review the Commission included recommended policy revisions for recreational boating in Marina del Rey. The recommendations included: exploring alternatives for new boat slips, creation of youth boating programs that provide low cost boating opportunities for youths and no net loss of boat slips 35 feet and under.

The Commission also reinforced the need for current boating/marina data for future analysis of boating trends in order to determine the appropriate slip mix design for reconstructed marinas. The Commission recommended using data that is no more than 5 years old in order to give a current assessment of slip demand in various slip sizes and recreational other boating needs. The Commission also recommended that the County explore other alternatives beyond just the provision of boat slips to expand boating opportunities, such as the creation of youth boating programs that provide low cost boating opportunities for youths, including disadvantaged youths; new storage facilities; day use rentals; reservation of slips for rental or boating membership programs; and increased opportunities for launch and support facilities for non-motorized boats such as kayaks, stand up paddle boards, rowing, and other small craft.

Coastal Act policies requires, among other things, that facilities serving the recreational boating industry be protected and where feasible upgraded, and that existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided (PRC § 30234), and encourages the increased recreational boating use of coastal waters by, among other things, developing dry storage areas, increasing public launching facilities, and providing additional berthing space in existing harbors (PRC § 30224)

The majority of anchorages in Marina del Rey are obsolete and have reached the end of their useful life. In general, reconstruction of anchorages when they are obsolete or in poor condition is a significant step in preserving recreational boating opportunities for the public. A failure to reconstruct the existing anchorages would result in continued degradation due to the age of the anchorages and wear and tear, which would have an adverse impact on recreational boating opportunities. Typical deficiencies encountered today at any of the aging anchorages include dock “listing” or twists at the end of the fingers caused generally by the warping of timber structural members, failure of metal connectors and bolts via corrosion, and walking deck failures caused by dry rot. Coastal development permit application (CDP 5-11-131) is scheduled for the November 3, 2011 Coastal Commission meeting for the demolition and reconstruction twelve anchorages in the Marina. Given the proposed marinas are in the Commission’s original jurisdiction the proposed recreational boating policies and suggested LCP amendment modifications have been used as guidance in determining consistency with Coastal Act policy for that permit.

New regulatory and new marina design guidelines and standards must be considered in the planning for new marinas in Marina del Rey. ADA requirements, compliance with the Department of Boating and Waterways (DBAW) guidelines and anticipating market demand for boat slips in various sizes all factor into the planning of new marinas. As the Commission has observed in past permit and LCP actions these new marina design and regulatory considerations in marina design result in a loss of boat slips. In Marina del Rey, as in many marinas in California, there are limited or no additional water areas to expand marinas without adversely impacting other non-motorized recreational boat users. The channels and fairways in marinas, particularly in urban areas are used for a wide variety of non-motorized low cost boating such as kayaking, rowing, small sail boating and stand up paddle boarding. The existing LCP includes a Policy that authorized the expansion of boating facilities into the main channel in “funnel” design concept. Expansion into the main marina del Rey channel would clearly adversely impact low cost recreational boaters who use the channel on their non-motorized watercraft. The County no longer supports this policy and the Periodic Review supported the removal of this policy from the LCP. The County is proposing through this amendment to delete this policy for the LCP.

The Commission has found in past permit and LCP actions that while slip reductions may be necessary and are justified in some cases, these losses which are typically in the smaller slips size categories must be minimized and mitigated through the creation of additional dry storage, improved launch and support facilities for lower cost non-

motorized boating, and through the creation of new low cost boating programs in some cases supported by in-lieu fees.

Although the proposed LUP amendment includes minimum slip size percentages for smaller boats under 38 feet (50%) and under 32 feet (25%) in order to maintain a minimum pool of smaller more affordable slips the proposed minimum percentages do not provide an adequate percentage of smaller boats in the under 35 feet and under 30 foot slip categories. In the Marina del Rey Periodic the Commission found that there should be no net loss of slips below 35 feet and no loss in total slips Marina wide. The Commission emphasized that the smaller lower cost slips should be protected and preserved. However, based on recent and historic vacancy data for small slips in Marina del Rey, high vacancies experienced in other southern California Marinas and market demand for larger slips this requirement would result in an excessive number of small slips in Marina del Rey that would likely result in high vacancy rates in the small slip categories and would not provide for a balance of slips across all slip sizes that are in higher demand. Nevertheless the minimum marina-wide small slip percentages proposed by the County at 50% of the slips 38 feet and under and 25% of the slips 32 feet and under do not provide an adequate percentage of smaller lower cost slips in the slip categories of under 35 feet and under 30 feet. In addition, the County did not include protective policies to ensure smaller boats would not be displaced during reconstruction of the marinas. Finally, although the County is proposing an in-lieu fee program to mitigate for the overall loss of smaller lower cost slips in Marina del Rey, this policy also falls short of providing an in-lieu fee that will adequately mitigate the loss of slips in the smaller lower cost slips categories. Therefore, the Commission finds that the proposed amendment to the LUP, as submitted is not consistent with the sections 30213, 30220, 30224 and 30234.

#### **d. MARINE RESOURCES 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.*

Section 30232 of the Coastal Act states:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

The protection of water quality is an important aspect of the Coastal Act. Section 30230 of the Coastal Act states that marine resources shall be maintained, enhanced, and where feasible restored. Section 30231 of the Coastal Act states that the biological productivity and quality of coastal waters shall be protected. Section 30232 of the Coastal Act states that protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.

The Marina's beach and waters are significant public recreation areas. Marina Beach, referred to as "Mother's Beach" is a crescent shaped sandy beach located at the end of Basin D. According to the SWRCB, about 200,000 people visit the beach each year. The beach is known for its calm waters suitable for swimming and easy access for launching of small recreational craft such as kayaks and outrigger canoes. Protection of water quality for recreation and for biological productivity of marine resources continues to be a priority.

The County routinely monitors the waters near Mother's Beach as well as elsewhere along the shoreline. The LA County Recreational Health program collects ocean water samples at Mother's Beach lifeguard station as part of its Ocean Monitoring Program, and if necessary, posts beach advisories and warning signs until tests indicate that bacteria levels meet State standards. The program also investigates complaints of illegal discharges, sewage spills and areas of high chronic bacteria levels<sup>4</sup>. However, since 1996, Mother's Beach has experienced water quality impacts that adversely affect recreational use.

Stormwater runoff (including storm sewer discharges) continues to be the largest source of pollution in Santa Monica Bay and across California.<sup>5</sup> It is a predominant cause of beach closures in each region of the state. It is the source of significant impact to the Marina as well. The County Periodic Review submittal of water quality testing results noted that the Marina is impacted spatially from pollutants from Oxford Retention Basin and Ballona Creek, both of which collect runoff from significant inland areas, from the open ocean as well as other temporal impacts. According to the SWRCB, Mother's Beach suffers from chronic bacteriological contamination.

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<sup>4</sup> <http://www.lapublichealth.org/eh/progs/envirp/rechlth/ehrecocodescrip.htm> Accessed on 4/28/05

<sup>5</sup> NRDC Testing the Waters 2004 pp CA-3.



As a result of monitoring, the back basins of the Marina and the Marina (Mothers) Beach have been listed as impaired by the SWRCB and a Total Maximum Daily Load (TMDL) for Bacteria was adopted for the Marina watershed, which includes large inland areas in the Cities of Los Angeles and Culver City.

Since certification of the LUP in 1986, nonpoint source pollution and storm sewer discharges have emerged as a key concern in protecting water quality, and much attention has focused on protecting water quality in Santa Monica Bay. The Bay was included in the National Estuary program in 1989. In 1990, Congress enacted the Coastal Zone Act Reauthorization Amendments which directed states and local governments to manage land use activities to prevent degradation of coastal waters and marine habitats and to improve how nonpoint source pollution is managed.

When the Commission certified the updated LCP in 1996, it found that the LCP was not adequate to address protection of water quality and marine resources. The LCP was modified to strengthen policies to address marine resources in the Marina including the Marina waters, the Ballona Creek flood control channel, adjacent wetlands, and the Oxford Stormwater Retention Basin.<sup>6</sup> Suggested modifications were adopted to address water quality protection through measures to carry out Best Management Practices (BMPs). Modifications to ordinances included changes that would require control and filtering of drainage from roofs, parking lots and impervious surfaces, and containment of toxic materials consistent with the County's Municipal Stormwater Permit and the Santa Monica Bay Restoration Plan.<sup>7</sup> As a result, the updated 1996 LCP implements these water quality requirements through a number of policies and ordinance standards rather than through specific land use designation and standards for the Marine Commercial, Boat Storage, Water or Waterfront Overlay Zones. The LCP notes that:

Harbor water quality is controlled by applicable codes in the Los Angeles County Code, Title 19 (Airports and Harbors). The U.S. Environmental Protection Agency in conjunction with the State Water Resources Control Board has brought storm water runoff systems under waste discharge requirements. (LUP p 4-10)

LCP policies require protection and enhancement of marine resources, specifically:

*2. All development shall include measures consistent with the Santa Monica Bay Restoration Plan and the programs of the Department of Public Works to reduce contaminated runoff into bay and Ballona Creek waters, including filtration of low flows, control and filtration of runoff from parking lots and roofs, reduction of impervious surfaces, and provision of pump out facilities, and other necessary measures to reduce harmful pollutants from storm drain waters prior to these waters entering the marina.*

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<sup>6</sup> Marina del Rey, Los Angeles County LCP Amendment 1-94 Revised Resolutions and Findings for Denial of LCPA, as Submitted and Findings for Approval of LCPA, as Modified, page 70.

<sup>7</sup> CCC, Revised Findings CD-083-94 p.71.

LCP policies also address water quality impacts from marinas and boating by incorporating existing County ordinances by reference:

*6. Boat operations in the Marina shall follow the regulations of Part 7 (Sanitation), Part 8 (Safety and Maintenance), and Part 9 (Marina del Rey) of Chapter 19.12 of the Los Angeles County Code, Title 19 (Airports and Harbors), to minimize introduction of pollutants into Marina waters. This language is found in Appendix B of the Local Implementation Program. (LUP p. 4-10)*

Appendices to the LIP reference other applicable LA County Code sections of Titles 19 and 22 incorporated into the LCP requirements that ensure that lessees, “maintain the premises ... in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials.” Refuse, sewage or other waste discharges are prohibited. Live aboards are restricted to prevent discharges. Ordinances specify requirements for garbage and rubbish control. Fish cleaning is limited to specific locations.

The LCP limits and restricts how and where boat repairs can take place to avoid runoff of toxic materials. The discharge of petroleum, coal or paint products is prohibited and requires reporting of any discharges. The development review process requires that new development contain paint, toxic and potentially polluting materials and regulates fuel floats to avoid spill of materials. Other clean-up material such as booms and absorbent materials must be kept on fuel docks to retain spills.

LCP section 22.46.1180(a)(6) requires that all new development shall assure:

Accessible pump out facilities, waste disposal and rest rooms for all parks and anchorages.

Local, regional and state agencies and non governmental organizations have continued efforts to improve water quality in the Santa Monica Bay, including the Marina waters and adjacent wetlands of Area A and Ballona. Los Angeles County has been a key partner in implementing the water quality requirements in the region. Many new requirements for addressing water quality were reflected in the LCP update in 1996, including reference to measures to implement the Municipal Stormwater NPDES Permit for Los Angeles County (Municipal Stormwater Permit) and the Santa Monica Bay Restoration Plan adopted in 1995.

Since update of the LCP in 1996, significant changes have been implemented in the control of runoff and the County of Los Angeles has in many cases played a lead role in implementing these programs. Polluted runoff includes both stormwater runoff and dry weather flow. Stormwater runoff is regulated primarily by the Municipal NPDES Stormwater Permit and implemented through the Standard Urban Stormwater Mitigation Plans. Dry weather runoff has significant adverse impacts to coastal waters and marine organisms in Southern California since irrigation is used throughout the dry season to maintain landscaping in the dry Mediterranean climate. Additional efforts beyond the stormwater permit requirements are needed to address this issue. Programs such as

the Clean Beach Initiative, beach water quality monitoring required by Assembly Bill 411 and requirements of the California Nonpoint Source Program address the dry weather flow issue. Other programs such as the Contaminated Sediments Task Force and the Total Maximum Daily Load program also address the impacts of pollutants on coastal waters of Marina del Rey.

As noted above, there have been many program changes to implement the state's program for control of polluted runoff that have been implemented since the LCP was last updated in 1996. Through the implementation of the LCP for Marina del Rey, the County has taken many steps as part of these overall programs to address polluted runoff in the Marina. It is important to note that Marina del Rey is the coastal discharge point for larger watershed areas that include significant inland sources of stormwater pollution.

Stormwater runoff (including storm sewer discharges) continues to be the largest source of pollution in Santa Monica Bay and across California.<sup>8</sup> It is a predominant cause of beach closures in each region of the state. It is the source of significant impact to the Marina as well. The County Periodic Review submittal of water quality testing results noted that the Marina is impacted spatially from pollutants from Oxford Retention Basin and Ballona Creek, both of which collect runoff from significant inland areas, from the open ocean as well as other temporal impacts. According to the SWRCB, Mother's Beach suffers from chronic bacteriological contamination.

As noted above, the County routinely monitors the waters near Mother's Beach as well as elsewhere along the shoreline and the LA County Recreational Health program collects ocean water samples at Mother's Beach lifeguard station as part of its Ocean Monitoring Program, and if necessary, posts beach advisories and warning signs until tests indicate that bacteria levels meet State standards. However, since 1996, Mother's Beach continues to experience water quality impacts that adversely affect recreational use.

Since 1996, efforts to address polluted runoff related to marinas and boating have increased. The Plan for California's Nonpoint Source Pollution Control Program (CNPC) adopted in 2000 noted that marinas, boat yards and boating areas can impact water quality not only during construction activities, but also through ongoing boating uses. Water quality may become degraded from pollutants being discharged from boats, pollutants washed from docks in stormwater runoff, or from pollutants generated from boat maintenance activities on land and in water. The CNPC contained management measures for the assessment, siting, design and the operation and maintenance of marinas.<sup>9</sup> Also, since update of the LCP in 1996, significant changes occurred in various programs and regulations directed at improving water quality. The Commission, in reviewing and acting on Local Coastal Program submittals and amendments, has continued to strengthen LCP provisions related to Water Quality.

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<sup>8</sup> NRDC Testing the Waters 2004 pp CA-3.

<sup>9</sup> State Water Resources Control Board and California Coastal Commission, *Plan for California's Nonpoint Source Pollution Control Program*, January 2000.

Coastal Act Policies 30230 and 30231 require that marine resources and the quality of coastal waters be protected. The County has implemented requirements under the Municipal Stormwater Permit as part of coastal permits in order to protect and enhance marine resources. However, the LCP in relying mainly on reference to the Municipal Stormwater Permit may not adequately address control of runoff from new development that does not meet the project size and purpose thresholds in the permit. The County Municipal Stormwater Permit requires BMPs and a WQMP for larger projects and may not have these requirements for smaller projects that impact water quality due to their proximity to coastal resources and specific activities.

As a result, not all projects in the marina may be required to implement polluted runoff controls, or alternatively, address polluted runoff. All development, regardless of whether it requires a drainage plan under the existing LCP, has the potential to affect water quality through post-construction runoff. The County has approved some projects without requiring a drainage or water quality control plan which is not in conformity with Coastal Act policies to protect and enhance marine resources. While these projects may be in conformance with existing LCP policies, they still have a potential to affect water quality if they are not subject to the Municipal Stormwater Permit including requirements to prepare a Water Quality Management Plan and to incorporate, where necessary, structural and non-structural BMPs designed to reduce the volume, velocity, and pollutant load of stormwater and dry weather flows from the project site.

The Commission's periodic review of the Marina del Rey LCP found that in light of continued development of knowledge on control of polluted runoff, the LCP would benefit from revisions to incorporate elements of the stormwater management plan and new information and knowledge about effective best management practices for protecting water quality in the Marina. Therefore, the Commission found that the LCP should be updated to include water quality protection measures to ensure potential water quality impacts are addressed in all new development and redevelopment projects that require a coastal development permit in order to ensure the LCP will protect and enhance marine resources consistent with the Coastal Act.

LCPA 1-11, as submitted, does not incorporate these water quality updates and changes in the various programs and regulations directed at improving water quality. Therefore, the submitted amendment is inconsistent with Sections 30230, 30231, and 30232 of the Coastal Act because it fails to provide policies that would protect water quality and the marine environment. By incorporating updated policies and other mechanisms into the LCP to reflect new information and management measures to protect water quality and marine resources the County can ensure the LCP is implemented in conformity with the Coastal Act. Therefore, for all of the reasons discussed above, the LUP amendment is denied as submitted.

**e. BIOLOGICALLY SENSITIVE RESOURCES**

The terrestrial areas adjacent to the Marina del Rey waters and channels are intensely developed with a variety of commercial, high-density residential and both public and

private recreational uses. Open spaces include: landscaped areas of development parcels, parks and open space areas, pedestrian walkways and the Oxford Flood Control Basin. Only one vacant parcel remains in the marina (Parcel 9U). Adjacent to the marina are wetland areas at the 139 acre “Area A” in the County Jurisdiction, and the Ballona wetlands and lagoon in the City of Los Angeles jurisdiction. The California Resource Guide notes the adjacent Ballona wetlands, including the Area A, serve as a refuge for migratory birds, provide a breeding habitat for endangered species and offer recreation and open space.<sup>10</sup> (Marine resources are discussed in Section 3 of this report).

One of the primary objectives of the California Coastal Act is to preserve, protect, and enhance environmentally sensitive habitat areas (ESHA). Section 30107.5 of the Coastal Act defines an “Environmentally sensitive area” as:

*Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Following this definition, the main provisions of Chapter 3 of the Coastal Act that provide statewide policies for protecting biological resources and ESHA include Sections 30230, 30231, 30233, 30240, and 30250. Section 30240 outlines how ESHA is to be protected. It 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 30233 requires, in part, that the diking, filling, or dredging of coastal waters, wetlands, estuaries and lakes is limited to specific purposes, and permitted only where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

Section 30230 and 30231 protect biological resources:

*Section 30230. 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.*

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<sup>10</sup> California Coastal Commission, *California Coastal Resource Guide*, 1987, p. 297.

*Section 30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30250(a) of the Coastal Act addresses the need to protect other identified coastal resources; it states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. [...] (emphasis added)

Recognizing that these policies have the potential to conflict with other goals of the Coastal Act, such as maximizing public access and recreation opportunities, and increasing recreational boating, the Coastal Act provides that the provision of maximum public access and recreation opportunities must be consistent with protecting natural resource areas from overuse and must take into account the fragility of natural resources (Sections 30210 and 30214).

The Periodic Review and recommendations, was approved by the Commission in January 2008. In the periodic review the Commission recommended that:

- Revise Biological Resources and ESHA recommendations and acknowledge that trees currently or historically used as roosting or nesting habitats by herons, egrets or other significant avian species constitute ESHA as defined by Section 30107.5 of the Coastal Act, and require a marina-wide assessment of the trees that may provide habitat for birds protected by Fish and Game code and the Migratory Bird treaty Act. The recommendations also expand areas where site-specific resource assessments should be undertaken as part of the LCP Amendment or development review process.
- Revise Biological Resources and ESHA recommendations to strengthen policies to assess and protect heronries from tree pruning and other maintenance and development activities.

While previous draft reports of the Periodic Review did not undertake any site specific assessment and or present any specific determination of biological resources or ESHA in the Marina, in light of information presented at the time, the Periodic Review report suggested that the LCP should be updated to incorporate a new Resources component

to the LCP. Such a component would include a process to assess whether sensitive resources or ESHA exist on a site-specific basis and, if determined to exist, include policies and standards to ensure protection of the habitat resources. The preliminary recommendations suggested a range of policies that might be included in such an LCP Resources component, including policies to require a specific assessment of heronries and policies to ensure protection of adjacent habitat resources in adjacent wetland and habitat areas in Ballona Lagoon and Areas A.

Commission and public comment suggested the need for more specific identification of potential ESHA areas in the Marina proper. Comments were also made concerning the need to ensure that the LCP contains adequate measures to ensure protection of heronries in the harbor. In a December 19, 2006 memorandum, Dr. Jonna Engel, staff ecologist, recommended that the Commission find that non-native trees serving as heron and egret roosting and nesting sites or heronries are ESHA and staff was working on recommendations to develop site protection policies and appropriate mitigation for the birds, including their historic and current nesting and roosting areas within the Marina. Dr. Engel made the determination for the following reasons:

1. Wetlands are important and imperiled ecosystems.
2. Herons and egrets are top predators in wetland food webs and therefore integral components of healthy and properly functioning wetland ecosystems.
3. Certain non-native tree stands in Marina del Rey play an especially valuable role in the Ballona Wetland ecosystem by providing rare and essential roosting and nesting space for five species of herons and egrets; and
4. Non-native tree stands in Marina del Rey are easily disturbed and degraded by human activities and development as a result of pruning or removal.

Now, five years later, Dr. Engel has re-assessed this conclusion (see Exhibit No. 18, October 20, 2011 memorandum, which has been incorporated below). Dr. Engel's re-assessment has included: site visits with Commission staff on March 10, 2009 and June 14, 2011, and with Robb Hamilton and Andi Culbertson on July 31, 2009; review of early drafts of the *Conservation and Management Plan for Marina del Rey* and the final September 16, 2010 *Conservation and Management Plan for Marina del Rey*; review of historic and current aerial photographs; consultation with biological experts including Kimball Garrett of the Museum of Natural History Los Angeles County and agency biologists from United States Fish and Wildlife Service (USFWS), Audubon, and California Department of Fish and Game (CDFG); and review of peer-reviewed literature.

Dr. Engel always reviews historic and current information for each ESHA determination, however, "on-the-ground" conditions are the most germane. Ms. Hanscom recognized this when she wrote the following in her November 2, 2010 report for *We Are Marina del Rey*:

*In practice and as a matter of acknowledgement of the changes nature is capable of, the on-the-ground situation is what guides the Coastal Commission and other entities responsible for upholding this important tenet [section 30107.5] of the California Coastal Act for determination of ESHA.*

The Marina del Rey LCP, certified in 1996, does not designate any Environmentally Sensitive Habitat Areas (ESHA). The Marina del Rey LUP ESHA definition is identical to the Coastal Act definition of ESHA found in section 30107.5 which states that:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

The possibility of recommending that new ESHA be recognized related to the recent colonization of Marina del Rey by herons and egrets and most recently cormorants has been a topic of the Periodic Review and was the subject of Dr. Engel's 2006 memorandum. In the intervening years since Dr. Engel made the 2006 ESHA determination for non-native tree stands serving as heronries in Marina del Rey, the Commission completed its Periodic Review of the Marina del Rey Local Coastal Program. The Periodic Review provided Los Angeles County with recommended actions for more fully implementing the Coastal Act in Marina del Rey. The Commission included a number of recommendations concerning biological resources and environmentally sensitive habitat areas (No.s 36-62). Recommendation No. 36 stated the following with regard to steps needed to evaluate the potential presence of ESHA in Marina del Rey:

*Determine the presence of ESHA based on the best available information, including current field observation, biological reports, and additional resources from the Department of Fish and Game and the U.S. Fish and Wildlife Service.*

Los Angeles County Department of Beaches and Harbors responded to this and the other recommendations by commissioning Robert A. Hamilton, president of Hamilton Biological, to perform a regional review and marina-wide comprehensive natural resources study and to develop a plan for protecting and preserving sensitive biological resources in Marina del Rey. Hamilton teamed with Daniel S. Cooper, president of Cooper Ecological Monitoring, Inc., and they conducted detailed research and surveys of the historic and present day status of wading bird, cormorant, and other birds in the region and the marina. They also developed a comprehensive and protective strategy for conserving and managing sensitive biological resources in Marina del Rey titled *Conservation and Management Plan for Marina del Rey*. Los Angeles County Department of Beaches and Harbors has adopted and endorses the plan. Hamilton and Cooper's study results, which they report in their plan, includes information that Dr. Engel did not consider in her 2006 ESHA determination memorandum. For example, the plan includes a greater level of information on the historic and current status of herons and egrets (wading birds) and cormorants than was available when the Periodic Review was initiated in 2005 or when the 2006 memorandum was prepared.

In 2006 when Dr. Engel concluded that roosting and nesting herons and egrets were integral components of the Ballona Wetland ecosystem, she viewed the recent colonization of Marina del Rey by breeding colonies of these species as a re-colonization of the area. Dr. Engel's ESHA recommendation assumed that herons and egrets



historically nested in the Ballona Valley, that they became rare as a result of hunting and loss of native trees, and that the recent re-establishment of breeding populations in Marina del Rey represented a re-colonization of these species in the area.

Regarding the historical landscape of the lower Ballona Creek area Hamilton and Cooper report in their plan:

*The historical landscape along the coast west of present-day Lincoln Boulevard (i.e., an area encompassing all of Marina del Rey) likely consisted of wide tidal channels and mudflats, salt marshes, coastal dunes, pockets of freshwater and/or brackish marsh, as well as riparian scrub. Also present was a coastal prairie community described by researchers as far back as the 1930s (e.g., “the meadow” referred to by von Bloeker 1943). These are generally the habitat types typical of coastal estuaries throughout southern California and northwestern Baja California, Mexico (see, e.g., Grewell et al. 2007, Pickart and Barbour 2007). Comparable coastal estuaries on broad plains in southern California include Carpinteria Marsh, Mugu Lagoon, Alamitos Bay, Bolsa Chica, Upper Newport Bay, and the Tijuana River Estuary, and those in northwestern Baja California include the Estero Rio Guadalupe and Estero Punta Banda; all are characterized by the habitats listed above and not by tall native trees. Where tall trees do occur near coastal estuaries in the region, such as at Goleta Slough and Malibu Lagoon, those trees are almost invariably introduced by people. At Ballona, tall native trees such as California sycamores (*Platanus racemosa*) and coast live oaks (*Quercus agrifolia*) were likely confined to upstream reaches of Ballona Creek, as suggested by historical photos of Ballona Creek near present-day Culver City (see Cooper 2008).*

Regarding historical heron and egret breeding colonies in the lower Ballona Creek area Hamilton and Cooper report in their plan:

*We consider it likely that, if colonial waterbirds were nesting in the Ballona/ Venice area, or in other parts of the state, during the middle and late 1800s, older ornithologists/ oologists (egg collectors) of that era would have known of and mentioned nesting locations prior to the rise of plume-hunting in the late 1800s and early 1900s, which they apparently did not. Early accounts by Grinnell (1898), Willett (1912), Dawson (1915), and Grinnell and Wythe (1927) all describe breeding by colonial waterbirds birds as highly localized in the state, not only by the early 1900s, but for decades prior to 1900 as well. None listed the Ballona area among the nesting locations for these species.*

*However, both Grinnell (1898) and Willett (1912), among other authors and collectors, reported many nesting records of species other than colonial waterbirds from Venice, Ballona, Playa del Rey, Del Rey, and other local sites. The Western Foundation of Vertebrate Zoology in Camarillo, California, contains dozens of egg sets collected from this area during the late 1800s and early 1900s, including several of the elusive, and now locally-extirpated, Light-footed Clapper Rail (*Rallus longirostris levipes*) found in extensive saltmarsh and brackish wetlands. Thus if*

*colonial waterbirds were present and nesting in the Ballona area during this period, we may reasonably infer that they would have been at least noted, if not collected.*

Kimball Garrett, Ornithology Collections Manager at the Museum of Natural History Los Angeles County, echoes Hamilton and Cooper's position that the Ballona Valley did not historically support native tree stands or heron and egret breeding colonies in a letter of support for the *Conservation and Management Plan*:

*It is entirely reasonable to conclude that trees and other tall vegetation suitable for nesting herons was absent from what is now the Marina del Rey area prior to the massive land-use changes that began with agricultural development and culminated in the creation of the urban marina that now exists at the site. You convincingly conclude that the planting of trees in the Marina area does not constitute restoration of arboreal habitat, but instead represents an unnatural by-product of urbanization and human aesthetic preferences. Therefore, one must conclude that if herons and cormorants were part of the breeding avifauna of this area 100-150 years ago, they must have nested on the ground or in marshes, presumably in areas inaccessible to mammalian predators. This is a reasonable possibility, as ground-nesting herons and cormorants are found elsewhere. However, it is almost certain that no such colonies existed in the area in the last two decades of the 1800s (and into the 1900s), since egg collectors – known to have worked the “Ballona” and “Del Rey” areas extensively – would surely have documented them. What happened in the mid-1800s, prior to any real natural history documentation in the region, is more open to speculation. Based on what we know of their habitat requirements for nesting and foraging, herons are unlikely to have nested unless there were islands available that enjoyed significant isolation by deep water at even low tide cycles. I am not qualified to comment on the hydrological patterns of the “pristine” estuarine habitats of the area and whether islands with appropriate isolation indeed existed, though the existence of such islands seems unlikely given the relatively small amount of water entering the estuary via Ballona Creek (and, periodically, the Los Angeles River).*

Marina del Rey was completed in 1960, and until the mid-1990's herons and egrets occurred in small numbers as uncommon transients and winter visitors in the marina. According to Cooper, while herons and egrets have been recorded in the Ballona Wetlands and Venice area for a long time, the first breeding record did not occur until 1995 when “small numbers” of great blue herons “nested in the lone cottonwood on the western edge of the Ballona Wetlands,” with subsequent colonization of non-native landscaping trees in Marina del Rey by this and other colonial waterbirds<sup>11</sup>. Since the mid-1990's the numbers of individual birds and the numbers of species has steadily increased so that Marina del Rey now supports, according to the *Conservation and Management Plan*, a combined total of more than 100 breeding pairs of Double-crested

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<sup>11</sup> Cooper, D. S. 2006. Annotated checklist of extirpated, reestablished, and newly-colonized avian taxa of the Ballona Valley, Los Angeles County, California. Bulletin of the Southern California Academy of Sciences 105:91–112.

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Cormorants, Black-crowned Night-Herons, Great Blue Herons, Great Egrets, and Snowy Egrets. Hamilton (Sept. 12, 2011) provided the following information regarding the recent nesting history of herons, egrets, and cormorants in Marina del Rey<sup>12</sup>.

Species	1990-2000	2000 to Present
Great Blue Heron	<10 pairs	10 pairs in 2002; 6 pairs in 2005; 33 pairs in 2009 and at least 25 pairs in 2011
Great Egret	Transient/Winter visitor	2 pairs in 2008; ~5 pairs in 2009; 1 pair in 2011
Snowy Egret	Common year round in various numbers	~50 pairs in 2005; ~35 pairs in 2009; 24 pairs in 2011
Black-crowned Night Heron	Uncommon transient and rare breeder in 1992; 3 pairs in 1995	~216 pairs in 2005; ~45 pairs in 2009; 81 pairs in 2011
Double-crested Cormorant	Common in fall/winter, less so through spring/summer	Nesting first noted in 2007; 19 pairs in 2009; at least 22 pairs in 2011
White-faced Ibis	Rare transient	Uncommon transient

Colonization of Marina del Rey by herons and egrets and more recently, cormorants, has been part of a dramatic regional and statewide expansion of populations of herons, egrets and other water birds into urban areas such as harbors, marinas, reservoirs, and similar settings, where non-native landscape trees are used for nesting. Much like opossums, raccoons, coyotes, and crows, herons and egrets have adapted to and are flourishing in urban settings. The number of species and individual number of breeding herons and egrets increased from the mid-1990's into the early 2000's. In the last few years the pattern has shifted with some species showing decreases in breeding pairs and others showing increases in breeding pairs. In any case, the large number of heron and egret breeding pairs in Marina del Rey indicates that these birds are successfully adapting to the urban environment of Marina del Rey and therefore are not easily disturbed or degraded by human activities and developments. CDFG stated the following in its letter of support for the *Conservation and Management Plan*:

*As discussed in the Plan, various colonial waterbird species have substantially expanded their local and regional breeding populations in recent decades, largely by colonizing urban coastal areas like Marina del Rey. Such areas formerly appeared to be too disturbed or otherwise compromised by human activities to support substantial nesting colonies but starting in the 1990s the birds have rapidly adapted to urban conditions and there is no sign of this trend diminishing.*

The increase in the numbers of herons and egrets in Marina del Rey is being followed closely by USFWS and CDFG with some concern. Herons and egrets are omnivores known to consume other birds, including terns and shorebirds, in addition to their typical

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<sup>12</sup> Hamilton, R.A. and D.S. Cooper. September 12, 2011. Review of Waterbird Population Status, Marina del Rey Memorandum

diet of fish, other aquatic prey, and rodents<sup>13,14,15</sup>. The California Least Tern, *Sterna antillarum browni*, a federally endangered species, has a small breeding colony on Venice Beach that is the subject of an active recovery program and there are on-going efforts to re-introduce western snowy plover, *Charadrius alexandrinus nivosus*, a federally threatened species, to Los Angeles beaches including those near Marina del Rey. The *Conservation and Management Plan* addresses this potential conflict and “allows for biologists from state or federal resource agencies to potentially intervene (e.g., through tree pruning or removal, or through removal of “problem” individuals) if monitoring of the local ecosystem indicates that such management is clearly advisable”.

Hamilton and Cooper expressly state that a goal of their *Conservation and Management Plan* was “not to prove one way or another whether colonial waterbirds did or did not nest at Ballona or elsewhere in the local area historically, but to evaluate the evidence that is available in order to base management and conservation recommendations on the known historical record and on the most likely scenarios.” In Dr. Engel’s opinion the authors have met this standard. They have shown that the lower Ballona Creek area did not likely support native trees historically and that lack of historic evidence for nesting herons and egrets implies that breeding colonies are new to this area. This revised understanding has led Dr. Engel to conclude that the natural state of the Ballona Wetlands was a wetland ecosystem without native trees or heron and egret breeding colonies prior to human development disturbance. Therefore, in this wetland location, nesting herons and egrets have not historically been an integral component of wetland health and proper functioning. For this reason Dr. Engel now believes that, although these species currently play a role in the lower Ballona Wetlands area, it is likely not an especially valuable one for the health of the ecosystem. However, it is important to note there are no pristine coastal ecosystems left in southern California and if rare or endangered species came to rely on what historically would be considered “novel” habitat, that habitat could meet the definition of ESHA under the Coastal Act. In the present instance, the species of nesting birds are neither rare nor endangered.

In addition, when Dr. Engel determined that non-native tree stands used by herons and egrets for roosting and nesting rose to the level of ESHA in 2006, she did not appreciate the ephemeral nature of individual heronries nor did she appreciate the large number of non-native trees suitable and available for roosting and nesting in Marina del Rey. Some trees used by herons and egrets for roosting and nesting eventually die due to an accumulation of bird droppings on the tree and increases in soil nitrates, nitrites, and phosphates<sup>16,17</sup>. The decline and death of trees in this manner is called guanotropy; some

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<sup>13</sup> Marschalek, D. A. 2008. *California Least Tern breeding survey, 2007 season*. CDFG, Wildlife Branch, Nongame Wildlife Program Report, 2008-01. Sacramento, CA.

<sup>14</sup> Marschalek, D. A. 2009. *California Least Tern breeding survey, 2008 season*. CDFG, Wildlife Branch, Nongame Wildlife Program Report, 2009-02. Sacramento, CA.

<sup>15</sup> Marschalek, D. A. 2010. *California Least Tern breeding survey, 2009 season*. CDFG, Wildlife Branch, Nongame Wildlife Program Report, 2010-02. Sacramento, CA.

<sup>16</sup> Telfair, R.C. and B.C. Thompson. 1986. Nuisance heronries in Texas: characteristics and management. Texas Parks and Wildl. Dep. Fed. Aid Project Rep. W-103-R, Austin.

<sup>17</sup> Telfair, P.C. and T.J. Bister. 2004. Long-term breeding success of the cattle egret in Texas. *Waterbirds*, vol. 27(1): 69-78.

trees are more tolerant of guano-trophy than others and take as long as 10 to 12 years to die whereas others die within one to two years of colony establishment<sup>18</sup>. On the east side of the marina near the Villa Venetia parking lot, one large Monterey cypress used by nesting great blue herons for several years apparently suffered from guano-trophy and fell over crushing a car in 2008. Two remaining cypress trees have also been affected by guano-trophy losing most of their foliage; one of the cypress is leaning quite severely (see cover photo of *Conservation and Management Plan*). While herons and egrets typically demonstrate nest fidelity for several years, they eventually either abandon nests because they become polluted by bird droppings and/or infested with lice or because the tree supporting the nest has become undesirable due to disease or death. Thus heronries are not permanent; herons and egrets move around choosing sites with trees that meet their roosting and nesting requirements (height, camouflage, foraging habitat proximity, etc.). Annually the Department of Beaches and Harbors estimates the number of trees in preparation for pruning; in 2011 the Department estimated over 1,500 non-native ornamental trees on County property. This number would be considerably larger if trees on the leaseholder property had been included in the estimate.

This information leads Dr. Engel to conclude that individual, non-native tree stands, are not especially important to roosting and nesting herons and egrets and that non-native trees are not rare in Marina del Rey. This information sheds new light on Dr. Engel's 2006 ESHA determination. When Dr. Engel made the 2006 ESHA determination for non-native tree stands serving as heronries in Marina del Rey she thought that tree stands were historically a part of the Ballona Wetlands and that the presence of heron and egret breeding colonies in Marina del Rey represented re-colonization of the area by nesting herons and egrets, not a new phenomenon. Dr. Engel also did not appreciate the ephemeral nature of individual heronries or the abundance of non-native trees in Marina del Rey.

Dr. Engel's 2006 ESHA determination was also based on her conclusion that non-native tree stands serving as heronries in Marina del Rey were easily disturbed and degraded by human activities and development as a result of pruning or removal. This conclusion followed several incidents where trees were so severely pruned that the intention to get rid of nesting herons and egrets was quite transparent. Local residents alerted the Commission to these actions, which led to enforcement action. The Department of Beaches and Harbors, in addition to investigating the excessive pruning, revised and improved their 2006 tree pruning and removal policy (Policy 23) and developed tree pruning and removal policy for leaseholders (Policy 34). Dr. Engel worked closely with the Department of Beaches and Harbors to ensure that the overarching intent of their tree pruning and removal policies are conservation and protection of heron and egret breeding colonies, cormorant breeding colonies, and other sensitive bird species. Section 1.1 of policies 23 and 34 states that their purpose is:

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<sup>18</sup> Grant, K.R. and J. Watson. 1995. Controlling Nuisance Egret and Heron Rookeries in Oklahoma. Wildlife Damage Management, Internet Center for Great Plains Wildlife Damage Control, Workshop Proceedings. University of Nebraska, Lincoln.

*To establish guidelines within Marina del Rey and on Los Angeles County beaches for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds..*

The Department of Beaches and Harbors has committed to annual surveys of breeding and nesting herons, egrets, and cormorants, California Species of Special Concern, and federal and state listed species, conducted by a qualified biologist (s), as outlined in the *Conservation and Management Plan*, to establish the long-term status and trends of these species, especially colonial waterbirds. Survey reports will include photos of active and inactive nests and will provide the basis for management and oversight of the nesting birds in Marina del Rey. Under policy 23 and 34 nesting tree removal is only permitted for health and safety emergencies. However, in recognition that human/bird conflicts can arise in an urban setting the Department of Beaches and Harbors has incorporated the following limited allowances into their policy following consultation with Dr. Engel and with Hamilton and Cooper:

*Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding season, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the County or County contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.*

Recent actions by the Commission have identified issues related to protecting heronries as an integral part of protecting sensitive biological resources in other harbor areas. For example, in recent Commission actions in Channel Island (PWPA 1-04), Long Beach (CDP 5-08-187, LCP Amendment 1-09) and Dana Point (DPT-MAJ-1-08) harbors, the Commission reviews noted that herons and egrets roosted and nested in non-native trees amidst harbor facilities, including near buildings and parking areas. While the Commission adopted conditions to restrict construction activities during active nesting, it found that trees within these harbors did not meet the definition of ESHA. The Commission noted that herons and egrets are neither listed nor proposed for listing as threatened or endangered species, but individual herons and egrets and their nests are

protected under the Migratory Bird Treaty Act and the California Fish and Game Code. The Department of Beaches and Harbors reviewed the tree pruning and removal policies approved by the Commission for these harbors when they updated policies No. 23 and 34.

In summary, Dr. Engel has re-assessed and revised her 2006 ESHA determination for non-native tree stands serving as heronries in Marina del Rey in light of review of new information presented in the *Conservation and Management Plan*. Dr. Engel no longer believes that the non-native trees serving as heronries (roosting and nesting sites) in Marina del Rey rise to the level of ESHA for the following reasons:

1. The lower Ballona Creek area did not likely support native trees historically, and lack of historic evidence for nesting herons and egrets implies that breeding colonies are new to this area. In this wetland location nesting herons and egrets have not historically been an integral component of wetland health and proper functioning and therefore likely do not currently play an especially valuable ecosystem role in the Ballona Wetland ecosystem,
2. Individual heronries (stands of non-native trees) in Marina del Rey are ephemeral and non-native trees in Marina del Rey are abundant. Therefore, non-native tree stands in Marina del Rey are not rare, and individual stands do not play an especially valuable ecosystem role in the Ballona Wetland ecosystem by providing critical roosting and nesting space for herons and egrets, and,
3. The Department of Beaches and Harbors has revised and is enforcing their tree pruning and removal policies to ensure the health, survival, and persistence of trees and the birds species that nest in them. The policies include a 1:1 mitigation requirement for any tree that is removed. As a result of policy changes and commitment to enforcement, non-native tree stands in Marina del Rey are not easily disturbed and degraded by human activities and development as a result of pruning or removal.

While Dr. Engel no longer finds that non-native tree stands serving as heronries in Marina del Rey rise to the level of ESHA, she believes that the trees and the herons, egrets, and cormorants, as well as other bird species using them require protection and proper management to ensure their survival and persistence in Marina del Rey. Dr. Engel has carefully reviewed Hamilton and Cooper's *Conservation and Management Plan for Marina del Rey* and concludes that it is a thorough, protective, and well designed plan for ensuring the protection, restoration, and enhancement of sensitive biological resources in Marina del Rey. The *Conservation and Management Plan* has also been reviewed and supported by ornithology experts and agencies. Kimball Garrett of the Museum of Natural History Los Angeles County stated "Overall I found the report excellent, well-researched, and with appropriate suggestions for conservation and management." Los Angeles Audubon stated that "We support the findings of the Conservation and Management plan and recommendations. If adopted by the County, this plan will be a valuable tool in managing heron and egret populations in Marina Del Rey." USFWS said the following in support of the *Conservation and Management Plan*:

*We feel that this colonial waterbird plan is very thorough and well written.... the management recommendations that are provided in the latter part of the document are very sound and suggest a number of actions that could be done to conserve waterbirds and manage the landscape to reduce human/bird conflicts. These recommendations include reducing or eliminating the use of non-native plantings and conducting habitat restoration at key sites; evaluating and adjusting overall land uses; and adapting to situations where birds are in direct conflict with people (such as placing tarps above car parking spaces that are being hit by guano). We support the emphasis of nonlethal management, rather than advocating lethal removal, by encouraging natural movement of birds in response to habitat restoration and vegetation management in places where nesting waterbirds are in conflict with humans.*

California Department of Fish and Game stated the following in support of the *Conservation and Management Plan*:

*The Department finds the Plan to be thorough and comprehensive. The Plan covers the terrestrial natural resources present or potentially present in Marina del Rey with an emphasis upon conservation and management of heron, egret and cormorant populations. ... The County's existing tree-pruning policy, as expanded and improved upon in the Plan, would allow for an appropriate level of management flexibility in those infrequent cases where problematic land-use conflicts might develop between birds and humans, or between birds and other wildlife species."*

The *Conservation and Management Plan* has two overarching goals:

*a) to promote the long-term conservation of all native species that exist in, or that may be expected to return to, Marina del Rey, including surrounding open space areas, focusing especially on the most vulnerable, globally-scarce, and otherwise biologically sensitive species; and b) to diminish the potential for conflicts between wildlife populations and both existing and planned human uses of Marina del Rey (to the benefit of humans and wildlife alike).*

Dr Engel believes that the plan, as designed, will accomplish the plan's stated goals and that the plan should serve as a model for other similar urban settings with sensitive biological resources.

Section 30240 of the Coastal Act states, in part, that 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 and also 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.



Coastal Resources referenced in the above stated Coastal Act policies are unique and are often only present within the coastal zone or along the coast line. Thus, they are valuable resources that must be identified and protected. Protection of Coastal Resources should be a primary goal associated with any LCP. However, the proposed LUP Amendment does not adequately protect birds and their habitat. The proposed tree management policies are not adequate for the protection of the trees used for nesting by colonial water birds or raptors. Furthermore, the LCPA does not address potential bird strikes with future development of tall buildings. This issue is an important issue given the proximity to the water, Ballona Wetlands, and the use of the area by nesting water birds and raptors. As submitted, the Marina del Rey LCPA is therefore inconsistent with Sections 30210, 30230, 30231, 30233, and 30240 of the Coastal Act because it fails to provide policies that would identify and protect Coastal Resources. Therefore, the LUP Amendment must be denied as submitted.

**f. HAZARDS**

Section 30235 of the Coastal Act states:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Section 30253 of the Coastal Act states:

*New development shall do all of the following:*

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.*
- (d) Minimize energy consumption and vehicle miles traveled.*
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Sea level rise is an important consideration for the planning and design of projects in coastal settings. Such changes in sea level will exacerbate the frequency and intensity of wave energy received at shoreline sites, including both storm surge and tsunamis,

resulting in accelerated coastal erosion and flooding. There are many useful records of historic sea level change, but no certainty about how these trends will change with possible large increases in atmospheric greenhouse gas emissions and air temperatures. Notwithstanding the controversy and uncertainties about future global or local sea levels, guidance on how to address sea level rise in planning and permitting process is evolving as new information on climate change and related oceanic responses become available.

### Sea Level Rise Background

The two primary processes that lead to sea level rise are the increase of ocean temperature, which leads to thermal expansion, and the melting of mountain glaciers and large land-based ice sheets, which add freshwater to the ocean. In the past century, average temperature has increased by 1.3°F, and global sea level has risen by 8 inches [Intergovernmental Panel on Climate Change(IPCC) 2007]. Ocean temperature data show that thermal expansion has significantly increased over the second half of the 20th century and the rate of ice-sheet melt from the two major ice-sheets, the West Antarctic and Greenland Ice Sheets, has increased in the past ten years (Levitus et al. 2009, Kwok and Rothrock 2009). These conditions all suggest that historic trends, especially those developed before the creation of the IPCC and its relevant climate change studies in sea level rise will be poor indicators of future sea level change.

### Global Sea Level Rise Projections

The IPCC has developed a group of scenarios of plausible future growth, energy use and development patterns that have been used to model future greenhouse gas emissions and possible climate change. IPCC's most recent report from 2007 projects global sea level rise from 7 inches to 23 inches by 2100 (18 cm to 60 cm), compared to 1980-1999. Given the uncertainty surrounding rates of ice-sheet melt at the time of the IPCC report publication, these estimates assume historic rates of ice-sheet melt and do not account for any increase in the rate of melting. Therefore, the IPCC likely underestimates future sea level rise.

Recent calculations and observations suggest that future ice-sheet contributions to sea level rise could be about 32 inches (80 cm) by 2100 and no more than 6.5 feet (2 meters) (Pfeffer 2008). Other estimates based on the semi-empirical method of quantifying the relationship between temperature and sea level rate project an increase of 12 inches to 71 inches (30-180 cm) by 2100, using 1990 as a baseline (Rahmstorf 2007; Vermeer and Rahmstorf 2009; Grinsted et al. 2009). These all exceed the upper estimate of 23 inches (60 cm) sea level rise suggested by the IPCC for the business-as-usual scenario (Nicholls and Cazanave 2010).

### Local Sea Level Rise

Local sea level is determined by global sea level changes and a number of other regional climatic and geological factors, including local wind patterns, which push coastal waters toward or away from shore, and local land movement driven by plate tectonics. In addition, water level is influenced by a number of factors over different time scales: waves, tides, currents and atmospheric forcing contribute to short-term and seasonal variability in water level; tidal epochs, El Niño/Southern Oscillations, Pacific Decadal Oscillations, and Arctic Oscillations contribute to longer-term, annual to multi-decadal variability; and the earth's orbital cycles (Milankovitch cycles) contribute to centennial to millennial variability.

The long-term (1923 to 2006) tide records for Los Angeles show a trend in sea level rise of 0.83 +/-0.27 mm/yr (0.27 +/-0.09 ft/century). Tide records for the past decade have shown a seasonal signal for water level changes, but little if any interannual sea level rise. Researchers speculate that the Pacific Decadal Oscillation (PDO) has dropped water levels along the eastern Pacific, and this regional effect has temporarily countered or dampened the global signal of sea level rise. If this hypothesis is correct, as the PDO again shifts basin-wide water toward the eastern Pacific, the dampening of sea level rise will reduce, and soon the shift will augment the sea level along the California coast. (Bromirski et al. 2011)

Executive Order S-08-13 directed the Ocean Protection Council to initiate a study by the National Academy of Science (NAS) to provide regional guidance for projections of sea level rise. This study is expected to be completed in the spring of 2012. Until the NAS is completed, the Ocean Protection Council (OPC) has provided Interim Guidance for Sea level Rise. The sea level rise estimates provided in the OPC report are shown in the table below.

Sea Level Rise Projections using 2000 as the Baseline

Year		Average of models	Range of models
2030		7 in (18 cm)	5-8 in (13-21 cm)
2050		14 in (36 cm)	10-17 in (26-43 cm)
2070	Low	23 in (59 cm)	17-27 in (43-70 in)
	Medium	24 in (62 cm)	18-29 in (46-74 cm)
	High	27 in (69 cm)	20-32 in (51-81 cm)
2100	Low	40 in (101 cm)	31-50 in (78-128 cm)
	Medium	47 cm (121 cm)	37-60 in (95-152 cm)
	High	55 in (140 cm)	43-69 in (110-176 cm)

There are uncertainties surrounding future greenhouse gas emissions, vertical land movement measurements, past rates of sea level change, and future contributions to SLR from the Greenland and Antarctica ice sheets. Given the uncertainties associated with future sea level rise, there are no probabilities assigned to these estimates.

Data on recent ice-sheet melt and the current trajectory of global greenhouse gas emissions suggests that sea level rise will be greater than projections (Rahmstorff 2010). The very low scenarios likely under represent future sea level rise and climate scientists recommend using the medium and high scenarios, as provided in the table above, for planning.

In addition, the combined effects of chronic sea level rise resulting from climate change and episodic storm surge, unusually high tides, and tsunamis should be considered.

#### Sea Level Rise Science Updates

Sea level rise planning should use the best available science and be updated with the release of new science and guidance materials, including the following scheduled updates:

- National Academy of Sciences Report (Summer 2012): The National Academy of Sciences (NAS) will be releasing a report with updated sea level rise projections for California in 2012. The OPC sea level rise guidance will be updated as needed with revised sea level rise ranges as needed after the report is released.
- Fifth Assessment Report from Intergovernmental Panel on Climate Change (Fall 2013). Based on the results of the fifth IPCC report, sea level rise guidance will be updated as needed.

#### Sea Level Rise Impacts

Sea level rise is expected to lead to the following impacts that could have serious negative consequences for marine environments and intensify existing shoreline management challenges:

- Permanent or periodic inundation of low-lying areas;
- Increase in coastal flooding during extreme storms and high tides;
- Increase in erosion rates and shoreline recession in erosion-prone areas;
- Inward migration and loss of coastal wetlands;
- Erosion of some barrier dunes, exposing previously protected areas to flooding;
- Saltwater intrusion into storm water systems and aquifers (Heberger et al. 2009).

The specific impacts of sea level rise along the California coast and at Marina Del Rey will depend on the characteristics of the shoreline, geomorphology and land use patterns. In many cases, the main threat from sea level rise results from the impacts of increases in wave heights, erosion, inundation and bluff retreat. Local sea level rise trends should continue to be monitored closely in the future.

The certified and submitted LCP amendment includes policies related to coastal development, however in relation to sea level rise the LUP provides no specific direction as to how this potential hazard should be reviewed for new proposed coastal development where instability and exposure to flooding risks could be intensified at

higher ocean elevations. Without such provisions, the LUP as proposed for amendment would be inconsistent with the policies of Chapter 3 of the Coastal Act. Therefore, the Commission finds that the amendment as submitted is not consistent with Sections 30235 and 30253 of the Coastal Act.

Therefore, pursuant to Coastal Act Section 30253 an LCP must contain policies that require that proposed development be adequately reviewed and sited so that geologic, flood, and fire hazards are avoided and minimized. In order to prevent or mitigate the impacts upon new development from coastal hazards and more specifically sea level rise, **Suggested Modification 45** has been recommended to existing LCP policies to ensure that to the extent practicable given current scientific uncertainties relating to the variable projected rates of sea level rise, new projects in the Marina del Rey area will minimize risks to life and property in areas of high geologic and flooding hazard and not create or contribute to geologic-related instability or destruction of development sites or the areas surrounding the development sites by requiring that the effects of sea level rise be quantitatively considered in geologic and other engineering technical evaluations of new development when determining the geologic and flooding hazards of the proposed development.

The suggested modifications to the LCP amendment require that civil engineering studies required for major development in Marina del Rey examine a range of likely and extreme rises in sea level in the siting and design of new development in Marina del Rey to avoid potential future geologic and flooding hazards anticipated over the lifetime of the development. The suggested modifications also recommend that Los Angeles County should study the potential geologic and flooding hazards of continued and accelerated sea level rise and flooding of the waterways on the existing or proposed structures within the Marina. Finally, the suggested modifications recommend that the County periodically review tsunami preparation and response policies/practices to reflect current and predicted future sea level trends, development conditions, and available tools and information for preparedness and response.

Therefore, for the reasons outlined above, the Commission finds that only if modified as suggested, can the proposed LCP amendment be found to be consistent with Sections 30235, and 30253 of the Coastal Act.

## **VI. APPROVAL of the LUP Amendment if Modified as Suggested**

The findings for denial of the Land Use Plan as submitted are herein fully incorporated.

### **a. DEVELOPMENT**

#### Parcel 10

In 1995, the County requested and was approved for an increase in residential units in the amount of 1,500 dwelling units. The objective of this increase was to stimulate redevelopment of the residential uses (some of which are pre-Coastal Act facilities) to enhance the opportunity for more view corridors. To further enhance the opportunity for view corridors, the CCC approved the increase in heights for buildings. In fact, a portion of Parcel 10 is allowed to reach 225 feet and another portion is allowed to reach 45 feet with a 20% view corridor, or up to 75 feet if a 40% view corridor is provided.

In terms of density, Parcel 10 along Via Marina is a Residential V (RV) and the portion along the mole is Residential III (RIII). RIII allows a density of 35 units per net acre and RV is 75 dwelling units per net acre. When the LCP was certified in 1995, the allocation of the increased density was more or less arbitrary. Since that time, several projects along Via Marina have redeveloped or been approved for redevelopment or remodeling and have used less of the allocated development potential than originally expected. Therefore, the transfer of development potential to this parcel is not a significant matter, as all of the units come from nearby development zones and no additional impacts are expected.

In terms of the proposal to average density over the entire parcel, the Commission finds that this change is acceptable. The required view corridor is still provided, and the heights are lower than allowed by the existing LCP. Overall, the transfer of density does not result in a more dense project than was envisioned in the 1995 certification, and is therefore acceptable.

The height limits are 225 feet along Via Marina (depending on view corridor) and 75 feet along Marquesas Way. The building heights on the plans for Parcel 10 feature a 60 foot height on the Via marina portion and a 55 foot height on the mole portion. Therefore, heights are much lower than expected in the document and the project still produces the desired view corridors. **Suggested Modification 1** is included to modify the LUP to limit heights on Parcel 10, Via Marina portion, to 75 feet, eliminating the future opportunity for a 225-foot building under any circumstances and to change the land use designation to Open Space (OS). This constitutes a net benefit to the LCP and to Coastal Act policies.

#### Parcel FF (new Parcel 14)

Parcel FF is proposed for a 126-unit apartment project and is to be redesignated Parcel 14. Parcel FF is currently used as a public parking lot of 201 spaces on 2.05 acres. The underlying designation of Parcel FF is Open Space.

The transfer of units from two development zones to enable Parcel FF's development is acceptable for the reasons stated above with respect to Parcel 10. Similarly, the height of Parcel FF's building is 55 feet. This is a complement to the Parcel 10 heights and conforms to the requirements of the LCP for view corridors. As the County is already proposing a 75 foot height limit restriction, similar to the Commission proposal for Parcel 10, no further changes to the LCP are required for height.

The County proposes to relocate the open space designation to a portion of Parcel 9, a hotel designated parcel with a 225-foot height limit. The size of the open space portion of Parcel 9 is 1.46 acres, while the size of Parcel FF is 2.05 acres. As a result of a construction project abandoned in the mid-1980s, a wetland has formed (discussed later in this report). The wetland is proposed for enhancement and restoration, and for incorporation into a wetland park. Limited picnic and trail facilities will be installed, consistent with the conservation needs of the park.

The County's proposal included compensatory steps to make up for the shortage in acreage. First, the County required the developer of Parcel FF to pay for ½ of the park's improvement costs, and 100% of those costs (subject to 50% reimbursement) if Parcel 10 was developed before a hotel was developed on Parcel 9 (which pays the other ½ of the costs). The County also required the construction of a transient boater dock of 9-11 slips adjacent to Parcel 9, to enhance non-vehicular access to the park. Together, these improvements exceed \$1 million, greatly exceeding the comparable acreage (.59) by which the park is short. Additionally, and as described later in this report, the County is adding a substantial amount of acreage to the LCP area, far beyond what was contemplated for the certification involving an increase in units. Therefore, the Commission finds that this compensatory step is acceptable.

Moreover, a review of the findings for the 1995 LCPA reveal that the Commission's rationale on public parks on this side of MDR was aimed at more picnic and open space areas rather than active ballfields for local residents (see 1995 Findings, pp. 51,56). In fact, the Commission emphasized that local residents, including new residents added as a result of the dwelling unit increase, were answered for in three ways:

1. The enhancement of Oxford Basin and the provision of open space in Parcel FF
2. The payment of the Coastal Improvement Fund (CIF) fee
3. The provision on onsite private recreation facilities.

In this case, the open space contemplated in Parcel FF is not being lost, it is being moved. The .59 acre shortfall is more than answered for by the improvements – both park and access – and the increase in Chace Park, where picnic tables are quickly taken on weekends most of the year.

It has been urged by local residents both of Marina del Rey and the adjacent City of Los Angeles that Parcel FF and the wetland park should be retained as open space, with Parcel FF serving as a park for local residents, with ballfields and other such facilities. This is not consistent with the Commission's findings in 1995, nor is it consistent with the Commission's mission to emphasize open space for general public use as opposed to use by local residents. In fact, Coastal Act Section 30252 allows the Commission only to ascertain whether there is enough local park acreage such that acreage allocated to general public use is not overburdened. The Commission has already found favorably for the County in this point in 1995, and the County is not asking for any different development potential increases. Therefore, the provision of the wetland park in return for the development of Parcel FF meets both the Coastal Act and the original intent of the

Commission's 1995 action. **Suggested Modification 1** is included, however, to require that the County change the land use designation on the park portion of Parcel 9 to open space, and also to change Map 8 and 11 in the LUP to reflect the open space designation.

However, any time that land between the first public road and the water is used for a purpose other than recreation or a high priority use such as visitor-serving, an issue is raised with respect to consistency with Section 30221. Notwithstanding the relocation of the open space and the improvements on the park on Parcel 9, and the fact that the evidence provided by the County in the Right-Sized Parking Study shows that this parking is not being used by the public, the Commission finds that the loss of waterfront acreage to a low priority use justifies further actions. **Suggested Modification 10** is proposed to increase the Coastal Improvement Fund fee. The Commission also finds that in the case of Parcel 10 and 14, that the CIF fee may be offset in the manner contemplated in the LCP at present for the improvements to the wetland park and the docks, together with any other improvement authorized by the fund.

Finally, since the Parcel 9 park improvements are integral to the Commission's findings on Parcels 10 and 14, the Commission finds that these improvements should be included in the LUP and the LIP. **Suggested Modification 4** addresses this requirement.

With respect to parking, the Right-Sized Parking Study provides evidence that the Parcel FF parking lot is rarely used by the public except at holiday peak periods (such as Fourth of July). The current LCP provides that if Parcel FF is changed to another use that ½ of the spaces must be relocated. In this case, the County has provided that ½ or 101 spaces are to be financed at Chace Park from this lot. Since Chace Park is shown as an area which does not have sufficient convenient parking, this is a marked improvement in public access to this popular facility.

#### Parcel OT (new Parcel 147)

Parcel OT is a public parking lot of 1.6 acres and 186 spaces. The County proposes to establish a senior accommodation facility of 114 units together with 3,500 square feet of retail fronting on Washington Boulevard. In terms of development transfers, the County proposes that 114 hotel room units be transferred to create the 114 senior units, and that 3500 square feet of retail be transferred from the adjacent development zone to this site – both development zone locations being along Washington Boulevard. The height of the building varies whether it is measured from Washington Boulevard or Admiralty Way because the elevation of those streets is different, but the overall height is 75 feet adjacent to Washington Boulevard and 67 feet on Admiralty Way. By comparison, the LCP currently allows a height of 90 feet.

The County proposes to create a new category, "Active Senior Units", for the proposed senior housing on this parcel. While the Commission agrees that a new category is necessary, the Commission does not agree with the manner in which the County has distributed the development zone potential. To recognize this use, the County has drawn from the hotel room allocation. While the Commission recognizes that this is not a



residential use, the Commission also finds that drawing from hotel rooms as opposed to residential units reduces the development potential of a preferred use in the Coastal Zone – hotel rooms. Therefore, the Commission includes **Suggested Modification 6** to require that the 114 rooms at the senior facility be created from the residential unit allocation, and not the hotel room allocation.

The Commission notes that the proposed project draws acreage – approximately 19,000 square feet – from Parcel P, an open space parcel occupied by a flood control facility known as Oxford Basin. Of this square footage, it is noted that approximately 6,665 square feet of the existing Parcel OT parking lot is located, in fact, on Parcel P, and has been for some time. The proposed project on what is now parcel P is located only on about 9.397 square feet of the added acreage, part of which is now a parking lot. Parcel OT's project also is obligated to build and maintain, at no expense to the County, a public walkway between Washington Boulevard and Admiralty Way. This provides an important a convenient access to the Marina from areas outside of the Marina. In addition, a review of the plans for enhancing Oxford Basin reveal that this walkway was also planned for some time and to be installed at County expense. Therefore, an overall access benefit will be realized. **Suggested Modification 5** is necessary to ensure that the requirement of this accessway is in the LUP and that the pathway is constructed and open to the public prior to the issuance of the Certificate of Occupancy for Parcel 147.

Like Parcel FF, the use of the 19,755+ square feet is more than compensated for by the increase in Chace Park. However, like Parcel FF, the expansion of development potential on lands not previously considered for development of this type is an issue under Coastal Act Section 30221. Although this land does not lie between the first public road and the water, it is land that might be devoted to another use of higher priority. However, Parcel OT is poorly situated for recreational development. The noise shadow on this land impairs its use for open space (the Commission has previous considered noise levels in the area in connection with a project in Oxford Basin involving a low flow line and found very high ambient noise levels). Therefore, the development of a park on this parcel is not appropriate. The County will still have development potential for hotel rooms and it is conceivable that those could be established at this site; however, the County reports that no hotel developer has indicated interest in this site due to its small size and location in the vicinity of other hotels, including the immediately adjacent Marina International, which is planned for remodeling.

Therefore, the Commission finds this land use change only is acceptable if **Suggested Modification 10** is incorporated. This provision requires that the developers of Parcels FF and OT project contribute double (\$1,200) the rate to the Coastal Improvement Fund. The 1996 certified LUP policy creating the Coastal Improvement Fund (CIF) indicates that the fund is to mitigate for the impacts that non-coastal priority or non-marine related uses located in a publicly owned recreational facility have on the County's ability to provide recreation as well as the impacts these uses have on recreation and visitor-serving uses. This policy is carried out by LIP ordinance 22.46.1950 and 22.46.1970 and it exempts hotels, visitor-serving commercial, office, and marine commercial uses from payment into the fund. Based on this policy, only developers of residential uses are required to pay into the fund. All other permitted uses for the Marina under the LCP are

exempt from paying into the Coastal Improvement Fund. However, non-coastal related development in a public area has two impacts: 1) opportunity cost –loss of publicly owned land that could be used to increase recreation and visitor-serving uses, and 2) increase in non-recreation or visitor-serving traffic which adds to the congestion in the area and impacts the public's ability to access the recreational and visitor-serving areas of the Marina. Suggested Modification 10 ensures that development of parcels FF and OT with lower priority uses pay an additional fee to mitigate the loss of these sites as potential visitor-serving or recreational uses.

In terms of parking, it is notable that in the past, the Commission has granted CDPs for the use of this lot by a private entity, FantaSea Yacht, to the extent of 92 spaces. The Right-Sized Parking Study shows that this lot receives little use, even though it is close to Marina Beach. Yet, the west side of Marina Beach is amply patronized by the public and is also used by the most popular restaurant in Marina del Rey, The Cheesecake Factory. The County proposes to retain 92 public and separately access parking spaces in the Parcel OT project, and relocate the 94 spaces to another parcel controlled by the same lessee, Parcel 21. In connection with the Parcel 21 project, which is consistent with the certified LCP, the County has required the surrender of 207 feet of Parcel 21's leasehold to allow that acreage to join the public parking lot at Parcel GR. In addition, the County has required Parcel 21 to deliver a public park adjacent to the parking lot, and has also required that Parcel 21 must be developed first in time. Together with the 94 spaces relocated from Parcel OT, the County will have an additional 194 public parking spaces at the Parcel GR lot and Parcel 21 for beachgoers and other visitors. This is a significant addition to Marina Beach access and is co-located with the many facilities that attract visitors there. This approach also results in no net loss of parking spaces as a result of this project. The County has made Parcel adjustments to Parcel 21 to show the increased acreage, and has also reflected the new park in this amendment. Therefore, the Commission finds this arrangement is consistent with the public access policies of the Coastal Act.

#### Parcel 49 and 77

Parcel 49R is currently occupied by the boat launch ramp. Parcel 49S is a mast-up storage facility, and Parcel 49 M is occupied by the visitor's center and a public parking lot of 124 spaces. Parcel 77 is a surface storage facility for boats. The County wishes to expand the public enjoyment of the area by increasing visitor-serving uses on these parcels by relocating development potential. However, the County has also provided that no boating uses can be displaced, meaning that the launch ramp is protected from a reduction in use. A very popular commercial project, the Waterside, is located across Admiralty Way and features shops, restaurants, a market, a bank and a post office. The popularity of this facility suggests it is easy for the public as well as residents to find and enjoy. The visitor-serving uses would be located close to Chace Park as well, within a short stroll. Many users of Chace Park currently can be seen walking to the Waterside for meals or to pick up items at the grocery store to use at Chace Park.

The land use designations proposed by the County arrange the visitor-serving on Parcel 49R along the water's edge. Even with the proposed Waterfront overlay designation, the

mapping leaves the impression that the water's edge is to be occupied by commercial uses, even though the County states that this is not the intention. In addition, Parcel 49M is shown split between Parking and Public Facility designations. Parcel 77 is shown for Public Facility as well, even though the County has included its acreage in its assessment of open space added to Marina del Rey.

The Commission finds that the idea of relocating development potential to this area may be an acceptable outcome subject to certain plan modifications. Although the County's policies in the LCP commit to retaining or replacing all boating related facilities, the Commission finds that insufficient detail exists at this time to approve the LCP arrangement as submitted by the County. With the importance of the launch ramp and the adjacent Chace Park as public facilities, and in view of the County's commitment to public kayak and other non-motorized boating facilities along the Basin H side of Chace Park, the Commission finds that greater scrutiny is necessary to insure that all of the desired uses operate in harmony and in keeping with central principles of the Coastal Act.

The Commission also finds that Parcels 45, 47 and 77 should be designated for Open Space rather than Public Facility or any other designation if it is to be counted as an addition to Chace Park. **Suggested Modification 1** requires the Parcels be designated as Open Space.

The Commission notes that the LCPA, as proposed allows the launch ramp on Parcel 49R to be moved. The Commission finds that although the proposed alternative of moving the launch ramp would increase the amount of open space as presented by the County, the relocation of this important public facility, if considered at all, must be thoroughly reviewed with detailed plans and analysis, which have not been submitted. Therefore, **Suggested Modification 6** is necessary to delete the County's proposed policies regarding redevelopment of Parcel 49 and the launch ramp.

#### Parcel 52/GG (new Parcel 52)

Parcel 52 is a 238-space temporary public parking lot along Fiji Way. This facility is shown as a temporary lot in the LCP at the present time. In 1995, the Commission determined that there was sufficient parking in the area to allow this lot to transition to Public Facility to accommodate the new offices of the County Department of Beaches and Harbors. The Right-Sized Parking Study shows that this parking conclusion is still legitimate.

The County has decided to relocate its offices to Parcel 49M or elsewhere other than this site. A location at Parcel 49M would assist in the public parking, as the County would not be open on the weekend and the public could park in the County office lot as well as elsewhere.

The County solicited proposals for a dry stack storage facility, which would accommodate the lost dry storage spaces on Parcel 77 as well as provide more vertical storage space

for the boater. The proposal, identified in the proposed LCPA, is for Boat Storage with the Waterfront Overlay. The proposal features 345 dry stack spaces as well as 30 mast-up spaces. A small, .15 acre view park with a trail to it is situated along the southerly side of the site. Public safety concerns prevent a walkway directly in front of the facility on the water side, because of the danger of boats being lifted into the water and other equipment operating. The building is 70 feet tall, while the zoning allows 75 feet. Although cranes are not included in the height restriction in the LCP, the crane is 82 feet tall and enclosed for aesthetic and operational reasons in a structure. A LCP provision allows this to occur. Corresponding adjustments to the LCP have been made to recognize this land use change (such as removing Parcel 52 as a temporary parking lot).

Opponents have raised the following issues with regards to development a dry stack facility on Parcel 52:

1. That the dry stack facility will interfere with the launch ramp.
2. The position of the building extending over the water is precedent-setting.

With respect to the interference with the launch ramp, the Commission notes that the adjacent site (Parcel 53) is also designated for dry stack uses at a maximum height of 75 feet. The launch ramp currently has about 330 users per month, and most of these are persons launching power boats or kayaks. There are ample launch ramp docks of the amount of use, and the docks for the dry stack facility do not project into that operating area. While this aspect can be studied further in the appropriate CDP, it does not appear at this time that the conflict exists, or if it is found to exist in the future, that it cannot be resolved from an operational standpoint.

Related to this argument is the idea of the projection of the building over water. Because of the operational aspects of the facility, it projects 98 feet over the water, and therefore the LCP Water category of land use has been adjusted to allow the necessary height at this site. The County has indicated that the building has been carefully studied for conflicts with the launch ramp and it has been determined that none will occur. As noted above, the building does not project beyond the docks for the launch ramp, and the projection over the water is an essential feature to the operation of the dry stack facility. Therefore, the Commission does not find this inappropriate. In terms of precedent, the County has carefully structured the LCPA amendment to avoid application to restaurants or other facilities other than boating. Therefore, there is no precedent established for other uses.

Parcel 52 is used as a public parking lot at the present time, as well as a location for charter boats to park. The County DBH office annex is also situated there, as is the Sheriff's Boatwright facility on Parcel GG (which is accommodated in the new plan). Parcel 52 is the only free parking lot in Marina del Rey, primarily because so many uses are situated there that the County has not established parking meters. However, the loss of this lot must be evaluated to ensure that adequate parking will exist on Fiji Way for public parking, as well as a relocation for the charter uses, although such uses need not necessarily be parked on Fiji Way.

The Commission has repeatedly found that the inclusion of boating and coastal dependent uses is essential to the administration of the Coastal Act. In this case, the Commission finds that the change in land use from Public Facility to Boat Storage with a Waterfront Overlay continues to provide boater recreational support facilities and with the Waterfront Overlay allows flexibility on the property to provide visitor-serving uses. As modified the LCPA will be consistent with the policies of the Coastal Act.

#### **b. PUBLIC ACCESS AND RECREATION**

The Coastal Act includes several policies to provide and protect recreational facilities. The Coastal Act identifies land adjacent to waterways as suitable for recreation and recreational support uses. The Coastal Act recreation policies also require provision and protection of lower-cost facilities. Further, the development policies of the Coastal Act require the provision of adequate recreational facilities within residential projects so that new residents do not overcrowd coastal recreation areas to the exclusion of public access. These policies are set forth in the following sections of the Coastal Act:

As stated in the certified LCP, in consideration of adding 1,500 dwelling units to Marina del Rey, the Commission required that 12.7 acres of open space be retained and enhanced in Marina del Rey (Oxford Basin and Parcel FF), under the LCPA the County is proposing to provide a total of 20.65 acres of park space. **Suggested Modification 10** is necessary to ensure that replacement of Parcels designated for park space to a lower-priority use is adequately mitigated through the payment into the Coastal Improvement Fund.

To support public recreation and visitor-serving activities in the Marina, the provision and location of parking is important as identified in the LCP. In reviewing the location of the existing parking lots, a few of the public parking lots are not located adjacent to key visitor attractions and may be underutilized due to their location. Parcel FF, located along Marquesas Way, is designated in the LCP as a potential parcel to be converted to a park but is currently operated as a public parking lot. Because of the lot's distance from visitor-serving areas, the lot may be underutilized. Parcel OT, located on the northern side of Admiralty Way and northeast of Marina Beach, is approximately 600 feet from Marina Beach, but because of its location, this lot may also be underutilized.

In the Periodic Review it was recommended that the County should consider updating the LCP to encourage relocating underutilized parking lots or developing new parking lots, in locations that will maximize their use and improve public access and recreational opportunities.

Currently, Marina del Rey has 12 permanent public parking lots. In connection with this LCP amendment, the County will eliminate two permanent and one temporary parking lot. The County has conducted a thorough parking study (*Right-Sizing Parking Study, for the Public Parking Lots In Marina Del Rey, California*, June 2010) assessing the need for the spaces, which now total 2,699 spaces. If the LCPA is approved, there will be a reduction

of 1 space of permanent parking, as all of the spaces on Parcel 147 are replaced and one-half of the spaces on Parcel FF are replaced in accordance with the requirements of the certified LCP. The spaces lost at Parcel 52 can be easily accommodated in the existing Lot W parking lot. These spaces are in a temporary lot, and in the certified LCP the Commission approved the elimination of these spaces when the land use change to Public Facility was approved. The County has recently negotiated the surrender of a portion of a leasehold at Parcel 21 to facilitate adding approximately 100 spaces to the Parcel GR lot at Marina Beach. The expansion of this parking lot into Parcel 21 is included in this amendment.

The parking study recommends a “right size” for the public parking in Marina del Rey at 1,175 spaces. However, with the approval of the LCPA, the County will still maintain 2,638 parking spaces in Marina del Rey. The County asserts that more than adequate parking will continue to exist in Marina del Rey with the proposed changes. The Commission finds that the County is not undertaking a downsizing of any public parking and proposes to replace all but what is already allowed to be reduced (1/2 of the parking on Parcel FF) under the certified LCP. This loss is offset by the increase in parking within Parcel GR/Parcel 21, currently estimated at an additional 100 spaces.

**Suggested Modification 7** is a correction and is necessary to ensure that the County maintains an adequate number of minimum parking spaces Marinawide.

**Suggested Modification 8** is recommended to ensure that all new development and redevelopment projects provide adequate on-site support parking and do not rely on previously existing parking agreements that may adversely impact public parking.

**Suggested Modification 12** encourages the County to adjust the parking charges from one all-day fee to short-term use for the public lots within the Marina so that visitors will have pay options. With these modifications, the Commission finds that the LCPA can be found consistent with Chapter 3 policies of the Coastal Act.

### **c. RECREATIONAL BOATING**

The following analysis explains the reasons behind the loss of smaller boat slips associated with marina redevelopment, outlines the proposed LCP policies to mitigate for the loss of the more affordable smaller slips and provides a justification for the suggested modifications that will provide for additional protections for lower cost recreational boating opportunities in Marina del Rey.

#### Americans with Disabilities Act Requirements & California Department of Boating and Waterways Guidelines

New marinas must be designed to accommodate the needs of disabled recreational boaters in conformance with the ADA regulations, as well as guidelines promulgated by the DBAW. New facilities should be designed to be ADA accessible and designed with current safety features such as minimum finger dock width, slip clear widths and fairway width dimensions. The DBAW guidelines, beyond their primary purpose as the most

current thinking in safe marina design, have also become a criteria lenders use in determining the long-term financial feasibility of proposed marina development projects.

In order to minimize the loss of slips due to ADA requirements not all the marinas dock fingers or gangways have to be ADA compliant. The, table below, shows the minimum number of slips required ADA accessible slips as suggested under DBAW.

**Minimum Required Number of ADA Accessible Berths**

Total Number of Boat Slips Provided in Facility	Minimum Number of Required Accessible Boat Slips
1 to 25	1
26 to 50	2
51 to 100	3
101 to 150	4
151 to 300	5
301 to 400	6
401 to 500	7
501 to 600	8
601 to 700	9
701 to 800	10
801 to 9011	11
901 to 1000	12
1001 and over	12, plus 1 for every 100, or fraction thereof, over 1000

New ADA accessible docks usually require a size reduction in at least two slips, due to the need to build longer and wider gangway ramp, dock fingers and wider main finger walkway. To design all of the docks within a marina to comply with ADA standards would obviously result in a greater loss of slips due to the larger dock fingers and gangways required.

Current DBAW guidelines affect anchorages in three ways: wider suggested slip widths (for both power and sail boats), wider finger widths, and wider fairways. Of these, the requirement for wider slips most greatly affects nearly all of the Marina's older anchorages, resulting in a loss of two to four slips per dock.

While many of the older anchorages in Marina del Rey have fairways that meet current DBAW guidelines (fairway widths are determined by a mathematical formula based on the size of the largest slip in the fairway), a careful analysis of the recommended standards shows that few, if any, fairways in Marina del Rey are actually in conformance since DBAW rules call for the fairway width formula to include the dimensions of boat

“overhang” into the fairway (where such overhangs are allowed). Currently, the County permits such overhangs in order to occupy vacant smaller boat slips. If the County were not to permit such fairway overhangs, every boat exceeding its slip size would have to move up to a larger slip size, thereby significantly increasing the current vacancy rate in the smaller slip size categories and potentially displacing some larger boats from the Marina.

Vacancies and Market Demand for Slips Under 35 feet

According to various studies (Marina del Rey Boat Slip Sizing and Pricing Study, 2001 and 2004; DBAW: California Boating Facilities Needs Assessment report, 2002; Marina del Rey Slip Sizing Study, 2009) and Commission staff surveys of Southern California Harbor Masters, vacancies are generally higher for boat slips under 35 feet.

For June 2010, the County Department Beaches and Harbors reported that overall vacancy in 20 of the 21 anchorages in Marina del Rey was about 12%. However, the concentration was primarily within smaller slips (less than 35 feet) and within only eight anchorages. Individual anchorage vacancies were less than 10% in 12 anchorages for the month of June 2010 (see below table), and the remaining eight anchorages had significantly higher vacancies in June 2010, according to the Department’s monthly Slip-Rent Survey.<sup>19</sup>

**Anchorage with Less Than 10% Vacancy Rates – June 2010**

	<u>% Vacant</u>	<u>Number of slips vacant</u>
• Lease Parcel 7 - Tahiti	0%	1
• Lease Parcel 8 - Bay Club	3%	7
• Lease Parcel 10 - Neptune	1%	2
• Lease Parcel 13 - Villa del Mar	2%	3
• Lease Parcel 18 - Dolphin	3%	13
• Lease Parcel 20 - Panay Way	4%	6
• Lease Parcel 30 - Del Rey Yacht Club	0%	0
• Lease Parcel 41 - Catalina Yacht Anchorage	8%	12
• Lease Parcel 53 - BoatYard	6%	6
• Lease Parcel 54 - Windward Yacht Center	8%	4
• Lease Parcel 111/112 - Marina Harbor	7%	21
• Lease Parcel 132 - California Yacht Club	2%	5
Subtotal		80 slips

Harbor vacancies are concentrated in smaller slips (less than 35 feet) and make up 78% of all vacancies (see table below). Between 12 and 25 feet, there are a total of 195 vacancies and between 26 and 35 feet there are a total of 250 vacancies. The remaining 22% of vacancies are primarily in the range of 36 to 50 feet with 104 empty slips, or 18% of the overall total 567 vacancies. Large slips (greater than 50 feet) have only 18 vacancies, or less than 4% of all vacant slips.

<sup>19</sup> Allan D. Kotin & Associates draft internal memorandum to LA County Dept. of Beaches and Harbors, Aug 13, 2010.



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**Harbor Vacancies Concentrated in Smaller Slips (under 35') – June 2010**

	<u>% Vacant</u>	<u>Number of slips vacant</u>
• Lease Parcel 12 - Esprit 1	16%	35
• Lease Parcel 15 - Esprit 2	12%	26
• Lease Parcel 21 - Holiday Harbor	26%	48
• Lease Parcel 28 - Mariners Bay	30%	109
• Lease Parcels 42/43 - Marina del Rey Hotel	30%	103
• Lease Parcel 44 - Pier 44	25%	58
• Lease Parcel 47 - Anchorage 47	17%	56
• Lease Parcel 125 - Marina City Club	16%	52
Subtotal		487 slips vacant

The County has documented significant trends in boat slip vacancies throughout Marina del Rey harbor and across various boat slip sizes. Specifically, vacancies in small slips continue to trend upward and demands for larger slips continue to be unmet. These trends have continued steadily since the 1990s in spite of other factors that would otherwise have offset small boat slip vacancies, including the increasing population in Southern California and the fact that very few harbors have been built in California in the last 30 years; both of which would normally have placed increased demand on the fixed amount of available basin area devoted to recreational boating and greatly reduced the rate of slip vacancy had the Marina contained a proper mix of slips.

The following table contains historical vacancies in Marina del Rey harbor by boat slip size since 1987, and illustrates that until replacement and reconstruction of the anchorages began in earnest, there were consistently high vacancies in the smaller (<35-foot) slips. Importantly, this table shows that even in years when slips were out of service and the economy was vibrant (2005-2008), vacancy rates remained consistently high, particularly in the smaller slip size category.

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**Historical Vacancies in Marina del Rey**

<b>MDR Average Annual Vacancy by Size Category</b>						<b>Slips Under Construction</b>
<b>Year</b>	<b>18-25'</b>	<b>26-35'</b>	<b>36-50'</b>	<b>Over 50'</b>	<b>Total</b>	
1987	90.6	99.1	3.1	1.9	194.7	99
1988	107.2	69.5	1.5	1.2	179.3	99
1989	49.1	52.8	2	0.7	104.5	99
1990	79.2	102.7	5.5	3.3	190.7	
1991	112.5	166.5	23	10.3	312.3	
1992	198.3	249.1	57.3	15.4	520.2	
1993	152.7	278	86	16	532.7	
1994	131.1	256.8	92.9	20.8	501.7	
1995	143.3	292.4	106.4	20.2	562	
1996	176.9	278.9	114.8	27.8	598.5	53
1997	163.1	272.4	137.3	26	598.8	
1998	162.2	282.8	101.9	18.7	565.6	114
1999	123.4	267.9	74.8	16	482.2	304
2000	154.7	206.2	60.9	14.7	436.4	44
2001	-	-	-	-	-	-
2002	71.2	56.7	7.4	1.3	136.5	147
2003	66.5	47.1	12.7	3.3	129.5	148
2004	44.2	23.8	6.1	2.1	76.2	612
2005	69.6	17.1	5.7	0.8	93.2	613
2006	72.2	21.2	4.2	2.3	99.8	622
2007	86.3	39.3	6.0	0.8	132.4	465
2008	112.8	66.1	30.2	9.9	218.9	465 (partial)
2009	164.8	185.3	114.6	33.0	497.6	
2010	195	242	120	25	582	

Source: Los Angeles County Department of Beaches and Harbors.

Notes: The 1987 data is for the last 9 months only. 2001 data is unavailable. In 2008, slips were under construction (off-line) only through the month of August. Data before 2002 did not include the yacht clubs (Lease Parcels 30 and 132). Slip demolition for slip replacement started in 2002: 1) Slips being held vacant preparing for demolition not counted and 2) Demolished slips not counted.

The pattern of boat slip vacancy in Marina del Rey was also examined in the Marina del Rey Slip Pricing and Vacancy Study (2009) which found that there are major variations in the vacancy patterns among various slip sizes with the lowest vacancies consistently in the 50-foot-and-greater category and the highest vacancies consistently in the 12-to-25-foot category. The most pronounced vacancy rates are experienced in the slips sized under 36 feet, especially those under 25 feet until 2009 when slips between 25 feet and 30 feet started to have highest vacancy rates of the other various slip sizes in Marina del Rey.

As of April 2011 there were 855 empty slips out of 4,761 slips in Marina del Rey (18%), broken down as shown in the table below. Since early 2010, Marina del Rey has experienced higher slip vacancy rates in all four size categories for which data has been tracked historically (18'-25', 26'-35', 36'-50', 51'+) than in previous years. While the economy has no doubt had an influence on the current vacancy rate, other factors include the opening of the new 227-slip Esprit I anchorage (Lease Parcel 12) in late 2008

(where the smallest slip size is 35'), the decision of Bar Harbor (Lease Parcel 15) to release its slips after preparing to demolish the anchorage, the inability to lease many double-wide slips in Holiday Harbor (Lease Parcel 21) and Pier 44 (Lease Parcel 44) because of changes to boat widths, as well as slips being held off the market by leaseholds that are waiting to replace or repair unusable spaces. These additional factors have caused an under-reporting of the true vacancy picture throughout the Marina over the past five years.

#### **Vacant Slips in Marina del Rey - April 2011**

Slip Size	Number of Slips	Vacancies
18' to 25'	1,212	306
26' to 35'	2,071	379
36' to 50'	1,202	139
51+'	276	31
<i>Totals</i>	4,761	855

As previously mentioned, many anchorage operators have chosen to accommodate larger boats in smaller slips, and overhangs of three feet are not an uncommon occurrence in Marina del Rey. In this matter, the County has deferred to anchorage operators' practices rather than enforce a no-overhang rule. However, boat overhangs represent yet another way in which vacancies are not fully accounted for throughout Marina del Rey. A September 2010 survey of the anchorages at Lease Parcels 21, 43, 125 and 44 identified 488 instances of slip overhang out of a total of 1,245 slips (over 39%). A truer picture of slip vacancies would be realized in the absence of slip overhangs, ultimately revealing even higher vacancies in smaller boat slip categories. A recent example of this phenomenon can be seen with Channel Islands Harbor anchorages following the enforcement by Ventura County of a "no-overhangs" rule. Vacancies in each size category that had accommodated boats that were forced to move up to longer slips contributed to huge vacancy numbers there at Harbor Marina and Anacapa Isle Marina.

Some of the key contributing factors driving the lack of demand for existing smaller-sized boat slips include:

- Boating trends have driven an evolution in the design and production of sailboats with wider beams, so double-wide slips constructed in the 1960s and 1970s to accommodate two slimmer vessels can now accommodate only one vessel. The resulting excess berth width has created inefficiencies and unusable slips. Also, more modern 25-foot boats can not necessarily fit into a single older 25-foot slip.
- Owners of more modern shorter-length boats are choosing dry storage. This is a key finding of DBAW's Needs Assessment of 2002. Again, boat manufacturers' design of lighter-weight boat construction materials has resulted in an increased ability to move shorter vessels to dry storage. The County has responded by expanding its plans for construction of dry storage facilities to accommodate this

shifting demand. Larger boats, although they may be constructed of light-weight materials, are not easily transported and must be berthed in the water.

In a 2006 letter to Peter Douglas, former Executive Director of the Coastal Commission, the former Director of the California State Department of Boating and Waterways, Ray Tsuneyoshi , stated:

*“As you are aware, there has been discussion recently about the size and distribution of wet slips in marinas. This discussion primarily concerns whether or not marinas should be required to dedicate a certain percentage of their available slips to smaller boats. There is growing pressure for marinas to continue to supply smaller berths, even when and where demand is minimal.*

*Cal Boating is concerned that forcing marinas to provide slips that are not in demand reduces boater access and marina revenues. Prohibiting smaller slips without adequate demand potentially reduces the number of larger slips available, effectively closing an access point to boaters.*

Citing the 2000 statewide boating survey of more than 4,000 boaters, boating groups and hundreds of marina operators, conducted on behalf of Cal Boating, Mr. Tsuneyoshi noted:

*More slips and larger slips were both listed in the top 10 facility needs, however, not one marina operator listed a demand for smaller slips.*

The direct vacancy data is especially important in understanding how reconstructed anchorages could and should be reconfigured to meet future demand and better utilize limited basin areas. Ideally, the new anchorages would more closely meet current demands by addressing changes that have occurred in the boating industry and by being equipped with the flexibility to adjust to future changes in the preferences and behavior of boaters during the life of the new improvements.

These facts substantiate the underlying indicators and the need to “right-size” and redistribute slips across various vessel sizes in order for Marina del Rey to achieve its full potential.

A 2009 study by Noble Consultants analyzed the historic slip distributions for the 21 individual anchorages. The study reviewed the changes in berth distributions for the Marina anchorages, compared these distributions to other California anchorages, discussed the already reconfigured anchorages and the Project anchorages, reviewed the Marina del Rey slip demand, DBAW design guidelines, and the change in the vessel beam width versus vessel length since the 1960s, and made “right-sizing” recommendations for Marina del Rey anchorages.

The Noble study found that compliance with current DBAW guidelines will result in a reduction in the total number of slips, that the highest slip vacancy rate is for slips sizes

≤35 feet, and that more boats in the ≤30 feet length category are expected to move to dry storage. Based on these findings, Noble recommended that reconfigured anchorages should meet the minimum DBAW guidelines and accessibility requirements, the minimum slip length should be 30 feet for reconfigured anchorages (creation of a small number of substandard size slips shorter than 30 feet is unavoidable, as the longer and wider ramp required by ADA guidelines will cause two to three slips on each dock nearest to the gangway to be shortened), the average slip length for a reconfigured anchorage should not exceed 44 feet, unless there is a justification, and, for the Marina as a whole (with all anchorages combined), should not exceed 40 feet.

Although the evidence cited above indicates that demand for smaller slips is not as great as the demand for larger slips the Commission must also consider the potential loss of lower cost recreational boating opportunities due to the loss of these smaller slips. While some may argue that a small wet boat slip in Marina del Rey is really not affordable for the majority of the population in Los Angeles area, the Commission has found in previous permit actions that these smaller slips do provide a more affordable option than larger slips, effectively providing a lower-cost recreational facility consistent with section 30213 of the Coastal Act, albeit perhaps not necessarily an inherently low-cost recreational facility.

The January 2008 Periodic Review recommended a no loss of total slips and no loss of slips under 35 feet. The Periodic review also recommended that recent boating data should be used in any future studies and this data should be used to guide decisions on marina design to ensure there is a mix of slips lengths to serve the boaters. The County has utilized more recent boater data in the Noble study. The conclusions of this study as well as other evidence, from DBAW and Harbor Masters throughout southern California generally demonstrate there is not as high demand for slips in the smaller slip categories for the reasons explained above. To continue to build new marinas with a large number of small slips that would likely have high vacancies rates would not be protective of recreational boating or increase boating use in coastal waters as is required under the Coastal Act. In addition, maintaining a large number of small slips would not provided for a balance of slips across all slips sizes and again would not serve to protect recreational boating for all boating groups.

Furthermore, while not a direct Coastal Act issue, it is nonetheless important to note that private marina leaseholds who must finance the reconstruction of these marinas would likely find it difficult to get financing for the reconstruction of marinas with a large number of small slips given high historic vacancy rates in the smaller slip categories. Indirectly, however, supporting an LCP amendment that provides for a more current matrix of slips based on recent slip demand data enables these marina leaseholders to acquire the requisite funding and apply for permits to upgrade their boating facilities, thereby resulting in the encouragement of increased recreational boating use consistent with section 30224 of the Coastal Act. It is not likely there will be sufficient public funding at the State level to rebuild these aging marinas in Marina del Rey (the Boating Needs Assessment of DBAW 2002 set these costs at over \$159 million for the south coast region), and therefore private capital is the primary source of construction funding in Marina del Rey.

Compliance with DBAW Guidelines and ADA Requirements also contribute to the reduction of boat slips. Given marina reconstruction would have to occur within the existing marina footprint maintaining a no net loss of slips policy would result in a large majority of small slips. Given the historic higher vacancy rates in the smaller slip size categories maintaining a large number of small slips that may be empty does not maximize the future utilization of the marinas and again does not provide for a balance of slips across all categories to serve the widest variety of boaters.

Although the Noble study recommended no new slips below 30 feet the County proposed the following slips percentage policy to ensure there is a future supply of the smaller lower cost slips:

**FIGURE 4: MINIMUM SLIP PERCENTAGES FOR SMALLER BOATS**

*A. Waterfront Slip Length Distribution*

<u>Berth Length</u>	<u>Percentage</u>
32 feet and under	25%
38 feet and under	50%

The County modeled these minimum slip size percentages on the slip mix percentage thresholds approved in the Channel Island Harbor Public Works amendment 1-07 approved in 2008. In that case the Commission found these minimum slip mix thresholds were appropriate for Channel Islands Harbor. However, the configuration of the Marina del Rey harbor with it's large wide channel, calmer offshore waters and location in large urban area where there is a still a demand for smaller boat slips argues for a higher percentage of slips in the smaller slip categories below 30 feet and 35 feet. Furthermore, the Marina del Rey Periodic Review called for preserving all of the smaller slips 35 feet and below. As explained in detail above, maintaining the existing 3,283 slips below 35 feet out of the 4,761 total slips in the Marina, or 69% of slips 35 feet and below, would not be the in the best interest of the public, County or private lease holders for the reasons cited above. However, maintaining a majority of the total slips below 35 feet and a large percentage of small slips 30 feet and under will ensure an adequate future supply of boats slips in the smaller lower cost slip size categories and also provide for a more balanced slip mix over all slip size categories. This slip mix strategy would better meet the market demand for boat slips in all slip size categories and better serve a larger group of the boating public. Therefore, the Commission finds **Suggested Modification 14 and 15** is required to ensure there are a higher percentage of the more affordable slips in 30 feet and under and 31 to 35 feet categories:

FIGURE 4: MINIMUM SLIP PERCENTAGES FOR SMALLER BOATS

*A. Waterfront Slip Length Distribution*

<u>Berth Length</u>	<u>Percentage</u>
30 feet and under	39%
31 to 35 feet	20%

The proposed slip mix in the categories in the 35 feet and under is very similar to the slip mix categories the Commission required in the recently approved coastal development permit for the Alamitos Bay marina reconstruction (CDP 5-10-263). In that case, the City of Long Beach proposed only two categories in the smaller range consisting of 25% of the slips 20 - 25 feet and 34% of the slips 30' – 35' feet (59% below 35 feet). Alamitos Bay and Marina del Rey are similar types of marinas in that they have large inner harbor areas where smaller boats can cruise and generally calm offshore waters that is ideal for the smaller boats. The Commission found in the approval of the Alamitos Bay Marina CDP that this slip mix provided for a majority of slips in the smaller lower cost slip categories and was protective of lower cost recreational facilities and encouraged increased recreational boating as is required by Coastal Act policies 30224 and 30213.

To ensure that during reconstruction of the marinas an adequate supply of smaller slips is maintained **Suggested Modification 18** requires that at no time during the construction of any marina shall the slip distribution be less than 37% for slips under 30 feet and 18% for slips 31 to 35 feet.

As explained above, there has been a long term trend of smaller boats being stored in dry storage facilities or trailered to Marinas primarily because of the higher cost of wet slip storage and the fact that light weight materials have made boats easier to transport by trailer. In order to accommodate this trend and mitigate for the loss of small slips 35 feet and under in the Marina the County is proposing a Land Use Plan change and development standards that will authorize a dry stack storage facility on Parcel 52 that will be able to accommodate up to 345 small boats (approximate). Parcel 52 will also have an area dedicated to mast up storage. A smaller 234 boat dry stack storage facility is also planned for Parcel 44. This new dry stack facility in combination with existing dry storage facilities in the marina will provide a total of 1088 dry storage spaces in Marina del Rey.

Although the County asserts there are adequate vacancies within existing dry boat storage facilities in the marina to accommodate any displaced boaters during and after construction, **Suggested Modification 19** is required to ensure there will be adequate dry storage capacity during reconstruction of the marinas. This provision requires that during reconstruction of the marinas if there are fewer than 5% of the total dry boat storage spaces available for rent, the County shall establish sufficient boat storage space so as not to fall below a 5% dry storage availability threshold until all 1088 dry boat storage spaces are available.

The Marina del Rey private lease anchorages and the County marina will continue to offer end-tie accommodations within the redeveloped facilities. End-ties serve an important purpose in any anchorage as they can accommodate boats that, for whatever reason, could not normally be accommodated in slips. However, of all the types of facilities for in-the-water storage of boats, end-ties are the most flexible. An end tie can accommodate a single large boat, or two or more smaller boats. An end-tie can also accommodate boats of different widths and shapes (such as multi-hulls). Because of this flexibility, end-tie capacities are usually expressed in ranges. In the case of the proposed project, the numbers presented do not account for existing end-ties, nor do the figures give credit for boats which can be accommodated on new end-ties.

#### Lower Cost Boating Opportunities

The proposed LCP amendment also includes a new low cost boating in-lieu fee program that will be required for all new marina redevelopment projects to mitigate for the overall loss of the smaller slips under 35 feet which are considered more affordable than larger slips. Again, while some may argue that it is difficult to contend that recreational boating is in fact a lower cost recreational activity, in general, smaller boats and boat slips are less expensive, and therefore available to a larger segment of the population than larger boats. The Commission has heard testimony in past Commission permit and LCP actions contending that reduction in the availability of slips that accommodate smaller boats reduces this option for those who want to own boats and use the docks, but can not afford a larger boat or larger slip and its associated fees. Moreover, if the trend continues as noted above, small boat owners will not be able to find wet slips of a size that is appropriate for their boats. Cumulatively, this reduction would not be consistent with Coastal Act provisions that encourage lower cost facilities and support recreational boating opportunities. However, coastal recreational activities, such as boating, should be available to all economic sectors, including the small boat or personal water craft owner to the large boat and yacht owner. As indicated above, there are currently a surplus of slips 35 feet and under serving the small boat owner and a shortage of the larger slips. The suggested minimum percentage of small slip policy, as modified, will meet the demand for larger boat slips while continuing to provide a large supply of smaller more affordable slips under 35 feet.

The proposed in-lieu fee program would be required as a condition of approval for a coastal development permit for a new marina development. The proposed in-lieu fee must be the equivalent financial value of one 30-foot boat slip (based upon the listed per-foot rental rate posted at the marina on July 1 of each year for 30-foot slips) for each 100 slips new slips developed over 30 feet. The payment of the in-lieu fee to the County will commence upon completion of the marina redevelopment construction and continue annually, throughout the course of the ground lease. This proposed LCP policy was modeled after the Channel Island In-lieu fee program which was designed to mitigate for the loss of the more affordable smaller slips.

The policy also requires the County Department of Beaches and Harbors to provide (or shall cause the appropriate non-profit organization to provide) an annual report, for the



review and approval of the Executive Director of the Coastal Commission, detailing the in-lieu fees that have been collected, the lower cost boating programs developed and operated, and the number of people participating in such programs. The report shall be provided annually, no later than January 15<sup>th</sup> of each year for the proceeding calendar year. The Commission finds it necessary to require such a report to provide information on the adequacy of the in-lieu fees to fund lower cost boating programs and the use of the program by members of the public.

In order to ensure mitigation is provided for the loss of the smaller boat slips in marinas less than 100 slips, the Commission finds that **Suggested Modification 17** is required. This modification provides that for new marinas containing fewer than 100 slips or fractions over 100 slips the in lieu fee shall be prorated based on the number of slips, for example 30/100 (.3 for 30 slips) or 150/100 (1.5 for 150 slips). In addition, a proposed the in-lieu fee would only apply to each 100 slips measuring over 35 feet in length. Since the majority of slips losses are in the smaller slip size categories below 30 feet a more appropriate mitigation requirement would be for each 100 slips measuring over 30 feet. This would expand the number of new slips that would require the low cost boating in-lieu fee mitigation requirement. Therefore, the Commission finds **Suggested Modification 17** is necessary to ensure the adverse impacts to lower cost boating resulting from the loss of lower cost slips is adequately mitigated.

The current average value of a new 30 foot boat slip rental for one year ranges between about \$4,300 to \$6,000 depending on where the marina is located. It is estimated that over \$41,000 in in-lieu fees would be generated in the first year upon completion of all the privately-leased anchorages contemplated in this permit, based on current 30-foot slip rental rates. This is an annual fee that will provide funding for these low cost youth boating programs for the life of the marinas. Assuming a 50 year marina design life then over \$2,000,000 will be generated for youth boating programs over the life of these marinas. The Commission approved this very same lower cost boating mitigation program in the October 2008 Channel Islands Public Works Plan Waterside update. To date with only one of nine marinas completed the program has generated \$35,651. This has been enough money to fund approximately 65 junior sailing scholarships. Scholarships are coordinated through the local Boys and Girls Clubs.

In addition to the existing non-motorized lower cost boating facilities currently provided in Marina del Rey the County is proposing several new lower cost non-motorized boating facilities at several locations in Marina del Rey. The proposed LCP amendment includes new policy 3.e.6 that calls for new kayak and canoe launch areas on Marina Beach as well as a new dock at Parcel 77 in Chace Park. A new small boat docking and storage on Lease Parcel 77 will serve up to 162 small boats and personal watercraft on a rack system. Exhibit No. x illustrates the existing and proposed non-motorized lower cost docks and facilities in the Marina.

The California Department of Boating and Waterways has indicated that non-motorized boating is the fastest growing segment of boating in the State and the demand for support facilities and launch areas is in great demand. Marina del Rey has a very wide main channel that is heavily used by rowers (recreational & competitive), kayakers,

competitive outrigger canoes, wind surfers, and more recent stand-up paddle boarders. These groups all require support facilities, launch areas and convenient parking. The County recognizes this need and is proposing the facilities and docks mentioned above to meet this need. The provision of non-motorized boating facilities in the marina will provide true lower cost recreational boating opportunities consistent with Coastal Act policies 30213 and 30244.

In addition, the County also provides youth boating opportunities through the Water Awareness, Training, Education and Recreation Program (W.A.T.E.R.) and Kayaks for Kids program. While these activities fulfill the County's role in providing public services to County residents, they simultaneously achieve the mandate of the Coastal Act to make coastal resources and marine-related low coast recreation accessible to the public consistent with recreational boating and low cost recreational policies of the Coastal Act. The in-lieu fees generated from the above mentioned program mentioned above will expand and enhance the youth boating elements of these important programs for at least 50 years – the estimated development life of any proposed new marina construction or marina reconstruction projects subject to the in-lieu fee mitigation program.

#### Boater Parking

Coastal Act Section 30212.5 requires, “*wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area*”. Many of the marinas in Marina del Rey have a shared parking arrangement with other mixed use and residential landside developments. The current parking standard for boater parking is ratio of .75 parking spaces per slip. This is a higher standard than many marinas along the coast and exceeds the recommend parking standard by the DBAW marina layout and design guidelines which is .60 spaces per slip. In addition, a large number of Marina del Rey residents, living near or adjacent to marinas in the area, have boats in the water and their parking is provided in their apartment or condo. Therefore, a parking standard of .75 would eventually result in an excessive amount of boater parking. The Commission authorized the .60 parking ratio in the recently approved Dana Point Harbor Revitalization LCP amendment.

Some members of the public have asserted that given the number of slips is being reduced in the Marina overall, which will require a smaller dedicated parking area, will allow for more landside development. There is no basis for this accusation. Any proposal for landside development requires a coastal development permit which will require an analysis of the appropriate amount of upland development consistent with Policies of the certified Marina del Rey LCP. A converse argument could also be made that a reduction of parking would allow for additional open space and recreational uses on the upland parcels.

As explained above in these findings, public parking is provided throughout Marina del Rey through this amendment and will be strategically located to better serve specific public recreation activity areas. These activity areas include a proposed Burton Chace

Park expansion and accompanying waterside improvements to the Lease Parcels 47, 48, 49R, 77 and EE anchorages that are part of this project.

Therefore, the Commission finds the reduction in the boater parking standard from .75 to .60 as suggested by the recent DBAW guidelines, is appropriate and will not adversely impact public parking or access to the waterfront which is consistent with the public access policies of the Coastal Act.

### Conclusion

Based on the above analysis related to recreational boating, the Commission finds, that as modified, the proposed LCP amendment will provide for a well balanced mix of boat slips in all sizes with a majority of boat slips (59%) in the smaller more affordable range; will minimize future vacancies in the smaller slip size categories and better meet market demands for boat slips; provide adequate mitigation for the loss of lower cost boating slips through the low cost boating in-lieu fee program; increasing the number of dry boat storage spaces; and provide for additional non-motorized low cost boating support and launch facilities. Therefore, the LCP amendment as modified, is protective of low cost recreational boating opportunities and will increase recreational boating opportunities in the Marina, including lower cost non-motorized boating consistent with Coastal Policies 30213, 30224, 30234.

### **d. MARINE RESOURCES AND WATER QUALITY**

As discussed above, the Commission has found that LCP Amendment 1-11, as submitted, does not conform to the provisions of Sections 30230, 30231, and 30232 of the Coastal Act because it fails to provide policies that would protect water quality and the marine environment. Therefore, modifications to the LCP are necessary to bring the LCP Amendment into conformance with Sections 30230, 30231, and 30232.

The protection of water quality is an important aspect of the Coastal Act. As previously noted, water from Marina del Rey and surrounding areas flows into the County's storm drain system and ultimately drains into the marina and Pacific Ocean. Stormwater runoff (including storm sewer discharges) continues to be the largest source of pollution in Santa Monica Bay and across California.<sup>20</sup> It is a predominant cause of beach closures in each region of the state. It is the source of significant impact to the Marina as well. The County Periodic Review submittal of water quality testing results noted that the Marina is impacted spatially from pollutants from Oxford Retention Basin and Ballona Creek, both of which collect runoff from significant inland areas, from the open ocean as well as other temporal impacts. According to the SWRCB, Mother's Beach suffers from chronic bacteriological contamination.

As a result of monitoring, the back basins of the Marina and the Marina Beach have been listed as impaired by the SWRCB and a Total Maximum Daily Load (TMDL) for Bacteria

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<sup>20</sup> NRDC Testing the Waters 2004 pp CA-3.

was adopted for the Marina watershed, which includes large inland areas in the Cities of Los Angeles and Culver City.

In the Commission's periodic review of the Marina del Rey LCP the Commission found that revisions to the water quality protection policies were necessary to bring the LCP into conformity with the Coastal Act. 14 specific recommendations were made, most of which would require an LCP amendment to implement. Recommended revisions to the LCP included updating water quality protection policies to reflect current requirements of and ensure integration of existing NPDES, SUSMP, and TMDL requirements and revise and clarify requirements for the application of BMPs into development projects. Recommendations were also made to incorporate requirements for monitoring of implemented BMPs.

As noted above, modifications to LCP Amendment 1-11 are necessary to bring the LCPA into conformity with applicable Coastal Act policies relative to the protection of water quality and marine resources. Policy modifications are suggested that are applicable to all new development or redevelopment that are intended to prevent and minimize the discharge of pollutants that would cause or contribute to impaired water quality or exceedance of state water quality standards. Such modifications include requirements for development to incorporate BMPs designed to prevent or minimize polluted runoff to coastal waters and; requirements for the preparation and implementation of Water Quality Management Plans (WQMP's) in specified new development or redevelopment projects. The WQMP's purpose is to minimize to the maximum practicable extent dry weather runoff, runoff from small storms, and the concentration of pollutants in such runoff during construction and post-construction. Modifications are also suggested that would require the County to incorporate and implement Low Impact Development Standards within the Marina that would include incentives for public and private users to reduce impacts to water quality. Standards would include such measures as the application of post-development peak storm water runoff discharge rates; construction of new storm drain inlets or maintenance of existing inlets that add signs or stencils to discourage dumping that drains into the ocean; and, where feasible, diverting runoff through planted areas and use of natural filtration to prevent the runoff of harmful materials into coastal waters.

Suggested Modifications would also require that materials used for the construction of piers, pilings, docks, and slips not include timber preserved with creosote or similar petroleum-derived products. Pilings treated with ammoniacal arsenate or similar products shall only be used if wrapped or coated prior to installation with a water tight plastic sleeve or similar sealant. Additional prevention measures or requirements are included as suggested modifications in order to prevent the introduction of toxins and debris into the marine environment.

Suggested modifications to the LCP also include policies that are specific to construction related activities that are designed to minimize erosion, sedimentation, and runoff from construction such as requirements to minimize land disturbance during construction and construction related maintenance and debris removal requirements. The requirements address placement or storage of construction materials, daily debris and sediment

removal, trash and solid waste disposal facilities, containment of hazardous materials, spill prevention and control measures, implementation of BMPs and Good Housekeeping Practices.

Suggested modifications for policies specific to harbors, marina, and boating include requirements for the provision of adequate cleanup procedures and containment equipment, provision of pump-out facilities, incorporation of appropriate design elements and management practices to minimize adverse impacts to water quality related to boating facilities. Required procedures and design elements include daily inspection, provision and maintenance of trash disposal facilities, and provision of collection locations for discarding hazardous materials. Modifications add Best Management Practices for boating related activities that address boat maintenance and cleaning such as use of appropriate cleaning methods and products, regular inspection and maintenance of engines and engine parts to prevent oil and fuel spills, use of bilge pump-out services, steam cleaning services etc. Use of BMPs are required for control and containment of solid and liquid waste, disposal at designated sewage pumpout facilities or dump stations, and petroleum control management measures. Suggested Modifications require that Best Management Practices be provided in writing to all marina operators, or lessees, for dissemination to the boating public.

**Suggested Modification 21** will ensure that the proposed LUPA will be in conformance with all current water quality regulations and programs and all development and redevelopment projects and boating related activities will incorporate these policies to ensure that all marine species and resources in the marina are protected.

If modified as suggested above, the proposed Marine Resources policies for the proposed LUPA will be in conformance with Sections 30230, 30231, and 30232 of the Coastal Act because these modified policies incorporate the water quality updates and changes in the various State and Federal programs and regulations directed at maintenance, enhancement and restoration of all of the Marina's waters identified as marine resources. With these modifications, the Commission finds that the Marine Resources policies of the proposed LUPA are consistent with Coastal Act Sections 30230, 30231 and 30232.

#### **e. BIOLOGICALLY SENSITIVE RESOURCES**

Coastal Resources must be protected and policies to protect them should be found in an LCP. These policies are necessary in order to safeguard the resources that are unique to California's coastline. The LCPA fails to provide any policies that will protect Coastal Resources. Therefore, policies need to be provided that protect these resources.

An activity within Marina del Rey that can adversely impact habitat, more specifically avian species, is the practice of tree trimming. While Dr. Engel's evaluation of the trees located throughout Marina del Rey conclude that the trees do not rise to the level of ESHA, they do provide habitat that should be protected. Thus, the County of Los Angeles Marina del Rey tree trimming policy (No. 23 and 34) has been modified and

included as a Suggested Modification as part of Suggested Modification 22. This policy will ensure the protection of bird nesting habitat protected by the Migratory Bird Treaty Act and the long-term protection of breeding, roosting, and nesting habitat of bird species listed pursuant to the federal of California Endangered Species Acts, California bird species of special concern and wading birds (herons and egrets), as well as owls and raptors.

The LCPA lacks adequate policies dealing with the trimming of trees. The Commission has found that herons and egrets often nest and roost in harbor areas (Marina del Rey, Long Beach, and Channel Islands). Studies have shown that various birds species, such as the black-crowned night herons and snowy egrets nest throughout the Marina. While herons and egrets (wading birds), *as well as owls and raptors*, are no longer threatened, the wetland ecosystems upon which they depend are in trouble. In southern California, many wetlands have been replaced by marinas, and herons and egrets, as well as owls and raptors, have adapted by relocating their roosting and nesting sites to stands of tall non-native trees.

Although the Commission finds that the trees used by the herons and egrets, as well as owls and raptors, do not rise to the level of ESHA, they must be protected as nesting and roosting habitat, similar to the protection afforded the trees used by herons and egrets in Channel Islands and Long Beach harbors in which the Commission also found did not rise to the level of ESHA (Channel Islands PWP Amendment 1-07 & CDP No. 5-08-187-[Long Beach]). Therefore, **Suggested Modification 22 through 38** have been added to the LUPA that includes tree trimming and removal procedures that prohibit the removal of any trees that have been used by wading birds (herons or egrets) as well as owls or raptors for nesting or roosting within the past five years unless necessary for public health or safety reasons. Any trees removed would also have to be mitigated at a 1:1 ratio and tree trimming would have to be done outside of the nesting season unless a public health or safety reason would require trimming during the nesting season.

Protection of Coastal Resources is an important aspect of the Coastal Act. The exceptional resources that can be found along the California coastline need to be protected so that future generations may be able to experience them. The ability to experience these resources is enhanced by the location, as Marina del Rey serves as an excellent location for the general public to learn and experience the California coastline. Therefore, only if modified to include the above discussed policies can the LUP Amendment be found to be in conformance with Sections 30210, 30230, 30231, 30233, and 30240 of the Coastal Act.

#### **f. HAZARDS**

Pursuant to Coastal Act Section 30253 an LUP must contain policies that require that proposed development be adequately reviewed and sited so that geologic, flood, and fire hazards are avoided and minimized. In order to prevent or mitigate the impacts upon new development from coastal hazards and more specifically sea level rise, **Suggested Modification 45** has been recommended to existing LCP policies to ensure that to the

extent practicable given current scientific uncertainties relating to the variable projected rates of sea level rise, new projects in the Marina del Rey will minimize risks to life and property in areas of high geologic and flooding hazard and not create or contribute to geologic-related instability or destruction by requiring that the effects of sea level rise be quantitatively considered in geologic and other engineering technical evaluations of new development

The suggested modifications to the LUP amendment require that civil engineering studies required for major development in Marina del Rey examine a range of likely and extreme rises in sea level in the siting and design of new development in Marina del Rey to avoid potential future impacts anticipated over the lifetime of the development. The suggested modifications also recommend that Los Angeles County should study the potential impacts of continued and accelerated sea level rise and flooding of the waterways on the existing or proposed structures within the Marina. Finally, the suggested modifications recommend that the County periodically review tsunami preparation and response policies/practices to reflect current and predicted future sea level trends, development conditions, and available tools and information for preparedness and response.

Therefore, for the reasons outlined above, the Commission finds that only if modified as suggested, can the proposed LCP amendment be found to be consistent with Sections 30235, and 30253 of the Coastal Act.

## **C. IMPLEMENTATION PLAN AMENDMENT**

### **VII. Findings for DENIAL of the Implementation Plan Amendment as Submitted**

The Commission hereby finds and declares as follows:

The standard of review for changes to the Implementation Plan of a certified LCP is whether the Implementation Plan, as amended by the proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP). The County's certified Land Use Plan contains policies regarding development, public recreation, boating, marine resources, environmentally sensitive habitat, and hazards, among other coastal resources. These policies are necessary to protect coastal resources and access. The majority of the County's proposed revisions to the Implementation Plan are acceptable; however, there are several revisions that are inconsistent with and inadequate to carry out the policies of the County's certified Land Use Plan.

**a. DEVELOPMENT**

As discussed in the Development section above, the County is proposing four Pipeline projects that require land use changes, and affect public access, parking, and recreational boating. The LIP amendment as submitted does not contain adequate ordinance provisions to issue that the proposed development under the LCPA does not adversely impact public access and recreation. For example the LUPA is proposing to replace existing parking lots and areas designated for open space; however, there are no provisions to ensure that once these parcels are changed to another use that the loss of parking or open space is adequately mitigated. Therefore the Commission finds that the amendment to the implementation plan must be denied as submitted.

**b. WATER QUALITY AND THE MARINE ENVIRONMENT**

As discussed in the Marine Resources Water Quality Section to the LUP above, the protection of water quality is an important aspect of the Coastal Act. As previously noted, water from Marina del Rey and surrounding areas flows into the County's storm drain system and ultimately drains into the marina and Pacific Ocean. Stormwater runoff (including storm sewer discharges) continues to be the largest source of pollution in Santa Monica Bay and across California.<sup>21</sup> It is a predominant cause of beach closures in each region of the state. It is the source of significant impact to the Marina as well. The County Periodic Review submittal of water quality testing results noted that the Marina is impacted spatially from pollutants from Oxford Retention Basin and Ballona Creek, both of which collect runoff from significant inland areas, from the open ocean as well as other temporal impacts. According to the SWRCB, Mother's Beach suffers from chronic bacteriological contamination.

As proposed, LCP Amendment 1-11 does not contain any additional implementation plan ordinance provisions to carry out the provisions of the Land Use Plan with the suggested modifications recommended above. Therefore, the Commission finds that the amendment to the implementation plan of the Marina del Rey LCP must be denied as submitted.

**c. BIOLOGICAL SENSITIVE RESOURCES**

The Commission has modified the Land Use Plan to bring it into conformance with the Chapter 3 requirements of the Coastal Act concerning biological resources. The IP portion of Marina del Rey LCPA fails to provide Development Standards that would carry out protection of biological resources. Therefore, the IP does not carry out the Land Use Plan and must be denied as submitted.

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<sup>21</sup> NRDC Testing the Waters 2004 pp CA-3.



**d. HAZARDS**

As discussed in the Hazard section above, Sea level rise is an important consideration for the planning and design of projects in coastal settings. Such changes in sea level will exacerbate the frequency and intensity of wave energy received at shoreline sites, including both storm surge and tsunamis, resulting in accelerated coastal erosion and flooding. The certified LUP does not contain any policies or ordinances regarding the consideration of sea level rise in the siting and design of new development in Marina del Rey. The LIP amendment as submitted also does not contain any ordinance provisions for the review of sea level rise in the siting and design of new development. Therefore the Commission finds that the amendment to the implementation plan must be denied as submitted.

**VIII. APPROVAL of the Implementation Plan Amendment Modified**

The findings for denial of the IP amendment as submitted are herein fully incorporated.

**a. DEVELOPMENT**

As modified the LUP will contain new LUP policies addressing development of the four Pipeline projects. In order to prevent or to mitigate the impacts new development may have on the resources within the Marina a number of suggested modifications to Implementation Plan are necessary. **Suggested Modification No. 56** has been recommended to ensure that construction of the proposed wetland park on Parcel 9U will be tied to the construction of development of the parcel. **Suggested Modification 58 and 61** has been recommended to ensure that parking impacted by development of Parcels 14 and 147 are adequately mitigated through payment into the County's account for constructing parking lots or replaced. **Suggested Modification 59** is necessary to ensure that funding for the construction of the wetland park that will be tied to development of Parcels 10/14 are paid by the responsible developer and paid prior to the completion of any development on those parcels.

**Suggested Modification 60** is recommended to ensure that the accessway on Parcel 147 as mentioned in the proposed LUPA is constructed and open to the public once the parcel is developed.

Because of the importance of the public boat launch ramp, **Suggested Modification 62** is recommended to protect the ramp in its current location and capacity.

Furthermore, the Coastal Improvement Fund, which was setup to fund the construction of new park facilities is being expanded to include non-motorized low cost public boating facilities, such as boathouses, boat racks, and docks for low cost boating, as recommended by **Suggested Modification 64, 67 and 71**. **Suggested Modification 70** is being recommended to require monitoring of the fund to ensure that funds are being appropriately used.

Therefore, the Commission finds the above suggested modification are necessary to bring the LIP amendment into conformance with the Development Policies of the certified LUP, as modified.

**b. WATER QUALITY AND THE MARINE ENVIRONMENT**

Suggested Modifications to the Land Use Plan include the addition of specific and detailed water quality protection measures such as requirements for the use of BMPs and the preparation of Water Quality Management Plans in new development and redevelopment projects. LUP suggested modifications also include detailed requirements for boating related activities including use of BMPs and adherence to clean boating practices. There is no provision in the LCP Implementation Plan to carry out the LUP policies, however.

Therefore, in addition to the above suggested modification to the Land Use Plan, a suggested modification to LIP Ordinance Section 22.46.1180 is necessary to carry out or implement the Marine Resource protection of the water quality provisions of the Land Use Plan discussed above. In other words the modification to the LIP Ordinance will require conformance with all terms and provisions of the Land Use Plan Water Quality protection policies. With the inclusion of this suggested modification the Commission finds that the Marina del Rey LCP Implementation Plan conforms with and is adequate to carry out the Marine Resources and Water Quality protection policies of the LCP Land Use Plan, as modified.

**c. BIOLOGICALLY SENSITIVE RESOURCES**

Suggested Modifications to the Land Use Plan include the addition of specific and detailed measures to protect the biological resources of the Marina, such as tree trimming standards and bird safe building requirements. There is no provision in the LCP Implementation Plan to carry out the LUP policies. The LIP will require conformance with all terms and provisions of the Land Use Plan biologically sensitive resource protection policies. **Suggest Modifications 72** is being recommended to carry out the Bird-Safe building policies recommended in the LUP above. **Suggest Modifications 73** is recommended to implement the wetland definition that was suggested as a modification in the LUP. With the inclusion of these suggested modifications the Commission finds that the Marina del Rey LCP Implementation Plan conforms with and is adequate to carry out the Biologically Sensitive Resource protection policies of the LCP Land Use Plan, as modified.

**d. HAZARDS**

As modified the LUP will contain a new LUP hazard policies requiring the consideration of sea level rise in the siting and design of development in Marina del Rey. In order to prevent or mitigate the impacts upon new development from coastal hazards and more specifically sea level rise, **Suggested Modification** has been recommended to existing

LIP hazard policies to ensure that to the extent practicable given current scientific uncertainties relating to the variable projected rates of sea level rise, new projects in the Marina del Rey will minimize risks to life and property in areas of high geologic and flooding hazard and not create or contribute to geologic-related instability or destruction by requiring that the effects of sea level rise be quantitatively considered in geologic and other engineering technical evaluations of new development

The suggested modifications to the LIP amendment require that civil engineering studies required for major development in Marina del Rey examine a range of likely and extreme rises in sea level in the siting and design of new development in Marina del Rey to avoid potential future impacts anticipated over the lifetime of the development. Therefore, the Commission finds the above suggested modification is necessary to bring the LIP amendment into conformance with the Hazard Policies of the certified LUP, as modified.

### **3. CONCLUSION**

Therefore, the Commission finds that only if modified as suggested to require changes to the Land Use; inclusion of Development Standards regarding development, public access, recreational boating, water quality; protection of biological resources, and hazards can the IP be found consistent with the County's certified and modified LUP.

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

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The Marina del Rey LCP Amendment 1-11 consists of an amendment to both the Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of the certified LCP.

As outlined in this staff report, the proposed LUP amendment is inconsistent with the Chapter 3 policies of the Coastal Act and the IP amendment is inconsistent with the policies of the certified Land Use Plan. However, if modified as suggested, the LUP amendment will be consistent with the Chapter 3 policies of the Coastal Act. In addition, if modified as suggested, the IP amendment will be consistent with the policies of the Land Use Plan. Thus, the Commission finds that the LUP amendment, if modified as

suggested, is consistent with the Chapter 3 policies of the Coastal Act and that the IP amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of the LCP amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP amendment request 4-06 if modified as suggested herein.

## **X. SUBSTANTIVE FILE DOCUMENTS**

California Department of Fish and Game. 2010. Letter dated 23 September 2010 from Edmund Pert, Regional Manager of the South Coast Region, to Jonna Engel, California Coastal Commission, commenting on a draft of the *Conservation & Management Plan for Marina del Rey, Los Angeles County, California*.

Chambers Group. 2008. *Results of the Baseline Breeding Bird Nesting Survey and Noise Assessment for the Los Angeles County Department of Public Works Oxford Basin Low Flow Diversion Project Site in the City of Marina del Rey, Los Angeles County, California*. Letter report dated 29 July 2008 from Kris Alberts to Reyna Soriano, Los Angeles County Department of Public Works.

Cooper, D. S. 2006. *Annotated checklist of extirpated, reestablished, and newly-colonized avian taxa of the Ballona Valley, Los Angeles County, California*. Bulletin of the Southern California Academy of Sciences 105:91–112.

Cooper, D. S. 2008. *The use of historical data in the restoration of the avifauna of the Ballona Wetlands, Los Angeles County, California*. Natural Areas Journal 28:83–90.

County of Los Angeles. 2009. *Oxford Retention Basin, Flood Protection Multiuse Enhancement Project*. Powerpoint presentation dated September 2009, presented by Greg Jaquez, P. E.

Garrett, K. L. 2010. Letter dated 29 July 2010 from Kimball L. Garrett, Ornithology Collections Manager at the Natural History Museum of Los Angeles County to Daniel S. Cooper, M. Andriette Culbertson, and Robert A. Hamilton commenting on a draft of the *Conservation & Management Plan for Marina del Rey, Los Angeles County, California*.

Hamilton Biological, Inc. 2010. *Summary Report, Nesting Bird Survey, Burton Chace Park, Marina del Rey*. Letter report from dated 23 June 2010 from Robert A. Hamilton to George Schtakleff, Mackone Development, Inc.

Hamilton, R. A. 2010. *Biological Evaluation of Oxford Basin, Marina del Rey, Los Angeles County, California*. Report dated November 22, 2010, prepared for County of Los Angeles, Dept. of Public Works, Alhambra, CA.

Hamilton, R. A., and D. S. Cooper. 2010. *Conservation & Management Plan for Marina del Rey, Los Angeles County, California*. Report dated September 16, 2010, prepared for County of Los Angeles, Depts. of Beaches & Harbors (Marina del Rey, CA) and Regional Planning (Los Angeles, CA).

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- Hamilton, R. A., and D. S. Cooper. 2010. *Response to Comments of Marcia Hanscom on the Marina Del Rey Conservation & Management Plan*. Memorandum dated 12 November 2010 to Andi Culbertson, Culbertson & Adams LLP.
- Hanscom, M. 2010. *Preliminary Analysis: Sensitive Biological Resources, Conservation Management Plan Study, Marina del Rey, Local Coastal Program, Proposed Amendments, County of Los Angeles*. Report dated November 2, 2010, prepared for We Are Marina del Rey.
- Marschalek, D. A. 2008. *California Least Tern breeding survey, 2007 season*. California Department of Fish and Game, Wildlife Branch, Nongame Wildlife Program Report, 2008-01. Sacramento, CA. 24 pp. + app.
- Marschalek, D. A. 2009. *California Least Tern breeding survey, 2008 season*. California Department of Fish and Game, Wildlife Branch, Nongame Wildlife Program Report, 2009-02. Sacramento, CA. 23 pp. + app.
- Marschalek, D. A. 2010. *California Least Tern breeding survey, 2009 season*. California Department of Fish and Game, Wildlife Branch, Nongame Wildlife Program Report, 2009-02. Sacramento, CA. 25 pp. + app.
- Nisbet, I. C T. 2000. *Disturbance, Habituation, and Management of Waterbird Colonies*. Waterbirds 23:312–332.
- Ryan, T. 2010. Memorandum dated 16 July 2010 from Thomas Ryan to Garry George of Los Angeles Audubon commenting on a draft of the *Conservation & Management Plan for Marina del Rey, Los Angeles County, California*.
- Glenn Lukos Associates. November 2006 (second Revision). Conceptual Restoration Plan for Degraded Wetland Associated with Parcel 9U Marina del Rey. Prepared for Woodfin Resorts.
- Glenn Lukos Associates, November 2006 (second Revision). Biological Technical Report for Parcel 9U, Marina del Rey. Prepared for Woodfin Resorts.
- Glenn Lukos Associates. May 6, 2011 (third Revision). Jurisdictional Wetland Status of Parcel 9U, Marina del Rey, Los Angeles County, California. Prepared for The Hardage Group and Legacy Partners.
- Glenn Lukos Associates. June 20, 2006. Memorandum: Occurrences of Seaside Heliotrope (*Heliotropium curassavicum*) at Parcel 9U, Marina del Rey, California.
- Glenn Lukos Associates. May 6, 2011. Technical Memorandum: Response to Comments by “We Are Marina del Rey” dated April 25, 2011 Regarding Wetland Boundary at Parcel 9U, Marina del Rey.
- Final Draft Right-Sizing Parking Study For The Public Parking Lots in Marina Del Rey, California June 2010 by Raju Associates, Inc.
- Draft Traffic Study For the Marina Del Rey Local Coastal Program Amendment April 29, 2010 by Raju Associates, Inc.

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Neptune Marina Apartments and Anchorage, Neptune Marina Apartments, and Woodfin Suite Hotel/Timeshare Resort, Marina Del Rey Parcel Nos. 10R, FF and 9U, Conditional Use Permits 06289, 06290 and 06216, Traffic Impact analysis (December 2007), Marina Del Rey Area by Crain & Associates.

Oceana Retirement Facility and Holiday Harbor Courts Projects, Marina Del Rey Parcels Nos. OT and 21. Conditional Use Permits 06115 and 06223, Traffic Impact Analysis (June 25, 2008), Marina Del Rey by Crain & Associates.

Transportation Research Board, Transportation Research Circular No. 212, Interim Materials on Highway Capacity, 1980.

Transportation Research Board, Highway Capacity Manual Special Report 209, 2000.  
Linscott, Law and Greenspan, Engineers, Traffic Impact Analysis Dry Stack Storage, Marina Del Rey, California, February 25, 2008.

DKS Associates, Marina Del Rey Traffic Study, January 1991 and Marina Del Rey Traffic Study Addendum – Final Report, May 1994.

Southern California Association of Governments, Regional Transportation Model Validation & Summary.

Los Angeles County Department of Public Works, Feasibility Study for the Widening of Admiralty Way, Marina Del Rey, California, January 1993.

Kaku Associates, Inc. and Raju Associates, Inc. The Village at Playa Vista Transportation Plan Environmental Impact Report, July 2003.

Institute of Transportation Engineers (ITE), Trip Generation, An ITE Informational Report, 8<sup>th</sup> Edition, 2008.

Hirsch-Green Transportation Consultants, Inc. Traffic Study for the Fisherman's Village Retail & Commercial Development Project, March 2007.

California Action Team. 2010. Coastal and Oceans Climate Action Team Sea Level Rise Task Force Final Interim Sea Level Rise Guidance Document. 2010. Developed by the Sea-Level Rise Task Force of the Coastal and Ocean Working Group of the California Action Team (CO-CAT). Available for download at:  
[http://water.ca.gov/climatechange/docs/SLR\\_GuidanceDocument\\_SAT\\_Responses.pdf](http://water.ca.gov/climatechange/docs/SLR_GuidanceDocument_SAT_Responses.pdf). Accessed 4/4/2011.

Bromirski et al. 2011. Dynamical suppression of sea level rise along the Pacific coast of North America: Indications for imminent acceleration. Journal of Geophysical Research, v. 116, C07005, doi: 10.1029/2010JC006759.

Cazenave, A., & Nerem, R. S. (2004). Present-day sea level change: observations and causes. *Oceans*, (2003), 1-20. doi: 10.1029/2003RG000139.1.

Climate Adaptation: Risk, Uncertainty and Decision-making, UK CIP (2003), UKCIP Technical Report, Oxford, Willows, R. I. and R. K. Cornell (eds.).

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Local Coastal Program Amendment 1-11 Staff Report  
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Heberger et al. 2009. The Impacts of Sea-Level Rise on the California Coast. *California Climate Change Center*.

IPCC, 2007: Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Parry, Martin L., Canziani, Osvaldo F., Palutikof, Jean P., van der Linden, Paul J., and Hanson, Clair E. (eds.)]. Cambridge University Press, Cambridge, United Kingdom, 1000 pp.

R. Kwok and D. A. Rothrock, "Decline in Arctic sea ice thickness from submarine and ICESAT records: 1958-2008," *Geophysical Research Letters*, v. 36, paper no. L15501, 2009

Jevrejeva, S., J.C.Moore, and A. Grinsted (2010) How will sea level respond to changes in natural and anthropogenic forcings by 2100? *Geophysical Research Letters*, v. 37, L07703.

Levitus et al. 2009. Global ocean heat content 1955-2008 in light of recently revealed instrumentation problems. *Geophysical Research Letters*, v. 36, L07608, doi: 10.1029/2008GL037155.

Nerem, R., Leuliette, E., & Cazenave, a. (2006). Present-day sea-level change: A review. *Comptes Rendus Geosciences*, 338(14-15), 1077-1083. doi: 10.1016/j.crte.2006.09.001.

Pew Center on Global Climate Change. 2007. Sea Level Rise- The State of the Science. Available at: [www.pewclimate.org/global-warming-basics/slr.cfm](http://www.pewclimate.org/global-warming-basics/slr.cfm).

Rahmstorf, S., 2007, A Semi-Empirical Approach to Projecting Future Sea-Level Rise: *Science*, v. 315, p. 368-370.

Rahmstorff, Stefan. 2010. A new view on sea level rise: Has the IPCC underestimated the risk of sea level rise? *Nature*. 4(44-45). Available at: [www.nature.com/reports/climatechange](http://www.nature.com/reports/climatechange).

Vermeer, M., & Rahmstorf, S. 2009. Global sea level linked to global temperature. *Proceedings of the National Academy of Sciences of the United States of America*, 106(51), 21527-32. doi: 10.1073/pnas.0907765106.

George, G. (1<sup>st</sup> VP, Conservation Chair, Los Angeles Audubon). November 5, 2010. Letter, re: Revised Conservation and Management Plan for Marina del Rey dated August 19, 2010. To: Santos Kreimann, Director, Los Angeles County Beaches & Harbors

Pert, E. (Regional Manager, South Coast Region, CDFG). September 23, 21010. Letter, re: Conservation and Mangagement Plan for Marina del Rey, Los Angeles County. To: Dr. Jonna Engel, California Coastal Commission.

Strassburger, M. (Chief, Division of Migratory Birds, USFWS). August 8, 2011. Letter, re: Marina del Rey waterbird plan. To: Jonna D. Engel, PhD, Ecologist, California Coastal Commission

Engel, J. December 19, 2006. Memorandum, re: MDR ESHA determination for Marina del Rey tree stands with past and present history of roosting and nesting herons and egrets. To:

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Lisa Haage, Chief of Enforcement; Alex Helperin, Enforcement Attorney; Andrew Willis,  
Enforcement Analyst

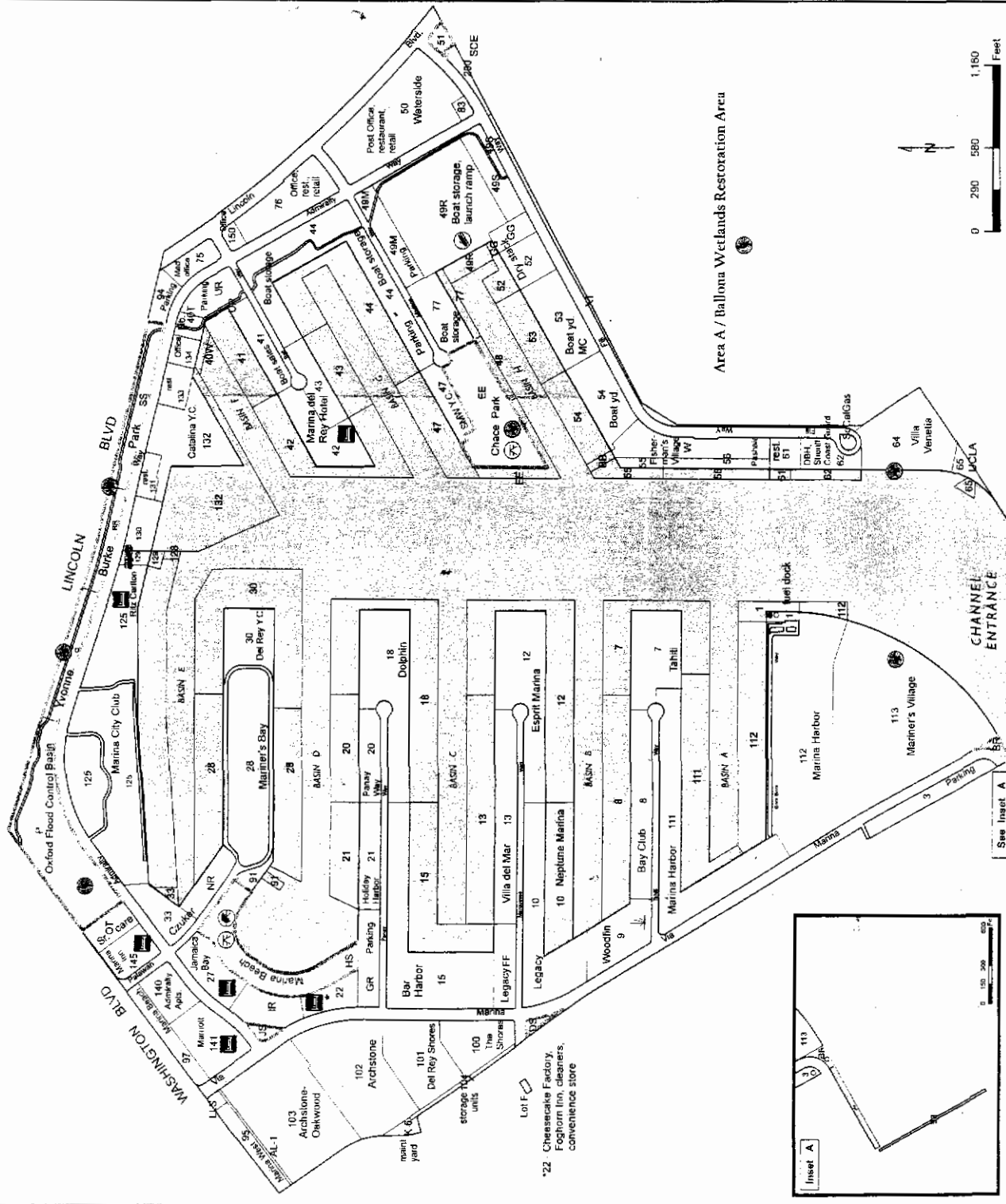
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# MARINA del REY

## Base Map

- Park / Open Space
- Diving Birds
- Wading Birds
- Wetlands
- Hotel
- Picnic Tables
- Beach
- Launch Ramp
- Fire Station



0 290 580 1,180 Feet

EXHIBIT NO. 1

Application Number

MDR LC PA 411

Map of Marina del Rey

Dept of Regional Planning  
Revised 1 Apr 2010

Los Angeles County

MARINA DEL REY

Land Use Plan

LEGEND

- LUP  
 R III - Residential III (35 du/ac)  
 R IV - Residential IV (45 du/ac)  
 R V - Residential V (75 du/ac)  
 H - Hotel  
 VS/CC - Visitor-Serving / Convenience Commercial  
 O - Office  
 MC - Marine Commercial  
 B - Boat Storage  
 P - Parking  
 PF - Public Facilities  
 SA - Seniors Accommodation  
 OS - Open Space  
 W - Water  
 Mixed Use Overlay  
 Waterfront Overlay  
 River, Stream or Channel  
 Lease Parcels LCP  
 Marina Del Rey LCP Area  
 Perennial Water Body  
 Pacific Ocean



LOS ANGELES COUNTY  
 Department of Regional Planning  
 320 W. Temple St.  
 Los Angeles, CA 90012



Current as of: August 2010

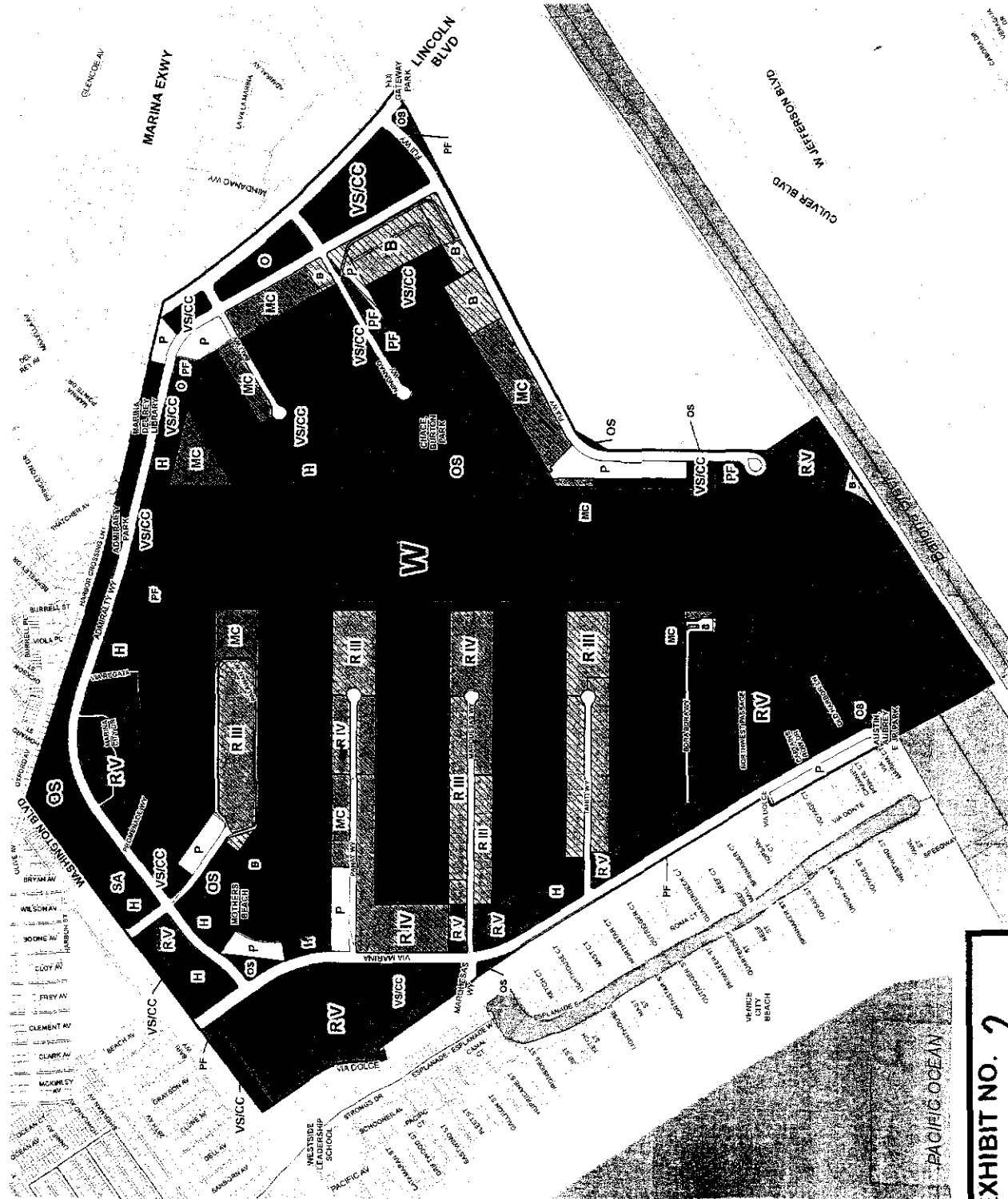


EXHIBIT NO. 2

Application Number

MDR LCDA 1-11

Land Use Plan

California Coastal Commission

Matrix of Proposed Changes to the Marina del Rey  
Local Coastal Program

EXHIBIT NO. <b>3</b>
Application Number <b>MDR LCPA 1-11</b>
<b>Matrix of</b>
<b>Proposed Changes</b>
California Coastal Commission

#### Matrix of Changes to the Marina del Rey Local Coastal Program

- i. Option 1 = A 135,000 square foot Visitor-Serving/Convenience Commercial center.
- ii. Option 2 = A 116,495 square foot Visitor-Serving/Convenience Commercial center with 255 dwelling units.
- iii. Option 3 = Either of the first two options with the addition of a 26,000 square foot Beaches and Harbors administration building.

The proposed project is conditioned to require that all of the boating amenities currently onsite will be replaced prior to construction of the project. A lessee for this project has not yet been selected. The Waterfront Overlay Zone designation proposed for this parcel would permit all of the above-described improvements, except for the residential units.

- D. Project R2008-02340 is a proposal to demolish an existing 245 space public parking lot, the Department of Beaches and Harbors' trailer complex and the Sheriff's Boatwright/Life Guard facility and replace them with a 345 space dry stack boat storage facility, that would include an additional area for 30 mast up storage spaces. This facility would be unique in Marina del Rey in that it would project 97 feet over the water to facilitate a "drop-in" of the boats. A Draft Environmental Impact Report has been submitted for this project and is currently being reviewed by the Department of Regional Planning.

**Part 2: Specific changes to the LCP required to allow the Pipeline Projects**

<b>Project</b>	<b>Proposed Changes</b>	<b>Plan Reference</b>
<b>R2006-03647</b> Proposed 400-unit apartment complex on Parcel 10	Amend the LCP to transfer 261 development units from the adjoining Development Zone #2 (Tahiti Development Zone) into the subject Development Zone #3 (Marquesas Development Zone). (A chart showing the new distribution of development units can be seen in Figure 3 in the Land Use Chapter of the LUP Page 8-20 and in the Specific Plan on Page 75). The LCP amendment would also average the permitted densities over Parcel 10. Currently, Parcel 10 is split between 3.8 acres of Residential V (75 dwelling units per acre) and 3.52 acres of Residential III (35 dwelling units per acre), for a total possible density of 417 units. Rather than cluster the proposed development on the Residential V portion of the parcel, this amendment would allow the proposed units to be evenly distributed.	<b>Land Use Plan (LUP), Pg. 8-21 / Specific Plan, Pgs. 79, 80</b>
<b>R2006-03652</b> Proposed 126-unit apartment complex on Parcel FF	Transfer 14 development units from the abutting Development Zone #2 (Tahiti Development Zone) and 112 development units from the proximate Develop Zone #1 (Bora Bora Development Zone) into the subject Development Zone #3 (Marquesas Development Zone). Change Parcel FF's land use designation from Open Space to Residential III and Residential V. Relocate Parcel FF's Open Space designation to the lower portion of Parcel 9U. Change Parcel FF's height category from Category 1 to Category 3 to allow buildings ranging from 45 feet in height when a 20% view corridor is provided to 75 feet in height when a 40% view corridor is provided. Allow the development of Parcel FF to commence prior to the replacement of the existing public parking spaces that will be displaced. Average the maximum densities of Parcel FF's proposed Marina del Rey LCP Residential III and Residential V Land Use Categories evenly over the entire parcel rather than maintain the Residential III's required maximum density of 35 dwelling units per acre and the Residential V's maximum density of 75 dwelling units per acre.	<b>LUP, Land Use Chapter, Figure 3 on Pg. 8-20 / Specific Plan, Pg. 75</b>  <b>LUP, Land Use Chapter, Pg. 80</b> <b>LUP, Land Use Chapter, Pg. 8-21 / Specific Plan, Pg. 79</b> <b>LUP, Land Use Chapter, Map 14, Pg. 9-9 / Specific Plan, Pg. 81</b> <b>LUP, Recreation and Visitor-Serving Facilities Chapter, Pg. 2-15</b> <b>LUP, Land Use Chapter, Pg. 8-21 / Specific Plan, Pg. 80</b>
<b>R2006-01510</b> Proposed 114-unit Senior Accommodations Facility on Parcel OT	Transfer development potential between Development Zones (114 hotel units from the Admiralty Development Zone #7 and 3,500 square feet of Visitor-Serving/Convenience space from the Palawan/Beach Development Zone #5 to the Oxford Development Zone #6) The creation of a Seniors Accommodations Land Use Category in the LCP. The redesignation of Parcel 147's (Formerly Parcel OT) land use designation from "Parking" to the "Senior Accommodations Facility" designation with a Mixed Use Overlay Zone.	<b>LUP, Land Use Chapter, Figure 3 on Pg. 8-20 / Specific Plan, Pg. 75</b>  <b>LUP, Land Use Chapter, Pg. 8-15 / Specific Plan, Pg. 54</b> <b>LUP, Land Use Chapter, Pg. 8-27 and Map 8 on Pg. 8-29 / Specific Plan, Pg. 88</b>

## Matrix of Changes to the Marina del Rey Local Coastal Program

Proposed mixed use facility on Parcels 49 and 77	The transfer of 94 of the LCP required 186 public parking spaces on Parcel OT to Parcel 21	LUP, Recreation and Visitor-Serving Facilities Chapter, Pgs. 2-9 and 2-12; Circulation Chapter Pg. 11-17
	The adjustment of the parcel boundary between Parcel OT (Currently designated as Parking in the LCP) and Parcel P (Currently designated as Open Space in the LCP). Parcel P currently has an area 10.72 acres and Parcel OT has an area 1.6 acres. If the proposed amendment to give 19,755 square feet of Parcel P to Parcel OT is approved, Parcel P will be reduced to 10.27 acres and Parcel OT will be increased to 2.10 acres	LUP, Map 8, Pg. 8-29 / Specific Plan, Pg. 102
	Change Parcel 49R's land use category from "Boat Storage" to "Boat Storage and Visitor-Serving/Convenience Commercial" with a Waterfront Overlay Zone	LUP, Land Use Chapter, Pg. 8-25 and Map 8 on Pg. 8-29 / Specific Plan, Pg. 93
	Change Parcel 49M's land use category from "Parking" to "Parking/Public Facilities" with a Waterfront Overlay Zone	LUP, Land Use Chapter, Pg. 8-25 and Map 8 on Pg. 8-29 / Specific Plan Pg. 93
	Change Parcel 77's land use category from "Boat Storage" to "Open Space/Public Facilities" with a Waterfront Overlay Zone	LUP, Land Use Chapter, Pg. 8-25 and Map 8 on Pg. 8-29 / Specific Plan, Pg. 94
	Transfer 255 Dwelling Units from Development Zone 11 to Development Zone 9	LUP, Land Use Chapter, Figure 3 on Pg. 8-20 / Specific Plan, Pg. 75
	Transfer 382 Hotel Rooms, 40,000 square feet of Conference space, 3,000 square feet of a Marine Science and 500 Restaurant Seats from Development Zone 8 to Development Zone 9 and convert all of said development potential to the 116,490 square feet of Visitor-Serving/Convenience Commercial space	LUP, Land Use Chapter, Figure 3 on Pg. 8-20 / Specific Plan, Pg. 75
	Add, "Dry stack storage connected to a landside structure," to the list of uses permitted in the, "Water," land use category	LUP, Land Use Chapter, Pg. 8-16 / Specific Plan, Pg. 69
	Change the maximum height of any structure in the "Water" land use category from "15 feet" to allow dry stack storage facilities to be permitted at the same height as would be permitted by the land use category of the landside portion of the parcel	Specific Plan, Pg. 69
	Permit the required public promenade to be constructed along the southern portion of parcels 52 and GG (near Fiji Way) rather than along the waterfront for safety reasons	LUP, Shoreline Access Chapter, Pg. 1-10 / Specific Plan Pg. 24-25
R2008-02340 Proposed 345-space dry stack storage facility on Parcel 52	Change Parcel 52 and GG's land use categories from "Public Facilities" to "Boat Storage" with a Waterfront Overlay Zone	LUP, Land Use Chapter, Pg. 8-25 and Map 8 on Pg. 8-29 / Specific Plan, Pg. 94

Matrix of Changes to the Marina del Rey Local Coastal Program

	Clarify the public parking spaces in lots listed as, "Temporary Parking," in the LCP (such as Parcel 52), do not need to be replaced if the lot is converted to another use	<b>LUP, Recreation &amp; Visitor-Serving Facilities Chapter, Pg. 2-15 and Figure 2 on Pg. 2-12</b>
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**Part 3: Changes Made to the LCP to Improve Administration of the Document**

<b>Overview</b>	<b>Proposed Changes</b>	<b>Plan Reference</b>
<b>Development Zones</b>	<p>The County is proposing to collapse the Marina del Rey LCP's current 14 Development Zones (DZs) into a more manageable three Development Zones. When the DZ concept was first formulated, it was envisioned that by tying development potential to small groupings of parcels developers would be encouraged to develop their parcels quickly and potential development was available on a first come first served basis. This has not been what has resulted. Development potential is now locked into areas where it cannot be used, and a Plan Amendment is required to move development from one side of the street to the other in some cases.</p> <p>The County commissioned a traffic study to analyze the possible impacts that the Pipeline Projects could have on Marina traffic and also to determine the optimal number of DZs that would maximize flexibility while not putting an undue strain on Marina traffic. After evaluating the traffic study, it was determined that the best optimal number of Development Zones in the Marina was three.</p>	<b>LUP, Land Use Chapter, Pgs. 8-9 through 8-12 and Map 10 on Pg. 8-29 / Specific Plan, Pgs. 74-76</b>
<b>Waterfront Overlay Zone</b>	The Waterfront Overlay Zone (WOZ) is a land use category within the Marina del Rey LCP that is intended to provide additional flexibility for development of coastal-related and marine dependent land uses primarily on waterfront parcels. The Waterfront Overlay Zone has been added to the following parcels: 1, 14 (formerly FF), 49M, 49R, 49S, 52, 77, and GG	<b>LUP, Land Use Chapter, Pgs. 8-20, 8-21 and 8-25 / Specific Plan, Pgs. 76, 80, 93 and 94</b>
<b>Circulation</b>	As mentioned previously, the traffic study was also used to extensively update the Marina del Rey Circulation chapter. The County's traffic consultant, along with the Department of Public Works, devised new intersection improvements and a new fee structure that can keep the Marina intersections operating at acceptable levels on into the next decade.	<b>LUP, Circulation Chapter, Pgs. 11-1 through 11-39 / Specific Plan, Pgs. 32, 39, 40 and 41</b>

Matrix of Changes to the Marina del Rey Local Coastal Program

**Part 4: Changes made to the LCP in response to the Coastal Commission's Periodic Review**

The following changes were made in Response to the Coastal Commission's Periodic Review of the Marina del Rey Local Coastal Program, especially with respect to Sensitive Biological Resources, Recreational Boating and Low Cost Boating Opportunities, traffic and circulation; open space expansion, and right sizing public parking:

<b><i>Proposed Changes</i></b>	<b><i>Plan Reference</i></b>
A new policy was added to ensure that 50% of slips in Marina del Rey remain 38' in length or under	<b>LUP, Recreational Boating Chapter, Pg. 3-2</b>
A new policy was added which requires a fee to be paid which would go toward low cost boating whenever a Marina is redeveloped with more than 100 slips that are 32' in length or longer	<b>LUP, Recreational Boating Chapter, Pg. 3-8</b>
The Funnel concept was removed	<b>LUP, Recreational Boating Chapter, Pg. 3-9</b>
A new policy was added to encourage dry storage	<b>LUP, Recreational Boating Chapter, Pg. 3-10</b>
Sensitive Biological Resources (SBRs) are now identified in the Marina. The Environmentally Sensitive Habitat Areas (ESHA) chapter was removed from the LCP with the 1995 amendment. The new Sensitive Biological Resources chapter recognizes that there are resources in the Marina that warrant protection even if they do not rise to the level of ESHA	<b>LUP, Sensitive Biological Resources Chapter, Pg. 5-2</b>
New general policies have been added to protect SBRs in the Marina	<b>LUP, Sensitive Biological Resources Chapter, Pg. 5-5</b>
New policies have been added regarding the Oxford Basin	<b>LUP, Sensitive Biological Resources Chapter, Pg. 5-5</b>
New policies have been added to specifically protect the wetland located on the southern portion of Parcel 9U	<b>LUP, Sensitive Biological Resources Chapter, Pg. 5-8</b>
A new definition has been added to define Senior Accommodations Facilities	<b>LUP, Land Use Chapter, Pg. 8-15</b>
A new policy has been added which would make public parking lots a permitted use in any land use category	<b>LUP, Land Use Chapter, Pg. 8-16</b>
A new policy has been added which would allow boat storage facilities to extend over the water	<b>LUP, Land Use Chapter, Pg. 8-16</b>
The land use category for the lower portion of Parcel 9U has been changed from Hotel to Open Space	<b>LUP, Land Use Chapter, Pg. 8-21</b>
An additional open space area has been added to Parcel 1R	<b>LUP, Land Use Chapter, Pg. 8-23</b>
The land use category of Parcel 75 has been changed from Hotel to Visitor-Serving/Convenience Commercial	<b>LUP, Land Use Chapter, Pg. 8-25</b>
The land use category of Parcel 47 has been changed from Marine Commercial to Open Space	<b>LUP, Land Use Chapter, Pg. 8-25</b>



Los Angeles County

MARINA DEL REY

Existing and Potential  
Shoreline Access

LEGEND

Shoreline Access

- Open To Public (Private Leasehold)
- ▲▲▲ Open To Public (County Controlled)
- Restricted Access
- Potential Access

- River, Stream or Channel
- Lease Parcels LCP
- Marina Del Rey LCP Area
- Perennial Water Body
- Pacific Ocean

Current as of: August 2010



LOS ANGELES COUNTY  
Department of Regional Planning  
320 W. Temple St.  
Los Angeles, CA 90012

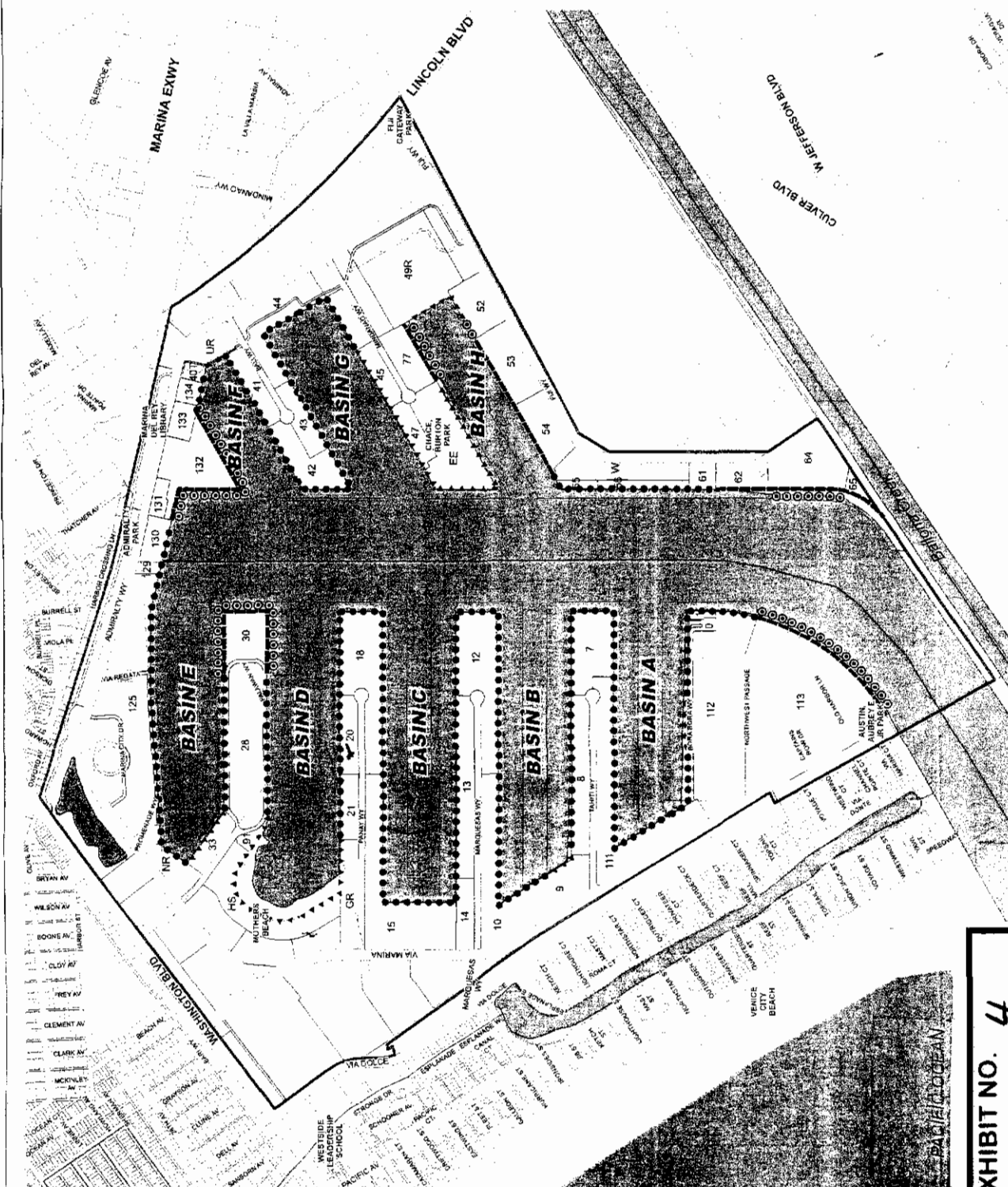


EXHIBIT NO. 4

Application Number

MDR LCDA 1-11

Shoreline

Access

California Coastal Commission

Los Angeles County

MARINA DEL REY

Existing / Proposed Visitor-Serving Facilities

LEGEND

- Public Parking
- Hotel
- Restaurant
- Shopping
- Public Park
- Public Beach
- Marina Information Center
- Public Library
- Bike Lockers
- Fishing Docks
- WaterBus Route (Seasonal)
- Bike Path
- River, Stream or Channel
- Lease Parcels LCP
- Marina Del Rey LCP Area
- Perennial Water Body
- Pacific Ocean

NOTE:

Check with the Marina Del Rey Visitor Center for a list of current facilities and locations



LOS ANGELES COUNTY  
Department of Regional Planning  
320 W. Temple St.  
Los Angeles, CA 90012



Current as of: August 2010

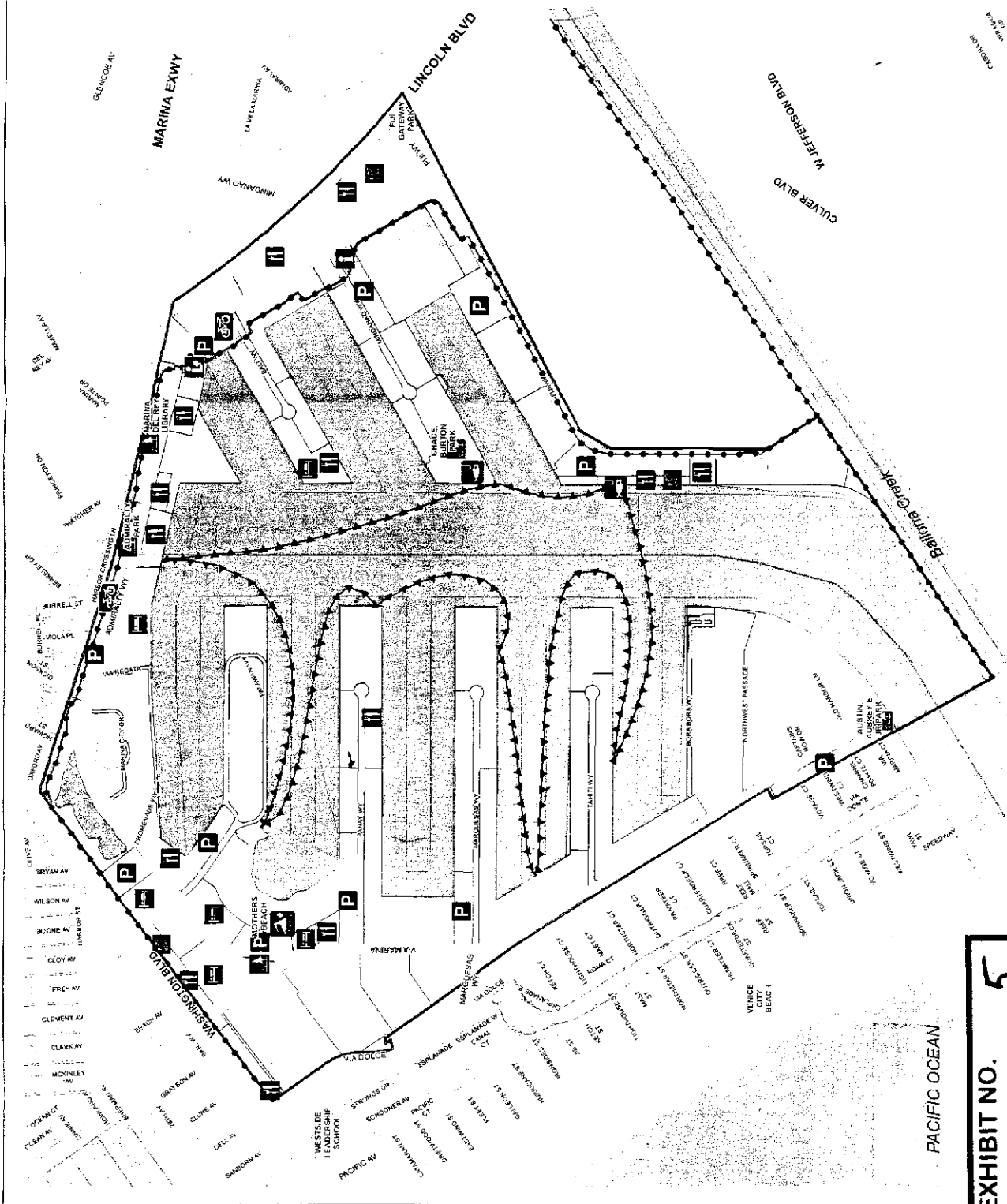


EXHIBIT NO. 5

Application Number

MDR LCDA-1-11

Visitor-Serving Facilities

California Coastal Commission

Los Angeles County

MARINA DEL REY

Boating-Related Support Facilities

LEGEND

Boating-Related Support Facilities

- WaterBus Stop
- Boat Yard
- Fuel Dock
- Watercraft Rental
- Kayak/Canoe Storage
- ADA Beach Access
- Public Launch Ramp
- Guest, Transient and Dinghy Docks

River, Stream or Channel

- Lease Parcels LCP
- Marina Del Rey LCP Area
- Perennial Water Body
- Pacific Ocean



Current as of, August 2010



LOS ANGELES COUNTY  
Department of Regional Planning  
320 W. Temple St.  
Los Angeles, CA 90012

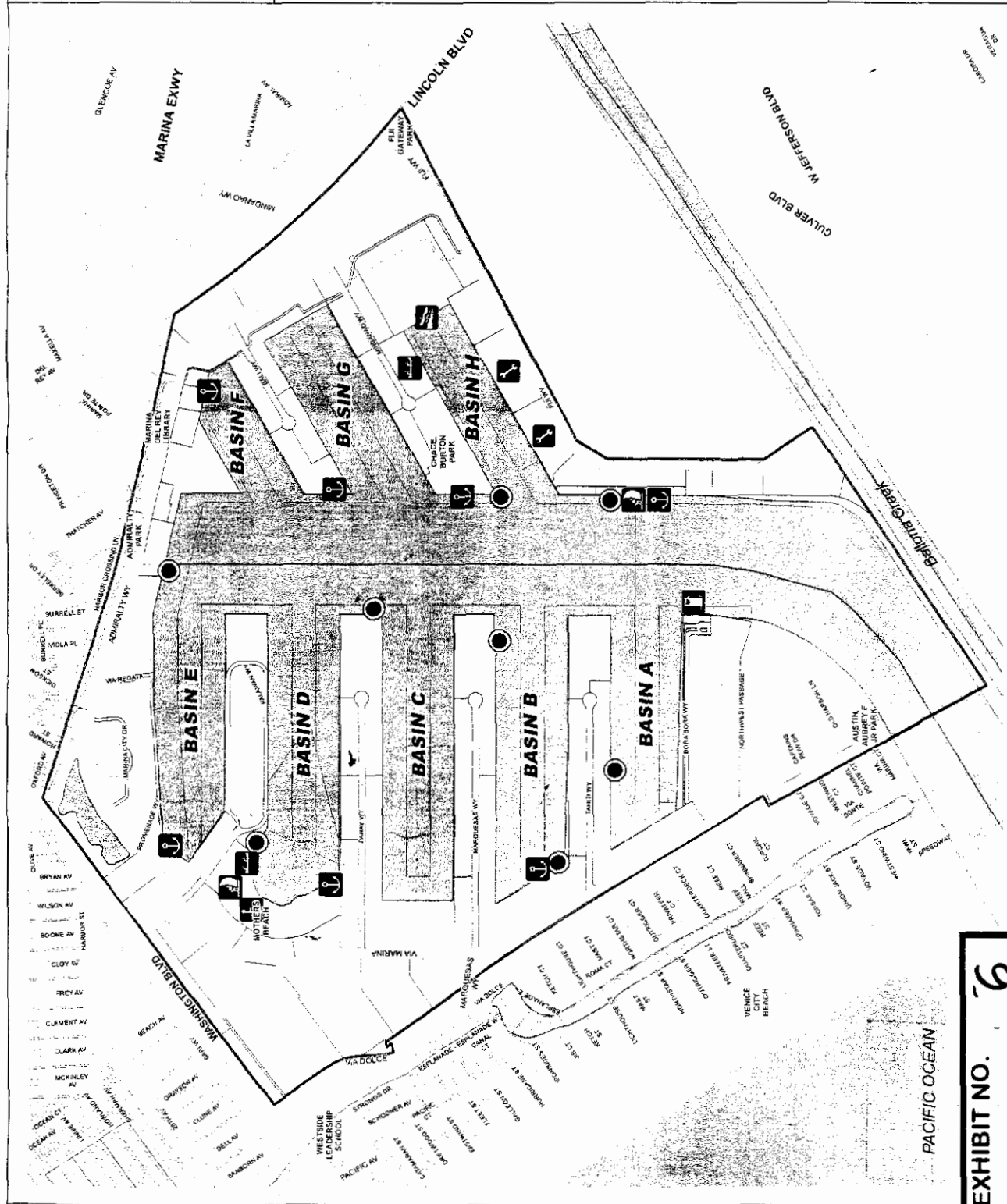









EXHIBIT NO. 6
Application Number
MDR LCPA 1-11
Boating Support Facilities
California Coastal Commission

Los Angeles County

MARINA DEL REY

Permitted Public Dry Storage Areas

LEGEND

-  Mast-Up Storage
-  River, Stream or Channel
-  Lease Parcels LCP
-  Marina Del Rey LCP Area
-  Permitted Public Dry Storage Areas
-  Perennial Water Body
-  Pacific Ocean



LOS ANGELES COUNTY  
Department of Regional Planning  
320 W. Temple St.  
Los Angeles, CA 90012



Current as of: August 2010

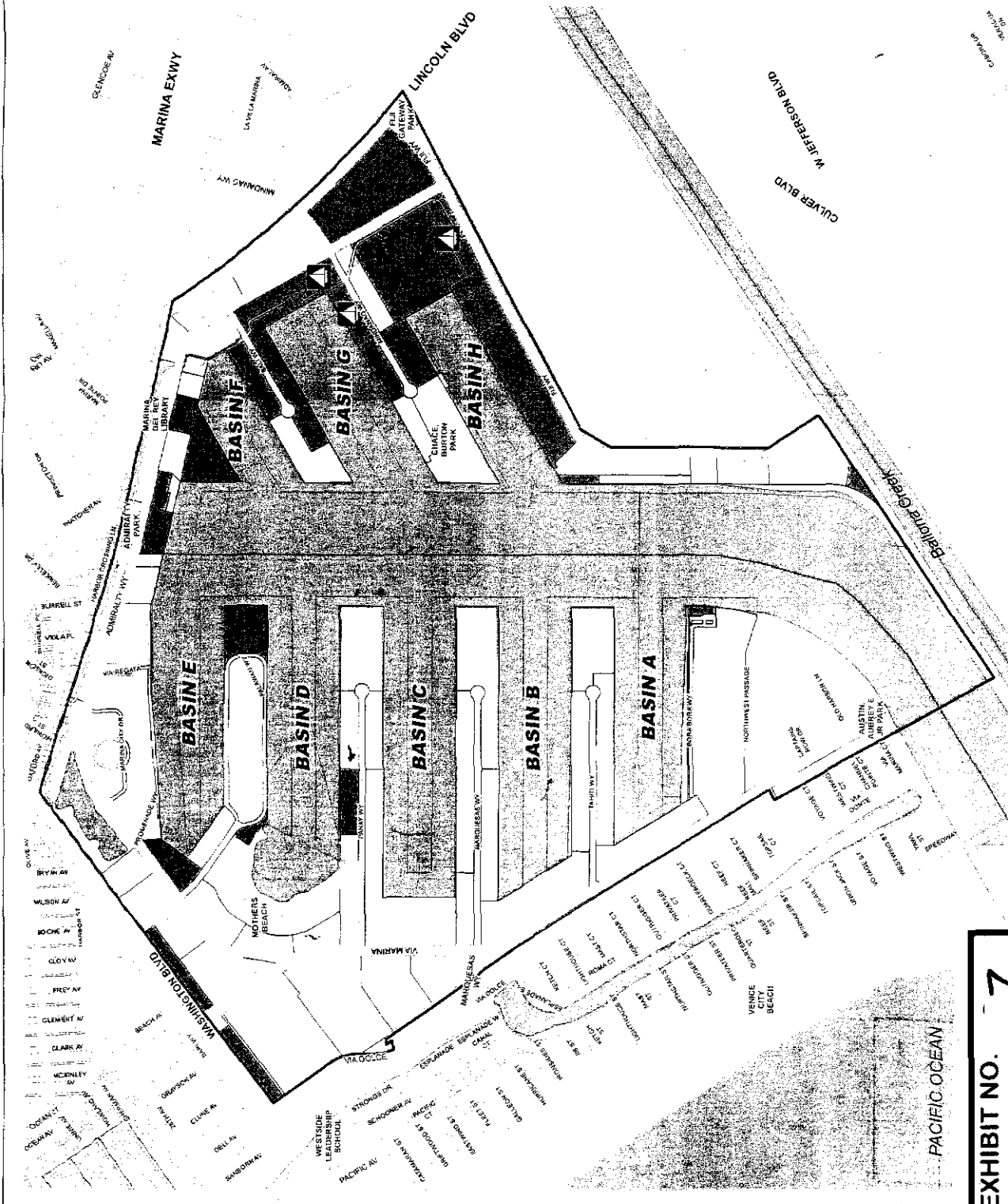


EXHIBIT NO. <b>7</b>
Application Number <b>MDR LCDRA F-11</b>
<b>Public Dry Storage</b>
California Coastal Commission

Los Angeles County

MARINA DEL REY

Proposed Development Zones

LEGEND

- River, Stream or Channel
- Lease Parcels LCP
- Proposed Development Zones
- Marina Del Rey LCP Area
- Perennial Water Body
- Pacific Ocean

Zone

1. Parcels 1, 3, 7, 8, 9, 10, 12, 13, 14, 15, 18, 20, 95, 100, 101, 102, 103, 104, 111, 112, 113, AL-1, BR, DS, K-6, LLS.
2. Parcels 21, 22, 27, 28, 30, 33, 91, 97, 125, 128, 129, 140, 141, 145, 147, GR, HS, IR, JS, P, Q, RR.
3. Parcels 40T, 40W, 41, 42, 43, 44, 45, 47, 48, 49M, 49R, 49S, 50, 51, 52, 53, 54, 55, 56, 51, 62, 64, 65, 75, 76, 77, 94, 130, 131, 132, 133, 134, 150, 200, BB, EE, SS, UR, W, XT.

Current as of August 2010



LOS ANGELES COUNTY  
Department of Planning  
330 W. Temple Street, Suite 200  
Los Angeles, CA 90012

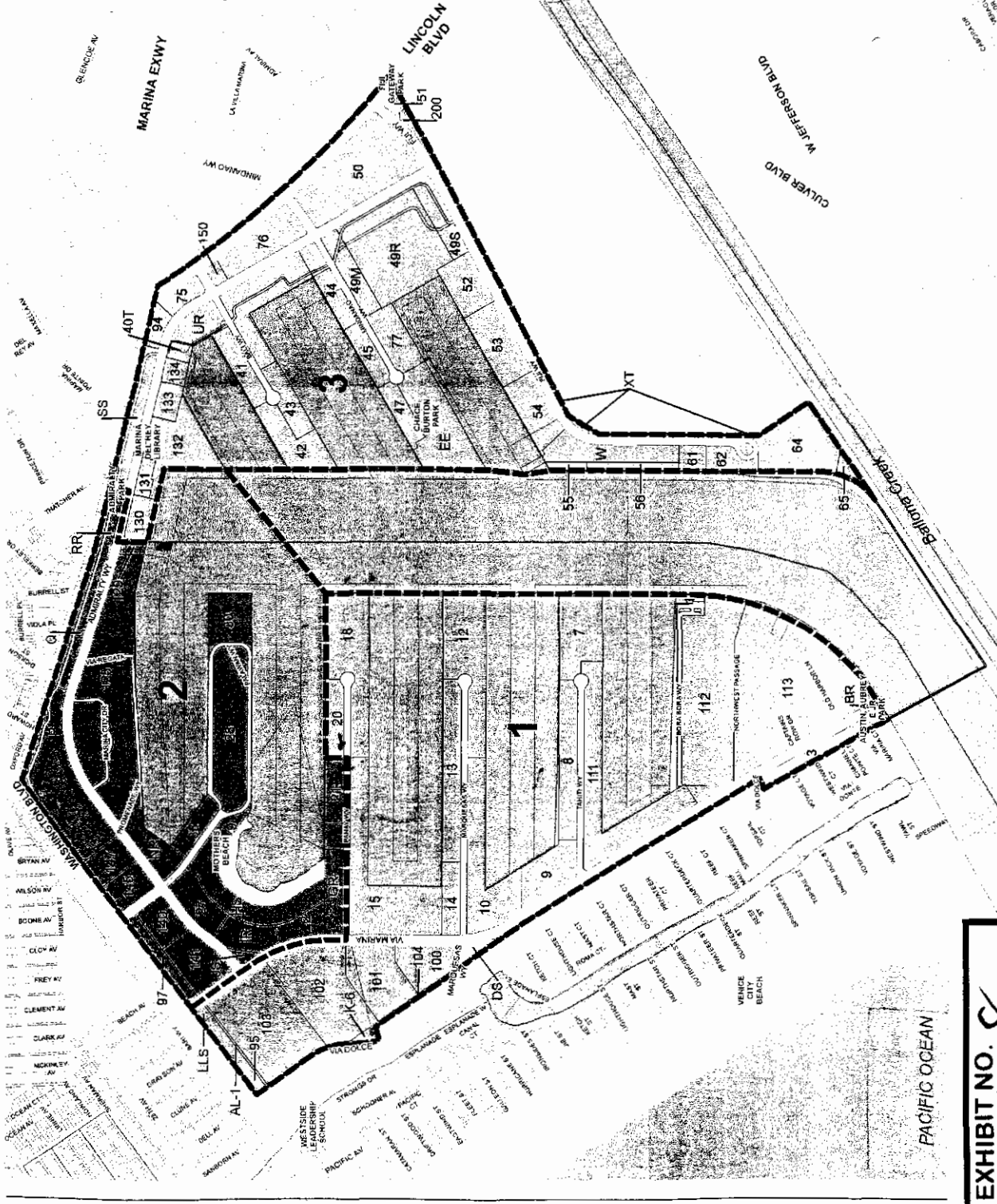


EXHIBIT NO. 8

Application Number

MIR LCP17 1-11

Proposed Development

Zones

California Coastal Commission



LEGEND

- LUP
- R III - Residential III (35 du/ac)
  - R IV - Residential IV (45 du/ac)
  - R V - Residential V (75 du/ac)
  - H - Hotel
  - VSICC - Visitor-Serving / Convenience Commercial
  - O - Office
  - MC - Marine Commercial
  - B - Boat Storage
  - P - Parking
  - PF - Public Facilities
  - SA - Seniors Accommodation
  - OS - Open Space
  - W - Water
  - Mixed Use Overlay
  - Waterfront Overlay
  - River, Stream or Channel
  - Lease Parcels LCP
  - Proposed Development Zone 1
  - Marina Del Rey LCP Area
  - Perennial Water Body
  - Pacific Ocean



LOS ANGELES COUNTY  
Department of Regional Planning  
330 W. Temple St.  
Los Angeles, CA 90012



Current as of: August 2010

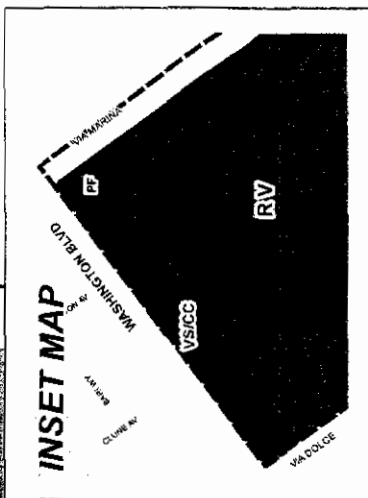
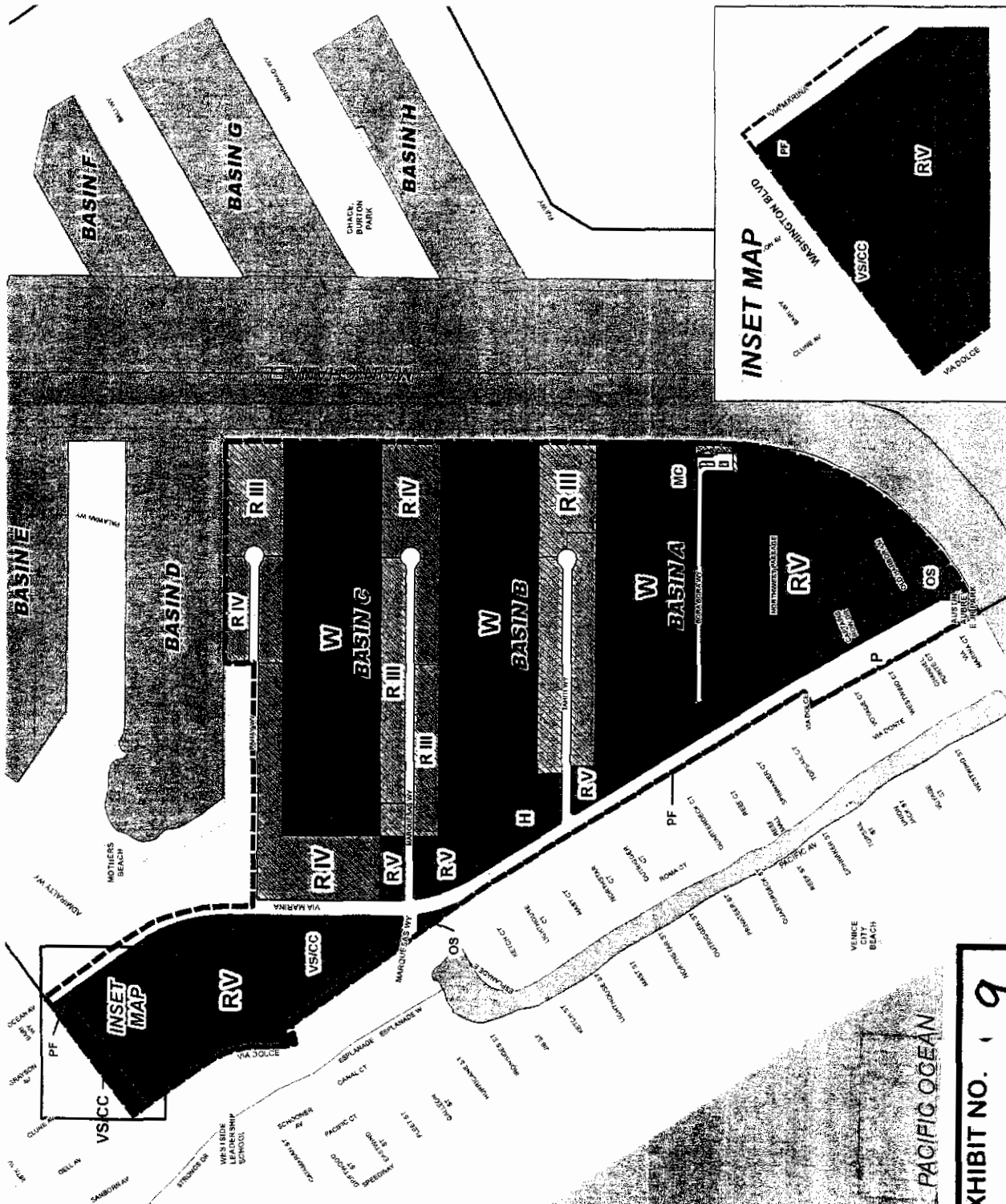


EXHIBIT NO. 9

Application Number

MDR LCDA 1-11

Development Zone

1

California Coastal Commission

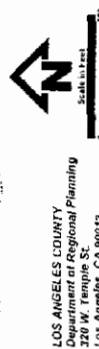
Los Angeles County  
MARINA DEL REY

Proposed Development Zone 2

LEGEND

- LUP
- R III - Residential III (35 du/ac)
  - R IV - Residential IV (45 du/ac)
  - R V - Residential V (75 du/ac)
  - H - Hotel
  - VS/CC - Visitor-Serving / Convenience Commercial
  - O - Office
  - MC - Marine Commercial
  - B - Boat Storage
  - P - Parking
  - PF - Public Facilities
  - SA - Seniors Accommodation
  - OS - Open Space
  - W - Water
  - Mixed Use Overlay
  - Waterfront Overlay
  - River, Stream or Channel
  - Lease Parcels LCP
  - Proposed Development Zone 2
  - Marina Del Rey LCP Area
  - Perennial Water Body
  - Pacific Ocean

Current as of: August 2010



LOS ANGELES COUNTY  
Department of Regional Planning  
220 W. Temple St.  
Los Angeles, CA 90012

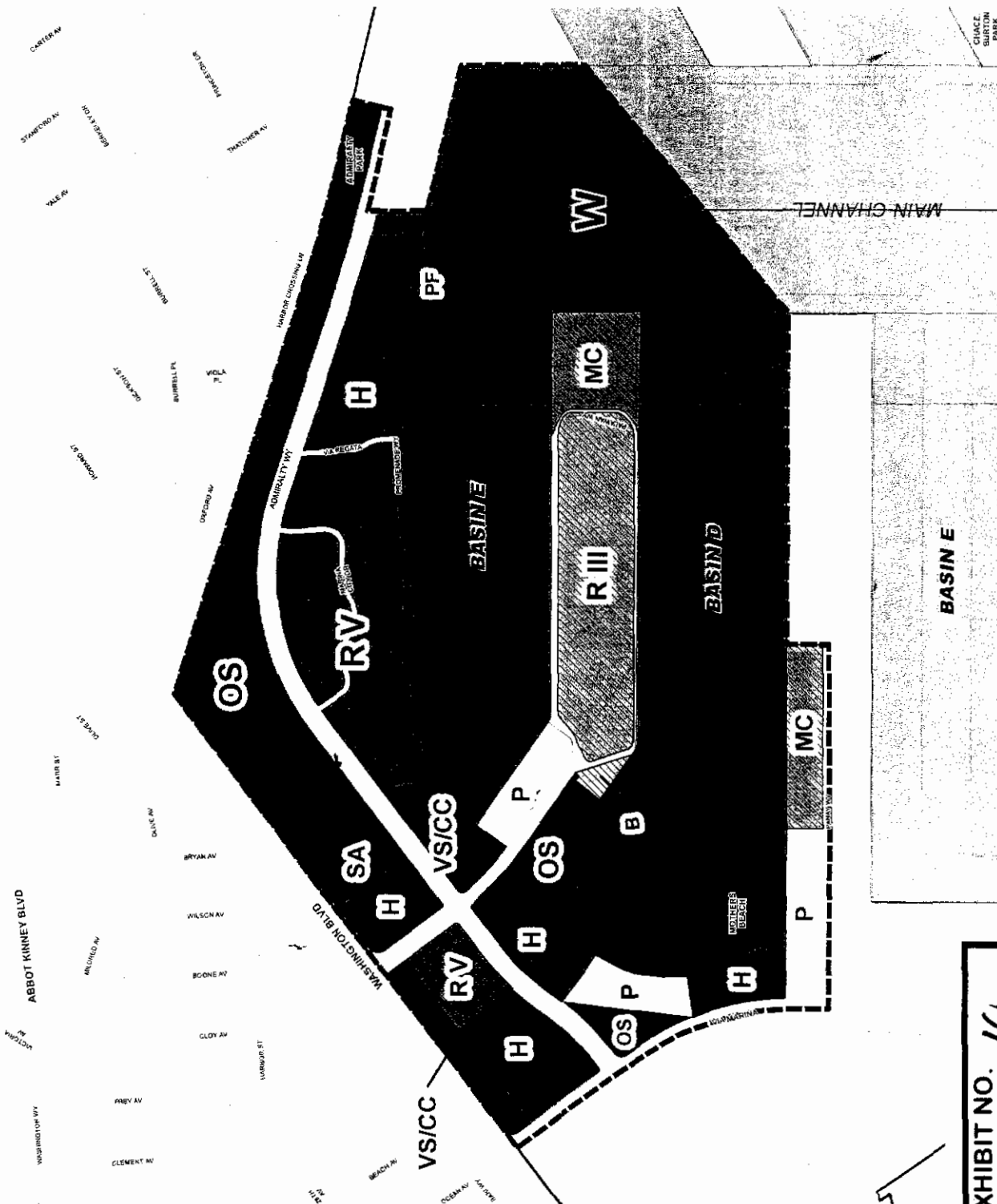


EXHIBIT NO. 10

Application Number

MIRA LCPA 1-11

Development

Zone 2

California Coastal Commission

Los Angeles County

MARINA DEL REY

Proposed Development Zone 3

LEGEND

- LUP
- R III - Residential III (35 du/ac)
  - R IV - Residential IV (45 du/ac)
  - R V - Residential V (75 du/ac)
  - H - Hotel
  - VS/CC - Visitor-Serving / Convenience Commercial
  - O - Office
  - MC - Marine Commercial
  - B - Boat Storage
  - P - Parking
  - PF - Public Facilities
  - SA - Seniors Accommodation
  - OS - Open Space
  - W - Water
  - Mixed Use Overlay
  - Waterfront Overlay
  - River, Stream or Channel
  - Lease Parcels LCP
  - Proposed Development Zone 3
  - Marina Del Rey LCP Area
  - Perennial Water Body
  - Pacific Ocean



LOS ANGELES COUNTY  
Department of Regional Planning  
335 W. Temple St.  
Los Angeles, CA 90012



Current as of: August 2010

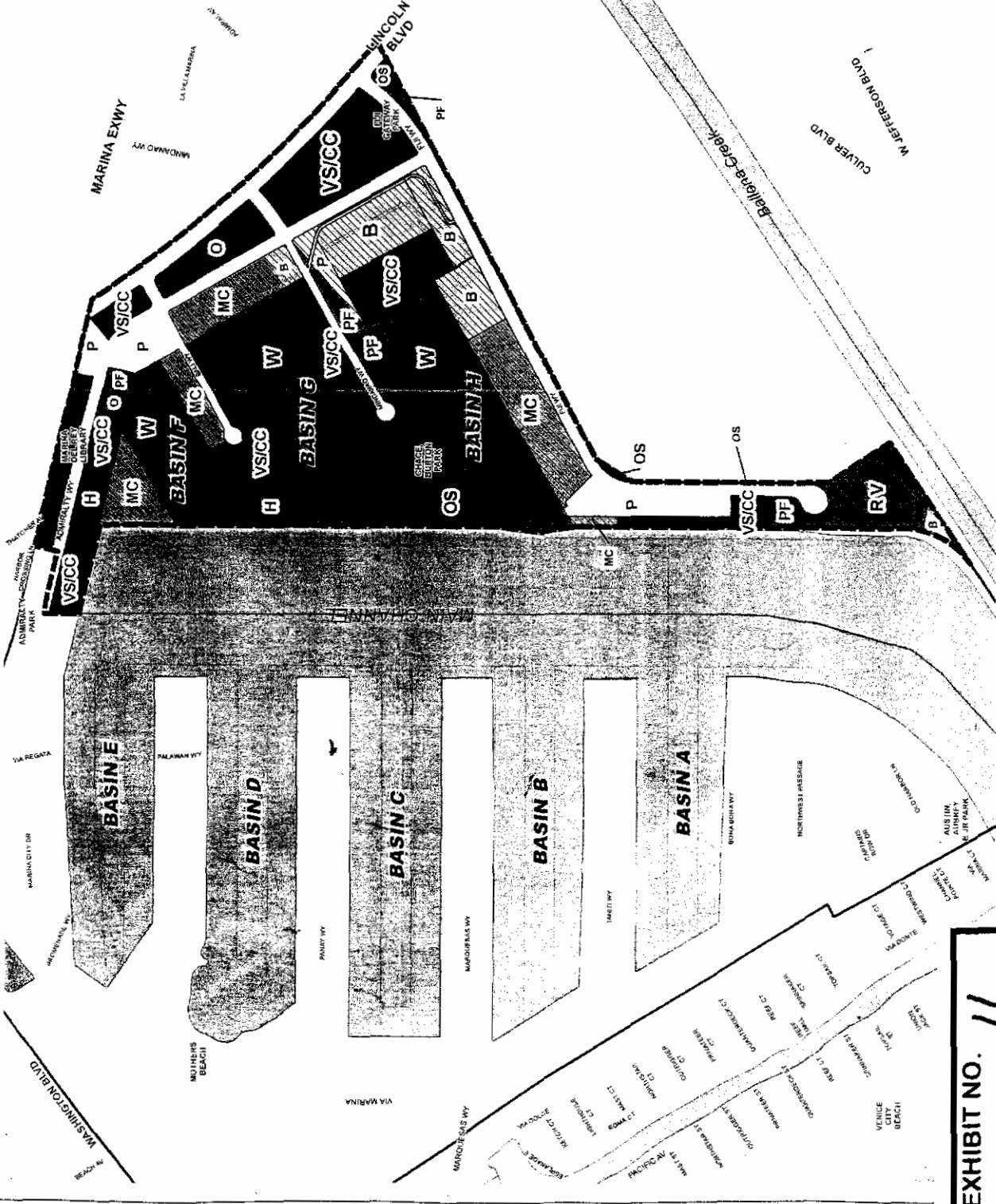


EXHIBIT NO. 11

Application Number

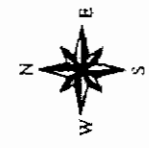
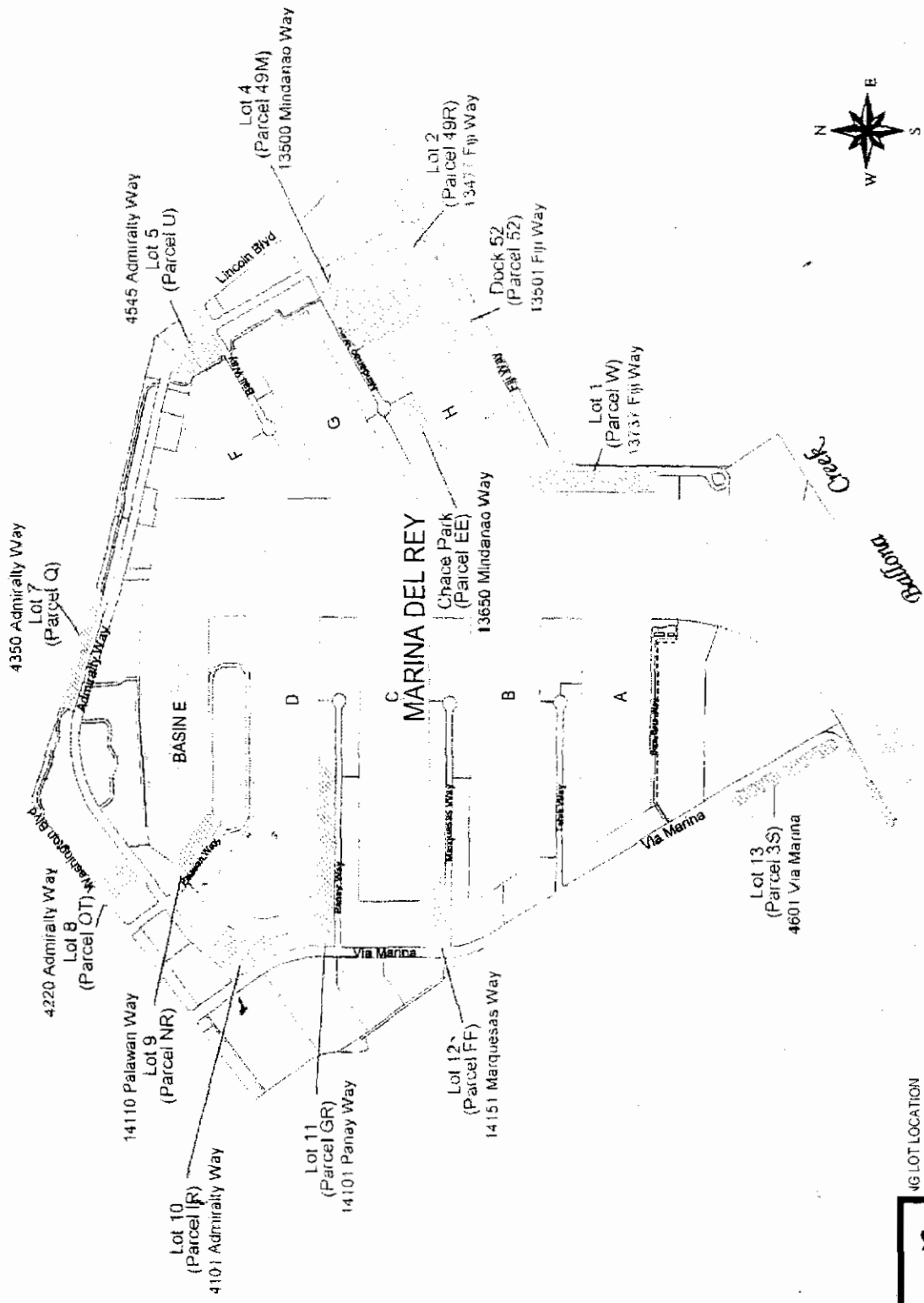
MDR LCPA-11

Development

Zone 3

California Coastal Commission





1/8" = 1' LOT LOCATION

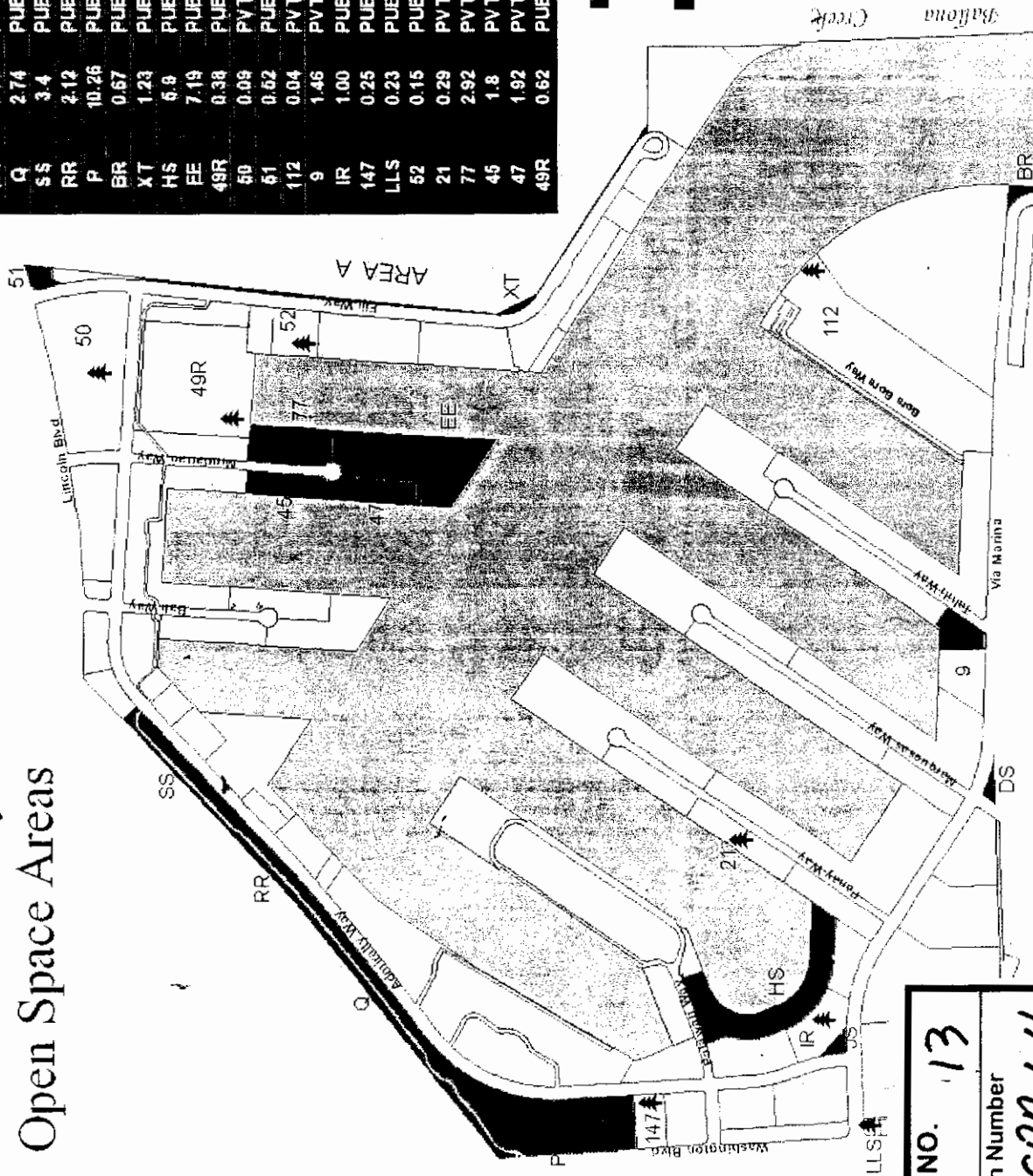
DEPT OF BEACHES AND HARBORS, PLANNING DIVISION

EXHIBIT NO.	12
Application Number	MDR LCPA-141
Existing Parking Lots	
California Coastal Commission	

RAJU Associates, Inc.

LIC PARKING LOTS IN MARINA DEL REY

# Marina del Rey Open Space Areas



Parcel	Size (ac)	Description (Public or Private)
JS	0.36	PUB - Green space near gateway
DS	0.72	PUB - Green space near gateway
Q	2.74	PUB - Burke Park, open space and parking
SS	3.4	PUB - Burke Park
RR	2.12	PUB - Burke Park
P	10.26	PUB - Oxford Basin
BR	0.67	PUB - Green space near main channel
XT	1.23	PUB - Area A buffer
HS	6.8	PUB - Marina Beach
EE	7.19	PUB - Chace Park
49R	0.38	PUB - Urban open space
50	0.09	PVT - Urban open space
61	0.62	PUB - Gateway green space
112	0.04	PVT - View park
9	1.46	PVT - Wetland park
IR	1.00	PUB - Open space in support of Marina Beach
147	0.25	PUB - Walkway adjacent to Oxford Basin
LLS	0.23	PUB - Gateway green space
52	0.15	PUB - View park/corridor
21	0.29	PVT - Community park
77	2.92	PVT - Chace Park expansion
45	1.8	PVT - Chace Park expansion
47	1.92	PVT - Chace Park expansion
49R	0.62	PUB - Urban open space

- Entire Parcel - Existing
- ▲ Parcel Portion - Existing
- Entire Parcel - Proposed
- ▲ Parcel Portion - Proposed

Total Existing = 35.62 acres  
Total Proposed = 10.64 acres

\*PVT = Within private leasehold, open to public.

EXHIBIT NO. 13
Application Number MDR-LCPA 1-11
Open Space
California Coastal Commission

# Marina del Rey Personal Watercraft Storage Spaces

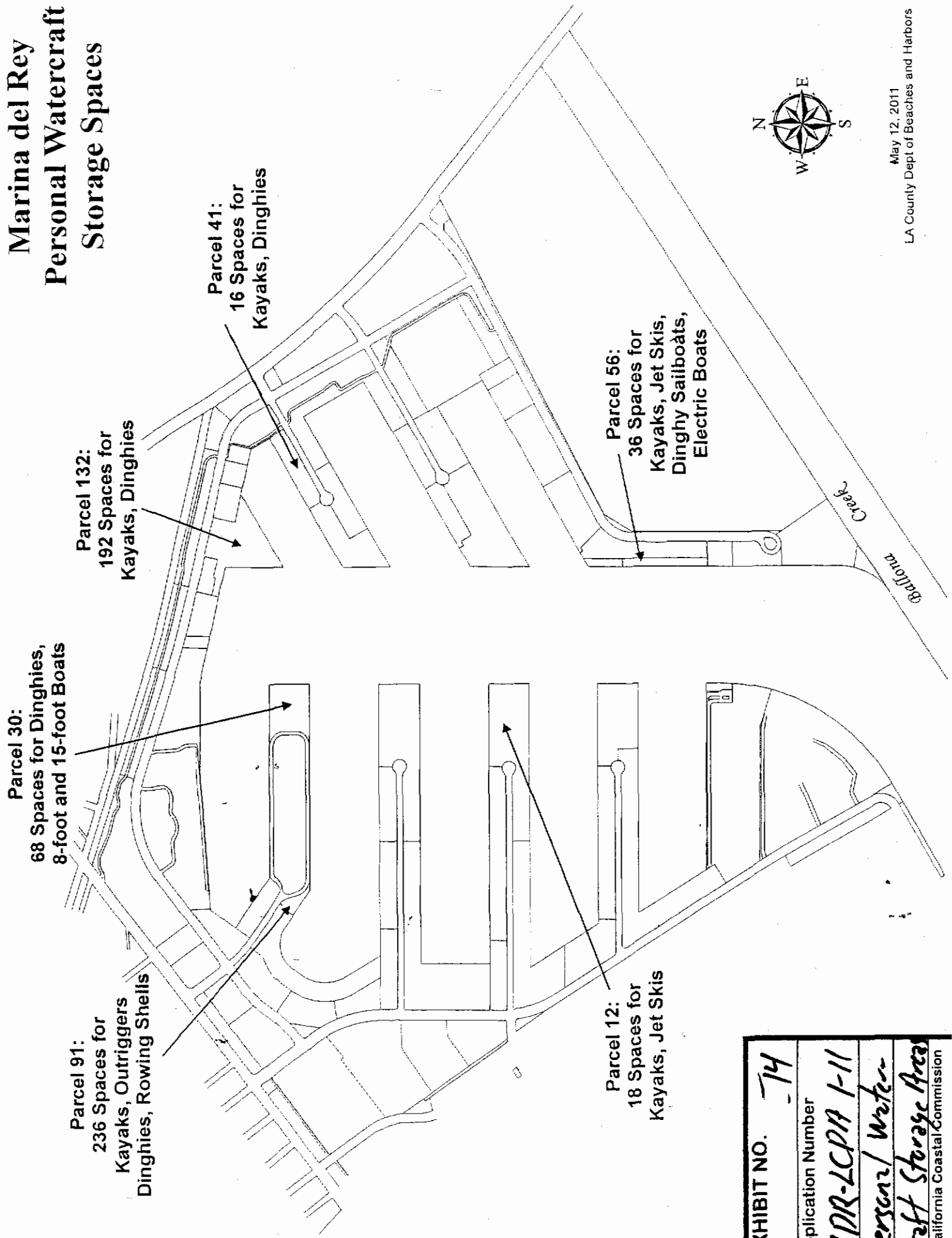


EXHIBIT NO.	74
Application Number	MDR-LCPA 1-11
	Personal Watercraft Storage Areas
	California Coastal Commission

# BURTON W. CHACE PARK

## Concept Plan - Overview

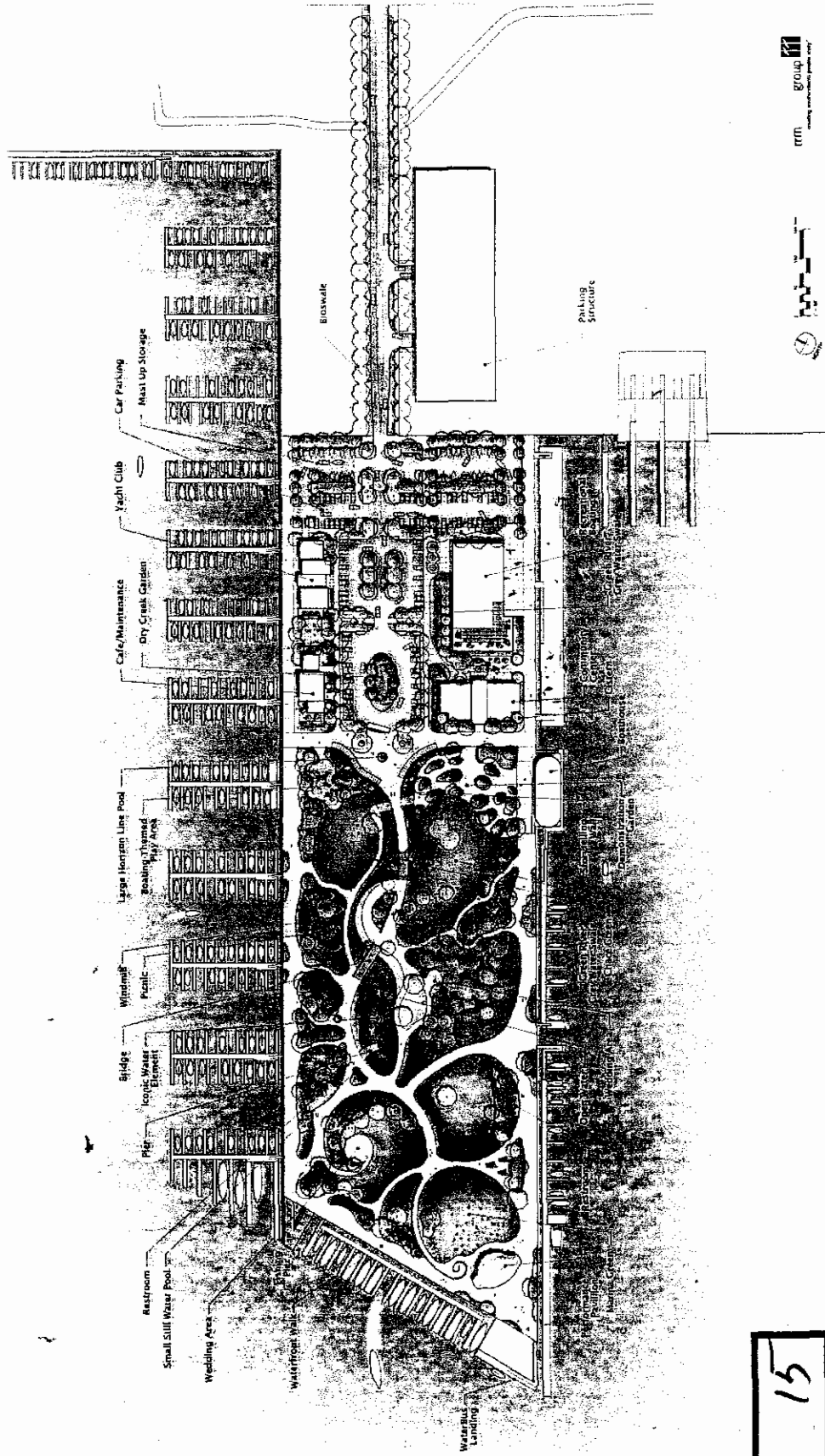


EXHIBIT NO.	15
Application Number	MDR-LCPA1-11
Chase Park	Concept Plan
California Coastal Commission	

Slip and Vacancy Count - Entire Marina

Parcel Number/Name	Existing Slips					Proposed Slips					Vacant Slips - July 2011					Existing Total	Proposed Total	Vacancy Total	Slip Loss	Boat Displacement
	21-25	26-30	31-35	36-40	41-45	46-50	51-55	Avg Slip Size	520	21-25	26-30	31-35	36-40	41-45	46-50	51-55				
Parcel 7 - Tahiti Marina	8	80	44	42	12	7	21	35.9								5	214	14	0	7
Parcel 8 - Bay Club		67	91	63	9			35.3									230	11	23	8
Parcel 10 - Neptune Marina	12	126	22	20				29.6									180	7	19	10
Parcel 12 - Esprit I			30	53	58	44	31	45.6									216	25	0	12
Parcel 13 - Villa del Mar		3	33	70	36	36	8	41.6									186	24	0	13
Parcel 15 - Bar Harbor Marina	1	105	32	40	20	18		32.0									236	27	0	15
Parcel 18 - Dolphin Marina	30	163	68	41	39	26	18	34	32.2								424	30	0	18
Parcel 20 - Panay Way Marina	2	40	59	21	9	8		30.1									139	14	0	20
Parcel 21 - Holiday Harbor	68	51		10				25.3									182	69	90	21
Parcel 28 - Marina Bay		182	100	82		9	2	34.1									375	111	0	28
Parcel 30 - Del Rey Yacht Club		8	70	51	33	26	22	55	41.1								295	16	0	30
Parcel 41 - Catalina Yacht Club	38	52	24	34				26.5									148	20	0	41
Parcel 42/43 - Marina del Rey Hotel	109	120	70	36				31.2									349	126	72	0
Parcel 44 - Pier 44	14	131	28	59				27.2									232	141	74	44
Parcel 47 (845) - Anchorage 47	177	104	41	6	1	1		27.5									330	253	126	0
Parcel 53 - The BoatYard	34	23	37	9				30.8									103	101	9	53
Parcel 54 - Windward Yacht Center		3		24	6			14	44.2								54	54	7	54
Parcel 111 - Marina Harbor	2	18	27	2	15			39	45.7								111	20	0	111
Parcel 112 - Marina Harbor	4	96	11	24				40	36.7								175	5	0	112
Parcel 1251 - Marina City Club	13	118	88	60	11	22	8	35.5									320	62	38	1251
Parcel 132 - California Yacht Club	1	28	3	68	58	45	39	20	41.2								282	262	13	132
Totals	160	1052	1188	883	673	258	211	276	34.7	88	711	908	890	756	349	322	4761	4349	810	412
% of Total Slips in the Marina	3.4	22.1	25.0	18.5	14.1	5.4	5.7	5.8		2.0	16.3	20.9	20.5	17.4	8.0	7.4				

Notes: Slip Loss/Gain is the difference between Existing and Proposed. Boat Displacement is the difference between Vacancy and Slip Loss.

Slip and Vacancy Count - Master CDP Parcels

Parcel Number/Name	Existing					Proposed					Vacant					Existing Total	Proposed Total	Vacancy Total	Slip Loss	Boat Displacement
	21-25	26-30	31-35	36-40	41-45	46-50	51-55	Avg Slip Size	520	21-25	26-30	31-35	36-40	41-45	46-50	51-55				
Parcel 8 - Bay Club		12	126	22	20												230	11	23	8
Parcel 10 - Neptune Marina	68	53	51														180	7	19	10
Parcel 21 - Holiday Harbor	109	120	70	36													349	126	72	0
Parcel 42/43 - Marina del Rey Hotel	14	131	28	59													232	141	74	44
Parcel 44 - Pier 44	177	104	41	6	1	1											330	253	126	0
Parcel 47 (845) - Anchorage 47	34	23	37	9													103	101	9	53
Parcel 53 - The BoatYard	13	118	88	60	11	22	8										320	282	38	1251
Parcel 1251 - Marina City Club	82	529	637	408	204	21	33	12		10	188	357	415	287	112	84	61	484	412	
Totals																				

Notes: Slip Loss/Gain is the difference between Existing and Proposed. Boat Displacement is the difference between Vacancy and Slip Loss.

EXHIBIT NO.

16

Application Number

MDR-LCPA 1-11

Slip Vacancy

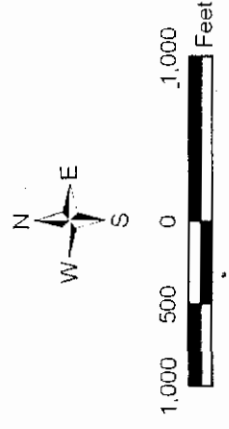
Counts

California Coastal Commission

# Marina del Rey Post Development Pumpout Locations

P-1 = 2 Pumpouts  
P-8 = At Least 1 Pumpout  
P-10 = 1 Pumpout  
P-12 = Multiple Pumpouts  
P-20 = 1 Pumpout  
P-21 = 1 Pumpout  
P-42/43 = 1 Pumpout  
P-44 = 3 Pumpouts  
P-47 = 1 Pumpout  
P-49R = 1 Pumpout  
P-53 = 1 Pumpout  
P-111/112 = 1 Pumpout  
P-125 = 1 Pumpout  
P-BW = 4 Pumpouts  
P-EE = 1 Pumpout

△ Existing Public  
▲ Existing Private  
○ Proposed Public  
● Proposed Private



Map Sept 13, 2011 by Los Angeles County  
Dept of Beaches and Harbors, Planning Division



EXHIBIT NO.

17

Application Number

MDR LCDA 1-11

Pump-out

locations

California Coastal Commission



**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

EXHIBIT NO. 1 18
Application Number
MDR LCPA 1-11
ESHA Determination
Memorandum
California Coastal Commission

**MEMORANDUM**

FROM: Jonna D. Engel, Ph.D., Ecologist

TO: Jack Ainsworth, District Director; Gary Timm, Coastal Program Manager;  
Al Padilla, Coastal Program Analyst

SUBJECT: Review of 2006 Marina del Rey Heronry ESHA Determination and the  
2010 *Conservation and Management Plan for Marina del Rey*

DATE: October 20, 2011

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Documents Reviewed:

Engel, J. December 19, 2006. Memorandum, re: MDR ESHA determination for Marina del Rey tree stands with past and present history of roosting and nesting herons and egrets. To: Lisa Haage, Chief of Enforcement; Alex Helperin, Enforcement Attorney; Andrew Willis, Enforcement Analyst.

Hamilton, R.A. and D.S. Cooper. September 12, 2011. Review of Waterbird Population Status, Marina del Rey Memorandum.

Hamilton, R.A. June 23, 2010. Summary Report, Nesting Bird Survey Burton Chace Park, Marina del Rey. Prepared for Mr. George Schtakleff, Project Manager, Mackone Development, Inc.

Hamilton, R.A. and D.S. Cooper. September 16, 2010. Conservation and Management Plan for Marina del Rey, Los Angeles County. Prepared for County of Los Angeles, Department of Beaches and Harbors and Department of Regional Planning.

Hamilton, R.A. August 22, 2007. Letter, re: Great Blue Heron Nesting Trees as Environmentally Sensitive Habitat Areas. To: Andi Culbertson.

Hanscom, M. November 2, 2010. Preliminary Analysis, Sensitive Biological Resources, Conservation Management Plan Study. Marina del Rey, Local Coastal Program, Proposed Amendments, County of Los Angeles. Report prepared for We Are Marina del Rey.

Garrett, K.L. (Natural History Museum of Los Angeles County) July 29, 2010. Letter, re:

Marina del Rey Draft Conservation and Management Plan. To: Daniel S. Cooper, Cooper Ecological Monitoring; M. Andriette Culbertson, Culbertson, Adams and Associates, Inc.; Robb Hamilton, Hamilton Biological, Inc.

George, G. (1<sup>st</sup> VP, Conservation Chair, Los Angeles Audubon). November 5, 2010. Letter, re: Revised Conservation and Management Plan for Marina del Rey dated August 19, 2010. To: Santos Kreimann, Director, Los Angeles County Beaches & Harbors.

Pert, E. (Regional Manager, South Coast Region, CDFG). September 23, 2010. Letter, re: Conservation and Management Plan for Marina del Rey, Los Angeles County. To: Dr. Jonna Engel, California Coastal Commission.

Strassburger, M. (Chief, Division of Migratory Birds, USFWS). August 8, 2011. Letter, re: Marina del Rey waterbird plan. To: Jonna D. Engel, PhD, Ecologist, California Coastal Commission.

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In a memorandum dated December 19, 2006, I made the determination that non-native tree stands serving as heron and egret roosting and nesting sites (heronries) in Marina del Rey rose to the level of ESHA for the following reasons:

1. Wetlands are important and imperiled ecosystems.
2. Herons and egrets are top predators in wetland food webs and therefore integral components of healthy and properly functioning wetland ecosystems.
3. Certain non-native tree stands in Marina del Rey play an especially valuable role in the Ballona Wetland ecosystem by providing rare and essential roosting and nesting space for five species of herons and egrets; and
4. Non-native tree stands in Marina del Rey are easily disturbed and degraded by human activities and development as a result of pruning or removal.

Now, five years later, I have been asked to re-assess this conclusion. My re-assessment has included several site visits; I re-visited the site with Commission staff on March 10, 2009 and June 14, 2011 and with Robb Hamilton and Andi Culbertson on July 31, 2009; review of early drafts of the *Conservation and Management Plan for Marina del Rey* and the final September 16, 2010 *Conservation and Management Plan for Marina del Rey*; review of historic and current aerial photographs; consultation with biological experts including Kimball Garrett of the Museum of Natural History Los Angeles County and agency biologists from USFWS, Audubon, and CDFG; and review of peer-reviewed literature. I reviewed historic and current information for each ESHA determination, however, "on-the-ground" conditions are the most germane. Ms. Hanscom recognized this when she wrote the following in her November 2, 2010 report for We Are Marina del Rey:



*In practice and as a matter of acknowledgement of the changes nature is capable of, the on-the-ground situation is what guides the Coastal Commission and other entities responsible for upholding this important tenet [section 30107.5] of the California Coastal Act for determination of ESHA.*

The Marina del Rey LCP, certified in 1996, does not designate any Environmentally Sensitive Habitat Areas (ESHA). The Marina del Rey LUP ESHA definition is identical to the Coastal Act definition of ESHA found in section 30107.5 which states that:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

The possibility of recommending that new ESHA be recognized related to the recent colonization of Marina del Rey by herons and egrets and most recently cormorants has been a topic of the Periodic Review and was the subject of my 2006 memorandum. In the intervening years since I made my 2006 ESHA determination for non-native tree stands serving as heronries in Marina del Rey, the Commission completed its Periodic Review of the Marina del Rey Local Coastal Program. The Periodic Review provided Los Angeles County with recommended actions for more fully implementing the Coastal Act in Marina del Rey. The Commission included a number of recommendations concerning biological resources and environmentally sensitive habitat areas (No's 36-62). Recommendation No. 36 stated the following with regard to steps needed to evaluate the potential presence of ESHA in Marina del Rey:

*Determine the presence of ESHA based on the best available information, including current field observation, biological reports, and additional resources from the Department of Fish and Game and the U.S. Fish and Wildlife Service.*

Los Angeles County Department of Beaches and Harbors responded to this and the other recommendations by commissioning Robert A. Hamilton, president of Hamilton Biological, to perform a regional review and marina-wide comprehensive natural resources study and to develop a plan for protecting and preserving sensitive biological resources in Marina del Rey. Hamilton teamed with Daniel S. Cooper, president of Cooper Ecological Monitoring, Inc., and they conducted detailed research and surveys of the historic and present day status of wading bird, cormorant, and other birds in the region and the marina. They also developed a comprehensive and protective strategy for conserving and managing sensitive biological resources in Marina del Rey titled *Conservation and Management Plan for Marina del Rey*. Los Angeles County Department of Beaches and Harbors has adopted and endorses the plan. Hamilton and Cooper's study results, which they report in their plan, includes information that I did not consider in my 2006 ESHA determination memorandum. For example, the plan includes a greater level of information on the historic and current status of herons, egrets and cormorants than was available when the Periodic Review was initiated in 2005 or when I prepared my 2006 memorandum.

In 2006 when I concluded that roosting and nesting herons and egrets were integral components of the Ballona Wetland ecosystem, I viewed the recent colonization of Marina del Rey by breeding colonies of these species as a re-colonization of the area. My ESHA recommendation assumed that herons and egrets historically nested in the Ballona Valley, that they became rare as a result of hunting and loss of native trees, and that the recent re-establishment of breeding populations in Marina del Rey represented a re-colonization of these species in the area.

Regarding the historical landscape of the lower Ballona Creek area Hamilton and Cooper report in their plan:

*The historical landscape along the coast west of present-day Lincoln Boulevard (i.e., an area encompassing all of Marina del Rey) likely consisted of wide tidal channels and mudflats, salt marshes, coastal dunes, pockets of freshwater and/or brackish marsh, as well as riparian scrub. Also present was a coastal prairie community described by researchers as far back as the 1930s (e.g., "the meadow" referred to by von Bloeker 1943). These are generally the habitat types typical of coastal estuaries throughout southern California and northwestern Baja California, Mexico (see, e.g., Grewell et al. 2007, Pickart and Barbour 2007). Comparable coastal estuaries on broad plains in southern California include Carpinteria Marsh, Mugu Lagoon, Alamitos Bay, Bolsa Chica, Upper Newport Bay, and the Tijuana River Estuary, and those in northwestern Baja California include the Estero Rio Guadalupe and Estero Punta Banda; all are characterized by the habitats listed above and not by tall native trees. Where tall trees do occur near coastal estuaries in the region, such as at Goleta Slough and Malibu Lagoon, those trees are almost invariably introduced by people. At Ballona, tall native trees such as California sycamores (*Platanus racemosa*) and coast live oaks (*Quercus agrifolia*) were likely confined to upstream reaches of Ballona Creek, as suggested by historical photos of Ballona Creek near present-day Culver City (see Cooper 2008).*

Regarding historical heron and egret breeding colonies in the lower Ballona Creek area Hamilton and Cooper report in their plan:

*We consider it likely that, if colonial waterbirds were nesting in the Ballona/Venice area, or in other parts of the state, during the middle and late 1800s, older ornithologists/ oologists (egg collectors) of that era would have known of and mentioned nesting locations prior to the rise of plume-hunting in the late 1800s and early 1900s, which they apparently did not. Early accounts by Grinnell (1898), Willett (1912), Dawson (1915), and Grinnell and Wythe (1927) all describe breeding by colonial waterbirds birds as highly localized in the state, not only by the early 1900s, but for decades prior to 1900 as well. None listed the Ballona area among the nesting locations for these species.*

*However, both Grinnell (1898) and Willett (1912), among other authors and collectors, reported many nesting records of species other than colonial waterbirds from Venice, Ballona, Playa del Rey, Del Rey, and other local sites. The Western Foundation of Vertebrate Zoology in Camarillo, California, contains dozens of egg sets collected from this area during the late 1800s and early 1900s, including several of the elusive, and now locally-extirpated, Light-footed Clapper Rail (*Rallus longirostris levipes*) found in extensive saltmarsh and brackish wetlands. Thus if colonial waterbirds were present and nesting in the Ballona area during this period, we may reasonably infer that they would have been at least noted, if not collected.*

Kimball Garrett, Ornithology Collections Manager at the Museum of Natural History Los Angeles County, echoes Hamilton and Cooper's position that the Ballona Valley did not historically support native tree stands or heron and egret breeding colonies. In a letter of support for the *Conservation and Management Plan*, he wrote:

*It is entirely reasonable to conclude that trees and other tall vegetation suitable for nesting herons was absent from what is now the Marina del Rey area prior to the massive land-use changes that began with agricultural development and culminated in the creation of the urban marina that now exists at the site. You convincingly conclude that the planting of trees in the Marina area does not constitute restoration of arboreal habitat, but instead represents an unnatural by-product of urbanization and human aesthetic preferences. Therefore, one must conclude that if herons and cormorants were part of the breeding avifauna of this area 100-150 years ago, they must have nested on the ground or in marshes, presumably in areas inaccessible to mammalian predators. This is a reasonable possibility, as ground-nesting herons and cormorants are found elsewhere. However, it is almost certain that no such colonies existed in the area in the last two decades of the 1800s (and into the 1900s), since egg collectors – known to have worked the "Ballona" and "Del Rey" areas extensively – would surely have documented them. What happened in the mid-1800s, prior to any real natural history documentation in the region, is more open to speculation. Based on what we know of their habitat requirements for nesting and foraging, herons are unlikely to have nested unless there were islands available that enjoyed significant isolation by deep water at even low tide cycles. I am not qualified to comment on the hydrological patterns of the "pristine" estuarine habitats of the area and whether islands with appropriate isolation indeed existed, though the existence of such islands seems unlikely given the relatively small amount of water entering the estuary via Ballona Creek (and, periodically, the Los Angeles River).*

Marina del Rey was completed in 1960, and until the mid-1990's herons and egrets occurred in small numbers as uncommon transients and winter visitors in the marina. According to Cooper, while herons and egrets have been recorded in the Ballona Wetlands and Venice area for a long time, the first breeding record did not occur until 1995 when "small numbers" of great blue herons "nested in the lone cottonwood on the

western edge of the Ballona Wetlands," with subsequent colonization of non-native landscaping trees in Marina del Rey by this and other colonial waterbirds<sup>1</sup>. Since the mid-1990's the numbers of individual birds and the numbers of species has steadily increased so that Marina del Rey now supports, according to the *Conservation and Management Plan*, a combined total of more than 100 breeding pairs of Double-crested Cormorants, Black-crowned Night-Herons, Great Blue Herons, Great Egrets, and Snowy Egrets. Hamilton (Sept. 12, 2011) provided the following information regarding the recent nesting history of herons, egrets, and cormorants in Marina del Rey (for more details see Appendix 1):

Species	1990-2000	2000 to Present
Great Blue Heron	<10 pairs	10 pairs in 2002; 6 pairs in 2005; 33 pairs in 2009 and at least 25 pairs in 2011
Great Egret	Transient/Winter visitor	2 pairs in 2008; ~5 pairs in 2009; 1 pair in 2011
Snowy Egret	Common year round in various numbers	~50 pairs in 2005; ~35 pairs in 2009; 24 pairs in 2011
Black-crowned Night Heron	Uncommon transient and rare breeder in 1992; 3 pairs in 1995	~216 pairs in 2005; ~45 pairs in 2009; 81 pairs in 2011
Double-crested Cormorant	Common in fall/winter, less so through spring/summer	Nesting first noted in 2007; 19 pairs in 2009; at least 22 pairs in 2011
White-faced Ibis	Rare transient	Uncommon transient

Colonization of Marina del Rey by nesting herons and egrets and more recently, cormorants, has been part of a dramatic regional and statewide expansion of populations of herons and egrets and other waterbirds into urban areas such as harbors, marinas, reservoirs, and similar settings, where non-native landscape trees are used for nesting. Much like opossums, raccoons, coyotes, and crows, herons and egrets have adapted to and are flourishing in urban settings. The number of species and individual number of breeding herons and egrets increased from the mid-1990's into the early 2000's. In the last few years the pattern has shifted with some species showing decreases in breeding pairs and others showing increases in breeding pairs. In any case, the large number of heron and egret breeding pairs in Marina del Rey indicates that these birds are successfully adapting to the urban environment of Marina del Rey and are not easily disturbed or degraded by human activities and developments. CDFG stated the following in its letter of support for the *Conservation and Management Plan*:

*As discussed in the Plan, various colonial waterbird species have substantially expanded their local and regional breeding populations in recent decades, largely*

<sup>1</sup> Cooper, D. S. 2006. Annotated checklist of extirpated, reestablished, and newly-colonized avian taxa of the Ballona Valley, Los Angeles County, California. Bulletin of the Southern California Academy of Sciences 105:91-112.

*by colonizing urban coastal areas like Marina del Rey. Such areas formerly appeared to be too disturbed or otherwise compromised by human activities to support substantial nesting colonies but starting in the 1990s the birds have rapidly adapted to urban conditions and there is no sign of this trend diminishing.*

The increase in the numbers of nesting herons and egrets in Marina del Rey is being followed closely by USFWS and CDFG with some concern. Herons and egrets are omnivores known to consume other birds, including terns and shorebirds, in addition to their typical diet of fish, other aquatic prey, and rodents<sup>2,3,4</sup>. The California Least Tern, *Sterna antillarum browni*, a federally endangered species, has a small breeding colony on Venice Beach that is the subject of an active recovery program and there are on-going efforts to re-introduce western snowy plover, *Charadrius alexandrinus nivosus*, a federally threatened species, to Los Angeles beaches including those near Marina del Rey. The *Conservation and Management Plan* addresses this potential conflict and “allows for biologists from state or federal resource agencies to potentially intervene (e.g., through tree pruning or removal, or through removal of “problem” individuals) if monitoring of the local ecosystem indicates that such management is clearly advisable”.

Hamilton and Cooper expressly state that a goal of their *Conservation and Management Plan* was “not to prove one way or another whether colonial waterbirds did or did not nest at Ballona or elsewhere in the local area historically, but to evaluate the evidence that is available in order to base management and conservation recommendations on the known historical record and on the most likely scenarios.” In my opinion the authors have met this standard. They have shown that the lower Ballona Creek area did not likely support native trees historically and that lack of historic evidence for nesting herons and egrets implies that breeding colonies are new to this area. This revised understanding leads me to conclude that the natural state of the Ballona Wetlands was a wetland ecosystem without native trees or heron and egret breeding colonies prior to human development disturbance. Therefore, in this wetland location, nesting herons and egrets have not historically been an integral component of wetland health and proper functioning. For this reason I now believe that, although these species currently play a role in the lower Ballona Wetlands area, it is likely not an especially valuable one for the health of the ecosystem. However, it is important to note there are no pristine coastal ecosystems left in southern California and if rare or endangered species came to rely on what historically would be considered “novel” habitat, that habitat could meet the definition of ESHA under the Coastal Act. In the present instance, the species of nesting birds are neither rare nor endangered.

In addition, when I determined that non-native tree stands used by herons and egrets for roosting and nesting rose to the level of ESHA in 2006, I did not appreciate the ephemeral nature of individual heronries nor did I appreciate the large number of non-

<sup>2</sup> Marschalek, D. A. 2008. *California Least Tern breeding survey, 2007 season*. CDFG, Wildlife Branch, Nongame Wildlife Program Report, 2008-01. Sacramento, CA.

<sup>3</sup> Marschalek, D. A. 2009. *California Least Tern breeding survey, 2008 season*. CDFG, Wildlife Branch, Nongame Wildlife Program Report, 2009-02. Sacramento, CA.

<sup>4</sup> Marschalek, D. A. 2010. *California Least Tern breeding survey, 2009 season*. CDFG, Wildlife Branch, Nongame Wildlife Program Report, 2010-02. Sacramento, CA.

native trees suitable and available for roosting and nesting in Marina del Rey. Some trees used by herons and egrets for roosting and nesting eventually die due to an accumulation of bird droppings on the tree and increases in soil nitrates, nitrites, and phosphates<sup>5,6</sup>. The decline and death of trees in this manner is called guanotrophy; some trees are more tolerant of guanotrophy than others and take as long as 10 to 12 years to die whereas others die within one to two years of colony establishment<sup>7</sup>. On the east side of the marina near the Villa Venetia parking lot, one large Monterey cypress used by nesting great blue herons for several years apparently suffered from guanotrophy and fell over, crushing a car in 2008. Two remaining cypress trees have also been affected by guanotrophy losing most of their foliage; one of the cypress is leaning quite severely (see cover photo of *Conservation and Management Plan*). While herons and egrets typically demonstrate nest fidelity for several years, they eventually either abandon nests because they become polluted by bird droppings and/or infested with lice or because the tree supporting the nest has become undesirable due to disease or death. Thus heronries are not permanent; herons and egrets move around choosing sites with trees that meet their roosting and nesting requirements (height, camouflage, foraging habitat proximity, etc.). Annually the Department of Beaches and Harbors estimates the number of trees in preparation for pruning; in 2011 the department estimated over 1,500 non-native ornamental trees on County property. This number would be considerably larger if trees on the leaseholder property had been included in the estimate.

This information leads me to conclude that individual, non-native tree stands, are not especially important to roosting and nesting herons and egrets and that non-native trees are not rare in Marina del Rey. This information sheds new light on my 2006 ESHA determination. When I made my 2006 ESHA determination for non-native tree stands serving as heronries in Marina del Rey, I thought that tree stands were historically a part of the Ballona Wetlands and that the presence of heron and egret breeding colonies represented re-colonization of the area by nesting herons and egrets, not a new phenomenon. I also did not appreciate the ephemeral nature of individual heronries or the abundance of non-native trees in Marina del Rey.

My 2006 ESHA determination was also based on my conclusion that non-native tree stands serving as heronries in Marina del Rey were easily disturbed and degraded by human activities and development as a result of pruning or removal. This conclusion followed several incidents where trees were so severely pruned that the intention to get rid of nesting herons and egrets was quite transparent. Local residents alerted the Commission to these actions, which led to enforcement action. The Department of Beaches and Harbors, in addition to investigating the excessive pruning, revised and

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<sup>5</sup> Telfair, R.C. and B.C. Thompson. 1986. Nuisance heronries in Texas: characteristics and management. Texas Parks and Wildl. Dep. Fed. Aid Project Rep. W-103-R, Austin.

<sup>6</sup> Telfair, P.C. and T.J. Bister. 2004. Long-term breeding success of the cattle egret in Texas. *Waterbirds*, vol. 27(1): 69-78.

<sup>7</sup> Grant, K.R. and J. Watson. 1995. Controlling Nuisance Egret and Heron Rookeries in Oklahoma. *Wildlife Damage Management*, Internet Center for Great Plains Wildlife Damage Control, Workshop Proceedings. University of Nebraska, Lincoln.

improved their 2006 tree pruning and removal policy (Appendix 2 – Policy 23) and developed tree pruning and removal policy for leaseholders (Appendix 3 – Policy 34). I worked closely with the Department of Beaches and Harbors to ensure that the overarching intent of their tree pruning and removal policies are conservation and protection of heron and egret breeding colonies, cormorant breeding colonies, and other sensitive bird species. Section 1.1 of policies 23 and 34 states that their purpose is:

*To establish guidelines within Marina del Rey and on Los Angeles County beaches for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds..*

The Department of Beaches and Harbors has committed to annual surveys of breeding and nesting herons, egrets, and cormorants, California Species of Special Concern, and federal and state listed species, conducted by a qualified biologist (s), as outlined in the *Conservation and Management Plan*, to establish the long-term status and trends of these species, especially colonial waterbirds. Survey reports will include photos of active and inactive nests and will provide the basis for management and oversight of the nesting birds in Marina del Rey. Under policy 23 and 34 nesting tree removal is only permitted for health and safety emergencies. However, in recognition that human/bird conflicts can arise in an urban setting, the Department of Beaches and Harbors has incorporated the following limited allowances into their policy following consultation with me and with Hamilton and Cooper:

*Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding season, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the County or County contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.*

Recent actions by the Commission have identified issues related to protecting heronries as an integral part of protecting sensitive biological resources in other harbor areas. For

example, in recent Commission actions in Channel Island (PWPA 1-04), Long Beach (CDP 5-08-187, LCP Amendment 1-09) and Dana Point (DPT-MAJ -1-08) harbors, the Commission reviews noted that herons and egrets roosted and nested in non-native trees amidst harbor facilities, including near buildings and parking areas. While the Commission adopted conditions to restrict construction activities during active nesting, it found that trees within these harbors did not meet the definition of ESHA. The Commission noted that herons and egrets are neither listed nor proposed for listing as threatened or endangered species, but individual herons and egrets and their nests are protected under the Migratory Bird Treaty Act and the California Fish and Game Code. The Department of Beaches and Harbors reviewed the tree pruning and removal policies approved by the Commission for these harbors when they updated policies No. 23 and 34.

In summary, I have re-assessed and revised my 2006 ESHA determination for non-native tree stands serving as heronries in Marina del Rey in light of my review of new information presented in the *Conservation and Management Plan*. I no longer believe that the non-native trees serving as heronries (roosting and nesting sites) in Marina del Rey rise to the level of ESHA for the following reasons:

1. The lower Ballona Creek area did not likely support native trees historically, and lack of historic evidence for nesting herons and egrets implies that breeding colonies are new to this area. In this wetland location nesting herons and egrets have not historically been an integral component of wetland health and proper functioning and therefore likely do not currently play an especially valuable ecosystem role in the Ballona Wetland ecosystem,
2. Individual heronries (stands of non-native trees) in Marina del Rey are ephemeral and non-native trees in Marina del Rey are abundant. Therefore, non-native tree stands in Marina del Rey are not rare, and individual stands do not play an especially valuable ecosystem role in the Ballona Wetland ecosystem by providing critical roosting and nesting space for herons and egrets, and,
3. The Department of Beaches and Harbors has revised and is enforcing their tree pruning and removal policies to ensure the health, survival, and persistence of trees and the birds species that nest in them. The policies include a 1:1 mitigation requirement for any tree that is removed. As a result of policy changes and commitment to enforcement, non-native tree stands in Marina del Rey are not easily disturbed and degraded by human activities and development as a result of pruning or removal.

While I no longer find that non-native tree stands serving as heronries in Marina del Rey rise to the level of ESHA, I do believe that the trees and the roosting and nesting heron, egrets, and cormorants, as well as other bird species, using them require protection and proper management to ensure their survival and persistence in Marina del Rey. I have carefully reviewed Hamilton and Cooper's *Conservation and Management Plan for Marina del Rey* and I conclude that it is a thorough, protective, and well designed plan



for ensuring the protection, restoration, and enhancement of sensitive biological resources in Marina del Rey. The *Conservation and Management Plan* has also been reviewed and supported by ornithology experts and agencies. Kimball Garrett of the Museum of Natural History Los Angeles County stated "Overall I found the report excellent, well-researched, and with appropriate suggestions for conservation and management." Los Angeles Audubon stated that "We support the findings of the Conservation and Management plan and recommendations. If adopted by the County, this plan will be a valuable tool in managing heron and egret populations in Marina Del Rey." USFWS said the following in support of the *Conservation and Management Plan*:

*We feel that this colonial waterbird plan is very thorough and well written.... the management recommendations that are provided in the latter part of the document are very sound and suggest a number of actions that could be done to conserve waterbirds and manage the landscape to reduce human/bird conflicts. These recommendations include reducing or eliminating the use of non-native plantings and conducting habitat restoration at key sites; evaluating and adjusting overall land uses; and adapting to situations where birds are in direct conflict with people (such as placing tarps above car parking spaces that are being hit by guano). We support the emphasis of nonlethal management, rather than advocating lethal removal, by encouraging natural movement of birds in response to habitat restoration and vegetation management in places where nesting waterbirds are in conflict with humans.*

California Department of Fish and Game stated the following in support of the *Conservation and Management Plan*:

*The Department finds the Plan to be thorough and comprehensive. The Plan covers the terrestrial natural resources present or potentially present in Marina del Rey with an emphasis upon conservation and management of heron, egret and cormorant populations. ...The County's existing tree-pruning policy, as expanded and improved upon in the Plan, would allow for an appropriate level of management flexibility in those infrequent cases where problematic land-use conflicts might develop between birds and humans, or between birds and other wildlife species."*

The *Conservation and Management Plan* has two overarching goals:

*a) to promote the long-term conservation of all native species that exist in, or that may be expected to return to, Marina del Rey, including surrounding open space areas, focusing especially on the most vulnerable, globally-scarce, and otherwise biologically sensitive species; and b) to diminish the potential for conflicts between wildlife populations and both existing and planned human uses of Marina del Rey (to the benefit of humans and wildlife alike).*

I believe that the plan, as designed, will accomplish these goals. I also believe this plan should serve as a model for other similar urban settings with sensitive biological resources.



## HAMILTON BIOLOGICAL

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September 12, 2011

### MEMORANDUM

**SUBJECT: REVIEW OF WATERBIRD POPULATION STATUS, MARINA DEL REY**

Dan Cooper and I have reviewed the available information and summarized the known status of colonial waterbird species at Marina del Rey during representative periods from pre-1900 through 2011. Please see the table on the following page. The table shows the known historical status of each species of colonial waterbird now known to nest in Marina del Rey as reported in the scientific literature.

The table's numbers and characterizations of general status during different periods of time represent our best understanding of the changing dynamics of waterbird populations in and around Marina del Rey. We must note that the data are fragmentary, and that some level of interpretation is necessary in order to represent the reported status of each species over long periods of time. The most recent data, from 2009 and 2011, are derived from marina-wide surveys that Dan and I completed for the current Conservation and Management Plan and follow-up surveys that we conducted for the County of Los Angeles in 2011.

As the table demonstrates, nesting by colonial waterbirds was unrecorded in the local area prior to 1995, when Great Blue Herons nested in the Ballona Wetlands. Other species started nesting in the local area during the early 2000s. As detailed in our Conservation and Management Plan, the colonization of Marina del Rey has been part of a dramatic regional and statewide expansion of populations of colonial waterbirds into urban areas. Because of the herons' adaptability to humans, Dan and I believe that there is little that could be done to *prevent* the colonization of Marina del Rey, even if anybody wanted to.

The local populations of the various species have undergone fluctuations over the past decade. For example, Black-crowned Night-Herons rapidly built up to an estimated 216 pairs in 2005, and the current estimate is 81 pairs. Different parts of Marina del Rey have been used more heavily in some years than others, in part due to impacts the birds themselves have on their nesting trees. These dynamics are not surprising. In fact, these are reasons why our Conservation and Management Plan calls for management of the marina as a whole, rather than trying to focus on certain areas where birds have nested in recent years. The birds move around and their populations fluctuate, and we fully expect these dynamics to continue into the future. The main point, in our opinion, is that Marina del Rey's colonial waterbird populations are basically robust and stable, and responding positively to the thoughtful landscape management practices that the County of Los Angeles put into place during the past decade. With the additional protections afforded under the Conservation and Management Plan, we believe that colonial waterbirds will continue thrive in Marina del Rey.

316 Monrovia Avenue

Long Beach, CA 90803

562-477-2181

Fax 562-433-5292

Appendix 1

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## Summary of Historical/Current Colonial Waterbird Occurrence in the Marina del Rey/Ballona Area

Species	Pre-1900	1900-1960	1960-1990	1990-2000	2000-present
Great Blue Heron	Transient/ winter visitor at Ballona; nesting "north of Santa Monica" (Grinnell 1898) and/or at Zuma Canyon (Froke 2006); also 1 nest in 1895 "near Cerritos" (Grinnell 1898).	Transient/ winter visitor at Ballona, where "frequently observed in [Ballona] meadow area and salt marsh (von Bloeker 1943); Santa Monica nesting colony persisted to 1901 (Willett 1933).	Transient/ winter visitor at Ballona (e.g., Corey 1992).	<10 pairs nesting in Ballona Wetlands and MdR starting in 1995 (Cooper 2006).	10 pairs nesting in 2002 near Coast Guard Station/Villa Venetia (K.L. Garrett, field notes); 6 pairs nesting there in 2005 (Froke 2006); 33 pairs nesting in 2009 and at least 25 pairs nesting in 2011, most on the west side of MdR; common year-round.
Great Egret	Status unknown at Ballona; "A not infrequent winter and spring visitor on the marshlands" of Los Angeles County; formerly more common (Grinnell 1898); no breeding colonies known in Los Angeles County.	"Occasionally seen all seasons in the [Ballona] salt marsh" (von Bloeker 1943).	Transient/ winter visitor at Ballona.	Transient/ winter visitor at Ballona.	2 pairs nesting at Burke Park in 2008 (Kris Alberts pers. comm.); ~5 pairs nesting at two sites at MdR in 2009; one pair nesting at Burke Park in 2011; common in winter, less so in summer.
Snowy Egret	Rare visitant, formerly more common (Grinnell 1898); no breeding colonies known in Los Angeles County.	Rare into 1920s (Bicknell 1922), "rarely observed in salt marsh" (von Bloeker 1943).	Irregularly common transient (up to 100 at fall roost, 1951, <i>Audubon Field Notes</i> ).	Present in variable numbers year-round, especially in migration (but no nesting).	~50 pairs nesting along Admiralty Way in 2005 (Froke 2006); ~35 pairs nesting along Admiralty Way in 2009; 24 pairs nesting along Admiralty Way and Marquesas Way in 2011; common year-round.

Appendix 1

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Species	Pre-1900	1900-1960	1960-1990	1990-2000	2000-present
Black-crowned Night-heron	Abundant migrant and winter visitor (Grinnell 1898); nesting suspected somewhere in Los Angeles County (no detail where).	Nesting suspected "near Inglewood" (birds in breeding condition but no nests found; Willett 1933).	Uncommon transient.	Uncommon transient and rare breeder (Corey 1992); 3 pairs nesting near Oxford Basin and Burke Park in 1995 (K.L. Garrett, LACBBA).	~216 pairs nesting along Admiralty Way and near Oxford Basin in 2005 (Froke 2006); ~45 pairs nesting at Burke Park and Marqueras Way in 2009; 81 pairs nesting at Burke Park, Marqueras Way, and Chace Park in 2011; common year-round
Double-crested Cormorant	Common year-round along coast, nesting only Channel Islands (Grinnell 1898)	Common along shore, in "salt marsh lagoon" (von Bloeker 1943; not listed as nesting species).	Common in fall/ winter, less so through spring/summer.	Common in fall/ winter, less so through spring/summer.	Nesting first noted nesting near Coast Guard Station in 2007; 19 pairs in 2009; at least 22 pairs in 2011; common year-round.
White-faced Ibis	Common year-round, and "may breed" (Grinnell 1898).	Transient and regular in winter into 1940s ( <i>Bird-Lore</i> ), but not thereafter.	Rare transient	Rare transient	Uncommon transient

The table refers to seasonal reports in the journals *Bird-Lore* and *Audubon Field Notes* (now published as *North American Birds*). Unattributed statements about the general status of species during historical periods were derived from review of the seasonal reports from these journals.

The table also references the field notes of local observers Kris Alberts of the Chambers Group and Kimball L. Garrett, ornithologist at the Natural History Museum of Los Angeles County. Unpublished data from the Los Angeles County Breeding Bird Atlas (LACBBA) is also cited.

#### Cited references:

- Bicknell, F. T. 1922. *The Snowy Egret in Los Angeles County, California*. Condor 24:214.
- Cooper, D. S. 2006. *Annotated checklist of extirpated, reestablished, and newly-colonized avian taxa of the Ballona Valley, Los Angeles County, California*. Bulletin of the Southern California Academy of Sciences 105:91-112.
- Corey, K. A. 1992. Bird survey of Ballona wetland, Playa del Rey, CA 1990-1991. Unpubl. report (30 April).
- Froke, J. B. 2006. *Report on the Marina Del Rey Heronry, 2005*. Report dated May 2006 prepared for Lyon Capital Ventures, Newport Beach, CA.

Grinnell, J. 1898. *Birds of the Pacific slope of Los Angeles County*. Pasadena Academy of Sciences No. 2.

von Bockler, J. C. 1943. *The fauna and flora of the El Segundo sand dunes: Birds of El Segundo and Playa del Rey*. Bulletin of the Southern California Academy of Sciences 42:1-30 (Part 1) and 90-103 (Part 2).

Willett, G. 1933. *A revised list of the birds of southwestern California*. Pacific Coast Avifauna 21.

Appendix 1

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## POLICY NO. 23-- MARINA DEL REY TREE PRUNING AND TREE REMOVAL POLICY

### 1.0 INTRODUCTION/PURPOSE

The purpose of this Policy and Policy No. 34 is:

- 1.1 To establish guidelines within Marina del Rey and on Los Angeles County beaches for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.
- 1.2 To provide County staff with guidelines and procedures for tree pruning and/or tree removal within Marina del Rey and on Los Angeles County beaches in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this policy, and the desire to reduce or eliminate impacts to their nesting habitats.

### 2.0 POLICY

This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey and County Beach properties so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species. For clarification purposes, palms are included when any section in this policy refers to trees. Section 5.3 of this Policy contains procedures for addressing immediate and imminent health and safety and emergency issues.

The County will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal.

An earlier version of this policy has been carried out by the Department of Beaches & Harbors (Department) since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. This revised policy, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial waterbirds, as outlined in the 2010 Marina del Rey Conservation & Management Plan, will continue to provide the basis for management and oversight to County-operated properties. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the County's nesting colonial waterbird surveys each year, the Department will identify all County-operated properties on which no nests of colonial waterbird or raptor species were found. Tree pruning activities may commence on the identified properties within a reasonable period of time (i.e., outside of the breeding/nesting season).

The Department's qualified biologist (as the term is defined in Section 4.11 of this Policy) may use the annual nesting colonial waterbird surveys as the basis for part or all of the initial survey, where required, prior to the commencement of annual tree pruning on County-operated properties.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding season, which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the County or County contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.

Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this policy and in policy no. 34. Tree pruning or removal of nesting trees is prohibited during the breeding/nesting season except in the case of a health and/or safety emergency as defined below. In circumstances where tree pruning and removal is not completed during the non-breeding/non-nesting season, tree pruning or removal may proceed as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years.

All tree pruning and removal shall be conducted in strict compliance with this policy and Policy No. 34. However, if the County determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.

### 3.0 APPLICABLE STATUTES

#### 3.1 California Fish and Game Code § 3503

"It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto."

#### 3.2 California Fish and Game Code § 3513



"It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act."

### 3.3 Migratory Bird Treaty Act - U.S. Code, Title 16, § 703

"Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976."

### 3.4 Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27

"Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part." Permit applications are submitted to the U.S. Fish and Wildlife Service's Regional Office.

## 4.0 DEFINITIONS

- 4.1 Active Nest -- A nest that is under construction or that contains eggs or young.
- 4.2 Breeding/Nesting Season -- January 1 through September 30.
- 4.3 Colonial Waterbirds -- Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).
- 4.4 Department -- Los Angeles County Department of Beaches & Harbors.
- 4.5 Health Issue/Safety Issue -- A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or branch is dead, diseased, dying, or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.
- 4.6 Nesting Tree -- A Tree as defined in 4.13 below containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.
- 4.7 Non-breeding/Non-nesting Season -- October 1 through December 31.
- 4.8 Non-nesting Tree -- A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.
- 4.9 Occupied Nest -- A nest that contains eggs or young.

- 4.10 Pruning -- The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree
- 4.11 Qualified Biologist -- Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.
- 4.12 Raptor -- Order Falconiformes, which includes eagles, hawks, falcons, and ospreys.
- 4.13 Tree -- A palm or a plant having a permanently woody main stem or trunk, ordinarily growing to a height over eight (8) feet and usually developing branches at some distance from the ground.

## 5.0 PROCEDURE

*Non-nesting trees on County-operated properties that are identified in the annual nesting colonial waterbird survey as having no active nests and no history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this Policy.*

*County-operated properties identified in the County's annual nesting colonial waterbird survey as having active nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this policy.*

*Regardless of the results of the annual nesting colonial waterbird survey, the Department's plans to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy.*

- 5.1 Tree Pruning and Removal Restrictions During the Non-Breeding/Non-Nesting Season
  - 5.1.1 Tree pruning on County-operated properties shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees.
  - 5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, a qualified biologist shall coordinate with the County's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map with the respective status of all the trees scheduled for

pruning or removal and a plot plan showing any trees suspected to have active or unoccupied nests. Copies of the survey and plot plan shall be filed by the Department for public agency review.

- 5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the qualified biologist shall walk the entire area proposed for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether any adults appear to be starting a new clutch (preparing to mate and lay eggs).
- 5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG) and the Executive Director of the California Coastal Commission (CCC) by submitting by e-mail within two (2) business days the qualified biologist's survey report and a copy of the tree pruning or removal plan prepared by the arborist or landscape contractor which shall incorporate the following:
  - a. A description of how work will occur.
  - b. Use of non-mechanized hand tools to the maximum extent feasible.
  - c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.
  - d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.
- 5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in a way that compromises the support structure of existing occupied or unoccupied nests. The amount of pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a nesting tree(s) is determined to be an unmitigatable health or safety issue, the Department, in consultation with a Qualified Biologist and with notice to the appropriate agencies, may determine that pruning, so as to remove the empty nest and/or to discourage future nesting, or tree removal is appropriate.
- 5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding season. Tree pruning or removal shall not occur any closer than 300 feet from these trees (500 feet in the case of an active Raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following the compliance with procedures described in subsections 5.1.1 through 5.1.5, the Department will notify the USFWS, the CDFG and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.
- 5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the qualified

biologist documents and photographs the occurrence. Copies of photographs and reports shall be filed by the Department for public agency review.

- 5.1.8 In the event that colonial waterbirds are observed to return during the non-breeding season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The Biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.
- 5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways, or the promenade.
- 5.1.10 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.1.11 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.
- 5.2 Tree Trimming and Removal Restrictions During the Breeding/Nesting Season or Near Active or Occupied Nests
  - 5.2.1 This section addresses non-nesting tree pruning or removal during the breeding/nesting season. Nesting trees must be trimmed during the non-breeding and non-nesting season per section 5.1 above. This section specifically applies to those circumstances where the completion of tree pruning activities started during the non –breeding/non-nesting season extends into the breeding/nesting season, If tree pruning must occur during the breeding/nesting season, the Department will conduct a monitoring program to begin 14 days prior to commencing activities that have a potential to disturb any nesting tree. During the 14-day monitoring period, the Department shall arrange to have its qualified biologist conduct weekly surveys to detect and record any protected birds in the area of operation and to identify any active nests within 300 feet (500 feet for raptors) of the trees proposed to be pruned.
  - 5.2.2 If during the breeding/nesting season it cannot be determined from the ground whether a nest is active, the qualified biologist will make a close-range observation of each nest to determine whether the nest is an active nest; that is, whether there are eggs in the nest and/or whether nest maintenance has taken place. Photographs of nests will be taken from above, as near to vertical as possible. Nests should be accessed by using a cherry picker or a boom truck.
  - 5.2.3 After inspecting all trees for active nests in the specific area scheduled for pruning activities under Section 5.2.1, the qualified biologist shall identify those trees containing active nests with caution tape, flags, ribbons or stakes. The

Department shall instruct the tree pruning contractor to avoid disturbing all marked trees during scheduled pruning activities.

- 5.2.4 The tree pruning contractor should begin pruning operations within three to four (3-4) days of the qualified biologist's survey.
- 5.2.5 Pruning or removal activities within 300 feet of a tree with an active nest (500 feet in the case of an active raptor nest) must be performed with hand tools. If pruning activities cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting.
- 5.2.6 In the event the tree pruning contractor discovers an active nest (eggs, nest construction, other evidence of breeding) not previously identified by the qualified biologist, the contractor shall immediately cease all pruning activities in that area of operation, and shall immediately notify the Department. Thereafter, the qualified biologist must perform a re-inspection of the tree containing an active nest following the procedures described in this policy to continue the tree pruning activities.
- 5.2.7 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.2.8 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

### 5.3 Health and Safety Issues & Emergencies

- 5.3.1 The Department, in consultation with a certified arborist and qualified biologist or public health official, as necessary, shall determine if an immediate or imminent health and safety issue exists as described in the definitions above. The Department shall be proactive in identifying any tree related health and safety issue as early as possible during the non-breeding/non-nesting season in order to avoid habitat disturbances during the breeding/nesting season.
- 5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).
- 5.3.3 If the location or change in the condition of a nesting tree located on property operated and maintained by the County presents an immediate or imminent health and safety issue as described in the definitions above, the Department shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits - U.S Code of Federal Regulations, Title 50, § 21.27) and notify CDFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with nesting tree removal or

other remedies. When possible the Department shall submit a special permit application and notify above agencies prior to tree removal or other remedies

- 5.3.4 The Department shall photograph the health and/or safety issue site conditions before and after the remedy(s) and document the impacts to the nesting tree (i.e. number of nests, eggs, and/or chicks lost) and adjacent biological resources. The photographs and report shall be available for public agency inspection.
- 5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of non-mechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.
- 5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

## **POLICY NO. 34-- MARINA DEL REY LEASEHOLD TREE PRUNING AND TREE REMOVAL POLICY**

### **1.0 INTRODUCTION/PURPOSE**

The purpose of this Policy is:

- 1.1 To establish guidelines within Marina del Rey for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.
- 1.2 To provide Lessees with guidelines and procedures for tree pruning and/or tree removal on leaseholds located in Marina del Rey in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this policy, and the desire to reduce or eliminate impacts to their nesting habitats.

### **2.0 POLICY**

This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors (Department) for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey Lessees so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species on leasehold property.

The Department will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal. For clarification purposes, palms are included in any reference herein to trees.

Lessees, in following the procedures set forth below, will carry out their tree pruning and/or removal activities in cooperation with the Department and only with the explicit authorization of the Department prior to starting such work. Section 5.3 of this policy contains procedures for Lessees or their authorized representatives to follow when addressing immediate or imminent health and safety and emergency situations.

This policy is an outgrowth of Internal Policy No. 23 that has been carried out by the Department since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. The Department's Internal Policy No. 23, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial waterbirds, as outlined in the 2010 Marina del Rey Conservation & Management Plan, will provide the basis for extending management and oversight to Lessee-operated parcels. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the Department's nesting colonial waterbird surveys each year, the Department will identify all leaseholds on which no nests of colonial waterbird or raptor species were found, and Lessees will be notified in writing that tree pruning activities may commence on the identified leaseholds during the non-breeding/non-nesting season.

Lessees are encouraged to utilize the Department's annual nesting colonial waterbird surveys as the basis for part or all of the surveys prepared by Lessee's qualified biologist (as the term is defined in Section 4.11 of this policy), where required by this policy, prior to the commencement of annual tree pruning on Marina del Rey leaseholds.

Lessee is required, under the "Rules and Regulations" provision of Marina del Rey leases, to ensure that all tree pruning and/or tree removal conducted on leaseholds located in Marina del Rey adheres to the guidelines and procedures outlined in this policy statement. Similarly, the policies and procedures contained herein apply to the ongoing maintenance of existing developments and may not be used to substitute for the project and landscaping approvals required by the County of Los Angeles for new development, re-development, or renovations.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the non-breeding/non-nesting season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding/non-nesting season which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the Department or Department contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.

Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this document (Policy 34). Tree pruning or removal is prohibited during the breeding/nesting season except to complete tree pruning activities started during the non-breeding/non-nesting season as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years or in the case of a health and safety emergency.

All tree pruning and removal shall be conducted in strict compliance with this policy. If a Lessee determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.



### **3.0 APPLICABLE STATUTES**

#### **3.1 California Fish and Game Code § 3503**

"It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto."

#### **3.2 California Fish and Game Code § 3513**

"It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act."

#### **3.3 Migratory Bird Treaty Act- U.S. Code, Title 16, § 703**

"Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976."

#### **3.4 Special Purpose Permits- U.S Code of Federal Regulations, Title 50, § 21.27**

"Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part." Permit applications are submitted to the U.S. Fish and Wildlife Service's Regional Office.

### **4.0 DEFINITIONS**

4.1 Active Nest -- A nest that is under construction or that contains eggs or young.

4.2 Breeding/Nesting Season -- January 1 through September 30.

4.3 Colonial Waterbirds -- Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).

4.4 Department -- Los Angeles County Department of Beaches & Harbors.

4.5 Health Issue/Safety Issue -- A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or

- branch is dead, diseased, dying or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.
- 4.6 Nesting tree – A tree as defined in 4.13 below, containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.
- 4.7 Non-breeding/Non-nesting Season -- October 1 through December 31.
- 4.8 Non-nesting Tree – A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.
- 4.9 Occupied Nest -- A nest that contains eggs or young.
- 4.10 Pruning -- The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree
- 4.11 Qualified Biologist -- Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.
- 4.12 Raptor -- Order Falconiformes, which includes eagles, hawks, falcons, and ospreys.
- 4.13 Tree -- A palm or a plant having a permanently woody main stem or trunk, ordinarily growing to a height over eight (8) feet and usually developing branches at some distance from the ground.

## 5.0 PROCEDURE

*Non-nesting trees on Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having no active Nests nor a history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this policy. Lessees will be notified in writing that tree pruning activities shall be carried out during the non-breeding/non-nesting season.*

*Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having active Nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this Policy*

*Regardless of the results of the Department's annual nesting colonial waterbird survey, all leasehold parcels proposing to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy. Written authorization from the Department must be obtained before any action is undertaken that might disturb an active nest.*

**5.1 Tree Pruning and Removal Restrictions During Non-Breeding/Non-Nesting Season**

- 5.1.1 Tree pruning and removal on all leaseholds in Marina del Rey shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees..
- 5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, the Lessee's qualified biologist shall coordinate with the Lessee's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map showing all the trees scheduled for pruning or removal and trees suspected to have active or unoccupied nests. Copies of the survey and map shall be submitted to and filed by the Department for public agency review.
- 5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the Lessee's qualified biologist shall walk the entire area proposed for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether the adults appear to be starting a new clutch (preparing to mate and lay eggs).
- 5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, no less than seven (7) days prior to the planned commencement of tree pruning or removal activities, the Lessee will notify the Department in writing with a copy of the survey report, plot plan and a tree pruning or removal plan prepared by the arborist or landscape contractor which addresses the following:
- a. A description of how work will occur (e.g. mechanized equipment, hand tools, phasing, etc.).
  - b. Use of non-mechanized hand tools to the maximum extent feasible.
  - c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.
  - d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.

Notification must include the name and credentials of Lessee's qualified biologist. Once the Department receives the tree survey report, plot plan and tree pruning or removal plan, the Department will notify the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the California Coastal Commission (CCC) by submitting by e-mail, within (2) two business days of receipt of Lessee's notice.

- 5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in such a way that compromises the support structure of existing occupied or unoccupied nests. The amount of pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a tree(s) is determined to be a health or safety issue, the Lessee, in consultation with a qualified biologist and

with the prior approval of the Department, may conduct pruning so as to remove the empty nest and to discourage future nesting, or tree removal as appropriate.

- 5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding/non-nesting season. Tree pruning or removal shall not occur any closer than 300 feet from these trees (500 feet in the case of an active raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, Lessee shall immediately notify the Department and pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following compliance with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the USFWS, CDFG, and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.
- 5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the Lessee's qualified biologist documents and photographs the occurrence. Copies of the qualified biologist's report and photographs shall be forwarded to the Department within three (3) business days of the removal.
- 5.1.8 In the event that colonial waterbirds are observed to return during the non-breeding/non-nesting season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The qualified biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.
- 5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways or the promenade. Lessee must obtain advance written approval from the Department for the closure of any public promenade or sidewalk necessitated by the tree pruning work.
- 5.1.10 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.1.11 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Lessee shall develop and submit to the Department for approval a tree replacement planting plan for all trees to be removed, which should include the location, tree type, tree size, planting specifications, and a monitoring program with specific performance standards shall be prepared and then updated annually for five years.

**5.2 Tree Trimming and Removal Restrictions During Breeding /Nesting Season or Near Active or Occupied Nests**

- 5.2.1 This section addresses non-nesting tree pruning or removal during the breeding/nesting season. Nesting trees must be trimmed during the non-

breeding/non-nesting season per section 5.1 above. This section specifically applies to those circumstances where the completion of tree pruning activities started during the non-breeding/non-nesting season extends into the breeding/nesting season. If tree pruning or removal must occur during the breeding/nesting season, the Lessee's qualified biologist will conduct a monitoring program to begin fourteen (14) days prior to commencing activities that have a potential to disturb any nesting tree. During the 14-day monitoring period, the Lessee shall arrange to have its qualified biologist conduct weekly surveys to detect and record any protected birds in the area of operation and to identify any Active Nests within 300 feet (500 feet for raptors) of the trees proposed to be pruned or removed. Monitoring within the thirty (30) day advance monitoring period may include surveys conducted toward the end of the Non-breeding Season.

- 5.2.2 If during the breeding/nesting season it cannot be determined from the ground whether breeding activities have commenced, Lessee's qualified biologist will make a close-range observation of each nest to determine whether the nest is an active nest; that is, whether there are eggs in the nest and/or whether nest maintenance has taken place. Photographs of nests will be taken from above, as near to vertical as possible. Nests should be accessed by a cherry picker or a boom truck.
- 5.2.3 After inspecting all trees for active nests in the specific area scheduled for pruning or removal activities under Section 5.2.1, Lessee's qualified biologist shall identify those trees containing active nests with caution tape, flags, ribbons or stakes. The Lessee shall instruct the contractor to avoid disturbing all marked trees during scheduled pruning activities.
- 5.2.4 Lessee's contractor should begin pruning or removal operations within three to four (3-4) days of receiving authorization from Department.
- 5.2.5 Pruning or removal activities within 300 feet of a tree with an active nest (500 feet in the case of an active raptor nest) must be performed with hand tools. If pruning activities cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting
- 5.2.6 In the event the Lessee's contractor discovers an active nest (eggs, nest construction or other evidence of breeding), not previously identified by Lessee's qualified biologist, the contractor shall immediately cease all pruning activities, and the Lessee shall immediately notify the Department. Thereafter, Lessee must consult with Lessee's qualified biologist to perform a re-inspection of the tree containing an active nest, determine that breeding and nesting has ceased and obtain said biologist's approval to proceed if Lessee desires to continue tree pruning or removal activities.
- 5.2.7 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.2.8 Special emphasis shall be placed on public safety during tree pruning or removal operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways, or the promenade.

- 5.2.9 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. The Department shall develop a tree replacement planting plan for all trees to be removed, which should include the location, tree type, tree size, planting specifications, and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years.

### **5.3 Health and Safety Issues & Emergencies**

- 5.3.1 The Department shall determine if an immediate or imminent health and safety issue exists as described above. Lessees, with supporting documentation from a certified arborist, qualified biologist or public health official, shall notify the Department as soon as a health and safety issue is known. The Lessee shall be proactive in identifying and addressing injured, dying, or diseased trees and alerting the Department as early as possible during the Non-Breeding Season in order to avoid habitat disturbances during the nesting season.
- 5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).
- 5.3.3 If the location or change in the condition of a tree located on any leasehold presents an immediate or imminent health and safety issue as described in the definitions above, Lessee shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits – U.S. Code of Federal Regulations, Title 50, § 21.27) and notify DCFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with tree removal or other remedies. When possible, the Lessee shall submit a special permit application and notify the Department and above agencies prior to tree removal or other remedies.
- 5.3.4 Lessee shall photograph and document the emergency occurrence, site conditions before and after the occurrence, and any observation of biological resources, and submit to Department a brief written report within fourteen (14) business days. The Department shall create an incident file that shall be available for public agency inspection.
- 5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or Lessee's qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of non-mechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.
- 5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. Lessee is required to develop a tree replacement planting plan for all trees to be removed,

which plan should include the location, tree type, tree size, and planting specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years. The Lessee's annual monitoring report must be submitted to the Department prior to the start of each successive breeding/nesting season.

# EXHIBIT A

## COUNTY'S PUBLIC MEETINGS REGARDING MAP AND TEXT AMENDMENT

8/18/05 DCB approved the conceptual design of the Pcl OT project – Oceana Retirement Facility

6/29/06 DCB approved the conceptual design of the Pcls 10/FF project – Legacy Neptune

3/15/07 DCB continued the review of the conceptual design of the Pcls 52/GG project to the next meeting

5/31/07 DCB rejected the conceptual design of the Pcls 52/GG project – Boat Central

6/28/07 DCB considered the draft DCB Review of its 5/31/07 action on the Pcls 52/GG project and asked that the matter be placed on the next agenda for further discussion

7/19/07 DCB further discussed the Pcls 52/GG project and voted to reject the project

4/23/07 Scoping meeting for Pcls 10/FF redevelopment project

10/29/08 Pcls 10/FF – Initial RPC hearing where the matter was continued

11/12/08 The SCHC Ongoing Activities Report referred to the 10/29/08 RPC hearing on the Pcls 10/FF project where the hearing was continued

2/11/09 The SCHC discussed boat slip mix and that Noble Consultants is performing a study

2/19/09 Boat Central Project (Pcls 52/GG) Scoping Meeting

3/11/09 SCHC discussed slip sizing and slip vacancy and pricing studies being prepared by Noble Consultants and Allan D. Kotin and Associates, respectively

4/8/09 Presentation to SCHC of the draft Slip Sizing Study prepared by Noble Consultants and the draft Slip Vacancy and Pricing Study by Allan D. Kotin and Associates

4/15/09 RPC scheduled for 8/8/09 a field trip to Pcls 9 and 10/FF and for 8/12/09, the public hearing for Pcls 9 and 10/FF

5/12/09 BOS approved resolution authorizing release of RFQ and a subsequent RFP for developing Pcls 49 and 77

5/13/09 Further discussion at the SCHC meeting of the draft Slip Sizing Study prepared by Noble Consultants and the draft Slip Vacancy and Pricing Study by Allan D. Kotin and

EXHIBIT NO.

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Application Number

MDR LC/PA 1-11  
County's List of  
Public Meetings



LCPA Public Meetings

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- 5/13/09 The SCHC Ongoing Activities Report referred to the 4/15/09 RPC meeting where a field trip to Pcls 10/FF project site was scheduled for 8/8/09 and the public hearing scheduled for 8/12/09.
- 6/10/09 Further discussion at the SCHC meeting of the draft Slip Sizing Study prepared by Noble Consultants and the draft Slip Vacancy and Pricing Study by Allan D. Kotin and Associates
- 6/11/09 CCC unanimously endorsed the "Roadmap" concept to aggregate Pipeline Project amendments in a single LCPA.
- 6/25/09 The DCB Ongoing Activities Report referred to the 4/15/09 action taken by the RPC scheduling a field trip to Pcls 10/FF on 8/8/09 and a public hearing for Pcls 10/FF on 8/12/10
- 7/8/09 The SCHC approved the *Marina del Rey Slip Sizing Study* and the *Marina del Rey Slip Pricing and Vacancy Study*
- 7/8/09 The SCHC Ongoing Activities Report referred to the RPC's scheduled field trip to Pcls 10/FF on 8/8/09 and the public hearing on the project 8/12/09
- 7/23/09 Presentation to the DCB of the *Right-Sizing Parking Study for the Public Parking Lots In Marina del Rey, California*
- 7/23/09 The DCB Ongoing Activities Report referred to the 5/12/09 action taken by the BOS approving the resolution authorizing release of RFQ and a subsequent RFP for developing Pcls 49 and 77
- 7/23/09 The DCB Ongoing Activities Report referred to the RPC's scheduled field trip to Pcls 9 and 10/FF on 8/8/09 and a public hearing for Pcls 9 and 10/FF on 8/12/10
- 8/8/09 RPC field trip to Pcls 10/FF
- 8/12/09 RPC hearing on Pcls 10/FF
- 8/27/09 The DCB Ongoing Activities Report referred to the RPC's field trip to Pcls 10/FF on 8/8/09 and that the public hearing for Pcls 10/FF was continued from 8/12/10 to 10/14/2009
- 9/1/09 The BOS unanimously endorsed the "Roadmap" concept to aggregate Pipeline Project amendments in a single LCP Major Amendment
- 9/9/09 The SCHC Ongoing Activities Report referred to the 9/1/09 BOS action to endorse the Roadmap approach and referred to the May 28, 2009 letter sent by DBH to Peter Douglas, CCC Executive Director, supporting a roadmap approach suggested by CCC staff.

## LCPA Public Meetings

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- 9/9/09 The SCHC Ongoing Activities Report further reported on the RPC hearing dates for the Pcls 10/FF project on 10/14/09 and for the Pcl OT projects on 10/21/09
- 9/24/09 The DCB Ongoing Activities Report referred to the 9/1/09 BOS action to endorse the Roadmap approach.
- 9/24/09 The DCB Ongoing Activities Report mentioned that the RPC has tentatively scheduled the public hearing on Pcls 10/FF (continued from 8/12/09) for 10/14/09, and the public hearing on Pcl OT on 10/21/09
- 10/14/09 The SCHC Ongoing Activities Report (dated 10/8/09) referred to the scheduled RPC hearing on 10/14/09 to consider the Pcls 10/FF project and the 10/21/09 meeting to consider the Pcl OT project
- 10/14/09 The RPC instructed the Pcls 10/FF applicant to finalize the EIR and to return to the DCB for review of the promenade treatment.
- 10/21/09 The RPC continued the hearing on the Pcl OT project to 11/4/09
- 10/22/09 The DCB Ongoing Activities Report mentioned that on 10/14/09 the RPC instructed the Pcls 10/FF applicant to finalize the EIR and to return to the DCB for review of the promenade treatment, and that the public hearing on Pcl OT was scheduled for 10/21/09
- 11/4/09 The RPC continued the hearing on the Pcl OT project to 12/16/09
- 11/10/09 The BOS approved an agreement with the proposed lessee of Pcls 52/GG a 36-month extension to complete the entitlement process
- 11/18/09 The SCHC Ongoing Activities Report referred to the 10/14/09 RPC hearing on the Pcls 10/FF project and the 10/21/09 hearing on the Pcl OT project
- 11/19/09 The DCB Ongoing Activities Report mentioned that on 10/21/09 the RPC continued the public hearing on Pcl OT to 12/16/09
- 12/2/09 The DRP presented the requested status report to the RPC on the LCPA Major Amendment regarding the MdR public parking needs and the impacts of by development and public parking needs
- 12/9/09 The SCHC Ongoing Activities Report referred to the 12/2/09 DRP presentation to the RPC on the LCPA Major Amendment regarding the MdR public parking needs and the impacts of by development and public parking needs, and the RPC hearing on Pcl OT scheduled for 12/16/09

- 12/16/09 The RPC held the continued public hearing on the Pcl OT project and instructed the applicant to finalize the EIR and to return to the DCB for review of the Pcl OT public amenities design
- 12/17/09 The DCB approved the promenade treatments for Pcls 10/FF
- 12/17/09 The DCB Ongoing Activities Report mentioned that on 11/10/09 the BOS approved an agreement with the proposed lessee of Pcls 52/GG a 36-month extension to complete the entitlement process
- 12/17/09 The DCB Ongoing Activities Report mentioned that the continued RPC hearing for Pcl OT will be held on 12/16/09
- 1/13/10 The SCHC Ongoing Activities Report referred to the 12/16/09 RPC action on Pcl OT where they directed the preparation of the final EIR. The Report also advised on the 2/3/10 RPC hearing scheduled for the Pcls 10/FF project and that the DCB approved the promenade plans
- 2/3/10 The RPC continued the hearings for the Pcls 10/FF projects to 3/10/10
- 2/10/10 The SCHC Ongoing Activities Report referred to the RPC hearing on the Pcl OT project scheduled for 4/7/10, and that at the 2/3/10 RPC hearing on Pcls 10/FF the matter was continued to 3/10/10
- 2/17/10 The DCB approved the public amenities design for Pcl OT. On 12/16/09, the RPC had requested the Pcl OT applicant to return to the DCB for review of the public amenities treatment
- 3/10/10 The RPC approved the Pcls 10/FF project
- 3/10/10 The SCHC Ongoing Activities Report (dated 3/4/10) referred to the RPC hearing for Pcls 10/FF scheduled for 3/10/10 and the hearing for the Pcl OT project on 4/7/10
- 3/17/10 The DCB Ongoing Activities Report mentioned that the RPC approved the Pcls 10/FF project on 3/10/10 and that the continued RPC hearing for Pcls 21 and OT will be held on 4/7/10
- 3/17/10 Presentation to the DCB of the *Conservation & Management Plan for Marina del Rey*
- 4/7/10 The RPC rescheduled the hearing on the Pcl OT project to 4/28/10
- 4/13/10 The SCHC Ongoing Activities Report referred to the RPC's approval of the Pcls 10/FF project on 3/10/10 and the rescheduling of the RPC's hearing on Pcl OT from 4/7/10 to 4/28/10

- 4/21/10 The DCB Ongoing Activities Report referred to the rescheduling of the RPC hearing for Pcl OT to 4/28/10
- 4/28/10 The RPC approved the Pcl OT project
- 6/9/10 The SCHC Ongoing Activities Report referred to the RPC's approval of the Pcl OT project on 4/28/10
- 6/16/10 The DCB Ongoing Activities Report referred to the RPC's approval of the Pcl OT project on 4/28/10
- 7/13/10 The BOS authorized the rejection of the development proposal submitted for Pcls 49 and 77 in response to a Request for Proposals
- 7/21/10 The DCB Ongoing Activities Report referred to the BOS authorization to reject the development proposal submitted for Pcls 49 and 77 in response to a Request for Proposals
- 8/18/10 The DCB Ongoing Activities Report referred to the two public meetings DRP would be hosting on 8/21 (evening) and 8/24 (Saturday) to present information and solicit community input on the proposed LCP Major Amendment
- 8/21/10 DRP's community meeting on the LCP Major Amendment
- 8/24/10 DRP's community meeting on the LCP Major Amendment
- 9/8/10 The SCHC Ongoing Activities Report referred to DRP's two community meetings on the LCP Major Amendment held on 8/21/10 and 8/24/10, the DRP's scheduled presentation of the Amendment at a joint special meeting of the SCHC and the DCB on 9/15/10, and DRP's scheduled presentation of the Amendment to the RPC on 11/3/10
- 9/15/10 SCHC/DCB joint meeting on the LCP Major Amendment
- 11/3/10 RPC Public Hearing on LCP Major Amendment where matter was continued to 12/15/10
- 11/10/10 The SCHC Ongoing Activities Report referred to the 11/3/10 RPC hearing on the LCP Major Amendment where the item was continued to 12/15/10
- 11/17/10 The DCB Ongoing Activities Report referred to the 11/3/10 RPC hearing on the LCP Major Amendment where the item was continued to 12/15/10
- 12/14/10 The SCHC Ongoing Activities Report referred to the second RPC hearing on the LCP Major Amendment on 12/15/10 which was continued from 11/3/10
- 12/15/10 RPC Public Hearing on LCP Major Amendment

- 12/15/10 The DCB Ongoing Activities Report (dated 12/9/10) referred to the RPC public hearing on the LCP Major Amendment scheduled for 12/15/10
- 1/19/11 The DCB Ongoing Activities Report referred to the approval by RPC of the LCP Major Amendment on 12/15/10 conditioned on removing the Pcls 33/NR project from the Amendment, and that the Amendment was scheduled to be considered by the BOS on 2/1/11
- 2/1/11 The BOS approved the LCP Major Amendment as recommended by the RPC
- 2/9/11 The SCHC Ongoing Activities Report referred to the approval by RPC of the LCP Major Amendment on 12/15/10 conditioned on removing the Pcls 33/NR project from the Amendment, and the subsequent BOS approval of the Amendment on 2/1/11
- 3/15/11 The BOS adopted a resolution approving the LCP Major Amendment
- 3/16/11 The DCB Ongoing Activities Report (dated 3/10/11) referred to the 3/15/11 BOS meeting where the resolution approving the LCP Major Amendment will be considered