

**CALIFORNIA COASTAL COMMISSION**

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**F15a**

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**STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE**

**Appeal Number:** A-5-RDB-16-0092

**Applicants:** Redondo Beach Waterfront, LLC  
and City of Redondo Beach

**Agent:** McCabe and Co.

**Local Government:** City of Redondo Beach

**Local Decision:** Approval with Conditions

**Appellants:** 1) Gina DiPietro 2) Eugene Solomon 3) Lanakila Outrigger Club  
ATTN: Moses Rambler 4) Shelia Lamb 5) Quality of Life ATTN: Pam  
Columbar 6) Building a Better Redondo ATTN: James A. Light 7)  
Redondo Beach City Councilman, District 2 ATTN: Bill Brand 8)  
Redondo Beach City Councilman, District 4 ATTN: Stephen Sammarco  
9) Sierra Club, Angeles Chapter ATTN: Dean Francois 10) Rescue Our  
Waterfront ATTN: Martin Holmes and Wayne Craig 11) Tim Dornberg  
12) Vicki Callahan 13) Laura D. Zahn 14) Southbay Parkland  
Conservancy ATTN: Melanie L. Cohen 15) Unite Here! Local 11 ATTN:  
Alexandra Weyman 16) Rescue Our Waterfront ATTN: Nils Nehrenheim  
17) Sierra Club - Palos Verdes South Bay

**Project Location:** Redondo Beach Harbor, between the sea and Harbor Drive from  
Portofino Way to Torrance Circle, Redondo Beach, Los Angeles  
County

**Project Description:** Appeal of City of Redondo Beach Coastal Development Permit  
2016-06-CDP-004 for the Waterfront Revitalization Project to  
redevelop 36 acres of the Redondo Beach Harbor which includes  
demolition of 199,171 sq. ft. of existing commercial and office  
structures and the existing pier parking structure and removal of  
the existing surface parking lot, and construction of 511,460 sq. ft.  
of new commercial structures and 2 new parking garages, realign

the street and bikelanes on Harbor Dr. connecting to Pacific Ave., open a closed swimming lagoon to tidal action, remove a hand launch pier, construct a new pedestrian pathway along the existing revetment, construct a pedestrian draw bridge, reconstruct 60 boat slips and the bulkhead cap in Basin 3, and reconstruct the fishing pier.

**Staff Recommendation:** Find Substantial Issue

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### **IMPORTANT HEARING PROCEDURE NOTE**

The Commission will not take testimony on the “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask question of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

### **SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that a **substantial issue exists** with respect to the grounds on which the appeals have been filed for the following reasons:

The proposal for the Waterfront Development in the Redondo Beach Harbor is to demolish 199,171 sq. ft. of existing commercial and office structures, surface parking lots, a pier parking structure, a fishing pier, a hand launch and remove portions of an existing revetment in front of the swimming lagoon; and construct 511,460 sq. ft. of new commercial structures and 2 new parking garages, realign the street and bikelanes on Harbor Dr. connecting to Pacific Ave., open a closed swimming lagoon to tidal action, construct a new pedestrian pathway along the existing revetment, construct a pedestrian draw bridge, reconstruct 60 boat slips and replace the bulkhead cap in Basin 3, and reconstruct the fishing pier. The project includes proposed tidelands exchange (Basin 3 would become public tidelands and the sandy beach area containing the revetment seaward of the proposed hotel would become private lands), that is subject to review and approval by the State Lands Commission.

The appellants contend that there are significant issues related to the project consistency with the Redondo Beach certified LCP, because: 1) the calculation that the City used to determine the amount of development square footage for the commercial which may be inconsistent with the development cap of the land use plan designation and the scale of the existing development 2) the project’s removal of boat slips 3) the project’s potential impact to public scenic coastal views from the harbor moles, pier decks, and Czuleger Park and North Harbor Dr.as required in the LCP (Land Use Policy 2) 4) coastal dependent land uses within the harbor areas will not be

enhanced or expanded with the project (Land Use Policy 1) 5) the project's ability to maintain a balanced use of coastal resources including the protection and provision of lower cost visitor serving uses and recreational facilities (Land Use Policy 5 and 15) 6) the project's ability to provide lower cost overnight accommodations (Land Use Policy 15) 7) the project's ability to be sited and designed to minimize hazards from wave uprush, minimize destruction of life and property, and comply with the requirement that structures on ocean fronting parcels shall be permitted only if they are sited and designed so that no future shoreline protective devices will be necessary to protect them (Land Use Policy 13); 8) the project's ability to maintain and preserve the existing public fishing access areas on the pier (Land Use Policy 6); and 9) the project's impact on dredging and filling of open coastal waters which shall only be permitted if there are no feasible alternatives (Land Use Policy 21).

Appellants also contend that the development is inconsistent with the public access policies of Chapter 3 of the Coastal Act that: 1) (section 30213) protect lower cost visitor uses because the development includes a high-cost hotel and other high-cost commercial but no lower cost overnight facilities, 2) (section 30212.5) require even distribution of public facilities because the development clusters the existing, potentially conflicting coastal-dependent uses, such as swimming and kayaking and boating, all together, while prioritizing non-coastal dependent commercial, and 3) (sections 30211) require recreational use and coastal areas suited for water-oriented recreational activities because the development removes sandy beach areas used for passive recreation and by removing a hand-launch used for stand-up paddle boarding and kayaking.

The City-approved project would result in 312,289 square feet of net new development in the harbor, which is under the cap of 400,000 square feet required by the LCP. However, these development figures do not include the proposed parking facilities and the City's records do not include the square footage of the parking garages. Additionally, the LCP does not clearly define what is meant by "floor area," so at this time, it is not possible to determine the consistency of the project with this LCP policy, and therefore not possible to find that there is no substantial issue with regard to consistency with the LCP's development cap.

The LCP requires preservation of existing boat slips. This raises a substantial issue because the Waterfront Development project would remove 1 boat slip (and the Boat Launch on Mole B would remove approximately 38). The Waterfront Development cannot occur without construction of a public boat launch, per LUP Policy 1, and if the construction of the boat launch removes existing boat slips or is otherwise inconsistent with the boating protection policies or recreation of the LCP, then this raises substantial LCP and Coastal Act conformance issues requiring Commission consideration.

The LCP requires both preservation of existing views from Harbor Dr. and the establishment of view corridors from Harbor Dr., which in this case would result in two very different projects. The interpretation of the two LCP policies and the relationship between them needs to be clarified. Given that the project will significantly affect views from Harbor Dr., this raises a substantial issue regarding whether it's consistent with LCP view policies. Appellants also argue that the views from Czuleger Park to the Harbor need to be protected, and that the bulk, scale, and massing of the project is not consistent with the existing development of the area per the LUP. Without reviewing additional view analysis from the park, it is not possible to tell if the project is consistent with this part of LCP at this time and this potential inconsistency raises a substantial issue. The development project is more dense than the existing harbor development,

however it may be found consistent with the structures inland of Harbor Dr. It is not possible at this time to determine that the bulk, scale, and massing does not raise a substantial issue.

The City-approved hotel will not provide lower cost overnight accommodations. According to both the Coastal Act and LUP Policy 15, lower cost accommodations must be provided in a hotel, unless it is unfeasible. The City's records do not indicate whether or not a feasibility study was submitted prior to the approval of the hotel. The feasibility study would indicate if it is feasible to provide lower cost accommodations onsite, or offer a portion of the rooms at a lower cost rate. This raises a substantial issue.

The City's record did not information regarding the parking rates and the regulation of the boat launch location, and therefore it is not possible at this time to determine if the development is consistent with the Coastal Act policy and the LCP policies that protect and encourage lower cost recreational facilities. For this and the other reasons described above, the Commission cannot determine on this record that no substantial issue exists regarding conformity. Thus, the Commission finds substantial issue.

The LUP policy 13 states that new development shall be sited and designed to minimize hazards from the ocean and from geologic conditions. The City's report did not include analysis of whether the enhancement of the existing shoreline protective device is consistent with the LCP or whether the new development will rely on the enhanced structure, or if the structure is necessary to protect coastal dependent uses. The new public boardwalk would be placed at the same elevation as the existing public boardwalk. The entire project would also rely heavily on the existing revetments in the harbor, and the development in Basin 3 would replace the cap of the bulkhead, with the possibility to raise the bulkhead in the future. The development of these features do not appear to conform with the LCP policy of siting and designing the development to minimize hazards, especially given the expected sea level rise conditions that will increase wave attack events and intensity in the near future, and therefore raises a substantial issue.

The clustering of uses on Mole B may be inconsistent with the policies of the LCP, and the term coastal-dependent uses is not defined by the LCP. Without findings regarding that the existing coastal dependent uses are no longer necessary for the operation and utility of the harbor, and without more information regarding the cost and type of uses proposed, it is not clear that the project is consistent with LUP policies 1 and 5. The Commission therefore cannot find that no substantial issue exists regarding conformity with these policies, and thus determines that these issues raise substantial LCP and Coastal Act conformance issues requiring Commission consideration.

The Seaside Lagoon is a sandy bottom shallow swimming area that is closed off from the harbor and is currently gated and operated by the City. It is open from Memorial Day to Labor Day and there is an admission fee. Currently it is separated from the harbor by a revetment that the City-approved project would remove, which would open the lagoon to the harbor water. Appellants argue that the project purports to open the lagoon year round with free admission to increase public access; however, that could be done now by the City without the development project, and the project would remove approximately 1/3 of the sandy beach area of the lagoon for the development of a road and concession retail structures. According to the LUP, the Seaside Lagoon has a designation of Parks, Recreation and Open Space and the development of a road and accessory concession structures were approved by the City under a conditional use permit with the CDP but are not ordinarily permitted under the land use designation. The removal of

passive recreational areas, and removal of sandy beach for the construction of concession/retail, does not appear to be consistent with the intent of the LUP and the access policies of the Coastal Act. Further, the majority of the Seaside Lagoon is within the Commission's retained jurisdiction and the development of a road and accessory structures on sandy beach area may not be consistent with the public access policies of the Coastal Act. Although the project may provide better access in some ways, it will also interfere with public access to the sandy beach area and the sea in other ways. On this record, the Commission cannot find that the project raises no substantial issue regarding conformity with LCP and Coastal Act access policies.

Staff recommends that the Commission find a **substantial issue** exists for the reasons summarized above.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE.....</b>	<b>7</b>
<b>II. APPELLANTS’ CONTENTIONS.....</b>	<b>7</b>
<b>III. LOCAL GOVERNMENT ACTIONS.....</b>	<b>8</b>
<b>IV. APPEAL PROCEDURES.....</b>	<b>9</b>
<b>V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE.....</b>	<b>10</b>
A. PROJECT LOCATION & DESCRIPTION.....	10
B. FACTORS TO BE CONSIDERED.....	11
C. SUBSTANTIAL ISSUE ANALYSIS.....	12

### **EXHIBITS: ONLINE ONLY**

[Exhibit 1 – Project Location /Vicinity Map](#)

[Exhibit 2 – Local CDP including City-Approved Project Plans](#)

[Exhibit 3 – Appeals](#)

## I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

**Motion:** *I move that the Commission determine that Appeal No. A-5-RDB-16-0092 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**Resolution:**

*The Commission hereby finds that Appeal No. A-5-RDB-16-0092 presents A **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

## II. APPELLANTS' CONTENTIONS

The City-approved local coastal development permit authorizes the redevelopment of the waterfront and harbor. Several appeals were filed by: 1) Gina DiPietro 2) Eugene Solomon 3) Lanakila Outrigger Club ATTN: Moses Rambler 4) Shelia Lamb 5) Quality of Life ATTN: Pam Columbar 6) Building a Better Redondo ATTN: James A. Light 7) Redondo Beach City Councilman, District 2 ATTN: Bill Brand 8) Redondo Beach City Councilman, District 4 ATTN: Stephen Sammarco 9) Sierra Club, Angeles Chapter ATTN: Dean Francois 10) Rescue Our Waterfront ATTN: Martin Holmes and Wayne Craig 11) Tim Dornberg 12) Vicki Callahan 13) Laura D. Zahn 14) Southbay Parkland Conservancy ATTN: Melanie L. Cohen 15) Unite Here! Local 11 ATTN: Alexandra Weyman 16) Rescue Our Waterfront ATTN: Nils Nehrenheim and 17) Sierra Club - Palos Verdes South Bay ([Exhibit 3](#)).

In summary, the appellants contend that the City-approved development is inconsistent with the certified Redondo Beach Local Coastal Plan (LCP) because 1) it involves the removal of boating facilities that are to be protected and expanded; 2) it will have negative impacts on public access with insufficient parking and compound circulation problems and creates safety hazards for pedestrians and bicyclists; 3) it includes development of a high-cost hotel that does not provide or enhance low-cost overnight visitor serving facilities; 4) it prioritizes non-coastal dependent uses such as retail, cinema, office and commercial while clustering the existing, potentially conflicting, coastal-dependent uses, such as swimming, fishing, kayaking and boating all together; 5) it will have negative impacts on public scenic coastal views from Czuleger Park and North Harbor Dr.; 6) it will have negative impacts on water quality of the swimming lagoon; 7) it removes and limits existing coastal dependent uses such as, the access road to the existing hand-launch and the hand-launch itself would be removed from the harbor and the proposed pedestrian bridge could limit access to the harbor of sail boats and commercial vessels; 8) the project would develop existing sandy beach area near the swimming lagoon currently designated as park in the LUP, thereby prioritizing commercial over recreational uses; 9) the project purports to open the lagoon year round with free admission to increase public access, however that could be done

now by the City without the development project; 10) and primarily, it is inconsistent with the intensity and density of commercial development square footage allowed in the LCP and the policies that require new development to be consistent with the scale and character of existing development because the calculation that the City used to determine the amount of development square footage for the commercial which may be inconsistent with the development cap of the land use plan designation and the scale of the existing development.

Appellants also contend that the development is inconsistent with the Coastal Act because approval of the local Coastal Development Permit (CDP) encumbers both Moles D and C, removing or restricting their potential as future boat-launch locations and prejudicing the Commission's future decision on the location of the boat-launch within Commission's retained jurisdiction. The appellants argue that the project is also inconsistent with Coastal Act sections 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222, 30223, 30224, 30234, 30234.5, 30252 and 30255 that, in summary: 1) protect lower cost visitor uses because the development includes a high-cost hotel and other high-cost restaurants and retail, 2) protect public access and public parking to coastal areas, 3) require protection and priority of coastal-dependent uses and protection of recreational and commercial boating uses, 4) require the protection of public coastal views, and lastly, 5) the development would establish non-coastal dependent commercial uses that are dependent upon existing revetments and necessitate the need for future and enhanced shoreline protection for the duration of the economic life of the development.

This project is tied to another project in the harbor that was also appealed for the development of a public boat launch and boat hoist. The appeal for the public boat launch location on Mole B is described in a separate staff report (see A-5-RDB-17-0008). The LCP states that the waterfront commercial area cannot be redeveloped without a public boat launch provided for in the harbor (Land Use Policy 1). A final appellant contention is that the location for the public boat launch is not within the development footprint of the waterfront where it would be better suited due to the large footprint of proposed non-coastal dependent uses. Instead it is proposed in a public park on Mole B, currently being used as a launch location for public outrigger canoe clubs, where it will require the removal of existing boat slips and cause conflicting uses between boat launches and canoeing that may raise safety concerns. The appellants contend that the development of the public boat launch should not be at the expense of existing boat slips and canoe-club uses, should not remove a portion of the public park for boat-launch parking, and should be accommodated elsewhere within the Waterfront Development footprint.

Other reasons for the appeals, such as inconsistencies with the City's Specific Plan and General Plan, were cited but are not relevant to the finding of substantial issue under the Coastal Act ([Exhibit 3](#)).

### **III. LOCAL GOVERNMENT ACTION**

On October 18, 2016, the City Council approved Coastal Development Permit No. 2016-06-CDP-004 for the redevelopment of the waterfront. Public hearings were held by the Harbor Commission on June 13, June 27, July 18, August 8 and August 9, 2016. The Harbor Commission approved the CDP and the decision was subsequently appealed by James A. Light and others. On October 18, 2016 the City Council held a public hearing, denied the appeal, and approved the coastal development permit. The City Council also approved a Conditional Use Permit, and vesting Tentative Tract Map No. 47207.



The City's Notice of Final Local Action for Local CDP No. 2016-06-CDP-004 was received in the Coastal Commission's Long Beach Office via certified mail on Monday October 24, 2016 and the Coastal Commission's required 10 working-day appeal period was established. On November 1, 2016 an appeal was received from Unite Here Local 11. On November 7, 2016, one appeal was received from the list of appellants and a second appeal was received from Laura D. Zahn ([Exhibit 3](#)). No other appeals were received prior to the end of the appeal period on November 7, 2016. On November 16, 2016, the applicant signed the form to waive the 49-day hearing requirement for the appeal.

#### **IV. APPEAL PROCEDURES**

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. (*See* Coastal Act Section 30603(a)(1)-(4).) In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. (*Id.* Section 30603(a)(5).) This project is appealable because it is located between the sea and the first public road paralleling the sea, portions of the project occur on tidelands, and because the project involves a major public works facility because it is a public recreational facility (commercial development in the harbor), that is partially publicly financed.

The grounds for appeal under Section 30603 of the Coastal Act are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to consider a CDP for an appealed project de novo unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30603 of the Coastal Act, if the Commission conducts the de novo portion of an appeals hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30603(b) of the Coastal Act also requires an additional specific finding that the development is in conformity with the public access policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea and thus this additional finding would need to be made (in addition to a finding that the proposed development is in conformity with the certified City of Redondo Beach LCP) if the Commission were to approve the project following a de novo hearing.

After a final local action on a local CDP application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice, which contains all the required information, a ten working-day appeal period begins during which any aggrieved person or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30603.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as

required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of **substantial issue**. If the Commission decides that the appellants’ contentions raise no substantial issue as to conformity with the certified LCP or the public access policies of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the public access policies of Chapter 3 of the Coastal Act and with the certified LCP, the local CDP is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a hearing following the substantial issue finding. If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who opposed the project before the local government (or their representatives), and the local government. (Title 14 CCR Section 13117.) Testimony from other persons regarding the substantial issue question must be submitted in writing. (*Id.*) Any person may testify during the de novo CDP determination stage of an appeal (if applicable). The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

## **V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE**

### **A. PROJECT LOCATION & DESCRIPTION**

The City’s CDP purports to approve the development project as a whole, including development in areas that are within the Commission’s retained jurisdiction. However, the City has separately submitted a CDP application to the Commission for the development in the retained jurisdiction. Procedurally, finding substantial issue on this appeal will ensure that the City’s purported grant of a permit for development in the areas within the Commission’s jurisdiction is vacated and the Commission will have the opportunity to consider the development. Because the City did not have the authority to grant any such permit, its purported grant of the permit in areas of the Commission’s retained jurisdiction was never effective and does not need to be vacated; however, having the Commission take this appeal will help clarify and ensure that any purported approval of development in the Commission’s retained jurisdiction is not effective.

The 36 acre site is located in Redondo Beach King Harbor, between the sea and Harbor Drive (the first public road) from Portofino Way to Torrance Circle, in Redondo Beach ([Exhibit 1](#)). The site currently contains: 199,171 sq. ft. of existing commercial and office structures; surface parking lots; a pier parking structure; a sandy area with swimming lagoon; a pedestrian walkway; portions of Harbor Dr. and Pacific Ave.; as well as one parking lot inland of Harbor Dr.; and Torrance Blvd. up to Catalina Ave. on the landward side. On the seaward side the project site includes a public pier, a fishing pier, a hand launch, and existing revetments. The project site includes Basin 3 with recreational and commercial boat slips and the horseshoe pier. The entire project site is within the appealable area, except for the development that is included within the Commission’s retained jurisdiction.

The proposal is to demolish 199,171 sq. ft. of existing commercial and office structures, surface parking lots, a pier parking structure, a fishing pier, a hand launch and remove portions of an existing revetment in front of the swimming lagoon; and construct 511,460 sq. ft. of new commercial structures and 2 new parking garages, realign the street and bikelanes on Harbor Dr. connecting to Pacific Ave., open a closed swimming lagoon to tidal action, construct a new pedestrian pathway along the existing revetment, construct a pedestrian draw bridge, reconstruct 60 boat slips and raise the bulkheads in Basin 3, and reconstruct the fishing pier ([Exhibit 2](#)). The project includes proposed tidelands exchange (Basin 3 would become public tidelands and the sandy beach area containing the revetment seaward of the proposed hotel would become private lands), that is subject to review and approval by the State Lands Commission.

### **Background**

The Commission certified the Redondo Beach Land Use Plan (LUP) in 1981. In 2002, the City submitted its Implementation Plan (IP), but included an LUP amendment that applied to the harbor and pier area and the power generating plant located west of Catalina Ave (Harbor-Pier area), where most of the coastal recreation resources in the City are located, including a beach. When the LUP amendment proved to be locally controversial, the City requested segmentation separating the Harbor-Pier area (AREA 2) from the rest of the City so the LCP could be certified for the non-controversial areas (AREA 1). The City then withdrew the proposed Harbor-Pier LUP amendment. The Commission approved the segmentation of the City into two areas. The Commission found that development in AREA 1, which is already developed with commercial and residential uses, would not affect the intensity of development or circulation patterns or public access to the shoreline in the Harbor-Pier area and, the City’s LCP was effectively certified for AREA 1 as of September 2003. AREA 2 effectively was deferred certification.

In 2008, the City submitted an LCP amendment request that would certify AREA 2 and eliminate the previously created geographic segmentation of the City’s Coastal Zone. The Commission approved the LCP amendment and certified the remainder of the City with suggested modifications. The LCP amendment established land use designations and sub-areas for AREA 2 including development standards, and established land use designations and development standards for portions of the harbor within the Commission’s retained jurisdiction, as guidance.

## **B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term “substantial issue” is

not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulation simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### **C. SUBSTANTIAL ISSUE ANALYSIS**

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government are the project’s conformity with the policies of the LCP and the project’s conformity with the public access policies of the Coastal Act. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with the policies of the LCP and the project’s conformity with the public access policies of the Coastal Act.

Section II of this staff report outlined the appellants’ numerous contentions regarding the project. In particular, they allege there are significant issues related to 1) the calculation that the City used to determine the amount of development square footage for the commercial which may be inconsistent with the development cap of the land use plan designation and the scale of the existing development 2) the project’s removal of boat slips 3) the project’s potential impact to public scenic coastal views from the harbor moles, pier decks, and Czuleger Park and North Harbor Dr.as required in the LCP (Land Use Policy 2) 4) coastal dependent land uses within the harbor areas will not be enhanced or expanded with the project (Land Use Policy 1) 5) the project’s ability to maintain a balanced use of coastal resources including the protection and provision of lower cost visitor serving uses and recreational facilities (Land Use Policy 5 and 15) 6) the project’s ability to provide lower cost overnight accommodations (Land Use Policy 15) 7) the project’s ability to be sited and designed to minimize hazards from wave uprush, minimize destruction of life and property, and comply with the requirement that structures on ocean fronting parcels shall be permitted only if they are sited and designed so that no future shoreline protective devices will be necessary to protect them (Land Use Policy 13); 8) the project’s ability to maintain and preserve the existing public fishing access areas on the pier

(Land Use Policy 6); and 9) the project's impact on dredging and filling of open coastal waters which shall only be permitted if there are no feasible alternatives (Land Use Policy 21).

Land Use Plan - IV. Shoreline Access. Section F, Access Policies:

F. 3. *The City will continue to diligently enforce existing parking standards for new development.*

F. 9. *Existing public parking space in the Harbor-Pier area will not be reduced as a result of further development in the area.*

*In the event of the removal of existing public parking spaces in the Harbor-Pier area, additional spaces equal in number to those removed must be provided within the Harbor-Pier area.*

F. 10. *Public support facilities, specifically public restrooms and fish cleaning facilities will be provided within the Harbor-Pier area to serve the interests of the public.*

Land Use Plan - V. Coastal Recreation. Section E, Recreation Policies:

E. 3. *All existing boating and boating-related facilities will be maintained, enhanced and preserved, and where possible, expanded.*

*All of the existing slips within the Harbor area will be maintained, enhanced, and preserved. If possible, day tie-up slips will be provided for visiting boaters. If it becomes feasible in the future to expand the number of boat slip facilities, these uses will be accommodated within the Harbor-Pier area.*

E. 2. *Lower cost visitor serving and recreational facilities will be protected, encouraged, and where possible provided.*

E. 6. *Any expansion of or new construction of commercial recreational facilities will not interfere with or delete any existing fishing areas.*

Land Use Plan - VI. New Development. Section C, Land Use Classifications:

Commercial Recreation-

*-Cumulative development for Commercial Recreation district sub-areas 1-4 shall not exceed a net increase of 400,000 sq. ft. of floor area based on existing land use on April 22, 2008.*

*-New development projects shall include view corridors to the water from N. Harbor Dr.*

*-New development shall not obstruct views from Czuleger Park to the Ocean.*

Land Use Plan - VI. New Development. Section D, Land Use Policies:

- 1. Coastal dependent land uses will be encouraged within the Harbor-Pier area. The City will preserve and enhance these existing facilities and encourage further expansion of coastal dependent uses, where feasible. Removal of existing coastal dependent uses shall be strongly discouraged unless such uses are determined to no longer be necessary for the functional operation and utility of the harbor. A public boat launch shall be constructed in association with future development projects within the Harbor area.*

2. *New development, additions or major rehabilitation projects within the Harbor-Pier area shall be sited and designed to (in part):*
  - a. *Preserve and enhance public views of the water from the moles, pier decks, publically accessible open space and Harbor Dr.*
  - b. *Provide continuous public access to and along the seaward side of the piers...*
  - c. *Be consistent and harmonious with the scale of existing development.*
5. *In conformance with the goals and policies of the California Coastal Act maintain a balanced utilization of coastal zone resources including protection and provision of lower cost visitor serving uses and recreation facilities where feasible.*
13. *Development in Redondo Beach shall be sited and designed to minimize hazards from wave uprush and from geologic hazards (in part).*
15. g. *Lower cost visitor accommodations shall be protected, encouraged, and where feasible, provided (in part).*
19. *Marine resources shall be maintained, enhanced and, where feasible, restored... 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 (in part).*

Appellants also contend that the development is inconsistent with the public access and recreation policies of Chapter 3 of the Coastal Act that: 1) (section 30213) protect lower cost visitor uses because the development includes a high-cost hotel and other high-cost commercial but no lower cost overnight facilities, 2) (section 30252) protect public access because the development does not provide sufficient parking, 3) (section 30212.5) require even distribution of public facilities because the development clusters the existing, potentially conflicting coastal-dependent uses, such as swimming and kayaking and boating, all together, while prioritizing non-coastal dependent commercial, 4) (section 30221) require protection of oceanfront land for coastal-dependent uses because the development establishes non-coastal dependent commercial uses such as a cinema, office use and general retail that is not marine-related, 5) (sections 30211 and 30220) require recreational use and coastal areas suited for water-oriented recreational activities because the development removes sandy beach areas used for passive recreation and by removing a hand-launch used for stand-up paddle boarding and kayaking and, 6) (section 30224) encourage increased recreational boating use because the development reduces the number of boat slips and the proposed pedestrian drawbridge would interfere with recreational and commercial boating access to Basin 3.

However, the Coastal Act provides that the grounds for the appeal are only whether the development is consistent with the public access policies of the Coastal Act in Article 2 of Chapter 3, rather than with any other Coastal Act policies. The public access policies include:

Section 30210 Access; recreational opportunities; posting

*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 Development not to interfere with access

*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 30212.5 Public facilities; distribution

*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 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

*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.*

**Development Cap**

Land Use Plan, Section VI, Section C, New Development - Land Use Classifications includes a development cap for the Commercial Recreation District and Sub-areas 1-4. The development of all sub-areas shall not exceed a net increase of 400,000 SF of floor area since 2008.

Sub area 1 includes the Horseshoe pier, the Pier plaza, the area of the former carousel/arcade, and the international boardwalk.

Sub area 2 includes Mole D and the development inland of the Seaside Lagoon, west of Harbor Drive.

Sub area 3 includes all development west of Harbor Drive between Herondo St. and W. Beryl St. and Mole C. Sub area 3 includes Moles A, B, and C.

Sub area 4 is a triangle shaped piece of land inland of Harbor Drive, between N. Pacific Ave. and W. Beryl St.

According to the City's analysis, the waterfront project would add 285,855 square feet ("SF") of new development to the harbor. Since 2008, 34,309 SF was added for the Shade Hotel and 2,702 SF was added for the Harbor Patrol Facility, for a total of 37,011 SF. Thus, under the City's calculation, the total new square footage added since 2008 would be 322,866 SF, which is less than the cap of 400,000 SF. Appellants argue that this calculation of square footage does not include the parking structures proposed in the subject Waterfront Development, and that with the

parking square footage, the development would exceed the cap. Additionally, the project description does not appear to match the City's figures.

According to the project description from the application for the City-approved CDP, the project would construct 511,460 SF of new development, though would demolish 199,171 SF of existing commercial areas. Under this calculation, the project would result in 312,289 SF of net new development in the harbor. Adding the 34,309 SF constructed since 2008 to this number would total 346,598 SF of development since 2008, which is still under the cap of 400,000. However, these development figures do not include the proposed parking facilities, as mentioned above. The City's records do not include the square footage of these parking garages. Additionally, the LCP does not clearly define what is meant by "floor area," so at this time, it is not possible to determine the consistency of the project with this LCP policy, and therefore not possible to find that there is no substantial issue with regard to consistency with the LCP's development cap.

### **Removal of Boat Slips**

The appellants contend that the Waterfront Development approval is inconsistent with LUP Policy 1, which requires the City to preserve and enhance the existing facilities and strongly discourages removal of facilities, and also Recreation policy E. 3., which requires all existing boating and boating-related facilities be maintained, enhanced and preserved.

The project includes the redevelopment of Basin 3, which would include replacing all wooden docks with concrete docks, replacing the bulkhead cap at the same elevation, and reconstructing all boat slips. Basin 3 currently has 61 slips and 60 would be replaced, for a net loss of 1 slip. The appellants argue that in combination with the removal of 38 slips for the development of the boat launch at Mole B, the project will remove 39 boat slips, which is inconsistent with the policies that require the City to preserve and enhance the existing marine facilities. Additionally, the appellants have argued that the new arrangement of the slips and the sizes of the slips has not been determined and they are concerned that the mix of slip sizes will impact the existing commercial ships in Basin 3.

The above Access and Recreation LCP policies may apply to original jurisdiction areas, and as such are not directly applicable to appellants' claim regarding loss of boat slips because the policies purport to regulate development in the water, in the Commission's original jurisdiction. As described previously, removal of boat slips and all other development in water areas of the harbor will require a separate CDP from the Commission, and the standard of review will be Chapter 3 policies of the Coastal Act, rather than the policies of the LCP. Accordingly, the City's approval of the removal of boat slips was without effect because the slips are in the Commission's original jurisdiction, and when the Commission considers whether to approve a CDP it may use the LCP policies as guidance, but will apply Chapter 3 policies of the Coastal Act as the standard of review. Hence the removal of boat slips may be inconsistent with the LCP, and raise a substantial issue however the Commission will review any proposed removal of boat slips in the future pursuant to a Coastal Commission CDP.

The LCP Policy E. 3 has a subparagraph that states: "All of the existing slips within the Harbor area will be maintained, enhanced, and preserved." In the LUP it is unclear if this wording is intended to be part of the actual policy, or if it is intended to be findings further expounding on the policy, which requires the preservation of existing boating-related facilities. Either way, the subparagraph and first paragraph, taken together, clearly state that there shall be no removal of boat slips, which is inconsistent with the project. This raises a substantial issue because the



removal of the slips appears to be inconsistent with both the LUP policy and the Recreation policy E. 3. However, the City argues that the redevelopment of the basin will improve and enhance boating facilities and is consistent with the LCP policies. The preservation and enhancement of existing marine facilities is crucial to the public's use and enjoyment of the harbor, and removal of boat slips may raise a substantial issue with regards to consistency with the LCP.

The Waterfront Development cannot occur without construction of a public boat launch, per LUP Policy 1, and if the construction of the boat launch removes existing boat slips or is otherwise inconsistent with the boating protection policies or recreation of the LCP, then this raises substantial LCP and Coastal Act conformance issues requiring Commission consideration.

### **Views**

The appellants argue that the development project is inconsistent with LUP Policy 2, which states that new development in the Harbor shall preserve and enhance views from Harbor Dr. and argue that the development will “wall-off” the existing views from Harbor Dr. by replacing the surface parking lots with 2 and 3 story buildings.

However, another policy in Section C of the LUP states that new development should include view corridors from Harbor Dr., which the City-approved project does. There are 3 view corridors from Harbor Dr. to the ocean in the development project.

There is a difference between preserving the existing views and providing view corridors, which in this case would result in two very different projects. The interpretation of the two LCP policies and the relationship between them needs to be clarified. Given that the project will significantly affect views from Harbor Dr., this raises a substantial issue regarding whether it's consistent with LCP view policies.

Appellants also argue that the views from Czuleger Park to the Harbor need to be protected, per Section C of the LUP. Appellants argue that the renderings of the project showing the views from Czuleger Park are inaccurate as the photos were taken from the highest point in the park, looking down and over the development that would be in the harbor. The low point of Czuleger Park is closest to the harbor, on the inland side of Harbor Dr., and the project would impact that view from the park out to the Ocean. Without reviewing additional view analysis from that exact point in the park, it is not possible to tell if the project is consistent with this part of LCP at this time. However, this potential inconsistency raises a substantial issue.

Lastly, LUP policy 2 states that new development shall be harmonious and consistent with the existing development. The appellants argue that the bulk, scale, and massing of the project is not consistent with the existing development of the area. The development is more dense than the existing harbor development, however it may be found consistent with the structures inland of Harbor Dr. It is not possible at this time to determine that the bulk, scale, and massing does not raise a substantial issue.

### **Lower Cost Visitor Serving Facilities**

The appellants contend that the development both removes existing lower cost visitor serving uses and fails to provide new lower cost overnight accommodations. The Waterfront Development includes development of a 120 room boutique hotel, with projected rates of approximately \$250 per night; it is expected to be a 4 star hotel on the oceanfront. Coastal Act

Section 30213 and the LUP Recreation Policy E. 2 both state that lower cost visitor serving and recreational facilities shall be protected, encouraged, and where possible provided. LUP Policy 15 states that low cost visitor accommodations shall be encouraged and where feasible, provided.

The City-approved hotel will not provide lower cost overnight accommodations. According to both the Coastal Act and LUP Policy 15, lower cost accommodations must be provided in a hotel, unless it is unfeasible. The City's records do not indicate whether or not a feasibility study was submitted prior to the approval of the hotel. The feasibility study would indicate if it is feasible to provide lower cost accommodations onsite, or offer a portion of the rooms at a lower cost rate.

If it is not feasible to provide lower cost accommodations onsite, then LUP Policy 15 requires payment of an in-lieu fee at \$30,000 per room for 25% of the total number of rooms, to be adjusted for inflation. The City's record indicates that if the hotel is built as a high-cost hotel, then the in-lieu fee will be required. The LCP states that the in-lieu fee shall be required as a condition of approval upon the coastal development permit. The City's record does not indicate what the fee would be with adjustments for inflation, when the fee would be paid, or what it would be used for. At this time it is also unclear if the City's conditions of approval required the fee, or if there was a feasibility study that concluded the hotel could not provide onsite lower cost overnight accommodations. Because it is not clear that the hotel development project is consistent with these policies, the project raises a substantial issue regarding conformity with them.

Appellants also argue that the development project does not protect the existing lower cost facilities and recreational uses of the harbor. For example, the development project would remove the free existing hand-launch facility for kayaks and stand-up paddling and not replace it elsewhere in the harbor. The rates of the City-approved parking structures have also not been submitted to the City and it is unclear if the parking rates will be affordable for day-users of the harbor compared to the existing \$10 daily parking rates. Additionally, the City has not clarified if the boat launch location on Mole B would be regulated or require payment of a fee or if the boat launch parking would have fees. Further, the general commercial and retail existing in the harbor would be replaced with more high-cost retail and commercial, such as a luxury cinema, a boutique hotel, and high-end restaurants.

Because the information regarding the parking rates and the regulation of the boat launch location has not been submitted, it is not possible at this time to determine if the development is consistent with the Coastal Act policy and the LCP policies that protect and encourage lower cost recreational facilities. For this and the other reasons described above, the Commission cannot determine on this record that no substantial issue exists regarding conformity. Thus, the Commission finds substantial issue.

### **Hazards**

One Appellant stated that more than 4,450 feet of continuous pedestrian pathways will be provided along the shoreline, equal to almost a new mile of shoreline pathways. While it is not clear, Commission staff believes this may be a contention regarding the project's alleged failure to address coastal hazards associated with the project. LUP policy 13 states that new development shall be sited and designed to minimize hazards from the ocean and from geologic conditions. The City-approved project contains requirements to raise the elevation of the project site and to enhance an existing shoreline protective device, however the City's report did not

include analysis of if the enhancement of the existing shoreline protective device is consistent with the LCP or whether the new development will rely on the enhanced structure, or if the structure is necessary to protect coastal dependent uses.

The new public boardwalk would be placed at the same elevation as the existing public boardwalk. The entire project would also rely heavily on the existing revetments in the harbor, and the development in Basin 3 would replace the cap of the bulkhead, with the possibility to raise the bulkhead in the future. The project's EIR included 2 possible measures to mitigate against wave attack, which would include annual monitoring and the construction of a recurve splash wall immediately seaward of the public boardwalk along the existing revetment. These measures do not appear to conform with the LCP policy of siting and designing the development to minimize hazards, especially given the expected sea level rise conditions that will increase wave attack events and intensity in the near future, and therefore raises a substantial issue.

### **Coastal Dependent Uses**

LUP Policy 5 requires a balanced mix of coastal-dependent uses, including the protection of lower cost visitor serving uses and recreational facilities. Section 30212.5 of the Coastal Act public access policies also requires even distribution of public facilities so as to mitigate against overcrowding or overuse. The City approved project, as discussed above, may not protect existing lower cost recreational facilities and would place a variety of potentially conflicting uses and facilities in one area rather than distributing them.

The project would provide a mix of commercial uses; however, the appellants argue that the uses are not balanced and constrict the coastal-dependent uses into a smaller area to prioritize high cost retail and commercial in the rest of the harbor. The removal of the hand-launch for kayaking and paddling would not be replaced in the harbor. The City approved project would have these users enter the water through the Seaside Lagoon (proposed to be open to the harbor waters), walking out into the harbor, instead of launching off a dock. Due to the difficulty of launching in this way, these users instead may choose to launch off of Mole B, near the launch location for the outrigger canoe club, where there is a small launch location that is currently only used by the outrigger club. This would present conflicting uses, compounded by the use of Mole B as a public boat launch facility, thereby raising a substantial issue regarding whether the project presents a balanced use of the harbor and adequately preserves existing coastal dependent uses.

Additionally, LUP policy 1 encourages Coastal dependent uses in the Harbor and pier area and states that removal of existing coastal dependent uses shall be strongly discouraged unless such uses are determined to no longer be necessary for the functional operation and utility of the harbor. Appellants argue that the development does not encourage coastal dependent uses, and instead focuses on providing high-cost uses. For example, a luxury cinema is not considered coastal-dependent and could be located anywhere because it does not depend on the harbor or ocean. The mix of uses in the City approved project includes the following breakdown of square footage: 24% hotel, 35% food service, 20% retail, 12% office, and 9% entertainment. However, there is no breakdown showing what percentages of these uses are visitor-serving, lower cost, and coastal-dependent. However, the LCP does not require 100% coastal dependent uses. The policy states that the City shall encourage these uses and avoid removing any existing coastal dependent uses unless it makes certain findings that they are no longer necessary for the operation or utility of the harbor.

The clustering of uses on Mole B may be inconsistent with the policies of the LCP, and the term coastal-dependent uses is not defined by the LCP. Without findings regarding that the existing coastal dependent uses are no longer necessary for the operation and utility of the harbor, and without more information regarding the cost and type of uses proposed, it is not clear that the project is consistent with LUP policies 1 and 5. The Commission therefore cannot find that no substantial issue exists regarding conformity with these policies, and thus determines that these issues raise substantial LCP and Coastal Act conformance issues requiring Commission consideration.

### **Access**

Access to the coast is required by the Coastal Act and LCP. Not providing sufficient parking or hindering access with poor circulation around coastal areas can have a negative impact on coastal access. Appellants argue that the circulation and traffic congestion and the lack of parking caused by the project would impede public access to the harbor.

The Harbor currently has a total of 2,192 parking spaces for 199,171 SF of development, spread across 2 parking structures and a large surface parking lot. This amount is adequate to serve the existing development and the other coastal-related uses of the harbor. LUP Access policies F. 3 and F. 9 require the City to enforce parking standards for new development and state that existing public parking in the Harbor-Pier area will not be reduced as a result of further development. Again, this policy has a subparagraph, which states that if development removes existing public parking spaces “additional spaces equal in number to those removed must be provided within the Harbor-Pier area.”

The total number of parking spaces for the City-approved project is 2,363, which is 171 more spaces than currently exist onsite; however, the net new development square footage would be 312,289. Appellants argue that this is not sufficient parking for the demand of the new development, let alone the demand currently in the harbor for the coastal-dependent uses. Additionally, the parking analysis states that the City of Redondo Beach permits consideration of shared parking and that the new development of the harbor would have shared parking. In 2014, the City of Redondo Beach submitted an LCP amendment to change commercial parking standards of the LCP, but the application was incomplete. In 2016, the application was returned to the City because Section 30503 of the Coastal Act requires that any LCP amendment to be considered by the Commission must have been subject to local public hearings within four years. By 2016, the public hearings for the proposed amendment had been held more than 4 years before, and the submittal was therefore no longer valid. Because of this, the City’s certified LCP does not allow shared commercial parking. Additionally, if the subparagraph of policy F. 9 is considered policy language and applied to the development, then the project may need to provide sufficient parking for the new demand caused by the development, plus replace the existing parking that is being removed from the site. The limited amount of parking provided by the new development may not be consistent with the LCP and raises a substantial issue.

Coastal Act Section 30211 requires that development shall not interfere with public access to the sea. Appellants argue that the project is inconsistent with that provision because recreational use areas suited for water-oriented recreational activities are impacted and removed. The development would remove approximately 1/3 of the sandy beach area in the Seaside Lagoon used for passive recreation and remove a hand-launch used for stand-up paddle boarding and kayaking. The removal of the hand-launch for kayaking and paddling would not be replaced in the harbor. The City approved project would have these users enter the water through the Seaside

Lagoon, walking out into the harbor, instead of launching off a dock, which appellants argue could be a detriment to coastal access.

The Seaside Lagoon is currently gated and operated by the City. It is open from Memorial Day to Labor Day and there is an admission fee. The lagoon is not subject to tidal action. Currently it is separated from the harbor by a revetment that the City-approved project would remove, which would open the lagoon to the harbor water. Currently, the lagoon is fed by water from the power plant on the inland side of Harbor Dr., is treated and eventually discharged into the harbor. Appellants argue that the project purports to open the lagoon year round with free admission to increase public access; however, that could be done now by the City without the development project, and the project would remove approximately 1/3 of the sandy beach area of the lagoon for the development of a road and concession retail structures.

According to the LUP, the Seaside Lagoon has a designation of Parks, Recreation and Open Space and the development of a road and accessory concession structures were approved by the City under a conditional use permit with the CDP but are not ordinarily permitted under the land use designation. The removal of passive recreational areas, and removal of sandy beach for the construction of concession/retail, does not appear to be consistent with the intent of the LUP and the access policies of the Coastal Act. Further, the majority of the Seaside Lagoon is within the Commission's retained jurisdiction and the development of a road and accessory structures on sandy beach area may not be consistent with the public access policies of the Coastal Act. Although the project may provide better access in some ways, it will also interfere with public access to the sandy beach area and the sea in other ways. On this record, the Commission cannot find that the project raises no substantial issue regarding conformity with LCP and Coastal Act access policies.

### **Five Factors and Conclusion**

This appeal raises a substantial issue regarding consistency with the LCP and public access policies of Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).<sup>1</sup> The Notice of Decision for Local CDP and accompanying Final Staff Report state that the City applied the policies of the certified LCP and the public access and recreation policies of Chapter 3 of the Coastal Act and concluded, in part, that the development, as proposed and conditioned by the City Staff-Alternative, would be consistent with the LCP and with Chapter 3 of the Coastal Act ([Exhibit 2](#)).

Applying the five factors listed in the prior section clarifies that the Commission cannot find that no substantial issue is raised by the appeal, which would be the finding necessary for the Commission to reject the appeal. (§ 30625(b)(5).) Rather, the appeal raises “a substantial issue” with respect to the grounds on which the appeal was filed, and therefore, does meet the substantiality standard of Section 30265(b)(2).

The first factor is the degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the LCP and Coastal Act. The City’s approval included portions of the project site that are within the Commission’s retained jurisdiction, and therefore the project’s CDP for those portions of the development are of no effect. As described above, the City’s approval did not sufficiently consider the project’s

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<sup>1</sup> Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 *et seq.*

consistency with all relevant LCP policies that apply to the development and the project site, and the project appears to conflict with some LCP policies and relevant public access policies of the Coastal Act. Therefore the Coastal Commission finds that the City provided an inadequate degree of factual and legal support for its decision.

The second factor is the extent and scope of the development as approved or denied by the local government. The affected project site constitutes the majority of the City's existing harbor, and the proposed project would significantly increase the intensity of use at the site. This is a very large development that has a high potential to negatively impact coastal access to coastal-dependent uses by not providing sufficient parking, exceeding the development cap, removing or limiting existing coastal-dependent uses, and not providing for lower cost visitor serving facilities. Therefore, the extent of the development as approved by the City is substantial and may not be consistent with the LCP and the public access policies of Chapter 3 of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. Any limitation on use or access to the Redondo Beach Harbor represents a significant impact to a highly used, extremely popular harbor, which is a significant coastal resource.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The City's approval of the CDP for this project has relied mainly on the policies related to the harbor-pier area but neglected to consider other, more general LCP policies that would affect the approval or conditions imposed on the project. The appellants have argued that the approval is not consistent with various LCP policies, but the City has found the project to be consistent. The project raises fundamental issues regarding interpretation of various LCP policies, the resolution of which will have precedential effect on future development in the City's harbor and coastal area. For example, the policy that limits development to 400,000 new square feet in the harbor may or may not include square footage of parking facilities; the problem arises because the LCP has not defined the term "floor area." Additionally, Land Use Policy 1 calls for coastal dependent land uses in the Harbor-Pier area, but the LCP also does not define the term "coastal dependent land uses." However, the LCP defines "coastal- dependent recreation," which may or may not suffice to fulfill the intent of the policy. Therefore, the decision of the local government on this project, which hinges on various interpretations of LCP language and policies, will influence future permit decisions made in the City's coastal zone.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal is locally controversial; however, the harbor represents just 1 of 5 harbors in LA County and there are very few public harbors regionally in southern California. Additionally, the Harbor offers unique coastal recreation opportunities such as on and off shore fishing, paddle boarding, kayaking and canoe hand-launch locations, and visitors come from all over the region for harbor access. The harbor and its public access, visitor-serving amenities, and other resources are therefore regionally significant. Without proper protections in place for these unique elements of the harbor, the project's redevelopment of the harbor may set a regional or statewide precedent regarding the extent to which a jurisdiction may prioritize commercial uses over public recreational, coastal-dependent uses. Therefore, the City's approval does raise issues of regional and statewide significance.

For all of the reasons described above, the Commission shall hear the appeal because it cannot find that the project raises no substantial issue with respect to the grounds raised in the appeal.

Therefore, the Commission find that the appeal raises a **substantial issue** as to conformity with Redondo Beach’s LCP and with public access policies of Chapter 3 of the Coastal Act.