

CALIFORNIA COASTAL COMMISSION

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F15b

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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal Number: A-5-RDB-17-0008

Applicant: City of Redondo Beach

Local Decision: Approval with Conditions

Appellants: 1) Building a Better Redondo ATTN: James A. Light 2) Redondo Beach City Councilman, District 2 ATTN: Bill Brand 3) Redondo Beach City Councilman, District 4 ATTN: Stephen Sammarco 5) Rescue Our Waterfront ATTN: Martin Holmes and Wayne Craig 6) Tim Dornberg 7) Vicki Callahan 8) Laura D. Zahn

Project Location: Redondo Beach Harbor, Mole B at Moonstone Park on Marina Way, Redondo Beach, Los Angeles County

Project Description: Appeal of City of Redondo Beach Coastal Development Permit 2016-10-CDP-008 for the construction of a public boat launch facility, boat hoist, and parking.

Staff Recommendation: Find Substantial Issue

IMPORTANT HEARING PROCEDURE NOTE

The Commission will not take testimony in the “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions 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:

In summary, the appellants contend that the City-approved development is inconsistent with the certified 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; 3) it will cluster the existing coastal-dependent conflicting uses, such as paddling, outrigger canoeing, kayaking and boating all together, causing safety concerns and circulation problems; and 4) it will remove public open space that is protected in the LCP. Appellants also contend that the development is inconsistent with the Public Access policies of the Coastal Act because, in summary: 1) the development will limit the public's right to access the coast because of insufficient parking, removing parking, and circulation problems, and 2) the development will limit the existing public access by clustering coastal-dependent uses into a smaller harbor area.

The project site at Mole B is currently being used as a launch location for public outrigger canoe clubs, and development of the boat launch would require the removal of existing boat slips; also, the conflicting uses between boat launches and canoeing raises safety concerns. The appellants contend that the development of the public boat launch should not be at the expense of existing boat slips or existing canoe club uses, should not remove a portion of the public park for boat-launch parking, and should be accommodated elsewhere within the harbor (within the Waterfront Development footprint).

The Harbor Redevelopment project (the Waterfront Development, see A-5-RDB-16-0092) cannot occur without construction of a public boat launch, per LUP Policy 1, and if the construction of the boat launch in this location conflicts with the other boating protection policies of the LCP which prevent the removal of existing boat slips, then this raises substantial LCP and Coastal Act conformance issues requiring Commission consideration.

Overall there would be a net loss of 61 public parking spaces due to the development of the boat launch in this location. A significant loss of public parking spaces on Mole B would not be consistent with the access policies of the LCP and therefore, raises a substantial issue. Further, the development appears to construct a metal gate and gate-off a portion of the parking spaces on Mole B—and whether these spaces are available public or not—this may have negative impacts to circulation and public access and does raise a substantial issue regarding consistency with the public access policies of the Coastal Act.

At the very least, the proposed reduction in the number of public parking spaces raises a substantial issue with regard to consistency with LCP policies that protect public coastal parking. Accordingly, the issues need to be analyzed on a closer level to have a final consistency determination and thus raise substantial LCP and Coastal Act public access conformance issues requiring Commission consideration.

The appellants also argue that the mix of coastal dependent uses existing in the harbor today, which include stand-up paddling, kayaking, outrigger canoeing, passive park recreation, and the new boat launch location, would be forced into one location in the harbor. They claim this would present safety conflicts and the overuse of these elements on Mole B, which may impact existing access to the coast in this area, and therefore is inconsistent with the Coastal Act and LUP Policy 5. Accordingly, the issue of clustering uses may raise a substantial issue, but supports the need for de novo review and should be reviewed further in that process.

Finally, the LUP requires a minimum of 33% of Mole B be contiguous open space and passive park. The location of the City-approved parking spaces would encroach into the green space of Moonstone Park and may reduce the open space below the required 33%. The City approval relies on an interpretation that public parking and the existing revetment seaward of the park would qualify as “open space.” The City’s interpretation of defining public open space and appropriate uses clearly raise substantial LCP and Coastal Act conformance issues requiring Commission consideration. Commission staff recommends that the Commission find **substantial issue**.

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EXHIBITS

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

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

[Exhibit 3 – Appeals](#)

Exhibits online only

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-RDB-17-0008 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-17-0008 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 the LCP and coastal access policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

The City-approved local coastal development permit authorizes the redevelopment of the waterfront and harbor. Two appeals were filed; the appellants are: 1) Building a Better Redondo ATTN: James A. Light 2) Redondo Beach City Councilman, District 2 ATTN: Bill Brand 3) Redondo Beach City Councilman, District 4 ATTN: Stephen Sammarco 5) Rescue Our Waterfront ATTN: Martin Holmes and Wayne Craig 6) Tim Dornberg 7) Vicki Callahan 8) Laura D. Zahn ([Exhibit 3](#)).

This project is tied to a harbor waterfront redevelopment project that is also in the harbor and that was also appealed. The certified Redondo Beach Local Coastal Plan (LCP) states that the waterfront commercial area cannot be redeveloped without a public boat launch provided for in the harbor. The appeal for the redevelopment project is also on the Commission's May agenda and is described in a separate staff report (see A-5-RDB-16-0092).

The primary 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, which is currently being used as a launch location for public outrigger canoe clubs; the boat launch will require the removal of existing boat slips and will cause safety concerns due to potentially conflicting uses between boat launches and canoeing. The appellants contend that the development of the public boat launch should not be at the expense of existing boat slips or existing 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.

In summary, the appellants contend that the City-approved development is inconsistent with the certified 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; 3) it will cluster the existing coastal-dependent conflicting uses, such as paddling, outrigger canoeing, kayaking and boating all together, causing safety concerns and circulation problems; and 4) it will remove public open space that is protected in the LCP.

Appellants also contend that the development is inconsistent with the Coastal Act because approval of the local 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, 30234, 30252 and 30255 because, in summary: 1) the development will limit the public's right to access the coast because of parking and circulation problems, and will limit the existing public access by clustering uses into a smaller harbor area, 2) the development will not protect public access and public parking to coastal areas, and 3) the development will not serve the priority of coastal-dependent uses and protect existing recreational boating uses.

Mole B is currently being used as a launch location for public outrigger canoe clubs, and development of the boat launch would require the removal of existing boat slips; also, the conflicting uses between boat launches and canoeing raises safety concerns. The appellants contend that the development of the public boat launch should not be at the expense of existing boat slips or existing 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 November 29, 2016, the City issued Coastal Development Permit No. 2016-10-CDP-008 for the development of a public boat launch on Mole B. Public hearings were held by the Harbor Commission on October 10, 2016 and the Harbor Commission approved the project. The Harbor Commission decision was subsequently appealed by Jim Light and others. On November 29, 2016 the City Council held a public hearing, denied the appeal, and approved the coastal development permit.

The City's Notice of Final Local Action for Local CDP No. 2016-10-CDP-008 was received in the Coastal Commission's Long Beach Office via certified mail on March 9, 2017 and the Coastal Commission's required 10 working-day appeal period was established. On March 15, 2017, one appeal was received from the list of appellants and a second appeal was received from Laura D. Zahn on March 20, 2017 ([Exhibit 3](#)). No other appeals were received prior to the end of the appeal period on March 23, 2017.

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 that is partially publically 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 Coastal 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 and 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 coastal development permit (CDP) purports to approve the development project as a whole, including the development in areas that are within the Commission's retained jurisdiction. However, the City has separately submitted a CDP application to the Coastal Commission for the development in the retained jurisdiction. Procedurally, finding substantial issue on this appeal will ensure that the City's permit for development in the areas of the Commission's jurisdiction is vacated and the Commission will have the opportunity to consider the development.

The site is located in Redondo Beach King Harbor, at the seaward end of Marina Way, in Redondo Beach ([Exhibit 1](#)). The site is called Mole B, one of several moles in the harbor (A-D). Currently Mole B contains Moonstone Park, public parking, a Harbor Patrol Facility, and a storage yard for an outrigger canoe club. The Mole is surrounded on 3 sides by boat slips. Access from Harbor Drive to Marina Way is limited by a gate controlled by the marina, although the public is allowed access during certain hours. The public parking for the park is limited to 6am -10pm daily.

In the certified LUP, the entire harbor has a land use designation of Commercial Recreation, with the exception of the seaside lagoon, which has a designation as Parks, Recreation, and Open Space. Moonstone Park on Mole B does not have a land use designation of Park. The land use designation Commercial Recreation (CR) has several sub-areas. Marina Way and the public parking lot has a sub-area designation of 3c, while the park, outrigger storage yard, and the harbor patrol facility have a designation of 3b. CR-3c allows for the following uses: local and visitor serving retail, restaurants and food service, hotels, marina and marina related facilities, yacht and boating clubs, and public open space/recreational areas. CR-3b has more restrictions on the allowed uses, which include: boating facilities, public open space/recreational uses, and other uses that support these allowed uses. However, the Sub-areas 3b and 3c of Mole B are entirely within the Coastal Commission's retained jurisdiction.

The zoning map of the IP indicates that all of Mole B is zoned Coastal Commercial (CC-4), which allows for the following permitted uses: snack shop, retail less than 5,000 SF, and Parks, Recreation and Open Space. CC-4 has several other uses that are only allowed with a conditional use permit. The approval for the boat launch and boat hoist was approved in the CC-4 zone by the City according to a conditional use permit as a Marina-related Boating Facility. Parking uses also require

a conditional use permit according to the IP, which was approved by the City to allow for development parking to serve the boat launch and boat hoist facility.

The proposal is to demolish 38 existing boat slips on the north side of Mole B, and construct a public boat launch with 2 lanes in the Marina channel between Moles A and B with a boarding float and 3 concrete guide piles, construct a 5-ton jib crane boat hoist with queue dock, 6 concrete piles, and a hoist launch pier immediately seaward of the boat launch, and construct a queue dock inland of the boat launch, over the water ([Exhibit 2](#)). The project would require 12,000 cubic yards of fill in the water.

The landward portion of the project would include installation of a wash down station at the seaward edge of the parking lot with 2 wash spaces, and reconfigure the parking lot to provide 20 vehicle plus trailer parking spaces at 40 feet long (1 would be ADA), 6 vehicle plus trailer parking spaces at 50 feet long, and 6 vehicle plus trailer parking spaces at 55 feet long. The project would require 3,000 cubic yards of fill on land. The project would remove 131 public parking spaces and would replace them with 32 trailer spaces, and 38 regular spaces situated behind a metal gate. It is unclear if these 38 spaces would still be available to the public with the gate blocking access to the lot. Overall there would be a net loss of 61 public parking spaces. 6 trailer spaces and 17 regular parking spaces would be constructed in an area that is currently green space, part of Moonstone Park and would remove approximately 6,400 SF of the park ([Exhibit 2](#)).

Background

The Commission certified the Redondo Beach Land Use Plan (LUP) in 1981. In 2002, the City submitted its Implementation Plan, 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 if 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.

In this case, for the reasons discussed further below, the Commission determines that the development as approved by the City of Redondo Beach presents a substantial issue.

Section II of this staff report outlined the appellants’ numerous contentions regarding the project. In particular, there are significant issues related to 1) the project’s removal of 38 boat slips (Land Use Policy 1), and 2) the project’s ability to maintain a balanced use of coastal resources (Land Use Policy 5). The appellants also contend that the project is inconsistent with language of the Implementing Ordinances.

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.*

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.*

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.

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.*

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

Primary Land uses, sub-area 3b (Mole B)

- *Minimum of 33% of sub-area 3b (Mole B) shall be maintained as contiguous passive park and public open space*
- *Boating facilities, such as boating clubs, boating instruction, boat storage, Harbor Patrol, and similar support facilities*
- *Public Open Space/Recreational Uses*

Additional Land Uses, sub-area 3b (Mole B)

- *Other public uses supporting the primary permitted uses*

The appellants argue that the project is also inconsistent with Coastal Act sections 30211, 30212, 30234, 30252 and 30255. However, the grounds for the appeal must be based only on the public access policies of the Coastal Act in Article 2 of Chapter 3.

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 New development projects (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.

The appellants contend that the project is inconsistent with the above section of the Coastal Act because, in summary: 1) the development will limit the existing public access by clustering uses into a smaller harbor area, and 2) the development will not protect public access and public parking to coastal areas and will impact access by compounding circulation problems.

Removal of Boat Slips

The appellants contend that the Boat Launch 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 Recreation policy E. 3. which requires all existing boating and boating-related facilities will be maintained, enhanced and preserved.

The construction of the boat launch on Mole B will remove 38 boat slips in the marina. The City has not presented a plan for the replacement of the slips. The marina currently does not operate at capacity, but that is irrelevant to the policy of the LCP.

This raises a substantial issue because the removal of the slips appears to be inconsistent with the LUP policy and it may be inconsistent with the Recreation policy E. 3. However, the City argues that the construction of the boat launch and boat hoist enhances boating facilities because it will increase the number of boaters able to use the harbor, above the current capacity that are served by the boat slips, which may be true, but does not address the alternative sites in the harbor that could achieve the same goal without removal of any slips. The City's report didn't make any findings, as required by LUP Policy 1, demonstrating that existing uses of the boat slips are no longer necessary for the functional operation of the harbor. The City has stated that this location is preferable because it is not currently under a lease agreement and the other feasible locations in the harbor are under lease agreements for at least the next 7 years, approximately. The City has also stated that this is the safest location for the boat launch, but the appellants disagree.

Additionally, Policy E. 3 has a subparagraph that states: "All of the existing slips within the Harbor area will be maintained, enhanced, and preserved." It is unclear if this wording is intended to be part of the actual policy or if it is intended to be findings describing 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 this proposed boat launch project. However, some recreation policies of the LCP apply to retained jurisdiction areas (over the water), as is the case here. The City did not make findings that the project is consistent with these recreation policies, perhaps because the area is within retained jurisdiction and the standard of review will ultimately be the Ch. 3 Coastal Act policies. While these LCP policies related to water-borne development may not be binding for the retained jurisdiction standard of review, they can and should be used as guidance, and as part of the certified LCP, should be included in the City's analysis prior to issuance of the local CDP.

The Waterfront Development cannot occur without construction of a public boat launch, per LUP Policy 1, and if the construction of the boat launch in this location conflicts with the other boating protection policies of the LCP, then this raises substantial LCP and Coastal Act conformance issues requiring Commission consideration.

Public Access (parking, traffic)

Preserving and providing access to the coast is required by the LCP and the Coastal Act. Not providing sufficient parking, or hindering access with poor circulation around coastal areas, can

have a negative impact on coastal access. The City's recreation policies require adequate parking for all new development, including a boat launch.

The appellants have argued that the boat launch on Mole B will only be able to provide 32 trailer parking spaces, due to the strict requirements of the LCP to preserve open space on Mole B, while other alternative locations for the boat launch would be able to provide more parking. The appellants stated that the Harbor Commission recommended approximately 40-60 spaces would be needed for the boat launch facility. The LUP Access policy F. 3 requires that the City enforce parking standards for new development; however, the number of trailer parking spaces proposed may not be sufficient to meet the demand of the project, and therefore would not be consistent with the F.3 policy.

Additionally, 6 of the 32 trailer parking spaces proposed would encroach into the green space of Moonstone Park. The majority of the trailer parking spaces would remove existing, regular sized public parking spaces currently used for marina purposes, public visiting the park, and the outrigger canoe club, without sufficiently replacing these spaces nearby, which could limit public access to the area.

The LUP Access policy F. 9 requires that existing public parking spaces in the Harbor-Pier area will not be reduced as a result of further development. The City-approved project would, as described above, remove 131 public parking spaces and would replace them with 32 trailer spaces, and 38 regular spaces situated behind a metal gate. It is unclear if these 38 spaces would still be available to the public with the gate blocking access to the lot. Overall there would be a net loss of 61 public parking spaces. A significant loss of public parking spaces on Mole B would not be consistent with Access policy F. 9 of the LCP and therefore, raises a substantial issue.

Marina Drive, the only access to Mole B, is currently gated. Access is granted to the public only during certain hours of the day. Appellants argue that boaters waiting at the gate to enter would be waiting in a line that would impede bicycle and automobile traffic on Harbor Drive, causing back-ups and circulation issues that would impact access to and around the Harbor. Further, gating a portion of the parking spaces on Mole B—whether these spaces are public or not—may have negative impacts to circulation and public access and does raise a substantial issue regarding consistency with the public access policies of the Coastal Act.

At the very least, the proposed reduction in the number of public parking spaces raises a substantial issue with regard to consistency with LCP Policy F.9. The other parking issues and circulation access issues regarding Mole B are also of concern and may violate policies of the LCP. Accordingly, the issues need to be analyzed on a closer level to have a final consistency determination and thus raise substantial LCP and Coastal Act public access conformance issues requiring Commission consideration.

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. The City-approved boat launch project would impact green space on Mole B that is currently a public park, used for recreation. Further, the land use classification (sub-area 3b) of the LUP requires a minimum of 33% of Mole B be contiguous open space and passive park. The location of the City-approved 6 trailer parking spaces for the boat launch and 17 regular spaces would encroach into the green space of Moonstone Park and may reduce the open space below the required 33%.

However, the City has taken the position that it can meet the requirement of maintaining the required percentage of contiguous “open space” by counting the parking spaces as open space and replacing the area of green space removed by these parking spaces with a public boardwalk on the seaward side of the park¹. The plans would include the entire rock revetment seaward of Moonstone Park in its calculation of public useable park space, even though only a portion of the revetment would be usable, covered with a 10 foot wide public walkway and viewing platform. Although the walkway and viewing platform may qualify as public open space according to the LCP, the majority of the area deemed “public open space” consists of a revetment that is not usable space for the general public. As described below, the requirement to maintain open space in Mole B was intended to ensure that open space would be available for passive recreational enjoyment. With the proposed project, there is no evidence that public parking spaces and inaccessible portions of a revetment would be available for such recreational enjoyment or qualify as “open space.” The project thus raises a substantial issue regarding LCP conformity.

Lastly, any impact to the public open space or redefining how the open space will be implemented and utilized on Mole B may have impacts to public access and could be inconsistent with the Coastal Act’s access policies. When the Commission certified the LCP requirement to maintain 33% open space on Mole B (LCPA- 2-08), it adopted findings stating that, because Mole B is an area of filled State Tidelands, modifications to the proposed LCP were necessary to “protect Moonstone Park as an existing public park and open space or require a similar amount of contiguous open space be preserved within the Mole as public open space for passive recreation enjoyment” (Pg. 34). Because it is not clear that the parking spaces and inaccessible portions of the revetment serve this purpose of “public open space for passive recreation enjoyment,” the proposed project raises substantial issues with regard to the Coastal Act’s coastal access policies.

The appellants also argue that the mix of coastal dependent uses existing in the harbor today, which include stand-up paddling, kayaking, outrigger canoeing, passive park recreation, and the new boat launch location, would be forced into one location in the harbor. They claim this would present safety conflicts and the overuse of these elements on Mole B, which may impact existing access to the coast in this area, and therefore is inconsistent with the Coastal Act and LUP Policy 5.

The clustering of uses on Mole B may or may not be inconsistent with the policies of the LCP and may or may not have impacts to existing public access. However, the City’s interpretation of defining public open space and appropriate uses clearly raise substantial LCP and Coastal Act conformance issues requiring Commission consideration. Accordingly, the issue of clustering uses supports the need for de novo review and should be reviewed further in that process.

Conclusion

This appeal raises a substantial issue regarding the project’s consistency with the LCP and the public access policies in Chapter 3 of the Coastal Act. The Notice of Decision for the local CDP and the accompanying Final Staff Report state that the City applied the policies of the certified LCP and the public access 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**).

¹ The proposal for the public boardwalk over the revetment is part of the proposed development in the Coastal Commission CDP application for the retained jurisdiction.

However, applying the five factors listed in the prior section clarifies that the appeal raises “a substantial issue” with respect to LCP policies and the public access policies of Chapter 3 of the Coastal Act, and therefore, does meet the substantiality standard of Section 30625(b)(2) because the nature of the proposed project and the local government action appear to be inconsistent with policies of the LCP and access policies of Chapter 3 of the Coastal Act.

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 did not consider all relevant LCP policies that apply to the development and the project site, acknowledging only the New Development policies of the LUP and not the Access and Recreation Policies of the LUP, possibly because some of the Access and Recreation policies apply in areas of the Commission’s retained jurisdiction. The proposed project also appears to conflict with LCP policies that require preservation of open space on Mole B, of parking spaces, and of boating slips in this area of the harbor, as well as with relevant public access policies of the Coastal Act. The City additionally did not sufficiently justify its legal interpretation of allowing parking areas and inaccessible portions of the revetment to qualify as “open space” for purposes of LCP policies protecting such open space. 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 is just one of four possible boat launch locations identified by the City and the residents (moles A-D). Permitting the boat launch in this location allows for other forms of development on the other moles and precludes development of the boat launch on any other mole. As such, the extent and the scope of the development on Mole B indirectly impacts all four moles in the harbor. The City-approved project does not protect the existing public parking and may not provide sufficient public parking for the new boat launch use, which could impact public access to the site. Additionally, the circulation problems associated with the project could further impact public access. There is a high potential for the development to negatively impact coastal access to coastal-dependent uses by not providing sufficient parking and removing, limiting or clustering existing coastal-dependent uses. Therefore, the extent of the development as approved by the City raises a substantial issue regarding consistency with the public access policies of Chapter 3 of the Coastal Act and with LCP policies.

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 and the coastal-dependent uses 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. In approving the CDP for this project, the City considered the policies related to the harbor-pier area but neglected to consider other LCP policies that could affect the approval or conditions imposed on the project. Ignoring relevant policies would set a bad precedent for future CDP actions. The City’s decision is also based on some interpretations of its LCP policies that will have precedential effect. For example, the interpretation of “public open space” as including parking spaces and a revetment is likely to set a precedent for future city decisions regarding the harbor and other locations in the coastal zone. Additionally, the interpretation that the removal of boat slips may not necessarily conflict with the LCP provisions to “preserve and enhance these existing facilities” could also set a precedent for future decisions.

Therefore, the City's interpretations of its relevant LCP policies will set an important precedent that will affect future CDP actions.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal is locally controversial and deals in part with issues of local parking and preservation of local open space. However, the harbor represents 1 of only 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. Without proper protections in place to preserve these unique elements of the harbor, and without proper protection for parking and boat slips, the project could affect regional access. Therefore, the City's approval does raise issues of at least regional significance.

In conclusion, the relevant issues for the appeal are potential impacts to public coastal access and recreation and the project's consistency with specific policies of the LCP. Therefore, the Commission finds that the appeal raises a **substantial issue** as to conformity with the LCP and public access policies of Chapter 3 policies.