

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application Number: 5-18-0119

Applicant: MCL Marina Corp.

Project Location: 835 Hopkins Way, Redondo Beach, Los Angeles County

Project Description: Remove 5 existing dock guide piles and replace them with 5 new support piles and install 11 new support piles to reinforce a cantilevered portion of an existing 49-unit apartment building in the Redondo Beach King Harbor in order to meet current building code because the apartment building was constructed with an open first floor or ‘soft’ story that overhangs the harbor water. A public walkway is under the overhang, and just past the overhang is a private dock system with 23 existing 16 foot long slips. The new support piles would displace approximately 21 cubic yards of soft bottom habitat. The proposal includes mitigation for displacement of soft bottom habitat at a 2:1 ratio within the harbor. The project includes demolition of the existing boat slips and reconstruction of the slips, with no loss to the number of slips, and installation of a 1,000 square foot public dock area in the marina, immediately seaward of the apartment building, and allows for temporary dinghy or small craft docking and a launch point for hand-powered small crafts.

Staff Recommendation: Denial

SUMMARY OF STAFF RECOMMENDATION

The major issue raised by the project is the inconsistency with the allowed uses for fill of coastal waters per Section 30233 of the Coastal Act. The proposed project would fill 21 cubic yards of open coastal waters in order to install 16 new structural piles to support an existing residential

apartment building partially cantilevered over the harbor water. The objective of the project is to improve the foundation of the building to meet current building code and reduce the risk to property and safety in the event of an earthquake.

The original building, with the “soft” first story, was constructed in 1971. Since that time, the soft story design has been found to perform poorly during earthquakes, with significant damage noted in soft story buildings in the San Francisco Marina District as a result of the 1989 Loma Prieta Earthquake and in the Los Angeles area following the 1994 Northridge Earthquake. Additionally, the structure was constructed as a “non-ductile concrete” building, which often contain a concrete frame with a lack of reinforcing steel. The average lifespan of concrete is between 75 and 100 years, and because the concrete of the “non-ductile buildings” is not reinforced with steel, the concrete might not yield during ground shaking events. The California Building Code no longer allows the use of soft story design or non-ductile concrete structures. Some cities have adopted a regulation mandating that existing soft story buildings either be retrofitted with added bracing, supports and/or shear walls to improve seismic performance or be demolished. The City of Redondo Beach has not yet adopted such a regulation mandating that the apartment building be either retrofit or demolished, and at this time, the proposed improvements are not required; the improvements are voluntary upgrades to the foundation that would bring the building into conformance with the current building code.

There are 14 existing piles that support the building on the seaward side. When the building was constructed in the 1970s, the piles were driven approximately 40-60 feet deep into the sea floor. The portion of the piles deep under the sea floor cannot be inspected, and therefore the condition of the piles is unknown. Because the existing piles cannot be thoroughly inspected, the applicant is unsure whether the building would be damaged in a significant earthquake, and therefore the applicant prefers to install new structural piles in order to meet the current building code. While the condition of the current piles may be unknown, any damage to the building in the event of an earthquake would likely be a result of the structure’s original design (soft story) and construction (non-ductile concrete) from 1971, and would not be due to the failure of the current piles. The current piles provide significant structural support, and need to be supplemented in order to meet the building code for seismic safety. The building might be safer with the proposed improvements, but there is no guarantee that it would not be damaged in a significant earthquake.

Section 30233 of the Coastal Act provides that fill of open coastal waters is limited to certain allowable uses, where mitigation measures have been provided, and where there is no feasible less environmentally damaging alternative. The proposed improvement to the foundation of the existing residential structure is not an allowable use under Section 30233(a) and, while mitigation has been proposed, the project has not demonstrated that it is, in fact, the least environmentally damaging alternative. Other alternatives, including a significant remodel to remove the portion of the building overhanging the coastal waters, might be a less environmentally damaging alternative, but is not proposed at this time.

Section 30233(a) allows for fill of open coastal waters for new or expanded boating facilities, or for new public recreational piers. In this case the proposed development of a 1,000 sq. ft. public dock and launch point would be an allowable use for new fill, however there is no new fill needed to improve the dock system and convert it to a public dock. The proposed fill is needed strictly to support the existing foundation system for the apartment building and is not necessary to support the proposed public recreational enhancements to the dock system. The fill to support the apartment building is independent of the proposed dock system improvements. Commission

staff requested that the applicant provide project alternatives that would result in no new net fill, including an alternative involving only the replacement of existing piles. However, the applicant has asserted that the purpose of the proposed development is to upgrade the foundation system to comply with current Building Code requirements, and that this cannot be accomplished without new fill.

The improvements to the dock system would enhance public access and would develop new coastal-dependent uses seaward of the project site. These elements are consistent with the Coastal Act and the certified Local Coastal Plan (LCP) however, these elements of the project do not require the proposed fill for the apartment building foundational support. The improvements to the dock system seaward of the project site could be done independently of the proposed foundational support. While the project would enhance public access and coastal dependent uses, the overall proposed project is inconsistent with the Coastal Act and the LCP, and therefore must be denied.

The applicant asserts that the project is necessary to protect the public walkway and the safety of the public using the walkway under the building. While the Coastal Act does require maximization of public access, Section 30212 allows for exceptions where public access may be limited, specifically for the safety of the public and where adequate access exists nearby. In this case, public access exists nearby and temporary closure of the public walkway would not be inconsistent with the Coastal Act as it would provide for the safety of the public without requiring fill of coastal water.

The applicant is not proposing to simply replace the existing piles with new ones, so the work is not considered repair and maintenance. The proposed work is a significant expansion to the existing foundation. The Commission can authorize development under Coastal Act Section 30610(d) and Section 13252(a) of Title 14 of the California Code of Regulations, for repair and maintenance activities that do not enlarge or expand the object of the repairs. However, in this case, the addition of 16 new piles would more than double the number of support piles and result in a substantial expansion of the structure's foundation system. Therefore, the proposed development is not allowed repair and maintenance, and is not consistent with the marine resource protection policies of the Coastal Act.

Although the standard of review for this permit application is the Coastal Act, the certified LCP may be used as guidance. The current use of the site as residential is not consistent with the certified LCP (which has a land use designation of Commercial Recreational in this area and the Implementation Plan requires Coastal Commercial uses) and the structure (including its height and setbacks) is not consistent with the LCP development standards. The LCP Implementing Ordinances allow for structural alterations to a non-conforming use if they are required by the Chief Building Official, with approval by the Planning Commission Design review, and as long as the structural alterations do not extend the useful life of the building. The applicant did provide a letter from the Building Chief Official, however the plans have not been approved by the Planning Commission Design review, and the new structural alterations would increase the useful life of the building, as explained below, which is not consistent with the LCP.

The economic life of the multi-family structure, according to the applicant, is 70 years. Additionally, the existing non-conforming use of the site as an apartment building is near the end of the term of a State Lands Commission lease issued for the property, and the structure is approaching the end of its useful life. The lease of the state lands expires in 14 years and the building is approaching 50 years old. The proposed piles would bring the building up to current

code, but would significantly extend the life of the structure, which is inconsistent with the LCP requirements for nonconforming structures, and the improvements would perpetuate the nonconforming development of the residential use in an area that should be reserved for public uses (the site is public lands), and coastal-dependent uses (per Chapter 3 policies of the Coastal Act), and commercial and recreational uses (per the LCP). Because the project is inconsistent with the Coastal Act and the LCP, it must be denied.

The applicant has argued that the project is consistent with Section 30235 of the Coastal Act, which allows protection of existing development that is in danger from erosion. The proposed structural piles are an augmentation to the building foundation and are proposed for increased stability during an earthquake, and are not designed to address threats of erosion. In this case, the structure is threatened by possible seismic activity and the expansion of the foundation is proposed to address the building's outdated structural design. Section 30235 allows for shoreline protection; but there is no need for shoreline protection in this instance, because the building is not currently threatened by shoreline conditions or erosion.

Commission staff asked the applicant to provide alternative plans that result in less fill, or no fill, and that constitute the least environmentally damaging alternative. The alternatives provided by the applicant would result in more fill than what is currently proposed, or would require a significant remodel, such as removing the portion of the building overhanging the water, that is not proposed at this time. Commission staff also asked the applicant to consider temporary improvements that would offer additional support through the end of the lease term. The applicant responded that the proposed project is a temporary improvement in-lieu of more expensive and significant reconstruction of the building. As such, the applicant was not able to provide any alternatives to achieve the objective of meeting the building codes to reduced risk in the event of an earthquake without any new fill, in order to be consistent with Section 30233 of the Coastal Act. The project, if denied, will not result in any change to the structure or the use. Because the City of Redondo Beach has not determined that the code violations are a threat to public safety and has not condemned the building or labeled it uninhabitable, denial of the project will not result in any change to the use of the structure.

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EXHIBITS

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

[Exhibit 2 – Project plans](#)

[Exhibit 3 – Photographs](#)

I. MOTION AND RESOLUTION

Motion: *I move that the Commission approve Coastal Development Permit Application No. 5-18-0119 for the development proposed by the applicant.*

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

Resolution:

The Commission hereby denies the Coastal Development Permit for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The site is located in Redondo Beach King Harbor, between the sea and the first public road, North Harbor Drive in Redondo Beach ([Exhibit 1](#)). The site is between the harbor water and Hopkins Way, which is a private street. The site is at the Northern end of the harbor, between Moles A and B. The existing 49-unit apartment building on the site is located in Basin 1, where approximately 1/3 of the building was constructed on land, and approximately 2/3 was constructed over the water ([Exhibit 3](#)). The portion of the building constructed over the water is supported by 14 structural piles, approximately 16 inches round, 40-60 feet deep in the sea bed of the harbor. The project site is limited to the portion of the building that overhangs the water; no improvements to the landside development are proposed at this time. The building was constructed prior to the passage of the Coastal Act, in approximately 1971. The area immediately south of the site supports a boat hoist, and immediately seaward of the apartment building is a private dock for use by apartment tenants. The building overhangs a public walkway, just inland of the private dock system with 23 existing 16 foot long slips.

The apartment building is not located on filled tidelands, but development would take place in submerged lands. The portion of the building constructed on land is uplands, and the portion of the building over the water is located on dredged uplands, which was excavated to make the Basin 1 Marina when the harbor was originally constructed before the passage of the Coastal Act. The City of Redondo Beach has a certified LCP, however the applicant has applied directly to the Coastal Commission because it proposes work in coastal waters that is within the Commission's retained permitting jurisdiction. The standard of review is the Chapter 3 policies of the Coastal Act, though the certified LCP may be used as guidance.

The City of Redondo Beach has leased the State Tidelands to Marina Cove LTD., and the lease was originally intended to end in 2027, however a 5 year extension was granted to the lease. Therefore, the lease of the tidelands expires in March of 2032. Even though the project site is not located on tidelands, the lease includes submerged lands in the harbor, which encompasses this project site. MCL Marina Corporation, the applicant, is the managing partner of Marina Cove, Ltd.

In the certified LUP, the site has a land use designation of Commercial Recreation. The zoning map of the IP indicates that the site 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 height limit is 45 feet, 3 stories. According to the LCP, this site is not zoned or designated for residential uses; hence the existing residential structure is existing non-conforming. Additionally, the height of the structure is over 58 feet high from the street level, which is also non-conforming.

The applicant proposes to remove 5 existing octagonal dock guide piles and replace them with 5 new support piles and install 11 new piles (for a total of 16 new 14-inch square concrete support piles) driven approximately 40 feet into the sea bed. The piles would extend approximately 16 feet high above sea level to reach the existing apartment building and would attach to new concrete grade beams in order to reinforce a cantilevered portion of an existing 49-unit apartment building in order to correct the current "soft story" condition. The existing 14 round piles that currently support the structure would remain in place. Construction would take approximately 12-14 weeks to complete, with some work complete by a barge and crane. Staging would be located in the boat yard immediately inland of Hopkins Way.

The portion of the existing support piles 40-60 feet deep under the sea floor cannot be inspected and the condition of these piles is unknown. Because the existing piles cannot be thoroughly inspected, the applicant is unsure if the building would be damaged in a significant earthquake. Because the applicant is unsure, they have proposed that the foundation of the structure be improved to meet the current building code. While the condition of the current piles is unknown, any instability in the event of an earthquake likely would be a result of the building's original design (soft story) and construction (non-ductile concrete) from 1971, both of which would not be permitted if the building were constructed today under current building codes.

The original building design created a "soft story" condition and the construction method as a "non-ductile concrete" building both prevent the building from meeting current building codes. Non-ductile concrete buildings were constructed prior to 1975 and often contain a concrete frame with a lack of reinforcing steel. Retrofit work can often be done with exterior steel frames that attach to the existing concrete, or by constructing shear walls. The average lifespan of concrete is between 75 and 100 years, and because the concrete of the "non-ductile buildings" is not reinforced with steel, the concrete might not yield during ground shaking events. A "soft-story" condition occurs when the building has habitable space above a ground-level void, such as a garage or in this case, a significant cantilevered portion of the building, and the open space is not able to withstand shear or lateral forces to support the stories above. A soft story condition is often corrected by reinforcing the open space with steel beams to offer structural support. In 2013 San Francisco, and in 2016 the City of Los Angeles, both adopted regulations to address existing "soft story" buildings and require the property owners to either retrofit the building or demolish the structure and both cities gave property owners a timeline in which to comply. The City of Redondo Beach has not adopted such a regulation. The applicant has provided a letter from the Chief Building Official noting that the proposed repairs are necessary for the building

to conform to the current building codes. The structural engineering report concludes that “this building would not be allowed to be constructed under the current code” and recommends that the applicant undertake “voluntary upgrades” to the foundation.

The new support piles will displace approximately 21 cubic yards of soft bottom habitat. The proposal includes mitigation for displacement of soft bottom habitat at a 2:1 ratio within the harbor which would be accomplished by removing a large abandoned mooring near the entrance of the channel that has displaced soft bottom habitat (near Mole B), which is approximately twice the square footage of the impact of the proposed project.

The project includes demolition of the existing boat slips and reconstruction of the slips, with no loss to the number of slips, and installation of a 1,000 square foot public dock area in the marina, immediately seaward of the apartment building, and allows for temporary dinghy or small craft docking and a launch point for hand-powered small crafts ([Exhibit 2](#)).

LCP 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, which may be used as guidance.

Project History

The applicant applied for this project in 2013 (Application No. 5-13-0535). At the time, it did not propose any mitigation for the impacts to the soft bottom habitat. The application was incomplete for 3 years. The application also did not provide any engineering details showing the project was necessary or required by any agency, nor did it provide an alternatives analysis. The necessary information was not provided and the applicant withdrew the project in 2016.

B. MARINE RESOURCES

Section 30230 Marine resources; maintenance

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will

sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30233 Diking, filling or dredging; continued movement of sediment and nutrients
(in part)

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

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) Restoration purposes.*
- (7) Nature study, aquaculture, or similar resource dependent activities.*

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

Section 30234 Commercial fishing and recreational boating facilities

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

Section 30235 Construction altering natural shoreline

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

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).

Section 30230 of the Coastal Act and the LCP protect marine resources to sustain the biological productivity of coastal waters. No federal or state listed endangered, threatened, or rare sensitive marine species were observed around the project site during an underwater survey in 2011. Neither *Caulerpa taxifolia* nor Eelgrass were found within the project site. The significant portion of the building that overhangs the harbor water creates shading, which does not provide an environment hospitable to Eelgrass.

Section 30233(a) of Chapter 3 of the Coastal Act applies to diking, filling, and dredging and imposes three requirements on proposals involving fill of open coastal waters: (1) the fill is limited to certain allowable uses, (2) feasible mitigation measures have been provided to minimize adverse environmental effects, and (3) there is no feasible less environmentally damaging alternative. The requirements of Section 30233(a) have not been satisfied with respect to the proposed project for the following reasons.

First, the proposed project, consisting of improvements to the foundation of a residential structure that currently overhangs coastal waters, does not qualify as an allowable use under Section 30233(a). The applicant asserts that the project falls under Section 30233(a)(6) because the improvements to the building constitute “restoration.” However, this policy refers to restoration of marine habitat, not restoration of a building. The proposed project includes mitigation that would enhance habitat, but only to offset the impacts caused by the project, and therefore the project cannot be considered an allowable restoration project.

Section 30233(a) (3) allows for fill of open coastal waters for new or expanded boating facilities, and to support public recreational piers. In this case, the project includes proposed development of a 1,000 sq. ft. public dock and launch point adjacent to the apartment building. However, the proposed pile replacement and additions that result in fill of coastal waters is required to support the existing foundation system for the apartment building, not the dock system. In fact, five small guide piles that currently moor the dock will be removed and replaced with significantly larger piles that support the apartment building. While a component of the project involves creation of a public recreational dock, it is not the case that the project requires “the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.” The pilings are for the apartment complex, and are not needed to support the dock.

Second, although the applicant has proposed mitigation measures, it is not clear that there are no less environmentally damaging feasible alternatives. The new support piles will displace approximately 21 cubic yards of soft bottom habitat. The proposal includes mitigation for displacement of soft bottom habitat at a 2:1 ratio within the harbor which would be accomplished by removing a large abandoned mooring near the entrance of the channel that has displaced soft bottom habitat, which is approximately twice the square footage of the impact of the proposed project.

However, Commission staff asked the applicant to provide alternative plans that result in less fill, or no fill, and that constitute the least environmentally damaging alternative. All of the alternatives provided by the applicant would result in more fill than what is currently proposed. For example, fewer piles (8 new piles) could be installed, however, the piles would need to be larger in diameter to support the apartment building and, therefore, this alternative would result in a greater amount of displaced seabed. Alternatively, a concrete bench/abutment could be constructed in-lieu of piles, but that also would result in significantly more fill than the proposed alternative and would require dredging. The applicant considered an alternative that would offer cantilevered support, instead of support in the coastal waters, however the cantilevered support would still require a large concrete footing at the edge of the land and the water, would still require fill, and would impact both the public access walkway and the boat hoist. The applicant explored the alternative of removing and replacing the existing piles, however the existing piles in their current location do offer significant structural support, but more piles, in addition to the existing piles, are needed to bring the structure up to code.

Staff asked the applicant to explore an alternative that removed one or more of the top stories of the building in order to reduce the weight on the soft first story. While the weight and the pressure on the existing foundation would be reduced, the building still would not meet the minimum code requirements. The applicant explored alternatives such as remodeling the building in such a way as to remove the portion of the building overhanging the water. That alternative was dismissed as it would remove a significant number of units and destroy the function of the dwelling units in the building, even though it may be the least environmentally damaging alternative.

Commission staff also asked the applicant to consider temporary improvements that would offer additional support through the end of the lease term (14 years are left on the lease). The applicant responded that the City building department would not permit the structure to be supported by elements that are expected to last less time than the building itself (expected to last another 20 years approximately), and temporary piles would have the same or similar impacts to the current proposal. The applicant describes the proposed project as a temporary improvement in-lieu of more expensive and significant reconstruction of the building. As discussed above, reconstruction of an apartment building in this location would not be consistent with the LCP. The applicant may be able to remodel the existing structure as an apartment building, keeping the non-conforming use, and undertake seismic improvements without new fill of coastal waters by removing a portion of the building overhanging the water, however a significant remodel is not proposed.

As described by the applicant, there are no alternatives that would maintain the current structure as an apartment building with 49 units that would bring the building up to code without any new fill. As such, the applicant was not able to provide any alternatives to achieve the objective without new fill, in order to be consistent with Section 30233 of the Coastal Act.

The proposed improvements to the dock system are consistent with Section 30234, which requires protection of recreational boating facilities, where feasible. However, the existing dock system already provides for recreational boating facilities, and there would be no change in the number of slips, and therefore no change to the existing boating facilities available on the site.

Section 30235 of the Coastal Act states that shoreline armoring is permitted when required to protect coastal-dependent uses, or protect existing structures, or public beaches from erosion, and when they are designed to mitigate adverse impacts on the shoreline and sand supply. The

applicant asserts that the project is consistent with Section 30235 of the Coastal Act, which allows protection for existing development that is in danger from erosion. The proposed structural piles are an augmentation to the building foundation and are proposed for increased stability during an earthquake, and are not designed to address threats of erosion. In this case, the structure is threatened by possible seismic activity and the correction to the foundation is proposed to address the building's outdated structural design. Section 30235 allows for shoreline protection; however, there is no need for shoreline protection in this instance, because the building is not currently threatened by the shoreline conditions or erosion.

The Commission can authorize development under Coastal Act Section 30610(d) and Title 14 California Code of Regulations, Section 13252(a), for repair and maintenance activities that do not enlarge or expand the object of the repairs. However, in this case, the addition of 16 new piles would more than double the number of support piles and result in a substantial expansion of the structure's foundation system. The applicant considered project designs that would involve only replacing the existing piles, but the existing piles need to be supplemented in order to meet the building code. Therefore, the proposed development is not a repair and maintenance activity. The Commission finds that the proposed development is inconsistent with the marine resource protection policies of Chapter 3 of the Coastal Act, and therefore must be denied.

C. PUBLIC ACCESS

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 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.

Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals (in part)

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

During the construction phase of the project, the new piles would be shipped to the site via a barge with a crane, lifted into place, and would be jetted and driven into the soft bottom. The old

removed piles would be transported to a landfill. A portion of the boatyard to the east of the project site would be used for staging on the landside. The proposed development would take approximately 12-14 weeks to complete, during which time access to the public walkway would be closed.

The applicant argues that the project is necessary to protect the public walkway and the safety of the public using the walkway under the building. While the Coastal Act does require maximization of public access, Section 30212 allows for exceptions where public access may be limited, specifically for the safety of the public and where adequate access exists nearby. In this case, closure of the public walkway for public safety purposes could be consistent with the Coastal Act because public access exists nearby. This portion of the public walkway is only one section of a public boardwalk that wraps almost entirely around the Marina Basin. Members of the public walking around the basin would use Hopkins Way, the street inland of the existing building to walk around the building and get back on the waterside pathway north of project site. Section 30210 of the Coastal Act requires maximum public access, and it is preferable to keep all accessways open, but only as long as such access is consistent with public safety and the rights of private property owners. In this case, the leased submerged lands are public lands and the public should have the right to access the water in this location. However, if the current building presents a threat to public safety, there are access alternatives. Similarly, because the City has not determined that the structure is a threat to public safety and has not condemned the building or labeled it uninhabitable, denial of the project will not result in any change to the use of the structure or of access to the accessway beneath the structure. It can continue to be used as an apartment building and the public can continue to use the accessway.

The applicant has proposed, as part of the project, public access benefits in the form of a converting a private dock space to a new public dock adjacent to the project site. The project includes installation of a 1,000 square foot public dock area in the marina, immediately seaward of the apartment building, which would allow for temporary dinghy or small craft docking and a launch point for hand-powered small crafts. Both the Redondo Beach LCP and the Coastal Act encourage recreational boating uses, and coastal-dependent uses, and maximizing public access to these uses, however the public access benefits of the proposed project do not offset or mitigate the impacts to the soft bottom habitat (discussed above).

These public recreational amenities would be consistent with Coastal Act provisions for lower-cost recreational opportunities. However, the public access benefits proposed do not rely on the new fill (discussed later in the report) and therefore, the project is still inconsistent with the Marine Resource protection policies of the Coastal Act. While the proposed project would offer additional public benefits to the area, the project is inconsistent with other Sections of the Coastal Act and therefore, must be denied.

Commission staff discussed the project's inconsistencies with Chapter 3 policies and the applicant asked staff to consider conflict resolution because of the public access benefits proposed by the project. Per Section 30007.5 of the Coastal Act, when a conflict arises between two policies, "*such conflicts be resolved in a manner which on balance is most protective of significant coastal resources.*" As discussed below, the project is inconsistent with Section 30233 of the Coastal Act, which does not allow for fill of open coastal waters except in certain, limited situations not applicable here. The elements added to the project description (public recreational dock and launch point) are public access improvements that are consistent with some of the public access and recreation policies of the Coastal Act. These two policies, however, are not in conflict in this proposal. The project, if denied, would not affect coastal

resources in a manner that would be inconsistent with the public access and recreational policies of the Coastal Act that affirmatively require protection of those resources, because if the project were denied, the existing public access under the overhanging structure would continue to be available, or if the City determined that public access to the walkway was unsafe, the Coastal Act allows for that access to be temporarily closed, as explained above. In order to consider approval under Section 30007.5, the inconsistency must arise from a policy that affirmatively mandates protection or enhancement of the resources, which is not the case here. Additionally, the decision most protective of coastal resources would be protection of the marine resources (avoiding new fill), in this case, because public access already exists nearby. And lastly, the benefits of the project must result from the main purpose of the project, rather than from an ancillary component added to “create a conflict.” The main purpose of the project is to reinforce and augment the foundation of the existing building, not to create public access improvements. As such, there is no conflict between any two Coastal Act policies with regards to the proposed development.

D. RECREATION AND COASTAL-DEPENDENT USES

Section 30220 Protection of certain water-oriented activities

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

Section 30221 Oceanfront land; protection for recreational use and development

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

Section 30222 Private lands; priority of development purposes

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

Section 30224 Recreational boating use; encouragement; facilities

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

Section 30255 Priority of coastal-dependent developments

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

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.*

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

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

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.

The recreation policies of Chapter 3 of the Coastal Act protect waterfront areas for water-oriented uses and protect harbor spaces for boating uses. Section 30220 protects coastal areas for water-oriented recreational activities that cannot be provided inland. The Redondo Beach LCP, which is not binding but serves as guidance, also prioritizes coastal-dependent uses. For example, LUP Policy 1 encourages expansion of coastal-dependent uses, where feasible. The priorities for the harbor, as established by the LCP, are for coastal-dependent and recreational and commercial uses. In addition, the portions of the harbor that are State tidelands and submerged lands are held in trust for the public and should be reserved for public uses.

The current use of the site for an apartment complex does not comply with many of the Coastal Act and LCP policies related to protecting coastal-dependent uses,¹ described above. For example, Section 30255 states that coastal-dependent developments have priority over other developments on or near the shoreline and Section 30220 protects coastal areas for water-oriented recreational activities that cannot be provided inland. The LCP requires new development in this location to serve coastal recreation and commercial uses. The existing use of the site as a residential apartment complex that straddles the land and the sea precludes any additional boating support facilities in this location in the harbor. This site is an example of a use (residential) that could be provided inland, and would reserve the site for coastal-dependent uses necessary for the function of the harbor.

¹ The Coastal Act defines coastal-dependent to mean “any development or use which requires a site on or adjacent to, the sea to be able to function at all.” Examples of coastal-dependent uses in the harbor include the recreational boating facilities, the existing hand-launch facility, the public fishing pier, etc.

If the site was redeveloped, any new development on the site would need to comply with numerous LCP policies, including LUP Policy #2; the new development would need to preserve public views from N. Harbor Dr. to the Ocean, and a new development project would be required to be consistent with the scale of existing development, and would need to be brought into conformance with development standards, such as the height limit and appropriate setbacks. It is unlikely that the existing apartment complex could comply with these provisions without a significant redevelopment.

The proposed improvements to the building's foundation would significantly extend the economic life of the non-conforming apartment complex, would support the continued use of the site as residential, a non-coastal-dependent use, and would perpetuate the existing non-conforming use well into the future and beyond lease term and beyond the approximately 20 years left of the expected economic life of the structure.

LUP Policy E. 3 protects boat slips: "all of the existing slips within the Harbor area will be maintained, enhanced, and preserved." Some recreation policies of the LCP apply to retained jurisdiction areas (over the water) as guidance, as is the case here. The proposal to demolish and reconstruct the existing boat slips would not result in any loss of slips, and would be consistent with the Recreation policies of the LCP and, similarly the new development of a public dock and small craft launching point would be consistent with Section 30224 of the Coastal Act, however, the proposed new support piles, the primary purpose of the project, are inconsistent with other sections of the Coastal Act and therefore the proposal must be denied.

In the certified LUP, the site has a land use designation of Commercial Recreation. The zoning map of the IP indicates that the site 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 height limit is 45 feet, 3 stories. According to the LCP, this site is not zoned or designated for residential uses; hence the existing residential structure is existing non-conforming. Additionally, the height of the structure is over 58 feet high from the street level, which is also non-conforming.

Chapter 5 of the City of Redondo Beach Municipal Code contains the LCP Implementing Ordinances. Article 8 address existing nonconforming uses and nonconforming structures, of which the purpose is: *(a) To limit the number and extent of nonconforming uses which conflict with the provisions of this title by restricting their enlargement, their reestablishment after abandonment, and their alteration or restoration after destruction of the structures they occupy; (b) To eventually eliminate nonconforming uses or provide for their alteration to conform with the provisions of this title; and (c) To allow structural improvements and minor additions to structures containing nonconforming uses to be considered in order to prevent these structures from becoming blighted and having detrimental impacts on the surrounding neighborhood, provided that such improvements or additions shall not adversely impact surrounding property, that there is no increase in the degree of nonconformity with respect to the development standards for the zone in which the property is located, and that the life of the nonconforming structure is not substantially increased.*

Additionally: (1) To allow for minor improvements and additions to nonconforming structures containing conforming uses located on beachfront lots or structures located immediately adjacent to vertical public access ways as designated in Table IX of the certified Land Use Plan, provided that the life of the nonconforming structure is not substantially increased.

The ordinance states (in part, emphasis added):

(a) A nonconforming use may continue provided there are no structural alterations to the structure in which the use is located except for those required by the Chief Building Official, and except those approved pursuant to subsection (b)...

(b) Structural alterations or minor additions to a nonconforming use may be approved subject to Planning Commission Design Review pursuant to Section 10-5.2502, and subject to the following criteria:

(1) The alteration or addition shall not adversely impact surrounding property.

(2) The alteration or addition shall not increase the degree of nonconformity ...

(3) The alteration or addition shall not decrease the future capability of the structure to provide off-street parking ...

(4) The alteration or addition shall not cause or increase a deficiency in the number of parking spaces required for the existing use.

(5) That if the structure containing the nonconforming use is nonconforming with respect to the standards of property development for the zone in which the property is located, including, but not limited to, density, building height, floor area ratio, or provision of off-street parking, the alteration or addition shall not substantially increase the useful life of the nonconforming structure.

(6) The alteration or addition is not inconsistent with the General Plan and the certified Local Coastal Program.

(a) Continuation of nonconforming structure. Where a use is conforming but the structure is nonconforming because it does not comply with the development standards for the zone in which it is located, such structure may continue and may be structurally altered ...

Article 8 of the LCP's Implementing Ordinances above allows for structural alterations to a non-conforming use if: (a) they are required by the Chief Building Official, and (b) if the structural alterations are approved by the Planning Commission Design Review, and (b5) if the structure does not conform to the development standards, which is the case here, the alterations shall not increase the useful life of the nonconforming structure, and (b6) if the alteration is consistent with the LCP.

Despite the letter from the Chief Building Official, the plans have not been approved by the Planning Commission Design review, and the new structural alterations would increase the useful life of the building, which is not allowed per the IP standards. As discussed, the apartment building is approximately 50 years old and is nearing the end of its expected economic life (70 years), and the foundation work would substantially increase the useful life of the non-conforming structure, which is inconsistent with Article 8.

Per Article 8, a nonconforming structure may be structurally altered only if the use is consistent, which does not apply in this case. The proposed structural improvements are not consistent with the LCP because the use of the site as residential is inconsistent with the land use designation (Commercial Recreation) and because the existing structure is inconsistent with the development standards (exceeds the current height limit) of the implementation plan.

While the proposed structural piles are not consistent with the LCP, the standard of review is Chapter 3 of the Coastal Act. The new proposed structural piles are not for any particular coastal-dependent use, because the existing guide piles that support the dock system are already serving coastal-dependent uses, and the new structural piles are designed to support the existing

nonconforming apartment building. The proposed structural piles would extend the life of the building as a residential structure, inconsistent with the Coastal Act policies that protect coastal areas for water-oriented recreational activities that cannot be provided inland and require that coastal-dependent developments have priority over other developments on or near the shoreline, and as such the project is inconsistent with Chapter 3 of the Coastal Act.

E. HAZARDS

Section 30250 Location; existing developed area (in part)

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

Section 30253 Minimization of adverse impacts (in part)

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

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

13. *Development in Redondo Beach shall be sited and designed to minimize hazards from wave uprush and from geologic hazards (in part).*

Because the existing apartment building straddles the land and sea, there is some risk of flooding to the apartment building as a whole, but not necessarily to the proposed new piles. According to the Shoreline Hazards report submitted by the applicant, by 2030 (near the end of the lease term that expires in 2032) during a large storm event, under the high sea level rise projections (50 cm), the landside of the development would be flooded. The apartment structure is expected to last approximately 20 more years. According to the Hazards report, by 2050 under high sea level rise projections (75 cm), the public walkway under the structure and the parking garages on the first floor of the building would be flooded. By 2100, under a high sea level rise projection (175 cm), flooding would cover the entire project site. The proposed development (including 16 new piles and the new dock) is designed to be located in the water, and therefore, is unlikely to be threatened in the event of flooding or sea level rise, or during storm events.

The development of the new public dock system would not have negative effects on any coastal resources, but the development of the new piles would have negative effects on coastal resources, as explained in the Marine Resources findings above, and therefore, is not consistent with Section 30250 of the Coastal Act.

Section 30253 of the Coastal Act requires new development to minimize risk to life and property in hazardous areas and assure structural stability without the construction of protective devices. The LCP likewise requires that new development in Redondo Beach minimize hazards from wave uprush and geological hazards. The proposed new piles are designed to increase stability of the structure in a known hazardous location and would not require a protective device, and the new dock is designed to withstand flooding and ocean hazards and also would not require a protective device. Therefore the proposed development is consistent with Section 30253 of the Coastal Act, however it is inconsistent with other Sections of Chapter 3 and must be denied.

F. LOCAL COASTAL PROGRAM (LCP)

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Redondo Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Redondo Beach LCP in 2008. The project is not consistent with either the LCP or the Chapter 3 policies of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The City of Redondo Beach is the lead agency for the purposes of CEQA review. In March 2013, the City of Redondo Beach determined that the proposed project would have potentially significant impacts to Biological resources and noise impacts, however revisions were made to the project to mitigate for those impacts. The City prepared a Mitigated Negative Declaration.

The proposed project has been found to be inconsistent with the Chapter 3 policies of the Coastal Act. CEQA does not apply to private projects that public agencies deny or disapprove, Pub. Res. Code § 21080(b)(5). Accordingly, because the Commission is denying the proposed project, it is not required to adopt findings regarding mitigation measures or alternatives which would substantially lessen any significant adverse effect the project would have on the environment.