

**CALIFORNIA COASTAL COMMISSION**

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# W21b

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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 five existing dock guide piles and replace them with five 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 to meet current building code requirements. The proposal includes mitigation for displacement of soft bottom habitat at approximately a 2:1 ratio within the harbor. The project also includes demolition and reconstruction of 23 existing 16 foot long boat 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, which allows for temporary dinghy or small craft docking and a launch point for hand-powered small crafts.

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The major issue raised by the project is the inconsistency with the marine protection policies of the Coastal Act. The proposed project would fill 14.5 square feet 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 risks to property and public safety in the event of an earthquake.

The original building, with a “soft” first story (a cantilevered second-story overhanging an open area on the 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. However, in marine areas, such as the subject site, this lifespan may be reduced.

The California building code no longer allows the use of soft story design or non-ductile concrete structures. Some cities have adopted regulations mandating that existing soft story buildings either be retrofitted or demolished, but the City of Redondo Beach has not adopted such a regulation. At this time, the proposed improvements are voluntary upgrades to the foundation that would bring the building into conformance with the current building code. Nevertheless, the applicant is concerned that the 14 piles that currently support the building cannot be adequately inspected to determine their safety during an earthquake. The apartment building has already undergone a retrofit. A voluntary landside retrofit was conducted in approximately 1995, according to the applicant, where exterior steel framing was added to each floor, and steel reinforcements were added to the second floor on the west side, and cross braces were added under the building to address lateral movement moving from north to south. However, any seismic activity or lateral movement moving from east to west could not be addressed at that time because of the position of the building over the water on the west side. Therefore, the applicant is proposing to install new structural piles in order to meet the current building code.

The proposed installation of new structural support piles would result in fill of open coastal waters. Section 30233(a) of the Coastal Act allows for fill of open coastal waters for certain allowable uses, and when the project is the least environmentally damaging alternative and feasible mitigation measures have been imposed to minimize adverse environmental effects. Here, the project is not an allowable use under Section 30233(a), and normally could not be found consistent with Section 30233(a).

However, the project involves repair and maintenance of the apartment building’s foundation support and will not enlarge the apartment building. Therefore, the Commission can authorize the proposed foundation repair work under Coastal Act Section 30610(d) and Section 13252(a) of Title 14 of the California Code of Regulations, for extraordinary “methods” of repair and maintenance that do not enlarge or expand the object of the repairs. In this case, although the projects involves substantial repair of the structure’s foundation system, the primary object of the repair (the apartment building) would not be expanded. Accordingly, the project can be found consistent with Section 30233(a) of the Coastal Act even though it is not an allowable use, as long as the project otherwise satisfies Section 30233(a). As discussed below, these findings can be made because the project is the least environmentally damaging feasible alternative as conditioned and mitigation measures have been imposed in Special Conditions to protect marine resources and minimize environmental impacts.

Although the standard of review for this permit application is the Coastal Act, the certified LCP for Redondo Beach may be used as guidance. The current use of the site as residential is not consistent with the certified LCP (which assigns this area a land use designation of Commercial

Recreational and requires only Coastal Commercial uses) and the structure is not consistent with various LCP development standards for building height and setbacks. The LCP allows structural alterations to a non-conforming use if 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. Here, however, the new structural alterations would support the structure through the end of its economic life, but could slightly increase the lifespan of the structure which would not be consistent with the LCP. The applicant holds a lease for the land from the City of Redondo Beach that expires in approximately 13 years, and the structure has approximate 50 years remaining of its economic life.

The proposed improvements could perpetuate the nonconforming development of the residential use in an area that should be reserved for public uses (the site contains public waters), and coastal-dependent uses (per Chapter 3 policies of the Coastal Act), and commercial and recreational uses (per the LCP). To address concerns about extending existing non-conformities beyond the expected useful life of the apartment building, the project has been conditioned to address the use of the structure. In order to ensure that the use of the structure is brought into conformance with the LCP, the applicant is required, per **Special Condition 1**, to eliminate the residential uses onsite and convert the use of the building to be consistent with Commercial Recreation if a new lease agreement is reached, or if a lease extension occurs.

If the applicant is not able to obtain a new lease agreement or a lease extension, the applicant must demolish the structure. Any change of use or demolition in the future would require an amendment to the permit, as well as a coastal development permit from the City. In order to ensure the use of the site is converted or the non-conforming structure is demolished, the applicant, per **Special Condition 11**, must record a lease restriction.

The applicant also proposes improvements to the dock system to enhance public access and 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). 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 and the Coastal Act does require maximization of public access. The public access to the dock would also be subject to the restriction per **Special Condition 11 and 3** requires plans for a public access signage plan to ensure that the public is aware of the new public dock immediately seaward of the structure.

With the abovementioned conditions, the project can be found consistent with the Chapter 3 policies of the Coastal Act and staff recommends the Commission approve the coastal development permit as conditioned.

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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 pursuant to the staff recommendation.*

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

**Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

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

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Foundation Improvement Authorization Terms.** By acceptance of this permit the permittee agrees, on behalf of itself and all successors and assigns, that:
  - A. The foundation improvements approved by this permit could result in the extension of the useful life of the existing structure at 835 Hopkins Way, Redondo Beach and therefore, the foundational improvements are authorized only through the end of the term of the applicant's lease with the City of Redondo Beach for the structure, which expires in March of 2032. In 2032, the authorization for the foundation improvements subject to this permit expires;
  - B. At the end of the lease term in 2032, the applicant (or any successors and/or assigns) shall apply for a new coastal development permit from the Coastal Commission or an amendment to this permit, as well as a coastal development permit from the City of Redondo Beach, to convert the use of the structure to a use consistent with the LCP and to extend the authorization on the foundational improvements. If the structure is converted to a new use the dock system and the public dock amenities shall remain;
  - C. If it is infeasible to convert the structure to a new use consistent with the LCP or the applicant or successor are unwilling to convert the use, the applicant and/or the successor shall apply for a coastal development permit or an amendment to this permit to demolish the structure. If the structure is demolished, the dock system and the public dock amenities shall remain;
  - D. Any future improvements to the structure may require a permit from the City of Redondo Beach, and also require an amendment to this permit (per Special Condition 2 below). Any future improvements to the structure within the next 13 years shall constitute a redevelopment of the structure if: any future improvements significantly alter any major structural components of the building (including but not limited to alteration of the roof, foundation, exterior walls) or create new square footage or new units in the structure. Such improvements will be considered cumulatively with the proposed foundation improvements subject to this permit, as well as previous improvements to the structure as permitted by the City of Redondo Beach.

No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Future Improvements.** By acceptance of this permit the permittee agrees, on behalf of itself and all successors and assigns, that this permit is only for the development described in Coastal Development Permit No. 5-18-0119. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to this development authorized by the Coastal Development Permit No. 5-18-0119. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an

amendment to Permit No. 5-18-0119.

- 3. Submittal of Revised Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of:
- A. The proposed public dock improvement plans to include:
    - a. the square footage of a minimum of 1,000 square feet of public dock space
    - b. the location of the gates to the private dock space
    - c. elevations showing public access improvements from the dock that extend into the water, such as a ladder, or any small craft launch facility
    - d. plans for small craft storage or lockers, trash receptacles, or other public amenities
  - B. A public access signage plan to direct the public to the public dock amenities
  - C. A public access signage plan for temporary public access around the public walkway during construction
  - D. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical or civil engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

- 4. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, tsunamis, liquefaction, erosion, and earth movement; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 5. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** By acceptance of this permit, the permittee shall comply with the following construction-related requirements:
- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
  - (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
  - (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.

- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

**6. Best Management Practices Program.** By acceptance of this permit the applicant agrees that the long-term water-borne berthing of boat(s) in the approved docks and/or boat slips will be managed in a manner that protects water quality pursuant to the implementation of the following BMPs:

(1) Boat Cleaning and Maintenance Measures:

- a. In-water top-side and bottom-side boat cleaning shall minimize the discharge of soaps, paints, and debris;
- b. In-the-water hull scraping or any process that occurs under water that results in the removal of paint from boat hulls shall be prohibited. Only detergents and cleaning components that are designated by the manufacturer as phosphate-free and biodegradable shall be used, and the amounts used minimized; and
- c. The applicant shall minimize the use of detergents and boat cleaning and maintenance products containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.

(2) Solid and Liquid Waste Management Measures:



- a. All trash, recyclables, and hazardous wastes or potential water contaminants, including old gasoline or gasoline with water, absorbent materials, oily rags, lead acid batteries, anti-freeze, waste diesel, kerosene and mineral spirits will be disposed of in a proper manner and will not at any time be disposed of in the water or gutter.
- (3) Petroleum Control Management Measures:
- a. Boaters will practice preventive engine maintenance and will use oil absorbents in the bilge and under the engine to prevent oil and fuel discharges. Oil absorbent materials shall be examined at least once a year and replaced as necessary. Used oil absorbents are hazardous waste in California. Used oil absorbents must therefore be disposed in accordance with hazardous waste disposal regulations. The boaters will regularly inspect and maintain engines, seals, gaskets, lines and hoses in order to prevent oil and fuel spills. The use of soaps that can be discharged by bilge pumps is prohibited;
  - b. If the bilge needs more extensive cleaning (e.g., due to spills of engine fuels, lubricants or other liquid materials), the boaters will use a bilge pump-out facility or steam cleaning services that recover and properly dispose or recycle all contaminated liquids; and
  - c. Bilge cleaners which contain detergents or emulsifiers will not be used for bilge cleaning since they may be discharged to surface waters by the bilge pumps.
7. **Eelgrass Survey(s).** By acceptance of this permit the permittee agrees, on behalf of itself and all successors and assigns, to submit:
- A. **Pre-Construction Eelgrass Survey.** Pre-Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed within 60 days before the start of construction. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.
  - B. **Post-Construction Eelgrass Survey.** If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within 30 days of completion of construction if completion of construction occurs within the active growth period, or within the first 30 days of the next active growth period following completion of construction that occurs outside of the active growth period, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the “California Eelgrass Mitigation Policy” dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Wildlife. The applicant shall submit the post-construction eelgrass survey for the review and approval of the

- Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted by project construction, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another appropriate location subject to the approval of the Executive Director, in accordance with the California Eelgrass Mitigation Policy. Any exceptions to the required 1.38:1 mitigation ratio found within CEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is legally required.
- 8. Pre-construction *Caulerpa Taxifolia* Survey.** By acceptance of this permit the permittee agrees, on behalf of itself and all successors and assigns, to:
- A. Not earlier than 90 days nor later than 30 days prior to commencement or re-commencement of any development authorized under this coastal development permit (the “project”), the applicant shall undertake a survey of the project area and a buffer area at least 10 meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
  - B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Wildlife, and the National Marine Fisheries Service.
  - C. Within five (5) business days of completion of the survey, the applicant shall submit the survey:
    - (1) for the review and approval of the Executive Director; and
    - (2) to the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through California Department of Fish & Wildlife (858/467-4218) National Marine Fisheries Service (562/980-4043).
  - D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director, subject to concurrence by the Executive Director, that all *C. taxifolia* discovered within the project and buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 9. Resource Agencies.** The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Wildlife, the Regional Water Quality Control Board, the U.S. Army Corps of Engineers, California State Lands, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.
- 10. Public Rights.** The Coastal Commission’s approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall

not use this permit as evidence of a waiver of any public rights that may exist on the property.

**11. Lease Restriction.** PRIOR TO ISSUANCE OF THIS PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the lessee and lessor have executed and recorded against the parcel(s) governed by this permit a lease restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The lease restriction shall include a legal description of the entire parcel or parcels governed by this permit. The lease restriction shall also indicate that, in the event of an extinguishment or termination of the lease restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**12. Construction Staging Area.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to the marine environment the maximum extent practicable.

- A. The plan shall demonstrate that:
  - (a) Construction equipment or activity shall not occur outside the staging area
  - (b) Public parking areas shall not be used for staging or storage of equipment
  - (c) Over water areas shall be minimized as staging areas
  
- B. The plan shall include, at a minimum, the following components:
  - (a) A site plan that depicts:
    - (1) Limits of the staging area(s)
    - (2) Construction corridor(s)
    - (3) Construction site
    - (4) Location of construction fencing and temporary job trailers, if any

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

## VI. 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 submerged lands 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 submerged lands 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 (which currently serve the dock and are not connected to the building) and replace them with 5 new support piles (which would be connected to the building and support a new dock system) 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 the 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 completed 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, it has 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 apartment building has already undergone a retrofit. A voluntary landside retrofit was conducted in approximately 1995, according to the applicant, where exterior steel framing was added to each floor, and steel reinforcements were added to the second floor on the west side, and cross braces were added under the building to address lateral movement moving from north to south. However, any seismic activity or lateral movement moving from east to west could not be addressed at that time because of the position of the building over the water on the west side. The proposed foundation improvements would address that type of lateral movement and could make the building safer in the event of an earthquake.

The new support piles will displace approximately 14.5 square feet 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 all 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.*

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

*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. Because Eelgrass and *Caulerpa taxifolia* surveys were completed in 2011, however, and conditions may have changed in the last seven years, **Special Conditions 7 and 8** require new surveys for Eelgrass and *Caulerpa taxifolia* be conducted prior to construction and post construction. These conditions also specify what the applicant must do to protect the Eelgrass and the marine environment if either Eelgrass or *Caulerpa taxifolia* are found in these surveys.

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 must be provided to minimize adverse environmental effects, and (3) there is no feasible less environmentally damaging alternative.

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. The 5 small guide piles that currently moor the dock will be removed and replaced with 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. Therefore, 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), and could not be found consistent with Section 30233.

However, under Coastal Act Section 30610(d) and Section 13252(a) of Title 14 of the California Code of Regulations, the allowable use test does not apply to repair and maintenance activities that do not expand or enlarge the object of the repair and maintenance. Specifically, generally, routine repair and maintenance that does not expand the object of the repair and maintenance is exempt from the Act’s permit requirements pursuant to Section 30610(d). However, Section 13252(a) of the Commission’s regulations requires that certain “extraordinary methods” of repair and maintenance must nevertheless obtain a CDP, including those that involve the presence of mechanized construction equipment or construction materials within 20 feet of coastal waters (Section 13252(a)(1)(D)), as is involved here. Thus, the Commission’s review of the project is limited to whether the *method* of repair and maintenance complies with Coastal Act Chapter 3 policies, and the use (here, a residential apartment building) is not before the Commission. Thus, the project could be found to be consistent with Section 30233(a), regardless of whether repair of an apartment building is an allowable use, if the other components of the Section 30233(a) test are met.

In this case, the addition of 16 new support piles constitutes substantial repair of the structure’s foundation system, however the object of the repair (more appropriately viewed as the apartment building, not just its foundation support) would not be expanded. For example, the proposed project would not add apartment units to the structure or expand the square footage of the building.



As to the second part of the Section 30233(a) analysis, feasible mitigation measures have been provided to minimize adverse environmental impacts. For example, 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.

Section 30233 also requires that project be the least environmentally damaging alternative. 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. Commission staff also asked the applicant to consider temporary improvements that would offer additional support through the end of the lease term (approximately 13 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 50 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. And, as discussed above, reconstruction of an apartment building in this location would not be consistent with the LCP.

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 current proposal appears to be the least environmentally damaging alternative that results in the least amount of fill and therefore, the project is consistent with that portion of Section 30233. However, while the currently proposed repair and maintenance of the apartment building can be found consistent with Section 30233, any future development that would cumulatively result in alterations to 50 percent or more of the structure or its major structural components, including any foundational work, would constitute redevelopment and require the structure to be brought into conformance with the LCP and with the Coastal Act. For that reason, **Special Condition 2** requires no future improvements to the structure without a new CDP or an amendment to this CDP.

The proposed improvements to the dock system are consistent with Section 30234, which requires protection of recreational boating facilities, where feasible. The new dock system would continue to provide 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. During construction of the new dock system, the applicants would follow **Special Conditions 5 and 6** ensure that the applicant follows Best Management Practices during construction and during boat storage to ensure that there are no impacts to the marine environment due to the new dock system. As conditioned, the project is consistent with the marine resource protection policies of the Coastal Act.

## **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 jettied 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 temporarily closed.

The applicant contends that the project is necessary to protect the public walkway and the safety of the public using the walkway under the building. While Section 30210 of the Coastal Act requires maximum public access, and it is preferable to keep all access-ways open, Section 30212 allows for exceptions where public access may be limited, specifically for the safety of the

public and where adequate access exists nearby. The leased submerged lands seaward of the site are navigable waterways and the public still has a right to access the water in this location. 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. **Special Condition 3** requires the applicant to submit a public access signage plan during construction to ensure that the public is aware of an alternate route to the shoreline.

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. These public recreational amenities would be consistent with Coastal Act provisions for lower-cost recreational opportunities. **Special Condition 3** requires the applicant to submit a final plan for these amenities, a public access signage plan post-construction that would ensure the public is aware of the new public dock amenities in this location, and a signage plan for a temporary alternative route to the water during construction. **Special Condition 11** requires the applicant to record a lease restriction ensuring that these public amenities are protected for public use. **Special Condition 10** ensures that there are no impacts to the public's right to access that may exist on the property. As conditioned, the project is consistent with the public access policies of the Coastal Act.

## 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.*

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

- 1. Coastal dependent land uses will be encouraged within the Harbor-Pier area. The City will preserve and enhance these existing facilities and encourage further expansion of coastal dependent uses, where feasible. Removal of existing coastal dependent uses shall be strongly discouraged unless such uses are determined to no longer be necessary for the functional operation and utility of the harbor. A public boat launch shall be constructed in association with future development projects within the Harbor area.*
- 2. New development, additions or major rehabilitation projects within the Harbor-Pier area shall be sited and designed to (in part):*
  - a. Preserve and enhance public views of the water from the moles, pier decks, publically accessible open space and Harbor Dr.*
  - b. Provide continuous public access to and along the seaward side of the piers...*
  - c. Be consistent and harmonious with the scale of existing development.*

#### 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 are held in trust for the public and submerged lands, including historically dredged lands, are navigable waterways and public water, both of which should be reserved for public uses.

The current use of the site for an apartment building is not consistent with the terms and priorities outlined in the above Coastal Act and LCP policies related to coastal-dependent uses<sup>1</sup>. 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 building 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.

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 support the continued use of the site as residential, could extend the economic life of the non-conforming apartment building beyond the anticipated 50 years as a non-coastal-dependent use, and the improvements would perpetuate the existing non-conforming use well into the future and beyond lease term (approximately 13years).

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.

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*

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<sup>1</sup> 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.

*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 substantially 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, but instead the plans were approved by the Harbor Commission. The expected life of the building is approximately 100 years and it is approximately 50 years old. The new structural alterations could increase the useful life of the

building beyond the expected remaining 50 years, which is not allowed per the IP standards, though it is unclear how substantial the increase in the useful life of the development might be.

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. However, if the use of the building was converted to be consistent with the LCP land use designation (Commercial Recreation), the improvements would be allowed consistent with the LCP.

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. However, if the use of the building was converted to a use consistent with the land use designation and served a coastal-dependent use, then the improvements could be found consistent with the LCP and the Coastal Act policies above. As such, the Commission imposes **Special Condition 1** to ensure that at the end of the lease term (in approximately 13 years) the applicant and/or any successors would obtain permit to convert the use of the structure or to demolish the structure. If the applicant is not able to obtain a new lease agreement or a lease extension, the applicant must demolish the structure. If it is infeasible to convert the use of the structure to a Commercial Recreation use, the structure shall be demolished. Any change of use or demolition in the future would require an amendment to this permit, as well as a coastal development permit from the City. In order to ensure the use of the site is converted or the structure is demolished, the applicant per **Special Condition 11** shall record a lease restriction. As conditioned, the development is consistent with the Chapter 3 policies 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 and also constitutes development that is designed to be located in the water and are resistant to damage from flooding or sea level rise.

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 the event of an earthquake, however the proposed new development would not require a protective device now or in the future. **Special Condition 4** informs the applicant that the development will occur in a hazardous location and there is an assumption of risk associated with such development. As such, the new development would be consistent with Section 30253 of the Coastal Act.

## **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. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

## **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 and adopted a Mitigated Negative Declaration.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.