CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
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Staff: W. Horn-V
Staff Report: 5/23/2019
Hearing Date: 6/12/2019

STAFF REPORT: REGULAR CALENDAR

Application No.: **4-18-0386**

Applicant: **Safe Harbor Marinas**

Agent: Jack Malone, Anchor QEA, LLC

Project Location: Ventura Isle Marina, 1363 Spinnaker Drive, Ventura Harbor, Ventura

Project Description: Replace and reconfigure existing precast concrete docks with new precast concrete docks, replace and reconfigure existing piles with precast concrete piles, construct a public access launching dock, replace dock access gates and gangways, and make minor improvements to the existing shoreline access pathway.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **eight (8) special conditions** regarding (1) eelgrass survey(s), (2) pre-construction *Caulerpa taxifolia* survey, (3) construction responsibilities and debris removal, (4) inspection and maintenance, (5) conformance with the requirements of other resource agencies, (6) assumption of risk, (7) recreational boating, and (8) public access launching dock and signage.

Safe Harbors Marina is proposing to replace existing precast concrete docks F, G, H, I, J, K, L, M, and N at the Ventura Isle Marina (Marina) in the Ventura Harbor (Harbor) with new precast concrete floating docks and replace the existing precast concrete piles with new precast concrete piles. The existing precast concrete structures were initially constructed in the 1970s and have reached the end of their expected service life. The docks and gangways are beginning to show significant spalling, making them unable to safely moor boats and unsafe to walk across. Docks K and N will be replaced with the same dock configuration, slip sizes, and within approximately the same footprint as the existing docks. The applicant proposes to reconfigure docks F, G, H, I, J, L, and M and redistribute the sizes of available slips on these docks to better accommodate

larger boats (boats greater than 36 feet in length). The project also includes the addition of a new 10 foot by 30 foot public access launching dock for stand up paddle boards and kayaks to be located at the eastern end of Dock N. Lastly, the applicant also proposes to replace the existing deteriorated dock access gates and gangways as well as to make minor improvements to the existing shoreline access pathway including: American with Disabilities Act (ADA) access improvements, removal of an existing chain link fence, landscaping, and replacement of signage and existing light poles.

The subject Marina is used predominantly by recreational boats and the proposed reconfiguration will reduce the number of smaller sized slips and increase the number of larger sized slips, resulting in an overall decrease in the number of slips within the Marina and within the Ventura Harbor (Harbor) as a whole. The applicant has stated that this reconfiguration of the available slips within the Marina is necessary to address a historical trend within the Marina, as well as other marinas throughout southern California, of increasing demand for larger slips. Additionally, while there is increasing demand for slips for larger boats, boaters with smaller vessels are increasingly trailering their vessels or storing them in an onshore boat dry-storage yard.

Coastal Act Section 30213 requires that lower cost visitor and recreational facilities are protected, encouraged, and, where feasible, provided. Although the proposed reconfiguration will reduce the number of smaller sized slips within the Harbor, adequate space will still be provided for lower-cost recreational boating consistent with Coastal Act Section 30213 by maintaining 50% of all slips for boaters with smaller sized (36 feet and under) vessels. Additionally, to further enhance availability of lower-cost recreational boating slips within the subject Marina consistent with Section 30213, **Special Condition 7** requires the Marina operator to offer each slip within the Marina to boats 36 feet or under in length on a first right of refusal basis at normal rates based on boat length, not slip length. This will prioritize slip availability for smaller boats by allowing a smaller sized boat to occupy a larger sized slip at the same cost as would normally be charged for a smaller sized slip. Lastly, the project will also provide a free public access launch dock for stand up paddle boards and kayaks in an underserved area of the harbor, consistent with the mandates of Coastal Act Sections 30213 and 30224.

The proposed dock surface area and piles constitute fill of coastal waters, and any fill has the potential to impact coastal and marine resources. However, the proposed project is a permitted fill development within coastal waters pursuant to Coastal Act Section 30233, as it is proposed for new boating facilities. Additionally, because the proposed replacement and reconfiguration will result in a net decrease of dock surface area and piles as compared to the existing marina configuration, the project will result in a net reduction of fill within the Ventura Harbor. Furthermore, **Special Conditions 1** through **5**, which require surveys, construction best management practices, and conformance with the requirements of other resource agencies, ensure that the project will result in minimal environmental impacts to the Ventura Harbor marine environment.

Although the Commission has previously certified a Local Coastal Program (LCP) for the City of Ventura, portions of the proposed project will be located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. In addition, pursuant to Section 30601.3 of the Coastal Act, a consolidated permit was requested by the applicant and the City of Ventura, and the Executive Director agreed to consolidate the

permit action. Thus, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of the City of Ventura LCP as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

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APPENDICES

EXHIBITS

I. MOTION AND RESOLUTION

Staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit Application No. 4-18-0386 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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 an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on the grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. 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

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 or 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

1. Pre and Post-Construction Eelgrass Survey(s)

A. Pre-Construction Eelgrass Survey:

1) 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 prior to the beginning of construction and shall be valid until the next period of active growth.

2) The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service (see http://www.westcoast. fisheries. noaa.gov/habitat/habitat_types/seagrass _info/california_eelgrass.html) and shall be prepared in consultation with the California Department of Fish and Wildlife.

3) 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.

4) 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 in order to address and allow eelgrass mitigation measures, as described in subsection B, below. However, no amendment or new permit is needed if the Executive Director determines that no amendment or new permit is required.

B. Post-Construction Eelgrass Survey:

1) If any eelgrass is identified in the project area by the survey required in subsection A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted.

2) The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" dated October 2014 (except as modified by this special condition) adopted by the National Marine Fisheries Service (see http://www.westcoast. fisheries. noaa.gov/habitat/habitat_types/seagrass _info/california_eelgrass.html) and shall be prepared in consultation with the California Department of Fish and Wildlife.

3) 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.

4) If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.38:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy (SCEMP). All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1 (mitigation:impact).

5) The exceptions to the required 1.38:1 mitigation ratio found within SCEMP 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 required

2. Pre-Construction *Caulerpa Taxifolia* Survey

A. Not earlier than 90 days nor later than 30 days prior to commencement of any development authorized under this coastal development permit, the applicant shall undertake a survey of the project area and a buffer area at least 35 feet beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate and inspection of construction equipment.

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 two (2) weeks of completion of the survey, the applicant shall submit the results of 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 William Paznokas, California Department of Fish & Wildlife (858-467-4218), William.Paznokas@wildlife.ca.gov) or Bryant Chesney, National Marine Fisheries Service (562-980-4037, Bryant.Chesney@noaa.gov), or their successors.

D. Unless the Executive Director otherwise determines, if the survey identifies any *Caulerpa taxifolia* within the project area, the applicant shall submit to the Commission an application for a new coastal development permit or an amendment to this permit authorizing measures formulated to avoid, minimize and otherwise mitigate impacts that the proposed development might have resulting from the dispersal of *Caulerpa taxifolia* in the project area. The applicant shall: 1) refrain from commencement of the project until a valid permit or amendment is obtained, and 2) upon authorization of the permit or amendment, implement the approved mitigation measures in the manner and within the timeframe(s) specified in the approval.

3. Construction Responsibilities and Debris Removal.

By acceptance of this permit, the applicant agrees to comply with the following construction-related requirements:

A. No demolition or construction materials, equipment, debris, or waste shall be placed or stored in the water, or 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. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site each day. Dock demolition debris shall be removed from the water as quickly as possible in order to prevent the spread of invasive aquatic plant species (Japanese kelp), but in no case later than the end of each day;

C. 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;

D. Machinery or construction materials not essential for project improvements will not be allowed at any time in the subtidal or intertidal zones;

E. If turbid conditions are generated during construction, a silt curtain will be utilized to control turbidity;

F. Eelgrass shall not be disturbed. Anchors shall not be placed in eelgrass areas.

G. Floating booms will be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day;

H. Non buoyant debris discharged into coastal waters will be recovered by divers as soon as possible after loss;

I. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;

J. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

K. 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;

L. 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;

M. 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;

N. The discharge of any hazardous materials into any receiving waters shall be prohibited;

O. 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;

P. 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; and

Q. Any wood treatment used shall conform to the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. All treated timber shall be free of chromium and arsenic.

R. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

4. Inspection and Maintenance Program.

Throughout the life of the development approved by this permit, the permittee shall exercise due diligence in periodically inspecting (at least once per year) the facilities that are subject to this coastal development permit. The permittees shall immediately undertake any repairs necessary to maintain the structural integrity of the docks, pilings, and utility connections, prevent leaks, and to ensure that debris does not enter the environment.

5. Conformance with the Requirements of Other Resource Agencies.

The applicant shall comply with all permit requirements, and mitigation measures of the California Department of Fish and Wildlife, State Water Quality Control Board, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and the marine environment. Any change in the approved project which 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

6. Assumption of Risk.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, tsunami, seiche, surges, and flooding; (ii) to assume the risks to the applicant 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.

Prior to issuance of the Coastal Development Permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

7. Recreational Boating

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a plan to offer all available slips in the Ventura Isle Marina to boats 36 feet and under in length on a first right of refusal basis at normal rates based on boat length, and not slip size. The approved plan shall be implemented for as long as the development approved by this permit remains in existence.

8. Public Access Launching Dock and Signage.

By acceptance of this permit, the applicant agrees to comply with the following restrictions regarding the public access launching dock approved within the Marina.

A. The 300 square foot public access launching dock shall be constructed concurrently with the reconstruction of the Marina and shall be made available for use by the public no later than the day that the first new leased boat slip is available for lease.

B. The 300 square foot public access launching dock shall be maintained for as long as the development approved by this permit remains in existence for the general public, at no cost, for the exclusive use by personal watercraft, including but not limited to, kayaks, dinghies, paddleboards, and rowing shells on a short-term (not overnight) basis.

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a signage program that implements conspicuously posted signs, which make the public aware of the public access launching dock and provides instruction on how to access the dock. The program shall identify the size, wording, and location of all signs.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

Safe Harbors Marina is proposing to replace existing precast concrete docks F, G, H, I, J, K, L, M, and N with new precast concrete docks and replace the existing precast concrete piles with new precast concrete piles. Docks K and N will be replaced with the same dock configuration, slip sizes, and within approximately the same footprint as the existing docks. The applicant proposes to reconfigure docks F, G, H, I, J, L, and M and redistribute the sizes of available slips on these docks to accommodate a greater number of larger boats (boats greater than 36 feet in length). The project also includes the addition of a new 10 foot by 30 foot public access launching float for stand up paddle boards and kayaks to be located at the eastern end of Dock N **(Exhibit 4)**. Lastly, the project also includes replacement of the existing dock access gates and gangways, as well as minor improvements to the existing shoreline access pathway including: American with Disabilities Act (ADA) access improvements, removal of an existing chain link

fence, landscaping, and replacement of signage and existing light poles. The proposed project is located within the Ventura Isle Marina (Marina) section of the Ventura Harbor.

The Ventura Harbor is located in the southern portion of the City of Ventura, north of the mouth of the Santa Clara River. The harbor is bounded by Arundell Barranca to the north, Harbor Boulevard and Olivas Park Golf Course to the east, Spinnaker Drive to the south, and the Pacific Ocean to the west **(Exhibit 2)**. Local access is provided from Harbor Boulevard to the east, Spinnaker Drive to the south, and the Pacific Ocean to the west. Adjacent land uses to the Ventura Harbor include the City's Marina Park and the Ventura Keys residential area to the north, and agricultural uses and the Olivas Park golf course to the east. Commercial uses include an oil storage facility and a municipal water treatment plant located southeast of the harbor. Wildlife ponds, the Santa Clara River Channel, and McGrath State Beach lie to the southwest, State lands and the Pacific Ocean lie to the west.

The Marina occupies the southeastern portion of the Ventura Harbor. Surrounding uses include a resort hotel, the Ventura West Marina located north of the project site, the Ventura Yacht Club located west of the project site, and the Harbor Village commercial center to the southwest **(Exhibit 3)**. Commercial fishing and processing operations are located at the southern end of the Ventura Harbor. The northern portion of the harbor generally consists of auxiliary marina services such as offices, fueling docks, boat storage, and a launch ramp, as well as a mobile home park. The National Park Service Channel Islands Headquarters is located on Spinnaker Drive and is accessed through the southwest harbor area.

The Ventura Harbor consists of 200 acres of land and 120 acres of water. Development of the harbor began in 1960. The entire harbor currently supports approximately 1,300 recreational boat slips, a boat launching facility, public restrooms, a boat repair yard, fuel docks, charter fishing operations, commercial fishing support facilities, and the Harbor Patrol. The Marina was constructed in the 1970s as one of the four marinas in the Ventura Harbor and includes 568 boat slips ranging in length from 25 feet to 65 feet. The Marina is used predominantly for recreational boating, but if boat slips are available the Marina will also accommodate commercial sport fishing and commercial tour operations.

The proposed project is a continuation of a dock replacement program that was initiated in 1991 pursuant to Coastal Development Permit (CDP) 4-91-55, which focused on the western section of the Marina and included Docks A, B, C, D, E, and a portion of Dock F. In addition to replacing the deteriorated docks with new precast concrete docks that project also included a reconfiguration of Docks A, B, C, D, E and a portion of F to accommodate the demand within the Ventura Harbor and the Marina for larger boat sizes. As a result, that project had a net reduction of 217 slips for boats less than 35 feet in length and a net increase of 153 slips for boats greater than 35 feet in length.

The existing Docks F, G, H, I, J, K, L, M, and N are constructed from a foam core encapsulated by a layer of concrete material to create individual floatation modules. This type of infrastructure has an expected lifespan of 25 years, and as the docks reach the end of this expected life the various components begin to deteriorate. The docks proposed for replacement have been in use since the 1970s and are beginning to show significant signs of deterioration. Evidence from the applicant indicates that the precast concrete of the existing docks is showing

significant cracking and spalling, and several dock fingers are showing complete structural failure making them unsafe to walk across or stand upon.

The proposed project includes components that are located within the City of Ventura's Local Coastal Program (LCP) jurisdiction as well as components within the retained jurisdiction of the Coastal Commission. The City of Ventura would typically have jurisdiction over the portions of the project within its LCP jurisdiction. However, Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated CDP application, when its criteria are satisfied, for both aspects of a proposed project that would otherwise require a CDP from both a local government with a certified LCP and the Commission.

Pursuant to Section 30601.3(a)(2), the applicant, appropriate local government, and the Commission may agree to consolidate a permit action for a project that spans local and state jurisdictions. In this case, the applicant and City of Ventura have submitted letters to Commission staff dated May 9, 2019 and May 8, 2019, respectively, requesting that the Commission assume jurisdiction over all activities associated with the proposed project. The Executive Director agreed to process a consolidated CDP. Thus, in this case, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of the City of Ventura Local Coastal Program (LCP) as guidance.

B. RECREATIONAL BOATING FACILITIES/ACCESS

Section 30213 of the Coastal Act states:

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

Section 30224 of the Coastal Act States:

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

Section 30234 of the Coastal Act States:

> *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.*

Coastal Act Policy 30213 protects and encourages lower cost visitor and recreational facilities. Additionally, Coastal Act Coastal Act Policy 30224 and 30234 encourage the development of recreational boating facilities and protect facilities serving the recreational boating industry.

The applicant proposes to upgrade Docks F, G, H, I, J, K, L, M, and N as they are reaching the end of their lifespan and are beginning to deteriorate to the extent that they are unable to serve recreational boaters within the Marina. Coastal Act Policy 30234 requires that facilities serving recreational boaters shall be protected and where feasible, upgraded. The proposed project includes replacement of the existing precast concrete docks with new precast concrete docks and the existing precast concrete piles with new precast concrete piles. Lastly, the project includes utility upgrades so that each slip will be provided electricity and potable water, and Wi-Fi. With these improvements the project will prevent the failure of the docks as well as upgrade the current recreational boating facility consistent with Coastal Act Policy 30234.

Coastal Act Policy 30234 also requires facilities serving recreational boating industries to be protected. The demolition of the existing deteriorated docks as well as the construction of the proposed docks will require temporary relocation of moored ships, which has the potential to impact recreational slip availability within the Marina. To help mitigate the impacts to slip availability the project will occur in phases over the course of eight to 12 months to ensure that only a minimal amount of boats are displaced at any one time. Those boats that need to be relocated during a demolition and construction phase can be rafted to other moored ships within the Marina or relocated to vacant slips within the Marina. The applicant has proposed to work with boat owners to ensure that sufficient temporary slips and rafting opportunities are available within the Marina during demolition and construction phases. With these mitigation measures the project will prevent significant impacts to slip availability and protect recreational boating within the Marina consistent with Coastal Act Policy 30234.

In addition to repairing and upgrading the existing docks, the proposed project also includes a reconfiguration of Docks A, B, C, D, E, and a portion of Dock F in order to redistribute the sizes of slips so that the Marina can better accommodate larger boats over 36 feet in length. The Marina was constructed in the 1970s to meet the demand for recreational boating at that time and the average boater of that era owned a 25 foot to 40 foot powerboat or sail boat. As such, berths within the Marina were designed to meet demand with a majority of slips sized 30 feet to 35 feet. Over the course of the last five decades the Marina has seen the average boat length increase to between 36 feet and 50 feet in addition to being two feet to three feet wider. Additionally, while there is increasing demand for slips for larger boats, boats smaller than 36 feet in length are increasingly stored on land in storage yards. Therefore, as a result of those trends, within the Marina there is an increasing demand for larger slips and a decreasing demand for smaller sized slips.

The Marina currently contains 568 recreational boating slips and 295 of those slips, approximately 52%, are available for smaller sized boats under 36 feet in length. The remaining 273 slips, or 48% of slips in the Marina, are available for larger sized boats above 36 feet in length. With the proposed reconfiguration, the total number of slips within the Marina will decrease to 524 and the number of smaller and larger sized slips will shift to 227, or 43%, and

297, or 57%, respectively. The totals of existing and proposed slips within the Marina are summarized in Table 1 below:

Table 1: Distribution of Slip Sizes in Ventura Isle Marina

Slip Size (in feet)	Marina Slip Totals (Existing)	Marina Slip Totals (Proposed)
Small Slips (≤36')	295 (52%)	227 (43%)
Large Slips (>36')	273 (48%)	297 (57%)
Total	568	524

As larger slips occupy more space in a marina, when smaller slips are converted to larger slips, the result is fewer overall slips and fewer slips available for small vessels. The Commission does not regulate the rates at which marinas rent their slips to the public. The Commission can, however, regulate the design of a marina in order to ensure that the redesigned slips conform to the public access and recreation policies of the Coastal Act by providing the correct balance between the size of slips and the boaters' demand for slips in order to encourage increased recreational boating and protect existing boating opportunities including the provision of smaller, lower-cost slips.

Although the trend for new and redeveloped marinas is for larger boats, and small boat slips show higher vacancy rates, the demand for small boat slips still exists. In prior permit actions, the Commission has heard testimony contending that a reduction in the availability of slips that accommodate smaller boats reduces the option for those who want to own smaller boats and in turn use the smaller slips. Local boaters have also expressed the need to continue to maintain smaller slips for boaters. Based on this information, there continues to be a demand for smaller boat slips. Therefore, it is important that the Marina, and Ventura Harbor as a whole, continue to provide a mix of slip lengths, including small boat slips, to provide a full range of boating opportunities for all boaters.

By upgrading the deteriorating marina with new docks and utilities, the project will enhance and encourage recreational boating consistent with Coastal Act Section 30234. However, the proposed reconfiguration could have the effect of reducing public recreational boating opportunities and lower cost visitor and recreational opportunities within the Marina and within Ventura Harbor as a whole. This is due not only to the net loss of the overall number of slips (44 total) but also because of the net loss of smaller-sized slips (68 total). Smaller slips accommodate smaller boats which are generally more affordable to buy and operate for recreational boating.

In addition to compiling the existing and proposed totals of slips sizes within the Marina, the applicant also provided the existing number of slip totals within the Ventura Harbor as a whole, as well as the slip totals within the Harbor as modified by the proposed project. The Harbor currently contains 1297 recreational boating slips and 695 of those slips, approximately 54%, are available for smaller sized boats. The remaining 602 slips, or 46% of slips in the Marina, are available for larger sized boats. With the proposed marina reconfiguration the total number of slips within the Harbor will decrease to 1253 and the number of smaller and larger sized slips will shift to 627, or 50%, and 626, or 50%, respectively. A summary of the harbor-wide slip totals is provided in Table 2 below:

Table 2: Distribution of Slip Sizes throughout Ventura Harbor

Slip Size (in feet)	Ventura Harbor Slip Totals (Existing)	Ventura Harbor Slip Totals (with Proposed Project)
Total Small Slips (≤36')	695 (54%)	627 (50%)
Total Large Slips (>36')	602 (46%)	626 (50%)
Total	1297	1253

While the project will shift the ratio of smaller sized slips within the Marina to accommodate more larger sized slips, and the project will also result in a net decrease of 44 slips throughout the Ventura Harbor, as illustrated in Table 2 above, the project will still maintain an adequate balance of larger and smaller sized slips harbor wide. By providing 50% of slips for smaller boats throughout the harbor, lower cost boating will be protected and encouraged, consistent with the mandate of Coastal Act Section 30213. Additionally, to further enhance the availability of lower cost slips for smaller recreational boaters, **Special Condition 7** requires the Marina operator to offer each slip within the Marina to boats 36 feet or under in length on a first right of refusal basis at normal rates based on boat length, not slip length. Special Condition 7 will prioritize slip availability for smaller boats by allowing a smaller sized boat to occupy a larger sized slip at the same cost as would normally be charged for a smaller sized slip. As such, the project will be providing additional lower cost slips for smaller sized boats, further encouraging lower cost recreational boating consistent with Section 30213.

Lastly, Coastal Act Section 30224 encourages increased recreational boating use of coastal waters through various measures including increasing the number of available launching facilities. In addition to the proposed reconfiguration the project will also provide a new public access launching dock for paddle boards and kayaks at the eastern end of Dock N **(Exhibit 4)**. There are currently no public access docks in this area of the Ventura Harbor with the nearest available public access to coastal waters located over 1,000 feet to the southwest at the Ventura Harbor Village Marina and the addition of the proposed launching dock will provide increased recreational boating opportunities to the Harbor. To help ensure timely and continued public access to the launching dock, **Special Condition 8** requires the applicant to construct the launching dock concurrently with the reconstruction of the Marina and mandates that the launching dock is open to the public no later than the day that the first new boat slip from the reconstruction is available for lease. Additionally, to facilitate public awareness and use of the dock Special Condition 8 requires the applicant to submit a program to the Executive Director for review and approval detailing the signage for the dock including posting details (size, wording, and location) as well as the sign instructions that will detail how the public can access the dock. Therefore, the addition of this new public launching facility in an underserved area of the harbor will allow for increased recreational boating of coastal waters consistent with Coastal Act Section 30224.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30213, 30224, and 30234 of the California Coastal Act.

C. DIKING, FILLING, AND DREDGING WITHIN OPEN COASTAL WATERS

Section 30233 of the Coastal Act in Relevant Part States:

> *(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:*
>
> *…*
>
> *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.*

Resources Element Policy 15.7 of the City of Ventura LUP (similar to, but not exactly the same as Coastal Act Section 30233) states, relevant part:

> *A. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes may be permitted in accordance with other applicable provisions of this Plan where there is no feasible less environmentally damaging alternative and where mitigation measures have been provided to minimize adverse environmental effects. Diking, filling, or dredging shall be limited to the following:*
>
> *...*
>
> *3) The provision of new or expanded boating facilities in open coastal waters and streams and estuaries which do not involve any wetlands.*

Section 30233 of the Coastal Act limits the type of development that may be approved in open coastal water areas, only where it is the least environmentally damaging alternative and all feasible mitigation measures have been included. Similarly, Resources Element Policy 15.7, which is used as guidance, limits the development that is allowable in open coastal waters. In both policies, fill of open coastal waters is allowed for new or expanded public recreational boating facilities such as the proposed project.

The proposed project includes replacing and reconfiguring existing, deteriorated docks and piles, and constructing a new public access launching dock. The proposed dock area and associated guide piles constitute fill of coastal waters in support of recreational boating at the Ventura Harbor and are thus allowed pursuant to Coastal Act Section 30233(a)(3) and City of Ventura LUP Policy 15.7(A)(3). The replacement and reconfiguration of the docks constitute new boating facilities (in approximately the same footprint as the existing docks). The proposed public access launching dock is intended for use by the general public and will provide access to launch as well as moor kayaks, stand-up paddle boards, and other recreational vessels. As such,

the replacement and reconfiguration of the docks as well as the launching dock are new or expanded boating facilities, allowed pursuant to Coastal Act Section 30233(a)(3) and City of Ventura LUP Policy 15.7(A)(3). Overall the proposed project will result in a net reduction of fill within the Ventura Harbor.

The proposed reconfiguration will combine Docks G and H resulting in the elimination of all existing 71 slips and the creation of 35 slips and by combining Docks G and H into a single unit, the overall surface area of dock is reduced. Docks F, I, J, K, L, M, and N will be reconfigured to provide a new total number of slips and slip sizes, but their dock surface area will not significantly change. In addition, a 1,564 sq. ft. private dingy dock that is currently affixed at the west end of the Marina will be removed. Lastly, the existing 300 square foot launching dock currently available for Marina members will be moved to the eastern end of Dock N and will be available for use by the general public for paddleboards and kayaks. Overall the project will result in a net reduction of 3,177 square feet of dock space within coastal waters and a net reduction of 18 piles. A summary of the change in surface area and piles for the project is summarized in Table 3.

Table 3. Summary of Fill of Coastal Waters for the Proposed Project

Dock Surface Area		**Pilings**	
Dock Surface Area Existing (sq. ft)	84,294	**Existing Pilings**	211
Dock Surface Area Proposed (sq. ft)	81,117	**Proposed Pilings**	193
Net Reduction (sq. ft)	3,177	**Net Reduction**	18

Coastal Act Section 30233(a) also contains language regarding the requirement that approved development must be the least environmentally damaging alternative and that adequate mitigation of environmental impacts is provided. Because the proposed replacement and reconfiguration will be located in approximately the same location as the existing docks, and because the project will result in a net decrease in fill of coastal waters, the project as proposed is the least environmentally damaging alternative. Nonetheless, the construction of the project could result in adverse impacts to marine resources. Feasible mitigation measures have been required to minimize such construction impacts, as discussed in greater detail in Section D. **Special Condition One (1)** requires eelgrass surveys, **Special Condition Two (2)** requires surveys for *C. taxifolia*, **Special Condition Three (3)** requires the applicant to comply with construction responsibility and debris management, **Special Condition Four (4)** requires the permittee to conduct inspection and maintenance, and **Special Condition Five (5)** requires the applicant to comply with all applicable permit requirements of other resource agencies. These special conditions will ensure that the proposed project will result in minimal environmental impacts to the Ventura Harbor marine environment.

As such, the Commission finds that the project includes types of development that are allowed in open coastal waters, that it is the least environmentally damaging alternative, and that, as conditioned, all feasible mitigation measures have been included. Therefore, the Commission

finds that the project, as conditioned, is consistent with Coastal Act Section 30233 and the guidance provided by City of Ventura LUP Policy 15.7(A).

D. COASTAL AND MARINE RESOURCES

Section 30230 of the Coastal Act States:

> *Marine resources shall be maintained, enhanced and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organism adequate for long-term commercial, recreational, scientific and educational purposes.*

Section 30231 of the Coastal Act States:

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

Coastal Act Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Further, Section 30231 requires that the biological productivity and quality of coastal waters be maintained.

The proposed development will occur over and in the water. Construction, of any kind, adjacent to or in coastal waters has the potential to impact marine resources. The Ventura Harbor waterways provide an opportunity for water oriented recreational activities and also serve as habitat to marine organisms. Risks to coastal recreational activities and marine habitat are inherently linked to water quality issues.

Eelgrass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Wildlife (CDFW). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

Development contemplated in the proposed Marina project has the potential to directly impact sensitive resources, including eelgrass, which may be present in the project area. Construction of the proposed Marina includes installation of concrete guide piles into the seafloor and placement of docks into the waterways. Installation and driving of piles can directly remove and disturb eelgrass. In addition, the docks and ships berthed above these resources can reduce the light available to eelgrass and kelp by shading portions of the ocean floor. The proposed dock replacement and reconfiguration will be located approximately within the footprint of the existing docks. Overall, the area of dock coverage and number of piles will be reduced as discussed in detail above in Section C. While there is potential for eelgrass habitat within in the project area, it was not identified during a 2016 survey completed by Impact Sciences. However, it is possible that eelgrass has established in portions of the project site since the survey was conducted. Staff notes that the Commission has routinely required surveys for eelgrass to be carried out just prior to construction of Marina improvements, as a condition of approval, in order to ensure that, if eelgrass is present, mitigation measures are incorporated into the project.

Therefore, **Special Condition One (1)** requires the applicant to conduct a survey of the project area for eelgrass during the period of active growth of eelgrass (typically March through October) and submit the results of the survey to the Executive Director no later than fifteen business days prior to the commencement of any development. If any eelgrass is identified in the project area prior to construction, the development shall require an amendment to this permit from the California Coastal Commission (CCC) or a new coastal development permit. If any eelgrass is identified in the project area by the pre-construction eelgrass survey the applicants shall conduct a second eelgrass survey within 30 days after the conclusion of construction to determine if any eelgrass was adversely impacted. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.38:1. 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 required.

Caulerpa taxifolia

The Commission further finds that the driving of piles on the sea floor could disturb and cause the spread of non-native and invasive plant species, such as *Caulerpa taxifolia* and Japanese kelp (*Undria pinnatifida*). *C. taxifolia* is a tropical green marine alga that spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation of *C. taxifolia* has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing in places such as the Mediterranean.1 Because of the grave risk to native habitats, in 1999 *C. taxifolia* was designated

[1] References:
Meinesz, A. (Translated by D. Simberloff) 1999. Killer Algae. University of Chicago Press

Chisholm, J.R.M., M. Marchioretti, and J.M. Jaubert. Effect of low water temperature on metabolism and growth of a subtropical strain of Caulerpa taxifolia (Chlorophyta). Marine Ecology Progress Series 201:189-198

Ceccherelli, G. and F. Cinelli. 1999. The role of vegetative fragmentation in dispersal of the invasive alga Caulerpa taxifolia in the Mediterranean. Marine Ecology Progress Series 182:299-303

Smith C.M. and L.J. Walters. 1999. Fragmentation as a strategy for Caulerpa species: Fates of fragments and implications for management of an invasive weed. Marine Ecology 20:307-319.

a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001, the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various Caulerpa species.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50ºF. Although warmer southern California habitats are most vulnerable, until better information is available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California Caulerpa Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several States, federal, local and private entities. The goal of SCCAT is to completely eradicate all *C. taxifolia* infestations.

In 2016 Impact Sciences conducted focused surveys of the Ventura Harbor for *C. taxifolia,* and no *C. taxifolia* was identified in the survey of the project site. Because a survey was last completed in 2016 it is possible that the circumstances on the project site have changed or could change. Any project that disturbs the marine environment could cause the spread of *C. taxifolia* or Japanese kelp or other non-native invasive aquatic species. In order to assure that the proposed development does not cause the dispersal of *C. taxifolia* the Commission imposes **Special Condition Two (2)**, which requires the applicant to survey the project area for the presence of *C. taxifolia*, just prior to construction of the proposed project. If *C. taxifolia* is present in the project area, no work may commence and the development shall require an amendment to this permit from the CCC or a new coastal development permit. The applicant shall refrain from commencement of the project until a valid permit or amendment is obtained and the applicant shall implement the approved mitigation measures within a timeframe specified in the permit amendment or the new permit approval.

While the 2016 Impact Sciences surveys did not identify the presence of wakame *(Unidaria pinnatifida)*, otherwise known as Japanese kelp, within the project area; Japanese kelp is identified as an invasive aquatic plant and was previously found attached to docks within another

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Jousson, O., J. Pawlowski, L. Zaninetti, A. Meinesz, and C.F. Boudouresque. 1998. Molecular evidence for the aquarium origin of the green alga Caulerpa taxifolia introduced to the Mediterranean Sea. Marine Ecology Progress Series 172:275-280.

Komatsu, T. A. Meinesz, and D. Buckles. 1997. Temperature and light responses of the alga Caulerpa taxifolia introduced into the Mediterranean Sea. Marine Ecology Progress Series 146:145-153.

Gacia, E. C. Rodriquez-Prieto, O. Delgado, and E. Ballesteros. 1996. Seasonal light and temperature responses of Caulerpa taxifolia from the northwestern Mediterranean. Aquatic Botany 53:215-225.

Belsher, T. and A. Meinesz. 1995. Deep-water dispersal of the tropical alga Caulerpa taxifolia introduced into the Mediterranean. Aquatic Botany 51:163-169.

area of the Ventura Harbor. There is currently not an officially approved regime to remove Japanese kelp or control its spread. So although Japanese kelp was not identified in the 2016 surveys, it is possible that Japanese kelp has since spread to the subject Marina and the demolition of the Docks F, G, H, I, J, K, L, M, and N could disperse dock debris carrying Japanese kelp to other parts of the Ventura Harbor, thus spreading Japanese kelp. To prevent the spread of Japanese kelp within the Ventura Harbor **Special Condition Three (3)** requires that no demolition materials be placed or stored in the water and any debris resulting from dock demolition shall be removed from the water as quickly as possible, but in no case later than the end of each day

Construction Impacts

The proposed project is located in and over the waters of the Ventura Harbor. The associated dock structures and concrete guide piles necessary for construction of the project would be manufactured off-site and subsequently assembled on-site. Installation of the guide piles would occur from a water-based pile-driving derrick barge. Small support skiffs and other watercraft would be utilized to install the dock structures and utilities. Construction of any kind, adjacent to or in coastal waters, has the potential to adversely impact marine resources and water quality through the introduction of pollutants associated with construction.

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species by interfering with their ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition Three (3)** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris.

Marine resources and water quality can also be adversely affected by the use of toxic chemicals used to treat wood products that come into contact with the water. The toxic chemicals can leach out of treated wood and poison marine organisms. Some wood treatments can be used if the wood does not come into contact with the water. Therefore, **Special Condition Three (3)** also requires that any wood treatment used shall conform with the specifications of the American Wood Preservation Association for saltwater use. Wood treated with Creosote, CCA (Chromated Copper Arsenate), or ACA (Ammoniacal Copper Arsenate) is prohibited, and all treated timber shall be free of chromium and arsenic. No wood treated with ACZA (Ammoniacal Copper Zinc Arsenate) shall be used where it could come into direct contact with the water. The applicant plans to use timber in very limited quantities. The docks and piles proposed are precast concrete.

Further, **Special Condition Three (3)** requires that the applicant dispose of all demolition and construction debris at an appropriate location. This condition requires the applicant to incorporate silt curtains and/or floating booms when necessary to control turbidity and debris discharge. Divers shall remove any non-floatable debris not contained in such structures that sink to the ocean bottom as soon as possible. In addition, **Special Condition Four (4)** requires

that the permittee inspect the facilities that are subject to this coastal development permit at least once a year. The permittee shall immediately undertake any repairs necessary to maintain the structural integrity of the docks, pilings, and utility connects, prevent leaks, and to ensure that debris does not enter the environment. Finally, **Special Condition Five (5)** is required to ensure that the permittee complies with all permit requirements and mitigation measures of the California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, 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 which 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.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230 and 30231 of the California Coastal Act.

E. HAZARDS

Section 30253 of the Coastal Act states, in pertinent part, that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard
(2) Assure stability and structural integrity, and neither create or contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction or protective devices that would substantially alter natural landforms along bluffs and cliffs.

Policy 15.3 of the City of Ventura LUP states:

> *New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazards. All new development will be evaluated in conjunction with the City's Safety Element of this Comprehensive Plan, and for its impacts to and from geologic hazards (including seismic safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.*

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic and flood hazard. Additionally, Policy 15.3 of the certified LUP mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic and flood hazard.

The proposed development is located in an area of the Coastal Zone that has been identified as subject to potential hazards from wave action, tsunamis, seiches, and surges. The Coastal Act recognizes that certain types of development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the

owner's property rights. As such, the Commission finds that due to the unforeseen possibility of storm waves and surges, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Six (6)** requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development due to these hazards. The applicant's assumption of risk will demonstrate that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253 and Policy 15.3 of the City of Ventura LUP.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to any public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A

Substantive File Documents

CDP 4-14-0821 staff report; CDP 4-91-55 staff report; CDP 4-12-026; CDP 5-15-1426; CDP 4-18-0386 application file.