

**CALIFORNIA COASTAL COMMISSION**

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# W20a

DATE: July 23, 2020

TO: Commissioners and Interested Public

FROM: South Central Coast District Staff

SUBJECT: **Notice of Impending Development No. CIH-NOID-0001-20 (Boater Restroom Facility Project), Wednesday, August 12, 2020**

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## SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing, determine that Notice of Impending Development (NOID) CIH-NOID-0001-20, requested by the Ventura County Harbor Department (Harbor Department), is consistent with the certified PWP only as conditioned. Staff is recommending five special conditions in order to ensure consistency with the certified Channel Islands Harbor Public Works Plan (PWP).

The subject NOID includes the remodel of an existing 1,075 sq. ft. marina office building, construction of a new 1,090 sq. ft. boater restroom facility on the north side of the remodeled marina office building, and expansion of an existing public promenade located at the southern terminus of Peninsula Road (3700 Peninsula Road) adjacent to the waterfront and the existing Peninsula Yacht Marina within Channel Islands Harbor. The proposed remodel and expansion of the existing marina office building would provide additional shower and toilet facilities and would be Americans with Disabilities Act (ADA)-compliant and easily accessible for marina users. The structure would be 15 ft., 6 in. in height. The project description of the subject NOID also includes modification to the project description of a previously approved NOID (No. CIH-NOID-002-18) to omit an approved 450 sq. ft. boater restroom facility at the nearby Hyatt Hotel site at 3605 Peninsula Road. The Commission previously approved NOID No. CIH-NOID-0002-18 (Hyatt Hotel project) in May of 2018, which included the construction of a 450 sq. ft. boater restroom facility at the northwest corner of the Hyatt Hotel site. The 450 sq. ft. facility, which was intended to serve the boating tenants of the marina along the west side of the peninsula, was subsequently determined to be unneeded for the future marina as the remote location was inconvenient for marina users and security. The relatively small area where the boater restroom was originally proposed at the Hyatt Hotel site would instead contain a sidewalk, bench seating area, and be landscaped pursuant to the landscaping plan condition of that previously approved NOID; therefore,

the conditional authorization of the Hyatt Hotel NOID No. CIH-NOID-0002-18 would remain in effect, as modified by the current action, and the minor change to the project description does not trigger the need for any changes to the conditions of said NOID.

Coastal resources to be considered in the subject NOID include: access, parking and transportation, biological resources, scenic resources, and water quality. As part of the project submittal, the Harbor Department included conditions of approval to ensure that the project is consistent with the relevant policies of the PWP. Commission staff recommends adoption of **Special Condition 1**, which would clarify that the conditions of approval from the Harbor Department are completely incorporated into the project approved in this NOID, except to the extent they are modified by other conditions the Commission imposes on the NOID.

The existing marina office building provides a public walkway that extends south from the marina parking lot to the waterfront. The proposed project would extend the public promenade approximately 805 feet along the waterfront, beginning at the terminus of the existing public walkway, and extending the promenade along the southeastern end of the peninsula. The new public promenade would be at least 10 feet wide and would connect with the adjacent public walkways, including the waterfront promenade approved in the NOID for the Hyatt Hotel project, and result in a continuous public waterfront walkway around the entire end of the peninsula. While the proposed development would maximize public access consistent with the policies of the PWP, **Special Condition 3** is necessary to ensure that the public access components of the project are finished prior to, or concurrent with, the development of the marina office and boater restroom facility. Furthermore, to ensure that landscaping for the new development does not block views of Harbor waters as seen from the public road, Commission staff recommends **Special Condition 5** to require the Harbor Department to submit a final landscaping plan consistent with the PWP's view protection policies.

The existing marina parking area adjacent to the project site contains 188 parking spaces utilized by marina tenants, visitors, and the public. The proposed marina boater restroom facility would extend north into a portion of the parking lot and displace two existing parking spaces. However, the amount of existing parking at this location currently exceeds demand. Based on a parking analysis completed in 2017, peak parking demand associated with the marina is 97 spaces. The approved Hyatt Hotel project located adjacent to the project site includes reconfiguration of existing marina parking and a shared parking program with a total of 379 parking spaces to accommodate the approved hotel and restaurant as well as the existing marina uses. An analysis of parking for the Hyatt Hotel project indicated that usage rates for the marina and associated boater restroom facility, as well as the hotel and restaurant, are only expected to require a maximum of 344 spaces. Therefore, there is evidence that the public parking available under existing conditions and in consideration of the approved Hyatt Hotel project is more than adequate. The proposed marina building remodel and expansion project is not anticipated to generate increased parking demands and the proposed removal of two parking spaces to accommodate the

construction of the boater restroom facility will not be detrimental to the parking needs of the area.

Given the long standing development of the project site, there are no existing areas of native habitat that could meet the definition of environmentally sensitive habitat. Nonetheless, it is well known that the various tree populations within Channel Islands Harbor, including those within the project site, are utilized by sensitive bird species including Great Blue Herons, Black Crowned Night Herons, and Snowy Egrets. The proposed project involves the removal of approximately 25 Mexican Fan Palms (an invasive species) and other non-native species of plants including two Hollywood Junipers. Given that the 25 palm trees set for removal are potential nesting habitat for sensitive bird species, to ensure that no habitat area is lost due to construction activities, Commission staff recommends **Special Condition 4**, which requires the planting of replacement trees at a 1:1 ratio for any removed trees. Additionally, the conditions of approval in the Harbor Department's NOID include protective measures for sensitive bird species during tree removal. However, to avoid removal of trees during the bird breeding and nesting season and to ensure protection of sensitive bird species specifically during demolition and construction activities, it is necessary to incorporate **Special Condition 2**. This condition requires bird surveys within a 500-foot radius of the project prior to commencement of construction and the identification and implementation of appropriate protective measures if birds are encountered. In addition, to ensure consistency with the requirements of Biological Resources Policy 17 that replacement plantings shall not consist of any non-native invasive species, as well as the other relevant policies of the certified PWP, **Special Condition 5** would require the Harbor Department to submit a tree replacement planting plan.

Lastly, the certified PWP requires new development to ensure adequate stability and site safety for areas threatened by coastal hazards and also requires that new development implement Best Management Practices to prevent the discharge of pollutants or sediment that could impact coastal waters. Sea Level Rise (SLR) maps prepared for the Channel Islands Harbor indicate that the project will be safe from coastal hazards under even the highest SLR projection (between 4.8 feet-6.0 feet) until the year 2100. The project will implement Best Management Practices during construction to contain sediment and pollutants on site, and the project has been designed with vegetated swales and filters to treat storm water runoff before allowing the water to be discharged back into the Harbor.

Staff recommends that the Commission determine that the Notice of Impending Development is consistent with the certified PWP only as conditioned with five special conditions related to biological resources, access, and water quality. The motion and resolution for Commission action can be found starting on **page 5**.

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## **I. PROCEDURAL ISSUES**

Sections 30605 and 30606 of the Coastal Act and Title 14, Sections 13357(a)(5), 13359, and 13353-54 of the California Code of Regulations govern the Coastal Commission's review of subsequent development where there is a certified PWP. Section 13354 requires the Executive Director or his designee to review the Notice of Impending Development (or development announcement) within five working days of receipt and determine whether it provides sufficient information to determine if the proposed development is consistent with the certified PWP. The notice is deemed filed when all necessary supporting information has been received.

Pursuant to Section 13359 of Title 14 of the California Code of Regulations, within thirty working days of the project proponent's filing of the Notice of Impending Development, the Executive Director shall report to the Commission the pendency of the development and make a recommendation regarding the consistency of the proposed development with the certified PWP. After public hearing, by a majority of its members present, the Commission shall determine whether the development is consistent with the certified PWP and whether conditions are required to bring the development into conformance with the PWP. No construction shall commence until after the Commission votes to render the proposed development consistent with the certified PWP.

## **II. MOTION & RESOLUTION**

The staff recommends that the Commission adopt the following resolution:

### **Motion:**

I move that the Commission determine that the development described in the Notice of Impending Development CIH-NOID-0001-20, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan.

### **Staff Recommendation of Approval:**

Staff recommends a **YES** vote. Passage of this motion will result in a determination that the development described in the Notice of Impending Development CIH-NOID-0001-20, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **Resolution to Approve the Notice of Impending Development:**

The Commission hereby determines that the development described in the Notice of Impending Development CIH-NOID-0001-20, as conditioned, is consistent with the certified Channel Islands Harbor Public Works Plan for the reasons discussed in the findings herein.

### **III. SPECIAL CONDITIONS**

#### **1. Implementation of Proposed NOID**

Notice of Impending Development (NOID) CIH-NOID-0001-20 authorizes the development expressly proposed by the Harbor Department (i.e. the remodel of an existing 1,075 sq. ft. marina office building, construction of a new 1,090 sq. ft. boater restroom facility on the north side of the remodeled marina office building, and expansion of an existing public promenade), as modified by the conditions of this NOID. The County shall ensure that development is undertaken in accordance with the approved NOID and shall ensure that all of the provisions of the development are incorporated into all current and future lease agreements. Any proposed changes to the development shall be reported to the Executive Director. No changes to the approved development shall occur without a new Commission-approved NOID unless the Executive Director determines that no NOID is legally required.

The project shall be subject to all conditions of approval imposed by the Ventura County Harbor Department and included as part of the proposed NOID, except as modified by these conditions of approval for Notice of Impending Development CIH-NOID-0001-20. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Coastal Commission.

#### **2. Protection of Nesting and Roosting Birds**

A qualified independent biologist or environmental resource specialist shall conduct biological surveys of trees on and adjacent to the project site (within 500 feet of any construction activities), within one week prior to any construction activities, and once a week upon commencement of construction activities that include grading or use of other heavy equipment so long as any nesting or fledging activity is identified, and that will be carried out between December 1<sup>st</sup> and September 30<sup>th</sup>, inclusive. Such surveys shall identify the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or near the project site. All surveys conducted pursuant to this condition shall be submitted to the Executive Director of the Coastal Commission.

In the event that the surveys identify any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species exhibiting reproductive or nesting behavior on or adjacent to the project site (within 500 feet of any construction activities), then the following measures shall be included in the development:

- A. Within 300 feet of any identified active nesting sites, noise monitors shall be present during all construction activities and tree/shrub removal. Noise generated by construction shall not exceed 65 dB at any point in time, at any active nesting site. If construction noise exceeds the standard above, sound mitigation measures shall be employed. If these sound mitigation measures

do not reduce noise levels within 48 hours, construction within 300 feet of the tree shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

- B. A qualified independent monitor, approved by the Executive Director, shall be present on site during such construction to measure noise levels. During construction, noise reduction measures such as sound shields shall be used and measures shall be taken to minimize loud noise generation to the maximum extent feasible. Bright upward shining lights shall not be used during construction and construction employees shall be prohibited from bringing pets (e.g., dogs and cats) to the construction site.

The removal of trees shall be prohibited during bird breeding and nesting season (between December 1<sup>st</sup> and September 30<sup>th</sup>, inclusive).

### **3. Public Access**

Construction of the public promenade shall be completed and open to the public prior to or concurrent with the completion of construction of the remodeled and expanded marina building authorized by the approval of this NOID.

### **4. Tree Replacement Planting Plan**

Prior to the commencement of development, the Harbor Department shall submit a tree replacement planting plan, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plan shall incorporate the criteria set forth below:

- A. Any tree that must be removed shall be replaced at a 1:1 ratio. Replacement trees shall be native or regionally appropriate non-natives that are non-invasive. Replacement trees shall be selected from the plant palette approved by the County Board of Supervisors in the Channel Islands Harbor Public Areas Plan and Design Guidelines on June 24, 2008.
- B. The tree replacement planting plan for each tree replacement shall specify replacement tree locations, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards.
- C. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Harbor Director and maintained on file as public information.

The Harbor Department shall undertake development in accordance with the final approved tree replacement planting plan. Any changes to the final approved plan shall be reported to the Executive Director.

## 5. Landscaping Plan

Prior to the commencement of development, the Harbor Department shall submit a landscaping plan, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plan shall incorporate the criteria set forth below:

- A. All disturbed areas on the project site shall be planted and maintained for erosion control purposes within sixty (60) days after completion of construction. All landscaping shall consist primarily of native plants or non-native drought tolerant plants. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- B. All plantings within a designated view corridor shall consist of species that at full growth will not significantly block the view corridor as seen from the nearest public roadway.
- C. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- D. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- E. The landscaping plan shall incorporate a majority of native species, endemic to the Ventura County or Channel Islands region, and native coastal scrub habitat communities. All native planting shall be of local genetic stock. The landscaping plan shall emphasize drought tolerant endemic native plants on most of the proposed landscaping area.

## IV. FINDINGS FOR APPROVAL OF THE NOTICE OF IMPENDING DEVELOPMENT

### A. PROJECT DESCRIPTION AND BACKGROUND

The Ventura County Harbor Department submitted NOID application CIH-NOID-0001-20 on April 2, 2020, and the application was deemed complete and filed on April 10, 2020. The Harbor Department waived the 30 working day Commission hearing requirement of Section 13359(b) of the California Code of Regulations, and the NOID was subsequently scheduled for the August 2020 meeting.



The proposed project by the Harbor Department is for the remodel of an existing 1,075 sq. ft. marina office building, construction of a new, 1,090 sq. ft. boater restroom facility on the north side of the remodeled marina office building, and expansion of an existing public promenade, located at the southeastern edge of the Channel Islands Harbor Peninsula at 3700 Peninsula Road. The project is located within Parcel F, which is approximately 6,000 sq. ft. in area and zoned Visitor Serving Harbor Oriented (V.S.H.O.) pursuant to the certified PWP. The site is adjacent to a marina parking lot to the north, the Harbor waterway and Peninsula Yacht Marina to the south and east, and the former Casa Sirena Hotel and Lobster Trap Restaurant (that was recently approved to be demolished and replaced with a new Hyatt Hotel and restaurant) to the west and northwest (Exhibit 2).

The existing 1,075 sq. ft. marina office building (Peninsula Yacht Anchorage) was originally built in the 1960's to serve the marina and currently includes office space and men's and women's restroom and shower facilities. The building has reached the end of its useful life and would be remodeled and updated as part of the proposed project. An additional 1,090 sq. ft. of men's and women's restroom and shower facilities and a storage room is proposed to be constructed north of and attached to the remodeled marina office building. The structure would be 15 ft., 6 in. in height and be resurfaced with stucco and wood trim, and include concrete block and a composition tile roof in earth tones. The proposed building would also meet Americans with Disabilities Act (ADA) accessibility requirements. Construction of the new restroom facilities would extend into the existing marina parking lot approximately 50 feet and displace two existing parking spaces. These spaces are not necessary to meet the parking requirements for the marina and their removal would not be detrimental to the parking needs of the area. The project would serve to consolidate the marina boater amenities and provide additional toilet and shower facilities for marina tenants and visitors.

The additional restroom facilities are proposed to be constructed in the subject location instead of a 450 sq. ft. marina boater restroom building that was previously approved by the Commission at the adjacent Hyatt Hotel site at 3605 Peninsula Road pursuant to NOID No. CIH-NOID-0002-18. The 450 sq. ft. facility, which was intended to serve the boating tenants of the marina along the west side of the peninsula, was determined to be unneeded for the future marina as the remote location was inconvenient for marina users and security. Therefore, the Harbor Department proposes to modify the project description of the previously approved NOID to omit the 450 sq. ft. boater restroom facility at the nearby Hyatt Hotel site so that it may be relocated and expanded at the marina office building site. The relatively small area where the boater restroom was originally proposed at the Hyatt Hotel site would instead contain a sidewalk, bench seating area, and be landscaped pursuant to the landscaping plan condition of that previously approved NOID; therefore, the conditional authorization of the Hyatt Hotel

NOID No. CIH-NOID-0002-18 would remain in effect, as modified by this removal of the restroom, and the minor change to the project description does not trigger the need for any changes to the conditions of said NOID.

The proposed project also includes extending the public promenade approved in the NOID for the Hyatt Hotel project, beginning at the terminus of the existing public walkway, and extending the promenade approximately 805 feet along the southeastern end of the peninsula. The walkway would extend around the waterside of the existing marina office building and proposed restroom facility, and northward along the eastern edge of the peninsula, connecting to the Peninsula Road sidewalk to the west and resulting in a continuous public waterfront walkway around the entire end of the peninsula (Exhibit 4). The walkway will require the removal of approximately 25 Mexican Fan Palms and other non-native species of plants including two medium sized Hollywood Junipers. As mitigation for any trees that will be removed as part of the project, replacement trees will be planted at a 1:1 ratio within other areas of the Harbor consistent with the relevant policies of the PWP.

## **B. LAND USE**

The Channel Islands Harbor PWP contains a policy to ensure appropriate land use within the Harbor. Land and Water Recreation Policy 9 of the PWP requires that new development is consistent with the allowable kind, location and intensity of development as identified in the certified PWP.

Land and Water Recreation Policy 9 states (in relevant part):

...Land uses shall be compatible and consistent with the kind, location and intensity of development and resource protection and development policies prescribed by this Land Use Plan.

Figure IV of the certified PWP includes the Land Use Plan/Access map depicting the landside parcels within the Harbor and the designated land uses. The proposed marina office building remodel and boater restroom facility addition will be located at the southeastern point of Peninsula Road, entirely within Parcel F in an area designated Visitor Serving Harbor Oriented (V.S.H.O.)(Exhibit 6). The purpose of the V.S.H.O. designation is to provide for visitor serving uses and amenities which are either directly related to boating activity within the Harbor, or ancillary to it. The V.S.H.O. designation goes on to state that on a daily basis many visitors to the Harbor may, or may not, engage directly in boating activity, but do come to recreate in the Harbor's marine environment with its developed landside facilities around open water and boating activity. Permitted uses within V.S.H.O. parcels include community centers/meeting places, yacht clubs, park areas, marine museums, picnic areas, lodging, dining, fast food, and other passive and active recreational activities. The proposed NOID is for the remodel of the marina office and construction of additional boater restroom facilities.

The marina office building and boater restroom facility serves tenants of the marina and their guests, and is a necessary support service for water oriented boating activity. Pursuant to the V.S.H.O. designation for Parcel F, the new boater restroom facility is an allowable use and thus consistent with the PWP with regard to land use. Furthermore, the extended promenade proposed in the project is a form of passive recreation within the Harbor and thus is an allowable use within the V.S.H.O. designation.

Therefore, the Commission finds that the proposed development is consistent with the kind, location, and intensity of development prescribed in the PWP.

### **C. PUBLIC ACCESS**

The Channel Islands Harbor PWP contains policies to protect public access within the Harbor.

Public Access Policy 2 of the PWP states (in relevant part):

Public access from the closest public roadway to the shorelines or along the waterfront shall be provided in new development or redevelopment...

Public Access Policy 3 of the PWP states (in relevant part):

... Actual improvements to accessways shall be completed and operational prior to the completion of new development or redevelopment.

Public Access Policy 5 of the PWP states (in relevant part):

Maximum pedestrian waterfront access shall be provided by incorporating waterfront pedestrian walkways into all redevelopment projects...All walkways shall be linked with adjacent walkways in order to insure uninterrupted pedestrian movement. A promenade walkway shall be provided along the Harbor frontage for all new development.

Recreational Boating Policy 2 of the PWP states (in relevant part):

To provide for, protect and encourage increased recreational boating use of coastal waters, the following policies shall be implemented...

a. Harbor recreational boating facilities shall be protected...

Public Access Policies 2, 3, and 5 of the PWP require that new development projects provide maximum pedestrian waterfront access and that the access be completed and operational prior to completion of the new development. Recreational Boating Policy 2 of the PWP requires the protection of recreational boating facilities.

The existing marina office and restroom facility was constructed in the 1960's, prior to the effective date of the Coastal Act and prior to the certification of the PWP. The existing marina office building provides a narrow public walkway that extends south from the marina parking lot to the waterfront (**Exhibit 2**). The proposed project will extend the public promenade approximately 805 feet, beginning at the terminus of the existing public walkway near the waterfront, extending along the southeastern end of the peninsula, northward to the Paz Mar apartments, and connecting in a westerly direction to the sidewalk at Peninsula Road (**Exhibit 4**). The proposed public walkway will be a minimum of 10 feet wide, and will connect with the public walkway proposed in CIH-NOID-0002-18. The walkway will provide public access and afford views of the Harbor as well as the boat slips lining the perimeter of the peninsula.

Public Access Policies 2 and 5 require that new development provide maximum public access to the waterfront. In addition, Public Access Policy 5 requires walkways to be linked with adjacent walkways. The subject NOID proposes to provide a new 10-foot-wide public promenade around the perimeter of the proposed development, thus providing maximum public access pursuant to Public Access Policy 2. Furthermore, consistent with Public Access Policy 5 the new promenade will link with the proposed public walkway at the Hyatt Hotel site to create one continuous pathway along the perimeter of the peninsula.

Public Access Policy 3 of the PWP requires that improvements to accessways shall be completed and operational prior to completion of the redevelopment. In the case of the NOID application for the subject boater restroom facility, there was no information on the construction schedule or clarification that the promenade would be completed and open to the public prior to completion of the development. As such, the Commission finds it necessary to require **Special Condition 3** to ensure that the public promenade is completed and open to the public prior to, or concurrent with, the completion of construction for the proposed development.

Lastly, Recreational Boating Policy 2 requires the protection of recreational boating facilities. As described previously, the project is located at the southeastern terminus of Peninsula Road adjacent to the waterfront and existing marinas, and the demolition and construction activities associated with the subject NOID have the potential to possibly impact access to, or operation of those marinas. In response, the Harbor Department has confirmed that access to the existing boating slips and operation of existing marina facilities will be available during construction of the development proposed in the subject NOID. Therefore, the project will protect access for recreational boaters consistent with Recreational Boating Policy 2 above.

For these reasons, the Commission finds the NOID, as conditioned, is consistent with the applicable access policies of the PWP.

## **D. PARKING AND TRANSPORTATION**

The Channel Islands Harbor PWP contains policies to protect public access to and along the coast by requiring adequate off street parking and transportation facilities, including non-automotive transportation, within the Harbor.

Public Access Policy 6 of the PWP states:

Adequate vehicular access and circulation shall be provided throughout the Harbor without impacting the Harbor's public resources.

Public Access Policy 7 of the PWP states:

Development shall encourage pedestrian, bicycle, bus, and other non-automotive means of transportation over automobile circulation wherever possible.

Parking Policy 2 of the PWP states (in relevant part):

Adequate parking for new development and redevelopment shall be consistent with County parking requirements...

Public Access Policy 6 of the PWP requires the Harbor to maintain adequate vehicular access and circulation and Public Access Policy 7 states that development shall encourage non-automotive means of transportation. Parking Policy 2 requires new development to provide adequate parking consistent with Ventura County parking requirements.

The existing marina parking area adjacent to the project site contains 188 parking spaces and is utilized by marina tenants, visitors, and the public. The proposed marina boater restroom facility would extend north into a portion of the parking lot and displace two existing parking spaces. However, the amount of existing parking at this location currently exceeds demand. Based on a parking analysis completed in 2017, peak parking demand associated with the Peninsula Yacht Marina's 220 boat slips is 97 spaces. However, pursuant to Ventura County parking requirements, a total of 132 spaces are required for the Peninsula Yacht Marina. Therefore, the quantity of existing parking spaces for the marina at this location exceeds demand and the County's parking requirements. The approved Hyatt Hotel project located adjacent to the project site includes reconfiguration of the existing marina parking lot and a shared parking program with a total of 379 parking spaces to accommodate the approved hotel and restaurant, as well as the existing marina uses. An analysis of parking for the Hyatt Hotel project indicated that usage rates for the marina and associated boater restroom facility, as well as the hotel and restaurant, are only expected to require a maximum of 344 spaces. Therefore, there is evidence that the public parking available under existing conditions and in consideration of the approved Hyatt Hotel project are more than adequate. The proposed marina building remodel and expansion project are unlikely to

generate increased parking demands and the proposed removal of two parking spaces to accommodate the construction of the boater restroom facility will not be detrimental to the parking needs of the area. As such, the proposed project is consistent with Parking Policy 2 of the PWP because adequate parking is provided to serve the development in compliance with Ventura County parking requirements.

Consistent with Public Access Policy 6 requiring adequate vehicle access and circulation within the Harbor and Public Access Policy 7 requiring encouragement of non-automotive transportation where possible, the proposed project will serve existing marina tenants and support pedestrian access as an alternative to vehicular access. No new traffic is expected to be generated by the project.

For these reasons, the Commission finds the NOID is consistent with the applicable parking and transportation policies of the PWP.

## **E. BIOLOGICAL RESOURCES**

The Channel Islands Harbor PWP contains policies to protect biological resources within the Harbor.

Biological Resources Policy 12 of the PWP states:

All new marina development or redevelopment shall minimize impacts to sensitive bird species, including but not limited to black-crowned night herons, great blue herons, snowy egrets, and other sensitive bird species.

Biological Resources Policy 13 of the PWP states:

All new marina development or redevelopment shall include biological surveys of trees on and adjacent to the project site (within 500 feet of any construction activities) prepared by a qualified independent biologist or environmental resource specialist, just prior to any construction activities, and once a week upon commencement of construction activities that include grading or use of other heavy equipment, and that will be carried out between December 1<sup>st</sup> and September 30<sup>th</sup>, inclusive. Such surveys shall identify the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or near the project site. All surveys conducted pursuant to this policy shall be submitted to the Executive Director of the Coastal Commission.

In the event that the surveys identify any black-crowned night herons, great blue herons, snowy egrets, or other sensitive species exhibiting reproductive or nesting behavior on or adjacent to the project site (within 500 feet of any construction activities), then the following measures shall be included in the development:

Within 300 feet of any identified active nesting sites, noise monitors shall be present during all pile driving, concrete demolition, or other hardscape demolition. Noise generated by construction (including but not limited to pile driving) shall not exceed 65 dB at any point in time, at any active nesting site. If construction noise exceeds the standard above, sound mitigation measures shall be employed. If these sound mitigation measures do not reduce noise levels within 48 hours, construction within 300 feet of the tree shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

A qualified independent monitor, approved by the Executive Director, shall be present on site during such construction to measure noise levels. During construction, noise reduction measures such as sound shields shall be used and measures taken to minimize loud noise generation to the maximum extent feasible. Bright upward shining lights shall not be used during construction and construction employees shall be prohibited from bringing pets (e.g., dogs and cats) to the construction site.)

Biological Resources Policy 17 of the PWP states (in relevant part):

...The trimming or removal of any tree that has been used for breeding and nesting within the past 5 years, determined by a qualified biologist, shall be undertaken in compliance with all applicable codes or regulations of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the U.S. Migratory Bird Treaty Act and shall require approval through a Notice of Impending Development undertaken pursuant to the parameters listed below...

Tree trimming or tree removal shall be prohibited during the breeding and nesting season of the bird species referenced above (January – September) unless the Harbor Department, in consultation with a certified arborist, determines that a tree causes danger to public health and safety. A health and safety danger exists if a tree or branch is dead, diseased, dying, or injured and said tree or branch is in imminent danger of collapse or breaking away. Trees or branches with a nest that has been active anytime within the last five years shall not be removed or disturbed unless a health and safety danger exists.

The removal of any breeding and nesting tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. A tree replacement planting plan for each tree replacement shall be developed to specify replacement tree locations, tree size (no less than 36" box size), planting specifications, and a five-year monitoring program with specific performance standards. An annual monitoring report for tree replacement shall be submitted for the review and approval of the Harbor Director and maintained on file as public information.

(A) Tree Trimming During Non-Breeding and Non-Nesting Season (October-December)

1. Prior to tree trimming or removal, a qualified biologist shall survey the trees to be trimmed or removed to detect nests and submit the survey(s) to the Harbor Department. Tree trimming or removal may proceed if a nest is found, but has not been used within the prior 5 years.
2. In the event that any of the bird species referenced above return or continue to occupy trees during the non-nesting season, trimming shall not take place until a qualified biologist has assessed the site, determined that courtship behavior has not commenced, and given approval to proceed within 300 feet of any occupied tree.
3. Trimming of nesting trees shall not encroach within 10 feet of an unoccupied nest of any of the bird species referenced above. The amount of trimming at any one time shall be limited to preserve the suitability of the nesting tree for breeding and/or nesting habitat.

(B) Tree Trimming or Removal During Breeding and Nesting Season (January – September)

If tree trimming or removal activities cannot feasibly avoid the breeding season because a health and safety danger exists, the following guidelines must be followed:

1. A qualified biologist shall conduct surveys and submit a report at least one week prior to the trimming or removal of a tree (only if it is posing a health or safety danger) to detect any breeding or nesting behavior in or within 300 feet of the work area. A tree trimming and/or removal plan shall be prepared by an arborist in consultation with the qualified biologist. The survey report and tree trimming and/or removal plan shall be submitted for the review and approval of Harbor Director and maintained on file as public information. The plan shall incorporate the following:
  - a) A description of how work will occur (work must be performed using non-mechanized hand tools to the maximum extent feasible).
  - b) Limits of tree trimming and/or removal shall be established in the field with flagging and stakes or construction fencing.
  - c) Insurance that tree trimming will be the minimum necessary to address the health and safety danger while avoiding or minimizing impacts to breeding and nesting bird's and their habitat.



2. Prior to commencement of tree trimming and/or removal the qualified biologist shall notify in writing the Department of Fish and Game and the U.S. Fish and Wildlife Service of the intent to commence tree trimming or removal.

In addition the certified Channel Islands Harbor PWP incorporates by reference Section 30240 of the Coastal Act.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The PWP policies identified above provide the requirements for pre-construction and pre-tree removal surveys to avoid impacts to birds as well as the required actions if birds are present during operations. Section 30240 requires protection of Environmentally Sensitive Habitat Areas (ESHA) against any significant disruption of habitat values and only allows resource dependent uses within those areas.

The site of the boater restroom facility is located on the southeastern terminus of the Harbor Peninsula at the end of Peninsula Road in an area comprised of the existing marina office and restroom building site, paved areas for parking, and existing landscaping that consists of non-native Mexican Fan Palms and Hollywood Junipers. The proposed project involves the removal of approximately 25 Mexican Fan Palms (an invasive species) and two non-native Hollywood Junipers. The subject site was constructed during the man-made formation of the Harbor and the site has been developed with the existing marina facility since the 1960's. No environmentally sensitive habitat areas (ESHA) have been identified on site or in close proximity to the subject site.

The certified PWP states that the Harbor area is completely developed and that terrestrial vegetation consists entirely of introduced landscaping species. Bird species found in the Harbor identified in the PWP include great blue herons, double-breasted cormorant, western grebes, brown pelicans, herring gulls, and California gulls. The PWP acknowledges that it is probable that many more migratory bird species use the Harbor during the year. In past Commission actions, it has been recognized that several bird species, such as great blue herons, black-crowned night herons, and snowy egrets utilize the trees in the Harbor for roosting and nesting. They have been known to nest on the peninsula in the Monterey Cypress, New Zealand Christmas Trees, Torrey Pine, Ficus, and Mexican Fan Palms. Although none of these species are

listed as threatened or endangered, their presence is considered important because some species of herons and egrets are considered sensitive species and play an integral role in the ecosystem as top wetland predators. The Harbor Department has consequently monitored bird nesting activity for several years.

Previous surveys of the bird colonies within the Harbor have found birds roosting in a variety of trees throughout the Harbor, without any particular fidelity to specific groupings of trees. Within the Harbor peninsula area, Great Blue Herons have utilized various mature Mexican Fan Palms. Although not known to have nested in the trees proposed for removal, consistent with **Special Condition 2** and the Biological policies in the PWP, prior to removal of the Mexican Fan Palms and other trees onsite, a qualified independent biologist or environmental resource specialist shall conduct biological surveys of trees on and adjacent to the project site to identify the presence of black-crowned night herons, great blue herons, snowy egrets, or other sensitive species in or near the project site. To ensure that no nesting habitat is lost, **Special Condition 4** requires a 1:1 replacement ratio for all trees removed. Since the birds regularly nest within various trees throughout the Harbor, the removal of the trees within the project site is not expected to result in a significant impact to sensitive bird species within the Harbor.

While the project area is not known to have breeding and nesting trees for sensitive bird species, and removal of those trees is not expected to have a significant adverse impact on sensitive bird species due to the availability of other trees throughout the Harbor in conjunction with the birds' tendency to utilize various tree populations, removal of existing trees still has the potential to impact any sensitive bird species that may be actively roosting at the time of tree removal. Pursuant to Biological Resources Policy 17 identified above, the Harbor Department included Conditions of Approval with the subject NOID (Exhibit 5) that specify the appropriate measures to take regarding removal of trees during non-breeding/non-nesting season as well as during breeding/nesting season. Those measures require surveys of trees to be removed and require maintaining sufficient distance from any sensitive bird species to prevent any impacts. The condition also states that if removal of trees takes place during the breeding and nesting season (January – September) and birds are discovered in the trees to be removed, a qualified biologist shall prepare a tree removal plan incorporating measures to minimize any impacts to those birds.

However, Biological Resources Policy 17 prohibits the removal of trees during the bird breeding and nesting season unless there is an identified health and safety danger, which is not the case in the subject project. In order to ensure consistency with this policy, the Commission finds it necessary to require **Special Condition 2** which prohibits tree removal during the breeding and nesting season. **Special Condition 2** also requires mitigation at a 1:1 ratio and specifies that replacement trees shall consist of native or non-native, non-invasive tree species as detailed in a tree replacement planting plan. The subject NOID states that there is sufficient area within Peninsula Park to plant the replacement trees; however, no specifics regarding the exact location

and type of plantings was provided. To ensure that replacement tree plantings are consistent with the requirements of Biological Resources Policy 17, as well as the other relevant policies of the PWP, the Commission finds it necessary to incorporate **Special Condition 4** which requires the Harbor Department to submit a tree replacement planting plan, prepared by a licensed landscape architect or qualified resource specialist, that specifies the tree species selected for replacement planting as well as the parameters for planting and monitoring.

As previously discussed, due to the availability of tree populations throughout the Harbor as well as the tendency for bird species within the Harbor to breed and nest in different areas, removal of the trees within the existing marina office and restroom facility site is not expected to have significant impacts to sensitive bird species. However, that condition is limited to activities associated with the removal of trees and does not address the demolition and construction activities associated with the project. Due to the potential for sensitive bird species to be present nearby during demolition and construction activities, and in order to find the proposed NOID consistent with the PWP pursuant to Biological Resources Policy 12 of the PWP requiring new development to minimize impacts to sensitive bird species and Biological Resources Policy 13 requiring new development to conduct pre-construction surveys for sensitive bird species, the Commission finds it necessary to incorporate **Special Condition 2**. This condition requires the Harbor Department to conduct sensitive bird surveys within a 500 foot radius of the project site within one week prior to commencing construction, and once a week upon commencement of construction activities that include grading or the use of other heavy equipment so long as any nesting or fledging activity is identified, and that will be carried out between December 1<sup>st</sup> and September 30<sup>th</sup>. In the event that the surveys identify any sensitive bird species exhibiting reproductive or nesting behavior on or adjacent to the project site (within 500 feet of any construction activities), then the condition also requires that special protective measures are implemented.

Therefore, for the reasons discussed above, the Commission finds that the NOID, as conditioned, is consistent with the PWP regarding biological resources.

## **F. SCENIC RESOURCES**

The Channel Islands Harbor PWP contains a policy to protect visual resources within the Harbor.

Visual Access Policy 1 of the PWP states (in relevant part):

To enhance visual quality and ensure that new development and redevelopment does not impede views to the water area from the roadway to and from the waterfront and inland Harbor area, the following measures shall be implemented by the County:

(a) A view corridor shall be defined as that area between the roadway and the water which is not occupied by buildings, solid walls or fences, or landscaping which might interfere with the view of the water or water surface activity from the roadway.

(b) A view corridor shall be measured from the linear distance paralleling the nearest public road.

(c) At least 25% of the Harbor shall provide a view corridor that is to be measured from the first main road inland from the water line, which shall be at least 25 feet in width. View corridors shall be landscaped in a manner that screens and softens the view across any parking and pavement areas in the corridor. This landscaping, however, shall be designed to frame and accentuate the view, and shall not significantly block the view corridor. All redevelopment shall provide maximum views...

(d) Future building or redevelopment of existing buildings in the Harbor shall not exceed two stories or 25 feet in height except as set forth herein...

...

2. On Parcels F and F-1 building height shall not exceed 55 feet and four stories. Parapets, architectural features, electrical equipment, screening materials, telecommunications equipment, elevator housings and HVAC equipment shall not exceed 10 feet above the highest point of the building. Height of the building and appurtenant equipment and features shall be measured from the centerline of Peninsula Road.

In addition the certified Channel Islands Harbor PWP incorporates by reference Section 30251 of the Coastal Act.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Visual Access Policy 1 of the PWP establishes designated view corridors of Harbor waters from the waterfront and roadways and the allowable building heights within the Harbor. Section 30251 of the Coastal Act requires that the visual qualities of coastal areas be protected and where feasible, degraded areas shall be enhanced and restored.

The existing marina office and restroom facility was constructed in the 1960's, prior to the certification of the PWP. Pursuant to section 1.D.2 under Visual Access Policy 1 of the PWP the maximum allowable building height within Parcels F and F-1 shall not exceed 55 feet and four stories. Parapets, architectural features, electrical equipment, screening materials, telecommunications equipment, elevator housings and HVAC equipment shall not exceed 10 feet above the highest point of the building. The boater facility will be 15 feet 6 inches at the highest point and one story, and all of the associated parapets, features and miscellaneous equipment will comply with the 10-foot height allowance. Therefore, the proposed boater facility is consistent with the height requirements of Visual Access Policy 1.D.2 of the PWP.

In addition to identifying the allowable heights for new development within the Harbor, Visual Access Policy 1 of the PWP requires that new development provide maximum views and specifies the requirements for view corridors. Pursuant to Figure IV of the certified PWP there is an existing view corridor between Peninsula Road and the Harbor across the eastern portion of the marina parking lot located within Parcel F, just north of the marina building (Exhibit 6). Visual Access Policy 1 provides the criteria for view corridors within the Harbor, stating that a view corridor shall be the area between the roadway and the water which is not obstructed by development or landscaping. The existing landscaping on top of the revetment within the view corridor (including the 25 Mexican Fan Palms) currently interrupts the view of the Harbor from the road. The subject project would involve removing the 25 Mexican Fan Palms along the top of the revetment in order to construct the public promenade along the waterfront, therefore improving the view of the Harbor, consistent with Visual Access Policy 1 and Coastal Act Section 30251's mandate that new development shall restore and enhance the visual quality of the area and provide maximum views. Construction of the restroom facility addition would extend the building envelope of the marina boater support facility an additional 48 feet into the marina parking lot and displace 2 parking spaces at the very southern edge of the view corridor. However, the proposed boater facility would not obstruct or significantly encroach into the view corridor, and construction of the new pedestrian walkway along the revetment will increase public access and maximize the views in this area. Therefore, the subject development would provide an improved marina facility that is consolidated within a central location for boaters and that would maximize views across the view corridor by removing existing landscaping that interrupts views onsite and enhancing public access along the waterfront.

However, the proposed project also includes landscaping in the area of the remodeled marina building. Visual Access Policy 1 of the certified PWP states that landscaping within a designated view corridor shall be designed to frame and accentuate the view, and shall not significantly block the view corridor. Since the location and type of landscaping species has the potential to block or impact public views within the view corridor, inconsistent with Visual Access Policy 1 of the PWP, the Commission finds it necessary to require **Special Condition 5**, which would require a final landscaping plan

be submitted prior to commencement of construction that must demonstrate selected plantings would not block the view corridor as seen from Peninsula Road.

Therefore, for the reasons discussed above, the Commission finds that the NOID, as conditioned, is consistent with the PWP regarding visual resources.

## **G. WATER QUALITY**

The Channel Islands Harbor PWP contains policies to protect water resources within the Harbor.

Water Quality Policy 1 of the PWP states:

All new development or redevelopment shall be designed to prohibit the discharge of pollutants that would cause or contribute to receiving water impairment or exceedance of water quality standards.

Water Quality Policy 4 of the PWP states (in relevant part):

All new development or redevelopment shall be designed to minimize erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable...

Water Quality Policy 5 of the PWP states:

All new development or redevelopment (including exempt development in the Harbor) shall include 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 ESHA, 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 within the coastal zone, a separate Notice of Impending Development shall be required before disposal can take place.
- 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 or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- L. The least damaging method shall be used for the construction of pilings and any other activity that will disturb benthic sediments. The suspension of benthic sediments into the water column shall be minimized to the greatest extent practicable.
- M. 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 onset of such activity.
- N. All BMPs shall be maintained in a functional condition throughout the duration of the project.

In addition, the certified Channel Islands Harbor PWP incorporates by reference Sections 30231 of the Coastal Act.

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 of 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 natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30231 requires the productivity and quality of coastal waters to be maintained and the PWP policies cited above require new development to prevent impacts to water resources by implementing construction best management practices (BMPs) to control potential pollutants or contaminants on site and implement protocols and techniques to control any spillage and/or runoff from the site.

While the site is already developed with the existing marina facility, the redevelopment and addition proposed in this NOID still has the potential to impact Harbor waters. Consistent with the requirements of Coastal Act Section 30231 and the PWP policies identified above, the Harbor Department included conditions of approval with the NOID to ensure protection of the Harbor waters. Those conditions included construction BMPs to control pollutants or contaminants on site and protocols and techniques to contain any spillage and/or runoff from the site. To ensure consistency with the water resource policies of the certified PWP, the Commission finds that **Special Condition 1** is necessary to require that all of the applicant's conditions of approval, as submitted, be implemented as part of the proposed project.

Currently all storm water runoff from the developed site drains directly into the Harbor waters via outlets located on the east and west side of the peninsula. The subject project would be constructed in such a way as to control the flow of storm water and direct the storm water to several filters and vegetated swales for treatment. Consistent with Water Quality Policy 1 and Coastal Act Section 30231 the project includes BMPs to capture and treat stormwater on the site, therefore preventing the discharge of pollutants that would cause or contribute to receiving water impairment and possibly affecting the biological productivity of coastal waters.

Therefore, for the reasons discussed above, the Commission finds that the NOID, as conditioned, is consistent with the PWP regarding water quality.

## **H. HAZARDS**

The Channel Islands Harbor PWP incorporates by reference Section 30253.

Section 30253 of the Coastal Act states (in relevant 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....

Coastal Act Section 30253 requires new development to minimize risks to life and property, to assure stability and structural integrity while not contributing to erosion, instability, or destruction of the site or surrounding area, and to not require the construction of protective devices that substantially alter natural landforms.

The proposed marina office building remodel and boater restroom addition is located along the waterside of the Harbor and must consider impacts related to climate change and sea level rise (SLR) to ensure that the site is sufficiently safe pursuant to Coastal Act Section 30253. The City of Oxnard is in the process of updating its Local Coastal Program (LCP) to address SLR, and because the Channel Islands Harbor is located within the City's municipal boundaries, the City included the Harbor in the SLR technical documents for the entire City area. Included in those technical documents, the City prepared SLR maps depicting the potential impacts from five events (coastal storm flood, coastal storm wave, erosion hazards, monthly tidal inundation, and combined hazards) for the years 2030, 2060 and 2100 as a result of low, moderate and high levels of SLR. As shown on those maps, the subject area of the Harbor Peninsula is projected to be affected by coastal storm flooding and combined hazards by the year 2100 under the highest projected amount of SLR (projected to be 4.8 feet-6.0 feet). However, the analysis demonstrates that the site will be sufficiently secure from the impacts of SLR for a period of nearly 80 years even under the highest projected level of SLR. Accordingly, the project can be found consistent with the provisions of Coastal Act Section 30253 requiring new development to minimize risks to life and property.

Therefore, for the reasons discussed above, the Commission finds that the NOID is consistent with the PWP regarding hazards.

## **I. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Harbor Department, in its role as lead agency for the PWP and the NOID for purposes of the California Environmental Quality Act ("CEQA"),<sup>1</sup> has determined that the project is categorically exempt from the provisions of CEQA under CEQA Guidelines Section 15302. 14 C.C.R. § 15302 ("Replacement or Reconstruction"); see *a/so* Pub.

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<sup>1</sup> Cal. Pub. Res. Code ("PRC") §§ 21000 *et seq.* All further references to CEQA sections are to sections of the PRC.

Res. Code section 21084 (authorizing promulgation of regulations listing categorical exemptions).

As a responsible agency with authority to determine that a Notice of Impending Development is consistent with the certified PWP, the Commission has some CEQA responsibilities as well. Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications and s of Impending Development (NOID) to be supported by a finding showing that the application, as modified by any conditions of approval, is consistent with any applicable requirements of CEQA. The Commission also has a regulatory program that has been certified by the Secretary of the Resources Agency under Section 21080.5 of CEQA, thereby allowing the Commission to use this program in lieu of drafting an environmental impact report.

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 that would substantially lessen any significant adverse effect which the activity may have on the environment. For the reasons discussed in this report, the project, as submitted, is consistent with the governing PWP and its coastal zone protection policies, and there are no other feasible alternatives that would substantially lessen significant adverse effects that the approval could have on the environment.

The Commission incorporates its findings on Coastal Act and LRDP consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in the preceding sections, the proposed development approved by this NOID is consistent with the policies and provisions of the certified PWP. There are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact that the activity may have on the environment, and as conditioned, the project will not have any significant impacts on the environment within the meaning of CEQA. Therefore, the Commission finds that the NOID is consistent with CEQA, the Coastal Act, and the applicable polices and provisions of the certified PWP.

## **Appendix A - Substantive File Documents**

Channel Islands Harbor certified Public Works Plan; Channel Islands Harbor Notice of Impending Development No CIH-NOID-0001-20, dated March 30, 2020.