

## **CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
301 E. Ocean Blvd. Suite 300  
Long Beach, CA 90802-4302  
(562) 590-5071



# **W15a**

**A-5-MDR-19-0217 (E&S RING MANAGEMENT CORP.)**

**SEPTEMBER 8, 2021**

### **EXHIBITS**

**Exhibit 1** – Vicinity Map

**Exhibit 2** – Site Plan with Tree Locations Where Nests Were Removed

**Exhibit 3** – CCC Enforcement Letter April 2020

**Exhibit 4** – County's Notice of Final Action for Local CDP RCDP-20140000

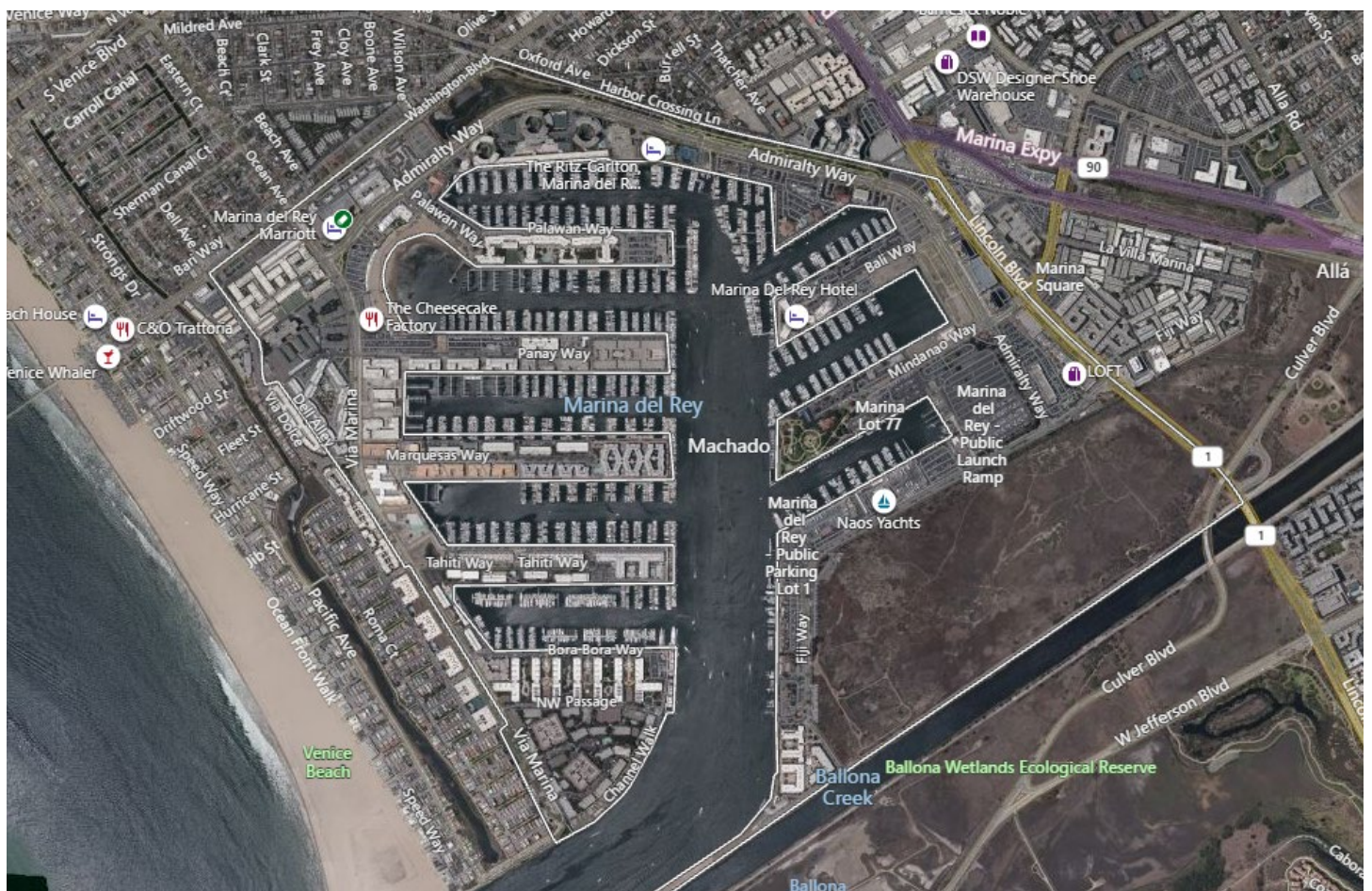
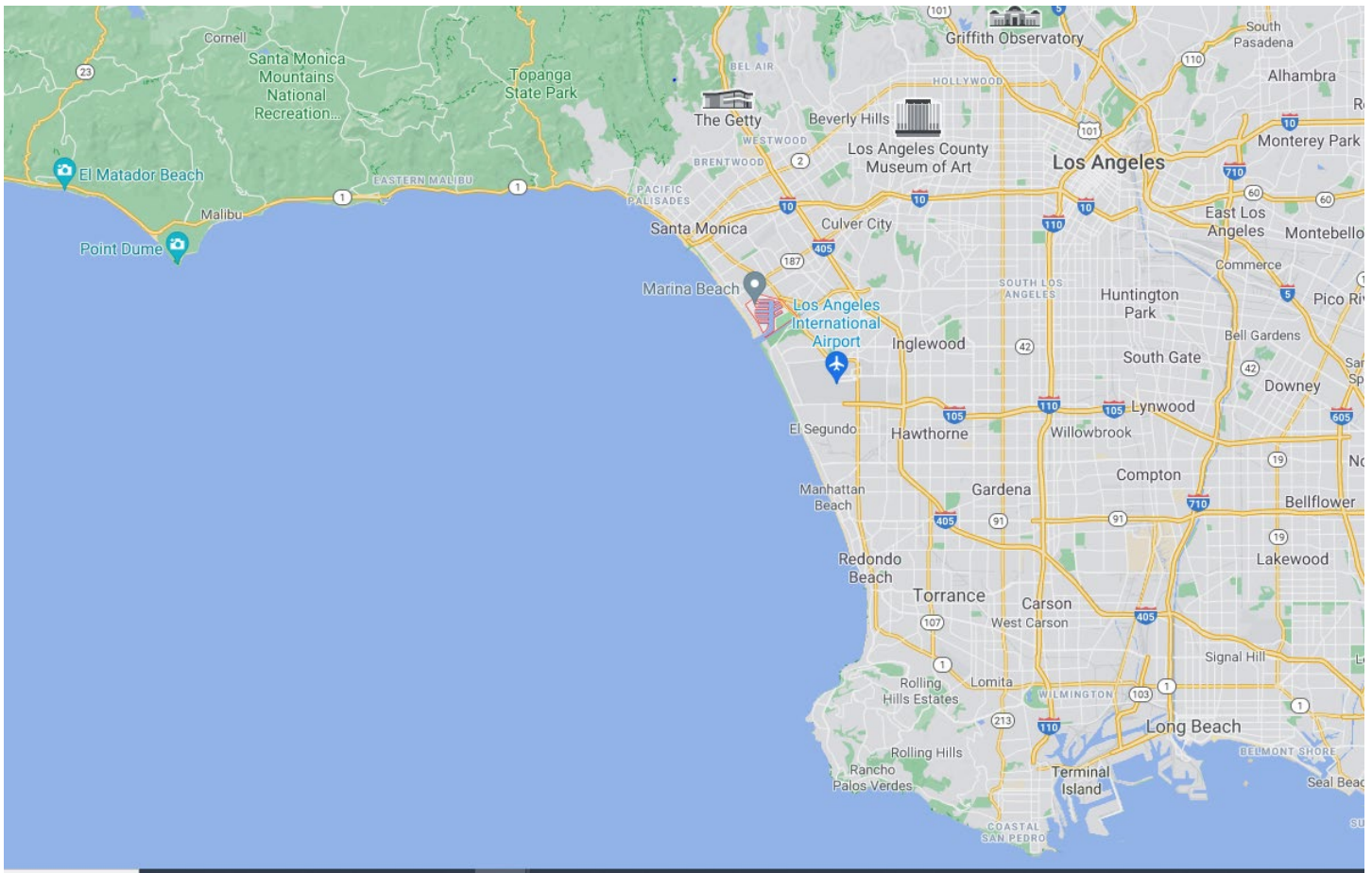
**Exhibit 5** – County's Resolution Approving Local CDP RCDP-20140000

**Exhibit 6** – Proposed Locations for Tree Planting and Nesting Platform Installation

**Exhibit 7** – Proposed Location for Concrete Debris Removal

**Exhibit 8** – Nesting Platform Schematic, Northern Prairie Research Center

**Exhibit 9** – Revised Location for Nesting Platform









PARCEL 113

MARINER'S VILLAGE  
4600 VIA MARINA, MARINA DEL REY, CA  
MARINA ADMIRALTY COMPANY

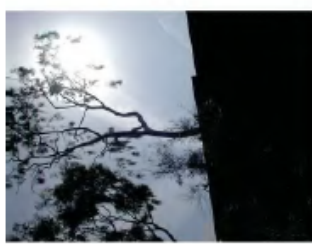
PROJECT NUMBER: R2014 - 00829  
PERMIT NUMBER: RCDP 201400001



H3 Red River Gum



D27 Lemon-Scented Gum



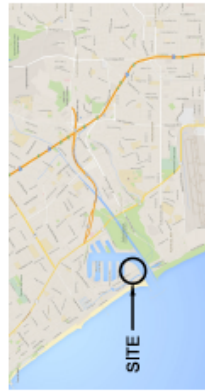
D40 Monterey Pine



ID #	Common Name	ID# (inches)	Height (ft)	Category	Number of Nests (removed)
D27	Lemon-Scented Gum	20	70	Overmature	1
D40	Monterey Pine	26.5	60	Overmature	1
E22	Red River Gum	34	65	Overmature	1
D23	Red River Gum	30	45	Overmature	8

ID# = diameter at breast height  
ft = feet

**PROJECT DESCRIPTION**  
Authorization for the unpermitted prior removal of 11 bird nests from 4 separate nesting-trees on the Mariners Village property during November of 2013.  
The purpose of this permit is to authorize the nest removal and determine the appropriate remediation for the impacts and ensure the applicant's future compliance with nest removal regulations.



kpff  
THE K. PETERSON FIRM, INC.  
1000 S. GATEWAY AVENUE, SUITE 200  
SAN ANTONIO, TEXAS 78204

## CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE  
301 E. OCEAN BLVD, SUITE 3000  
LONG BEACH, CA 90802  
(562) 590-5071



Sent via Email

April 10, 2020

Kevin Finkel  
Principal Regional Planner  
LA County Department of Regional Planning  
320 West Temple Street  
Los Angeles, CA 90012

E&S Ring Management Corporation (Mariners Village)  
c/o Mark Wagner  
11050 Santa Monica Blvd 2nd Floor  
Los Angeles, CA 90025

**Re: Unpermitted removal of 11 Great Blue Heron nests in Mariners Village**

Dear Mr. Finkel and Mr. Wagner:

Our staff would like to thank you for continuing to work cooperatively with us to resolve the Coastal Act violations at issue through the coastal development permit ("CDP") application process. As we understand it, the unpermitted removal of 11 Great Blue Heron nests from trees occurred in the Mariners Village apartment complex in 2013 and was undertaken by tree trimming contractors employed by the owners of Mariners Village; E&S Ring Management Corporation. The removal of the nests involves removal of solid material, and, thus, constitutes development that requires a CDP pursuant to the Coastal Act and Los Angeles County Marina Del Rey Local Coastal Program ("LCP"). No CDP was issued for the removal of the nests, nor would Commission staff recommend approval of a CDP that authorized removal of the nests, as such removal is inconsistent with resource protection policies of the Coastal Act – as you know, the Commission can review on appeal a County CDP to authorize the nest removal.

Through this letter, we would like to provide both the Los Angeles County Department of Regional Planning ("County") and E&S Ring Management Corporation ("E & S Ring") with background to this matter and direction for a comprehensive resolution to these violations. A comprehensive resolution of these violations must include E&S Ring agreeing to apply for a CDP, and implementing said CDP upon issuance, that includes, instead of a request for after-the-fact authorization of the nest removal, the following components: 1) mitigation for habitat impacts that have occurred as a result of the nest removal; 2) a provision that all arborists and their contractors undergo an education program regarding avoidance of impacts to nesting habitat (i.e. maintaining certain foliage cover and nests intact); 3) a written agreement to protect the trees where the

California Coastal Commission  
CDP No. A-5-MDR-19-0217  
Exhibit 3 p. 1 of 4

nest removal occurred in perpetuity; and 4) resolution of the Commission's claims for monetary penalties for these Coastal Act violations.

Staff believes that there is an opportunity to comprehensively satisfy the requirements to mitigate for the habitat impacts resulting from the violations and address the Commission's claims for monetary penalties by undertaking the following mitigation projects: 1) install nesting platforms for Great Blue Herons adjacent to the water in Marina Del Rey, and 2) arrange for removal of concrete debris from an area of the west bank of Ballona Lagoon in order to restore foraging habitat for Great Blue Herons. Thus, in order to effect a comprehensive resolution of the violations at issue, these two activities must be added to the application for a CDP described above.

### Background to Violations

Commission staff has researched our permit files and concluded that no coastal development permit was issued by the County to E&S Ring for the removal of the 11 Great Blue Heron nests described herein. Pursuant to Section 30600 (a) of the Coastal Act and Section 22.46.1110 of the County's LCP, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act and and Section 22.14.040 – D of the County's LCP as:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials...*

The removal of 11 Great Blue Heron nests constitutes development under the Coastal Act and the County's LCP because the nests are materials. Any non-exempt development activity, which is not the case here, conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act and the County's LCP. There is no indication that the required coastal development permit has been obtained for the nest removal at issue. Furthermore, Commission staff would not recommend approval of the nest removal because it is inconsistent with the LCP and Coastal Act's resource protection policies that protect bird nesting habitat. Pursuant to Section B.5.A. of the County's LCP, Important Biological Resources, including habitat for colonial waterbirds and their heronries, do exist within the bounds of Marina Del Rey and require protection as coastal resources per Coastal Act sections 30230, 30231, and 30250.

### Enforcement Remedies

We would like to coordinate with the County on enforcement regarding this violation, and we are offering to assist the County in the enforcement of the LCP and the Coastal Act. Please notify me by no later than April 19, 2020 regarding whether the County and

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Exhibit 3 p. 2 of 4

E&S Ring intend to work with the Commission to address the violations described above through the coastal development process, or would prefer that the Commission address them through the enforcement provisions of the Coastal Act. If the latter, the Commission will pursue enforcement action that may include the issuance of a cease and desist order and/or restoration order for all of the unpermitted development, including development within the County's LCP jurisdiction.

County LCP Section 22.56.2550 states:

*In addition to the enforcement provisions contained in this Title 22, the provisions of Chapter 9 of Division 20 of the California Public Resources Code<sup>1</sup> shall also apply with respect to violations and enforcement.*

While enforcement action by the Commission does not preclude the County from pursuing resolution of violations of LCP policies, in certain circumstances, the Commission may assume primary responsibility for enforcement of Coastal Act violations in LCP-certified areas pursuant to Section 30810(a) of the Act. Section 30810(a) provides that the Commission may issue an order to enforce the requirements of a certified local coastal program in the event that the local government requests the Commission to assist with or assume primary responsibility for issuing such order, or if the local government declines to act or fails to act in a timely manner to resolve the violation after receiving a request to act from the Commission.

Additionally, Coastal Act Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that requires a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Section 30811 also provides the Coastal Commission or a local government that is implementing a certified local coastal program the authority to issue a restoration order to address violations at a site. A violation of a cease and desist order or restoration order can result in civil fines of up to \$6,000 for each day in which the violation persists.

Additionally, Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 per violation for each day in which the violation persists.

### Resolution

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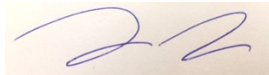
<sup>1</sup> Chapter 9 of the Coastal Act is entitled "Judicial Review, Enforcement, and Penalties"

In some cases, violations involving unpermitted development may be resolved administratively by restoration of any damaged resources, mitigation for impacts to habitat that resulted from the violations, and payment of a monetary fine. Above, we outlined the necessary components of a comprehensive resolution, which must include: 1) mitigation for habitat impacts that have occurred as a result of the nest removal; 2) a provision that all arborists and their contractors undergo an education program regarding avoidance of impacts to nesting habitat (i.e. maintaining certain foliage cover and nests intact); 3) a written agreement to protect the trees where the nest removal occurred in perpetuity; and 4) resolution of the Commission's claims for monetary penalties for these Coastal Act violations by undertaking the following mitigation projects: 1) install nesting platforms for Great Blue Herons adjacent to the water in Marina Del Rey, and 2) arrange for removal of concrete debris from an area of the west bank of Ballona Lagoon in order to restore foraging habitat for Great Blue Herons.

Commission staff is requesting that you submit the above described information and plans by **July 10, 2020** in order that we may know that it is your intent to continue working amicably with staff to resolve this matter. Please contact me by no later than April 24, 2020 to discuss the status of the CDP application.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, due to the coronavirus situation, please respond to this letter via email. I can be reached at [jordan.sanchez@coastal.ca.gov](mailto:jordan.sanchez@coastal.ca.gov).

Sincerely,



Jordan Sanchez  
Enforcement Officer

cc: Andrew Willis, Enforcement Supervisor, CCC  
Lisa Haage, Chief of Enforcement, CCC  
Steve Hudson, Deputy Director, CCC  
Amber Dobson, District Manager, CCC  
Mandy Revell, Planner, CCC





Los Angeles County  
Department of Regional Planning



*Planning for the Challenges Ahead*

RECEIVED  
South Coast Region

DEC 06 2019

CALIFORNIA  
COASTAL COMMISSION

Amy J. Bodek, AICP  
Director of Regional Planning

Dennis Slavin  
Chief Deputy Director,  
Regional Planning

December 4, 2019

California Coastal Commission South Coast District Office  
Shannon Vaughn  
301 E. Ocean Blvd., Suite 300  
Long Beach, CA 90802

Dear Ms. Vaughn:

**NOTICE OF FINAL DECISION ON COASTAL DEVELOPMENT PERMIT**

Please note the following final Los Angeles County decision on a coastal development permit application (all local appeals have been exhausted for this matter):

**PROJECT INFORMATION**

Project No.:	R2014-00829-(4)
Coastal Development Permit No.:	RCDP-201400001
Project Applicant:	E&S Ring Management Corporation
Applicant's Representative:	Roger Van Wert Van Wert, Inc. 848 Butte Street Claremont, CA 91711
Project Location:	4600 Via Marina, Lease Parcel 113 Marina del Rey, Los Angeles County, CA 90292
Project Description:	To authorize the unpermitted removal of 11 nests from four trees within the Mariners Village apartment complex.

**FINAL DECISION INFORMATION**

The Los Angeles Regional Planning Commission (Commission), by its action on November 13, 2019, approved the above-referenced project with conditions. This decision is considered final and no additional local appeals are possible. Enclosed are the required materials supporting the final decision including the Commission's Findings and Conditions of Approval.



**CALIFORNIA COASTAL COMMISSION APPEAL INFORMATION**

This approval is appealable to the California Coastal Commission. Pursuant to Section 22.56.2450(A) of the Los Angeles County Code:

1. The approved development is located between the sea and the first public road paralleling the sea and within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is greater. The Project Site is located within the California Coastal Commission's appeal jurisdiction, which depict these areas on the Post-LCP Certification Permit and Appeals Jurisdiction Map.
2. The approved development is not located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff. The Project Site is located within the California Coastal Commission's appeal jurisdiction, which depict these areas on the Post-LCP Certification Permit and Appeals Jurisdiction Map.
3. The approved development is not the principal permitted use in the underlying zones.
4. The approved development is not a major public works project or major energy facility.

Copies of the notice have also been sent via first-class mail to:

- Marcia Hanscom  
322 Culver Blvd. #317  
Playa del Rey, CA 90293

For questions or for additional information, please contact Kevin Finkel, AICP of the Coastal Permits Section at (213) 974-0051, or by email at [kfinkel@planning.lacounty.gov](mailto:kfinkel@planning.lacounty.gov).

Sincerely,

AMY J. BODEK, AICP  
Director of Regional Planning



Robert Glaser, Supervising Regional Planner  
Coastal Permits Section

RG:KAF

Enclosures: Regional Planning Commission Findings and Conditions of Approval

c: DPW (Building and Safety); Zoning Enforcement

**LOS ANGELES COUNTY  
DEPARTMENT OF REGIONAL PLANNING  
FINDINGS OF THE REGIONAL PLANNING COMMISSION  
AND ORDER  
PROJECT NO. R2014-00829-(4)  
COASTAL DEVELOPMENT PERMIT NO. RCDP-201400001**

**RECITALS**

1. **HEARING DATE(S).** The Los Angeles County ("County") Regional Planning Commission ("Commission") conducted a duly-noticed public hearing in the matter of Coastal Development Permit ("CDP") No. **RCDP-201400001** on November 13, 2019.
2. **ENTITLEMENT(S) REQUESTED.** The permittee, E&S Ring Management Corporation ("permittee"), requests the CDP to authorize the unpermitted removal of 11 nests from four trees within the Mariners Village apartment complex ("Project") on a property located at 4600 Via Marina on Lease Parcel 113 (a portion of Assessors Parcel Number 4224-001-904) in the unincorporated community of Marina del Rey ("Project Site") in the Specific Plan Zone pursuant to Los Angeles County Code ("County Code") Section 22.56.2280.
3. **ENTITLEMENT(S) REQUIRED.** The CDP is a request to authorize the unpermitted removal of 11 nests from four trees within the Mariners Village apartment complex. Section 22.56.2280 requires a CDP to authorize development within the Coastal Zone. As defined in Section 22.14.040 of the County Code, development is any activity that includes, but is not limited to, the removal or harvesting of major vegetation.
4. **PREVIOUS ENTITLEMENT(S).** CDP No. RCDP-201300001 and Conditional Use Permit Number RCUP-201300149 were requested to authorize the renovation and expansion of the Mariners Village apartment complex; the application was withdrawn on November 28, 2018. Site Plan Review No. RPPL2018004403 was approved on October 29, 2018 and authorized a renovation of the existing 981-unit apartment complex and the set aside of 20 percent of the existing units for low-income families.
5. **LAND USE DESIGNATION.** The Project Site is located within the R V (Residential V) land use category of the Marina del Rey Land Use Plan Land Use Policy Map.
6. **ZONING.** The Project Site is located in the Playa del Rey Zoned District and is currently zoned Specific Plan. Pursuant to County Code Section 22.56.2280, a CDP is required for any activity defined as development.
7. **PROJECT AND SITE PLAN DESCRIPTION.**
  - A. **Existing Site Conditions**

The Project Site is approximately 23 acres in size and consists of one lease parcel. The Project Site is irregular in shape with generally flat topography and is



developed with an existing 981-unit multi-family residential complex and accessory structures.

**B. Site Access**

The Project Site is accessible via Via Marina to the west. Primary access to the Project Site will be via an entrance/exit on Via Marina. Secondary access to the Project Site will be via an entrance/exit on Northwest Passage and Captains Row Drive.

**C. Site Plan**

The site plan depicts the Project Site and the existing 981-unit multi-family residential apartment complex, including its roughly 30 buildings and structures, surface parking lots, recreational amenities, and waterfront walkway. Multi-family residences bound the Project Site to the north; the main navigation channel bounds the Project Site to the east and south; Via Marina and Aubrey E. Austin Park bounds the Project Site to the south and west. The table below identifies the affected trees and the number of removed nests per tree

Tree ID #	Common Name	DBH (inches)	Height (ft.)	Number of Nests Removed
D27	Lemon-Scented Gum	19	70	1
D40	Monterey Pine	26.5	90	1
E122	Aleppo Pine	34	65	1
H3	Red River Gum	36	45	8

The site plan also depicts the location of the four trees from which the 11 nests were removed. The above-identified trees are located throughout the Project Site. Tree D27 is located in the approximate center of the Project Site; tree D40 is located in the approximate center of the Project Site; tree E122 is located in the southern most corner of the Project Site; tree H3 is located in the northeastern most corner of the Project Site.

**8. SURROUNDING LAND USE POLICY AND ZONING.**

LOCATION	LAND USE POLICY	ZONING	EXISTING USES
SUBJECT PROPERTY	R V (Residential V (75 du/ac))	SP	Multi-family residences
NORTH	Via Marina public right-of-way, R V, Water, MC (Marine Commercial	SP	Via Marina public right-of-way, multi-family residences, boat slips, boater-oriented

			commercial and fueling
EAST	Water	SP	Boat slips, navigation channel
SOUTH	Water, OS (Open Space), Via Marina public right-of-way, City of Los Angeles, Parking	SP, City of Los Angeles	Navigation channel, park space, Via Marina public right-of-way, public parking lot
WEST	Via Marina public right-of-way, Parking, City of Los Angeles	Specific Plan, City of Los Angeles	Public parking lot, single- and multi-family residences

9. **ZONING HISTORY.** On November 6, 1990, Ordinance No. 900157 Z established the Specific Plan Zone on the Project Site.

10. **PROJECT BACKGROUND.** On November 7, 2013, the applicant requested authorization for the trimming, pruning, and thinning of three trees on the Project Site and provided the Department of Beaches and Harbors ("DBH") staff with the requisite biological survey. On November 14, 2013, DBH authorized the requested pruning in accordance with Marina del Rey Local Coastal Program ("LCP") protocol. The trimming was to take place during the non-breeding, non-nesting season and did not authorize the removal of nests located within the subject trees. Tree trimming took place between November and December 2013.

On March 12, 2014, several members of the public testified before the California Coastal Commission ("CCC") regarding tree pruning activities at the Project Site. The testimony indicated that several nests had been removed from trees at the Project Site without appropriate authorization.

On March 25, 2014, the Department of Regional Planning ("DRP") issued a Notice of Violation ("Notice") to the applicant. The Notice detailed that through an inspection of the Project Site, it was determined that nests were removed from several trees without prior authorization. This activity was noted to be a violation of the Los Angeles County Zoning Ordinance and the LCP. The Notice directed the applicant to rectify the violation.

In a letter dated March 26, 2014, the Director of Regional Planning provided correspondence to the CCC responding to the allegations of March 12, 2014. The letter details how DRP and DBH staff corroborated the public comments, how a Notice had been issued, and how a CDP would be required to rectify the unpermitted activity.

On March 26, 2014, an application for a CDP was submitted.

- 11. COMMUNITY OUTREACH.** No known community outreach was done by the permittee prior to the public hearing.
- 12. PUBLIC COMMENTS.** Prior to the publication of the Report to the Regional Planning Commission, the DRP staff received one phone call and one email inquiring about the scope of the Project. No other correspondence was received from the public regarding the Project.
- 13. AGENCY RECOMMENDATIONS.** As no buildings and structures are proposed for construction or demolition, DRP staff did not consult the Departments of Public Works, Fire, Public Health, and Parks and Recreation. However, DBH was consulted regarding the mitigation program. DBH staff is amenable to the mitigation program required by the conditions of approval.
- 14. CEQA DETERMINATION.** Prior to the Commission's public hearing on the Project, DRP staff determined that the Project qualified for a Class 1, Existing Facilities, Categorical Exemption from the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"), the State CEQA Guidelines, and the Environmental Document and Reporting Procedures and Guidelines for the County, because it would authorize the after-the-fact maintenance of four existing landscaping trees including the removal of nests within the Mariners Village apartment complex outside of the nesting season. The Proposed Project would not result in a significant or cumulative impact to the presence of nests within the subject trees as the monitoring reports commissioned by the permittee and verified by DRP staff indicate an overall increase in the number of nests within the subject trees since the removal took place in 2014. The Project Site is not located along a designated scenic highway (as mapped by the California Department of Transportation and the LCP), is not located within a hazardous waste site, and does not affect any known historical resources.

**GENERAL PLAN CONSISTENCY FINDINGS**

- 15. GOALS AND POLICIES.** The Commission finds that the Project is consistent with Conservation and Natural Resources Policy C/NR 3.1, which directs the conservation and enhancement of the ecological function of diverse natural habitats and biological resources. The Project would authorize the unpermitted removal of 11 nests from four trees within the Project Site. While nests were removed, they were done so outside of the typical nesting season, and the trees from which they were removed were not removed themselves and remain in place today. As such, the habitat from which nests were removed remains, and surveys of the trees within the Project Site indicate a general increase in nesting activities in the years since the nests were removed. Further, the Project's conditions of approval require the permittee to participate in a mitigation program that will provide new nesting habitat aimed at serving the various colonial water bird species that roost within Marina del Rey.



**MARINA DEL REY LAND USE PLAN FINDINGS**

**16. LAND USE POLICY.** The Commission finds that the Project is consistent with the goals and policies of the Marina del Rey Land Use Plan because the Residential V land use category is intended for high density multi-family residential development up to 75 dwelling units per net acre. The authorization of such a land use generally includes appurtenant facilities and landscaping associated with the underlying multi-family residential structure or complex. The Project authorizes the unpermitted removal of 11 nests from four trees within the Project Site. While the nests were removed as a part of tree trimming activities, the trees themselves were not removed and remain in place today as part of the ornamental landscaping associated with the underlying Mariners Village apartment complex. As on-site landscaping is a normal component of multi-family residential development, the maintenance of existing landscaping is consistent with the Residential V land use category.

Further, the Project is conditioned to require the planting of trees at Yvonne B. Burke Park ("the Park"). The land use category underlying the Park is Open Space, which is intended to permit recreational uses including open viewing areas, promenades, bikeways, beaches, parks, picnic facilities, nature/interpretive centers, associated surface parking, and landscaping. The planting of trees at the Park supports the existing landscaping and furthers the biological value of the Park. As such, the Project is consistent with the underlying land use category.

**17. GOALS AND POLICIES.** The Commission finds that, as conditioned, the Project is consistent with Marine Resources Policy 1, which directs development in and adjacent to the Marina's waters be carried out in a manner that protects the biological productivity of these marine resources and maintains healthy populations of marine organisms. The Project authorizes the unpermitted removal of 11 nests from four trees within the Project Site, a lease parcel adjacent to the Marina's waters. While the nests were removed, resulting in a potential tree-specific impact, the trees in which they were located were not removed and remain in place today, continuing to provide nesting habitat. Further, the Project is conditioned to participate in a mitigation program that requires the planting of one tree off-site for each tree from which nests were removed. With the implementation of the mitigation program, no long-term impact to habitat is expected within Marina del Rey. The provision of additional nesting habitat is a key component to maintaining healthy populations of marine organisms.

**18. GOALS AND POLICIES.** The Commission finds that, as conditioned, the Project is consistent with Important Biological Resources Policy No. 34 ("the Policy"), which provides guidance for tree trimming and removal activities on Marina del Rey leasehold parcels. The Policy was developed to guide tree trimming and removal activities consistent with the California Coastal Act, the Migratory Bird Treaty Act, and California Fish and Game Code requirements. Taken together, these legal frameworks prohibit the disturbance of any nesting bird or its nest and the trimming

and removal of trees during the nesting season. To ensure compliance, prior authorization is required.

On November 7, 2013, the permittee requested authorization for the trimming, pruning, and thinning of three trees on the Project Site and provided DBH staff with the requisite biological survey. On November 14, 2013, DBH authorized the pruning of three trees at the Project Site in accordance with LCP protocol. The trimming was to take place during the non-breeding, non-nesting season and did not authorize the removal of nests located within the subject trees. Tree trimming took place between November and December 2013. During these activities, 11 nests were removed from four trees. The trees in which the nests were located were not removed and remain in place today.

Between 2014 and the present, the permittee retained the services of LSA, an environmental consulting firm, to conduct bird nesting surveys twice per month to gauge the effects of the nest removal and provide a baseline for nesting on the Project Site. In a letter provided by LSA in January 2019, LSA determined that due to inadequate surveys before 2014, it is impossible to know definitively what effect the removal of nests had on nesting water birds at the Project Site. Between 2014 and 2018 (starting the year following the unpermitted nest removal), the number of Double-Crested Cormorant nests increased, and the number of Great Blue Heron nests was stable with a slight decrease over the same period. The surveys over the 2014-2018 timeframe indicate that the water bird nests were not decreased across the whole Project Site, though it is impossible to accurately know the effect of nest removal on the individual subject trees. Thus, the regional impact may be limited, but tree-specific impacts may exist. As such, and to ensure that adequate nesting habitat continues to exist in Marina del Rey, the Proposed Project is conditioned to participate in a mitigation program that requires the planting of one tree off-site for each tree from which nests were removed. Therefore, with the granting of this CDP, implementation of the mitigation program, and in consideration of historical and ongoing on-site tree surveys, no long-term impact to habitat is expected within Marina del Rey and the Project is consistent with this Policy.

### **ZONING CODE CONSISTENCY FINDINGS**

19. **PERMITTED USE IN ZONE.** The Commission finds that the Project is consistent with the Specific Plan zoning classification, which directs the implementation of land use within Marina del Rey to the LCP. The Project Site is located in the Residential V land use category, in which multi-family residences are an authorized use. The existing ornamental landscaping associated with the on-site multi-family residences is a normal component of urban development, and the maintenance of that landscaping is permitted in such zone and land use category pursuant to County Code Section 22.46.1310. Further, the Park is located in the Open Space land use category, in which public parks are an authorized use. The trees that will be planted at the Park serve to enhance the biological value of the Park and will augment the existing developed park

environment and the planting is permitted in such zone and land use category pursuant to County Code Section 22.46.1630.

20. **DEVELOPMENT STANDARDS.** The Commission finds that there are no development standards applicable to the Project.

**COASTAL DEVELOPMENT PERMIT FINDINGS**

21. **The Commission finds that the proposed development is in conformity with the certified local coastal program.** In 2012, the LCP was amended to include (among numerous other changes) the Policy, which provides guidance for tree trimming and removal activities on Marina del Rey leasehold parcels. The Policy was developed to guide tree trimming and removal activities consistent with the California Coastal Act, the Migratory Bird Treaty Act, and California Fish and Game Code requirements. Taken together, these legal frameworks prohibit the disturbance of any nesting bird or its nest and the trimming and removal of trees during the nesting season. To ensure compliance, prior authorization is required. Between November and December of 2013, 11 nests were removed from four trees at the Project Site without prior authorization and therefore in violation of the Policy. The trees in which the nests were located were not removed and remain in place today.

Between 2014 and the present, the permittee retained the services of LSA, an environmental consulting firm, to conduct bird nesting surveys twice per month. In a letter provided by LSA in January 2019, LSA determined that due to inadequate surveys before 2014, it is impossible to know definitively what effect the removal of nests had on nesting water birds at the Project Site. Between 2014 and 2018 (starting the year following the unpermitted nest removal), the number of Double-Crested Cormorant nests increased, and the number of Great Blue Heron nests was stable with a slight decrease over the same period. The surveys over the 2014-2018 timeframe indicate that the water bird nests were not decreased across the whole Project Site, though it is impossible to accurately know the effect of nest removal on the individual subject trees. Thus, the regional impact may be limited, but tree-specific impacts may exist.

To ensure that adequate nesting habitat continues to exist in Marina del Rey, the Proposed Project is conditioned to participate in a mitigation program that requires the planting of one tree off-site for each tree from which nests were removed. With the implementation of the mitigation program, no long-term impact to habitat is expected within Marina del Rey.

The trees from which the nests were removed have not been removed and remain in place today. Therefore, the Proposed Project did not affect the landscaping associated with the Mariners Village apartment complex nor did it affect any of the existing buildings or structures within the complex. Further, the inclusion of ornamental landscaping trees is commonly associated with urban development, such as the



Mariners Village apartment complex and other nearby multi-family residences. The Project does not propose the construction of any new buildings or structures. As such, the removal of nests and the retention of the trees will not materially alter the nature of the built environment either on or off the Project Site.

Through a condition requiring the implementation of a mitigation program, the Proposed Project would also require the planting of mitigation trees at the Park. The placement of new trees is intended to accommodate colonial water bird nests and shall be of a species appropriate for a coastal marine environment, shall complement the character of the existing Park, will be required to be planted at locations acceptable to DBH, and shall be located where they will not disrupt any of the recreational activities that occur within the Park. As such, the Proposed Project will not result in any activity that will affect the existing land use patterns in and around the Project Site or the Park.

**22. The Commission finds that any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code.** The Project would authorize the unpermitted removal of 11 nests from four trees within the Project Site. The Project Site is located between Via Marina and the main navigation channel of Marina del Rey. Accordingly, the Project is subject to applicable provisions of Chapter 3 of Division 20 of the Public Resources Code. While the removal of nests meets the definition of development and is therefore subject to the provisions of the California Coastal Act, the maintenance of trees and the removal of nests do not affect the public's right to access the coast. Further, the Project is not related to the provision of water-oriented recreational activities or visiting-serving uses, and approval of this permit will not affect any existing water-oriented recreational activities. The Project will not make unavailable any land that is suitable for recreational use and will not alter the existing use of land on the Project Site. Finally, as the Project is located on land, it will not affect the operation of or access to existing recreational boating facilities adjacent to the Project Site.

**23. The Commission finds that in order to mitigate for the loss of bird nests from the Project Site and to ensure that adequate nesting habitat exists in Marina del Rey, the CDP is appropriately conditioned to require the development and implementation of a tree mitigation program.**

**24. The Commission finds that as there is no structure or land use associated with the Project, no grant term is necessary.**

### **ENVIRONMENTAL FINDINGS**

**25. The Commission finds that the Project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines section 15301 (Class 1, Existing**

Facilities Categorical Exemption). The Project would authorize the after-the-fact maintenance of four existing landscaping trees including the removal of nests within the Mariners Village apartment complex outside of the nesting season. The Proposed Project would not result in a significant or cumulative impact to the presence of nests within the subject trees as the monitoring reports commissioned by the permittee and verified by DRP's staff indicate an overall increase in the number of nests within the subject trees since the removal took place in 2014. The Project Site is not located along a designated scenic highway (as mapped by the California Department of Transportation and the LCP), is not located within a hazardous waste site, and does not affect any known historical resources.

### **ADMINISTRATIVE FINDINGS**

**26. HEARING PROCEEDINGS.** A duly noticed public hearing was held on November 13, 2019 before the Commission. Commissioners Smith, Louie, Shell, Moon, and Modugno were present. Following a presentation by staff, the Commission inquired with staff about the public notification process for this public hearing and the reason for the length of time between application submittal and the public hearing. Following staff's responses, the applicant made themselves available for questions and noted that they agree with staff's recommendation and proposed conditions of approval. The applicant also noted that their arborist was available for questions. Following the applicant's testimony, several members of the public spoke in opposition to the project. The provided testimony spoke to the history of the deterioration of blue heron habitat in Marina del Rey, their opposition to the proposed tree planting location, and their understanding of numerous instances of unpermitted tree trimming and removal activities at the Project Site. Following the public's testimony, the Commission asked several questions of staff related to existing tree trimming requirements in Marina del Rey, the rationale for why the tree planting location was chosen, and whether the proposed tree size was adequate to support nesting habitat at planting. Subsequently, the Commission inquired with the applicant if they'd be willing to accept the planting of larger 48-inch box trees and an increase in the fee amount associated with the mitigation program up to \$56,000. The applicant accepted the proposed revisions. There being no further testimony, the Commission closed the public hearing and approved the Project with revised conditions of approval.

**27. LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.56.2400 of the County Code, the community was properly notified of the public hearing by mail, newspaper (The Argonaut and La Opinion), and property posting. Additionally, the Project was noticed, and case materials were available on DRP's website and at the Lloyd Taber-Marina del Rey Library located in the vicinity of Marina del Rey community. On October 10, 2019, a total of 886 Notices of Public Hearing were mailed to all property owners as identified on the County Assessor's record within a 500-foot radius from the Project Site as well as the occupants of all residences within a 100-foot radius from the Project Site; an additional 32 notices were mailed to those on the

courtesy mailing list for the Playa del Rey Zoned District and to any additional interested parties.

**28. LOCATION OF DOCUMENTS.** The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Coastal Permits Section, Department of Regional Planning.

**BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES THAT:**

- A. The proposed development is in conformity with the certified local coastal program; and
- B. Any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 or the California Public Resources Code.

**THEREFORE, THE REGIONAL PLANNING COMMISSION:**

- 1. Finds that the Project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines section 15301 (Class 1, Existing Facilities categorical exemption); and
- 2. Approves **COASTAL DEVELOPMENT PERMIT NO. RCDP-201400001**, subject to the attached conditions.

**ACTION DATE: November 13, 2019**

**VOTE: 5:0:0:0**

Dissenting: 0

Abstaining: 0

Absent: 0

RG:KAF

October 29, 2019

c: Each Commissioner, Zoning Enforcement



**LOS ANGELES COUNTY  
DEPARTMENT OF REGIONAL PLANNING**

**CONDITIONS OF APPROVAL  
PROJECT NO. R2014-00829-(4)  
COASTAL DEVELOPMENT PERMIT NO. RCDP-201400001**

**PROJECT DESCRIPTION**

The project is the authorization of the unpermitted removal of 11 nests from four trees within the Mariners Village apartment complex on Marina del Rey Lease Parcel 113 subject to the following conditions of approval:

**GENERAL CONDITIONS**

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and until all required monies have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 8 shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.56.2490 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate reasonably in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but

not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. This grant shall expire unless used within two (2) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
9. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. No provision of any easement of any other encumbrance on the property shall exempt the permittee and/or property owner from compliance with these conditions and applicable regulations. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **three (3)** inspections; the first inspection shall be 90 days after the effective date of the permit to ensure the mitigation plan has been prepared and delivered to Regional Planning; the second inspection shall occur 30 following the planting of the mitigation trees; the third inspection shall occur at the end of the five-year monitoring period. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

10. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.238 and Section 22.56.2540 of the County Code.
11. All development pursuant to this grant must be kept in full compliance with the County Fire Code to the satisfaction of the County Fire Department.
12. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works to the satisfaction of said department.
13. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
14. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas of the premises over which the permittee has control.
15. Any structure, wall, or fence that is erected as a part of the Project and is open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

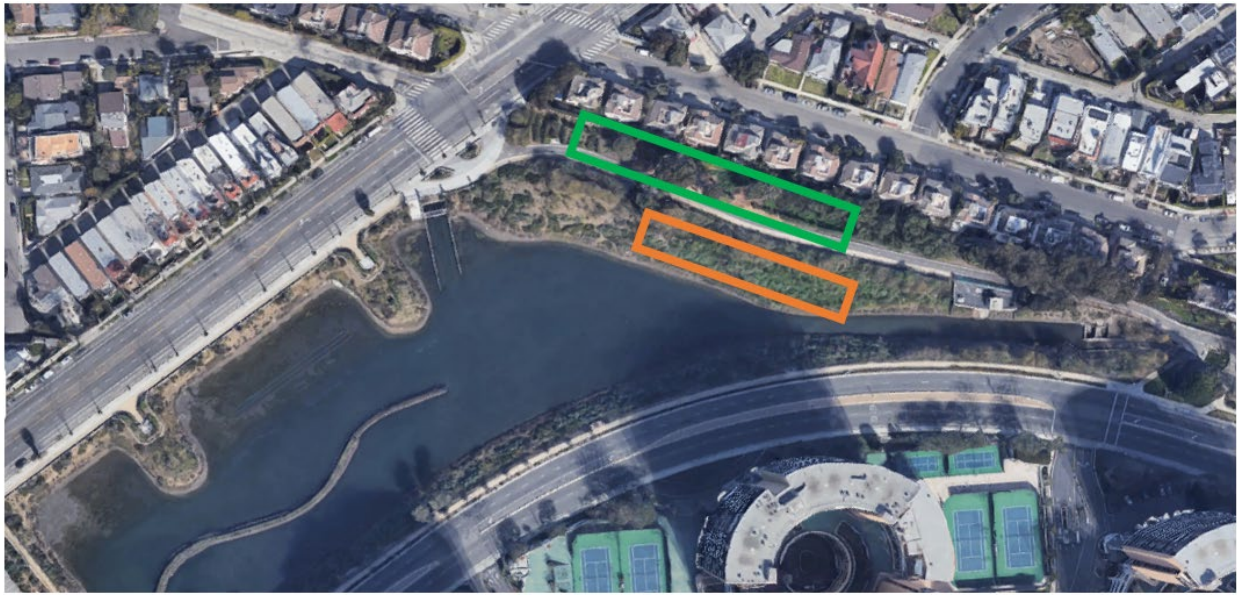
In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

16. The subject property shall be developed and maintained in substantial conformance with the plans marked Exhibit "A." If changes to any of the plans marked Exhibit "A" are required as a result of instruction given at the public hearing, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning by **January 12, 2020**.
17. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must substantially conform to the originally approved Exhibit "A". All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

**PERMIT-SPECIFIC CONDITIONS – COASTAL DEVELOPMENT PERMIT**

18. As agreed to by the permittee, the permittee shall participate in a mitigation program intended to mitigate the effects of unpermitted nest removal from within the Mariners Village apartment complex grounds. This program shall require the planting of one tree for each tree from which nests were removed (a total of four) to be planted within Yvonne B. Burke Park. The program shall identify appropriate tree species for planting capable of providing nesting bird habitat upon reaching maturity and shall be a minimum of 48-inch box size at procurement. Each tree shall be planted consistent with best management practices for the establishment and maintenance of the urban forest. Following procurement and planting of the mitigation trees, the trees shall be monitored annually by an International Society of Arboriculture-certified arborist for a five-year period to ensure the continued health of the mitigation trees. Upon completion of each inspection, a report shall be prepared by the arborist and provided to the permittee, the Director of Beaches and Harbors, and the Director of Regional Planning. As the trees will be planted on County-controlled property, the Department of Beaches and Harbors will be responsible for implementation of the program. The permittee shall be responsible for the full cost of the program up to an amount not to exceed \$56,000.
19. Within 90 days of the effective date of this Coastal Development Permit, the permittee, in concert with the Department of Beaches and Harbors, shall prepare and deliver a mitigation program consistent with the requirements of Condition 18 for review and approval by the Departments of Beaches and Harbors and Regional Planning.
20. This permit does not authorize the trimming or removal of any on-site trees and does not authorize the removal of any nests other than the 11 nests that are the subject of this permit.





**OXFORD BASIN:** Dedicated as a Bird Conservation area by Los Angeles County

**Green:** Location for three Tecate Cypress Trees, planted within canopy of existing stand of trees historically used for colonial bird nesting.

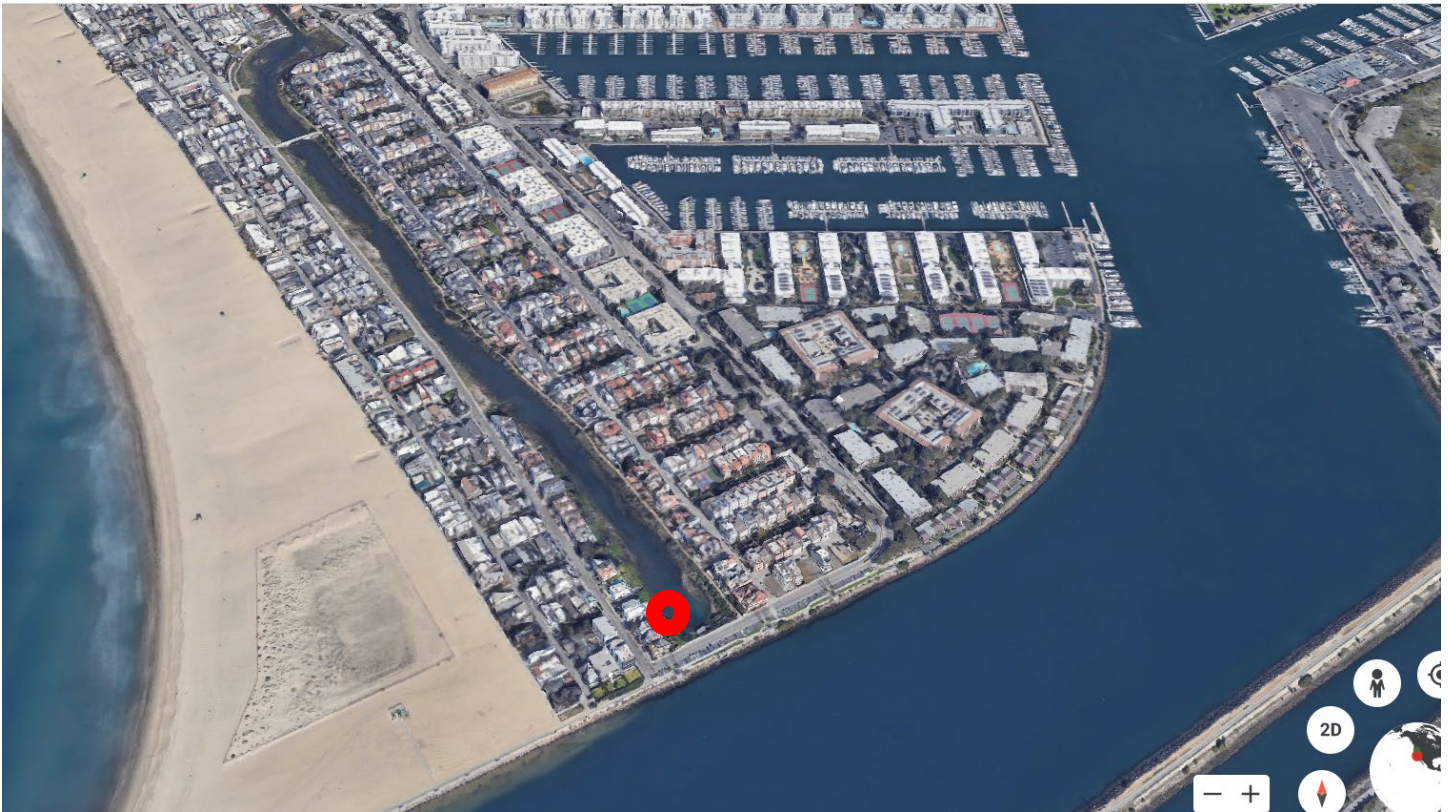
**Orange:** Location for two Nesting Platforms, three on each pole for a total of six.




**BURTON CHACE PARK**

**Red:** Location of Two Tecate Cypress Trees



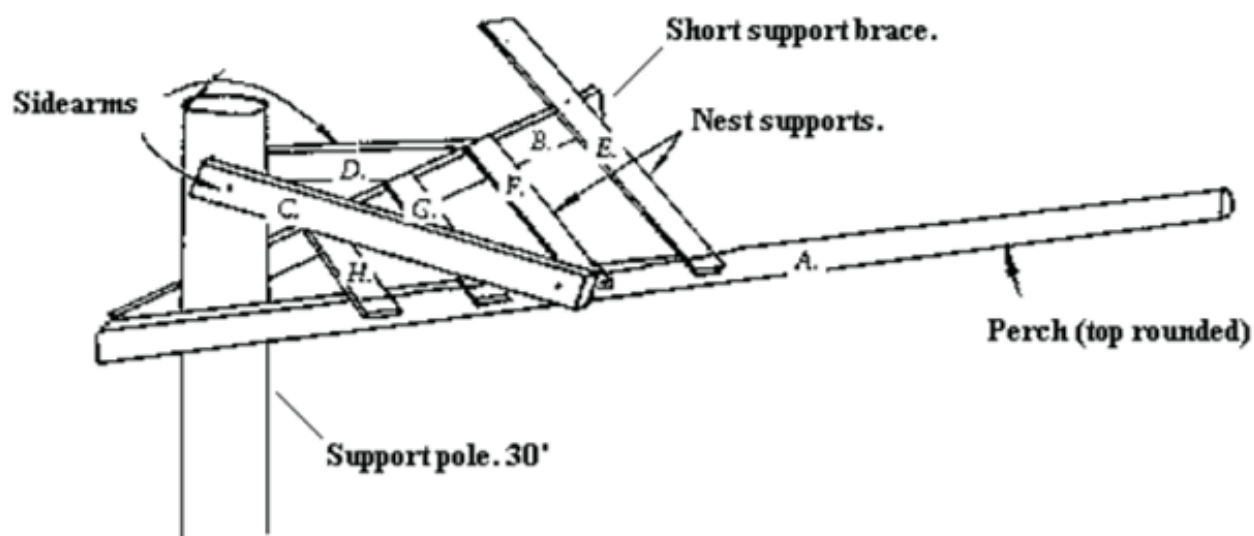


 Proposed Approximate Location of  
Concrete Debris Removal in Ballona Lagoon

## Great Blue Heron Nest Platform

The great blue heron is an elegant water bird found throughout the United States. It is most commonly found nesting near rivers, lakes, or other water bodies that contain live mature or dead trees. Here herons construct a nest of sticks at least 20 feet high. They nest in colonies, meaning there are many heron nests within one small area. Nest platforms should be used in the vicinity of a present colony or to enhance an existing one where trees are deteriorating.

Support poles should be 30 feet high and 6–8 inches in diameter. Three nest platforms can be placed on each pole. The first is at the top and the other two staggered at 180° and 4 feet intervals.



Lag screws should be used to attach platform to pole.





 Proposed Site of One Nesting Platform as Conditioned

California Coastal  
Commission  
CDP No. A-5-MDR-19-0217  
Exhibit 9