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TO: COMMISSIONERS AND INTERESTED PERSONS

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SUBJECT: Adopted Revised Findings to support the Commission's January 9, 2008 approval of the Los Angeles County's Marina del Rey Periodic LCP Review staff report and recommendations.

EXECUTIVE SUMMARY:
This is the Revised Findings adopted by the Commission on October 16, 2008, with modifications made during the October hearing, which have been incorporated herein, to support the Commission's action on January 9, 2008, on the report evaluating the implementation of the Marina del Rey LCP pursuant to Section 30519.5 of the Coastal Act. A Periodic Review evaluation does not amend the LCP. Rather, it identifies policy areas where County actions have implemented the certified LCP in a manner that is not in conformity with the Coastal Act, and where the specific provisions of a certified LCP do not reflect new information or changed conditions such that the LCP is not being implemented in conformity with the Coastal Act. Section 30519.5 of the Coastal Act provides that if the Commission determines that a certified LCP is not being carried out in conformity with any policy of the Coastal Act, the Commission shall submit to the local government recommendations of corrective actions that should be taken. Within a year following submission of any recommendations, the local government is required, if the recommended action is not taken, to forward to the Commission a report setting forth its reasons for not taking the recommended action. As part of the planning process, information developed through evaluation in a Periodic Review can also help inform future LCP Amendments.

On January 9, 2008, the Commission approved the recommendations made in the Periodic Review staff report with changes. The changes made by the Commission at the hearing have been incorporated into this Revised Findings report. The Commissioner's that voted on the prevailing side are as follows:

This Report was prepared with financial assistance from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, under the provisions of Section 309 of the Coastal Act Reauthorization Amendments of 1990.

COMMISSIONERS ON PREVAILING SIDE: Achadjian, Blank, Clark, Hueso, Kinsey, Kram, Neely, Potter, Shallenberger, Wan, Kruer

Organization Note: Newly added recommendations are given the preceding number followed by the letter A in order to maintain the existing numbering and references throughout the report.

Public Comment/History

On June 7, 2005, the first public hearing was held on a draft report and recommendations. In addition to public comments made at the hearing and comments from the Commission, staff conducted additional public meetings with staff of the County and representatives of the public, including the Coalition to Save the Marina, to receive additional comments. A final draft of staff recommendations was presented to the Commission for action at the August 2006 Coastal Commission hearing. However, at that time, the County of Los Angeles indicated that it had insufficient time to review and respond to the staff recommendations. The Commission continued the matter and staff was directed to coordinate further with the County, allow for further public outreach and, in particular, conduct additional site visits with the Commission's staff biologist to address questions about the presence, scope and value of environmentally sensitive habitat area in the Marina.

Subsequently, a final draft of staff recommendations was presented to the Commission for action at the July 2007 Coastal Commission hearing. One of staff's recommendations was to defer action on the "Biological Resources and Environmentally Sensitive Habitat Areas" policy group until a subsequent meeting. Commission staff was seeking Commission action on the remainder of the policy groups because the County of Los Angeles had requested additional time to present further information on sensitive habitat areas. After hearing public testimony at the July hearing, the Commission continued the matter and staff was directed to coordinate further with the County, and allow for further public outreach. Subsequently, the County submitted written comments regarding the issue of ESHA and staff has reviewed those comments, and comments submitted by the public. The suggested recommendations and findings contained in this report have been revised to reflect consideration of, and response to, comments that raised additional issues. The Background section briefly reviews the responses to major comments received for key issues in the report. Also, the report and recommendations have been revised to reflect new information and other Commission actions since the July 2007 meeting.

Summary of Major Revisions

The most significant revision to this report is staff's recommendation to the "Biological Resources and Environmentally Sensitive Habitat Areas" policy group. Following the Commission's July 2007 hearing, Commission staff has received and reviewed the County's information on their own analyses relative to the presence of sensitive habitat in the marina and what protection measures might be acceptable. The Background section summarizes the major comments and responses to comments. In general, the report:

- Revises boating recommendations to specify that in order to adequately assess boater impacts, boating data should be no more than 5 years old.

- Revises boating recommendations to include provisions to expand affordable boating opportunities through a variety of measures including reservation of slips for rental or membership clubs; creation of youth boating programs that provide low cost boating opportunities for youths; new storage facilities; day use rentals; and increased opportunities to launch and use kayaks and other smaller craft.

- *Revises Boating recommendations to ensure no loss in total boat slips and slips 35 feet and under.*

- Revises Water Quality recommendations to reflect requirements and ensure integration of the existing NPDES, SUSMP and TMDL requirements and to clarify application of BMPs.

- Revises Water Quality recommendations to include monitoring of all implemented BMPs.

- Revises Development/Circulation recommendations concerning traffic models to concur that a new model is not needed to justify the current peak hour trip cap, but that a revised model should accompany any proposed changes in the cap.

- Revises development circulation recommendations to require that the standard for models and methodology used in studies required in carrying out Section 22.46.1180.A.11.b explicitly reflect the County's requirement that studies be based on and consistent with the most recent studies of major projects in the area, including models prepared for the Airport LAX expansion and Playa Vista Phase II traffic models.

- Revises development circulation recommendations to suggest that the County amend sections 22.46.1100.C (2) and 22.46.1190.A.3 and A.5 to ensure an ongoing assessment to support shuttle buses as part of all retail, residential and hotel development, as a Category 1 transportation improvement.

- Revises development recommendations to recommend that the County undertake a comprehensive LCP update of anticipated future development that includes all pending project driven amendments, fulfillment of Asset Management strategies and other facilities identified through a community planning process.

- Revises development recommendations to recommend that the County consider all pending project-driven amendments of the LCP that would change the designation of parcels from a public park or parking use to a private use at the same time. A project shall be considered pending if there is an approved term sheet allowing the applicant to apply for approval of the project. In considering such amendments, the County should analyze the total pattern of public-serving and park uses, along with public parking demand, in the Marina.

- Revise recommendations to clarify the implementation process for design review of development to ensure adequate implementation of public access and visual resource provisions of the LUP. The LCP requires design review by the Design Control Board as part of both the Development and the Public Access policy sections. Notwithstanding this LUP language, the LIP does not clearly identify which County agency should act on the report that the Design Control Board prepares. Currently, the Design Control Board is responsible for reviewing the site plan of the development. County staff indicates that this language restricts the scope of the Design Control Board's review to signage and colors, and that the LUP and LIP should be amended to limit the Design Control Board's review (The County has recently submitted an LCP amendment regarding this issue). Comments from the County Asset Management Strategy report, from the Marina del Rey Convention and Visitors Bureau, and the Coalition to Save the Marina indicate that the location and siting of development has reduced the accessibility and attractiveness of the Marina del Rey for recreation.

- Revises development recommendations to provide that if, in an amendment to its LCP, the County reassigns the review of site plans from the Design Control Board to the Department of Regional Planning, it should make it clear that the Department of Regional Planning is responsible for reviewing these design elements for consistency with the certified LCP and with the public access policies of the Coastal Act and to review "onsite open space and project features that facilitate public uses" for consistency with the LCP access and recreation policies.

- Revises development recommendations to update the existing in-lieu mitigation fee LCP policy for new development of overnight visitor accommodations in the coastal zone that are not lower cost.

- Revises Recreation and Visitor Serving recommendations to prohibit development of condominium hotels, timeshares or other forms of fractional interest ownership on publicly owned land designated for visitor or public uses.

- Revises Biological Resources and ESHA recommendations and acknowledges that trees currently or historically used as roosting or nesting habitats by herons, egrets or other significant avian species constitutes ESHA as defined by Section 30107.5 of the Coastal Act, and requires a marina-wide assessment of the trees that may provide habitat for birds protected by Fish and Game code and the Migratory Bird treaty Act. The recommendations also expands areas where site-specific resource assessments should be undertaken as part of the LCP Amendment or development review process.

- Revises Biological Resources and ESHA recommendations to strengthen policies to assess and protect the heron rookery from tree pruning and other maintenance activities and development activities.

Staff Recommendation: The Staff recommends that the Commission find that the LCP for Marina del Rey is not being implemented in conformity with the policies of Chapter 3 of the Coastal Act, and transmit recommendations for corrective actions to the County pursuant to Section 30519.5 of the Coastal Act. The motion and resolution are found on page 20 of the report. The Recommendations begin on page 21.

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Background and Summary

The Coastal Act Section 30519.5 directs the Commission to evaluate the implementation of the certified LCP and determine whether the LCP is being effectively implemented in conformity with the policies of the Coastal Act. The Periodic LCP Review not only assesses progress in carrying out the certified LCP, it also provides a chance to suggest updates to the LCP to address cumulative impacts, new information on coastal conditions and emerging issues that perhaps were not fully known or appreciated when the LCP was originally prepared or subsequently amended. In addition, issues may be raised by other interest groups and the public relative to coastal resource protection that were not originally considered. The review of the Marina del Rey LCP is also important because this LCP represents a significant partnership: boating facilities in the waters of the Marina remain in the Commission's continuing permit jurisdiction and the landside development is within County's permit jurisdiction and most development in the Marina has both landside and marine components. Moreover, all waterside parcels are in the Commission appeal jurisdiction.

The LCP for the Los Angeles County Marina del Rey segment was effectively certified and permit authority transferred in 1990. The LCP was updated in 1996. All but three major parcels in the Marina were built out before passage of Proposition 20. Only one parcel now is vacant. And, before certification of the LCP, the Commission approved a number of large projects adjacent to the Marina.

Overall, the County actions have resulted in significant accomplishments in carrying out key provisions of its certified LCP. Among its coastal management achievements, the County has implemented major new shoreline accessways, renovated boating docks and required new boating pumpout facilities, implemented a water shuttle service, developed new recreational facilities and implemented new water quality management controls. The County is also participating in efforts to address coastal management issues that are regional in nature, such as nonpoint source pollution and regional circulation. There have been only a few coastal permits issued by the County and only a few of the major permits have actually been constructed. A total of 5 appeals have been filed. The Commission found substantial issue on three of these appeals. Public access and transportation, phasing of development with traffic improvements, density of residential development, height, view corridors, parking, boating support facilities and shoreline access were among the issues raised as Substantial Issue.

On June 7, 2005, the Commission opened the first public hearing on the Periodic Review, heard comments from the public and continued the hearing to allow a longer period for public review and comment on the staff recommendation. Additional comments have been received and additional meetings held with members of the public and with County staff to receive input on the draft report. In addition to comments presented at the June 2005 and

July 2007 hearings, the staff has received numerous written public comments. In considering these comments staff has made revisions to the report and recommendations.

The revised report identifies major accomplishments of the County in implementing the LCP. It also assesses the policy areas where the implementation of the LCP may not have been in full compliance with the Coastal Act. For example:

- Review of post certification notices indicates that although the County has required a number of scenic and design standards through CDP actions and have applied their parking standards for landside and waterside development, however the project's consistency with the LCP has not always been adequately addressed in their staff report findings. This lack of analysis has lead to a number of appeals. (See Section 3, New Development, 4. Review of Site Plans and; Section 7, Public Access, 3. View Access.)

- Review of post certification permits and appeals indicates that, based on the submitted findings, the County did not always address possible alternative ways (i.e. signage and/or alternate routing) to mitigate impacts of waterfront projects on public access when provision of the public promenade was not feasible, and has not always implemented view protection policies (see Section 7, Public Access, 1 Lateral and Vertical Access).

- County permit actions did not fully implement LCP requirements to ensure landside transit improvements such as shuttle turnouts and participation of project developers in the implementation of the shuttle (See Section 7, Public Access, 4. Transit/Shuttle Access).

- Implementation of the LCP has shown that the current LCP policy encourages but not mandate priority visitor commercial uses in residential developments has not been effective as no significant commercial uses have been included in waterfront residential developments and land uses have generally not converted from residential to higher priority uses (see Section New Development, a. Flexible use designations—the WOZ designation). The County asserts that, to date, there have been no significant residential projects approved where it was appropriate to include visitor serving uses in residential developments due to their location on the mole roads. However, the County should consider the incorporation of smaller, pedestrian oriented establishments (such as coffee shops or delis) that would cater to residents and the public alike or the provision of public amenities (such as pocket parks) to offset the non-priority resident development.

Other sections of the staff report outline the policy areas where the lack of conformity with Coastal Act policies is based on dated LCP policies that no longer adequately reflect current information, new requirements or changed conditions since the LCP was updated in 1996. While the Commission recognizes that the County has in many cases diligently implemented the LCP and is taking many steps to maximize public access in the Marina, the revised staff recommendation outlines suggested revisions to the LCP to ensure the LCP is implemented in conformity with policies of the Coastal Act.

The Periodic Review focused on a few priority areas that had been identified, and concurred with by the Commission, during the issue identification phase of the review.

Recreational Boating

The overall number of recreational boat slips counted as existing in Marina del Rey has declined slightly since the LCP was certified in 1990 as a result of both the County's decision not to count illegal boat slips in its boat slip counts, and Coastal Commission approved ~~of~~ permits. Both the Commission and the County through its LCP are focused on enhancing recreational boating opportunities in the Marina. Under the Coastal Act, the protection of lower cost recreational opportunities is a key policy.

Since the LCP was updated in 1996, changes have occurred that affect the recreational boating in the Marina. The Periodic Review noted the increased trend in boat ownership, including smaller boats. The increased trend in smaller boat ownership can be attributed to significant increases in the sale of personal watercraft. The Commission has approved permits for marina dock redesigns that have reduced the overall number of slips. Demand for in-water slips to accommodate larger boats has increased. And the County has changed directions and no longer plans to expand new slips through the "Funnel Design" to add new slips to the Main Channel. However, in recent actions the Commission has reinforced the need to develop alternatives to expand more affordable recreational boating opportunities.

Recommendations include suggested policy revisions to require alternatives such as creating news slips, ensuring a variety of slip lengths and creation of youth boating programs that provide low cost boat opportunities for youths, including disadvantaged youths and no loss in total boat slips and slips 35 feet and under in length. Also, while the need for comprehensive data for analysis of boating impacts was reinforced, it is acknowledged that such data may already be available. The recommendations therefore include a provision that such data be no more than 5 years old in order to give an adequate assessment. Therefore, given all these changes in circumstances related to boating facilities, the County should revise the LCP to reflect current, comprehensive boating data. This data should be used to guide future development and ensure that a mix of slip lengths is provided in the Marina. Staff also recommends that the County explore alternatives to slips to expand boating opportunities, such as creation of youth boating programs that provide low cost boat opportunities for youths, including disadvantaged youths; new storage facilities; day use rentals; reservation of slips for rental or boating membership programs; and increased opportunities to launch and use kayaks and other smaller craft.

Marine Resources/Water Quality

Many new requirements for addressing water quality were reflected in the LCP update in 1996, including reference to measures to implement the Municipal Stormwater NPDES Permit for Los Angeles County (Municipal Stormwater Permit) and the Santa Monica Bay Restoration Plan adopted in 1995. However, since the update of the LCP in 1996, significant changes occurred in various programs and regulations directed at improving water quality. The Commission, in reviewing and acting on the County's two Local Coastal

Program amendments, has continued to strengthen LCP provisions related to Water Quality.

In response to comments by the County staff of concerns about duplication of Regional Water Quality Control Board requirements, the recommendations have been revised to underscore that updated LCP policies should be integrated with the requirements of the NPDES, SUSMP and TMDL requirements. Recommendations also were revised to clarify the process for applying Best Management Practices (BMPs) and require monitoring of all BMPs. Recommendations suggest that all projects address site design and source control BMPs, but not all projects may need to include structural treatment BMPs. Recommendations include suggested requirements that in any redevelopment or boating facilities or marinas, that project applicants develop a Marina Water Quality Management Plan to address best management practices for boating and marinas, including components to address impacts from vessel sewage, trash, and oil and gas spillages, and components to address boater education.

Public comments also raised concerns that the recommendations did not contain adequate measure to set thresholds, require monitoring for effectiveness and ensure maintenance of BMPs. The Commission comments also included concerns with upstream, watershed controls. The findings are revised to note that the County NPDES permit addresses in part control of upstream sources in the Marina del Rey watershed that includes areas of the County, the City of Los Angeles and the City of Culver City.

The revised findings also note that the TMDLs for Bacteria and Toxics both set thresholds for various components and the NPDES, SUSMP and TMDLs require conformance with water quality standards and significant water quality monitoring by the County. Under requirements of the County NPDES permit, the SUSMP and the TMDLs, the permittees implement a Stormwater Quality Management Plan (SQMP) and a monitoring program to measure effectiveness of the program. The monitoring program under the NPDES permit is designed to assess the receiving water impacts, identify sources of pollution, evaluate effectiveness of BMPs and measure long term trends. If the LCP is revised to reflect conformance with these permits, the LCP will be implemented in conformance with the water quality policies of the Coastal Act.

Public comments on the draft report also suggested policies to require inspection of commercial boats and boats with holding tanks larger than 15 gallons using dye tablet testing. As discussed in the findings, such inspection program is not feasible given the size of the Marina del Rey Harbor. For harbors of this large size like Marina Del Rey, the design and implementation of an ongoing harbor-wide annual inspection program to monitor against illegal discharges would be problematic.

Comments also suggested addressing alternatives to runoff through such measures as expanding water reuse efforts. The LCP currently does not have any policies that directly address water reuse and the LIP as certified does not appear to address water conservation and reuse issues, for example, in landscaping plans. However, while the

appeals acted on by the Commission have included conditions to implement water quality management plans, other water quality requirements for water reuse have not been part of any conditions on development in the appeals. Therefore, while no suggested recommendation is made, this is an area where the County could factor in new policy direction in updating its Marine Resources/Water Quality components of the LCP to direct and encourage water conservation and reuse measures in landscaping plans.

New Development/Circulation

Recognizing the even greater heights surrounding the Marina del Rey, the 1996 amended LCP allows relatively high densities and heights but includes policies to 1) limit development to the capacity of the transportation network and 2) require all developers to pay a fair and reasonable share of the cost of both local and subregional traffic improvements. The County has carried out these policies, collecting $3,690,900 in transportation mitigation fees, which are committed to a variety of transportation improvement projects in the area. However, the model on which this is based was derived from a model devised to analyze the traffic impacts of the Playa Vista development. The model assumes both more development and more roads in neighboring Playa Vista than are now likely.

The County staff, in response to the staff report and recommendations indicates that County technical staff requires a traffic study for each new development under CEQA and that a current traffic study is required to incorporate all information found in the current studies, including Playa Vista and LAX expansion studies. County staff acknowledges that many of the previously proposed new roads will not be built, but that this change is more than offset by diminished trips generated by the reduction in Playa Vista, a position which they indicate Is consistent with these final EIRs. The traffic study is required by policy 22.46.1180.11.b of the certified LIP. This policy does not explicitly establish the methodology that the County must use for these studies. County staff argues that CEQA is sufficient, and argues that no policy outside of CEQA is necessary. A member of the public provided a paper from a UCLA professor of planning that questions the validity of traffic models, in general, stating that they can be modified to support any size project and that they lead to auto dependent development. The County argues that they use nationally recognized traffic models.

Staff now recommends that no new model is necessary unless the County proposes to change the development cap. On the other hand, the studies that the County relies on to evaluate development should be part of the LCP. The Commission notes that in implementing the LCP, consideration of traffic capacity and application of models helps to assure that adequate traffic capacity is reserved for visitors and that other traffic generated from local development will not make it impossible to reach coastal recreational destinations.

In order to mitigate the impacts of higher densities, the LCP incorporates a design review process as part of both the LUP Development and the Public Access policy sections. A

review of the findings of the coastal development permits of the County's action indicates that the County has implemented measurable setback and view corridor standards but due to some internal inconsistencies in its ordinances, has not always carried out qualitative design review that is anticipated in the LUP to implement public access and scenic policies. LCP measures designed to mitigate the designation of about a third of the Marina's land area for non-priority residential use, by allowing voluntary incorporation of visitor-serving facilities, have not been effective in substantially increasing priority uses. The County needs to consider other methods to bring more visitor serving uses to the Marina and update the existing in-lieu mitigation fee LCP policy for new development of overnight visitor accommodations in the coastal zone that are not lower cost.

Finally, many proposed projects, including those proposed in the Asset Management Strategy, a policy analysis adopted by the Board of Supervisors to revitalize the Marina, require LCP amendments. Analyzed piecemeal, the changes could result in unanticipated negative impacts. The County should summit a comprehensive LCP update, reflecting its new thinking on visitor-serving uses, public recreation, and design so that the Commission can evaluate these plans for their consistency with the Coastal Act.

Recreation and Visitor Facilities

A variety of non-boating recreational activities are located within the Marina del Rey LCP area. The Periodic Review found that recreational resources have not decreased in the Marina but that revisions to the LCP are needed to ensure enhancement of recreational opportunities. The County has implemented LCP requirements to mitigate impacts from residential development on recreational facilities by requiring the Coastal Improvement Fund mitigation fees. A portion of these funds have been collected. However, the Periodic Review found that this policy as carried out exempts certain non priority uses such as offices, from payment of mitigation fees. While the County has consistently required the LCP mitigation, the current phrasing of the policy does not assure that new, non-priority development will provide suitable mitigation and enhance recreational opportunities in conformity with the Coastal Act. In addition, the Coastal Access fee formula is based on a fixed cost to improve local park facilities within the Marina. The formula to calculate the fee should be adjusted on an annual basis to account for rising cost related to construction park facilities. Therefore, the Periodic Review includes a recommendation that the LCP should be revised to require the Coastal Access Fund fee be adjusted on an annual basis to reflect the Consumer Price Index in order to factor in rising construction costs for the park facilities.

Existing park areas have been maintained and a few new park areas required as a result of redevelopment requirements. The County has required implementation of portions of the new Waterfront Promenade as a condition of major redevelopment, which will provide a regional recreational resource. However, new and existing segments of the promenade are fragmented and do not provide a contiguous pathway around the Marina because the majority of the lots have not redeveloped, and other lots have safety or security issues due to existing uses (boat repair or private clubs).

The County has required parking in new development projects and maintained existing public parking lots. However, there are a few public parking lots that the County provides that are not located adjacent to key visitor attractions and may be underutilized due to their location. The County has indicated that they are aware of the issue of underutilized lots and will be undertaking parking studies to further analyze the parking situation and how best to maximize the use of the parking lots. This information and detailed utilization studies of the existing parking lots is important as the population continues to grow and the demand on recreational facilities increases. Adequate support parking will need to be provided in strategic areas where the recreational and visitor-serving user will be able to both connect with regional transit opportunities and access key visitor destination points.

The Periodic Review suggests the LCP be revised to ensure that recreation and visitor-serving facilities are protected and enhanced. Recommendations suggest the County update the LCP to design and locate public parking lots to improve accessibility and protect coastal views, encourage leaseholds that are not redeveloping to improve public access along the waterfront consistent with existing LCP requirements for new development, continue to implement the uniform signage plan for public facilities, redesign and relocate the bike path to maximize public use, and revise the LCP to require all non-visitor and non-marine commercial related uses to pay into the fund to mitigate for impacts to coastal recreation and visitor-serving uses.

Public Access

In implementing the LCP, the County has been carrying out many significant requirements to assure maximum public access to the waterfront of the Marina. The County has required development of significant portions of the waterfront promenade, designed to provide continuous shoreline access. In addition, some additional public park areas have been required in new development. However, in review of other projects, for example some marine industrial/commercial projects, the County has not required lateral access due to concerns for public safety, and measures to maximize access through alternative enhancements such as viewing areas, signage, benches or other improvements were not considered. Recommendations suggest ways to strengthen the LCP in order to assure that it will be implemented to provide maximum public access. Additional recommendations suggest updating of policies to reflect new information on the California Coastal Trail. The County's existing bikepath and future waterfront promenade will likely be a significant segment of the Coastal Trail. Other recommendations address suggested updates to LCP policies to ensure that public access is maintained and enhanced through the protection of public parking and public views.

Biological Resources and Environmentally Sensitive Areas

In certifying the updated LCP in 1996, the Commission segmented the resource areas of Area A from the Marina proper and at that time certified the deletion of the ESHA chapter of the LCP, finding that there were no ESHAs in the developed Marina del Rey proper.

However, since 1996, additional information has been submitted concerning the resources of the Marina. In 2001, the U.S. Army Corps of Engineers made a jurisdictional determination of wetlands on the remaining vacant Parcel 9, under Section 404 of the Clean Water Act. Also in 2001 and continuing to date, monitoring noted active nesting by Great Blue Herons in trees within the Marina. The State Department of Fish and Game purchased Area A and, in August 2005, the Fish and Game Commission endorsed the designation of the Ballona Wetlands Area A as an Ecological Reserve. The Department of Fish and Game is in the process of developing restoration plans for the habitat that is present on the site.

While previous draft reports of the Periodic Review did not undertake any site specific assessment and or present any specific determination of biological resources or ESHA in the Marina, in light of new information presented, the Periodic Review report suggested that the LCP should be updated to incorporate a new Resources component to the LCP. Such a component would include a process to assess whether sensitive resources or ESHA exist on a site-specific basis and, if determined to exist, include policies and standards to ensure protection of the habitat resources. The preliminary recommendations suggested a range of policies that might be included in such an LCP Resources component, including policies to require a specific assessment of the heron rookery and policies to ensure protection of adjacent habitat resources in adjacent wetland and habitat areas in Ballona Lagoon and Areas A.

Commission and public comment suggested the need for more specific identification of potential ESHA areas in the Marina proper. Comments were also made concerning the need to ensure that the LCP contains adequate measures to ensure protection of the heron rookery in the harbor. Since the August 2006 hearing, Commission staff, including the staff biologist, has made several site visits with both the County and other interest groups to conduct more site specific assessments. Based on those field trips and submitted information, the Commission's staff biologist had in a December 19, 2006 memo recommended that the Commission find the heron rookeries are ESHA and staff was working on recommendations to develop site protection policies and appropriate mitigation for the birds, including their historic and current nesting and roosting areas within the Marina.

In response, the County has made several assertions. First, the County objects to the reintroduction of ESHA policies into the LCP and initially called for the deletion of all such references from the recommendations. County representatives assert that the heron nesting in Oxford Basin and Admiralty Park were known and determined not to be ESHA at the time of the previous 1996 County LCP amendment and the Commission did not then treat them as ESHA or sensitive coastal resources. Second, the County notes, and the staff acknowledges, that there is no authority to impose an ESHA determination through the periodic review process. The periodic review process is intended to encourage local governments to update their LCPs. Third, the County points to the development and implementation of its own tree trimming ordinance as an important resource protection measure. Commission staff concurs and has always recognized the County's ability to

take independent action when needed for public safety and notes that the ordinance still requires that clearance/trimming work take place outside of active nesting that could present significant disruption to the resources.

With respect to other sensitive coastal resources in the Marina and adjacent habitats in Area A or the Ballona Lagoon/wetlands, wetlands are being delineated on Parcel 9U at the direction of the County and the County has continually worked to clean up and restore the Oxford Flood Control Basin (Parcel P). With regard to providing suitable protection for the adjacent resources in Area A, now designated an Ecological Reserve, the County again asserts that neither the Commission nor the State Department of Fish and Game opposed the redevelopment of existing parcels with increased density or required additional development standards for marina projects at the time of the 1996 LCP amendment. Furthermore, the County sought and received a letter from the Department that indicates the establishment of the Ecological Reserve would not "precipitate any conditions or re-design requests on the development proposals in Marina del Rey" (letter from L.Ryan Broddrick, DFG Director, dated 10/25/06). The County has indicated that it will work with DFG on plant palettes and lighting issues, as well as other areas of mutual interest. However, Commission staff believes that there should be policies incorporated into the LCP to address siting concerns, such as shading or predator perches, building setbacks, lighting impacts and invasive plant materials.

However, based on new information since certification of the 1996 update amendment and the Commission's actions on many recent LCP amendments and updates, there should be a policy mandate and procedure in all LCPs which provides for the identification and on-going re-evaluation of coastal resources to determine what resource protection measures are needed and whether or not a particular habitat area should be recognized and preserved as environmentally sensitive habitat area (ESHA). At present, given the unique history of the Marina del Rey LCP, it lacks provisions for the adequate identification or protection of wetlands, streams and ESHA in implementing the LCP. It does not provide adequate measures to assess the effects of development on ESHA should they be identified on a site-specific basis during coastal development permit review and does not assure that development in the Marina will be sited and designed to prevent impacts that would degrade adjacent resources. The Periodic Review suggests the LCP be revised to ensure that existing and future biological resources, including wetlands and environmentally sensitive habitat areas, are identified and protected, consistent with the requirements of Chapter 3.

Cultural Resources

The County has implemented the Cultural Resource policies of the LCP in conformity with the Coastal Act and no significant archaeological concerns have been raised in development projects approved by the County. However, since the LCP was updated in 1996, new statutory requirements for expanded noticing and consultation with California Native American Tribes under SB 18 in 2004 have been mandated. In addition, the Commission has focused increased attention on the protection of California Native

American Tribal resources and has required the presence of Native American monitors during grading operations. Recommendations of the Periodic Review focus on suggestions to revise LCP policies to reflect new consultation provisions.

Hazards

The County has consistently implemented LCP requirements for site specific geotechnical analysis in major development projects in the Marina. While the LCP includes requirements that such analysis consider potential impacts from flooding and from tsunami events, not all geotechnical reports explicitly discussed impacts that may result directly from a tsunami event. However, since the Indian Ocean tsunami in December 2004, the County has been a lead agency in a regional Tsunami Task Force and is updating the County Tsunami Emergency Response Plan. Recommendations suggest the LCP be revised to incorporate any new state or locally adopted hazard mitigation requirements for new development or for public education, and ensure that future geotechnical analysis include consideration of a maximum expected tsunami event, to the greatest extent feasible.

Public comments also raised concerns about potential hazards from methane and hydrogen sulfide gas leaks from oil and gas facilities in the area. Public comments requested that the Commission take a number of steps to oversee operations related to the Southern California Gas Company in Venice, Playa del Rey and in the Ballona wetlands, including such things as collecting documentation and develop databases and maps, funding investigations, coordinating local hearings and storing data and materials for public review.

In response to Commission comments that staff provide information on the location of facilities, Exhibit 11 illustrates information on existing facilities based on a map developed by the Department of Conservation, Division of Oil Gas & Geothermal Resources (DOGGR). Exhibit 12 is a map of gas utility easements that is currently a part of the certified LCP. No revisions or recommendations are proposed in this policy area as this is adequately addressed through review by DOGGR and by existing policy 14(5) of the LCP that requires submittal of evidence of compliance with DOGGR standards and review prior to new development over old, unused or previously abandoned wells. The current LCP policy is consistent with actions taken by the Commission in the review of development associated with abandoned wells and potential geologic, flood and fire hazards.

Procedures

In undertaking regular post-certification monitoring of the County issued coastal permits, Commission staff identified a few instances where the County has exempted development from coastal permit requirements pursuant to the LCP permit procedures, and the public and Commission are not aware of the exemptions until construction has commenced. In those cases, the public and the Commission could not avail themselves of the dispute resolution process in the LCP for such determinations. While the LCP mirrors the

Commissions regulations for post certification noticing, and formal noticing for exemptions is not required, the Periodic Review identifies a need for some way to effectively track exemptions, and it suggests the County maintain a log accessible to the public and possibly make it available electronically to facilitate future monitoring.

A. Introduction

This is the Revised Report for the Periodic Review of Marina del Rey Local Coastal Program (LCP) implementation by Los Angeles County. Section 30519.5 of the Coastal Act requires the Commission to conduct a Periodic Review of a government's Local Coastal Program at least once every five years. The basic purpose of the review is to determine whether the LCP is being effectively implemented in conformity with policies of the Coastal Act. Section 30519.5 states:

> *(a) The commission shall, from time to time, but at least once every five years after certification, review every certified Local Coastal Program to determine whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that a certified Local Coastal Program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the affected local government's Local Coastal Program.*
>
> *(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.*

In addition, under provisions of Section 30501 of the Coastal Act, the Commission may recommend specific uses of more than local importance for consideration by any local government for inclusion in its Local Coastal Program. Thus, the Coastal Act requires that the Commission assure that the ongoing implementation of a certified Local Coastal Program is effectively meeting the statewide policy goals of the Coastal Act.

Purpose and Objectives of a Periodic LCP Review

Monitoring, reviewing and updating a certified LCP is a critical component of effective coastal management. When the Commission reviews a project on appeal, the standard of review is consistency with the certified LCP and in some cases Coastal Act access policies. It is therefore very important that certified LCPs are continually monitored for effectiveness and periodically reviewed and updated in order for the LCP to continue to

function as an effective standard for sound coastal resource management decision-making.

Although there is an explicit statutory basis for a Periodic Review, such a review is also a natural step in the ongoing partnership between the Coastal Commission and local governments in coastal resource management. This partnership does not end with the certification of an LCP. Rather, the challenging task of implementing, monitoring, enforcing and updating a coastal program only begins at that point. A Periodic Review of an LCP provides a valuable opportunity to enhance the coastal management program at the local level in a number of ways. It enables the Commission, in cooperation with the local government, local residents and others, to assess the community's progress in carrying out its coastal plan. It also provides a chance to update relevant coastal resource information, especially concerning cumulative effects and emerging issues that perhaps were not fully known or appreciated when the LCP was originally prepared. Finally, it provides a means to work with the local government to identify changes that may make the LCP work better, consistent with the requirements of the Coastal Act.

A Periodic Review reflects experience gained in the implementation of the LCP through planning and regulation at the local level. But it also can reflect the outcome of other implementation actions such as new acquisitions and development of new accessways, execution of mitigation and restoration programs, and conduct of educational programs, all of which bring to reality the programs and recommendations of the LCP. Program enhancements recommended through a Periodic Review can include suggested amendments to plan designations, policies or zoning standards or procedures, but may also include intergovernmental coordination measures or actions by other state or local agencies to improve implementation of the certified LCP.

The Marina del Rey LCP was not among the first priorities adopted by the Commission in 1998 for undertaking Periodic Reviews; this Periodic Review was initiated as a result of a settlement of litigation in *Coalition to Save the Marina, Inc. v. Coastal Commission* (LA Superior Court Case No. NS008613 (2001).

Notes on the Recommendations

Pursuant to Section 30519.5 of the Coastal Act, results of the Periodic Review analysis are recommendations to the County for corrective actions and improved resource protection measures that should be taken in order to ensure continued implementation of the LCP in conformity with the policies of the Coastal Act. These recommendations do not mean that the entire LCP lacks conformity with the Coastal Act. On the contrary, in many policy areas, the LCP remains effective in carrying out the goals and objectives of the Coastal Act. As noted earlier in the report, some recommendations address problems in implementation and some reflect the need to address changed conditions or new information and build on the existing policies rather than recommend entirely new directions. These recommendations do not directly amend the certified LCP. The recommendations suggest actions that could be carried out through such means as: policy and ordinance changes in future amendments to the LCP; changes in how the

County implements the LCP in issuing coastal permits; or through other implementing actions such as new studies, educational efforts or County programs.

Regarding the recommended actions suggested to the County, the Commission recognizes the limited resources available for planning and management activities. For example, the local assistance planning grant program to support local government coastal management activities was eliminated from the Commission's budget several years ago. Nevertheless, as noted in this Periodic Review analysis, keeping the LCP current and up to date is central to assuring long-term protection, management and restoration of coastal resources as envisioned by the goals of the Coastal Act.

The Commission also realizes that sound coastal resource management is not only the County's responsibility. This Periodic Review analysis has found instances where the County is addressing impacts in the Marina that are a result of activities elsewhere in the region, such as in the areas of transportation and water quality. The Periodic Review found that the County is taking commendable steps to help address these regional issues. Changes to the County's LCP alone may not fully address the concerns raised but rather new or strengthened intergovernmental initiatives may be needed.

While recommendations suggest specific changes to the currently certified versions of the LCP, some flexibility in final wording, format, and location in the LCP is anticipated, especially should the County choose to pursue a comprehensive update of the LCP to address the recommendations. Because there may be different implementing mechanisms, or the County might legitimately respond with additional information to explain the perceived gaps, the recommendations generally use the term "should". However, if recommendations are incorporated into the LCP through LCP amendments, revised LCP policy and ordinances may require use of "shall" in policy revisions.

B. Staff Recommendation

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION

The staff recommends the Commission adopt the following motion and resolution and transmit the Revised Findings to the County pursuant to section 30519.5 of the Coastal Act:

Motion

I move that the Commission adopt the revised findings in support of the Commission's action on January 9, 2008, that Los Angeles County (County) is not effectively implementing its certified Local Coastal Program (LCP) for the Marina del Rey segment in conformity with the policies of the Coastal Act, and, to ensure that the LCP is implemented in conformity with Coastal Act policies, recommend that the County take

the corrective actions set forth in the Commission's Revised Findings Staff Report dated September 24, 2008, as revised on October 16, 2008.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the January 9, 2008 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

RESOLUTION TO ADOPT REVISED FINDINGS:

The Commission hereby adopts the findings set forth below for determining that Los Angeles County (County) is not effectively implementing its certified Local Program (LCP) for the Marina del Rey segment in conformity with the policies of the Coastal Act, and, to ensure that the LCP is implemented in conformity with Coastal Act policies, recommends that the County take the corrective actions set forth in the Revised Findings staff report dated September 24, 2008, as revised on October 16, 2008.

COMMISSIONERS ON PREVAILING SIDE: Achadjian, Blank, Clark, Hueso, Kinsey, Kram, Neely, Potter, Shallenberger, Wan, Kruer

C. Recommendations

Note: Most of these recommendations are general suggestions to guide LCP Amendment development. Newly added recommendations are given the preceding number followed by the letter A in order to maintain the existing numbering and references throughout the report.

Recreational Boating

1. The County should require an updated comprehensive boater use, slip size, and slip distribution study which is no more than five years old for each dock redevelopment

project that affects slip size and distribution of slips, to assess current boater facility needs within the individual project and the Harbor as a whole.

2. Through the development review process and through improvements to existing facilities, continue to provide a mix of small, medium and large boat slips which is based on updated information from the comprehensive study discussed in recommendation 1 above.

3. Section A3, Recreational Boating, Policy and Action e2, regarding the "Funnel Concept" for boat slip expansion, should be deleted as a policy and action from the Land Use Plan. The County should investigate other alternatives to increase recreational boating within the Marina, assure lower cost boating opportunities and adopt policies requiring implementation of such other alternatives as are found to be appropriate. Other alternatives that should be considered, but are not limited to:

    - creating additional slips along the main channel, end ties, or other areas, where feasible;
    - maintaining a mix of boat slip lengths throughout the Marina;
    - increasing day-use rentals;
    - encouraging boating membership programs;
        requiring marinas that reduce the number or proportion of slips to provide public access to affordable lower cost boating opportunities for the general public through such mechanisms as: contributing fees to develop new boating programs for youths, including disadvantaged youths, development of new lower cost boating facilities for all members of the general public; and encouraging boating membership programs; or similar mechanisms;
        continue to monitor existing launch ramp facilities, estimate projected increases in demand and develop measures to increase capacity where needed;
    - providing additional boat storage facilities, including areas for small non-motorized personal watercraft (i.e. kayaks, canoes and dinghies).

4. Through the development review process and through improvements to existing facilities, provide short-term day use docks at or in close proximity to visitor-serving facilities, such as parks, Fishermen's Village, and restaurants.

4A. No reduction in total boat slips and no reduction in slips 35 feet or less in length.

Marine Resources/Water Quality

5. Development shall maintain, enhance and where feasible restore marine resources, including wetlands, submerged aquatic vegetation, or other important aquatic habitat

areas as designated by local, state, or federal governments, consistent with Coastal Act Sections 30230 through 30233.

6. The LCP should be amended to require that all development that involves disturbance to shallow water marine substrate provide a pre-construction survey to determine the presence of eelgrass (Zostera marina) taken during the active growth period. If eelgrass is present within the project site, the project shall be redesigned to avoid impacts to eelgrass. If nearby eelgrass is impacted it shall be mitigated in conformance with "Southern California Eelgrass Mitigation Policy" Revision 8 adopted by the National Marine Fisheries Service.

7. The LCP should be amended to require that all development that involves disturbance to marine water substrate within the marina and other shallow waters (up to approx. 250 ft. depth) shall provide a survey for the presence of Caulerpa taxifolia (C. taxifolia) consistent with the survey protocol required by the Southern California Caulerpa Action Team, SCCAT. If C. taxifolia is found within or in close proximity to the project site, it shall be eradicated prior to the commencement of the project.

8. The LCP should be amended to update the policies, procedures and requirements associated with reducing polluted runoff and water quality impacts resulting from development. The update should revise policies and ordinances to ensure that Sections 30230, 30231, 30232, and 30240 of the Coastal Act, related provisions of the LCP, the County's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit and Standard Urban Stormwater Mitigation Plan (SUSMP) requirements, adopted Total Maximum Daily Loads (TMDLs), State Nonpoint Source Control Plan, and Contaminated Sediment Task Force recommendations are integrated.

9. The LCP should be updated consistent with the following principles and criteria, and to carry out the following provisions where applicable:

   All development must address water quality by incorporating Best Management Practices into the development that are designed to control the volume, velocity and pollutant load of stormwater and dry weather runoff from the site during the construction phase and in the post-development condition. All new development and redevelopment projects shall integrate Low Impact Development principles designed to capture, treat and infiltrate runoff. Specific types of BMPs to be included in all development projects include site design and source control measures. In addition, treatment control BMPs shall be incorporated into all development and redevelopment types categorized as "Priority Development," under the Regional Water Quality Control Board-issued Los Angeles County Municipal NPDES Stormwater Permit and related Standard Urban Stormwater Mitigation Plan (SUSMP) requirements, and where otherwise necessary to protect water quality in accordance with LCP marine resource and water quality related policies and provisions. The specific information necessary for an

individual project will vary depending upon site characteristics and the kind of development being proposed.

10. LCP policies should be revised to assure that at the time of application, development proposals will be reviewed for conformance with the requirements contained in the Los Angeles County Municipal NPDES Stormwater permit and SUSMP requirements, any adopted TMDLs, applicable provisions of the Santa Monica Bay Restoration Plan, State Nonpoint Source Control Plan, Contaminated Sediment Task Force recommendations, and applicable standards and requirements contained in the Marina Del Rey LCP.

11. LCP policies should be revised to ensure that as part of the development review process:

    A. All developments that require a Coastal Development Permit (CDP) are required to document site design and/or source control BMPs within drainage, landscaping or other site plans, and include sufficient detail for a determination that those are the appropriate BMPs for the project, are located in the appropriate areas of the project and have adequate mechanisms in place to assure that the BMPs are effective for the life of the project.

    Development or reconstruction of impervious surfaces, where a CDP is required, shall include source control or treatment control BMPs, such as permeable pavement, bioinfiltration or drainage to landscaping to eliminate or minimize to the extent feasible dry weather flow to storm drains or bay. Development or reconstruction of landscaping, where a CDP is required, shall use site design, source control and treatment control BMPs, such as "smart" irrigation systems and bioinfiltration to eliminate or minimize to the extent feasible dry weather flow to storm drains or bay. Plans that include infiltration BMPs should be reviewed by a geotechnical engineer if site stability issues are a concern.

    B. All developments that require a CDP and are categorized as "Priority Development" pursuant to the County SUSMP shall incorporate site design, source control, and treatment control BMPs, which are designed to eliminate dry weather runoff except those exempt under the Los Angeles County Municipal Stormwater permit and to treat runoff from the 85th percentile storm event. Such features and BMPs shall be documented in a Water Quality Management Plan (WQMP) or equivalent technical plan designed by a licensed water quality professional or civil engineer. The plan shall be sufficiently detailed for evaluation purposes, and shall include all necessary supporting calculations, descriptive text as well as graphics depicting amount, location of BMPs, as well as design and maintenance details associated with the BMPs or suite of BMPs.

C. All BMPs implemented should be monitored to ensure that the performance achieved is at least the 75 percentile for BMP performance on the United States Environmental Protection Agency (EPA) and American Society of Civil Engineers (ASCE) National BMP database.

12. The LCP should be revised to ensure that development projects will be designed in accordance with the following principles and guidelines. All projects should be designed to:

A. Prohibit the discharge of pollutants that may result in receiving water impairment or exceedance of state water quality standards. Projects should be designed to reduce post-development peak runoff rates and average volumes over pre-development levels or to maintain such rates and volumes at similar levels to pre-development conditions, through such measures as infiltration, evapotranspiration, and storage/reuse,.
B. Maintain natural drainage courses and hydrologic patterns.
C. Preserve and where possible, create or restore areas that provide important water quality benefits.
D. Reduce the amount of directly connected impervious area, and total area of impervious surface from traditional approaches; consider and implement alternatives to impervious material for hardscaping plans, such as porous pavement, crushed gravel, and/or concrete grid designs.
E. Minimize irrigation and the use of fertilizers and other landscaping chemicals. Water conservation measures, such as smart irrigation systems, shall be required, and water recycling and reuse should be encouraged.
F. Where site constraints allow, incorporate on-site retention and infiltration measures to slow and reduce the amount of runoff discharged from the site.
G. Properly design outdoor material storage areas (including the use of roof or awning covers) to minimize the opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids and other pollutants from entering the stormwater conveyance system.
H. Incorporate roof or awning covers over trash storage areas and implement other trash-control devices, such as full capture BMPs[1], to prevent off-site transport of trash and related pollutants from entering the stormwater conveyance system. Where appropriate, include cigarette butt receptacles to reduce this common source of beach and ocean pollution.
I. Design streets and circulation systems to reduce pollutants associated with vehicles and traffic resulting from development.
J. Incorporate those BMPs that are the most effective at mitigating pollutants of concern associated with the development type or use.

[1] A full capture system is defined by the Los Angeles Regional Water Quality Control Board as any single device or series of devices that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour, storm in the subdrainage area.

K. Include requirements consistent with other recommendations contained herein, to inspect, maintain and repair as necessary the BMPs associated with the project to ensure proper and effective functioning for the life of the development. All approved Coastal Development Permit applications which involve the use of BMPs shall include such requirements.

13. The LCP should be revised to incorporate updated guidelines for marina development/redevelopment projects, containing a list of BMPs, management measures and standards appropriate for marina development, to aid the County in its review and permitting of marina development projects. In doing so, the County should utilize resources containing the most updated information and recommendations concerning environmentally sound marina development and operation practices, including but not limited to, the California Clean Marina Toolkit (California Coastal Commission, 2004), a publication of the California Coastal Commission's Boating Clean and Green Campaign.

14. The LCP should be revised to require that in the development or redevelopment of individual marinas or launch facilities, Best Management Practices (BMPs) for marinas and recreational boating activities shall be implemented to reduce, to the maximum extend practical, the release of pollutants to surface waters. Any coastal development application for reconstruction, modification or redevelopment of marina or launch facilities shall include a Marina Water Quality Management Plan (MWQMP) that includes BMPs to control water quality impacts at each marina or launch. The MWQMP shall include the following components, as applicable, and shall be reviewed for conformance with the set of guidelines for marina related development/use to be developed by the County pursuant to recommendation No. 13, and the following criteria, as applicable:

A. Measures to control stormwater and dry-weather runoff from development during the construction phase and in the post-development condition, consistent with all applicable provisions outlined in Recommendations 5- through 14 of this report [Marine Resources/Water Quality section], and consistent with State and Regional Water Quality Control Board NPDES requirements.
B. A MWQMP component that includes provisions to adequately control impacts from boating sewage, vessel cleaning and maintenance, oil and fuel discharges, fish cleaning and trash generation/disposal. Vessel sewage disposal shall be controlled by: 1) installing a fixed point dockside pumpout facility; or 2) installing slipside pumpouts; or 3) for smaller marina operators, evidence of a cooperative agreement with an adjacent marina to provide joint waste management facilities or services. The MWQMP shall also provide that adequate restrooms and portable toilet dump stations for marinas with slips for smaller boats are installed. In addition, adequate trash, recycling and cigarette butt receptacles shall be placed in convenient locations around the Marina, and should be covered and frequently serviced. The operations and maintenance component

shall provide measures for marina operators to regularly inspect and maintain facilities.

C. A component for implementing boater education measures, including signage.
D. A component for protection against the spillage of crude oil, gas, petroleum products or hazardous substances in relation to any development or transportation of such materials.
E. A monitoring and assessment component to evaluate the effectiveness of the MWQMP.
F. Material used for construction of piers, pilings, docks, dolphins, or slips shall not include timber preserved with creosote, (or similar petroleum-derived products.) Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped or coated prior to installation with a water tight plastic sleeve, or similar sealant. To prevent the introduction of toxins and debris into the marine environment, the use of plastic wrapped pilings (e.g. PVC Pilewrap) and reinforced plastic for pilings (e.g. high density polyethylene (HDPE) pile armor), shall conform to the following requirements:

    i. The material used shall be durable and a minimum of one-tenth of an inch thick.
    ii. All joints shall be sealed to prevent leakage.
    iii. Measures shall be taken to prevent ACA, CCA and/or ACZA from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
    iv. The plastic sleeves shall extend a minimum of 18 inches below the mudline.
    v. Plastics used to protect concrete or timber piers and docks or for flotation shall be subject to regular inspection to prevent sloughing of plastics into the waterway. A comprehensive inspection and maintenance plan shall be a requirement of any approval for projects involving plastic/or similar material wrapped piles.
    vi. The lessee shall be made responsible for removal of failed docks or materials.
    vii. If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for new piles or piling replacement, the least environmentally damaging materials and/or methods should be required for such projects, where feasible.

New Development/Circulation

15. (A) Although redevelopment of the 1994 DKS[2] transportation model is not recommended as part of this review, any changes to the cap system (that is based on the DKS study), if proposed, should be based on a revised model or equivalent comprehensive traffic analysis. (B) Amend LIP section 22.46.1180.A.11.b to reflect the County's current traffic study guidelines and its requirement that studies be based on and consistent with the most recent studies of major projects in the area, including models prepared for the Airport LAX expansion and Playa Vista Phase II traffic models.

16. The County should consider options for funding a bus/shuttle system. Such funding could be used to support a regional bus/shuttle system operated by a regional or local government transit agency that serves Marina del Rey. The County should amend sections 22.46.1100.C. 2 and 22.46.1190.A.3 and A.5 to require an ongoing assessment to support shuttle buses as part of all retail, residential and hotel development, as a Category 1 improvement.[3] If funding is required as part of a lease extension, the amount contributed should be acknowledged in the issuance of the coastal development permit. Consider additional assessments for all projects.

17. The County should amend LCP Ordinances Sections 22.46.110.B,[4] 22.46.1060, and 22.46.1190A.3, 5, 9 and 15 to require improvements or proportional contributions that would enhance non-automotive transportation from all development: pedestrian and alternative traffic modes; widened sidewalks; jitney stops; stops for water taxi; and dinghy tie-ups as part of site plan review.

18. The County should amend LCP Ordinance Sections 22.46.1050, 22.46.1100.B.2 and Appendix G to include the improvement of pedestrian access across and along thoroughfares as part of roadway design.

18A. In preparation for amending its LCP the County should undertake a comprehensive LCP update of anticipated future development that includes all pending project driven amendments, fulfillment of Asset Management strategies and other facilities identified through a community planning process.

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[2] DKS Associates; Gruen Associates, Marina del Rey Traffic Study, 1991, and the Addendum to this study by DKS Associates, 1994.

[4] 5. Mitigation of all Direct Traffic Impacts. All development in existing Marina del Rey shall participate in, and contribute his or her fair share to, funding of the mitigation measures described in the Transportation Improvement Program (TIP). The fees shall be calculated for every development project based on the Trip Assessment Fee set in the TIP and the number of additional P.M. peak hour trips generated by the project. Additional trips are defined as the P.M. peak hour trips attributable to build out of the new development allocated in the Specific Plan. All development shall mitigate all direct impacts on the internal circulation system before occupancy of the development. No development may commence without payment of a fair and proportionate share of the costs of traffic improvements listed in the traffic improvement program. Prior to issuance of a coastal development permit, the applicant shall demonstrate that adequate funding is available so that all traffic improvements necessary to mitigate the impacts of the development on internal circulation will be completed before occupancy of the structure. Development shall not begin until adequate funding of the necessary internal circulation traffic improvement has been guaranteed.

19. Revise the LCP to require that the County consider all pending project-driven amendments of the LCP that would change the designation of parcels from a public park or parking use to a private use at the same time. A project shall be considered pending if there is an approved term sheet allowing the applicant to apply for approval of the project. In considering such amendments, the County should analyze the total pattern of public serving and park uses in the Marina.

20. The County should amend its LCP to include development standards that would incorporate the design elements in the Asset Management Strategy (similar to many of the LCP policies concerning public access and site design). For example:

    - Maintain the visibility of public spaces;
    - Integrate the building with open space and access areas; and, Identify the County agency best qualified to undertake this review

21. The County should revise the LCP in order to include incentives to provide priority to free or lower cost public uses on waterfront parcels designated for residential use but developed with mixed uses, including visitor serving commercial and public facility uses.

22. The County should amend the LCP to strengthen development standards to preserve existing public and lower cost recreation facilities including free facilities; assure that these facilities and public rights to them are maintained.

23. The County should amend LCP Definitions to define “hotel” and should evaluate opportunities to protect the availability of, and encourage additional, short-term overnight accommodations in the Marina. To protect and maximize public access, LUP and LIP definitions and development standards should exclude private fractional ownership of hotel/motel rooms on publicly owned land designated for visitor or public uses. And for areas not designated for visitor use, in any hotel, motel or similar project that includes timeshare or fractional or condominium ownership components, the County shall address, among other factors, peak use demands in the summer, availability of units to the general public and operational provisions to require hotel/motel management of a facility. LCP Standards should ensure that such projects maximize public access in operation of the hotel/motel, including restrictions on the percentage of units privately [individually] owned and length of stay.

24. In-Lieu Fees for Lower Cost Overnight Visitor Accommodations. The County should update the existing in-lieu mitigation fee LCP policy for new development of overnight visitor accommodations in the coastal zone that are not lower cost. The in-lieu fee would be required as a condition of approval of a coastal development permit~~,~~ in order to provide significant funding to support the establishment of lower cost overnight visitor accommodations within the coastal area of Los Angeles County. The fee would be

based on the per bed "mid-range" land acquisition and construction costs to build a lower cost overnight visitor accommodation in the coastal zone of Los Angeles County for 25% of the total number of proposed overnight visitor accommodations in the new development. The fee (i.e. $30,000 in 2007) shall be adjusted annually to account for inflation according to increases in the Consumer Price Index – U.S. City Average.

The required in-lieu fees should be deposited into an interest-bearing account, to be established and managed by one of the following entities approved by the Executive Director of the Coastal Commission: Los Angeles County, Hostelling International, California Coastal Conservancy, California Department of Parks and Recreation or a similar entity. The purpose of the account should be to establish lower cost overnight visitor accommodations, such as new hostel beds, tent campsites, cabins or campground units, at appropriate locations within the coastal area Los Angeles County. The entire fee and accrued interest would be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to one or more of the State Park units or non-profit entities providing lower cost visitor amenities in a Southern California coastal zone jurisdiction or other organization acceptable to the Executive Director. Required mitigation shall be in the form of in-lieu fees as specified herein or may include completion of a specific project that is roughly equivalent in cost to the amount of the in-lieu fee and makes a substantial contribution to the availability of lower cost overnight visitor accommodations in Los Angeles County.

25. The County should amend Section 22.46.1180 12(a), which specifies the contents of the revised final plans which are submitted to the Design Control Board to include all elements subject to the Design Control Board's review and all design elements listed in the Asset Management Strategy:

> *… The design control board, as a condition of its approval, may require the applicant to return with final plans for approval of signage, landscaping, color site plans,* <u>onsite open space and project features that facilitate public uses, including parking and nonautomotive transportation including tram stops</u> *and other details.*

If the County amends the LCP to assign site plan review to the regional planning commission, the amended language should provide authority to the regional planning commission to evaluate site plan designs for consistency with the LCP, including how well "onsite open space and project features that facilitate public uses" will provide public access.

26. The County should promote "green building" design and construction practices that reduce the negative environmental impacts of buildings and improves occupant health and well-being consistent with State or Nationally recognized programs, such as the Leadership in Energy and Environmental Design (LEED) system.

Recreation and Visitor Facilities

27. The County should revise the LCP to design locate public parking in areas that provide easy access to the recreation and visitor-serving facilities located throughout the Marina (see also suggested Recommendations 39 and 40). The County should revise the LCP to prohibit relocation of public parking lots to the periphery of the marina unless 1) equivalent public parking is also reserved in priority locations as part of development projects and 2) an effective internal transportation system, such as a shuttle bus system or other equivalent transportation system has been fully funded for long-term operation (25+ years) and available for use.

28. Because the LCP ordinance Section 22.46.170 requires the replacement of any public parking, public park or boating facility before it is relocated, consider a 2:1 replacement ratio for displaced parks or lower cost facilities, unless the park or lower cost facility is to be replaced on the waterfront.

29. The County should encourage individual leaseholds that are not being redeveloped to upgrade and improve, on or off-site, public access along the waterfront consistent with LCP requirements for new development in order to provide a uniform and contiguous pathway throughout the marina.

30. The County should update the LCP to include a uniform signage plan for the marina that is developed to link all recreational facilities (i.e., trails, bikepaths, parks, and viewing areas) throughout the marina. Such signage should be located along the main thoroughfares and at, or along, the recreational sites.

31. Policy A.2.e.5, that addresses mitigation for non-coastal priority or non-marine related uses through the contribution to a Coastal Improvement Fund, should be modified as follows:

    i. *2.e.5. Any new proposal for construction of facilities in the existing Marina that is a non-coastal priority or non-marine related use shall require off-setting mitigation. Mitigation shall be accomplished by contribution to a Coastal Improvement Fund. This Fund is primarily intended to finance construction of local park facilities. Uses exempt from this policy requirement include hotels, visitor-serving commercial, ~~office~~ and marine commercial uses.*

32. The Coastal Improvement Fund implementing ordinance, Section 22.46.1950 and 22.46.1970, should be similarly modified to ensure that all non-visitor-serving uses and non-marine related uses are required to contribute to the Coastal Improvement Fund, and the fee should be adjusted annually based on the consumer price index to reflect increased construction costs for local park facilities.

33. Although the LCP requires parking areas be attractively designed with a buffer of landscaping, berms or other screening materials, buffering should be designed and maintained as to not impact the public's view of the water from public streets, trails, or bike paths (Policy A.2.e.7).

34. Through the development review process and through improvements to existing facilities, the bikepath should be developed and located along the waterfront wherever feasible and when it can be designed to minimize conflicts with safe pedestrian access.

35. The LCP should be revised to maximize public views of the coastal waters in the development of recreational facilities.

Public Access

36. In order to assure maximum access the LCP requirements for provision of public access should be implemented even in minor projects that impact public access. The LUP and Section 22.46.1110 should be modified to ensure adequate consideration of access in all development projects, such as adding to 22.46.1110(B):

> *B. In Marina del Rey, all land is owned by the County of Los Angeles and all leaseholders hold leases subject to an obligation to provide for active public use, and maximum public enjoyment of the public recreational land. Private rights have been granted by contracts, which in some cases limit public use of the parcels. Existing public accessways are identified in Existing Shoreline Access Map (Map 2) of this Specific Plan (see Map 2 at the end of Part 3 of this chapter), and it is the policy of the County that all development preserve existing access to the Marina, to its bulkhead walkways and to its waters. Where development will increase the numbers of residents or guests* (including users of any commercial development) *on the parcel, this Specific Plan identifies additional bulkhead access and identifies that a public access corridor or other public accommodations in that location would benefit the public, said additional access, including vertical access, shall be guaranteed by the leaseholder of that parcel pursuant to subsection A of this section.* Where development does not increase the numbers of residents or guests on the parcel but extends the life of existing development that has unmitigated public access impacts, public access enhancements shall be required*.*

37. In order to assure maximum access, the LCP requirements for provisions of public access should assure that where public access and public safety conflicts are raised by proposed new development, alternative siting and design of the development shall be considered in order to provide shoreline access without creating a safety conflict. And, where a proposed project would restrict shoreline access, and where no feasible alternatives exist to provide shoreline access in conjunction with the project, if the project is to be approved, alternative access enhancements are required, such as

provision of signage, benches, or viewpoints. (Section 22.46.1160 Access Restrictions and 22.46.1120 Findings).

***22.46.1160 Access Restrictions**. A. Public access may be restricted in certain locations around the Marina, such as in front of the sheriffs station and near launch hoists, in the interest of pedestrian safety*, provided there are no feasible alternatives for siting, designing or managing development to provide safe pedestrian shoreline access. *Necessary restrictions and management may consist of, but are not limited to, the following:*
-- Construction of fences, guard rails or other barriers to prevent the public from entering areas where hazardous activity is occurring;
-- Limiting public access to certain hours of the day or days of the week when hazardous activities are not in operation;
-- Posting of warning signs which notify the public of potential safety hazards;
-- Relocation of the public access to ensure pedestrian safety.
B. Any restrictions deemed necessary by the authority supervising a site determined to be hazardous shall be reviewed for incorporation into the conditions of a coastal development permit for new development in these areas. In addition, in cases where public access is restricted by or in connection with development, the developer shall provide alternative public enhancements elsewhere in the development zone such as provision of alternative access, interpretive enhancements, benches, or viewpoints as mitigation for the access impacts of the development.
C. Where access standards of a different width or location are necessary to avoid demolition of existing structures, to set access ways back from existing development, or to avoid hoists and staging areas, the applicant may provide access ways of a different width or location that are sensitive to the development if such access provides continuous connection to other bulkhead access ways, as well as maximum public benefit. In no event shall access provided be less than ten feet in width. (Ord. 95-0058 § 1. 1995: Ord. 95-0042 § 1 (part), 1995: Ord. 90-0158 § 1 (part), 1990.)

***22.46.1120 Access -- Findings**.*
In order to make the appropriate findings to impose vertical or lateral access requirements, the County shall:
A. Base all findings on factual evidence obtained at the public hearing, submitted by the applicant or interested parties, or discovered during the staff's investigation;
B. Evaluate the individual and cumulative impacts of the proposed development on public access and recreation opportunities;
C. Identify the access-related problems associated with the development;
D. Cite the specific Coastal Act provisions that are impacted by the development;
E. Evaluate feasibility of alternatives and *[e]xplain and how the proposed conditions would solve the access problem created by the development and*

are related in the nature and extent to the impacts of the development on the public's right to access the Marina.

38. The LCP should be updated to incorporate new policies and standards in the Access Component designed to identify and implement the California Coastal Trail (CCT). The LCP should include revisions consistent with the following:

a. Identify and define the CCT as a continuous trail system traversing the length of the state's coastline and designed and sited to include a continuous lateral trail and connecting with contiguous trail links in adjacent jurisdictions.

b. Provide that the trail be designed and implemented to achieve the following objectives:

- Provide a continuous walking and hiking trail as close to the ocean as possible;
- Provide maximum access for a variety of non-motorized uses
- Maximize connections to existing and proposed local trail systems;
- Maximize ocean views and scenic coastal vistas; and,
- Provide an educational experience where feasible through interpretive facilities.

c. Provide that the trail be sited and designed to be located along the shoreline where physically and aesthetically feasible.

d. Provide that the trail be designed and located to: 1) avoid any significant disruption of habitat values in, or significantly degrade, environmentally sensitive habitat areas to the maximum extent feasible, and, 2) incorporate existing waterfront paths and support facilities of shoreline parks and beaches to the maximum extent feasible.

e. The LCP Access Component should be amended to incorporate any plans and designs for locating and implementing the CCT within the Marina, including mapped alignment with linkages and parking staging areas.

f. The LUP Policy 13 on Directional Signs should be revised to integrate future signage in Spanish and in English related to the California Coastal Trail, when available, with Marina visitor signage programs:

> *13. Public awareness of shoreline access ways and public areas* <u>including the California Coastal Trail,</u> *shall be promoted by the provision of appropriate signs, outdoor exhibits and brochures. All development in the existing Marina shall be required to incorporate the*

following informational features to improve the public's awareness of access opportunities and the coastal environment:

a. Outdoor maps indicating the location and type of public access ways and parks <u>including the California Coastal Trail</u>*:*
b .Identifying and directional signs;
c. As appropriate, facilities for brochures and other informational aids: and
d. Outdoor exhibits describing historical, biological and recreational aspects of the Marina, coast, wetlands and other aspects of the coastal environment, which should be coordinated and integrated with similar such exhibits which may be established in other areas of the Playa Vista project. (LUP 1996 p.1-8)

<u>Strengthen Parking Requirements</u>

39. The County should incorporate into the LCP Access Component a Comprehensive Parking Management Plan that:

- Evaluates the overall parking resources needed to support not only planned development uses but also the planned public access promenade, open space parks, viewpoints, public boating and recreation areas. Such a comprehensive plan should provide for siting and designing new parking to support future public facilities and maximize access to those facilities.
- Monitors buildout of redevelopment projects for adequacy of parking and if necessary updates existing parking standards and parking replacement requirements.
- Ensures public parking adjacent to waterfront lots for beach and boating use is protected and maximized where feasible;
- Considers shared management of parking to provide additional parking for the public;
- Expands opportunities for peripheral parking with possible shuttle system for visitors to commercial and recreational areas; and,
- Ensures that new development is phased so that adequate parking and/or shuttle system from peripheral parking is in place before new development is approved.

40. Revise filing requirements to require that new development include a parking plan showing 1) all existing parking onsite for all designated uses; 2) all parking spaces for proposed development; 3) parking alternatives for proposed development that maximizes potential demand for boater and promenade/park use parking on site; and 4) its share of the public parking needed for Marina-wide general recreation facilities (such as the Promenade and public parks). The parking plan should ensure that

development does not reserve all parking on the site for only marina residents, customers, or guests.

41. Any applicable revisions to the Specifications and Minimum Standards of Architectural Treatment and Construction (1989) that have been adopted since update of the LCP or are adopted in the future should be submitted for review as a proposed amendment to the LCP Appendix C.

42. Sections 22.46.1060 Community Design Guidelines and 22.46.1180(A)(1) Filing Requirements should be modified to provide that development applications shall include project plans that show all proposed public access improvements, including lateral and vertical access and turnout areas for future shuttle and/or transit stops where appropriate.

Biological Resources and Environmentally Sensitive Habitat Areas (ESHA)

Resource Assessment and Biological Resources Designation.

Revise the LCP to include a new Section 5-1 to incorporate policies and implementing standards to ensure assessment, identification and designation of sensitive resources and ESHA as part of project review. The policies and standards should address the following:

43. As the LUP already contains a definition of ESHA, add a definition of Wetland consistent with Section 30121 of the Coastal Act and Section 13577(b) of Title 14 of the California Code of Regulations. Any areas that meet the definition of Wetland shall be protected consistent with the policies of the LCP and Coastal Act.

44. DELETED.

45. Assess the resources on a site and determine the presence of any Environmentally Sensitive Habitat Areas based on the best available information, including current field observation, biological reports, and additional resources from the Department of Fish and Game and the U.S. Fish and Wildlife Service. At a minimum areas identified in Exhibit 13 should be assessed. Modify the LUP Filing requirements (Section 5-1 and LIP section 2246.1180) to require, as part of application requirements, that on sites that potentially contain sensitive habitat, for example, trees that support nesting and roosting herons and egrets, protected bird species or wetlands or upland resource areas, new development:

    a. shall include an inventory conducted by a qualified biologist of the plant and animal species present on the project site. If the initial inventory indicates the presence or potential for sensitive species or habitat on the project site, or potential impact on biological diversity or productivity of adjacent Environmentally Sensitive Habitat Areas, a detailed biological study shall be required through the development review process. Such assessment should

include site-specific biological assessments of whether a habitat area provides an ecologically valuable habitat for sensitive species, including bird species that nest, forage and roost in the marina area and the adjacent Ballona wetlands and the proposed development's impact on the biological productivity of any biological resource within and adjacent to the site. The biological study should also include mitigation measures for any negative impacts to the habitat.

b. Where the required initial site inventory indicates the presence or potential for wetland species or indicators, the County shall, in addition to the submittal of a detailed biological study of the site, require delineation of all wetland areas on the project site. Wetland delineations shall be based on the definitions contained in Section 13577(b) of Title 14 of the California Code of Regulations. A preponderance of hydric soils, a preponderance of hydrophytic vegetation, or evidence of wetland hydrology will be considered presumptive evidence of wetland conditions. The delineation report will include at a minimum a (1) a map at a scale of 1":200' or larger with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the location of sampling points, and (2) a description of the surface indicators used for delineating the wetland polygons. Paired sample points will be placed inside and outside of vegetation polygons and wetland polygons identified by the consultant doing the delineation.

Resource Protection

Revise the LCP to incorporate policies and implementing standards in Section 5-1 to ensure protection of ESHA from development impacts and impacts from adjacent development. The policies and standards should address the following:

46. Accessways located within or adjacent to ESHAs shall be sited to minimize impacts to ESHAs to the maximum extent feasible. Measures, including but not limited to, signage and fencing should be implemented as necessary to protect ESHAs.

47. Protection of ESHAs and public access shall take priority over other development standards. Accordingly, where there is any conflict between general development standards and ESHAs and/or public access protection, the LCP should make clear that the allowable use(s) of the area and the development regulations applicable in the area are governed by the ESHA's and public access standards.

48. Degraded coastal resources or habitat areas shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.

49. New development should be sited and designed to avoid adverse impacts to ESHAs. If there is no feasible alternative that can avoid adverse impacts through implementation of siting and design alternatives adverse impacts should be fully mitigated.

50. Development in the Marina should be sited and designed to minimize impacts to sensitive species or habitat values of areas adjacent to the Marina including Area A, and the Ballona wetlands, or areas which may be designated as State Ecological Reserves, to the maximum extent feasible. The siting and design of structures in the Marina should take into account areas planned for future habitat restoration. Development should consider measures to minimize spillover impacts on adjacent resources and habitat areas including, but not limited to, impacts to resources from sources such as night lighting, building height, run-off and noise.

51. Mitigation measures for impacts to wetlands or other ESHAs that cannot be avoided through the implementation of siting and design alternatives, including habitat restoration and/or enhancement shall be monitored for a period of no less than five years following completion. Specific mitigation objectives and performance standards shall be designed to measure the success of the restoration and/or enhancement. Mid-course corrections shall be implemented if necessary. Monitoring reports shall be provided to the County annually and at the conclusion of the five-year monitoring period that document the success or failure of the mitigation. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met. However, if after ten years, performance standards have still not been met, the applicant shall submit an amendment proposing alternative mitigation measures.

52. Update the LCP to incorporate an Environmentally Sensitive Habitat Area (ESHA) component through an LCP Amendment. The County should undertake a biological assessment of tree stands within Marina del Rey to determine which stand of trees provide important nesting and roosting habitat for birds protected by the Fish and Game Code, the Migratory Bird Treaty Act and all species of concern. Tree stands identified as nesting and roosting habitat for these bird species shall be designated as ESHA. The LCP amendment should incorporate policies and standards to ensure long term protection of the marina heron and egret rookeries consistent with the following:

    A. The assessment should consider the Marina area resources in relation to the wetlands in Area A and Ballona. It should look at availability of habitat throughout the wetlands and the Marina to support protected bird species and identify any Marina habitat that may be needed to provide habitat for protected species. It should identify any active or historic nesting and roosting areas.

    B. Measures should be developed to protect the active or historic nesting and roosting areas by appropriate means, which may include, but are not limited to, restrictions on timing of construction, restrictions on tree trimming or tree removal, setbacks, fencing, signage, and seasonal access restrictions.

C. Policies and standards for mitigation may incorporate the County Policy No. 23 "Tree Pruning in Marina Del Rey and on County Beaches in Accordance with Native Bird Breeding Cycles", dated12/5/06, if modified to ensure the long-term protection of the heron rookery and the modified Policy is adopted into the LCP through an LCP amendment. Any tree pruning policy should include at a minimum, protection for all species of concern and include specifications and standards for approval of pruning during breeding season and removal of dead palm fronds with attached nests and other activities. The County may develop and approve a programmatic coastal development permit for the tree pruning program. However, the removal of any tree determined to be ESHA shall require a separate coastal development permit and shall only be allowed if necessary to protect public health and safety and shall require 1:1 mitigation with specimen sized trees. Tree removal shall only be done during the non-nesting season.

53. The use of insecticides, herbicides, rodenticides or any toxic chemical substance within and adjacent to ESHAs should only be used as part of an integrated pest management program and to the maximum extent possible, avoid the use of these substances except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration.

54. The use of insecticides, herbicides, rodenticides or other toxic substances by County employees and contractors in construction and maintenance of County facilities should be implemented through an integrated pest management plan which minimizes the use of these substances.

55. LUP Landscaping requirements (LUP p.9-7 #12, LIP Appendices pp. C-14 #G and LIP pp.5 22.46.1060) should be modified to ensure that vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation is not permitted in any area designated as wetlands or ESHAs. Landscaping plans should preclude use of plant species listed as "noxious weed" by the State of California or listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council or as may be identified from time to time by the State of California. Habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values.

56. Development adjacent to wetlands or ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Buffer areas shall be determined based on specific site characteristics and resource values, and shall be of sufficient width to protect the biological functions of the resources they are designed to protect. While wetland buffer widths of 100 feet are preferred, if site constraints preclude such buffer width and no siting and design alternatives are feasible to allow for such a buffer, a lesser buffer width may be allowed.

57. Any area mapped as wetland or ESHA or otherwise identified as a biological resource area shall not be deprived of protection, as required by the policies and provisions of the LCP, on the basis that the habitat has been illegally removed, filled, degraded, or that species of concern have been illegally eliminated.

58. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes may be permitted in accordance with all policies of the LCP, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the uses specified in Section 30233 of the Coastal Act.

59. Where any dike or fill development is permitted in wetlands in accordance with the Coastal Act and any applicable LCP policies, mitigation measures shall include, at a minimum, creation or substantial restoration of wetlands of a similar type. Adverse impacts will be mitigated at a ratio of 3:1 for seasonal wetlands or freshwater marsh, and at a ratio of 4:1 for saltmarsh. The County shall coordinate with the California Department of Fish and Game, U.S. Army Corps of Engineers, U. S. Fish and Wildlife Service, and other resource management agencies, as applicable, in review of development applications.

60. Habitat enhancement and restoration of the Oxford basin should be identified as a goal in a future LCP amendment. Although the Oxford Basin is a flood control basin it has restoration potential as a transitional upland/wetland area for wading birds. To the extent feasible, the Oxford Basin area should be restored to provide habitat for wading birds and for passive public recreation while maintaining its function as a flood control facility. A restoration/enhancement plan should be prepared for the area and designed to improve the water quality of runoff entering the basin and should include specific measures to filter and infiltrate runoff. The plan should include an interpretive signage program and any public trails through the area should be sited and designed to minimize disturbance to nesting birds. Any dredging of the basin for routine maintenance or habitat enhancement purposes shall comply with the Water Quality Policies of the LCP, Regional Water Quality Control Board requirements, California Department of Fish and Game Regulations, and Army Corps and US Fish and Wildlife Regulations.

Designation and Protection of Environmentally Sensitive Habitat Areas (ESHA)

61. As part of a LCP comprehensive update, the County shall incorporate findings of Commission ecologist, Dr. Jonna Engel, (memorandum, entitled, "Status of non-native tree stands serving as multi-species heronries in Marina del Rey", dated December 10, 2007) of the ESHA status of the tree stands in the marina, and designate such sites as ESHA. For additional areas a site-specific biological assessment should be undertaken by a qualified biologist of the plant and animal species present on a project site to determine the presence of any additional ESHA, as defined in the LUP, based on the best available information, including current field observation, biological reports, and additional resources from the Department of Fish and Game and the U.S. Fish and Wildlife Service. Development within and adjacent to subsequently identified ESHA shall be consistent with the ESHA Resources Protection policy below.

62. Environmentally Sensitive Habitat Areas (ESHA) designated within the Marina, as determined through a site specific biological assessment of a project site, these shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

Cultural Resources

63. The LCP Policies B.7-1-6 and Ordinances 22.46.1180(5) and 22.46.1190(2) should be updated to revise noticing, consultation and measures to protect traditional tribal cultural places, features, and objects consistent with the Government Code and Office of Planning and Research Guidelines pursuant to SB 18.

64. Modify LUP Policy B.7-4 that, if any resource is discovered during any phase of development construction that involves earth moving operations including grading, excavation and site preparation, a professional archaeologist and appropriate Native American consultant(s) shall be retained to monitor any earth-moving operations in the study area. A halt-work condition shall be in place in the event of cultural resource discovery during construction.

Hazards

65. The LCP ordinances for required geotechnical analysis and conditions of approval should be updated to update names of applicable agencies and to ensure that projects for coastal development permits implement any new requirements of state or locally adopted Hazard Mitigation Plans related to tsunami and runup hazards and should require new development be constructed to resist lateral movement due to the effect of water loading from the maximum expected event, to the greatest extent feasible.

Procedures

66. The determination that a development is exempt from coastal development permit requirements under Section 22.56.2290 of the County code should be accompanied by a written project description and an indication of the reasons that the work is exempt. Such log concerning exemptions shall be kept on file and available for public inspection at the Department of Regional Planning, or if feasible, available electronically.

67. Land Use Plan Policy C.8 -10 that addresses affordable housing should be modified to include language that encourages the protection of existing and provision of new affordable housing within the coastal zone of Marina del Rey.

D. Findings

1. Background on the Marina Del Rey LCP

The Marina del Rey segment of the Los Angeles County Local Coastal Program (LCP) is surrounded by Los Angeles City communities of Venice, Del Rey and Playa Del Rey, including wetlands of Ballona Lagoon (See Exhibit 1 – Area Map). The Marina is approximately 800 acres in size.

Since 1980, the numbers of residential units and boating slips have declined in the Marina. At time of initial LCP planning in 1980, except for three vacant parcels, the Marina was completely developed and the population of Marina del Rey was estimated at 10,200 residents.[5] The Marina del Rey/Ballona proposed Land Use Plan (December 1982) and certified LUP (December 1986) both reported 6,189 boat slips, 26 restaurants, 487 hotel rooms, 5,781 apartments serving a population of 10,500.[6] A 1981 report by the Marina del Rey Lessee's Association reported similar numbers, noting the Marina contained 6,187 boat slips, 26 restaurants, 424 hotel rooms, Fisherman's Village specialty retail and restaurant development, and 5799 apartments housing 10,500 persons. [7]

From 1984 to 1990, there were reported 5,923 boat slips, 752 hotels rooms, and 5,481 residential units. As discussed in the Section 2 (Recreational Boating), the apparent decline in boating slips can be attributed to different methods of counting; earlier estimates included many informal tie-ups and nonconforming slips. As of 2001, there were 4,626 slips reported and demographic data submitted by the County shows estimates a population of 8,176 in the Marina in 2000.[8] Boat slips are now estimated at 4,178 and only one parcel (Parcel 9) remains undeveloped (for Development Parcels see Exhibit 2).

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[5] California Coastal Commission, County of Los Angeles Work Program for the Marina del Rey/Ballona Wetland Land Use Plan, Staff Report, June 10. 1980, pp.2.
[6] Los Angeles County, Proposed Local Coastal Plan, December 1982, p. I-3 and certified LUP, dated October, 1984 and certified December 1986, p. I-1.
[7] Marina del Rey Lessee's Association, Preliminary Land Use Plan: Marina del Rey, December 23, 1981, pp.1.
[8] LA County Request for Information Response No. 1, Profile of General Demographic Characteristics, 2000.

LCP Certification History

All but three major parcels in the Marina were built out before passage of Proposition 20.[9] Before certification of the LCP, the Commission approved a number of large high rise hotel projects adjacent to the Marina—Permit 49-79 (Interstate Marina), Permit 207-79 (Marina Plaza)—and the Commission reviewed impacts from development on traffic and visual resources, and preclusion of alternative land uses oriented to a wide economic spectrum of public use.

Coastal planning for the County area that included Marina del Rey was initially undertaken in the early 1980s. The County 's Land Use Plan (LUP) for Marina del Rey at that time consisted of a larger area of lands including Playa Vista and Ballona wetlands and adjacent areas. The County's Land Use Plan for the Marina del Rey/Ballona segment, addressing major issues of wetlands protection and the location and intensity of development, was effectively certified on October 11, 1984. The 1984 LUP designated lands for a "bowl" concept--low rise residential and commercial development adjacent to the water, several hotel sites, and some higher intensity residential and commercial uses away from the water. Development allowed in the LUP was also based on future road improvements.

Roughly two years later, the City of Los Angeles annexed a major portion of the County area, consisting of the Summa Corporation properties outside the coastal zone and much of the Ballona wetlands. On December 9, 1986, the Commission effectively certified a resubmitted LUP that excluded the City's Ballona (Playa Vista) area (Areas B & C), but retained an undeveloped area adjacent to the wetlands referred to as Area A. No land use changes were made and the LUP still included a requirement that no further residential or commercial development could occur until a new road, the Marina Bypass, was extended from the end of Route 90 to Washington Blvd.

A lawsuit challenged the LUP for Area A, along with Areas B and C within the City of Los Angeles. Following settlement of this legal action, on September 12, 1990, the Commission approved the segmentation of the County LUP area into two segments—the 804 acre Marina del Rey segment and the Playa Vista Area A segment consisting of the 112 acre portion of the Ballona wetlands that remained in the County's jurisdiction. The Commission also reviewed the Implementation Plan (zoning) and effectively certified the LCP for the Marina Del Rey segment -- with the exception of Area A which remains uncertified--and transferred coastal permit authority on December 13, 1990.

On February 8, 1996, through LCP Amendment No. 1-94, the Commission reaffirmed the segmentation of 141-acre Playa Vista Area A and effectively certified a comprehensively

[9] California Coastal Commission, County of Los Angeles Work Program for the Marina del Rey/Ballona Wetland Land Use Plan, staff report, June 10. 1980, pp.2

revised and updated LCP for the area of the publicly owned, and existing developed, 804-acre Marina.

The revised LCP was intended to encourage the recycling of the older development in the Marina with newer development at higher intensities. The LCP as revised through the certification of the 1994 amendment allows redevelopment at a higher intensity with a significant increase in height and density. These increased heights were certified in exchange for the establishment of 20% "view corridors" across all parcels that are located adjacent to the water. As an incentive to widen view corridors, the LCP allows greater heights to developers who proposed wider view corridors. The revised LCP also adopted an alternative traffic mitigation system that did not require the development of the Marina Bypass. The alternative traffic mitigation established internal development limits (based on evening peak-hour trip caps) allocated to the entire Marina, and then to each of the mole roads (Development Zones). It established a total cap of 2,812 evening peak-hour trips for the Marina and required contributions by developers to mitigate the impacts of their development to traffic improvements inside the Marina and to the subregional transportation system outside the Marina proper. The total number of units authorized under the base zoning of the LCP exceeded the number of units that the traffic system could accommodate or that the traffic limits would allow, even with mitigation. The LCP explicitly included this first-come, first-served strategy to encourage re-development of the Marina. Therefore, the revised LCP does not guarantee that zoning of a certain density, on any given parcel, would allow development at that density. In certifying the revised LCP, the Commission approved greater heights as long as view corridors were provided, and required wide, publicly accessible walkways along the bulkhead of the entire Marina.

After the LCP was updated in 1996, the County subsequently developed an Asset Management Strategy (AMS) for the Marina which established priorities for lease extensions and redevelopment. The AMS, while in many ways consistent with the LCP, was developed to encourage re-investment and guide lease renewals and was not certified as part of the LCP. However, the AMS advocates several major projects that would require LCP amendments.

Since the update of the LCP in 1996, only two LCP amendments have been submitted. LCP Amendment No. 1-95 was subsequently withdrawn. LCP Amendment 1-01 was certified on January 7, 2002. This LCP Amendment changed the land use designation for Parcel 20 from Marina Commercial to Residential IV “Medium High Density Residential.”

Because the County comprehensively revised the certified LCP in 1996, this Periodic Review focuses mainly on County LCP implementation since that time.

Post certification local permits and appeals

From initial transfer of permit authority in 1990, the County has issued 14 local permits, half of which have been since the 1996 LCP update (Exhibit 3 Local Coastal Permits Approved). It is not known how many exemptions or waivers from permit requirements have been issued.

The Commission has issued about 38 permits in the Commission's jurisdiction in the Marina. Over half of these (53%) have been for projects to replace or reconfigure docks or other boating structures. About 15% of the Commission permits were issued to LA County for public works projects related to public access, water quality treatment structures or other restoration efforts.

A total of 5 appeals have been filed. The Commission found Substantial Issue on three of them. Public access and transportation, phasing of development with traffic improvements, density of residential development, height, view corridors, parking, boating support facilities and shoreline access were among the issues raised as Substantial Issue.

Highlights in County LCP Implementation

The Periodic Review shows that the County of Los Angeles Department of Regional Planning and the Department of Beaches and Harbors has taken significant steps to achieve Coastal Act objectives and to respond to changing conditions through the implementation of the LCP and other regional resource management efforts. While all of the County planning and regional coordination efforts in coastal management cannot be listed, some of the major accomplishments since certification of the LCP include:

- Expansion of Public Shoreline Access, including implementation of components of a waterfront promenade, requirements for additional park lands in redevelopment, and implementation of a water shuttle and summer shuttle bus system that links the Playa Vista development to and through Marina del Rey and portions of Venice. The summer shuttle operates Friday through Sunday and serves the entire Marina area with a number of convenient shuttle stops.

- Implementation of a Public Access Signage Program.

- The W.A.T.E.R. Youth Program, that brings youths, including disadvantaged youths, to the Marina and surrounding beaches for sailing and other water oriented activities.

- Implementation of a Water Taxi Service and Participation in a Summer Beach Shuttle Serving the Marina.

- Improvement of Recreational Facilities**,** including improvements to three deteriorating fishing and view platforms along the north jetty were completed, requirements for Americans with Disability Act (ADA) compliant restroom and other facilities.

- Implementation of Water Quality Improvements, including participation in regional efforts to address water quality, developing a project to increase water circulation in Basin D, treatment devices within the public launch facility, requirements for additional boating pumpout facilities in redevelopment of marinas and participation in the Clean Boating Network.

- Participation in the regional update of the County Hazard Response Plan.

Jurisdiction in the Marina

At the public workshop in February, 2005, and in written comments, some members of the public raised jurisdictional questions. These included: 1) whether the Marina was federally owned and whether it was excluded from the coastal zone, based on initial mapping of the coastal zone, and 2) whether the state had authority over the Marina del Rey as public trust lands. These issues have been raised and responded to by both the County and the Commission through various prior written responses or responses to Public Records Act requests for information.

The Commission staff has consistently noted that Marina del Rey is not owned by the federal government and is not excluded from the coastal zone. [10] Staff review of early Commission LCP planning materials shows that the Commission has been consistent in noting that the County owns and operates the Marina del Rey and that it is within the coastal zone. The County described its ownership in a legal memo to the Small Crafts Harbor Commission:

> *Title information and other records maintained by the County Department of Public Works, demonstrate that the County of Los Angeles owns the fee title to the land and water areas of Marina del Rey, except for a small portion of the main channel that is seaward of the of [sic] Ocean Front Walk (Ocean Front Walk is essentially parallel to the shore line at the seaward edge of the development on both sides of the entrance channel to the Marina). That particular water portion of the Marina is owned by the state, operated by the City of Los Angeles and was franchised to the County in 1957 to allow for the excavation of the Marina main channel."* [11]

And,

[10] Letter from Alex Helperin, Staff Counsel to John Davis, June 2, 2003, p. 2. . In addition, even if the Marina del Rey were to be federally owned, federal lands are not, by virtue of their federal status, excluded from the "coastal zone" area defined by the California Coastal Act. See, e.g., Cal. Pub. Res. Code §§ 30008, 30103, 30150.

[11] Memo from Richard D. Weiss, Principal Deputy County Counsel, Los Angeles County to Small Craft Harbors Commission, July 14, 2003 p. 2

> *The United States of America owns two permanent easements affecting the Marina and has also operated a coast guard facility in the Marina since approximately 1962 under a lease from the County. The two easements cover existing water areas of the Marina main channel and entrance and specifically indicate that their purpose is to allow for the federal government's construction and maintenance of the entrance channel and main channel facilities of the Marina to create and preserve their navigability.* [12]

In addition, Marina del Rey does not contain public trust tidelands subject to State public trust doctrine. This was determined through litigation. The U.S. Supreme Court case, Summa Corp. v. Calif. ex.rel. Lands Comm'n, 466 U.S. 198 (1984), determined that California waived its right to argue that it acquired right to lands of Rancho Ballona (a Mexican Land Grant Area which includes the Marina del Rey) as an incident to its sovereignty in 1850 (so that it would be subject to the public trust easement) by failing to raise such claims in the 1860s in federal patent proceedings pursuant to the Federal Act passed by Congress on March 3,1851 (§ 8, ch. 41, 9 Stat. 632).

While the Commission did not undertake its own title research due to limited resources and competing priorities, staff believes these jurisdictional questions have been addressed.

Public Participation

The Commission staff held an Issue Scoping workshop for the Periodic Review on January 19, 2005 at which 50 to 60 persons participated. Following the workshop, over 50 written comments were received to provide input to the review. The Coastal Commission held a public hearing on March 16, 2005 to select priority issues for the Review, during which additional public and Commission input was provided. A website and email address offered additional means for public outreach. Following a public hearing on June 7, 2005 on the Preliminary Staff Recommendation and Report (dated May 25, 2005), the Commission opened and continued the hearing to allow additional time for submittal of comments. Initially, the revised report was to return to the Commission for action in the fall, 2005. However, due to unforeseen staffing circumstances, work on the project was delayed. Commission staff requested public comments to be submitted by the end of 2005 and work on revisions resumed in early 2006. Commission staff continued to meet with County staff and representatives of public groups, and accepted submitted materials, up to the current hearing.

[12] Memo from Weiss (2003) p. 3

2. Recreational Boating

A. Overview

Marina del Rey is located between the coastal communities of Venice and Playa Del Rey in the County of Los Angeles. The Marina is owned by the County and operated by the County's Department of Beaches and Harbors. The landside areas of the Marina are developed with a variety of commercial, residential and recreational uses.

The Marina was planned and developed as a recreational small craft harbor. Construction on the Marina began in 1957 and was officially opened in 1965. Encompassing about 375 acres of land and 405 acres of water, the Marina is considered the largest man-made small craft harbor in the world. The Marina provides approximately 4,626 boat slips, within approximately 25 separate public and private anchorages, approximately 437 dry storage spaces, transient docks (33 slips), and a ten lane public launching ramp (see Exhibit 4 Boating Facilities).

Other boating support facilities include one open and one closed boating fueling docks, three public pumpout stations, boat repair yards, charter and rental boats, harbor tours, and sailing instruction schools. The fuel docks are located on the east side of the main channel at the entrance of Basin H and near the Marina's public launch ramp facilities and on the west side of the main channel, near the entrance to the Marina. The three public pumpout stations are located at the public launch facilities, the transient docks, located along the main channel, and at the fueling station near the Marina entrance. In addition to the three public pumpout stations, a number of the individual marinas provide private pumpout stations for their boat tenants.

According to the LCP, a primary purpose of the Marina is the provision of recreational boating opportunities to satisfy local needs. The LCP states that, in 1980, there were 102,000 registered boats within Los Angeles County and it was estimated that there was a shortage of 10,000 wet slips beyond the 14,508 provided throughout the Los Angeles County area. Current estimates indicate that boat ownership in California will grow at a rate between 1.4% to 2.5% per year between 2000 and 2020. [13]

In the 1996 certified LCP, the County contemplated expansion of the wet slips through placement of new slips in the existing harbor, from expansion of harbor waters into undeveloped areas and by reconfiguration of existing dock areas. The LCP included plans for developing new slips along the main channel. This expansion plan is referred to as the "funnel" concept. This concept was designed with the assumption that as the main channel extends northward into the Marina there will be less boat traffic, providing additional main channel space for developing wet slips. This concept was anticipated to provide an additional 20 acres for new slips.

[13] California Department of Boating and Waterways, *California Boating Facilities Needs Assessment*, October 15, 2002.

B. Policy Framework

Coastal Act

The recreational policies of the Coastal Act encourage the increase in and protection of recreational and commercial boating facilities. The main provisions of Chapter 3 of the Coastal Act that provide statewide policies for encouraging the increase in and protection of recreational and commercial boating facilities include Sections 30210, 30213, 30224, 30234, and 30255.

Section 30210 of the Coastal Act states:

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30213 of the Coastal Act states:

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

Section 30224 of the Coastal Act states:

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

Section 30255 of the Coastal Act states:

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

LCP

The LCP states that the primary purpose of the Marina is to provide recreational boating opportunities for citizens of Los Angeles County. To protect and increase recreational boating in the Marina, the LCP contains the following policies:

Recreational Boating a Top Priority

Policies and Actions e.1. Recreational boating shall be emphasized as a priority use throughout the planning and operation of the Marina. To help achieve this goal, the Plan shall strive to ensure that adequate support facilities and services are provided including, but not limited to, the following: boat slips, fueling stations, boat repair yards, boat dry storage yards, launch ramps, boat charters, day-use rentals, equipment rentals and on-going maintenance of the Marina harbor and entrance channel, bulkhead repair, pollution control, safety and rescue operations, and sufficient parking for boaters. Emphasis shall be given to providing water access for the small boat owner through provision of public ramp facilities.

Funnel Expansion Areas

Policies and Actions e.2. Additional public boating facilities in the Marina may be provided in accordance with the Funnel Concept Boat Slip Expansion Plan, as depicted on Map 6. Lease holders may construct additional slips according to the "funnel concept" and realign existing slips where possible provided that land side facilities fulfill lease and specific plan requirements, including provision of adequate parking to meet applicable Zoning Ordinance requirements. The specific design and location of new boat slips shall be subject to navigational safety review by the Harbor Master.

Boating-Related Support Facilities

Policies and Actions e.3. At a minimum, the existing level of boating-related support facilities and services shall be maintained for the boating public. These facilities shall include, but are not limited to, the fuel docks on parcels 1 and 55, boat repair yards on parcels 53 and 54, the mast up storage and hoist on parcel 77, the County launch ramp and support parking on parcel 49, and small launch ramps and rental facilities on other parcels. With the exception of the facilities located on parcels 1, 54, 55, and 56, which shall not be displaced, boating facilities may be relocated in conjunction with development so long as the same or larger boating facility is replaced within the Marina. Any project which relocates an existing coastal dependent boating use, including but not limited to boat launching, boat storage, boater parking and access, shall be phased so that said use is replaced within the Marina before the development which displaces it may commence.

Policies and Actions e.4. Additional boat storage facilities may be developed within Marina del Rey. Deck storage for sailboats may be constructed on a portion of parcel 49 and dry stack storage may be constructed on parcel 53 or on other parcels with a marine commercial or visitor serving commercial designation, as long as public parking and views are preserved.

Policies and Actions e.5. Commercial Fishing Not a Priority. Recreational boating shall be emphasized over commercial boating activities, because of the strong public demand for recreational boating facilities. The original plans for Marina del Rey did not include support facilities for commercial fishing, and none have been developed or planned since then.

C. LCP Implementation Issues

The LCP as updated and certified in 1996 contains policies addressing boating. The policies provide for the protection and provision of support facilities and services, and for increasing the number of boat slips through expansion into other areas by implementing the "Funnel" concept. Since certification of the LCP, there has been a net decrease in the number of slips through Marina redevelopment projects. The County has also determined that the "Funnel" concept, which was proposed as a potential expansion for boat docks along the main channel, is not a viable boat slip expansion plan. If additional slips were added to the main channel it would reduce the width of the channel and adversely impact recreational boating use within the channel. And, as Marina del Rey is virtually built out, there are no additional areas in which to expand boat docks within the existing Marina.

The 1984 certified LCP states that the Marina provided 6,189 boat slips. The 1996 LCPA, states the Marina provided 5,923 boat slips, a difference of 266 slips. According to the County, the discrepancy in reported number of slips is a result of the method for counting slips. The County indicated that two different survey methods were used and each one incorporated into the counts different sets of illegal slips (slips not approved and not built to County code). One survey counted all illegal slips (end ties and boats docked along the bulkhead) and the other included either end ties or just bulkhead slips. The most recent count in 2000, which was conducted for the Marina study, Marina Del Rey—Boat Slip Sizing and Pricing Study, April 20, 2001, prepared for the Los Angeles County Department of Beaches and Harbors by Williams-Kuebelbeck & Associates, Inc., excluded all end ties and bulkhead slips since the County was requiring code compliance for all slips in all marinas. Therefore, based on the most recent survey that excludes all illegal slips, the total number of slips throughout the Marina reported in 2001 was reported as 4,626 slips.

Between certification of the 1984 LCP and 1996, there were very few Marina boat dock redevelopment projects proposed and approved, and only minor slip reductions. Since 1996, the Commission has approved three separate Marina boat dock renovation projects that involved replacement and reconfiguration of the existing dock systems within three

separate marinas (CDP No. 5-96-108, 5-01-019, and 5-01-143). [14] These three projects reduced the overall number of boat slips from 4,626 slips to approximately 4,178, a total reduction of 448 slips. However, this overall reduction had a greater impact on the overall reservoir of smaller slips, because through reconfiguration and redistribution of the slip sizes, smaller slips were replaced with larger slips. As a result, there has been an overall loss of approximately 520 slips in the 26 foot and smaller range.

The continued loss of slips, combined with a lack of potential expansion area within the Marina, could have an adverse impact on boating opportunities within the Marina by reducing the number of slips available to the public. According to forecasts from a 2002 study prepared by the California Department of Boating and Waterways (DBW), between 2000 and 2020, the overall number of boats [15] in all of California will increase on average by 13,337 to 23,092 boats per year, a growth rate of between 1.4% to 2.5% per year [16] . Most or all of the growth is expected to be in the category of boats under 26 feet long, which includes small personal watercraft, with modest overall growth in the size categories 16 feet to 19 feet and over 26 feet. The DBW projections also noted that statewide:

> *…most or all of the growth will be in the number of boats under 26 feet long. The most popular category will be conventionally powered boats under 16 feet, which will increase by about 4,500 to 8,000 boats a year. PWCs [Personal Water Craft] and boats 20 feet to 25 feet long will each increase by about 4,500 to 6,000 a year. Very modest overall growth is expected in the size categories 16 feet to 19 feet and over 26 feet."*[17]

Based on the DBW statewide forecast, since boats less than 26 feet are expected to experience the highest growth in ownership, it would seem that the public demand for boat slips would then be for boat slips that are 26 feet and under. However, although the largest growth in boat ownership is expected to be in the smaller boat category (less than 26 feet), the greatest demand for boat slips is for slips larger than 26 feet, and the rate of increase in demand is also highest for larger slips. According to statewide and regional studies, the demand for the smaller slips has been declining regionally and locally. According to the Williams-Kuebelbeck & Associates, Inc. study previously cited, boat slip vacancies are generally higher for boat slips under 36 feet than for boats slips 36 feet and

[14] The Commission retains permit over submerged lands (original jurisdiction), which is all areas seaward of the mean high tide line. In Marina del Rey, the Commission's original jurisdiction is generally demarcated by the Marina's bulkhead. Therefore, all development seaward of the bulkhead is within the Commission's original jurisdiction and permit authority is retained by the Commission. In addition, its authority as a local government and therefore as administrator of other land use laws to issue permits other than Coastal Development Permits, the County also has jurisdiction as landowner.

[15] Boats registered with the State Department of Motor Vehicles

[16] California Department of Boating and Waterways, *California Boating Facilities Needs Assessment*, October 15, 2002. Projections in the *California Boating Facilities Needs Assessment* study were based on regional per capita boat ownership along with California Department of Finance county population forecasts

[17] California Department of Boating and Waterways, *California Boating Facilities Needs Assessment*, October 15, 2002.Volume V p.3-6.

longer. [18] Of the approximate total of 4,626 boat slips provided within Marina del Rey at the time of the study, 28% (1,291) of the total slips were 25 feet or under. The study indicates that the overall average slip vacancy for all slips is approximately 9%. The Marina wide survey showed that in 2000 the vacancy rate for boat slips less than 36 feet was approximately 10%, and slips between 18-25 feet had a vacancy of approximately 12%, while the vacancy rate for boats 36 to 50 feet was 2%. This is also consistent with the statewide trend according to the California Department of Boating and Waterways California Boating Facilities Needs Assessment report.

The DBW report also examined the South Coast Region which includes Marina del Rey. The South Coast Region estimates show the following distribution in 2000:[19]

Distribution by Type, 2000 (DBW)

Type	Percentage
<16 Jet	21.1%
<16 Other	30.9%
16-19'	24%
20-25'	15%
26-39'	7%
40+'	2%

The DBW forecasts for the South Coast Region for 2000 to 2020 estimate growth in all lengths of boats except for in the 16 -19 foot length and 26-39 foot length types. These types are forecast to decline by 2020. DBW estimates that by 2020 growth in boats 40'+ in length in the South Coast region will increase by 20%-45%. DBW also noted that South Coast boaters do much of their boating in the adjacent Southern Interior Region.[20]

This regional and statewide trend, indicating an increase in registered small boats but higher vacancy rates for small boat slips, is due to the fact that California's boats under 26 feet are most commonly stored on trailers on their owner's property, whereas most boats 26 feet or longer are kept in the water at marinas. In addition, a significant portion of the increase in smaller boats can be attributed to the increased sales of personal watercraft. Typically, personal watercraft are trailered to the water and are not stored in wet boat slips. According to the Dept. of Boating and Waterways' boating study, statewide only 8 percent of boats under 26 feet are stored in water, and 76.5 percent are stored on trailers. For boats over 26 feet, 84.2 percent are stored in the water and 14.5 percent are stored on trailers.

[18] Vacancy rates for Marina del Rey were based on rental information from the individual marinas
[19] California Department of Boating and Waterways, *California Boating Facilities Needs Assessment*, October 15, 2002.Volume V Table 5 Page 3-28.

[20] California Department of Boating and Waterways, *California Boating Facilities Needs Assessment*, October 15, 2002.Volume V Pages 3-13.

Regionally, since the early 1990's, marinas have been reconfiguring their slip sizes and slip distribution to favor larger boats—boats 36 feet and larger—because of the decrease in demand for small boat slips and the increase in demand for larger slips. The redesign of existing marinas also results in the loss of slips due to current design standards. Requirements from the Layout and Design Guidelines of the Department of Boating and Waterways require larger boat slips compared to previous years. Incorporation of the current design requirements will result in fewer slips being redeveloped in any given water space. Because today's boats, especially power boats, are getting wider, boat slips are being designed to accommodate the larger and wider power boats to allow marinas the flexibility to accommodate the wider power boats and the older smaller boat in one slip design. Redistribution of slip sizes within existing older marinas will require more water space within marina basins for floating walkways, fingers, increased berth sizes, and greater fairway widths (area between interior channels and berths) to accommodate the larger boats. Slip numbers are also being reduced due to the Americans with Disability Act (ADA) requirements, which require projects for redesigned and new docks to provide access for the disabled through wider docks, fingers, and gangways to meet current ADA standards. These changes result in the loss of slips to accommodate the wider and longer facilities.

Although the trend for new and redeveloped marinas is for larger boats, and small boat slips show the highest vacancy rates, the data indicates that in Marina del Rey, there continues to be a demand for slips that are 25 feet or less. As of 2001, there were approximately 1,291 slips that are 25 feet in length and less, located throughout Marina del Rey. This amount represents 28% of the 4,626 total slips. Although slips less than 36 feet in length represent the largest vacancy, the demand for boat slips 25 feet or less in length is at approximately 25% (1,136 slips) [21] of the total slips provided in the Marina. Based on this information, there continues to be a demand for boat slips 25 feet or less. Therefore, it is important that the Marina continue to provide a mix of slips, including small boat slips, to meet the boating demand for all boat lengths.

Furthermore, boats 26 feet and under are considered by many as "small" boats and considered lower cost recreation. While it is debatable whether recreational boating is in fact even a lower cost recreational activity, in general, smaller boats are less expensive, and therefore more available to a larger segment of the population than are larger boats. In past coastal development permit actions, the Commission has heard testimony contending that a reduction in the availability of slips that accommodate smaller boats reduces the option for those who want to own boats and use the smaller slips.

As stated, smaller boats are pulled by trailer and stored more often than larger boats. The Marina currently offers approximately 437 dry boat storage spaces in three locations adjacent to or near the public launch ramp to support storage needs. The Marina also provides a dry storage area for small watercraft, such as kayaks and canoes, adjacent to

[21] Based on information from Marina Del Rey—Boat Slip Sizing and Pricing Study, April 20, 2001, prepared by Williams-Kuebelbeck & Associates, Inc.

Marina Beach. The current storage facility for kayaks and canoes is small, but generally does not reach capacity; however, according to the County, there is a high demand for use of the facility during peak periods (summer weekends). The Commission recently approved a coastal development permit (5-04-200) that included improvements to the small watercraft launch ramp that is located adjacent to the storage area. The improvements would expand the dock and lower a portion of the dock to help facilitate launching. This project will help increase lower cost recreational boating in the Marina consistent with the LCP.

To further support lower cost boating recreation in the Marina, the LCP states that adequate support facilities and services should be provided, including boat charters, day-use rentals and equipment rentals. These lower cost uses are being provided in areas such as the visitor-serving commercial area at Fisherman's Village and adjacent to Marina Beach. The County also offers kayak lessons at Marina Beach.

D. Conformance with Coastal Act

The Coastal Act states that lower cost visitor and recreational facilities shall be protected, and increased recreational boating use of coastal waters shall be encouraged. The Act identifies a number of ways to achieve this, such as, developing dry storage areas, increasing public launching facilities, and providing additional berthing space in existing harbors. Although the provision and protection of small slips is one way to provide lower cost recreational boating facilities, there are other facilities that could be provided to ensure that low cost boating opportunities are protected.

The LCP emphasizes recreational boating as a priority use. To achieve this, the plan includes policies that strive to ensure adequate support facilities and services are provided. According to the LCP, support facilities and services include boat slips, fueling stations, boat repair yards, boat dry storage yards, launch ramps, boat charters, day-use facilities, and parking.

Since the LCP was updated in 1996, the County has re-evaluated the potential to expand boat slips through the Funnel Concept. The County determined that many boaters make use of the main channel as the primary boating area. As a result, the County determined that expanding new boat docks into the main channel would impact existing boater recreation. In addition, the Marina lacks new undeveloped areas in which to expand new Marina construction.

Because the Marina boating facilities are within the Commission's continuing jurisdiction, the protection and enhancement of recreational boating is an area that exemplifies the coastal management partnership. The LCP plays an important part in protecting and enhancing boating opportunities by protecting or expanding upland support areas and facilities, and by providing alternative ways for the public to access the water for boating. In addition, in negotiating leases for Marina redevelopment, the County is responsible for

ensuring that the leases are consistent with the LCP and carry out any provisions in the LCP that are implemented through the leasing process.

Maximizing Use of Existing Slips

With regards to boat slip mix, since certification of the 1996 LCP, the Commission has approved three projects that affected recreational boating and the number of available boat slips (CDP No. 5-96-108, 5-01-019, and 5-01-143). At this time, only one is currently under construction. When all three are finally constructed, there will be a reduction in the total number of slips provided in the Marina; however, based on current demand, there will continue to be an adequate supply of wet slips to meet the demand for slips within all boat slip size ranges. These projects will provide new updated docks providing attractive, safer, and handicap accessible facilities, which should increase boating use and help meet boater needs. However, to continue to protect the public demand for boating and lower cost recreational facilities, consistent with the Coastal Act, the County should ensure that the LCP policies and objectives protect an adequate mix of slip sizes to continue to meet the demand for all boat size categories of boat owners. Furthermore, the marina should be protected from any further reduction in total slips to maximize boating recreational opportunities; and in order to protect the small boater's continued use and access to wet slips throughout the marina, slips 35 feet and under should be protected from further slip reduction.

To guide potential Marina redevelopment projects that include both a landside and water component, the County should include in the LCP requirements that as projects are proposed, updated comprehensive reports are provided to supplement the previous Marina study to assess current boater facility needs within the Marina, as suggested in Recommendations 1 and 2.

The County staff has submitted two comprehensive studies of Southern California boater trends. The latest of these is by Williams- Kuebelbeck, dated May 18, 2004. The County has indicated that using this information, they will examine future dock redevelopment projects to ensure appropriate slip sizes and distribution.

Boating trends vary over the years due to economic and market changes. Studies indicate that boat ownership has shown a consistent growth in total boat registrations over the last 20 years, but growth in the various type or size of boat categories fluctuates. Therefore, a comprehensive study on boater trends that is not current could provide inadequate information as to the current boater trends with regards to slip demand, slip size and distribution. To adequately analyze dock redevelopment projects and ensure that current trends and boating demands are adequately reflected, marina redevelopment projects should provide updated data less than 5 years old. The recommended policy should require that updated information is provided for each dock redevelopment project.

This will also help assure that the Commission review of permits will reflect more up to date information in review of the water components of projects.

Alternatives to Slip Expansion

To ensure that the County will continue to promote an increase in recreational boating consistent with the Coastal Act, the County needs to update the LCP by eliminating the outdated expansion plan (Policy and Action e.2) and replace it with other alternatives to expand recreational boating, such as, protecting the mix of boat slips to reflect boater demand and ensure no net loss of total wet slips and slips 35 feet and under, encouraging public boating clubs and membership programs, providing additional boat storage facilities, increasing transient or day use docks, expanding launch facilities for personal watercraft such as kayaks and other landslide development to facilitate boat access. As suggested in Recommendation 3, the County should update the LCP to reflect the changes in potential expansion of in-water slips and strengthen provisions of the Plan to ensure expanded shoreside development that offers alternative boating access.

The County staff has indicated that recommendations that wet slips be added to Marina del Rey cannot be supported when (1) the trend is towards a reduction in slips with more dry storage, (2) current regulations require both wider water fairways for boat movement in/out of anchorages and wider gangways and fingers for disabled access, which reduces the number of slips able to be accommodated in the existing anchorage areas, (3) the trend for wet slip usage is toward larger boats, which require wider and longer slips, similarly reducing the number of slips able to be accommodated in the existing water area, and (4) removal of the funnel concept eliminates additional water area for expansion of wet slips. There may be small areas where side/end ties can be added in connection with projects, but there will be no net increase in new wet slips, nor is this necessary.

Commission staff concurs that current boating design standards and regulations have an impact on the number of slips that can be provided within a given area, and that the current trend, which is market driven, is for larger slips. With the increased demand for larger slips, the net change is a reduction in the number of overall slips in the Marina. Although it may not be possible to increase the net number of overall slips within the Marina, the County should explore alternatives to create new areas for slip development to ensure that there is no further loss of slips and protect lower cost boating facilities. Although the current demand is for larger slips, and the highest vacancy rates are currently in the smaller boat slips, boating forecasts indicate that the largest growth in boat ownership will be in the smaller boat category (26 feet and under and excluding personal water craft.). And, although the smaller boats and personal watercraft are trailered more than larger boats and stored in dry boat storage areas or on the boater's own property, with the increase in smaller boats the demand for wet slips for smaller boats will also proportionately increase.

This trend for larger boats and marinas' desire to accommodate larger boats also contributes to a reduction in the overall number of slips as evident in the three marina projects ([5-96-108; 5-01-019 and 5-01-143) that recently underwent major renovations. This trend and loss of overall slips will inevitably have an adverse impact on the small boater and lower cost boating activity through converting existing small size slips to larger

slips which will force the small boat owner to find alternatives to wet slips or relocate to other harbors outside of Marina del Rey. To ensure there is no significant adverse impact to recreational boating in Marina del Rey, and the smaller slips are retained, the Commission recommended the protection of the existing total number boat slips and slips 35 feet and under.

As one alternative to increasing wet slips, and to further increase recreational boating in the Marina, the County should also encourage boating membership programs, or other programs such as an in-lieu fee program to fund boating programs, that provide lower cost boating opportunities for youths, including disadvantaged youths, and new lower cost boating facilities, such as kayak/ small sail boat storage, rental and launch facilities for all members of the general public. A policy to promote these programs and encourage individual marinas to provide these membership opportunities will provide lower cost boating opportunities and expand recreational boating to those that may not otherwise be able to afford the high cost of boat ownership.

The County has indicated that they conduct a number of programs to encourage and increase boating recreation in the marina. The County provides kayaking and sailing programs to the general public. The County will also begin construction on a new aquatic center at Dockweiler State Beach, which will be the headquarters of the County's Water Awareness, Training, Education, and Recreation (W.A.T.E.R.) Program. The program currently operates out of the marina. The W.A.T.E.R. program is a year-round youth recreation program for boys and girls ages 5-17. The program educates young people about ocean and beach safety by conducting organized recreational activities, such as kayaking, surfing and sailing. The program also provides free transportation for non-beach locations, and financial aid for qualified applicants. Although the W.A.T.E.R. program is for children only, this program and other boating related programs currently offered by the County will enhance recreational boating consistent with the Coastal Act. The in-lieu fee program suggested above could provide a funding mechanism to continue the boat programs offered under this program.

Another alternative to wet slip boat storage and boating programs that could increase recreational boating opportunities is expansion of dry storage areas within the Marina. The Marina currently offers approximately 437 dry boat storage spaces in three locations adjacent to or near the public launch ramp. The Marina also provides a dry storage area for small watercraft, such as kayaks and canoes, adjacent to Marina Beach. At this time, the dry stack storage provided within the Marina may be adequate to support the current demand; however, if small boat ownership continues to grow and these boats continue to be trailered as the studies indicate, additional dry storage within the Marina may be necessary to support the potential future increase in dry storage demand. Addressing this issue, the 1996 LCP states that additional boat storage facilities may be developed. Although additional dry storage has not been developed since the certification of the 1996 LCP, the County is currently investigating the possibility of a multi-story dry stack storage facility that will increase the number of dry boat spaces within the Marina. If found

consistent with the Coastal Act, such a facility would increase storage capacity and boater recreation in the Marina.

Furthermore, a number of factors may contribute to future congestion of the existing public launch ramp. The trend in the increase in small boat ownership is likely to continue and more small boats are being stored offsite and trailered to the Marina. The County has also determined that it will be difficult to expand water areas committed to slips and new launch ramps, and is exploring future expansion of dry stack storage to increase the Marina's boat storage capacity. As a result of these cumulative factors, congestion at the one existing public launch ramp may become an issue in the future, even if adequate capacity exists for current boaters. The County staff has submitted information on the use of the existing public launch ramp that shows that even on summer weekends the use has not reached capacity. On three holiday weekends in 2005 (Memorial Day, 4th of July and Labor Day) usage of the ramp did not exceed 72%. However, congestion at the launch ramp was listed as a problem for Marina del Rey in the DBW Needs Assessment. [22] While such a perception of problems may not be reflected in the current use data, it nevertheless may indicate that ramp capacity that is adequate now may be a factor in maximizing boater access to the harbor waters in the future if wet slips decline and overall numbers of boats increase as forecasted. Therefore, the County should anticipate this cumulative effect and continue to monitor ramp use, estimate projected increases in demand and develop measures to increase capacity where needed as suggested in recommendation 3.

In addition to considering expanding the dry stack storage for the larger boats, the County should also consider expanding the small watercraft (kayaks, canoes, and dinghies) storage located at Marina Beach. The current facility is small, but there is a high demand for use of the facility during peak periods (summer weekends). The Commission recently approved a coastal development permit (5-04-200) that included improvements to the small watercraft launch ramp that is located adjacent to the storage area. The improvements would expand the dock and lower a portion of the dock to help facilitate launching. This project will help increase lower cost recreational boating in the Marina consistent with the LCP. However, to further increase this lower cost recreational boating use in the Marina, the County should provide new, or expand existing, dry storage facilities for these smaller watercraft to meet the demand during peak periods.

The Marina also provides 33 transient slips to further promote recreational boating. These slips are for temporary use by boaters and allow day use and stays of up to seven days within a 30-day period. The transient slips are located along the main channel and Basin H, adjacent to Burton W. Chase Park (Parcel EE). According to monthly occupancy data provided by the County's Department of Beaches and Harbors, occupancy of the transient slips averages approximately 55% (18 slips) for the year, with occupancy during the summer period (June to September) increasing to approximately 73% (24 slips). Based on

[22] California Department of Boating and Waterways, *California Boating Facilities Needs Assessment*, October 15, 2002.Volume VVII page 1-43. Problems described as: "A list of problems within specific waterways, as identified by boaters, law enforcement, Department of Boating and Waterways (BDW) accident reports, and workshop attendees."

the available data, the Marina provides adequate transient slips in support of recreational boating. However, the transient slips are located in one central location. Although they are located adjacent to Burton W. Chase Park, a popular recreational facility, locating all transient docks in one location does not promote or facilitate use by boaters of the other recreational and visitor-serving amenities offered in the Marina, such as Marina Beach located in the northwest portion of the Marina, the restaurants and hotels also located in that area, and the visitor-serving area of Fisherman's Village. To improve access by boaters to these other areas, the Marina should provide guest or short-term day use slips in areas that would encourage boater use of the recreational and visitor-serving amenities offered in the Marina, as well as adjacent surrounding areas, such as Venice Beach. Furthermore, by providing additional temporary use slips, this will help support the expected increase in smaller boats that are trailered and launched. Therefore, because the LCP provides direction to Marina redevelopment projects with both landside and water components, the LCP should include a policy and designate areas where redevelopment should incorporate expanded guest boat access to increase short term/day use docks throughout the Marina, as suggested in Recommendation 4. By incorporating policies into the LCP to implement these suggested measures, the County can improve LCP implementation to increase recreational boating in the Marina consistent with Sections 30210, 30213, 30224, and 30255 of the Coastal Act.

3. Marine Resources and Water Quality

A. Overview

Since certification of the LUP in 1986, nonpoint source pollution and storm sewer discharges have emerged as a key concern in protecting water quality, and much attention has focused on protecting water quality in Santa Monica Bay. The Bay was included in the National Estuary program in 1989. In 1990, Congress enacted the Coastal Zone Act Reauthorization Amendments which directed states and local governments to manage land use activities to prevent degradation of coastal waters and marine habitats and to improve how nonpoint source pollution is managed.

Local, regional and state agencies and non governmental organizations have continued efforts to improve water quality in the Santa Monica Bay, including the Marina waters and adjacent wetlands of Area A and Ballona.

Los Angeles County has been a key partner in implementing the water quality requirements in the region. Many new requirements for addressing water quality were reflected in the LCP update in 1996, including reference to measures to implement the Municipal Stormwater NPDES Permit for Los Angeles County (Municipal Stormwater Permit) and the Santa Monica Bay Restoration Plan adopted in 1995. However, since update of the LCP in 1996, significant changes occurred in various programs and regulations directed at improving water quality. The Commission, in reviewing and acting on Local Coastal Program submittals and amendments, has continued to strengthen LCP provisions related to Water Quality.

B. Policy Framework

Coastal Act

The Coastal Act includes several policies to protect marine/terrestrial resources and water quality. Section 30230 of the Act requires that marine resources be protected, maintained, and, where feasible, restored. The biological productivity of coastal waters, including streams, estuaries, and wetlands, must be maintained. Requirements include controlling runoff and waste discharges to protect water quality, maintaining groundwater supplies and stream flows in order to sustain the biological productivity of coastal waters, and minimizing the alteration of riparian habitats and streams (Sections 30231 and 30240). Section 30232 requires that protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

LCP Policies

When the Commission certified the updated LCP in 1996, it found that the LCP was not adequate to address protection of water quality and marine resources. The LCP was modified to strengthen policies to address marine resources in the Marina including the Marina waters, the Ballona Creek flood control channel, wetlands and the Oxford Stormwater Retention Basin. [23] Suggested modifications were adopted to address water quality protection through measures to carry out Best Management Practices (BMPs). Modifications to ordinances included changes that would require control and filtering of drainage from roofs, parking lots and impervious surfaces, and containment of toxic materials consistent with the County's Municipal Stormwater Permit and the Santa Monica Bay Restoration Plan. [24] As a result, the updated LCP implements these water quality requirements through a number of policies and ordinance standards rather than through specific land use designation and standards for the Marine Commercial, Boat Storage, Water or Waterfront Overlay Zones. The LCP notes that:

> *Harbor water quality is controlled by applicable codes in the Los Angeles County Code, Title 19 (Airports and Harbors). The U.S. Environmental Protection Agency in conjunction with the State Water Resources Control Board has brought storm water runoff systems under waste discharge requirements. (LUP p 4-10)*

LCP policies require protection and enhancement of marine resources, specifically:

> *2. All development shall include measures consistent with the Santa Monica Bay Restoration Plan and the programs of the Department of Public Works to reduce*

[23] Marina del Rey, Los Angeles County LCP Amendment 1-94 Revised Resolutions and Findings for Denial of LCPA, as Submitted and Findings for Approval of LCPA, as Modified, page 70.

[24] CCC, Revised Findings CD-083-94 p.71.

contaminated runoff into bay and Ballona Creek waters, including filtration of low flows, control and filtration of runoff from parking lots and roofs, reduction of impervious surfaces, and provision of pump out facilities, and other necessary measures to reduce harmful pollutants from storm drain waters prior to these waters entering the marina.

Specifically, the County code includes the following water quality requirements:

C. Storm Drains.
1. The existing Marina is served by storm drains which deposit flows into the Marina basin. The drains are expected to be adequate to accommodate future development. To reduce the amount of pollutants entering the Marina from Ballona Creek, the department of public works will implement appropriate best management practices within the Ballona Creek watershed, as required by the county NPDES municipal storm water permit.
2. Unless otherwise required by the Regional Water Quality Control Board and the County Flood Control District, the storm drain emptying into Basin H will be capped and diverted into Ballona Creek or another area of the Marina. (LIP p.18)

Filing requirements.
6. Avoidance and Mitigation of Flood Control Hazards and Control of Surface Runoff Flood hazard and runoff management standards shall apply to all new development. To protect marine resources within the existing Marina, to manage runoff associated with proposed development, all development proposals shall assure that:
- The flood hazard due to new development is mitigated;
- Upstream and downstream property owners are not adversely affected;
- The drainage proposal complies with all County, State and Federal statutes and ordinances;
- The drainage of roofs and parking lots conform to the best management practices contained in the County's non-point source NPDES permit, and the Santa Monica Bay Plan's requirements regarding new or marina development:
- Containment, safe storage and management of all paints, solvents and other toxic and potentially polluting substances used during construction, repair or maintenance of buildings or of boats and floats;
- Accessible pump out facilities, waste disposal, and rest rooms for all parks and anchorages.
The department of public works shall be consulted for full flood-control requirements. (LIP p 21)

Policies require that in any development or redevelopment of the Oxford Retention Basin that water quality be improved. Ordinances to address water quality impacts from marinas and boating are incorporated by reference:

6. Boat operations in the Marina shall follow the regulations of Part 7 (Sanitation), Part 8 (Safety and Maintenance), and Part 9 (Marina del Rey) of Chapter 19.12 of

> *the Los Angeles County Code, Title 19 (Airports and Harbors), to minimize introduction of pollutants into Marina waters. This language is found in Appendix B of the Local Implementation Program. (LUP p. 4-10)*

Appendices to the LIP reference other applicable LA County Code sections of Titles 19 and 22 incorporated into the LCP requirements that ensure that lessees, "maintain the premises … in a clean, sanitary condition, free from malodorous materials and accumulations of garbage, refuse, debris and other waste materials." Refuse, sewage or other waste discharges are prohibited. Live aboards are restricted to prevent discharges. Ordinances specify requirements for garbage and rubbish control. Fish cleaning is limited to specific locations.

The LCP limits and restricts how and where boat repairs can take place to avoid runoff of toxic materials. The discharge of petroleum, coal or paint products is prohibited and requires reporting of any discharges. The development review process requires that new development contain paint, toxic and potentially polluting materials and regulates fuel floats to avoid spill of materials. Other clean-up material such as booms and absorbent materials must be kept on fuel docks to retain spills.

LCP section 22.46.1180(a)(6) requires that all new development shall assure:

> *Accessible pump out facilities, waste disposal and rest rooms for all parks and anchorages.*

C. LCP Implementation Issues

1. Eel Grass

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

If eelgrass is present in the area of a proposed project, adverse impacts could result. Therefore, measures to avoid or minimize such potential impacts must be in place in order for the project to be found consistent with Section 30230 of the Coastal Act. The certified LCP has no policies for the detection and protection of eelgrass and therefore the LCP is not in full conformance with Section 30230 of the Coastal Act. However, because eelgrass is potentially found within the waters of the marina, which is the Commission's retained

jurisdiction, the LCP and its policies serve only as guidance in the review of development proposal in areas where eelgrass could exist. However, because the LCP serves as guidance for development in the Commission's retained areas, the LCP should contain policies to identify and protect these important marine resources.

Therefore, the LCP should be amended to add policies requiring that pre-construction eelgrass surveys be conducted during the active growth period for projects taking place in the marine environment where shallow, subtidal or intertidal unconsolidated sediments would be impacted to determine if eelgrass beds are within or in close proximity to a project site. The project would need to be redesigned to avoid impacts to eelgrass. An additional post-construction survey should be done if eelgrass is present adjacent to the project site to determine if there were any inadvertent impacts, given the ephemeral nature of eelgrass. If impacts occur, mitigation should be required at a ratio of 1.2:1 (mitigation:impact), in accordance with the "Southern California Eelgrass Mitigation Policy" Revision 8 adopted by the National Marine Fisheries Service.

2. Caulerpa taxifolia

Caulerpa taxifolia (C. taxifolia) is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean. From an initial infestation of about 1 square yard it grew to cover about 2 acres by 1989, and by 1997, blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 ft depth. Because of toxins in its tissues, C. taxifolia is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean has had serious negative economic and social consequences because of impacts to tourism, recreational diving, and commercial fishing.

Because of the grave risk to native habitats, in 1999, C. taxifolia was designated a prohibited species in the United States under the Federal Noxious Weed Act. In addition, in September 2001 the Governor signed into law AB 1334 which made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various Caulerpa species including C. taxifolia. This action occurred subsequent to the certification of the amended LCP and therefore represents a changed circumstance. The certified LCP Marine Resources policies contain no provisions regarding the identification and protection of the marina from this infestation. The certified LCP has no policies for the detection and eradication of C. taxifolia and therefore the LCP is not in full conformance with Section 30230 of the Coastal Act. However, because C. taxifolia is potentially found within the waters of the marina, which is the Commission's retained jurisdiction, the LCP and its policies serve only as guidance in the review of development proposal in areas where C. taxifolia could exist. However,

because the LCP serves as guidance for development in the Commission's retained areas, the LCP should contain policies to identify and protect against this serious threat to the marine environment.

Fortunately, to date C. taxifolia has not been found in any area of Marina del Rey. However, in June 2000, C. taxifolia was discovered in Agua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbour in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations are likely. Although a tropical species, C. taxifolia has been shown to tolerate water temperatures down to at least 50ºF. Although warmer southern California habitats are most vulnerable, until better information if available, it must be assumed that the whole California coast is at risk. All shallow marine habitats could be impacted.

In response to the threat that C. taxifolia poses to California's marine environment, the Southern California Caulerpa Action Team, SCCAT, was established to respond quickly and effectively to the discovery of C. taxifolia infestations in Southern California. The group consists of representatives from several state, federal, local and private entities. The goal of SCCAT is to completely eradicate all C. taxifolia infestations. Therefore, the LCP should be amended to add policies to deal with the detection and eradication of C. taxifolia. Policies would include the requirement for a survey of the project substrate area no earlier than 90 days nor later than 30 days prior to commencement of construction. If C. taxifolia is found within the project area of the vicinity, it would have to be eradicated before the project could go forward in order to avoid further infestation.

3. Control of Polluted Runoff

Since update of the LCP in 1996, significant changes have been implemented in the control of runoff and the County of Los Angeles has in many cases played a lead role in implementing these programs. Polluted runoff includes both stormwater runoff and dry weather flow. Stormwater runoff is regulated primarily by the Municipal NPDES Stormwater Permit and implemented through the Standard Urban Stormwater Mitigation Plans. Dry weather runoff has significant adverse impacts to coastal waters and marine organisms in Southern California since irrigation is used throughout the dry season to maintain landscaping in the dry Mediterranean climate. Additional efforts beyond the stormwater permit requirements are needed to address this issue. Programs such as the Clean Beach Initiative, beach water quality monitoring required by Assembly Bill 411 and requirements of the California Nonpoint Source Program address the dry weather flow issue. Other programs such as the Contaminated Sediments Task Force and the Total Maximum Daily Load program also address the impacts of pollutants on coastal waters of Marina del Rey. Major programs addressing nonpoint source pollution in the Marina del Rey area are described below:

Municipal Stormwater Permit: Since 1990, Los Angeles County and 84 incorporated cities within the County have been subject to a Municipal Stormwater Discharge Permit

issued by the Regional Water Quality Control Board, Los Angeles Region (LARWQCB). Under the permit, the County is required to implement the most effective combination of Best Management Practices (BMPs) for storm water/urban runoff pollution control in order to reduce pollutants in storm water to the maximum extent practicable.

Stormwater Mitigation Plan: The Standard Urban Storm Water Mitigation Plan (SUSMP) was developed by LA County Department of Public Works (DPW) under the Municipal Stormwater Permit. The SUSMP outlines the necessary Best Management Practices (BMPs) which must be incorporated into projects for certain categories of urban development and redevelopment [25] in order to obtain municipal approval for the urban storm water runoff mitigation plan for a designated project prior to the issuing of building and grading permits.

The SUSMP[26] applies specific requirements to certain categories of development, including a requirement that nonstructural and structural BMPs be incorporated into projects to control post-construction stormwater runoff, and verification of ongoing maintenance of BMPs. A limited waiver process is included in the SUSMP for specific properties where all structural or treatment control BMPs have been considered and rejected as infeasible. Types of development covered by the SUSMP and occurring in Marina del Rey include: Retail Gasoline Outlets; Restaurants larger than 5000 square feet (sq. ft.); Parking Lots larger than 5000 sq. ft. or more than 25 spaces; Redevelopment projects creating more than 5000 sq. ft of impervious surface (or more than 2500 sq. ft. if draining to an environmentally sensitive area).

Clean Beaches Initiative: In 2001, funding was approved for a Clean Beaches Initiative grant to LA County for projects to reduce bacterial contamination at Marina Beach and this grant program has continued to be funded by state water bonds. As part of this effort, a coastal permit for a project to install water circulators was recently approved by the Commission in March 2005 (5-04-200; Los Angeles County Beaches and Harbors) and studies have been conducted to identify causes and solutions of water quality problems in enclosed beaches such as found at Marina del Rey.

Beach Water Quality Monitoring: In 1999, the passage of AB 411 mandated statewide beach water quality monitoring and reporting and set standards for posting water quality warning signs or closing beaches. Since that time, monitoring at sites in the Harbor has increased, and water quality problems have been identified in the Back Basins and at the Marina Beach (aka Mother's Beach).

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[25] Redevelopment is defined in the SUSMP to mean land-disturbing activity that results in the creation, addition or replacement of 5,000 sq. ft or more of impervious surface area on an already developed site and does not include certain routine maintenance and emergencies. LA County Department of Public Works, *Development Planning for Storm Water Management, A Manual for the Standard Urban Storm Water Mitigation Plan (SUSMP*), September 2002, p.1-3 footnote.
[26] LA County Department of Public Works, Development Planning for Storm Water Management, A Manual for the Standard Urban Storm Water Mitigation Plan (SUSMP), September 2002, p.1-3 and 1-4.

State Nonpoint Source Control Plan: In 2000, the Coastal Commission and State Water Resources Control Board (SWRCB) jointly adopted the Plan for California's Nonpoint Source Pollution Control Program (CNPC) which was approved by NOAA and EPA. The Plan includes 61 management measures to better manage polluted runoff and protect water quality throughout the State. Under this plan, the Commission is to facilitate the incorporation of appropriate management measures (identified in the California Management Measures for Polluted Runoff Report (CAMMPR)) into LCPs as they are revised or updated.

Contaminated Sediments Plan. In 1997, the Commission and the Los Angeles Regional Water Quality Control Board (LARWQCB) established a multi-agency Contaminated Sediments Task Force (CSTF) to prepare a long-term management plan for dredging and disposal of contaminated sediments in the Los Angeles area. That plan considers aquatic and upland disposal alternatives, treatment, beneficial re-use, other management techniques and includes a component focused on the reduction of contaminants at their source.[27] The draft final plan was published in October 2004. Among the recommendations are ones suggesting that the County, in cooperation with the Ports of LA and Long Beach and the City of Long Beach, develop an onshore alternative to offshore disposal of contaminated sediments from dredging operations.

Designation as Impaired Waterbody: In 1998, 2002 and 2006, the Marina Back Basins (Basins D, E and F) and Marina Beach were both listed by the LARWQCB on the Clean Water Act 303(d) List of Water Quality Limited Segments (the most recent listing having been approved by EPA in June 2007) as impaired water bodies that do not or are not expected to attain water quality standards after application of required technology-based controls. [28] They were listed because the waters exceeded the total and/or fecal coliform water quality standards of the California Ocean Plan for several different pollutants.

TMDLs: In 2004, as a result of the Clean Water Act Section 303(d) designation as an impaired water body, the LARWQCB adopted, and EPA approved, the Bacteria TMDL (Total Maximum Daily Loads) for the Mother's Beach and Back Basins. [29] As described in the TMDL staff report, "*A TMDL specifies the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and allocates the pollutant loadings to point and nonpoint sources*." [30] The Marina del Rey Harbor Bacteria TMDL does not mandate specific strategies but only specifies the standards to be met, and implementation is over a 3-10 year period.

In 2005 the LARWQCB issued a draft TMDL for Toxic Pollutants in the Marina del Rey Harbor Back Basins (D, E and F). This TMDL addresses impairment of beneficial uses

[27] SB 673
[28] Final 2002 Clean Water Act Section 303(d) List of Water Quality Limited Segments
[29] California Regional Water Quality Control Board Los Angeles Region, Total Maximum Daily Load to Reduce Bacterial Indicator Densities at Marina del Rey Harbor Mothers' Beach and Back Basins, September 4, 2003, p.1.
[30] California Regional Water Quality Control Board Los Angeles Region, Total Maximum Daily Load to Reduce Bacterial Indicator Densities at Marina del Rey Harbor Mothers' Beach and Back Basins, September 4, 2003, p.6

due to elevated concentrations of metals, organic compounds and sediment toxicity. The TMDL is to be developed to reduce sediment impairment by copper, lead, zinc and chlordane. [31] The TMDL noted the source of some of the pollutants are in storm water runoff carrying historically deposited compounds most likely attached to sediment particles.[32]

This summarizes the many program changes to implement the state's program for control of polluted runoff that have been implemented since the LCP was last updated in 1996. Through the implementation of the LCP for Marina del Rey, the County has taken many steps as part of these overall programs to address polluted runoff in the Marina. It is important to note that Marina del Rey is the coastal discharge point for larger watershed areas that include significant inland sources of stormwater pollution.

4. Impacts to Marina Water Quality

The Marina's beach and waters are significant public recreation areas. Marina Beach, referred to as "Mother's Beach" is a crescent shaped sandy beach located at the end of Basin D. According to the SWRCB, about 200,000 people visit the beach each year. The beach is known for its calm waters suitable for swimming and easy access for launching of small recreational craft such as kayaks and outrigger canoes. Protection of water quality for recreation and for biological productivity of marine resources continues to be a priority.

The County routinely monitors the waters near Mother's Beach as well as elsewhere along the shoreline. The LA County Recreational Health program collects ocean water samples at Mother's Beach lifeguard station as part of its Ocean Monitoring Program, and if necessary, posts beach advisories and warning signs until tests indicate that bacteria levels meet State standards. The program also investigates complaints of illegal discharges, sewage spills and areas of high chronic bacteria levels[33]. However, since 1996, Mother's Beach has experienced water quality impacts that adversely affect recreational use.

Stormwater runoff (including storm sewer discharges) continues to be the largest source of pollution in Santa Monica Bay and across California. [34] It is a predominant cause of beach closures in each region of the state. It is the source of significant impact to the Marina as well. The County Periodic Review submittal of water quality testing results noted that the Marina is impacted spatially from pollutants from Oxford Retention Basin and Ballona Creek, both of which collect runoff from significant inland areas, from the open ocean as

[31] California regional Water Quality Control Board, LA Regional and US EPA Region 9, Total Maximum Daily Load for Toxic Pollutants in Marina del Rey Harbor, Draft, August 3, 2005.pg 19
[32] California Regional Water Quality Control Board, LA Region and US EPA Region 9, Total Maximum Daily Load for Toxic Pollutants in Marina del Rey Harbor, Draft, August 3, 2005.pg.23.

[33] http://www.lapublichealth.org/eh/progs/envirp/rechlth/ehrecocdescrip.htm Accessed on 4/28/05
[34] NRDC Testing the Waters 2004 pp CA-3.

well as other temporal impacts. According to the SWRCB, Mother's Beach suffers from chronic bacteriological contamination.

As a result of monitoring, the Back Basins of the Marina and the Marina Beach have been listed as impaired by the SWRCB and a Total Maximum Daily Load (TMDL) for Bacteria was adopted for the Marina watershed, which includes large inland areas in the Cities of Los Angeles and Culver City.

5. Water Quality Requirements in County Local Coastal Permits:

In addition to the many implementation activities under the various watershed based efforts, the County implements water quality provisions of the LCP primarily through implementation of the Municipal Stormwater Permit requirements in coastal permits. Review of 14 post-certification permits issued from 1992 through 2004 indicates that the County in most cases required drainage and grading plans that provided for drainage controls "to the satisfaction of the Dept. of Public Works." (DPW is responsible for implementing the Municipal Stormwater Permit). More recent permits reviewed since 2000 have been more specific in requiring conditions to implement construction BMPs and specific compliance with Municipal Stormwater Permit requirements and the County stormwater management quality program. In 5 of the 12 permits reviewed, water quality was not raised as an issue and not addressed in any special conditions. However, these 5 were smaller development projects and may not be subject to requirements of the Municipal Stormwater Permit. The County in some cases works to incorporate water quality improvements in the project design. For example, in one major project on Parcels 12 and 15 in which the Commission found NSI on appeal, the County required additional water quality measures as part of the project, to add additional boating pumpout facilities.

Water quality was not found as a substantial issue in most of the appeals of County permits. In only one appeal did the Commission require more specific conditions directing applicants to implement specific BMPs.[35] The one LCP Amendment reviewed since 1996 (LCPA No. MDR-1-01, Rev. Findings July 25, 2002) did not raise issues concerning water quality.

In 2005 the Commission authorized coastal development permits or waivers for County development of several water quality improvement projects in the area, including installation of low flow stormwater diversion systems to divert urban runoff from existing storm drain systems to existing sanitary sewer line for treatment.(5-05-480-W; 5-05-481-W; 5-05-482-W); construction of concrete outlet in Basin C to drain redirected stormwater runoff from adjacent Basin D (5-05-395) and installation of two water circulators within Basin D (5-04-200). The County is also currently processing a permit for a low flow diversion system to the Oxford Pump Station located on the northeastern end of the Oxford Basin. Dry-weather flows will be diverted to an existing sewer line to further improve water quality within Marina del Rey.

[35] A-5-MDR-00-472 (Marina Pacific)

Since last summer the Commission also authorized additional development. In 5-05-410(Legacy Partners), the Commission authorized replacement of deteriorating boat dock fingers within a 182 finger anchorage, with no change to the number, size or configuration of the existing boat slips. In that action the Commission adopted a condition that required development of a Water Quality Management Plan to implement Best Management Practices for avoiding or minimizing water quality impacts related to marinas, including boat cleaning and maintenance, petroleum control and public education.

Another permit application by the County for construction of a storm drain outlet on the face of a bulkhead on Basin C to drain redirected local stormwater runoff from Basin D was conditioned to require measures to control impacts from construction activities and debris removal. This project was developed as part of a two part project to improve chronic bacterial contamination at Marina Beach located in basin D. In a future project not yet authorized, a new drain line is proposed to be constructed and connected to the authorized outlet to redirect runoff from adjacent hardscape areas, including public parking lots adjacent to Marina Beach. As authorized in 5-04-200 in March 2005, the County is also installing water circulators in Basin D to improve water quality.

Table 1: County Permits and Water Quality.

Year	Local CDP	Applicant	Parcel	Project	WQ Findings	WQ Conditions
1992	91216(4)	Windward Yacht Center	54	Boat Repair shop and Restroom on developed site	Surface runoff pattern will not change. All existing drainage will be into existing storm drains and the surface areas will remain essentially unchanged.	Provisions for natural drainage to satisfaction of Dept. of Public Works; Determine if Industrial Waste Permit is required from DPW
1992	91083	Aggie Cal Yacht Center	53	Boat Storage Bldg	Surface runoff pattern will not change. All existing drainage will be into existing storm drains and the surface areas will remain essentially unchanged.	
1992	91246	LA DBH		Seawall Repairs	Surface runoff pattern will not change. All existing drainage will be into existing storm drains and the surface areas will remain essentially unchanged. And CCC permit required for water portion of project	Provisions for natural drainage to satisfaction of Dept. of Public Works
1994	93128	Cal Yacht Club		Replace portable classroom coach w/I existing parking lot	No WQ findings or conditions; general "comply with all laws and regulations" language	
1995	95-053	Marina Pacific		Remodel and expand to provide restrooms, showers and laundry facilities for boaters.	No WQ findings or conditions; general "comply with all laws and regulations" language	
1995	94-150 (appealed)	Fantasea		Dock reconstruction	No WQ findings or conditions	
1995	91-329 (appealed)	Dolphin Marina/Goldrich & Kest	18R	Demo and redevelop residential commercial & boating	No WQ findings or conditions; general "comply with all laws and regulations" language	
1997	96-169			expand public library and modify bike path	No WQ findings or conditions; general "comply with all laws and regulations" language	

Year	Local CDP	Applicant	Parcel	Project	WQ Findings	WQ Conditions
2000	00-39 (appealed)	Marina Pacific	111 &112	Demo and construct 120 residential	Compliance with NPDES permit required and all stormwater mgmt program;	Cond. 15 requires drainage and grading plans by registered engineer to Dept of Public Works; requires construction measures--hay bales around perimeter of onshore dirt and requires site grading to drain away from harbor. Cond 33 requires compliance with NPDES-monitored and ensured thru filing of permits with the DPW
2000	98-134 (appealed)	Marina Two Holding	12 &15	Demo and redevelop residential commercial & boating	Compliance with NPDES permit required and all stormwater mgmt program;	Cond. 15 requires drainage plan. Cond. 18 requires dust control. Cond 32 requires compliance with NPDES permit.
2000	98-172 (appealed)	Goldrich & Kest	20	Demo and apt bldg	Compliance with NPDES permit required and all stormwater mgmt program;	Cond. 17 requires drainage approved by Dept of Public Works; requires construction measures--hay bales around perimeter of onshore dirt and requires site grading to drain away from harbor. Cond 34 requires compliance with NPDES permit-monitored and ensured thru filing of permits with the DPW
2003	02-277-(4)	Gold Coast Shopping Center	97	demo/reconstruction of commercial structures	compliance with NPDES permit required and all stormwater mgmt programs	
2003	03-030	Pashaie	95,LLS	11.4 KSF Net Retail Increase, 288 Rest. Seats, 1.3 KSF reduction in office	Applicant completed drainage/SUSMP approved by DPW;	Compliance with NPDES permit required prior to issuance of grading permits
2004	03-029	Pashaie	140	Net Increase of 115 D.U.'s	Applicant completed drainage/SUSMP approved by DPW;	Compliance with NPDES permit required prior to issuance of grading permits

6. Assessing Impacts From Boating Facilities

Since 1996, efforts to address polluted runoff related to marinas and boating have increased. The Plan for California's Nonpoint Source Pollution Control Program (CNPC) adopted in 2000 noted that marinas, boat yards and boating areas can impact water quality not only during construction activities, but also through ongoing boating uses. Water quality may become degraded from pollutants being discharged from boats, pollutants washed from docks in stormwater runoff, or from pollutants generated from boat maintenance activities on land and in water. The CNPC contained management measures for the assessment, siting, design and the operation and maintenance of marinas.[36]

Existing information in the NPDES permit and Bacterial TMDL indicates that stormwater runoff rather than boating activities is the major focus for controlling polluted runoff in Marina del Rey. However, the Draft Toxics TMDL does raise concerns about the effect of boating operations on metal pollutants. Although the Bacterial TMDL does not identify impacts from boating activities as a major source of bacterial contamination in the Marina, the Commission does give attention to ensuring adequate pumpout/waste management facilities in harbors in order to protect water quality. In the Marina del Rey Harbor, there are currently 3 public pumpout facilities provided by the LA County Beach and Harbors. Public pumpouts at Chace Park and the Launch Ramp were both installed in 2000. A third facility charges a fee. There are 2 private pumpout facilities and no dump stations. In addition, there are two workboats that provide mobile pumpout service by subscription or on demand to boats while they are berthed in their slips. On occasion, large charter boats have used conventional septic tank pumpout trucks. One marina redevelopment project under construction is providing sewer connections at each slip.

Currently, the County requires that all marina terminals have an approved sewage management policy for renewals or redevelopment for leases or property. LCP ordinance Section 22.46.1180(a)(6) requires that new development provide accessible pump out facilities, waste disposal and rest rooms for all parks and anchorages. In addition, the State Department of Boating and Waterways administers a grant program to help fund the construction, renovation, operation and maintenance of pumpout and dump facilities.

Many public comments were raised concerning the need for more pumpout facilities in Marina del Rey and referenced State and Regional Water Board requirements in Newport Harbor and Huntington Harbor as possible guidance. Both Newport and Huntington Harbors are designated No Discharge Zones by EPA but Marina del Rey is not designated as such. The State and Regional Water Quality Control Boards relied on a specific needs assessment for each marina in developing requirements for Newport and Huntington Harbors. Such a specific needs assessment for Marina del Rey was initiated but not adopted.

[36] State Water Resources Control Board and California Coastal Commission, *Plan for California's Nonpoint Source Pollution Control Program*, January 2000.

While public comments have asserted illegal discharges in the Marina, the County reports that that no illegal discharges have been documented. [37] Enforcement activities have not identified illegal waste discharging as a problem. According to enforcement staff of the Regional Water Quality Control Board there were only 2 complaints recorded in 2005 in Marina Del Rey, both related to stormwater requirements. Reports of spills to the Office of Emergency Services show about 2 reports/month for the last year, with most reported as fuel/oil sheen spills. Concerning the potential impacts of commercial operations, the County staff has indicated that they have increased monitoring of commercial boats, but they have not detected violations.

Public comments on the draft report suggest such a program of dye tablet testing and inspection to discourage illegal discharges, at a minimum on commercial boats and boats with holding tanks greater than15 gallons. Dye tablet inspections have been used in Catalina Harbor. The City of Avalon ordinances provide that the owner and/or other person in charge of any boat or vessel entering City waters shall, as a condition of entering and/or remaining the City waters, allow City personnel to board the vessel and place dye tablets into the vessel's marine sanitary device, and to perform tests to ensure that the marine sanitary device is not discharging any contaminants into City waters. However, the Avalon Harbor is much smaller in scale, with about 400 moorings in Avalon Harbor. In contrast, Marina Del Rey contains over 4,600 slips. The design and implementation of an ongoing harbor-wide annual inspection program to monitor against illegal discharges would be problematic.

Further, using a standard based on the size of a holding tank may not offer a workable alternative, as there appears to be no correlation between size of boat and the size of the holding tank. Each boat in the harbor would have to be examined to determine the size of the holding tank.

The scale of Marina del Rey Harbor makes implementation of an ongoing dye tablet inspection program for individual boats problematic. Even for the commercial operations, such testing would have to be repeated for each separate boat trip. And, as noted in the Bacterial TMDL, boat discharges are not considered to be the main source of bacterial contamination. As a result of these factors, continuation of the existing water quality monitoring requirements in the marina and implementation of the TMDL requirements for Bacterial and Toxic Pollutants and stormwater controls may offer more effective mechanisms to address existing water quality in the harbor.

The County is taking steps to increase the availability of waste management facilities. It reports that, since 2001, the County has included a requirement for an on-site pumpout station in all lease extensions for parcels with marinas and as a result anticipates at least 6 or 7 additional pumpout stations to be installed over the next seven years. [38] This would bring the total to about 11 or 12 for the overall 18 private anchorages and roughly 5,000 boat slips in the harbor. The County action on projects at Parcels 12 and 15 [39] added a

[37] Vessel Discharge Report p. 11-12.
[38] Los Angeles County Department of Beaches and Harbors, Marina del Rey Vessel Discharge Report for the Marina del Rey Harbor Mother's Beach and Back Basin TMDL, July 15, 2004, p. 2.
[39] A-5-MDR-01-014 Marina Two Holding, NSI

pump out system to allow 468 vessels to be pumped out from its berth. According to the County staff, proposed redevelopment projects at Parcels 22 and 44 are planned to add pumpout systems for an additional 800 vessels.

The County has also been an active participant in the California Clean Boating Network, an educational and information sharing effort to decrease boating related pollution. Several, but not all, marina operators within the Harbor also participate in the Dockwalkers program to help educate boaters on clean water issues. State and local agencies and nonprofits partner to implement various education programs, for example, to educate new boaters, to train fuel dock workers how to avoid spills and to exchange and recycle absorbent pads used to control fuel spills.

7. Other Water Quality Concerns

Comments have also been made concerning the need to address alternatives to runoff, such as expanding water reuse efforts. Existing county ordinances such as Chapter 20.09 (Maintaining Existing Water-Efficient Landscapes) and Chapter 71 (Water Efficient Landscaping) of the County Building Code address water conservation and waste water prevention. Section 7105.6.3 of Title 26 Building Code provides:

> *Recycled water. 1. The installation of separate water irrigation systems from domestic water supply systems (dual distribution systems) shall be required to allow for the current and future use of recycled water, where recycled water is currently available or is available in the foreseeable future.*

While other provisions of the County Code address water reuse and conservation, the LCP currently does not have any policies that directly address water reuse and water conservation. However, while the appeals acted on by the Commission have included conditions to implement Water Quality Management Plans other water quality requirements for water reuse have not been part of any conditions on development in the appeals. Therefore, although water conservation and reuse is encouraged (but not required) in the LCP, this is an area where the County could factor in policy direction in updating its Marine Resources/Water Quality components of the LCP to direct and require water conservation and reuse measures in landscaping plans.

Comments were made that the Periodic Review lacked discussion of marine resources or biological monitoring. The certified LCP at pages 4-8 and 4-9 includes discussion and findings on the existing marine resources in the Marina. Existing Policy e.1 on page 4-10 requires:

> *The existing wetlands, including the flood control basin in Parcel PP, the Marina waters, and the Ballona Creek flood Control channel are the marine resources which shall be maintained and, where feasible, enhanced and restored. Uses permitted in or adjacent to these areas shall be carried out in a manner to protect the biological productivity of these marine resources and maintain healthy populations of marine organisms.*

It is also important to note that development activities in the marina waters are in the Commission permit jurisdiction for consideration of marine resources and conformance with Coastal Act policies.

Comments submitted on the draft Periodic Review raised issues regarding need for thresholds for pollutants and of water quality monitoring to ensure effectiveness of water control measures. The existing Municipal Stormwater permit and TMDLs, discussed in section C.1 above, include numeric standards, thresholds for requiring treatment and monitoring requirements designed to address program effectiveness. The current LCP contains findings discussing conformance with these NPDES permit, TMDL and Santa Monica Bay Restoration Plan requirements. While overall monitoring of the Marina waters occurs under these program requirements, the LCP should consider outlining requirements for monitoring all implemented BMPs for individual projects.

Comments have also noted that trash is a significant source of pollution in Marina Del Rey and that a trash component should be included in the LCP. Because trash is such a significant pollutant, and one that can be addressed through often simpler and less expensive source control measures, the LCP should provide that there are adequate trash and recycling facilities to serve the Marina Del Rey area. In addition, full capture trash BMPs can drastically reduce the amount of trash entering the waterways. The Regional Board has a certification program for full capture devices as part of their trash TMDL program[40], and has seen several successful applications of these BMPs. Recommendations 12 (H) and 14 (B) suggest development guidelines that require trash BMPs, including full capture devices, that will prevent the off-site transport of this pollutant.

Comments submitted by Heal the Bay and the Santa Monica Baykeeper on January 4, 2008 on the Marina Del Rey Periodic Review (dated December 24, 2007) proposed that the Periodic Review recommend that Marina del Rey LCP include requirements that all new development incorporate Low Impact Development (LID) design principles and also include recommendations for water reuse and conservation.

While the December 24, 2007 draft Periodic Review does recommend many aspects of Low Impact Development (e.g., Recommendation 12 B, C, D, E and F), it does not specifically use that term. We are supportive of LID principles and have revised a section of the recommendations to specifically include the term LID (see modifications to Recommendation 9 above). However, we did not include Heal the Bay's recommendation that these LID measures be designed for a 2 year storm event, because specific sizing of LID measures may not be feasible on smaller or more constrained lots, even though some LID measures could still be incorporated.

Heal the Bay comments also requested the inclusion of recommendations for water conservation and reuse. The December 24, 2007 draft Periodic Review does included recommendations for these measures, discussed in recommendation 12 (E) and on page 74 of the findings under Other Water Quality Concerns.

[40] http://www.waterboards.ca.gov/losangeles/html/programs/tmdl/fcc/FullCaptureCertification.html

8. Best Management Practice Monitoring

Comments were also submitted that repeated concerns regarding the need for water quality monitoring to ensure effectiveness of water control measures and proposing that all BMPs be monitored for effectiveness and compared to performance studies documented in the EPA-ASCE database (also known as the International Stormwater BMP Database and found at www.bmpdatabase.org). In the past, the Commission and State water quality agencies have not required monitoring of all BMPs because of the large number of required BMPs and the cost of effective monitoring. Instead BMPs have been required to meet design standards published by the California Stormwater Quality Association BMP Handbooks (http://www.cabmphandbooks.com/), or other equivalent guidance applicable to California conditions, and to be sized to treat runoff from the 85th percentile storm event (which is typically close to the 2 year storm event).

As stated in the Periodic Review findings the existing Municipal Stormwater permit includes numeric standards, thresholds for requiring treatment and monitoring requirements designed to address program effectiveness. The current LCP contains findings discussing conformance with these NPDES permit, TMDL and Santa Monica Bay Restoration Plan requirements. Overall monitoring of the Marina waters occurs under these program requirements. However, to ensure that all implemented BMPs are effective and perform as designed, the LCP should include a policy to monitor all BMPs. Therefore, Recommendation 11.C. suggests policy revisions to include that all BMPs implemented should be monitored to ensure that the performance achieved is at least the 75 percentile for BMP performance on the United States Environmental Protection Agency (EPA) and American Society of Civil Engineers (ASCE) National BMP database. In addition, Recommendation 14 (E) requires a monitoring and assessment component as part of a Marina Water Quality Management Plan (MWQMP) that is required for reconstruction, modification or redevelopment of marina or launch facilities.

9. Oil/Gas/Sewage Leaks or Spills

Public comments raised concern that water quality was being adversely impacted through spills or leaks of underground oil or gas storage or pipelines. Section 30232 of the Coastal Act requires protection against the spillage of crude oil, gas, petroleum products or hazardous substances in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures are to be provided for accidental spills that do occur.

The LCP policies and ordinances noted above contain requirements concerning control of fueling stations and in Title 19 requirements that control flammable or combustible liquids or materials.

In records of the Office of Emergency Services from March 2003 to date, there have been 31 reports of spills in the Marina del Rey area. Twenty-nine (29) of those were in the harbor, including crude oil pipeline break at a site on Admiralty Way on 3/31/04 and a recent spill of oil fuel gases in wetlands area at Jefferson and Lincoln Blvds. adjacent to homes on 4/18/05. Some reports contend this oil fuel gas leak has been ongoing for

several months from an abandoned well but may be consistent with natural seepage and investigation is ongoing.

The LCP requirements Title 19 assure that all new development provide for:

> *- Containment, safe storage and management of all paints, solvents and other toxic and potentially polluting substances used during construction, repair or maintenance of buildings or of boats and floats;*

And,

> *19.12.1140 Discharge of petroleum, coal or paint products. A. A person shall not discharge or deposit or permit to pass into the waters of a county harbor, waterway or maritime facility any coal, tar, oil, gasoline, sludge or residuary products of coal, petroleum, asphalt. bitumen or other refined oil products, nor any varnish, lacquer or paint products.*
>
> *B. Any such discharge, deposit or spill of said products shall be immediately reported to the harbor master and any other local or personal agency having concurrent jurisdiction, and it shall be a violation of Part 7 of this chapter to fail to do so. (0rd. 86-0039 Sec 45. 1986: Ord. 9359 Art. 7 Sec 702. 1967.)*

The County Municipal Stormwater Permit also contains requirements to implement pollution reduction and control measures related to industrial/commercial facilities that includes some hazardous waste treatment requirements in industrial/commercial development.

The LCP as implemented assures that any spills are reported and addressed consistent with the Coastal Act. No evidence or information was submitted to suggest any recurring problem or defect in the County's spill response protocols.

10. Diking Dredging and Filling

As discussed in Chapter 8 (Resources/ESHA) of this report, the LCP does not contain adequate policies and standards to avoid diking, dredging and filling of wetlands or ESHA. This water quality section discusses specifically dredging of coastal waters. The channels of Marina del Rey have been dredged in order to maintain navigation. These dredging projects have generally been undertaken by the U.S. Army Corps of Engineers and reviewed by the Commission through the federal consistency process. Because such dredging activities are within the Commission's permanent jurisdiction, the LCP is not the standard of review; and, therefore, this LCP Review did not evaluate LCP implementation related to this aspect of water quality protection.

However, it is important to note that as partner In the Contaminated Sediments Task Force, the County is working to implement recommendations of the Task Force. These recommendations focus on pursuing ways to protect water quality and marine resources and also give priority to placing dredged material suitable for beach use on the beaches or in the littoral system as required by Coastal Act Section 30233 (b). Among the recommendations are ones suggesting that the County, in cooperation with the Ports of LA

and Long Beach and the City of Long Beach, develop an onshore alternative to offshore disposal of contaminated sediments.

Another issue is the use of materials in construction of marina facilities. While this largely concerns projects in the Commission's permanent jurisdiction, many marina facilities are planned and developed as integrated landside/waterside development. In planning renovation of dock slips, dolphins and marina facilities, project planning should incorporate water quality prevention measures concerning construction of docks, dolphins and pilings. In reviewing permits, the Commission has increased scrutiny of structures containing plastic for their impacts in introducing pollutants and marine debris into the marine environment based on newer information.

For construction of docks, the LCP allows use of wood that is pressure treated with preservative in accordance with the American Wood Preservative Association's specifications for wood in a salt water splash zone. Plastics used in dock systems are to have a demonstrable performance history in salt water environments of at least 10 years. Pilings are required to be pre-stressed, pre-cast concrete. Dolphins may be wood piles treated with creosote coal tar solution. [41]

Use of timber treated creosote (which may discharge polycyclic aromatic hydrocarbons into the marina environment) and plastic (which may discharge marine debris) in renovation of marinas may impact marine resources. As the Commission has noted in other projects, plastic lumber may be preferable to treated wood pilings but may be more likely to crack, splinter or otherwise contribute to marine debris. The long term durability and maintenance requirements are not known and monitoring of the long term performance of such material has been required.

D. Conformance with Coastal Act

Coastal Act Policies 30230 and 30231 require that marine resources and the quality of coastal waters be protected. Section 30233 and 30235 address diking dredging and filling of coastal waters and protection of shoreline processes.

The County has implemented requirements under the Municipal Stormwater Permit as part of coastal permits in order to protect and enhance marine resources. However, the LCP in relying mainly on reference to the Municipal Stormwater Permit may not adequately address control of runoff from new development that does not meet the project size and purpose thresholds in the permit. The County Municipal Stormwater Permit requires BMPs and a WQMP for larger projects and may not have these requirements for smaller projects that impact water quality due to their proximity to coastal resources and specific activities.

As a result, not all projects in the marina may be required to implement polluted runoff controls, or alternatively, address polluted runoff. All development, regardless of whether it requires a drainage plan under the existing LCP, has the potential to affect water quality through post-construction runoff. As noted above, the County has approved some projects

[41] LIP Appendix C pages 44-51

without requiring a drainage or water quality control plan which is not in conformity with Coastal Act policies to protect and enhance marine resources. While these projects may be in conformance with existing LCP policies, they still have a potential to affect water quality if they are not subject to the Municipal Stormwater Permit.

In light of continued development of knowledge on control of polluted runoff, the LCP should be updated to include water quality protection measures to ensure potential water quality impacts are addressed in all new development and redevelopment projects, that require a coastal development permit in order to ensure the LCP will protect and enhance marine resources consistent with the Coastal Act. As suggested by Recommendations 9-11, all new development would incorporate measures to address ongoing nonpoint source pollution. However, it is important to note, as indicated in Recommendation 11.A., that water quality protection features/ plans for minor projects need not be extensive but in scale with the project, depending upon site characteristics and the kind of development being proposed and that all BMPs implemented should be monitored to ensure that the performance achieved is at least the 75 percentile for BMP performance on the United States Environmental Protection Agency (EPA) and American Society of Civil Engineers (ASCE) National BMP database.

In projects to date, the County has required new pumpout facilities in coastal permits for large redevelopment of marinas to address the potential impacts of vessel discharge on marine waters in a manner in conformity with the Coastal Act. However, the requirements of the LCP are not explicit and do not address maintenance and monitoring issues related to new facilities. While the County is making good progress in increasing the number of pumpout facilities installed as leases are renewed, the leases are not included in coastal development permits. The LCP should be expanded and strengthened to make requirements more explicit. Similar to the need for development of water quality BMPs for all development, every marina should provide and maintain policies and a plan to minimize impacts to water quality. The Commission acknowledges there may be several ways to address the control of vessel discharges depending on conditions present in each individual marina and the nature of the problem, including: fixed point systems (centrally located pumpout facilities), portable systems, dedicated slipside systems, and adequate signs and maintenance. Recommendations 13-14 would assure that the LCP would explicitly require marina operators to include a water quality management plan in conformity with the Coastal Act.

While the LCP was amended in the mid 1990s, the State more recently adopted the Plan for California's Nonpoint Source Pollution Control Program, detailing a variety of management measures to further improve protection of water quality. Because the current Municipal Stormwater Permit was issued in 2001 and the current SUSMP in 2002, there are more up to date requirements in place. But the LCP itself has not been updated and would benefit from revisions to incorporate elements of the stormwater management plan and new information and knowledge about effective best management practices for protecting water quality including those for boating facilities.

And, in order to address water quality concerns in construction materials, the LIP should update directions for waterside projects as suggested in Recommendations 9, 11 and 14

to encourage use of materials that avoid or minimize discharges of contaminants or marine debris into coastal waters.

By incorporating updated policies and other mechanisms into the LCP to reflect new information and management measures to protect water quality and marine resources, as outlined in Recommendations 5 through14, the County can ensure the LCP is implemented in conformity with the Coastal Act.

4. New Development

A. Overview.

When the Commission certified the Land Use Plan for Marina del Rey in 1984 (and again, in 1986, when the Commission certified a revised LUP to reflect the annexation of Playa Vista by the City of Los Angeles), only one leasehold was vacant. In 1984, almost a third of the land area in Marina del Rey was occupied by residential uses, which are not priority uses under the Coastal Act. The majority of the development occurred in the late 1960's and the 1970s prior to adoption of the Coastal Act. In 1984, the Commission certified an LUP that reflected the development and zoning then in place. In 1984, there were 28 restaurants, a yacht sales establishment, three boat yards, and one public boat launch, four retail centers, three office buildings, four hotels, two private yacht clubs and two marinas out of which smaller, public, yacht clubs operated, and 5,781 apartments. [42] The 1984 LUP findings described existing visitor serving development:

> *Existing Marina development currently includes four hotels and two motels providing 752 rooms on 38 acres. It also includes 28 restaurants with 8,641 seats. The Marina beach, Admiralty Park and Burton W. Chace Park provide the major public affordable recreational and visitor-serving facilities while Fisherman's Village provides affordable visitor-serving commercial facilities including eating, shopping, and boating facilities. (Revised Findings, Marina del Rey/Ballona Land Use Plan, 1984)*

Of the three parks, only one, Burton Chace Park, was large enough to accommodate a community center; both Burton Chace Park and Marina Beach provided shaded picnic areas. There was one public boat launch. Two private operators operated boat storage operations; one offered a boat hoist for small sailboats.

The original Marina del Rey conceptual plan favored low intensity recreational development over residential development. The plan was enforced by use designations and by a master lease that established an underlying responsibility to provide for "active public use" with a fair return to investors. In the mid 1960's, the County changed its original approach to allow development that would have sufficient return to pay off the construction bonds. [43] The changes allowed residential development, but did not

[42] Certified Marina del Rey Ballona LUP, 1984

[43] Rood, Marsha V. and Warren, Robert, The Urban Marina, managing and developing Marina del Rey, Sea Grant, January, 1974
Los Angeles County Department of Beaches and Harbors, Stan Wisnewski, Director, Marina del Rey Asset Management Strategy, April 15, 1997.

incorporate additional provisions to protect public access when the principal use on the parcel was private. Instead, the County reinterpreted the "active public use" clause of the master lease to indicate that if there was a benefit to the County, public use and access did not have to occur on the parcel. The result was that many developed leaseholds were closed to the public. There were no changes in these policies until the County revised the LCP in 1995, and agreed that upon renegotiating leases, the lease would include responsibility to provide a walkway along the bulkhead even on residential parcels, and that the County would require the provision of the walkways in all coastal development permits for redevelopment.

The development standards for the Marina approved in 1984-86 reflected the original Marina design, which was a "bowl concept" allocating high-rise development to the periphery of the Marina, mid-rise development to the loop roads, and lower, 30-foot high development to the mole roads. The implementation ordinances certified in 1990 were consistent with that plan.

The 1984-1986 certified LUP provided for recycling the development in the Marina del Rey limited by the capacity of the transportation system. The LUP did not allow significant new residential or commercial development to take place until a new road linking Washington and Lincoln Boulevards, the Marina Bypass, was approved and under construction. (The LUP did not subject hotel development to that limit.) Even with this road, the 1986 LUP limited development by the number of peak hour evening trips that the transportation system could accommodate after certain widening projects and intersection improvements had occurred. The cap was set at 2,400 evening peak hour trips. The amount of units and commercial development theoretically allowed by the land use designations exceeded that number of trips. The County indicated in its findings that this policy created an incentive to redevelop older leaseholds, by establishing a first-come, first-served allocation of development.

In 1990, faced with delays in the development of Playa Vista, the County decided to submit implementation ordinances for the Marina proper, and applied to segment the Marina del Rey from Playa Vista Area A. The 1990 LIP allowed modest expansion of existing commercial uses, but did not allow significant new residential or commercial development to occur until the Marina Bypass and certain other transportation projects had been funded and approved. The County proposed no changes in land use designations in 1990.

In 1994, Los Angeles County submitted a revised LCP to the Commission that updated the land use designations and standards of the previous plan. In the 1994 submittal, the County made major changes to the development strategy. Changes in density and development patterns requested in this amendment reflected proposals that the County had received from lessees interested in rebuilding their leaseholds. The update also reflected the County's experience with the previous plan. One result of the previous plan was that it created a wall of unrelieved development between the waterside and the public streets. The result was a paucity of public views and an uninteresting cityscape. While developers of commercial properties left public walk ways along the waterside, residential development in most cases did not allow shoreline access. The 1994 proposal also increased height limits in exchange for the provision of view corridors, which are described

in the visual impact section below. The intention of this change was to open up views to the water and to provide an incentive to leaseholders to redevelop their sites. This update, effectively certified in 1996, included view corridors, 28 foot wide fire/public access corridors along the bulkheads and allowed heights up to 75 feet on the mole roads and 225 feet on the loop roads (Admiralty Way and Via Marina) if the developer left 40 percent of the frontage open to public views. The Commission approved the increases in heights and densities after a lengthy hearing.

The 1996 LCP included several policies to address Coastal Act land use priorities. While the 1996 LCP continued to devote almost 95 acres to residential use, the plan allowed development of visitor serving uses on residentially designated leaseholds that were located on the waterfront (the "Waterfront Overlay Zone", or "WOZ " designation.) The plan also required protection or relocation of any preexisting boating support use presently located on commercially or residentially designated parcels. The development policies continued to incorporate limits on the generation of peak hour traffic from residential projects. As described in the transportation section later in this report, the 1996 plan, based on a new transportation study (DKS Associates; Gruen Associates, Marina del Rey Traffic Study, 1991, and the Addendum to this study by DKS Associates, 1994), increased the development cap to 2,811 peak hour trips. However, the plan allowed no more than half those trips until certain road capacity enhancements (widening or intersection improvements) had been approved and funded. The new plan divided new trips among "development zones." The purpose of this policy was to allocate new traffic within the Marina along the loop access roads (Fiji, Via Marina and Admiralty Way) so that the generation of new trips would not cluster at any intersection.

In addition to view corridors, the revised LCP provided for 28-foot wide walkways along the seawalls to provide both fire and pedestrian access. The amended LCP, allowed the conversion of underused parking lots that were located far from attractions by protecting one parking lot, Parcel OT that is inland of Admiralty Way and encouraging the conversion of a second parcel (Parcel FF) to park use. [44] The LCP designates certain parcels for park or public parking use. No use other than Park or Parking use is permitted on these parcels. However, it provided for dense residential development on some parcels now designated for residential use that had previously been designated for marine commercial use. On those (commercial and residential) parcels the LCP provides that any parking or boating support use that now exists on the parcel be relocated as part of the project.

The 1996 LCP continued to allow more density in its zoning and land use designations than could be developed based on the traffic limitation system. The system was identified as first-come, first-served incentive program and the reason given was to encourage redevelopment of older marina leaseholds. The Commission approved the amended

[44] The 1995 staff report summarized the County's proposal, which the Commission modified. "As certified in 1984, public parking is protected on all current public parking lots. As proposed, eight acres of public parking will convert to commercial and residential uses, including Parcel OT, 1.61 acres converted to residential use, Parcel UR which is 2.23 acres, converted to Marine Commercial uses, 49S, M and R converted to Marine Commercial, 94 converted to Office and Parcel W converted to Marine Commercial to develop along with an adjacent commercial parcel. One parking lot, parcel FF, 2.05 acres will convert to a public park, a higher priority public recreation use. The County contends that the parking lots are underused and that such redesignations are necessary to increase income in the Marina." (Source, revised findings, Marina del Rey LCPA 1-94, December, 1995.

Marina del Rey LCP in 1995, finding that it was permitting a cluster of high-density development in an area that is well served by public utilities and a developed transportation network, finding the amended LCP was consistent with the Coastal Act, specifically Section 30250, which encourages development in areas able to accommodate it.

In an amendment that the Commission approved in 2001, the County reallocated the trips assigned to a development zone “farther out” on the loop road to accommodate developers that had submitted plans. This amendment did not change the development limits originally applied. Traffic limitations are only indirectly related to the density and intensity of the resulting development. In evaluating traffic impacts of projects, certain types of development were regarded as not generating significant peak hour traffic. This includes development oriented to senior citizens. The tables below summarize the approved plans.

Table 2: Amount of development of each type in the Marina del Rey.

Amount of development of each type in the Marina del Rey -- Pre-existing, allowed in the approved LCP, and actually permitted under the LCP.				
Development type	**Pre-Coastal**[45]	**Additional Development designated in 1984-86 LUP; and 1990 LIP** (Development cap 2400 peak hour evening trips)	*Additional Development designated in 1996 amended LCP* (Development cap: 2811 peak hour evening trips)	**Development County reports it approved between Dec. 1996-to May 2005** Total peak hour evening trips: 369
Residential Units:	5,481	1,500 Additional units	2,420 dwelling units 75 congregate care units	926 du 75 congregate care
Hotel Rooms	752 existed in 1984; 308 permitted 1986	740 Additional rooms	1,070 rooms, or motel units	0
Visitor-serving Commercial	8,641 restaurant seats	14,000 additional sq ft retail 450 restaurant seats	1,875 restaurant seats; 206,500 square feet of retail space	8 restaurant seats net 14,290 sq ft. retail
Office	300,000 sq. ft.	200,000 sq. ft.	58,000 square feet of office space	(760) sq. ft.
Marine Commercial	Dry boat storage 3 acres; repair and sale 2 parcels	Indeterminate	3,000 square feet of marine science museum	4,940 sq. ft. Public yacht club
Boat slips	5,923 slips[46]	348 additional boat slips	348 boat slips	(448) slips
Public park	23.4 acres park	23.4 acres park	25.4 1 acres park[47]	0.11 acres new park

Estimates of the number of units that the County approved after 1996 varies depending on the source –there is a slight difference between the total number of units that applicants requested and the number approved. The Table 3 above uses the table provided by the Los Angeles County Department of Public Works for tracking traffic mitigation fees.

The Table 4, following, appeared in the revised findings for certification of the 1995 LCPA. It illustrated the conclusion that the total number of the units authorized in the LCP would not generate more traffic than the revised cap would allow.

[45] The Commission approved two hotels between 1974 and 1984; one was built. The Commission approved a 308 room hotel in 1998.
[46] Includes illegal slips, see recreational boating for accurate count of legal slip
[47] Reflects designation of Parcel FF to Open Space designation.

Table 3: Relationship of Development Categories to Trip Generation.

RELATIONSHIP OF DEVELOPMENT CATEGORIES IN THE 1996 LCP TO POTENTIAL TRIP GENERATION			
Use	**Maximum Number Amount 1996 certified LCPA**	**1991 peak hour trip generation rate**	**Evening peak hour trips 1996 certified LCPA**
Residential units	2420	.326	788.92
Congregate care	75	.170	12.75
Hotel rooms	1070	.353 per room	377.71
Conference room	40,000 sq. ft.	1.37/1,000 sq. ft.	54.8
Restaurant seats	1,875	.250	468.75
Boat slips	348	.137	47.676
Specialty Retail	208,500	4.44 /1000 sq. ft.	925.74
Library	1,500 sq. ft	4.74/1,000 sq. ft.	7.11
Office	58,000	2.21/ 1000 sq. ft.	128.18
TOTAL P.M. Peak Trips	n.a.	n.a.	**2811.60**

Source, Revised Findings to support the Commission's May 10, 1995 Denial and Approval with Suggested Modifications of the proposed Amendment No. 1-94 (Major) of the Marina del Rey segment of the Los Angeles County LCP, December 1995.

B. Policy Framework

Coastal Act

The Coastal Act establishes general guidelines for development and transportation:

1) Locating development in areas able to accommodate it;
2) Favoring priority uses: public recreation and water dependent uses near the coastline;
3) Favoring Visitor- Serving uses,
4) Protecting lower cost recreational
5) Siting development to protect sensitive resource areas;
6) Siting and designing development to protect views and community character.

Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

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

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30250 Location; existing developed area

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

Section 30252 Maintenance and enhancement of public access

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30254 Public works facilities

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route l in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Section 30255 Priority of coastal-dependent developments

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

LCP Policies

The Commission approved the amended Marina del Rey LCP in 1995, as a cluster of high-density development in an area that is well served by public utilities and a developed transportation network. As described in the transportation section below, the LCP limited development to the capacity of the traffic system. The LCP addresses Section 30222, which identifies recreation and visitor-serving facilities as priority uses, by stating that residential and office uses are not priorities; and allows any residentially designated parcel on the waterfront to convert to or incorporate visitor-serving or boating support uses. In other words, it allows, but does not require changes to priority uses. Nevertheless, the LCP allows considerable intensification of residential development, clustering such development on the western side of the Marina, adjacent to the predominately residential community of Venice.

The Land Use Plan states, in part:

PRIORITY OBJECTIVES
1. Preservation of the Small Craft Harbor facility a Priority*. The primary purpose of the Land Use Plan shall be to maintain Marina del Rey as a Small Craft harbor for recreational purposes. A secondary purpose shall be to promote and provide visitor-serving facilities.*

- *Development shall not detract from, nor interfere with the use of existing or planned boating facilities, nor the ancillary uses which support these facilities.*

2. Maintenance of the physical and economic viability of the marina a priority*. Lessees shall be encouraged to replace structures and facilities which are physically or economically obsolete.*

3. Phase II Development. All development approved under the authority of this LUP shall be deemed to be Phase II development*. …*

4. Development Zones Created*. Twelve Development Zones (DZs) within the Marina del Rey segment shall be established as a means of allocating development potential within the LCP study area. These zones relate to and are based upon the Traffic Analysis Zones, used in the traffic studies that are discussed in the Circulation Chapter.*

NON-PRIORITY USES

8. Coastal Housing not a Priority. Although construction of housing is not a priority use in the Coastal Zone, additional opportunities for coastal housing may be provided, where appropriate. All development of coastal housing shall be contingent upon meeting all applicable policies and development standards of the certified LCP, including but not limited to adequate parking, view corridors, public access to the shoreline, provision of new usable public recreation and open space and visitor serving recreational uses in the plan segment, provision of adequate traffic capacity, and any provisions for low- and moderate-income and senior citizen housing subsequently certified by the California Coastal Commission.

9. Office/Commercial Uses Not a Priority. New or expanded development of office commercial uses shall be discouraged, and, where permitted, confined to sites outside the Waterfront Overlay Zone.

AFFORDABLE HOUSING

10. Affordable and senior citizen housing projects (are allowed density incentives) …
Overlay Zones. *Overlay Zones are designated on a limited number of parcels throughout the Marina del Rey Specific Plan Area. The Zones are intended to encourage more creative and desirable projects by allowing mixed-used projects. The Mixed-Use Zone applies to selected parcels, adjacent to major thoroughfares while the Waterfront Overlay Zone applies to selected parcels adjacent to the water edge. The Overlay Zones work in conjunction with the Principle Permitted Use designation on each parcel to establish the criteria and guidelines for more flexible development of the property. Lessees desiring to enhance their project by applying for additional development potential allowed by either of the two Overlay Zone will be subject to a Conditional Use Permit requirement.*

*- **Mixed Use Overlay Zone (MUZ**): The Mixed Use Overlay Zone is intended to provide additional flexibility for development of creatively designed mixed-use projects on selected non-waterfront parcels. Parcels with this overlay zone are permitted to combine the above land use categories on an individual parcel, and are allowed to mix primary uses within a structure. Development potential available to each applicant is subject to the limitations of the zone in which the parcel resides. Height limits subject to the standards of each land use category noted above. This Overlay Zone applies to the following parcels: 75, 95, 97, and 140.*

*- **Waterfront Overlay Zone (WOZ**): The Waterfront Overlay Zone is intended to provide additional flexibility for development of coastal-related and marine-dependent land uses, primarily on waterfront parcels. Permitted uses include: Hotel, **Visitor-serving Commercial, Open Space, Boat Storage, and Marine Commercial**. Any applicant, with this overlay zone designation, may apply for any of the three categories of land use permitted under this category, regardless of the principal permitted use on the specific parcel. Development in the WOZ may not*

displace existing public recreation, visitor serving or coastal dependent boating uses, although development may proceed if the use is relocated within the development zone. The Development Potential available to each applicant is subject to the limitations of the zone in which the parcel resides. Height limits subject to the standards of each land use category noted above.

Definition of Development Zones
For the purposes of allocating future development potential, the Marina del Rey Specific Plan area is divided into twelve Development Zones (DZs). A DZ includes one or more parcels grouped together for the purposes of analyzing traffic movements and impacts. These DZs are directly associated with the traffic analysis zones created for and used by DKS Associates in the Marina del Rey Traffic study (see Figure 5). This study provides the basis for analyzing traffic impacts from proposed development in the Marina study area. The zones are designed to isolate traffic impacts on individual intersections in the Marina. More information regarding this study is found in Chapter 11, Circulation. Refer to Map 8, at the end of the chapter, for a depiction of the development zones

C. LCP Implementation Issues

The public raised several concerns with respect to new development policies of the LCP in Periodic Review meetings. First, speakers were concerned that the projects that have been approved under the LCP are predominately residential, a low priority use. Second, speakers expressed concern that proposed developments will displace recreational and boating support uses, and that some proposed recreational developments, such as a hotel, would not serve the average person. Third, the height and density limits of the 1996 plan greatly exceed the limits of the plan the Commission certified in 1984. The public expressed concern about the visual impacts of the densities and heights of development that has been approved under the LCP. Fourth, even though the plan is still within the theoretical limits of an expanded transportation system, speakers were concerned with escalating traffic levels, mostly on Lincoln Boulevard, and were concerned with potential traffic impacts of new development under the LCP. Fifth, they were concerned that the LCP is not an effective guide to future development because several projects under consideration require plan amendments. There was a concern that a document that the Commission has not formally reviewed, the Asset Management Strategy, is guiding development decisions. Finally, they raised issues with the long-term protection and management of the Marina as a publicly owned recreation facility.

1. Protection and Expansion of Priority Uses.

Los Angeles County has granted 14 coastal development permits since certification of its LCP. Eight of the permits were issued after the Commission certified the 1996 amendment, which allowed major redevelopment to begin. Under the LCP the County, and Commission on appeal, have approved 1,076 residential units, (including 60 congregate care units), 41 percent of the residential units allowed under the plan, and

allowed the demolition of some retail but also the enlargement of a retail center, resulting in a net increase of 12,930 square feet of retail space.

The development that has been approved is expected to generate 369 evening peak hour trips. In reconstructing three marinas, there was a net loss of 448 legal slips. Additional slips were lost by enforcement of safety rules concerning “end ties” and “seawall moorings.” The reduction in slips is discussed in the Boating Section 2 of this report, but is attributable to changes in slip standards and in the sizes of slips provided. The County approved moderate expansion of a strip mall adjacent to Washington Boulevard and determined that complete renovation of a neighborhood retail center on Mindanao and Admiralty Way did not require a coastal development permit. The change in retail and restaurant uses resulted in a net reduction of small restaurants and general retail uses on the moles, and expansion of established retail centers on the periphery of the Marina. The smaller retail uses on the moles were displaced by larger apartment buildings, although one yacht club and a small office were replaced. While developers included some retail as part of their projects, commercial development on the moles was reduced.

In response to this issue, County staff indicated informally that many of the older businesses on the moles were not profitable, and that it was the objective of the 1995 certified LUP to allow the redevelopment of these older uses with economically viable uses, including high density residential uses on the west side of the Marina.

Table 4, following, provided by the Los Angeles County Department of Public Works, summarizes the projects that have been approved.

Table 4: MDR Redevelopment since 1996.

MDR REDEVELOPMENT GRANTED SINCE LCP CERTIFICATION (2/8/96) PER DZ (Source, Los Angeles County Department of Public Works,)					
DZ #	**DZ Name**	**Case #**	**Parcel #**	**Applicant**	**Redevelopment Granted**
1	Bora Bora	00-39	112	Epstein	120 D.U.'s Net Decrease of 271 Slips Demolish 4 KSF Office 2200 sq ft. park/overlook
2	Tahiti	00-39	111	Epstein	Pre-existing Apartments (No Increase in D.U.'s)
3	Marquesas	98-134	12	Ring	Net Increase of 282 D.U.'s 35 Senior Apartments Net Decrease of 3.6 KSF Retail Net Decrease of 237 Slips
4	Panay	91-329	18	Goldrich & Kest	68 D.U.'s 60 Congregate Care Units
		98-134	15	Ring	Net Increase of 250 D.U.'s, 47 Senior Apartments Net Decrease of 41 Slips Demolish 4.4 KSF Restaurant 8 KSF Retail
		98-172	20	Goldrich & Kest	99 D.U.'s, Net Increase of 6.94 KSF Retail Transfer of 97 D.U.'s from DZ1 to DZ4 [48]
5	Palawan/Beach	02-277	97	Pashaie	450 SF net retail increase
		03-029	140	Pashaie	Net Increase of 115 D.U.'s
6	Oxford				
7	Admiralty	96-169	40	DPL	Library Expansion - 2,454 S.F.
8	Bali				
9	Mindanao				
10	Fisherman's Village				
11	Harbor Gateway				
12	Via Marina	03-030	95,LLS	Pashaie	11.4 KSF Net Retail Increase, 288 Rest. Seats, 1.3 KSF reduction in office
13	North Shore				
14	Fiji Way				

[48] DZs transferred for purposes of Development Zone trip allocation, not added to total units.

Looking at the five major residential redevelopment projects,[49] it is evident that there was an increase in apartments, a low priority use under the Coastal Act, and the number of boat slips declined significantly. While these changes were not related, the reduction in the number of slips reduced the net evening peak hour trip (PMPK) generation of several projects. The PMPK is used to calculate the developer's consistency with the buildout cap and the developer's contribution to traffic mitigation funds (Exhibit 5).

Although housing is not a priority use, the marina is currently built out with high density residential units. The LCP allows residential use and protects and requires the provision of affordable housing. The LCP has a number of policies that require the provision of low- and moderate-income housing within the coastal zone if feasible, consistent with State regulations (Government Code Section 65590). However, 30604(g) of the Coastal Act states that:

> *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

While the Coastal Act encourages the protection of existing, and the of provision new, low- and moderate-income housing in the coastal zone, the LCP requires the provision of affordable housing if feasible. The County, consistent with the Coastal Act, should encourage the protection and the provision of affordable housing within the Coastal Zone of Marina del Rey (Recommendation 67). With regards to affordable housing, the LCP, as currently certified, is inconsistent with the Coastal Act.

a. Flexible use designations—the WOZ designation.

The Local Coastal Program included language designed to temper the effect of designating almost a third of the Marina's land area (roughly 95 acres) to residential use. Any leaseholder on any residentially designated water front parcel could take advantage of an overlay zone, the WOZ designation, to develop the parcel commercially or to include commercial use in the development. In addition, public recreation and boating-related facilities need to be replaced (although not necessarily on the particular parcel). To date, this program has not resulted in the inclusion of a significant amount of commercial space in the waterfront residential developments. One developer of a waterside parcel maintained an existing restaurant, office and yacht club and one incorporated 10,000

[49] The five major redevelopment projects (most significant traffic impacts) are:
1. Parcels 111 and 112: 120 market rate apartments, 35 Senior Apartments, Net Decrease of 3.6 KSF Retail Net Decrease of 237 271 Slips
2. Parcels 12 and 15, Net Increase of 532 market rate D.U.'s and 82 Senior Apartments, Net Decrease of 3.6 KSF Retail; demolish 4.4 SF Restaurant, Net Decrease of 278 Slips; (Demolish 4.4 KSF Restaurant , construct 8 KSF Retail.
3. Parcels 18 and 20: 99 construct 227 D.U.'s, 68 market rate D.U.'s, 99 senior units and 60 Congregate Care Units, demolish 4500 sq. ft. office and yacht club, rebuild 6,940 sq. ft. yacht club 2,300 sq. ft. office. Net Increase of 6.94 KSF Retail
4. Parcels 95, LLS 11.4 KSF Net Retail Increase, 288 Restaurant. Seats,
1.3 KSF reduction in office
5. Parcel 140: net increase of 115 dwelling units.
(County planners distinguish senior and other dwelling units due to different traffic impacts.)

square feet of commercial development into a residential project, but no developer of residentially designated land has converted that land to commercial use or a priority use.

During review of their applications, applicants indicated that restaurants and visitor serving commercial uses on the moles are not economically viable. In addition, the realities of constructing at the densities that the plan permits leave little room on the parcel to accommodate a small restaurant or store. At the densities permitted in the plan, there is not room on the parcels to develop at maximum density, comply with height and view corridor policies, and reserve room for commercial uses. Development of higher priority uses is permitted in the plan, not mandated. However, lessees are not required to build at the maximum levels allowed in the plan. Some rethinking needs to be done concerning ways to attract a significant amount of higher priority uses in residentially designated areas.

b. Provision of lower cost recreation facilities/ hotels and other overnight facilities.

The Commission has long considered hotels to be a primary visitor serving use. The Coastal Act provides for both visitor-serving facilities such as hotels that serve the upper end of the market and for lower cost visitor serving facilities such as parks and other day-use facilities. The LCP favors hotels over apartments: the 1984 LUP allowed three hotels to develop before construction of the Marina Bypass and other subregional transportation improvements. Since 1973, the Commission has approved four hotels in the Marina, one after the certification of the LUP, and three have been constructed. The County has not yet approved a hotel, although two are under consideration. The LCP provides for an assessment of a fee as part of the approval of new hotels to allow for development of youth hostels in the general area. The four hotels approved by the Commission paid a similar fee. The Los Angeles County Department of Beaches and Harbors also operates a recreation vehicle park on Dockweiler State Beach, which was developed in part because of negotiations over this issue. To protect lower cost public facilities, the LCP also provides for protection (and/or replacement) of parkland, the launch ramp, and public parking. The County has approved no projects that displace any of these uses. In carrying out the LCP, to date, lower cost facilities have not been displaced. However, as indicated below, some major projects have that potential.

In order to facilitate financing, hotel developers have proposed a number of financing and ownership plans that transfer ownership to individuals. Some are time-shares, in others, an owner may actually own a unit, which is managed and rented out to others. In order to assure that a residential use does not take advantage of the priority given to hotels, the Commission has tried several methods to assure that the hotel is available to the general public and that owners do not monopolize the rooms during peak vacation months. The Commission has addressed the issue of “quasi-residential hotels” by attempting to maintain the distinction between a hotel that is a priority use and a residence that is not. In several permits, it has allowed private ownership or shareholding of units, but has required that the building operate as a bona fide hotel. It has imposed limits regarding the number of days a year and the number of consecutive days that an owner can stay at his or her unit. These methods have also included a requirement that the unit be rented through the hotel desk and that it remain available when the owner is not occupying the unit.

Staff notes that the Commission has applied these mechanisms to applications on private property. The Marina del Rey is publicly owned. The LCP allows a significant number of residential units in the marina, and reserves a limited number of sites for hotels. The Commission approved additional residential use as part of a pattern of uses that also included public parks and privately operated visitor-serving facilities. Because the Marina del Rey is publicly owned, staff recommends that there is a greater responsibility to reserve land for long-term public use, and to provide publicly oriented privately operated commercial facilities, including publicly available overnight facilities.

Staff is recommending that the County address this issue so that only hotels are allowed to develop on a parcel designated for hotel development. In informal comments, County staff has expressed concern that development of the hotel-designated sites is dependent on financing from private owners. Their initial assessment is that if only a conventional hotel were permitted, the site would not develop as a hotel.

The Commission notes that such financing considerations are essentially short-term; and in the long-term demand for a conventional hotel should increase along with population growth. The County should amend the LCP to incorporate the definition of "hotel," and limit hotel parcels to hotel use. The LCP traffic impact limits are based on peak hour trips, which puts more stringent requirements on office, manufacturing and residential uses than on hotels, which have fewer impacts on peak hour trips. If the hotel is then in fact a residential use, the developer will not have paid its fair share of impact fees, and congestion generated by the residential units will not have been mitigated.

Many members of the public oppose the development of hotels in the Marina due to their height, density, and perceived incompatibility with adjoining residential uses. Instead, the public has advocated reserving the land designated for hotels for public open space or restored wetlands. Section 30222 of the Coastal Act gives priority to use of private land for visitor serving and recreational development over residential use. Section 30221 and 30223 of the Coastal Act, respectively, provide for protections of oceanfront land for recreational use, and for uses on upland areas that support recreational uses. The land use designations in the LCP reserve a limited, but significant amount of the land granted to private leaseholders for publicly available overnight accommodations.

The public points out that the hotels in the Marina del Rey are not affordable to the majority of the population, in fact questioning priority given to hotels as "public serving" when most of the population cannot afford to use them. In fact, the hotels in Marina del Rey all charge at least 150 dollars a night, and some charge three times that. These hotels are for the most part not affordable for middle and lower income families and are beyond the means of most non-business travelers. In response to these comments, County staff indicated that there are lower cost hotels in the area; including several in nearby Venice and that the County operates a recreational vehicle park in Playa del Rey. Two Marina del Rey hotels have also contributed to the construction of a youth hostel in Santa Monica. County staff informally indicates that it is unlikely that developing a new lower cost overnight facility is feasible. The County has adopted policies, most recently the Asset Management Strategy, aimed at maximizing income from leaseholds in Marina del Rey,

not incurring additional expenses, but has not dedicated any additional parkland. However, there are preliminary discussions of expansion of Burton Chase Park under certain development scenarios including the replacement of existing public parking with residential uses elsewhere in the Marina and the relocation of upland boating support uses with mitigation going toward Burton Chase Park expansion efforts.

As population grows, the need for both parks and overnight accommodations near the coast also increases. More and more of Los Angeles County citizens live several hours away from the coastline. The County should investigate ways to provide lower cost overnight accommodations in Marina del Rey. The County should identify and preserve land for overnight accommodations consistent with Coastal Act policies and with the LCP, develop methods to reserve hotel designated land for hotel use and encourage lower cost overnight accommodations. The LCP provides incentives for hotels: the parcels designated for hotels use include four parcels on Admiralty Way where the LCP height limits allow development to 225 feet. One of the parcels is developed with a relatively new hotel, two are developed with older low rise motels, and one is vacant. The LCP allows the hotel parcels (and the five R-5, high density residential parcels) located along the harbor side of the marina loop roads, (Via Marina, Admiralty and Fiji Ways) to build to 225 feet. This additional height was proposed by the County in its 1995 amendment to encourage recycling of residential uses and to make it possible for hotels to incorporate enough rooms to be viable. At this point only one project, a proposed hotel, has proposed to build to the 225-foot limit. The public has objected to the height of this planned hotel based on community character issues.

Given the importance of hotel use, and the height and density incentives afforded them, allowing hotel-designated land to be operated for residential use is inconsistent with the certified Land Use Plan and with the public recreation policies of the Coastal Act. Re-designating land designated for hotel use as residential use would not be consistent with the Coastal Act or the LCP.

Absent these limitations, the LCP cannot be implemented in a manner that fully protects visitor-serving facilities in conformity with the Coastal Act. As suggested in Recommendation 22-24, the LCP would be revised to add more clarity to protect visitor serving overnight accommodations.

With regards to affordability of hotels, pursuant to the public access policies of the Coastal Act, and particularly section 30213, the Commission has the responsibility to ensure that a range of affordable facilities be provided in new development along the coastline of the state. The expectation of the Commission, based upon several precedents, is that developers of sites suitable for overnight accommodations will provide facilities which serve people with a range of incomes. If development does not provide for a range of affordability on-site, the Commission requires off-site mitigation.

In general, many moderately priced hotel and motel accommodations tend to be older structures that are becoming less and less economically viable. As more recycling occurs, the stock of lower cost overnight accommodations tends to be reduced, since it is generally not economically feasible to replace these structures with accommodations that

will maintain the same low rates. In general, the Commission sees far more proposals for higher cost accommodations than for low cost ones. In an effort to stem this tide, and to protect lower cost visitor-serving facilities, the Commission has imposed in-lieu mitigation fees when development proposes only higher cost accommodations. By doing so, a method is provided to assure that some degree of lower cost overnight accommodations will continue to be provided in the coastal zone.

The Commission has not defined what constitutes an "affordable" overnight accommodation. However, the State of California per diem hotel room allowance of $84.00 per night provides a reasonable measure of what is an affordable accommodation. However, the Commission recognizes that even an $84.00 per night room may not be affordable to many moderate & lower income families and individuals. The County currently provides six hotels within the Marina ranging in average room rates between $126 to $393 per night.

The County currently requires that all new hotel units contribute to a Youth Hostel Fund established by the County to encourage new low-cost overnight accommodations within Marina del Rey. All developers of hotel units have the option of providing low-cost overnight accommodations on-site or contributing a prorated share of the acquisition and construction of a low-cost facility. The fee is based on a rate of one-tenth of the current cost of acquisition and construction of one bed and one bed's share of appurtenant supporting facilities including bathrooms and kitchens per every 10 market rate hotel rooms constructed.

This fee established in the LCP, which is based only on the fractional cost of a room, is inadequate to support the cost of providing lower cost accommodations within the coastal zone. In past actions, the Commission has imposed an in-lieu mitigation fee to be used to provide new lower cost overnight visitor accommodations. Recent examples include 5-99-169 (Maguire Partners), 5-05-385 (Seal Beach Six), A-3-PSB-06-001 (Beachwalk Hotel), and A-6-ENC-07-51 (Surfer's Point). The most recent example included the requirement for a fee of $30,000 per room for 25% of the proposed number of rooms. The fee of $30,000 was established based on figures provided to the Commission by Hostelling International (HI). The figures provided by HI are based on two models for a 100-bed, 15,000 sq. ft. hostel facility in the Coastal Zone. The figures are based on experience with an existing 153-bed, HI-San Diego Downtown Hostel. Both models include construction costs for rehabilitation of an existing structure. The difference in the two models is that one includes the costs of purchase of the land and the other is based on operating a leased facility. Both models include "Hard Costs" and "Soft Costs" and start up costs, but not operating costs. "Hard" costs include, among other things, the costs of purchasing the building and land, and construction costs (including a construction cost contingency and performance bond for the contractor). "Soft" costs include, among other things, closing costs, architectural and engineering costs, construction management, permit fees, legal fees, furniture and equipment costs and marketing costs.

Because the Commission has historically interpreted the protection of lower cost facilities to include a range of affordable facilities, requiring an in-lieu fee for 100% of the units within a proposed development would be too high. It stands to reason that should proposed development include a significant number of its rooms as lower cost, the

protection of a range of affordability would still be possible. However, as stated above, the current trend for development is to include 0% of a proposed development's rooms to function as lower cost. Therefore, a significant portion of hotel projects would be required to pay fees in-lieu of providing facilities at lower cost. The Commission has historically interpreted 25% as a reasonable amount of the total development to protect a range of affordability. Therefore, in order to protect and provide lower-cost overnight accommodations, the LCP should be updated to adjust the fee to adequately cover land acquisition and construction cost of lower cost overnight visitor accommodations, such as a youth hostel, campsites, cabins and RV parks, within the coastal area of Los Angeles County.

2. Displacement of boating support and privately operated recreation uses.

The LCP development policies explicitly protect boating and recreational uses:

> *2. Residential Development. As residential development occurs, the total number of dwelling units shall be monitored and the net increase in any development zone shall not exceed the number of residential units allocated to that zone, less the number of units converted to a visitor-serving or coastal-oriented use, if any. Residential densities on mixed-use parcels, where the floor area of the non-residential use exceeds 10 percent of the total floor area, shall be figured using only the residential buildable area, not the buildable area for the entire parcel. The buildable area for the entire parcel may be used in residential density calculations where the floor area of the non-residential use is 10 percent or less of the total floor area. The residential buildable area shall be determined by taking the parcel's buildable area, less the area devoted to all other land uses.* ***Existing boat storage, public access, public parking and boating support uses in residentially zoned areas in the WOZ zone shall be preserved. With the exception of facilities located on Parcels 1, 54, 55 and 56, as part of the application, these uses may be relocated on the same parcel or to another parcel within the marina, as long as the size, efficiency and capacity of the facility remains the same and such relocations occur prior to any dislocating development. The trips generated by such a use shall not be considered as additional development when calculating allowable new trips in the WOZ zone.*** (Emphasis added)

In the projects that staff evaluated, no boating support uses have been removed. In fact, in one project (98-172) on Parcel 20, a 6,025 sq ft yacht club and a 2,300 sq. ft. office replaced a ±2,300 sq. ft. two-story yacht club and ±2,300 sq. ft two-story office. This project conforms to the policy to protect existing boating support uses. However, as noted in the boating section, 448 legal boat slips and almost 100 additional "illegal" slips have been removed during renovation of several marinas. In addition, some private recreational and visitor serving uses have been removed and replaced with residential uses. A 4,400 sq. ft. restaurant, a visitor support use, was demolished from parcel 15 (see Table 5 above) as part of the construction of an apartment project. This did represent loss of some visitor serving commercial use, but, in view of the growth in other centers, is not significant.

However, several projects under discussion would remove private recreational uses and replace them with parks or other recreation uses. Others would replace public parking areas with private uses. The public is aware of these projects because they have been discussed with the Design Control Board and have appeared as RFPs (Requests for Proposal) on the official Marina del Rey website or are listed as potential projects in the County's financial planning document, the Asset Management Strategy. Two such requests proposed to develop two public parking lots, a picnic area, a motel and a small restaurant, with a hotel and a mixed use commercial and residential development. One of the parking lots provides parking for a kayak and canoe launch area and for a restaurant that would be replaced. In a second plan a lot that serves both Marina Beach and overflow parking from a popular restaurant is being considered for a parking structure. Another plan still in the review process would replace a public parking lot that is now designated for public open space with a residential use and still another proposal would replace a public parking lot inland of Admiralty Way with a residential project.

However, with the exception of the slip reductions, discussed in more detail in the boating section which were approved by the Commission, no project the County has actually approved has displaced recreation facilities, and the Department of Regional Planning has reviewed none of the projects under discussion. Secondly, any project that includes development that is not consistent with the LCP, such as the development of a lot designated for a public park or for public parking with another use, will require an amendment to the LCP. The Regional Planning Commission the Board of Supervisors and the Coastal Commission will be asked to consider amendments that cumulatively would change the pattern of public use and reduce the availability of public parking, public parks and public facilities in the Marina del Rey.

The staff emphasizes that there are certain standards that any LCP amendment must meet, which are consistency with Chapter Three of the Coastal Act. The mere submission of an LCP amendment or consideration of a project does not represent a commitment on the part of any governmental body to approve such a project. In order to fully analyze any future LCP amendment a suggested recommendation requires that all pending or future development, such as pending future amendments, development considered in the County's Asset Management Strategy report, and other contemplated facilities should be addressed in a comprehensive LCP update, so that decision makers and the community can determine the individual as well as the cumulative impacts that the amendment will have on the marina (Recommendation 18A.). Furthermore, as suggested in Recommendation 19, the County should consider any proposed project that requires an amendment to the LCP to change the LCP designation of a parcel now designated for public parking, or park use to a private or commercial use at the same time it considers all other pending proposals changing the designations of public parks and parking lots. The County should analyze the total pattern of public serving and park uses in the marina in approving such an amendment.

In light of projects under consideration, the County should update the LCP to provide priority for free or lower cost public uses on waterfront parcels and strengthen development standards to preserve existing public and lower cost recreation facilities and facilities, such as public parking that support them. As suggested in Recommendations 21

and 22, the LCP would ensure that lower cost recreational facilities are protected in conformity with Coastal Act policies. The Commission and the County should avoid considering requests to change the use of public parks and public serving facilities piecemeal so that the amount of public use of the Marina is not reduced in a series of project driven piecemeal amendments.

3. Visual impacts of densities and height.

At hearings on the Periodic Review of the LCP, the public expressed concern about the mass of the new structures that have been approved. The LCP allowed heights and densities on the moles that dramatically exceed that of the two to three story development previously allowed. The LCP incorporates requirements for view corridors and design review policies as a mitigation measure for allowing higher densities and taller buildings. All developers on waterfront parcels on the moles, Via Marina, and Admiralty Way parcels are required to protect view corridors providing public views of the Marina boat basins and/or channels over twenty percent of their lots as part of new developments. If the developer proposes to build at a height greater than 45 feet on the moles or 140 feet along Via Marina or Admiralty Way, a wider view corridor is required. All four projects that the County has approved are eligible for these incentives, and all have taken advantage of the view corridor/height incentive program. Based on these policies, the County approved four projects that extend to up to seventy feet high, but also required view corridors and in one case, a 4,500 sq. ft. public view park. The visual impact of their increased mass is presently hard to assess because only two structures are complete. The rest are still under construction, or have not begun construction.

The public has also expressed concern that development does not protect all public views to areas such as the Santa Monica and San Gabriel Mountains, from areas listed as viewing sites in LCP policy C.9.e.5. Section 30251 of the Coastal Act states in part that, “scenic and visual qualities of coastal areas shall be considered and protected as a resource… and development shall be sited and designed to protect views to and along the ocean and scenic coastal areas”. The LCP has numerous polices addressing the protection of harbor and water views and states that protection of these views is a priority of the plan. As stated above, the LCP height standards require view corridors along all waterfront parcels, while the perimeter or outside parcels are generally allowed the higher heights in the marina and require no provision of view corridors. These height requirements were designed to provide and protect views to the water and marina in new development projects.

Concern has also been expressed regarding future development of the public parking lot adjacent to Mothers Beach (Marina’s only public beach area) and impacts this development will have on views of the marina. At this time the LCP designates the area as a public parking lot, and the LCP does not allow public parking lots to be converted to other uses other than for public parking purposes (Recreation and Visitor-Serving uses, Policy e.12). Any proposed redevelopment of the parking lot that is inconsistent with the LCP, will require an amendment to the LCP and any coastal view issues that any future project, or redesignation of the property, may raise will be addressed at the time of the amendment.

LCP Policies

The LCP allows height incentives if the applicant provides a view corridor:

7. Height Design Concept.

Existing Marina*. The height of new structures within the existing Marina shall be governed by height standards established by the applicable Land Use Category (see Chapter 8, Land Use), and by the following general height standards as applied to various similarly-situated parcels in the existing Marina:*

25-Foot Standard
45-Foot Standard
140-Foot Standard
225-Foot Standard

Applies to accessory structures on the Marina Beach area, public open space, some public parking lots, the fueling docks, the public boat ramp site, and ancillary commercial structures in the Boat Storage land use category. Applies to moles, including all parcels adjacent to mole roads and mole ends, and to office uses seaward of the loop roads, public parking lots, and public facilities (with the exception of theme towers on public facilities). Except as noted above, applies to parcels adjacent to and seaward of Via Marina, and Admiralty Way (excluding the Marina City Towers and parcels 112 and 113, which are allowed a 225 foot standard), the Marina shopping center and frontage along Washington Blvd. Except as noted above, applies to parcels landward of Via Marina and Admiralty Way, and includes parcel 112 and 113, and the westerly portion of parcel 125. The Height Design Concept may be modified where a valid public benefit is achieved, such as increased views of the waterfront. For parcels adjacent to mole roads, and seaward of Admiralty Way and Via Marina, flexible height standards may apply in exchange for increased view corridors, as provided for in Policy No. 8 below. [Staff note: the height designations and the range allowed on each parcel is shown in the plan maps for each Development Zone, which also include land use designations.]

8. Height Design Flexibility for Waterfront Parcels.

Any project design for any parcel on the seaward side of a public access road may apply for flexible height standards above the maximum allowable height in exchange for providing increased view corridors in excess of the minimum requirement of 20 percent, as provided for below:

a) Mole Roads Optional Height Areas*. Structures proposed on parcels where a 45foot standard applies and located between a mole road and the bulkhead may be allowed up to a maximum height of 75 feet when a 40 percent view corridor is provided. Height above 45 feet shall be permitted at the ratio of 1.5 feet of additional height for every additional 1 percent of view corridor provided in excess of the 20*

percent minimum standard. This policy is applicable on the following mole roads: Panay Way, Marquesas Way, Tahiti Way, Bali Way, Mindanao Way, Fiji Way, and the mole portion of parcel 132. This policy shall not apply to that portion of the mole seaward of the cul-de-sac where a 45-foot maximum height standard applies.

***b) Via Marina and Admiralty Way Optional Height Areas**. Except as noted in Policy No. 7 above, structures proposed on parcels where a 140 foot standard applies and located adjacent to and seaward of Via Marina and Admiralty Way may be allowed up to a maximum height of 225 feet when a 40 percent view corridor is provided. Height above 140 feet shall be permitted at the ratio of 4.25 feet of additional height for every additional 1 percent of view corridor provided in excess of the 20 percent minimum standard.*

***c) The open area** may allow public amenities such as benches and landscaping, and parking lots provided the parking area is at least two feet below grade to allow views of the harbor from the mole road. Projects not meeting the minimum "open viewing area" requirement shall be restricted to 45 feet in height. Such projects shall be required to meet the mandatory 20 percent "open viewing area" requirement for all projects on the seaward side of any roadway within the LCP study area.*

The LCP also incorporates the County's density incentive for low income housing by reference. The ordinance allows developers who include lower cost units in their projects additional height or density or both. The number of units necessary to trigger the incentive is set by the ordinance. The Commission certified this program along with the LCP in 1990.

Table 5: Application of Height/ incentive policies to approved projects.

County number	Mole road (45-70 feet) or loop road (140-225 feet).	Parcel	Approved Height	View corridor	Senior/low income bonus
91-329	Mole Road	18	70 feet	Yes	Yes, 71 du
98-134	Part loop/part Mole road	12, 15	55-65 feet	Yes, Modified, angled	Yes
98-172	Mole Road	20	35-56 feet	Yes	Yes
00-39	Not Waterfront	111 & 112	77 feet		
03-029	Mole	112	60	Yes, Modified	

The Commission engaged in lengthy discussion about height in the marina at the time it approved the LCP amendment that allowed this development standard. The Commission supported the view corridors, and after lengthy discussion accepted the greater heights.

Some members of the public have indicated that developers in their final projects have not complied with some incentives such as extra height provided for moderate income housing or reduced parking for congregate care facility or low and moderate income housing. The County is investigating these complaints.

The County has applied the view corridor standards. In one instance, it accepted a view corridor that terminated in a wedge at the public road. This configuration needed less land than an alternate configuration in which the view corridor would have extended at right angles to the road, but also provided a longer interval during which a passerby could see across the parcel. This project was appealed to the Commission, which found no substantial issue with the County's decision.

As noted elsewhere, the LUP includes a discussion of site plan review along with its discussion of increased heights. The County has reviewed the site plans of all developments to assure consistency with its view corridor and waterfront promenade requirements. However, it does not review the site plans to assure that the view corridor (and the waterfront promenades) will be accessible to residents, guests or the public as open space associated with the structures. To the extent to which they are on parking areas, the public currently has access. The new buildings are perched on parking structures above these features. Since there is no public parking on many sites, no on-street parking on the mole roads and no sidewalks to walk down the street to view the view corridor, these features work in isolation.

In informal comments, County staff indicates that in its view, residential developments should provide access on the waterfront promenade and that other public access or passage is inappropriate in residentially developed parcels. This view is inconsistent with the analysis in the County's own Asset Management Strategy report, which talks about

methods for creating an open, lively cityscape in the Marina del Rey, which complements and takes advantage of the waterfront. The mechanism envisioned in both the LCP and in the Asset Management Strategy for achieving this goal is site plan review.

The County should improve site plan review so that the view corridors can function as open space serving the public and the residents of the development. As suggested in Recommendations 20 and 25, the LCP should be revised to enhance site plan review with the goal of improving access to the view corridors. County staff indicates that the Asset Management Strategy is intended to set financial, not land use priorities and should not be incorporated into the LCP. However, the ***analysis*** in the Asset Management Strategy provides insights that if adapted into LCP procedures could help County planners enhance the Marina del Rey as a recreational destination, and as an attractive place to live.

4. Review of site plans

As part of its policy of allowing greater heights and densities, the revised Land Use Plan strengthened its design review policies. The Visual Resources Section e 4 of the LUP indicated that:

> *e 4. "Signing, building design, site planning and façade design in the existing marina shall continue to be controlled by the Marina del Rey design control board. The design control board shall review all new development proposals, including renovations for consistency with the policies and objectives of this LCP and shall recommend such modifications to the design as they deem necessary…"*

The certified LCP includes site plan review as part of the development section and, in the design element, requires pedestrian and alternative traffic improvements: widened sidewalks, shuttle stops, stops for water taxis and dinghy tie-ups in commercial developments. Enhancing multimodal transportation is included as an improvement in the development and transportation sections of the LCP. There was no evidence in the Notices of Final Action that these policies had been implemented through special conditions. However, the full record on the projects that were appealed included the Design Control Board minutes although the findings on which they based their actions are not part of the coastal permit findings and conditions and are not forwarded with their record of action.

One problem is that the implementation ordinance includes internal inconsistencies when it addresses site planning. The LUP states that increased heights and densities will be a balanced program to encourage flexibility of design, including review of the heights, site plans, promenade and view corridors. Even though the LUP states that the Design Control Board will review site plans as part of the County's program to intensify development, the LIP is inconsistent, requiring the Design Control Board to review the site plans of mixed use projects and prepare a report, but also limits its review of final plans. In the ordinance, Section 22.46.1060 E provides that the Design Control Board can review the plans but can only require revised plans for signage, colors and landscaping. While the LIP delegates review of the site plans to the Planning Commission, it does not require the Planning Commission to require revisions to plans to enhance views of the water and accessibility of

public features. The LIP is also very clear that if there is a conflict, the written standard of the LIP prevails. Sections 22.46.1060 and 22.46.1180.12 of the certified LCP discuss site plan review:

> ***§22.46.1060.E.4. Architectural Treatment****. Among other important objectives, good site design is essential in maintaining compatibility among adjacent land uses and preserving important public amenities such as view corridors and scenic vistas. Balconies, terraces and patios are encouraged. Outdoor dining facilities which do not interfere with public access ways are also encouraged to take advantage of water views and scenic vistas throughout Marina del Rey in those areas where restaurants are allowed by this Specific Plan; such facilities shall comply with the public view and public access provisions of this Specific Plan and the provisions of subsection G of Section 22.28.070. Specific design review within the existing Marina is the responsibility of the Design Control Board's Statement of Aims and Policies, dated February 17, 1987 found in Appendix C of the Certified LIP.*
>
> ***§22.46.1060.E .5. Building Height*** **Standards** [describes view corridor height incentive program]
>
> ***§22.46.1060.E 6. Community-wide design guidelines*** *are established and administered by the design control board of the department of beaches and harbors. The design control board shall continue to review architectural designs and site plans for development projects in the existing Marina.*
>
> ***d. The design control board*** *shall review the site plans of converted or mixed uses to assure that the design will enhance compatibility of the uses with each other and with adjoining uses. The board shall consider massing, public access and views, pedestrian and automobile traffic patterns, convenience of loading and trash hauling and the separation of public and residential routes and entrances of the building as they relate to the project's consistency with the LCP. The design control board shall consider and adopt a written report and/or provide marked plans to illustrate its conclusions relating to the project's consistency with its guidelines and the LCP. Design changes necessary to assure compliance with the access, visual quality, recreation, and other policies of this LCP shall be incorporated into the coastal development permit as conditions of development.*
>
> ***§22.46.1180.12. Site plan review within the existing Marina****. All applications for development in the existing Marina shall include accurate, scaled site plans and elevations, showing gross square footage of existing and proposed development, parking, and parking requirements, as well as access and view corridors required by this certified LCP. These site plans and elevations shall be signed and approved by the design control board.*
>
> ***§2246.1180A.12.a.*** *The design control board shall review the development for conformance of the project with this specific plan and with the identity and accessibility of the marina as a public boating and recreational facility. The board's analysis shall address, at a minimum, public access, height, circulation, massing,*

> *visual impact, views, and view corridors, compatibility of uses in a mixed-use project, and the visibility and convenience of public spaces as they pertain to the policies of this LCP. The design control board shall adopt a written report and/or exhibits describing their analysis and recommendations.* ***The design control board, as a condition of its approval, may require the applicant to return with final plans for approval of signage, landscaping, color and other details****. (Emphasis Added.)*

Requiring the Design Control Board to review a long list of design elements but specifically requiring it to review final plans on two of them is an internal inconsistency that represents a potential problem, especially in implementing the recreational policies of the Coastal Act and the LCP. Even though the total text appears to cover siting considerations, the scope of the Design Control Board's review has been interpreted in a more limited way.

The Design Control Board and Department of Regional Planning reviewed the four major projects for consistency with the view corridor standards, and made other comments on the design. The project on Parcels 12 and 15 was granted greater height under the view corridor ordinance and the density incentive ordinance but was still required by the Department of Regional Planning to make minor changes in the proposed height and project description, including apparently the number of units.

Finally, the analysis found in the Asset Management Strategy is very clear that detailed and creative site plan review is necessary in order to assure that the recommended intense development actually "attracts" the public. This analysis provides new information concerning how projects need to be reviewed in order to carry out this objective and the objectives of the LCP. The current language of the LIP confines the Design Control Board to review site plans and provide a written report, but to have review of final plans of only signs, colors and façades, and the Dept. of Regional Planning to review densities and the widths of walkways and view corridors. These are important functions but do not address the "vision" of the Asset Management Strategy, which allows intense development but includes design review to be sure that developers will include lively attractions, ground level destination, links to shuttle systems and a pedestrian environment. This kind of review and analysis is not reflected in the findings available for review on the residential and commercial projects that were recently approved. Instead, the findings were a careful review of the project's compliance with objective measures found in the Code. The Department of Regional Planning (DRP) does not start its analysis by incorporating changes based on the Design Control Board's report. For example, findings on the site plans for a commercial project on Parcel 140 are essentially code analysis. They state, in part:

> *8. The site plan depicts the apartment building covering the entire site with eight-foot landscaped setbacks on the northern and southern sides and 15-foot setbacks on the eastern and western sides. The first floor includes such amenities as a pool, a Jacuzzi and a garden. Other amenities, located in the lower basement parking structure, include storage units for each apartment, an exercise room, saunas and a game/party room. Floor plans for each of the four residential*

floors and the two parking floors are also provided. The first parking level is a street/ground level with the second parking level below ground. The roof plan depicts the roof decks for the loft apartments on the fourth floor. The elevation drawing depict the maximum height of the building at 77 feet and a sheet of unit plans depicts each of the different types of units proposed within the apartment building.

9. *The proposed use complies with all applicable community- wide design guidelines of the Marina del Rey Specific Plan, as provided in Section 22.46.1060 of the County Code as follows:*

a. Landscaping is depicted along the perimeter of the site with a minimum width of eight feet as required. Those portions of the underground parking structure that may be visible above ground shall be appropriately shielded. Landscaping plans will be required for review and approval by the Count Biologist and the Design Control Board prior to obtaining building permits.

b. Lot coverage is limited to 90% of the site and a minimum of 10% of the site must be landscaped. The proposed building covers 62,736 square feet of the 1,977-acre (86,118 square foot) property for a lot coverage of 73%. The total area devoted to open space (perimeter landscaping and interior courtyard) is 23,382 square feet for a landscaped area of 27%. As depicted on the site plan, the lot coverage and landscaping requirements have been met.

c. The site plan indicates that the project will contain 89 efficiency and one-bedroom apartments and 83 apartments with two or more bedrooms. The number of parking spaces required to accommodate these units is 300 standard spaces. The total number of guest spaces required is 43 standard spaces. The site plan depicts provision of 414 spaces, 290 of which are tandem spaces, and six of which are to be reserved for disabled persons. There is an excess of 71 spaces proposed and 59 of these spaces are compact. As depicted on the site plan, the parking requirement has been met.

d. Pursuant to Section 22.56.110 of the County Code, the Commission hereby grants the applicant's request for one building identification sign, not to exceed 120 square feet in area. The specific design of said sign shall be regulated by the Design Control Board.

e. The design of the building is in compliance with the site design and architectural treatment requirements of the Specific Plan and the specific design will be regulated by the Design

Control Board. As the parcel is not a waterfront parcel, a view corridor is not required. (Source, Los Angeles County Planning Commission, Findings for Approval of 03-030-(4)).

On the other hand, Marina Two (98-134-(4)) provided some unique and positive design features, for example, each window had a marina view. The staff report described these features, but there was no evidence that the features were a result of discussions between the reviewing agencies (the Design Control Board and the staff of the Department of Regional Planning) and the applicant. The County findings indicated that the applicant reduced the number of units in response to issues raised at the Planning Commission.

In order to assure that the LCP will be implemented in conformity with the Coastal Act, the County should remove the inconsistency between LUP and LIP language with respect to design review to include all elements subject to the Design Control Board's review and all design elements listed in the design and marketing analysis found in the Asset Management Strategy. Recommendation 25 suggests that the inconsistency between the LUP and LIP language with respect to design review be corrected. The LCP requires design review by the Design Control Board as part of both the development and the public access section, but LIP does not define "design" and what aspects of the project are reviewed as "design". The County should amend section 22.46.1180 12(a), which specifies the contents of the revised final plans which are submitted to the Design Control Board to include all elements subject to the Design Control Board's review and all design elements listed in the Asset Management Strategy. In response to this suggestion, County staff reiterated its view that after initial lease negotiations result in plans providing a waterfront promenade, as required in the LCP, review by the Design Control Board is limited and preliminary. The Department of Regional Planning would review the project for consistency with development standards of the LCP. Taken strictly, this interpretation leaves the qualitative evaluation envisioned in the LCP out of the process.

County policies have long included an important role for the Design Control Board, which is made up of design professionals and holds hearings that are accessible to marina residents and developers. If the County amends its LCP, it should provide clear authority to a public agency in a public forum to evaluate site plan designs, for consistency with the LCP and to require necessary changes. Any revision to these sections of the LCP should allow the Design Control Board to require review of final plans or make it clear that the Regional Planning Commission would be responsible for both analyzing "onsite open space and project features that facilitate public uses", and requiring redesign if the project is inconsistent with the LCP and the access policies of the Coastal Act. Suggested changes number 20 and 25 include these recommendations.

5. Relationship between the Asset Management Strategy and the certified LCP.

In 1997, the Department of Beaches and Harbors developed a plan to re-develop the Marina, the Asset Management Strategy (AMS). The Asset Management Strategy analyzed problems in the Marina del Rey, some of which were financial, but which also included design, access and use issues that the public has raised as part of Periodic Review. As stated in the Strategy, these problems included:

The use mix of the Marina reflects a compromise between the originally conceived recreational and open space Marina and the additional commercial/residential development that resulted in order to repay the bonds used for the dredging and creation of Marina del Rey.

The long-term vision of Marina del Rey is to establish it as a strong urban waterfront development while maintaining emphasis on the Marina's recreational boating mission. To accomplish this, we must achieve five characteristics common to successful waterfront developments:

- *A powerful sense of place;*
- *An accessible waterfront, both physically and visually;*
- *An exciting mix of interconnected uses that relate strongly to the water;*
- *A multi-modal transportation system that facilitates walking and other non-automotive forms of travel; and,*
- *A varied, high-quality residential environment.*[50]

The Asset Management Strategy report found that the presence of public parking lots adjacent to the water detracted from public views and suggested moving those lots to the periphery of the Marina. It did not specify where the lots were to be located. In order to continue providing public parking, the plan proposed that the County operate a shuttle or tram system to bring the public from the lots to the shoreline. [51] The Asset Management Strategy identified problems with the way the Marina works as a recreation destination. It found that Marina del Rey needs better access to the water and more lively uses along the water, which meant uses involving people. As well as encouraging the development of more visitor serving uses, the key use and design recommendations included more design review [52] in order to achieve better use of the water front. These included:

- Waterfront plazas (that complement the Marina's ambiance) and recreational boating mission;
- An accessible waterfront;

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[50] LA County, Asset Management Strategy, 1997.

[51] Parking and Transportation
The reorganization and relocation of public parking is an important development policy and is necessary both to redevelop key waterfront sites that can serve a better use and to encourage pedestrian and other nonautomotive forms of travel within Marina del Rey (i.e., water taxis and electric powered trams that link the two catalytic projects and other attractions, such as parks and restaurants). Waterside access to facilities for water taxis and boaters will be accommodated by the provision of dockage at the catalytic projects, parks, restaurants, etc. A possible solution would be to create structured parking on non-key sites located on the perimeter of Marina del Rey which have direct links to the nonautomotive forms of travel. One of the goals of AMS is to create a multifaceted transportation system within the confines of Marina del Rey which would allow visitors and residents to visit all areas of the Marina without having to drive their own vehicles. This will benefit the local businesses, as visitor and tourist spending will increase proportionally to the length of their stay. Traffic impacts from the catalytic projects and all other Marina development will be considered during the environmental review process for each project, at which time appropriate mitigation measures will be established,…(Source, Asset Management Strategy)

[52] The Marina del Rey Design Control Board will, through its design review process, implement urban design criteria and standards for design, and placement of lighting, benches, landscaping, signage and international symbols to help integrate the pedestrian promenade, roadway medians, parks and other public amenities for visitors and residents alike. (Source, Asset Management Strategy)

- Strong view corridors;
- Outstanding architecture that relates strongly with the waterfront;
- Waterfront promenade;
- Waterfront restaurants and retail;
- Boating related activities -- ferry rides, cruise terminal, yacht clubs.

These goals conform to the priority use design review and siting provisions of the LCP, and with the Coastal Act. However, the primary objective of the Asset Management Strategy is financial; its purpose is to encourage additional development in the Marina. The Asset Management Strategy is not a part of the LCP.

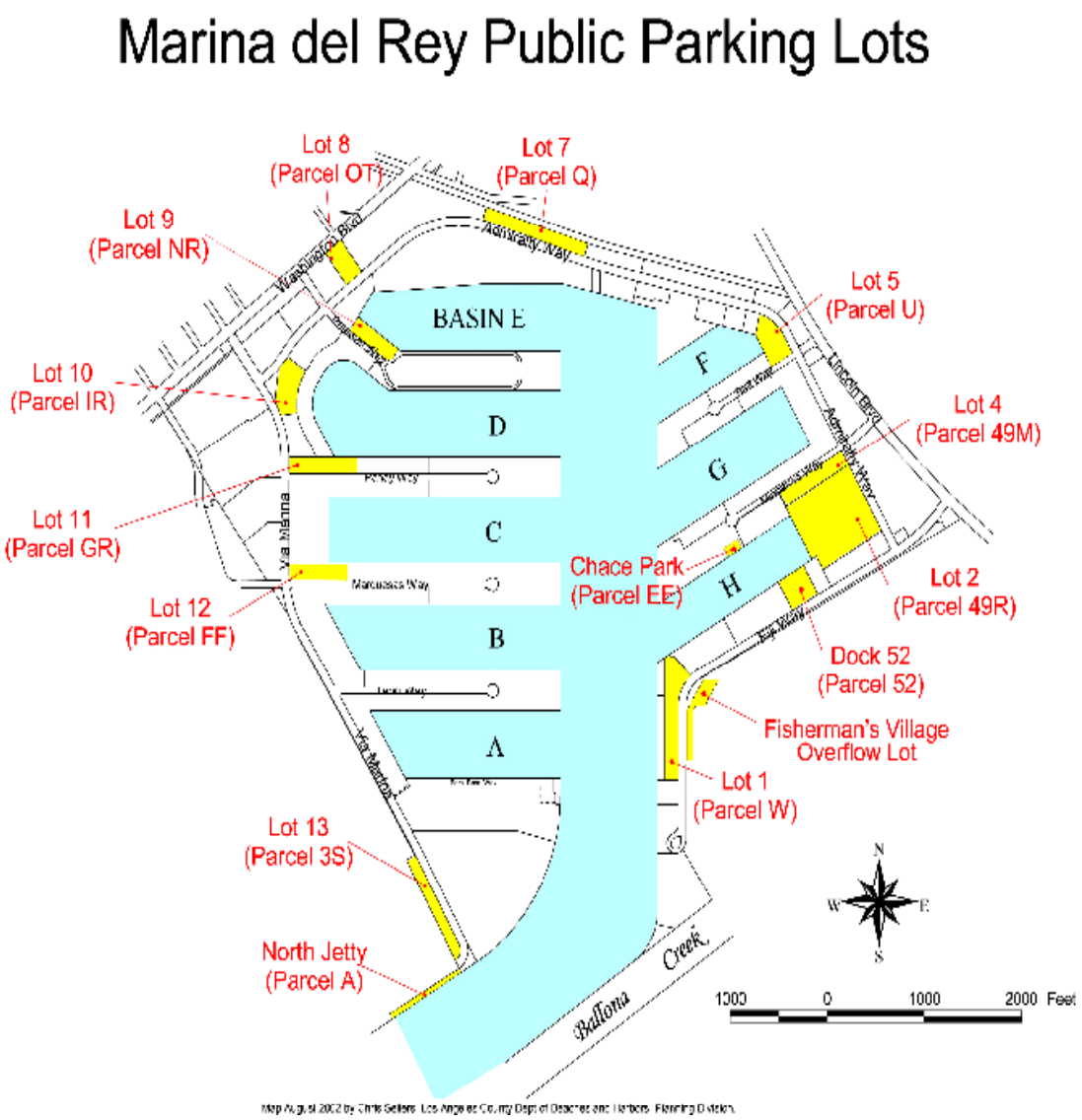
In order to achieve these goals, the Asset Management Strategy suggests at least two "catalytic projects." These projects are proposed to be large, to stimulate other lessees to re-develop. They raise issues with Coastal Act Policies 30210, 30211, 30213, 30220, 30221, and 30224 because the sites chosen, which are public parking lots and launch areas, would be converted to commercial uses. Two of the public sites chosen were the parking lots serving Mother's Beach (Parcel IR), and the public parking lot just east of Palawan Way (Parcel NR). Public sites were singled out because the County controlled them; private leaseholds had a significant number of years to run before the 60-year leases (signed in the late 50's and early 60's) could be renegotiated unless the County would be able to provide incentives for "lease extensions".

Project proposals derived from Suggestions in the Asset Management Strategy

The initial proposals included: 1) building an entertainment complex above the public boater parking lot at the Marina's only public boat launch facility (since abandoned) and 2) converting existing motels, restaurants and the parking lots at the Marina's one public beach to a high-end hotel and convention center. Projects derived from this second suggestion are under consideration. The existing hotel on Parcel 27 at Admiralty and Panay Way (inland of Marina Beach) would add 69 rooms; a residence hotel would occupy Parcel IR, the parking lot that now provides parking for the public beach; a mixed commercial and residential structure and some public parking would occupy the Parcel 33 at the corner of Palawan and Admiralty and Parcel NR, the adjacent public parking lot; a multi-story parking lot would be constructed on Parcels GR and 21, which are located adjacent to the Marina Beach and along the Panay Way mole. This structure would provide parking for the public beach and for the hotels.

A public walkway and a row of commercial spaces would be constructed along the inland side of the beach, which would remain public. The present concrete block picnic shelters would be demolished. Parcels IR, GR and NR, are the public parking lots in the immediate vicinity of Marina Beach (commonly known as Mothers' Beach) and the kayak launching facility. Another project, which would replace a yacht club adjacent to Burton Chase Park with more park area and public parking is in initial stages of discussion. The essence of the plan would be to centralize most public use at Burton Chase Park, and create a hotel commercial center at the Marina Beach.

Figure 1: MDR Public Parking Lots (source: LA Co. DBH)



The Asset Management Strategy does not propose to remove public recreation and recreation support from the Marina. The Asset Management Strategy suggests that the County invest in parking structures to accommodate the displaced parking. The integrity of the plan depends on funding the shuttle, and the construction of the structures. The catalytic projects are proposed on sites that would require LCP amendments to allow the proposed development. If the catalytic projects and the amendments supporting them are submitted piecemeal, there is little opportunity to assure that the entire system can be reviewed as an integrated plan.

County staff indicates that two suggestions in the Asset Management Strategy are no longer relevant. The proposals to build on the launch ramp and to build parking structures have been dropped. While the Asset Management Strategy is not a planning document, it

has identified certain lots for development that is more intense than that found in the LCP. The County has renegotiated leases with that strategy in mind. The Design Control Board and other County agencies have received plans to redevelop some parking lots. No LCP amendment however has been prepared or is yet before the Planning Commission.

The County should implement a comprehensive revision identifying the parcel(s) that would be subject to a change in land use designation to carry out projects suggested in the Asset Management Strategy and consider them in one LCP amendment, so that the balance of public uses recommended in the LCP and the Coastal Act is achieved. To achieve this it will be necessary to protect existing public parking, public beach and boat launch areas and public access to these areas. The LCP amendment should include all the major changes suggested in the Asset Management Strategy that the County has decided to implement.

The parking structures and shuttles suggested in the Asset Management Strategy would require major capital outlay and major long term funding. If the catalytic projects were approved without such funding, the projects could reduce access to the Marina and would be inconsistent with the LCP, which requires protection of public parking as a key component of public access. There is some indication from County staff that remote parking will not be implemented, due to the expense. Secondly, projects derived from the Asset Management Strategy may raise issues with transportation policies – the AMS's central strategy is to build large developments that will "attract people". The traffic generated by such projects is not anticipated in the present LCP.

The County should consider options for funding and implementing some of the Asset Management Strategy public access components such as for shuttle buses. As suggested in Recommendations 16 and 17, the LCP should be revised to consider a range of alternatives to further implementation of non-automobile transportation in order to fully implement the LCP in conformity with the Coastal Act.

The County should incorporate the design suggestions in the Asset Management Strategy into the LCP. The County should also revise the LCP to include a method to give priority to free or lower cost public uses on waterfront parcels. Instead of identifying public parking lots for redevelopment under the Asset Management Strategy, the County should urge lessees of residential parcels to develop the visitor serving facilities suggested in the Asset Management Strategy.

5. Transportation and Circulation

A. Overview

The Marina del Rey is a 780-acre County island surrounded by the City of Los Angeles. Most traffic studies assessing traffic capacity and development impacts in Marina Del Rey are combined with studies of the surrounding area in the City of Los Angeles. In 1990, when the Commission approved the LCP, all but one of the parcels in the Marina del Rey

was developed. Both land and water areas generate automobile traffic. All studies [53] claim that their fieldwork shows that commuter traffic exceeds that generated by peak recreational traffic, which is presumed to occur on summer weekends.

The consideration of the impacts that development might have on traffic is relevant under the Coastal Act because heavy traffic can have individual and cumulative impacts on major coastal access routes and on access to the public beaches and shoreline walkways in the Marina del Rey. Such impacts are inconsistent with Sections 30210 and 30211 of the Coastal Act

The 1990 LIP (implementation program) carried over traffic and development policies from the 1984-86 LUP. The County developed these policies in the early 1980's. They were based on subregional traffic studies and models that analyzed the impacts of the Playa Vista development and methods, usually road widening or intersection improvements, developed to address the traffic impacts of the proposed Playa Vista development. The traffic studies included a survey and analysis of the trip generation of the Marina as it then existed and the trip generation of a theoretical "Phase II," recycled Marina del Rey. This was accompanied by a list of traffic mitigation measures (a subset of the study's list of mitigation measures) that were 1) close to the Marina del Rey, and 2) that were sized to accommodate the traffic projected from a redeveloped Marina del Rey. [54] The traffic and development policies of the 1984 -1986 Marina del Rey LCP required that there be no recycling of the developed leaseholds until the principal traffic mitigation measure identified in the 1982 traffic study, including the "Marina Bypass," were approved and funded. The Marina Bypass is an extension of Route 90, which would carry traffic from Route 90 (west of Lincoln Boulevard) directly to Washington Boulevard, thereby avoiding the intersection at Lincoln and Washington Boulevards, which consistently operates over capacity (level F), and is regarded as one of the two most congested intersections in the City. Recycling of the developed leaseholds was identified as "Phase II development" in the certified Land Use Plan and in the 1990 Implementation Ordinance.

> *Approval of Phase Two development is conditioned upon execution of a binding agreement between the County of Los Angeles and the Marina del Rey Lessees' Association which insures funding for improvement of four key intersections in the Marina identified in the Gruen Traffic Study (Admiralty and Mindanao, Admiralty and Bali, Admiralty and Palawan, Admiralty and Via Marina) and funding for construction*

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[53] 1. Barton Aschman Associates, Traffic Circulation/Overview Playa Vista Master Plan, May, 1981,
2. PRC Voorhees, Draft Playa Vista Traffic Analysis, October 1982.
3. Barton Aschman Associates, Playa Vista Transportation Analysis, 1991
4. DKS Associates; Gruen Associates, Marina del Rey Traffic Study, 1991, and the Addendum to this study by DKS Associates, 1994

[54] Phase II Development can be summarized as follows:

Hotel Rooms:	740 sq. ft.
Restaurant Seats:	450 +
Boat Slips:	20 +:acres (not including new "Area A" basin)
Retail:	14,000 sq. ft.
Marine Commercial	Indeterminate *
Residential Units:	1,500
Office:	200,000 ±. sq. ft.

> *of the Marina Bypass. The Summa Corporation [55] has agreed to fund 5% of the cost of the Marina Bypass. The Gruen Urban Design Study (1982) has concluded that these intersection improvements, and provision of the Bypass, would provide sufficient additional circulation capacity to accommodate 2,400 additional peak hour trips. As the level of permitted development, as summarized above, slightly exceeds capacity, development will proceed on a first-come, first-served basis until this peak hour ceiling is reached.* (Certified Land Use Plan, 1986, Development section)

Section 22.26.1100.4 of the implementation ordinance certified in 1990, provided that no significant development that generated significant peak hour traffic could take place until the Marina Bypass and other mitigation measures were approved and funded. It also carried forward the 2,400 peak-hour trip development cap, applying to all development.

Between 1984 when the LUP transportation policies were initially certified, and 1991, it became apparent that the City of Los Angeles would not agree to the extension of the Marina Bypass through a residential neighborhood. In 1991, understanding that the policy was a de facto moratorium, Los Angeles County commissioned a traffic study to address whether there were alternatives to the Marina Bypass that could accommodate the traffic that Phase II of the Marina del Rey would generate. In 1995, based on the new study, the Commission certified an amendment that raised the development cap to 2,811 peak hour trips and identified a number of "Category III improvements" that would make up for the absence of the Marina Bypass. The study demonstrated that with the identified improvements, both the internal circulation system (Admiralty and Fiji Ways and Via Marina) and the "subregional system " (Lincoln, Washington, Jefferson, and Culver Boulevards and Route Ninety), could accommodate the projected Playa Vista development as well as up to 2,811 peak hour evening trips from the marina proper. The goal was to:

> *"Provide additional capacity to improve the volume to capacity (V/C) ratios at the study intersections to 0.85 (level of service "D") or to the predevelopment ambient V/C ratio if the ambient ratio exceeds 0.85. In other words, the intersection will not be allowed to worsen beyond a level of service of E. If service at a particular intersection is already above this level, then the intersection cannot be allowed to worsen beyond its existing condition."* (Certified LUP, 1995, page 11-6)

The LUP background analysis went on to acknowledge that during summer weekends and peak weekend and holiday times, traffic would exceed those levels. During the Fourth of July and the Christmas boat parade, special traffic handling and parking procedures would be necessary. The survey showed that in 1991, traffic was at Level of Service F at Lincoln and Washington Boulevards and at Lincoln and Jefferson Boulevards. The LUP did not propose to improve the level of service at these intersections, only not to allow it to get worse.

[55] Summa Corporation was the owner of Playa Vista when the 1984-87 LUP was certified

The LCP addresses circulation in the public access, development, and circulation sections of the Land Use Plan and in Sections 22.45.1090 and 22.46.1100 of the development code.

B. Policy Framework

An analysis of traffic and circulation issues in a Local Coastal Program is based on the public access and development policies of the Coastal Act. Relevant policies are listed in Section 4. B (Development) of this report.

The certified Land Use Plan provides that development should not be approved unless there is adequate traffic capacity. It also provides that development in the Marina is limited to 2,811 peak hour trips, which are distributed among 12 development zones. The purpose of the development zone is to assure that traffic generated by the development does not exceed the capacity of either the internal Marina system or the subregional system, by which is meant Lincoln and Washington Boulevards, which are the major arterial streets located directly outside of Marina del Rey.

The plan adopts “traffic improvements" that are derived from traffic models developed as part of the 1984 approval for the Marina del Rey/ Ballona Land Use Plan, updated in 1989 to reflect the absence of Falmouth Avenue (a connector that crossed the Area B wetlands),[56] and in 1992 to reflect the absence of the Marina Bypass. The improvements were assessed in these models and judged to increase the capacity of the internal and subregional systems enough to accommodate 2811 new peak hour trips in the Marina.

The LCP states, in part:

> *Section 22.46.1180.9.A. The monitoring program implements the development limitations and phasing Policies as established by the certified Marina del Rey Land Use Plan. Cumulative development and peak hour trips will be monitored and totaled for each development zone as projects are approved.*
>
> *B. Development in the existing Marina is classified as Phase II (see Table 1 set out at the end of this Part 3). All new development in the existing Marina will be subject to the build out limitations of each development zone, phasing restrictions, land use category, and the site-specific standards of this Specific Plan.*
>
> *C. Development Limitations and Phasing. Specific monitoring criteria for development phasing are described as follows:*
>
> > *1. Development Monitoring. Additional development is limited to the build out identified in Table 1 for each development zone. Development shall not be approved that will exceed the capacity of the regional, local or development zone street system. The total potential for additional units and amount of*

[56] This road was removed by Maguire Thomas Partners, the then developer of the Playa Vista project offered as part of its settlement with the Friends of Ballona, in the case: *Friends of Ballona Wetlands, a non-profit corporation, et. al., v the California Coastal Commission, and the County of Los Angeles, et. al.* .

commercial and residential development allocated under this LCP will generate a traffic impact within the Marina del Rey that can be mitigated within the Marina by the improvements listed in the traffic improvements plan which is part of the Local Implementation Program. Monitoring will be based on the type and density of development. Except for Parcel 9 of Development Zone 9 (Tahiti Development Zone), all development transportation facilities generated by cumulative development in Marina del Rey, approval of development projects in existing Marina will be contingent upon the full mitigation of all significant daily and peak hour adverse traffic impacts generated, and financing and phasing agreements as specified in the Improvement Financing the Transportation Improvement Program (TIP) contained in Appendix G. Said agreements will be dependent upon the number of additional P.M. peak hour trips generated by the project and the established cost per trip.

4. Applicants for all development shall demonstrate that there will be sufficient traffic capacity in both the Marina del Rey internal system and the subregional highway system serving the Marina to accommodate the traffic generated by the planned development. If the applicant cannot demonstrate that there is adequate traffic capacity to accommodate the traffic generated by the proposed additional development, the application shall be denied, as set forth below:

a. If the developer has demonstrated that there will be available traffic capacity within the internal Marina del Rey System, the developer may move forward with the project, but all significant adverse traffic impacts of development on both internal Marina del Rey routes shall be mitigated by 1) payment of a proportional fair share of necessary internal traffic improvements before a coastal development permit for the development is issued, and 2) construction of all necessary internal Marina del Rey improvements prior to occupancy of any approved structures.

b. As part of the application for development, applicants shall also provide evidence of the cumulative impacts of any proposed project on major state highways and routes leading to the coast in the marina area, and provide information regarding the capacity of such routes, and the cumulative total of new trips generated within the Marina that routinely use these Marina approach roads. Where any significant adverse cumulative traffic impacts on subregional traffic routes will occur, the applicant shall 1) pay a proportional fair share of necessary subregional traffic improvements, and 2) provide information concerning the timing and capacity of planned traffic improvements which will accommodate local growth including that attributed to the development. However, if the trips generated by the development along with other previously approved development will exceed 50 percent of the total anticipated additional external trips to be

> *generated by new or intensified Marina de Rey development, additional development that generates external trips cannot occur until a traffic improvement on the approach roads that will mitigate those trips has been approved and funded by the appropriate agencies. (Section 22. 46.1180)*

The list of improvements include road widening – widening Admiralty Way to five lanes, and intersection improvements including the installation of smart traffic lights (ATSAC), shuttles and even light rail. The model used assumes that Level D is an acceptable level of traffic. Level D is a "level in which there is congestion on critical approaches, but intersection functions. Vehicles required waiting through more than one cycle during short peaks." [57]

The policies assessed a new development for its impacts on traffic based on a pre - approved estimate of trips generated by each different kind of development based on an ITE standard, a pre-approved list of improvements, and pre-approved estimate of the total construction cost of the improvements. Developers are assessed the fair and reasonable share of the cost based on the number of new peak hour trips generated by each development. The assessment is $5,670 per net new peak hour trip. [58] Development is also analyzed for its generation of allowable trips in its development zone and its relationship to the Marina-wide cap on trips.

C. LCP Implementation Issues

Speakers at the public hearing on the Periodic Review raised two basic issues concerning transportation. The first was that the subregional transportation system has become extremely congested, and that the amount of development recently approved in the LCP would exceed the capacity of the transportation network. The public questioned whether the County had collected the fees or made the traffic improvements discussed in the LCP. Secondly, the speakers were concerned that the improvements did not contain enough "alternative" modes of transportation. In addition to those issues, they indicated that the Marina lacks connections: boat-owners cannot take a dinghy to landside uses; parking lots do not serve the bulkhead access ways; destinations are not linked to parking. Finally, the speakers questioned the validity of the transportation model that was the basis of the LCP, now that the State has acquired Area A and the rest of the Ballona wetlands for recreation and habitat restoration.

County staff asserts that the level of congestion that the public now experiences on Lincoln or Washington Boulevards is caused by development that is located outside the Marina del Rey. Only one development approved under the LCP is occupied. The public indicates that there is a high level of congestion on local and surrounding streets and they oppose more development, because any development will worsen congestion, wherever its origin. The public has also opposed the street widening and other measures designed to add

[57] Source: 1996 Land Use Plan, Circulation section
[58] $1,592 for local transportation system improvements and $4,098 for subregional transportation system improvements. (Source, Los Angeles County Department of Public Works, Memorandum on Marina Pacific, parcels 112, 113.)

speed and capacity to the road system, indicating that they oppose the changes in community character that wider, faster streets bring with them.

The public also provided a copy of an article by Don Shoup, a planning professor at UCLA that reminded the reader that studies and ITE estimates and models are not scientific, and are based on samples and averages. Citing particular estimates of the parking demand for a fast food operation, the article showed how great a variance can be hidden in the averages on which traffic and parking demand standard are based.

It was clear that jurisdictional distinctions are not useful in analyzing subregional traffic. Several points made by the public, for example, that a remote parking lot serving Venice Beach and operated by the City of Los Angeles did not serve the Marina very well, indicated that the jurisdictional boundaries are either irrelevant to or not perceived by the public. The general perception was that traffic was increasing, that the increase was related to the LCP, and the measures devised to decrease traffic were not reducing traffic impacts.

1. Congestion of local streets and arterials.

Between 1990 and 1996, before the present LCP was effectively certified, the County approved six coastal permits. All of them were, by definition, permits with no appreciable traffic impact. Since 1996, the County has issued eight coastal permits. In all 8 permits that staff reviewed, the County applied the traffic policies of the revised 1996 LCP in evaluating new development. One of the projects approved under the 1996 LCP required an LCP amendment to allow the developer to use trips previously allocated to a site farther from the intersection receiving the site's impacts, Via Marina and Admiralty, than the site that received the credits, but impacting the same major intersection. The Commission approved that amendment.

Since the 1982 Barton Aschman traffic study was published, traffic congestion in Marina del Rey has increased. Also in 1991 when the County studied whether they could approve increased development without the "Marina Bypass". County figures show that most new traffic generation is the combined result of Playa Vista Phase I, three major residential developments that the City of Los Angeles approved, and a Costco in Culver City, along the Lincoln Corridor.

Table 6: Peak hour Trips from new development inside and outside the Marina estimated by Los Angeles County Department of Public Works for fee assessment purposes.

Traffic generated	Is it Occupied?	Units/sq. ft.	Net PM Peak hour trips impacting internal Marina system

Marina Two	No	Add 120 units Remove 271 slips Remove 4,000 s.f. Office	(4)
Esprit Marina	No	Net 514 units Net loss 278 slips, Demo 4,440 restaurant , 4,400 retail sq.ft. added net	177
Dolphin Marina	Parcel 18 occupied Parcel 20 partly occupied	68 du 47 senior du 99 du Net increase 4,940 club 2,300 sq.ft .office;	68
Pashaie	no	Net increase 108 units 450 SF commercial	39
Gold coast shopping	occupied	450 office	2
Via Marina		Demo 1,300sf office, 3,250 bank Net increase 11400 s. f. retail includes 288 restaurant seats	(59)
Library	yes	2454 sf	0
All Marina del Rey projects			369
Projects outside the Marina			397
Avalon Bay	Yes partial	310 DU	4
West bluffs Catellus	no	120 sfd	2
Costco	yes	Costco center	74
Chateau Marina	partial	500 du	48
Traffic generated	**Occupied?**	**Units/sq. ft.**	**Peak hour trips**
Playa Vista Phase I	partial	3,246 DU, 35 ksf retail, 2,000 ksf Office. 1.000 ksf studio, 120 ksf community serving uses	102
Playa Vista Phase II	no	2,600 du; 150 ksf retail; 175 ksf studio; 40 ksf community serving uses	49

Development outside the Marina is not subject to the Marina del Rey LCP. Two developments, Costco and Playa Vista Phase I, and the residential portion of a third, Catellus, are located outside the coastal zone. Two others are located inside the coastal zone. These developments were cited in the letters that the Commission received from the public. In the case of the largest, Regatta, not on the County's list in Table 7, the Commission, found no substantial issue with the City of Los Angeles's permits, including the City's traffic mitigation. Chateau Marina was appealed, mostly on traffic impacts, and then the appellant dropped the appeal. Although all these developments add traffic to the Lincoln Corridor, none of this development is subject to the LCP.

With respect to the perceived impact of development that the County has approved, only two of the five major projects approved since certification of the LCP have been completed, and one is only partially occupied. Therefore, the congestion cannot be attributed to new development approved under the LCP. Several developments located outside the Marina are occupied. These include Regatta, which is the high-rise on Lincoln at the end of Route 90 and Chateau Marina, 500 units in the City of Los Angeles east of Lincoln, and parts of Playa Vista Phase I. Any present increase in traffic is attributable to

these large developments and the continuing intensification of smaller lots in the Venice/Palms/DelRey area.

2. County implementation of LCP cumulative impact policies.

The County has required an analysis of traffic impacts on all of these projects. It has assessed developers a total of approximately $3,690,000 to pay for improvements to subregional traffic system (Category 3 improvements). It has collected $897,956 of this and has spent $32,500 on a subregional traffic study. Phase One of the Lincoln Boulevard Task Force plan, which would integrate the improvements to Lincoln proposed by the five agencies with jurisdiction over Lincoln Boulevard.[59] It has imposed other fees on the same developers to pay for improvements within the Marina (Exhibit 5: Lincoln Blvd). Phase One of the Lincoln Boulevard Task Force ended in 2004. Due to the lack of funding the Task Force is currently not operating. According to the City of Los Angeles, Department of Transportation, the Task Force is hopeful that they will obtain funding to begin Phase Two, which is the preparation of an engineering report, by the end of 2007.

In addition, the County has combined with the other jurisdictions to direct some of the traffic mitigation monies from these developments to the Route 90 extension, which will alleviate traffic on Lincoln Boulevard. Therefore, the County is working with the neighboring jurisdictions, Culver City and the City of Los Angeles, to extend Route 90 across Lincoln Boulevard to Admiralty Way, by-passing the crucial Lincoln/Washington intersection. [60] (Exhibit 6: Map and List of Proposed Transportation Improvements).

Table 7: Amounts Assessed From Development Projects Outside of Marina del Rey For Lincoln Boulevard Improvements (updated, July 20 2006).

Project	Scope	Assessed for # PMPK	Cost of proportionate share	Paid
Avalon Bay Community	310 apartment units	4	$ 6,368	YES

[59] The cities of Los Angeles, Santa Monica and Culver City, Los Angeles County and Caltrans have formed the Lincoln Boulevard Task Force.
[60] Meyer, Mohaddes Associates, Gruen Associates; the Robert Group, Lincoln Boulevard Mobility Improvement Study; Conceptual Corridor Alternatives Study (Phase I), May, 2004.

Project	Scope	Assessed for # PMPK	Cost of proportionate share	Paid
West Bluffs (Catellus)	120 single family units	2	$ 3,184	YES
Costco		74	$ 117,808	YES
Costco	Costco Center		$ 1,500,000	NO
GTE Chateau Marina	500 APARTMENT UNITS Cat I fee	48	$ 76,416	YES
Playa Vista-Phase I	3,246 dwelling units, 35 ksf retail, 2,000 ksf office, 1,000 ksf studio, 120 ksf community serving uses	102	$ 162,384	NO
Playa Vista-Phase II	2,600 dwelling units, 150 ksf retail, 175 ksf studio, 40 ksf community serving uses	49	$ 78,008	NO

3. Does increase in congestion mean that the LCP has reached its limits?

The public also suggests that additional development in the LCP area should be eliminated because of the present congestion of the corridor. This issue is already addressed in the LCP, which states that development cannot be approved unless there is capacity in the system to accommodate it. The policy is usually interpreted to mean that development can be approved if the capacity of the relevant intersections can be increased.

> *LUP Circulation, Chapter.11.Policy e.3 "…Development shall not be approved that will significantly exceed the capacity of the subregional street system"*
>
> *LIP 22.46.1100.4. Applicants for all development shall demonstrate that there will be sufficient traffic capacity in both the Marina del Rey internal system and the subregional highway system serving the Marina to accommodate the traffic generated by the planned development.*

As noted, there is no evidence that the County's recent approvals are responsible for the current level of congestion. On the other hand, the County has collected significant amounts of money and has committed money from other sources to make major improvements to alleviate congestion of Lincoln Boulevard. The LCP also takes the long process of approving and developing major road projects into account in its policies. Even the more conservative 1984 LCP allowed Phase II development to take place as long as the Marina Bypass had been approved and funded. At present, the County has committed funds and is engaged along with the City of Los Angeles and other agencies in planning for and constructing several road widening projects (Exhibit 7: Existing and Future Conditions).

Marina Expressway (SR-90) Connector Road to Admiralty Way Project and Admiralty Way Improvement Project

A consultant was contracted to prepare a combined EIR/EIS for the Marina Expressway (SR-90) Connector Road to Admiralty Way and Admiralty Way Widening Improvements projects. The EIR/EIS is expected to be completed June 2006. Under this schedule, design can begin in 2006.

The projects are targeted for completion of construction in 2011, pending the availability of funds. On August 9, 2004, the City Council of Culver City approved the transfer $1.5 million from Culver City's Costco developer fees to DPW to help fund construction of the SR-90 project, which is estimated at $18 million. The Admiralty Way project is estimated at $5.2 million.

MARINA EXPRESSWAY (SR-90) CONNECTOR ROAD TO ADMIRALTY WAY PROJECT

The proposed SR-90 Connector Road project involves extending the SR-90 to Admiralty Way from its terminus at Lincoln Boulevard as an at-grade connector. Motorists heading westbound on the SR-90 could turn onto Lincoln Boulevard, as they do now, or continue on to Admiralty Way. Today, those motorists en route to Admiralty Way must use Mindanao Way or the Lincoln Boulevard-Bali Way route, which adds to the traffic congestion on both roads.

The purpose of the project is to relieve congestion along the Lincoln Boulevard corridor and to provide an attractive, direct entry to Marina del Rey. This project qualifies as a Category III transportation improvement identified in the Marina del Rey Local Coastal Plan (LCP) since it will serve as a regional transportation circulation improvement.

The EIR/EIS which is being prepared for the project will consider the "No-Build" alternative and three other options for the realignment of the intersection of the Marina Freeway and Lincoln Boulevard and the addition of a connector road to Admiralty Way.

Admiralty Way Widening Project

The proposed Admiralty Way Improvement involves the widening of Admiralty Way to six lanes (three lanes in either direction) with turn lanes between Fiji Way and approximately 200 feet north Bali Way; and widening Admiralty Way between approximately 200 feet north of Bali Way to Via Marina Way to five lanes with turn lanes (three lanes north/southbound and two lanes south/eastbound).

This improvement will serve both regional and local traffic needs. As much as 48 to 50 percentage of the existing traffic on Admiralty Way is composed of external regional traffic (defined as traffic whose origins and destinations are both outside the Marina). This improvement would greatly benefit the existing traffic flows in the

vicinity of the project area as well as to accommodate the future traffic needs as developments continue to occur both from the LCP's projected growth in the Marina and in the region. The project will provide a traffic congestion relief to Lincoln Boulevard corridor which is operating at its capacity.[61]

The LCP allows a fifth lane on Admiralty. The proposal for the Route 90 extension would add a sixth lane to accommodate the traffic from Route 90. This change would require an amendment to the LCP. Since the Periodic Review process began, staff has received a preliminary EIS/EIR on the Route 90 extension.

In its chart on the status of its traffic mitigation program, Exhibit 5, the County has indicated that it has completed several traffic mitigation measures within the Marina, including the developer-constructed addition of a left turn lane on Via Marina and Parcel 15. Other improvements have been funded. The LCP allows delay of construction of subregional improvements until after enough fees have been collected. Staff is recommending no change necessary to this LCP traffic mitigation provision.

4. Should the LCP rely more on transit and other non-automotive transportation improvements?

The Lincoln Boulevard Task Force commissioned a study of Lincoln Boulevard. One of the elements of the study was a sample survey of the origin and destination of trips on Lincoln. The results were surprising. Traffic levels were highest just north of the Route 90 Freeway intersection with Lincoln; accidents were highest at Lincoln and Washington, but congestion was highest at the intersection of Lincoln and Olympic. Most of the trips on Lincoln Boulevard, which is regarded as an intercity arterial, were local trips, under a mile and a half. If this is so, it is reasonable to encourage shuttles, bicycles, and other nonautomotive methods of transportation to alleviate congestion in the corridor (Exhibit 7 Lincoln Blvd. Mobility Improvement Study).

The LCP already encourages mass transit. It even includes a light rail among its list of Category III improvements. Shuttles figure prominently on its list of alternative modes of transportation. However, shuttles, shuttle stops, bicycle lanes, and sidewalks are not mandatory improvements and, in the case of shuttles, remain unfunded.

Connections and non-automotive transportation.

The LCP includes policies that identify non-automotive transportation as a Category III improvement and that encourage such features to be considered during design review. The County required a Transportation Demand Management Program from one commercial developer and one residential developer, but took no other steps to encourage alternate transportation. Again, the County should move to require all development

[61] James Chon, Los Angeles County Department of Public Works, Memorandum to Coastal Commission staff, April, 2005)

including wider roads to be designed as part of an integrated transportation system that includes non-automotive components. Features such as walkways and parking lots should be designed to link up with each other and the shuttle systems. As suggested in Recommendations 16 and 17, the LCP should be updated to strengthen provisions for alternative transportation.

County staff has indicated that while they support a shuttle, that it is unlikely that the shuttle could be financed as a Category 3 or regional transportation impact mitigation measure. Alternatively, the County has recently instituted a water taxi ("WaterBus") providing on-call service Friday through Sunday from June 29 through September 3. The water taxi has six stops throughout the Marina, including Mother's Beach and Burton Chace Park (Exhibit 14A). The water taxi also operates on Thursday evenings from 5 PM until midnight during the summer concert series in Burton Chace Park. On Fridays the summertime the water taxi operates from 5pm until midnight, Saturdays, 11am until midnight and Sundays, 11am until 9pm. The fee to ride is $1.00 each way. The water taxi is one form of non-automobile transportation that can be used by both residents and visitors to get around the Marina and enjoy the beach, park, restaurants and shopping. However, it is limited in that it operates only during the summer and only on weekends and during Thursday evenings during summer concerts. Further, it operates on a "on-call pick up" system. It is unknown how long the wait is, the ease of using this on-call system and how well it is advertised to the visiting public.

The County is opposed to any requirement to operate land based shuttle to be used in conjunction with the water taxi. The County asserts that they are not a transportation agency and it would be difficult for the County to fund, operate and maintain a shuttle system for just the Marina del Rey area. They also assert that shuttles would not be utilized by commuters from the Marina because there is currently not an effective regional transportation system serving this area. It appears it is more convenient for residents to drive their own vehicles than use the current bus system that requires multiple transfers to get to major employment centers such as downtown Los Angeles. A region-serving shuttle, they indicate would be funded as complementary to a light rail system. Since the County regional transportation budget is going to be allocated to extending Route 90 and improvements to Lincoln and/or Washington, funds from the Category 3 funds would not be available for a shuttle. Shuttles have been proposed to serve hotel guests, to reduce local trips by residents, or to enable the County to relocate parking lots out of highly scenic areas. One method to increase funding sources for the shuttle is to redefine it as a Category I, local traffic mitigation measure.

Playa Vista is required to operate a shuttle among other roadway improvements as partial mitigation for the traffic and circulation impacts of their development. Playa Vista runs a free summer beach shuttle between its development, Marina del Rey and the Venice Beach Pier (Exhibit 14). The Playa Vista shuttle runs hourly and stops at several locations in Marina del Rey including Fisherman's Village, Admiralty Park, Mindanao Way and Palawan Way. The Playa Vista beach shuttle has been expanded this summer with funding from Supervisor Knabe's office to provide additional shuttle service during the Marina del Rey Summer Concert Series in Burton Chace ParK on certain Thursday evenings (Exhibit 15). The County could work with Playa Vista on expanding their existing

shuttle to operate more frequently in than the current hourly service and perhaps more than summer weekends since it already serves the Marina del Rey area. The County has also approached the Metropolitan Transit Authority regarding the possibility of running bus/ shuttle line from the light rail "Green Line" stop near Los Angeles International Airport to the Marina. The County should continue to consider and explore a range of options for improving non-automobile transportation inside and near the marina. The County should continue to work closely with the regional transportation agencies and the City of Los Angeles to improve mass-transit services to the Marina del Rey area and should contribute their fair share towards funding any mass-transit systems. As suggested in Recommendations 16, 17 and 18, some additional revisions to the LCP would strengthen the implementation of alternative transportation as a means to expand access to, and recreational use of, the Marina in conformity with Coastal Act policies.

5. Is the transportation model still valid?

The Local Coastal Program uses two approaches to consider whether there will be enough traffic capacity in both the internal Marina del Rey system and the subregional highways to serve proposed development in the Marina del Rey. In both approaches, road capacity is estimated based on peak hour traffic levels—commuter traffic. For most of the year, there is more commuter traffic than recreational traffic. During peak holiday weekends, such as the Fourth of July, recreational traffic levels exceed commuter traffic levels.

One underlying issue in the Periodic Review is whether the County's assessment of the capacity of the system is still valid. The idea that the system will, with appropriate mitigation, accommodate an additional 2,811 peak hour evening trips is based on a study. The study took place in 1991-1992. It relied on a combination of previous studies and models:

> ***DKS Study Methodology***
> *The technical analysis for this study was primarily undertaken using a local area traffic impact analysis model specifically developed for this study. This model is based on TRACS (Traffic & Analysis Computer Software), a computer traffic model developed by DKS Associates in 1986. The two main components of the TRACS model are the study area zones (units of trip generation) and study intersections Traffic Analysis Zones (TAZs) Defined. For analytical purposes, it was necessary to aggregate the Marina parcels into logical and practical groupings. These groupings define the Traffic Analysis Zones (TAZs). After analyzing several different zonal arrangements, a final zone configuration was arrived at which divided the study area into 23 TAZs. Of these 23 TAZs, 12 were within the LCP study area, and the remaining ones were immediately outside the study area. Subsequently, it became necessary to modify the zone system in order to be able to analyze revised Area A proposal of MTP-P. Based upon the new Area A design for the new marina, Area A zone was divided into three TAZs and former zone ten, that includes Fisherman's Village, was divided into two zones. Thus, the final zone configuration for use in the DKS Traffic Study defines 12 zones in the existing Marina area, and three zones for Area A, for a total of 15 zones. Fourteen of these 15 zones are shown on Map 8 in Chapter 8, Land Use. The one zone not shown is reserved pending final action by*

the Coastal Commission on Area A. (certified Marina del Rey LUP, 1996, page 11-5)

The DKS study established traffic generation figures for the Marina del Rey, based on sample studies, showing expected rates for peak hour trip generation, which are low reflecting the relatively high number of retirees living in the Marina del Rey, and reflecting higher than usual generation rates for boat slips and restaurants.

The traffic mitigation plan that this model referred to was different from present conditions in two ways: First, it included a grid though Playa Vista to handle traffic and part of the grid included an extension of Admiralty Way through Area A to a relocated Culver Boulevard. Second, it also assumed that Playa Vista would build out with considerably more units than is now possible. It is not clear what the picture will show upon reassessment. County traffic planners indicate that the Playa Vista Phase II study incorporated these changes when it assessed subregional traffic.

However, if the underlying studies were to be used either to deny development once the level of development approaches the 2,811-trip cap, or to allow development, the validity of the study is crucial. Studies done for the Marina Two project relied on trip analysis within the context of the approved LCP and did not re-analyze the underlying study. While the study estimated the impact that the project would have on intersections outside of the Marina, the study assumed the Marina build-out and the adjoining highways' capacity to handle the build out as a given when it analyzed the cumulative impact of the related developments.

The 1984 Playa Vista project included the following as noted in Table 9 following:

Table 8: Development Planned in Playa Vista, 1984.

Area	Hotel Rooms	Residential Units	Commercial sq. ft.	Office sq. ft.	Comm serving	Wetland[62]
A 141 acres	22 Acres of hotel (1800 rooms approx.	1,226	200,000			37 acres convert to 40 acre marina
B 385 acres		2,333	70,000		19 acres	112 acre wetland restore 160 Acre wetland 15 Acre dunes plus support = 209 Acres
C 73 acres		2,032	100,000	900,000		3 acres (fill)
Total		5,591	370,000	900,000		160 acres

In 1995, when this LCP was updated, Playa Capital had proposed considerable additional density in Area A, as noted in Table 10. The second Phase of Playa Vista included:

Table 9: Development Planned in Playa Vista 1995.

Area	**Hotel Rooms**	**Residential Units**	**Commercial sq. ft.**	**Office sq. ft.**	**EMT media**	**Community serving Sq. ft**	**Wetland Acres [63]**
Coastal zone potential phase II	450	6,408	245,000	1,025,000		145,000	226 A
D. (Outside coastal zone phase II	300	3,431	315,000	1,048,050		375,000	7 ac (Rip.)
Total phase II	750	9,839	560,000	2,073,050		520,000	
Already approved D (Outside coastal zone phase I		3,246	35,000	400,000	2,806,950	120,000	26 ac (FWM) 18 ac (Rip.)
Master plan total	750	13,085	595,000	2,473,050	2,806,950	640,000	

In response to a suggestion that the DKS model should be updated, County representatives indicated that a revised model is unnecessary. County traffic planners assert that while the DKS plan includes improvements that now cannot be made, they indicate the lower level of development in Playa Vista more than offsets the removal of the intersection improvements that involve the portions of the Playa Vista project located on

[62] Other park, road and support areas do not show on this chart

[63] Other park, road and support areas do not show on this chart

land that the State purchased. These include the extension of Admiralty Way to Culver Boulevard, a second bridge over Ballona Creek and reconfigured intersections on Culver Boulevard. They indicate that they now use the Playa Vista 2004 model instead of the DKS models as the starting point for analyzing the traffic impacts of new development, and based on both the older (DKS) and new (Playa Vista 2004 and Airport) models there is adequate capacity to accommodate traffic generated by development contemplated in the LCP. They indicate that the Playa Vista 2004 model updates the regional traffic study that DKS derived from, eliminating the intersections on recently acquired land, and takes into account reductions in traffic due to changes in Playa Vista and increases due to other newly proposed projects. In fact, they state, based on the newer model, the interim development cap in the LCP could be set at a higher level of generated trips:

In a letter provided to staff in late July, County traffic planners summarize their analysis of the Preliminary staff report of May 25, 2005:

> *Specifically, Recommendation #10 calls for a recalculation of the DKS/Barton Aschman models, eliminating Playa Vista Phase II development in Areas A, B and C and eliminating road widening projects that extend or relocate roads onto Playa Vista Areas A, B and C. The County of Los Angeles has conducted research on this question and finds there is no need to build a new traffic model (at an estimated cost of $70,000-$100,000) because this information already exists in at least two other models.*
>
> *Further, an understanding of the County's approach pursuant to the certified LCP, as explained below, shows that the levels of development and mitigation measures in the area have resulted in a better level of service than estimated in the DKS model used in the certified LCP.*
>
> ***The need for a new traffic model***
> *The CCC staff report is based on the impression that the traffic model used in the 1994 DKS study underestimated traffic conditions in the year 2010. The report indicates that with added development and traffic generated in the area, particularly in the City of Los Angeles and Culver City, a new traffic model is needed to more accurately assess current conditions and project future traffic conditions.*
>
> *There also appears to be an assumption in the report that most developers should use traffic models for the traffic analysis. This is not the case. The vast majority of traffic analyses do not need a traffic model, nor do they warrant the expense of a traffic model. Traffic models are feasible only for very large developments such as Playa Vista and the LAX Master Plan.*
>
> *Remembering that the DKS model was constructed to ascertain the appropriate mitigation, the key question should be whether the DKS model so understates traffic conditions that the mitigation measures in the LCP will not achieve the desired results.*

Determining whether the DKS model understates traffic conditions
To determine if the DKS traffic model underestimated future traffic conditions in the year 2010, the results of the DKS model's volume to capacity (V/C) ratios and levels of service (LOS) at intersections were compared to The Village at Playa Vista 2004 traffic model. Both traffic models had a horizon year of 2010. For comparison purposes, the "Without Mitigation" scenario was used for both findings. Both the DKS and the Playa Vista models included the full buildout of the LCP. Neither model included the SR90 and the Admiralty Way Widening projects for traffic mitigation, as these are not programmed improvements. Importantly, Playa Vista's model further included buildout of the LAX Master Plan, Continental City and LAX Northside, which would tend to increase traffic and identify more impacted intersections.

The table below shows that at every intersection compared, the V/C ratios and LOS for the newer, more comprehensive Playa Vista model were lower, and significantly lower in most cases. The LAX model results, while not included here, show similarly improved levels of service when compared with the DKS model.

DKS Report Model (1994) vs. Village at Playa Vista Model (2004) Levels of Service 2010 PM Conditions Without Mitigation

Intersection	*DKS*		*Playa Vista*		*Change in V/C*
	V/C Alt. 8	LOS Alt. 8	V/C	LOS	
Via Marina/Washington Bl	1.39	F	1.31	F	-.08
Via Marina/Admiralty Way	1.26	F	1.13	E	-.13
Palawan Way/Admiralty Wy	1.46	F	1.15	E	-.31
Lincoln Bl/Washington Bl*	1.80	F	1.25	F	-.55
Lincoln Bl/Marina Expy	1.41	F	1.11	F	-.30
Admiralty Way/Bali Way	1.30	F	1.08	F	-.22
Lincoln Bl/Bali Way	1.19	F	1.03	F	-.16
Admiralty Wy/Mindanao Wy	1.24	F	1.15	F	-.09
Lincoln Bl/Mindanao Way	1.29	F	1.17	F	-.12
Admiralty Way/Fiji Way	0.80	C	0.66	B	-.14
Lincoln Bl/Fiji Way	1.19	F	0.93	E	-.26
Mindanao/Marina Expy EB	1.35	F	0.89	D	-.46
Mindanao/Marina Expy WB	1.08	F	0.64	B	-.44
Culver Bl/Jefferson Bl*	1.48	F	0.83	D	-.65
Lincoln Bl/Jefferson Bl*	1.47	F	1.10	F	-.37

** Intersection has been improved since the 1994 DKS study.*

The "With Mitigation" scenario for Playa Vista, which included projects that were funded and committed, would show even lower V/C and LOS levels at several intersections. ATSAC (allowed by the LCP) and ATCS, which were included in the "With Mitigation" Playa Vista scenario, would further reduce V/C ratios by 0.10 at all intersections. These values fall well below the congestion projections of the DKS model upon which the LCP is based.

This indicates that the older DKS traffic projections estimated more congested traffic conditions in 2010. An explanation for this apparent "over projection" is found in the different bases for the two models. In 1994 when the DKS model was constructed, potential development included Playa Vista Phase II development in Areas A, B, C and D and the road system associated with the full buildout of Playa Vista. Ten years later, the Playa Vista model included only development in Area D, with a substantial decrease in traffic and fewer impacted intersections. The loss of roadway widenings and extensions which had been contemplated in the DKS model, but not in the 2004 Playa Vista model, did not offset the substantial decrease in traffic from elimination of the originally-contemplated development in Areas A, B and C.

On these facts, no recalculation or new model is necessary to evaluate the development of Marina del Rey in the context of current and projected traffic conditions, because the necessary information already exists, is current, and shows that conditions will be better than the DKS model – and the associated LCP-required mitigation – assumed. The Playa Vista model both presents the scenario desired in the staff report and also reports the corresponding data for each intersection and link studied in the DKS model. In all cases, intersection performance will be better in the year 2010 than what was shown in the DKS model for the LCP.

In addition to using a model, the LCP also requires that each development demonstrate that there is traffic capacity in the system to serve it. The County models the requirements for the study on its current EIR requirements. County transportation planners explain:

The County's approach to traffic studies on individual projects

We believe the assessment of traffic conditions by developers' traffic studies, without the use of traffic models, works well. This method is used to assess development projects throughout the County. In fact, through this process, the County and the City of Los Angeles have required additional traffic mitigation measures not anticipated in the LCP. For example, a new mitigation traffic improvement may be required of a project as part of its entitlement. Other traffic transportation projects may be undertaken by the City of Santa Monica, City/County of Los Angeles or Caltrans to improve traffic conditions. Examples of these are the implemented Rapid Bus Line (Santa Monica Big Blue Bus Line No. 3) and the planned exclusive bus lane along Lincoln Boulevard. Another example is the addition of dual left turn

lanes installed on all approaches of the Lincoln/Washington intersection. In this way, the street system is not wholly dependent on the timing of LCP mitigation alone but also stays in touch with conditions as they presently exist.

Finally, the County's traffic study guidelines are more stringent in terms of identifying significant impact from development for mitigation funding purposes (as opposed to how "significant impact" is used for CEQA purposes) than existed in 1994. For the DKS study, a development had a significant impact for funding purposes if traffic from the development worsened the V/C ratio to exceed 0.85, mid-range LOS D. This criteria was changed in 1997 to mirror the criteria used by the City of Los Angeles. A determination of significant impact for funding purposes is now based on the incremental change in V/C at a particular level of service starting from LOS C. For example, at LOS C, a V/C increase of 0.04 results in a significant impact. At LOS D, a V/C increase of 0.02 and at LOS E/F, a V/C increase of only 0.01 is a significant impact for mitigation funding purposes. Today's criteria make it easier for a development to have a significant impact requiring mitigation funding.

In summary, projected conditions and service levels are better than when the LCP was certified, and traffic studies are more stringent. There is no need to revisit the DKS model because the information already exists.

The second approach, requiring a project specific study of the impacts of the development is already part of the LCP. This policy requires that there be capacity in the system to accommodate the proposed development before new development is approved. Based on this policy, Los Angeles County requires the developer to provide a traffic study as part of the project review process. The County indicates that it has new countywide guidelines for these studies, which are stricter than in the past concerning acceptable levels of congestion. In evaluating these studies, the County refers not to the DKS study, but the more current Airport (LAX expansion) and Playa Vista studies. This means that the impact study takes into account current projects, current models, and current information. However, the process the County actually uses is not memorialized in the Local Coastal Program. The County asserts that they do not believe that this is necessary, and they are subject to CEQA, so that it is unnecessary for the process to be described in the LCP (and subject to appeal). However, if a project is appealed to the Commission the standard of review is the certified LCP and the public access policies of the Coastal Act. The LCP already requires traffic studies, but does not include adopted standards for these studies. The standard in the LCP is the baseline in the DKS study. Lack of adopted criteria for the studies in the LCP could result in inconsistent review of projects. While projects could be appealed because traffic impacts would reduce public access, there is not a way of determining whether the applicant followed LCP standards in evaluating traffic.

If there is no prior agreement between the Commission and the County government on traffic studies, there is no agreement concerning an acceptable approach for assessment of impacts on public access. Therefore, the standards for development and consideration

of such traffic studies should be included in the certified LCP in order to ensure that new development is carried out in conformity with Coastal Act policies. Staff recommends that the actual process of preparing a current study be included in the LIP, using the most recent traffic studies for large projects in the immediate area.

However, if there are changed assumptions and different methods that the County now uses to assess the traffic impacts of development those assumptions and methods, should be incorporated into the LCP, as suggested in Recommendation 15 (previously Recommendation 10 in the staff report of May 25, 2005). The County should provide the public and the developers with criteria for updating the model in analyzing individual projects.

Los Angeles County has provided persuasive evidence that there will be capacity to serve the new development authorized by the Marina del Rey LCP, given the changed circumstances. The County has provided convincing arguments that a new model is not immediately needed. However, the methodology that the County will employ should be incorporated into the LCP, as recommended in Recommendation 15 (B).

D. Conformance with Coastal Act.

In order to ensure that the LCP will be fully implemented in conformity with Coastal Act development and access policies, the County should make its methodology for assessing impacts an explicit part of its LCP, and expand methods to fund alternative transportation.

6. Recreation and Visitor Facilities

A. Overview

The LCP area consists of 804 acres, 401 of which are land and 403 are water. Of the 401 acres of land in the Marina, approximately 32 acres are presently developed as public parks, landscaping and open space with an additional 12.9 acres proposed as new parkland.

A variety of non-boating recreational activities are located within the Marina del Rey LCP study area. These can be classified as either public, leased, or commercial recreation. Existing land and water recreational uses are shown on Exhibit 8: Map 5, Existing/Proposed Visitor-Serving Facilities, of the LCP.

According to the certified LCP, public recreation consists of those activities provided at minimal or no cost to users, such as public parks, beaches, and the bicycle path. Public parks include Burton W. Chace Park, Admiralty Park, and Marina Beach. Burton W. Chace Park is surrounded by water on three sides and is located at the end of Mindanao Way. The park provides a community center, entertainment area, picnic shelters and fishing dock. Admiralty Park, located along Admiralty Way in the northern portion of the Marina, offers a landscaped public open space with opportunities for strolling, sitting, sunbathing and bicycling. Marina Beach, located along Admiralty Way and Via Marina,

between Palawan and Panay, provides a swimming beach, water access ramp facilities for persons with disabilities, picnicking (tables and barbecue stands) and volleyball.

For the walking/jogging, roller-skating, and biking enthusiasts, the Los Angeles County South Bay Bicycle Trail, a 19.1 mile bike path from Torrance Beach to Santa Monica, continues through the outskirts of the developed Marina.

In addition to the public recreational areas, leased recreation consists of those facilities which require some form of membership or residency for facility use. UCLA offers various water-oriented sports classes, including wind surfing and sailing, at their boathouse located southerly of the Fiji Way terminus. There are also health clubs providing facilities for both resident and non-resident club members.

Other visitor-serving facilities include three shopping centers: Marina Shopping Center at Admiralty Way, between Mindanao and Fiji Ways; Fisherman's Village at Fiji Way near the County Administration Building; and the Marina Beach Shopping Center located at Washington Street between Palawan and Via Marina. Fisherman's Village offers sightseeing opportunities (both of the Village and the Main Channel), shopping, restaurants and boat rentals. In 1995, there were four hotels and two motels providing 969 rooms in the Marina. Approximately twenty-eight restaurants are located throughout the Marina.

The Marina also provides commercial recreation, such as, narrated harbor tours, ocean cruises and seasonal whale watching excursions, as well as sailing instruction, boat rentals, and sailing cooperatives that provides members boating opportunities without the high cost of boat ownership.

Support facilities include those necessary services and/or uses which maintain the recreational opportunities of the Marina. A number of public restrooms and drinking fountains are currently provided throughout the Marina including areas at Fisherman's Village, Marina Beach, Burton W. Chace Park, the public launching ramp, the harbor administration office, and along the promenade on Palawan Way. One locked restroom facility for transient docks is located next to Burton W. Chace Park.

The Marina provides fifteen public parking lots that in as of 1996 provided approximately 3,138 parking spaces. As noted in the Public Access section of this report, the available parking is now about 3,081 spaces. The public lots are located throughout the Marina (see Figure 1: MDR Public Parking Lots in previous section of this report).

B. Policy Framework

Coastal Act

The Coastal Act includes several polices to provide and protect recreational facilities. The Coastal Act identifies land adjacent to waterways as suitable for recreation and recreational support uses. The Coastal Act recreation policies also require provision and protection of lower-cost facilities. Further, the development policies of the Coastal Act require the provision of adequate recreational facilities within residential projects so that new residents do not overcrowd coastal recreation areas to the exclusion of public access. These policies are set forth in the following sections of the Coastal Act:

Section 30213

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

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30220

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

Section 30221

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

Section 30222

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

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by ... (.5.) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

LCP

In addition to boating that is offered, Marina del Rey offers a variety of non-boating recreational activities and visitor-serving facilities that are protected under the 1996 certified LCP, such as, parks, beaches, bicycle and walking trails, commercial recreation, overnight accommodations, and parking. The LCP states that existing and proposed recreation and visitor-serving uses in the Marina shall be protected (Recreation and Visitor-Serving uses, Policy e.3), and new lower cost visitor-serving facilities shall be protected and, to the extent feasible, provided within the Marina (Recreation and Visitor-Serving uses, Policy e.4).

The Marina provides approximately 23 acres of parkland. To increase recreational facilities and help support the regional recreational demand placed on the Marina, the LCP designates two additional Parcels to accommodate public recreation: Parcel FF, for the conversion from a parking lot to a public park, and Parcel P, for improvements to Oxford Flood Control Basin. These two improvements would provide an additional 12.9 acres of park.

To fund potential recreation improvements and other public use facilities designated in the LCP, the 1996 LCP established a Coastal Improvement Fund. According to the LCP (ordinance no. 22.46.1970), the fund could be used for recreational improvements such as, parks, bicycle paths, community buildings, drinking fountains, interpretive displays and parking lots. Policy and Action e.5, under Recreation and Visitor-serving Facilities, states in part that all new construction in the existing Marina that is a non-coastal priority or non-marine related use are required to contribute into the fund (a credit is also available for on-site public open space improvements). Because new residential development will burden existing recreational resources, this fund was created in order to mitigate adverse impacts low priority residential development would have on the local and regional recreational facilities. The fund was established at the cost of four acres of improvements per one thousand new residents.

The LCP also requires new development to provide additional recreational opportunities including trails, bikeways (additions and/or extensions of existing bike path), open space/park areas and viewing areas (Recreation and Visitor-Serving uses, Policy e.2).

To further support recreation and visitor-serving facilities in the Marina, the 1996 LCP contains a number of policies to protect and provide adequate parking. All development, including redevelopment, expansion projects or new construction, is subject to the

applicable parking requirements as set forth in the Los Angeles County Code (Recreation and Visitor-Serving uses, Policy e.6). Furthermore, the LCP requires that all parking facilities be integrated into the overall design of all development and landscaped to soften their visual appearance and be attractively designed with a buffer of landscaping, berms or other screening materials (Recreation and Visitor-Serving uses, Policy e.7). The LCP also requires that public parking lots be conveniently located near key visitor attractions with adequate locational signage (Recreation and Visitor-Serving uses, Policy e.8). Furthermore, no public parking lots are permitted to be converted to other uses other than public park purposes (Recreation and Visitor-Serving uses, Policy e.12).
The LCP also encourages creating park and ride lots, use of peripheral parking outside of the Marina and instituting a shuttle. The LCP also requires, where feasible, office and commercial development to provide multi-use parking facilities for public use, and encourages existing commercial office development share parking during the businesses' non-peak use periods (weekends).

C. LCP Implementation

The LCP, as updated and certified in 1996, contains polices addressing recreation and visitor-serving facilities. The policies address the protection of existing and provision of new recreational areas and visitor-serving facilities, such as parks, walkways, bikeways, restaurants, hotel accommodations, service concessions, and parking.

Based on permit records, there have been five development projects approved by the County, or by the Commission on appeal of the County's permit, which required contributions into the Coastal Improvement Fund or provide on-site public improvements (See Table 11). At this time, the total net contribution from these six projects is $113,985 (a total of $30,660.50 has been collected based on payment of projects that have commenced construction).

Since certification of the 1996 LCP, the County has maintained the existing 23 acres of park area in the Marina. At this time, the County has not improved Parcels FF and P for public park and public recreation as suggested as an option in the LCP, for increasing recreational facilities. However, the County is currently in discussions with developers regarding relocation of the existing parking lot on Parcel FF and developing a public park in another location.

The Marina's bikeway, which runs through Admiralty Park, through three waterfront lots located along Admiralty Way, then along Fiji Way to the South Jetty, has been maintained in its present location since the certification of the 1996 LCP. It has not been impacted by any new development since the certification of the LCP, except for one project (County Coastal Development Permit No.96-169) located on Parcel 40. The project was for a library expansion on Admiralty Way and required realignment of the bikepath from the westside of the library, which was the parking lot for the library, to the east side of the library, which relocated the bike path outside of the parking lot. By realigning the bikepath, the project improved access by eliminating potential conflicts with motor vehicles.

Further, the County, and the Commission on appeal of the County's permits, has required a 28 foot wide pedestrian promenade (20 foot wide fire access and 8 foot wide walkway) along the waterfront to improve access and recreational opportunities on new waterfront development. Since certification of the 1996 LCP, there have been four waterfront development projects involving six parcels approved by the County, or by the Commission on appeal of the County's permit, with the required walkway (see Table 11: Local Permits and Access Requirements). Since certification of the 1996 plan, the Marina has continued to provide other visitor-serving facilities such as hotels, restaurants and commercial recreation.

The certified LCP also recognizes that the provision of adequate parking in support of recreation and visitor-serving uses is important and it is equally important that all development provide sufficient parking to meet their needs to avoid parking conflicts with recreational and visitor-serving users.

All new development has been required and has provided parking consistent with the certified LCP. The LCP also requires that public parking lots be conveniently located near key visitor attractions with adequate location signage (Recreation and Visitor-Serving uses, Policy e.8). Furthermore, no public parking lots are permitted to be converted to other uses other than for public park purposes (Recreation and Visitor-Serving uses, Policy e.12). At this time, there have been no new public parking lots constructed or converted to other uses. Since certification of the LCP, the County has maintained the existing public parking lots located throughout the Marina consistent with the LCP. These lots for the most part are located near key recreation and visitor attractions, such as parks and Fisherman's Village However, there are a few of public parking lots that the County provides that are not located adjacent to key visitor attractions and may be underutilized due to their location. Parcels FF and OT are examples of such parking lots. Parcel FF, located along Marquesas Way, is designated in the LCP as a potential parcel to be converted to a park but is currently operated as a public parking lot. The nearest key visitor-serving or recreational facilities are Marina Beach and the North Jetty, both located over 1,000 feet from the parking lot. The closest recreational facility is the promenade, which runs along a portion of the parking lot. Although the promenade is a significant recreational facility, people generally access the promenade in other areas and do not rely on this parking lot. Parcel OT, located on the northern side of Admiralty Way and northeast of Marina Beach, is approximately 600 feet from Marina Beach, but because of its location, the use of the lot may not be maximized.

Furthermore, approved development has been required to provide parking to be integrated into the overall design of all development and landscaped to soften their visual appearance and be attractively designed with a buffer of landscaping, berms or other screening materials (Recreation and Visitor-Serving uses, Policy e.7). A number of development projects were approved since certification of the LCP in 1996 that incorporated these design requirement into their plans; however, currently only one to two have commenced construction so it is too early to observe the actual development design to determine how effective the requirements are.

The LCP also encourages creating park and ride lots, use of peripheral parking outside of Marina and instituting a shuttle. The LCP also requires, where feasible, office and commercial development to provide multi-use parking facilities for public use, and encourages existing commercial office development share parking during the businesses' non-peak periods. The County also operates a water shuttle during the summer periods that not only serves as a recreational activity, but also provides a transportation alternative for access to the various recreational and visitor-serving facilities found throughout the Marina. The County in conjunction with the Playa Vista development operates a free summer "beach" shuttle bus that serves the Marina and portions of Venice beach. The summer beach shuttle runs between its development, Marina del Rey and the Venice Beach Pier (Exhibit 14). The Playa Vista shuttle runs hourly and stops at several locations in Marina del Rey including Fisherman's Village, Admiralty Park, Mindanao Way and Palawan Way. This shuttle provides a transportation alternative during the summer months.

D. Conformance with Coastal Act

The LCP contains policies for the protection and provision of existing and new recreational areas and visitor-serving facilities, such as parks, walkways, bikeways, restaurants, hotel accommodations, service concessions, parking and includes public access signage policies and funding programs to mitigate for non-priority uses.

Promenade

The certified LCP has policies that require new development to improve or provide a new promenade along the waterfront. Since certification of the LCP, there have been four waterfront redevelopment projects (involving six parcels) that were required to provide a new promenade consistent with the 1996 LCP. All development projects are located on the west side of the Marina, but once constructed, the new promenade will be segmented and will not form a contiguous new promenade since there are other parcels located in between the parcels approved for redevelopment that are not yet proposed for redevelopment. Current, new and existing segments of the promenade are fragmented and do not provide a contiguous pathway around the Marina because the majority of the lots have not redeveloped, and other lots have safety or security issues due to existing uses (boat repair or private clubs). However, where there is potential to improve the existing promenade or provide a new promenade, the promenade improvements are not triggered until new development is proposed. New development that will trigger promenade improvements may never occur on some of these parcels. Therefore, the County should encourage leaseholds that are not planning any redevelopment, to upgrade and improve the promenade to achieve, wherever possible, a contiguous or improved promenade throughout the Marina. The County should take the initiative and provide incentives for such efforts, highlighting the benefits for both current residents/patrons, as well as visitors to a continuous promenade.

Bicycle Path

The County bicycle path provides the public a lower cost recreational opportunity consistent with the Coastal Act. Although the path does not run through the entire Marina due to development constraints with existing development and current road widths, it runs through Admiralty Park, through some of the waterfront lots located along Admiralty Way, providing direct access to Burton W. Chace Park, then along Fiji Way to the South Jetty. However, the location of the existing bike path may create safety issues in some current locations. For instance, within Parcel 44, the bike path runs directly through a marine commercial lot used for parking and boat sales. This mix could create safety concerns for the bicyclist. Therefore, the County should consider relocating the bike path to reduce the safety concerns and maximize public use. Furthermore, any relocation or development of new extensions of the bike path should consider locations along the waterfront wherever feasible to enhance bicyclists' views of the water.

Public Access Signage

To improve public access and recreation along the promenade and other recreational facilities offered in the Marina, the County is developing a uniform signage plan that will link all recreational and visitor-servicing facilities. The certified LCP contains a sign policy in the Shoreline Access section of the plan. The policy requires all development to incorporate informational features to improve the public's awareness of access opportunities. A similar policy should be included in the Recreation & Visitor-serving Facilities section so that all recreation and visitor-serving facilities are called out and the Marina will have uniform signage throughout the Marina that the public can readily identify. A sign program, as proposed by the County, will assist the public that may not be familiar with the recreational and visitor-serving facilities in the Marina, identify and direct them to areas that are available for public recreation and visitor-serving use.

Public Access Funding

The 1996 certified LUP policy creating the Coastal Improvement Fund (CIF) indicates that the fund is to mitigate for the impacts that non-coastal priority or non-marine related uses located in a publicly owned recreational facility have on the County's ability to provide recreation as well and the impacts these uses have on recreation and visitor-serving uses. This policy is carried out by LIP ordinance 22.46.1950 and 22.46.1970 and it exempts hotels, visitor-serving commercial, office, and marine commercial uses from payment into the fund.

Based on this policy, only developers of residential uses are required to pay into the fund. All other permitted uses for the Marina under the LCP are exempt from paying into the Coastal Improvement Fund. However, non-coastal related development in a public area has two impacts: 1) opportunity cost –loss of publicly owned land that could be used to increase recreation and visitor-serving uses, and 2) increase in non-recreation or visitor-serving traffic which impacts the public's ability to access the recreational and visitor-serving areas of the Marina.

While the County has required the LCP mitigation, the LCP does not assure that development will mitigate for impacts to priority uses in conformity with the Coastal Act. The Coastal Act requires that oceanfront land suitable for recreational use shall be protected for recreational use and development. Such uses have a priority over residential uses and non-visitor serving uses, such as commercial office use. The fund was set up to mitigate for any adverse impacts to coastal recreation and visitor-serving uses that residential uses have by using areas that could otherwise be used for priority recreation or visitor-serving development. Visitor-serving uses and marine commercial uses should be exempt from payment into the fund since they provide and improve coastal recreation; however, non-visitor serving uses, such as commercial office use, is a low priority use and takes up areas that could be used for public or commercial recreational activities. Commercial office use, listed in the LCP as being exempt from contributing into the fund, should not be exempt. The County should update the LCP to require all non-visitor and non-marine commercial related uses to pay into the fund to mitigate for any impacts these uses have on coastal recreation.

Public Parking

To support public recreation and visitor-serving activities in the Marina, the provision and location of parking is important as identified in the LCP. In reviewing the location of the existing parking lots, a few of the public parking lots are not located adjacent to key visitor attractions and may be underutilized due to their location. Parcel FF, located along Marquesas Way, is designated in the LCP as a potential parcel to be converted to a park but is currently operated as a public parking lot. Because of the lot's distance from visitor-serving areas, the lot may be underutilized. Parcel OT, located on the northern side of Admiralty Way and northeast of Marina Beach, is approximately 600 feet from Marina Beach, but because of its location, this lot may also be underutilized. Commission staff has reviewed a number of proposals over the years for use of Parcel OT by commercial development in the surrounding area because of its limited parking demand.

The County has indicated that they are aware of the issue of underutilized lots and will be undertaking parking studies to further analyze the parking situation and how best to maximize the use of the parking lots. This information and use of the existing parking lots is important as the population continues to grow and the demand on recreational facilities increases. Adequate support parking will need to be provided in strategic areas where the recreational and visitor-serving user will use the parking. Therefore, the County should consider updating the LCP to encourage relocating underutilized parking lots or developing new parking lots, in locations that will maximize their use and improve public access and recreational opportunities.

Policy No. 7, under Recreation & Visitor-Serving Facilities, of the certified LCP, requires parking lots to be attractively designed with a buffer of landscaping, berms, or other screening materials. This policy will help improve the visual appearance of the Marina; however, visual buffers and screening could adversely impact public views of the Marina. The LCP includes a number of view protection policies for new development but does not address view protection across public parking lots. Therefore, the County should ensure that views of the Marina across public parking lots from public areas, such public streets,

the bicycle trail, or accessways, are not obstructed by visual buffers and screening. The County should also consider enhancing Marina views for the public from all redeveloped or new recreational facilities, such as the bicycle path, promenade, and parks, since the Marina and the activities within the Marina are the focal point of all recreational activity. By incorporating policies into the LCP to implement these suggested measures, the County can ensure that the LCP will be implemented in conformity with the recreational and visitor-serving policies of the Coastal Act.

7. Public Access

A. Overview

Implementation of a public promenade along the entire waterfront of the Marina and implementing alternatives ways to expand visitor use in the Marina are central elements of the LCP. The County of Los Angeles has made significant improvements to public access in the Marina through the issuance of coastal permits. However, in developments where the promenade improvements are not required, the County should ensure greater consideration of alternative means to provide access in order to fully implement the LCP,

B. Policy Framework.

Coastal Act

The Coastal Act requires that maximum public access and recreational opportunities be provided consistent with public safety and the need to protect public rights, private property owners' rights and natural resource areas from overuse (Sections 30210, 30212, 30214). The Coastal Act requires that development not interfere with the public's right of access to the sea (Section 30211). Public access is required to be provided in new development, taking into account available access nearby. (Section 30212). Section 30214 also provides that access policies shall be carried out in a manner that takes into account the need to regulate the time, place and manner of public access. Upland areas to support recreation are to be protected where feasible (Section 30223) and adequate parking and transportation alternatives provided in new development to enhance public access (Section 30252).

To implement these policies, Section 30604(c) requires that: "Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200)." Section 30500(a) of the Coastal Act requires that each Local Coastal Program must contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided based on the cited provisions.

Sections 30530-30534 of the Coastal Act also require the Commission to implement a Public Access Program. As part of the Commission's Joint Public Access Program, in 1999, the Commission adopted the Public Access Action Plan, which identifies several areas of concern regarding issues that affect coastal access and recreation. The top three

priority areas of concern outlined in the Action Plan include 1) maximizing coastal access throughout the state by establishing a statewide California Coastal Trail, 2) ensuring that development does not interfere with the public's right of access to the sea by requiring Offers to Dedicate Public Access easements through the regulatory process where needed to mitigate impacts of new development, and 3) ensuring that development does not interfere with the public's right of access to the sea where public access has been acquired through historic use.

LCP

The revised and updated LUP for Marina Del Rey effectively certified February 8, 1996 (LCPA No 1-94) includes policies that make the provision of new shoreline access a priority. It implements this priority through LCP provisions that require components of a public access system: pedestrian access, public transit, water transit, parking, bikeways, circulation network, public views and directional signs and promotional information and proposed improvements to the westernmost 1,400 feet of the south jetty.

The LCP notes that, in some locations, fences, gates and signs inadvertently discourage public use and access and proposes to address such impacts in the development review process. The LCP proposed to enhance access through pedestrian walkways and bicycle trails, accessible to the physically impaired, view areas that provide points of observation and view corridors that allow uninterrupted views of the harbor from the road to the waterside, and which may be combined with public accessways.

The LCP requires development of a 28 foot wide promenade with benches and rest areas along the shoreline bulkhead in Development Zones 1 through 12 (with a few locations where public access may be restricted in areas where pedestrian safety may be compromised). In some cases, this promenade will be combined with fire access roads that also provide vertical access to the shoreline. Public parks are specified for Parcels 64, 112, and113. In Marina del Rey, the County of Los Angeles owns all land and all leaseholders hold leases subject to an obligation to provide for active public use and maximum public enjoyment of the public recreational land. Public access is assured through the lease negotiation process and the development review process. As leases are extended, the LCP requires conformance with public access requirements. LCP ordinances require that conditions of approval include any mitigation measures proposed by the County including, but not limited to, providing public access, establishing view or wind corridors, preserving sunlight on the beaches, parks and boat slip areas, and participating in the funding of park improvements or traffic mitigation measures.

LCP requirements also mitigate the impacts to public access from development of new residential units by requiring payment of fees to a Coastal Improvement Fund to finance construction of local park facilities in the Marina del Rey area. Public access is also assured by requirements that permittees, in connection with their development projects, provide adequate parking and assure that maximum view corridors provide visual access to the Marina shoreline.

C. LCP Implementation Issues

1. Lateral and Vertical Access.

The County is effectively implementing shoreline public access requirements in major new development in conformity with the Coastal Act but is not maximizing access in review of minor new development projects and in projects that raise issues of pedestrian safety. The LCP also needs updating to reflect new information on implementation of the California Coastal Trail.

LCP Implementation

The certified LUP requires:

> *e. Policies and Actions (P. 1-7)*
> *Shoreline Pedestrian Access*
>
> ***1. Public Access to Shoreline a Priority**. Maximum public access to and along the shoreline within the LCP area shall be a priority goal of this Plan, balanced with the need for public safety, and protection of private property rights and sensitive habitat resources. This goal shall be achieved through the coordination and enhancement of the following components of a public access system: pedestrian access, public transit, water transit, parking, bikeways, circulation network, public views and directional signs and promotional information.*
> *2. Existing public access to the shoreline or waterfront shall be protected and maintained. All development shall be required to provide public shoreline access consistent with Policy 1.*
> *3. All development in the existing Marina shall be designed to improve access to and along the shoreline. All development adjacent to the bulkhead in the existing Marina shall provide pedestrian access ways, benches and rest areas along the bulkhead.*
> *4. All development in the existing Marina shall provide for public access from the first public road to the shoreline along all fire roads and across all dedicated open space areas consistent with the Shoreline Access Improvements, shown on Map 4.*
> *5. **Parcels 30 and 132**. Any development or expansion of club buildings, in excess of 10 percent of the existing floor area, shall require the provision of public pedestrian access along the full length of the bulkhead except where boat launch hoists present a safety hazard to pedestrians. Where access is interrupted due to a safety hazard to pedestrians, an alternative access route shall be provided to ensure continuous pedestrian access throughout the Marina.*
> *6. **Parcels 64, 112 and 113**. Waterfront pedestrian access, on-site public parks adjacent to main channel and public access along all roads shall be provided on parcels 64, 112 and 113 in conjunction with any development that increases intensity of use of the site. These access improvements shall include a small waterfront viewing park of not less than 500 square feet which may be on platform over the bulkhead on parcels 112 and 113. Such access shall connect to access ways on adjacent parcels to assure continuous pedestrian access throughout the*

Marina. Adequate parking for public viewing of Main Channel activity shall be incorporated (see Phase II land use proposals in Chapter 8, Land Use).

The LCP Implementation Plan provides:

22.46.1150 Shoreline accessways.
The following provisions pertain to shoreline accessways which are dedicated or otherwise guaranteed in conformance with the requirements of this Specific Plan and for which a public agency or private association, approved by the Executive Director, has accepted the responsibility for construction, maintenance and liability of said accessways:
A. Vertical access easements shall be combined with the fire department required vertical access and shall be at least 28 feet in width and shall run from the shoreline to the nearest roadway available for public use. Lateral access easements shall extend as required for the individual parcel in this Specific Plan. No development shall reduce existing access, formal or informal.

In addition, standards for Development Zones 1-12 require:
A continuous 28-foot-wide pedestrian promenade shall be provided and maintained along all bulkheads. Seating and landscaping shall be provided along the bulkheads consistent with Section 22.46.1060 of this Specific Plan.

And,
22.46.1110. B. In Marina del Rey, all land is owned by the county of Los Angeles and all leaseholders hold leases subject to an obligation to provide for active public use, and maximum public enjoyment of the public recreational land. Private rights have been granted by contracts, which in some cases limit public use of the parcels. Existing public accessways are identified in Existing Shoreline Access Map (Map 2) of this Specific Plan (see Map 2 at the end of Part 3 of this chapter), and it is the policy of the county that all development preserve existing access to the Marina, to its bulkhead walkways and to its waters. Where development will increase the numbers of residents or guests on the parcel, this Specific Plan identifies additional bulkhead access and identifies that a public access corridor or other public accommodations in that location would benefit the public, said additional access, including vertical access, shall be guaranteed by the leaseholder of that parcel pursuant to subsection A of this section.

In addition, the LCP ordinances Sections 22.46.1950 and 22.46.1979 also require mitigation for the impacts of new residential development on the regional recreational resources of the Marina and adjacent beaches by requiring a per unit payment to a Coastal Improvement Fund to fund development of new park facilities specifically on Parcel FF and Parcel P. The LCP requires this mitigation because additional residential development will place a burden on the regional recreational resources of the Marina and adjacent areas as new residents utilize these resources to fulfill local recreation needs. Creation and improvement of new park lands and public access areas to serve the new residential population will mitigate the adverse impacts of additional residential development on regional facilities.

Like many older communities, Marina del Rey lacks open space areas because development was approved under earlier park standards. In certifying the updated LCP in 1996, the Commission found that the additional park lands planned in the LCP were sufficient to ensure consistency with the Coastal Act. The LCP includes provisions to use Coastal Improvement Funds to improve additional park areas (Parcel FF, Parcel P) but acknowledges a deficit of 1.9 acres. Thus the certified LCP policies do not specifically require measures to address any previous deficit from existing development prior to 1996. However, additional open space areas could be considered as existing development is demolished and/or reconstructed in order to further increase public use. As redevelopment occurs, and through updates to the LCP, additional open space could be considered in development projects. In addition, the County is taking steps to provide new open space areas at several sites in the Marina.

In 1982, the LUP submitted for certification identified 8.75 miles (78%) of 11.25 miles of shoreline as open to public and noted access was restricted over a total of 2.5 miles bordering several apartments, boat storage areas and yacht clubs. [64]

The LCP policies ensure maximum shoreline access through requirements for development of a continuous promenade and an increase in public parks, and generally require new access when development will increase the number of residents or guests. The County started issuing permits in 1990 and review of County actions on coastal development permits indicates that shoreline access requirements have been implemented in most large-scale new development projects. The Commission reviewed 9 permits issued since update of the LCP in 1996 but also reviewed earlier projects to determine the extent to which public access is being enhanced as development occurs in the Marina under a certified LCP.

As noted in Table 11, of the 11 County issued local coastal permits for waterfront development since 1990, 4 were for minor additions to existing waterfront development, one was for seawall repairs and one for dock reconstruction for charter boat service. Five permits were for waterfront projects that redeveloped and expanded residential or visitor uses and, of those, 3 included shoreline access in the project or were conditioned to require the development of the public access promenade. Public access was an issue in only one Commission appeal and shoreline access implementation assured through conditions on the appeal. Other projects reviewed by the County were for parcels that did not front the waters of the marina where lateral and vertical access were not raised as issues.

In addition, County implementation of the LCP resulted in provision of new public open space parks on Parcels 111 and 112 and County development of open space areas on Parcel 51. (See Exhibit 9 Local Coastal Permits approved with Public Access). In addition, the County has sought to increase public access by implementing the “Marina Coast Link,” a Water Shuttle that transports visitors to major recreational points throughout the Marina.

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[64] County of Los Angeles, Proposed LUP pg. II-3.

The County reported that this shuttle carried about 13,000 riders in 2004. The Water Bus, as it is known, charges a $1.00 fee at present, which is nominal but it is an “on-call, pick-up” service and still only operates a limited schedule during the summer. This operation should be expanded and linked with the institution of other shuttles and alternate transportation.

However, on five development projects since 1990, no access was required by the County. It appears these five cases were for minor additions or reconstructions, and none of the five were appealed to the Commission. In addition, the County issued two permits for more extensive additions and redevelopment of boat storage and repair facilities where shoreline access was not provided due to pedestrian safety concerns.

Table 10: Local Permits and Access Requirements.

Local Permit	Applicant	Parcel	Description	Access Findings/ Conditions	Coastal Improvement Fund	Appeal	CCC Action
00-39	Epstein	111	Remodel Existing Apartments (No Increase in D.U.'s)	8ft wide promenade and 4500 sf waterfront park required	Yes	A-5-MDR-00-472	Approved with Conditions
		112	120 D.U.s Net Decrease in boat slips office demolition	8ft wide promenade and 4500 sf waterfront park required	Yes		
98-134	Ring	12	Net Increase of 282 D.U.'s 35 Senior Apartments Net Decrease of 3.6 KSF Retail Net Decrease of 237 Slips	28 ft promenade in submitted project	Yes	A-5-MDR-01-014	NSI
		15	Net Increase of 250 D.U.'s, 47 Senior Apartments Net Decrease of 41 Slips Demolish 4.4 KSF Restaurant 8 KSF Retail	28 ft promenade in submitted project	Yes	A-5-MDR-01-014	
91-329	Goldrich& Kest	18	68 D.U.'s 60 Congregate Care Units	Applicant shall take measures to provide uninterrupted public access of the harbor	Yes	A-5-MDR-95-017	Approved with Access Conditions to assure revised plans to show walkway and permanent protection
98-172	Goldrich& Kest	20	99 D.U.'s, Net Increase of 6.94 KSF Retail Transfer of 97 D.U.'s from DZ1 to DZ4	28 ft promenade in submitted project	Yes	A-5-MDR-00-478	NSI
96-169	LA Co.	40	Library Expansion - 2,454 S.F.	Revised plans for access and bike path	No		
03-029	Pashaie	140	Net Increase of 115 D.U.'s	Not waterfront site but "Marina Entry" Design Treatment in project	No		
03-030	Pashaie	95,LLS	11.4 KSF Net Retail Increase, 288 Rest. Seats, 1.3 KSF reduction in office	Not waterfront site			
02-277	Pashaie	97	450 s.f. net retail increase	Not waterfront site; but includes "Marina Entry" Feature			
95-053	Marina Pacific Assoc.	111T	restrooms & showers w/ disability access	access provided though permit 00-39	No		
91-216	Winward Yacht	54	New shop and restroom for existing boat repair yard	no access required for reasons of pedestrian safety; view access available in adjacent parking lot	No		
91-083	Aggie Cal Yacht	53	construct dry boat storage; open boat yard sales and service	no access required for reasons of pedestrian safety; view access available in adjacent parking lot	No		
91-246	Ring	18 and 150	Repair seawall	no access required	no		
94-150	Fantasea	Adj to N	Reconstruct dock for charter service	no access required	no	A-5-MDR-95-189	Approved with conditions to protect use of beach parking lot
93-128	Cal Yacht	132	Replace portable classroom in parking lot	no access required	no		

Access Policy 1 of the LCP requires that public access to the shoreline and public safety be balanced. Ordinances section 22.46.1160 notes in part that:

> *A. Public access may be restricted in certain locations around the Marina, such as in front of the sheriff's station and near launch hoists, in the interest of pedestrian safety. Necessary restrictions and management may consist of, but are not limited to, the following:*
> *-- Construction of fences, guardrails or other barriers to prevent the public from entering areas where hazardous activity is occurring;*
> *-- Limiting public access to certain hours of the day or days of the week when hazardous activities are not in operation;*
> *-- Posting of warning signs which notify the public of potential safety hazards;*
> *-- Relocation of the public access to ensure pedestrian safety.*

The Commission action certifying the updated LCP identified concerns about ensuring the balance between access and pedestrian safety and the County accepted suggested changes to the LCP language to address this concern. The Commission found:

> *The Commission finds that there is a strong demand for increased public access to and public use of coastal resources in the Los Angeles area, and that the existing Marina provides a well-developed public shoreline access system. However, the Commission also finds that public awareness of all shoreline access areas presently available in the Marina should be increased. The Commission further finds that additional access amenities, such as benches and rest areas, should be provided and that if public access is interrupted due to a safety hazard, an alternate access route must be provided.* [65]

Commission findings also noted that the LCP Policy 1-3 required that all development adjacent to the bulkhead in the existing Marina shall provide pedestrian accessways, benches, and rest areas along the bulkhead. As modified, the LCP would ensure that access amenities such as benches and rest areas and land to accommodate them are provided along the bulkhead to improve access and to mitigate the development's impact on public access and would significantly increase the public use and enjoyment of the shoreline. [66]

However, from review of local permit findings, it is not clear that the County fully addressed possible alternatives for providing public access within commercial uses that are anticipated in the LCP ordinance Section 22.46.1160. While the County found a shoreline promenade could not be located and designed in a manner to adequately provide safe pedestrian access through these marine commercial areas, the permit findings did not discuss alternative means to maximize and enhance public access nor was the permit conditioned to provide other alternative measures, such as a viewing area or realigned routes. The findings appear to rely on adjacent access and view corridors available in an

[65] . CCC Revised Findings LCPA 1-94, January 25, 1996, p. 26.

[66] CCC Revised Findings LCPA 1-94, January 25, 1996, p. 27

adjacent parking lot. Further, there are locations in the Marina where the public has reported that shoreline access connecting major visitor facilities is restricted by locked gates at private facilities and pedestrian access is forced through parking lots or roadways with no directional signage. Implementation of the LCP must assure that, in consideration of any potential access restrictions, priority is given to assuring shoreline access along the waterfront unless no feasible alternatives are possible.

California Coastal Trail

Since LCP approval, new requirements for development of the California Coastal Trail (CCT) have been established. In 1999, the national importance of the California Coastal Trail was recognized by its designation under a federal program as California's Legacy Millennium Trail, a part of the nationwide Millennium Trail. In 2001, legislation was enacted that directed the State Coastal Conservancy to map the California Coastal Trail along California's 1,100-mile shoreline, and develop a report evaluating policy issues regarding trail development with recommendations regarding priority actions necessary to complete the trail. In January 2003, the report was finished and outlined the main objectives in completing the CCT [67]:

1. Provide a continuous trail as close to the ocean as possible, with vertical access connections at appropriate intervals and sufficient transportation access to encourage public use.
2. Foster cooperation between State, Local, and Federal public agencies in the planning, design, signing and implementation of the Coastal Trail.
3. Increase public awareness of the costs and benefits associated with completion of the Coastal Trail.
4. Assure that the location and design of the Coastal Trail is consistent with the policies of the California Coastal Act and Local Coastal Programs, and is respectful of the rights of private landowners.
5. Design the California Coastal Trail to provide a valuable experience for the user by protecting the natural environment and cultural resources while providing public access to beaches, scenic vistas wildlife viewing areas, recreational or interpretive facilities, and other points of interest.
6. Create linkages to other trail systems and to units of the State Park system, and use the Coastal Trail system to increase accessibility to coastal resources from urban population centers.

The California Coastal Trail (CCT) is being developed to provide a continuous hiking trail along the entire length of the California coast. In addition, the CCT in some places will coincide with other multi-modal trails that will provide expanded types of access (such as wheelchair and bicycle, etc., in addition to hiking). To provide optimal coastal access, the CCT would be located along the shoreline as much as possible, with alternate inland routes where available and other inland alignments where necessary.

[67] State Coastal Conservancy, *Completing the California Coastal Trail*, Jan 2003, p.8-9

The report on completing the California Coastal Trail recommended specifically for Marina del Rey [68]:

> *4. Extend the pedestrian/bicycle path from Washington Street to the north jetty of Marina del Rey, and support the seasonal ferry service for pedestrians and cyclists across the channel to Playa del Rey.*

The County has made improvements to the bicycle path (for example, in improving its location in the project to expand the Library) and the development of the Marina promenade could also be a significant part of that trail. While the development of the Marina Promenade will be a significant contribution to the Marina as a visitor destination, the County should update the Access component to help integrate future efforts to implement the Coastal Trail. An update could include measures such as coordinating adequate signage and identifying upcoast and downcoast connections to maximize access for trail walkers to connect to the shoreline. The current pedestrian access in the marina is often through developed facilities such as parking lots and inland sites away from the water and access through residential areas may not be evident to through walkers on the trail.

Conformance with Coastal Act

As noted, the Coastal Act has strong policies to maximize public access to and along the shoreline. As implemented, the County has assured development of new and enhanced access to and along the waterfront in major redevelopment projects in conformity with the policies of the Coastal Act. And, through other public amenities such as the Water Shuttle, the County is maximizing visitor opportunities in the Marina.

But, given the emphasis in the LCP on development of shoreline access to the public lands and waters of the Marina, even minor additions and reconstructions may conflict with those LCP policies by resulting in continuation of developments that may be sited and designed in a way that inhibits enhanced shoreline access. Under the LCP, existing development may incrementally improve facilities without complete redevelopment and thus may never trigger shoreline access requirements. While such minor projects may not result in public access impacts sufficient to require development of the 28 ft promenade or park developments, the continued minor expansions and remodels of waterfront properties may continue to inhibit maximum shoreline access to this publicly owned harbor. The LUP should address this gap in access mitigation requirements and include measures to enhance public access in minor projects in order to ensure that the LCP will be effectively implemented in full conformity with policies of the Coastal Act. The LCP should consider policy and ordinance revisions to require alternative access mitigation requirements for minor expansions and remodels. Such mitigation could include things such as removal of gates or fencing that may discourage public shoreline access or improved signage, or provision of benches and view areas or other public amenities. The County should be creative in its efforts as the manager of these public lands and utilize incentives to induce participation and access upgrades in all leaseholds to enhance public access.

[68] State Coastal Conservancy, *Completing the California Coastal Trail*, Jan 2003 p. 52

In addition, in two cases, waterfront marine and commercial boating facilities were approved for continued use and expansion with no provisions for mitigating impacts to access or enhancing shoreline access in these areas. While neither the Commission nor other parties filed appeals on these cases, these cases raise some concern when viewed cumulatively. There are 14 parcels in the Marina designated for Marina Commercial or Boat Storage uses which may raise such public access conflicts in future project proposals. [69] Absent some alternative ways to buffer public access and marine activities in the siting and design of commercial development, there will be areas where continuous shoreline access will not be available to the public. In order to assure maximum public access, the LCP should allow access to be restricted only in the event no siting and design alternatives are available that would provide access and then only if other alternative access mitigation and enhancements are provided. If access is not required due to pedestrian safety issues as the certified LCP anticipates, alternatives that would improve public amenities as an alternative to promenade development should be considered. There is no information in the County findings to indicate such alternatives were considered. Recommendations herein suggest updating of the LCP to ensure consideration of feasible access alternatives, such as viewpoints or realigned accessways, in conformity with the Coastal Act.

While the LCP proposes to maximize access through development of a continuous shoreline promenade, the LCP should reflect more current information regarding implementation of the California Coastal Trail. Consideration of implementation of the CCT may result in changes to the LCP access component to more clearly identify and develop Marina related CCT trail components, connections and signage. As suggested herein, the Public Access Component of the LCP should be updated to incorporate these new CCT considerations in order to maximize public access in conformity with the Coastal Act.

Since certification, the County has made significant progress implementing public access improvements in the Marina and in review of major redevelopment has effectively implemented the LCP provisions to develop a continuous waterfront accessway. However, implementation of the LCP resulted in some gaps that could result in cumulative limitations on shoreline access. If modified as suggested in the Recommendations, the LCP will contain more up to date access and trail considerations and will be designed to be implemented to maximize public access in conformity with the Coastal Act.

2. Parking Access

The certified LCP recognizes that the availability of adequate parking is essential to the provision of adequate public access and recreation. Available parking near visitor areas such as Mother's Beach is heavily used during summer weekends with overflow parking demand met by more remote lots. In addition, some existing parking supports beach access and beach launch of smaller personal watercraft such as canoes and kayaks. Public parking, while not free, has fees that have intentionally been kept low so as not to exclude or discourage recreational use. Leaseholds are required to provide onsite parking

[69] LA County, Marina del Rey Briefing Book, Land Use Survey, Parcels 1,21,30,41,44,47,53,54,55,65,71,91,132,UR.

for their uses but it has been noted that, in some areas, apartments and boat slips compete for a common pool of parking.

Currently, a boat launch with 466 parking spaces is available off Admiralty Way (Parcel 49R). Parking lots adjacent to Mother's Beach provide a total of 659 spaces for beach use and to facilitate small watercraft launches from Mother's Beach (Parcels NR, IR and GR).

The 1996 LCP identified 17 public parking lots with 3,138 public spaces. [70] In the 2002 Land Use Survey, the County identified 16 public parking lots with 3081 public spaces, a change of 57 spaces in the overall reservoir of public parking. While this is a small percentage of spaces overall, it nevertheless reduces available access to parking.

Table 11: Public Parking in 1996 and 2002.

Parcel	1996	2002	Location
W	483	442	Fisherman's Village
49R	466	456	Launch Ramp
49M	124	145	Overflow Chace Park/Marina shopping Center
UR	240	233	Overflow MdR Hotel/Other
SS	115	115	Admiralty Park-Turf
Q	118	120	Admiralty Park-Paved
OT	186	183	Overflow –Beach, Int'l Hotel, Other
N	191	186	Beach - Overflow
IR	216	209	Beach
GR	264	266	Beach - Overflow
FF	207	206	Overview – Pierview Cafe
3	140	140	Channel Vista - Overflow
A	60	59	Channel Vista
LLS	10	parking supports adjacent commercial	
EE	60	62	Chace Park
83	13	20	
52	245	239	Temporary Parking
Total	**3,138**	**3081**	

LCP Implementation

The LCP requires protection of parking for recreational uses including boating. It implements parking requirements through issuance of parking permits and ensures parking is provided in new development:

> *LUP A.2.e.6. All development, including redevelopment, expansion projects or new construction, shall be subject to the applicable parking requirements set forth in Los Angeles County Code, Title 22 (Zoning), as certified by the Commission in Appendix B of the LIP Specific Plan. In addition, public recreation areas shall be supported with visible public parking, consistent with the standards of Title 22, except that boat launch, boat storage, and marina parking and design shall be provided as specified*

[70] LUP Figure 3 County Owned Public Parking Lots P. 2-6.

in the Dept. of Beaches and Harbors' Specifications and Minimum Standards of Architectural Treatment and Construction, adopted in 1989.

LUP A.2.e.9. Public parking lots shall not be assigned to, nor allocated for use by private leasehold uses for the purposes of satisfying parking requirements for such private uses. All private uses shall satisfy their parking requirements on site. Parking agreements that predate the California Coastal Act, or which have been incorporated into a coastal development permit vested prior to LCP certification shall be exempt from this requirement.

Ordinance 22.46.1060.C.3.
3. Development on the landside of parcels on which the waterside has been identified for additional slips under the "funnel concept" shall be evaluated with respect to the parking needs of the future slips. Land side development shall not preclude provision of parking for the future slips called out in this Specific Plan. Projects which include the development of parking garages or increased lot coverage shall provide the spaces for the slips as part of the development project.

Policies emphasize the importance the location of parking plays in maximizing recreational use of the Marina. The LCP policies ensure that all new development will provide parking and public access on site and that new development does not diminish the supply of existing public parking, and that parking will be located convenient to the new development.

8. Public parking lots shall be provided in locations convenient to key visitor attractions in the Marina. The lots shall feature adequate locational signage and publicity. If parking fees are charged, parking fees shall be kept low so that the general public may use the Marina facilities for free or at nominal rates.

16. All new development shall provide visitor, public access and guest parking on site. Park and access areas shall be served by convenient and appropriate public parking.

The LCP also anticipates some conversion of public parking lots with a total parking capacity of 638 spaces) but requires replacement of spaces.

LUP A.2.e.12. No designated public parking areas, including, but not limited to Lots OT, UR or FF shall be converted to uses other than public parking or public park purposes. Parking spaces lost as a result of conversion of public parking areas to public park uses, shall be replaced on a 0.5:1 basis, either on-site or elsewhere in the Marina.

The LCP Policies 13, 14 and 15 also facilitate multiuse facilities in office and commercial development with public parking available during times when such commercial facilities may not be in heavy use. Peripheral parking to facilitate a shuttle service is required.

In approving the update of the LCP in 1996 (LCPA 1-94), the Commission findings acknowledged that some existing Marina uses were affecting public parking and required that public parking be protected. The Commission found that the conversion of public parking areas to other uses would adversely affect public access. In approving suggested modifications, it found that several parking areas should not be converted to other uses.

As noted in Table 13 following, in approving landside coastal development permits, including projects that include dock reconstruction, the County required issuance of special parking permits and included conditions on the coastal permit to assure provision of parking for onsite and boater uses. In only one permit did the County allow a reduction in required parking. However, in three cases, the Commission appealed the County actions with implementation of LCP parking requirements a Substantial Issue in all three.

Table 12: Local Permits and Parking Actions.

Local Permit	Applicant	Parcel	Description	Existing Parking	Parking Changes/Findings/Conditions adopted by County	CCC Appeal Action
00-39	Epstein	111	Remodel Existing Apartments (No Increase in D.U.'s)		299 garage spaces provided; Conditions require alternative transportation TSM/TDM program.	A-5-MDR-00-472 Approved with Conditions to maintain boater parking and develop parking plans
		112	120 D.U.s Net Decrease in boat slips office demolition		10 spaces for public park use required	
98-134	Ring	12	Net Increase of 282 D.U.'s 35 Senior Apartments Net Decrease of 3.6 KSF Retail Net Decrease of 237 Slips		2,240 garage spaces proposed meets parking requirements and boater needs in excess of standards	A-5-MDR-01-014 NSI
		15	Net Increase of 250 D.U.'s, 47 Senior Apartments Net Decrease of 41 Slips Demolish 4.4 KSF Restaurant 8 KSF Retail		2,240 garage spaces proposed meets parking requirements and boater needs in excess of standards	A-5-MDR-01-014 NSI
91-329	Goldrich& Kest	18	68 D.U.'s 60 Congregate Care Units	site nonconforming as to parking; 778 existing; deficient 40 spaces	246 additional spaces required that will result in deficiency of 13 spaces for existing and proposed uses.	A-5-MDR-95-017 Approved with Conditions; revised parking plans and parking management plan for 797 total required parking spaces
98-172	Goldrich& Kest	20	99 D.U.'s, Net Increase of 6.94 KSF Retail Transfer of 97 D.U.'s from DZ1 to DZ4		431 spaces and temp. offsite replacement for existing slips for boaters and yacht club multiuse of yacht club parking required; boating spaces protected;	A-5-MDR-00-478 NSI
96-169	LA Co.	40	Library Expansion - 2,454 S.F.		39 spaces	
03-029	Pashaie	140	Net Increase of 115 D.U.'s			
03-030	Pashaie	95,LLS	11.4 KSF Net Retail Increase, 288 Rest. Seats, 1.3 KSF reduction in office			
02-277	Pashaie	97	450 s.f. net retail increase		Parking permit allows 10% reduction in parking requirements from 114 to 103. Multi-use parking not feasible due to retail hours. Findings rely on employee transportation incentive program.	
95-053	Marina Pacific Assoc.	111T	restrooms & showers w/ disability access	parking facilities existing	new additional handicap parking space	
91-216	Winward Yacht	54	New shop and restroom for existing boat repair yard.	106 parking spaces currently exist. This is 10 spaces in excess of number of spaces required for existing and planned uses.	Project encloses an open area thus no increased parking demand; project unrelated to multi-use parking requirements	
91-083	Aggie Cal Yacht	53	construct dry boat storage; open boat yard sales and service	167 existing parking spaces	Parking unchanged by project. no increased parking demand; unrelated to multi-use parking req'ts.	
91-246	Ring	18 and 150	Repair seawall		N/A	
94-150	Fantasea	Adj to N	reconstruct dock for charter service		no onsite parking provided; Lot N offsite parking proposed	A5-MDR-95-189 Approved with Condition to protect beach parking.
93-128	Cal Yacht	132	Replace portable classroom in		no change	

Protection of public parking, especially parking for boating users, was a substantial issue in three of the 5 appeals of County issued permits. [71] In these appeals, the landside development was reviewed separately from future review of waterside development which was under Commission jurisdiction. As a result, the Commission found in these appeals that the projects did not fully conform to LCP policies to protect parking for recreational boating.

For example, in the appeal on Parcel 18R, the Commission found that the project was deficient in parking for existing and proposed uses, including deficiencies in parking to support additional boat slips and conditioned development to provide plans for development and management of parking. In all three appeals, the Commission adopted conditions to assure that landside development did not preclude the ability to provide adequate boater parking to accommodate future dock reconstruction.

In the appeal of development on Parcels 111 and 112, the Commission found that treating the rehabilitation of existing older structures with nonconforming parking as being exempt from permit requirements would perpetuate the parking deficiencies. The Commission also found that the project could preclude the ability to provide adequate parking for future boat slip development. Conditions were required for revised plans to assure protection of adequate parking for boat slip development. Concern was expressed that approving landside development in a manner than precludes additional parking to support existing boating use could result in a future reduction in boat slips or a continued parking deficiency. The Commission also found that additional public parking was required in order to provide adequate public access to the proposed public promenade.

In the appeal of development of a charter boat service on Admiralty Way Basin E, the Commission found that the LCP did not contain adequate parking standards for the proposed use, and that allocation of existing parking spaces in a public lot was insufficient to provide access for all multiple uses of the lot and would create conflict with parking allocated for users of Mother's Beach. It conditioned the project to develop a parking management plan that directed charter users to different offsite parking during peak periods.

In these appeals, the Commission also expressed concern with the cumulative effect of issuance of County required parking permits for older developments that were approved under different standards, for projects with senior or affordable housing, road improvements that reduce parking, and rehabilitation of structures nonconforming as to parking.

Parking evaluation also needs to consider the increased visitor use that will likely result from redevelopment of the Marina under the LCP. The LCP and subsequent amendment outlines a strategy for encouraging, updating and redeveloping of the marina facilities, including development of a waterfront promenade, an increase in park and open space areas and redevelopment of visitor facilities. The County is also participating in efforts to

[71] A5-MDR-95-017 (Dolphin Marina); A5-MDR-00-472 (Marina Pacific); A5-MDR-95-189 (Fantasea);

improve water quality conditions in order to maximize recreational use of the beach area. The LCP found that expanded parking capacity is needed for shoreline access in high use areas and adherence to parking standards will be necessary to maintain adequate parking and replacement parking standards are included in the LCP. [72] In some cases, the County did require additional public parking to address new park and promenade facilities. [73]

Conformance with Coastal Act

Provisions of adequate parking and transportation alternatives is an important component to maximizing access to the shoreline as required by Coastal Act Sections 30210, 30223 and 30252(4). Review of County approvals indicated that while additional public parking was often provided consistent with the LCP, in assessing parking demands and needs, the County did not always factor in potential needs generated by future dock reconstructions. In addition, when they did, the Commission found the analysis would prejudice the ability to consider the future boat dock reconstruction. The Commission action on appeals required parking plans and management plans to assure that adequate land area was available to accommodate any future boat parking need in redevelopment of the waterside projects, especially where existing uses were already deficient in parking.

In addition, location of parking is critical to maximize recreational boating activities in the Marina that rely on launching smaller personal watercraft. Parking in immediate proximity to the beach and designated public docks for small craft is important in maximizing small watercraft use. The County in a recent permit action has taken steps to provide dock facilities intended to increased small craft use. [74] By facilitating personal watercraft launching for recreational users that do not rent slips, affordable recreation can be protected and encouraged consistent with Section 30213 of the Coastal Act. Protecting parking for such uses is also an important component.

The Commission appeals together point toward concern with cumulative effects of incremental buildout of landside development separate from consideration of marina reconstruction and the long term effect on the overall amount of public parking and boater support parking. To protect and provide maximum public access and recreational opportunities, it is essential to ensure that boating and recreational access parking remains available for boater use. As the Marina redevelops, existing parking deficiencies need to be remedied for the on-site development and also adequately account for future and/or separate demands for waterside improvements (i.e. boater support parking). As public parking has slightly declined in the Marina, the long term protection of available parking and provisions of adequate parking for all uses in redevelopment is necessary to fully carry out the LCP in conformity with the Coastal Act access policies. The proposed Recommendations suggest changes in LCP policies and ordinances to assure that cumulative parking needs are protected in all new development.

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[72] LCP pp 2-6 and 2-7
[73] Local permits 00-39; 98-134; 95-053
[74] CCC permit 5-04-200 (LA County Beaches and Harbors).

3. View Access

The LCP Policy A.1(e)(14) identifies the protection and enhancement of waterfront viewing areas as a means to maximize public access to the shoreline. Waterfront development is to provide "windows to the water" wherever possible. Development adjacent to the Main Channel --particularly visitor serving commercial development -- is to provide additional opportunities and vantage points for public viewing of boating activities. In addition, all development including redevelopment and intensification on waterfront parcels is to provide an unobstructed view corridor of no less than 20% of the parcel's waterfront. Implementation of the policies is accomplished in part through the Design Review process. As part of the LCP, the Commission certified portions of the Specifications and Minimum Standards of Architectural Treatment and Construction (1989) as Appendix C of the LCP. The provisions of this Appendix C required that the Design Control Board approve development. Public view protection and provision as well as shoreline access, parking and landscaping provisions are carried out through this process. Since the LCP update, the Standards of Architectural Treatment and Construction have been revised but have not yet been incorporated into the LCP.

LCP Implementation

In the 14 permits issued by the County since certification, 11 were for waterfront development. In general, the permit actions prior to the 1996 update did not always address protection and enhancement of public views in conjunction with the project. In two cases for boat repair development, findings indicated views were screened for aesthetic and safety reasons and views were available on adjacent parking areas. These two cases did not contain a review of possible alternatives for siting and design in a manner that may protect and enhance views to the water. Other findings merely stated the projects conformed to access and view policies. However, in more recent actions and in projects that involved major redevelopment, the County has fully implemented view protection policies of the LCP. For example, of the waterfront permits issued by the County since 1996, only 4 permits involved major waterfront redevelopment or expansion. [75] In the Library expansion, revised plans were required to provide for the public accessway and bike path and view blockage was avoided. View corridors of 21% and 28% were ensured in project design for Marina Pacific and Goldrich & Kest, respectively. Findings for Marina Two Holding indicated conformance with view corridor policies. In Commission appeals, only one appeal raised a substantial issue regarding implementation of view policies. The appeal of a 1995 permit (91-329 Dolphin Marina) noted the project proposed view corridors of 40% but found that such views were not protected because they were not shown on approved plans. The Commission adopted conditions to require that corridors be shown on revised plans.

[75] Local permits 96-169 (LA Co); 00-39 (Marina Pacific); 98-172 (Goldrich & Kest); 98-134 (Marina Two Holding);

Conformance with Coastal Act

Coastal Act Section 30251 requires that scenic and visual qualities of the coastal areas shall be considered and protected as a resource of public importance and development shall be sited and designed to protect views to and along the ocean and scenic coastal areas. Views of the open channels and boating facilities of the Marina provide a significant public access resource. Not only are the public views to coastal waters and of marina activities in and of themselves a major resource for the public, such views are needed in order to maximize public access to the walkways and parks of the marina. To maximize waterfront pedestrian access, use of pocket parks and other amenities, the public visiting the Marina needs to be able to see the water channels, boat masts and park and recreation areas. View corridors among the developed residential and commercial buildings of the Marina are essential to maximizing public access consistent with the Coastal Act Sections 30252 and the public access policies of the Act. Review of County approvals indicates that the County implemented LCP requirements to provide for adequate view corridors in reviewing major development and redevelopment and public views have been enhanced in the Marina in conformity with Coastal Act policies.

However, the County has made some changes to the design standards contained in Specifications and Minimum Standards of Architectural Treatment and Construction. Some of the changes may be relevant to ensuring maximum access and protection of public view. Because they have not yet been submitted as an LCP amendment, they are not in force. Incorporation of applicable revisions to the Standards of Architectural Treatment and Construction will help ensure that public views and scenic resources will be protected in conformity with Coastal Act policies. Such revisions are included in the Recommendations herein.

4. Transit/Shuttle Access

The certified LCP recognized that in order to maximize public access, measures must be taken to increase alternative transportation to the Marina recreational areas and accessways. To that end, the LCP included specific policies to implement shuttle access. LUP Policy A.1. (e)(10), (11) and (12) require:

> *10. All development projects, including hotel, office, commercial and residential redevelopment in the Marina, that contain more than 75 parking spaces shall be designed to incorporate turn out area(s) for future shuttle stops and/or transit stops.*
>
> *11. To further insure improved coastal access, a shuttle bus system shall be established to serve Marina del Rey with connecting service to nearby park-and-ride lots, parks, and local beaches in Venice and Playa del Rey. All new visitor serving commercial, hotels, and residential development in Marina del Rey shall, as a condition of development, agree to participate in their proportionate share of the cost of running the shuttle system.*

12. Shuttle Bus Funding, Funds to assist in the establishment of a public shuttle service in the Marina may be obtained as part of Category 3 developer mitigation fees (see Chapter Circulation, policy no. 4).

The implementation ordinances provide:

22.46.1100(C0 (2). Implementation of a shuttle bus system and water taxi service would enhance public access to the Marina area and reduce impacts of residential, commercial and hotel development on access facilities, including impacts on both marina facilities and nearby beaches attributable to the growing Marina/Playa Vista population. The Marina del Rey Traffic Study (1991) suggested that a shuttle system would be most efficient and cost-effective if implemented in conjunction with a light rail transit system. A shuttle system is not required for traffic mitigation but can be established in conjunction with developments in and around the Marina. As a condition of recycling or development of new residential, hotel or commercial development accommodating more than 75 cars, shuttle stops shall be incorporated into project designs. As part of any lease extension, lessees shall agree to pay their fair and reasonable share of implementing the shuttle system at such time a system is established in adjoining County areas, as long as such share is reasonably related to the impacts of their proposed development upon the nearby beach parking and recreational traffic system. Additionally, potential exists for construction of water taxi stops and ferry terminal sites at various sites on the Marina waterfront.

LCP Implementation

The County has successfully implemented a pilot water shuttle, referred to as the Water Bus, throughout the Marina as a means of increasing recreational access to the marina areas. In addition to offering alternative access, this water shuttle itself offers a lower cost recreational experience in the Marina. For a small fee, visitors can enjoy the marina waters while shuttling to visiting various commercial and recreational sites. In addition, the Playa Vista development is required to operate a shuttle among other roadway improvements as partial mitigation for the traffic and circulation impacts of their development. Playa Vista runs a free summer beach shuttle between its development, Marina del Rey and the Venice Beach Pier (Exhibit 14). The Playa Vista shuttle runs hourly and stops at several locations in Marina del Rey including Fisherman's Village, Admiralty Park, Mindanao Way and Palawan Way. The Playa Vista beach shuttle has been expanded this summer with funding from Supervisor Knabe's office to provide additional shuttle service during the Marina del Rey Summer Concert Series in Burton Chace Park on certain Thursday evenings (Exhibit 15).

However, review of the applicable permits issued by the County has shown less success in providing for landside transit improvements. Although ordinances Section 22.46.1100(C)(2) requires that turnouts be " incorporated into project design", County findings give no indication such measures were incorporated. While Design Review was consistently required in all applicable permits, it does not appear that required shuttle

turnout areas were specifically included in approved permits. Only 2 of the 8 permits that authorized commercial hotel or residential development specifically address the turnout requirement, and those 2 did not fully implement Policy 10 because such turnouts were discretionary. In these two permits, the County found, "If required by the Department of Public Works, bus turns outs will be required for future bus shuttle…" [76] It also does not appear specific conditions were required to ensure participation in implementation of the shuttle as required by LUP Policy 11.

Conformance with Coastal Act

In certifying the LCP, the Commission found a new policy to maximize shuttle use was needed. The Commission found:

> *A new Policy 1-10 is added to require that all large development providing more than 75 parking spaces shall also provide for shuttle/transit stops. This modification is necessary to ensure that any future shuttle/transit system which is implemented in the County will be able to adequately service existing and new development, including the residential community, and will provide the Marina with an alternative mode of transportation. This new policy will decrease traffic congestion and promote efficient traffic circulation in the Marina, thereby allowing more people convenient access to the waterfront area.*

In implementing the LCP, the County does not appear to have carried out this requirement in site plan review. In two cases where the provision of turnouts was specifically addressed, the provisions of turnouts were made discretionary by DPW review. In order to assure maximum public access, the County should require that such turnouts be shown on approved project plans. Modification to the LCP to require project plans to include such turns outs as suggested in the Recommendations will ensure that the LCP is being implemented in conformity with the Access policies of the Coastal Act. While ordinance language seems clear in the requirement, a suggested Recommendation would enhance the language in filing requirements to reinforce that project plans must include such facilities.

As mentioned above in the Circulation section of this report, the County could work with Playa Vista on expanding their existing shuttle to operate more frequently in than the current hourly service and perhaps more than summer weekends since it already serves the Marina del Rey area. The County has also approached the Metropolitan Transit Authority regarding the possibility of running bus/ shuttle line from the light rail "Green Line" stop near Los Angeles International Airport to the Marina. The County should continue to consider and explore a range of options for improving non-automobile transportation inside and near the marina. The County should continue to work closely with the regional transportation agencies and the City of Los Angeles to improve mass-transit services to the Marina del Rey area and should contribute their fair share towards

[76] Local permits 03-029 and 03-030

funding any mass-transit systems. As suggested in Recommendations 15, 16 and 17, some additional revisions to the LCP would strengthen the implementation of alternative transportation as a means to expand access to and recreational use of the Marina in conformity with Coastal Act policies.

8. Biological Resources and Environmentally Sensitive Habitat Areas

A. Overview

The terrestrial areas adjacent to the Marina del Rey waters and channels are intensely developed with a variety of commercial, high-density residential and both public and private recreational uses. Open spaces include: landscaped areas of development parcels, parks and open space areas, pedestrian walkways and the Oxford Flood Control Basin. Only one vacant parcel remains in the marina (Parcel 9U). Adjacent to the marina are wetland areas at the 139 acre "Area A" in the County Jurisdiction, and the Ballona wetlands and lagoon in the City of Los Angeles jurisdiction. The California Resource Guide notes the adjacent Ballona wetlands, including the Area A, serve as a refuge for migratory birds, provide a breeding habitat for endangered species and offer recreation and open space.[77] (Marine resources are discussed in Section 3 of this report).

B. Policy Framework

Coastal Act

One of the primary objectives of the California Coastal Act is to preserve, protect, and enhance environmentally sensitive habitat areas (ESHA). Section 30107.5 of the Coastal Act defines an "Environmentally sensitive area" as:

> *Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Following this definition, the main provisions of Chapter 3 of the Coastal Act that provide statewide policies for protecting ESHA include Sections 30230, 30231, 30233, 30240, and 30250. Section 30240 outlines how ESHA is to be protected. It 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*

[77] California Coastal Commission, *California Coastal Resource Guide*,1987, p. 297.

would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30233 requires, in part, that the diking, filling, or dredging of coastal waters, wetlands, estuaries and lakes is limited to specific purposes, and permitted only where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects.

Section 30230 and 30231 protect wetlands, streams, estuaries, and ESHAs:

> *Section 30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*
>
> *Section 30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30250(a) of the Coastal Act addresses the need to protect other identified coastal resources; it states:

> *(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. [….]* (emphasis added)

Recognizing that these policies have the potential to conflict with other goals of the Coastal Act, such as maximizing public access and recreation opportunities, and increasing recreational boating, the Coastal Act provides that the provision of maximum public access and recreation opportunities must be consistent with protecting natural resource areas from overuse and must take into account the fragility of natural resources (Sections 30210 and 30214).

LCP

The LUP policies primarily address marine resources. The "Definitions" section of the certified LUP defines Environmentally Sensitive Habitat Area as:

> *Environmentally Sensitive Habitat Area (ESHA) means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development.*[78]

This mirrors the Coastal Act definition in Section 30107.5 of the Coastal Act. Other LCP policies related to terrestrial and marine resources are very limited:

> *The existing wetlands, including the flood control basin in parcel PP, the Marina waters, and the Ballona Creek flood control channel are the marine resources which shall be maintained and, where feasible, enhanced and restored. Uses permitted in or adjacent to these areas shall be carried out in a manner to protect the biological productivity of these marine resources and maintain healthy populations of marine organisms. (LUP p.4-10 #1)*
>
> *The Oxford Retention Basin shall be retained as either an open space area and/or public park or marine-oriented museum. In any redesign, 1) the water volume shall remain the same, 2) the flood control function shall be retained or alternatives provided to the satisfaction of the Department of Public Works, 3) the biological productivity of the basin and immediate land area enhanced, and 4) the quality of water discharged into the Marina improved. (LUP p.4-10 #4)*
>
> *Landscaping and plant materials may be used to screen and soften visually obtrusive elements in the study area (e.g., utilities, service areas, bulkheads, fencing, etc. (LUP p.9-7 #12)*
>
> *Landscaping, including layout plant material and quantity, as well as areas to be utilized, shall be subject to approval by the County and the Design Control Board. (LIP Appendices PP. C-14 #G)*
>
> *Landscaping shall include trees and shrubbery, with adequate groundcover to protect the soil. Landscaped borders used to shield obtrusive uses shall have a minimum width of eight feet and shall consist of vegetation of sufficient density to hide the use. Landscaping along site perimeters shall have a minimum width of eight feet and shall allow visual access into the lot, except where the landscaping is being used to screen an obtrusive use. These standards shall be implemented in a manner consistent with all other provisions of the certified LCP to encourage unique site design. (LIP pp.5 22.46.1060)*

[78] Certified LUP Definitions section, page i-5.

2246.1180 Filing requirements
…A.2. A report prepared by a biologist trained in the study of marine resources, and approved by the department of regional planning, must be submitted. The report shall discuss the proposed development's impact on the biological productivity of the marine resources within and adjacent to Marina del Rey mitigation measures must be proposed for any negative impacts. The following items must be considered when assessing impact:
- Effects of any additional pollutants due to increased runoff caused by new development;
- Potential changes in water temperature and biological productivity caused by outfalls, runoff or decrease in light entering the water due to shadowing (new buildings);
- Effects of any new structures placed in the water. (LIP Pg 19)

C. LCP Implementation Issues

1. Identification of ESHA

The LCP as updated and certified in 1996 contains no policies specifically addressing Environmentally Sensitive Habitat Areas (ESHA) and limited policies addressing terrestrial habitat resources. The certified LCP at Page 5-1 states that the text of the ESHA Chapter 5 was deleted as no longer applicable. However, based on new information since certification of the 1996 update amendment and the Commission's actions on many recent LCP amendments and updates, there should be a policy mandate and procedure in all LCPs which provides for the identification and on-going re-evaluation of coastal resources to determine what resource protection measures are needed and whether or not a particular habitat area should be recognized and preserved as environmentally sensitive habitat area (ESHA). At present, given the unique history of the Marina del Rey LCP, it lacks provisions for the adequate identification or protection of biological resources or ESHA in implementing the LCP. It does not provide adequate measures to assess the effects of development on biological resources should they be identified on a site-specific basis during coastal development permit review and does not assure that development in the Marina will be sited and designed to prevent impacts that would degrade adjacent resources.

LCP Implementation

When the Commission certified the LUP for the Marina del Rey segment in 1986, the Area A and wetlands within it were still part of the LCP area. As a result, the 1986 LUP contained an ESHA definition and policies designed to address the biological resources in Area A.

In September 1990, the LCP was segmented into Marina del Rey Segment and Area A segment and the Local Implementation Program (LIP) certified for the Marina del Rey segment only. The Area A segment was, and remains, uncertified. The 1990 certified LCP for the Marina del Rey segment (now excluding Area A) contained a definition of ESHA but did not contain any policies to guide protection of resources consistent with Section 30240 because they were removed with segmentation. The Commission found at that time, in denying the implementing ordinances for the Marina del Rey segment as submitted and approving suggested modifications, that Area A contained substantial wetland resources and degraded wetlands supporting habitat of the rare and endangered Belding Savannah Sparrow, but then noted: "[t]he certified LUP does not identify any sensitive habitat in the Marina del Rey proper" and also noted that none of the restoration programs for the remainder of the wetlands require participation on the part of the developed Marina del Rey. [79]

Then, in 1995, the County comprehensively updated its LCP through LCPA 1-94. The LCP amendment deleted all ESHA policies from the LCP. The Commission found in certifying this document, "[t]his chapter [ESHA Chapter 5] deals exclusively with Playa Vista Area A. In March 1995, the Commission again approved segmentation of Area A from the proposed Marina del Rey LCPA area. This chapter is deleted from the proposed LCPA, as modified." [80] It appears that through the 1996 update the Commission concurred with the County in finding that ESHA was confined to the wetlands and habitat of Area A and, based on available information at that time, found no ESHA existing in the developed areas of Marina del Rey. In implementing the LCP, the County has not issued any coastal permits that raise issues related to identifying biological resources. The LCP requirements for assessment of sensitive resources and ESHA are confined to addressing biological productivity of marine resources (LIP 22.46.1180 (2) and enhancing biological productivity at the Oxford Retention Basin.

However, since the Commission's action in 1996, additional information has been presented to indicate that there are clearly important coastal resources present in selected areas of the developed Marina del Rey that warrant additional protection. A site specific assessment and determination of the existence or extent of any such resources should be required through the development review process, and, if resources are identified, a determination should be made as to whether or not the resources constitute ESHA as defined in the LCP, and LCP policies need to guide development in and adjacent to such resources in order to assure that the LCP will be implemented in conformity with the Coastal Act.

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[79] CCC Staff recommendation for denial And Approval with Suggested Modifications of the Los Angeles County Local Implementation Program for the Marina del Rey segment of the Los Angeles County Local Coastal Program Aug 30.1990, pp. 13.

[80] CCC Revised Findings to support the Commission's May 10, 1995 Denial and Approved with Suggested Modifications of the proposed Amendment No. 1-94 (Major) of the Marina del Rey Segment of the Los Angeles County LCP. January 25, 1996. pp.71.

The County staff asserts that the Commission found the LCP as amended and updated in 1996, which did not contain a Resources/ESHA component, to be consistent with the Coastal Act and adequate to address any proposed development in the Marina del Rey. County staff has also expressed the belief that there is no new information that was not known in 1996 and that the Commission concurred with this finding in certifying the updated LCP that eliminated ESHA policies. However, since 1996, new information has been presented concerning resources (which may themselves be new) in the Marina area, as well as possible effects from marina development on adjacent wetland areas slated for restoration. In addition, over time, the value of certain resources can obviously change and new information may support different conclusions about the functions and value of coastal resources, as well as what is necessary to protect them.

New information was presented in 2001 that identifies the possible extent of wetland resources on the remaining vacant parcel in the Marina, Parcel 9U. In 2001, the Army Corps of Engineers made a jurisdictional determination of a 1.3 acre wetland in Parcel 9U and determined that proposed development was subject to jurisdiction under Section 404 of the Clean Water Act and required a Section 404 permit. [81] Although the County has not yet formally acted on a proposal for this site, the Army Corps of Engineers determination presents sufficient information to indicate that any proposal for development on the site must undertake a site-specific assessment of habitat resources. The LCP, however, provides no standards to ensure such site-specific assessments and determination, and if resources are not adequately identified, their protection is not assured. While the LIP 22.46.1180 includes some filing requirements related to biological report preparation, LUP Policy #1 (pg 4-10) cited previously in Section 8(B) of this report is the only LUP policy guideline on existing wetlands.

Also in 2001, as a result of monitoring of development activities, it was noted that great blue herons were actively nesting in several non-native trees in the developed areas of the Marina. At that time, there were concerns raised over potential impacts from development activities such as tree pruning or tree removal to active or historic nesting of species subject to the State Fish and Game Code and the Migratory Treaty Act. The County in their *Request for Information Response No. 1, March 1, 2002*, submitted materials that noted great blue herons had nested in cypress trees on Parcel 64 as well as in trees along the north side of Admiralty Park. At least four (4) active nests were documented in 2000. Draft EIR materials for proposed development of Parcel 64 noted that the great blue heron is fairly common all year throughout the southern California region and are commonly seen along shorelines and wetlands. The DEIR noted great blue herons generally prefer nesting in secluded groves of tall trees near shallow water feeding areas and the herons may vacate trees and establish new nesting sites. [82]

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[81] Letter from Aaron Allen for David J. Castanon, Chief, North Coast Section Regulatory Branch, U.S. Army Corps of Engineers to PCR, ATTN: Eric Stein, August 30, 2001.

[82] County of Los Angeles, Draft EIR Appendices, Villa Venetia Development Lease Parcel 64T, May 2001, Michael Brandman Associates, letter to Gregory Schem, Elkor Realty Corporation, December 8,2000, pp. 3-4

The Department of Fish and Game, while recognizing the value of heron nesting colonies to restoring the biodiversity of the Ballona wetland ecosystem, has noted some concerns about securing suitable nesting sites. There is no interest in introducing non-native trees to the restoration plan for the Ballona Ecological Reserve; and, unfortunately, the native trees that may be appropriate for inclusion in the plan may not be suitable habitat for the herons or other birds of interest. The Department has made the following statement:

> *The great blue heron is not a common nesting species in Los Angeles County because of historic and present incompatible land use practices. There is some question as to whether other suitable sites are available in the area. The existence of heron nesting colonies are of particular importance to the continued biodiversity of Ballona wetlands and Los Angeles County. The persistence of herons as a successful breeder in Los Angeles County can only be accomplished by providing areas of suitable nesting and feeding habitat over time.* [83]

More recently, attention has been focused on the herons, and recreational bird watching hikes are often led to observe the nesting herons in the Marina and Ballona wetlands. [84]

Also, recent actions by the Commission have identified issues related to protecting heron rookeries as an integral part of protecting the biological productivity in other harbor areas. For example, in the recent Commission actions on the Channel Island Harbor Public Works Plan Amendments (PWPA 1-04, Channel Islands Harbor), the Commission review noted that herons nested and perched in a series of non-native trees amidst the marina facilities, including near buildings and parking areas. While the Commission adopted conditions to restrict construction activities during active nesting in the Channel Islands Harbor, it found that the trees within the harbor did not meet the definition of ESHA. The Commission noted that the herons were neither listed nor proposed for listing as threatened or endangered species, but individual herons and nests are protected under the Migratory Bird Treaty Act and the California Fish and Game Code. And while the herons can be adaptable and tolerant of human activity, it noted the degree of tolerance or adaptability of the herons to future development, which may have become accustomed to nesting and roosting in an area, cannot be predicted and might be quite different. [85]

In PWP Amendment 1-05 and Notice of Impending Development 1-06 in the Channel Islands Harbor Vintage Marina, the protection of potential heron nesting activity in an area adjacent to a marina reconstruction site was again an issue. The Commission adopted conditions to protect active nesting and roosting herons as part of the marina resources by requiring monitoring of and restriction of construction noise during nesting periods and other measures to protect nesting activity.

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[83] Letter from C.F. Raysbrook, South Coast Regional Manager to Edward J. Casey, Esq. February 9, 2001. pp. 2
[84] http://www.argonautnewspaper.com/articles/2005/02/22/news_-_features/top_stories/1wo…accessed on 3/15/05 and http://beaches.co.la.ca.us/BandH/Events/February.htm#birdw accessed 3/30/05.
[85] Public Works Plan Amendment No, PWPA 1-04, Channel Islands Harbor, p. 22.

Because of the proximity to the Ballona wetlands and the harbor waters that provide feeding areas, trees supporting active, historic or potential heron nesting in the Marina del Rey Harbor are important resources to the biodiversity of the wetland and marina areas. Therefore, the Commission finds that these trees constitute ESHA as defined under the Coastal Act. Vegetative communities may be important for foraging use and habitat values of adjacent wetlands depending on such factors as aerial extent, species diversity, nesting sites and roosting opportunities. While great blue herons can change nesting sites and may pick among a variety of trees, it is not certain what areas of the Marina, if any, will continue to support nesting habitat in the future and project-specific assessment and mitigation may be required. In addition, as noted in the Channel Islands Harbor case, adjacent construction activity can adversely affect heron rookeries. Greater understanding about the value of these nesting habitats and colonies adjacent to the wetlands of Area A and Ballona since the prior amendment of the LCP in 1996 signals the need to reexamine the resource issues and to incorporate policy guidance in the LCP should resources be identified on particular sites. Such determinations would have to be made on a site-specific basis taking into account the overall habitat available to the resident colony.

A comprehensive assessment of the heron rookery resources in the Marina, especially as it relates to the larger Ballona/Area A resource area, is needed in order to determine the most effective means to ensure long term protection of the heron rookery in the area. But in addition to a comprehensive assessment, as some of the native and ornamental trees in the harbor currently provide nesting and perching areas, the LCP should be revised to contain habitat resource policies and standards to protect trees that support active or historic nesting activity from impacts of development or maintenance activities that trim or remove trees.

The County Department of Beaches and Harbors currently implements Policy No. 23 “Tree Pruning in Marina Del Rey and on County Beaches in Accordance with Native Bird Breeding Cycles”, dated12/5/06. This policy intends to establish guidelines to reduce or eliminate impacts to breeding bird species and their nesting habitats. The Policy provides, in part:

> *4.0 General Pruning Specifications*
> *4.1 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to roadways, sidewalks, and in parks.*
> *4.2 To the extent possible, the annual tree pruning activities shall be performed from October through December of each year. The Department shall retain the services of a qualified biologist to survey the trees and make recommendations based on his findings.*
> *4.3 Seven days prior to commencement of the annual tree pruning activities, a qualified biologist shall walk the grounds with a pair of binoculars to observe if the juveniles have fledged the nests and that the adults are not starting a new clutch.*
> *4.4 If the project activities cannot feasibly avoid the breeding season (January 1 - September 30), the Department of Fish and Game recommends a monitoring program beginning thirty days prior to the disturbance of an active nest. The*

Department shall arrange for weekly bird surveys to detect any protected native birds in the habitat to be removed and any other such habitat with 300 feet of the construction work area (within 500 feet for raptors). A qualified biologist with experience in conducting bird surveys shall conduct the inspections.
4.5 In the event that the great blue herons return during the October through December period, tree pruning will be stopped until a qualified biologist assesses the site and gives his approval to proceed. He may give conditional approval to proceed within 300 lineal feet of the occupied tree.
4.6 The biologist will conduct a ground level visual inspection of the trees scheduled for pruning and notate on a plot plan those trees that he suspects have active nests.
4.7 Once the qualified biologist gives the Department notice that all of the above conditions have been met, it will notify in writing the Department of Fish and Game, the U.S. Fish and Wildlife Service, and the California Coastal Commission of its intent to commence tree pruning.
5.0 If it is not obvious from the ground that breeding activities have commenced the biologist will make a close range observation of each nest. The close range observation is intended to provide photographic proof that there had been no eggs in the nests and that nest maintenance had not taken place within the immediate time of the surveys. Photographs of the nests will be taken from above, as near to vertical as possible. Access to the nests will be provided by a cherry picker or boom truck, with the Department's tree service contractor or own equipment on site.
5.1 Photographs of all trees with or without active nests shall remain in the Department's files for a period of seven years before they are destroyed.
5.2 After inspecting all of the trees for active nests in a specific area, the biologist will mark those trees containing active nests with caution tape to signal the tree service contractor to avoid those trees.
5.3 If an active nest is located, pruning or construction activities should occur no closer than 300 feet to these trees (500 feet in the case of an active raptor nest) provided that the work is performed with hand tools. If the work cannot be accomplished with hand tools, the servicing of these trees must be postponed until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. The use of a chipper will be allowed outside of the 300' radius.
5.4 limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel should be instructed on the sensitivity of the area.
5.5 To the extent possible, the tree service contractor will begin same day servicing of those trees that are lacking active nests (s) as determined by the biologist. The trees that are lacking active nest(s) shall be serviced within three days of the biologist's inspection. Trees lacking active nests that are within 300 feet of active nests (or within 500 feet in the case of an active raptor nest) shall be trimmed with hand tools only as described in Section 5.3 of this Policy.
5.6 In the event the tree trimmers locate an active nest (eggs, obvious breeding) not previously identified by the biologist, the contactor shall stop all work,

immediately contact the Department, and cease all tree pruning activities. The Department will consult with the biologist before authorizing the contractor to resume his operation.
5.7 Those trees containing active nests will be re-inspected in thirty days to see if the nests have been abandoned and if the trees can be serviced.
5.8 Tree pruning will not normally encroach within six feet of an unoccupied nest. However, pruning may come closer and unoccupied nests may be removed on a discretionary basis if failure to do so poses an imminent danger to any person or property jeopardizing public health or safety as determined by a certified arborist or a qualified public health official. When an unoccupied nest must be removed, the Department shall photo document the occurrence and create an incident file or paper trail. Incident file shall be available for public agency inspection.
5.9 Dead palm fronds with attached nests may be removed from the tree as long as the biologist visits the sites and gives his approval.
6.0 Diseased Trees
6.1 To the extent possible, diseased trees will be removed in accordance with breeding cycles. In the case of a threat to life or property, the diseased tree shall be removed following the Department's own discretion.
7.0 Definitions
7.1 Raptor -order of Falconiformes, which includes eagles, hawks, falcons, and ospreys.
7.2 Qualified biologist -Graduation from an accredited college with a degree in biological science and two years' experience with the great blue heron and related breeding bird species.

The County's pro-active effort here is noteworthy; however, the policy is not currently part of the certified LCP and it lacks some specificity in standards for approval of the activities. For example, it contains provisions that may result in removal of nests in dead palm fronds upon approval of a biologist but does not specify criteria for such approval (Section 5.9). Also, the policy allows for tree pruning to occur during breeding season if the project activities cannot feasibly avoid the breeding season (Section 4.4). However, this section lacks standards for assessing whether avoidance of impacts is feasible and consideration of other alternative mitigation measures. The policy also lacks specific measures to ensure protection of trees from removal if found to be ESHA or from pruning activities that may destroy the tree or eliminate its potential as nesting habitat. The policy also does not address measures to avoid complete removal of non-diseased trees. Thus, while the County's Policy 23 may provide the initial framework for an LCP policy, some provisions would need to be revised and reviewed through an LCP Amendment to assure that resources are protected consistent with Coastal Act Sections 30230, 30231, 30240 and 30250. In addition, there needs to be provisions for addressing the protection of identified tree stands on other leaseholds throughout the Marina.

The identification of nesting habitat adjacent to the wetlands of Area A and Ballona since the prior amendment of the LCP in 1996 again highlights the need to reexamine the resource issues and to incorporate policy guidance in the LCP should resources be

identified on specific project sites. Such determinations would always need to be made on a site-specific basis taking into account the overall habitat available to the resident colony. However, the LCP, as currently certified, lacks any process or policy guidance for identifying and determining the significance of the heron rookery or other bird colonies of interest within the marina and no policies to guide protection of nesting/roosting habitat as part of the development review process.

Conformance with Coastal Act

There has been sufficient new information presented since 1996 to recognize the presence of significant or important biological resources *and* ESHA within the Marina del Rey LCP area. Exhibit 13 illustrates some of the areas as discussed in the previous section of this report where further detailed resource assessment is needed as part of the development review process. These include potential wetlands on Parcel 9U, potential areas important to maintenance of a heron rookery, other noted bird colonies and areas adjacent to wetland restoration where development activities could adversely affect adjacent resources. LCP policies should ensure that resource assessments evaluate not only site-specific resources but also the potential of development to adversely affect adjacent Ballona restoration areas.

Yet, as certified and implemented, the LCP contains few policy standards to guide identification of biological resources or ESHA on a site-specific basis and, if identified, to ensure protection of those resources in the siting and design of development. While the County is aware of the issues raised by this new information and has initiated steps to assess the resources, the certified LCP currently lacks sufficient policy standards. As a result, the LCP as certified is not being carried out in conformity with the resource protection policies of the Coastal Act. Recommendations 45 and 61 suggest policies to incorporate a site-specific process for determining if ESHA is present on a site and Recommendation 52 suggest that a biological assessment of the tree stands be conducted to identify nesting habitat and suggests the development of tree pruning policies and standards to protect nesting birds.

Since initiation of the public review process associated with this periodic review and continuing to date, there have been repeated requests from the public for the Commission to complete a comprehensive and independent site-specific determination of the biological resources and ESHA for the entire marina. The Commission itself requested that technical staff complete the necessary site visits and present their findings as part of this review. In response to an enforcement action, Dr. Jonna Engel authored a memorandum, dated 12/19/06, and entitled “ESHA determination for Marina del Rey tree stands with past and present history of roosting and nesting herons and egrets” (see attached). In the memorandum, Dr. Engel made the following determination:

> *“In conclusion, the reason herons and egrets have established nests and are roosting in the Marina del Rey tree stands, as they are doing in non-native tree stands in other parts of coastal Southern California such as Ventura Harbor, Long*

Beach, and Huntington Beach, is the lack of suitable nesting and roosting areas in remaining local wetlands. The Marina del Rey heronries fit the criteria for heron and egret roosting and nesting sites. The trees are within the foraging range required by the five heron and egret species utilizing the trees. Many of the trees in Marina del Rey are tall, thus distancing the birds from predation and disturbance, and have dense foliage that offers camouflage and protection from predation. As a form of vegetation that meets these criteria and therefore provides this sort of habitat, these trees are indeed rare. In addition, the Marina del Rey tree stands are an important natural resource, as they provide necessary, significant ecological services for local Southern California heron and egret populations, which, in turn, serve a critical role in maintaining the biodiversity and healthy functioning of the wetlands. Thus, the Marina del Rey trees that support herons and egrets are especially valuable because of their roles in the ecosystem. Finally, it is also true that they are easily disturbed by human activities. Therefore, they meet the definition of an Environmentally Sensitive Habitat Area under the Coastal Act."

In response, the County has made several assertions. First, the County objects to the reintroduction of ESHA policies into the LCP and has called for the deletion of all such references from the recommendations. County representatives state that all of the current habitat areas of interest were known at the time of the previous 1996 County LCP amendment and the Commission did not then treat them as ESHA. Second, the County notes, and the staff acknowledges, that there is no authority to impose an ESHA determination through the periodic review process. The periodic review process is intended to encourage local governments to update their LCPs and respond to identified deficiencies. Third, the County points to the development and implementation of its own tree pruning ordinance as an important resource protection measure. Commission staff concurs and has always recognized the County's ability to take independent action when needed for public safety but notes that the ordinance still allows clearance/pruning work outside of active nesting that could present significant disruption to identified resources.

The County further wanted the specific opportunity to respond to Dr. Engel's recommendation and that effort, in part, resulted in their request for the continuance of the July 2007 hearing. The County engaged Robert A. Hamilton, who presented his findings in a memorandum, dated 8/22/07, and entitled "Great Blue Heron Nesting Trees as Environmentally Sensitive Habitat Areas" (see attached). In his memorandum, he concludes the following:

"Naturally, it is possible *for humans to disturb the birds or to degrade their habitats in any number of ways (e.g., through inappropriate or ill-timed pruning of trees), but mounting evidence shows that herons and egrets that choose to nest in southern California's urban environments are thoroughly habituated to the normal, routine human activities that take place daily beneath their nesting and roosting trees. […] For the reasons detailed herein, I believe it would be a mistake to interpret Section 301007.5 of the Coastal Act in such a way that every landscape tree ever used by a nesting heron or egret in California would be designated as an 'environmentally*

sensitive area' or ESHA. Such a designation could be appropriate for certain large, permanent nesting colonies of herons and egrets that have become established in a limited number of groves of non-native trees in the region, but in most cases that involve small numbers of nesting birds I believe that designation of an 'environmentally sensitive area' or ESHA would be unjustified."

In consideration of Mr. Hamilton's response and other information provided by the County, Dr. Engel drafted a second memorandum, dated 12/10/07, entitled "Status of non-native tree stands serving as multi-species heronries in Marina del Rey" (see attached). In it, Dr. Engel again finds that the tree stands play a valuable ecosystem role in the Ballona wetland ecosystem and that these sensitive resources are easily disturbed and degraded by human activities. The memorandum concludes:

"The reason herons and egrets have established nests and are roosting in non-native tree stands in Marina del Rey, as they are doing in other parts of coastal Southern California such as Channel Islands Harbor, Port Hueneme, Long Beach, and Huntington Harbor, is the lack of suitable nesting and roosting areas in and around remaining local wetlands. The tree supporting heronries in Marina del Rey fit the criteria for heron and egret nesting and roosting sites. The trees are within the foraging range required by the five heron and egret species utilizing the trees. Many of the trees are tall, thus distancing the birds from predation and disturbance, and/or have dense foliage that offers camouflage and protection from predation. These non-native tree stands are an important natural resource, as they provide necessary, significant ecological services for local Southern California heron and egret populations, which, in turn, serve a critical role in maintaining the biodiversity and the healthy functioning of the Ballona Wetlands. In addition these non-native tree stands are easily disrupted and disturbed. Applying the same criteria I did in my December 19, 2006 memorandum, of analyzing these tree stands as if they were growing an open space setting outside a densely developed urban landscape, I come to the same conclusion, and find that the non-native tree stands supporting heronries in Marina del Rey meet the Coastal Act definition of an Environmentally Sensitive Habitat Area."

In addition to the recommendations submitted by the Commission's staff biologist and County consultants, the Commission has received and considered extensive materials on the heronries in the Marina from Dr. David De Lange, Executive Director of the Coalition to Save the Marina, and other members of the public. In those materials, the Coalition has urged the Commission to make an ESHA determination for trees that have provided either historic or current nesting and roosting habitats for the herons and/or egrets. The Coalition has noted the rarity of these birds in the region and their importance to restoring the biological diversity of the Ballona wetlands. In addition, the Coalition has questioned the possible use of artificial nest platforms to induce the relocation of the birds to other areas, noting the birds are "nest-faithful" and suggesting that the failure of such efforts will ultimately lead to a County request to purposefully dislocate the bird colonies from the Marina.

Based on a full consideration of all the information provided to date by both the County and various representatives of public interest groups, as well as the specific recommendations of the Commission's staff biologist, it is absolutely clear that the identified birds are extremely important to the environment and the ultimate restoration goals of the adjacent Ballona wetlands ecosystem. Unfortunately, it will be difficult, particularly in the near term, to provide suitable habitat for the herons and egrets within the Ecological Reserve. The California Department of Fish & Game (CDFG) will not introduce non-native trees, especially tall species such as cypress or palm trees, in the restoration area and native species, such as sycamores or oaks, will only be appropriate in a few areas. Therefore, while it is generally acknowledged that the identified birds play an important role in the Ballona restoration efforts, it is uncertain whether or not there will be any opportunity to support the necessary habitat directly within the confines of the Ecological Reserve. Therefore, it is important that the existing trees found throughout the marina that are used for roosting and nesting by herons, egrets and other significant species be protected as ESHA, as they are rare and an important natural resource for the area, As stated by the Commission's Ecologist Dr. Jonna Engel in her December 19, 2006 memorandum, (Exhibit 18 and 19):

> …the Marina del Rey tree stands are an important natural resource, as they provide necessary, significant ecological services for local Southern California heron and egret populations, which, in turn, serve a critical role in maintaining the biodiversity and healthy functioning of the wetlands. Thus. The Marina del Rey trees that support herons and egrets are especially valuable because of their role in the ecosystem, Finally, it is also true that they are easily disturbed by human activities. Therefore, they meet the definition of an Environmentally Sensitive Habitat Area under the Coastal Act.

It is remarkable that these opportunistic birds have returned to this urban setting and have been able to re-establish successful nests in non-native, ornamental trees. The birds have re-established in these trees, not only because such trees are all that remains in the area but also due to their proximity to the marina waters, the Ballona Lagoon and the foraging areas of the Ballona Ecological Reserve that support the birds residency and use. Dr. Engel cites Gary George, Robert Butler and Larry Allen as all attributing the "comeback" of great blue herons in Los Angeles County as evidence of increasing environmental recovery of the area due to clean water programs and habitat recovery. As noted by Dr. Engel, there is a lack of suitable nesting and roosting areas in and around remaining wetlands. The non-native trees supporting heronries in Marina del Rey are within the foraging range for the identified bird species and they provide the physical height and/or dense foliage (camouflage) to distance the birds from disturbance and to deter predation. In addition, the great blue herons exhibit "site fidelity" to their nesting areas so they typically return to the same tree stands each nesting season.

Alternatively, it must be recognized that Marina del Rey is an urbanized area permanently committed to high density urban development. The existing high-density residential development, roadways, public promenades and commercial construction represent intense, non-resource dependent uses that will remain. Even at the time of the LCP's certification, there was only one vacant parcel (Parcel 9U) and it remains the only vacant one. While there is recycling of development underway, it is unreasonable to expect any significant reduction in development intensity or the areal extent of urbanized areas. Marina del Rey also sits as a County enclave within the intensively developed City of Los Angeles beach communities of Venice and Playa del Rey. In many locations within the Marina the existing heron and egret nesting trees are intermixed with high density development which provides for a less than ideal nesting habitat and creates inherent conflicts with the surrounding development. Noise, lighting, and human activities emanating from surrounding developments disturb and disrupt heron and egret nesting activities. Some of the exotic nesting trees, such as the Mexican Fan Palm, do not provide a stable nesting platform. Juvenile herons have been observed falling from these nests in high wind conditions. In addition, the bird guano generated from the nesting birds falls on people using public sidewalks, coats cars in public and private parking areas, covers restaurant outdoor seating areas, and falls on residential balconies and common areas. This guano is caustic and damages car paint and other painted surfaces; creates hazardous footing conditions on sidewalks; creates extremely offensive odors; and may present a public health risk.

The designation of non-native nesting tree stands as ESHA within such high density urban settings would not allow for redevelopment projects that would provide the opportunity to relocate or separate nesting areas from existing developed areas which in the long term would provide higher value nesting habitats and would be most protective of the nesting habitat. Similar heronries have been established in other high density Southern California urban coastal communities such as; Channel Island Harbor; Port Hueneme, City of Long Beach, the Ports of Los Angeles and Long Beach, Huntington Harbor, Dana Point, and Mission Bay.

The Commission finds that the non-native tree stands are performing an important ecosystem function and the identified bird species are being persistent in their efforts to establish residency, therefore, the areas in question should ~~not~~ be found to be "environmentally sensitive habitat areas" given their use as important habitat for these large sensitive birds, despite the unusually intense urban setting. The various areas identified on Exhibit 13 are all locations within an intensely developed urban area that will remain so, but should also be areas where trees that are being used for nesting should be protected as ESHA. In addition, despite the intensely urbanized character of the area and significantly disturbed and degraded nature of the area, the trees provide significant nesting opportunities for various bird species found throughout the marina, and as stated by Dr. Engel, are rare in the area and provide an important natural resource for the herons and egrets, which are important in maintaining the biodiversity and function of the wetlands. As such, the trees should be protected as ESHA.

Based on the above, the Commission finds that these select tree stands constitute ESHA and the County needs to develop policies to address the protection of such areas. The County also needs to be more pro-active in conducting a comprehensive study of the heronries and special bird colonies throughout the marina and working with the CDFG, other resource agencies, its lessees and public interest groups to develop both a management plan for existing colonies and an enhancement plan to support the on-going health of these bird populations. Such management measures, enhancement and restoration efforts should constitute elements of a new Resource Protection component to be incorporated into the LCP through a future amendment. A comprehensive, marina-wide assessment as suggested in Recommendation 61, should be completed for the heronries and other bird colonies that have active or historic nesting or roosting areas to ensure the protection of such areas. If development were considered on identified sites, development footprints would need to be curtailed and buffers provided to protect the habitat. It should be noted that this comprehensive marina-wide assessment or LCP update is for assessing, identifying, and protecting trees used for nesting and roosting, and other areas that may be considered ESHA, as suggested both in Recommendation 52 and 61. This comprehensive assessment or LCP update is meant to be a comprehensive update for the entire LCP.

The County is reminded that significant alteration or removal of any identified trees used for nesting or roosting would be considered the removal of major vegetation, which constitutes “development” as defined in the County’s LCP and would thus require a coastal development permit.

The certified LUP should also be amended to require that new development avoid adverse impacts to ESHA. New development adjacent to ESHA should avoid adverse impacts to those resources through the siting and design of the development, including the timing of construction. Appropriate setbacks and buffers should also be utilized to avoid impacts.

Further, the certified LCP contains a policy pertaining to the Oxford Basin, recognizing its role primarily for flood control purposes. However, the existing LUP policy (LUP p.4-10, #4) also states that any redesign of the Basin should include the enhancement of the biological productivity of the Basin and the immediate land area as well as water quality improvements prior to discharge into the Marina. The LCP should be amended to further strengthen the policies regarding Oxford Basin recognizing its biological significance. The Oxford Basin has restoration potential as habitat for wading birds and therefore should be considered in the Marina-wide comprehensive assessment discussed in Recommendation 52. As stated in Recommendation 60, Oxford Basin restoration/enhancement should also include public access and public education and include provisions to improve its water quality runoff.

In response to comments throughout this periodic review, Exhibit 13 identifies some areas where more detailed assessments should occur. Staff recommends that this site-specific

field work and development of scientific information be conducted as part of a proposed LCP Amendment or project review. The Periodic Review has documented new information since the LCP was certified that underscores the need to amend the LCP to ensure it is being implemented consistent with the resource protection policies of the Coastal Act. The recommendations suggest a framework for revising LCP standards to ensure that resource areas are adequately identified, assessed and protected both through advance planning efforts and the development review process. The Commission will have the ability, in the context of an LCP Amendment that the County should submit, to review specific definitions, policies, standards and designations of a revised Resource Protection component.

Public comments also suggested the LCP designate the marina waters as ESHA. As the marina waters are in the Commission's retained jurisdiction, the Periodic Review report on the LCP makes no specific recommendations that would apply to the water areas.

2. Impacts of development on adjacent ESHA

The LCP as updated and certified in 1996 lacks sufficient policy and implementing standards to assure that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade the areas, and shall be compatible with the continuance of the habitat. The LCP states that ESHA policies were deleted as no longer applicable and does not contain standards directly protecting ESHA from impacts of adjacent development.

LCP Implementation

The LCP contains some policies and standards for the siting and design of new development that may affect adjacent ESHA. Landscaping requirements provide:

> *Landscaping and plant materials may be used to screen and soften visually obtrusive elements in the study area (e.g., utilities, service areas, bulkheads, fencing, etc... (LUP p.9-7 #12)*
>
> *Landscaping, including layout plant material and quantity, as well as areas to be utilized, shall be subject to approval by the County and the Design Control Board. (LIP Appendices PP. C-14 #G)*
>
> *Landscaping shall include trees and shrubbery, with adequate groundcover to protect the soil. Landscaped borders used to shield obtrusive uses shall have a minimum width of eight feet and shall consist of vegetation of sufficient density to hide the use. Landscaping along site perimeters shall have a minimum width of eight feet and shall allow visual access into the lot, except where the landscaping is being used to screen an obtrusive use. These standards shall be implemented in a manner consistent with all other provisions of the certified LCP to encourage unique site design. (LIP 22.46.1060)*

However, these do not specify measures to protect against the introduction of invasive species in the adjacent areas of the Ballona wetlands and Area A and do not control maintenance of vegetation that may affect ESHA.

In implementing the LCP, the County has approved only two permits located along Fiji Way near the wetlands of Area A and Ballona. [86] These permits were for expansion of existing development. Conditions required biological assessment of impacts to marine resources. Conditions also required submittal of landscaping plans consistent with the LCP but did not require landscaping plans emphasize native plants and avoid invasive species that may affect the adjacent wetlands. No lighting restrictions were required in these approvals to avoid impacts of lighting on adjacent habitat areas.

Conformance with Coastal Act

While the County has implemented the LCP as certified, the implementation of the LCP may not adequately protect adjacent resources consistent with Section 30240 of the Coastal Act based on new information on impacts of adjacent development on sensitive resources. With respect to other sensitive coastal resources in the Marina and adjacent habitats in Area A or the Ballona Lagoon/wetlands, wetlands are being delineated on Parcel 9U at the direction of the County and the County has continually worked to clean up and restore the Oxford Flood Control Basin (Parcel P). With regard to providing suitable protection for the adjacent resources in Area A, now designated an Ecological Reserve, the County again asserts that neither the Commission nor the CDFG opposed the redevelopment of existing parcels with increased density or required additional development standards for marina projects at the time of the 1996 LCP amendment. Furthermore, the County sought and received a letter from CDFG that indicates the establishment of the Ecological Reserve would not "precipitate any conditions or re-design requests on the development proposals in Marina del Rey." (letter from L. Ryan Broddrick, CDFG Director, dated 10/25/06) The County has indicated that it will work with CDFG on plant palettes and lighting issues, as well as other areas of mutual interest. However, Commission staff believes that there should be policies incorporated into the LCP to address siting concerns, such as shading or predator perches, building setbacks, lighting impacts and invasive plant materials.

As noted earlier, Area A adjacent to the certified LCP area was found in LCPA 1-94 to contain 22.5 acres of wetlands (LCPA submittal LUP p. 5-3). Several areas of Marina del Rey are located in proximity to adjacent Area A and Ballona wetlands. Also adjacent to the harbor entrance channels is the 16-acre Ballona Lagoon. This is an artificially confined tidal slough connecting the Venice Canals to the Pacific Ocean via the harbor entrance channel through the use of tide gates. The Lagoon is designated ESHA and the waterway is a critical foraging habitat for the California Least tern and many other species. A

[86] CDP 91083(4) Boat Storage Building at Aggie Cal Yacht-Center (Parcel 53) and CDP 91216 (4) Boat repair shop and restroom at Windward Yacht Center (Parcel 54).

designated least tern nesting site is situated on the beach north of the entrance channel. And, as noted, there may be additional sensitive resources within the Marina proper. At the time of initial LUP planning in the early 1980s, the Ballona wetlands had not yet been annexed to the City of Los Angeles and were still a part of the Marina del Rey LUP segment. At that time, the Commission identified that an important issue was the effect of development in the Marina on the adjacent wetlands:

> *The most crucial resource management issues appear to be the extent and viability of the Ballona Creek Wetland and its buffer areas, wetland restoration mechanisms, and the type and scheduling of recycled uses in the Marina…The juxtaposition of the world's largest small craft harbor and a wetland located adjacent to Southern California's most densely populated area sharply focuses on the problem of the best manner in which two possible disparate coastal-dependent uses can most appropriately be managed." (CCC, Issue ID work program pp. 2).*

In addition to protection of the adjacent wetlands, in the revised findings for adoption of suggested modifications on the Land Use Plan in 1984, the Commission suggested modifications which included policies that adjacent urban areas shall be designed to protect the habitat values of the [Habitat] Management Area and to restrict height to protect avian flight patterns. More recently, following acquisitions, restoration plans are being developed for the Ballona wetlands and Area A. The future restoration of the Ballona Ecological Reserve will be immensely challenging and every effort must be taken to minimize the direct and indirect effects of adjacent development in the Marina.

Since certification of the LCP, the Commission has continued to gain information on the importance of ESHA buffers and potential impacts of urban development on adjacent wetlands and other ESHA, such as impacts from construction and noise, trail and road use, lighting, urban runoff, herbicides and pesticides used for landscaping and home maintenance and potential introduction of invasive plants.[87] Recent Commission actions could provide additional guidance to the County on strengthening the LCP to avoid impacts to adjacent resource areas. In the Commission approvals of the adjacent Ballona Lagoon restoration project, the Commission required revegetation plans that prohibited use of plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council and required removal of existing non-native trees except for individual trees determined by biologists to not have any adverse affect on adjacent habitat. [88]

While some Marina developments along Fiji Way have an intervening roadway and in general may be set back from the wetlands a sufficient distance to avoid negative impacts, as the Area A and Ballona wetlands are restored, new development may have indirect impacts on these habitat areas and the restoration plans will need to factor in adjacent

[87] For example, see CCC reports on 5-01-257 and A-5-VEN-01-279 Ballona Lagoon Enhancement Plan, 5-03-13 (Marblehead), A-3-STC-99-081 (Neary Lagoon Skate Park), PWPA 1-04 (Channel Islands Harbor Public Works Plan).

[88] CCC A-5-VEN-01-279 and 5-01-257 West Bank Ballona Lagoon Enhancement, pp. 5

existing urban development. The LCP as currently certified lacks adequate provisions to ensure that new development proposals are reviewed for such potential impacts, and if applicable, that adequate mitigation is required. Absent such standards, implementation of the LCP will not assure that development is sited and designed to prevent impacts which would significantly degrade the areas, and will be compatible with the continuance of the habitats in conformity with Section 30240(b) of the Coastal Act. Recommendations 45, 49, 61 and 62 offer suggested policies for updating the LCP to ensure protection of ESHA if identified, to assess these resources (including the heron rookery in the marina) based on site specific information, and to minimize spillover impacts on adjacent habitat areas planned for restoration.

9. Cultural Resources

A. Overview

Issue scoping raised concerns that the LCP should be updated to reflect newer requirements for protecting cultural resources. However, in 2004, the Legislature adopted SB 18, which changed provisions of the Government Code to implement a consultation process in conjunction with General Plan Amendments. The Governor's Office of Planning and Research (OPR) recently issued guidelines for implementation of these new requirements.

B. Policy Framework

Coastal Act

Coastal Act Section 30244 states:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Other laws for the protection of archaeological resources on state and federal lands in California include, but are not limited to, the Archaeological Resource Protection Act (ARPA); Public Resources Code (PRC) Section 5097.5 and the California Code of Regulations (CCR) Section 1427 and 4) Penal Code (PC) Section 622.5.

LCP

The LCP policies and ordinances require that cultural resources be identified and impacts mitigated through the CEQA review process and archaeology reports prepared by a qualified archaeologist as part of the development review process. The review is to be based on coordination with the State Historic Preservation Office. If any resources are discovered in the review process, the policies require notification of the State Historic

Preservation Office and retention of a professional archaeologist is required to monitor any earth-moving operations in the study area. A halt-work condition is required to be in place in the event of cultural resource discovery during construction. Any resources recovered are to be collected and maintained at the Los Angeles County Museum of Natural History, or other appropriate location as otherwise provided by state law. Two key Land Use Policies provide:

> *3. To ensure proper surface and site recordation, the State Historic Preservation Office shall be notified, along with Regional Planning, if any resource is discovered during any phase of development construction. A professional archaeologist shall be retained to monitor any earth-moving operations in the study area. A halt-work condition shall be in place in the event of cultural resource discovery during construction.*
>
> *4. As part of the application for any coastal development permit involving disturbance of native soils or vegetation, including but not limited to excavation, pile driving or grading, the applicant shall provide evidence that they have notified the Office of State Historic Preservation and the Native American Heritage Commission of the location of the proposed grading, the proposed extent of the grading and the dates on which the work is expected to take place.*

Discovery of Native American remains or of grave goods requires compliance with various required sections of the Health and Safety Code, and Public Resources Code that protect human remains and Native American cemeteries and other sacred sites. The LCP ordinances Section 22.46.1190(A)(2) spells out that these provisions are required as conditions of approval.

C. LCP Implementation

Coastal Act Policy 30244 is embodied in County provisions requiring archaeological monitoring and mitigation of any adverse impacts.

Review of the post certification permits issued since update of the LCP in 1996 indicate that in all major redevelopment projects the County evaluated and conditioned development to protect cultural resources. Except for two minor projects, permits issued by the County pursuant to the updated LCP included findings regarding protection of cultural heritage resources. Archaeological reports were completed as part of the environmental review and the County conditioned development to ensure the required mitigation and notification. Since 1996, only one appeal included archaeological conditions and the Commission attached conditions similar to LCP standards in the de novo action. [89] Since 1996 no significant archaeological concerns have been raised in development projects.

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[89] A-5-MDR-95-017 (Dolphin Marina) Approved with conditions 6/13/96.

D. Conformance with Coastal Act

Since LCP certification, the County has implemented its Local Coastal Program in a manner consistent with the Coastal Act archaeology policy. At the same time, the Coastal Commission has focused increased attention on the protection of archaeological resources that include significant Native American sacred sites and the importance of consultation with local Native American representatives. And in September 2004, new legislation, SB 18, modified the Government Code to impose new requirements on local governments to notify and consult with California Native American Tribes in local land use planning decisions for the purpose of protecting traditional tribal cultural places, features, and objects.

This Bill directed the Governors' Office of Planning and Research (OPR) to develop guidelines to carry out the law. The Office of Planning and Research's Guidelines issued April 15, 2005, explain the responsibilities of local governments under the new requirements. The OPR guidelines include directions for noticing and consulting with California Native American Tribes for:

- *The preservation of, or the mitigation of impacts to, cultural places.*
- *Procedures for identifying through the NAHC the appropriate California Native American tribes.*
- *Procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of cultural places.*
- *Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location character, and use of cultural places*. [90]

These new requirements are to be addressed in future LCP amendments.

In addition to the expanded notice and consultation requirements the statutory changes allow the protection of cultural places in the Open Space Element of the General Plan. SB 18 adds California Native American Tribes to the list of entities that can acquire and hold conservation easements for the purpose of protecting their cultural places.

Also, although no concerns have been raised concerning potential impacts to archaeological resources, the Commission notes that concern for the cultural resources of Native American Tribes has increased and more scrutiny has been required whenever grading occurs. More recently, beyond merely notifying the SHPO and the NAHC to ensure proper surface and site recordation, the Commission has required the presence of Native American monitors in addition to professional archaeologists in order to ensure adequate protection of Native American Tribal resources.[91]

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[90] Office of Planning and Research, http://www.opr.ca.gov/SB182004.html. Accessed April 30, 2005.
[91] For example, see 5-04-291(Kravetz) and A-5-PDR-00-077/5-99-329 (Catellus Residential Group)

While the Commission finds that the County is implementing the LCP as certified, it notes that these newer requirements should be incorporated into the LCP to guide future local actions in order to assure that the LCP will continue to be carried out in conformity with Coastal Act policies in light of new information on the protection of cultural resources. Recommendation 63 suggests modifying LCP Cultural Heritage Resources policies and applicable ordinances to require that Native American monitors be required to ensure adequate review and protection of Native American Tribal resources. Recommendations 63 and 64 are suggested to update the LCP to reflect newer statutory procedures to ensure it will continue to be implemented in conformity with Coastal Act Section 30244.

10. Hazards

A. Overview

As a developed harbor, Marina del Rey does not raise the same hazard issues that may be present in other coastal areas. However, new development and redevelopment may be subject to flooding and impacts from earthquakes that should be reflected in LCP implementation.

In certifying the updated LCP in 1996, the Commission found that although there are no active or potentially active earthquake faults that traverse the Marina del Rey area, the potential for geologic hazards exists from seismic activity centered in adjacent surrounding areas. It identified one of the greatest potential hazards for the Marina area is liquefaction resulting from strong ground shaking of water-saturated, loose to moderately dense sand and silty sand. As noted in the Commission findings, the Marina is characterized as having "very high" susceptibility to liquefaction, which could cause lateral spreading and local ground instability resulting in the collapse of buildings. [92] As a result, the revised LCP strengthened policies to reflect updated standards and knowledge gained from the Loma Prieta and Northridge earthquakes.

As a result of the recent tsunami event in the Indian Ocean, more attention is being focused on measures that may be needed to avoid or minimize impacts from inundation by tsunami [a sea wave generated by local or distant earthquake, submarine landslide, subsidence, or volcanic eruption] or seiche events [a wave set up by a tsunami, a landslide, or prolonged winds that undulates back and forth in an enclosed or partially enclosed body of water, such as a harbor.] Small tsunamis (in the 3 to 5 foot range) have been detected along the California coast following large Pacific Rim earthquakes. Very destructive tsunamis, such as the recent Indian Ocean tsunami, are extreme events. The Office of Emergency Services is developing revised measures for warning and evacuation programs to address extreme tsunami events. Draft tsunami inundation maps developed

[92] CCC, Revised Findings to support the Commission's May 10, 1995 Denial and Approval with Suggested Modifications of the proposed Amendment No.1-94 (Major) of the Marina del Rey segment of the Los Angeles County LCP, January 25, 1996, pp.86-87.

by the Office of Emergency services show Marina del Rey as "impacted" by a worse case scenario.

B. Policy Framework

Coastal Act

The Coastal Act requires that new development be sited and designed to minimize risk to life and property specifically in areas of high geologic, flood and fire hazard. Section 30253 provides:

> *New development shall:*
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
> *(2) Ensure stability and structural integrity, and neither create nor contribute Significantly t o 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 land forms along bluffs and cliffs.*

LCP

The LCP update in 1996 addressed concerns regarding geologic hazards. It included new requirements for preparation of geologic reports demonstrating that channel construction or development adjacent to channels will survive geologic hazards and that engineered structures could mitigate any potential impact from seismic shaking, lateral spreading, liquefaction or ground failure accurately reflecting recent experience with liquefiable soils and seismic events. It also required all development to provide a flood control and runoff plan.

LCP Section 22.46.1180(A)(4) also reflects the continual revision of seismic protection codes and gives notice that all development must conform to the most recent guidelines of the California Seismic Safety Commission or Building Standards Commission[93] to ensure the structural integrity of structures within the Marina:

> *4. Avoidance and mitigation of Geologic/Geotechnical Hazards. Applicants and their engineers are responsible for determining and following all current requirements and recommendations of the Los Angeles County Department of Public Works, the California Division of Mines and Geology and the California Seismic Safety Board. New development shall utilize earthquake resistant construction and engineering practices. All new development over three stories in height shall be designed to withstand a seismic event with a ground acceleration*

[93] The Building Standards Commission is responsible for administering California's Building Codes and is part of the State Consumer Services Agency.

of no less than 0.5g. Accordingly, all development applications shall include a detailed geotechnical report completed by a certified engineering geologist and a registered civil engineer experienced in the field of soil mechanics, and approved by the department of public works. A copy of the report, and its approval, shall be submitted. The report must include, but not be limited to:

- *A comprehensive geologic/soils analysis showing underlying geology, soil type and structure;*
- *Delineation and evaluation of areas prone to fault rupture, secondary effects of seismic shaking, such as lateral spreading, settlement, liquefaction, etc. and excessive ground motion, due to seismic wave amplification;*
- *Delineation of low-lying areas which may be inundated by tsunamis, floods or unusually high tides, or damaged by excessive wave action;*
- *Recommendations for development in geologically stable areas, and restriction of development in unstable or unmitigated areas.*
  Note: Additional requirements may be imposed in areas determined to be under the jurisdiction of the State of California Seismic Safety Board or the Division of Mines and Geology.

The LCP specifically addressed hazard risks from tsunamis. The LUP noted:

Seismic sea waves pose a potential hazard to the low-lying portions of the study area, because of their minimal elevation and proximity to the ocean. Earthquakes with epicenters anywhere in the Pacific Ocean may generate such waves. No existing proposals are known which would provide protection to physical structures, although warning systems are in effect which allow persons time to vacate the area.[94]

The LUP policies state:

While low lying areas are statistically endangered by tsunami, they are isolated from the shoreline by distances of from 1,500 feet to 6,000 feet and are not considered directly exposed to tsunami hazard.
The Marina del Rey Small Craft Harbor has sustained only minor damage in the past due to tsunami and seiche because of special design standards embodied in the moles, docks and breakwater.[95]

LCP Policies require:

10.e.4. Require that marina and harbor facilities continue to be designed and constructed so as to reduce the potential impacts of tsunamis.

[94] Los Angeles County, Marina del Rey Land Use Plan, certified February 8,1996, p.10-4.
[95] LUP pp. 10-5

10.e. 5. Direct the Chief Administrative Office's (CAO) Office of Emergency Management to consider the potential threat of tsunamis in the preparation of disaster response plans for low lying harbor and coastal areas.
10.4.6. Instruct the CAO's Office of Emergency Management to investigate the feasibility of establishing a tsunami alert procedure.

C. LCP Implementation Issues

Review of post certification actions by the County indicate that geotechnical reports have been required in major development projects in the Marina. Earthquake resistant construction and engineering practices have been required and mitigation measures outlined in geotechnical reports have been made conditions of project approval. In major projects, development has been required to avoid transecting geologically unstable areas. Given the risks, mitigation to address liquefaction and lateral spreading has been the major focus of the geotechnical reviews. In the two appeals where hazards were raised as issues, the Commission adopted conditions to ensure that recommendations of the geotechnical reports were required.

While geotechnical analysis and mitigation has been required in project review by both the County and the Commission, such analysis may not have focused on potential tsunami impacts. Review of a sample report submitted as part of an appeal record showed that the geotechnical analysis focused mainly on the major risks from seismic activity and liquefaction and did not appear to specifically discuss risks associated from tsunami or seiche events, for example, the impacts from scour, high velocity waves or lateral movement due to the effect of water loading from a tsunami event. While the LCP requirements provide that tsunami risks are to be addressed in geotechnical review, it appears that this may not have been explicitly considered in geotechnical reports. As a result of recent attention on tsunami response, the County should also consider updating and revising requirements for review of potential impacts to proposed development. On a minor note, any LCP revisions should reflect more recent changes to agency references for the California Division of Mines and Geology, which is now the California Geological Survey.

Early in 2005, the County participated in a Tsunami Task Force formed following the Indian Ocean tsunami and is updating the County's Tsunami Emergency Response Plan developed in 1998 to reflect the latest scientific research and recent changes in the county's own emergency response system. In updating this emergency response plan, the Commission anticipates that this will result in up to date evacuation plans and education efforts, including possible signage.

D. Conformance with Coastal Act

Section 30253 of the Act requires that new development minimize risks to life and property in areas of high hazards and ensure stability and structural integrity. The County has consistently required submittal of required geotechnical reports and ensured incorporation

of mitigation requirements, in conformity with Section 30253 of the Coastal Act. In implementing requirements to evaluate site conditions through geotechnical analysis and recommend measures to minimize risks, it appears LCP requirements to consider risks for tsunami events may not have been explicitly implemented. As the County is actively involved in addressing Emergency Preparedness, the LCP should ensure that geotechnical analysis of, and mitigation measures for, new development reflect requirements of any newly adopted state or local hazard mitigation plans addressing tsunami hazards. The LCP includes a notation that additional requirements may be imposed in areas under the jurisdiction of the Seismic Safety Board or California Geological Survey. However, some new requirements for hazard mitigation may come from other state and local authorities so requirements should be expanded. Recommendation 65 will ensure that through required geotechnical studies and project plans, that the latest feasible mitigation measures will be incorporated into new development to minimize risks in conformity with the Coastal Act.

Concerns were raised and materials submitted about possible public hazards from hydrogen sulfide and methane gas leakage from the gas fields or oil well development in the area. Comments were made requesting the Commission take a number of steps to oversee operations related to the Southern California Gas Company in Venice, Playa del Rey and in the Ballona wetlands, including such things as collecting documentation and developing databases and maps, funding investigations, coordinating local hearings and storing data and materials for public review.

In response to these comments, at the hearing on June 7, 2005 the Commission requested that staff provide information on the location of facilities. Exhibit 11 is a portion of a map locating well facilities developed by the Department of Conservation, Division of Oil Gas & Geothermal Resources (DOGGR).Exhibit 12 is a map of gas utility easements that is currently part of the certified LCP. Exhibit 11 shows that there are only a few well sites located in the Marina del Rey LCP segment.

The issue of potential hazards from underground gas storage is addressed by other agencies. The DOGGR oversees the drilling, operation, maintenance, and plugging and abandonment of oil, natural gas, and geothermal wells. DOGGR's regulatory program addresses engineering practices to protect the environment and ensure public safety when addressing abandoned wells, hazardous wells, and underground gas storage. When new development is proposed near an active or abandoned well, the DOGGR's site review process assures that wells must be excavated and tested for leakage and to determine if some or all of the wells require additional plugging and venting. During the Division's construction site plan review process, the Construction Site Engineer requires all wells to be tested for leakage and all wells under buildings or restricted access must be vented and abandoned or re-abandoned to present day standards.[96] Public Utilities operations are also regulated by the Public Utilities Commission.

[96] http://www.consrv.ca.gov/dog/faqs/index.htm#Structure%20over%20well Accessed on March15, 2006.

Section 30418 of the Coastal Act provides, in part:

> *(a) Pursuant to Division 3 (commencing with Section 3000), the Division of Oil and Gas of the Department of Conservation is the principal state agency responsible for regulating the drilling, operation, maintenance, and abandonment of all oil, gas, and geothermal wells in the state. Neither the commission, local government, port governing body, or special district shall establish or impose such regulatory controls that duplicate or exceed controls established by the Division of Oil and Gas pursuant to specific statutory requirements or authorization.*

Further, the certified LCP contains policies to implement similar requirements. The LCP Policy 14 (5) provides:

> *Prior to new development over old, unused or previously abandoned wells, the California Division of Oil and Gas shall be asked to determine that the wells have been abandoned in accordance with current standards. Development over wells shall not be allowed to take place until this determination has been made.*

LUP Hazard policies also provide:

> *No development in which the hazard to life and property cannot be fully mitigated shall be approved (LUP policy Hazards E (3))*

Development associated with well abandonment requires coastal development permits. The Commission has reviewed some coastal development permit applications for excavation of abandoned oil wellheads in adjacent Venice and Ballona as well as development related to operation and maintenance of oil wells and gas re-injection wells in adjacent Playa Vista in the City of Los Angeles. (e.g. 5-98-056 MDR Properties, Ltd.; 5-98-057 MDR Properties, Ltd; 5-98-058 MDR Properties, Ltd; 5-05-209 Southern California Gas Company). In appeal A-5-MDR-00-472 (March 12, 2001) of a County issued permit for development of an apartment building in the Marina, the Commission conditioned the development on submitting evidence of compliance with DOGGR requirements. Both the certified LCP and the prior Commission actions in the review of development associated with abandoned wells reflect similar standards to require evidence of compliance with DOGGR requirements.

A concern was also raised by a member of the public regarding naturally occurring methane gas creating a hazardous situation for new development within the Marina. The LCP includes a policy that requires that no development in which the hazard to life and property cannot be fully mitigated shall be approved. In addition, the LCP references Policy 30253 of the Coastal Act which requires that new development minimize risks to life and property in areas of high geologic, flood and fire hazard. Therefore, the County through the approval of a coastal development permit for any new within the Marina is required to address any potential risks related to geologic, flood or fire hazards. This would include any hazards related to naturally occurring methane gas.

The Commission actions on permits and appeals have not raised other concerns regarding hazards resulting from oil and gas well development, underground gas storage, naturally occurring methane gas or other hazards under provisions of the certified LCP. Thus, the Commission finds that with regard to review of hazards related to oil and gas facilities or naturally occurring methane gas, the County is effectively implementing the LCP in conformity with policies of the Coastal Act

11. Procedures

A. Overview.
Implementation of the LCP involves many steps, from application through public noticing and hearing to monitoring, enforcement and condition compliance. Some of the issues raised may be ones that may not actually require code changes but may be best be addressed through discussions on improved procedures.

B. Policy framework

Coastal Act

A core principle of the Coastal Act is to maximize the public's ability to participate in planning and regulatory decisions. Section 30006 of the Coastal Act requires:

> *The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.*

To facilitate such participation, the Coastal Act and the California Code of Regulations establish specific procedures for processing coastal development permits (CDPs) at the local level following Local Coastal Program (LCP) certification, as well as for administering amendments to the certified plan. This includes specific procedures regarding the provision of public notices and hearings, and opportunities to appeal certain local decisions on CDPs to the Coastal Commission. Permit-processing requirements may vary depending on the type, extent, and significance of the development, or LCP amendment, being proposed. The Coastal Act and California Code of Regulations provide a range of procedures to account for these distinctions.

LCP

Regulations for implementation of the County LCP are found primarily in County ordinances Sections 22.56.2270 to 22.56.2550. The procedures outlined mirror the Commission's post-certification hearing and noticing procedures contained in Title 14 of the California Code of Regulations.

C. LCP Implementation

1. Determination of Exemptions

The identification of what is exempt from coastal permit requirements mirrors the Commission's regulations. And, the procedures provide that a determination whether a development is exempt is made by the Director at the time an application is submitted. The Code also provides for the resolution of any disputes as to whether a development is exempt:

> *Section 22.56.2370. A. If the Director's determination made pursuant to Sections* 22.56.2280, 22.56.2290 or 22.56.2360 is challenged by the applicant or interested person, or if the local government wishes to have a Coastal Commission determination as to the appropriate determination, the Director shall notify the Coastal Commission by telephone of the dispute and shall request an opinion of the Coastal Commission's Executive Director.

This provision is in line with requirements of the California Code of Regulations. Although the County Code contains a procedure to resolve disputes concerning exemptions, the Commission and interested parties often are not aware that an exemption has been granted until after the development has commenced. As a notice of exemption is not required under the Commission's post-certification regulations Section 13569, it is often difficult to invoke the dispute resolution process. Therefore, it is important that the LCP clarify the types of development that are exempt. The Commission staff is aware of a few instances where development such as demolitions and temporary events have been exempted from permit requirements even though they are not specifically listed in the County's list of exempt development in Section 22.56.2290. As much of the Marina is in appeal jurisdiction, it is important that permitting procedures are clear and afford the public a way to review decisions. While public noticing is not required, a list of exempt projects should be retained, as suggested herein, in order to afford the public the means to review a determination of exemption and invoke the dispute resolution process, if needed.

2. Ease of Document Use

In public comments, the Commission received feedback from the public concerning some impediments to their review of LCP implementation and suggested the County develop ways to make the LCP document itself more accessible to the public. Recent submittals in conjunction with the Periodic Review highlight that the County continues to explore expanded use of electronic format for documents to help facilitate public participation. While the LCP is being carried out to facilitate public input and no recommendation is suggested, a revision to the LCP may offer the County the additional opportunity to explore improvements in formatting and organizing the LCP document itself to make it easier to use and more accessible to the public.

D. Conformance with Coastal Act

The County has fully implemented requirements for hearing and noticing for coastal permits and LCP Amendments in conformity with the Coastal Act and administrative regulations and has implemented significant outreach efforts on upcoming projects in order to maximize public participation. Continual improvements in public outreach to ensure the LCP is carried out in conformity with Coastal Act Section 30006.

LIST OF ATTACHED EXHIBITS

Exhibit 1: **Area Map**
Exhibit 2: **Development Parcels**
Exhibit 3: **Local Coastal Permits Approved**
Exhibit 4: **Boating Facilities**
Exhibit 5: **Traffic Fee Mitigation Account Approved and Pending Projects**
Exhibit 6: **Map and List of Proposed Transportation Improvements**
Exhibit 7: **Lincoln Blvd. Mobility Improvement Study (Excerpt)**
Exhibit 8: **Recreation and Visitor-Serving Facilities**
Exhibit 9: **Local Coastal Permits Approved with Public Access**
Exhibit 10: **Review of Status of Traffic in Vicinity of Marina del Rey**
Exhibit 11: **Location and Status of Oil and Gas Wells**
Exhibit 12: **LUP Exhibit of Gas Utility Easements**
Exhibit 13: **Potential Resource Assessment Areas**
Exhibit 14: **Beach Shuttle Route Map**
Exhibit 14A: **Water Bus**
Exhibit 15 **Letter from Supervisor Don Knabe regarding Beach Shuttle Expanded Service**
Exhibit 16: **Memorandum from Robert A. Hamilton to Andi Culbertson, dated, August 22, 2007**
Exhibit 17: **Letter from Mr. L. Ryan Broddrick, California Department of Fish and Game, dated October 25, 2006.**
Exhibit 18: **Memorandum from Jonna D. Engel, California Coastal Commission, dated December 19, 2006.**
Exhibit 19: **Memorandum from Jonna D. Engel, California Coastal Commission, dated December 10, 2007.**

Marina del Rey
LCP Periodic Review

Area Map

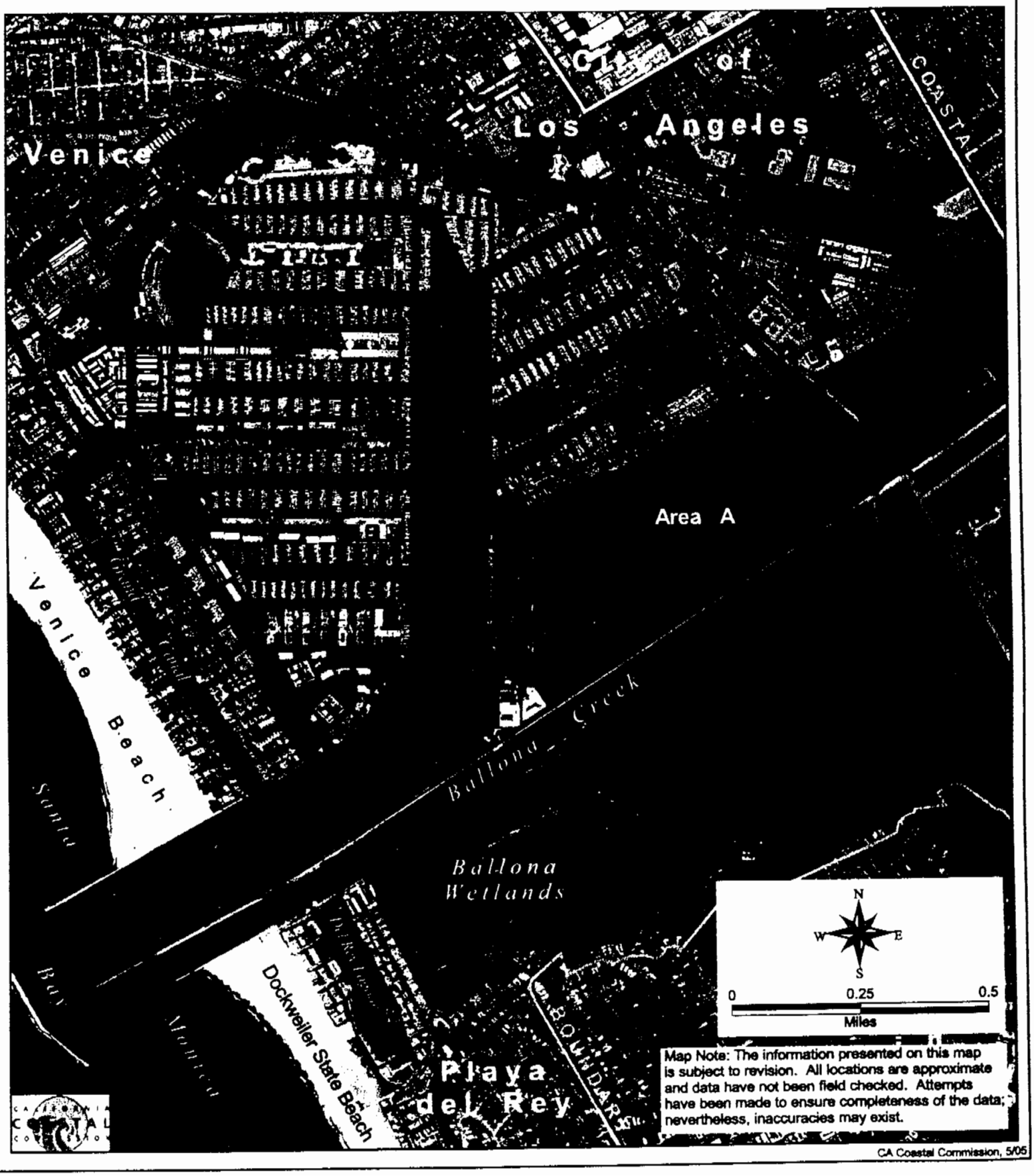
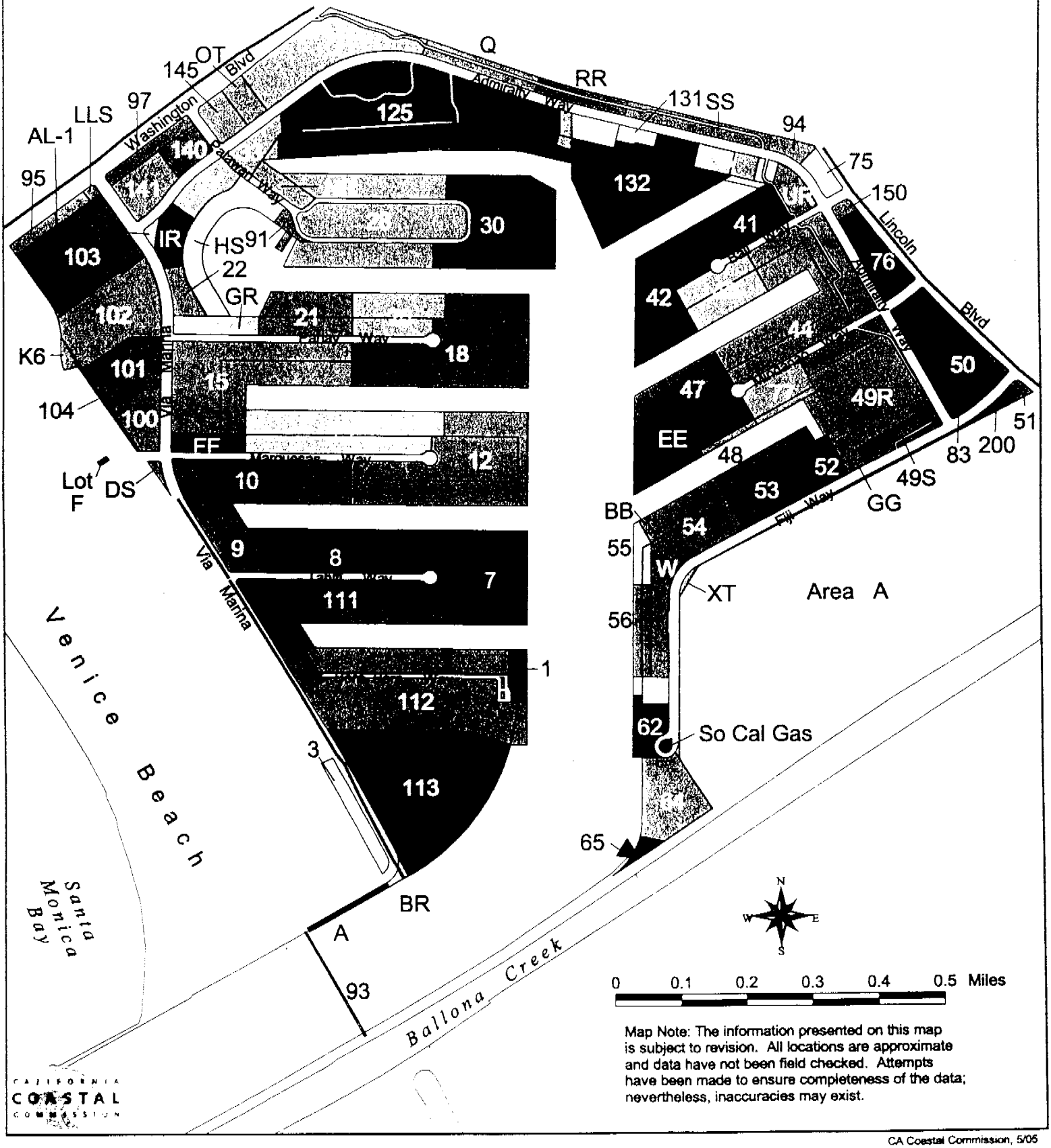


Exhibit 2

Marina del Rey
LCP Periodic Review
Development Parcels



Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.

CALIFORNIA COASTAL COMMISSION

CA Coastal Commission, 5/05

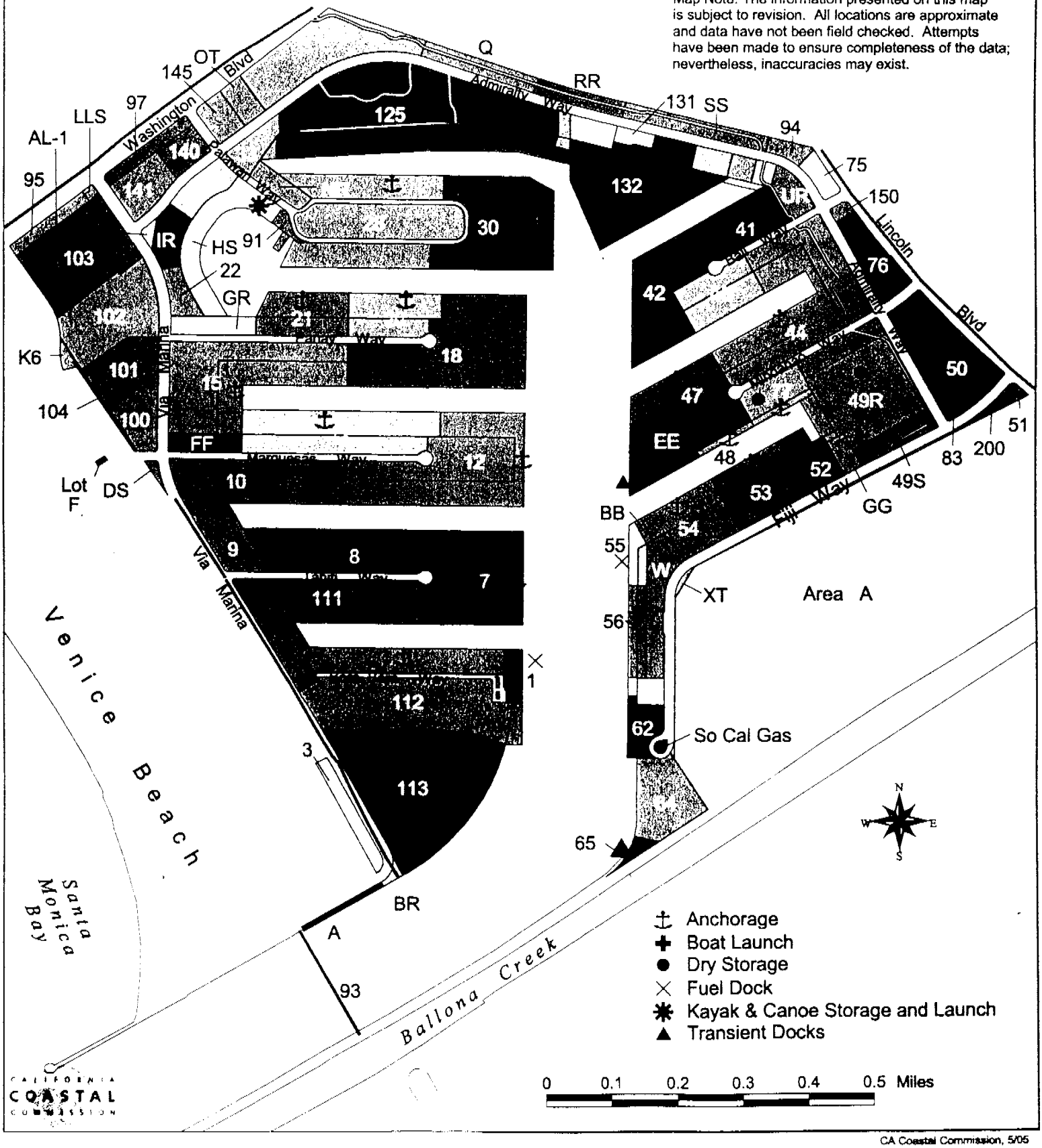
Local Coastal Permits Approved

Co. Case #	Redevelopment Granted
91-083:	construct dry boat storage; open boat yard sales & service
91-216:	marine commercial
91-246:	replace seawall
91-329:	residential
93-128:	replace portable classroom in parking lot
94-150:	reconstruct dock for charter services
95-053:	restrooms and showers w/ ADA access
96-169:	library expansion
98-134:	increase residential; decrease retail, restaurant & slips
98-172:	residential, retail
00-39:	increase residential; decrease slips; demolish office
02-277:	increase retail
03-029:	increase residential
03-030:	increase retail, restaurant, reduce office

Exhibit 4

Marina del Rey
LCP Periodic Review
Boating Facilities

Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.



CA Coastal Commission, 5/05

MARINA DEL REY
TRAFFIC MITIGATION FEE ACCOUNT
ACCOUNT TF2 7703*
APPROVED PROJECTS

DZ #	DZ NAME	PARCEL	PROJECT TITLE	APPLICANT	PROJECT NO.	SCOPE	PMPK TRIPS	COST	PAID	OTHER IMPROVEMENTS	COMMENT
1	Bora Bora	112		Epstein	0039	New 120 apartment units Net decrease of 271 slips Remove: 4,000 sf office	(4)				
2	Tahiti	111		Epstein	0039	Remodel exisiting apartments	0	$ -			
3	Marquesas	12	Espirit Marina del Rey Phase I	Ring	98134	Net increase of 282 units, 35 senior apartment units. Net decrease of 3,600 sf retail and 237 boat slips.	52	$ 295,880	YES	2nd WB left turn lane on Washington Bl to Via Marina or traffic signal @ Washington Bl/Palaway Way	
4	Panay	15	Espirit Marina del Rey Phase II	Ring	98134	Net increase of 250 apartment units, 47 senior apartments Net decrease of 41 boat slips (demo 253 existing and construct 212 new) Demo 4,400 sf restaurant (280 seats) and add 8,000 sf retail	120	$ 682,800	NO	Left turn on Via Marina at Parcel 15 main driveway	No trip credit was given for restaurant since it was vacant for more than 1 year
4	Panay	18	Dolphin Marina	Goldrich & Kest	91329	68 Market rate apt units	22	$ 125,180	YES		
4		18		Goldrich & Kest	91329	60 senior apartment units	5	$ 28,450	YES		
4		20	13953 Panay Way	Goldrich & Kest	98172	Phase I: 99 Apartment units Phase II: Net increase of 4,940 sf Yacht Club, 2,300 sf of office	41	$ 233,290	YES		
5	Palawan/Beach	97	Gold Coast Shopping 514&586 Washington Bl	Pashaie	02277	demo & replace 2 of 6 commercial buildings. Net increase of 450 sf. Possible relocation wells fargo bank from parcel 95 to parcel 97.	2	$ 11,380	YES		Going back to DRP. Project layout change due to sewer line. The revised project will be 128 sf less
5		140	Admiralty Apt	Pashaie	03029	net increase of 108 units - demo 64 apartment units, new 172 units (15 for very low income)	37	$ 210,530	NO	Pay fair share towards restriping of Palawan Way between Washington Bl and Admiralty Way and installation of traffic signal at the I/S of Washington Bl/Palawan Way and interconnect with adjacent signals, construct 8-foot wide sidewalks along Admiralty Way	
6	Oxford							$ -			
7	Admiralty	40	County library expansion	DPL	96169	2,454 sf	0	$ -			
8	Bali							$ -			
9	Mindanao	50	Ralph's Market Expansion	Caruso Affliated		7,660 sf expansion, café, and parking layout modification	28	$ 159,320	YES	Admin street, sidewalk, and extend left-turn at main driveway	Plot plan approved Trips based on approved trip generation study Received traffic fee 5/11/06
10	Fisherman's Village							$ -			
11	Harbor Gateway							$ -			

COASTAL COMMISSION MDR Periodic Review

EXHIBIT # 5

PAGE 1 OF 5

NOTE: Fe Jimenez in DPW-FIS Division @ 626-458-6508 manages the account.

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MARINA DEL REY
TRAFFIC MITIGATION FEE ACCOUNT
ACCOUNT TF2 7703*
APPROVED PROJECTS

DZ #	DZ NAME	PARCEL	PROJECT TITLE	APPLICANT	PROJECT NO.	SCOPE	PMPK TRIPS	COST	PAID	OTHER IMPROVEMENTS	COMMENT
12	Via Marina	95 LLS		Pashaie	03030	11,400 sf net retail increase, 288 restaurant seats. Net decrease of 1,300 sf in office Net decrease of 3,250 sf of bank Possible relocation of wells fargo bank from parcel 95 to parcel 97.	(59)	$ -			Net reduction of trips due to Wells Fargo bank reduction
13	North Shore							$ -			
14	Fiji Way							$ -			
						TOTAL PM PEAK TRIPS & PERCENT LCP TRIP CAP	**244**	**9%**			
PROJECTS OUTSIDE MARINA											
O		City LA	Avalon Bay Community			310 apartment units	4	$ 6,368	YES		Cat I
O		City LA	West Bluffs (Catellus)			120 single family units	2	$ 3,184	YES		Cat I
O		Culver	Costco				74	$ 117,808	YES		Cat I
O		Culver	Costco			Costco Center		$ 1,500,000	YES		Agreement to transfer funds from Culver City's Costco Regional Mitigation Fund to County, construction only of SR-90
O		City LA	GTE Chateau Marina		C/O LA	500 APARTMENT UNITS Cat I fee	48	$ 76,416	YES		
O		City LA	Playa Vista-Phase I			3,246 dwelling units, 35 ksf retail, 2,000 ksf office, 1,000 ksf studio, 120 ksf community serving uses	102	$ 162,384	YES		PV agreed to pay fee in adation to this fee, PV will be paying its fair share towards the La Cienega B/Slauson Av interchange improvements
			Playa Vista-Phase II			2,600 dwelling units, 150 ksf retail, 175 ksf studio, 40 ksf community serving uses	49	$ 78,008	NO		PV agreed to pay fee
						TOTAL CONDITIONED:		**$3,690,998**			
						TOTAL COLLECTED:		**$2,719,660**	*Note ---->		* $1.5 MILLION CULVER CITY FUND EARMARKED FOR CONSTRTUCTION ONLY OF SR-90 EXTENSION
						EXPENDITURES:		**$ 32,500**	*Note ---->		* LCTF Phase I study
						BALANCE:		**$2,687,160**			

COASTAL COMMISSION
MDR Periodic Review
EXHIBIT # 5
PAGE 2 OF 5

NOTE: Fe Jimenez in DPW-FIS Division @ 626-458-6508 manages the account

MARINA DEL REY
TRAFFIC MITIGATION FEE
PENDING PROJECTS

DZ #	DZ NAME	PARCEL	PROJECT TITLE	APPLICANT	PROJECT NO.	SCOPE	PMPK TRIPS	COST	PAID	OTHER IMPROVEMENTS	COMMENT
1	Bora Bora							$ -			
2	Tahiti							$ -			
3	Marquesas	FF&10R	Neptune			527 apartment units, 141 boat slips Remove 136 apt units and 198 boat slips Replace the existing on-site uses (retail and marine commercial offices), and the transfer of marine commercial offices from Phase II of Parcel 20 Reduce the existing health club floor area by 6,000 square feet and will add 6,000 square feet of new marine commercial office uses to the site. Parking for the proposed project will be provided in an attached multi-level parking structure, which allows for direct access to the commercial building	140	$ 796,600	NO		Not filed with DRP
4	Panay	21	Holiday Harbor Courts	Goldrich & Kest Industries, LLC		Renovate and expand the existing 42-room hotel by 69 guest rooms, for a total of 111 rooms		$ -	NO		Awaiting TS, insufficient information to determine p m peak-hour trips
5	Palawan/Beach	27R	Jamaica Bay Inn			Demo the existing public parking lot containing 186 spaces and construct 114-suite retirement hotel and approximately 5,000 square feet of ground floor retail space. The project proposed to replace the existing 92 of the 186 parking spaces. The remaining 94 parking spaces will be relocated to Parcel 21, located on Panay Way.	24	$ 136,560	NO		Awaiting TS
6	Oxford	OT					41	$ 233,290	NO		Awaiting TS
7	Admiralty							$ -			
8	Bali							$ -			
9	Mindanao							$ -			
10	Fisherman's Village							$ -			
11	Harbor Gateway	64	Villa Venetia Residential			Demo the existing 224 apartment dwelling units and construct 479 apartment dwelling units, 21 marina boat slips and 5,000 square-feet of retail. Construct new 544 apartment units	108	$ 614,520	NO		Awaiting TS
12	Via Marina	100 & 101	Del Rey Shores	Epstein		Remove existing 202 apartment unit	111	$ 631,590	NO		Traffic study submitted 2/05 Revised study required 5/18/05

NOTE Fe Jimenez in DPW-TIS Division @ 626-458-6508 manages the account

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MDR Periodic Review

EXHIBIT # 5

COASTAL COMMISSION

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MARINA DEL REY
TRAFFIC MITIGATION FEE
PENDING PROJECTS

ACCOUNT TF2 7703*

13	North Shore				$ -	
14	Fiji Way				$ -	
					$ -	
PROJECTS OUTSIDE MARINA						
O	City of LA	Villa Marina		5	$ 28,450	NO
O					$ -	
			TOTAL PENDING		**$ 2,441,010**	

COASTAL COMMISSION
MDR Periodic Review
EXHIBIT # 5
PAGE 4 OF 5

NOTE: Fe Jimenez in DPW-FIS Division @ 626-458-6508 manages the account

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MDR REDEVELOPMENT GRANTED SINCE LCP CERTIFICATION (2/8/96) PER DZ

DZ #	DZ NAME	Case #	Parcel #	Applicant	Redevelopment Granted	Trips Generated	Approval Date
1	Bora Bora	00-39	112	Epstein	120 D.U.'s Net Decrease of 271 Slips Demolish 4 KSF Office	-4	10/18/2000
2	Tahiti	00-39	111	Epstein	Remodel Existing Apartments (No Increase in D.U.'s)	0	10/18/2000
3	Marquesas	98-134	12	Ring	Net Increase of 282 D.U.'s 35 Senior Apartments Net Decrease of 3.6 KSF Retail Net Decrease of 237 Slips	52	12/6/2000
4	Panay	91-329	18	Goldrich & Kest	68 D.U.'s 60 Congregate Care Units	27	6/13/1996
		98-134	15	Ring	Net Increase of 250 D.U.'s 47 Senior Apartments Net decrease 41 Slips (demo 253, construct 212) Demo 4.4 KSF restaurant and add 8 KSF retail	224	12/6/2000
		98-172	20	Goldrich & Kest	99 D.U.'s Net Increase of 4.94 KSF Yacht Club 2.3 KSF Office Transfer of 97 D.U.'s from DZ1 to DZ4	41	10/2/2000
5	Palawan/Beach	02-277	97	Pashaie	Net Increase of 450 SF Retail	2	6/25/2003
		03-029	140	Pashaie	Net Increase of 108 D.U.'s (64 exisitng - 172 new total)	37	12/10/2003
6	Oxford						
7	Admiralty	96-169	40	DLP	Library Expansion - 2,454 SF	0	3/5/1997
8	Bali						
9	Mindanao	* 15509	50	Caruso	Net Increase of 4.7 KSF of Retail	49	6/17/2004
10	Fisherman's Village						
11	Harbor Gateway						
12	Via Marina	03-030	95, LLS	Pashaie	Net Increase of 11.4 KSF (New total is 20.6 KSF), which includes total of 288 seats Reduce 1.3 KFS in office and 3.25 KFS bank bldg	-59	6/16/2004
		**	103	Oakwood	Complete Remodeling	0	
		**	102	Archstone	Complete Remodeling	0	
13	North Shore						
14	Fiji Way						
					Total Trips:	369	

* Given Plot Plan # by DRP staff as did not have to go RPC

** Approval not needed from DRP for renovations

KSF = 1,000 Square Feet

D.U. = Dwelling Unit

Trip Rate for Senior Apartments is 0.10 ppmpht (ITE)

COASTAL COMMISSION

EXHIBIT # 5

PAGE 5 OF 5

PROPOSED TRANSPORTATION IMPROVEMENTS IN THE MARINA DEL REY AREA

--- NEW ROADS

PUBLIC WORKS

FEET 2400
0 MILES 0.455

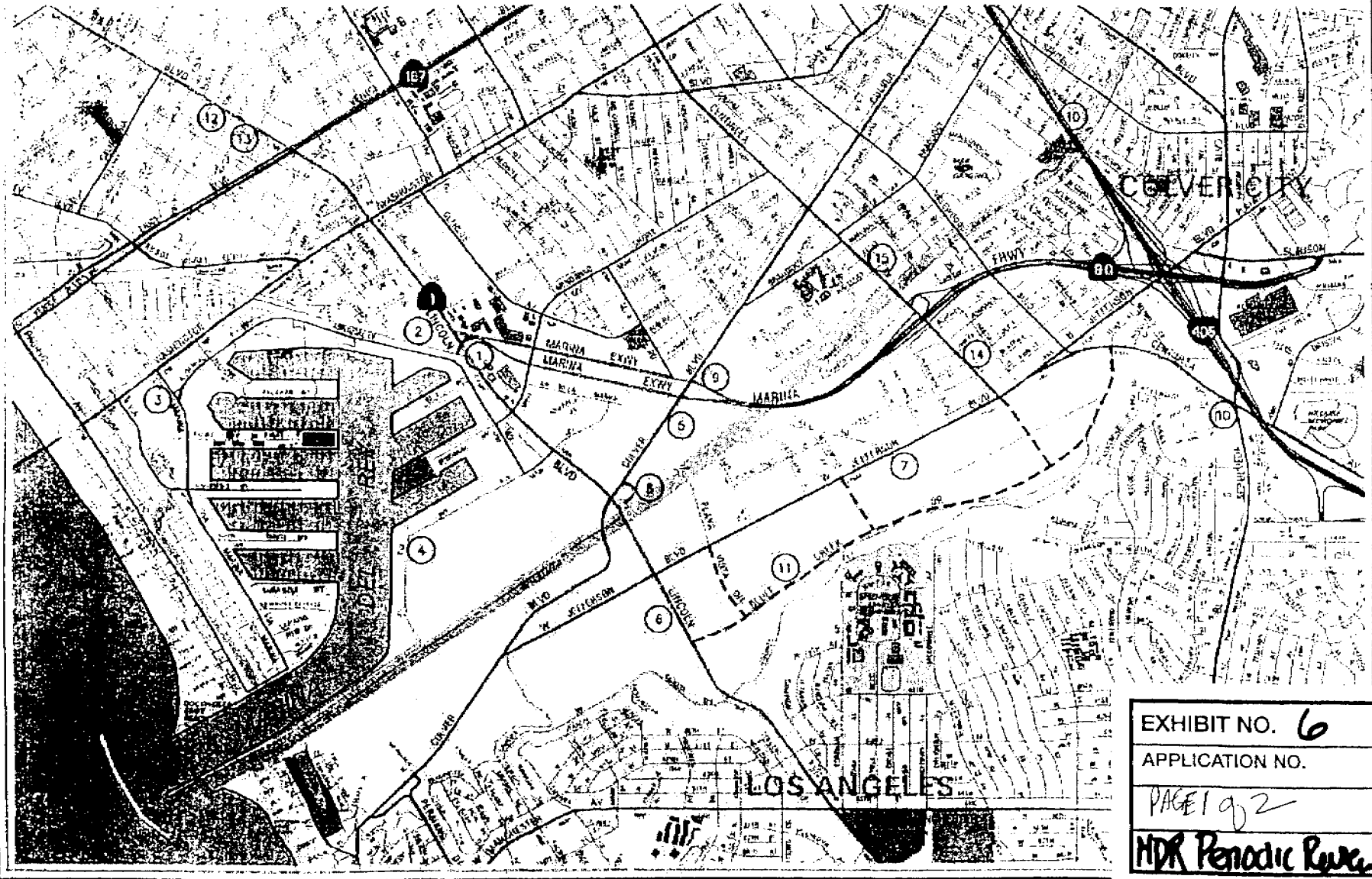


EXHIBIT NO. 6
APPLICATION NO.
PAGE 1 of 2
MDR Periodic Review

SUMMARY OF PROPOSED TRANSPORTATION IMPROVEMENTS IN THE MARINA DEL REY AREA

1. Marina Expressway (SR-90) Connector Road to Admiralty Way Project - (2011County)
2. Admiralty Way Improvement Project - Via Marina / Fiji Way (2011County)
3. Admiralty Way / Via Marina Intersection Realignment Project (2011County)
4. Fiji Way Gap Closure of the South Bay Bike Trail (2011County)
5. Culver Bl Widening - SR 90 / Lincoln Bl (2005 PV1)
6. Lincoln Bl Widening - LMU Dr. / Jefferson Bl (Caltrans)
7. Jefferson Bl Widening - Beethoven St. / Grosvenor Bl (2010 PV2)
8. Culver Bl / Lincoln Bl New Interchange - (under construction)
9. SR 90 / Culver Interchange - with SR 90 Grade Separation over Culver Bl (Caltrans in litigation)
10. San Diego Freeway Improvements - HOV lanes SR 90 / 105 Fwy (2006) & SR 90 / SM Fwy (2009). Ramps at Culver Bl (2006)
11. Bluff Creek Dr (Teale St) - Lincoln Bl / Centinela Ave (2010 PV1&2)
12. Lincoln Corridor Transit Improvements – Add 5 buses to Santa Monica Big Blue Bus Line 3 (PV1); Install Transit Bus Priority System for Lincoln Bl (2008PV2); add 6 buses to Culver City Lines 2, 4 and 6 and a new Limited Stop Route to the South (PV2); Internal Shuttle System for Playa Vista (PV1); Expand Internal Shuttle System on a demand/responsive system to the Bridge, Fox Hills, LMU, Playa del Rey Beach and Marina del Rey (PV2); Bus Rapid Transit along Lincoln Bl and Sepulveda Bl (MTA2008)
13. Recommendations by the Lincoln Corridor Task Force (March 2004) Preliminary short-term recommendations consist of peak-period parking restrictions along Lincoln Bl for use by buses, bicycles and turning vehicles, rapid bus stations and landscaped raised medians.
14. Centinela Ave Widening - SR 90 / Jefferson Bl (PV1)
15. Centinela Ave Widening - SR 90 / Culver Bl (PV2)
16. Marina del Rey Water Shuttle (Department of Beaches and Harbors)

EXHIBIT NO. 6
APPLICATION NO.
PAGE 2 of 2

b. Existing Transportation Conditions

Figure 2-37 illustrates existing traffic conditions along Lincoln Boulevard within the 5-mile study corridor segment. Average daily traffic (ADT) volumes on Lincoln range between a low of 47,500 north of Ocean Park Boulevard in Santa Monica to a high of 67,000 north of SR-90. There are 25 signalized intersections along the study segment, eight of which are in the City of Santa Monica, three in the unincorporated County of Los Angeles area and the remaining 14 are in the City of Los Angeles.

As seen in Figure 2-37, the worst peak hour operating conditions, as represented by level of service F (LOS F) are at the intersections of Lincoln with Olympic Boulevard (AM), Pico Boulevard (PM), Ocean Park Boulevard (AM and PM) and 83rd Street (AM). The highest number of automobile accidents along the corridor within the last five years occurred at or near the Lincoln/Washington intersection, where a total of 115 accidents were reported during the period.

Figure 2-37. Existing Transportation Conditions

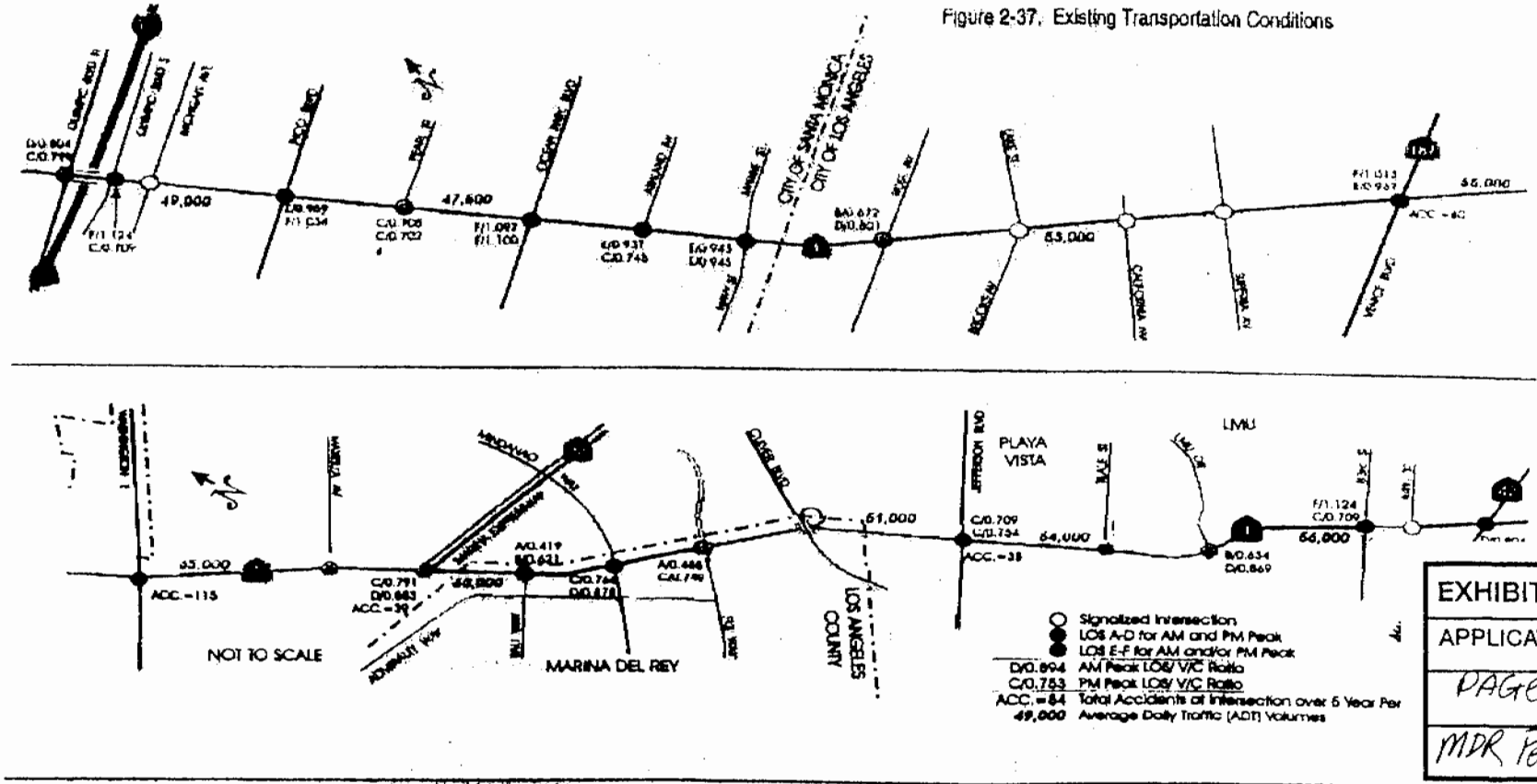


EXHIBIT NO. 7
APPLICATION NO.
PAGE 1 OF 3
MDR Periodic Review

It is a common misconception that Lincoln Boulevard carries predominantly long distance trips. As part of this study, travel patterns along Lincoln were analyzed. As shown on Figure 2-38, in the PM peak hour, of the 1,300 vehicles entering the corridor traveling southbound only 275, or 21 percent traverse the entire length of the corridor to Manchester Avenue. Similarly, Figure 2-39 shows that, even a smaller percentage of northbound traffic, only 150 vehicle or 8 percent of the nearly 1,880 vehicles that enter the corridor at Manchester Avenue, travel the entire length to Santa Monica.

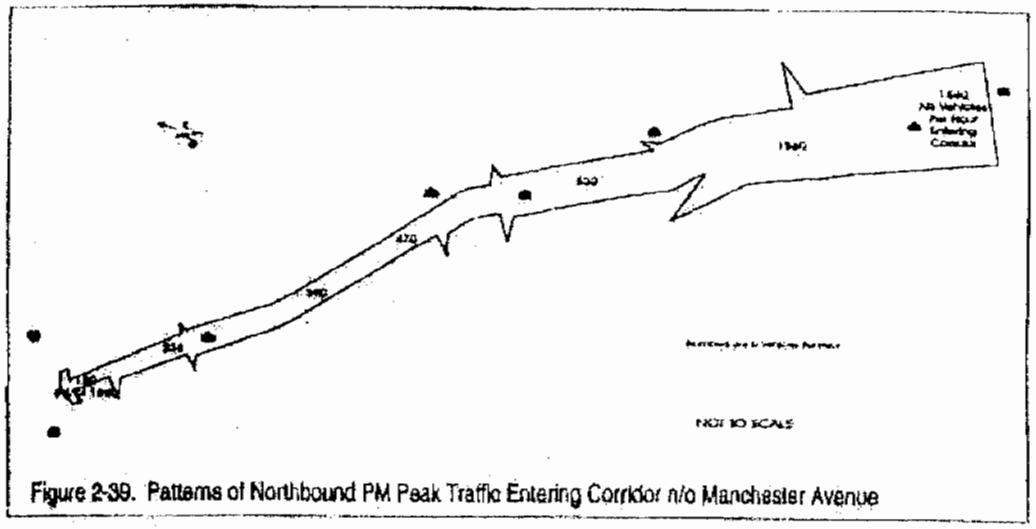


Figure 2-39. Patterns of Northbound PM Peak Traffic Entering Corridor n/o Manchester Avenue

Vehicles traveling northbound along the corridor only use Lincoln Boulevard for an average of 1.5 miles. The average travel distance along the corridor in the southbound direction, is even shorter, at only 1.1 miles. Northbound trips on the corridor, north of Venice have the longest average travel length along the corridor at 2.1 miles and in the southbound direction, trips north of Pico Boulevard have the longest average travel length along the corridor at 1.4 miles. The above data suggests that contrary to common belief, only a small percentage of trips actually use the entire 5-mile length of the corridor on a regular basis.

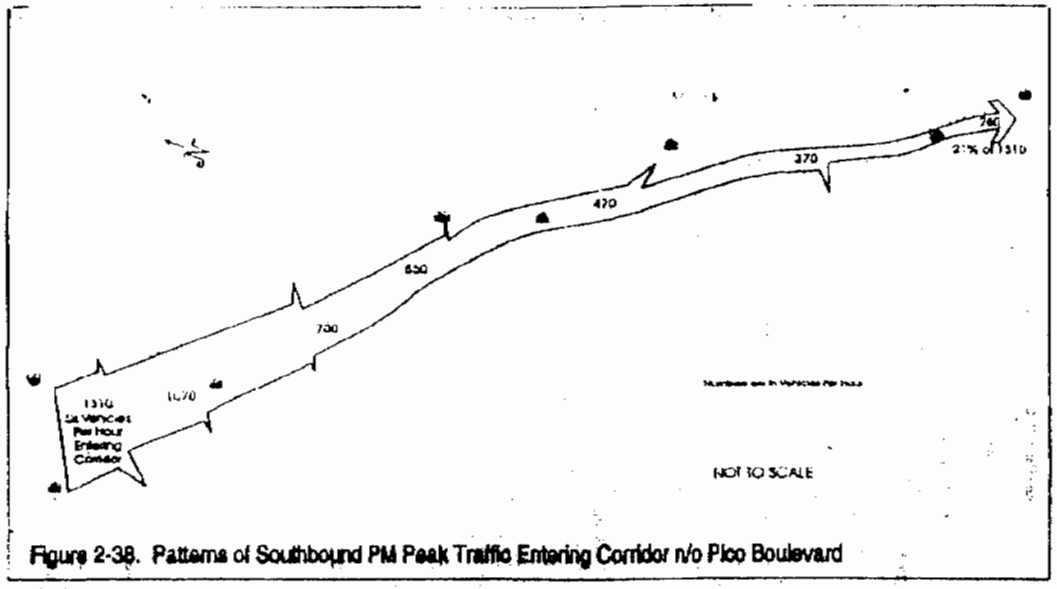


Figure 2-38. Patterns of Southbound PM Peak Traffic Entering Corridor n/o Pico Boulevard

In other words, there are not significant volumes of through traffic and majority of the users of the corridor have an origin or a destination in the general vicinity of this corridor.

EXHIBIT NO. 7
APPLICATION NO.
Page 2 of 3

Projected future traffic volumes were analyzed along the study corridor using the latest traffic forecasts by LADOT, which included future growth in the Marina, the Playa Vista project and other regional growth. Evening Peak hour forecasts and expected growth percentages are shown in Figure 2-43. As can be seen, the highest growth is expected to occur along the southern segments of the corridor, where the new trips from Playa Vista will constitute a large portion of the future growth. South of Culver Drive, it is expected that traffic volumes will experience growths in the order of 90 to over 100 percent, or double the current volumes. Relatively high growth, in the range of 26 to 29 percent is also expected near Marina Del Rey and SR-90. North of Washington Boulevard, through Venice ranges between 11 and 17 percent and generally growth in the range of 15 to 24 percent in Santa Monica.

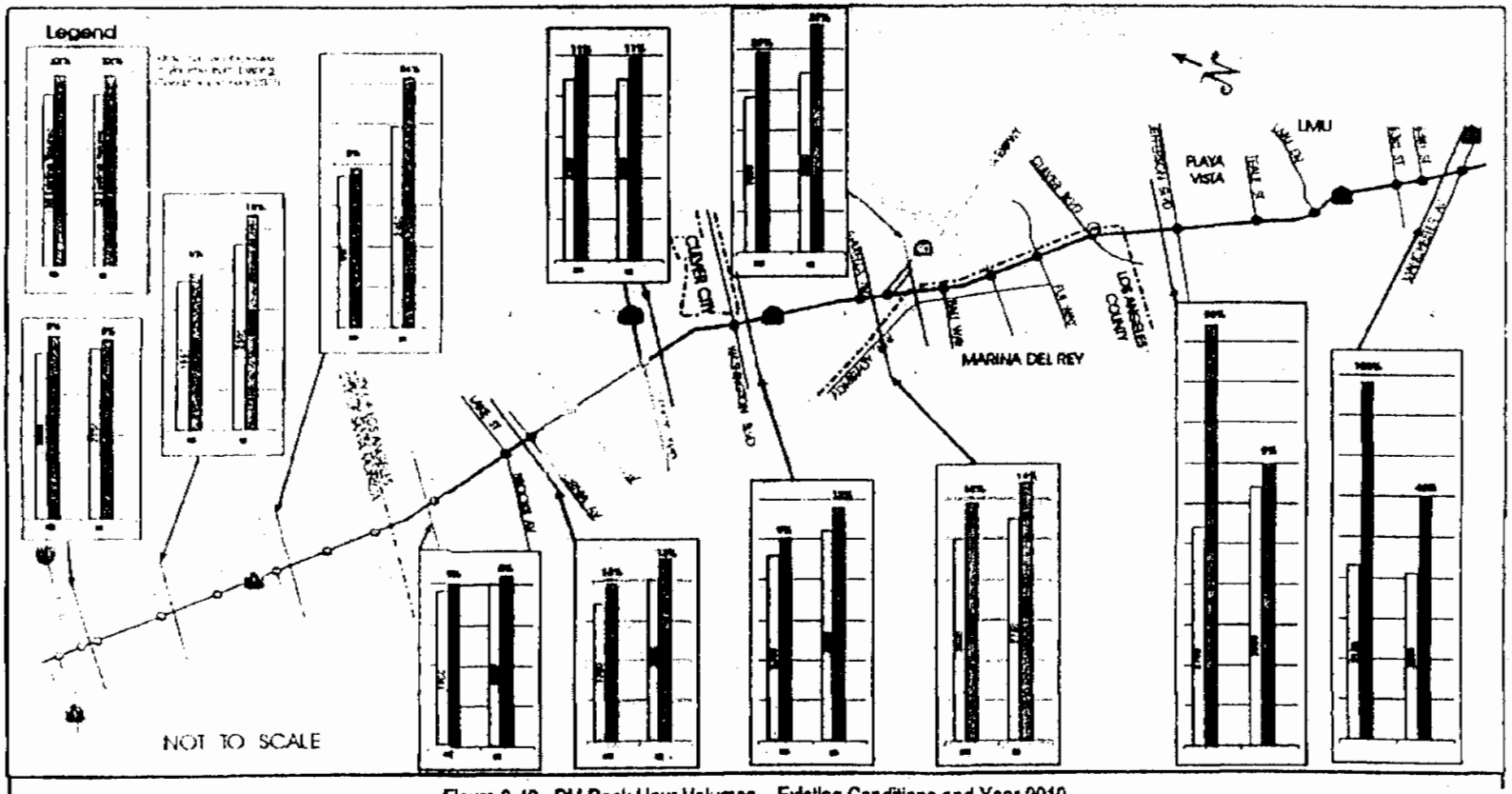
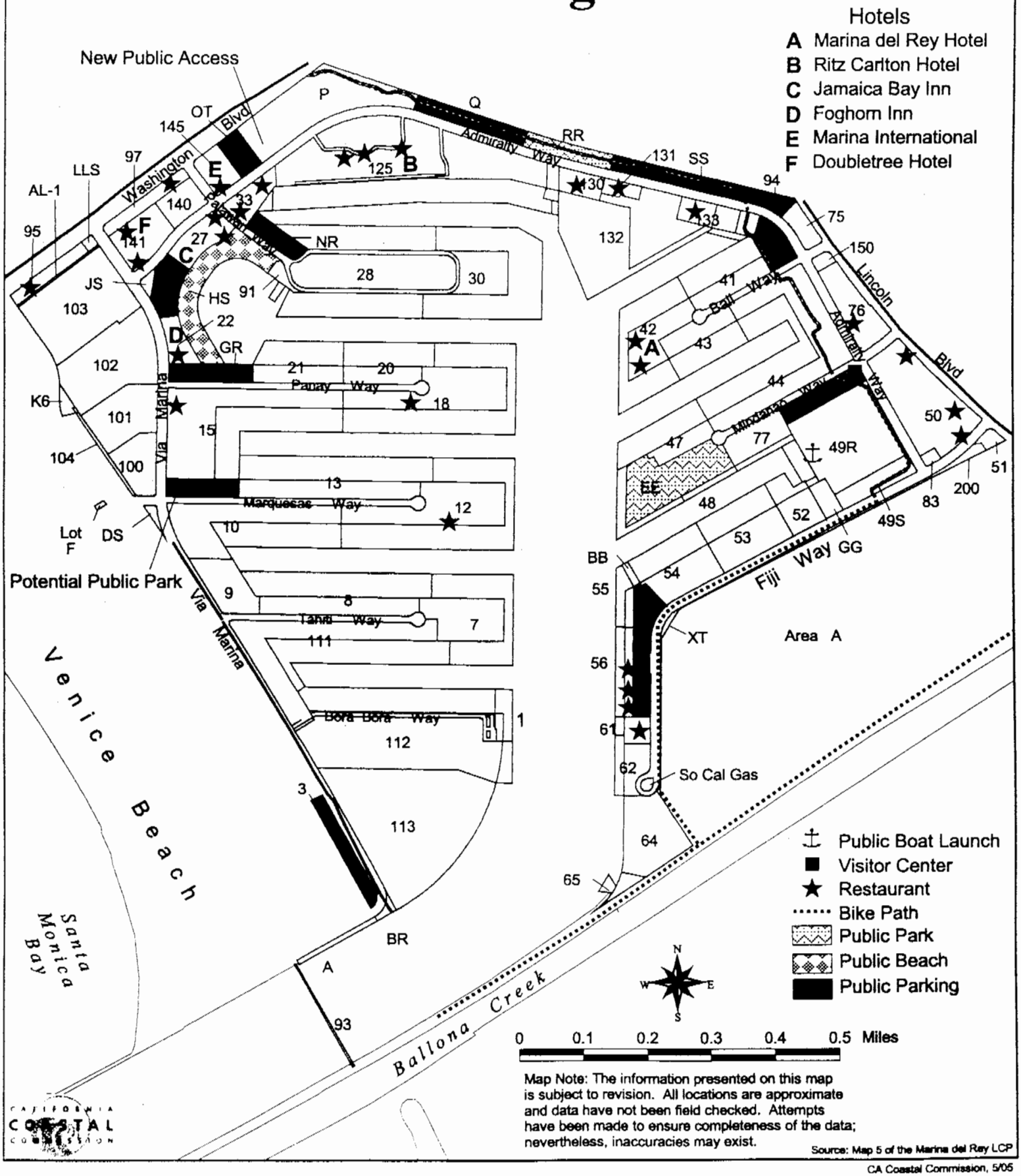


Figure 2-43. PM Peak Hour Volumes – Existing Conditions and Year 2010

EXHIBIT NO. 7
APPLICATION NO.
Page 3 of 3

Exhibit 8

Marina del Rey
LCP Periodic Review
Visitor-Serving Facilities



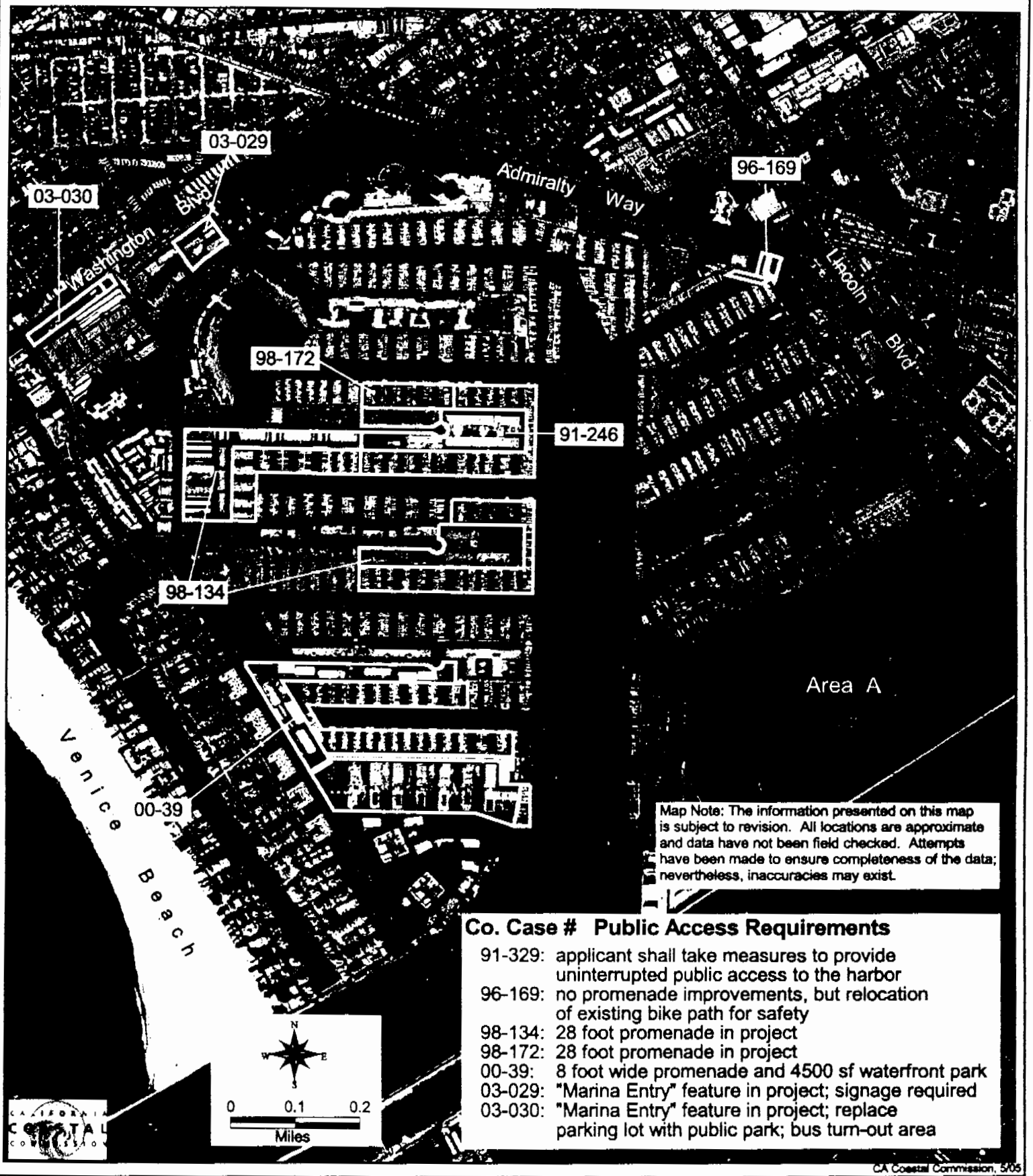
Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.

Source: Map 5 of the Marina del Rey LCP

CA Coastal Commission, 5/05

Marina del Rey
LCP Periodic Review

Local Coastal Permits Approved with Public Access



Map Note: The information presented on this map is subject to revision. All locations are approximate and data have not been field checked. Attempts have been made to ensure completeness of the data; nevertheless, inaccuracies may exist.

Co. Case #	Public Access Requirements
91-329:	applicant shall take measures to provide uninterrupted public access to the harbor
96-169:	no promenade improvements, but relocation of existing bike path for safety
98-134:	28 foot promenade in project
98-172:	28 foot promenade in project
00-39:	8 foot wide promenade and 4500 sf waterfront park
03-029:	"Marina Entry" feature in project; signage required
03-030:	"Marina Entry" feature in project; replace parking lot with public park; bus turn-out area

EXHIBIT 10

Attachment A

REVIEW OF STATUS OF TRAFFIC IN THE VICINITY OF MARINA DEL REY

Overview

During the periodic review, interest was expressed by CCC staff as to the continued accuracy of the traffic model upon which the certified Marina del Rey Local Coastal Program (LCP) is based. Specifically, Recommendation #10 calls for a recalculation of the DKS/Barton Aschman models, eliminating Playa Vista Phase II development in Areas A, B and C and eliminating road widening projects that extend or relocate roads onto Playa Vista Areas A, B and C. The County of Los Angeles has conducted research on this question and finds there is no need to build a new traffic model (at an estimated cost of $70,000-$100,000) because this information already exists in at least two other models.

Further, an understanding of the County's approach pursuant to the certified LCP, as explained below, shows that the levels of development and mitigation measures in the area have resulted in a better level of service than estimated in the DKS model used in the certified LCP.

The need for a new traffic model

The CCC staff report is based on the impression that the traffic model used in the 1994 DKS study underestimated traffic conditions in the year 2010. The report indicates that with added development and traffic generated in the area, particularly in the City of Los Angeles and Culver City, a new traffic model is needed to more accurately assess current conditions and project future traffic conditions.

There also appears to be an assumption in the report that most developers should use traffic models for the traffic analysis. This is not the case. The vast majority of traffic analyses do not need a traffic model, nor do they warrant the expense of a traffic model. Traffic models are feasible only for very large developments such as Playa Vista and the LAX Master Plan.

Remembering that the DKS model was constructed to ascertain the appropriate mitigation, the key question should be whether the DKS model so understates traffic conditions that the mitigation measures in the LCP will not achieve the desired results.

Determining whether the DKS model understates traffic conditions

To determine if the DKS traffic model underestimated future traffic conditions in the year 2010, the results of the DKS model's volume to capacity (V/C) ratios and levels of service (LOS) at intersections were compared to The Village at Playa Vista 2004 traffic model. Both traffic models had a horizon year of 2010. For comparison purposes, the "Without Mitigation" scenario was used for both findings. Both the DKS and the Playa Vista models included the full buildout of the LCP. Neither model included the SR90 and the Admiralty Way Widening projects for traffic mitigation, as these are not programmed improvements. Importantly, Playa Vista's model further included buildout of the LAX Master Plan, Continental City and LAX Northside, which would tend to increase traffic and identify more impacted intersections.

The table below shows that at every intersection compared, the V/C ratios and LOS for the newer, more comprehensive Playa Vista model were lower, and significantly lower in most cases. The LAX model results, while not included here, show similarly improved levels of service when compared with the DKS model.

DKS Report Model (1994) vs. Village at Playa Vista Model (2004) Levels of Service
2010 PM Conditions Without Mitigation

Via Marina/Washington Bl	1.39	F	1.31	F	-.08
Via Marina/Admiralty Way	1.26	F	1.13	E	-.13
Palawan Way/Admiralty Wy	1.46	F	1.15	E	-.31
Lincoln Bl/Washington Bl*	1.80	F	1.25	F	-.55
Lincoln Bl/Marina Expy	1.41	F	1.11	F	-.30
Admiralty Way/Bali Way	1.30	F	1.08	F	-.22
Lincoln Bl/Bali Way	1.19	F	1.03	F	-.16
Admiralty Wy/Mindanao Wy	1.24	F	1.15	F	-.09
Lincoln Bl/Mindanao Way	1.29	F	1.17	F	-.12
Admiralty Way/Fiji Way	0.80	C	0.66	B	-.14
Lincoln Bl/Fiji Way	1.19	F	0.93	E	-.26
Mindanao/Marina Expy EB	1.35	F	0.89	D	-.46
Mindanao/Marina Expy WB	1.08	F	0.64	B	-.44
Culver Bl/Jefferson Bl*	1.48	F	0.83	D	-.65
Lincoln Bl/Jefferson Bl*	1.47	F	1.10	F	-.37

* Intersection has been improved since the 1994 DKS study.

The "With Mitigation" scenario for Playa Vista, which included projects that were funded and committed, would show even lower V/C and LOS levels at several intersections. ATSAC (allowed by the LCP) and ATCS, which were included in the "With Mitigation" Playa Vista scenario, would further reduce V/C ratios by 0.10 at all

intersections. These values fall well below the congestion projections of the DKS model upon which the LCP is based.

This indicates that the older DKS traffic projections estimated more congested traffic conditions in 2010. An explanation for this apparent "over projection" is found in the different bases for the two models. In 1994 when the DKS model was constructed, potential development included Playa Vista Phase II development in Areas A, B, C and D and the road system associated with the full buildout of Playa Vista. Ten years later, the Playa Vista model included only development in Area D, with a substantial decrease in traffic and fewer impacted intersections. The loss of roadway widenings and extensions which had been contemplated in the DKS model, but not in the 2004 Playa Vista model, did not offset the substantial decrease in traffic from elimination of the originally-contemplated development in Areas A, B and C.

On these facts, no recalculation or new model is necessary to evaluate the development of Marina del Rey in the context of current and projected traffic conditions, because the necessary information already exists, is current, and shows that conditions will be better than the DKS model – and the associated LCP-required mitigation – assumed. The Playa Vista model both presents the scenario desired in the staff report and also reports the corresponding data for each intersection and link studied in the DKS model. In all cases, intersection performance will be better in the year 2010 than what was shown in the DKS model for the LCP.

The County's approach to traffic studies on individual projects

We believe the assessment of traffic conditions by developers' traffic studies, without the use of traffic models, works well. This method is used to assess development projects throughout the County. In fact, through this process, the County and the City of Los Angeles have required additional traffic mitigation measures not anticipated in the LCP. For example, a new mitigation traffic improvement may be required of a project as part of its entitlement. Other traffic transportation projects may be undertaken by the City of Santa Monica, City/County of Los Angeles or Caltrans to improve traffic conditions. Examples of these are the implemented Rapid Bus Line (Santa Monica Big Blue Bus Line No. 3) and the planned exclusive bus lane along Lincoln Boulevard. Another example is the addition of dual left turn lanes installed on all approaches of the Lincoln/Washington intersection. In this way, the street system is not wholly dependent on the timing of LCP mitigation alone but also stays in touch with conditions as they presently exist.

Finally, the County's traffic study guidelines are more stringent in terms of identifying significant impact from development for mitigation funding purposes (as opposed to how "significant impact" is used for CEQA purposes) than existed in 1994. For the DKS study, a development had a significant impact for funding purposes if traffic from the development worsened the V/C ratio to exceed 0.85, mid-range LOS D. This criteria was changed in 1997 to mirror the criteria used by the City of Los Angeles. A determination of significant impact for funding purposes is now based on the incremental change in V/C

at a particular level of service starting from LOS C. For example, at LOS C, a V/C increase of 0.04 results in a significant impact. At LOS D, a V/C increase of 0.02 and at LOS E/F, a V/C increase of only 0.01 is a significant impact for mitigation funding purposes. Today's criteria make it easier for a development to have a significant impact requiring mitigation funding.

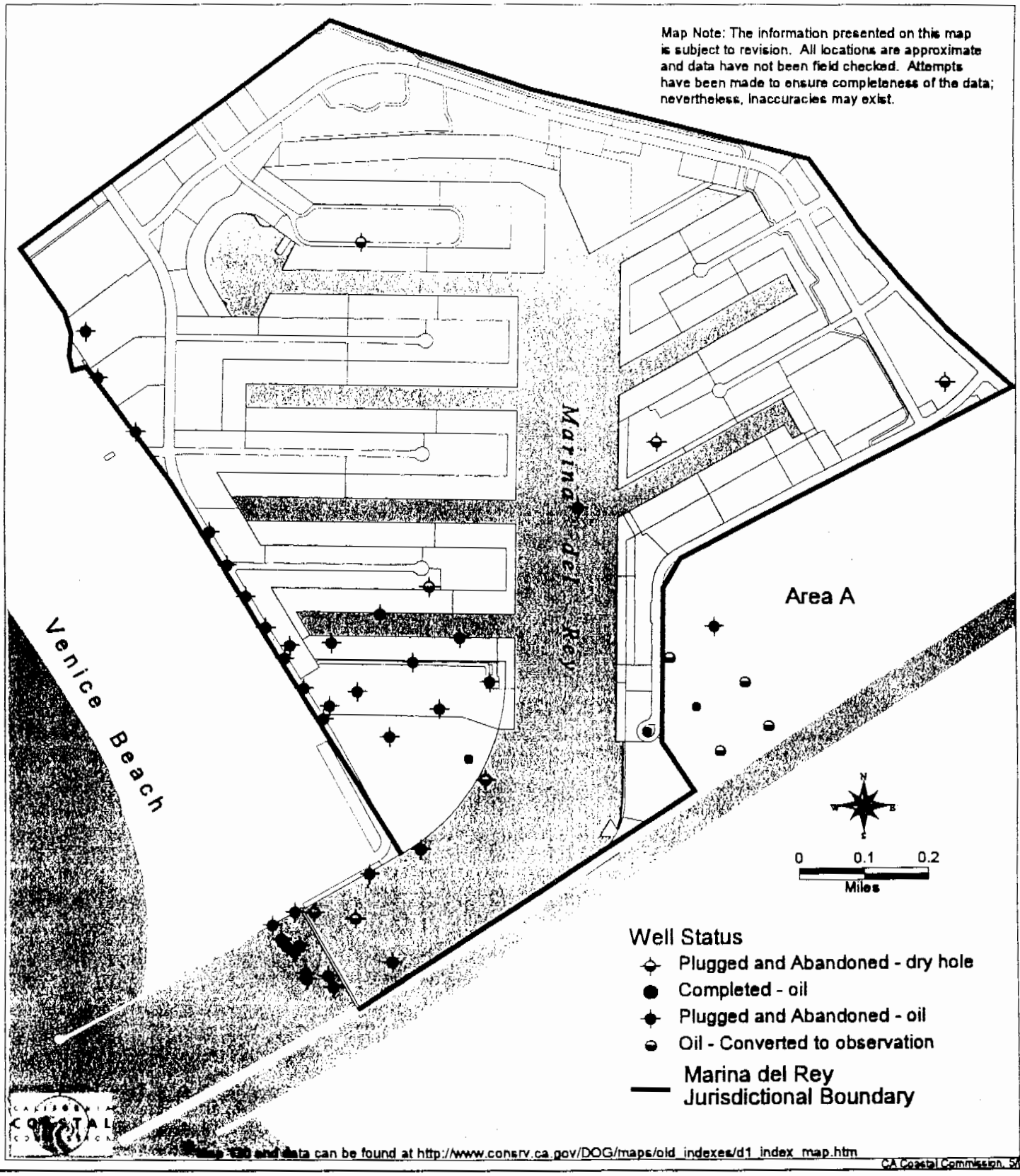
In summary, projected conditions and service levels are better than when the LCP was certified, and traffic studies are more stringent. There is no need to revisit the DKS model because the information already exists.

Exhibit 11

Marina del Rey
LCP Periodic Review

Location and Status of Oil and Gas Wells

Reproduction of portion of Map 120, CA Dept of Conservation, Division of Oil, Gas and Geothermal Resources, District 1 *

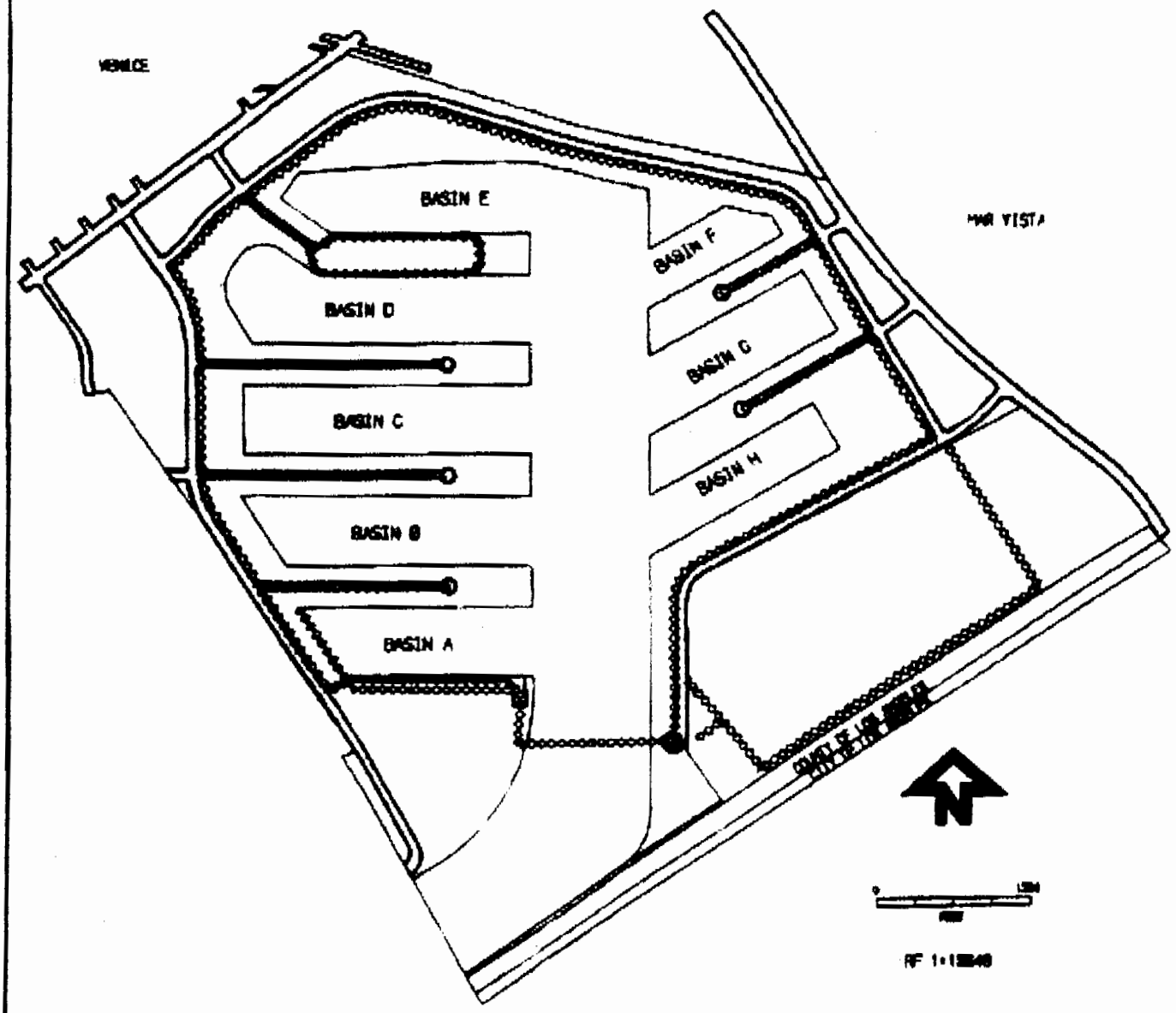


Map 120 and data can be found at http://www.consrv.ca.gov/DOG/maps/old_indexes/d1_index_map.htm

GAS UTILITY EASEMENTS

MAP 27

EASEMENT OF SOUTHERN CALIFORNIA GAS COMPANY



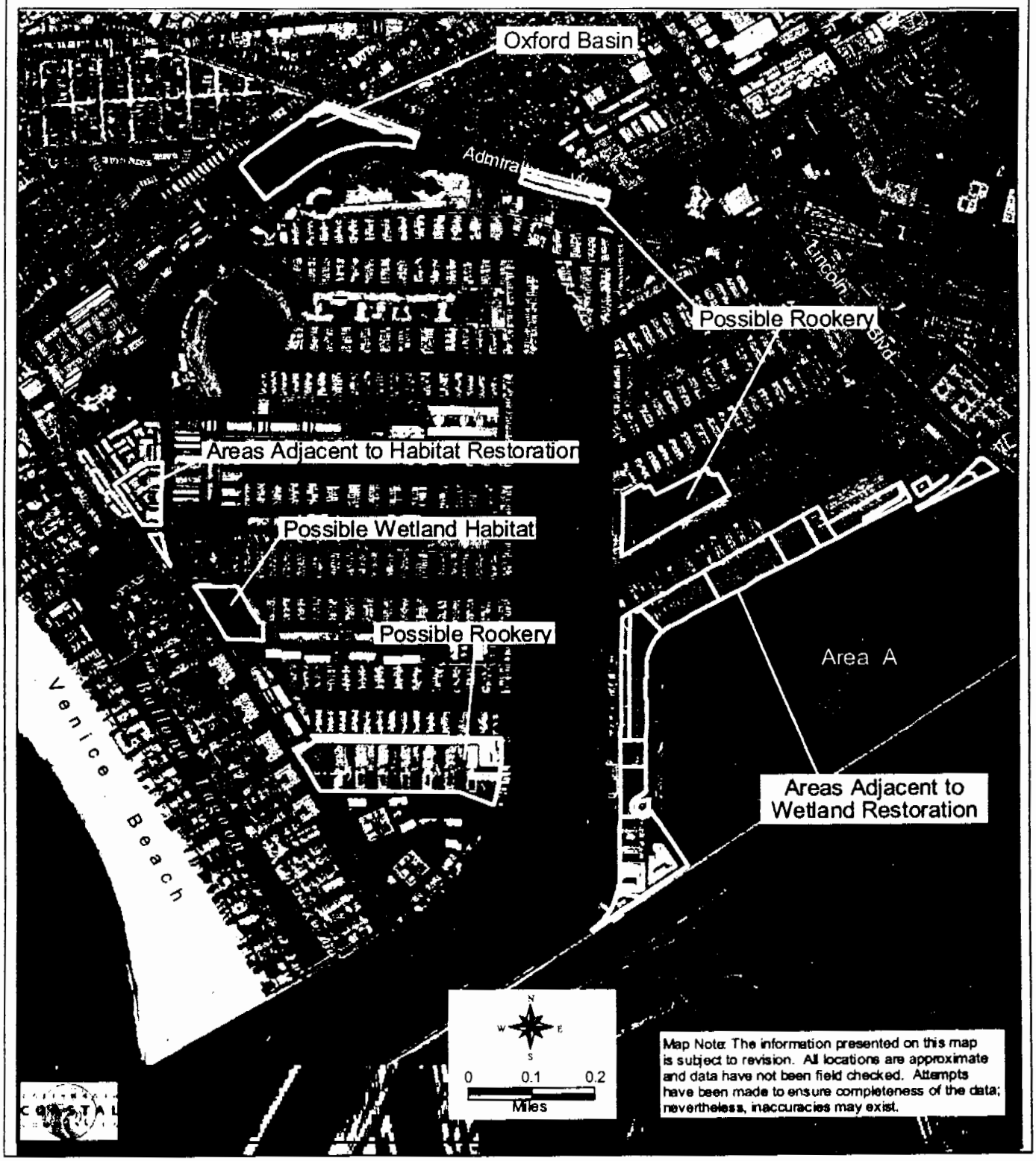
MARINA DEL REY

LOCAL COASTAL PROGRAM

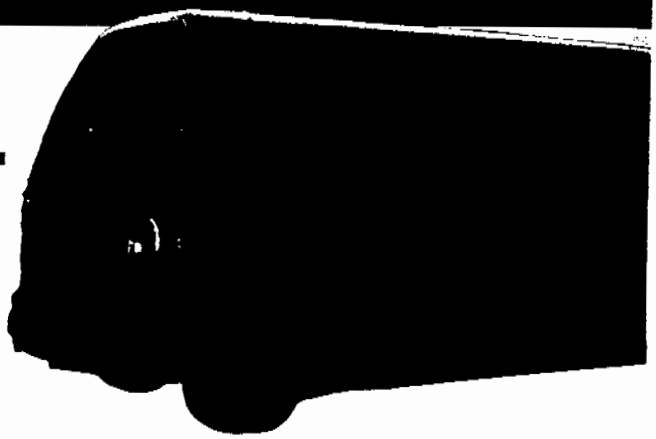
Marina del Rey
LCP Periodic Review

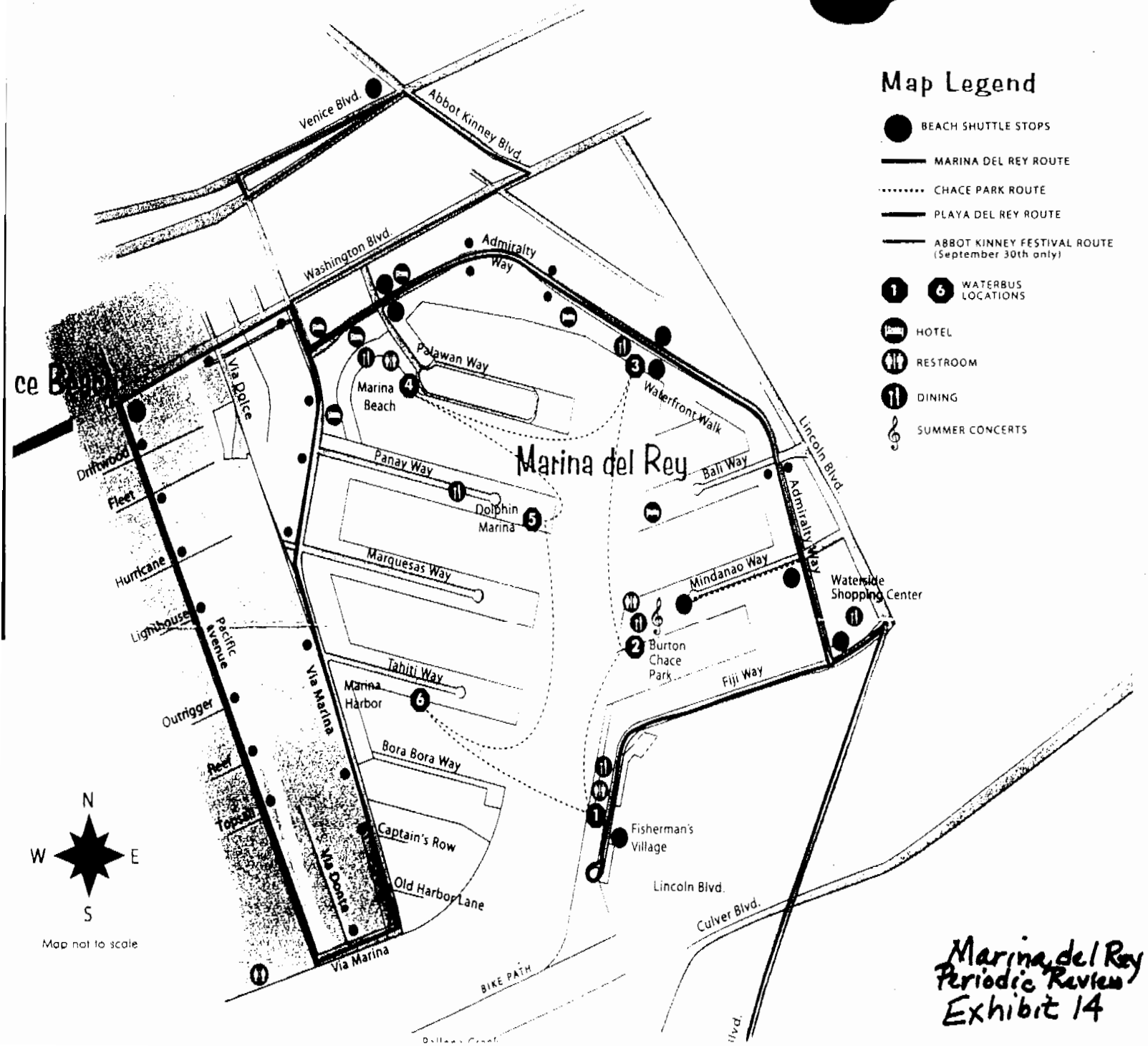
Exhibit 13

Potential Resource Assessment Areas

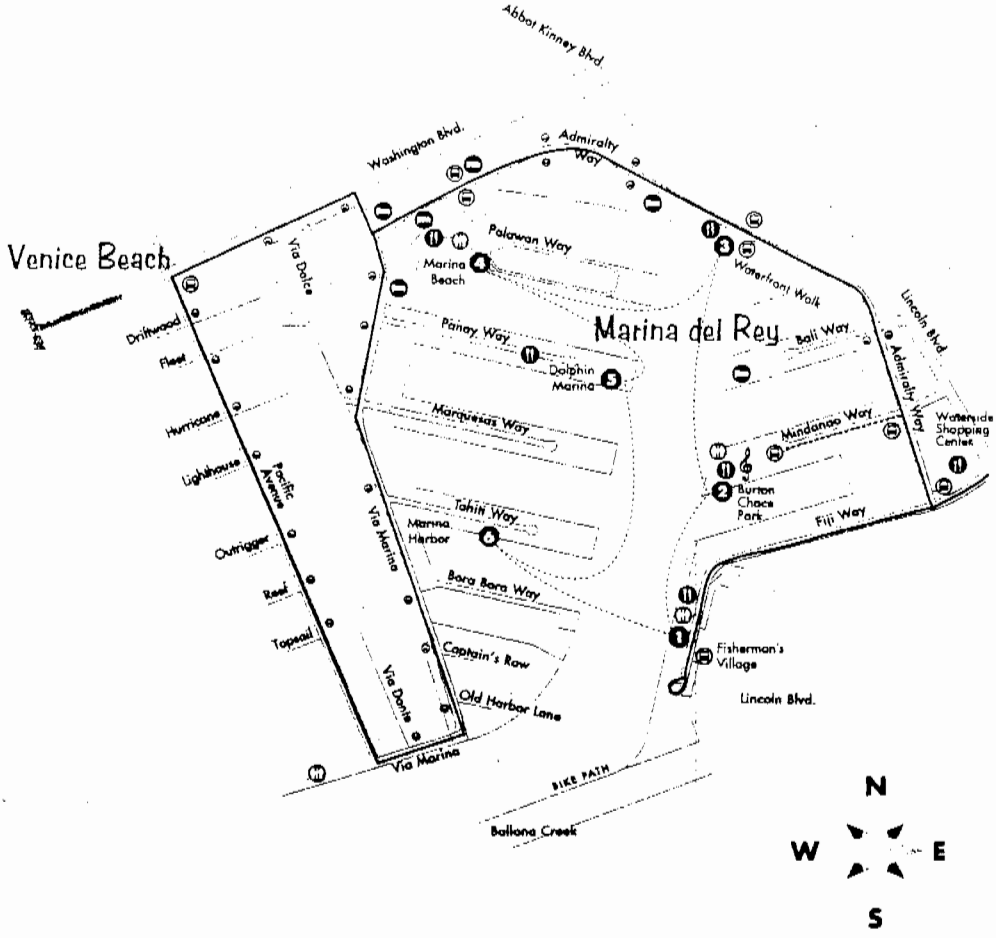


Playa Vista
Beach Shuttle
Route Map





Marina del Rey
Periodic Review
Exhibit 14



WaterBus

Map Legend

- BEACH SHUTTLE STOPS
- MARINA DEL REY ROUTE
- CHACE PARK ROUTE
- 1 – 6 WATERBUS LOCATIONS
- HOTEL
- RESTROOM
- DINING
- SUMMER CONCERTS

WaterBus Schedule

JUNE 29 – SEPTEMBER 3

On-Call Pick-Up
(310) 628-3219

Fridays:	**5 pm – midnight**
Saturdays:	**11 am – midnight**
Sundays:	**11 am – 9 pm**

HOLIDAY SCHEDULE

July 4th:	**11 am – midnight**
Labor Day:	**11 am – 9 pm**

CONCERT SCHEDULE

Thursday concert nights

July 12:	**5 pm – midnight**
July 26:	**5 pm – midnight**
August 9:	**5 pm – midnight**
August 23:	**5 pm – midnight**

WaterBus Stops

1 FISHERMAN'S VILLAGE
13755 Fiji Way
Shopping, restaurants, free weekend daytime concerts

2 BURTON CHACE PARK
13650 Mindanao Way
Beautiful park with restaurant, free Thursday and Saturday evening concerts

3 WATERFRONT WALK
Fire Station #110 Dock –
4433 Admiralty Way
Hotels, restaurants

4 MARINA "MOTHER'S" BEACH
4101 Admiralty Way
Sandy beach, great for picnics

5 DOLPHIN MARINA
13900 Panay Way, Dock Gate #C-200
Restaurants, attractive residential area with anchorage

6 MARINA HARBOR
14028 Tahiti Way, Dock Gate #A-2200
Attractive residential area with anchorage

Marina del Rey LCP
Periodic Review
Exhibit 14A

SUPERVISOR DON KNABE
County of Los Angeles, Fourth District
822 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012
www.Knabe.com

For Immediate Release
Los Angeles, CA
May 9, 2007

Press Contact:
David Sommers
Phone: (213) 974-1095
Fax: (213) 626-6941
DSommers@lacbos.org

Summer Beach Shuttle to Offer Expanded Service

The Beach Shuttle which serves Playa Vista, Marina del Rey and the Venice Beach Pier will soon offer expanded service to Fisherman's Village in Marina del Rey, Supervisor Don Knabe is pleased to announce.

The Beach Shuttle will begin operating Fridays, Saturdays and Sundays plus holidays from May 25 to September 3. This year, the Beach Shuttle will also offer a one-day service on September 30th to and from the Abbot Kinney Festival in Venice following the same summer route. The Beach Shuttle, which is free of charge and open to the public, is funded by a combination of funds from Supervisor Knabe and Playa Vista.

The clean-fuel shuttles will circulate hourly along the route on Fridays and Saturdays from 10:00 a.m. to midnight, and Sundays and holidays from 10:00 a.m. to 8:00 p.m.. A special Beach Shuttle schedule will operate during the Marina del Rey Summer Concert Series to drop off and pick up passengers at Burton Chace Park; this will allow people attending the concerts to leave their cars at home. On Classical Thursdays, (July 12 and 26; August 9 and 23), the shuttles will operate from 5:00 p.m. to 10:00 p.m.. On Pop Saturdays, (July 21; August 4 and 18; September 1), shuttle hours of operation will follow the regular Saturday schedule from 10:00 a.m. to midnight.

"This free shuttle is a fantastic resource in the area, and I encourage the community to utilize it," said Supervisor Knabe. "Now with its expanded service, it is even more accessible to the beach-going public."

The Beach Shuttles leave Playa Vista at 10:15 a.m. and continue with hourly pick-ups and drop-offs at all marked bus stops along the route including Admiralty Way and Fiji Way, Fisherman's Village, Admiralty Way and Admiralty Park, Admiralty Way and Palawan Way, Via Marina and Panay Way, Washington Boulevard and Pacific Avenue, Washington Boulevard and Via Marina, Admiralty Way and Mindanao Way with the return to Playa Vista. Space is also available for bicycles on the Beach Shuttles so passengers can cruise along the bike path once they exit. Riders can beat the traffic this summer and enjoy the ride.

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Marina del Rey LCP
Periodic Review
Exhibit 15

Exhibit 16

ROBERT A. HAMILTON

August 22, 2007

MEMORANDUM

TO: Andi Culbertson

SUBJECT: Great Blue Heron Nesting Trees as Environmentally Sensitive Habitat Areas

At your request, this memorandum provides my review of issues related to whether landscape trees at Marina del Rey used for nesting by Great Blue Herons warrant designation as Environmentally Sensitive Habitat Areas (ESHA) under the California Coastal Act.

REGULATORY STATUS OF THE GREAT BLUE HERON

The Great Blue Heron is not listed as threatened or endangered, or as California Species of Special Concern, but the State of California's Natural Diversity Data Base (CNDDB) designates it a "California Special Animal," a general term that refers to all of the taxa the CNDDB is interested in tracking regardless of their legal or protection status. California Special Animals generally fall into one or more of the following categories:

- Officially listed or proposed for listing under the State and/or Federal Endangered Species Acts.
- State or Federal candidate for possible listing.
- Taxa which meet the criteria for listing, even if not currently included on any list, as described in Section 15380 of the California Environmental Quality Act Guidelines.
- Taxa considered by the Department to be a Species of Special Concern.
- Taxa that are biologically rare, very restricted in distribution, declining throughout their range, or have a critical, vulnerable stage in their life cycle that warrants monitoring.
- Populations in California that may be on the periphery of a taxon's range, but are threatened with extirpation in California.
- Taxa closely associated with a habitat that is declining in California at an alarming rate (e.g., wetlands, riparian, old growth forests, desert aquatic systems, native grasslands, vernal pools, etc.)
- Taxa designated as a special status, sensitive, or declining species by other state or federal agencies, or non-governmental organization.

Great Blue Herons generally nest in colonies, a life-history trait that can make a species more vulnerable to catastrophic disturbances, and so the species may be considered to have a "critical, vulnerable stage in [its] life cycle that warrants monitoring."

7203 STEARNS STREET ~ LONG BEACH, CA 90815 ~ 562-477-2181 ~ FAX 562-342-6640

NESTING TREES AS POTENTIAL ESHA

Section 30107.5 of the California Coastal Act defines an "environmentally sensitive area" as follows:

> . . . any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The Marina del Rey Land Use Plan (a component of the Los Angeles County Local Coastal Program) does not designate any environmentally sensitive habitats at Marina del Rey, and the Great Blue Heron is not designated by any governmental agency as rare, threatened, endangered, Fully Protected, or Species of Special Concern. Nevertheless, the criteria given in Section 30107.5 are sufficiently broad that the CCC must determine whether trees that have been used for nesting by Great Blue Herons should be designated as environmentally sensitive areas or ESHA[1].

In a memorandum dated 19 December 2006, Dr. Jonna Engel of the CCC argued that several stands of non-native trees that support multi-species heronries in Marina del Rey should be regarded as ESHA. In support of this position, her memorandum at Page 2 states that "herons and egrets experienced severe population declines at the turn of the 20th century when they were hunted for their beautiful plumage," and that "only recently have herons and egrets been consistently roosting and nesting again in Southern California and they are still considered uncommon breeders in this region." Whereas the historical status of herons and egrets in southern California is poorly documented, there is little doubt that plume hunting substantially reduced regional numbers of the Great Egret (*Ardea alba*) and Snowy Egret (*Egretta thula*) during the late 1800s (e.g., J. Grinnell. 1898. *Birds of the Pacific Slope of Los Angeles County*. Pasadena Academy of Sciences No. 2). A review of the published literature, however, yields no evidence that plume hunting played an important role in historical declines of herons in coastal southern California.

Published accounts suggest that some herons and egrets, including the Great Blue Heron, may have experienced regional population declines during the past century resulting from factors such as pesticide poisoning and habitat loss/modification, but this does not mean that these species formerly bred much more commonly in the region or in Los Angeles County. In fact, referring to Great Blue Herons on the coastal slope of Los Angeles County, Grinnell (1898) wrote, "Breeds sparingly in the county." The only colony then known to exist in the county (excluding a few areas that later were incorporated into Orange County) was "in a grove of sycamores north of Santa Monica," where 35 nesting pairs in 1895 had dwindled to six pairs in 1897. Dr. Froke's *Marina del Rey Heronry Report for 2005-2006* summarized what is known of the species' historical breeding status in the Ballona Valley:

> This heron's historical breeding status is unknown, but it was only a transient and winter visitor by the 1920s (e.g., Bird-Lore 26:347), and breeding was not mentioned by von Bloeker (1943), who considered it "frequently observed in the meadow area

[1]The Coastal Act seems to use the terms "environmentally sensitive area" and ESHA interchangeably.

> and in the salt marsh," nor was it mentioned as a breeder on subsequent surveys (e.g., Dock and Schreiber 1981[1]; Corey 1992[2]).

Oology, the collection and study of eggs, played a primary role in the science of ornithology during the nineteenth and early twentieth centuries, and it is very likely that ornithologists of the day would have been well aware of any substantial nesting colonies of a bird as large and conspicuous as the Great Blue Heron. Page 3 of Dr. Engel's memorandum states, "while heron and egret populations as a whole are no longer threatened, in Southern California their populations are only recently recovering and breeding colonies are uncommon." Great Blue Herons may be fairly characterized as "uncommon" breeders in the region, but there is no documented foundation for the notion that Great Blue Herons are "recovering" to a more common breeding status that was formerly maintained along the coast of Los Angeles County. With regard to coastal southern California as a whole, my review of the literature leads me to conclude that Great Blue Herons are at least as widespread and abundant now as they were at any time during the twentieth century.

Dr. Engel's memorandum at Page 4 reviews how herons and egrets have adapted to roosting and nesting around harbors and other highly developed areas in the region, where tall, dense non-native trees provide proximity to hunting areas and protection from predators. That the birds have adapted to human presence is beyond dispute, but at mid-paragraph the following statement is made: "While these non-native trees are not rare, stands of trees exhibiting the attributes listed above, are rare in Los Angeles County. Thus, the habitat afforded by the trees is rare." A similar claim appears on Page 5: "While other non-native tree stands exist in Marina del Rey, they do not provide the necessary roosting and nesting tree stand attributes." These statements imply that herons and egrets in Marina del Rey can potentially nest in only a select number of trees with special attributes, a position contradicted by Director Broddrick of the California Department of Fish & Game (CDFG)[3]:

> Cypress are non-native trees which have come to serve only recently as habitat for these birds [nesting along Fiji Way]. The birds actually originated in Ballona, and the trees that were their primary roosting and nesting habitat still exist. If the current Cypress trees are removed, our habitat specialists are confident that the birds will recruit to the original area or use nesting habitat at your offices, which is not proposed for removal. Therefore, we believe that there is no impact to these colonial nesters.

---

[1]Dock, C. F., and Schreiber, R. W. 1981. *The Birds of Ballona. in* R.W. Schreiber, ed. 1981. *The Biota of the Ballona Region, Los Angeles County* (Supplement I of Marina del Rey/Ballona Local Coastal Plan). Los Angeles County Natural History Museum Foundation.

[2]Corey, K. A. 1992. Bird survey of Ballona wetland, Playa del Rey, CA 1990-1991. Unpubl. report (30 April).

[3]Letter dated 25 October 2006 from CDFG Director L. Ryan Broddrick to Stan Wisniewski of the County of Los Angeles.

Given that many trees in Marina del Rey appear to be large enough and close enough to foraging areas to potentially support nesting Great Blue Herons, I doubt that the number of nesting pairs is limited by the availability of appropriate nesting substrates. More likely factors include prey availability and the general preference of Great Blue Herons to nest in less intensively developed settings.

Dr. Froke's recent studies of heron and egret nesting at Marina del Rey and other areas in coastal southern California have demonstrated that some suitable nesting substrates may be used year after year by large numbers of herons and/or egrets while others may be used only once or periodically, often by only one to a few pairs of birds. In Marina del Rey in recent years, a handful of Great Blue Herons have nested in Monterey Cypresses (*Cupressus macrocarpus*), Monterey Pines (*Pinus radiata*), and Mexican Fan Palms (*Washingtonia robusta*) on the south side of the marina. Since 2004 the birds have used a stand of three cypresses near the Coast Guard station every year of Dr. Froke's study, but the build-up of heron guano has killed one of these trees and seriously weakened another. When such trees die and topple over, it is likely that the birds simply move to other tall trees or other suitable nesting substrates in the local area. This topic is discussed on Page 13.3 of the *Marina del Rey Heronry Report for 2005-2006*, and Pages 8.9 through 8.16 list six case studies from across the United States in which Great Blue Herons readily adopted artificial nest structures. The propensity for Great Blue Herons to kill their own nesting trees, and to move around and occupy different nesting substrates in a given area, both argue against identifying as an ESHA every tree ever occupied by the species.

Section 30107.5 of the California Coastal Act asks that we consider whether these species or their habitats (a) should be regarded as "especially valuable because of their special nature or role in an ecosystem" and (b) "could be easily disturbed or degraded by human activities and developments." Note that both of these criteria must be satisfied before an area meets the Coastal Act's definition of an "environmentally sensitive area."

As a species native to the region, the Great Blue Heron fulfills an integral ecological role in southern California's coastal wetland ecosystems, but should this role be regarded as "especially valuable" in all places and at all times? Both CDFG and the U.S. Fish and Wildlife Service have urged restraint in providing heron nesting platforms at Marina del Rey since Great Blues are predators that represent a legitimate threat to eggs and young of two endangered species that nest in the local area, the Snowy Plover (*Charadrius alexandrinus*) and the California Least Tern (*Sterna antillarum browni*). In his letter of 25 October 2006, CDFG Director Broddrick stated:

> I note that the California Coastal Commission staff have recently taken a position that the Great Blue Herons are "top predators" and therefore necessary to the health of the wetlands. We are committed to a restoration plan that will provide the most sustainable biodiversity we can reclaim from this degraded landscape. However, until a healthier ecosystem can be established the blue heron has to be recognized as a potentially significant stressor to the species viability of the Area A wetland.

I believe that Dr. Engel's memorandum overstates the case that Great Blue Herons satisfy the Coastal Act's criterion that a species or its habitat be "especially valuable because of

their special nature or role." The quotation above from Director Broddrick indicates that the CDFG—the state agency directly responsible for restoring the Ballona Ecological Reserve—regards these herons as a potential threat to the recovering ecosystem's health. In my opinion, the herons play an integral role in the local ecosystem but not one that ecologists should regard as "especially valuable" (i.e., more valuable than the role of any other species native to the region).

The second main criterion of Section 30107.5 concerns the relative likelihood that human activities and developments will disturb or degrade herons or their nesting sites. On this question the evidence is overwhelming that Snowy Egrets, Great Blue Herons, and Black-crowned Night-Herons that nest in coastal southern California are highly tolerant of all kinds of human activities. In San Diego County, Unitt (2004) noted that "All the major [Black-crowned Night-Heron] colonies are in planted trees in areas heavily used by people," and he described this species as "surprisingly indifferent to people, especially when foraging at night." The same general pattern of herons and egrets tending to nest close to human population centers holds true across coastal southern California, including Marina del Rey (see, for example, Daniel S. Cooper's extensive list of known heron/egret rookeries in southwestern California, 1996–2006; http://www.cooperecological.com/cem_i_042.htm). Humans can and occasionally do disturb nesting egrets and herons through such overt and invasive actions as tree-trimming during the nesting season, but I am not aware of any case in which egrets or herons in coastal southern California have abandoned a colony during the nesting season as the result of normal, routine human activity that was ongoing at the time nesting commenced. Keane Biological Consulting[1] recently reported the following with regard to Great Blue Herons nesting at Marina del Rey:

> Dredging activities observed in February 2003 within 200 feet of heron nests located in pine trees west of the U.S. Coast Guard Station did not result in visible disturbances or nest abandonment.

Dr. Engel discusses disturbance of herons and egrets on Page 6 of her memorandum:

> Herons and egrets are normally shy and retiring birds that are sensitive to human disturbance. The fact that they have established roosting and nesting sites in areas of high human density and disturbance suggests that suitable roosting and nesting areas are scarce and they have miraculously adapted in spite of human disturbance. Herons do habituate to non-threatening repeated activities, which explains the location of Southern California heronries in highly disturbed areas. Even so, most studies recommend a minimum 984 feet buffer zone from the periphery of a colony in which no human activity should take place during courtship and nesting season[2].

Where attractive foraging opportunities exist it is predictable that a variety of bird species will eventually adapt to benign human presence in order to exploit those opportunities.

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[1]Keane Biological Consulting. 2007. Terrestrial Biological Survey Report and Impact Analysis, Fisherman's Village Dock and Marina Project, Marina Del Rey, Los Angeles, California. February 27th, 2007 Field Survey. Revised report dated 19 July 2007 prepared for Coastal Resources Management, Inc.

[2]Butler, R. W. 1992. Great Blue Heron. *In* The Birds of North America, No. 25 (A. Poole, P. Stettenheim, and F. Gill, Eds.). Philadelphia: The Academy of Natural Sciences; Washington, DC: The American Ornithologists' Union.

There is nothing "miraculous" about this process of habituation. The birds' selection of certain nesting and roosting trees in urban Marina del Rey appears to be related mainly to the proximity of those trees to productive foraging areas and perhaps protection from strong winds. A preference for relatively undisturbed areas probably prevents some herons and egrets from choosing to nest in a busy area such as Marina del Rey, but one must expect that birds choosing to nest in an urban landscape will be less sensitive to human activity compared with members of the same species that choose to nest in remote areas.

Following is Dr. Engel's statement regarding buffer zones, from the original source (Butler 1992):

> Most studies [of Great Blue Herons] recommend a minimum 300 m buffer zone from the periphery of colonies in which no human activity should take place during courtship and nesting seasons, with the exception of scientific study . . . however, the most easily disturbed herons left nests in a colony in British Columbia when [the author] approached on foot within 200 m early in the season.

The three authors cited by Butler (1992) in this regard each studied colonies set in wild landscapes with infrequent human presence and intrusion. Therefore, human activity near the nesting herons was more of a contrasting activity to what the birds were used to, versus the ordinary situation in the vicinity of urban colonies. The establishment of a 300-meter buffer zone would make no sense in an area such as Marina del Rey, where the birds have chosen to nest in developed areas subject to constant and conspicuous human presence. Note also that Butler (1992) also cited three studies demonstrating that Great Blue Herons "habituate to non-threatening repeated activities." During the 15 years since Butler's species account was published, it has been established conclusively that many Great Blue Herons (and Snowy Egrets and Black-crowned Night-Herons) in coastal southern California have become habituated to various types of routine human activities (e.g., walking, biking, driving) beneath and around their nesting trees.

As a final exercise, consider that a hypothetical tree in an urban area presumably would not be a candidate for ESHA designation unless it had been selected for use by nesting or roosting herons or egrets. Once such selection had taken place, it would be incumbent upon the California Coastal Commission to determine whether the criteria in Section 30107.5 of the Coastal Act were satisfied. Even allowing that some ecologists may regard these birds as being "especially valuable because of their special nature or role in an ecosystem," the evidence collected by Dr. Froke, Keane Biological Consulting, and others studying urban heronries in coastal southern California clearly does not support a finding that such trees "could be easily disturbed or degraded by human activities and developments." Naturally, it is *possible* for humans to disturb the birds or to degrade their habitats in any number of ways (e.g., through inappropriate or ill-timed pruning of trees), but mounting evidence shows that herons and egrets that choose to nest in southern California's urban environments are thoroughly habituated to the normal, routine human activities that take place daily beneath their nesting and roosting trees. If the birds were "easily disturbed" they would not return to Marina del Rey year after year to successfully raise young in the urban landscape with no "buffer zones" whatsoever.

For the reasons detailed herein, I believe it would be a mistake to interpret Section 30107.5 of the Coastal Act in such a way that every landscape tree ever used by a nesting heron or egret in California would be designated as an "environmentally sensitive area" or ESHA. Such a designation could be appropriate for certain large, permanent nesting colonies of herons and egrets that have become established in a limited number of groves of non-native trees in the region, but in most cases that involve small numbers of nesting birds I believe that designation of an "environmentally sensitive area" or ESHA would be unjustified.

If you have any questions or comments regarding this memorandum, please call me at 562-477-2181 or send e-mail to robb@rahamilton.com.

Exh. 5.T 11

State of California – The Resources Agency ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov

October 25, 2006

Stan Wisniewski, Director
County of Los Angeles
Department of Beaches and Harbors
13837 Fiji Way
Marina del Rey, CA 90292

SUBJECT: Commentary on the role of the Ballona Ecological Reserve in redevelopment of Marina del Rey; Request for cooperation on tidal conduit through County property.

Dear Mr. Wisniewski:

The California Department of Fish and Game (DFG) appreciates the cooperative atmosphere between our agency and the County of Los Angeles (COUNTY) with respect to redevelopment of Marina del Rey and the restoration of the Ballona Ecological Reserve (ER).

On May 12, 2006, Dr. Larry Eng wrote to you in response to your offer of cooperation on cypress tree relocation to encourage continued heron habitat use while facilitating redevelopment of Marina del Rey. In establishing the ER in 2005, we specifically recognized that the County intended to redevelop the Fiji Way area which abuts the ER, and that the establishment of the ER would not precipitate any conditions or re-design requests on the development proposals in Marina del Rey. We made these statements at the August 19, 2005 Fish and Game Commission meeting in San Luis Obispo, in response to an expression of concern from the County that the designation of Ballona as an ER would signal a future requirement that areas of Marina del Rey support the ecological function of the ER. We did not believe that this was necessary then, and we do not believe it is necessary now.

Our May 12, 2006 letter declined the relocation of Marina del Rey trees to the ER at this time because we are not at a point in the planning process where we can make such a decision. However, we remain convinced that the ER has sufficient area to accommodate a heronry such as is marginally present along Fiji Way. We hope that we may continue to engage the County in discussions concerning the relocation of the Fiji Way heron habitat – in all or in part – to the ER.

In the meantime, and consistent with our desire to dialogue with the County on areas of mutual interest, we have determined that a pipe to exchange tidal flows between the entrance channel to Marina del Rey and the Area A portion of the ER is an indispensable prerequisite to restoration of the Area A Wetlands. I understand that members of my staff and your staff, and your consultant, have been exchanging ideas on the location of

such a feature. I realize that the Department cannot require such an accommodation from the County, and I also realize the practical issues with the fact that some leases may no longer be open to suggest inclusion of this pipe feature. Your staff and consultants have made my staff aware that there is also a jail within the County complex, which for security reasons cannot be a site for the pipes/conduit.

My staff informs me that there is really only one leasehold through which this pipe/conduit feature could pass at this point. I understand, this leasehold is under active negotiation. The location of the leasehold is such that it provides a series of ideal circumstances for the conduit – the shortest routing to the channel, the lowest elevation of the Area A portion of the ER, and subsequently we believe the most cost effective path for tidal return to this portion of the ER.

Although the DFG planning process is not yet complete, there is no doubt that we wish to restore tidal saltwater marsh to large portions of Area A, and therefore there is no need to wait until all studies in process are complete. We ask to work with you now so that the opportunity for this feature will not be precluded by future lease terms.

DFG also acknowledges that the routing through the leasehold which is most efficient for the DFG will eliminate several cypress trees which currently serve as habitat for Great Blue Herons. We believe this is a necessary impact in the development of a richer mosaic of sustainable wildlife habitat for the ER. It is important to note, that DFG is not discounting the biological and intrinsic value of the Blue Herons to both the environment and members of the community, but rather that the removal of the cypress will not be significant for the following reasons:

1. Cypress are non-native trees which have come to serve only recently as habitat for these birds. The birds actually originated in Ballona, and the trees that were their primary roosting and nesting habitat still exist. If the current Cypress trees are removed, our habitat specialists are confident that the birds will recruit to the original area or use nesting habitat at your offices, which is not proposed for removal. Therefore, we believe that there is no impact to these colonial nesters.
2. Great blue herons, while an important component of local biodiversity are neither endangered nor threatened. They have enjoyed a considerable resurgence in this area and significant reductions in their numbers are not expected.
3. Great blue herons are efficient predators of eggs and hatchlings of other birds, (including least terns), rodents and amphibians. Accordingly, DFG will have to consider spatial distribution and population numbers in crafting recovery strategies for threatened and endangered species to insure predation by herons does not frustrate recovery.

I realize that there has been considerable controversy over the planned demolition of these trees. I note that the California Coastal Commission staff have recently taken a position that the Great blue herons are "top predators" and therefore necessary to the health of wetlands. We are committed to a restoration plan that will provide the most sustainable biodiversity we can reclaim from this degraded landscape. However, until a healthier ecosystem can be established the blue heron has to be recognized as a potentially significant stressor to the species viability of the Area A wetland.

If your agency is amenable to allowing the DFG to acquire an easement in the vicinity of the Villa Venetia project, we would welcome the opportunity to dialogue with you and provide technical input to the issue of impact from removing the trees. If you are agreeable to this approach, please notify me so that my staff can schedule the appropriate meetings.

Sincerely,

L. Ryan Broddrick
Director

cc: Banky Curtis
Sonke Mastrup
Rob Floerke
Dr. Larry Eng

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

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MEMORANDUM

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: Lisa Haage, Chief of Enforcement; Alex Helperin, Enforcement Attorney; Andrew Willis, Enforcement Analyst

SUBJECT: ESHA determination for Marina del Rey tree stands with past and present history of roosting and nesting herons and egrets

DATE: December 19, 2006

In Marina del Rey, several stands of non-native trees are serving as multi-species heronries; that is, locations where several species of herons and egrets roost and nest throughout the year. Presently Great Blue Herons, *Ardea herodias*, Snowy Egrets, *Egretta thula,* Black Crowned Night Herons, *Nycticorax nycticorax,* and Green Herons, *Butorides virescens,* nest in these trees seasonally and roost all year round[1,2,3]. In addition, since 2001, low numbers of Great Egrets, *Aldea alba,* have been roosting year round in Marina del Rey[4]. The Marina del Rey heronries are comprised of non-native pines, Mexican fan palms, coral trees, and fig trees. The heronries are immediately adjacent to or very near Marina del Rey harbor channels and the Ballona Wetlands and provide roosting and nesting habitat that is rare in Los Angeles County.

In a November 8, 2006 letter to Peter Douglas, Executive Director, California Coastal Commission, Raymond G. Fortner, Jr., Los Angeles County Counsel, gives three reasons why he believes that the Marina del Rey trees in question meet none of the requisites for ESHA designation. He asserts that: 1. Neither the herons nor the trees are rare; 2. Herons are not especially valuable because of their special nature or role in the ecosystem; and, 3. Herons are not easily disturbed by human activity.

With regard to rarity, I note that herons and egrets experienced severe population declines at the turn of the 20th century when they were hunted for their beautiful plumage that was highly prized for women's hats. Several laws outlawing hunting,

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[1] Froke, J. B. 2005. Report on the Marina Del Rey Heronry. Prepared for Mark D. Kelly, Senior Vice President, Lyon Capital Ventures.
[2] Cooper, D. President Cooper Ecological Monitoring Inc. Aug. 18, 2006. Letter to the California Coastal Commission.
[3] Jones, A.L., IBA Program Coordinator, Audubon California. Aug. 22, 2006. Letter to Andrew Willis, California Coastal Commission.
[4] Cooper, D. March 2006. Annotated Checklist of Birds of Ballona Valley, Los Angeles County, California. http://www.cooperecological.com/birds_of_ballonaweb.htm

including the 1918 Migratory Bird Treaty Act, were passed and heron and egret populations as a whole have generally recovered. However, only recently have herons and egrets been consistently roosting and nesting again in Southern California and they are still considered uncommon breeders in this region.

Daniel Cooper, President, Cooper Ecological Monitoring, Inc., has researched the history of birds, including waders (herons and egrets), in the Ballona Valley, which includes the Marina del Rey area at issue here[5]. The Great Blue Heron's historical breeding status is not well-documented; however, it was only a transient and winter visitor by the 1920s and breeding was not mentioned by von Bloeker[6] nor was it mentioned as a breeder in subsequent surveys in 1981[7] and 1992[8]. Great Blue Heron's were first observed nesting in the Ballona Valley in 1995. Dr. Jefferey B. Froke, California Wildlife Ecology, surveyed the Great Blue Heron egg database housed by the Western Foundation of Vertebrate Zoology for evidence of pre-decline abundance and relates that Great Blue Heron eggs were collected from Zuma Canyon, Los Angeles County in 1895 and Del Mar, San Diego County in 1921[9]. Cooper describes Great Blue Herons as common breeding residents in Ballona Valley but the Los Angeles County Breeding Bird Atlas Handbook (LACBBAH) lists them as very localized breeders with few known breeding sites overall in Los Angeles County[10],[11].

The presence of Great Egrets in Ballona Valley and the greater Southern California area was first noted in 1977. To date no breeding pairs have been observed in the Marina del Rey area and only a few breeding pairs have been observed in Southern California. Cooper defines Great Egrets as a fairly common transient and winter resident in Ballona Valley today[12]. Breeding Snowy Egrets were first observed in the Marina del Rey area in 2005, however their presence has been increasing since the early 1990's when sightings were rare. Cooper currently identifies Snowy Egrets as a fairly common perennial resident in Ballona Valley[13]. Black-Crowned Night Herons are another wader who has only recently been nesting and roosting in Marina del Rey. Previously considered a transient, Black-Crowned Night Herons are now year round residents that both breed and roost in the non-native trees in Marina del Rey. Like Snowy Egrets, Cooper calls Black-Crowned Night Herons fairly common perennial residents today in the Ballona Valley but the LACBBAH finds them to be a local and/or

[5] Cooper (March 2006) op. cit.
[6] von Bloeker, J.C. 1943. The fauna and flora of the El Segundo Sand Dunes: Birds of El Segundo and Playa del Rey. Bull. So. Cal. Acad. Sci. Vol. 42, Part I (1-30) and Part II (90-103).
[7] Dock, C.F. and R.W. Schreiber. 1981. The Birds of Ballona. *In*: R.W. Schreiber, ed. 1981 The biota of the Ballona region, Los Angeles County (Supplement I of Marina del Rey/Ballona LCP). 400 pp. Los Angeles County Natural History Museum Foundation.
[8] Corey, K.A. 1992. Bird survey of Ballona Wetland, Playa del Rey, CA 1990-1991. Unpublished Report. April 30, 1992.
[9] Froke (2005) op. cit.
[10] Cooper (March 2006) op. cit.
[11] Allen, L. and K. L. Garrett. 1996. Los Angeles County Breeding Bird Atlas. Project of the Los Angeles County Audubon Society in cooperation with the Natural History Museum of Los Angeles County.
[12] Cooper (March 2006) op. cit.
[13] Cooper (March 2006) op. cit.

uncommon breeder in Los Angeles County[14],[15]. Finally, the Green Heron, extirpated in Southern California in the 1930's, has now become a year round resident in Marina del Rey where a few breeding pairs have been observed since 1995. Green Heron numbers are still very low. Green Herons are the only wader whose current Ballona Valley status is uncommon according to Cooper's survey data[16].

Cooper recently completed a heron and egret rookery survey in Los Angeles County, and the Marina del Rey area was one of the few locations where he found heron and egret colonies[17]. The only Los Angeles County coastal colonies he encountered were in the Malibu Country Mart, Marina Del Rey area, and Long Beach Harbor. Kimball L. Garrett, Ornithology Collections Manager, Natural History Museum of Los Angeles County, concurred that currently herons and egrets are only nesting in a few Los Angeles County coastal locations and that Great Blue Heron and Black Crowned night heron nesting sites are very few and far between (pers. comm., Dec. 11, 2006). The California Department of Fish and Game made the following comments regarding the importance of Great Blue Heron nesting areas:

> *The great blue heron is not a common nesting species in Los Angeles County because of historic and present incompatible land use practices. There is some question as to whether other suitable sites are available in the area. The existence of heron nesting colonies are [sic] of particular importance to the continued biodiversity of Ballona wetlands and Los Angeles County. The persistence of herons as a successful breeder in Los Angeles County can only be accomplished by providing areas of suitable nesting and feeding habitat over time*[18].

So, while heron and egret populations as a whole are no longer threatened, in Southern California their populations are only recently recovering and breeding colonies are uncommon (Great Egrets and Green Herons continue to be uncommon in Southern California). Simultaneously, the wetland ecosystems upon which herons and egrets depend are in trouble. The United States Geologic Survey conducted a study of wetland loss in the United States between the 1780's and 1980's. California has lost the largest percentage of original wetland habitat (91%) of all the states[19]. It is now estimated that California has less than 500,000 wetland acres remaining (from an estimated 5 million in 1780). This is less than one-half of one percent of California's total land acreage.

In Southern California, many wetlands have been replaced by marinas, and in the few areas where herons and egrets either remained or have recently re-colonized, they

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[14] Cooper (March 2006) op. cit.
[15] Allen, L. & K. L. Garrett (1996) op. cit.
[16] Cooper (March 2006) op. cit.
[17] Cooper, D. 2006. Known heron/egret rookery locations in southwestern California, 1996-2006 http://www.cooperecological.com/cem_i_042.htm
[18] Raysbrook, C. F., South Coast Regional Manager, CDFG. Feb. 9, 2001. Letter to Edward J. Casey, Esq.
[19] United States Geologic Survey: http://wwwlnpwrc.usgs.gov/resource/wetlands/wetloss/summary.htm

have adapted by relocating their roosting and nesting sites to stands of tall, non-native pines, palms, ficus, and coral trees within highly developed areas[20,21]. This relocation to non-native trees near marinas has been caused by the virtual absence of any native trees and to the critical attributes that the non-native trees afford the birds. The attributes that the herons and egrets use to pick trees include dense foliage for nest sites, predator protection, and camouflage; height that affords protection from disturbance and predators; and proximity to primary foraging locations[22,23,24,25]. For Great Blue Herons, the mean distance flown from nests to principle feeding sites is 1.4 to 4 miles[26]. An average Snowy Egret foraging trip is 1.7 miles from roosting and nesting sites to their main foraging area[27]. The Marina del Rey heronries are strategically located within the Marina del Harbor and adjacent to the Ballona Wetlands, both primary foraging areas for herons and egrets. While these non-native trees are not rare, stands of trees exhibiting the attributes listed above, are rare in Los Angeles County. Thus, the habitat afforded by the trees is rare.

In a letter to Andrew Willis, California Coastal Commission, Andrea L. Jones, Important Bird Areas Coordinator, Los Angeles County Audubon, concludes that the trees in the Marina del Rey area where herons and egrets nest and or roost should not be "removed or altered" in order to facilitate the recovery and success of herons and egrets living in the Ballona Valley[28]. Ms. Jones points out that the herons and egrets are using the trees because they provide the only remaining habitat that is appropriate for nesting and roosting in the Ballona Valley. Cooper, in a letter to the California Coastal Commission, writes that "the Marina del Rey area provides ideal roosting and nesting habitat for waders – specifically it has dense clusters of tall trees close to foraging areas"[29]. Froke reports that in Marina del Rey, Great Blue Herons roost and nest in tall, sturdy trees while Snowy Egrets and Black-Crowned Night Herons appear to require trees with dense foliage[30].

Audubon recognized the importance of the Marina del Rey area to wading and other birds when it designated it an Important Bird Area (Ballona Valley Important Bird Area) in 1994. The Ballona Valley includes the most significant coastal wetland in Los

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[20] Froke (2005) op. cit.
[21] Cooper (Aug. 18, 2006) op. cit.
[22] Butler (1992) op. cit.
[23] Parsons & Master (2000) op. cit.
[24] McCrimmen, D. A. Jr., J. C. Ogden, and G. T. Bancroft. 2001. Great Egret (*Ardea alba*). *In* The Birds of North America, No. 570 (A. Poole and F. Gill, Eds.). The Birds of North America, Inc., Philadelphia, PA
[25] Davis, W.E. Jr. 1993. Black-crowned Night-Heron (*Nycticorax nycticorax*). *In* The Birds of North America, No. 75 (A. Poole and F. Gill, Eds.). The Birds of North America, Inc., Philadelphia, PA
[26] Butler, R. W. 1992. Great Blue Heron. *In* The Birds of North America, No. 25 (A. Poole, P. Stettenhelm, and F. Gill, Eds.). Philadelphia: The Academy of Natural Sciences; Washington, DC: The American Ornithologists Union
[27] Parson, K. C. and T. L. Master. 2000. Snowy Egret (Egretta thula). *In* The Birds of North America, No. 489 (A. Poole and F. Gill, Eds.). The Birds of North America, Inc., Philadelphia, PA
[28] Jones (2006) op. cit.
[29] Cooper (Aug. 18, 2006) op. cit.
[30] Froke (2005) op. cit.

Angeles County[31]. The designation was made because Ballona Valley provides refuge and breeding, wintering, and/or roosting habitat for a large number of wetland bird species and because of its proximity to a large urban area[32]. The non-native trees that the herons and egrets select for roosting and nesting represent the only suitable roosting and nesting locations for these birds in the Marina del Rey area. While other non-native tree stands exist in Marina del Rey, they do not provide the necessary roosting and nesting tree stand attributes. And although the trees are non-native species, they satisfy the definition of environmentally sensitive habitat or ESHA under section 30107.5 of the Coastal Act; "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments".

Mr. Fortner's second assertion is that the herons are not especially valuable because of their special nature or role in the ecosystem. This is not accurate. In fact, herons and egrets are integral components of fully functioning wetland ecosystems and are critical to maintaining such ecosystems. They are top predators whose foraging activities maintain a balance in prey populations. Wetlands lacking such native top predators may be subject to invertebrate, amphibian, reptile, rodent, and fish population explosions, eutrophication events, disease outbreaks, and any number of other undesirable cycles[33]. And, as Mr. Broddrick, Director of the California Department of Fish and Game, notes in his Oct. 25, 2006 letter, Great Blue Herons [and other herons and egrets] are an important component of local biodiversity[34]. Biodiversity is believed to play a significant role in the resiliency of ecosystems including wetlands[35].

Southern California wetlands are experiencing pressure from a number of fronts, including loss of native species, loss of area due to development, invasive species, and pollution. Herons and egrets are critical members of wetland ecosystems and their roosting and nesting colonies provide very important ecosystem functions. While Great Blue Herons certainly are not the only predators in the area, that does not mean that they don't serve a special role. They are native wetland predators. A fully functioning wetland would support a suite of native predators, including species Mr. Fortner may be referring to in his letter.

Mr. Fortner's third assertion - that the herons are not easily disturbed by human activity - is just wrong. Herons and egrets establish roosting and nesting sites based on several important criteria, specifically including avoidance of predation and disturbance. Herons and egrets select nest sites difficult for mammalian predators to reach and in areas as distant or removed from disturbance as possible. In urban areas, this translates into a

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[31] Cooper (Aug. 18, 2006) op. cit.
[32] Jones (Aug. 22, 2006) op. cit.
[33] Keddy, P.A. Wetland Ecology: Principles and Conservation. 2000. Cambridge Univ. Press, Cambridge, United Kingdom. 614 pp.
[34] Broddrick, R.L. (Oct. 25, 2006). Letter to Stan Wisniewaki, Director, County of Los Angeles, Harbors and Beaches.
[35] Begon, M., J.L. Harper, C.R. Townsend. 1996. Ecology. Blackwell Science Ltd. Oxford, London. 1067 pgs.

preference for tall trees. In Southern California, the average nest height for Great Egrets is 88 feet[36]. Raccoons are one of the top heron and egret nest predators in Southern California[37]. Tall trees are the main deterrent to raccoon predation. Dense foliage that provides camouflage and protection is also important in Southern California as a deterrent to predation from birds such as American crows, *Corvus brachyrhynchus*, who prey on eggs and chicks and red-tailed hawks, *Buteo jamaicensis*[38]. Both herons and egrets choose trees that are within a specific distance of primary foraging grounds and are safe from predation and disturbance. Herons and egrets are normally shy and retiring birds that are sensitive to human disturbance. The fact that they have established roosting and nesting sites in areas of high human density and disturbance suggests that suitable roosting and nesting areas are scarce and they have miraculously adapted in spite of the human disturbance. Herons do habituate to non-threatening repeated activities, which explains the location of Southern California heronries in highly disturbed areas. Even so, most studies recommend a minimum 984 feet buffer zone from the periphery of a colony in which no human activity should take place during courtship and nesting season[39]. It is also obvious that human activities such as the removal or trimming of trees disturb both the trees and the birds that rely upon them for habitat.

In conclusion, the reason herons and egrets have established nests and are roosting in the Marina del Rey tree stands, as they are doing in non-native tree stands in other parts of coastal Southern California such as Ventura Harbor, Long Beach, and Huntington Beach, is the lack of suitable nesting and roosting areas in remaining local wetlands. The Marina del Rey heronries fit the criteria for heron and egret roosting and nesting sites. The trees are within the foraging range required by the five heron and egret species utilizing the trees. Many of the trees in Marina del Rey are tall, thus distancing the birds from predation and disturbance, and have dense foliage that offers camouflage and protection from predation. As a form of vegetation that meets these criteria and therefore provides this sort of habitat, these trees are indeed rare. In addition, the Marina del Rey tree stands are an important natural resource, as they provide necessary, significant ecological services for local Southern California heron and egret populations, which, in turn, serve a critical role in maintaining the biodiversity and the healthy functioning of the wetlands. Thus, the Marina del Rey trees that support herons and egrets are especially valuable because of their role in the ecosystem. Finally, it is also true that they are easily disturbed by human activities. Therefore, they meet the definition of an Environmentally Sensitive Habitat Area under the Coastal Act.

[36] McCrimmen, Ogden, & Bancroft (2001) op. cit.
[37] Parson & Master (2000) op. cit.
[38] Parson & Master (2000) op. cit.
[39] Butler (1992) op. cit

STATE OF CALIFORNIA -- THE RESOURCES AGENCY
ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION
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MEMORANDUM

FROM: Jonna D. Engel, Ph.D.
Ecologist

TO: John Ainsworth
Deputy District Manager

SUBJECT: Status of non-native tree stands serving as multi-species heronries in Marina del Rey

DATE: December 10, 2007

In a memorandum dated December 19, 2006, I made the determination that non-native tree stands in Marina del Rey are playing an especially valuable ecosystem role as multi-species heronries and that these tree stands are easily disturbed or degraded by human activities and development. To accomplish this I read peer reviewed papers, the 2005 Froke report, consulted with biologists and California Audubon, and visited the site a number of times. I approached this task by analyzing the trees using the same criteria that I would have applied had they been growing in a natural open space setting outside of an urban landscape. I concluded that the trees met the definition of ESHA under the Coastal Act for the following reasons:

1. Wetlands are important and imperiled ecosystems.

2. Herons and egrets are top predators in wetland food webs and therefore are integral components of healthy and properly functioning wetland ecosystems.

3. Non-native trees stands in Marina del Rey play an especially valuable ecosystem role in the Ballona Wetland ecosystem by providing nesting and roosting space for five species of herons and egrets; and

4. Non-native tree stands in Marina del Rey are easily disturbed and degraded by human activities and development as a result of pruning or removal.

Following my Marina del Rey non-native tree stand (heronry) ESHA determination, Los Angeles County requested additional time to contract and conduct a review of my ESHA determination. Los Angeles County hired Mr. Rob Hamilton and on August 22, 2007, Mr. Hamilton summarized his review in a letter to Andi Culbertson. Below I briefly review the four points highlighted above that contributed to my ESHA determination and the salient points raised by Mr. Hamilton.

The importance of wetland ecosystems is undisputed and these valuable natural resources are in trouble: wetland ecosystems are one of the most heavily impacted ecosystems in the United States where hundreds of thousands of acres have been destroyed for development. California has lost the largest percentage of original wetland habitat (91%) of all the states[1].

The Ballona Wetland, recently acquired by the State of California for restoration and protection as a proposed Ecological Reserve, is the most significant coastal wetland in Los Angeles County and is the only natural saltmarsh between Point Mugu in Ventura County and Los Cerritos Marsh on the Orange/Los Angeles County Border[2]. The Ballona Wetlands, along with Marina del Rey, Playa del Rey, and Venice are all within the Ballona Valley which has been identified as an Important Bird Area by Audubon California[3]. The Marina del Rey heronries contributed to Audubon California's designation of the Ballona Valley Important Bird Area[4,5,6].

Herons and egrets are integral constituents of coastal wetland ecosystems and critical top predators in wetland food webs[7,8]. Five species of herons and egrets are found within Marina del Rey utilizing non-native trees for nesting and roosting and the neighboring harbor and Ballona Wetlands for foraging. Presently Great Blue Herons, *Ardea herodias*, Snowy Egrets, *Egretta thula,* Black Crowned Night Herons, *Nycticorax nycticorax,* and Green Herons, *Butorides virescens,* nest in these trees seasonally and roost all year round[9,10,11]. In addition, since 2001, low numbers of Great Egrets, *Aldea alba,* have been roosting year round in Marina del Rey[12]. This suite of wading bird species are the principal native carnivores in the Ballona Wetland ecosystem, preying on a range of animals including fish, amphibians, reptiles, rodents, and insects (citations). Healthy ecosystems have representatives at all food web levels and top wetland carnivores, such as these wading birds, contribute to maintaining a balanced system.

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[1] United States Geologic Survey: http://wwwlnpwrc.usgs.gov/resource/wetlands/wetloss/summary.htm
[2] Cooper, D.S. 2004. Important Bird Areas of California. Audubon California, Pasadena, Calif. 286pp.
[3] Cooper (2004) op. cit.
[4] Jones, A.L., IBA Program Coordinator, Audubon California. Aug. 22, 2006. Letter to Andrew Willis, California Coastal Commission
[5] Cooper, D. President Cooper Ecological Monitoring Inc. Aug. 18, 2006. Letter to the California Coastal Commission.
[6] George, G. Nov./Dec. 2006. The case of the Urban Rookery. Western Tanager. Los Angeles Audubon Society. Vol. 73. No.2:4-5.
[7] Cogswell, H.L. and G. Christman.1977. Waterbirds of California. University of California Press. Berkeley California. 399pp.
[8] Hafner, H. 1997. Ecology of Wading Birds. Colonial Waterbirds, Vol. 20, No. 1, 115-120.
[9] Froke, J. B. 2005. Report on the Marina Del Rey Heronry. Prepared for Mark D. Kelly, Senior Vice President, Lyon Capital Ventures.
[10] Cooper (Aug. 18, 2006) op. cit.
[11] Jones (2006) op. cit.
[12] Cooper, D. March 2006. Annotated Checklist of Birds of Ballona Valley, Los Angeles County, California. http://www.cooperecological.com/birds_of_ballonaweb.htm

Herons and egret's historical status in Los Angeles County is not well documented or understood. I reviewed the historical and contemporary status of the five species nesting and roosting in Marina del Rey in my December 19, 2006 memorandum where I included Daniel Cooper's research results on the historical and contemporary status of wading birds (herons and egrets) in the Ballona Valley[13,14]. Rob Hamilton, in his August 22, 2007 letter, called into question my use of the term "recovering" regarding Great Blue Heron populations. I have considered my use of this term and agree that "recovering" may inappropriately describe the status of contemporary Great Blue Heron populations in Marina del Rey, since the written record detailing the history of this bird in Southern California is quite sparse. However, we do know that Great Blue Herons, along with the other species of herons and egrets, began increasing in Marina del Rey in the mid-1990's. The LA County Breeding Bird Atlas makes the following statement about Great Blue Herons: "This species has reestablished itself in the county after perhaps a half-century of absence, and possibly in numbers higher than in 1900"[15]. Garry George, Los Angeles Audubon Executive Director wrote the following:

> *Here's what we know about populations of Great Blue Herons in Los Angeles County:*
> *1. Great Blue Herons are making a dramatic comeback. Late in the 19th century, Grinnell (1898) wrote that Great Blue Heron "breeds sparingly in the county." According to the upcoming Los Angeles Audubon Breeding Bird Atlas (courtesy co-author Larry Allen) "No county [breeding] colonies could be cited in publications from 1933 or 1981 (Garrett and Dunn 1981, Willett 1933). In 2000, surveys recorded 300 breeding bird pairs.*
> *2. Great Blue Herons have adapted to non-native vegetation. Once a nester in forests near water, the lack of habitat has prompted the herons to adapt to non-native tall trees near their feeding grounds. In Marina del Rey they nest and roost in cypress, pine and fan palm and in Silverlake they nest in eucalyptus.*
> *3. Great Blue Herons are extending their nesting periods. The Breeding Bird Atlas found nesting periods from 26 February to 10 August and recent documentation by Urban Wildlife Task Force members Jason Stuck and Lisa Fimiani show fledglings in trees in October and member David DeLange has recorded courtship display as early as December in Marina del Rey.*
> *4. Great Blue Herons are a symbol for and evidence of environmental recovery*[16].

Gary George (2007) goes on to say that Robert Butler, author of the recent book, "The Great Blue Heron" and Larry Allen, co-author of LA Audubon Breeding Atlas, attribute the "comeback" of Great Blue Herons to "increased environmental recovery through clean water programs and habitat restoration". The primary goal of the Ballona Wetland restoration effort is to restore and maintain a healthy and properly functioning wetland

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[13] Cooper (March 2006) op. cit.
[14] Engel, J. December 19, 2006. ESHA determination for Marina del Rey tree stands with past and present history of roosting and nesting herons and egrets. Memorandum to Lisa Haage, Chief of Enforcement; Alex Helperin, Enforcement Attorney; Andrew Willis, Enforcement Analyst.
[15] Allen, L. 2007. Draft Los Angeles County Breeding Bird Atlas.
[16] George, G. Jan./Feb. 2007. Why we care about herons in L.A. Western Tanager. Los Angeles Audubon Society. Vol. 73. No.3: 8-9.

ecosystem. Insuring successful nesting and roosting of herons and egrets, is an important step toward accomplishing comprehensive restoration of the Ballona Wetlands.

Mr. Hamilton correctly points out that the Great Blue Herons are not a rare species. Neither are Great Egrets, Snowy Egrets, Black-crowned night herons, or Green Herons. They are, however, important constituents of wetland ecosystems, have specific criteria for nesting and roosting locations, and are uncommon in Los Angeles County. In addition, tree stands demonstrating the requisite attributes needed by the herons and egrets for nesting and roosting are also uncommon in Los Angeles County.

Jeff Froke (2007) notes that John Hodder recalls Great Blue Herons nesting in a large eucalyptus grove within the Ballona Wetlands until they were "disrupted and disbanded due to construction of the Playa Vista development"[17]. Cooper referred to two recorded observations in 1995 of Great Blue Herons nesting in the lone cottonwood on the western edge of the Ballona Wetland and dunes. While Great Blue Heron's first appearance in the mid-90's may have occurred in the Ballona Wetlands, they quickly moved into the tall non-native tree stands along the periphery of Marina del Rey Harbor and adjacent to the Ballona Wetlands. These tree stands have been inhabited by the herons and egrets for more than a decade because they meet the nesting and roosting requirements of these birds in an urban setting. The California Department of Fish and Game made the following comments regarding the importance of Great Blue Heron nesting areas:

> *The great blue heron is not a common nesting species in Los Angeles County because of historic and present incompatible land use practices. There is some question as to whether other suitable sites are available in the area. The existence of heron nesting colonies are of particular importance to the continued biodiversity of Ballona wetlands and Los Angeles County. The persistence of herons as a successful breeder in Los Angeles County can only be accomplished by providing areas of suitable nesting and feeding habitat over time*[18].

Cooper, in his letter supporting protection of the Marina del Rey heronries writes:

> *In the Ballona area, birds do not nest on the Ballona Wetlands proper or at the carefully-managed (for wildlife) Ballona Freshwater Marsh, but instead occur where they perceive conditions are preferable – ornamental trees in Marina del Rey*[19].

Lastly, the non-native tree stands in Marina del Rey serving as heronries are easily disturbed and degraded by human activities and development such as construction

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[17] Froke, J. 2007. Marina del Rey Heronry Report for 2005 – 2006. Prepared for the County of Los Angeles Department of Beaches and Harbors, Marina del Rey, California and Lyon Capital Management, Newport Beach Califonria.

[18] Raysbrook, C. F., South Coast Regional Manager, CDFG. Feb. 9, 2001. Letter to Edward J. Casey, Esq.

[19] Cooper (Aug. 16, 2006) op. cit.

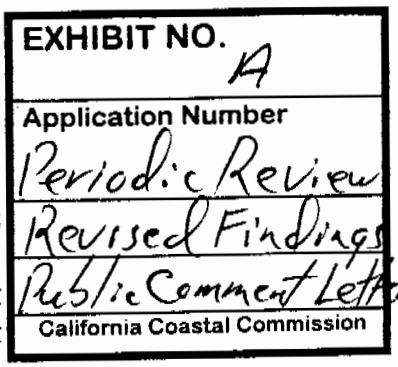
activities, tree trimming, and tree removal. For instance, Froke (2007) reported that tree trimming and nest removal had occurred in 2005 in at least four of six eucalyptus trees that were formerly used as nest trees in 2004 or 2005 by "one or more species of herons"[20]. And, prior to tree trimming, heron and egrets used to nest in non-native trees near the Marina Harbor apartments whereas now they only use the trees for roosting at night[21].

The reason herons and egrets have established nests and are roosting in non-native tree stands in Marina del Rey, as they are doing in other parts of coastal Southern California such as Channel Islands Harbor, Port Hueneme, Long Beach, and Huntington Harbor, is the lack of suitable nesting and roosting areas in and around remaining local wetlands. The tree supporting heronries in Marina del Rey fit the criteria for heron and egret nesting and roosting sites. The trees are within the foraging range required by the five heron and egret species utilizing the trees. Many of the trees are tall, thus distancing the birds from predation and disturbance, and/or have dense foliage that offers camouflage and protection from predation. These non-native tree stands are an important natural resource, as they provide necessary, significant ecological services for local Southern California heron and egret populations, which, in turn, serve a critical role in maintaining the biodiversity and the healthy functioning of the Ballona Wetlands. In addition these non-native tree stands are easily disrupted and disturbed. Applying the same criteria I did in my December 19, 2006 memorandum, of analyzing these tree stands as if they were growing in an open space setting outside a densely developed urban landscape, I come to the same conclusion, and find that the non-native tree stands supporting heronries in Marina del Rey meet the Coastal Act definition of an Environmentally Sensitive Habitat Area.

[20] Froke (2007) op. cit.
[21] George (2006) op. cit.

We ARE Marina del Rey P.O. Box 9096, Marina del Rey, CA 90295

September 1,2008



Deputy Director Jack Ainsworth
(and each Commissioner& Staff under Separate Cover)
California Coastal Commission

Honorable Commissioners CC

Possibly at your prompting, the Los Angeles County Department c Planning held a last minute public meeting on August 21 to get public inp County's response to your anticipated adoption of the Final LCP Review Recommendations for Marina del Rey. For various cogent reasons we regard the Department's action as a sham.

Los Angeles County over the years has disregarded all significant suggestions from its citizens and the fact that citizens' recommendations in various workshops the County intends setting up are not to be part of the official public record shows they intend to continue doing so.

The County has not only disregarded citizens' objections but on one important project, the plan to put a shopping, office and apartment complex mall including a Trader Joe's on the waterfront, they even disregarded the objections of the Marina Lessee's Association itself. The lessees for various reasons told the County this project was inappropriate and later complained their input was being ignored.

Now the California Coastal Commission itself must be added to the list of organizations being ignored.

It is our understanding, that at your January 9, 2008, meeting you, the Commissioners, recommended the County prepare a Master Plan and Environmental Impact Report for the entire Marina to replace the piecemeal approach it has adopted to its string of developments.

Yet at its August 21 meeting an official of the Department of Regional Planning stated that the Marina Local Coastal Plan constituted an EIR and it had no intention of ordering an overall Master Plan or EIR.

We believe the development course on which the County is embarked will lead to a parking, traffic and overbuilding disaster and have the effect of denying County citizens access to the coastal leisure facilities of the Marina which they rightfully own because all of this development is on publicly-owned land acquired for public recreational use.

Ignoring all the advice listed above, the County is continuing with the permitting process for 16 projects which will gobble up public parking lots and restrict mountain and water views. At least three additional parcels are currently in secret lease extension negotiations.

If the County insists that the current Marina LCP constitutes an EIR, a position which we strongly contest, then the least they can do is abide by it. They should halt all plans to rezone the parking lots, which under the L.C.P. are reserved for parks or parking only, and eliminate timeshare apartments from a hotel project. Timeshares are also not allowed under the present L.C.P.

A separate letter regarding the County's proposal to remove the Design Control Board's conceptual review authority is also enclosed.

With the County proceeding headlong under its misguided plan to turn the Marina over to apartment blocks, longstay hotels and shopping malls and freeze out leisure activities, we believe the only redress that can halt these plans and cause the County to make a serious review of its overdevelopment, is for the California Coastal Commission -- you ladies and gentlemen – to:

- Deny certification to any amendments to rezone public parking lots for private development;

- Deny any proposals that include timeshare units;

- Regard the DCB conceptual review authority as indispensable.

For this, the citizens of Los Angeles County who have used the Mother's Beach picnic tables, kayaking and rowing facilities for decades – not to mention the little children who play on its delightful sand playground -- will, over the years, give you their heartfelt thanks.

Yours truly,

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